

‘Rank to Role’ Dispute

Report of the Chief Fire Officer

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1 Purpose of Report

This report informs members of the ongoing dispute between the Service and the Fire Brigades Union, relating to the ‘Rank to Role’ process, and presents options for consideration by the Fire Authority for settling the dispute.

2 Recommendations

The Committee is asked to:

- a) Note the work that has been undertaken by the Service and the Fire Brigades Union in attempting to find a solution to this dispute;
- b) Consider the three options outlined in section 5; and
- c) Consider what comments it would wish to make to the Fire Authority about the negotiation process and the benefits to be gained by the Service from each option, and with particular regard to the stated preferred option – Option 3.

3 Background

In August 2005 the National Joint Council (NJC) published Circular 09/05 “Substantive Move from Rank to Role”. Also during this period national guidance was published in relation to how Retained Duty System (RDS) Watch Managers (WMs) should be treated in relation to this matter. This stated that, because they have significant responsibility for their stations, they should attract the ‘B’ rating. The Service therefore implemented the change in accordance with this guidance and this has remained in force since. However, no such guidance was produced in relation to any of the wholetime roles in the Service and it was therefore down to individual Services to determine how the move from rank to role should be implemented. However, many services took the initial starting point of a general “rule of thumb” that on “multi-pump” stations the role of Watch Manager was allocated a B rating and Station Commander posts on these stations equally attracted a Station Manager B rating. This approach was not followed in Shropshire Fire and Rescue Service (SFRS).

A 'Rank to Role' Working Group was therefore set up by the Service, comprising appropriate representatives from management and the Fire Brigades Union (FBU). The Working Group agreed a process that split the necessary work into two phases;

1. Allocating jobs to roles; and then
2. Identifying which posts within each role would attract either an 'A' or 'B' rating, with 'B' attracting a higher pay rate.

The Phase 1 work was completed in December 2008, which enabled all staff to be allocated to a particular role. The second phase proved significantly more difficult to achieve, with the lack of national guidance resulting in significant differences in the thinking between the two sides. The Service's Working Group was tasked to devise a local process and, for several reasons including a failure to find to a mutually agreeable process and staffing issues, this work did not progress. At this stage, except for RDS WMs, the Service's default position was that all Grey Book management positions above Crew Manager were paid at the 'A' rate (the lower one).

These difficulties continued through to 2012, at which stage the Service noted that:

- It had proved impossible for both sides to agree a mutually acceptable process;
- If different rates were paid to different jobs at the same level, then this would likely impact on the Service's ability to move staff between jobs, potentially impacting on competence and resilience in the lower rated jobs; and
- Introducing the higher rate of pay would impact on the Service's budget during a period when budgets were being squeezed due to austerity.

It therefore made a policy decision that the Service would not differentiate between jobs, within particular roles, and therefore everyone would continue to be paid at the 'A' rate. In response to this stated policy, on 6 September 2012 the FBU registered a Formal Dispute with the Service.

This position continued, with little progress being made, through to autumn 2014, when both sides entered into more significant discussions.

4 Negotiations

At the end of 2014, a reconstituted Working Group agreed to the following process:

1. Undertake formal analysis of all the management roles, using Croner job evaluation tools.
2. Outcome would provide numerical scores that would allow jobs to be considered in relation to each other in terms of weight, responsibility and scope amongst other factors.
3. The Service would use the results to determine if any of the posts might warrant a regrading and what action, if any, should be taken in relation to the management of the Service

4. This would then lead onto a more negotiable position as to what action was taken on this information, with specific regard to the practicalities of managing a smaller fire and rescue service, the budget and other external factors.

The Croner analysis was undertaken by the Working Group early in 2015, facilitated by an external consultant. The results were then reported to the Executive Leadership Team for their consideration.

The results showed that it was possible to show differences in the levels of responsibility in different jobs that currently sit within the same roles. It indicated that some of the posts were operating at the lower end of what might be expected for the role and some more towards the higher end. For ease of classification we have described these as “A” and “B” rates of pay, as shown in table 1.

