

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.

Action

Officers to progress as appropriate.

Contact officer:	Gill Gittins (industrial relations)	Clair Alcock (pensions)
Position:	Principal Negotiating Officer	Fire Pensions Adviser
Phone no:	020 7187 7335	020 7664 3189
E-mail:	gill.gittins@local.gov.uk	clair.alcock@local.gov.uk

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PENSIONS

GAD v Milne Commutation Factors

1. The Department for Communities and Local Government (DCLG) made the additional grant funding payments to fire and rescue authority (FRA) accounts on 29 January 2016.
2. In line with the Government's expectations, the majority of payments should now be made by the end of the financial year.

Scheme Advisory Board

3. The formal appointment process of members of the Scheme Advisory Board and the Chair has been delayed due to the change of responsibility from DCLG to the Home Office.
4. The nominated representatives of the board have agreed to wait until both they and the chair have been appointed before proceeding with a further meeting.
5. Officers at DCLG/Home Office have made the recommendations for appointment to Home Office Ministers and expect a decision/agreement shortly.

Contributions Holiday

6. In 2013 DCLG consulted on regulations to permit members of the 1992 scheme under the age of 50 who have accrued 30 years' service to take a contributions holiday from the time they attain 30 years' reckonable service until they reach age 50.
7. The consultation response can be found [here](#), paragraphs 43 to 61 refer.
8. Following the consultation, the department sought a declaration from the courts to consider whether the requirement for a 1992 Scheme member to continue paying contributions beyond the point of accruing maximum service and prior to having the option to retire was unlawfully discriminatory.
9. In December 2015 DCLG settled the case and agreed to provide a contributions holiday
10. This will need amending regulations, and DCLG/Home Office are now considering the relevant framework.
11. Timescales are unknown at this stage.

Valuation, Employer Contribution Rate and Cost Cap Mechanism

12. The employer cost cap across the schemes was set by the [valuation report](#) at 31 March 2012 as 16.8% of pensionable pay
13. The average employer contribution rate was set by the valuation as 17.6% of pensionable pay.
14. The employer contribution rate will be reassessed at the next actuarial valuation to be carried out at 31 March 2016, and the next revision to the employer contribution rate is expected to take effect from 1 April 2019.
15. GAD have requested valuation data from FRAs to be supplied by 12 August 2016.
16. This is a very tight timeframe for employers to provide year end data to their administrators in order to run year end processes (the first time for the 2015 scheme) and run the valuation extracts and reports.

NATIONAL JOINT COUNCIL FOR LOCAL AUTHORITY FIRE AND RESCUE SERVICES

Pay, terms and conditions

17. Members are aware that substantial work is continuing with a view to reaching agreement to widen the scope of work undertaken by firefighters as a core part of the job. This also covers collaborative work with other organisations. Fire and rescue authorities have been kept up to date via circulars.
18. 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, twenty trials have already been approved.

Berkshire	North Wales
Cleveland	Northumberland
Dorset in conjunction with Wiltshire	Oxfordshire
Durham and Darlington	Scotland
Greater Manchester	South Wales
Humberside	South Yorkshire
Lancashire	Surrey
London	Tyne and Wear
Merseyside	West Midlands
Mid & West Wales	West Yorkshire

19. The trials range from co-responding only (either in specific areas or across a service) including wholetime and/or retained personnel, to trials that include much wider work for example such as that shown below:
 - 19.1. Slips, trips and falls assessments and offering preventative measures to reduce the risk of injury.

- 19.2. Winter warmth assessments including offering fire and flu advice to reduce the number of excess winter deaths.
- 19.3. Improving community response to cardiac arrest patients by offering Heartstart advice and allowing the British Heart Foundation the opportunity to use FRS premises to carry out courses for the general public.
- 19.4. Offering assistance to health partners by supporting bariatric people in terms of lifting those that have fallen.
- 19.5. Training of staff in Dementia Awareness becoming a Dementia Friendly organisation. Offering advice and referral opportunities to members of the community that it is felt would benefit from assistance.
- 19.6. Offering alcohol harm and reduction advice as well as signposting individuals that it is felt would benefit from help in this area.
- 19.7. Offering smoking cessation advice as well as signposting individuals it is felt would benefit from help in this area.
- 19.8. Providing advice and promoting local activities to residents in order to reduce loneliness and isolation.
20. Trials have various end dates but the latest it can currently be is the end of June 2016.
21. Whilst substantial work has already taken place it is clear that there is still work to do before all pieces of the jigsaw can be in place. That discussion covers matters such as:
 - 21.1. The changing of government departments in England and the impact that has had on progressing funding issues.
 - 21.2. The need for a formal evaluation of the trials and whether the technical author of that report would require further information/data. This will also form the basis of a business case to be used in discussion with Ministers/government departments (also recognising the change in government department in England).
 - 21.3. Any impact or implications of the above or other considerations on the duration of the trials.
22. The Joint Secretaries and Emergency Medical Response workstream leads will continue to explore these matters, reporting back to the NJC as necessary.
23. The Environmental Challenges workstream will meet again shortly to progress work on national guidance on welfare arrangements when working at major incidents outside of the individual's home service.
24. The Multi-Agency response workstream will meet again shortly to assess where the work on MTFAs operational guidance (that is taking place elsewhere) is up to and to contribute

