



**MINUTES OF THE MEETING OF THE LOCAL PENSION BOARD - FIREFIGHTERS PENSION SCHEME held on Thursday, 14 January 2021 at 10.00am. Remote Meeting - Via Skype**

**PRESENT:**

**Board Members:** Councillors David Brown (Chair), Lee Shears (Employers) and George Peers (FBU)

**Officers:** Andrea Harvey (Pension Scheme Manager), Amy Caves (Solicitor), Carmine Rabhani (Senior HR Business Partner), Emily Purslow (Pension Coordinator) and Donna Linton (Governance and Corporate Planning Manager)

**1 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Neil McElroy (Employee Representative) and Steve Gall (Pension Coordinator and Pay and Pensions Lead).

**2 DECLARATION OF INTERESTS**

There were no declarations of Members' interests.

**3 NOTES FROM THE PREVIOUS MEETING**

Issues were raised on the following:-

Minute 4 – XPS Administration Cheshire Fire and Rescue Service Delivery Report 2019-20

The Pension Scheme Manager asked if the retired firefighters could be given access to the Self-Service Portal. In response, Graeme Hall confirmed that this request could be accommodated and requested that a written request be submitted detailing the requirements.

Minute 8 – Review of Split Pensions Eligibility

The FBU Board Member representative referred to the wording in paragraph 3 of the minutes as follows:-

*'Following the explanation of the assessment Members of the Board were in agreement that this did not represent a material breach and therefore did not require reporting to the Pensions Regulator'.*

He did not feel that the Board were "in agreement" and felt that this was a statement/opinion on the decision made. In response, the Pension Scheme Manager advised that the Pension Board were not required to make a decision on the report

however it had been presented for purposes of transparency, to update the Board, and to give the opportunity for questions. She also advised that the matter of Split Pensions had been discussed at a number of meetings of the Joint Consultative Negotiating Panel (JCNP). She also advised that Andy Fox-Hewitt from the FBU had been involved in all of the discussions and had been very instrumental in supporting the service in finding a resolution to this matter in conjunction with XPS.

**RESOLVED:**

**[1] the minutes of the meeting of the Local Pension Board held on 3<sup>rd</sup> August 2020 be confirmed as a correct record.**

**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 September 2020;
- Membership Quarter 2 2020-21 from April to September 2020;
- Annual Benefit Statement Statistics 2020
- Common Data
- Performance Charts from April to September 2020

Graeme Hall confirmed that 93.26% Annual Benefit Statements had been issued via the Member Self Service portal by the end of August 2020. The remaining Annual Benefit Statements would be issued via MSS as data was updated.

It was reported that in August 2020 XPS Administration had not met its Service Level Agreement (SLA) on 4 Estimates the percentage was therefore down by 20%. The data was sent out approx. 2 days beyond the SLA. In October there was one Estimate that was not issued on time and in November there was one general and one retirement option that went out later than the SLA. In December there were no failures. Graeme Hall apologised for these failures and confirmed that measures had been put in place to ensure that this would not happen again.

The Pension Scheme Manager referred to page 7 of the report and commented that she felt that it would be useful if in future reports information could be included under the report titles headlines, additional work and complaints. In response, Graeme Hall confirmed that this information would be available at the next meeting.

**RESOLVED: That**

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

**[2] in future report XPS Administration provide information under the report titles headlines, additional work and complaints.**

## 5 FIREFIGHTER PENSION SCHEME UPDATE

The Senior HR Business Partner presented a report which provided an overview of current issues relating to the Firefighters' Pension Schemes, including updates on the following:-

- Pension Function Resource
- Membership Statistics
- Immediate Detriment
- Public Service Age Discrimination Remedy
- TPRs Single Code of Practice
- 2020-21 Statutory Levy
- Governance and local issues – Internal Audit of Pensions

The Senior HR Business Partner was pleased to report the appointment of both Emily Purslow and Stephen Gall into the roles of Pension Coordinator and Pay and Pensions Lead. The appointments would bolster support and bring stability to the function going forward and the Pay and Pension Lead would be a shared resource and would work across both Cheshire Fire and Cheshire Police. Unfortunately, Steve Gall was not available to attend this meeting however he would be in attendance at future meetings.

The Board were advised that on 1<sup>st</sup> September 2020, the Pensions Regulator (TPR) confirmed that it intended to launch the formal consultation on a single Code of Practice in late 2020/early 2021. TPR provided 15 codes of practice, covering topics such as early leavers, internal controls and governance and administration of public service pension schemes. The plan was to review and combine the content of the 15 codes to form a single, shorter code.

The Pension Scheme Manager advised that the new Regulations relating to the Public Sector Exit Payments Regulations 2020 took effect on 4 November 2020, capping exit packages for all public sector employees and office holders at £95,000. CFRS potentially had one case as an outcome from the Service Management Team Restructure that was approved by the Fire Authority at its meeting on 9<sup>th</sup> December 2020. The Pension Scheme Manager was currently working with legal on this and further information would be available in due course. (Minute 7 refers).

