

HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT COMMITTEE
(Devon and Somerset Fire and Rescue Authority)

16 September 2015

Present:-

Councillors Bown (Chair), Chugg, Dyke (vice Horsfall), Knight, Thomas and Wheeler

Apologies:-

Received from Councillor Burridge-Clayton.

***HRMDC/9. Minutes**

RESOLVED that the Minutes of the meeting held on 11 June 2015 be signed as a correct record.

***HRMDC/10. Absence Management**

The Committee received for information a report of the Director of Corporate Services (HRMDC/15/5) that set out the sickness absence levels for staff to date since combination in 2007, together with comparisons against the 2014/15 performance and benchmarking data for other fire and rescue services nationally.

It was noted that the current level of sickness absence was 3.11 days/shifts lost per person as opposed to 3.10 days/shifts lost in the same period in 2014/15. Long term sickness absence was starting to decrease, with 15 firefighters currently off (out of an establishment of 562) as opposed to 28 in 2007/08. Additionally, there was 4 support staff off on long term sickness absence currently with no absence in fire control.

Reference was made in particular to the benchmarking data showing comparisons with other fire and rescue services nationally. This showed that musculoskeletal injuries were the main cause of injury for both wholetime and retained duty staff. The Human Resources Manager advised that the Service had now corrected the issues with the sickness absence portal that had been reported to the Committee previously. In response to a question as to why it had taken some time to make the correction required to the portal, the Human Resources Manager indicated that the required changes had to be implemented by the Information and Communications Technology (ICT) Department who had other more pressing work on the Networked Fire Control Systems Project that had taken a higher priority.

In terms of the reporting of the sickness absence, the point was made that if the data for 2007/08 was taken out, the figures painted a different picture with a fairly stable line until 2014/15 when this had spiked again. The Human Resources Manager reported that in 2014/15, the Service had been subject to industrial action and there had been issues with morale and changes to crewing which had all impacted on the figures.

The Committee expressed the view that the Service's performance on sickness absence in 2014/15 had not been good and that it did not appear to have improved in 2015/16 to date. It was hoped that, with the actions set out in the Appendix to the report, the performance would improve in the latter part of 2015/16.

***HRMDC/11. Redundancy Compensation Rates**

The Committee considered a report of the Director of Corporate Services (HRMDC/15/6) setting out information required for the Committee to review the redundancy compensation rates for uniformed and non-uniformed staff in 2015/16 with a view to making a recommendation to the Fire and Rescue Authority thereon.

The Human Resources Manager referred to the Appendix circulated with the report that set out the level of compensation rates applied currently by other fire and rescue and local authorities in the South West. The report also referenced the legal basis for enhancements to redundancy compensation payments. The Local Government (Early Termination of Employment)(Discretionary Compensation)(England and Wales) Regulations 2006 applied compensation provisions to employing bodies listed in Part 1 of Schedule 2 to the Local Government Pension Scheme (Administration) Regulations 2008. The National Employers had previously advised, however, that the 2008 Regulations applied only to fire and rescue authority employees conditioned to the Local Government Pension Scheme and not to operational firefighters conditioned to one of the Firefighters' Pensions Schemes.

This position had been challenged recently, however, by two fire and rescue authorities and Queens Counsel opinion sought. This Opinion was unequivocal in stating that fire and rescue authorities could lawfully offer enhancements to redundancies for operational firefighters by virtue of the "power of competence" contained in Section 5A of the Fire and Rescue Services Act 2004 (as amended by the Localism Act 2011). The Opinion advised that, should an authority be mindful to apply enhancements, it should do so evenly (i.e. the same enhancement for staff conditioned to the Local Government Pension Scheme as for those conditioned to a Firefighters' Pension Scheme) to eliminate any risk of potential challenge under the equalities legislation.

The Opinion originally obtained had initially been challenged by the Department for Communities and Local Government (DCLG) and in light of this, further clarification sought. The second Opinion, however, reinforced the first and in light of this DCLG had indicated that it would not be pursuing the matter further. Consequently, it was considered that the unequivocal Queens Counsel opinion could be relied upon by the Authority should it wish to apply the enhanced rate of redundancy compensation to both uniformed and non-uniformed staff.

