

## **Workforce Report - Industrial relations and pensions**

### **Purpose of the 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:**

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

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## **PENSIONS**

### **GAD v Milne Commutation Factors**

1. Following the successful lobbying by LGA, Fire authorities have been waiting on DCLG to confirm the mechanism for funding, following the HM Treasury confirmation that DCLG would absorb the lump sum funding.
2. DCLG have now confirmed that there is no requirement for a discharge form and released confirmation that each FRA will receive a grant payment in early January 2016 of 100% of their estimated costs as previously advised to DCLG.
3. DCLG have re-confirmed the Government expectations that the majority of calculations should be done before Christmas, and the majority of payments to be made by the end of the financial year.

### **Scheme Advisory Board**

4. The 7 employer and 7 employee nominations have now been made to the Secretary of State in order to be formally appointed.
5. With regards to the appointment of Chair, DCLG have now interviewed the candidates and have advised that an announcement is due shortly.
6. The employer and employee nominated representatives of the board have met in interim form, and agreed the following points.
  - DCLG to express the meeting's concern to the Secretary of State over the lack of progress on the appointment of the chair and members of the Board
  - The Board should meet when all members (including the Chair) have been formally appointed by the Secretary of State. Should the appointment of a Chair be delayed beyond November, DCLG should arrange for the appointment of Board members.

## **NATIONAL JOINT COUNCIL FOR LOCAL AUTHORITY FIRE AND RESCUE SERVICES**

### **Pay, terms and conditions**

7. Members will recall that the NJC is committed to working 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.

8. Under that commitment substantial work has been undertaken under the following broad headings with a view to reaching agreement to widen the scope of work undertaken by firefighters as a core part of the job - environmental challenges; flooding; emergency medical response; multi agency emergency response; youth and other social engagement work; inspections and enforcement. Fire and rescue authorities have been kept up to date via circulars.
9. Under the current phase of discussion further consideration is being given to the outcomes of the joint workstreams and what it is appropriate to take forward at national level, local level or not at all. Consideration will also be given to the viability of any potential funding streams and whether they should be explored further. Contact has also been made with appropriate government departments in England, Wales, Scotland and Northern Ireland.
10. Members will be aware that as part of this phase a number of FRAs are taking part in NJC trials relating to co-responding and/or wider work with other health partners. Importantly the matter of the firefighter rolemap has been set aside in order to facilitate the trials and agreement reached that such work will be jointly regarded as part of the core job for the duration of the trial. At the time of writing, seventeen trials have already been approved. Expressions of interest from a further three FRAs are under consideration. The trials will all conclude by the end of June 2016.
11. This work fits well with collaborative work being discussed elsewhere as part of the public health agenda in England, and expectations in other parts of the UK too that firefighters should undertake a wider community role.

### **Inclusive Fire Service Group**

12. The NJC has a continuing commitment to equality, diversity and cultural issues in the fire service. As part of that continuing commitment NJC members decided 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.
13. The Chief Fire Officers Association, the Retained Firefighters Union and the Fire Officers Association all accepted invitations to participate in the group and the first meeting of the group will take place shortly.
14. The group, which is led by Professor Linda Dickens the Independent Chair of the NJC, has met on one occasion and further dates are scheduled. At the first meeting of the group its members decided that a survey should be undertaken of FRAs seeking relevant information (that is not already available elsewhere) in order to inform assessment of the current position. We have received a good response to that survey.

### **Transitional pension scheme arrangements**

15. Members 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. In broad terms the claims assert:
  - younger workers are losing out, which amounts to direct discrimination that cannot be objectively justified; and
  - the workforce profile of the Fire & Rescue Authorities shows that female and BME workers tend to be younger, meaning that the arrangements amount to unjustified indirect sex and race discrimination, and possibly equal pay infringements in relation to female employees; and
  - fully protected members of the NFPS have been disadvantaged in comparison to their 2015 Scheme counterparts and taper protected members of the NFPS have also been similarly disadvantaged in relation to accrual of benefits, transfer rights between schemes for those with taper protection and benefits on partial retirement.
16. Given the good sense of not replicating matters many times over, and through the auspices of the National Employers, FRAs agreed to a collective approach to this matter and provided the LGA and Bevan Brittan LLP with authority to act on their behalf. As part of this a Steering Committee was set up including a number of FRA representatives. The Steering Committee has met twice and will do so again later this month. Further dates are scheduled.
17. 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.
18. Following all party representations to the President of Tribunals in England he has decided that a preliminary hearing will be held in January based on a lead case. All other cases have been stayed pending the outcome of that preliminary hearing. A decision in respect of Wales is awaited. Discussion continues around the potential consolidation of the cases in Scotland with those in England or, failing that, acceptance that those cases too should be stayed.

### **Joint Working Group (Fitness)**

19. 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 National Framework in England introduced by DCLG and related to its dispute with the FBU. CFOA, RFU, and FOA all accepted invitations to participate in the joint working group.
20. Whilst the joint working group is, by agreement, facilitated by Peter Holland (DCLG) it is 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.

21. Whilst a year has been identified in the terms of reference for the work of this group (from March 15), the current aspiration is that the best practice guide it is charged with developing will be issued early in 2016.

**'Enabling closer working between the Emergency Services' - Consultation**

22. At the last meeting of the National Employers in October members considered the consultation issued by the Government in England on a series of measures to transform the delivery of local fire and police services, and drive greater collaboration between the police, fire and rescue and NHS ambulance services. They looked in particular at matters relating particularly to employment status.
23. National Employers were unconvinced on the necessity for such legislation in order to achieve the aim of greater collaboration and shared a number of the same concerns discussed by FSMC members at its last meeting. Given the matter affected England only (the National Employers is a UK-wide body) it was agreed that lead LGA representatives should work together with lead FSMC members to enter a joint response which ensured that employment matters were covered.
24. Since then the Government's '*Spending Review and Autumn Statement 2015*' was issued on 25 November, which stated that the Government would:

*'bring forward legislation to enable PCCs to take on responsibility for fire and rescue services, subject to a clear business case and local support, with local fire services providing the necessary information for PCCs to develop the business case.'*