

**WEST MIDLANDS FIRE AND CIVIL DEFENCE AUTHORITY**

**27<sup>th</sup> SEPTEMBER 2004**

**1. UPDATE ON THE INDUSTRIAL DISPUTE OVER FIRE SERVICE PAY AND CONDITIONS**

Joint report of the Chief Fire Officer and the Clerk

RECOMMENDED

- 1.1 THAT the update on the industrial dispute over Fire Service pay and conditions, as provided in the report, be noted.

**2. PURPOSE OF REPORT**

This report is submitted to update Members on the current position with regard to the national dispute by the Fire Brigades Union over Fire Service pay and conditions.

**3. BACKGROUND**

- 3.1 The pay and conditions of service of Firefighters is determined by the National Joint Council for Local Authority Fire Brigades (NJC). Since 1978, there had been an agreed pay formula to provide industrial stability in the Fire Service by linking firefighters to the upper quartile of semi-skilled manual workers. However, the Fire Brigades Union (FBU), at their conference in May 2002, decided to withdraw from the pay formula claiming that firefighters had now fallen behind other groups of workers.
- 3.2 The Union submitted a claim to the National Employers for a pay rise of 40% with effect from November 2002. They also threatened industrial action if the claim was not met in full.
- 3.3 The Employers rejected the claim as being totally unrealistic. However, in recognising that the pay of firefighters may have fallen behind to some extent, as well as providing the opportunity to modernise the fire service, the Employers asked the Government to resolve the impasse by setting up an independent review of the

fire service. This request was agreed and the Government commissioned Sir George Bain to undertake the review. This was completed in December 2002, despite the refusal of the Union to take part. His report recommended that firefighters should receive an above inflation pay award in return for modernisation.

3.4 The FBU rejected the outcome of the Independent Review and commenced a programme of discontinuous strike action between December 2002 and February 2003. During this period, the Military Services provided emergency fire cover throughout the country.

3.5 On 3<sup>rd</sup> February 2003, the FBU agreed to meet with the Employers following their offer of a 16.2% average pay increase over twenty months in return for modernisation. Following extensive discussions the National Fire Service Pay and Conditions Agreement was reached in June 2003. This set out the agenda for modernising the conditions of service of Firefighters, details of the pay awards, and means by which the benefits of modernisation would be audited.

3.6 The pay awards were to be staged as followed:

Stage 1 - 4% pay increase payable from November 2002.

Stage 2 - 7% pay increase on average payable from November 2003.

Stage 3 - 4.2% pay increase payable from July 2004.

Stage 1 was paid in full and backdated to November 2002.

However, both Stage 2 and Stage 3 were dependent upon two conditions:

- Satisfactory completion of all negotiations, and
- Verification by the Audit Commission that the anticipated benefits were being delivered.

3.7 In respect of the Grey Book (NJC Conditions of Service), agreement was subsequently reached on all matters with the exception of the issue of stand-down time. In view of the progress that had been made at that time, the Employers agreed to pay half of the Stage 2 pay award in December 2003 without insisting upon the completion of all negotiations and the verification by the Audit Commission. The remaining 3.5% of the Stage 2 pay award would be paid following the completion of the negotiations on 'stand-down time' and the verification process.

3.8 Stand-down time related to that period between midnight and 0700 hours when firefighters have traditionally only been required to respond to emergency calls. They could not be required to undertake other normal duties. Stand-down time also applied to every public holiday and included the whole 24 hour period rather than just the period from midnight to 0700 hours. Working on a public holiday also attracted double time payments with an entitlement to a day off at a later date.

3.9 The Employers initially insisted that stand-down time should be available for normal work if firefighters were to be paid £25,000 per annum. This was rejected by the FBU, which did not regard the issue of stand-down as being negotiable. This left the negotiations incomplete on this single issue.

3.10 Following the completion of the Stage 2 verification processes by the Audit Commission in April 2004, which was reasonably positive, the Employers in an attempt to conclude this remaining issue, offered a form of words relating to stand-down time in order to break the impasse. A key factor was that this would only apply where the existing shift duty system continued to operate, and not to any alternative duty systems. The proposed text was:-

“Where the shift duty system at Section 4 Part A paragraph 7 continues to operate, employees on that system should be allowed to take rest periods between midnight and 0700 hours other than on those occasions where they are required to respond to emergency calls, perform work arising from emergency calls or perform other essential activities that :

- (1) arise from the integrated risk management plan
- (2) are within the employee’s role and responsibilities, and
- (3) are appropriate during these hours.

