

Part Time Workers (Prevention of Less Favourable Treatment) Regulations Update

Report of the Chief Fire Officer

For further information about this report, please contact Paul Raymond, Chief Fire Officer, on 01743 260205 or Lisa Vickers, Temporary Head of Human Resources, on 01743 260280.

1 Purpose of Report

This report provides an update to the Committee on the processing of settlement payments being made by the Service following the conclusion of the long running employment tribunal cases brought by the Fire Brigades Union (FBU) regarding the Part Time Workers (Prevention of Less Favourable Treatment) Regulations.

This report also brings to the attention of the Committee, Circulars EMP/05/12 and EMP/06/12.

2 Recommendations

The Committee is asked to note the contents of this report.

3 Background

On 8 March 2011, Circular NJC/3/11 was issued detailing the conclusion of the ongoing (since 2001) test cases in two authorities (Kent and Berkshire) under the above legislation. The Circular explained that:

“..Those test cases have been subject to the Employment Tribunal, Employment Appeal Tribunal, Court of Appeal and House of Lords processes; returning finally at the request of the House of Lords to the original Employment Tribunal again for re-consideration and determination. The Tribunal found in favour of the Retained Firefighters (who were supported by the FBU) and since then the parties have at the request of the Tribunal sought to negotiate a settlement.”

The settlement agreement detailed the compensation payable to eligible employees for the terms and conditions claims including injury to feelings and the compensation payments are set at:

Firefighter	£750
Leading Firefighter/Crew Manager	£778
Sub Officer and Station Officer/Watch Managers	£806

The compensation payment is paid on the eligible employee's role and length of service as at 30 June 2010 (for the period between 1 June 2000 to 30 June 2010). The minimum sum to be paid to an eligible employee is £150.

4 Update

Circular EMP/05/12 was issued 30 March 2012. This detailed the situation in respect of the tax and national insurance status of the settlement payments. Following further legal advice and guidance from our Head of Finance and Treasurer, all payments made have been done so by grossing up and the Authority has paid the tax and national insurance due.

Circular EMP/06/12 was issued on 15 May 2012. This detailed the payment process for members of the Retained Firefighters Union (RFU).

The communication process between unions, fire and rescue services and individuals is being handled nationally by an independent third party, Popularis. On receipt of data from them, the Service is now currently processing 557 firefighters' settlements.

To date (19 September 2012)

- 303 claims accepted – and all will be paid by the end of October 2012
- 3 claims rejected
- 251 claims pending- queries/ non union members

Breakdown of payment dates:

- 5 July 2012 - 220 claims paid
- 3 August 2012 – 38 claims paid
- By 29 October 2012 – 45 claims paid

5 Financial Implications

Financial provision has been made by the Fire Authority within the Pensions Liabilities (and other staff issues) reserve from which to meet the cost of the claims of eligible employees. Therefore, no impact on the revenue budget 2012 is anticipated.

The total compensation was originally calculated at £265,000, and after the inclusion of national insurance and tax, the total compensation payable is around £370,000. The original £265,000 was paid from reserves, the additional £105,000 was accrued from opportunity savings at the end of 2011/12.

After taking advice about the possibility of claiming this additional money back from Her Majesty's Revenue and Customs, officers in consultation with the Chair and the Vice Chair, have decided not to pursue a claim at present but will review this once other Services pay for legal opinion and take any action.

6 Legal Comment

The Part time Workers (Prevention of Less Favourable Treatment) Regulations 2000 aim to ensure that part time workers are not treated less favourably than full time workers and this includes retained firefighters.

The proposals contained in this report comply with the settlement agreement.

7 Equality Impact Assessment

As this report refers to work being done in the Service following the settlement of an ongoing national legal action, an Equality Impact Assessment is not necessary.

8 Appendices

Appendix A

Circular EMP/05/12

Appendix B

Circular EMP/06/12

9 Background Papers

- 'Part Time Workers Case Settlement Agreement'
Item 10, Human Resources Committee 7 April 2011
<https://www.shropshirefire.gov.uk/sites/alpha.shropshirefire.gov.uk/files/fra/10-part-time-workers-case-settlement-agreement.pdf>
- Circular NJC/3/11 'Part Time Workers (Prevention of Less Favourable Treatment) Regulations - Fire Brigades Union Employment Tribunal Cases - Settlement Agreement.'