



Department for  
Communities and  
Local Government

# Firefighter fitness standards and assessment

Consultation response



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# 1. Introduction

1.1. People are living much longer with the average 60 year old living ten years longer now than they did in the 1970s. This means that the cost of public service pensions have increased by around a third in real terms over the last ten years to £32 billion a year. Currently for every £1 paid into the Firefighters' Pension Schemes by the employee, the taxpayer contributes £5. To meet these increased pressures people need to work longer. It is the Government's belief that they should be supported in doing so by their employers, but the individual must in turn take formal responsibility for their own fitness.

1.2 The Normal Pension Age of firefighters has been 60 since 2006, and already one in three firefighters have that retirement age as their expectation. The reformed pension scheme will enable people to work beyond 60 and continue to accumulate pension. There are significant benefits for organisations in having older workers, and also to the individuals themselves as they prepare for retirement.

1.3 On 28 October 2014, at the same time the Firefighters Pension Scheme 2015 was placed before Parliament, the Department commenced a consultation on incorporating basic principles on fitness in the National Framework for Fire and Rescue in England. The consultation highlighted the fact that there is a balance between preserving the ultimate discretion of an employer, and providing some degree of certainty and security for an employee. It was on that basis that the consultation was launched.

1.4 The Department was assisted in drawing up the consultation by the fact that the National Joint Council for Local Authority Fire and Rescue Services wrote to the then Fire Minister in May 2014, advising him that agreement had been reached in principle between employer members (on behalf of fire authorities) and employee members on a number of areas connected to fitness and capability. Principles were provided on which both sides agreed. These provided the basis of the principles used in the consultation.

1.5 The principles should not be read on their own, but in the context of the reformed regulations, which have generous ill-health and enhanced early retirement provisions, and the setting up of a working group facilitated by the Chief Fire and Rescue Adviser to produce good practice on fitness and capability issues. It also takes place against a background of a considerable amount of work and debate on fitness issues generally in the service, significant changes in the number and type of incidents, and the uptake of new technology.

## 2. Consultation responses and conclusion

2.1 The Department has received 36 responses to the consultation, the vast majority highlighting the excellent work going on in fire and rescue authorities to improve the fitness of their staff. Generally, the responses were in favour of the principles of fitness, though there were some specific concerns and respondents were less favourable to the consideration of a local authority initiated pension for a firefighter aged 55 or over, who fails a fitness test through no fault of their own, and for whom there are no redeployment opportunities.

2.2 While respondents made a number of important points, the Department is of the opinion that the proposed wording most accurately reflects what is likely to happen in fire and rescue authorities, reflects best the agreement in principle reached by the National Joint Council of Local Authority Fire and Rescue Services, and achieves the proper balance between the interest of central government in protecting and encouraging the employment of older workers, while not impinging on the rights of employers to manage their staff effectively, and for employees to come to appropriate arrangements agreed with them. The final wording is contained in Annex A.

2.3 A number of respondents argued that the National Framework has no strength. This is not the case. Under section 21 of the Fire and Rescue Services Act 2004, fire and rescue authorities must have regard to the Framework in exercising their functions. Section 22 of the Act also provides powers of intervention if the Secretary of State considers an authority is failing, or is likely to fail, to act in accordance with the Framework.

## 3. Individual issues raised

### **The need for inclusion in the Fire and Rescue Framework**

3.1 A number of respondents raised the issue of whether or not it is appropriate for the National Fire and Rescue Framework for England to deal with matters which are the responsibility of employers. The Department agrees that the issue of fitness and capability is the responsibility of individual fire and rescue authorities, and they are in the best position to determine how to take these matters forward. However, given the importance the Department attaches to fitness and capability, and in particular support to the older worker, the provision of basic principles with a statutory underpinning provides a degree of security that firefighters who work longer will be looking for, as well as an agreed framework within which fire and rescue authorities can operate. We consider this correctly reflects and protects the interests all parties – Government, employers and employees.

### **General approaches of fire and rescue authorities**

3.2 The Department was heartened and reassured that all fire and rescue authorities had policies and principles in place to deal with issues of fitness and capability. This reflects the good sense of the principles. We consider that the principles will mesh easily with existing fire and rescue authorities regimes, and will in time be supplemented by the good practice arising from the working group on fitness and capability facilitated by the Chief Fire and Rescue Adviser.