Area Managers (AMs)

- If the Service continues with 4 AMs then 1 is ‘B’ and 3 are ‘A’s;
- If the Service drops to 3 AMs, as part of a restructure, then all 3 are ‘B’s.

Group Managers (GMs)

- All GMs are ‘A’s;
- However, if the Service drops to 3 AMs, then it would need to either renegotiate the AM rota (which would have additional costs attached to it) or consider using 1 of the GMs to cover the AM operational rota, which might then attract a ‘B’ due to the additional operational responsibilities.

Station Managers (SM)

- The 6 Assistant Group Commanders (AGCs) and the 1 Business Fire Safety post are ‘B’s;
- The 7 other SMs posts are ‘A’s.

Watch Managers

- The 12 Watch based WMs are ‘B’s;
- The Trainers, Group Support Team (GST) and Development WMs (11 posts) are ‘A’s, but also get a Trainers Allowance for flexible working;
- The Business Fire Safety and Operations WMs (4 posts) are ‘A’s;
- The 4 Fire Control WMs are ‘A’s;
- In relation to the RDS WMs, the results had more parity with the lower rate. This results in the anomaly that this is the only staff group who are currently being paid at a ‘B’ rate following national recommendations back in 2006.

Table 1 - Results from the Croner Job Evaluation process

Negotiations then started between Service management and the FBU, during which it became evident that both sides would have issues with a straight implementation of the results shown through the job evaluation process. These are summarised in table 2 below.

With changes in the Service Executive Team during 2016, comprehensive negotiations on possible solutions did not get started until January 2017. Both sides worked towards a compromise agreement up to June 2017, as detailed in Appendix A.

Although this would have still resulted in the ongoing organisational issues, which arise from having mixed ratings (as depicted in table 2), being incurred, the outline agreement would have overcome the issues arising during the implementation process and would also have limited the financial impact of Back-pay to a single year. Unfortunately this proposal had to be withdrawn due to the subsequent legal advice indicating the potential for this payment to be Ultra Vires.

Service issues

- Back-pay costs and their complexity, if multiple years have to be worked out
- Increase in annual pay bill going forward
- Implementation involves interviews for all staff in mixed roles (45 posts)
- Restricts mobility of staff within role, or drift towards all being on protected 'B' rate
- Resilience and experience in 'A' roles is reduced as people move through them more quickly – impact on those functions

FBU issues

- Back-pay – multiple years expected
- Members' anxiety caused by interviewing for their own jobs
- Anomaly with the RDS WMs becomes an issue that would need addressing

Table 2 - Issues with a straight implementation of the job evaluation results

At that time the only other proposal available was one based on the straight implementation of the job evaluation results with little opportunity to mitigate the detrimental effects of the change. This proposal is detailed in Appendix B and, as stated therein, it would incur all of the problems that both sides had with such a proposal, as listed in table 2. Discussions on this solution demonstrated how far apart the two sides were on issues such as the number of years of back-pay expected to be paid to those staff that had been in the 'B' posts for many years, and also the RDS WM issue, where the FBU would expect this anomaly to be explored if the agreement was fully based on the Croner job evaluation analysis.

The Executive Team therefore looked at how this impasse might be overcome.

5 Joint Agreement

In an attempt to avoid the consequences that result from managing an overly hierarchical and multi-tiered structure in a relatively small organisation, the Executive Team looked how it might introduce additional responsibilities into those jobs that had come out as an 'A' rating, thereby making them consistent with a 'B' rating. The focus of these changes was to identify increases in individual job descriptions that would provide the most benefit to the service in terms of increasing capacity, resilience and operational expertise; while at the same time maintaining the flattened rank structure that has been shown to work well.

The details about the proposed changes to each job are detailed in Appendix C. Following significant discussions, on 20 July 2017 both management and the FBU agreed on the proposed changes to each of the jobs under consideration and also agreed to limit the back-pay costs to one year.

