

LOCAL PENSION BOARD

Report of the Pensions Administrator / Manager

1 October 2019

PENSIONS UPDATE

1.0 Purpose of Report

1.1 To provide Members with information on scheme membership and scheme changes as well as training, governance and communication issues.

2.0 Introduction

2.1 This 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 30 August 2019 (for Wholetime Firefighters) and 15 August 2019 (for On-Call Firefighters) and compared with active membership as at 10 May 2019 (15 May 2019 for On-Call Firefighters).

3.1.1

Firefighters' Pension Schemes Membership	Wholetime	
	30/08/2019	10/05/2019
1992	49	51
2006	3	3
2015	230	224
Retained Modified	5	5
Opted Out	28	25

3.1.2 The variations for wholetime membership are as follows:

- **1992 scheme** 2 retirements
- **2006 scheme** no movement
- **2015 scheme** 12 starters (WT recruitment, on-call staff on temporary WT or OSR posts)
3 opt outs
3 leavers
- **Retained modified scheme** no movement

- **Opt Outs** 3 members have chosen to opt out of the 2015 Scheme. Whilst this report shows the running total number of opt outs I intend reporting on the number of opt outs who are still in service. This brings the number down to **15** (see item 6.9 auto enrolment)

3.2

Firefighters' Pension Schemes Membership	On-Call	
	15/08/2019	15/05/2019
1992	0	0
2006	6	6
2015	278	288
Retained Modified	13	14
Opted Out	32	30

3.2.1 The variations for On-Call membership are as follows:

- **2006 scheme** no movement
- **2015 scheme** 6 starters (new employees)
2 opt outs
14 leavers
- **Retained modified scheme** 1 retirement
- **Opt Outs** 2 members have chosen to opt out of the 2015 scheme. Whilst this report shows the running total number of opt outs I intend reporting on the number of opt outs who are still in service. This brings the number down to **22** (see item 6.9 auto enrolment)

3.3 The following table shows the retired members according to each scheme as at 6 September 2019 compared to 1 June 2019. All scheme pension membership continues to be split between pensioners and dependants.

3.3.1

Firefighters' Pensions Schemes Retired Membership	06/09/2019	01/06/2019
1992 (Pensioners)	436	428
1992 (Dependants – widow / partner / child pension)	82	82
2006	17	17
2006 (Dependants – widow / partner / child pension)	2	2
2015	9	8

2015 (Dependants – widow / partner / child pension)	2	2
Retained Modified	47	44
Retained Modified (Dependants – widow / partner / child pension)	0	0

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

- **1992 scheme** 9 retirement from active status implemented
1 death of a pensioner
- **2006 scheme** no movement
- **2015 scheme** 1 retirement from active status implemented
- **Retained modified scheme** 2 retirements from active status implemented
1 retirement from deferred status implemented

3.4 The following table shows the deferred members of each scheme as at 6 September 2019, compared to those as at 1 June 2019.

3.4.1

Firefighters' Pensions Schemes Deferred Membership	06/09/2019	01/06/2019
1992	30	29
2006	141	141
RDS Modified	31	31
2015	129	129

3.4.2 The variations in deferred pension members cover pensions that have come into payment, leavers and those who have opted out of the scheme (who don't qualify for a refund of their contributions).

4.0 Internal Dispute Resolution Procedure (IDRP)

4.1 There is an Internal Dispute Resolution Procedure for dealing with any complaints. Initial information can be accessed at:

<http://www.wyfpf.org.uk/Member/Fire/IDRP/InternalDisputeResolutionPro.aspx>

4.2 Since the last meeting of the Pensions Board in July 2019, there have been no new IDRP complaints, however one complaint that had previously been through the IDRP process during 2018 has now been referred by the member to the Pensions Ombudsman.

4.3 The case concerns a former on-call firefighter who claims he was denied the opportunity to buy backdated membership of the modified 2006 section back in 2014/5. The IDRP Stage 2 decision from July 2018 upheld the Stage 1 outcome; it dismissed his claim that he was omitted from the exercise: his details were included on the spreadsheet of eligible members and that there was no reason to believe the letter did not reach his home address.

4.4 The Pensions Administrator / Manager will respond to the office of the Pensions Ombudsman before the deadline of 26 September to effectively reiterate the message that reasonable endeavours were taken to contact Mr Whittle.

