



**NORTH YORKSHIRE
FIRE & RESCUE AUTHORITY**

North Yorkshire Fire and Rescue Authority

Pension Board

Meeting to be held on Wednesday 27 January 2016 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 29 July 2015. **(Pages 1 to 6)**
2. Declarations of any Personal or Prejudicial Interests.
3. Training - Report of the Head of Human Resources. **(Pages 7 to 8)**
4. Pensions Update – Report of the Head of Human Resources. **(Pages 9 to 21)**
5. Reporting Breaches of the Law to the Pensions Regulator – Report of the Monitoring Officer. **(Pages 22 to 31)**
6. Future dates (pension board and training/events).
7. 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
County Hall, Northallerton

19 January 2016

Enquiries relating to this agenda please contact Ruth Gladstone Tel: **01609 532555**, or **01347 825550** immediately prior to the start of the meeting, fax: **01609 780447** or e-mail Ruth.Gladstone@northyorks.gov.uk

Website of the North Yorkshire Fire and Rescue Service: www.northyorksfire.gov.uk

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:

	Name	Representing
1.	Boasman, Carl	Member representative – Fire Officers' Association
2.	Foster, Jonathan	Employer representative
3.	Howley, Steve	Member representative – Fire Brigades Union
4.	Rushworth, Jez	Employer representative
5.	Simpson, Stuart	Employer representative
6.	Wall, Simon	Member representative – Fire Brigades Union

2. Substitute Membership:

	Name	Representing
	Biggs, Alistair	Fire Brigades Union
	Cairns, Ben	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 Wednesday 29 July 2015 at 10.35 am at North Yorkshire Fire and Rescue Service Headquarters, Thurston Road, Northallerton.

Present:-

Employer Representatives:- Group Manager Jonathan Foster, Area Manager Jez Rushworth and Group Manager Stuart Simpson.

Member Representatives:- Carl Boasman (FOA), Peter Cokell (RFU) and Simon Wall (FBU).

Advisors in attendance:-

Ruth Gladstone (assisting the Secretary to North Yorkshire Fire and Rescue Authority), Barry Khan (Legal Adviser, Monitoring Officer and Secretary to North Yorkshire Fire and Rescue Authority), Jan Sams (Head of Human Resources) and Helen Scargill (Member Services Manager, West Yorkshire Pension Fund).

All documents and presentation slides considered are on NYFRS's website

1. Appointment of Chair

Considered -

The Board was advised that North Yorkshire Fire and Rescue Authority had decided that the Chair of the Pension Board would be an Employer Representative.

Resolved -

That Area Manager Jez Rushworth be elected as Chair to serve until the first meeting of the Board following the Annual Meeting of the Authority in 2016.

Area Manager Jez Rushworth in the Chair

2. Firefighters' Pension Schemes and Membership

Considered -

The presentation by Helen Scargill (Member Services Manager, West Yorkshire Pension Fund).

The presentation:-

- highlighted the legislation under which Local Pension Boards were created;

- explained the purpose of this Board (ie to assist NYFRA, in its role as a Scheme Manager of the Firefighters' Pension Schemes, to secure compliance with legislation relating to the governance and administration of those Schemes); and
- provided an overview of the five Pension Schemes with which Board Members and Substitutes needed to be familiar in order for the Board to fulfil its role.

During discussion, the following was noted:-

- The Pension Board could decide what it wished to look at in order to discharge its functions. However, the national Scheme Advisory Board for the Firefighters' Pension Scheme would require Local Pension Boards to look at various issues.
- The outcome of audits of the West Yorkshire Pension Fund would be reported at future meetings of this Pension Board.
- Reports about discussions concerning the way in which West Yorkshire Pension Fund was carrying out its contract with NYFRA would be submitted to future meetings of this Pension Board in order that the Board could take a view on whether the contract was being satisfied.
- West Yorkshire Pension Fund would welcome feedback from this Board on whether communications the Fund sent to pension fund members were appropriate and clear to understand, and whether the method of communication was correct. It was suggested that it would be helpful for Contribution Rates to be published on West Yorkshire Pension Fund's website.
- There were major differences between the five Firefighters' Pension Schemes. It was emphasised that, when Pension Board Members were following a case, they needed to be very clear which Regulations applied. A guide to the five Firefighters' Pension Schemes was available on the knowledge hub for Local Pension Board Members on the Local Government Association's website. Jan Sams (Head of Human Resources) offered to put links to the relevant sections of the guide on NYFRS's website.

Resolved -

- (a) That the presentation be noted.
- (b) That the Head of Human Resources be requested to put links from NYFRS's website to the relevant sections of the guide of the five Firefighters' Pension Schemes on the knowledge hub for Local Pension Board Members on the Local Government Association's website.

3. Pension Board Terms of Reference

Considered -

The report of Barry Khan (Legal Adviser, Monitoring Officer and Secretary to the Authority).

The Pension Board was invited to adopt its terms of reference and recommend approval of various amendments to those terms of reference to reflect recently published Guidance. The terms of reference were set out in the Appendix to the report. Recommended amendments were set out in the Appendix and shown in red font.

The Board's terms of reference were approved by North Yorkshire Fire and Rescue Authority on 11 February 2015, to comply with the statutory requirement for the Board to be established with effect from 1 April 2015. Subsequently, in May 2015, the Firefighters' Pension Scheme Guidance on the Creation and Operation of Local Pension Boards in England was published. That Guidance made suggestions about various issues relating to Local Pension Boards' terms of reference.

During discussion, a Member Representative expressed concern about the proposed amendment which, if approved, would permit the Chair to have a second or casting vote. The Member Representative explained that it would be unfair for the Chair to have a casting vote when there was an equal number of Member Representatives to Employer Representatives on the Pension Board. The Employer Representatives highlighted that some Local Pension Board Chairs had casting votes whilst others did not; that the Chair would rarely need to have to use a second or casting vote; however, they could understand the Member Representative's concerns. They therefore agreed that the Chair should not be permitted a second or casting vote.

Area Manager Jez Rushworth confirmed that the costs arising from Member Representatives' attendance at Pension Board meetings/trainings would not be met from the budget for Staff Undertaking Representative Bodies' Duties.

