



NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Local Firefighter Pension Board

CURRENT PENSIONS ISSUES

Report of the Scheme Manager

Agenda Item No: 5

Date: 13 March 2019

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.

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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 October 2018.

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. 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. The results of the 2016 valuation have now been announced following several delays.

- 2.4 The regulations for the 2015 scheme include provision that if the cost of the scheme changes by 2% or more then corrective action needs to be taken to bring costs back in line. The valuation fell below the 2% cap and as a result, changes to employee contributions or benefit accruals were initially proposed. However, any changes have been suspended by the Government pending the outcome of the Government’s appeal against the transitional arrangements to the 2015 scheme (see section 2.14).
- 2.5 Following the drop in the discount rate from 3% to 2.4% announced by the Treasury at the back end of 2018, the revised 2019/20 employer rates have now been announced. As expected, these have increased substantially as follows:

Scheme	Old Rate	New Rate
1992 Scheme	21.7%	37.5%
2006 Scheme	11.9%	27.4%
2015 Scheme	14.3%	28.8%

- 2.6 The 2019/20 additional cost to the Authority of these increase is £2.6m, with £2m of this being initially covered by a grant from the Home Office.

Annual Benefits Statements Incorporating FFPS 2015

- 2.7 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. This deadline was met for all members for the 2017/18 financial year. Consideration needs to be given regarding what information to include regarding forward projections of pension benefits given the uncertainty around the ongoing court case on transitional protection of the 2015 scheme (see 2.14).
- 2.8 It is hoped that the introduction of IConnect, which will enable monthly submission of data to the Administration team will help streamline the process in the future. A resolution has now been found to enable information to be obtained directly from the payroll system rather than through a manual process. This should enable progress to be made in providing monthly data.

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 27 of these.
- 2.12 The government's deadline for completion of the whole exercise was December 2018. This has clearly been missed but 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.
- 2.13 In addition to the GMP reconciliations the Pension Administration Team have been reconciling pension information held on the pension administration system and the payroll system. This has identified a number of anomalies which are now being worked through to make any corrections necessary and assess how the differences have occurred.

Transitional Protection for FFPS 2015 Claims

- 2.14 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.
- 2.15 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 were 'objectively justified' and therefore did not amount to unlawful discrimination. The FBU appealed against this ruling and won the appeal. The Government then appealed, but lost - the Court found that the transitional arrangements were discriminatory on the grounds of age.
- 2.16 The Government have now made application to appeal to the Supreme Court. If the appeal is permitted this could take a considerable amount of time to resolve. If the appeal is not permitted then revised transitional arrangements will need to be put into place.

Taxation of Ill Health Pensions

- 2.17 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.
- 2.18 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 has been claimed back by the Authority on behalf of members and has been refunded to members accordingly. 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 been unable to negotiate a common position.

Communications with Scheme Members

- 2.19 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 regional pension roadshow is being organised by Leicestershire Fire Service for 27 March 2019. Employees of all 3 regional Fire Services will be invited to attend.

General Data Protection Regulations (GDPR)

- 2.20 Work is ongoing to ensure that the GDPR regulations are complied with. A Firefighter's Pensions Privacy Notice has been uploaded to the Authority's website and can be found by following the following link.

Pension Metrics

- 2.21 The Pension Metrics Data are now included as part of the Pension Administration report elsewhere on this agenda.

Independent Disputes Resolution Procedure (IDRP) Cases

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

Pension Discretions

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

Significant Breaches Reported to the Pensions Regulator

2.24 There have been no breaches identified in this financial year to date. The Breaches Register is attached at Appendix 1.

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.

**BECKY SMEATHERS
SCHEME MANAGER**

NFRS Register of Fire Fighter Pension Fund Breaches

Number	Date	Brief Description	Red / Amber / Green Assessment	Officer Responsible for Assessment	Outcome	Date Reported to TPR
001	31/8/16	Failure to meet ABS deadline – all employees due to system failure	Red	Head of Finance / Scheme Manager	Breach	31 August 16
002	31/8/17	Failure to meet ABS deadline – 5 employees in transition	Green	Scheme Administrator	No Breach	N/A
003						
004						
005						

Last updated: 5 March 2019

Updated by: Becky Smeathers, Scheme Manager