



**NOTTINGHAMSHIRE**  
**Fire & Rescue Service**  
*Creating Safer Communities*

Local Firefighter Pension Board

# CURRENT PENSIONS ISSUES

Report of the Scheme Manager

**Agenda Item No:**

**Date:** 14 March 2018

**Purpose of Report:**

To update Board members on current and recent pension issues affecting the Nottinghamshire firefighter schemes.

**Recommendations:**

That Board members note the content of this report and note the latest Risk Register attached at Appendix A.

## CONTACT OFFICER

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## 1. BACKGROUND

- 1.1 The Local Firefighter Pension Board is responsible for assisting the Scheme Manager in ensuring the effective governance and administration of the firefighter pension schemes. In order to fulfil this responsibility, it is important that Board members are aware of significant pension issues and can be assured that these issues are being dealt with
- 1.2 Pensions have grown in significance over past few years. Nationally the Hutton review has brought about changes to public service pensions and the introduction of a new firefighter scheme (FFPS 2015). Legal challenges have resulted in redress for some employees with retrospective membership allowed, as well as compensation payments. In addition, changes to the State Pension are resulting in significant additional workloads.
- 1.3 The purpose of this report is to inform members of the Board of all current and recent pensions issues which are being or have been dealt with, and the implications of these issues. This report is an update on the report of the same title presented to the Board in November 2017.

## 2. REPORT

### **Part Time Workers - Prevention of Less Favourable Treatment Compensation**

- 2.1 In 2009/10 the Authority set aside £224k to meet the payment of compensation to Retained firefighters, arising from an employment tribunal test case relating to the "Part Time Workers (Prevention of Less Favourable Treatment) Regulations. It was found that Retained firefighters had been treated unfairly compared to their Wholetime counterparts with regards to certain elements of their terms and conditions of employment.
- 2.2 In 2011 a methodology was agreed to calculate compensation amounts for Retained firefighters affected by the ruling. Most compensation amounts have now been paid, although there are still some outstanding. A circular was issued by the National Employers late in December 2016 giving an update on this issue, and this was followed by a final report on the status of all outstanding cases received in January 2017. The Authority is awaiting confirmation from the National Employers that an application can be made to the Employment Tribunal to have any remaining cases struck out so that this matter can be brought to a close. The Authority still has £22k of the original funding remaining to cover the estimated outstanding liability and any of this funding which remains unclaimed will be returned to the revenue budget once the matter has concluded.

### **Firefighters Pension Scheme Valuation as at 31 March 2016**

- 2.3 The firefighter pension schemes are subject to an actuarial valuation every four years, which is different to the tri-annual valuation of the Local

Government Pension Scheme. The valuation is carried out by the Government Actuary Department (GAD) with the purpose being to assess the total future liabilities of the schemes as at the valuation date.

- 2.4 The results of the 2016 valuation will inform an assessment of how affordable the firefighter pension schemes are, and this may well impact on the rate of employer contributions paid into the schemes in respect of every active scheme member.
- 2.5 The results are expected to be published in Spring 2018. The results will be used to set the employer contribution rate for the period from April 2019 to March 2023.

### **Annual Benefits Statements Incorporating FFPS 2015**

- 2.6 The production of an Annual Benefits Statement (ABS) for every pension scheme member is required by the statutory deadline of 31 August following the end of the financial year. For 2016/17 this was achieved for all but 5 scheme members who were in the process of transitioning between schemes. The Pensions Regulator have confirmed that this does not represent a breach of the regulations.
- 2.7 Work is ongoing to ensure that there are no problems in ensuring the deadline for 2017/18 is met. It is hoped that the introduction of IConnect, which will enable monthly submission of data to the Administration team will help prevent issues in the future.
- 2.8 It has been agreed regionally not to include spouses figures again this year in the ABS due to there being a technical problem in the software causing miscalculations. Work is ongoing to resolve the issue. There is no legal requirement to include spouses in the ABS.

