



OFFICIAL

Scrutiny function - identification of areas for review

Executive Committee

Date: 26 November 2014

Agenda Item:

5

Submitted By: Chief Legal and Governance Officer

Purpose

To consider issues to be included in the approved scrutiny process.

Recommendations

- a) That Members agree which issue(s) should be included in the Authority's new scrutiny process; and
- b) That appointments be made to the relevant task and finish group(s).

Summary

The recently revised Constitution allows for a number of provisions to facilitate the effective scrutiny of Fire Authority / Fire & Rescue Service functions and activities. This report invites Members to consider the issue(s) they may wish to include in a scrutiny review.

Local Government (Access to information) Act 1972

Exemption Category: None.

Contact Officer: Nicola Houseman, Committee Services
E: nicky.houseman@westyorksfire.gov.uk
T: 01274 655740

Background papers open to inspection: None

Annexes: Annex A – mental health issues report submitted to Management Board

1 Introduction

- 1.1 At its meeting on 17 October 2014 the Chief Legal and Governance Officer invited Members to consider proposed amendments to the Constitution in respect of the inclusion of a scrutiny role for the Executive Committee.
- 1.2 The proposed amendments were approved by Members and procedures have subsequently been put in place to facilitate the effective scrutiny of Authority / Fire & Rescue Service functions and activities.

2 Information

- 2.1 Approval was given at that meeting for the Executive Committee to carry out scrutiny / review functions in such a manner it deems appropriate including the appointment to the Committee of non-voting members, assessors, advisers and external consultants and / or by Member-led task and finish groups.
- 2.2 Members are invited to consider which item(s) it wishes to submit for consideration by a Task and Finish Group.
- 2.3 The Authority's Human Resources Committee receives regular activity reports which advise of sickness levels amongst a number of other issues. The Committee met on 14 November 2014 and considered such a report. At that meeting Members were advised that the number of working days lost per employee due to sickness is increasing and that some of the sickness absences were due to mental health issues including work-related stress. Attached at Annex A is a paper relating to these issues which was recently considered by Management Board.
- 2.4 As part of the Authority's commitment to monitor the results of the Fundamental Review process, coupled with its moral and legal obligations to its employees, Members of the Human Resources Committee recommended that the Executive Committee be requested to give consideration to this as an issue for scrutiny review.

3 Financial Implications

- 3.1 Any additional costs arising from the task and finish group will be met from within the current revenue budget.

4 Equality and Diversity Implications

- 4.1 It may be appropriate for sickness absence data and trends to be scrutinised according to employee group e.g. Wholetime / RDS firefighter, Control, Support staff, and according to protected characteristic e.g. gender, age, ethnicity. This would identify whether and what interventions may be required to target stress/sickness absence among specific employee groups.
- 4.2 Depending on the nature of mental ill health and its effects, this may meet the definition of disability under the Equality Act 2010.
- 4.3 Action to raise awareness of, and more effectively manage mental ill health (for example), would demonstrate the Authority has 'due regard' to the aims of the General Equality Duty (to eliminate discrimination and meet the needs of those with protected characteristics, such as disability).

5 Health and Safety Implications

- 5.1 There are no health and safety issues arising directly from this report.

6 Service Plan Links

- 6.1 This report links to the Service Plan priority "Provide a safe, competent and diverse workforce."

7 Conclusions

- 7.1 That consideration be given for the inclusion of stress related absence in a scrutiny review and that a decision be made with regard to Member and other appointments to the Task and Finish Group.

MANAGEMENT BOARD

15th September 2014

Long Term Sickness Absence Management (mental health)

Report of:	Steve Rhodes, DSS
Purpose:	To discuss the growing problem of mental health related long term sickness absence and options for improved management.
Recommendations:	That Board note the content.

Summary:

Sickness absence across the Authority is rising. This trend is not following what is traditionally accepted as being the main cause of sickness increase i.e. short term sickness, but following the trend of increased long term sickness. Long term sickness absence due to mental health issues (stress, anxiety & depression) are on the increase and are very difficult cases to manage. There are a growing number of cases involving long term sickness absence resulting from mental health with over 50% of these attributed to work.

The purpose of this paper is to inform Board of the processes in place currently to manage these cases and to discuss possible approaches to better manage them.

