

Fire Commission Industrial Relations Report

Purpose of the Report

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

Summary

This paper is for information and briefly describes the main industrial relations issues at present.

Recommendation

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

Action

This report is for information.

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Fire Commission Industrial Relations Report

Pension scheme reform

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:
 - 2.1. 13 and 14 December from 18.00 to 22.00
 - 2.2. 24 December from 19:00 hours to midnight (00:00 on 25 December 2013)
 - 2.3. 31 December from 18:30 hours to 1st January 2014 at 00:30
 - 2.4. 3 January 2014 from 06:30 hours to 08:30
3. In addition, action short of a strike has also taken place on:
 - 3.1 24 December 2013 from 19:00 hours until midnight - refusal to undertake voluntary overtime (Scotland as well as control members in England, Wales and Scotland).
 - 3.2 27 December 2013 from 19:00 hours until 29 December 2013 at 19:00 hours - refusal to undertake voluntary overtime (England, Wales and Scotland).
4. 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 have had to incur one-off set up costs in setting up new resilience arrangements.

LGA approach to date

5. 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. Given much has taken place over several months members may find the summary below helpful.
 - 5.1 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.

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- 5.2 Mindful of the views of fire authorities at the National Employers' consultation meeting we have continued to work with the FBU to further 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 final 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. Once the outcome of the DCLG/FBU discussions on that matter is clear, wording on principle 11 can be identified and also reflected in the supporting documentation. The latest FBU circular to its members suggests that DCLG has indicated there may be a way forward which would be robust from an FBU perspective but would not involve amendment of the Regulations. The FBU remain sceptical but have said they will consider any written proposal and seek legal advice accordingly.
- 5.3 DCLG consultation - Separately to the National Employer discussions DCLG issued a consultation paper on 1 November based on a different set of eleven principles with a view to inclusion in the National Framework. Whilst similar the principles 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 which was based on the views provided by fire authorities at the National Employers consultation meeting and copies received of FRA responses to DCLG. More recently, we understand that discussion is also continuing between DCLG and the FBU in relation to principle eleven and potential inclusion in the National Framework.
- 5.4 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.

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- 5.5 DCLG roundtable – DCLG held a round table discussion on 4th December. The meeting was chaired by the Fire Minister. The National Employers were represented. Other attendees were CFOA, FBU, FOA and RFU. 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.
- 5.6 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 three occasions.
- 5.7 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 consequently put in place at local level have recently proven useful to FRAs in dealing with major flooding incidents.

Information to fire authorities

6. 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
7. 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

8. 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.
9. We will continue to seek clarity on the current position given the body of work we are aware is underway involving DCLG, the FBU, and respective actuaries as well as that in relation to capability issues (principle eleven).
10. The Fire Minister in England recently met with FBU representatives. We understand that it was agreed to continue discussion. He is due to meet with the FBU again on 11 February. The FBU's Executive Council will meet the following day. There are currently no scheduled strike dates or dates for action short of a strike. This could of course change quickly if talks break down.