### **Checking and Reconciliation of HMRC Pension Records**

- 2.9 The State Pension has been reformed, with a new single tier State Pension which came into force on 6 April 2016. The old system had become very complex with the “State Earnings Related Pension Scheme (SERPS)”, the “State Second Pension” and the “Additional Pension” as well as the basic State Pension. The new State Pension removes these complexities and consists of one flat rate pension.
- 2.10 As reported to the Board in previous meetings, a national guaranteed minimum pension (GMP) reconciliation exercise has now started, which involves all occupational pension schemes. Her Majesty’s Revenue and Customs (HMRC) is sharing its pension records with pension administrators and asking them to check this data for individuals against their records and investigate and resolve any discrepancies.

- 2.11 As a direct result of this reconciliation exercise, the Pension Administrator has identified 9 cases of small errors. All of these have been previously reported to the Board. To date 543 records have been reviewed and there are outstanding queries on 25 of these.
- 2.12 The government's deadline for completion of the whole exercise is December 2018. HMRC staff are working hard to turn queries around as quickly as possible and our Pension Administrator has a dedicated member of the team to work on this issue. The risk that the deadline may not be met has been included in the Board's risk register, although the likelihood of non-achievement of the deadline has been reduced to reflect the latest position.

### **Transitional Protection for FFPS 2015 Claims**

- 2.13 The FBU submitted claims (in the form of employment tribunal claims) against Fire Authorities that the transitional protection arrangements in the FFPS 2015 were discriminatory on the grounds of age, race and gender. The Local Government Association engaged solicitors to work on behalf of Authorities in defending the claims.
- 2.14 The case was heard early in 2017 and the finding of the court was that the transitional protections related to the 2015 Firefighters' Pension Scheme are 'objectively justified' and therefore do not amount to unlawful discrimination. The FBU appealed against this ruling and the Employment Appeal Tribunal heard the case in December 2017. The case has been referred back to the Employment Tribunal for further consideration. It is expected that the case could take some time to resolve, but could have far reaching implications on the 2015 scheme should it be upheld.

### **Taxation of Ill Health Pensions**

- 2.15 In March 2017, the Pension Administrator informed the Scheme Manager that ill health pensions awarded to Retained Duty System employees on the grounds of injury should not be taxed at source. This followed a communication from the LGA's national fire pension technical adviser on the matter. Ordinarily ill health pensions are taxable, but there is a tax regulation which provides an exemption in these few cases.
- 2.16 For Nottinghamshire, 8 cases have been identified, the individuals' pensions were corrected from April 2017. The LGA issued guidance around this issue in September 2017, which indicated that only 4 years may be claimed back from HMRC. This is being claimed back by the Authority on behalf of members. Any years going further back would be a cost to Fire Authorities although there remains some confusion regarding when the additional liability first started and this is making the matter difficult to resolve since the LGA have declined to offer further advice.

## **Communications with Scheme Members**

- 2.17 The detail within this report indicates that the area of fire pensions remains high profile, with a great deal of work currently in progress. In addition to the issues outlined above there are also some potentially significant taxation issues for individual members arising from their fire pension scheme membership. Whilst it is outside of the remit of Officers of the Authority to provide advice on personal taxation issues to pension scheme members, the Pension Ombudsman has made it clear that employers are expected to provide sufficient information to members on such issues to enable members to make their own decisions on matters which affect their personal finances. A presentation on the reduction of Annual Tax Allowances was given included on the Middle Managers Briefing in December 2017, and the topic is included in the regional pension roadshows.
- 2.18 The pension page on the Service's intranet that was presented to the Board in June 2017 has now gone live.

## **Risk Register**

- 2.19 Given the increasing importance of the Firefighter's Pension Risk Register, this item will now form a separate item on the Agenda.

## **Pension Metrics**

- 2.20 At the meeting on 15 November 2017, the Board agreed to include the Pension Metrics data as part of this report. The Data for the quarter ending 31 December 2017 is included in Appendix 1.

## **Independent Disputes Resolution Procedure (IDRP) Cases**

- 2.21 There have been no new IDRP cases during this financial year to date.

## **Pension Discretions**

- 2.22 There were no pension discretions considered during the financial year to date.

