



**NORTH YORKSHIRE  
FIRE & RESCUE AUTHORITY**

# North Yorkshire Fire and Rescue Authority

## Pension Board

Meeting to be held on Monday 23 April 2018 at 10.30am at North Yorkshire Fire and Rescue Service Headquarters (Meeting Room 2), Thurston Road, Northallerton, DL6 2ND

### Business

1. Minutes of the meeting held on 18 September 2017 (Pages 3 to 6)
2. Declarations of any Personal or Prejudicial Interests
3. Pensions Update – Report of the Pensions Administrator/Manager concerning:-
  - Scheme Membership Information
  - Pension Board Training Update
  - Risk Register
  - Other Work Items
  - West Yorkshire Pension Fund Key Performance Indicators
  - The Pensions Regulator's Latest Governance Initiatives
  - Web-based Resources
  - Automatic Enrolment Transitional Delay Exercise October 2017
  - Employment Tribunal Cases Relating to Discrimination – Appeal Outcome
  - Survivor pensions for civil partners (Walker v Innospec case)
  - HMRC Requirements for Pensions Taxation(Pages 7 to 13)
4. Future Dates (Pension Board and Training/Events)
5. Other business which the Chairman agrees should be considered as a matter of urgency because of special circumstances

Barry Khan  
Secretary to the North Yorkshire Fire and Rescue Authority

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Website of the North Yorkshire Fire and Rescue Service: [www.northyorksfire.gov.uk](http://www.northyorksfire.gov.uk)

County Hall  
Northallerton

## North Yorkshire Fire and Rescue Authority Pension Board

North Yorkshire Fire and Rescue Authority's Pension Board was established wef 1 April 2015 in accordance with statutory requirements set out in the Public Service Pensions Act 2013.

The purpose of the Board is to assist the Authority in its role as a scheme manager of the Fire Fighters' Pension Scheme. Such assistance is to:

- (a) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme; and
- (b) ensure the effective and efficient governance and administration of the Scheme.

The Pension Board comprises six members (3 employer and 3 employee representatives). Substitutes are permitted. The members and substitutes are listed below:-

1. Membership:

	<b>Name</b>	<b>Representing</b>
1.	Bell, Alan	Member representative – Fire Officers' Association
2.	Foster, Jonathan	Employer representative
3.	Howley, Steve	Member representative – Fire Brigades Union
4.	Rushworth, Jez (Chair)	Employer representative
5.	Simpson, Stuart	Employer representative
6.	Wall, Simon	Member representative – Fire Brigades Union

2. Substitute Membership:

	<b>Name</b>	<b>Representing</b>
	Biggs, Alistair	Fire Brigades Union
	Blades, Andrew	Fire Officers' Association
	Dryburgh, Dave	Employer

The Board's meeting papers, excluding any personal or confidential information, are published on North Yorkshire Fire and Rescue Service's website.

The Board is not a committee constituted under Section 101 of the Local Government Act 1972.

# North Yorkshire Fire and Rescue Authority

## Pension Board

Minutes of the meeting of the Pension Board held on Monday 18 September 2017 at 1.30 pm at North Yorkshire Fire and Rescue Service Headquarters, Thurston Road, Northallerton

### Present:-

Employer Representatives:- Assistant Chief Fire Officer (Operations) Jez Rushworth in the Chair; Area Manager Jonathan Foster and Group Manager Stuart Simpson

Member Representatives:- Alan Bell (FOA), Steve Howley (FBU) and Simon Wall (FBU)

### Advisors in attendance:-

Barry Khan (Legal Adviser, Monitoring Officer and Secretary to NYFRA), Anna Binks (Pensions Administrator/Manager) and Ruth Gladstone (assisting the Secretary to (NYFRA))

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**All documents considered are on NYFRS's website**

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### 27. Minutes

#### Resolved –

That the Minutes of the Board's meeting held on 30 January 2017 be noted.

### 28. Declarations of Personal or Prejudicial Interests

No conflicts of interest were declared.

### 29. Pensions Update

#### Considered –

The report of Anna Binks (Pensions Administrator/Manager) which provided information about the following:-

- Numbers, set out in the report, of:-
  - Wholetime firefighters who were active members of the firefighters' pension schemes as at 9 June 2017, together with a comparison as at 23 December 2016.
  - Retained firefighters who were active members of the firefighters' pension schemes as at 15 June 2017, together with a comparison as at 15 January 2017.
  - Pension members of each scheme as at 1 June 2017, together with a comparison as at 1 January 2017.
  - Retirements and related procedures which were currently being progressed.
  - Deferred members of each scheme as at 1 June 2017, together with a comparison as at 1 January 2017.

- The Internal Dispute Resolution Procedure for dealing with complaints was available on the [wypf.org.uk](http://wypf.org.uk) website and pension members had been advised accordingly. No new complaints had been received or completed since the Board's previous meeting.
- Pension Board training – The following two issues were suitable for inclusion on Board members' personal training and needs analysis:- the main outcomes of the Pensions Regulator Governance and Administration survey; and the workshop on the need for and development of a Risk Register.
- Risk Register – A workshop had been held on the morning of 18 September 2017 to look at the need for, and development of, a Risk Register. An initial version of a Risk Register had been prepared, based on the Public Service toolkit example, and was designed to capture the areas which had been highlighted in the latest Pensions Regulator Governance and Administration survey.
- West Yorkshire Pension Fund (WYPF) key performance indicators.
- Outcomes of the Pensions Regulator Governance and Administration survey – This survey had 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 main issues identified in the survey, and the resulting actions to be taken by the Pensions Regulator, were listed in the report submitted to the Pension Board.
- The issuing of Annual Benefit Statements – The deadline for issuing statements was 31 August 2017.
- Employment Tribunal cases relating to discrimination – Separate pension discrimination cases for judges and firefighters were expected to be heard as one case by the Employment Appeal Tribunal following original conflicting judgements.
- Survivor pensions and nomination forms (the Brewster Judgment) – The Home Office had issue advice on the action which could be taken by Scheme Managers. This area impacted on the 2006 Scheme only.
- Legal advice, taken by the LGA, that FRAs were able to operate a Voluntary Scheme Pays process in two scenarios for the payment of tax charges to HMRC.

