

**Minutes of the meeting of the Local Pension Board
held on 24 August 2021 via Zoom**

PRESENT

Employer Representatives:

Cllr Simon Glyn
Ken Finch, Treasurer
Gareth Owens, Deputy Clerk

Employee Representatives:

Richard Fairhead, Fire Leaders Association - Prospect, Employee Representative
Tim Lloyd, Fire Brigades Union
Duncan Stewart-Ball, FBU

Advisors

Helen MacArthur, Assistant Chief Fire Officer
Julie Brown, Pensions Manager

Minute Taker

Alwen Davies, Members' Liaison Officer

1 APOLOGIES

Cllr Bryan Apsley
Cllr John B Hughes
Jane Honey, Fire Officers' Association
Bob Mason, Fire Officers' Association.
Kevin Gerrard Dyfed Pension Fund Pensions Manager

2 APPOINTMENT OF CHAIR

- 2.1 In line with the Terms of Reference, a new Chair was to be elected from the cohort of employee representatives.
- 2.2 Richard Fairhead was nominated by fellow members and therefore appointed Chair for a period of two years.

3 DECLARATIONS OF INTEREST

- 3.1 None.

4 MINUTES OF THE LAST MEETING

- 4.1 The minutes of the meeting held on 21 April 2021 were approved as a correct record.

5 FIREFIGHTERS PENSION SCHEMES – UPDATE REPORT

- 5.1 The Pensions Manager led Members through the report which informed members about the scheme membership, together with updates on:
- Horizon Scanning
 - Booth Judgment
 - O'Brien Judgment
 - Immediate Detriment
 - Communications
 - Overview of FPS Bulletins and Circulars.
- 5.2 The report gave details of current member levels in the firefighters' pension schemes. It was noted that as of June 2021, 66 employees were not enrolled within a firefighter pension scheme, this comprises of 15 whole-time and 51 retained duty employees.
- 5.3 Members were reminded that one complaint is currently being considered by the Pension's Ombudsman (PO). This matter had been ongoing and the last correspondence between the Service and the PO was in March 2020. The Chair asked that a follow-up email be sent to the PO in an attempt to expedite the matter.
- 5.4 One Internal Dispute Resolution Procedure (IDRP) complaint had been received during the reporting period. The stage 1 complaint is currently being considered; members will be informed of the outcome in the next LPB meeting.
- 5.5 **Annual Benefit Statements (ABS)** - Members noted that the yearly process for producing ABS had commenced in order for the statements to be issued by 31 August 2021. Statements for the period ending 31 March 2021 will be based on current scheme rules. It will not be possible to provide statements that reflect the remedy choice between legacy and reformed benefits at this stage and the recently published bill has set a date of 1 October 2023 for completion of the work. These calculations will require significant software amendments which are not expected until regulations have been updated. The Scheme Manager has issued an update about ABS within the Service's Weekly Brief newsletter. Members expressed concern about the elongated timescales involved and ACFO MacArthur confirmed that the Service was working directly with staff who may retire before 1 October 2023.
- 5.6 **FPS remedy** – The LGA has released a set of tools to assist with data collection for age discrimination remedy. The tools include a data collection template and guidance which provides instructions on completing the template. It was noted that the data products have been provided to complement internal processes and workflow between FRAs and administrators.

