

## LOCAL PENSION BOARD

### Report of the Pensions Administrator / Manager

27 March 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 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 15 February 2019 compared to 3 August 2018 for Wholetime Firefighters and 15 August 2018 for On-Call Firefighters.

3.1.1

Firefighters' Pension Schemes Membership	Wholetime	
	15/02/2019	03/08/2018
1992	53	71
2006	3	3
2015	221	208
Retained Modified	5	8
Opted Out	23	21

The variations for wholetime membership are as follows:

- **1992 scheme**            5 transitioned to 2015 scheme  
                                 18 retirements
- **2006 scheme**            no movement
- **2015 scheme**            7 transitioned in from 1992 scheme  
                                 12 starters (WT recruitment, RDS staff on temporary WT or OSR posts)  
                                 4 leavers  
                                 2 opt outs (OSR posts, automatic enrolment)
- **Retained modified scheme**    2 transitioned to 2015 scheme  
                                 1 retirement

- **Opt Outs** 2 members have chosen to opt out of the 2015 Scheme

### 3.1.2

Firefighters' Pension Schemes Membership	On Call	
	15/02/2019	15/08/2018
1992	0	0
2006	7	9
2015	287	285
Retained Modified	16	22
Opted Out	29	27

The variations for On Call membership are as follows:

- **2006 scheme** 1 leaver  
1 retirements
- **2015 scheme** 27 starters (new employees)  
2 transitioned in from 2006 Scheme  
2 opt outs  
25 leavers
- **Retained modified scheme** 5 retirement  
1 transitioned to the 2015 Scheme
- **Opt Outs** 2 member has chosen to opt out of a scheme

3.2 The following table shows the pension members according to each scheme as at 27 February 2019 compared to 1 August 2018. 1992 and 2006 scheme pension membership continues to be split between pensioners and dependants.

### 3.2.1

Firefighters' Pensions Schemes Membership	27/2/2019	01/08/2018
1992 (Pensioners)	428	420 *
1992 (Dependants – widow / partner / child pension)	81	79
2006	14	14
2006 (Dependants – widow / partner / child pension)	2	1
2015	6	2
2015 (Dependants – widow / partner / child pension)	2	2
Retained Modified	43	39

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

- **1992 scheme** \* 432 previously reported in error  
14 retirements implemented  
7 deaths of a pensioner  
1 Pension Sharing Order implemented  
2 widow's pension implemented
- **2006 scheme** 2 retirement implemented  
2 members moved to the 2015 scheme (incorrectly recorded as 2006 members originally)

- **2015 scheme** 2 retirement implemented  
2 members moved to the 2015 scheme (incorrectly recorded as 2006 members originally)  
1 allowance made for historic ill-health / appeal case
- **Retained modified scheme** 5 retirement implemented  
1 death of a pensioner

3.3 The following table shows the deferred members of each scheme as at 27 February 2019, compared to those as at 1 August 2018.

3.3.1

Deferred data	27/02/2019	01/08/2018
1992	29	32
2006	147	156
RDS Modified	30	36
2015	122	107

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

#### 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.wypf.org.uk/Member/Fire/2015/Active/AppealsComplaints/AppealsAndComplaints.aspx#Ombudsman>

4.2 Since the last meeting of the Pensions Board in September 2018, there have been no complaints.

#### 5.0 **Pension Board Training Update**

5.1 The following items on this meeting's agenda are suitable for inclusion on the Pension Board Training Register:

This afternoon's pension board training delivered by Claire Hey of the LGA will provide an essential insight into the role of the pensions board and the duties of the individual members

There are upcoming training courses hosted by the LGA, which I'm sure Claire will cover, but of particular relevance from a governance / data perspective is the 'data seminar' (3 April 2019) and the 'LPB effectiveness committee' (18 April 2019).

Other relevant sessions that would demonstrate members' gaining their requisite knowledge and understanding would be the 'ill health medical appeals seminar' (19 June 2019), the 'pensionable pay workshop' (18 July 2019) and the 'pensions tax seminar' (12 November 2019).

A discussion needs to take place between the board to ascertain which events should be attended (and by whom).