5.0 Pension Board Training Update

5.1 The following items have taken place since the last meeting (at time of writing):

- Pensionable pay workshop – 18 July 2019

5.2 Future LGA national training courses, that are of particular relevance to pension boards, are:

- Firefighters' Pensions AGM – 24 / 25 September 2019 (Pensions Administrator / Manager attending)
- Pension tax seminar – 12 November 2019 (no booking details available as yet)

5.3 Additional training scheduled for Board members:

- Pensions taxation (to be delivered by West Yorkshire Pension Fund (WYPF) – 1 October 2019 Board meeting)
- South Yorkshire Fire & Rescue Authority Local Authority local pensions board meeting (with LGA training session for local pensions board) – the Pensions Administrator / Manager and the Chair of the Board attending
- Overview of each of the Firefighters' Pension Schemes (to be delivered by WYPF) – 10 December 2019 Board meeting

6.0 Other Work Items

6.1 Annual Benefit Statements were issued by WYPF before the statutory deadline of 31 August 2019 in all cases **except** to those with benefits in the modified retained section of the 2006 scheme. This means 19 members did not receive their statement.

WYPF advised clients that these statements would be delayed on 13 August and the Pensions Administrator / Manager relayed this to the affected members the following week. The reason of the delay was due to this being the first year of including this particular scheme's calculations within the pensions software.

Members should receive their statement during the first week of October.

In light of this the Pensions Administrator / Manager has updated the breach register to reflect this incident. The Board are asked whether they believe it material to the extent it be reported to the Pensions Regulator.

6.2 Pension Savings Statements are on course to meet their statutory deadline of 6 October. Details have been given to WYPF for those members that appear to be close to the annual allowance (£40,000).

6.3 The annual capture of CPD contributions for members of the 1992 and 2006 schemes was provided to WYPF before their deadline of 31 August.

6.4 Extensive work was undertaken in identifying members eligible to retire (from each of the schemes) between 2019/20 to 2024/25, as well as predicting future opt outs and

ill-health retirements per year. This information formed part of the annual work to the Home Office in order to determine the top up grant payable to NYFRS.

- 6.5 Data quality continues to be a top priority. WYPF issued each client with a Data Improvement Plan showing how the quality of data is improving (or otherwise!) since the initial assessment in November 2018. Overall the quality of data is improving for NYFRS (see page 6 of the Data Improvement Plan).

The ultimate aim is to clear all the data errors this exercise produces which is why WYPF run the results quarterly to make sure nothing new appears and that we are keeping a check on the urgent areas which would affect member benefits.

- 6.6 Staying with data, the LGA wrote to Chief Fire Officers and pension board chairs on the subject of of certain data being excluded from the 2016 valuation. Whilst the Government Actuary's Department (GAD) confirmed that this data exclusion was not considered material to the outcome of the valuation, the Scheme Advisory Board agreed to pick this up and liaise with fire authorities and administrators whose data was excluded as part of the work in raising data standards.

GAD's individual data report for NYFS is attached. This attempts to clarify why data provided for the purposes of setting valuation assumptions in 2016 may not have been considered usable. After speaking with WYPF this matter will be discussed at the October client meeting. The initial feeling is that much housekeeping work has been done during the intervening time to tidy records which should result in a much improved position for the 2020 valuation.

- 6.7 National website: as part of the ongoing work to implement this site, members of the Communications Working Group were each asked to contribute towards certain content. The Pensions Administrator / Manager provided wording on deferred benefits for each of the schemes, and this will be discussed further at the next meeting on 16 October.

- 6.8 The Pensions Regulator's annual survey is once again due before the end of September; this will once again ask for information on data scores and details of breaches during the year. The Pensions Administrator / Manager will complete this alongside the Chair of the pensions board.

- 6.9 Automatic re-enrolment is the process of opting people back into a pension pension scheme where they had previously opted out. This takes place every three years, and we need to comply before the end of November 2019.

Following a meeting between Payroll / Finance, the Pensions Administrator / Manager and Central Administration, North Yorkshire Fire and Rescue Service will regard 15 November as the re-enrolment date. Letters will be issued w/c 14 October to advise people beforehand that they will be placed back into the pension scheme. All members currently employed who have opted out more than 12 months ago will be placed back into the scheme (and will need to opt out again if that's what they wish to do).

- 6.10 WYPF recently wrote to the Pensions Administrator / Manager with details of 28 outstanding leaver forms. The majority involve individuals who left a number of years ago. A deadline of 31 December has been given to finalise these.

