



## **AGENDA ITEM: 9**

### **NORTH WALES FIRE AND RESCUE AUTHORITY EXECUTIVE PANEL**

**6<sup>th</sup> February 2012**

#### **DISCRETIONAL COMPENSATION FOR THE EARLY TERMINATION OF EMPLOYMENT**

**Report by Ruth Simmons, Assistant Chief Fire Officer**

##### **Purpose of Report**

- 1 To detail progress in the development of a local policy on the exercise of discretionary powers in respect of compensation for the early termination of employment for members of the Firefighters' Pension Scheme 1992 (FPS) and the New Firefighters' Pension Scheme 2007 (NFPS), or those employees eligible to join such schemes.
- 2 To seek approval for the Scheme's specific details outlined below.

##### **Background**

- 3 At the Fire and Rescue Authority meeting, held on the 17<sup>th</sup> October 2011, the decision was made to mandate officers to pursue a different means of rostering firefighters for duty, as a means of achieving the Authority's financial strategy. The required cost savings are to be achieved as a result of a reduction in firefighter posts needed to work a different rostering system. Whichever rostering option is eventually agreed upon, it will reduce the establishment by at least 22 firefighter posts. Members will recall that the demographics of North Wales Fire and Rescue Service make this impossible to achieve within the required timescales through retirements alone.

- 4 Members will recall that currently there is no national agreement which provides for the compensation of firefighters for the early termination of their employment. The only entitlement which could be offered in the case of voluntary or compulsory redundancy is the statutory redundancy payment, which from February 2012 equates to a maximum of £12,900.
- 5 In contrast, North Wales Fire and Rescue Authority does have a policy applicable to members of the Local Government Pension Scheme (LGPS) and those eligible to join that scheme regarding early termination of employment. These policies were approved at the Fire and Rescue Authority meeting on the 18<sup>th</sup> June 2007. They were developed in response to The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations introduced from 1 October 2006.
- 6 The current policy applicable to members of the LGPS and those eligible to join allows for an additional lump sum severance payment which is calculated by multiplying the number of weeks statutory redundancy due by a factor of 2.5. This provides for a maximum discretionary compensation level of 75 weeks pay, including the amount of statutory redundancy. It also retains the discretionary power to waive the weekly pay ceiling based on the statutory maximum and to use the actual weekly pay.
- 7 On 19<sup>th</sup> December 2011 the Fire and Rescue Authority resolved to agree in principle to seek a local agreement to apply the same discretionary power to compensate employees under the FPS 1992 and NFPS 2006 in the same manner.
- 8 The resolution was subject to the acceptance that further legal scrutiny and clarification of tax liabilities for the individuals in receipt of this payment was required.

## **Information**

- 9 Verification has been sought from the Service's employment lawyers confirming that fire and rescue services have the legal power to have an enhanced voluntary redundancy / severance policy. From an employment law perspective there is no legislation

which restricts organisations from awarding payments that are of a greater value than statutory redundancy.

- 10 The National Joint Council for Local Authority Fire and Rescue Services- Scheme of Conditions of Service 6<sup>th</sup> Edition (Updated 2009) does not preclude such a scheme.
- 11 The North Wales Fire Services (Combination Scheme) Order 1995 and the financial regulations have been considered and are silent on this matter.
- 12 When considering the pension implications of a locally agreed enhanced severance scheme, lawyers specialising in pensions have scrutinised the FPS and NFPS regulations in preparation for advising officers. Neither set of regulations preclude the introduction of a locally agreed voluntary severance scheme.
- 13 It is recommended that the scheme is entitled 'Voluntary Severance' which would mean that individuals would have 'leaver' status as their employment would have been ended at their request. The alternative would be a voluntary redundancy scheme which could possibly be construed that the employer initiated 'redundancy'. This may have implications for pension strain under the NFPS 2006 for those individuals between 50 and 55 years of age.
- 14 There is no facility for the early access to accrued pension benefits for those individuals pursuing 'employee requested' termination of employment under the FPS 1996. In this instance the pension would simply be deferred. Employees that have already met the qualifying criteria may access their pension in addition to receiving the voluntary severance payment.
- 15 Research conducted to establish the extent to which such schemes have been introduced across other UK fire and rescue services has indicated that two services have voluntary severance schemes. Both schemes utilise a calculation based upon length of service, weekly pay (either actual or statutory value) and either age or a multiplier.

- 16 A scheme that mirrored the existing NWFRS scheme for LGPS members and those eligible to attend would be calculated thus,
- compensation paid at actual week's basic pay (£540.80 for a firefighter) x number of year's continuous service (up to a maximum of 20 years) x 2.5 (equating to a maximum of 75 weeks) and utilising a matrix accounting for age;
  - the maximum payable is £40,560 for an individual who is 61 years of age with 20 years' service;
  - the age profiles of individuals likely to apply for consideration under this scheme are between 50 and 55 years of age. It is envisaged that the likely maximum payment would be £36,500.
- 17 Members will recall that when this matter was considered in December 2011 it was anticipated that a voluntary severance scheme would be funded from a carefully managed one off underspend.
- 18 The tax liabilities for the individuals in receipt of a voluntary severance payment would not be triggered on a sum of £30,000 or less.

### **Recommendation**

- 19 That Members approve the locally agreed voluntary severance scheme, including the specific criteria of that scheme, for those employees who are members of the FPS or NFPS or those employees eligible to join such schemes.

