

CHESHIRE FIRE AND RESCUE SERVICE

MEETING OF : PENSION BOARD
DATE : 9 NOVEMBER 2016
REPORT OF : HEAD OF PEOPLE AND DEVELOPMENT
AUTHOR : JILL SWIFT

SUBJECT : FIREFIGHTER PENSION SCHEME UPDATE

Purpose of Report

1. The purpose of this report is to provide the Pension Board with an update on current issues relating to the Firefighters' Pension Schemes.

Information

2. **Membership Statistics**

Membership statistics are detailed in Appendix A.

3. **Pension Administrator Performance**

The Kier Pensions performance report for quarter one and two of 2016/17 is included at Appendix B. The report outlines the key pieces of work completed during the first half of 2016/17 and also Kier's performance against service level agreements.

4. **Firefighter Pensions Scheme Advisory Board**

The Scheme Advisory Board (SAB) is now in place and is chaired by Malcolm Eastwood, previously CFO from Hampshire FRS. His letter to pension board members is attached at Appendix C.

5. This outlines the purpose of the SAB, the support framework which is in place for local pension boards and the process for escalation of local issues and queries.

6. **Annual Benefit Statements**

In August 2016, Kier Pensions completed Annual Benefit Statements (ABS) for members of the Firefighters' Pension Scheme. The deadline for completion was 31st August 2016.

7. A draft ABS was designed by the Fire Pensions Communication Group and is attached at Appendix D for your information. This template covers all statutory requirements and additional elements which members may require to get a full picture of their accrued and projected pension benefits.

8. Kier chose to use a slight variation on this template, mainly due to the configuration of their software. An example is provided in Appendix E.
9. The only variations identified between the proposed and actual templates are:

- revaluation of CARE benefits is shown as a statement rather than a calculation
- explanatory notes have been published on the website rather than on the statement itself, to reduce the complexity and length of the documentation members received, whilst still ensuring they had access to the information if required
- nominated beneficiaries on file for each member

10. To date, two pension scheme members have reported that they have not received an ABS. It is standard process for Kier, and also our LGPS administrator Cheshire Pension Fund, to complete a 'mop up' ABS process in November/December. This captures any queries, amendments or missing statements i.e. which have been lost in the post or missed off during the initial ABS process in August.

11. **Pension Scheme Valuation**

The Government Actuary's Department (GAD) undertakes a valuation of the Firefighter Pension Schemes every 3 years. The schemes are unfunded, therefore benefits in payment are financed by employer and employee contributions as well as a Government top-up grant.

12. The valuation reviews demographic experience (i.e. potential for career breaks, ill health, or death), retirement rates and opt out rates as well as the cost of benefits which will accrue in the future and the value of benefits accrued up to the date of the valuation.

13. The purpose of the valuation is to determine a number of factors:

- the employer contribution rate
- the level of top-up grant for each FRA and
- the employer cost cap in the 2015 scheme.

14. Kier Pensions submitted this data on behalf of the FRA within the permitted timescales in August 2016.

15. **Milne vs. the Government Actuaries Department (GAD)**

The Pensions Ombudsman recently found that GAD failed to fulfil its obligation to review and calculate appropriate commutation factors between 1998 and 2006, delayed introducing new factors and took into account irrelevant considerations when deciding whether to make changes to the commutation tables. As a result of this maladministration, retired members are due a higher lump sum payment.

16. Former fire-fighters who retired between 1st December 2001 and 21st August 2006 were affected by the Ombudsman's findings. CFRS had 109 pensioners and spouses who were affected by this case.
17. In May 2016, the Pension Board were informed that payment was outstanding for 2 members. These payments have now been made. The total amount paid to all members is £1,608,047. This figure includes £290,761 of interest and £5,701 tax charges.

18. **Pension Re-enrolment**

The Pensions Act 2008 introduced automatic enrolment to a pension scheme for all eligible workers in the UK. Eligible workers are those over age 22 and under State Pension Age (SPA) who earn more than £10,000 per year (£833 per month).

