

## Process for Dealing with Brigade Managers' Pay

### Report of the Treasurer

For further information about this report please contact Keith Dixon, Treasurer, on 01743 260202.

### 1 Purpose of Report

This report informs the Fire Authority of the review of the process for undertaking Brigade Managers' pay negotiations. It makes a number of recommendations in the light of the review.

### 2 Recommendations

The Fire Authority is recommended to:

- a) Delegate authority for reviewing and deciding Brigade Managers' pay to the Brigade Managers' Employment Panel;
- b) Refer any disagreement by Brigade Managers directly to ACAS (Arbitration, Conciliation and Advisory Service) for conciliation, and then to an ACAS independent person;
- c) Agree to be bound by the decision of that independent person;
- d) Ask the Treasurer to undertake a pay review, as outlined in the ACAS report, as soon as possible to complete the January 2009 pay settlement; and
- e) Agree to the same process being used to deal with the Treasurer's pay.

### 3 Background

In December 2008, the Fire Authority decided that the process used to agree future annual pay claims be independently reviewed as a matter of urgency. The current procedure is set out at Appendix A.

Accordingly, the Advisory, Conciliation and Arbitration Service (ACAS) was approached to look at our current process, and to put forward any changes that it considered would lead to a more efficient, effective and better informed process.

#### **4 ACAS's Report**

The report from ACAS is attached as Appendix B. The main points are as follows:

- a) The formal position as set out in the "Scheme of Conditions of Service" (Gold Book) is summarised – paragraphs 1.1 and 1.2. This points out that in addition to the annual national level review, local Fire and Rescue Authorities will annually review these salary levels.
- b) The nature and scope of the local review is discussed in paragraphs 1.3 to 1.7, where it is concluded that a simple approach might be adopted, and the key elements listed. Possible sources of pay research are outlined in Annex 1. A suggested "do-it-yourself" survey form with possible comparator services is attached at Annex 2.
- c) The report then looks at our current process for deciding pay and identifies that there is an inflexible process each year within the Panel's remit (Appendix A of this report), and that, even if more flexible processes were introduced, negotiation would still be subject to the agreement of the Authority with no formal process at that stage, particularly for dispute resolution.

The option put forward by ACAS to improve and speed up the process is for the Fire Authority to delegate full authority for pay review and pay decision-making to the Panel (paragraph 2.6).

- d) An outline pay bargaining process is set out in paragraphs 3.1 to 3.7 and a recommended Dispute Resolution Process is set out in paragraphs 4.1 to 4.4. The report proposes that the Dispute Resolution Process is put in place whatever option the Fire Authority chooses to use.

#### **5 Brigade Managers' Views**

The report and process suggested seem to be a fair and equitable approach to our pay negotiations. Brigade Managers suggest that the process is used this year with the already nationally agreed pay rise to test the effectiveness of the suggestion.

## **6 Summary**

The report by ACAS does seem to offer a simple and straightforward process, giving both sides a chance to cover all matters which it would be reasonable to consider.

Its successful implementation will depend on:

- The Fire Authority being prepared to delegate powers to the Panel; and
- Keeping the review work simple and straightforward. Clearly there might be capacity issues, if significant research were undertaken, or funding implications, if external advisors were engaged.

## **7 Position of Treasurer**

The Treasurer's pay was related to that of the Chief Fire Officer, but the link was broken by mutual agreement to ensure that the Treasurer could provide independent advice on Brigade Managers' pay. The Treasurer's pay is not, therefore, covered by this report, although its review is also due each year from 1 January.

Currently the question of the Treasurer's pay is addressed once that of Brigade Managers has been resolved. There seems to be no reason why this arrangement should not continue nor why the same process outlined by ACAS cannot be adopted for deciding the Treasurer's pay, although any support work for the Panel would need to be undertaken by other officers of the Brigade.

## **8 Financial Implications**

There are no direct financial implications arising from the report, although extensive or complicated reviews, if undertaken would require some funding.

## **9 Legal Comment**

It is possible to delegate these considerations and decisions to a committee or sub-committee with a politically balanced representation, which would be able to meet in private as long as exempt information was being considered and discussed. The terms of reference of the committee or sub committee would have to be agreed by the Fire Authority before it could meet to take these decisions

## **10 Equality Impact Assessment**

Officers have considered the Service's Brigade Order on Equality Impact Assessments (Personnel 5 Part 2) and have decided that there are no discriminatory practices or differential impacts upon specific groups arising from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

## 11 Appendices

### Appendix A

Brigade Managers' Employment Panel - Procedure for considering issues associated with pay and conditions of service for Brigade Managers

### Appendix B

Shropshire Fire and Rescue Service Proposed Pay Panel Process

## 12 Background Papers

There are no background papers associated with this report.

