

LEICESTERSHIRE

FIRE and RESCUE SERVICE

Status of Report: Public Agenda Item: 10

Meeting: Combined Fire Authority
Date: 9th July 2015
Subject: Operational Reductions
Report by: Chief Fire and Rescue Officer
Author: Mark Andrew (Head of HR, Planning & Performance)
For: Decision

1. Purpose

This report seeks the endorsement of the Combined Fire Authority (CFA) for a direction of travel to reduce the Operational establishment and any associated issues.

2. Executive Summary

The CFA has approved a number of fire cover and crewing changes that will now form a significant element of the new Integrated Risk Management Plan (IRMP). These changes are also in response to the significant budgetary challenges facing the organisation. This now creates a period of operational (excluding Retained Duty System) over establishment and the associated financial impact of funding the over-establishment from reserves. In addition, the revised Medium Term Financial Plan (MTFP) has also identified the requirement to achieve further permanent budget savings by April 2017, in order to deliver a sustainable and legal budget. This report suggests a package of arrangements to achieving a reduction in the operational over- establishment.

3. Report Detail

The Wholetime Duty System (WDS) Operational Establishment and Leavers forecast

3.1 The detailed establishment and forecast has been updated and includes the recent IRMP decisions. The figures and assumptions used to inform this analysis are as follows and include recognition of the impact of riding 4 on station establishments before other reductive measures:

- Removal of Resilience Team of 12 from 1st April 2015.
- Reduction of 4 Station Manager and 1 Group Manager and 3 Watch

Managers from 1st April 2015.

- Removal of Ariel Ladder Platform (ALP) crew (from Central Station) of 12 from 1st April 2016.
- Riding 4 as standard with a reduction of 17 from 1st April 2016.
- Establishment of Wigston Day Crewing Plus with a reduction of 12 from October 2016.
- Removal of 1 Pump (from City Stations) with a reduction of 20 from 1st April 2017.
- Introduction of a 'Pooling' duty system with a reduction of 19 from 1st April 2018 (subject to consultation with the Fire Brigades Union (FBU)).

The headlines from this analysis are:

- The baseline over-establishment is 9, based on the end of May 2015
- By April 2016 the over-establishment will be 29 assuming those that can retire do so.
- The total reduction required to deliver a balanced establishment by April 2017 is 50 (including the 29 up to April 2016) assuming those that can retire do so.
- The total forecast projected voluntary leavers by April 2017 is 21.
- The date the CFA will need to commence the recruitment for new firefighters (or recall any seconded firefighters) is projected to be March 2019. This means that the organisation will probably cease offering secondments (of 12 months or more) in March 2018.
- In addition during 2018 a further reduction may be required of at least 4 firefighters (as there are 15 projected leavers) due to the introduction of pooling with a projected establishment reduction of 19.

Options to reduce the operational establishment

3.2 6 options have been identified to reduce the operational establishment:

1. Voluntary Redundancy (VR) and access to pension
2. Discretion to increase the amount of lump sum (in specified circumstances)
3. Secondments to other Services
4. Career Breaks/Job Share
5. Compulsory redundancy
6. Authority initiated early retirement

A full explanation of each of these options is set out in the **Appendix**.

3.3 All of the voluntary reduction options outlined above are being promoted as a package, with information roadshows for staff commencing on 22nd June 2015. In addition, full information on all of the options is available to staff on SharePoint.

- 3.4 The report and forecasts include certain informed assumptions. They include:
- Firefighters will retire when they are over 50 with 30 years pensionable service
 - The projected impact of changes to duty systems e.g. Pooling
 - Existing legal and pensions advice
 - Continuous Professional Development is excluded from any figures
 - All vacant posts are filled internally
 - Voluntary secondments are accessible
- 3.5 To facilitate the package the CFA is asked to exercise 3 discretions in respect of pensions:
1. To allow scheme members of the 1992 Firefighters Pension Scheme who are aged between 50 and 55 and who have achieved between 25 and 30 years' service to increase their lump sum to a maximum of one quarter of pension; and for the CFA to pay the additional liability.
 2. To pay the employer's pensions contributions for employees on a Career Break (usually the employee would have to pay the employer's contribution as well as their own contributions).
 3. Under the 2006 and 2015 Firefighter Pension Schemes to permit Authority Initiated Early Retirement at the cost of the CFA.

4. Report Implications / Impact

4.1 Legal (including crime and disorder)

a) Enhanced Redundancy Payments for Firefighters

Notwithstanding the Leading Counsel's opinion received it is not universally accepted that the CFA has the power to make enhanced redundancy payments. HM Treasury Consultation outcome on the recovery of public sector exit payments dated 19 January 2015 states:

"There is currently no standing provision for fire fighters to be awarded compensation in the event of redundancy above statutory entitlements. Authorities have discretion to award fire fighters who are members of the New Firefighter Pension Scheme 2006 and 55 or over, payment of unreduced pension benefits in the event of employer initiated early retirement."