The Pension Scheme Manager advised that part of the MIAA Internal Audit Plan for 2020/21, was a review pensions and payroll which took place between September and December 2020. She explained the terms of reference for the Audit which were included in the report and advised that the overall rating from the Pensions Audit was 'Substantial Assurance'. She also advised that 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".

In terms of improvements she advised that these were suggested in 3 areas. These areas related to the retention of documentation, updating of policies, and changes to provide more clarity on the leaver's checklists. The timeline for actioning and

completing these recommendations was the end of Quarter 4 2020-21.

A report detailing the audit finding was due to be submitted to the next meeting of the Performance and Overview Committee on 24<sup>th</sup> February 2021. The audit report would then be submitted to the next meeting of the Local Pension Board for information.

George Peers asked if the Pension Board would have sight of the Payroll audit as there were links relating to pensionable pay. The Pension Scheme Manager confirmed that the payroll and pension audits had been completed separately and that as payroll was outside of the scope of the Pension Board, it was not her intention to share this. It was explained that the Head of HR for the Joint Services was responsible for payroll and would be picking up any actions associated with the payroll audit. The Senior HR Business Partner advised that, as he was involved in both audits and the associated actions, if there was anything on the payroll audit that was specific to pensions, he would ensure that this is raised at a future meeting.

**RESOLVED: That**

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

**[2] the MIAA Audit Finding Report be submitted to the Performance and Overview Committee on 24<sup>th</sup> February be noted and the report be submitted to the next meeting of the Local Pension Board on 17<sup>th</sup> March 2021 for information.**

**[3] The Pension Scheme Manager provide an update on the implementation of the MIAA recommendations at the next meeting of the Local Pension Board on 17<sup>th</sup> March 2021.**

**6 FIREFIGHTER PENSION SCHEME RISK REGISTER**

The Senior HR Business Partner presented the Firefighter Scheme Risk Register (the Register) which had been reviewed in January 2021. Updates since the last meeting were highlighted blue in the document. The Pension Scheme Manager provided an update and sought clarity on the following risks:-

- Administration Failure / Maladministration – Ensure resilience in Provider and CFRS teams to migrate the impact of loss of key staff/knowledge of Fire Pension Scheme. This remained a green risk no change.

The Pension Scheme Manager made specific reference to the comment relating to 'Provider have ensured that staff with experience and knowledge of FPS regs are available to work on CFFS contract'.

The Pension Scheme Manager advised that she was aware that two experienced members of staff had recently retired and wanted assurance that these post would be filled with people knowledge and experience on CFRS pensions. In response, Graeme Hall confirmed that two experienced members of staff had been promoted

into these positions namely Eddie Simpson and April Woods also two new people were due to join the team in January and February and training had been arranged accordingly.

- Administration Failure / Maladministration – Robust internal controls for both pension provider and CFRS including counter checks by senior team member for all calculations.

The Pension Scheme Manager raised her concern at this control and suggested the wording was changed it currently stated that 'Counter checks by senior team for all calculation'. This was not the case currently the Director of Transformation of the Director of Governance and Commissioning sign-off the amounts once the calculations had been checked and approved by the HR Pay and Pensions Lead. The wording at present implied that the Director of Transformation of the Director of Governance and Commissioning did the calculations when this was not the case. The Chair suggested that the control be re-worded to reference counter checks be signed off by the HR Pay and Pensions Lead followed by sign-off by the senior team.

- McCloud/Sergeant – Lack of resources to complete any remedy actions. This remained a red risk and an update was provided in the Firefight Pension Scheme Update (minute 5 refers). A further update would be provided in the next item (minute 7 refers).
- Loss of experienced/knowledgeable staff – This risk had been reduced to amber due to the fact that staff were now in place. The risk could be reduced to green once all the relevant training had been completed.
- Failure to offer Split Pensions to all eligible staff at a point of retirement. This risk had been reduced to green due to the fact that there had been no further issues. It was the intension to keep on the register as a watching brief.

The Chair requested that an additional box was included in future risk registers showing arrows which identified the state of risk. This was a good visual tool used by other organisations.

**RESOLVED: That**

- [1] the Firefighter Pension Scheme Risk Register be noted.**
- [2] the Administration Failure / Maladministration Risk relating to robust internal checks be reworded in the Risk Register and the revised risk be submitted to the next meeting of the Local Pension Board for approval.**
- [3] the HR Pay and Pension Lead include an additional box was included in future risk registers showing arrows which identified the state of risk.**

**7 UPDATE ON THE MCCLOUD JUDGEMENT**

The Solicitor provided an update regarding the judgment of the Court of Appeal in the McCloud/Sergeant case, where it was claimed that the transitional protections of the 2015 Firefighters Pension Scheme were discriminatory on the grounds of age. She advised that this would have implications for all public sector pension schemes.

