

LOCAL PENSION BOARD

Report of the Pensions Administrator / Manager

22 March 2018

PENSIONS UPDATE

1.0 Purpose of Report

- 1.1 To provide Members with information on scheme membership and progress on implementation of scheme changes

2.0 Introduction

- 2.1 The report provides Members with scheme information, together with updates on current issues and training.

3.0 Scheme Membership Information

- 3.1 The following active memberships of the firefighters' pension schemes are taken from pay data as at 16 February 2018 compared to 9 June 2017 for Whole Time Firefighters and 15 February 2018 compared to 15 June 2017 for Retained Firefighters.

3.1.1

Firefighters' Pension Schemes Membership	Wholetime	
	16/02/2018	09/06/2017
1992	77	86
2006	3	4
2015	194	185
Retained Modified	8	8
Opted Out	19	12

The variations for wholetime membership are as follows:

- **1992 scheme** 4 transitioned to 2015 scheme
5 retirements
- **2006 scheme** 1 leaver
- **2015 scheme** 4 transitioned in from 1992 scheme
14 starters (inter-brigade transfers, RDS staff on temporary WT or OSR posts, automatic enrolment)
2 leavers
7 opt outs (OSR posts, automatic enrolment)
- **Opt Outs** 7 members have chosen to opt out of the 2015 Scheme

3.1.2

Firefighters' Pension Schemes Membership	Retained	
	15/02/2018	15/06/2017
1992	0	0
2006	14	15
2015	284	255
Retained Modified	26	29
Opted Out	26	19

The variations for retained membership are as follows:

- **2006 scheme** 1 leaver
- **RDS modified** 3 leavers
- **2015 scheme** 60 starters (new employees and automatic enrolment)
2 transitioned in from 2006 Scheme
7 opt outs
24 leavers
2 retirements
- **Opt Outs** 7 members have chosen to opt out of a scheme

3.2 The following table shows the pension members according to each scheme as at 1 February 2018 compared to 1 June 2017. 1992 and 2006 scheme pension membership continues to be split between pensioners and dependants.

3.2.1

Firefighters' Pensions Schemes Membership	01/02/2018	01/06/2017
1992 (Pensioners)	431	428
1992 (Dependants – widow / partner / child pension)	81	79
2006	12	10
2006 (Dependants – widow / partner / child pension)	1	1
2015	2	0
2015 (Dependants – widow / partner / child pension)	2	2
Retained Modified	34	33

The variations for members with a pensioner status are as follows:

- **1992 scheme** 5 retirements implemented
4 deaths of a pensioner
2 deaths of a spouse
4 widows' pensions implemented
- **2006 scheme** 2 retirements implemented
- **RDS modified** 1 retirement implemented
- **2015** 2 retirements implemented

3.2.2 Retirements or related procedures that are being progressed presently are split as follows:

- 3 service retirements
- 1 medical appeal against an IQMP decision on the level of ill health retirement benefits (submitted to the Board of Medical Referees)
- A previous ill health medical appeal resulted in the payment of a Lower Tier ill health pension

3.3 The following table shows the deferred members of each scheme as at 1 February 2018, compared to those as at 1 June 2017.

3.3.1

Deferred data	01/02/2018	01/06/2017
1992	27	30
2006	150	127
RDS Modified	35	31
2015	79	38

The variations in deferred pension members cover pensions that have come into payment, leavers and those who have opted out of the scheme.

3.4 There is an Internal Dispute Resolution Procedure for dealing with any complaints. Initial information can be accessed at:
<http://www.wypf.org.uk/Member/Fire/2015/Active/AppealsComplaints/AppealsAndComplaints.aspx#Ombudsman>

Since the last meeting of the Pensions Board in September 2017, no new complaints have been received or completed.

4.0 Pension Board Training Update

4.1 Three items on this meeting's agenda are suitable for inclusion on Board members' personal training and needs analysis:

- i) Session on Main Pensions Tax Issues
- ii) Session on The Pensions Regulator's 21st Century Trusteeship and Governance Programme and TPR's new tools for Pension Board members
- iii) Update on all web based resources available from The Pensions Regulator, the Scheme Advisory Board and the Local Government Association

4.2 The Firefighters' Pensions AGM is to be held on 17 and 18 September 2018 in London. The agenda usually includes a full day on governance issues on Day 1 which is particularly suitable for Pension Board members. If certain Board members wish to join the Chair and the Pensions Administrator/ Manager in attending the event this year, additional places will be booked for the appropriate day(s).

4.3 Board members have in the past been requested to review and revise their personal training needs analysis and return this to the Pensions Administrator/ Manager. However, an alternative method of recording training would be for the Pensions Administrator/ Manager to populate a training register. An example will be provided at the meeting for discussion as to whether this method should be used going forward.

