



**Monday,
17 September 2018
1.30 pm**

**Meeting of
Staffing Committee
Sadler Road
Winsford**

Contact Officer:
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Democratic Services

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Cheshire Fire Authority

Notes for Members of the Public

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Copies of the Agenda will be available at the meeting. A copy can also be obtained from the contact officer named on the front of the Agenda. Alternatively, individual reports are available on the Authority's website (www.cheshirefire.gov.uk)

The Agenda is usually divided into two parts. Members of the public are allowed to stay for the first part. When the Authority is ready to deal with the second part you will be asked to leave the meeting room, because the business to be discussed will be of a confidential nature, for example, dealing with individual people and contracts.

This agenda is available in large print, Braille, audio CD or in community languages upon request by contacting; Telephone: 01606868414 or email: equalities@cheshirefire.gov.uk

Recording of Meetings

Anyone attending the meeting should be aware the Authority audio-records its meetings. There is a protocol on reporting at meetings which provides further information. Copies are available on the Service's website www.cheshirefire.gov.uk or alternatively contact Democratic Services for details

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MEETING OF THE STAFFING COMMITTEE

MONDAY, 17 SEPTEMBER 2018

Time : 1.30 pm

Lecture Theatre - Fire Service HQ, Winsford, Cheshire

AGENDA

1 PROCEDURAL MATTERS

1A Apologies for Absence

1B Declaration of Members' Interests

Members are reminded that the Members' Code of Conduct requires the disclosure of Statutory Disclosable Pecuniary Interests, Non-Statutory Disclosable Pecuniary Interests and Disclosable Non-Pecuniary Interests.

1C Minutes of the last meeting

To approve the minutes of the Staffing Committee held on 8th May 2018

(Pages 1 - 4)

Part 1 - Business to be discussed in public

2 Allowances and Pensionable Pay - Norman Case Follow Up Work

(Pages 5 - 8)

3 Exclusion of Press and Public

(Pages 9 - 10)

Part 2 - Business to be discussed in Private

4 Staffing Implications from the Decision to Redeploy the High Volume Pump (HVP) from Congleton to Powey Lane

(Pages 11 - 16)

5 Pensions Ombudsman Case Briefing

(Verbal Report)

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MINUTES OF THE MEETING OF THE STAFFING COMMITTEE held on Tuesday, 8 May 2018 at Leadership Team Conference Room - Fire Service, Clemonds Hey, Winsford, CW7 2UA at 10.30 am

PRESENT: Councillors B Rudd, S Nelson, D Flude, G Merry and S Parker

1 PROCEDURAL MATTERS

Recording of Meeting

Members noted that the meeting would be audio-recorded.

A Apologies for Absence

Apologies for absence were received from Councillors E Johnson and M Tarr.

B Declaration of Members' Interests

There were no declarations of interest.

C Minutes of the last meeting

RESOLVED: That

The minutes of the meeting of the Staffing Committee held on 8th May 2018 be confirmed as a correct record.

2 SERVICE TRANSFORMATION PLAN

The Director of Transformation presented the report which provided information on the closedown of the Service Transformation Plan 2017/18 (the 17/18 Plan) and the new Service Transformation Plan for 2018/19 (the 18/19 Plan) for approval. The 18/19 Plan was attached as an appendix to the report and would be used to monitor a range of actions associated with the Home Office's Fire Reform Programme and the Service's people agenda.

The 17/18 Plan was developed in 2017 in order to address the fire service reform agenda and captured the actions necessary to respond to and to progress the local agenda. It highlighted how some of the key priorities identified by the Service would be delivered and also considered the recommendations in the Adrian Thomas report, the outcomes of the staff engagement survey, the National Fire Chiefs Council (NFCC) People Strategy and the Service's Equality, Diversity and Inclusion Strategy action plan. An end of year summary against the 17/18 Plan was provided and it was noted that significant amount of progress had been made.

When Members approved the 17/18 Plan at the Staffing Committee meeting in October 2017 it was agreed that the Transformation Plan would be updated annually, to ensure that it remained relevant and fit for purpose in responding to

national and local developments. The 18/19 Plan made reference to the LGA Fire Vision 2024 document, the key workstreams associated with the delivery of the NFCC People Strategy, the LGA Equality Framework for Fire and Rescue Services and the most recent recommendations arising from the NJC Inclusive Fire Service Group in Circular NJC/1/18. The new plan also linked to the outcomes of the staff engagement survey and the Service's Equality, Diversity and Inclusion Strategy action plan.

