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All Station/Brigade Reps – Briefing Note 02/08

Employment Tribunal Verdict

Now that the dust has settled on the FBU's legal challenge, we can now start to determine exactly what it all means to the employees concerned. Naturally we welcome the decision to legally define staff working within the RDS as 'Part-time' workers and with it certain rights previously denied.

However, this was back in the year 2000 some 8 years ago and much has changed since. Retained personnel have access to a central pension scheme (NFPS), and numerous locally agreed salary schemes across the country provide sick pay for their staff, parity of the hourly rate was also granted some 5 years ago.

Even when looking at the RFU Industrial Tribunal applications submitted in 2000 which covered a broad spectrum of inequalities, these highlight the fact that these issues have been overcome in intervening years – namely; additional responsibility allowances, payment during suspension, pay during maternity support leave and medical charges and expenditure. Over the past 8 years the service has evolved and overcome numerous inequality issues within the RDS.

Interestingly enough whilst the legal process to provide access to the Firemans' Pension Scheme for Retained personnel has been a lengthy one, we know that only approx. 25% of serving RDS have joined the NFPS since its implementation in 2006. As statistics show that on average, Retained personnel serve for only 8 years, it is hardly surprising that they do not see the pension scheme as a top priority.

The fact that the FBU and the National Employers couldn't negotiate a settlement back in 2000 to treat RDS personnel as part-time workers and resorted to argue this issue at the taxpayer's expense says a great deal about how poor industrial relations are in the fire service.

Looking at the legal challenge itself you have to ask yourself why it took so long. It is clear from looking at all the judgements over the past 8 years that the 12 test cases taken from Berkshire and Kent were not the ideal brigades to choose in terms of '*broadly similar work*' and the '*same type of contract*'. The evidence of fact was so poorly argued during the early stages of the proceedings and this inevitably raises questions about the knowledge and understanding of the workings of the RDS, especially when the very same arguments were used in the later stages of the proceedings.

Retained employees will now have to make an individual decision based upon their personal circumstance posing these questions:-

- Do I want to apply for full membership of the Firemans' Pension Scheme (FPS).
- If yes do I want to backdate membership to 2000 and if so (a) what are the implications and (b) how much will this cost?
- It is very likely that any backdated submission would require previous bounty payments between 2000 and 2008 to be repaid.
- Backdated subscriptions into the FPS would need to be paid, depending on previous earnings this could be £1000 for each year or even more.
- The inevitable catch! Protected Rights could be lost as any injury pension would then become pro-rata rather than being based on the Wholetime equivalent earnings, length of service and role as is the case at present.
- You could join the FPS without backdating, reducing the financial impact BUT potentially still lose your protected rights.

It is fair to say that it would be unwise to make any decision on the questions above without seeking professional advice. Differing personal circumstances will produce different outcomes and this advice can only be provided by your Independent Financial Adviser (IFA).

Assuming that the Respondents do not appeal the decision (they have until 22 April 2008 to do so) there will need to be a remedy between the two parties. This will establish how the decision is to be implemented which could be on a case by case basis and very expensive or more likely, an across the board decision which is the cheaper and more sensible option. If this is the case then arrangements would be made to accommodate any member of the RDS who makes an application.

Believe the truth, not the rumour.



John Barton
General Secretary