

Annex

Pensionable Pay Queries and Related issues

I requested copy of all reports and advice to the service received from Weightmans in relation to pensionable pay.

I feel all board members should be fully aware of this advice rather than it being kept secret on the management side of the board. Without seeing this documentation, it is not possible for me to see if the service is acting on that advice in its entirety, cherry picking or ignoring it.

Risk Register, F16 – another instance of this happening as the service changed pensionable pay arrangements on 1st April this year which affects a lot of members. I think this shows firstly that that risk should be a red risk because it's happened again and secondly, because clearly the control measurers aren't strong enough, as this wasn't debated or considered properly as it should have done and no consideration given to the pension implications.

In April 2020, the service wrote to two cohorts of serving members informing them that they were to receive pay cuts following a period of 3 years pay protection. The service unilaterally made this decision to cut the salaries of approximately 35 members and these pay reduction range from approximately 6% - 26% of annual pay.

- Variable Crewing Duty System
The service unilaterally removed this agreed duty system which was introduced by agreement and included in the contracts of employment of those members from its introduction in 2005. The contracts stated that the members working this system would receive an enhancement to basic pay of 10% and their contractual entitlement to work up to 13 hours of pre-arranged over-time per month. Many members had worked that duty system over the last 15 years.
- Downgrading of pay scales of 16 Watch Managers from B scale of pay to A scale, which means a reduction of approximately 6% of their contractually stated pensionable pay.

Some members were affected by both unilateral pay cuts; hence the pay cuts ranging from 6% to 26%.

Back in 2005/6 when the decision of these contractual pay entitlements were agreed, the service would not accept that the Variable Crewing 10% enhancement was a pensionable element of pay which the recognised union of the UK Fire and Rescue Service, the FBU, argued at the time it should be.

Despite courts cases that determined the pensionability of the duty system pay enhancements in 2011 and subsequent court rulings and pension ombudsman rulings since then, the service only agreed that the Variable Crewing and the Day Workers contractual duty system enhancement of 10% should be pensionable in

towards the end of 2019, following advice received from Weightmans, which I have still not been allowed to see.

The effect of all this is that, members that have worked the Variable Crewing or Day Worker Duty Systems, have finally been informed by the service that their 10% pay enhancement is pensionable and they must make pension contributions on the 10% pay enhancements.

But as most members are members of the FPSO 1992, which is a final salary scheme, those that will not retire before April 2023 (after the pay protection ends), will receive no enhancement to their pensions now that the service has unilaterally decided to discontinue that duty system (the decision being taken by the service after it received the pensionable pay advice from Weightmans). But these affected members are still be told the will need to make additional pension contributions, which in some cases, involves them paying the service several thousand pounds in pension contributions going back 6 years.

Affected members are understandably outraged that they are being told they must pay the service a considerable amount of money in pension contribution but receive no additional pension benefit. Members believe that as the service wrongfully introduced a non pensionable benefit which has been determined since 2011 to be pensionable, and allowed many members since 2011 to take up those duty systems that the service should have been able to retire on those duty systems in order to benefit from the additional pension contributions they are now being told they must make to the service.

This is likely to lead the FBU challenging the service on the legalities of its unilateral decisions to force contractual changes which reduce pay and pension benefits. Hence this why I said F16 should be a Red risk and the current control measures are clearly not robust as they were ignored in the services unilateral decision making process and legal challenge is now likely as a result.

I also questioned what criteria was used to ascertain which members are affected and been written to by the service to inform them of this situation. The answer I was given was that all members that had worked the Variable Crewing duty system had been informed but I have since found this to be incorrect and I have been contacted by some members that have received no communication from the service in regards to this issue. So again, I would like to know what criteria has been used to determine who is affected by this as it does not appear to have been the correct criteria.