- 5.7 **Pensions Dashboard** - A pensions dashboard is a digital interface that enables people to see all their lifetime pension savings in one place. The UK Government, regulators, pension industry and technical companies have been working together to create a pensions dashboard.
- 5.8 **Booth Judgment** - Members were informed of the latest developments with the Booth judgment which was the most recent case addressing the treatment of certain allowances paid under the Firefighters' Pension Schemes. An agreement was negotiated between the Service and the Fire Brigades Union and approved by the full Fire and Rescue Authority during the November 2020 meeting. It was noted that arrangements have been finalised to recover backdated pension superannuation with most active members electing to have monthly deductions taken from their salary over 72 months. Pensioner members paid the contributions in full and their benefits are currently being reviewed by the administrators. It was anticipated the process would be concluded by the end of August 2021.
- 5.9.1 **O'Brien Judgment** – Members were reminded of the background to this case which had concluded that part-time work undertaken before the deadline for transposing the Part-time Workers Directive (PTWD) on 7 April 2000 must be taken into account for the purposes of calculating a retirement pension. In Mr O'Brien's case this meant that all of his service as a part time judge would be taken into account.
- 5.9.2 In response to the judgement the government has stated it accepts that eligible claimants who have already established a successful claim for a pension remedy in respect of a fee paid appointment, would be entitled to further remedy in respect of claimed pre 7 April 2000 service in that appointment. The Remedy (how the judgment is implemented in practice) is yet to be agreed.
- 5.9.3 No timescales have been given for the second pensions options exercise but due to the extent of formal processes involved, it is highly unlikely that the regulations will be amended during the next 12 to 24 months.
- 5.9.4 In preparation for the exercise the Service is currently gathering a list of employees (past and present) who may be eligible.
- 5.10.1 **Home Office – Immediate Detriment Guidance** - on 10 June 2021, the Home Office issued informal guidance to FRAs in England on processing prospective 'immediate detriment' cases in advance of legislating to remove the age discrimination as found in the McCloud/Sargeant Employment Tribunal litigation.

5.10.2 As the guidance is non statutory and informal, it does not in itself place legal obligations on FRAs. However, FRAs have the power through the application of section 61 of the Equality Act 2010 to calculate and pay pension entitlements under a member's legacy scheme, for those members who fall within either of the following categories:

- become eligible to retire (for any reason, including ill health) and draw their pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept 2015 scheme benefits); OR
- do not qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement, and are therefore left without a pension in payment BUT would be eligible under the IHR arrangements in their legacy scheme.

5.10.3 The provision means that these individuals have the right to be treated as though they have been in service in their legacy scheme since 1 April 2015, if that is what they want and they inform the scheme of this.

5.10.4 It is important to note that the guidance should not be seen as providing either an instruction to process cases falling within immediate detriment or a definitive resolution to all of the consequences arising from the discrimination. Rather it provides guidance on how to progress certain immediate detriment cases should the Scheme Manager deem appropriate. All cases processed using the guidance will need to be revisited once the full detail of the Government's approach is finalised, and legislation is in place. Legislation is expected to be in place by October 2023.

5.10.5 At present, processing 'Immediate Detriment' cases that fall in the two categories will entail a high level of manual manipulation as the pensions software has yet to be updated to reflect the changes. For this reason a project team will need to be put in place to address the administrative pressures.

5.10.6 In the meantime, the Local Government Association (LGA) legal advisors are seeking to develop an agreed framework with the FBU. This will allow a consistent approach to the treatment of immediate detriment cases. The Fire and Rescue Authority agreed at its June 2021 meeting that the immediate detriment cases would not be processed until the framework is in place.

5.10.7 A further update will be submitted to the Authority's meeting in September 2021.

5.11 RESOLVED to note the report and the communication issued to members via the Weekly Brief, namely:

- Annual Benefit Statements
- Transitional Court Case
- O'Brien Court Case.

6 THE PENSION'S REGULATOR (TPR) MODULES 3 AND 4

6.1 The Pensions Manager delivered a training session on maintaining accurate member data and maintaining member contributions.

6.2 Members were reminded that in accordance with the Local Pension Board terms of reference all members must complete the full course within six months of joining the Board. In addition, members recommended and agreed during the meeting of 2 May 2019 that the learning would be repeated every two years. Therefore this presentation aimed to satisfy the agreed recommendation by providing a re-cap of modules 3 and 4 of the TPR.

6.3 RESOLVED to note the information provided.

7 DYFED PENSION FUND UPDATE (SCHEME ADMINISTRATOR)

7.1 In the absence of representatives from the Dyfed Pension Fund, ACFO MacArthur presented the report which provided information from the administrators' perspective on:

- Regulatory Update
- E-communication
- GMP reconciliation
- Appeals
- Breaches
- My Pensions Online
- Data quality
- Workflow.

7.2 ACFO MacArthur drew members' attention in particular to data quality issues which have arisen and resulted in inaccurate data being provided to Dyfed Pension Fund. ACFO MacArthur explained the background and provided assurance that the issue had been resolved following extensive detailed work undertaken by Conwy CBC payroll team and Dyfed Pension Fund. Data quality will be monitored closely over the next few years to ensure it is as accurate and complete as possible. A residual issue for NWFRS was the fact that its payroll team had not been sighted on the issue, however, moving forward, a full review will be undertaken by the Payroll team to ensure the data is complete and reconciled correctly.