In September 2011 DCLG confirmed Ministerial approval to draw up proposals for consultation on provision for enhanced redundancy payments for Firefighters:

"We have now received approval from Ministers to draw up detailed proposals for consultation on new regulations which will allow this flexibility. It is our intention, subject to Ministerial approval, that this consultation includes proposals which broadly mirror arrangements in place for local government under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006."

There has been no progress on this matter and we have been informed that this will now be a matter for any new Government and Ministers to consider.

Following discussion with the Chief Fire and Rescue Advisor further advice from Leading Counsel has been obtained confirming the position that the CFA has the power to make enhanced redundancy payments.

b) **Waive of Commutation cap**

Rule B7 of the 1992 Scheme confers a discretion on the CFA to permit the commutation of a pension for a lump sum in excess of two and quarter times the full amount of the pension in all cases where they have had regard to the economical, effective and efficient management of their functions and the costs likely to be incurred in the particular case. Where the CFA exercises this discretion Rule LA2 requires the Authority to make a transfer into the Firefighters' Pension Fund of an amount equal to the increase in the commuted lump sum. This enables employees who are aged 50 or over and have at least 25 years' service to have their lump sum enhanced.

c) **Access to pensions upon voluntary or compulsory redundancy**

This is dealt with in the attached appendix.

4.2 ***Financial (including value for money, benefits and efficiencies)***

The financial implication of the Operational over-establishment is contained within the MTFP.

4.3 ***Risk (including corporate and operational, health and safety and any impact on the continuity of service delivery)***

- a) If the secondee returns earlier than expected or the host returns the secondee at a time when the CFA is over-establishment, this may trigger the need to commence compulsory redundancy consultation.
- b) In adopting the suggested approach this could be misinterpreted as formal consultation on firefighter compulsory redundancies.

4.4 ***Staff, Service Users and Stakeholders (including the Equality Impact Assessment)***

- a) There is on-going dialogue with the FBU via the Staff Consultation Forum.
- b) The services current VR Scheme, Organisational Change Policy and Career Break/Job Share Scheme have an EIA. In order to understand any disproportionate impact, secondments will be monitored by protected characteristics along with a record of any relevant decision making.

4.5 ***Environmental***

None.

4.6 ***Impact upon Our Plan Objectives***

Achieving excellence in Managing our Service and Staff with the right skills, behaviours and attitude to provide an excellent service

5. Recommendations

The CFA is asked to:

- a) Endorse the direction of travel set out in this report.
- b) Approve the use of the 3 pension discretions set out in paragraph 3.5.

6. Background Papers

- a) CFA Medium Term Financial Plan
- b) Voluntary Redundancy Scheme
- c) Organisational Change and Redundancy Handling Policy
- d) Career Break Policy and Procedure

7. Appendix

Options to reduce the operational establishment

Options to reduce the operational establishment

1. Voluntary Redundancy (VR) and access to pension

The CFA currently offers redundancy terms to all employees based on actual weeks' pay and a redundancy matrix multiplier of 1.5. The Discretionary Payment Regulations provides the legal framework to do this, for those staff with access to the Local Government pension Scheme (LGPS), but there is no equivalent provision for Firefighters. Some services therefore only apply the statutory provisions (capped weeks' pay and no enhancements). Leading Counsel's Opinion has been received which indicates that such enhanced payments are within the powers of the CFA to pay. Research into other services policies confirms an inconsistent approach to enhancements but it appears there are no better packages than the current one offered by the CFA.

The ability to access a pension as well as VR has also been considered in some detail. Rule 5B of the 1992 Scheme, Part 3, Rule 3 of the 2006 Scheme and Regulation 20 of the 2015 Scheme all provide that upon leaving employment an employee becomes a deferred member of their pension scheme(s).

Under the 1992 Scheme a deferred pension is payable at age 60 with early payment only allowable where the employee becomes permanently disabled for engaging in firefighting or performing any other duties appropriate to his former role as a firefighter.

Under the 2006 Scheme a deferred pension is payable at aged 65 with early payment only where either:

1. the employee becomes permanently disabled from undertaking regular employment;
2. the employee initiates the early payment of his deferred pension which is actuarially reduced.

Under the 2015 Scheme a deferred pension is payable at the employee's state pension age, or 65 if that is higher with early payment only where either:

1. the employee is incapable of undertaking regular employment because of infirmity of mind or body and this incapacity will continue until deferred pension age; or
2. the employee elects to take an early payment reduction.

There is nothing to prevent an employee who is entitled to the immediate payment of their pension or a reduced pension to retire rather than take VR which would result in deferred benefits provisions coming into effect.