## **Significant Breaches Reported to the Pensions Regulator**

- 2.23 There have been no breaches identified in financial year to date. There is a further report on the agenda regarding a new Breaches Register.

## **3. FINANCIAL IMPLICATIONS**

There are no financial implications arising directly from this report. Any financial implications for the Authority will be reported to the Finance and Resources Committee.

#### **4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS**

There are human resources implications arising directly from this report, in that pension matters affect most employees. HR department staff are fully involved in pension issues to ensure that human resources implications are taken into account.

#### **5. EQUALITY IMPACT ASSESSMENT**

An equality impact assessment has not been carried out as this is not a new policy.

#### **6. CRIME AND DISORDER IMPLICATIONS**

There are no crime and disorder implications arising from this report.

#### **7. LEGAL IMPLICATIONS**

The Public Service Pensions Act 2013 introduced a framework for the governance and administration of public service pension schemes. This report aims to fulfil the requirement for Pension Board members to assist the Scheme Manager in ensuring that effective administration arrangements are in place.

#### **8. RISK MANAGEMENT IMPLICATIONS**

There are a number of risks relating to the firefighter pension schemes, and these have been presented to the Board in the form of a risk register. The Scheme Manager is responsible for ensuring that the risks identified are appropriately managed. All of the issues outlined in this report are being, or have been dealt with by close co-operation between the pension administration team and Officers.

#### **9. RECOMMENDATIONS**

That Board members note the content of this report.

#### **10. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)**

None.

Pension Metrics Data

1 Membership (Numbers) of Fire Pension Schemes as at 31 December 2017

	FFPS 1992	FFPS 2006	FFPS 2015	RDS Mod.	Total
Active	128	29	467	26	650
Pensioner & Dependant	769	8	12	49	838
<i>(New Pensioner &amp; Dependant</i>	8	1	6	0	(15)
Deferred	56	206	69	45	376
<i>(New Deferred</i>	0	3	2	0	(5)
<b>Total</b>	<b>953</b>	<b>243</b>	<b>548</b>	<b>120</b>	<b>1,864</b>

Membership (Numbers) of Fire Pension Schemes as at 30 September 2017

	FFPS 1992	FFPS 2006	FFPS 2015	RDS Mod.	Total
Active	132	31	474	27	664
Pensioner & Dependant	767	8	6	48	829
<i>(New Pensioner &amp; Dependant</i>	9	2	0	0	(11)
Deferred	57	203	67	44	371
<i>(New Deferred</i>	0	1	2	0	(3)
<b>Total</b>	<b>956</b>	<b>242</b>	<b>547</b>	<b>119</b>	<b>1,864</b>

2 Changes during the 3 quarters ended 31 December 2017

	FFPS 1992	FFPS 2006	FFPS 2015	RDS Mod.
Transfers In	0	0	0	0
Transfers Out	0	0	0	0
Opt Outs	0	0	1	0
Deaths	5	0	1	0

Changes during the 2 quarters ended 30 September 2017

	<b>FFPS 1992</b>	<b>FFPS 2006</b>	<b>FFPS 2015</b>	<b>RDS Mod.</b>
Transfers In	0	0	0	0
Transfers Out	0	0	0	0
Opt Outs	0	0	0	0
Deaths	3	0	0	0

**3 Age Profile of Workforce as at 31 December 2017 (Q3)**

Age:>	<b>&lt;25</b>	<b>25-40</b>	<b>40-50</b>	<b>50-60</b>	<b>&gt;60</b>	<b>Total</b>
	<b>23</b>	<b>255</b>	<b>225</b>	<b>145</b>	<b>2</b>	<b>650</b>

**4 Age Profile of Workforce as at 30<sup>th</sup> September 2017 (Q2)**

Age:>	<b>&lt;25</b>	<b>25-40</b>	<b>40-50</b>	<b>50-60</b>	<b>&gt;60</b>	<b>Total</b>
	<b>21</b>	<b>252</b>	<b>227</b>	<b>161</b>	<b>3</b>	<b>664</b>