7.3 RESOLVED to note the information provided.

8 SCHEME ADVISORY BOARD

- 8.1 ACFO MacArthur presented the report which provided information about the matters discussed at the last Scheme Advisory Board meeting held on 25 June 2021.
- 8.2 A range of matters were discussed which included the 2016 and 2020 GAD valuations, the HM Treasury remedy proposals arising from the legal challenge to the 2015 transitional arrangements, the O'Brien judgement and the implementation of the pensions dashboard.
- 8.3 It was noted that the GAD valuation for 2020 is in progress and that work is ongoing to consider the cost cap mechanism and the potential to widen the cost cap breach corridor from 2% to 3%. If adopted this will provide a greater degree of tolerance and avoid amending scheme benefits which can increase and decrease when the cost cap mechanism is breached. Work is also ongoing to consider the SCAPE (Superannuation Contributions Adjusted for Past Experience) mechanism as it is recognised that a relatively small change in rate has an impact on the employer contributions.
- 8.4 UK Pensions Dashboard – it was noted that the UK Government is working to establish a UK wide pensions dashboard which will allow access to pensions information in a single repository. The programme is developing a timeframe within which pension providers will join the dashboard and the proposed dates are currently being consulted on. The Scheme Advisory Board recognised the potential benefits of the dashboard but felt that the fire sector should not be within the first wave given the current work being undertaken in respect of the McCloud judgment. All members of the Advisory Board confirmed their agreement with this position and it was agreed that a response to the consultation should be submitted on behalf of the Scheme Advisory Board.

8.5 RESOLVED to note the information provided.

9 RISK REGISTER – RISK AREA 2 FINANCIAL

- 9.1 Members were reminded that the Pensions Regulator recommends that Local Pension Board members consider and review their Risk Register during each Board meeting. The risk register for financial aspects was presented for review at this meeting.

9.2 Members discussed whether the issue around data quality and potential data inaccuracies should be added to the financial risk area of the risk register. However, it was noted that the risk can be found in Area 1 of the current risk register and that this meeting was focusing on Area 2. No changes were proposed to area 2 of the risk register that was presented.

9.3 RESOLVED to note the Financial Risk Area of the Register for 2021/22, and that any changes or updates be incorporated into the register and the revised document published at the end of the year on the Authority's website.

10 FIREFIGHTERS PENSION SCHEMES LOCAL PENSION BOARD – INTERNAL DISPUTE RESOLUTION PROCEDURE

10.1 The Pensions Manager presented the report which asked Members to make recommendations to the full FRA in respect of arrangements for the Authority's Internal Dispute Resolution Procedure (IDRP).

10.2 Members had previously received a copy of the FPS Circular (2021)09 which provided updated guidance on IDRP arrangements. The revised IDRP guidance issued by the Welsh Government suggests that: the stage one decision should be agreed or overturned by the decision of a nominated panel of representatives of the FRA; noting that the panel must obtain relevant advice on technical or legal issues.

10.3 Under current arrangements in NWFRA, stage one of the IDRP is referred to the Chief Fire Officer to consider the complaint. If the complainant is still not satisfied with the decision they can appeal under stage two of the IDRP arrangements, this stage is addressed to the Chair of the Fire and Rescue Authority.

10.4 Having discussed the matter, Members were of the view that the Authority should adopt the updated guidance in terms of the stage two procedure and to have a panel including elected members of the Authority or any other suitable representatives.

10.5 RESOLVED to recommend to the full FRA that:

(i) the IDRP guidance be amended and that a panel of members should deal with the stage two procedure;

(ii) the panel consist of the Chair and Deputy Chair of the FRA supported by one employer member of the Local Pension Board.

11 MATTERS TO BE REFERRED TO THE FRA

11.1 The next meeting of the FRA will be on 20 September. ACFO MacArthur confirmed that the following items will be on the agenda:

- IDRPs amendments
- Home Office – Immediate Detriment Guidance

11.2 It was agreed that no other issues needed to be referred to the FRA.

12 ANY OTHER BUSINESS

12.1 None.