Resolved -

- (a) That the terms of reference be adopted.
- (b) That it be recommended - That the proposed amendments to the terms of reference, as set out in the Appendix and shown in red font, be approved, subject to the deletion of the proposed amendment "The Chair shall have a second or casting vote".

4. Code of Conduct for Members of NYFRA's Pension Board

Considered -

The report of Barry Khan (Legal Adviser, Monitoring Officer and Secretary to the Authority).

The report recommended the adoption of a Code of Conduct for Members of the NYFRA's Pension Board. The proposed Code mirrored the Code of Conduct for Members of NYFRA. Legislation required a Pension Board Member to act in the best interests of the Pension Board, to declare conflicts of interest and not take part when necessary, and not to scrutinise his/her own decisions. The proposed Code provided a process for Pension Board Members to follow to address a situation where Members were subject to a potential or actual conflict of interest.

During discussion:-

- It was queried whether, within paragraph 4 of the proposed Code, the words "anyone who works for or on behalf of the Authority" were appropriate. Paragraph 4 stated "You must not do anything which compromises the

impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality". Barry Khan agreed that "anyone who works for or on behalf of the Authority" should be replaced with "anyone who administers the Pension Fund".

- Barry Khan confirmed that it was proposed that all Pension Board Members should register their membership of trade unions/professional associations, as set out in Appendix 2 to the proposed Code, with the recognition that half the Members on the Pension Board were chosen specifically because of their membership of a trade union.
- Barry Khan confirmed that, if a Member Representative on the Pension Board was representing an individual on a pension case, and that particular case came before the Pension Board, that Member Representative would need to declare a conflict of interests and withdraw from that part of the Board meeting. Declarations of interest would be sought at the beginning of each Pension Board meeting and any declarations made would be recorded in the Minutes of that meeting.

Resolved -

That the Code of Conduct for Members of NYFRA's Pension Board, as set out at Appendix A to the report, be adopted, subject to paragraph 4 being amended by replacing the words "anyone who works for or on behalf of the Authority" with "anyone who administers the Pension Fund".

5. Declarations of any Personal or Prejudicial Interest

No conflicts of interest were declared that the meeting.

6. Adoption of Breaches Procedure

Considered -

The report of Barry Khan (Legal Adviser, Monitoring Officer and Secretary to the Authority).

The report invited the Pension Board to consider arrangements to meet the duty of each individual Pension Board Member to report breaches of law, potentially to the Pensions Regulator. There were various judgements which had to be made in deciding whether to report a breach, and various requirements with which any such reports had to comply.

Barry Khan suggested a possible process might be for Pension Board Members, if they had any concerns about possible breaches of law, to refer them to him for review and a report. He would subsequently either provide advice or obtain independent advice if necessary. Barry Khan also suggested that, if the Board was minded to approve such a process, it might wish to ask him to draft a policy and submit it to a future Pension Board meeting.

Resolved -

That the Legal Adviser, Monitoring Officer and Secretary to the Authority be requested to draft a policy, and submit it to a future Pension Board meeting, such policy to document a process whereby Pension Board Members, if they have any concerns about possible breaches of law, shall contact the Legal Adviser, Monitoring

Officer and Secretary to the Authority and that the Legal Adviser, Monitoring Officer and Secretary to the Authority shall subsequently review and report on the situation or obtain independent advice, if necessary.

7. Local Pension Board Training - Policy and Framework

Considered -

The report of Jan Sams (Head of Human Resources).

The report invited the Pension Board to:-

- approve a Training Policy and Framework for Pension Board Members, a proposal for which was set out at Appendix A to the report;
- appoint a Training Representative; and
- request Board Members and Substitutes to undertake a personal training needs analysis so that a Training Plan could be put together and funding identified from within the Training Budget.

Legislation stated that Members of Local Pension Boards should have the capacity to become conversant and develop a knowledge and understanding of the law relating to pensions and such other matters as were appropriate in order to effectively perform their duties.

During discussion:-

- Members expressed the opinion that they were all on a learning curve.
- It was noted that the Local Government Association had provided training on 22 July 2015 which had been attended by some Members of this Pension Board.
- Carl Boasman offered to be the Pension Board's Training Representative. Other Members expressed support for the appointment of Carl Boasman to that role.
- The Employer Representatives expressed the view that a named Substitute Employer Representative would be helpful in case any of the three Employer Representatives were unable to attend a meeting. They also commented that it would be helpful if a Substitute could be identified before any further training was provided.
- Members agreed that Members and Substitutes should each complete a personal training needs analysis. However, they preferred the version circulated by the Local Government Association, because it included "familiar" and "unsure" ratings, rather than the list of training needs set out at Appendix B to the report. With regard to timescales, Members agreed that the personal training needs analyses should be completed by 22 September and that Carl Boasman and Jan Sams should meet during the last week of September to identify knowledge gaps.

Resolved -

- (a) That the training policy and framework, as set out at Appendix A to the report, be approved.
- (b) That Carl Boasman (FOA) be appointed Training Representative to the Pension Board.
- (c) That the Chief Fire Officer/Chief Executive be requested to consider the appointment of a named Substitute Employer Representative on the Pension Board.
- (d) That Members and Substitutes be requested to complete the Local Government Association's version of the personal training needs analysis by 22 September 2015.
- (e) That the Training Representative and the Head of Human Resources meet during the last week of September to identify knowledge gaps.

8. Future Dates (Pension Board and Training/Events)

Considered –

A discussion about the frequency of future meetings and arrangements for individual Pension Board Members to raise items for the next Agenda.

Barry Khan (Legal Adviser, Monitoring Officer and Secretary to the Authority) expressed the view that the Pension Board would need to meet twice a year at this stage.

Resolved –

- (a) That the next meeting be held in late January 2016, the date/time/venue to be notified as soon as possible by Ruth Gladstone (assisting the Secretary to the Authority) following consultation by email concerning Members' and Advisors' availability.
- (b) That any issues which individual Pension Board Members wish to place on the Agenda for the next meeting be notified, by 30 November 2015, by email to Ruth Gladstone with "cc" copy to Area Manager Jez Rushworth to allow time for written reports to be prepared.

