

20 September 2019

## **Workforce Report**

### **Purpose of report**

For information.

### **Summary**

To update the Fire Commission on matters in relation to fire service industrial relations and pension matters at present.

### **Recommendation**

Members are asked to note the issues set out in the paper.

### **Action**

Officers to action any matters arising for future work

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### **Pensions**

#### *Scheme Advisory Board*

1. During 2018/2019 the Firefighters' England SAB embarked on a project to benchmark the cost and effectiveness of administration and management of the Firefighters Pension Scheme. This will allow the SAB to consider the future of administering the Firefighters' Pension Scheme and whether there are cost savings that can be made.
2. The report has now been published<sup>1</sup> and the scheme advisory board are considering the recommendations.
3. However, it should be noted that not all FRAs were able to provide cost data and there were some gaps in the data even where data was provided. It is not known why data was not fully available. There are some concerns that there was no senior management oversight of the submission of the survey.
4. This is the first time such an exercise across the Scheme has been undertaken. This work should therefore be seen as the first step towards using an evidence-based approach to ensure the effective and efficient administration and management of the Scheme

#### *Pension Scheme Governance*

5. The Pensions Regulator (TPR) has a statutory duty for regulatory oversight under the Public Service Pensions Act 2013<sup>2</sup> for public sector pension schemes and as such issues a governance and administration survey each year for completion by each scheme manager. The survey results for 2018 were published in July<sup>3</sup>.
6. While the results for the Firefighters Pension Scheme continue to improve, Fire Schemes were found to be the cohort less likely to meet quarterly and less likely to have risk management processes. Last year TPR undertook some cohort work amongst the LGPS schemes to investigate governance of the LGPS, and these recent results may prompt TPR to closer investigate the governance of the Firefighter pension schemes.
7. Local Pension Boards and Scheme Managers should ensure they have utilised the LGA training offer<sup>4</sup> for Scheme Manager and Pension Board Training.
8. A factsheet has recently been published<sup>5</sup> to highlight the role of stakeholders within the management and governance of the England Firefighters' Pension Schemes and highlights the resources available.

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<sup>1</sup> <http://www.fpsboard.org/images/PDF/Surveys/Aonreportfinal.pdf>

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/2013/25/schedule/4>

<sup>3</sup> [Commentary](#) and [Full Results](#)

<sup>4</sup> <http://www.fpsboard.org/index.php/local-pension-boards/training>

<sup>5</sup> <http://www.fpsregs.org/images/admin/Management-Governancecv1.pdf>

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*LGA Firefighter Pension Scheme Communications and Events*

9. The Scheme Advisory Board sponsor LGA to host a number of conferences and workshops during the year designed to support Fire and Rescue officers and elected members with their responsibilities under the scheme. Details of events can be found [here](#). Events are well attended and feedback has been extremely positive.
10. This year FRAs were surveyed to ensure that the LGA training and events offer remains relevant and that the statutory levy provides value for money, the survey results<sup>6</sup> were very positive and the feedback will be used to plan next years events.

**KEY WIDER WORKFORCE ISSUES**

*Broadening the role of the firefighter / Pay*

11. The term 'broadening the role' refers to an NJC commitment to work jointly together on changes identified by each Side to ensure that there is a pay framework alongside terms and conditions in the fire and rescue service which reflect the responsibilities of, and current and future demands on, the service and the profession. Substantial work to date has looked at areas such as environmental challenges, emergency medical response, health and community, inspection and enforcement and multi-agency emergency response (which includes MTFA).
12. This has been a complex negotiation. Substantial amounts of work have been undertaken jointly around how such a broadened role could look, the views of interested parties have been sought and in-depth joint work carried out alongside our work with the advisers to the National Employers. Both FSMC and Fire Commission have received regularly updates at meetings and all Chairs, CFOs and Directors of Human Resources (or equivalents) have been updated through various communications and meetings.
13. Members will be aware that the National Employers' made a proposal on a deal to the employees' side of the NJC earlier this year. The FBU chose to consult its members which resulted in a rejection outcome although with a willingness to continue talks.
14. At the National Joint Council meeting in June it was agreed that a short period of further negotiation should take place which it was hoped would enable us to be able to move towards a position that could be jointly agreed, subject to appropriate funding.
15. The outcome was set out in the joint statement below which was communicated to FRAs:

*'A further period of intense negotiation has now taken place.'*

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<sup>6</sup> <http://www.fpsboard.org/images/PDF/Surveys/Training2019.pdf>

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*It is clear that the hypothetical nature of some of the elements of future pay awards continues to be a major obstacle. More recently this has been exacerbated by expected delay issues around the Spending Review.*

*This isn't going to be resolved quickly. Therefore the NJC has agreed to pause the national broadening the role negotiation at this time. Both sides are still committed to the principles of broadening the role.*

*The NJC is a UK-wide body and discussions, through the auspices of the NJC, can also take place with the constituent parts of the UK. That has been the case in Scotland for example where the position on funding is more advanced. That remains the case.*

*The employers intend to respond to the employees' side before the end of the month on the matter of the pay award for the settlement year 2019/20.'*

16. Consultation meetings with Chairs and Chief Fire Officers then took place in July to inform employers' side consideration following which it made an offer of 2% on all pay rates and Continual Professional Development payments with effect from 1 July 2019. That offer has since been accepted.
  17. A successful conclusion to the broadening the role negotiation in general continues to be directly affected by available funding on a sustainable basis. We therefore remain committed to lobbying the Home Office, and other government departments across the UK as appropriate.
  18. A substantial amount of detailed information has already been provided to the Home Office to support the case for additional and sustainable funding including in connection with queries around reserve levels and any 'fat' in existing revenue budgets. Meetings have taken place with civil servants separately and jointly as appropriate.
  19. Members will also be aware that the National Employers are working in partnership with the NFCC in order to further strengthen the business case. We also continue to meet with Home Office officials in that regard. The Government's approach to the fire service in respect of the current Spending Round and future Spending Review will no doubt also be a factor. *Court of Justice of the European Union - Ville De Nivelles V Rudy Matzak*
- Court of Appeal – Pension Scheme Transitional Protection Arrangements Discrimination Claims*
20. This case concerned a 'volunteer' firefighter in Belgium. However, its relevance will be felt more widely, including in the UK. In essence it determined that in this case stand-by time of a worker at home, who is obliged to respond to calls from the employer within a short period must be regarded as 'working time'.
  21. Through the auspices of the National Employers we have worked with a QC and a sounding board consisting of a mix of HR and legal advisers from each of the UK administrations, as well as one of the LGA's senior employment law advisers to inform guidance to FRAs on the judgment.

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22. Given the legal privilege issues, information was provided to FRA legal advisers. In addition, one of the LGA's senior employment law advisers attended meetings of the Fire Lawyers Network and, together with the Secretariat, meetings of the NFCC HR Forum and its Council to discuss the outcomes. As requested at the last Fire Commission meeting a similar session will be provided to members today.
23. In common with its approach to a request from Government, the Supreme Court has rejected the fire authorities' application to appeal.
24. These proceedings have been returned to the Employment Tribunal to determine remedies. In respect of this we expect the tribunal to list a case management preliminary hearing (CMPH) in the next few months, at which a timetable and associated case management issues will be determined by the tribunal. In the interim there are no steps that fire and rescue authorities need to take.
25. We will continue to work closely with the Steering Committee set up by the National Employers at the start of the legal process following agreement that the LGA would represent all UK fire and rescue services on a collective, cost sharing basis. The Steering Committee has legal and HR advisers from varying types of fire and rescue services across the UK, the Advisory Forum legal adviser, employers' secretariat, and from the LGA its Corporate Legal Adviser and a Senior Employment Law Adviser.
26. In addition, the FRAs still have the live and separate appeal in relation to their potential defence under Schedule 22 (which is that the FRAs had no choice but to follow the Government's legislation) which again was fully considered with the Steering Committee and legal representatives. In line with the Steering Committee's decision, the appeal is currently stayed.

### **Implications for Wales**

27. Each of the wider workforce matters in this report have the same implications for Wales as for England and we are working with WLGA, Welsh FRAs and FRSs as appropriate. The WLGA is one of the four employer stakeholder bodies on the NJC for Local Authority Fire and Rescue Services.