alongside the Environmental Challenges workstream to the development of national guidance on welfare arrangements.

Inclusive Fire Service Group

25. Members will recall that as part of its continuing commitment to consider equality, diversity, cultural and behavioural issues within the Fire & Rescue Service the NJC decided to 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. It was further agreed to invite interested parties (CFOA, FOA and RFU) to be involved. The Independent Chair of the NJC, Professor Linda Dickens, also chairs this group.
26. The group has met on three occasions. It has so far explored the current position with regards to information and data collected by FRAs - what further information the group requires, how data is currently monitored and flagged up and that thought may need to be given to how data could be monitored in the future.
27. It has identified the need for national guidance on personal use of social media and work is underway to develop that guidance.
28. Fire and Rescue Services have been surveyed to gather the following information:
 - 28.1. Indication of whether an FRS has recently undertaken a staff survey/cultural audit. Copies requested where it had done so.
 - 28.2. Numbers of grievance and disciplinary cases - broken down by demographic categories (gender, ethnicity, sexual orientation, age & disability) over a five year time period.
 - 28.3. Policies and documentation on: Public Sector Equalities Duty, where the FRA sits on the FRS Equality Framework, and information in respect of local Social Media Policies.
 - 28.4. What kind of informal or formal support mechanisms are in place.
 - 28.5. Social media policies (where in place).
29. At the time of writing the survey has been completed and returned by 44 FRAs (out of 50) across England, Wales, Scotland and Northern Ireland. Responses have been received from various fire authority governance structures - counties, metropolitans, single service, combined fire authorities (CFAs) and London. Responses cover all geographic regions and will provide a comprehensive picture of equality and diversity policies and issues across the Fire Service.
30. The group will now develop a number of key indicators in order to explore matters more deeply in preparation to report to the NJC in June.

Pay 2016

31. The usual settlement date for employees covered by the NJC for Local Authority Fire and Rescue Services is 1 July. The NJC covers employees from firefighter to middle manager levels. Whilst the National Employers have discussed their approach to pay for 2016, no decisions have been made at this time and they will consider their position when they next meet on 2nd June. Members will take their usual political soundings at local and national level and any comments from today's meeting will be fed back to members of the National Employers.
32. Members have also considered the matter of any pay award for senior uniformed managers (covered by the NJC for Brigade Managers of Local Authority Fire and Rescue Services) - Chief Fire Officers, Deputy Chief Fire Officers and Assistant Chief Fire Officers. An oral update can be provided at the meeting.

Joint Working Group (Fitness)

33. 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 in relation to its dispute with the FBU on pension matters. CFOA, RFU, and FOA all accepted invitations to participate in the joint working group.
34. The Government in England has continued to work jointly with the NJC since the move of fire matters from DCLG to the Home Office. That work is now well advanced and the Best Practice guidance the group was charged with developing will be issued shortly, within the timeframe agreed.

Transitional pension scheme arrangements

35. 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:
 - 35.1. younger workers are losing out, which amounts to direct discrimination that cannot be objectively justified; and
 - 35.2. 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
 - 35.3. 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.
36. 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. Arrangements were also put in place to share the legal costs.

37. A Preliminary Hearing took place on 20 January 2016. Tribunal has ruled that a further (four day) Preliminary Hearing will take place between 31 May and 3 June or between 30 August 2016 and 2 September 2016. This reason for the alternative later dates is because the Tribunal ordered that the Preliminary Hearing in these Claims must be heard after a preliminary hearing in another case (the case of *McCloud* which involves pension claims by Judges against the Ministry of Justice on some similar grounds as these Claims) which is already listed for a hearing in March 2016. So, if the Tribunal's decision in *McCloud* has not been provided by 23 May 2016 i.e. in time for the parties in these Claims to prepare for a Preliminary Hearing commencing on 31 May, it will be necessary to have the Preliminary Hearing in these Claims on the later dates of 30 August 2016 to 2 September 2016.
38. The main Hearing is currently listed for twelve days from 9 January 2017 to 24 January 2017 (with a further three days for the Employment Tribunal to then consider the case).