

13 October 2017

Workforce paper

Purpose of Report

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

Summary

This briefly describes the main industrial relations and pension issues at present.

Recommendation:

Fire Commission members are asked to note the issues set out in the paper.

Action:

Officers to proceed as required.

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Workforce paper

Pensions

New statutory instruments

- Two amendments orders were laid by the house on 11 September 2017.

- SI 2017/892 <http://www.legislation.gov.uk/id/uksi/2017/892>

This amendment order primarily gives effect to the government decision as was announced in the budget of 18 March 2015 that widows, widowers, and surviving civil partners of firefighters and police officers who died or die on duty in England and Wales would no longer lose their survivor benefits if they remarry or form a civil partnership. On 12 October 2015, the Home Secretary announced in the House of Commons that, in respect of police pensions, such changes would be applied retrospectively to marriages, remarriages and civil partnerships entered into on or after 1 April 2015. The current reforms regarding firefighters are consistent with that approach.

- SI 2017/888 <http://www.legislation.gov.uk/id/uksi/2017/888>

This amendment order primarily makes minor administrative changes to the 2015 Firefighters' Pension Scheme

A technical briefing note has been circulated.

Firefighters Pension Scheme Governance

- The results of The Pensions Regulator governance and administration survey showed that improvement was still needed around identifying and tracking risk and improving internal controls.
- LGA has increased training to Local Pension Boards and Scheme Managers to highlight that risk areas include the following

Regulatory and Compliance	Financial	Operational
Non-compliance with TPR	Pension Fund accounting mistakes	Member Data
Failure to interpret regulations	Authority costs due to failure to apply scheme / tax rules correctly	Administrative failures
Failure to comply with disclosure	Increased employer contributions	Software failure / corruption
Failure to communicate with scheme members	Excessive charges from contractors	Workforce planning

Scheme Advisory Board

4. The Home Office consulted the SAB for their views on how past service costs for three specific events should be treated in the valuation, with regards to how the additional costs for these events should be treated. Scheme Advisory Board Summary Response:

	Employer Contribution Rate	Cost Cap
GAD v Milne	This should not be considered an employer cost.	This should not form part of the cost cap calculation, in line with HMT policy on cost cap.
Retained Modified Scheme	<p>i. The Board accept that part of the cost of the retained option should be included in the employer contribution rate</p> <p>ii. The Board consider that the cost of service prior to 2007 should be excluded from employer costs</p> <p>iii. The Board would recommend option a, with the caveat that there is a long term measurement of the total costs to allow treasurers to forecast for long term planning.</p>	<p>This should not form part of the cost cap calculation for deferreds and pensioners in line with HMT policy.</p> <p>This should not form part of the cost cap calculation for active service before or after 31st March 2015.</p>
Contribution Holiday Refunds	This should not be an employer cost.	This should not form part of the cost cap calculation in line with HMT policy.

5. The SAB have been asked to comment on industry specific assumptions used in the 2016 valuation, which will form the GAD recommendations to government. This response is expected by 13 October 2017. The SAB have engaged an actuarial firm to provide an independent review in order to form their response.
6. In response to reforms to the pension tax in April 2016 which puts a responsibility on individuals to understand the pension tax rules and how it applies, the SAB have engaged Barnett Waddingham to run a series of briefing events to ensure employers can discharge

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their duties to make individuals aware of the tax rules. These dates have now been scheduled and will shortly be circulated to Scheme Managers and Pension Board Chairs.

Key wider workforce issues

Broadening the role of the firefighter / Pay claim

Background

7. 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, youth and other social engagement work, inspection and enforcement and multi-agency emergency response (which includes MTFA).
8. A formal pay claim was received from the Employees' Side of the NJC for LAFRS just prior to its meeting on 1 June.
9. Following a number of consultation meetings with UK fire and rescue service Chairs and Chief Fire Officers, a revised negotiating remit, and detailed joint negotiations, an offer was made in response on 1 July. Copies of the claim and offer are included in circular [EMP/5/17](#).
10. The Fire Brigades Union subsequently consulted its membership with a recommendation that it was 'not acceptable'. The offer was rejected on 25 July and the FBU indicated that it would advise its members to no longer participate in work being undertaken through the NJC approved trials under the *broadening the role* negotiation. This would be with effect from 24 August. The 38 trials being undertaken by 36 services across the UK ranged from co-responding only, largely in the case of cardiac arrests, (either in specific areas or across a service) including wholetime and/or retained personnel, to trials that included much wider work ranging from slips, trips and falls assessments and winter warmth assessments to offering e.g. alcohol harm and reduction advice, and/or dementia advice providing referral and signposting opportunities as appropriate.
11. Much of the concern indicated by the union was related to the uncertainty about stages 2 and beyond of the pay offer, therefore in further joint discussions we focussed on providing reassurance of the National Employers' commitment and intent, explaining that without a firm commitment from governments on future additional funding it was impossible for the National Employers to make categorical future commitments on pay. That correspondence can be found in the various [employer](#) and [joint](#) circulars. Other

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concerns raised such as some of the learning points from the independent evaluation of the trials are being taken forward through an NJC joint Technical Working Group. Reference was also made by the FBU to some local difficulties. We asked for specific details in order to be able to explore such concerns. That clarification has not yet been received although we understand the FBU is seeking details from its local representatives.

