



**MINUTES OF THE MEETING OF THE LOCAL PENSION BOARD - FIREFIGHTERS PENSION SCHEME held on Wednesday, 17 March 2021 at 2.00pm. Remote Meeting - Via Skype.**

**PRESENT:**

**BOARD MEMBER:** Councillors David Brown, Neil McElroy and George Peers (FBU).

**OFFICERS:** Andrea Harvey (Pension Scheme Manager), Amy Caves (Solicitor), Steve Gall (Pay and Pensions Lead), Emily Purslow (Pension Coordinator) and Donna Linton (Governance and Corporate Planning Manager).

**1 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Lee Shears (Employer).

**2 DECLARATION OF INTERESTS**

There were no declarations of interest received.

**3 NOTES FROM THE PREVIOUS MEETING**

A discussion was had on the following:-

Minute 3 - Notes from the Previous Meeting (14<sup>th</sup> January 2021) Minute 8 – Review of Split Pensions Eligibility

The FBU Board Member representative referred to the wording in paragraph 4 of the minutes. He advised that following a discussion with his FBU colleague who attends the Joint Consultative Negotiating Panel (JCNP) he was of the understanding that the agreed outcomes from the split pensions exercise had not yet been completed.

The Pension Scheme Manager confirmed that there was an outstanding action in respect of submitting a case study to the LGA for inclusion in one of the forthcoming pension newsletters. She confirmed that this had been requested by the LGA as the way in which the split pensions issues had been resolved within Cheshire had been deemed to be an example of good practice and effective working with the Fire Brigades Union (FBU). She also confirmed that the FBU had welcomed the suggestion of the case study as it would be a means of highlighting the issue of split pensions, raise awareness and ideally prevent future problems in other FRS.

The Pension Scheme Manager advised that the case study had not yet been created due to capacity but that she would endeavour to produce a draft for review at the next meeting of the Pension Board.

**RESOLVED: That**

- [1] **the minutes of the Local Pension Board held on 14<sup>th</sup> January 2021 be confirmed as a correct record; and**
- [2] **the Pension Scheme Manager present a draft case study to the next meeting of the Board.**

**4 XPS ADMINISTRATION CHESHIRE FIRE SERVICE DELIVERY REPORT APRIL 2020 TO MARCH 2021**

The Operations Manager, Graeme Hall from XPS Administration, was in attendance and presented the Service's Performance Delivery Report for April 2020 – March 2021. The report contained the following information:-

- Regulations and guidance from April to November 2020
- Headlines including additional work and complaints
- Membership Quarter 3 2020-21
- Common Data
- Performance Charts from April to December 2020

The Pension Scheme Manager explained that there had been a couple of instances when people had requested their final figures prior to retirement and the documentation received from XPS Administration referred to the police pension scheme rather than fire. It was felt this error undermined people's confidence in the figures provided. In response, Graeme Hall advised that he would be reviewing all letter templates to ensure that this issue was resolved going forward.

The Pension Scheme Manager suggested it would be useful to include some narrative on the Performance Charts to explain the data and highlight on the changes from the previous report. This was agreed. It was also requested and agreed that future reports should include year to date comparisons and a glossary of acronyms and abbreviations.

The FBU Board Member reported that the FBU had recently been contacted by a number of retired firefighter advising that they were struggling to contact XPS Administration directly and that responses had been very slow. In response, the Pension Scheme Manager advised that this had been raised by Andy Fox-Hewitt from the FBU at JCNP and the issue had already been raised with Graeme Hall outside this meeting. She also advised that discussions were ongoing to expedite the launch of the on line portal for retirees so that they could have direct and quicker access to their information.

Following on from a detailed discussion about the avoidance of duplication between the JCNP and the Pension Board, it was agreed that the Pension Scheme Manager would provide an update at each meeting of all the pensions issues that had been raised by either the FBU or Fire Officers' Association (FOA) at the JCNP. This would ensure that the Pension Board were cited on any concerns relating to the delivery of the pensions contract and/or day to day administration. It was agreed that this would be a helpful agenda item for future meetings.

