

## LOCAL PENSION BOARD

Report of the Pensions Administrator / Manager

18 September 2017

## 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 9 June 2017 compared to 23 December 2016 for Wholetime Firefighters and 15 June 2017 compared to 15 January 2017 for Retained Firefighters.

## 3.1.1

Firefighters' Pension Schemes Membership	Wholetime	
	09/06/2017	23/12/2016
1992	86	97
2006	3	4
2015	193	185
Retained Modified	8	8
Opted Out	12	12

The variations for wholetime membership are as follows:

- **1992 scheme**            3 transitioned to 2015 scheme  
8 retirements
- **2006 scheme**            1 leaver
- **2015 scheme**            3 transitioned in from 1992 scheme  
7 starters (RDS staff employed on temporary WT contracts)  
2 leavers

### 3.1.2

Firefighters' Pension Schemes Membership	Retained	
	15/06/2017	15/01/2016
1992	0	0
2006	15	18
2015	255	250
Retained Modified	29	32
Opted Out	19	17

The variations for retained membership are as follows:

- **2006 scheme**            3 leavers
- **RDS modified**        3 leavers
- **2015 scheme**        25 starters (new employees)  
2 opt outs  
18 leavers
- **Opt Outs**            2 new starters have chosen to opt out of a scheme

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

#### 3.2.1

Firefighters' Pensions Schemes Membership	01/06/2017	01/01/2016
1992 (Pensioners)	428	424
1992 (Dependants – widow / partner / child pension)	79	78
2006	10	11
2006 (Dependants – widow / partner / child pension)	1	1
2015	0	0
2015 (Dependants – widow / partner / child pension)	2	2
Retained Modified	36	35

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

- **1992 scheme**        5 retirements implemented  
1 death of a pensioner  
1 death of a spouse  
2 widows pensions implemented
- **2006 scheme**        1 death of a pensioner
- **RDS modified**        1 retirement implemented

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

- 2 service retirements
- 1 medical appeal against IQMP decision on ill Health Retirement (appeal held, outcome currently awaited)

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

3.3.1

<b>Deferred data</b>	<b>01/06/2017</b>	<b>01/01/2017</b>
1992	30	28
2006	127	123
RDS Modified	31	32
2015	38	37

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, this can be accessed at:

[http://www.wypf.org.uk/Member/Fire/Active/1992/IDRP/pdf/IDRP\\_Firefighters.pdf](http://www.wypf.org.uk/Member/Fire/Active/1992/IDRP/pdf/IDRP_Firefighters.pdf)

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

#### **4.0 Pension Board Training Update**

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

- i) Workshop on the need for and development of a Risk Register
- ii) Main Outcomes of The Pensions Regulator Governance and Administration Survey

4.2 Board members are requested to review and revise their original personal training needs analysis and return this as soon as possible to the Pensions Administrator/ Manager.

#### **5.0 Risk Register**

5.1 The Pensions Regulator has issued a Public Service Internal Controls Checklist which focusses on identifying and evaluating risks and putting in place a risk register which is reviewed regularly. There is also the suggestion that reviewing risk becomes a standard agenda item for Local Pension Board meetings. It is recognised that the Local Pension Board plays a key role in supporting the Scheme Manager and that Pension Board members should have an active role in identifying risks and driving forward improvements.

5.2 The Pensions Regulator has assessed that the following areas have the top risks associated with them in relation to public sector pension schemes:

- Scheme governance
- Record-keeping
- Internal controls
- Member communication

5.3 Through a workshop session on the need for and development of a risk register, an initial version of a NYFRS risk register has been prepared. This has been based on the Public Service toolkit example risk register and has also been designed to

capture the areas which have been highlighted in the latest Pensions Regulator Governance and Administration Survey. A decision is required on whether the initial risk register is ready to be adopted.

## 6.0 **West Yorkshire Pension Fund Key Performance Indicators**

6.1 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.

