

FBU Settlement Ends RDS Discrimination & Gains Compensation For Retained Members

It's been a long hard road, it has taken time, effort and resilience but the FBU has had an historic victory for Retained Duty System firefighters. It is one on which every FBU RDS member can be proud of and look at the members of other unions and say "Why do you pay your subs to them?"

To look at this victory in detail we need to go back over 13 years to 1997 when the FBU started to investigate whether claims could be pursued on the basis that RDS members were being discriminated against by not being allowed to join the Pension Scheme.

The introduction of the European Union Part Time workers directive which became effective in the UK in 1998 gave the FBU an opportunity to use these regulations as opposed to the RFU claim of sex discrimination.

We had still to go through many legal hurdles and obstacles but the initial test cases brought against Kent and Medway and Royal Berkshire Fire Authorities were the first to be brought under the new regulations in the country and were resisted by both the Authorities and the ODPM. However the Employment Tribunal (ET) rejected our claims.

Undeterred, we appealed this decision to the Employment Appeals Tribunal which also threw out the FBU claims.

The determination of RDS FBU members, officials and our legal team ensured that we didn't drop the claims as we always believed we were right in this case. RDS firefighters are the same as Wholtime firefighters and deserve the same rights.

We then went to the Court of Appeal and despite the Court agreeing that the contracts of WT and RDS were the same they disagreed that the work both groups do was sufficiently similar.

The FBU then had to apply to go to the highest court in the land, the House of Lords and not only were we successful in this application but on the 1st March 2006 the judgement from the Law Lords was in favour of the FBU and they instructed the original ET to reconsider the case.

We had to break into new legal territory to achieve this and whilst this was not an end of the matter it was a hugely significant victory.

It is often said that the legal process is slow and cumbersome and in this case it certainly was. The reconvened ET met in March 2007 and January 2008 with a ruling from the ET on the 5th March 2008. The ruling found:

- That the Claimants were engaged in broadly similar work as whole time firefighters
- The Claimants had been treated less favourably in respect to pension rights and payments for sickness absence

The FBU and the National Employers then undertook detailed negotiations to resolve these outstanding issues.

Pension negotiations stalled with the Government departments of CLG and the Treasury, though these have now moved on a pace but have not yet been concluded. Further details will be published to all FBU members in due course.

Outcomes of Negotiations with National Employers

Members may have seen either the Head Office Circular from the Assistant General Secretary sent out on the 12 April 2010 or the NJC Circular NJC/2/10 which sets out the success of the FBU negotiations. The Employment Tribunal stated that negotiations between the National Employers' and The Fire Brigades Union should be concluded by the 1st May. These negotiations have been extremely technical and detailed and whilst the final wording has yet to be formally agreed we are extremely close to a final agreement. Key points have been agreed in principle, these are:

- The compensation covers RDS employees employed for any part of the reference period, 1st July 2000 to 30 June 2009
- The compensation payment is pro rata to length of service, rank/role and level of cover based on a particular date – which for those holding employment status currently will be 30th June 2009. Cover pro rata adjustment to be not less than 75%
- Maximum levels of payment – Firefighter £675: LFF/CM £700: Sub O, Stn O/WM £725. Minimum payment of £150
- In full settlement of the wide range of issues raised through this legislation:
 - Sick leave
 - Acting up allowance
 - Pay for public holidays
 - End of course leave
 - Trade union leave
 - Overtime
 - Spoiled meal allowance
 - Removals lodging allowance
 - Recall to duty
 - Payment during suspension
 - Payment during maternity support leave
 - Special leave
 - All other claims or potential claims under the Part Time Workers (Less Favourable Treatment) Regulations arising from the 6th Edition of the Scheme of Conditions of Service of the National Joint Council for Local Authority Fire and Rescue Services (and its predecessors) up to 30 June 2009
 - In the case of those fire and rescue services that have introduced a local salary scheme since 1 July 2009 all other claims or potential claims under the Part Time Worker (Less Favourable Treatment) Regulations arising from the 6th Edition of the Scheme of Conditions of Service of the National Joint Council for Local Authority Fire and Rescue Services (and its predecessors) up to 30 June 2009
- The exception to the above simple process will be those RDS employees who can evidence 9 or more months continuous non-injury related sickness absence during the reference period. In such cases individuals will be entitled to payment in accordance with a revised Grey Book sick pay calculation.



