**Workforce Report - industrial relations and pensions**

**Purpose of Report**

To update the Fire Commission 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.

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| **Recommendation**  Discuss and share local issues relevant to the national positions.  **Action**  Officers to progress as appropriate. |

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**PENSIONS**

**Governance Update**

1. The 2013 Act created two governance boards a Local Pension Board and Scheme Advisory Board; the Local Pension Board must be established by the Scheme Manager, whereas the Scheme Advisory Board is established by the regulations.

**Local Pension Boards**

2. Regulation 4 of the 2014 regulations makes the authority responsible for managing and administering the 2015 pension scheme and any statutory scheme connected with it, and as such is referred to as the ‘scheme manager’.

3. Under regulation 5(2) the scheme manager can delegate any of its functions under these regulations to such person or persons authorised in that behalf by the scheme manager. However, please note that person only fulfils the role of scheme manager under those delegated powers. The position of scheme manager remains with the authority.

4. Under regulation 4A(1) of the amended 2014 regulations, it is the responsibility of the scheme manager to establish a local pension board no later than 1 April 2015.

5. Local Pension Boards have now been established in the main across all Fire authorities in England, Wales, Scotland and Northern Ireland.

6. Established in this context means that the scheme manager must have approved the establishment of the Local Pension Board and the Local Pension Board's composition and also the terms of reference.

7. Whilst the regulations called for the boards to be established at 1 April 2015, a period of grace was recognised to allow 4 months for the boards to become operational. It is recognised that a few authorities have had delays in resourcing their pension boards which has contributed to a delay in arranging the first meeting. These first meetings should be conducted as soon as possible.

**Training**

8. Training was arranged and provided across 5 sessions in July and August to enable scheme managers to fulfil their duties. The training was well attended with only four authorities unable to send any attendees, and described in feedback as ‘instructive, practical and without flooding the audience with complexity’.

**Scheme Advisory Board**

9. The national Scheme Advisory Board is now in the process of being established and the post of Chair has been advertised by DCLG.

10. The Scheme Advisory Board is responsible for providing advice to:

a) The Secretary of State on the desirability of making changes to the scheme and any connected scheme

b) Scheme Managers and Local Pension Boards in relation to effective and efficient administration and management of the Scheme

11. There will be 7 employee representatives (4 seats to the FBU and 1 each to FOA, RFU & APFO) and 7 employer representatives.

12. DCLG invited the LGA to nominate the employer representatives. Following discussion with the political group offices, the Fire Service Management Committee agreed that the following nominations be put forward to DCLG:

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| **Name** | **Authority** | **Political group office** |
| Cllr Maurice Heaster | LFEPA | Conservative |
| Cllr Rebecca Knox | Dorset FRA | Conservative |
| Cllr John Fuller | South Norfolk | Conservative\* |
| Cllr Darrell Pulk | Nottinghamshire FRA | Labour |
| Cllr Tom Wright | Tyne and Wear FRA | Labour |
| Cllr Jeremy Hilton | Gloucestershire FRA | Liberal Democrat |
| Cllr Philip Howson | East Sussex FRA | Independent |

\* Vice-Chair LGA Resources Portfolio and Vice-Chair LGPS Board Investment Committee

13. Training will be provided if necessary. Political groups drew most nominations from existing FSMC membership. Where that is not the case the person has considerable pensions experience.

**GAD v Milne Commutation Factors**

14. Following a Pensions Ombudsman determination against the Government Actuaries Department, we lobbied Treasury on the matter of financial costs. As a consequence fire authorities will not be held responsible for the payments to affected individuals. HM Treasury confirmed in their letter dated 24 July that DCLG would absorb the lump sum funding, and would make the required funding available to fire authorities.

15. The mechanics for receiving the funding will be agreed in due course.

16. GAD Guidance and calculators have now been produced enabling authorities to start preparing the necessary calculations. This will understandably take time, and before making payment there will be a requirement first of all to write and explain the payment that will due and request payment information and the signing of a discharge form.  Government have set their expectations that this stage should be done before Christmas, and the majority of payments to be made by the end of the financial year. Therefore LGA have issued a template letter for authorities to notify affected pensioners of the timescales.

**Special Membership of the Modified 2006 Scheme for Retained Firefighters**

17. Following the introduction of the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, and subsequent Employment Tribunal claims by retained firefighters, the House of Lords judgement allowed those who were serving during the period 1 July 2000 to the date on which they elected to join the 2006 Scheme, to have special provisions which generally reflect the rules of the Firefighters' Pension Scheme 1992 ("FPS 1992").

18. Those who qualify for membership of the modified Scheme, must have made an election to join (which was extended by SI 2015/590) by no later than 30 September 2015.