These arrangements shall be the subject of consultation between the fire and rescue authority and recognised trade unions.”

3.11 Having initially agreed to recommend acceptance, the FBU’s Executive Committee then decided to reject the text on the basis that it would apply to public holidays. The FBU conference resolution that then followed called for a ballot for industrial action if both the remaining 3.5% of the Stage 2 pay award and the 4.2% of the Stage 3 pay award were not paid by 30<sup>th</sup> July 2004.

3.12 The Employers wrote to the FBU clarifying that the only issue outstanding from the Stage 2 negotiations was that of stand-down time. They also clarified that there were three outstanding issues to be agreed before the Stage 3 pay award could be released.

These were:

- (1) Grievance and Disputes Procedures
- (2) Discipline Procedures based upon ACAS principles
- (3) Capability

These were subsequently agreed by both sides subject to a resolution of the issue of stand down time.

3.13 The Employers also indicated that the verification process by the Audit Commission would not be complete until around September 2004. In effect, the Employers were not able to meet the FBU's deadline for paying Stage 3 of the pay award. In response, the FBU decided to ballot its membership over strike action. Further discussions over the issue of stand down on public holidays followed, brokered by the General Secretary of the TUC. A form of words was agreed by the negotiating teams, but these were subsequently rejected by the Employers on 3<sup>rd</sup> August 2004.

3.14 A further proposal to resolve the outstanding issue of stand down on public holidays was then tabled by the Employers on 26<sup>th</sup> August 2004. This was acceptable by the FBU which then called off its ballot. The wording was that stated in paragraph 3.10 but with the following additional form of words:

'It is recognised that because of the distinctive circumstances that apply throughout local communities on public holidays, with many businesses and services for example not working normally, the demands on the fire and rescue service and the consequent mix of appropriate duties will be different to those on normal working days. Taking that into account, between the hours of 7am and midnight on public holidays staff will be expected to undertake a full range of duties that arise from the IRMP, that are within the employee's role and responsibilities and accord with the above parameters'.

3.15 This agreement now means that the dispute over Stage 2 and Stage 3 of the pay award has been resolved. The outcome of the agreement is:-

- a) The immediate payment of the outstanding 3.5% of Stage 2 of the pay award, backdated to November 2003.
- b) The immediate payment of the outstanding 4.2% of Stage 3 of the pay award backdated to July 2004.
- c) The immediate application of the new Grey Book.

3.16 Therefore, with regard to the overall national negotiations, this now leaves only the following outstanding issues to be completed:-

- a) Review of the NJC Constitution – due for completion in November.
- b) New Discipline Procedures – due for completion in October.
- c) Rank to Role Guidance – due for completion in December.

#### 4. **EQUALITY AND DIVERSITY IMPLICATIONS**

The modernisation agenda includes further focusing the emphasis of the Fire Service on being more proactive in protecting the community by endeavouring to target the more 'at risk' members of the public. Research has indicated that fires affect many of those who are not always able to help themselves due to a number of societal factors. The intention of the national Fire Service Pay and Conditions Agreement is to secure proper rewards for firefighters in return for improved working.

#### 5. **CORPORATE AIMS SUPPORTED**

The principal corporate aims supported by the information in this report are as follows:

- 1. To meet the Fire Authority's statutory duties, standards and expectations.
- 2. To create a financial plan which operates within budget, to ensure the most efficient use of resources?
- 11. To continuously modernise and improve the quality of service.

6. **TRADE UNION CONSULTATION**

This report relates to the outcome of the negotiations to resolve the national dispute by the FBU. Therefore, it is not appropriate to consult the trades unions over its contents or recommendations.

7. **LEGAL IMPLICATIONS**

The course of action recommended in this report does not raise issues which should be drawn to the attention of the Authority's Monitoring Officer.

8. **FINANCIAL IMPLICATIONS**

Budgetary provision for both Stage 2 and Stage 3 of the firefighters pay award was made within the approved budget for 2004/5. There are no additional financial implications for the Authority in respect of the recommendations contained in this report.

**BACKGROUND PAPERS**

Human Resources Department files on the Industrial Dispute  
Employers Circulars 09/03 to 28/04  
NJC Circular 05/04.

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