It was reported that the Schedule 22 Appeal Hearing took place on 16<sup>th</sup> December 2020 however no decision had been made to date. The Remedy Hearing will not take place until a decision on the Section 22 Appeal had been made.

The HM Treasury undertook a consultation which ended on 11<sup>th</sup> October 2020 by which looked at the remedy issue. The main focus of the consultation was about when the decision would need to be made by members in relation to moving schemes. The Treasury were currently considering consultation responses and expect to publish their response to the consultation shortly. This would outline the policy intent of the remedy, including whether immediate or deferred choice would be adopted.

Once the remedy hearings had been dealt with than changes to both primary and secondary legislation would be required to remove the discrimination. The Home Office would need to work with the Treasury to understand the policy and proposed legislation and to draft regulations to make the changes required. In order to deliver the remedy to the timeline set out by the Treasury, the Home Office and the LGA Bluelight pensions team were committed to ensuring that all FRS were kept up to speed with all policy and regulation developments so that work could progress at pace.

For CFRS it was important that the process of considering what technology/administration processes will be required to implement the remedy was started. An initial meeting has been set up with Cheshire Constabulary to consider the implications and contact has also been made with other FRS pension scheme managers to make tentative enquiries regarding a potential regional approach.

The Solicitor also provided an update on the Public Sector Exit Pay Gap. Board Members were informed that the new Restriction of Public Sector Exit Payments Regulations 2020 took effect on 4<sup>th</sup> November 2020, capping exit packages for all public sector employees and office holders at £95,000. The cap applied to the total amount payable when someone exits, including severance payments, any pension strain cost and notice payments in excess of three months. The enactment of the exit pay cap had resulted in judicial reviews and the need for further legislative reforms. This was due to the apparent discrepancy between the obligations on scheme employers under the Cap Regulations to limit strain cost payments, and the requirement for administering authorities to pay unreduced pensions to qualifying scheme members under existing LGPS regulations.

On 22<sup>nd</sup> December 2020 three applications for Judicial Review (JR) of the Restriction of Public Sector Exit Payment Regulations 2020 were granted permission to be heard. These applications, which would be heard together in the latter half of March 2021, were made by ALACE/LLG, UNISON and GMB/Unite and contest the regulations on a number of grounds including their effect on the existing LGPS

Regulations. The outcome of these applications could impact on the Pension Cap Regulations.

The Ministry Housing, Communities and Local Government (MHCLG) opened a consultation in September 2020 in relation to reforms to exit payment terms for all local government pension schemes. Consultation responses were due by 18<sup>th</sup> December 2020. The outcome of this consultation was likely to lead to amendments to the LGPS Regulations.

In October 2020, the MHCLG sent a letter to all LGPS Administering Authorities detailing their recommendations. It noted the conflict between the Pension Cap Regulations and LGPS Regulations and gives some guidance as to have to deal with any affected cases during the interim period. This would impact on very few individuals. At present there was only one individual within CFRS affected by the Exit Cap Regulations and the organisation were working with the individual in line with the published guidance.

**RESOLVED: That**

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

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

The Pension Scheme Manager advised that all LGA 'in person' events were on hold due to the Covid-19 pandemic. However, some on line courses and assistance remained available and would continue to be so into 2021. The LGA held the Fire Pension Annual Conference virtually on 22<sup>nd</sup> and 23<sup>rd</sup> September 2020. Also, Claire Hey, LGA Firefighter Pensions Advisor gave a virtual Pension Board Training Session held on 11<sup>th</sup> November 2020 which all Board Members and Officers were invited to attend.

The Pension Scheme Manager sought comments on the training received and was this useful to your needs. In response, both Board Members and Officers commented that they felt the training was very good however in part it went over areas already covered. Next time it may be more beneficial to concentrate on current issues, guidance and risk. It was felt that the fact sheet circulated following the training was very informative and useful.

The Chair requested that training was provided on the outcome of the McCloud Judgement once available.

The Pension Scheme Manager advised that a meeting would be arranged with Cheshire Constabulary to consider the possibility of working together on pensions and providing joint training.

In conclusion, the Pension Scheme Manager made reference to the 'Firefighter Pension Board – Training Needs Analysis' attached to the agenda and asked that Board Members and Officers complete and return the forms to Donna Linton, Governance and Corporate Planning Manager so that finding could be assessed

and discussed in further detail at the next meeting.

George Peers raised an issue in relation to the Annual Contribution Certificates stating that these had not been issued for the last 7 years. In response, the Pension Scheme Manager advised that this issue had been raised by Andy Fox-Hewitt at the JCNP. This had been followed up with the Finance Team and certificates would be issued from this year.

**RESOLVED: That:**

- [1] the update be noted.**
- [2] Board Members to provide any comments and/or feedback on potential training needs direct to the Governance and Corporate Planning Manager.**
- [3] Board Members and Officers complete the Firefighter Pension Board – Training Needs Analysis’ and return the form to the Governance and Corporate Planning Manager.**