During discussion:-

- Members commented that they were happy with the range of numerical information presented in the report.
- It was suggested that a page might be included on NYFRS's Intranet, containing a link to the [wypf.org.uk](http://wypf.org.uk) website.
- With reference to training for Pension Board members:-
  - Anna Binks advised that, going forward, other training activity might be identified eg by the LGPB. She offered to email Pension Board members with monthly bulletins to highlight areas for general awareness and training activities. Board members expressed support for that suggestion.

- Anna Binks undertook to share again with Pension Board members the e-learning access module.
- Anna Binks undertook to send to each Pension Board member the most up-to-date training needs analysis she could identify for that member, together with a request for that member to update and return it. She asked members also to keep track themselves of the progress they made through training modules.
- Anna Binks offered to monitor, and keep a record of, training courses which became available and the names of those Pension Board members who attended.
- With regard to a Risk Register:-
  - Members expressed support for proceeding with the initial version which had been discussed at the workshop held on the morning of 18 September 2017. It was recognised that pension information on NYFRS website might require review in order that it was easily accessible with the fewest number of clicks. Anna Binks undertook to action this as quickly as possible.
  - It was recognised that the Risk Register would require review at least annually.
- With regard to WYPF administration:-
  - Anna Binks advised that she had no concerns to bring to the Pension Board's attention regarding WYPF's key performance indicators.
  - Anna Binks advised that NYFRS had changed to a Service Level Agreement (SLA), described as a "shared administration agreement", whereby WYPF would not check data they received from NYFRS and instead they would assume that the information which NYFRS supplied was correct and WYPF would act on it. It was hoped that this arrangement would provide significant savings for NYFRS. Anna Binks undertook to report, at the next meeting of the Pension Board, on whether the change of arrangements had been successful in terms of savings.
  - Anna Binks highlighted that WYPF's recent production of Annual Benefits Statements, which had required a switch of resources, might reflect in a decrease of WYPF performance against key performance indicators. She commented that this needed to be monitored closely.
- With regard to the Pensions Regulator Governance and Administration survey, Anna Binks took the meeting through the main issues identified in the survey and the resulting actions to be taken by the Pensions Regulator. Anna Binks highlighted that the resulting actions were the areas on which guidance was likely to be issued, and training for Pension Board members might be offered, in future. In addition:-
  - Anna Binks confirmed that all the top risk areas identified in the survey (ie governance, record-keeping, internal controls and member communications) had been covered in the initial version of the Risk Register.

- Anna Binks referred to the concern identified through the survey about lack of full awareness of responsibilities, and suggested that, following the change in the way in which NYFRS pensions issues were dealt with, and the role she now held, the Scheme of Delegation needed to be looked at by the Chairman of the Pension Board and herself and a report should be submitted to the Board's next meeting. Anna Binks highlighted that advice from the Legal Advisor to the Authority might need to be sought.
- Anna Binks undertook to consider how the Pension Board plotted and demonstrated how it was driving forward improvements. Members commented that, until now, the Board had mainly focussed on training. They suggested that it would be helpful to have a structured way to address work items, thereby being able to demonstrate progress in certain areas. Anna Binks undertook to prepare a template based on discussions at this meeting and at the workshop held on the morning of 18 September 2017.
- Anna Binks highlighted that the Pensions Regulator would be issuing guidance for Scheme Managers to monitor third party administrators and this would include the suggestion of use of financial penalties for poor service delivery under a contract or SLA. The issuing of Annual Benefits Statements would be an area of monitoring by NYFRS.
- The Chairman highlighted that some of the issues identified by the survey were already being looked into by this Pension Board.
- With regard to the issuing of Annual Benefit Statements, Anna Binks reported that most Statements had been issued by the deadline of 31 August. Those which had not achieved that date included Deferred Statements for RDS and these were due to be issued by 22 September 2017. Anna Binks advised that WYPF had not breached the SLA nor had The Pensions Regulator's requirements been breached as all Active Statements had been issued on time but that she would need to monitor this in future.

**Resolved –**

- (a) That the initial version of the Risk Register, as circulated at the workshop held on the morning of 18 September 2017, be approved.
- (b) That Members review and revise their training needs analysis.

**30. Future Dates (Pension Board and Training/Events)**

**Resolved –**

That a meeting of the Pension Board be scheduled for the afternoon of Thursday 22 March 2018.

RAG/JR

## 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:

- Session on Main Pensions Tax Issues
- Session on The Pensions Regulator's 21<sup>st</sup> Century Trusteeship and Governance Programme and TPR's new tools for Pension Board members
- 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.

<b>North Yorkshire FRS (1 to 31 January 2018)</b>					
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:

- 21<sup>st</sup> 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](http://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>