## **6.0 Valuation Update and Employers' Pension Contributions**

- 6.1 On 28 February 2019 the final results of the actuarial valuation of the combined (1992, 2006 and 2015) schemes as at 31 March 2016 were published. It has been prepared following the Government's decision to pause the operation of the cost control mechanisms (see the 'Firefighters' Pension Schemes Bulletins Update' section for more information) pending the outcome of its appeal of a Court of Appeal judgment, but implements employer contribution rates from 1 April 2019 as if the cost control mechanisms had not been paused. In her written ministerial statement made on 30 January 2019 the Chief Secretary to the Treasury announced that there would be a pause to the cost cap process until there is certainty about the value of pensions to employees from April 2015 onwards.

In his letter to the Government Actuary dated 13 February 2019, the Director of Public Spending explained that Government's policy is for employer contribution rates to be implemented as if the cost cap process had not been paused. The WMS confirmed that, should the Court of Appeal's ruling in the McCloud/Sargeant case be overturned, the cost cap mechanism will be resumed and any consequent changes in the 2015 Scheme would be implemented as planned.

An average **corrected employer contribution rate** of 30.2% of pensionable pay has been calculated under HMT Directions for the **implementation period** (April 2019 to March 2023), with the following scheme-specific rates applying during this period:

- 1992 (and the 'modified' section of the 2006) scheme: 37.3% of pensionable pay
- 2006 scheme: 27.4% of pensionable pay
- 2015 scheme: 28.8% of pensionable pay

Members contribution rates, in terms of percentage rates and pay bands, remain unaltered from 2018/19.

The full valuation report can be found at:

<http://www.fpsregs.org/images/Valuation/Valuation2016FV.pdf>

## **7.0 Other Work Items**

- 7.1 GMP reconciliation

WYPF have confirmed that all queries were lodged by the deadline date of 31 October 2018.

- 7.2 Survey responses

On 30 November 2018 the Annual Return was completed and filed with the Pensions Regulator.

On 14 January 2019 the Employers benchmarking survey was submitted on behalf of North Yorkshire Fire & Rescue Service (in their role as Scheme Manager). By way of background, both the Scheme Manager and Administrator surveys were issued by email on 23 November. The original deadline for completion was 31 December, but this was extended to 14 January 2019.

On 21 January 2019 the survey for members was launched, and ran until 28 February. The Pensions Administrator/Manager advertised the survey in February's Information Bulletin.

Aon were commissioned to undertake the review by the Scheme Advisory Board (SAB), to help them establish a measure of the cost and effectiveness of administration and management within the schemes.

Both submissions are appended to this report for board members to note.

## 8.0 **Legislative update**

2018/997 The Police and Firefighters' Pensions (Amendment) Regulations 2018

2018/1218 The Occupational Pensions (Revaluation) Order 2018

2019/378 The Police and Firefighters' (Pensions etc.) (Amendment) (England and Wales) Regulations 2019

## 9.0 **Firefighters' Pension Schemes Bulletins Update**

### **Pensionable pay update**

The Pensions Ombudsman (TPO) TPO published decision PO-14863 on pensionable pay in respect of the Welsh Firefighter schemes that will be of interest to English Fire Authorities. The Scheme Advisory Board (SAB) legal adviser will hopefully give guidance on what this means for all Fire Authorities in due course.

The case considers a number of different pensionable pay elements across the pension schemes:

<b>Pensionable Element</b>	<b>Scheme</b>	<b>TPO decision - Relevant paragraphs</b>	<b>TPO judgment</b>
Training Allowance	1992	45-49	Pensionable
Day Crewing	2007* & 2015	50-69	Not pensionable
Self-Rostered Crewing	2007* & 2015	70-71	Not pensionable
USAR	2007* & 2015	72-78	Pensionable

\*2006 Scheme in England

Please note the issues in pensionable pay cases are finely balanced and often depend on the exact detail and nature of the payments. You should read the judgment with this

in mind and obtain legal advice before making any pensionable pay decisions for your Fire Authority. It is possible that TPO decision will be appealed.

### **SI 2018/997 member disclosure under regulation 8 part 1 of Schedule 2 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013**

Schemes must inform members of any material change to basic scheme information within three months. The recent changes to the FPS following the introduction of The Police and Firefighters' Pension (Amendment) Regulations 2018 (made on 13 September 2018 and coming into force on 8 October 2018 ([SI 2018/997](#))).

