

## **Industrial Relations**

### **Purpose of the Report**

To update the Fire Commission on matters in relation to fire service industrial relations.

### **Summary**

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

### **Recommendation**

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

### **Action**

This report is for information.

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## **Industrial Relations**

### **Pension scheme reform**

1. Much of the industrial relations focus since the last meeting of the Fire Commission has been on the impact of Government proposals in respect of pension scheme reform.
2. You will be aware that both the Fire Brigades Union (FBU) and the Fire Officers Association (FOA) have registered trade disputes with relevant Ministers in England, Scotland and Wales in respect of the Government's reform proposals. (Whilst remaining unhappy with the reform proposals the FOA, which represents a number of middle managers, has not moved to ballot its members on industrial action).

### **Industrial action**

3. Since the Commission last met, FBU members have taken part in short periods of strike action in England and Wales on 1, 4 and 13 November. At the time of writing, further strike dates have not been announced.
4. In addition to strike action, the FBU is currently undertaking a second ballot of its members, also in connection with the trade dispute with Ministers. This ballot is seeking support for action short of a strike, covers England, Wales and Scotland, and this time will also include control staff. The ballot opened on 13 November and will close on 4 December.

### **National Employers**

5. Whilst this is a dispute with Government, through the auspices of the National Employers<sup>1</sup>, we have taken whatever action possible to assist the parties to the dispute, where it is appropriate to do so. Most recently this has been on the matter of fitness and capability. This matter would fall out of the effect of the pension reform proposals given the potential impact on fitness issues and how they are managed at local level.
6. Fire authorities were consulted upon a number of draft principles, that had previously been discussed with the FBU, at a meeting held in London on 24th October (in recognition of this the FBU had cancelled strike action that had been due to take place on 19<sup>th</sup>). The meeting was very well attended. Only one English FRA and one Welsh FRA were unable to attend. A number of fire authorities also

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<sup>1</sup> There are 14 seats on the National Employers. The LGA holds ten seats, and the WLGA one. The Boards of the Scottish Fire and Rescue Service and the Northern Ireland Fire and Rescue Service hold the remaining seats.

**Item 5**

provided comments in advance of the meeting. Key points discussed at that meeting are shown below:

- i) The concept of a periodic review under the auspices of the NJC. Authorities were not adverse to this in preference to the DCLG suggested alternative of a Government established and independently chaired review. Attendees felt that this was an employer issue and the NJC was the appropriate route. *Note:* the current DCLG consultation principles revert to a Government established, independently chaired, review.
- ii) The preference for a greater level of flexibility on redeployment options available to affected individuals. *Note:* the current DCLG consultation principles reflect the original wording and therefore do not reflect this view.
- iii) Authority initiated early retirement (principle 11) -
  - Potential cost – should the Government decide, as part of its resolution to the dispute, to meet the aspirations of the FBU for a full pension to always be applied in such circumstances, consequent costs to fire authorities must be met by Government in a clearly identifiable manner.
  - Legal constraints – QC opinion commissioned by the LGA has identified that fettering of an authority's discretion to always use the authority initiated early retirement discretion (and hence provide a full pension) through either national or local agreement would be unlawful. Fire authorities have been provided with a précis of the opinion.
  - Reference to 'commence authority initiated early retirement process' – it was recognised that commencing the process would still allow application of discretion (ie the conclusion may not always be application of a full pension), and that work was also on-going between the National Employers and the FBU to underpin and clarify that intent in England, Wales and Northern Ireland. However, given the intent in Scotland is different it would be helpful to see more clarity of intent in the principle itself. *Note* - the current DCLG consultation principles still refer simply to 'commence' and therefore do not reflect that desire for added clarity.
- iv) Following a suggestion from the Fire Minister in England to the FBU to establish a joint working party, we have worked in conjunction with DCLG and the FBU to develop what this would mean in practice based on the draft terms of reference in a letter from the Minister to the FBU's General Secretary:

*'I am also content to establish a Joint Working Party with the employers to examine some of the workforce management issues that you raise. The draft current Terms of Reference for that group is:*

*The Joint Working Party note that pension age will undergo a separate, regular review.*

*This Joint Working Group will:*

**Item 5**

- *Consider aspects of the role that have been identified as the most physically intensive and how they impact upon an individual's ability and fitness to carry out their role over time:*
  - *Examine future options and trends in respect of continued employment and develop a best practice guide.'*
- (iv) Since the National Employers' consultation meeting concerns around potential costs and legal constraints have again been communicated to DCLG. This was done at officer level by telephone on the day of the meeting. This was further reinforced as part of a response from Cllr Heaster, Chair of the National Employers, to the Fire Minister shortly thereafter (letters attached as **Appendix A and B**). In addition, constructive discussion has continued with the FBU with a view to reaching agreement on an approach to capability issues in the future, mindful of the constraints the National Employers need to work within. Over and above this work, the Fire Brigades Union continues to seek from Government amendment to the Pension Regulations in order to secure a 'cast iron guarantee' that early retirement linked to fitness issues will always be based on a full pension.

**DCLG consultation**

7. Separately to those National Employer discussions the Government in England decided on 1 November to issue a consultation paper based on a different set of principles with a view to inclusion in the National Framework. Whilst similar, the principles DCLG are currently consulting upon are not identical to the draft principles consulted upon by the National Employers (or indeed those originally used in Scotland). Some examples of differences compared to the National Employer draft principles considered at the meeting on 24 October are indicated in paragraph 6 above. The National Framework would not normally be used for employee-related management issues. In any case we understand the legal position referred to in paragraph 6(iii) above would remain an issue.
8. Fire authorities are currently in the process of preparing responses to the DCLG consultation on fitness issues. As you are aware the National Employers will also be preparing a response based on the views provided by fire authorities at the recent National Employers consultation meeting and copies of FRA draft responses, to also inform that paper, have been requested. The DCLG consultation closes on 6 December.
9. The Fire Minister has decided to facilitate a round table discussion on 4 December of interested parties. Invitations have been issued to National Employer member representatives, as well as the Chief Fire Officers Association and unions (Fire Brigades Union, Fire Officers Association, Association of Principal Fire Officers and Retained Firefighters Union).

**Appendix A**

**FIRE & RESCUE SERVICES**  
**National Employers**

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Brandon Lewis MP  
Parliamentary Under Secretary of State  
Department of Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU

28th October 2013

Dear Brandon,

Thank you for your letter of the 25th of October.

I share your frustration that the FBU have announced further strike dates when my most recent letter to Matt Wrack made clear that the National Employers are keen to continue dialogue over principles that will reassure firefighters that everything will be done to try and avoid anyone facing no job and a reduced pension.

At our consultation meeting on Thursday, Fire Authorities provided a clear message that whilst they are content to support appropriately worded principles, they were not prepared to be left in a position where they would be obliged to implement an employer initiated early retirement for all firefighters who fail their fitness test and pick up the cost. Our legal advice provides an equally clear message that any fettering of an Authority's discretion within the Pension Regulations would be unlawful. The National Employers have been consistent on this point although none of that has undermined our desire to agree principles with the FBU that will provide as much reassurance as possible.

In reaching this decision, I presume that the FBU will have taken into account all of the correspondence they have received over recent days. With regards to correspondence from the National Employers, we remain ready to meet the FBU at any point in the next few days to see if we can assist in getting the announced strike action averted. Our understanding is that the FBU remains willing to take part in such discussion.

Yours sincerely,



Cllr Maurice Heaster



Chair, National Employers

**Fire Commission**  
06 December 2013

**Item 5**