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity	*	Member Involvement	*
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial	*	Staff	*
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*

## Brigade Managers' Employment Panel

### Procedure for considering issues associated with pay and conditions of service for Brigade Managers

The Brigade Managers' Employment Panel (the Panel) is a working group of Shropshire and Wrekin Fire Authority, made up of five Members of the Authority. Its function is to consider any issues associated with the pay and conditions of service of Brigade Managers of the Fire Authority, and to make recommendations to the Authority on these.

Consideration of pay and employment issues will be in private. A Legal Advisor will be present to advise on legal and procedural matters and a Committee Clerk to take minutes and record the Panel's decision. Neither officer will take part in the decision-making process.

The precise order of the proceedings on the day will depend on the issue(s) being discussed, but will generally be conducted as follows:

- Introduction by the Chair of the Panel
- Presentation by Brigade Managers or their representative(s) relating to the issue(s) under discussion
- Questioning of Brigade Managers or their representative(s) on the above by Members.
- Comments by the Treasurer or Clerk, as appropriate, on financial or legal implications of issue(s) under discussion.
- Questioning of the Treasurer or Clerk on the above by Members.
- Opportunity for Brigade Managers or their representative(s) to ask questions on the information provided.
- Any further questions from Members.
- Opportunity for Brigade Managers or their representative(s) to make a closing statement and summary, which must be confined to information already introduced to the Panel.
- Brigade Managers, their representative(s), the Treasurer and Clerk will be asked to leave the meeting whilst the Panel reaches its decision. The Legal Advisor will remain to advise solely on legal and procedural issues and the Committee Clerk to record the decision. All parties may be recalled prior to the Panel reaching its decision, if further information is required. The meeting may be adjourned and subsequently reconvened at a later date, if it is necessary to obtain further information and/or advice on any matter.
- Once the Panel has reached its decision, Brigade Managers and their representative(s) will be invited back into the meeting. The Chair will then read out the decision of the Panel.

This procedure is intended as a guide, **which may be varied at the discretion of the Panel**, provided the rules of natural justice are adhered to.

## **SHROPSHIRE FIRE & RESCUE SERVICE PROPOSED PAY PANEL PROCESS**

- 1. Pay Review & Research**
- 2. Principal Officers' Employment Panel**
- 3. Employment Panel Bargaining Process**
- 4. Dispute Resolution Process**

### **Annex 1 – List of Pay Research Organisations**

### **Annex 2 – Salary Survey Form & Possible Research Sources for Comparison**

### **Annex 3 - Flowchart of Pay Panel & Dispute Resolution Process**

In January 2009, Acas were asked to explore and provide some recommendations regarding the Shropshire Fire & Rescue Service pay process for senior managers. The report below reflects the discussions and diagnosis that was carried out.

### **1. Pay Review & Research – Timescale – 1 month**

1.1 The pay process for principal officers in the Fire & Rescue Services contains a two-track approach, with an NJC annual review of pay level increases and a second level of decisions taken locally by each Fire & Rescue Authority. The local authorities are expected to review salary levels on an annual basis.

1.2 This means that there are two levels of annual review of pay and pay levels, national and local, with the local Fire & Rescue Authority looking at any implications locally based on the nationally agreed pay increase. To do this in Shropshire they need to take into account local factors such as pay and benefits packages in similar posts in similar organisations within the county and the wider West Midlands, as well as compare with similar sized fire and rescue services across the UK. This will necessitate the development of a pay review by Shropshire Fire & Rescue Authority (SFRA).

1.3 The objective of a pay review and pay research generally is to provide information that enables an organisation to:

- Maintain a competitive pay and benefit position relative to the market in order to recruit and retain the right calibre of staff;
- Determine levels of pay for individual jobs, pay ranges or scales;

- Provide information on adjustments required to general or individual pay levels.

1.4 There is a range of different ways of conducting pay surveys and of analysing and presenting the findings. A simple pay survey may well be the answer for SFRA because the organisation is dealing with 4 senior posts, not with a large range and volume of posts across, say, a metropolitan fire service, police service or local authority. However, there is a need to identify what data would be useful to collect and how best to present it.