Only The Fire Brigades Union had the tenacity, the will, the legal means and the desire to achieve this for our members. Other unions have wasted their members' money on unrealistic legal routes whilst roundly criticising the FBU for our apparent lack of commitment to Retained members. Once again it is the FBU who has proved that we are the only Union worth being a member of in the Fire and Rescue Service. Over the coming weeks members will receive further information on the final outcomes of the negotiations and Officials within the South West will be on hand to assist and guide members.

Yours In Unity
Leigh Redman
National Retained Committee

Message from the Executive Council Member for the South West

In 2006 the FBU took on and won a legal case which was about securing fairness and justice for thousands of Retained Firefighters across the UK. We took the case on because we refused to accept the discrimination which was being perpetuated against Firefighters in the RDS by their employers solely on the basis of their Duty System. As a wholetime Firefighter I have spent my entire career in the South West working with and alongside RDS colleagues and I know the professionalism, commitment and dedication that Retained Firefighters give to the Service. I have stood shoulder to shoulder with RDS Firefighters as we have fought Fires **together**. As such I know that there is no such thing as a “Retained” or a “Wholetime” fire. We are all in this together and **all** Firefighters on **all** duty systems deserve to receive the same respect, conditions of service and pension rights. It is this principle that your Union, the Fire Brigades Union, has been fighting for.

The momentous legal victory won by the FBU back in 2006 set us on a long and at times frustrating path to ending 60 years of discrimination against firefighters working the retained duty. We have had to endure several delays caused by procrastinations at both Employer and Government level but we have now achieved a settlement which finally removes RDS discrimination within the grey book and secures an important financial settlement for everyone involved.

Letters and advice from either the FBU or by Thompsons (our Solicitors) will shortly be sent to you and this will explain what the settlement means to you and what actions you should take. I would strongly urge you not to act on any advice, guidance or instruction from any other organisation, including your employer. If you have any problems in regard to this, please contact the FBU ASAP.

Having ended this discrimination and securing holiday rights, sick pay rights and proper time off, we have ensured that Retained firefighters are finally properly recognised by our employers as first class firefighters and will no longer have to accept second class employment rights.

The FBU is working very hard to ensure that the final pension settlement for RDS Firefighters is achieved in the near future. Then justice will be finally achieved. I want to assure you, as your representative on the FBU Executive Council, that the Union is determined to secure your full rights and by doing so no longer will we have firefighters working the RDS and serving their communities for 30 years or more being left without a pension when they retire.

We have shown that the FBU is the only organisation with both the will and the means to protect and serve Firefighters working the Retained Duty System and that we, as a Union, are committed to fighting for the interests and well being of **all** our members.



Tam McFarlane

**Executive Council Member
South West FBU**

JOIN THE FBU

Across the South West RDS Firefighters are joining the FBU as they see that we are the only Union fighting for them. Whether it is on pay, pensions, leave or availability monitoring it is the FBU that is ensuring that the rights of professional RDS Firefighters. It is a fact that when the workforce is united, in one single Union then we are even stronger, better able to defend you, your family, your station and your community. In the 12 months from April 09 RDS membership of the FBU has grown steadily in every Brigade, this hasn't happened by accident. RDS Firefighters are realising that we are prepared to fight for them on the issues that matter most to them and joining the FBU as a consequence.

With the financial pressures facing every local authority, we are organising and preparing for the battles ahead. We know that when it comes to saving money, fire stations close and firefighters lose their jobs and communities suffer as a result. We have consistently shown that we will vigorously oppose any cuts to front line services regardless of the duty system worked at those stations.

All FBU reps and officials are committed to providing the very best representation on both individual and collective issues. But you can make us even stronger. If you want a visit to your station by a Fire Brigades Union rep then let us know. If you know someone at your station that isn't a member of the FBU then ask them why, ask them to join the only Union fighting for all Uniformed members of the Fire Service. In addition to effective workplace representation, being a member of the FBU also gives access to training for reps via the TUC education programme on a wide range of issues ranging from Health and Safety to Employment Law. The RFU cannot offer this.

Other benefits of FBU membership include:

- Accident & Injury Fund
- Access to Legal Services
- Lifelong Learning
- Car & Travel Insurance

To find out more about The Fire Brigades Union our website is www.fbu.org.uk

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