

FSMC Industrial Relations Report

Purpose of the Report

To update the Fire Service Management Committee on the current dispute between the Fire Brigades Union and Government Ministers in England, Wales and Scotland.

Summary

This paper briefly describes the position as at the date of issue of the report. An oral update will also be provided at the meeting.

Recommendation

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

Action

Officers to progress as directed.

Contact officer: Gill Gittins
Position: Principal Negotiating Officer
Phone no: 020 7187 7335
E-mail: gill.gittins@local.gov.uk

Item 5

Pension Scheme Reform Dispute

1. The purpose of this paper is to update members in relation to the dispute between the Fire Brigades Union and Ministers in England, Wales and Scotland on the matter of pension scheme reform proposals.
2. Whilst this is a dispute between the FBU and Government, industrial relations and the impact of industrial action on fire authorities is clearly of concern. There have now been nine occasions of strike action in total. This includes, since the last meeting of the FSMC, strike action in England and Wales (excluding control staff) on:
 - 13th November from 10.00 to 14.00
 - 13th December from 18.00 to 22.00
 - 14th December from 18.00 to 22.00
 - 24th December from 19:00 hours to midnight (00:00 on 25th December 2013)
 - 31st December from 18:30 hours to 1st January 2014 at 00:30
 - 3rd January 2014 from 06:30 hours to 08:30
3. In addition, action short of a strike has also taken place:
 - 24th December 2013 from 19:00 hours until midnight (00:00 on 25th December 2013) - industrial action short of a strike, namely a refusal to undertake voluntary overtime (Scotland as well as control members in England, Wales and Scotland).
 - 27th December 2013 from 19:00 hours until 29th December 2013 at 19:00 hours - industrial action short of a strike, namely a refusal to undertake voluntary overtime (England, Wales and Scotland).
4. We are aware that one fire authority decided not to accept partial performance from wholetime FBU members on the occasion of strike action that coincided, in part, with the public holiday on 1st January. The FBU responded by announcing additional strike action affecting retained duty system firefighters with the intention that they be unavailable for a time equivalent to the length of that wholetime shift.
5. To date, fire authority resilience arrangements have held up well with major events such as firework events at New Year continuing to take place. The level of interest from the media is low. Additional costs to fire authorities vary. Some already had long-standing resilience arrangements in place or have been able to fill gaps with use of existing retained duty system firefighters who may not be FBU members. Others will need to include one-off set up costs in setting up new resilience arrangements.

LGA approach to date

6. Throughout the dispute, and indeed prior to it, we have worked with the parties either separately or jointly to assist in finding a resolution wherever it has been appropriate to do so, largely utilising the auspices of the National Employers.

Item 5

- 6.1 Capability – this matter falls out of the effect of the pension reform proposals given the potential impact on fitness issues and how they are managed at local level and includes, from the union’s perspective, an aspiration that uniformed employees aged between 55 and 60 who are unable to maintain fitness should be able to retire on a full (rather than an actuarial reduced) pension.
- 6.2 Mindful of the views of fire authorities at the National Employers’ consultation meeting we have continued to work with the FBU to develop a set of principles and supporting documentation. Broad agreement has been reached on ten principles and work continues to finalise the finer points within those principles. The eleventh principle concerns use of the discretion available to authorities within the existing Pension Regulations. The FBU position remains that they seek a cast iron guarantee that such discretion will result in application of a non-actuarially reduced pension. Members will recall the QC opinion commissioned by the LGA which is clear that it would be unlawful for either the National Employers on behalf of all FRAs or an individual FRA to agree such a position. Hence this particular point remains one between DCLG and the FBU, with the FBU continuing to seek amendment to the Pension Regulations to secure that guarantee. DCLG is aware of the view of the National Employers on behalf of FRAs that any resulting costs (should there be such amendment) must be met by government in a clearly identifiable manner.

Separately to those National Employer discussions DCLG decided on 1st 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 consulted upon were not identical to the draft principles consulted upon by the National Employers and appear to not take into account the feedback provided to DCLG following that meeting. The National Framework would not normally be used for employee-related management issues. In any case we understand the legal position in respect of the fettering of authority discretion would remain an issue. The National Employers provided a formal response based on the views provided by fire authorities at the National Employers consultation meeting and copies of FRA responses to DCLG.

- 6.3 Fitness – the FBU aspiration is for nationally determined fitness standards. Feedback from fire authorities has been that whilst they are not adverse to consideration of appropriate fitness levels they would prefer not to see a prescribed position. The Fire Minister in England has suggested to the FBU that he establish a joint working party to *‘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’*. We have worked with DCLG and the FBU jointly to identify how such a joint working party would work in practice and to ensure that employer views are clearly heard on that working party.
- 6.4 DCLG roundtable – DCLG decided to facilitate a round table discussion on 4th December. The meeting was chaired by the Fire Minister. The National Employers were represented. Other attendees were the Chief Fire Officers

Item 5

Association and unions (Fire Brigades Union, Fire Officers Association, Association of Principal Fire Officers and Retained Firefighters Union). Much of the one-hour discussion focussed on the potential for national fitness standards. It is understood that a further round table meeting may be held.

- 6.5 Meetings with the Fire Minister – aside from the numerous meetings with DCLG at officer level, Cllr Heaster as Chair of the National Employers has been invited to meet with the Fire Minister on two occasions.
- 6.6 Major incidents agreement - Prior to commencement of strike action and through the auspices of the National Employers we were able to reach strategic agreement in England, Scotland and Wales with the FBU on response to major incidents during periods of strike action. The third signatory to the respective agreements was the chief fire and rescue service adviser in England, the chief officer of the Scottish Fire and Rescue Service and the chief fire and rescue service adviser in Wales. We understand such agreements have recently proven useful to FRAs such as Surrey and Kent in dealing with major flooding incidents.

Information to fire authorities

7. Fire and rescue authorities have been provided with detailed information on matters relating to industrial action such as pay deductions; partial performance, provision of time off in lieu should strike action take place on part of a public holiday, picketing, continual professional development payments etc. The series of FAQs can be found here:

http://www.local.gov.uk/web/guest/fire-and-rescue-services/-/journal_content/56/10180/5487733/ARTICLE

8. DCLG has also updated its set of frequently asked questions in relation to the pension scheme reform proposals. Members will be aware that the Fire Minister is keen for such information to be made available to employees. That series of FAQs can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/267635/Firefighter_pensions_-_the_facts.pdf

Looking forward

9. Further dates have been arranged with a view to concluding discussion on the principles being developed by the National Employers and the FBU in so far as we are able to given the legal issues around the eleventh principle.
10. The Fire Minister in England recently met with FBU representatives. We understand that it was agreed to continue discussion. There are currently no scheduled strike dates or dates for action short of a strike and as part of general update the General Secretary of the FBU advised union members on 9th January that:

24 January 2014

Item 5

- 10.1 *the Minister 'and his team agreed to set up a series of discussions on the various issues in dispute. Importantly, this includes the issue of 'scheme design' for the proposed 2015 pension scheme i.e. the details of the content of the scheme. This includes providing the assistance of the Government Actuary's Department (GAD). The Union has already sought our own actuarial advice on the issues we will wish to raise during discussions. Some areas of these discussions will inevitably be quite technical and the Executive Council has scheduled a series of meetings to receive briefings and updates. There will also be further meetings with Mr Lewis himself.'*
- 10.2 *'There are no guarantees that talks or evidence submitted will result in any movement from Ministers. In that case the Executive Council is clear that the Union would have to return to industrial action and consider all options and all tactics available to us.'*