7.0 Legislative update

There have been no new items of legislation laid since the July Board meeting.

8.0 Firefighters' Pension Schemes Bulletins Summary

8.1 **Written Ministerial Statement: Public Service Pensions**

The Government made a written statement on 15 July 2019 accepting the court's decision in the Firefighters Transitional Protection Challenge, also known as 'McCloud and Sargeant'. The Government will now engage with the employment tribunal to agree remedy. The written statement goes further to confirm that government believe that remedy will apply across all the public sector schemes, these include schemes for NHS, Civil Service, Local Government, Teachers, Police, Armed Forces, Judiciary and Fire and Rescue workers.

Effect on scheme member benefits

While we appreciate that members may have questions about how their benefits may change in the future, until the remedy has been determined by the employment tribunal, the scheme re-valued and any regulations changed as a result we cannot speculate on this.

Until the regulations are amended, all scheme transactions will be based on the regulations as they currently stand, this includes retirements, applications for ill-health retirements, benefit projections and Annual Benefit Statements as at 31 March 2019.

FBU letter – McCloud and Cost Management

The Fire Brigades Union (FBU) recently wrote to the Chief Secretary to the Treasury, requesting that the cost management improvements, currently on hold following a Court of Appeal decision in December 2018, should be implemented in addition to any changes as a result of the McCloud judgement for the Firefighters Pension Scheme. Currently, the cost management process itself is on hold pending the outcome of the McCloud judgement. However, transitional protection is currently not included in the cost management process and the FBU is requesting the decoupling of the cost management process from the McCloud outcome. As far as we are aware, there has been no reply to date from HM Treasury to FBU's letter.

8.2 **LPB draft terms of reference updated**

Following recommendations in the Pensions Regulator's Governance and administration survey 2017, and the Scheme Advisory Board's survey of local boards, LGA have taken the opportunity to update the draft terms of reference for boards, particularly around frequency of meetings and length of term for members.

This national template was also consulted when revisiting NYFRS terms of reference.

8.3 **What to expect when a complaint is referred to The Pensions Ombudsman**

An overview of our process

A complaint will follow one of two distinct workstreams.

'**Early resolutions**' for complaints which usually have not been through a scheme's internal dispute resolution procedure (IDRP) but are otherwise thought to be within our jurisdiction.

We look to bring the matter to a close as early as possible to shorten the complaint journey for everyone. Early resolution will never result in a final decision being made by an Ombudsman since that can only happen if all the requirements have been met in relation to our jurisdiction, including IDRP being completed, or attempted. Early resolutions break down into two categories that we have called:

- **‘Quick responses’** where a problem can be solved with minimum intervention. We might contact the pension scheme, but these are generally problems that can be sorted out through a conversation with the complainant.
- **‘Cases’** where some intervention is required including contact with all the parties to the complaint. These are handled by our in-house specialist team, assisted by our 240 highly experienced volunteers drawn from the pensions industry. We are likely to contact the pension scheme to, for example, provide further information or a view on how the matter might be resolved.

‘Investigations’

For complaints which have been through the IDR, or other internal complaints process, and are deemed to be within our jurisdiction, for example, within our time limits.

These are investigated by our team of adjudicators. Usually, the pension scheme will be invited to provide a formal response to the complaint. The adjudicator will gather additional evidence they consider is necessary to reach a view on the matter. An investigation will usually result in an adjudicator issuing their opinion on the matter to all the parties to the complaint. Many complaints are resolved this way. But all parties have a right to ask for the matter to be determined by an Ombudsman. In some cases, the Ombudsman will issue a preliminary decision, followed by a determination.

The Ombudsman’s determinations are binding on all the parties and can be challenged, on a point of law, through the courts.

How you can help us

It can speed up the investigation process if we get some key information early on. If your scheme is asked to provide a formal response to a complaint, it helps if that includes:

- evidence relied on when making decisions under the IDR
- details, and sight, of any Regulations or Guidance that are relevant to the complaint
- for complaints involving pensionable pay:
 - the member’s contract and any contract specific to the allowance
 - any changes to the member’s role over the relevant period
 - confirmation of which scheme(s) apply
 - details of how the allowance was paid.

8.4 Pensionable pay workshop – event summary

Over 70 delegates attended the event on 18 July 2019, in order to discuss the challenge of interpreting pensionable pay within the legislation and case-law.