The advantages of this joint proposal are considered to be that it:

1. Eliminates mixed role pay rates
2. Limits the complexity and amount of Back-pay to one year
3. Provides new capacity and capabilities in the current 'A' posts
4. Removes the bureaucracy of the Trainer's Allowance
5. Overcomes the concerns of limited resilience and experience in the 'A' posts
6. Eliminates the need for mass interviews
7. Overcomes the RDS anomaly
8. Settles the Formal Dispute without recourse to the NJC or TAP
9. Is in line with Hereford and Worcester FRS roles, supporting future potential collaboration

However, the proposal does come with some financial disadvantages, which amount to:

- £67k in Back-pay; and
- An increase in the annual pay bill of £118k, which is £45k more than a straight implementation option.

The affordability of this proposal is considered in section 6.

Management have been clear to the FBU that the proposal needs Fire Authority approval before it could be implemented. It is therefore being considered by this Committee and also the Strategy and Resources Committee, prior to going to the full Fire Authority meeting in December. The Fire Authority report will detail the recommendations from both committees.

It would be inappropriate for the Service to solely present the one option for consideration by Members. Members are therefore asked to consider the following three options:

- Option 1 - Continue with status quo, with all roles paid at the 'A' rate;
- Option 2 - Implement changes in accordance with the job analysis results;
- Option 3 - Restructure the roles and responsibilities in accordance with the joint proposal

The following tables attempt to summarise the advantages and disadvantages of each option.

Option 1 - Continue with status quo, with all roles paid at the 'A' rate.

Advantages	Disadvantages
<ul style="list-style-type: none">• No increase in annual pay bill• No one-off Back-pay costs• No mixed role pay rates• Continues current mobility of staff between roles• Maintains resilience of functions• No implementation process causing concerns amongst staff	<ul style="list-style-type: none">• Dispute continues and likely to involve recourse to Technical Advisory Panel (TAP)• Goes against the evidence now available from evaluation process• Leaves a sense of 'unfairness' amongst staff• The RDS anomaly becomes an issue for the FBU• Out of sync with H&WFRS, impacting on future collaboration.

Option 2 - Implement changes in accordance with the job analysis results.

Advantages	Disadvantages
<ul style="list-style-type: none">• Purest application of current evaluation results• Responds to the sense of 'unfairness' amongst staff	<ul style="list-style-type: none">• Increased annual pay bill - £74k• Unresolved issue of a multiple years back-pay claim (>£121k?)• Dispute continues and likely to involve recourse to TAP• The RDS anomaly becomes an issue for the FBU• Introduces mixed rates within roles, affecting ability to rotate staff, without drifting towards all 'B's• Extensive implementation process, raising concerns amongst staff• Out of sync with H&WFRS with the potential to impact on future collaboration.

Option 3 - Restructure the roles and responsibilities in accordance with the joint proposal.

Advantages	Disadvantages
<ul style="list-style-type: none">• Limits the amount and complexity of Back-pay• New capacity and capabilities in the current 'A' posts, supporting collaboration, transformation and inspection• Removes the bureaucracy of the Trainer's Allowance• Eliminates mixed role pay rates• Supports mobility of staff between roles for development purposes• Maintains resilience of functions• No implementation process causing concerns amongst staff• Overcomes any sense of 'unfairness'• RDS anomaly is eliminated• Has FBU support and therefore the Dispute is settled without recourse to the NJC or TAP• In line with H&WFRS, supporting future possible collaboration opportunities.	<ul style="list-style-type: none">• Increased annual pay bill - £118k• Back-pay of £67k.

The Chief Fire Officer recommends Option 3.

Members are specifically asked to consider the comments they would wish to be included in the Fire Authority report on this matter, with particular regard to the negotiation process, which has led to this stage, and the benefits to be gained by the Service from each option.

6 Financial Implications

Options 2 and 3 within the report will require ongoing additional pay costs, with a maximum requirement of £118,000. Provision can be found within the Pay and Prices Contingency, therefore no growth in the revenue budget is requested.

Options 2 and 3 will also require one off back payments to those officers affected. In September 2017, a report on Financial Performance to the Committee highlighted savings to date of £483,000, and a paper on today's agenda has similarly reported savings of £90,000. It is proposed that these underspends are used to cover back payments to staff.

