

12 March 2018

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:

Fire Services Management Committee Members are asked to note the issues set out in the paper.

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Pensions

Scheme Governance

1. Early indications from The Pension Regulators' (TPR) annual Governance and Administration Survey are that they had a 100 per cent response rate from Fire Pensions, and that the results had increased by upwards of 30 per cent in some areas.
2. The Scheme Advisory Board recently undertook their own survey of Local Pension Board governance and the results will be published in late March. The response rate was 73 per cent.

LGA Firefighter Pension Scheme Communications

3. The LGA bluelight pensions team recently launched the second website named www.fpsregs.org. This website comprehensively covers the regulations of the scheme and provides technical support to those administering and managing the pension schemes.
4. The bulletins will now be published monthly – [bulletin 5](#) has just been published and includes an important bulletin on General Data Protection Regulation (GDPR) for Fire Authorities.

LGA Firefighter Pension Scheme Events

5. In order to support Fire Authorities understand their responsibilities under GDPR for pension scheme data, LGA are holding a half day data event on 29 March – Details of all LGA Firefighters Pension Scheme Events can be found [here](#). We would urge Fire Authorities to ensure their Data Protection Officers attend.

Tax implications of retrospective pensionable pay corrections

6. Fire and Rescue Authorities are sometimes required to retrospectively correct pensionable pay errors, where pay has incorrectly been deemed as not pensionable. This has been ongoing since 2011 with the Norman v Cheshire judgment and likely to continue.
7. In making those retrospective corrections, this results in making additional pension and lump sum payments more than 12 months after the original date of retirement, which can have potential tax consequences.
8. Currently it is not known how different FRAs approach these corrections.
9. At the January 2018 FSMC meeting, members requested further details, including costs for legal advice. These details are being obtained and a further update will be given at the next meeting.

12 March 2018

Pay and broadening the role negotiations

10. Both sides of the National Joint Council (NJC) remain fully committed to identifying a mutually acceptable resolution and negotiations are therefore continuing with frequent meetings taking place to scope potential changes to roles and to explore how that could be reflected in terms of pay.
11. As members are aware the latter will be directly affected by available funding on a sustainable basis. Both sides of the NJC therefore remain committed to joint political lobbying in that regard.
12. Following an NJC meeting with the Home Office Minister for Policing and the Fire Service and in the context of his highly valuing the role that firefighters play in protecting our communities and recognising the need for them to be rewarded fairly for the job that they do, the Minister has indicated that he wishes to receive additional information in respect of:
 - 12.1. how a fair pay award would look in both the short and longer term; impact on recruitment and retention; comparison with other workers given the roles and responsibilities involved; impact on workforce challenges and improvements in productivity and effectiveness; and
 - 12.2. an assessment of fire and rescue authorities' ability to fund a 3 per cent pay increase from their existing budgets. In this regard the Minister made reference to the government's latest assessment which shows 'that single purpose fire and rescue authorities' reserves have increased by 88 per cent to £615 million between 31 March 2011 and 31 March 2017' and welcoming 'a strong justification from the employers' side setting out why additional funding to meet an increased pay award cannot be prioritised from the fire and rescue authority budgets'.
13. Work is in hand on both aspects.
14. The NJC is a UK-wide body and members may therefore be interested to know that the Cabinet Secretary for Local Government and Public Services in Wales has, while expressing his view that any outcome must also work well for Wales, indicated that he is happy for further discussion to take place. In Scotland, the government has indicated that it is prepared to fund an increase in firefighter pay. This is likely to be sufficient to cover both the negotiations through the NJC and a number of local issues.

Inclusive Fire Service Group

15. This group is NJC led and includes representation from NJC employer and employee secretariats, the NFCC, RFU, FBU and FOA. The Independent Chair is Professor Linda Dickens.
16. Members will be aware of the work previously undertaken by this group on strategies to deliver improvements at local level in respect of inclusion, diversity and cultural issues such as bullying and harassment.

12 March 2018

17. One of the improvement strategies however does require national coordination – a national awareness campaign. Wide evidence gathered by the group suggested that public awareness of the breadth of the firefighter role would assist with recruitment and retention issues. Support had been sought from the Home Office in this regard. (This would be similar to the work being separately undertaken in respect of recruitment to retained duty system posts).
18. The Home Office attended the most recent meeting of the group to follow up on those discussions and to present on the work it is undertaking to support FRAs in recruitment from diverse groups. Feedback from the Home Office is that they found the visit to be very useful, recognising the uniqueness of inclusion of both employer and employee representatives, and have already taken on board some of the feedback for example the use of the term ‘bootcamp’ in proposed literature relating to fitness issues and suggested improvement around images.
19. They suggested that it would be helpful to have continued direct contact with the group and that has been welcomed.

Taxation and Lease Cars

20. An amendment to legislation last year included a change to the previous position which means employers are not permitted to make a reduction to the benefit in kind tax liability calculation to allow for business mileage in the cases of provided and lease cars fitted with audible and blue light devices.
21. We also understand that given the significantly increased tax liability for affected employees, e.g. flexible duty officers, it may serve as a disincentive to promotion and therefore require some remodelling of local car arrangements.
22. The NJC agreed to write jointly to HMRC on this matter, and to approach the NFCC to do so jointly. The NFCC has agreed that approach and work is underway in drafting the joint letter and checking its accuracy with tax specialists before despatch.

Court of Justice of the European Union (CJEU) - Ville de Nivelles v Rudy Matzak

23. This recent case concerns a ‘volunteer’ firefighter in Belgium. However its impact will be felt more widely, including in the UK. A copy of the CJEU’s press release is **attached**.
24. In essence it has determined that stand-by time of a worker at home who is obliged to respond to calls from the employer within a short period must be regarded as ‘working time’.
25. We are currently considering the implications of this determination on the retained duty system and will be seeking a QC opinion in doing so in order to inform guidance to FRAs. A sounding board has been formed to inform the content of the instructions to the QC.