9. Other Business – Communication to Staff

Considered –

A discussion about advising NYFRS staff of the role and work of the Pension Board.

Resolved –

That the Chair be requested, following consultation with the Legal Adviser, Monitoring Officer and Secretary to the Authority, to circulate a form of words to advise NYFRA staff of the role and work of the Pension Board. (The Chair agreed to circulate this, if possible, before 15 September 2015.)

The meeting concluded at 12.10 pm.

RAG/JR

LOCAL PENSION BOARD

Report of the Head of Human Resources27th January 2016

LOCAL PENSION BOARD TRAINING

1.0 Purpose of Report

- 1.1 To inform the Local Pension Board (LPB) of information and training now available to assist them in acquiring, developing and maintaining the skills and knowledge required to carry out their role.

2.0 Introduction

- 2.1 The LPB approved the Member Training Policy and Framework at the meeting held on 29th July 2015 and Members were requested to complete a personal training needs analysis by 22nd September in order that gaps in knowledge could be identified and additional training provided as necessary. It is understood that further training will be provided by the Local Government Association (LGA) and Members will be informed as soon as details are made available. The LGA online forum for LPB members is now up and running and the link is as follows:
<https://knowledgehub.local.gov.uk/group/firefighters-pension-scheme-local-pension-board-members-group-forum>
- 2.2 The Pensions Regulator has produced information, including an e-learning training programme, that is now available to assist Members in learning about managing public service pension schemes and is designed to increase knowledge and understanding in carrying out the role. The information can be accessed at the following link <http://www.thepensionsregulator.gov.uk/public-service-schemes.aspx> and should cover the majority if not all the training needs identified.

3.0 Information

- 3.1 The Pensions Regulators public service scheme information covers the following areas:
- Understanding your role
 - Introduction to public service pension schemes
 - Roles and responsibilities
 - Knowledge and understanding duty on board members
 - Learn about managing public service schemes
 - Scheme management: The areas of governance and administration you need to focus on when running, overseeing or advising a public service pension scheme.
 - Reporting duties
 - Internal controls and managing risks
 - Record-keeping
 - Communicating to members
 - Publishing scheme information
 - Maintaining contributions
 - Pension board conflicts of interest and representation
 - Resolving internal disputes
 - Reporting breaches of the law

LOCAL PENSION BOARD

- Public Service toolkit: e-learning programme made up of seven modules, each should take approximately 30 minutes each to complete:
 - Conflicts of interest
 - Managing risk and internal controls
 - Maintaining accurate member data
 - Maintaining member contributions
 - Providing information to members and others
 - Resolving internal disputes
 - Reporting breaches of the law

- Further resources: Resources you can use – includes pension guides, consultations, research, analysis and useful links.

3.2 There is no cost in using this website or for carrying out the training modules. In order that Members can evidence their knowledge and understanding it is recommended that all these modules should be completed as soon as possible and by no later than the end of April 2016. It is necessary to create an individual account and log in to complete the training; learning can be completed in phases as progress can be saved. There is an assessment at the end of each module that is made up of multiple choice questions, the pass mark is indicated on each module, and the results are recorded, any number of attempts may be made.

3.3 Once all modules are completed it is recommended that the development record should be produced and emailed to the Head of Human Resources, after which a further training needs analysis should then be carried out to identify any remaining gaps in knowledge, these issues will be raised with the LGA to support further training.

4.0 Recommendation

4.1 That Members note the content of this report and agree to:

- i) undertake the e-learning programme provided by the Pension Regulator,
- ii) send the development record and an updated training needs analysis to the Head of Human Resources.

JAN SAMS
Head of Human Resources
11th January 2016

Background documents

<http://www.thepensionsregulator.gov.uk/>

LOCAL PENSION BOARD

Report of the Head of Human Resources27th January 2016

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 This report provides Members with scheme membership information, together with updates on the establishment or implementation of:

- Scheme Advisory Board
- Firefighters' Pension Scheme 1992 – Pension Ombudsman decision in the *Milne v GAD* case
- 2006 Firefighters' Modified Pension Scheme
- Industrial action Pension buyback
- Firefighters' Pension Scheme 2015
- Auto Enrolment
- Firefighters' Pension Scheme 1992 – Contribution Holiday
- Government Actuary's Department (GAD) Firefighters' Pension Schemes Valuation as at 31st March 2016

- 2.2 Information is also provided on pensioner re-employment and abatement, the process for obtaining pension forecasts and at Appendix A information from the contract with West Yorkshire Pension Fund for the delivery of a Firefighters' Pension Scheme & Payroll Service in regard to scope of work and service schedule

3.0 Schemes Membership Information

- 3.1 The following active memberships of the firefighters' pension schemes are taken from pay data as at 15th December 2015 for Retained Firefighters and 24th December 2015 for Wholetime Firefighters.

Firefighters' Pension Schemes Membership	Retained 15/12/2015	Wholetime 24/12/2015
1992	0	115
2006	27	4
2015	232	177
Retained Modified	38	8
Opted out	18	7

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- 3.2 The following table shows the active members as at 1st April 2015 including the numbers protected and tapered in the 1992 and 2006 schemes.

Firefighters' Pension Schemes Membership	Retained 01/04/015	Wholetime 01/04/2015
1992 Protected	0	81
1992 Tapered	0	45
2006 Protected	13	5
2006 Tapered	19	2
2015	194	163
Retained Modified Protected	24	8
Retained Modified Tapered	6	3

- 3.3 The following table shows the pension members of each scheme as at pension pay date 1st January 2016.

Pension Members	
1992	494
2006	12
2015	0
Retained Modified	23

- 3.4 The following table shows the deferred members of each scheme as at 1st January 2016.

Pension Members	
1992	23
2006	136
2015	0
Retained Modified	30

- 3.5 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

In the past 5 years there have been 3 complaints; 2 at Stage 1 and 1 at Stage 2.

- Stage 1 – upheld: the pension had been underpaid.
- Stage 1 - not upheld: the deferred pension benefit statement was incorrect when the pension came into payment on the member reaching age 60; this was calculated correctly but was less than the benefit statement.
- Stage 2 Appeal - not upheld: the pension had been overpaid and the overpayment was required to be repaid.

