

21 May 2018

Workforce Report

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:

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

Action:

Officers to progress as directed.

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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% response rate from Fire Pensions, and that the results had increased by upwards of 30% in some areas.
2. The Scheme Advisory Board recently hosted a joint Fire and Police Local Pension Board governance event, as part of their ongoing support to Local Pension Boards. The event was very successful. TPR attended and gave an overview of the results and their expectations.
3. The Scheme Advisory Board recently undertook their own survey of Local Pension Board governance and the results are published [here](#). The response rate from Fire Authorities was disappointing at 73% compared to a 100% response rate to TPR. The report makes a number of recommendations for boards and the expectation is that board should consider these at their next meeting, one of those recommendations is that boards should provide an annual report to the Fire Authority.

LGA Firefighter Pension Scheme Communications and Events

4. The bulletins will now be published monthly – [bulletin 7](#) has just been published.
5. Slides from past events and details of upcoming events are published on the board website <http://www.fpsboard.org/index.php/events>
6. In order to support Fire Authorities understand their responsibilities under GDPR for pension scheme data, there is now a new page for GDPR resources available [here](#). Privacy notes for use by Fire Authorities as data controllers of the pension scheme have been commissioned and should be published ASAP.

Scheme Regulations

7. The Home Office is consulting on draft amendments to the scheme regulations, the amendments are relatively minor, the consultation and draft SI are available [here](#). Once the SI has been laid a note of the amendment order and any action expected by Fire Authorities will be issued.

KEY WIDER WORKFORCE ISSUES

Broadening the role of the firefighter / Pay claim

8. 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, community engagement, inspection and enforcement and multi-agency emergency response (which includes MTFA).
9. Members will recall that a formal pay claim was received and following a number of consultation meetings with Chairs and Chief Fire Officers an offer was made. The offer was not accepted. While negotiations continue it was agreed to apply a 1.0% pay award.
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. Those negotiations are constructive in nature.
11. As members are aware the latter will be directly affected by available funding on a sustainable basis. Both sides of the NJC therefore also remain committed to joint political lobbying in that regard. Since the last meeting of the Commission that lobbying has continued.
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 how a 'fair' pay award would look.
13. He has also asked the employers to provide an assessment of fire and rescue authorities' ability to fund an 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% to £615 million between 31 March 2011 and 31 March 2017'. He wishes to see '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'. Detailed work is in hand on this issue.

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.
15. We intend to undertake a further round of meetings with Chairs and CFOs to take stock and are currently trying to ascertain the best time to do so, which will be influenced by the above lobbying discussions and the forthcoming National Joint Council meeting. The expectation is these meetings will take place towards the end of June/early July.

Inclusive Fire Service Group

16. 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.
17. 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.
18. 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).
19. The Home Office has attended the most recent meetings 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 visits to be very useful, recognising the uniqueness of inclusion of employer, management and employee representatives. It has already taken on board some of the feedback for example changing the use of the term 'boot camp' in proposed literature relating to fitness issues and suggested improvement around images.

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20. This recent case concerns a 'volunteer' firefighter in Belgium. However its impact will be felt more widely, including in the UK.
21. 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'.
22. We are currently considering the implications of this determination on the retained duty system and are in the process of obtaining a QC opinion in order to inform guidance to FRAs. A sounding board was formed to inform the content of the instructions to the QC.

Employment Tribunal Cases - Pension Scheme Transitional Protection Arrangements

23. 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). That appeal has been heard since the last meeting of the Fire Commission.
24. The EAT allowed the firefighters' appeals in certain respects. However, the EAT has not examined the evidence and found there was discrimination. The EAT's judgment simply means that, in its view, the ET was mistaken in the law in certain limited respects. However, in regard to those matters, the EAT recognised that there are grounds to appeal against its decision and the Respondents, including the FRAs, were given permission to appeal to the Court of Appeal. The reasons for allowing the firefighters' appeals in so far as the EAT did so, were very limited and the Respondents to the Claims, the Governmental bodies and the Fire and Rescue Authorities, succeeded on a significant number of points.
25. The appeal to the Court of Appeal is expected to be heard in January or February 2019.
26. In addition to the above, the FRAs have a separate appeal based on Schedule 22 of the Equality Act 2010. At the initial stage the Employment Tribunal found against the fire authorities. The appeal is based on the belief that the FRAs have been very much stuck in the middle between the Governmental bodies and the FBU and the dispute between those bodies. The FRAs have done nothing other than seek to apply the law as determined by others. The EAT has now ordered that this separate appeal should be stayed until the Court of Appeal has given its judgment.



Fire Commission

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