

**MINUTES OF THE FIRE PENSIONS BOARD
HELD ON 17 JANUARY 2018**

Present: Mr G Luznyj (Chairman)
(Employer Representative)

| Employer Representative | Fire Pension Scheme Member |
|------------------------------------|---------------------------------------|
|------------------------------------|---------------------------------------|

| | |
|---------------------------|-------------|
| See Glynn Luznyj above | Mortimer, R |
|---------------------------|-------------|

Apologies:- Moss, R and Sweeney, S J M

Also in Attendance: Mr D Greensmith, Director of Finance Assets and Resources, Mr H Norris, Secretary to the Authority and Mr M Griffiths, Communication Officer, Staffordshire Pension Fund, Staffordshire County Council.

PART ONE

Documents referred to in these minutes as schedules are not appended but will be attached to the signed copy of the minutes. Copies, or specific information in them, may be available on request.

Quorum for the Meeting

18. The meeting was not quorate. The quorum for the meeting was currently set at 2/3 of the voting members of the Board. As the reports for the meeting were for information/discussion it was decided that the meeting should continue.

Declarations of Interest/Conflict of Interests

19. Board members were reminded that they should declare any interests or responsibilities, which may lead to conflicts of interest in the subject area or any specific agenda item of this meeting. A conflict of interest is defined as a financial or other interest, which is likely to prejudice a person's exercise of functions as a member of the Pension Board. It did not include a financial or other interest arising merely by virtue of that person being a member of the Firefighters' Pension Scheme.

20. **RESOLVED** – That the requirement to declare interests be noted.

Minutes of the Pensions Board meeting held on 24 July 2017

21. Mr Luznyj went through the Minutes page by page. He advised that many of the Items referred to in the minutes would be referred to within the Agenda items.

22. **RESOLVED** – That the Minutes of the Pensions Board meeting held on 24 July 2017 be confirmed and signed by the Chairman.

**Pensions Administration Overview – for the Firefighters’ Pension Schemes
1992, 2006 & 2015
(Schedule 1)**

23. Mr M Griffiths presented the report, which he advised had been jointly prepared by himself and Mrs N Daniel. He advised that since the last Pension Board meeting they had completed the 2017 annual benefit statements exercise.

Update on Previous Projects:

Annual Benefit Statements - All the annual benefit statements were issued by the Pension Regulator’s deadline of 31 August 2017 except for the modified statements which were issued approximately a week later. 90% of the statements were issued by the deadline however the remaining 10% were issued very shortly after. So although these were issued late, and needed to be recorded on the breaches log, they were not considered to be material and therefore it was not necessary to report this to the Pensions Regulator. This was not reported as a breach to the Regulator.

Mr Norris asked how many people 10% represented and Mr Griffiths advised that this related to 78 Members of the 2006 Scheme, the majority of which were retained “modified” members of the scheme.

Mr Mortimer raised an issue relating to the accuracy of the statements, as he was aware of a case where a firefighter had transferred in from West Mids where the statement was not accurate. Mr Griffiths advised that he was not aware of any great numbers having inaccurate information but with regard to the transferee into the Service the Pensions Adviser would be dependent upon information received from the transferring service/authority. Mr Greensmith advised that he was not aware of significant issues with Annual Benefits Statements and asked for Mr Mortimer to let them have the details of the case. Mr Mortimer advised that he had tried to contact Ms Daniels but did not realise that she had already left. He advised that he had also checked another firefighters statement who had transferred in the year before, but had only just picked up on an issue. Mr Griffiths undertook to look into this.

Mr Luznyj advised that, last year the Government had placed a tight timescale on the production of the Annual Benefits Statements and there had been a delay in sending these out. When contact was made with the Pensions Regulator they advised that it was up to the Scheme Manager to decide if they wanted to report a breach. This year there had been an improvement on the issuing of statements and therefore he reinforced the advice of the Pensions Administrator not to formally report the matter as a breach.

Mr Griffiths advised that Staffordshire County Council had a slightly larger proportion of statements sent out late for the Local Government Pension Scheme (LGPS) but this was not considered to be an issue for reporting. He advised that it was a decision of the Scheme Manager whether to report the matter as a breach. With sending out a small proportion of the Statements slightly later he would not say that this was a material breach. He advised that the Pensions Regulator was interested in matters that could not be resolved or would be ongoing. Staffordshire County Council did do a report but the Pensions Regulators were not concerned.

Mr Greensmith advised that last year the Strategy and Resources Committee reviewed the data. Conversations were held with the Pensions Regulator but no advice was

forthcoming. The Committee went through the breach guidance and decided not to report the matter as a breach last year and there had been clear improvements this year.

Mr Luznyj was content with not reporting the breach.

M Griffiths advised that they would need to ensure that it was documented that 90% of the Statements were issued by the due date and that 10% of the Statements were issued slightly late.