WYPF wrote to affected members during December 2018 (well before the 8 January 2019 deadline). A specimen of the letter is included.

### **Civil partnerships to be extended to opposite sex couples**

At the Conservative Party Conference, Theresa May announced that heterosexual couples will be able to enter into civil partnerships. The move follows a decision of the Supreme Court [UKSC 2017/0060] on 27 June 2018 that the existing law around civil partnerships was incompatible with the European Convention on Human Rights as it only permitted civil partnerships between same-sex couples.

### **Amendments to Firefighter Pension Schemes (England) - Consultation**

On 18 December 2018 the Home Office launched a consultation on changes to survivor benefits in the Firefighters' Pension Scheme 1992 and the Firefighters' Compensation Scheme 2006, plus a minor unrelated correction to the Firefighters' Pension Scheme 1992.

In the event of a member's death, the firefighters' pension schemes provide for the payment of certain benefits and awards to a member's spouse or partner ('survivors' benefits'), but as regards qualification for benefit, there are different regulations according to which particular pension scheme the member belonged.

A recent Supreme Court case relating to the entitlements of a pension scheme member's partner has led the Government to give fresh consideration to this matter for all public service pension schemes, including those for firefighters.

In addition, an unrelated minor amendment is required to ensure that one particular aspect of the 1992 Fire scheme (concerning 'split' pensions) works as originally intended. The consultation included the draft legislation and ran until 29 January 2019.

The Pensions Administrator / Manager responded to the survey, and the enacted regulations were laid before Parliament on 28 February, and will come into force 1 April 2019. The regulations (The Police and Firefighters' (Pensions etc.) (Amendment) (England and Wales) Regulations 2019) can be viewed via the hyperlink provided via the 'Legislative Update' above.

### **Revised Fire (England) factors**

Further to the letter issued by the Home Office on 31 October regarding the review of scheme factors due to the change to the SCAPE discount rate, GAD has provided the following replacement factors:

Effective 31 October 2018:  
Commutation on retirement: factors and guidance

Effective 6 December 2018:  
Early and Late retirement.  
CETV and Pensioner Cash Equivalent (for divorce purposes).

Effective 11 January 2019:  
Added Years/Added Pension and CPD

Effective 24 January 2019:  
Tax charge debits  
These factors replace those currently in use. This is still the case when calculating a scheme pays debit for a pensions tax charge incurred in the 2017/2018 year.  
The impact of the change in discount rate is generally that members using Scheme Pays to meet Annual Allowance or Lifetime Allowance tax charges will need to convert a lower amount of pension to pay a given charge.

Effective 18 February 2019:  
Trivial commutation

Effective 1 April 2019:  
Club transfer factors

GAD has informed us that they will update the guidance and example calculations to reflect these revised factors at a later date.

**ACTION: Pension Board Chairs and Scheme Managers, please ensure you liaise with your pension manager to ensure that the factors are applied with immediate effect.**

[this has already been done by the Pensions Administrator / Manager]

### **Public Service Pension Indexation and Revaluation 2019**

On 20 February 2019, HM Treasury issued a written statement [HCWS1347] to confirm that public service pensions will be increased from 8 April 2019 by 2.4 per cent, in line with the annual increase in the Consumer Prices Index up to September 2018.

Revaluation for active members of FPS 2015 is applied in line with Average Weekly Earnings up to September 2018. The figure for the earnings element of revaluation is 2.8 per cent.

### **Transitional protections – what is remedy?**

Further to the court of appeal judgment and our brief statement in December 2018, there are still some questions with regards to the outcome of the judgment.

We understand that government have now appealed to the Supreme Court. If the Supreme Court reject the case for appeal then the next step is to remit to the employment tribunal for a decision on 'remedy'.

While recognising that we are unable to speculate on what the remedy might be, we thought it would be helpful to confirm what it is that needs to be remedied.

The transitional appeals case has centred on whether the transitional provisions of the 2015 scheme are lawful. There has been no challenge to the primary legislation, the Public Services Pensions Act 2013 [18], which restricts the continuing provision of the existing final salary schemes. Therefore it is only by the virtue of the transitional provisions in the 2015 scheme that some members have been protected and continue to have pension benefits calculated in the 1992 or 2006 scheme.

