

23 June 2017

Workforce Report

Purpose

To update the Fire Services Management Committee on matters in relation to fire service industrial relations and pension matters.

Summary

This paper is for information and briefly describes the main industrial relations and pension issues at present.

Recommendation:

That the Fire Services Management Committee members are asked to note the issues set out in the paper.

Action:

Officers to take actions as appropriate.

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Pensions

Voluntary Scheme Pays

1. Changes to the tax rules now mean that some high earning members with income of more than £150,000 per annum are subject to a Tapered Annual Allowance which reduces from £40,000 to £10,000 incrementally for those earning between £150,000 and £210,000 per annum, those subject to the tapered annual allowance cannot use Mandatory Scheme Pays (MSP) to pay the resulting tax charge, which may be up to £13,500 per annum and fall to the individual to pay. In some cases this may result in an annual charge.
2. LGA has recently sought legal advice on behalf of English FRAs, in order to determine whether an FRA can offer Voluntary Scheme Pays (VSP) where the FRA pays the charge on behalf of the member and collects it via a debit from the pension once put in payment, without the need for a change to legislation.
3. The Legal advice received opined that it was possible for an FRA to satisfy the tax charge on a voluntary basis, without a need for change to legislation.
4. A detailed guidance note was circulated on 31 May 2017, and can be found [here](#).

The Pensions Regulator – Administration and Governance Survey

5. The Pensions Regulator who was given oversight of the Public Services Pension Schemes in the 2013 Public Service Pensions Act has now published the 2016 Governance and Admin survey results, full results of the survey may be accessed online [here](#).
6. The Firefighters Pension Schemes had the highest response rate of the locally administered schemes with a 98 per cent response rate. Additionally the results show significant improvement in key processes around breaches of the law and training and knowledge.
7. However, the results show improvement is still needed in the areas below:
 - 7.1. Poor engagement – lack of Scheme Manager/Board Chair involvement in completion of the survey (which may indicate that surveys were completed and submitted without appropriate sign off – a lack of internal control); scheme managers or delegated representative not attending Board meetings.
 - 7.2. Poor record keeping – 21 per cent of respondents identify poor records as a top risk, yet take up of data improvement plans are low.
 - 7.3. Poor compliance – low level of current risk registers and risk assessment.

7.4. Poor communication – 54 per cent of membership did not receive annual benefit statements by the statutory deadline.

8. The new Firefighter Pensions Adviser who is due to start with LGA at the end of June will work with the Scheme Advisory Board (SAB) to provide support to Local Pension Boards to improve this position over the next year.

Scheme contracted out reconciliation

9. The contracted out reconciliation is the data match of HMRC and pension scheme records, there are over 16 million contracted out individuals in the UK and by December 2018, the data held by HMRC has to be matched with the data held by the schemes, so monitoring of progress and adherence to timescales is important.
10. In data obtained from HMRC in January 2017, 74 per cent of Firefighter Schemes had yet to query their data with HMRC. It will be important for Scheme Managers and Local Pension Boards to monitor this position to ensure their data has been fully reconciled by the cut off period.
11. As a locally-administered, unfunded scheme (along with the police pension scheme), the cost for this work comes from the operating accounts. Therefore Fire and Rescue Authorities will be mindful that there is a cost and resource impact in undertaking this work.

Scheme Advisory Board

12. The Home Office will be consulting the SAB for their views on how past service costs for three specific events should be treated in the valuation, a detailed paper will be discussed with the SAB at their meeting on 14 June 2017 and comments are to be received by 31 July 2017.
13. The three events are:
- 13.1. "Milne payments" – the additional payments made following the Pensions Ombudsman's determination in the case of Milne (payments generally made during the year 2015/16).
- 13.2. "Retained option" – the option for eligible retained members to purchase past service in the modified/special section of the 2006 Scheme (options generally made over the year 2015/16).
- 13.3. "Refund payments" – the refunds of employee contributions being paid to eligible firefighters who made contributions after they had reached their maximum pensionable service in the 1992 Scheme prior to age 50 (refunds generally paid during the year 2015/16).

14. All three events have resulted in additional cost or expenditure for the Fire Schemes. At a high level, these costs will need to be picked up in one of, or a combination of, three ways:
 - 14.1. Employer cost.
 - 14.2. Employee cost.
 - 14.3. Central Government cost.
15. The SAB have established a cost control committee to consider the issue at length in order to provide a response. This committee is chaired by Councillor John Fuller.
16. The SAB will also be asked to comment on industry specific assumptions used in the valuation, such as average age of retirement and life expectancy. This request is expected in September 2017.

Key wider workforce issues

Broadening the role of the firefighter

17. Since the last meeting of the FSMC there have been a number of developments, particularly in relation to the 38 trials being undertaken by 36 services across the UK. The trials range from co-responding only (either in specific areas or across a service) including whole time and/or retained personnel, to trials that include much wider work ranging from slips, trips and falls assessments and winter warmth assessments to offering, for example, alcohol harm and reduction advice, and/or dementia advice providing referral and signposting opportunities as appropriate.
18. The Fire Brigade Union (FBU) has held two conferences at which engagement in the whole negotiation on the broadening role was debated. The special recall conference in March concluded that negotiation should continue as too should the trials (indicating possibly until November 2017). This was however subject to two points of review.
19. The first was that the learning points identified in the University of Hertfordshire trials evaluation report should be explored and resolved. Good progress should be made on that by the time of their routine conference in May. This was achieved by then through an NJC Technical Working Group. It met on three occasions over a short period of time and further meetings are scheduled to take forward more detailed work.
20. The second point was that there should be an 'acceptable' pay award in July 2017. Discussion on that is on-going (reference paragraphs 23 and 24 below) and the National Employers will be consulting with FRAs at a number of regional meetings between 13 - 19 June.
21. At the NJC meeting on 1 June, the Employees' Side Secretary advised that following its normal scheduled conference in May the FBU would not be able to support continuation

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of work under the trials with effect from 7 July (or shortly thereafter) should there not be a positive response to its pay claim.