Mr Greensmith asked for the exact number/detail of the “modified” Statements to be provided, as at end August 2017. Mr Griffiths undertook to send this information through.

Incorrectly Taxed Ill Health Compensation Pensions - Prior to the introduction of the Firefighters’ Pension Scheme 2006 - which allowed retained firefighters to join a pension scheme. If a retained firefighter was injured on duty meaning that he was no longer fit to continue as a firefighter he could be awarded an ill health and injury pension by virtue of being unable to continue with firefighting. This injury award and ill health pension had always been classed by HMRC as a compensation payment which meant that all the monies were non-taxable. However whilst the injury awards have always been treated as non-taxable, the ill health pension award in these cases had been taxed under PAYE by most authorities. This was an issue that had affected many Fire and Rescue Authorities across the country and they along with other Fire Pensions administrators had been working to rectify this. The Local Government Association had recently provided guidance from HMRC to say that Fire and Rescue Authorities could refund 4 years tax and this would be reimbursed to the FRA by HMRC. However any tax deducted for the years prior to 2013/14 must be paid as a compensation payment by the FRA. The Strategy and Resources Committee as the Scheme Manager for the Firefighters’ Pension Schemes would consider this matter at the meeting to be held on 23 January 2018 and this was also included as an agenda item for consideration by the Board.

GMP Reconciliation - This was an ongoing project, which was being carried out across all public service pension schemes. Mr Griffiths circulated a briefing note from Barnett Waddingham regarding GMP reconciliations. They were doing what they could on this to ensure that GMP reconciliations were carried out. A cut off time had been announced for 2019 and after that time any liability would stay with the Authority.

Active Member Newsletter - Version 3 of the newsletter was issued to all active firefighters during November through inews and provided information to firefighters on the September 2017 pension scheme amendments. Any Scheme Manager is obliged under the Disclosure Regulations to advise members of any changes to their scheme within 3 months of the changes taking effect. Mr Griffiths advised that the newsletter advised of regulatory changes to the death benefits of firefighters. He was not sure that all fire and rescue services had done this. They had to make sure that they advised firefighters of any changes and would need to keep proof they had sent the information via email.

The Provision of HR Data to Pension Services - Pension Services were now receiving a monthly report from Firewatch which provided new starter, leaver and absence information. This report provided the Pensions administrators with the information that they require to set up and close off member records. He advised that they had still not received any payroll data from Stoke that was required to process the pension scheme leavers. This was a Breach under section 27A (1)(a) of The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991. Retirement information and any leaver information that they needed urgently to process a member’s request e.g. an inter-

service transfer was provided by Mrs Wood the Fire Service's payroll manager. In addition, to date, they still had not received any monthly Additional Pension Benefit (APB) data from Stoke payroll. Mr Griffiths advised that it was not a large proportion of pensions benefits but ideally this should be done at the time.

Mr Griffiths advised that with regard to deferred benefit, they were not in a position to deal with the data. Members were advised that Staffordshire County Council (SCC), as part of their Local Government Pension Scheme report to the Regulator, had reported that Stoke-on-Trent City Council had failed to provide the required information. The Board held a discussion on the matter and asked Mr Greensmith if he could write to the Chief Finance Officer at Stoke-on-Trent City Council about these issues.

Mr Griffiths advised that they had held a meeting with Stoke from SCC in relation to the LGPS matters raised. The meeting was productive.

Mr Griffiths advised that there were 611 with deferred benefits, caused by the way that contracts were managed in the past. Mr Greensmith explained that when a retained firefighter took up temporary contract on a wholetime shift this would end up as a deferred benefit. Mr Griffiths advised that this was not ideal and it was unusual for a fire service to do that. When asked what could be done about this the Board was advised that they could combine the records. This would be quite an exercise but could make a saving over time.

Membership statistics - At the last Pension Board meeting there was a discussion around the 'opt out' rates. In addition, David Greensmith suggested that a scheme membership profile should be provided to the Board.

Opt out rates -

| Quarter | Scheme | Number of Opt outs |
|--------------------------|-----------------|---------------------------|
| 1 - 2016/17 | FPS 2015 | 2 |
| 2 - 2016/17 | FPS 2015 | 4 |
| 3 - 2016/17 | FPS 2015 | 15 * |
| 4 - 2016/17 | FPS 2015 | 3 |
| 1&2 - 2017/18 | FPS 2015 | 3 |

* The Service's three yearly automatic re-enrolment fell within this period and a number of individuals who had previously opted out were re-enrolled back into the pension scheme and subsequently opted out.

The Board discussed the Membership Statistics provided by Mr Griffiths and the fact that firefighters were moving to the 2015 scheme at different stages due to the transitional arrangements. Mr Griffiths advised that the Board could have a full report on the numbers in the 2015 scheme at a future meeting.