1.5 The survey form in **Annex 2** outlines the key pay and benefits elements that should be collected from as wide a range of organisations as possible, given the number of jobs at issue. These pay and benefit items are:

- **Basic pay for specific jobs**
- **Pay scales for specific jobs – minima & maxima – and number of increments**
- **Pension – employer contribution**
- **Car value – either value of car, allowance or lease payment**
- **Other benefits – eg housing, healthcare, schooling etc**

1.6 To these should be added non-pay items such as the cost of living items comparative to other areas – housing, education, travel costs, as well as the relevant **Retail Prices Index (RPI)** and/or **Consumer Prices Index (CPI)** figures.

1.7 The best ways of gathering this information include the survey as outlined above. The advantage of a local and industry survey is that it is simple and potentially quick. The disadvantages are that it could be inaccurate and that other organisations may be reluctant to share all of the information. Using a research organisation may be a quick, though relatively expensive, way of getting the research done. However, I have spoken to a few such organisations and the general view is that any survey may well be too small to attract their interest. A few examples of research organisations are contained in **Annex 1**.

## **2. Brigade Managers' Employment Panel**

2.1 The **Brigade Managers' Employment Panel (the Panel)** is a working group set up by the Fire Authority and made up of 5 Members. Their role is to consider issues associated with pay and conditions of Principal Officers and to make recommendations to the Authority.

2.2 Any considerations related to pay and employment conditions are conducted in private, with a legal adviser present to advise on legal and procedural matters and a committee clerk to take minutes and record decisions.

2.3 The two key issues related to the activities of the Panel are delegated authority and the inflexibility of the process. I note that any decisions of the Panel seem to be subject to the ratification of the full Authority – ie **that the Panel can only recommend a way forward for pay**. There appears at this stage to be no facility for officers or their representatives to appeal against any negative recommendation by the Panel or, indeed against any decision by the full Authority to reject a positive recommendation by the Panel. Secondly, the process of following a set sequence of events, with claim followed by questioning and comment is very formulaic and time-consuming. A more flexible approach where there is more opportunity for debate and negotiation would be more effective.

2.4. Although I am assured that negotiations over pay and conditions at this level have always been conducted in an amenable and professional manner one cannot guarantee that this will always remain the case. I understand that there were problems related to a recent review where the Authority rejected pay-related issues placed before them; these issues have still not been dealt with. The absence in the existing procedure for officers to appeal against any decision of the panel or the Authority would not appear to be conducive to good employment relations or workplace practices, particularly in a union environment where the trade unions are recognised by the employer.

2.5 As a result of this there remains a need for the Panel to review how it conducts its business and a need for the Authority to review what delegated authority it should confer on the Panel. There is more that the Panel can do in terms of commissioning pay research and in being given the opportunity to decide on local pay elements of principal officer pay. There would be obvious benefits in reducing bureaucracy, improving collective bargaining processes and in providing for a reasoned and balanced pay review that can inform the bargaining process.

2.6 The first option for the Panel would be for the **Fire Authority to delegate full authority for pay review and pay decision making to the Panel**. The safeguard for the Authority would be that the Panel includes the Chair of the Members and the Leaders of each of the Parties, advised by the Treasurer and the Legal Adviser. Delegated authority of this nature would enable full and open discussions to take place with the officers and their representatives and shorten the timescale for decision making. In addition, discussion could take place each year between the Members before any pay review and negotiations



about items such as available budget for pay and benefits. The Panel would then have a steer from the Authority in its dealings with the officers.

2.7 The second option would depend on the recommendation by the Panel to the Members. If the Members reject the Panel's recommendations or the officers disagree with the Panel's decision, then the **Members should agree to refer the matter directly to Acas for conciliation and then to an Acas independent person, where all parties agree to be bound by the arbitration decision (see Section 4 on Dispute Resolution).**

2.8 The first function of the Panel should be to commission a pay review as outlined in **Section 1** above, both for their own purposes in arriving at conclusions about what can be afforded and also for sharing with the officers and their representatives before the pay bargaining stage.

2.9 The work of the Panel by necessity should be confidential until any pay review report is completed. The essence of the work and the report should be simplicity; a process outlining basic comparisons should suffice, taking into account the small number of posts being considered.

### **3. Pay Panel Bargaining Process – Timescale – 2 weeks**

3.1 The bargaining process highlighted below assumes that the first option outlined at para 2.6 above has been adopted and that full authority has been delegated to the Panel.