**NATIONAL JOINT COUNCIL FOR LOCAL AUTHORITY FIRE AND RESCUE SERVICES**

**Pay, terms and conditions**

19. Members will recall that the NJC is committed to working 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.

20. Under that commitment substantial work has been undertaken which included the formation of a number of workstreams:

20.1. Environmental challenges – e.g. flooding, inland water safety, snow, wild fires

20.2. Emergency medical response – e.g. co-responding, falls, on-site trauma care, provision of community training, wider health agenda

20.3. Multi-agency emergency response – e.g. MTFA, joint working, any issues falling out of JESIP

20.4. Youth and other social engagement work – e.g. arson reduction, working with risk of offending youth groups

20.5. Inspections and enforcement – e.g. schools, illegal homes, crown properties, expansion of unregulated business use, related fire safety advice

21. That first phase concluded on schedule and a summary was issued to FRAs shortly after the last NJC meeting:

<http://134.213.15.24/documents/10180/7025438/workforce+-+fire+and+rescue+services+joint+circulars++-+CIRCULAR+NJC+07-15+-+Pay+Terms++Conditions+Workstreams+5+June+2015.pdf/3dfe25ca-6f6f-4cbf-9a10-503e06f23bf3>

22. Members were pleased with the progress made and agreed that discussion should now move into the second phase, covering meshing together of the outcomes, and consideration of what it is appropriate to take forward at national level, local level or not at all. At that point consideration will also be given to the viability of any potential funding streams and whether they should be explored further.

23. Furthermore, NJC members agreed as part of that second phase work, that FRAs would be able to submit expressions of interest to the Joint Secretaries to carry out trials arising from the work of the Emergency Medical Response workstream which could focus on co-responding and/or wider work. Importantly the matter of the firefighter rolemap has been set aside in order to facilitate the trials and agreement reached that such work will be jointly regarded as part of the core job for the duration of the trial. Therefore an FRA does not need to rely upon volunteers in order to run a trial. NJC trials will need to conclude by the end of June 2016. At the time of writing, nine trials have already been approved. Expressions of interest from a further five FRAs are under consideration and a further four FRAs have advised that they are in the process of finalising their proposals.

24. This work will fit well with collaborative work being discussed elsewhere as part of the public health agenda in England, and expectations in other parts of the UK that firefighters should undertake a wider community role.

**Inclusive Fire Service Group**

25. The NJC has a continuing commitment to equality, diversity and cultural issues in the fire service. As part of that continuing commitment members decided at the last meeting of the NJC that given the employer/employee relationship, the NJC should take the lead on a piece of work to assess the current position and to identify guidance in relation to any further strategies that could be used at local level to further encourage improvement in equality, diversity and cultural issues.

26. The Chief Fire Officers Association, the Retained Firefighters Union and the Fire Officers Association accepted invitations to participate in the group and the first meeting took place this month.

**Transitional pension scheme arrangements**

27. FRAs are aware that the FBU has entered many thousands of Employment Tribunal cases on behalf of its members in relation to the transitional pension scheme arrangements across the UK. The Claimants allege that the transitional arrangements made when the firefighters' pension schemes were amended with effect from 1 April 2015 discriminate on the grounds of age, in some cases on the grounds of sex and race, and in all cases that they breach the principle of equal pay.

28. Given the good sense of not replicating matters many times over, and through the auspices of the National Employers, we offered to put in place a collective response to this matter. All UK FRAs welcomed that approach and have provided the LGA and Bevan Brittan LLP with authority to act on their behalf. As part of this a Steering Committee has been set up including a number of FRA representatives.

29. A cost sharing arrangement has also been entered into although the matter of costs in defending these cases has been raised with respective government departments given FRAs ultimately did not have control over the decisions taken in putting these protection arrangements in place.

**Joint Working Group (Fitness)**

30. This group was formed following the agreement in principle within the NJC on a number of fitness issues. Reference to the group subsequently appeared in the addendum to the DCLG National Framework in England and related to its dispute with the FBU. CFOA, RFU, and FOA all accepted invitations to participate in the joint working group.

31. Whilst the joint working group is, by agreement, facilitated by Peter Holland (DCLG) it is nonetheless mindful of issues in Scotland, Wales and Northern Ireland given the joint involvement of the Employer and Employee Sides (including advisers) of the NJC which operates on a UK-wide basis.

32. The joint working group and its over-arching Steering Group (also with NJC/DCLG membership) have now met on two occasions.

33. Whilst a year has been identified in the terms of reference for the work of this group (from March 15), the current aspiration is that the best practice guide it is charged with developing will be issued by the end of this year.

**Part-Time Workers (Prevention of Less Favourable Treatment) Regulations**

34. Members will recall that settlement agreements were reached some time ago with both the RFU and the FBU in respect of the many thousands of Employment Tribunal cases relating to discrimination under the above Regulations. Paragraphs 21 and 22 above refer to the outcome of the pension aspect of the cases. This section of the report refers to the terms and conditions aspect of the cases.

35. Concluding application of the settlement agreements and ensuring that all eligible employees and ex-employees have received a settlement payment has been a very lengthy and complex process. However the independent data processer Popularis is now in the process of issuing the final batch of offers.

**Local assistance**

36. Conciliation - the Joint Secretariat has a very good record of assisting local parties to either reach agreement at the time of conciliation or to develop the basis of an agreement which leads to a resolution following further discussion shortly afterwards at local level. Over the last year eleven conciliations have been undertaken (for nine fire and rescue services), covering a total of 26 issues.

37. Joint industrial relations training - when jointly requested to do so, the Joint Secretariat can also work with parties at local level who wish to explore their current industrial relations relationship with a view to seeking improvement. During the last year this took place with three services.

**‘Enabling closer working between the Emergency Services’ - Consultation**

38. The Government has issued a consultation on a series of measures to transform the delivery of local fire and police services, and drive greater collaboration between the police, fire and rescue and NHS ambulance services.

39. Whilst many of the measures will be the subject of discussion elsewhere under today’s agenda, e.g. governance issues, matters relating particularly to employment status will be considered by the National Employers when they meet in October.