<b>North Yorkshire Fire (1 to 31 May 2017)</b>					
WORKTYPE	TOTAL CASES	TARGET DAYS FOR EACH CASE	TARGET MET CASES	MINIUM TARGET PERCENT	TARGET MET PERCENT
Potential Spouse Pension Enquiry	1	10	1	85	100.00
Pension Estimate Fire	2	10	2	85	100.00
Change of Address	6	20	6	85	100.00
Life Certificate Received	8	20	8	85	100.00
Death Grant Nomination Received	3	20	3	65	100.00
Payroll Changes	1	5	1	90	100.00
Change to Bank Details	1	5	1	90	100.00
Purchase of Service Quote Fire	1	20	1	85	100.00
Initial Letter Death in Deferment	1	5	1	85	100.00
Death in Deferment	1	5	1	85	100.00

## 7.0 **Main Outcomes of The Pensions Regulator Governance and Administration Survey**

7.1 A third Public Service Governance and Administration Survey was carried out across the public sector by The Pensions Regulator. A summary of the results can be found at: <http://www.thepensionsregulator.gov.uk/docs/public-service-research-summary-2017.pdf>

The full research report from The Pensions Regulator can be found at: <http://tpr.gov.uk/docs/public-service-research-2017.pdf>

7.2 The survey this time looked more deeply at the key risks to public sector schemes and why some schemes might be struggling to improve standards in governance and administration. The response rate was 90%, covering 98% of membership. The main issues identified and resulting actions to be taken by The Pensions Regulator are listed below.

- The top risks areas for public sector schemes are governance, record-keeping, internal controls and member communications
- Full awareness is required by Scheme Managers of their responsibilities and the fact that they remain accountable where activities are delegated

- Pension Boards are a useful resource and play a key role in supporting Scheme Managers in identifying risks and driving forward improvements
- Scheme Managers should be involved in completing the annual Pensions Regulator's survey
- Scheme Managers must attend Local Pension Board meetings
- The Pensions Regulator will, in 2017, be actively engaging with Pension Boards to provide support and make improvements in:
  - clarifying roles and responsibilities
  - educating Scheme Managers and Pension Boards via online tools and face to face
  - creating peer networks and sharing best practice
  - carrying out record-keeping duties and developing a good data improvement plan
- The expectations for data security will be set out by The Pensions Regulator as a result of inconsistencies in approach being identified and the need for weaknesses in processes to be addressed
- The Pensions Regulator has forewarned of a new requirement from 2018 which will be to report on record-keeping standards on the annual scheme return
- Further emphasis on record-keeping includes plans for automatic enforcement action if appropriate improvement plans are not put in place
- Real improvements are expected in the coming year for Scheme Managers to put in place risk registers, appropriate internal controls and processes for reporting breaches. Face to face education will be made available including information on monetary penalties where breaches are not reported or are reported late
- Guidance on The Pensions Regulator's expectation for Scheme Managers to closely monitor third party administrators is to be issued including the suggested use of financial penalties for poor service delivery under a contract or SLA
- Best practice guidance for issuing Annual Benefit Statements is available in a 'quick guide'. The Pensions Regulator expects that there will be a significant improvement in the proportion of statements which are issued on time this year. There is likely to be a much lower tolerance for the late issuing of statements than in past years and reporting of breaches will be essential

## **8.0 Year End Process and Timetable for Issuing Annual Benefit Statements**

- 8.1 The West Yorkshire Pension Fund has carried out the Year End exercise to collate the information required to produce Annual Benefit Statements. This exercise has now been finalised and the West Yorkshire Pension Fund are confident that the data is complete and that the software required to produce the statements has the required functionality to provide accurate statements. The deadline for issuing statements is 31 August 2017.

8.2 The Annual Benefit Statements for active members are based on the following estimated calculations:

- Benefits as at 31 March 2017, payable from the 'deferred retirement age' for the relevant scheme of 60, 65 or State Pension Age
- Benefits as at Normal Pension Age for the relevant scheme

8.2.1 The statements for deferred members for all versions of the Firefighters' Pension Scheme are based on the following estimated calculation:

- Benefits calculated up to the date of leaving, uprated with the appropriate inflationary increase and quoted at a standard 'deferred retirement age' for the relevant scheme of 60, 65 or State Pension Age

8.3 Although the range of statements is limited, members are able to request an estimate of benefits at a chosen retirement date at any time during the year although they are limited to requesting one statement each year, unless the member is in the run up to retirement and requires a range of estimates in order to decide on their retirement date.

## **9.0 Consolidation of Employment Tribunal Cases Relating to Discrimination**

9.1 Separate pensions discrimination cases for judges and firefighters are expected to be heard as one case by the Employment Tribunal, following original conflicting judgments.