2. Discretion to increase the amount of lump sum (in specified circumstances)

The Firefighters' Pension Scheme (Amendment) (No.2.) (England) Order 2013 has introduced a discretion for a Fire and Rescue Service to increase the amount of lump sum that a scheme member can receive if they have reached age 50 or over but below age 55 with 25 or more but less than 30 years pensionable service. This discretion only applies to the 1992 Firefighters' Pension Scheme. Currently the scheme member who takes benefits early has a restriction on the lump sum conversion to being not greater than two and a quarter times the annual pension before commutation. The new discretion allows scheme members between 50 and 55 and who have achieved between 25 and 30 years' service to increase their lump sum to a maximum of one quarter of pension.

Making this discretion available might assist with workforce planning and in particular support the reduction in the number of operational employees if the Service is to achieve its budget planning forecasts.

Accessing pension benefits at the first opportunity reduces the amount of pension that can be converted to lump sum and might be less attractive for the recipient. Applying the commutation discretion could enable the Service to achieve reductions and action them at times to suit the Service and the individual.

However, there are firefighters for whom the application of the discretion will not be economically justifiable i.e. the cost outweighs the saving achieved assuming a Scheme pension age retirement. The cost calculations demonstrate that there are savings to the service on the basis of certain assumptions for those firefighters aged 50 to 52 with 25 to 27 years scheme membership. There are currently approximately 5 firefighters in this category.

A business case will be required for this discretion to be used on a case by case basis.

3. Secondments to other Services

The concept of seconding surplus firefighters to other Services for a fixed period has been explored, with advice from Hereford and Worcester Fire and Rescue Service on process and practice. A meeting with West Midlands Fire and Rescue Service (WMFRS) has taken place, at which it was confirmed they are prepared to take firefighters from Leicestershire, following a short selection process. However, due to their proposed crewing changes this is now likely to be the end of 2016. In addition:

- Northamptonshire Fire and Rescue Service has confirmed they can take 12 firefighters to work day duty and their 2,2,4 shift system.
- Royal Berkshire Fire and Rescue Service have confirmed they will take 10 firefighters to work their 2,2,4 shift system as soon as possible. A cut-off date for confirmed secondments is week beginning 10th August 2015. Final date to commence secondments is 1st January 2016.
- Tyne and Wear, Bedfordshire and Staffordshire Fire and Rescue Services have confirmed that they will take some firefighters although the exact details are being confirmed.

- In addition Derbyshire, Scotland and North Wales Fire and Rescue Services have indicated that they might be able to assist, but details and confirmation are yet to be achieved.

The seconded firefighters (subject to any necessary process and due diligence) will enter a formal secondment agreement. Early indications are that a significant number of volunteers will end up transferring to their new employer, subject to their performance.

Encouraging volunteers will be a necessity in conjunction with the Fire Brigades Union (FBU), but an incentive will not be offered other than additional travel costs and/or accommodation costs.

Although an attractive way to reduce the establishment it is voluntary and either party can end the agreement. In addition the potential opportunities identified at this point in time may not be sufficient to guarantee a reduction in the Operational establishment on a voluntary basis by April 2017.

The length of secondment will also need to be sufficient to ensure the return of the seconded at the best time for the CFA, whilst noting that any secondment will reduce the cost of over-establishment, even for a short period. It is envisaged that if necessary, Crew Managers and Watch Managers who volunteer can be seconded as a firefighter with appropriate pay protection.

4. Career Breaks/Job Share

It has been suggested that actively promoting career breaks is a way to reduce the cost of over establishment. In a small number of cases the timing of such an offer may be right, therefore the existing policy will be re-launched. However, for the avoidance of doubt the policy will now include a paragraph on redundancy stating that the employee will not be exempt from redundancy and any statutory process. A career break agreement will also be entered into.

Under the 1992 Scheme an employee who is absent from duty without pay may within 6 months of returning to duty buy back their missing pension provision by paying both the employee's and employer's contributions under Rule F2 (although the employer has the right to pay the employer's contribution instead of the employee). There are similar provisions in the 2006 Scheme (see Rule 4) and the 2015 Scheme (see Regulations 18, 19 and 111).

It is suggested that in order to incentivise the use of Career Breaks, that the employer's pension contributions for the employee concerned, are made by the CFA if the employee confirms they will repay their contributions.

The current Job Share scheme can also be promoted as a way of reducing the establishment i.e. 2 firefighter posts becomes one Job Share, with 2 part time firefighters.

5. Compulsory redundancy

If all of the voluntary steps outlined above fail to achieve a reduction in the time scale required the CFA's only other option is the commencement of a compulsory redundancy consultation and selection exercise. In line with policy and good practice this should commence 6 months before the date of termination.

If April 2017 is the relevant milestone this means commencement of the formal process in September 2016. A CFA decision would be needed in July 2016.

6. Authority initiated early retirement

The 2006 and 2015 Firefighter Pension Scheme contains the provision to make an Authority Initiated Early Retirement (AIER) at the cost of the employing authority. This can be an expensive option and would only be of value in certain circumstances and approval would only be given following submission of a business case.

A business case will be required for this discretion to be used on a case by case basis.