Local Government (Access to Information) Act 1972

Exemption Category:	None
Contact Officer:	Mark Dixon, OHSM
Background papers open to inspection:	None

1 Introduction

- 1.1 As can be seen from Appendix A – Slide 1, total sickness within the Authority is on the increase. The year end position for 2013/14 was 6.66 days lost per person compared to the target of 6.12 days. When looking at the most up to date rolling 12 month period, with the exception of February 14, from Sept 13 to date, the target has not been achieved. It is too early to predict with any accuracy the year end position for 2014/15, however if targets continue to be exceeded, it will not be met.
- 1.2 When looking into this trend a little deeper, the problem appears not to be the traditionally accepted issue of short term sickness management, but long term sickness absence. Appendix A - slide 2 shows a direct correlation between long term sickness and total sickness, with slide 3 breaking this down into certified & uncertified sickness. The trend line for non certified sickness is showing only a very slight increase, whilst the trend line for short term certified is actually down.

2 Information

- 2.1 At the time of writing this report, there were 16 people absent from work with mental health as the cause. 9 (56%) of these were reported as being work related, 6 (38%) non work related and 1 (6%) not stated.
- 2.2 One grey book staff member has been absent from work since February (5 months), four since March (4 months), three since April (3 months) and three since May (2 months), with the remainder booking sick in June & July.
- 2.3 The collective absence of those staff listed above, calculated simplistically equates to 36 months or 18 months when factoring in the 2,2,4 system, which is a significant time off work.
- 2.4 AMA appointments are usually made for anyone who is absent from work for 28 days. For mental health cases, this is halved and they are seen in 14 days. This is to ensure they are receiving all the support and help they need. Offers of support and assistance are not always taken up. It is worth noting that we are not responsible for staff's treatment;

this rests with their GP. The AMA's role is to advise management of an individual's fitness for work and any reasonable adjustments which could assist the individual to returning to work, or remaining at work.

- 2.5 Mental health cases are especially difficult to manage. Unlike physical injuries which can be assessed and a prognosis provided, assessment of mental health cases are dependent on the response the individual gives to the doctor.
- 2.6 Phased returns and modified duties are all available to assist staff back to work, as are counselling and physio services, however these are not always successful. The longer an individual is absent from work, the less likely it is they will ever return and so swift interventions to encourage them back to work are essential.
- 2.7 In the six month period Jan – June 2014, there were an estimated 2,200 working shifts lost to modified duties; therefore predicting a figure of 4,500 working shifts lost to modified duties per year. This equates to approx 50 shifts per person and when factoring in the 2,2,4 shift system, each person was therefore on modified duties for 100 days.
- 2.8 In terms of possible solutions to the problem, it is far from easy. Options for consideration:
- Proactive Management
 - Provision of training for staff and managers on both recognising the early signs of stress and how to deal with it. This would be particularly relevant to managers of staff suffering from stress.
 - Undertaking a follow up stress audit to identify any work related issues and deal with them.
 - Support the employee engagement working group with measures to re-engage staff who feel dis-engaged with their job and the organisation.
 - Reactive Management
 - Managing staff back to work in a more timely manner. It is envisaged the newly established Sickness Monitoring Board will assist in this. This may involve referring individual cases to the IQMP/IRMP earlier and then capability dismissal if they do not meet the scheme requirements.
 - Applying the discretion detailed within the grey book in terms of reduction of sick pay before the usual 6 month point. (The grey

book allows FRA's to reduce sick pay to individuals who refuse or neglect to co-operate fully in any medical treatment the Authority considers necessary.

- Improve the management of modified duties, including considering reductions in pay to reflect the work they are undertaking. This could include the percentage of their role which they are performing, the number of hours and the value of the work to the Authority. (Note: there are some significant practical challenges with paying staff dependent on the value of their work). This, along with a more centrally managed system for the allocation of modified duties is included within a re-drafted Attendance & Absence Policy, which is shortly going out to consultation.
- Select the very best specialist opinion, even if this means travelling through the country.
- Identifying earlier and engaging with those staff who have no intention of returning back to work and discussing alternative exit routes from the Authority.
- Further engagement with the AMA to give him an improved appreciation of the employer's perspective.

3 Financial Implications

3.1 Not calculated

4 Equality Implications

4.1 Some absences are disability related and these put additional duties on the Authority to ensure reasonable adjustments have been duly considered. Case conferences with HR, Corporate Diversity & OHSU are held on a regular basis to discuss the more complex, long term cases.

