

Workforce Report

Purpose of Report

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:

The Committee are asked to note the issues set out in the paper.

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Workforce Report - industrial relations and pensions

PENSIONS

Malcolm Eastwood, Chair of the Scheme Advisory Board

1. Malcolm Eastwood, a former Chief Fire Officer of Hampshire Fire and Rescue Service, has been appointed as Chair of the Firefighters Pension Scheme (England) Scheme Advisory Board.

Scheme Advisory Board

2. The employer and employee representatives of the Scheme Advisory Board have now been appointed by the Fire Minister and are named below

Employee Representatives	Employer Representatives
Sean Starbuck	Cllr Maurice Heaster *
Samantha Rye	Cllr Jeremy Hilton *
Francis Bishop	Cllr Rebecca Knox
Dave Limer	Cllr Darrell Pulk
Tristan Ashby	Cllr Thomas Wright
Glyn Morgan	Cllr John Fuller
Des Prichard	Cllr Philip Howson

3. There have been two changes concerning the Scheme Advisory Board since the last meeting. Cllr Roger Price (once appointed by the Secretary of State) will replace Cllr Jeremy Hilton. This change does not affect the political balance of LGA nominations on the board. A replacement will also be required for Cllr Heaster. The procedure for election to the Board ensures that LGA nominated representatives reflect both political balance and type of fire authority. The Conservative group office has therefore been asked to provide a suitable nomination, and will do so following on from the LGA conference. To maintain the balance of LGA nominations previously agreed, they have been asked to be mindful of the necessary profile ie drawn from a Metropolitan fire and rescue service or LFEPA.
4. The next Scheme Advisory Board meeting is 7th September 2016.
5. The Scheme Advisory Board will shortly be writing to all Local Pension Boards, Chiefs and Chairs to introduce themselves and their work plan.

Consultation on survivor amendments and 2014 amendments

6. The Home Office have recently consulted on proposed amendments to survivor benefits in the 1992 scheme and minor amendments to the 2014 scheme

7. The amendments to survivor benefits amends the 1992 regulations and compensation scheme to ensure that survivors of firefighters retain their survivor benefits on re-marriage, this is in line with paragraph 2.17 of the [March 2015 budget statement](#)
8. The amendments to the 2014 regulations makes clear the government policy on Ill-Health retirements for a person who is near to their taper date to move into the 2015 scheme when an IQMP process is initiated.
9. The amendments make clear that a person who is in the position should not be transitioned to the 2015 scheme until the IQMP process has completed. If the subsequent recommendation is for an Ill-health pension to be awarded this should be under the relevant rules of the existing scheme (ie 1992 or 2006)

Contributions Holiday

10. In 2013 DCLG consulted on regulations to permit members of the 1992 scheme under the age of 50 who have accrued 30 years' service to take a contributions holiday from the time they attain 30 years' reckonable service until they reach age 50.
11. The consultation response can be found [here](#), paragraphs 43 to 61 refer.
12. Following the consultation, the department sought a declaration from the courts to consider whether the requirement for a 1992 Scheme member to continue paying contributions beyond the point of accruing maximum service and prior to having the option to retire was unlawfully discriminatory.
13. In December 2015 DCLG settled the case and agreed to provide a contributions holiday
14. This will need amending regulations, and DCLG and are now considering the relevant framework.
15. Draft regulations are expected in the summer.

NATIONAL JOINT COUNCIL FOR LOCAL AUTHORITY FIRE AND RESCUE SERVICES

Pay, terms and conditions

16. You will recall that the NJC has agreed the following commitment:

'Both Sides commit to work jointly 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.'

17. It was recognised that this will include consideration of how the workforce's skills and commitment can best be utilised, including the type of activities undertaken and the potential to build upon, and expand, this piece of work to encompass a more wide-ranging and strategic look to the future.

18. Substantial work has already been undertaken including meetings at Secretariat and NJC joint lead member level, a survey of fire authorities to ascertain what happens at present and aspirations for the future, and formation of a number of workstreams (covering issues such as environmental challenges, emergency medical response, multi-agency response, youth and other social engagement work, inspections and enforcement), all of which formed phase 1 of joint discussion.
19. NJC members agreed as part of the 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.
20. The concept of trials was further developed at Joint Secretary level and details issued to FRAs. This included reference to broad consensus across all of the workstreams that a set of over-arching assurances would need to put in place in order to facilitate rolling out the proposed activities - for example provision of appropriate training and equipment (where relevant) and assurances around personal liability and pension issues. The principle of control staff involvement in mobilisation was also a factor. In order to facilitate such trials it was jointly recognised that such work will be regarded as part of the core job for the duration of the trial in each of the respective trial fire authorities.
21. A substantial number of FRAs are now operating trials approved by the NJC, giving a current total of 33:

Bedfordshire	Mid & West Wales
Berkshire	Norfolk
Cambridgeshire	North Wales
Cheshire	Northern Ireland
Cleveland	Northumberland
Derbyshire	Nottinghamshire
Dorset and Wiltshire	Oxfordshire
Durham and Darlington	Scotland
Essex	South Wales
Gloucestershire	South Yorkshire
Greater Manchester	Staffordshire
Hertfordshire	Surrey
Humberside	Suffolk
Lancashire	Tyne and Wear
Leicestershire	West Midlands
London	West Yorkshire
Merseyside	
22. They range from co-responding only (either in specific areas or across a service) including wholetime and/or retained personnel, to trials that include much wider work for example slips, trips and falls assessments (and offering preventative measures to reduce the risk of injury), winter warmth assessments and advice, Heartstart advice (which teaches CPR and other emergency life-saving skills), assistance to health partners by supporting

bariatric people in terms of lifting those that have fallen, training of staff in Dementia Awareness (offering advice and referral opportunities to members of the community), alcohol harm and reduction (and signposting individuals to help), smoking cessation advice (including signposting to help) providing advice and promoting local activities to reduce loneliness and isolation.

23. The first data capture exercise from the trials was undertaken in May 2016 covering the period from the start of each trial to the end of March 2016. 20 out of the 31 FRAs involved in the trials were asked to provide the pre-specified data they agreed to provide when initially seeking approval for the trial. This exercise excluded 11 FRAs whose trials would not have started during that period or had recently started and therefore insufficient data would be available.
24. All 20 FRAs submitted their responses to the online survey on time and some of the key findings are highlighted below:
 - 24.1 17 out of the 20 FRA trials were providing assistance to the most serious cardiac and respiratory arrest incidents (Red 1 calls)
 - 24.2 422 wholtime (WT) fire stations and 459 retained duty system (RDS) stations are involved in the trials
 - 24.3 16,700 WT, 6203 RDS and 748 control staff have been involved in the trials
 - 24.4 Out of the 39,625 incidents recorded by the 20 respondent trial areas over this period 9,543 of them have been co-responding incidents (WT – 62.7%, RDS – 37.3%)
 - 24.5 Firefighters attended 3300 serious incidents involving; Chest pain/ heart condition/ cardiac arrest) and a further 1320 incidents involving breathing difficulties / impairment / respiratory arrest
 - 24.6 Firefighters were on the scene first in 49% of the incidents reports, whilst the ambulance service was first on the scene at 40% of recorded incidents (11% were ‘unknown’)
 - 24.7 Trial FRAs were asked the number of times they perceived that firefighters had “potentially made a life-saving difference by delivering co-responding” – the interim findings suggest this happened on 2264 occasions.
 - 24.8 Of the wider work, firefighters were involved in 72,510 separate ‘incidences’, the highest percentages being involved in winter warmth assessments; fitting risk reduction equipment; loneliness and isolation visits; home safety visits; safety and wellbeing checks and slips, trips and falls.
25. The NJC trial period was due to draw to a close at the end of June 2016. An extension to the end of February 2017 has now been agreed and FRAs advised by [circular](#).

26. An external evaluation of the trials will be undertaken. We are currently in discussions with potential providers.
27. The Environmental Challenges workstream is currently progressing the work on national guidance on welfare arrangements when working at major incidents outside of the individual's home service. This work is being undertaken together with the Multi-Agency Response workstream.
28. The Multi-Agency response workstream has met again twice recently to assess where the work on MTFA operational guidance (that is taking place elsewhere) is up to. The group will meet again shortly to resume consideration of that issue. In addition the workstream is working together with the Environmental Challenges workstream on the drafting of national guidance on welfare arrangements.
29. You may recall earlier communications with government ministers with responsibility for fire matters in England, Scotland, Wales and Northern Ireland. Whilst initial responses were not as supportive as the NJC would wish, further contact has been made in England with the Home Secretary (given the transfer of fire policy matters from DCLG to the Home Office). Further letters will also be sent to ministers in Scotland, Wales and Northern Ireland.

Inclusive Fire Service Group

30. 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.
31. The Chief Fire Officers Association, the Retained Firefighters Union and the Fire Officers Association accepted invitations to participate in the group, which has now met on several occasions. Professor Linda Dickens, Independent Chair of the NJC, also chairs this group.
32. To inform its work the group has undertaken a substantial survey of fire and rescue services seeking information e.g. on discipline and grievance cases going back 5 years and status as far as the Equality Framework is concerned. We also have information from the last NJC Workforce survey which supplies data such as numbers employed in each role, gender and ethnicity.
33. A number of organisations addressed the last meeting either in person or by written submission e.g. FBU special interest groups, Women in the Fire Service, Women in the Police Service, Stonewall, Asian Fire Service Association, MIND.
34. The NJC received a progress report at its recent meeting, which included a number of recommendations, all of which were accepted:

- 34.1 that the group undertake work to provide national guidance on data collection, recording and monitoring;
- 34.2 In addition to 34.1, the NJC will undertake a periodic national exercise monitoring a number of key indicators primarily to be able to measure improvement and to be able to identify themes and if necessary provide further support and guidance. This will be carried out by this group or potentially a smaller form of the group; and
- 34.3 that the group continue its work to explore a number of key indicators, issues and trends further, including those listed below, in order to better inform potential improvement strategies:
 - 34.3.1 The low levels of female and BME representation across the uniformed workforce
 - 34.3.2 The proportionally low levels of female and BME progression through the roles
 - 34.3.3 Bullying and harassment issues
 - 34.3.4 The lack of available data on LGBT uniformed personnel
 - 34.3.5 Encouraging management commitment to consistently instigate and promote equality and diversity initiatives
 - 34.3.6 Levels of grievance/discipline cases involving women and BME uniformed employees

- 35. The group also intends to issue guidance in respect of Personal Use of Social Media policies.
- 36. An update on the work of the group, which included a full report on the survey outcomes, has been provided to FRAs by [circular](#). It is a substantial piece of work containing information about diversity and cultural issues as well as the make-up of the current uniformed workforce.