As the court of appeal have found the transitional protections are unlawful, the question of remedy centres on how the transitional provisions should be made lawful, and how taper protected and unprotected members who have been subject to those provisions from the date the legislation came into force (1 April 2015) and moved into the 2015 scheme would be compensated if required.

### **The Public Service Pensions (Valuations and Employer Cost Cap) (Amendment and Savings) Directions 2019**

On 30 January 2019, HM Treasury issued a written ministerial statement with regards to the effect of the recent judgments on the McCloud and Sargeant cases on the valuation.

As a result of this announcement, the cost cap rectification process for the Firefighter Pension Scheme will be suspended, pending the outcome to the Government's appeal.

HM Treasury has also advised that the employer rate that Fire and Rescue Authorities pay towards firefighter pensions should be increased as of 1 April 2019, with the average rate of 30.2% applying.

### **There will be no changes to firefighter pension schemes member's contribution rate or the accrual rate at this stage.**

In light of the above, the Board's proposal to the Home Office on rectification of the cost cap breach will be suspended. Any consultation and response documents will be published once they are available, and monthly updates will be provided in the bulletins.

The current position on this is given in the Valuation Update and Employers' Pension Contributions

### **Website resource update – ill health**

In November 2018 LGA advertised their new ill health and injury page for practitioners, containing guidance and training materials along with forms for each scheme that were prepared in 2015 and circulated as drafts for authorities to use if they wished.

Authorities need to note that a new version of FPS 1992 Medical Certificate B (deferred pension medical opinion) has been added to the site, incorporating a question to ascertain whether the deferred member is "permanently incapacitated by physical or mental infirmity from engaging in any regular full-time employment", in order to determine eligibility for immediate payment of Pensions Increase if they are below the age of 55 when the deferred pension comes into payment.

FRA's should also bear in mind that Rule B5(4) was amended by SI 2005/2980 to state that a deferred pension could be paid before age 60 "*from any earlier date on which he becomes permanently disabled for engaging in firefighting or performing any other duties appropriate to his former role as a firefighter*". Therefore, the member needs to be incapacitated from all the duties of his/her former role, not just firefighting, to be eligible for a deferred award on the grounds of ill health.



## 10.0 Update from National Groups

- 10.1 Communications Working Group (30 January 2019): an update will be provided by the Pensions Administrator / Manager
- 10.2 Technical Community (12 February 2019): an update will be provided by the Pensions Administrator / Manager

## 11.0 West Yorkshire Pension Fund Key Performance Indicators

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

North Yorks Fire (1 to 28 February 2019)						
WORKTYPE	TOTAL CASES	TARGET DAYS FOR EACH CASE	TARGET MET CASES	MINIUM TARGET PERCENT	TARGET MET PERCENT	AVERAGE TIME TAKEN
Transfer In Quote	2	10	0	85	0	50
Deferred Benefits Set Up on Leaving	65	10	12	85	18.46	125
Pension Estimate	10	10	6	85	60	8
Deferred Benefits Into Payment of Lump Sum	3	3	3	85	100	1
Retirement Quote	2	10	2	85	100	1
Set Up New Spouse Pension	2	5	2	85	100	1
Change of Address	2	20	2	85	100	1
General Payroll Changes	5	20	5	85	100	1
Enquiry Fire	1	5	1	85	100	4
Life Certificate received	3	5	3	85	100	1
Death Grant Nomination Form Received	1	20	1	85	100	1
Initial letter Death in Retirement	2	5	2	85	100	1
Death in Retirement	2	5	2	85	100	1

\*Transfer In Quote – clearing backlog due to change in factors.

\* Deferred Benefits Set Up on Leaving – Other urgent work meant that these were low priority although members were informed that we had received leaver notifications and we would contact them with details of benefits in due course.

\* Pension Estimate Fire – A high volume of requests from clients has created a backlog which is still being cleared. Additional staff have been recruited and are being trained which has slowed output.

## 12.0 Recommendations

12.1 That Members note the content of the report and:

- i) Confirm the position regarding their online training

**David Hood**

Pensions Administrator/ Manager

11 March 2019

**Background documents:**

2015 Firefighters' Scheme Complaints and Dispute process:

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