4.0 Scheme Advisory Board

- 4.1 The Scheme Advisory Board (SAB) Member nominations have been made, but not yet appointed, the appointment of a chair has also not as yet been finalised. The transfer of responsibility for fire and rescue from the Department of Communities and Local Government (DCLG) to the Home Office may mean that these appointments are not imminent which also means that SAB will not be meeting formally at this time. SAB therefore cannot produce a work plan or advise Local Pension Boards of their reporting requirements.

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4.2 The cost of SAB was also to be met by the pension authorities, these are the fire and rescues' authorities, at this time we do not have an indication as to what these costs may be and this will be reported to the Local Pension Board meeting once they are made available.

5.0 Firefighters' Pension Scheme 1992 – Pension Ombudsman decision in the Milne v GAD case.

5.1 Members will recall that the Ombudsman concluded that the Scheme's commutation factors should have been reviewed in 2006 and that additional payments are to be made to members of the Firefighters' Pension Scheme 1992 who became entitled to payment of their pension between 1st December 2001 and 21st August 2006 and who chose to commute part of their pension lump sum.

5.2 All the individuals, to whom this applies, have been identified and calculations of the amounts owing made in accordance with GAD calculator and guidance from DCLG. Letters have been sent explaining the position and the amount owed, these payments are being progressed presently and all will be made by the 31st March 2016, through the bankers' automated clearing services. (BACS)

6.0 2006 Firefighters' Modified Pension Scheme

6.1 Implementation of this pension provision has meant that eligible retained firefighters could purchase past service in the 2006 Firefighters' Modified Pension Scheme based on what would have been their pensionable earnings had they been allowed to join the 1992 scheme.

6.2 This project commenced in March 2014 with a data gathering exercise to identify Retained Firefighters employed between 1st July 2000 and 5th April 2006 inclusive, their pensionable pay during that period, and the cost of their historic contributions to join the modified scheme calculated.

6.3 Letters were sent to all those identified as eligible giving them the option to join the modified scheme, the letter included the cost of purchasing their past service rights and their repayment options as follows:

- One off lump sum payment – including interest up to and including the date of payment of the lump sum.
- 10 year repayment plan – including interest up to and including the date of the last instalment.
- Retained Firefighters with immediate pension rights were allowed to offset the cost from any backdated pension and commuted lump sum owed.

6.4 The deadline for completion of this work was 30th September 2015 with the outcome being as follows:

- 623 eligible members identified and letters sent
- 168 requests received and quotations prepared and issued
- 124 eligible members joined the modified scheme, of which at the 30th September 2015; 30 were pensioners, 30 were deferred members and 64 were active members

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7.0 Industrial Action - Pension buyback.

- 7.1 Where a deduction of pay is made during periods of industrial action, no matter the duration on the day, there is a resultant loss of one full day of reckonable service; this provision is applicable within the regulations for all the firefighters' pension schemes. The schemes allow firefighters to buy back the lost service on the basis that they reinstate both their own and the employer's contributions.
- 7.2 During the period of industrial action 391 firefighters went out on strike and could have lost reckonable service, in September 2015 all these affected firefighters were sent details of the cost to reinstate their service, along with repayment options. The repayment options offered were to either make a one off payment or to pay in instalments to conclude all repayments in this financial year 2015/16; 187 out of the 391 have chosen to exercise their right. West Yorkshire Pension Fund is being provided with all the required information to ensure that individual's reckonable service is brought up to date.

8.0 Firefighters' Pension Scheme 2015

- 8.1 Statistics relating to membership in the 2015 scheme are contained later in this report. All those who did not have either full or tapered protection in the 1992 and 2006 schemes transferred to the 2015 scheme in April 2015.
- 8.2 Firefighters were notified that the new contribution rates could not be applied immediately as an upgrade of the Authority's Payroll System was required to allow for the implementation of the Firefighters' Pension Scheme 2015. The upgrade was completed in time for the new contribution rates to be adjusted from October 2015.
- 8.3 West Yorkshire Pension Fund is notified of starters, leavers and other movements affecting pensions and this also applies to those who reach their taper date.

9.0 Firefighters' Pension Scheme 1992 – Contribution Holiday

- 9.1 The DCLG has agreed to provide a contributions holiday to those regular firefighters who joined the service before the age of 20 and served for over 30 years before reaching the minimum retirement age of 50. These firefighters who serve after their 50th birthday will need to resume the payment of contributions if they chose not to retire at that point. The Firefighters' Pension Scheme Regulations 1992 are being amended to give effect to these changes, applied retrospectively to 1st December 2006. The DCLG are to provide more information and guidance on how this is to be implemented, particularly in regard to those who are due reimbursement.
- 9.2 At this time the Service is gathering the details of those who will be eligible, both current serving firefighters and those who have retired since 1st December 2006 in order that there is no unnecessary delay in implementation once the regulations have been revised and guidance received.

10.0 Auto Enrolment

- 10.1 The staging date for auto enrolment for this Service was 1st September 2013 and since then all new starters are auto enrolled. A decision was taken to modify the auto enrolment for all 'eligible jobholders', (at that time; age 22 to state pension age and earnings over £9,440 per year - now £10,000) by applying the transitional period up to 30th September 2017, this means that those firefighters who have all previously made a conscious decision not to join one of the pension schemes would not be auto

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enrolled until this date. There is the facility for anyone auto enrolled to opt-out immediately, however not before having a deduction from pay.

- 10.2 Auto enrolment is now a core process with information being passed to WYPF in order to set up the individual's pension record.

11.0 GAD - Firefighters' Pension Schemes Valuation as at 31st March 2016

- 11.1 GAD is now making arrangements to collect data from FRAs as part of the 2016 valuation of the firefighter pension schemes. This process will value the total liabilities of the 1992, 2006 and 2015 schemes as at 31 March 2016. This process will mean that detailed information on members of each of the schemes has to be provided, the guidance on the employer requirements is awaited however, it is anticipated, having considered the draft guidance the majority of the information required will be provided by WYPF. The deadline for submission of the data is 12th August 2016.