7 Legal Comment

There are no legal implications arising from this report.

8 Initial Impact Assessment

An Initial Impact Assessment has been completed.

9 Equality Impact Assessment

There are no equality or diversity implications arising from this report. An e-EQIA is not, therefore, required.

10 Appendices

Appendix A – Compromise Proposal - June 2017

Appendix B – Default Implementation Proposal – July 2017

Appendix C – Proposed changes to the roles

11 Background Papers

There are no background papers associated with this report.

Compromise Proposal - June 2017

Proposal

- 1 year's back-pay to those that had been operating in relevant roles
- 2 year's 'Transition Enhancement' to those currently in 'A' roles – during which predicted retirements would overcome most, if not all, current anomalies
- Adopted reduction to 3 AMs and increase by 1 GM to cover Training function
- Only alternative proposal on the table was 'As per evaluation results and a maximum of 2 year Back-pay (evaluation results became available)'

Advantages

- Overcomes the implementation process issues for both sides
- Limited Back-pay costs - £67k
- Limited Back-pay complexity
- Settles the dispute

Disadvantages

- Impacts on the mobility of staff within mixed role, or drift towards all 'B's
- Increased annual pay bill - £74k (reduced due to the changes in the AM / GM structure)
- Incurs Transition costs – max. £25k per annum, reducing as posts moved across
- Results in staff 'Being paid for levels of responsibility they are not doing'

Result

- Legal advice eventually concluded that it was Ultra Vires
- This proposal had to be withdrawn at the end of June 2017

Default Implementation Proposal – July 2017

Proposal

- Implement in accordance with the evaluation results
- 2 year's back-pay to those that had been operating in relevant roles (analysis results available)

Advantages

- Limited Back-pay complexity
- No Transition costs incurred

Disadvantages

- Back-pay costs - £121k (£67k + £54k)
- Restrictions on mobility of staff within role remains, or drift towards all 'B's
- Does not overcome the implementation process issues for both sides
- Increased annual pay bill - £74k (reduced due to change in AM / GM structure)

Result

- FBU not prepared to settle for only 2 years Back-pay
- FBU not satisfied with variation in application of evaluation results – RDS WMs
- FBU requested alternative offer is taken to Technical Advisory Panel (TAP) for them to make independent recommendations
- Dispute unlikely to be settled without external intervention

Proposed changes to the roles

Area Managers

- Permanent drop from 4 AMs to 3
- The appropriateness of this change having been proved during the period when one of the 4 AMs had been dedicated to managing Shropshire Fire Risk Management Services Ltd
- **Service benefit:**
 - The change in responsibilities enabled the introduction of the AM for 'Transformation, Collaboration and Inspection'

Group Managers

- Introduced the 5th GM to take on Training, supporting the reduction in the AM post
- 4 GMs will continue to be 'A's
- 5th GM will take on AM operational role and get the 'B' following an open interview process
- **Service benefit:**
 - Saves approximately £12k on having the 4th AM post;
 - Enables the AMs to be more strategic.

Station Managers

- 6 AGCs and the 1 Business Fire Safety post are 'B's
- The other 7 SMs take on 'Project Management' responsibilities for payment of 'B' (GM rolemap)
- All SMs take on new responsibility as a Subject Matter Expert in one or two relevant areas
- **Service benefit:**
 - Supports ongoing transformation, collaboration and inspection work throughout the Service;
 - Improves operational competence.

Watch Managers

- 12 Watch based WMs are 'B's
- The 'Trainers Allowance' is replaced with 'B' - Trainers, GST, Development (11)
- The Business Fire Safety WMs (3) will provide on-call weekend cover for 'B'
- The Operations WM (1) takes on greater responsibility for planning and coordinating Ops activities (SM role map) for 'B'
- 4 Fire Control WMs remain as 'A's as they are on a separate pay structure
- **Service benefit:**
 - Reduces the bureaucracy of the Trainers Allowance
 - Provides access to weekend specialist fire safety advice and support
 - Additional coordination capacity in Operations to support NOGP and inspection