5 Health and Safety Implications

5.1 The health, safety & wellbeing of staff sits at the heart of all that the Authority does. Managing staff attendance ensures that staff are supported when sick, but also ensures that staff only return to their full range of duties when safe to do so. This protects the individual and the Authority.

6 Service Plan Links

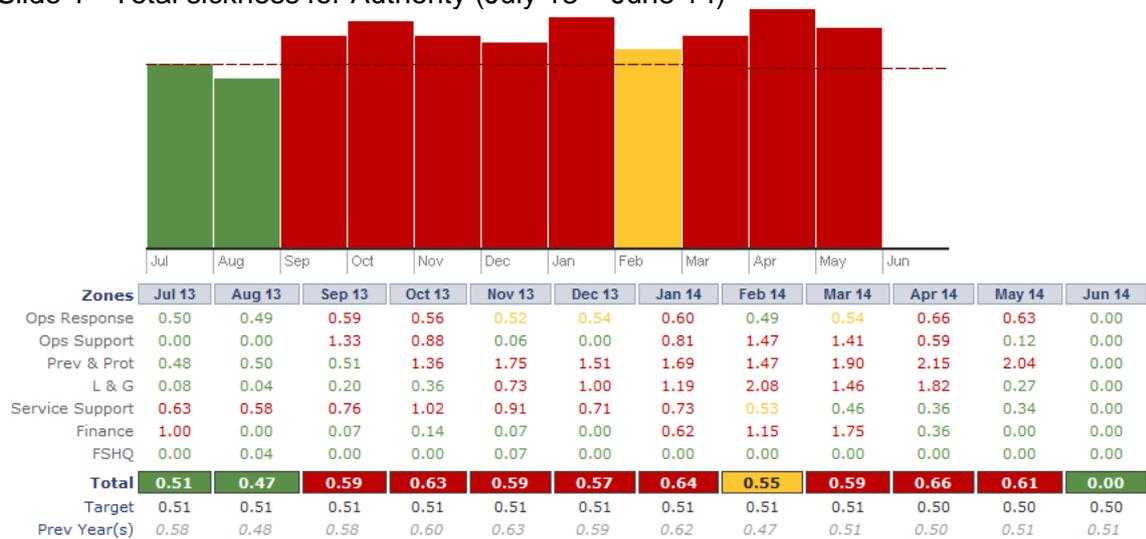
6.1 To provide a competent, safe and diverse workforce.

7 Conclusions

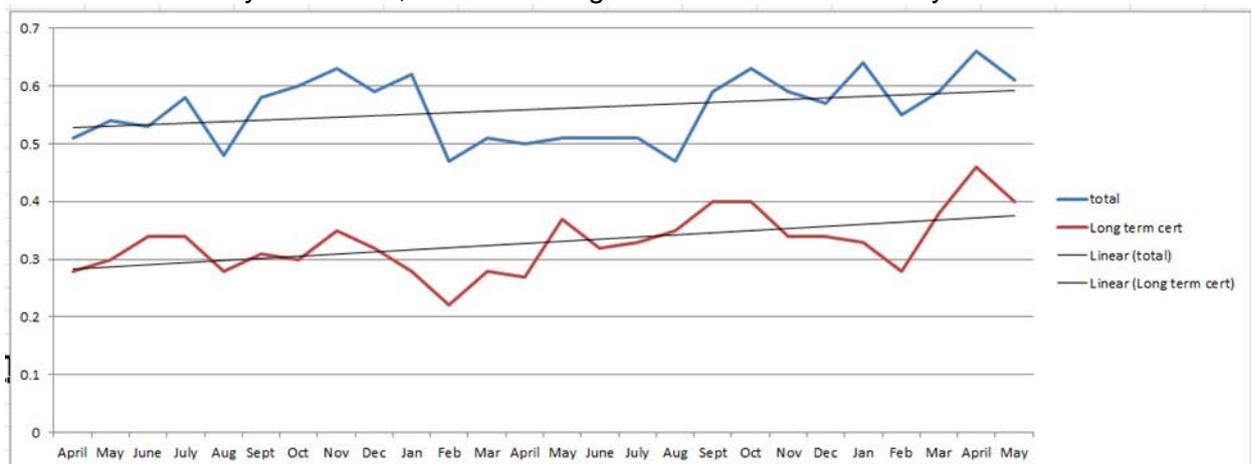
- 7.1 Sickness absence is on the increase, which appears to be as a result of increased long term absence. Mental health cases, with over 50% reporting to be work related, are difficult to manage and Board are asked to consider options for improved management of these cases.