12.0 Pensioner Re-employment and Abatement

- 12.1 Abatement is the process of reducing or stopping a member's pension if a member retires and then returns to work in the public sector. Government policy is that pension payments should be abated where a member is re-employed in the public sector and receives a pension and salary which exceeds their earnings before retirement. Up until 1st April 2014 fire and rescue authorities only had the discretion to withdraw all or part of the pension of a Firefighters' Pension Scheme member employed as a regular firefighter, this amendment widened the authority's discretion to enable the abatement of a pension paid to a member of the scheme who is employed in any role by any fire and rescue authority. Where the authority exercises its discretion not to withdraw the payment in whole or part of the pension, there is a requirement for the authority that is paying the pension to pay into the pension fund the amount of pension that could have been subject to abatement under the scheme rules. In June 2014 this Authority resolved "That abatement be applied to any role to which a retiree from the Firefighters' Pensions Scheme is appointed."
- 12.2 As part of the selection and appointment process, any new starter is required to provide information relating to a public sector pension in payment in order to calculate and apply abatement as necessary. To date abatement has not been required.

13.0 Pension Forecasts

- 13.1 Pension benefit statements were to be produced on the basis of one per financial year, with effect from April 2016 it is a requirement of the 2015 scheme that these statements are produced by 31st August 2016 and then by this date each subsequent year. The timescales for the 1992 and 2006 schemes are not specified however, WYPF intend to use this August deadline for all statements.
- 13.2 Pension estimate requests come to Personnel from the individual via telephone call, email or in person. Personnel complete a pension estimate request form from the WYPF website, complete the form and within 10 working days supply the relevant personal and pay details to WYPF. See Appendix A: Service Schedule D1-9. The Personnel Advisor dealing with pensions keeps a file with the requested information and follows this up with WYPF. Statistics on this issue are being collated from January 2016 and will be reported to the next meeting.

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14.0 Recommendation

- 14.1 That Members note the content of this report and provide instruction as to what they require to be provided for the next meeting.

JAN SAMS

Head of Human Resources

15th January 2016

Background documents

Human Resources Update – Fire Authority Meeting June 2014

Contract with West Yorkshire Pension Fund

Extract of Information from:

The service specification and schedule of work for the provision of the Administration of Fire-Fighters' Pension Schemes and Pensions Payroll

Overall Service Objective

To administer the Firefighters' Pension and Compensation Schemes by fulfilling the Authority's obligations under all relevant legislation, Firefighters' Pension Scheme Orders and Regulations in accordance with Department of Work and Pensions and HM Revenue and Customs requirements by maintaining systems and procedures for proper administration of the Schemes including calculation and payment of entitlements, the provision of advice and the maintenance of proper accounting arrangements.

Service Schedule

	Action	Time Limit	Responsibility
A.	New Entrants		
1	Issue Scheme Guide	1 month of new employee joining/following request from employer	North Yorkshire Fire and Rescue Authority
2	Advise Administrator employee has joined Scheme	1 month from date of employment / date of joining (submit starter details)	North Yorkshire Fire and Rescue Authority
3	Issue new starter with member pack including a transfer request form, death grant nomination form	1 month (usually issued during induction course)	North Yorkshire Fire and Rescue Authority
4	Create Contributor Record	As soon as practicable following information received from North Yorkshire Fire and Rescue Authority	Contractor
5	Investigate any possible transfer of pension rights	Within 10 days of transfer request form being received	Contractor
6	Confirmation of transfer details	Estimate / Confirmation to be supplied within 10 days of receipt of required information	Contractor

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	Action	Time Limit	Responsibility
B	Opting Out	Action within Two Months	
1	Following receipt of notification from employee issuing instruction to North Yorkshire Fire and Rescue Authority to cancel contributions	From next payroll period	North Yorkshire Fire and Rescue Authority
C	Changes during Employment	No Minimum Standard	
1	Record Change of Name	Update Pensions database within 10 days of receipt of information	Contractor
2	Record Change of Marital Status	Update Pensions database within 10 days of receipt of information	Contractor
3	Record Period of Absence	Update Pensions database within 10 days of receipt of information	Contractor
4	Record Period of Maternity Absence	Update Pensions database within 10 days of receipt of information	Contractor
5	Record Change in Rank	Update Pensions database within 10 days of receipt of information	Contractor
6	Record Change in Contractual Hours	Update Pensions database within 10 days of receipt of information	Contractor
D	Calculation of Benefits - Estimate Quotations	Minimum Standard 2 months for Provision of Estimates	
1	Supply relevant pay details to Contractor	10 working days from request received from Contractor	North Yorkshire Fire and Rescue Authority
2	Supply relevant personnel details to Contractor	10 working days from request received from Contractor	North Yorkshire Fire and Rescue Authority

LOCAL PENSION BOARD

	Action	Time Limit	Responsibility
3	Preserved benefit	Issue statement to member within 10 days of receipt of all necessary information	Contractor
4	Transfer out	Issue statement to member within 10 days of receipt of all necessary information	Contractor
5	Ill Health	Issue statement to North Yorkshire Fire and Rescue HR within 10 days of receipt of all necessary information.	Contractor
6	Compulsory Early Retirement	Issue statement to requestor within 10 days of receipt of all necessary information.	Contractor
7	Normal Retirement	Issue statement to requestor within 10 days of receipt of all necessary information	Contractor
8	Late Retirement	Issue statement to requestor within 10 days of receipt of all necessary information	Contractor
9	Calculations and provision of information as required under Pensions on Divorce Regulations 2000	As specified in the Pensions on Divorce Regulations 2000	Contractor
E	<p>Calculation of Benefits – Actual</p> <p>* Special Note - Payment of Lump Sum Benefits</p> <p>** Special Note - Payment of Pension Benefits</p>	<p>*Lump sum payments made on due date</p> <p>**Pension benefits paid by first available payroll date</p> <p>Both subject to minimum notice from North Yorkshire Fire and Rescue Authority</p>	<p>Fire Authority to make lump sum payments on advice of Contractor</p> <p>Pensions paid by Contractor</p>