During a debate on this matter, the Committee made the following points:

- The Authority did not have to apply any enhancement to its redundancy compensation rate;
- The Queen's Counsel opinion had not been tested in court yet;
- There was a reluctance to apply the enhancement for operational firefighters before any other Service had implemented it;
- There was a need for equality in the redundancy compensation applied to both uniformed and non-uniformed staff in the Service;
- There was an issue of prudence and perception to be considered as provision would need to be made in the revenue budget should the enhanced rate be applied to uniformed staff to cover the increased costs at a time when the Authority's resources were reducing;

- The current redundancy compensation rate was out of kilter with other local authorities in the South West.

The Human Resources Manager confirmed that there was a need for equality in its approach on this matter. He added that the Service had a collective agreement with the Representative Body for non-uniformed staff in respect of payment of redundancy calculated on the basis of an actual week's pay rather than the indicative statutory maximum. Should the Authority wish to revert to payment of the statutory maximum, then notice would need to be given of the intention to terminate the collective agreement. The Democratic and Legal Services Manager also referred to paragraph 2.8 of the report in terms of the need to strike a balance between any additional cost to the Authority and what might be a suitable level of compensation to encourage appropriate staff to consider voluntary redundancy. In this respect, attention was drawn to the level of staffing reductions needed to meet the requirements of the approved Corporate Plan 2013/14 to 2015/16.

The view was expressed, however, that the potential increase in resources needed to meet any additional costs associated with applying an enhanced redundancy package to operational firefighters should be considered carefully in the current economic climate.

Councillor Knight **MOVED** (seconded by Councillor Dyke):

“that it be recommended to the Authority that it reduces its current redundancy compensation rate to a multiplier of 1 using the actual week's pay for both voluntary and compulsory redundancy and that this multiplier be extended to uniformed staff with effect from 7 October 2015”.

Upon being put to the vote (5 for, 1 against), the motion was **CARRIED** whereupon it was

RESOLVED that the Devon and Somerset Fire and Rescue Authority be recommended to:

- (a) reduce its current compensation rate to a multiplier of 1 using the actual week's pay for both voluntary and compulsory redundancy and that this multiplier be extended to uniformed staff;
- (b) implement the multiplier of 1 with effect from 7 October 2015;
- (c) endorse, subject to (d) below, that further reviews of the compensation rates should be undertaken on an annual basis by the Human Resources Management & Development Committee, with any recommended changes to the compensation rate [and associated date for application of any revised compensation rate] being made to the full Authority;
- (d) That any future proposed revision of the compensation rates would be subject to consultation with the trade unions.

***HRMDC/12. Firefighters' Pensions Schemes - Exercise of Discretions - Further Considerations**

The Committee considered a report of the Director of Corporate Services (HRMDC/15/7) identifying the pensions discretions available to the Authority under the various Firefighters' Pensions Schemes from 1992 onwards following consideration of this matter by the Local Pension Board on 4 September 2015.

It was noted that a revised Schedule had been prepared following the consensus reached at the Local Pensions Board meeting and this was now recommended to the Authority for approval.

RESOLVED that the Devon and Somerset Fire and Rescue Authority be recommended to approve:

- (a) the proposed general policies to apply in relation to those discretions from each of the Firefighters Pensions Schemes from 1992 onwards, as set out in Schedule 1 to report HRMDC/15/7;
- (b) that those discretions in the Firefighters Pensions Schemes from 1992 onwards of a more Scheme administrative or individualised, case-by-case basis, as identified in Schedule 2 to report HRMDC/15/7, be exercised in accordance with Section 2, paragraphs 2.5 and 2.6 of the report;
- (c) those recommendations as set out in Section 3 of report HRMDC/15/7 and relating to Firefighters' Pensions Schemes prior to 1992; and
- (d) authorising the Clerk, pending approval of the above recommendations, to make any consequential changes to the Authority Constitutional Framework documents (notably, the Committee Terms of Reference, the approved Scheme of Delegations and Financial Regulations), to reflect the above approvals.

***HRMDC/13. Retirement & Re-Employment**

The Committee considered a report of the Director of Corporate Services (HRMDC/15/8) that set out a request that had been made by a uniformed member of staff for retirement and re-employment in accordance with the requirements of the Authority's Pay Policy Statement.

RESOLVED that the request for retirement & re-employment as identified in paragraph 2.4 of report HRMDC/15/8 be approved.

*** DENOTED DELEGATED MATTER WITH POWER TO ACT**

The meeting started at 10.00hours and finished at 11.55hours