19. The implementation date, called the staging date, varies by employer according to how many employees the organisation has. Cheshire Fire and Rescue Service's staging date was 1 October 2013. Every three years, employers must re-enrol eligible workers into the pension scheme. Therefore, anyone who meets the eligibility criteria on 1 October 2016, and is not already in a pension scheme, will be auto-enrolled into a pension scheme.
20. A briefing was published in Green Bulletin 35 advising all staff of the re-enrolment process. Bespoke re-enrolment letters were sent to those employees affected on 6th September. These letters included details of the pension scheme, when they would be enrolled and the opting out process.
21. The re-enrolment statistics are as follows:

Re-enrolment

| | Re-enrolled | Opted Out |
|----------------------|--------------------|------------------|
| Wholetime | 33 | 28 |
| Support Staff | 7 | 4 |
| On Call | 9 | 2 |

Opt outs

| | Female | Male | Average Age |
|----------------------|---------------|-------------|--------------------|
| Wholetime | 2 | 26 | 35 |
| Support Staff | 4 | 0 | 45 |
| On Call | 0 | 2 | 48 |

22. FRAs must also re-register with the Pensions Regulator after each re-enrolment period. This was completed on 14 October 2016.
23. **Pension Contributions Holiday**

The 1992 Firefighters' Pension Scheme currently has a minimum retirement age of 50, as long as the member has at least 25 years service. The scheme is also capped at 30 years, meaning anyone who

accrues more than 30 years pensionable service can accrue no further pension benefits once they have attained this 30 year cap.

24. There are a number of employees who may have joined the pension scheme at the age of 18 or 19, who will reach 30 years pensionable service before age 50. This means they are unable to retire and would have to pay up to 32 years of contributions for a 30 year pension. The member is not able to opt out to avoid paying the additional contributions, as this would cause the pension to be deferred and they would not be able to access their pension until age 60.
25. The FBU launched a legal challenge on the grounds of age discrimination in December 2015. However, the Department for Communities and Local Government conceded the case and the Secretary of State has confirmed that affected members will be allowed to take a contributions holiday from the point they attain 30 years reckonable pension service until they reach age 50.
26. The amending regulations for the 1992 pension scheme came into force on the 30th September 2016. The actions which must be taken for current employees are:
 - active members must cease to pay employee pension contributions on pensionable pay from 30th September 2016.
 - employee contributions must still be deducted from pensionable pay for APBs such as CPD and pay for temporary promotions.
 - employer contributions should still be deducted from the full pensionable pay as normal.
 - pension contributions should recommence from the members 50th birthday.
27. There are currently two employees affected, and the pension holiday was applied to their pay from 30th September. Another five employees will be affected in the future when they reach 30 years pensionable service. The pension holiday has been built into current payroll processes to ensure the correct action is taken for these employees.
28. Retired members will receive a refund of employee contributions paid between the date they reach 30 years pensionable service and age 50. The Government Actuary Department (GAD) released a calculator to FRAs on 24 October, along with comprehensive guidance on how to administer this process. The calculator will add compound interest at the Bank of England rate to all refund payments.
29. Kier Pensions have provided a list of 67 members who are eligible for a refund. This list is currently being checked and verified by Cheshire Fire to ensure all employees have been captured.
30. As pension contributions are linked to tax, the calculator will also require the taxable pay received during tax years spanning the refund period to be input to the calculator, as well as any gross pension

received in tax years where the members retired.