LOCAL PENSION BOARD

	Action	Time Limit	Responsibility
1	Supply relevant pay details to Contractor	10 working days from request received from Contractor	North Yorkshire Fire and Rescue Authority
2	Supply relevant personnel details to Contractor	10 working days from request received from Contractor	North Yorkshire Fire and Rescue Authority
3	Refund of contributions	Issue statement and details to North Yorkshire Fire and Rescue Authority to arrange payment.	Contractor
4	Preserved benefit	Issue statement to member within 10 days of receipt of all necessary information	Contractor
5	Transfer out	Issue statement and details to North Yorkshire Fire and Rescue to arrange payment	Contractor
6	Ill Health	Issue statement to member within ten days of receipt of information from North Yorkshire Fire and Rescue Authority	Contractor
7	Compulsory Early Retirement	Issue statement to member within 10 days of receipt of information from North Yorkshire Fire and Rescue Authority	Contractor
8	Normal Retirement	Issue statement to member within ten days of receipt of information from North Yorkshire Fire and Rescue Authority	Contractor
9	Late Retirement	Issue statement to member within ten days of receipt of information from North Yorkshire Fire and Rescue Authority	Contractor

LOCAL PENSION BOARD

	Action	Time Limit	Responsibility
10	Payment of benefits and maintenance of records as required under Pensions on Divorce Regulations 2000	As specified in the Pensions on Divorce Regulations 2000	Contractor
F	Death (In Service/In Deferment/On Pension)	Minimum standard, as soon as practicable and, in any event, within two months	See E above for Payment arrangements
1	Obtain details of beneficiaries after advice of death of member	2 days from notification being received	North Yorkshire Fire and Rescue Authority – receive notification from a family member following deceased relative. North Yorkshire Fire and Rescue Authority then inform Contractor. Contractor is informed of death directly.
2	Calculate benefits due to beneficiaries	Within 5 days of receiving required information	Contractor
3	Notify beneficiaries where appropriate / Pay Lump Sum	Notify beneficiaries within 2 days of completing calculation Contractor to advise North Yorkshire Fire and Rescue Authority of lump sum to be paid. North Yorkshire Fire and Rescue Authority to make lump sum payment	North Yorkshire Fire and Rescue Authority to make payment/Contractor to inform North Yorkshire Fire and Rescue Authority of amount to pay
G	Provision of Pension Payroll Services	No minimum standard	
1	Record Benefit Entitlement: Retirement Pension, Pension Increase, GMP, PI on Post 88 GMP	Following receipt of complete and accurate information	Contractor
2	Calculate Gross to Net –		Contractor
3	Deduct Income Tax, Account for & Remit	Comply with HMRC Regulations	Contractor

LOCAL PENSION BOARD

	Action	Time Limit	Responsibility
4	Hold Statutory		Contractor
5	Issue P60s	Comply with HMRC Regulations	Contractor
6	Process Tax Code Changes	Comply with HMRC Regulations	Contractor
7	Record Changes of Address	Pay slip sent on next payroll to new address	Contractor
8	Record Change of Bank Details	Pay slip sent on next payroll to advise pensioner that the bank details have been updated	Contractor
9	Calculate Entitlement to Dependants Benefits	See F, above	Contractor
10	Calculate Entitlement to Death Benefits	See F, above	Contractor
11	Process Death Benefits	See F, above	Contractor
H	Maintenance of Records	In accordance with regulations to enable calculation of benefits.	
1	Record Details of Accrued GMP	Within one month of information received from DWP	Contractor
2	Record Details of Pensionable Salary	As and when received	Contractor
3	Record Details of Employee Pension Contributions	Within one month of year end information supplied by payroll department	Contractor
4	Record Address Details	Within 10 days of information being supplied	Contractor
5	Production and submission of statistical reports as required by the CLG	In accordance with Statutory deadlines	Contractor to supply North Yorkshire Fire and Rescue Authority with the data to complete returns to CLG

LOCAL PENSION BOARD

	Action	Time Limit	Responsibility
6	Copy of pension payments made to all pensioners including , widows and children	Monthly	Contractor
I	Purchase of Additional Service for members		
1	Calculate Cost of member Buying Added Years	Details supplied to member within 10 working days of receipt of request	Contractor
J	Injury Pensions/Gratuities* *Payment of Pensions/Gratuities	As specified in the Regulations.	
1	Supply relevant details of injury	Within 10 days of receipt of medical information	North Yorkshire Fire and Rescue Authority
2	Calculate Injury Pension/Gratuity	Within 10 working days of receipt of request	Contractor
3	Pay Injury Pension	From next available payroll following receipt of all required information.	Contractor to pay pension and inform North Yorkshire Fire and Rescue Authority of gratuity to be paid
4	Review/Recalculate Injury Pension	Within 10 days of receipt of details form North Yorkshire Fire and Rescue Authority	Contractor
K	Miscellaneous		
1	Mortality checks to ensure the eligibility of pension payments	As and when required	Contractor
L	Accountancy	As specified in the Regulations	
1	Preparation of reports to comply with Financial Reporting Standard 17 requirements	As agreed between North Yorkshire Fire and Rescue Authority and Contractor	Contractor

North Yorkshire Fire and Rescue Authority

Pension Board

27 January 2016

Reporting breaches of the Law to the Pensions Regulator

Report of the Monitoring Officer

1.0 Purpose of Report

- 1.1 To notify the Board of the Pension Board's responsibility to report breaches of the law to the Pensions Regulator, and to present the proposed Board's procedure for doing so.

2.0 Background

- 2.1 The Public Services Pension Act 2013 introduced a framework for the regulatory oversight of governance and administration of public service pension schemes by the Pensions Regulator.
- 2.2 In April 2015 the Pensions Regulator published its Code of Practice on governance and administration of public service pension schemes. This is not a statement of law, but nonetheless it carries weight and Pension Funds are strongly advised to follow the Code.
- 2.3 The Code covers a number of areas of pension administration, such as scheme record keeping, maintaining contributions and providing information to Fund members, and can be downloaded at www.thepensionsregulator.gov.uk/codes/code-governance-administration-public-service-pension-schemes.astx. The Code provides for a procedure to be established to ensure that those with a responsibility to report on breaches of the law are able to meet their legal obligations. Certain people are required to report breaches of the law to the regulator (such as Scheme Managers, Pension Board Members and those involved with administering the Funds) where they have reasonable cause to believe that:
- a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with and;
 - a failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions.
- 2.4 The proposed procedure for the Pension Board to meet these responsibilities is attached at Appendix A.
- 2.5 The legal considerations are considered above and in the Appendix.

