



**NOTTINGHAMSHIRE**  
**Fire & Rescue Service**  
*Creating Safer Communities*

Nottinghamshire and City of Nottingham  
Fire and Rescue Authority  
Policy and Strategy Committee

# **TRANSITIONAL PENSION ARRANGEMENTS INFORMATION PROVIDED TO THE LOCAL GOVERNMENT ASSOCIATION**

Report of the Chief Fire Officer

**Date:** 29 April 2016

**Purpose of Report:**

To inform Members of the response sent to the Local Government Association on behalf of the Fire Authority relating to the Fire Brigades Union claim of age discrimination under the transitional pension arrangements within the 2015 pension scheme.

## **CONTACT OFFICER**

**Name :** Tracy Crump  
Head of People and Organisational Development

**Tel :** 0115 967 0880

**Email :** [tracy.crump@notts-fire.gov.uk](mailto:tracy.crump@notts-fire.gov.uk)

**Media Enquiries Contact :** Therese Easom  
(0115) 967 0880 [therese.easom@notts-fire.gov.uk](mailto:therese.easom@notts-fire.gov.uk)

## **1. BACKGROUND**

- 1.1 In 2015 the Government introduced a new pension scheme for fire fighters.
- 1.2 Members of the 1992 pension scheme who met defined criteria were offered 'transitional protection' relating to their age and length of service at the time of the change to the 2015 pension scheme.
- 1.3 The Fire Brigades Union (FBU) have issued a legal challenge on behalf of certain members based on age discrimination under the Equality Act in relation to these transitional arrangements.
- 1.4 This paper informs members about recent information returned to the Local Government Association (LGA), at their request on behalf of the Fire Authority, in order to prepare for a forthcoming hearing.

## **2. REPORT**

- 2.1 In respect of the transitional arrangements under the 2015 fire fighters pension scheme, a preliminary tribunal hearing is scheduled to take place relating to a claim for age discrimination under the Equality Act. This claim is being brought by the FBU, on behalf of its affected members against Government.
- 2.2 In order to prepare for this preliminary hearing, the LGA requested information from all Fire and Rescue Services in response to a series of questions to be returned by 15 April.
- 2.3 The questions were of a simple factual nature and therefore a response was provided within the deadline and is attached at Appendix A.

## **3. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report at this stage. Further reports will be brought to the Fire Authority regarding the outcome of this claim if there are any local financial implications.

## **4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS**

There are no human resources or learning and development implications arising from this report.

## **5. EQUALITIES IMPLICATIONS**

There are no equalities implications arising from this report at this stage. Further reports will be brought to the Fire Authority regarding the outcome of this claim if there are any equalities implications.

## **6. CRIME AND DISORDER IMPLICATIONS**

There no crime and disorder implications arising from this report.

## **7. LEGAL IMPLICATIONS**

- 7.1 The transitional pension arrangements form part of the 2015 fire fighter's pension scheme which this authority is obliged to comply with.
- 7.2 If the legal challenge is upheld a further report will be brought before the Fire Authority outlining any implications for this authority.

## **8. RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications arising from this report.

## **9. RECOMMENDATIONS**

That Members note the contents of this report and the responses provided to the Local Government Association as attached at Appendix A.

## **10. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)**

None.

John Buckley  
**CHIEF FIRE OFFICER**

**Sent:** 22 March 2016 15:11

**Subject:** Transitional Pension Arrangements - FBU Collective Action: Request for Information and Documents from English and Welsh FRAs

**To: Nominated contacts**

Dear Colleagues,

**Transitional Pension Arrangements - FBU Collective Action: Request for Information and Documents from English and Welsh FRAs**

We are continuing our preparations for the Preliminary Hearing which is, as you will be aware, scheduled to take place from 31 May – 3 June 2016.

As part of those preparations we need to ask all English and Welsh FRAs for certain information and documentation (if it exists) so that we are in a position to disclose relevant documents to the other parties in the Claims, in accordance the Orders from the Tribunal, and to assist us in preparing the witness evidence which will be given on behalf of the FRAs, in support of our arguments at that Preliminary Hearing.

As mentioned in Briefing Note headed '*Outcome of Preliminary Hearing on 20/01/16 and Next Steps*', – the two arguments which we are running at the Preliminary Hearing on behalf of the FRAs are:

1. Whether the majority of the Claims are out of time and so should not be allowed to proceed.
2. Whether, under Schedule 22 of the Equality Act, the age discrimination claims should not be allowed to proceed against the FRAs because the FRAs had no alternative but to comply with the legalisation introducing the transitional pension provisions which DCLG and the Welsh Ministers decided to enact.

The request for information and documentation relates to this second argument.