Joint Working Group (Fitness)

- 37. 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.
- 38. Whilst the joint working group was, by agreement, facilitated by Peter Holland (then DCLG, latterly Home Office) given the link to the pensions dispute it was 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.
- 39. The joint working group and its over-arching Steering Group (with NJC/DCLG(HO) membership) met on several occasions.

40. Since the last FSMC meeting the group has completed its remit within time, issuing a best practice guide on fitness issues in March this year:

<http://local.gov.uk/documents/10180/7734367/workforce+-+fire+and+rescue+circular+-+njc-1-16+-+best+practice+guide+-+final.pdf/f780520a-f433-470f-844f-6e3856adcde6>

Advanced Level Apprenticeship in Exercise and Fitness

41. One of the topics considered as part of the DCLG(Home Office)/NJC joint working group on fitness was the role and value of dedicated workplace fitness advice. There can be various ways of providing this kind of advice but the group recognised that it would be important for such advisers to have the appropriate skills and training to undertake such an activity.
42. We discussed this further with the FBU outside of the group given a potential role for watch or station based fitness advisers (on physical training) and mindful of the financial constraints fire and rescue services are working within.
43. The FBU has developed a programme through their National Learning Centre and in partnership with Leeds City College. This programme is an Advanced Level Apprenticeship in Exercise and Fitness which will enable successful students to qualify as a Level 3 Personal Trainer. Students do not have to be FBU members or have already studied at level 2.
44. We have worked together through the auspices of the NJC to take his forward. It is of benefit to fire and rescue services as they look to support the fitness of their employees, as well as a good opportunity for the people who take part in the programme to utilise the skills they gain.
45. There is no direct cost to FRAs for this programme, which can be delivered locally within services subject to the number of students and facilities available. Tutors will be provided through the FBU programme. To support the programme, an FRA is asked to make a number of commitments as set out below:
- 45.1 Advertise the programme within the FRS
 - 45.2 Assist with enrolments
 - 45.3 Provide a dedicated point of contact in each FRS who can book dates and organise staffing to allow learners to attend
 - 45.4 Organise mop up days for learners who are on shift or who cannot attend on programmed days
 - 45.5 Provide classrooms or study areas with White Boards that can be booked all day
 - 45.6 Provide access to appropriate fire station gyms or book their equivalent for the back-end of the course when practical sessions will take place
 - 45.7 Fully commit to their ongoing involvement for the duration of the 15-month programme and allow participants the one-day a month required for course attendance

46. Following a joint approach, 26 services in England welcomed the initiative indicating that they wish to be involved in the initial programme and a further 5 indicated interest for the future. Due to the funding position this opportunity can only be offered to FRAs in England at the present time although we have asked the FBU to explore whether it would be possible to secure funding to provide something similar in Scotland, Wales and Northern Ireland.
47. The FBU is currently putting enrolment arrangements in place in those 26 services.
48. We are currently exploring, both with the FBU and internal LGA colleagues who work on apprenticeship matters, whether the apprenticeship can count towards the government levy.
49. An update has been provided to FRAs by [circular](#).

Part-Time Workers (Prevention of Less Favourable Treatment) Regulations - Employment Tribunal cases

50. 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.
51. Concluding application of the settlement agreements on the terms and conditions aspect of the cases 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 processor *Popularis* has now issued the final batch of offers.
52. Both unions have now written to anyone who has not responded to a settlement offer at any point in this process to advise them that they will no longer represent them. Once they have also written to the Tribunal to advise them of the position in those cases we will advise FRAs so that they can then seek to have such cases struck out. A template letter has already been provided to FRAs.
53. To conclude the process *Popularis* will provide each FRA with a record of the status of each of its offers - accepted, no reply etc.

Transitional pension scheme arrangements- Employment Tribunal cases

54. You will be 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.
55. 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.

56. 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.
57. A second preliminary hearing took place on 31st May and 1st June. The outcome is awaited. However it has already been indicated that a third preliminary hearing should take place at the end of August. The liability hearing itself has been listed for 9th to 25th January 2017.

Pay 2016

58. The usual settlement date for employees covered by the NJC for Local Authority Fire and Rescue Services is 1 July. At the recent NJC meeting a [claim](#) was considered and an offer was made – 1.0% across the board, including CPD payments. The Fire Brigades Union and the Fire Officers Association have each indicated that they will undertake a consultation exercise. We expect to provide a further update to FRAs in mid-July.