3.0 Recommendation

3.1 The Pension Board is asked to approve the attached reporting breaches of the law to the Pensions Regulator procedure.

BARRY KHAN
Monitoring Officer to the North Yorkshire Fire and
Rescue Authority

County Hall
Northallerton

8 January 2016

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Background Documents: None.

**Procedure for reporting breaches
of the Law to the Pensions
Regulator**

**North Yorkshire Fire and Rescue
Authority Pension Fund**

January 2016

Introduction

- 1 In April 2015 the Pensions Regulator (the Regulator) published its Code of Practice no 14 (the Code) *Governance and administration of public service pension schemes*. This is not a statement of law of itself, but nonetheless it carries great weight. In some respects it is like the Highway Code, in that some of its contents refer to statutory items, whilst others are advisory. The Courts may however also rely on the latter. In the same way, if determining whether any pensions related legal requirements have been met, a court or tribunal must take into account the Code.
- 2 There are many and various laws relating to the Local Government Pension Scheme, with many and various people having a statutory duty to report material breaches of the law to the Regulator. To assist, the Code states that a procedure should be established to ensure that those with a responsibility to make reports are able to meet their legal obligations. This document is that procedure, which relates to all of the Fund's areas of operation.
- 3 Much of the text herein is drawn from the Code itself. Where it has been, the Regulator's copyright applies.

Legal requirements

- 4 Certain people are required to report breaches of the law to the Regulator where they have reasonable cause to believe that:
 - a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with;
 - the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions.
- 5 People who are subject to the reporting requirement ('reporters') for public service pension schemes are:
 - scheme managers;
 - members of the pension board;
 - any person who is otherwise involved in the administration of the Fund (and thus all of the Fund's officers);
 - employers, and any participating employer who becomes aware of a breach should consider their statutory duty to report, regardless of whether the breach relates to, or affects, members who are its employees or those of other employers;
 - professional advisers including auditors, actuaries, legal advisers and fund managers; and

- any person who is otherwise involved in advising the managers of the scheme in relation to the scheme (and thus the Fund's external advisers).

Reasonable cause

- 6 Having 'reasonable cause' to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.
- 7 Reporters should ensure that where a breach is suspected, they carry out checks to establish whether or not a breach has in fact occurred. For example, a member of a funded pension scheme may allege that there has been a misappropriation of scheme assets where they have seen in the annual accounts that the scheme's assets have fallen. However, the real reason for the apparent loss in value of scheme assets may be due to the behaviour of the stock market over the period. This would mean that there is not reasonable cause to believe that a breach has occurred.
- 8 Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to consult the appropriate senior officer, regarding what has happened. It would not be appropriate to check in cases of theft, suspected fraud or other serious offences where discussions might alert those implicated or impede the actions of the police or a regulatory authority. Under these circumstances the reporter should alert the Regulator without delay.
- 9 If the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law to the extent necessary to form a view.
- 10 In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Regulator may require before taking legal action. A delay in reporting may exacerbate or increase the risk of the breach.

Material significance

- 11 In deciding whether a breach is likely to be of material significance to the Regulator, it would be advisable for the reporter to consider the:
 - cause of the breach;
 - effect of the breach;
 - reaction to the breach; and
 - the wider implications of the breach.
- 12 When deciding whether to report, those responsible should consider these points together. Reporters should take into account expert or professional advice, where appropriate, when deciding whether the breach is likely to be of material significance to the Regulator.
- 13 The breach is likely to be of material significance to the Regulator where it was caused by:
 - dishonesty;

- poor governance or administration;
 - slow or inappropriate decision making practices;
 - incomplete or inaccurate advice; or
 - acting (or failing to act) in deliberate contravention of the law.
- 14 When deciding whether a breach is of material significance, those responsible should consider other reported and unreported breaches of which they are aware. However, historical information should be considered with care, particularly if changes have been made to address previously identified problems.
- 15 A breach will not normally be materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had and to be aware that persistent isolated breaches could be indicative of wider scheme issues.

Effect of the breach

- 16 Reporters need to consider the effects of any breach, but with the Regulator's role in relation to public service pension schemes and its statutory objectives in mind, the following matters in particular should be considered likely to be of material significance to the Regulator:
- Pension Board members not having the appropriate degree of knowledge and understanding, which may result in the Board not fulfilling its role, the Fund not being properly governed and administered and/or the Pension Fund Committee breaching other legal requirements;
 - Pension Board members having a conflict of interest, which may result in them being prejudiced in the way that they carry out their role, ineffective governance and administration of the scheme and breaching legal requirements;
 - adequate internal controls not being established and operated, which may lead to the Fund not being run in accordance with the Scheme's Regulations and other legal requirements, risks not being properly identified and managed and/or the right money not being paid to or by the Fund at the right time;
 - accurate information about benefits and Scheme administration not being provided to Scheme members and others, which may result in members not being able to effectively plan or make decisions about their retirement;
 - appropriate records not being maintained, which may result in member benefits being calculated incorrectly and/or not being paid to the right person at the right time;
 - anyone involved with the administration or management of the Fund misappropriating any of its assets, or being likely to do so, which may result in assets not being safeguarded; and

- any other breach which may result in the Fund being poorly governed, managed or administered.

17 Reporters need to take care to consider the effects of the breach, including any other breaches occurring as a result of the initial breach and the effects of those resulting breaches.

Reaction to the breach

18 Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected members, the Regulator will not normally consider this to be materially significant.

19 A breach is likely to be of concern and material significance to the Regulator where a breach has been identified and those involved:

- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
- are not pursuing corrective action to a proper conclusion;
- fail to notify affected scheme members where it would have been appropriate to do so.