Please, therefore, can you answer the following questions and let us know if you have any of the categories of documents requested and, if so, please also provide copies of those documents. **Please provide your responses and documents by 15 April 2016, by sending them to us at [FireQueries@local.gov.uk](mailto:FireQueries@local.gov.uk) using an email subject heading to include your FRA 'Exampleshire FRA; Transitional Pension Arrangements'**

**Information Requested**

1. Was the issue of the impact of the 2015 transitional provisions discussed within the FRA when it became clear what those provisions would be? (*Please note that the focus here is on the transitional provisions – not the changes to the 2015 Scheme or the transfer of firefighters into the 2015 Scheme, as a whole*).

2. Did the FRA consider at that time that it had any alternative but to comply with the legislation introducing the 2015 transitional provisions?
3. Did the FRA give any thought to the possibility of the FRA making alternative pension provision for firefighters who were not covered by the protection under the transitional provisions to improve their position?
4. If not, is this because it would have been assumed to be outside the FRAs powers to do so?
5. Was any legal advice or Counsel's opinion taken on this possibility of alternative provision? Please just answer yes or no.
6. Was the possibility of alternative provision ever raised with the FRA by the FBU or individual firefighters?
7. Has any alternative pension provision been made in the past – e.g. prior to the 2006 scheme offering retained firefighters alternative pension provision because they could not join the 1992 Scheme?
8. If so, what was that provision – i.e. was it funded by the FRAs in some way or did it simply involve e.g. facilitating a good deal with an insurer to cover benefits but where the firefighters paid the premiums (so at no cost to the FRA)?
9. Was any legal advice or Counsel's opinion taken on that option at the time? Please just answer yes or no.

### **Documents Requested**

1. Any consultation responses from the FRA to any of the consultation processes in respect of the pension's reform and 2015 Scheme.
2. Letters/written communications from the FRA/FRA chairs to DCLG, the Welsh Ministers, the Fire Minister, the LGA, the National Employers or the FBU in relation to the proposals for reform or the introduction of the 2015 Scheme.

**NOTE:** In your responses please say if the FRA does not have this category of document

Thank you for your assistance. If you have any queries, please contact [FireQueries@local.gov.uk](mailto:FireQueries@local.gov.uk) using an email subject heading of '**Exampleshire FRA; Transitional Pension Arrangements**'.

Regards

Local Government Association

Local Government House, Smith Square, London SW1P 3HZ

**Responses sent on behalf of Nottinghamshire and City of Nottingham Fire and Rescue Authority:**

**FAO: LGA**

**'Nottinghamshire and City of Nottingham Combined Fire Authority; Transitional Pension Arrangements'.**

Please see the following response to email dated 22 March 2016:

1. Was the issue of the impact of the 2015 transitional provisions discussed within the FRA when it became clear what those provisions would be? *(Please note that the focus here is on the transitional provisions – not the changes to the 2015 Scheme or the transfer of firefighters into the 2015 Scheme, as a whole).*

**The impact of the 2015 transitional arrangements was not formally reported to the FRA.**

2. Did the FRA consider at that time that it had any alternative but to comply with the legislation introducing the 2015 transitional provisions?

**No the FRA was of the view that it was required to comply with the legislation introducing the 2015 transitional provisions.**

3. Did the FRA give any thought to the possibility of the FRA making alternative pension provision for firefighters who were not covered by the protection under the transitional provisions to improve their position?

**The FRA did not give any thought to the possibility of making alternate pension provision for firefighters not covered by the protection under the transitional provisions. See 2 above.**

4. If not, is this because it would have been assumed to be outside the FRAs powers to do so?

**The FRA were of the view that they were expected to comply with the requirements set out in the transitional arrangements.**

5. Was any legal advice or Counsel's opinion taken on this possibility of alternative provision? Please just answer yes or no.

**No.**

6. Was the possibility of alternative provision ever raised with the FRA by the FBU or individual firefighters?

**No this was not raised with the FRA or FBU.**

7. Has any alternative pension provision been made in the past – e.g. prior to the 2006 scheme offering retained firefighters alternative pension provision because they could not join the 1992 Scheme?

**No the FRA did not offer an alternate pension provision.**

8. If so, what was that provision – i.e. was it funded by the FRAs in some way or did it simply involve e.g. facilitating a good deal with an insurer to cover benefits but where the firefighters paid the premiums (so at no cost to the FRA)?

**N/A See 7 above.**

9. Was any legal advice or Counsel's opinion taken on that option at the time? Please just answer yes or no.

**No.**

**Please note the Service does not have any category of document as set out in points 1 and 2 of the documents requested**

I trust this provides a full response to the questions raised but if you require any further information please do not hesitate to contact me.