APPENDIX A

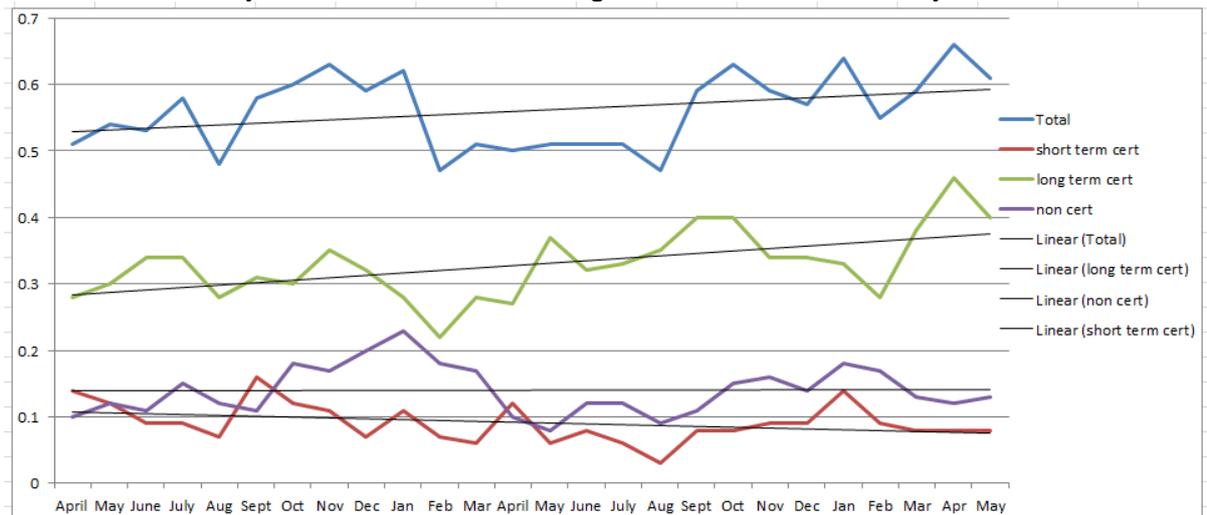
Slide 1 - Total sickness for Authority (July 13 – June 14)



Slide 2 - Comparison of total sickness against long term for Whole Organisation, Financial years 12/13,13/14 including first 2 months of current year



Slide 3 - Comparison of total sickness against all forms of sickness Whole Organisation, Financial years 12/13,13/14 including first 2 months of current year





OFFICIAL

Firefighter Fitness Standards and Assessment - Consultation on amendment to the Fire and Rescue National Framework

Executive Committee

Date: 26 November 2014

Agenda Item:

6

Submitted By: Director of Service Support

Purpose	To consider the consultation and proposed response on the “Firefighter Fitness Standards and Assessment – Consultation on amendment to the Fire and Rescue Framework” document.
Recommendations	That Members approve the consultation response.
Summary	This report details the Department for Communities and Local Government (DCLG) consultation regarding fitness standards and assessment and their inclusion in a new section in the Fire and Rescue National Framework document.

Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Steve Rhodes, Director of Service Support
T: 01274 682311
E: steve.rhodes@westyorksfire.gov.uk

Background papers open to inspection: None

Annexes: Annex 1 – Consultation and response

1 Introduction

- 1.1 The Government has a responsibility to ensure that the public is adequately protected. For fires and other emergencies it does this by providing significant financial resources, giving authorities the power to raise additional local funding and maintaining a statutory framework within which local fire and rescue authorities operate.
- 1.2 This framework is “**The Fire and Rescue National Framework**” - it sets out the Government’s priorities and objectives for fire and rescue authorities in England. The Framework also sets high level expectations. It does not prescribe operational matters. These are best determined locally by fire and rescue authorities, working in partnership with their communities; local citizens, businesses, civil society organisations and others. The Framework builds on existing notable practice shown by fire and rescue authorities across the full range of their functions.
- 1.3 In his Ministerial foreward to the Fire and Rescue National Framework in July 2012, the Minister for the Fire and Rescue Service at the time, Bob Neill MP, explained that “The National Framework will continue to provide an overall strategic direction to fire and rescue authorities, but will not seek to tell them how they should serve their communities. They are free to operate in a way that enables the most efficient delivery of their services. This may include working collaboratively with other fire and rescue authorities, or with other organisations, to improve public safety and cost effectiveness. Ultimately, it is to local communities, not Government, that fire and rescue authorities are accountable.”