5.0 Risk Register

- 5.1 An initial risk register was adopted at the last meeting on 18 September 2017. The Scheme Advisory Board suggests that items pertinent to the Risk Register are a recurring item for Pension Board meetings and for Pension Board members to challenge whether the Risk Register control measures are suitable and processes in place are sufficiently robust.
- 5.2 Since the last meeting there has been progress made or action taken in the following areas which are included in the Risk Register:
- i) An Internal Audit report has been issued by Veritau providing an overall opinion of 'Substantial Assurance' and the following improvement actions have been identified. A copy of the Internal Audit report is attached to the email distributing the agenda and an update on the progress on addressing the action points will be provided at the meeting.
 - Updated detailed procedural guidance for business continuity
 - Additional checks on the setting up of new pensioners by the third party administrator
 - Additional evidence for 'separation of duties' purposes
 - Monthly electronic return to be sent to the third party administrator
 - ii) Information is being collated by the Pensions Administrator/ Manager in order for a full Data Review to be carried out.
 - iii) The General Data Protection Regulation (GDPR) responsibilities of NYFRS and of the third party administrator, West Yorkshire Pension Fund, are being identified and the required actions are being put in place ahead of the effective date of 25 May 2018. In addition to involvement in the corporate NYFRS GDPR exercise the Pensions Administrator/ Manager has made use of the pensions-specific assistance provided by the LGA. It is suggested that the Pensions Administrator/ Manager provides an update on the completion of this exercise via an email to Pension Board members and that this area is added to the Risk Register as a separate item.

6.0 Other Work Items

- 6.1 The implementation of GDPR will require communication with Scheme members at suitable points during their scheme membership. The suggested communication material will be circulated to Board members when available including information on how it will be made available to Scheme members. This will inform Board members on how GDPR requirements are to be met and will allow comments to be obtained on the clarity of the communications material.
- 6.2 There is a national Fire Schemes Communications Group which works on updating documentation for Scheme members. Much of the existing communication material is available on the West Yorkshire Pension Fund website with further material available on the SAB website and on the LGA regulations website. Pension Board members have agreed that communications would be a useful area to look at with a view to, in particular, improving communications at a local level.
- 6.3 Despite the ongoing uncertainties around the future set up of the firefighters' schemes in relation to protections and the transition to the 2015 Scheme there will be certain types of communication material which can be reviewed imminently along with agreeing suitable ways of making the material more accessible. The Pensions

Administrator/ Manager will supply a list at the meeting of existing material to be reviewed as well as a list of items which are being worked on by the Fire Schemes Communications Group so that any gaps can be identified.

7.0 West Yorkshire Pension Fund Key Performance Indicators

7.1 The West Yorkshire Pension Fund provides monthly reporting on administration matters and Key Performance Indicators (KPI). The latest KPI results are shown below. There are no concerns to report.

North Yorkshire FRS (1 to 31 January 2018)					
WORKTYPE	TOTAL CASES	TARGET DAYS FOR EACH CASE	TARGE T MET CASES	MINIUM TARGET PERCENT	TARGET MET PERCENT
Deferred Benefits Set Up on Leaving Fire	1	10	1	85	100
Pension Estimate Fire	7	10	7	85	100
Deferred Benefits Into Payment	1	3	1	85	100
Retirement Quote Fire	1	10	1	85	100
Change of Address Fire	2	20	2	85	100
General Payroll Changes Fire	9	20	9	85	100
Age 55 Increase Fire	2	20	2	85	100
NI Modification Fire	3	20	3	85	100
Enquiry Fire	2	5	2	85	100
Life Certificate received Fire	6	5	6	85	100
Initial letter Death in Retirement FIRE	1	5	1	85	100
Death in Retirement FIRE	1	5	1	85	100
Make payment of pensions on due date	563	Pay Day	563	100	100

7.2 The West Yorkshire Pension Fund have started to provide updates on progress in carrying out the Guaranteed Minimum Pension Reconciliation exercise. This exercise relates to the ending of 'contracting-out'. Contracting-out was where members of firefighters' pension schemes paid a lower level of National Insurance contributions and did not pay into the upper tier of the State Pension scheme. For participation in this process between 6 April 1978 and 5 April 1997 an amount known as a 'Guaranteed Minimum Pension' (GMP) was worked out by HM Revenue and Customs (HMRC) to use as a comparison figure to ensure that a minimum level of pension was payable from the firefighters' scheme.

7.3 When contracting-out ended in April 2016, HMRC stated that they would no longer track contracted-out rights and would issue 'closure schedules' to schemes so that scheme administrators could compare these against GMP amounts held on scheme records. This is known as GMP Reconciliation and can result in discrepancies being identified which the West Yorkshire Pension Fund have agreed to resolve as part the Shared Service contract although it may be that certain decisions need to be passed to the NYFRS if, for example, overpayments are identified. The Pensions Administrator/ Manager will provide an update on progress with this exercise.