31. GAD have requested FRAs provide an estimate of costs by the 18th November 2016. They will also be carrying out a review of results from the GAD calculator with a small group of FRAs to verify the accuracy of the calculator, before any refunds can be made.
32. HM Revenue and Customs (HMRC) have confirmed that the refunds constitute unauthorised payments, which generate an unauthorised payment charge tax liability for affected members. The GAD calculator will gross up refund payments to account for this tax charge.
33. Unauthorised payment charges can be deducted at source or the member can declare this through a self assessment tax return. GAD recommend that these charges are deducted at source and paid over to HMRC to avoid the need for self assessment, and, as per the current process for lump sums, individuals will need to give their consent for this.
34. The timetable proposed by the Home Office is as follows:

| | |
|--|--|
| Friday 18th November | FRAs to provide estimate of costs |
| End December | The Home Office makes additional payment to FRAs based on the estimate |
| 31st March 2017 | Majority of refunds to have been made |
| End July 2017 | Home Office to pay top up grant to reflect any costs over and above the initial estimate |

35. **Exit Payment Cap – Update**

A £95,000 cap on public sector exit packages was due to be introduced in October 2016 as part of the Enterprise Act 2015. However, the Government published further consultations and have now instructed departments to produce packages consistent with the proposals within the next three months, with a view to them being in force by June 2017.

36. The cap will include a wide range of payments including pension strain costs, pay in lieu of notice, redundancy and severance pay. The most recent consultation also proposes a number of additional measures which limit how exit payments within the overall exit package can be calculated such as how many weeks pay can be used and salary level.
37. Further limits may also be placed on pension provision such as action to:
 - limit or end early access to pension within exit packages
 - cap the amount of employer funded pension ‘top ups’, or remove this facility altogether

38. The Firefighters' Pension Schemes allow for employer discretionary uplifts to the pension on exit. These include a raised commutation limit in the 1992 scheme and employer initiated early retirement in the 2006 and 2015 schemes pension would not be subject to reductions.
39. As the costs of unreduced pension are met annually, a capital cost will need to be calculated for use in the cap. The pension scheme regulations will require amendment to limit these discretions in order to ensure that, when added to other exit costs, the total remains within the £95k cap.
40. The draft regulations include a provision to enable the full FRA to exercise a discretion to waive the cap in relation to payments made by itself. Statistics regarding such waivers would have to be published to ensure transparency. The Government may also consider the case for protection for those with exits which have been formally agreed before the arrangements come into effect.

41. **Annual General Meeting 2016**

Jayne Nixon and Phil Mobbs attended the Annual Fire Pensions Conference on the 11th October 2016. Speakers included representatives from the Home Office, GAD and the Chair of the Scheme Advisory Board.

42. Mark Sherratt, Head of the Firefighters Pension Team at the Home Office explained that the delay in setting up the Scheme Advisory Board had been due to the move to the Home Office. He reported that most payments had been made now following the Milne case. Guidance would be issued to assist FRAs in dealing with pension contribution holiday cases (referred to above) and payments should be made to individuals by the end of the financial year.
43. Chris Mulholland, from GAD, explained that they were conducting the Pension scheme valuation and this may lead to a review of the level of employer's contributions, if the Cost Cap has been exceeded by 2% or more. They were still doing checks and may raise further queries over the coming weeks. Any change to the level of contribution would be published in 2018.
44. Another session outlined the role of the scheme manager and the relationship with the pension board and stressed the important governance role both had in ensuring accurate record keeping, internal controls and communications. It was likely that the Pensions Regulator would be making checks after the boards had been in existence for a couple of years. The tax implications of pension decisions was also mentioned, and it was now clear that Fire Authorities had a duty to provide information for scheme members on tax issues and to explain the tax implications when decisions were being made on pensions but not to give pensions advice. This would enable members to make informed decisions.

45. The role of the Scheme Advisory Board was explained. The Advisory Board had met three times. Pension Boards are encouraged to raise issues with them and to seek guidance. The board will support and advise on best practice.
46. Changes to the Annual Allowance and the Lifetime Allowance were also explained and FRAs were encouraged to communicate these to members and provide information. There is a tax office information sheet available which could be used for this purpose. It is likely that these changes will affect quite a few members, not just senior officers.