Members thanked the Director of Transformation for her comprehensive report and welcomed the clear links to national initiatives and the Authority's key priorities. They discussed the plans to : improve the recruitment of females; address the agenda pay gap; and the work planned for highlighting the support and training concerned with bullying and harassment. A Member suggested that it would be useful to align the action plan to the Authority's core values and the Director of Transformation confirmed that she would review the layout to see if an additional column could be included.

RESOLVED: That

[1] the 2018/19 Service Transformation Plan be approved.

3 STAFF ENGAGEMENT CORPORATE ACTION PLAN 2018

The Director of Transformation introduced the report which presented the draft Staff Engagement Corporate Action Plan 2018 (the Plan), arising out of the results and feedback from the Staff Engagement Survey 2017.

She explained that prior to formulating the Plan a lot of time had been spent engaging with staff across the organisation to understand the results and to ensure that the identified actions genuinely represented the views of the staff. The new approach included headline presentations to staff and representative bodies during Autumn 2017 which were followed by a round of local briefings with teams. These briefings had been well received and added another dimension to the survey in helping to identify local issues and prompting discussions around how staff could take more ownership of local action plans.

The Director of Transformation also commented how the results of the survey would be communicated and that with higher visibility, staff would start to see more meaningful and tangible outputs as a direct result of the survey.

Members discussed the Plan and a number of comments were made. A Member felt that ensuring engagement between staff and senior managers was a high priority. The Chair informed the Committee that he had requested a series of visits to stations for the Chief and the Chair as part of this engagement. Members also discussed the plans to revamp the nomination process and format of the STAR awards and a Member highlighted the need to look at reward and recognition for volunteers too.

The Director of Transformation concluded by explaining that, once the Plan was

approved, it would be re-submitted to JCNP for any final comments from the union representatives. She explained that the unions had been given opportunities to provide feedback on the plan and although no suggestions had been forthcoming to date, she had met with the local branch secretary and committed to incorporating any additional actions that the Fire Brigades Union wished to include. Members suggested that a statement from the union representatives endorsing the plan would be helpful to demonstrate their support of the Service's new approach to staff engagement.

RESOLVED: That

- [1] the Staff Engagement Corporate Action Plan 2018 (attached as Appendix A to the report) be approved.**

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CHESHIRE FIRE AUTHORITY

MEETING OF: STAFFING COMMITTEE
DATE: 17 SEPTEMBER 2018
REPORT OF: DIRECTOR OF GOVERNANCE AND COMMISSIONING
AUTHOR: JAYNE NIXON

SUBJECT: ALLOWANCES AND PENSIONABLE PAY -
NORMAN CASE FOLLOW UP WORK

Purpose of Report

1. This report summarises the work that has taken place to resolve the position of a number of staff, former staff and pensioners following the High Court decision in the Norman v Cheshire Fire and Rescue case from 2011. The Norman case was concerned with whether allowances were part of pensionable pay under the Firefighters Pension Scheme 1992.

Recommended: That

- [1] Members note the outcome of the work to implement the decision in the Norman case and the financial impact that this has had.

Background

2. Fire and Rescue Services operate a range of duty systems some of which involve the payment of allowances in addition to basic pay. The treatment of allowances impacts upon the pension position of operational staff.
3. Mr Norman was a firefighter and worked for Cheshire Fire and Rescue Service (CFRS) on the Day Crewed Duty System. He received an allowance of 26.85% of his pay (made up of various elements). Following advice from the Department for Communities and Local Government, the Day Crewed Duty System Allowance was not treated as pensionable pay by CFRS.
4. Two other allowances paid to staff (Nucleus Duty System, 7.5%, and Day Duty System for Training Officers, 10%) were also not treated as pensionable pay. The Flexible Duty System (20%), payable to Station Managers and above, had always been treated as pensionable, because that was a requirement of the Grey Book terms and conditions.
5. Mr Norman, with the support of the Fire Brigades Union, issued proceedings challenging the fact that the Day Crewed Duty System allowance had not been treated as pensionable pay. The case was considered by the High Court in

2011 and it decided that the majority (most elements) of the allowance should be treated as pensionable pay.