The morning session was opened by Clair Alcock who outlined how 45 different decision makers, caselaw, and legislation combine to provide complexity in determining pensionable pay. This was followed by an in-depth look at the most recent case Booth vs Mid and West Wales from Jane Marshall, partner at Weightmans LLP and legal adviser to the Fire Scheme Advisory Board.

Steven Pope, Head of Human Resources at Devon and Somerset Fire then delivered a practitioner’s insight into pensionable pay decision making. Jane Marshall gave a case-law round up and a discussion on what steps Fire Authorities now need to take

to remedy pensionable pay. The number of questions received during Jane and Steven's sessions demonstrated how valuable it is to hear first-hand issues on pensionable pay.

Following lunch, Clair Alcock shared some thoughts on decision making to ensure that pensionable pay is considered at the heart of any pay structure. James Durrant, Pensions Manager at Essex Fire Authority shared some insight into tax consequences of retrospective action to ensure that where action is taken, tax law is complied with.

8.5 **Aon administration and benchmarking review – final report**

In 2018, the Scheme Advisory Board (SAB) commissioned an administration and benchmarking review with the aim of establishing how much the scheme costs to run and how effective administration is.

With regard to the cost of the scheme, readers should note that this is a first attempt to analyse how much the scheme costs to run; some FRAs were not able to provide any cost information and others only some. Therefore, the costs indicated in the report cannot be taken at this stage to be a completely accurate reflection. Nevertheless, the Board feel that this was a worthwhile first step and will be looking to collate costs on an annual basis going forward in order to establish a more accurate reflection.

8.6 **A word about breaches**

At Annual Benefit Statement (ABS) time a lot of queries are raised about breaches of law if statements haven't been issued by 31 August, even if this is just for a limited number of members.

Reminder: ALL breaches of law must be recorded and assessed for materiality. If the breach is considered to be material then it should be reported to TPR.

8.7 **New factsheet – Compensatory ill-health pensions**

Following recent discussions at the Firefighter Pensions Technical Community, LGA have produced a factsheet on compensatory ill-health pensions paid to retained firefighters.

This factsheet has been prepared to give guidance to FRAs on when entitlement to a compensatory 'ill-health' pension payable under The Firefighters' Compensation Scheme (England) Order 2006 ("compensation scheme") arises for a retained firefighter who was employed prior to 6 April 2006 and where the injury occurred before 1 April 2014.

These firefighters were given compensatory provisions under the compensation scheme rules because they could not join the Firefighters' Pension Scheme 1992 (FPS 1992).

9.0 **West Yorkshire Pension Fund Key Performance Indicators**

9.1 WYPF provides monthly reporting on administration matters and Key Performance Indicators (KPI). The latest KPI results are shown below. There are no concerns to report.

North Yorks Fire (1 to 31 August 2019)						
WORKTYPE	TOTAL CASES	TARGET DAYS FOR EACH CASE	TARGET MET CASES	MINIUM TARGET PERCENT	TARGET MET PERCENT	AVERAGE TIME TAKEN
Transfer In Quote	1	10	1	85	100	1
Pension Estimate	1	10	1	85	100	0
Pension Set Up Payment of Lump Sum	1	3	1	85	100	1
Retirement Actual	1	10	1	85	100	1
Change of Address	3	20	3	85	100	1
Change of Bank Details	2	20	2	85	100	1
General Payroll Changes	3	20	3	85	100	1
Life Certificate received	9	5	9	85	100	2
Death Grant Nomination Form Received	7	20	7	85	100	4
Initial letter Death in Retirement	1	5	1	85	100	1
Death in Retirement	1	5	1	85	100	1

10.0 Recommendations

10.1 That Members note the content of the report and:

- agree that the number of opt outs should only deal with individuals who are still employed (paragraphs 3.1.2 and 3.2.1); and
- consider whether the breach in issuing the annual benefit statements for the 19 members of the modified scheme warrant reporting to the Pensions Regulator (paragraph 8.6)

David Hood

Pensions Administrator / Manager

23 September 2019

Background documents:

2015 Firefighters' Scheme Complaints and Dispute process:

<http://www.wypf.org.uk/Member/Fire/IDRP/InternalDisputeResolutionPro.aspx>

North Yorkshire Fire Data Improvement Plan 2018

Aon's benchmarking: final report