8.0 The Pensions Regulator's Latest Governance Initiatives

8.1 The Pensions Administrator/ Manager will provide an overview at the meeting of the latest initiatives from The Pensions Regulator which are:

- 21st Century Trusteeship and Governance Programme
- New tools for Pension Board Members

9.0 Web-based Resources

9.1 The Pensions Regulator's Public Service Online Learning Toolkit is due to be updated early in Quarter 2 of 2018 in order to make the format easier to use however the current version remains relevant in terms of content. The Pensions Regulator's area for use by public sector pension boards can be accessed at:
<http://thepensionsregulator.gov.uk/public-service-schemes/learn-about-managing-public-service-schemes.aspx>

9.2 The Scheme Advisory Board (SAB) launched its own website at the National AGM in October 2017 and this website continues to be updated by the addition of useful guides and example documents. The website includes the minutes of the three SAB committees (Administration and Benchmarking, Cost-effectiveness and Local Pension Board Effectiveness). This website can be found at:
<http://fpsboard.org>

9.3 A new resource has been developed by the LGA to bring together the regulations and guidance relating to the firefighters' pension schemes so that all up to date information is in one place. This can be found at: www.fpsregs.org

10.0 Automatic Enrolment Transitional Delay Exercise October 2017

10.1 Under The Pensions Regulator's requirements for employers to carry out their automatic enrolment responsibilities there was an opportunity for employers to delay bringing certain staff into a qualifying pension scheme if the staff had already decided not to join a pension scheme and had previously 'opted out'. During September 2013 NYFRS wrote to relevant employees and advised them that they were not being automatically enrolled into the relevant firefighters' pension scheme until 1 October 2017.

10.2 This exercise was known as the 'Transitional Delay' and required employers to automatically enrol staff from 1 October 2017. The exercise has been carried out by NYFRS and all affected staff have been given the required information under The Pensions Regulator's guidance.

11.0 Employment Tribunal Cases Relating to Discrimination – Appeal Outcome

11.1 The appeal of the separate pensions discrimination cases for judges and firefighters have been heard as one case by the Employment Appeal Tribunal (EAT), following original conflicting judgments. The LGA have provided a summary from Eversheds Sutherland which gives a summary of the EAT outcomes and the main points are detailed below. A copy of the Eversheds Sutherland summary can be viewed at:
<http://www.fpsboard.org/images/PDF/Bulletin5/Appendix2.pdf>

11.2 The case relating to the firefighters schemes (Sargeant v London Fire and Emergency Planning Authority) has been referred back to the Employment Tribunal (ET) for further consideration. The EAT has ruled that the ET failed to give adequate scrutiny to the Government's arguments that equivalent transitional arrangements in the New Firefighters' Pension Scheme were objectively justified. The ET had erred by taking the wrong approach to the question of proportionality, in the light of previous case law.

11.3 The decision in relation to the judges' pension scheme (Ministry of Justice v McCloud) was that the transitional arrangements in the New Judges Pension Scheme constitute unlawful age discrimination.

12.0 Survivor pensions for civil partners (Walker v Innospec case)

12.1 Pension schemes have in the past relied on an exception in the Equality Act 2010 to provide survivor benefits to civil partners which were based on pensionable service from 5 December 2005 onwards. This resulted in benefits being paid to civil partners which were lower than those provided to the surviving spouses of a married couples.

12.2 A Supreme Court judgment has found that this exception is incompatible with EU law. Government lawyers are considering the possible impacts the ruling will have on survivor pensions offered by all public sector schemes.

13.0 HMRC Requirements for Pensions Taxation

13.1 A training session on pensions taxation, arranged by the LGA and provided by Barnett Waddingham, was attended by the Pension Board Chair and the Pensions Administrator/ Manager on 15 November 2017.

13.2 The Pensions Administrator/ Manager will provide an overview of the pensions tax rules with examples of how Scheme members can incur a tax charge and the action which is required by the employer and affected individuals on an annual basis and at the time of retirement.

14.0 Recommendations

14.1 That Members note the content of the report and:

- i) agree updating of the Risk Register
- ii) agree the method of recording Pension Board member training going forward

Anna Binks

Pensions Administrator/ Manager

9 March 2018

Background documents:

2015 Firefighters' Scheme Complaints and Dispute process:

<http://www.wyfpf.org.uk/Member/Fire/2015/Active/AppealsComplaints/AppealsAndComplaints.aspx#Ombudsman>

Eversheds Sutherland summary of the Employment Appeal Tribunal Outcomes:

<http://www.fpsboard.org/images/PDF/Bulletin5/Appendix2.pdf>