Information

6. The decision in the Norman case had far-reaching implications for all fire and rescue services. Essentially, it meant that it would no longer be possible to exclude allowances from pensionable pay (notwithstanding the terms of collective agreements that had been previously negotiated and agreed).
7. Officers from human resources, finance and legal considered the Nucleus Duty System and Day Duty System for training officers allowances that were, up until the decision in the Norman case, not treated as pensionable pay. Following advice from the barrister that had represented the Authority in the High Court it was conceded that the other two allowances would need to be treated as pensionable pay.
8. The decision in the Norman case had present and future implications, but also needed to be applied retrospectively, affecting former staff and pensioners as well as current staff. Officers produced a comprehensive list of former staff, pensioners and staff affected and considered the various scenarios that needed to be worked through. In total 169 individuals were affected.
9. The firefighters' pension schemes require the payment of contributions by employer and employee. As a result, it was necessary to agree how the contributions would be 'made up'. It was believed that only then could former staff, pensioners and staff anticipate/realise the additional pension benefits that flowed from the decision in the Norman case.
10. For the Day Crewed and Nucleus allowances the calculation of backdated contributions was straightforward, since the allowances had been agreed in recent years. The Trainers allowance had been paid since 2002, although necessary payroll records were only available from 2006 and this date was used for the calculations.
11. Following representations from the Fire Brigades Union's solicitors and in light of the provisions in the Limitation Act 1980 (which impact on the ability to pursue matters through the courts) it was agreed that the backdated allowances related to the Training Officers Duty System due from former staff, pensioners and staff should only be taken back six years from the date of the decision to treat the allowance as pensionable. This was an approach adopted by other fire and rescue services.

Financial Implications

12. The decision in the Norman case has had a number of financial implications.

13. The Authority now pays a pension contribution in respect of the new DC1, Nucleus, Trainers and Flexible duty allowances. This sum will fluctuate, but for the last financial year, it amounted to £47,500 for these three duty systems.
14. The Authority paid the backdated pension contributions (for both employer and employees) for the Day Crewed, Nucleus and Trainers allowances. This payment covered the whole period that the allowances had been paid, going beyond the six year period mentioned in paragraph 11.
15. The Authority has secured payments (some by instalments) from most individuals affected. However, this has proved difficult for a limited number of former staff and pensioners.
16. The 'compromise' agreed with the Fire Brigades Union mentioned in paragraph 11 above (Limitation Act 1980) means that the Authority will not be paid £11,189.35 employee contributions. This decision was considered to be within the remit of the then Head of Legal and Democratic Services as it was related to the decision in the Norman Case. This sum was deemed irrecoverable.
17. There are five former staff/pensioners who owe between £34.19 and £1882.26 totalling £2971.80. It is believed that it is not appropriate to pursue these as debts and that they should be written off. Some will be uneconomic to pursue in any event. Officers intend to write them off in due course.

Legal Implications

18. The report deals with the legal implications flowing from the decision in the Norman case.

Equality and Diversity Implications

19. There are no equality and diversity implications relating to this report.

Environmental Implications

20. There are no Environmental implications relating to this report.

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BACKGROUND PAPERS: NORMAN V CHESHIRE FIRE AND RESCUE DECISION

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CHESHIRE FIRE AUTHORITY

MEETING OF: STAFFING COMMITTEE
DATE: 17 SEPTEMBER 2018
REPORT OF: GOVERNANCE AND CORPORATE PLANNING
MANAGER
AUTHOR: DONNA LINTON

SUBJECT: EXCLUSION OF THE PRESS AND PUBLIC

Exclusion of the Press and Public

Recommended:

That under Section 100(A) (4) of the Local Government Act 1972, as amended by the Local Government (Access to Information) Order 2006, the press and public be excluded from the meeting for the items of business listed below on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12 A to the Act in the paragraphs indicated:

Item 4: Staffing Implications from the Decision to Redeploy the High Volume Pump (HVP) from Congleton to Powey Lane

Item 5: Pensions Ombudsman Case Briefing

Paragraph(s)

- (1) Information relating to any individual (Paragraph 1)
- (2) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees and employees of, or office holders under, the authority (Paragraph 4)

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BACKGROUND DOCUMENTS: NONE

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By virtue of paragraph(s) 1, 4 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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