9.2 The tribunal for the Firefighters in February this year ruled that transitional arrangements for the 2015 Firefighters' Pension Scheme did not discriminate on the grounds of age, sex or race. However, in the case for the judges, the Employment Tribunal held that the Ministry of Justice and the Lord Chancellor had discriminated against younger judges by requiring them to leave the Judicial Pension Scheme in April 2015, whilst allowing older judges to remain in the scheme, and that this discrimination could not be justified. The government, however, has appealed the decision.

9.3 Due to the overlapping issues in the two cases, the Employment Tribunal has made an order to consolidate the appeals, meaning they would hear both appeals through the same process. However, at this stage the judges could raise an objection to the consolidation.

## **10.0 Survivor pensions and nomination forms (the Brewster Judgment)**

10.1 Following the judgment by the Supreme Court that a nomination form is not required to be completed in order to give an entitlement to a surviving partner's pension, advice has been issued by the Home Office on the action which can be taken by Scheme Managers. This area impacts on the 2006 Scheme only as there is no such provision to provide a partner's pension under the 1992 Scheme and the 2015 Scheme already allows for the payment of a partner's pension without a nomination being present.

10.2 The advice is that section 3 of the Human Rights Act 1998 can be relied upon as the legal basis for not requiring a nomination form when establishing an entitlement to a partner's pension under the 2006 Scheme. Section 3 provides that, as far as

possible regulations must be read and given effect in a way which is compatible with the European Convention on Human Rights.

- 10.3 Members of the 2006 Scheme may still complete a nomination form if they ask to make their wishes known and would like to provide details of their partner, to be recorded on their pension record.

## **11.0 HMRC**

- 11.1 The HMRC requirement to carry out an Annual Allowance exercise in order to assess whether a tax charge applies includes the option in certain circumstances for members to pay for the tax charge through the 'Mandatory Scheme Pays' method. This allows the member to take a reduction to their pension benefits at retirement in order to pay for the tax charge. The method is known as Scheme Pays as it is the pension scheme which makes the payment of the tax charge to HMRC by the usual deadline.

- 11.2 The circumstances under which the Mandatory Scheme Pays method can be used are limited and due to recent changes in the Annual Allowance calculations it is possible for Scheme members to be in a position where part of the tax charge can be paid under the Mandatory Scheme Pays method but the remainder cannot. HMRC have addressed this issue by allowing pension schemes to specify certain circumstances where Scheme members can use a 'Voluntary Scheme Pays' method.

- 11.3 For the Firefighters' Pension Scheme it has been decided that amendments should be made to the Regulations in order to formally introduce a Voluntary Scheme Pays option for the following scenarios:
- Transitional members with service in one of the 1992 or 2006 Schemes, and the 2015 Scheme, are able to access a Voluntary Scheme Pays arrangement in the same way that a protected 1992 or 2006 scheme member, or a member with service only in the 2015 Scheme, can do so through Mandatory Scheme Pays.
  - Scheme members with a tapered annual allowance are able to use a Voluntary Scheme Pays arrangement to pay a tax charge in a circumstance where the pension growth in one scheme (or more schemes) is less than the £40,000 general Annual Allowance limit but more than their own tapered Annual Allowance limit.

- 11.4 As it will take some time for the Regulations to be amended, in the interim advice was needed on whether FRAs could carry out the proposed Voluntary Scheme Pays process in the absence of legislative changes. The LGA has taken legal advice and it has been concluded that FRAs are able to operate the Voluntary Scheme Pays process in relation to the two areas which have been proposed.

## **12.0 Recommendations**

- 12.1 That Members note the content of the report and:

- i) approve the initial version of the risk register
- ii) agree to review and revise their training needs analysis

**Anna Binks**

Pensions Administrator/ Manager

16 August 2017

**Background documents:**

[http://www.wyfp.org.uk/Member/Fire/Active/1992/IDRP/pdf/IDRP\\_Firefighters.pdf](http://www.wyfp.org.uk/Member/Fire/Active/1992/IDRP/pdf/IDRP_Firefighters.pdf)

The Firefighters' Pension Scheme Regulations 2014 (183(2))

<http://www.thepensionsregulator.gov.uk/docs/public-service-research-summary-2017.pdf>

The Pensions Regulator's Public Service Survey 2017

<http://tpr.gov.uk/docs/public-service-research-2017.pdf>

The Pensions Regulator full research report on Governance and Administration 2017