3.2 Once the Panel has received the commissioned pay review report the way is open for sharing this with the officers and for formal bargaining over local pay. The officers and their representatives can consider the report in compiling their proposals and the Authority representatives can consider the report in light of the available budget.

3.3 Both sides should take account of the **Consumer Prices Index (CPI)** figure for the month prior to the pay review process commencing (ie **if the process commences in December, with the national award in January then the published figure should be the CPI for November**). For reference the Treasury guidelines for the civil service over the last few years have used CPI, linked to an overall 2% remit.

3.4 The bargaining process should involve two members of the senior officer group plus any trade union representative and the members of the Panel.

3.5 A meeting should be convened at the beginning of the bargaining process for both officers and the Panel to discuss the budget, the report and the officers' proposals. It is left to the two sides to agree the length of time for the meeting but in Acas' experience a half day (3 hours) should be sufficient. Discussions should continue until there is substantial agreement on the outcomes or there is a failure to agree.

**3.6 If there is agreement then the outcomes should be drafted and signed as agreed with a date for implementation.** If there is a failure to agree then another meeting should be held after both sides have retired to consider further movements or evidence. This second meeting should be held within 2 weeks of the first meeting and should concentrate on any new evidence or proposals from either side aimed at breaking the deadlock. It should not be seen as an opportunity to rehash the same arguments from the first meeting.

**3.7 If there remains a failure to agree then the dispute resolution process should commence.**

#### **4. Dispute Resolution Process – 1 month**

4.1 The dispute resolution process should be seen as the last resort for all sides in deciding a dispute over pay and therefore all should make their best efforts to resolve the differences by agreement. The aim is for the process to be fast, efficient and cost-effective.

##### **Stage 1 – Reference to Acas for Conciliation**

4.2 Both sides agree to refer the dispute to Acas for conciliation. Acas will agree a date to meet with the parties and help facilitate a solution. This meeting lasts for as long as there is a chance of an agreed outcome but will be timetabled for 1 full day. If there is an agreement after Acas intervention then the Acas conciliator will provide the wording for the agreement for signature by the parties. If there is no agreement then the dispute is referred to Stage 2.

##### **Stage 2 – Reference to Independent Person**

4.3 In order to refer the dispute to an independent person both parties need to agree to be bound by the decision of the independent person. In advance of the referral each party should prepare their arguments, including the background to the dispute, and exchange the relevant documents before sending them to the independent person. Each submission should include an opening statement of each side's position and a summary of the documents contained in the submission.

4.4 Following submission the parties will agree a meeting with the independent person at which the independent person will have the opportunity to pose questions and invite the parties to decide whether any further discussion between them can effect an agreement. If not, then the independent person will make their conclusions known to the parties either at the conclusion of the meeting or in writing at an agreed time after the meeting. As both parties have agreed to be bound by the decision this will be implemented as soon as practicable after the decision is made.

**JON DEWS**  
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## **Annex 1 - List of Pay Research Organisations**

**1. IDS Pay Benchmark** - <http://www.idspaybenchmark.co.uk/> - provides comparative data on a range of jobs including average pay by industry and by region. It does not have a comprehensive range of jobs but there are around 200 jobs analysed.

**2. IDS Pay in Public Places** - this report provides authoritative analysis of pay developments in the public sector in 2008 and considers prospects for 2009. This is relied upon as an unrivalled source of information by those concerned with pay and employment issues across the public sector. It contains analysis of:

- Government policy on public sector pay
- Pay settlement trends
- Pay Progression
- Equal pay and gender equality issues
- Minimum rates of pay
- Regional earnings and London allowances

It also includes the full salary structures for key public sector bargaining groups across central and local government, health and education, covering 4.5 million employees altogether - £295

**3. Labour Research Department Payline** - Payline gives union members and officials access to information on more than 2,000 collective agreements with large and small employers in both the public and the private sectors. In addition to information about pay settlements and pay rates, Payline has information about working hours, holidays and special leave, overtime rates, shift pay, regional allowances, maternity, paternity and other family friendly policies (flexible working, career breaks), union facilities and a range of other subjects that are useful to union negotiators on a daily basis. The Labour Research Department uses this information as the basis for the analysis of current pay and conditions that makes our publications so widely read within the union movement. Payline gives union researchers, members and officials the opportunity to find what they need to know with a wide range of reports and filtering options - <http://www.lrd.org.uk/>

**4. Office of Manpower Economics**

**5. National Statistical Office**



### Annex 3 – Flowchart of Pay Panel Process