Wider implications of the breach

20 Reporters should consider the wider implications of a breach when they assess which breaches are likely to be materially significant to the Regulator. For example, a breach is likely to be of material significance where the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future. This may be due to the scheme manager or pension board members having a lack of appropriate knowledge and understanding to fulfil their responsibilities or where other pension schemes may be affected. For instance, public service pension schemes administered by the same organisation may be detrimentally affected where a system failure has caused the breach to occur.

Examples of breaches

Example 1

22 An employer is late in paying over employee and employer contributions, and so late that it is in breach of the statutory period for making such payments. It is contacted by officers from the administering authority, it immediately pays the moneys that are overdue, and it improves its procedures so that in future contributions are paid over on time. In this instance there has been a breach but members have not been adversely affected and the employer has put its house in order regarding future payments. The breach is therefore not material to the Regulator and need not be reported.

Example 2

23 An employer is late in paying over employee and employer contributions, and so late that it is in breach of the statutory period for making such payments. It is also late in paying AVCs to the AVC provider. It is contacted by officers from the administering authority, and it eventually pays the moneys that are overdue, including AVCs to the provider. This has happened before, with there being no

evidence that the employer is putting its house in order. In this instance there has been a breach that *is* relevant to the Regulator, in part because of the employer's repeated failures, and also because those members paying AVCs will typically be adversely affected by the delay in the investing of their AVCs.

Example 3

- 24 An employer is late in submitting its statutory year-end return of pay and contributions in respect of each of its active members and as such it is in breach. Despite repeated reminders it still does not supply its year-end return. Because the administering authority does not have the year-end data it is unable to supply, by 31 August, annual benefit statements to the employer's members. In this instance there has been a breach which *is* relevant to the Regulator, in part because of the employer's failures, in part because of the enforced breach by the administering authority, and also because members are being denied their annual benefits statements.

Example 4

- 25 A pension overpayment is discovered and thus the administering authority has failed to pay the right amounts to the right person at the right time. A breach has therefore occurred. The overpayment is however for a modest amount and the pensioner could not have known that (s)he was being overpaid. The overpayment is therefore waived. In this case there is no need to report the breach as it is not material.

Submitting a report to the Regulator

- 26 Before you submit a report you should obtain clarification of the law around the suspected breach. If:
- you are a member of the Pension Fund Committee, Local Board or you are an external adviser, please contact the Fire and Rescue Authority's Monitoring Officer;
 - you are an actuary, auditor or other external agent, please contact the Director of Finance;
 - you represent an employer, please contact the Pensions Manager;
 - you are an officer of the Fund and you work in Administration, please contact your Service Manager or Director of Finance.
- 27 The person you contact will consider in the round whether the Regulator would regard the breach as being material. (S)he will also clarify any facts, if required. If the case is a difficult one (s)he will seek advice, as required.
- 28 Some matters could be urgent, if for example a fraud is imminent, whilst others will be less so. Non-urgent but material breaches should be reported to the Regulator within 30 working days of them being confirmed, and in the same time breaches that are not material should be recorded (see later).
- 29 Some breaches could be so serious that they must always be reported, for example a theft of funds by anyone involved with the administration or management of the Fund. It is difficult to be definitive about what constitutes a breach that must always be reported, but one test is: might it reasonably lead to a criminal prosecution or a serious loss in public confidence?

- 30 Any report that is made (which must be in writing and made as soon as reasonable practicable) should be dated and include as a minimum:
- full name of the Fund;
 - description of the breach or breaches;
 - any relevant dates;
 - name of the employer or scheme manager (where known);
 - name, position and contact details of the reporter; and
 - role of the reporter in relation to the Fund.
- 31 Additional information that would help the Regulator includes:
- the reason the breach is thought to be of material significance to the Regulator;
 - the address of the Fund;
 - the pension scheme's registry number (if available); and
 - whether the concern has been reported before.
- 32 Reporters should mark urgent reports as such and draw attention to matters they consider particularly serious. They can precede a written report with a telephone call, if appropriate.
- 33 Reporters should ensure they receive an acknowledgement for any report they send to the Regulator. Only when they receive an acknowledgement can the reporter be confident that the Regulator has received their report.
- 34 The Regulator will acknowledge all reports within five working days of receipt, however it will not generally keep a reporter informed of the steps taken in response to a report of a breach as there are restrictions on the information it can disclose.
- 35 The reporter should provide further information or reports of further breaches if this may help the Regulator to exercise its functions. The Regulator may make contact to request further information.
- 36 Breaches should be reported as soon as reasonably practicable, which will depend on the circumstances. In particular, the time taken should reflect the seriousness of the suspected breach.
- 37 In cases of immediate risk to the Fund, for instance, where there is any indication of dishonesty, the Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these necessary checks. In cases of potential dishonesty the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert the Regulator to the breach.

Recording breaches that have not been reported to the Regulator

- 38 Breaches that are found not to be material to the Regulator must still be recorded. This is so that if similar breaches continue, then they become material. Recording all breaches also highlights where improvements are required, to try and prevent similar breaches.
- 39 Breaches that are not being reported should be recorded and sent to the Director of Finance who will maintain an in-house spreadsheet.

Whistleblowing protection and confidentiality

- 40 The Pensions Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality and that any such duty is not breached by making a report. The Regulator understands the potential impact of a report on relationships, for example, between an employee and their employer.
- 41 The statutory duty to report does not, however, override 'legal privilege. This means that oral and written communications between a professional legal adviser and their client, or a person representing that client, while obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.
- 42 The Regulator will do its best to protect a reporter's identity (if desired) and will not disclose the information except where lawfully required to do so. It will take all reasonable steps to maintain confidentiality, but it cannot give any categorical assurances as the circumstances may mean that disclosure of the reporter's identity becomes unavoidable in law. This includes circumstances where the regulator is ordered by a court to disclose it.
- 43 The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the regulator. Consequently, where individuals employed by firms or another organisation having a statutory duty to report disagree with a decision not to report to the Regulator, they may have protection under the ERA if they make an individual report in good faith. The Regulator expects such individual reports to be rare and confined to the most serious cases.

Whistleblowing policy

- 44 The Fire and Rescue Authority has own whistleblowing policy. The person contacted about the potential breach will take this into account when assessing the case.