



## **AGENDA ITEM: 12**

### **NORTH WALES FIRE AND RESCUE AUTHORITY EXECUTIVE PANEL**

**13 February 2017**

#### **FIREFIGHTERS' PENSION SCHEME 2015 - TRANSITIONAL PROTECTION LEGAL CHALLENGE**

**Report by Dawn Docx, Deputy Chief Fire Officer**

#### **Purpose of Report**

1. To report to Members the progress of the legal challenge and to highlight potential implications for the Fire and Rescue Authority.

#### **Background**

2. In 2015 the two existing Firefighters' Pension Schemes, the 1992 and 2006 schemes were closed by central government and all firefighters were transferred into a new pension scheme, the firefighters' pension scheme 2015 (FPS 2015). Some firefighters, later in their careers, were allowed to remain in their original pension scheme under transitional protection arrangements.
3. The Fire Brigades Union (FBU) challenged the government in relation to the transitional protection on the grounds of age discrimination and also incorporated further claims around race, gender and equal pay.
4. Although at first sight this appears to be a dispute between central government and the FBU, claims were also lodged against all 50 Fire and Rescue Authorities in the U.K. in their role as the employers who implemented these transitional arrangements.

## **Information**

5. In July 2015 the Fire and Rescue Services National Employers offered to prepare to manage the claims on behalf of all FRAs. This included appointing legal representation and liaising with the department of communities and local government (DCLG) and the FBU where appropriate. North Wales Fire and Rescue Authority recognised the benefits of a co-ordinated approach and entered into a cost sharing agreement to secure these services.
6. A steering committee was set up to oversee the litigation and ACFO Simmons was appointed to represent the Welsh FRAs on that committee.
7. This has culminated in an employment tribunal hearing which was heard between 9<sup>th</sup> and 23rd January 2017. It is anticipated that it will be between 6 to 8 weeks before the judge's decision will be announced.
8. Should the judge find in favour of the FBU's discrimination claim the FRAs will have 42 days to decide whether to go to appeal, along side DCLG.

## **Potential Implications**

9. North Wales Fire and Rescue Authority has already agreed to pay its share of the legal costs (based upon number of firefighters employed) up to the end of the employment tribunal stage and will have to decide whether to go to appeal if the judge finds for the claimant.
10. If, at the end of the legal process, the transitional arrangements are found to be discriminatory then central government may decide to withdraw all transitional protection and the cost of any compensation to those employees who have been discriminated against will fall to the fire and rescue authorities. As yet we have no certainty as to how much this might cost or the timing of the payment. It will, however, impact on the FRA's revenue budget.
11. What is also yet to be determined is any change to the workforce profile that the removal of transitional protection might provoke.

## **Recommendation**

12. That Members note the contents of this report.