The Governance and Corporate Planning Manager advised that she would arrange

for the Pension Scheme Manager and Graeme Hall to have a meeting within the next month to discuss arranging for the retired firefighters to have access to the Self-Service Portal.

The Chair asked that Board Members submit any technical questions on any reports to the Pension Scheme Manager prior to the meeting to ensure that a detailed response could be provided either before or at the meeting.

**RESOLVED: That**

- [1] the XPS Administration Cheshire Fire Service Delivery Report April to March 2021 be noted;**
- [2] in future reports XPS Administration provide a narrative within the Performance Chart data and figure reporting (recent and final figure) including a glossary of acronyms/abbreviations;**
- [3] the Governance and Corporate Planning Manager to arrange for the Pension Scheme Manager and Graeme Hall to meet to discuss arranging for the retired firefighters to have access to the Self-Service Portal;**
- [4] a standard agenda item be included on future Pension Board agendas titled "JCNP Pension Issues" and**
- [5] any technical questions that require a response at future pension board meetings should be submitted to the Pension Scheme Manager prior to the meeting so that responses can be provided at the following meeting.**

**5 FIREFIGHTER PENSION SCHEME UPDATE**

The Pay and Pensions Lead presented a report which provided an overview of current issues relating to the Firefighters' Pension Schemes, including updates on the following:-

- Membership Statistics
- TPR Six Key Processes
- IQMP Assessments
- Age Discrimination Remedy
- Valuation
- Exit Payments Cap Revoked
- Immediate Detriment
- Draft Remedy Data Collection Guidance

The Solicitor provided an update on the Age Discrimination Remedy and reported that the response to the consultation on changes to the transitional arrangements to the 2015 public sector pension scheme was published on 4<sup>th</sup> February 2021. The response confirmed that discrimination would be addressed in two parts, these were as follows:-

- i) To remove future discrimination from the scheme and ensure equal treatment, all remaining protected members who were not currently members of FPS 2015 would transfer into this scheme on 1<sup>st</sup> April 2022. This meant that all future service for all members would be built up in the reformed CARE scheme;
- ii) For benefits built up during the period of discrimination, 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2022, unprotected and taper members would be credited with final salary build-up in their original scheme. At retirement, all members would be able to keep their legacy final benefits or choose to receive the CARE benefits that they would have built up in the same period.

It was expected that transferring remaining members into FPS 2015 at 1<sup>st</sup> April 2022 would be relatively straightforward, the conversion of CARE benefits into final salary will involve complex administrative processes with adjustments of pay, contributions, tax relief, and pensions tax liabilities. The consultation response addresses some of these issues however, further policy decisions were needed in some areas. The Home Office would consult separately on changes needed to the Firefighters' Pension Scheme regulations to enact the remedy.

The Solicitor provided an update on Immediate Detriment and reported that following the Employment Appeal Tribunal on the Fire and Rescue Authorities (FRAs) schedule 22 appeal and its effect on Section 61 of the Equality Act 2010, FRAs would now want to consider their decision in relation to payments under the immediate detriment guidance issued by the Home Office in August 2020.

**RESOLVED: That**

**[1] the Firefighter Pension Scheme Update be noted.**

**6 FIREFIGHTER PENSION SCHEME RISK REGISTER**

The Pay and Pensions Lead presented the Firefighter Scheme Risk Register (the Register) which had been reviewed and updated in March 2021. Updates since the last meeting were highlighted blue in the document and as requested at the last meeting an additional box had been included within the Risk Register showing arrows which identified the state of risk.

The Pension Scheme Manager provided an update and provided clarity on the following risks:-

- Sargeant/McCloud – Lack of resources to complete any remedy actions. This risk remained a red risk and the score had increased. This was a national concern and the Employment Appeal Tribunal stated that fire and rescue services could not rely on the Schedule 22 defence. This was also included on the Corporate Risk Register. A further update was provided in the Sargeant/McCloud Judgement Update (minute 7 refers).