2 Information

- 2.1 Last year the Department consulted on a set of fitness principles which, at that time, were considered to provide the possible basis of dealing with fitness and capability issues, which had emerged during the previous months. After that consultation closed, a series of discussions have taken place with key stakeholders regarding how fitness and capability are measured in the fire and rescue service, the ability of firefighters to maintain a reasonable and safe standard, the appropriate methods by which firefighters’ fitness can be measured and monitored, along with possible legislative changes which would help support that.
- 2.2 DCLG are now consulting on two alternative revisions to the National Framework.

3 Financial Implications

- 3.1 It is likely that the costs of an Authority initiated early retirement would fall on the relevant Fire and Rescue Authority in a similar way that ill health retirements currently do.
- 3.2 Under the current scheme the FRA is required to make a payment of either twice or four times salary into the pension account for each ill health retirement. Which for a firefighter is either £56,000 or £112,000?
- 3.3 As yet there is no indication how early retirement charges will be calculated and it is likely there will be a scale of charge dependent upon age.

4 Equality and Diversity Implications

- 4.1 DCLG has considered whether there are any equalities considerations relevant to the policy set out in these regulations and so far considers that there are none. It is for WYFRA to determine what actions it will take to ensure that unlawful indirect age and sex discrimination does not occur as a result of applying its fitness standards.

5 Health and Safety Implications

- 5.1 There are no Health and Safety Implications arising from this report.

6 Service Plan Links

- 6.1 Provide ethical governance and achieve value for money in managing resources.

7 Conclusions

- 7.1 Members are invited to consider the proposed response to the consultation as detailed at Annex 1.



Department for
Communities and
Local Government

Firefighter Fitness Standards and Assessment

Consultation on amendment to the fire and rescue national
framework



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Department for Communities and Local Government

Fry Building

2 Marsham Street

London

SW 1P 4DF

Telephone: 030 3444 0000

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October 2014

ISBN: 978-1-4098-4378-8

Firefighter Fitness Standards and Assessment: consultation

Last year the Department consulted on a set of fitness principles which at that time were considered to provide the possible basis of dealing with fitness and capability issues, which had emerged during the previous months. After that consultation closed, a series of discussions have taken place with key stakeholders regarding how fitness and capability are measured in the fire and rescue service, the ability of firefighters to maintain a reasonable and safe standard, the appropriate methods by which firefighters' fitness can be measured and monitored, along with possible legislative changes which would help support that. In addition, the Department for Communities and Local Government is also in the process of setting in train a joint working group on fitness issues chaired by the Chief Fire and Rescue Adviser.

The Department remains committed to ensuring that fitness standards and assessments are transparent and fair, that all firefighters who have difficulties in maintaining fitness are fully supported, and that those who are unable to maintain fitness are treated sympathetically in looking for redeployment, alternative employment, or in the event of them having to leave the service. The Department believes that the Fire and Rescue National Framework for England provides the best means by which fire and rescue authorities can be guided in their responsibilities, while continuing to serve the interests of both their employees and communities. Placing such requirements in the pension regulations is not appropriate due to the lack of a power for the Secretary of State to make regulations requiring the fire and rescue authorities to take steps in relation to assisting their employees return to fitness or requiring employers to consider redeployment of employees. The power to establish a pension scheme only enables a pension to be paid in certain circumstances.

Clearly there is a balance to be struck between preserving the ultimate discretion of an employer, and providing a degree of certainty and security for the employee. We have no doubt that the vast majority of fire and rescue authorities, if not all, are excellent employers, and the Department sees it as its task to support them in this where appropriate and possible.

In the light of the last consultation, we now wish to offer two alternative revisions to the National Framework for consideration. These are presented at Annex A. We consider that with the passage of time and experience, it is worth respondents revisiting the issues, and identifying areas where their approach might have changed. We would also value comments on whether the proposed text could be improved.

We would be grateful if you could submit your response to the consultation to melanie.gillett@communities.gsi.gov.uk by **9 December 2014**. Please contact 030 3444 1047 with any queries.