22. The broadening the role of the firefighter discussions also includes areas covered by the other NJC workstreams, for example MTFA.

Pay claim

23. A formal pay claim was received from the Employees' Side of the NJC for LAFRS just prior to its meeting on 1 June. [NJC/7/17](#) includes the letter. In essence the claim is:

23.1. NJC pay scales need to address the loss of real earnings since the imposition of the pay cap/freeze in 2010.

23.2. NJC pay scales need to take account of the additional work undertaken by employees since 2003.

23.3. NJC pay scales need to address any broadening of the role maps or broadening of the work required of FBU members by their employer, which may include emerging potential new areas of work such as Emergency Medical Responding (EMR) and Marauding Terrorist Firearms Attack (MTFA).

23.4. There is an urgent need to improve reward mechanisms for retained firefighters, including an increase in the retaining fee.

23.5. In order to ensure that NJC rates of pay do not fall behind in real and/or relative terms in the future and to provide stability in the sector alongside security for Grey Book personnel, there should be a pay formula.

24. It is intended to respond to the claim by the end of June prior to the usual 1 July settlement date. The Employers' Side (National Employers) has invited UK Chairs and Chief Fire Officers (CFOs) to attend one of three consultation meetings between 13 - 19 June (Birmingham, Manchester and London). An oral update will be provided to FSMC.

Inclusive Fire Service Group

25. This NJC-led group has now identified improvement strategies for use at local level in areas relating to the recruitment, progression and retention of female, BME and LGBT employees as well cultural issues such as bullying and harassment in general. Circular [NJC/8/17](#), which also includes the outcomes of the employee survey, asks each FRA/service to consider the strategies in detail and to advise the group of its response including the areas it intends to take forward, the timescale within which it expects to do so, the improvement it expects will result (and by when), and who will take the lead from both a member and senior officer perspective (the assumption being that will be the chief fire officer).

Employment Tribunal cases - pension scheme transitional protection arrangements

26. The FBU, who act on behalf of the claimants, have lodged an appeal. The Employment Appeal Tribunal (EAT) has decided to join the appeal with that in the McCloud case relating to judges.

Apprenticeships

27. Following an approach from County Durham and Darlington FRS (CDDFRS), the NJC decided in February to work in partnership with the service both in terms of a level of external input as part of its own evaluation and in sharing information on the scheme more widely with other FRSs in respect of its Business Fire Safety Apprenticeship scheme, which will lead to firefighter posts within the service.
28. As part of the above partnership an event was run for all FRSs in April providing them with information on this particular scheme and an opportunity to explore the detail with people from CDDFRS. It was a unique opportunity for members, officers and union representatives to explore the issues together.

Grey Book Reform

29. Members will recall that following the January FSMC meeting, a Task and Finish Group was set up to look at the issue of reform of the Grey Book. It was agreed that this group would be used to support the development of an LGA view in more detail on reforming the national framework of terms and conditions of service. That view would, in turn, inform the approach of LGA representatives on the Employers' Side of the NJC and ultimately consideration by the full Employers' Side.
30. In March, the FSMC supported the consensus within the Task and Finish Group that any changes in the framework should largely mirror the structure of the Green Book, which covers Local Government Services staff in councils and in more cases, non-Grey/Gold Book employees in the fire service. Its four sections are:
- 30.1. Constitutional provisions.
 - 30.2. Core national conditions.
 - 30.3. Other national conditions that can be varied by local agreement.
 - 30.4. Joint advice and guidance.
31. The existing national conditions are collective agreements and can of course be varied by agreement of both sides. In the absence of such agreement then a decision by either side to 'walk away' from such agreements has no effect on key terms and conditions which are in any case incorporated into an employee's contract. All such provisions would remain in place until they could be re-negotiated at local level. Ultimately an

employer can seek to change terms without agreement, but this can have significant employee relations consequences.

32. In taking this forward, it was recognised that an opportunity would need to be provided for stakeholders in Northern Ireland, Scotland and Wales to identify their own issues and priorities with regard to reform. During May, Councillor Chard, accompanied by the Secretariat, visited all three other UK stakeholders on the Employers' Side.
33. At the NJC meeting on 1 June, it was agreed that three regional meetings would be held to inform the response to the NJC for LAFRS Employees' Side pay claim (see paragraphs 23 and 24 above). It was also agreed that the meeting could be used to touch base on potential reform to the Grey Book. These meetings are taking place between 13 and 19 June and an oral update will be provided to FSMC members.
34. While the Employees' Side is informally aware of the employers' wish to seek reform of the national framework, there has been no formal discussion on what shape that might take. Once a broad employer steer has been provided those discussions could commence, initially through the joint secretaries. Consideration would need to be given to the timing so as to minimise the potential to have a negative impact on other negotiations.