Loss of experienced / knowledgeable staff. This risk had increased from an amber to a red risk and the score had increased. This was due to the fact that the Pay and Pensions Lead post was soon to be vacant again due to the promotion of the current incumbent. This would increase the risk in terms of capacity and resources and had

been included on the Corporate Risk Register. In relation to this, the Pay and Pensions Lead advised that the recruitment to backfill the post had already been instigated with the appropriate sense of urgency.

**RESOLVED: That**

**[1] the Firefighter Scheme Risk Register be noted.**

## **7 SARGEANT/MCCLLOUD JUDGEMENT - UPDATE**

The Solicitor provided an update on the outcome of the Schedule 22 Appeal relating to the Sargeant/McCloud Judgement.

The Pensions Board were reminded that the Fire and Rescue Service had issued an Appeal which focussed on whether the Fire Services had a defence under paragraph 1(1) of Schedule 22 to the Equality Act 2010 in that the discriminatory transitional protection provisions were contained within a statutory instrument and they had no choice but to implement the changes. The Employment Tribunal concluded that the Fire Services were not entitled to rely on Schedule 22 as a defence to the claims of age discrimination. This decision was appealed to the Employment Appeal Tribunal who heard the case on 16<sup>th</sup> December 2020 and handed down its judgement on 12<sup>th</sup> February 2021.

The Employment Appeal Tribunal held that the Employment Tribunal had not err in law in its construction in Section 61 of the Equality Act or its impact on the availability of the defence provided by paragraph 1(1). The appeal was dismissed and a date was awaited in relation to the Remedy Hearing.

**RESOLVED: That**

**[1] the report be noted.**

## **8 PENSION BOARD - TRAINING UPDATE**

The Pension Scheme Manager advised that at the last meeting all Board Members were requested to complete a 'Firefighter Pension Board – Training Needs Analysis. She thanked everyone who had completed and submitted their forms but suggested that some remained outstanding. Upon receipt of the forms she advised her intent to contact the LGA Pension Team to request a more tailored approach. In an attempt to manage expectations however, she advised that there was a likelihood that due to the work associated with the Sargeant/McCloud judgement the training may have to be delayed. She reassured however, that briefings and guidance would be provided to members of the board at the appropriate time to ensure they remained cited on the developments and actions associated with the remedy and the immediate detriment situation.

It was also noted that there were a number of new staff within the Pay and Pensions Team and CFRS would be linking in with the LGA Pension Team to arrange an induction to firefighter pensions that would be take place later in the year.

**RESOLVED: That:**

**[1] the update be noted.**

**[2] Board Members and Officers complete the Firefighter Pension Board – Training Needs Analysis’ and return the form to the Governance and Corporate Planning Manager / Pension Scheme Manager.**

**9 ANY OTHER BUSINESS - MIAA PENSION REVIEW FINAL ASSIGNMENT REPORT 2020-21**

The Pension Scheme Manager advised that at the last meeting she had reported that part of the MIAA Internal Audit Plan for 2020-21, was a review of pensions and payroll which had taken place between September and December 2020. She advised that a report detailing the Audit finding had now been submitted to the Performance and Overview Committee on 24<sup>th</sup> February 2021. A copy of the ‘MIAA Pension Review Final Assignment Report 2020-21’ was circulated to Board Member prior to the meeting for information and as requested at the last meeting.

The report detailed the terms of reference for the Audit and advised that the overall rating from the Pensions Audit was ‘Substantial Assurance’. There were no critical or high risks identified within the audit and the executive summary stated that there was ‘a good system of internal controls to meet the system objectives and that controls were generally being applied consistently’.

Three areas of improvement were identified and were detailed on pages 6 and 7 of the report. These areas related to the retention of documentation, updating of policies, and changes to provide more clarity on the leaver’s checklist. The timeline for actioning and completing these recommendations was the end of Quarter 4 2020-21. The Pension Scheme Manager provided an update on the actions completed by the Pay and Pension Team to date.

**RESOLVED: That**

**[1] the MIAA Pension Review Final Assignment Report 2020-21 be noted.**