Annex A

We are consulting on two possible changes to the Fire and Rescue National Framework for England. The two proposed textual changes are as follows:

Proposed change 1

“Fitness

Firefighting is a physically demanding occupation and it is essential that firefighters have sufficient levels of fitness to enable them to carry out their tasks as safely and effectively as possible. As such, this requires higher levels of fitness than most other occupations and, therefore, the National Joint Council role maps set out a specific requirement for operational personnel to maintain levels of personal fitness

The Government believes that fitness standards must reflect the occupational demands of firefighting and the Secretary of State has agreed that the Chief Fire and Rescue Adviser will chair a joint working group, which will include an evaluation and assessment of safe standards.

The Government has also agreed to undertake an independent review in due course to ensure that appropriate fitness standards, training, testing, monitoring and management policies and procedures are in place in each fire and rescue authority.

It is also recognised that fitness levels may decline with age and, whilst this may be mitigated by fitness training, diet and other lifestyle changes, it is acknowledged that there may be a general decline in fitness as a result of the ageing process.

Fire and rescue authorities have an important role in helping to ensure their firefighters remain fit and are supported in remaining in employment.

Each Fire and Rescue Authority must:

have a process of fitness assessment and development to ensure that operational personnel are enabled to maintain the standards of personal fitness required in order to perform their role safely;

ensure that no individual will automatically face dismissal if they fall below the standards required and cannot be deployed operationally;

ensure that all operational personnel will be provided with support to maintain their levels of fitness for the duration of their career;

consider, where operational personnel have fallen below the fitness standards required, whether an individual is able to continue on full operational duties or should be stood down, taking into account the advice provided by the

authority's occupational health provider. In making this decision, the safety and well-being of the individual will be the key issue;

commit to providing a minimum of 6 months of development and support to enable individuals who have fallen below the required fitness standards to regain the necessary levels of fitness;

refer an individual to occupational health where underlying medical reasons are identified that restrict/prevent someone from achieving the necessary fitness and that individual must receive the necessary support to facilitate a return to operational duties; and

fully explore opportunities to enable the individual to remain in employment including through reasonable adjustment and redeployment in role where it appears the medical condition does not allow a return to operational duties.

In those circumstances where there are no such opportunities and suitable alternative employment is either unavailable or, where available, is not agreed by the individual, then the Fire and Rescue Authority will commence an assessment for ill- health retirement through the IQMP process.”

Proposed change 2

Proposal 2

The same as proposal 1, but with the addition of a further principle after the last paragraph above:

“If no underlying medical issues are identified and following a programme of development and support it becomes apparent that an individual will be unable to regain the necessary levels of fitness, then a fire authority will fully explore opportunities for reasonable adjustments and/or suitable alternative employment. In those circumstances where there are no opportunities for reasonable adjustments or suitable alternative employment, the fire authority will in the case of an employee aged at least 55 consider commencement of the authority initiated early retirement process for it to determine whether the individual should be retired with an authority initiated early retirement pension.”

Please give your views on each of the proposed revisions, if possible indicating any preferences and or textual amendments:

West Yorkshire Fire and Rescue Authority - Proposed Consultation Response

Proposal 1

The introduction section which sets the context is helpful.

The section relating to what each FRA “must do” is a set of very practical requirements which are reasonable and supportive of the employee whilst enabling the employer to manage effectively. It is especially helpful that a minimum of 6 months is included for development and support because of the following reasons:

- the setting of a minimum timescale is beneficial for employees as it should alleviate any concerns about them not getting support or that the FRAs will expect them to resolve any drops in fitness standards in unrealistically short timescales.
- it will assist in a consistent approach to be adopted across all FRAs.

Due to the concerns raised below in relation to proposal 2, this FRA supports proposal 1 being included in the National Framework,

Proposal 2

Proposal 2 allows for “authority initiated early retirement” when all other options have been explored. There are a number of issues surrounding this:

- It is anticipated that the costs of an Authority initiated early retirement would fall on the FRA in a similar way that ill health retirements currently do
- If there are no underlying medical conditions this FRA sees no reason why it should incur any additional costs associated with Authority initiated early retirement, nor should these costs be placed on the scheme.
- It is foreseeable that there will be difficulties in ensuring that a fair and consistent process is put in place in order to decide whether to approve a request for Authority initiated early retirement when there are no underlying medical conditions.
- There will be additional work required in managing this process.
- Should the consultation proposal 2 be incorporated in the National Framework there would need to be further clarity added about “if else fails” and the FRA does not approve Authority initiated early retirement, that some cases may result in dismissal on the grounds of capability.