### **Responsibility of firefighters to remain fit**

3.3 A small number of respondents wanted the responsibility of the individual firefighter to maintain their own fitness to be highlighted. We consider that that is adequately dealt with within the principles which set out a specific requirement for operational personnel to maintain their levels of fitness. Fire and rescue authorities and representative bodies will no doubt wish to reinforce this personal responsibility for fitness, if they do not already do so.

## **Independent review of fitness standards**

3.4 A number of respondents questioned whether it was appropriate for a review of the fitness policies of fire and rescue authorities to be undertaken by Government, or whether this should be the responsibility of the National Joint Council for Local Authority Fire and Rescue Services. Overall the Department believes that undertaking this review itself will provide the level of reassurance that firefighters and the general public need. It is vital that there is some assessment of how the overall process is bedding in. However, the Department agrees that such a review should take place in consultation with the National Joint Council and other stakeholders.

## **Process of fitness assessment in fire and rescue authorities**

3.5 All fire and rescue authorities have a programme of fitness and assessment. A number wanted greater clarity with a view to moving towards national standards, while others were keen to maintain their own standards. The Department believes that individual employers are best placed to determine the fitness and capability standards and processes they wish to put in place. It also recognises the benefits of collaboration and the sharing of experience and good practice. It is expected that the working group facilitated by the Chief Fire and Rescue Adviser will make a significant contribution to this.

## **No individual will automatically face dismissal for failing a fitness test**

3.6 It was acknowledged that no firefighter will be automatically dismissed for failing a fitness test.

## **Ensuring all operational personnel supported to maintain fitness**

3.7 There seem to be good levels of fitness support for firefighters across the fire and rescue service. Some authorities asked for greater clarity on what is meant by 'support'. The Department looks to each fire and rescue authority, based on its own circumstances, to identify the appropriate level of support necessary, which in any case will vary from individual to individual, and from role to role. That being said, the working group on fitness and capability facilitated by the Chief Fire and Rescue Adviser, will provide further sector agreed advice in this area, which fire and rescue authorities can adopt.

3.8 Concerns were raised regarding the position of retained or on-call firefighters, and the problems they have in accessing regular fitness training. The Department does not set out to prescribe the amount or type of support that on-call firefighters should have. This is a matter for individual fire and rescue authorities to determine. That being said the Department is aware of the work going on to support fire and rescue authorities through the sector led Chief Fire Officers' Association Retained Duty Working Group, which is building up a body of good practice. It is also an area where the working group on fitness and capability may wish to identify good practice. The Department recognises the vital role that on-call firefighters play in the community, and the need for individual fire and rescue authorities to improve recruitment and retention generally. Their approach to this issue should be seen in the context of the recruitment and retention issue generally, and the excellent value for money on-call firefighters provide.

## **Operational personnel on restricted duties**

3.9 Some respondents considered that the draft principles restrict firefighter personnel, who have fallen below the fitness standard, to continuing on operational duties or being stood down. They consider that the principles should include restricted duties as an option. The principles do not preclude this option.

## **Commitment to six months of development**

3.10 Respondents indicate that this is the general standard, and some authorities are more generous. It will be for individual fire and rescue authorities to determine how best to deal with cases where there is a repeated sequence of attainment and failure to meet fitness standards.

## **References to occupational health**

3.11 Fire and rescue authorities refer to occupational health those who need medical support.

## **Explore opportunities to redeploy through reasonable adjustment or redeployment in role**

3.12 A number of respondents highlighted the lack of opportunities to redeploy within role. The Department considers that all opportunities to redeploy should be fully explored. The Department is keen that reasonable adjustments be made to enable firefighters to continue to work within role, even if they do not undertake all aspects of it. The Department would like to see more flexibility in the role performed by firefighters developed in the years prior to any firefighter having to work beyond their current Normal Pension Age. To a considerable extent, this rests in the hands of the National Joint Council for Local Authority Fire and Rescue Services, which is responsible for the firefighter role maps. The Department hopes that further progress will be made in this area, opening up a wider number of roles and opportunities.

## **Commencement to independent qualified medical practitioner process**

3.13 This is a standard process where firefighters may face underlying medical issues.

## **Proposed change 2**

3.14 There was only minority support for the inclusion of the proposed change whereby fire and rescue authorities are required to consider commencement for those aged 55 or over of an authority initiated early retirement process for those firefighters unable to regain the necessary level of fitness. The concerns were that this may create a culture similar to that of ill-health retirements before the reforms, where some employees angled to leave early; that there may be an expectation of a pension age 55 or over; that it would create additional costs; and that it provides no guarantee for individual firefighters.