12. Consequently, the FBU's National Executive decided to consult its membership again, this time with a recommendation to accept. While the consultation was taking place work undertaken through the NJC trials would remain unaffected.
13. The consultation closed on 13 September. The position of reject remained the case and the FBU advised its members to withdraw their support for work undertaken through the trials. They also indicated however that they wish to remain engaged in the negotiation.
14. Rejection of the offer is clearly disappointing as too is the FBU statement to its members about involvement in work related to the trials. However, it remains the intention of the National Employers to reach agreement on broadening the role, which covers matters wider than those in the trials including Marauding Terrorist Firearms response (MTFA) and as such it too wishes to remain engaged in the negotiation.
15. The 2.0 per cent at stage 1 of the offer was dependent upon continuation of the trials and the position in respect of MTFA remaining unaffected.

Current position

16. At the time of writing, the Employers' Side of the NJC has suggested to the Employees' Side that while discussions continue to identify a mutually acceptable position, we reach agreement now to uplift pay across the board by 1.0 per cent, including continual professional development payments, and backdated to 1st July 2017. A copy of the letter is contained in circular [EMP/10/17](#). A response is awaited. In the meantime FRAs have been advised that no action should be taken.
17. At the NJC meeting on 5 October both employer and employee parties to the NJC expressed their determination to identify a mutually acceptable deal on broadening the role including pay issues as soon as possible. That negotiation is continuing.
18. Both parties remain committed also to joint political lobbying in respect of sustainable funding. As part of that continued work a parliamentary event is currently being planned for November. The NJC has also commissioned *New Economy* to build upon the work of the independent evaluation of the trials by the University of Hertfordshire from a cost benefit analysis perspective in order to support that lobbying.
19. The work of the NJC's joint Technical Working Group which is looking at some of the learning points from the trials e.g. mental wellbeing issues, training, equipment, mobilisation and inoculations is also continuing.

Inclusive Fire Service Group

20. Members will recall that the Inclusive Fire Service Group was set up by the NJC to assess the current position on equality, diversity, cultural and behavioural issues within the service and to identify guidance in relation to any further strategies that could be used at local level to further encourage improvement. Interested parties such as the National Fire Chiefs Council, Fire Officers Association and Retained Firefighters Union were invited to be involved. The group is chaired by the Independent Chair of the NJC, Linda Dickens.
21. Since the last meeting of the Fire Commission the group, having worked directly with employees, chief fire officers, equality and diversity officers and local union representatives from all FRSs, has completed the evidence gathering phase of its work. In June it released a number of [improvement strategies](#) asking that they be considered at both officer and member level and that a response be provided indicating the strategies that will be taken forward, the timescale within which it was expected to do so, the improvement it was expected will result (and by when), and who would be taking the lead from senior officer and member perspectives (the assumption being it will be the chief fire officer from a senior officer perspective).
22. Whilst responses are currently being analysed it is clear that reaction to the improvement strategies has been very positive with just one service indicating it would not provide a response. Much good work is taking place within services and there is an openness to adopting new strategies as well.
23. A summary report of the responses will be circulated to FRAs and all those involved in, or who engaged with, the work of the group so far. The group will now move into more of a monitoring role. However it will retain its remit around improvement strategies in order to respond to any necessary changes that may be identified through the monitoring or creation of new strategies if different concerns arise.
24. Discussion is taking place with the Home Office about support for one of the strategies, the concept and delivery of a national awareness campaign, which would be broader than that currently in hand in respect of retained duty system employees.

Employment Tribunal cases - pension scheme transitional protection arrangements

25. Members will recall that the Employment Tribunal found in favour of fire authorities. The FBU, who act on behalf of the claimants, lodged an appeal. The Employment Appeal Tribunal decided to join the appeal with that in the McCloud case relating to judges (which found in favour of the judges). Whilst recognising it was a decision for the EAT and it has made its decision clear, the Employers' Steering Group asked legal representatives to



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express our reservations from a fire authority perspective. The appeal will be heard in December.