3.15 The Department considers that the proposals provide the correct balance between the discretion of the employer, and the need for security and confidence on the part of firefighters that they will be treated appropriately by their employer should they fail fitness tests – this includes consideration being given to an unreduced pension under the provisions of the pension scheme. No additional cost is created by this, and it is one of the measures that a good employer would want to explore when faced with this situation. The

regulation itself does not fetter their discretion in this matter. That being said, the Department considers that the five-pronged approach – fitness principles, generous ill-health pension regulations, enhanced arrangements for early leavers, the work of the fitness group, and the requirement to consider an unreduced pension – will ensure that firefighters are adequately supported to maintain their fitness to their Normal Pension Age, with savings to authorities and the individual alike. This approach will also guard against a culture, such as previously prevailed, where firefighters did not routinely work until their Normal Pension Age.

3.16 This provides a better solution to this particular issue than providing a specific guarantee (which one respondent requested), and which in relation to the situation in England with the large number of separate fire and rescue authorities, is not possible.

## **Conclusion**

3.17 The National Framework for Fire and Rescue in England has a statutory basis. Fire and rescue authorities must give it due regard making their decisions. The Government considers that the amendment to the National Framework that it has consulted upon is a proportionate response to issues of firefighter fitness and capability. It is one which correctly addresses the existing responsibilities of employers and employees alike, and will serve them well in the future.

# ANNEX A

## Final Wording

### **Fitness**

Firefighting is a physically demanding occupation and it is essential that firefighters have sufficient levels of fitness to enable them to carry out their tasks as safely and effectively as possible. As such, this requires higher levels of fitness than most other occupations and therefore the National Joint Council role maps set out a specific requirement for operational personnel to maintain levels of personal fitness

The Government believes that fitness standards must reflect the occupational demands of firefighting and the Secretary of State has agreed that the Chief Fire and Rescue Adviser will chair a joint working group, which will include an evaluation and assessment of safe standards.

The Government has also agreed to undertake an independent review in due course to ensure that appropriate fitness standards, training, testing, monitoring and management policies and procedures are in place in each fire and rescue authority.

It is also recognised that fitness levels may decline with age and whilst this may be mitigated by fitness training, diet and other lifestyle changes it is acknowledged that there may be a general decline in fitness as a result of the ageing process.

Fire and rescue authorities have an important role in helping to ensure their firefighters remain fit, and are supported in remaining in employment.

#### **Each Fire and Rescue Authority must:**

**have a process of fitness assessment and development to ensure that operational personnel are enabled to maintain the standards of personal fitness required in order to perform their role safely;**

**ensure that no individual will automatically face dismissal if they fall below the standards required and cannot be deployed operationally;**

**ensure that all operational personnel will be provided with support to maintain their levels of fitness for the duration of their career;**

**consider where operational personnel have fallen below the fitness standards required whether an individual is able to continue on full operational duties or should be stood down, taking into account the advice provided by the authority's occupational health provider. In making this decision, the safety and well-being of the individual will be the key issue;**

**commit to providing a minimum of 6 months of development and support to enable individuals who have fallen below the required fitness standards to regain the necessary levels of fitness;**



**refer an individual to occupational health where underlying medical reasons are identified that restrict/prevent someone from achieving the necessary fitness and that individual must receive the necessary support to facilitate a return to operational duties; and**

**fully explore opportunities to enable the individual to remain in employment including through reasonable adjustment and redeployment in role where it appears the medical condition does not allow a return to operational duties.**

In those circumstances where there are no such opportunities and suitable alternative employment is either unavailable or, where available, is not agreed by the individual, then the Fire and Rescue Authority will commence an assessment for ill-health retirement through the independent qualified medical practitioner process.

If no underlying medical issues are identified and following a programme of development and support it becomes apparent that an individual will be unable to regain the necessary levels of fitness, then a fire authority will fully explore opportunities for reasonable adjustments and/or suitable alternative employment. In those circumstances where there are no opportunities for reasonable adjustments or suitable alternative employment, the fire authority will in the case of an employee aged at least 55 consider commencement of the authority initiated early retirement process for it to determine whether the individual should be retired with an authority initiated early retirement pension.