Mr Luznyj commented that members had been ill advised when they chose to leave the pensions scheme. Mr Griffiths advised that it was only a small proportion of personnel opting out.

Mr Luznyj thanked Mr Griffiths for his report.

24. **RESOLVED** – That the report of the Pensions Administrators be noted.

Firefighters Pension Payroll and Pension Administration Update
OFFICIAL SENSITIVE - COMMERCIAL
(Schedule 2)

As this report is commercially sensitive this section of the minutes will not appear on the website

25. The Board considered a report which outlined the options regarding the future Firefighters Pension Payroll and Pension administration services.

This section is included within the Exempt Minutes of the meeting.

26. **RESOLVED** – That the report be noted.

Firefighters Pension Administration – Taxable treatment of Ill-Health Pension
(Schedule 3)

27. The report covered the taxable treatment of ill-health pensions paid from the compensation scheme to retained firefighters only, who were employed prior to 6 April 2006. These firefighters, because they could not join the 1992 pension scheme prior to 2006, were given compensatory provisions under the compensation scheme rules.

This report applied to eighteen retained firefighters who were awarded an ill-health pension under Part 8, rule 2, paragraph 4 by the Authority, and the taxable treatment of the pension that they received since retirement.

The Local Government Association (LGA) had recently received enquiries from pension administrators in which local officers at HMRC had indicated that these pensions are not tax exempt. However, for the avoidance of doubt LGA had subsequently re-clarified the position with HMRC who had confirmed that pensions paid in the specific circumstances listed should **not be subject to tax**, under section 644 ITEPA 2003 which exempts certain pensions. The reason that the payments should not be taxable is because the pension does not come under registered schemes which are chargeable under section 579a ITEPA 2003. As such the payments would come under section 644 ITEPA 2003 which exempts certain pensions paid due to disablement caused by injury at work.

All pension payments made to the eighteen individuals concerned had been treated as taxable by this Authority's pension administrators with some of the awards going back to the 1980's.

A briefing note was attached to the report and provided further background regarding this matter. The note outlined how authorities may wish to approach compensating the individuals who had been affected. The briefing note had been produced by the LGA and was specifically to provide guidance to Scheme Managers and Pension Boards.

As the Scheme Manager for the Firefighters Pension Scheme, the Strategy and Resources Committee at its next meeting to be held on 23 January 2018, would review the information contained within this paper and the guidance issued by the LGA.

There were various options set out in the report which would be considered by the Strategy and Resources Committee as Scheme Manager.

The Pensions Board noted that:-

(i) the information contained within the report and the attached briefing from the LGA would be considered by Strategy and Resources Committee on 23 January 2018, as Scheme Manager.

(ii) All injury pension payments were no longer being taxed at source by the pension payroll.

(iii) HMRC had advised that they could only correct payroll errors through the overpayment tax relief claim procedure within four years of the current relevant tax period:-

- a. A refund for 2016/17 has been processed through the pension payroll
- b. A refund for 2014/15 and 2015/16 will be actioned through the pension payroll in December 2017
- c. The refund for 2013/14 must be provided by Capita (Pension Administrators for the five year period, 2009/10 to 2013/14)

(iv) Any payroll errors that had occurred prior to 2013/14 would need to be considered for compensation by the Authority.

Mr Greensmith advised that they had received two letters from two of the pension members requesting not only compensation but interest on the monies owed. The LGA advised that authorities may want to go back to 2006. To go back to this date the compensation alone could be £98,000. These monies would need to be paid from reserves.

Mr Mortimer advised that individuals may well have the information and could easily prove that they had paid the monies. Mr Greensmith advised that the monies had been paid to HMRC and not to the Authority. The Board were asked to consider what might be reasonable. Mr Mortimer commented that if they decided not to go the full compensation route then the Service/Authority may have to find legal expenses, should pensions members challenge this. They should probably "risk assess" each of the options.

Mr Greensmith advised that he was trying to find out what other fire and rescue services were doing with regard to this matter. He understood that a nearby fire and rescue service had paid back all over payments but with no interest. Mr Luznyj commented that this may well be a starting point. Mr Greensmith advised that the Strategy and Resources Committee may wish to defer the matter back to HMRC.

Mr Norris advised that there were a number of issues to consider including the prospects of legal/QC costs should any payments be challenged. They would need to ascertain what the most likely settlement would be, but that would be depended upon the individuals. Some may hold all the information on their overpayments and could prove this.

The Board held an in depth discussion on the matter and covered the following points:-

- That HMRC had originally had the payments but the fire and rescue services were expected to pay the majority of this back.
- That HMRC should have responsibility to pay this back, not the Authority.
- Whether the matter could be escalated to the Scheme Advisory Board via the Strategy and Resources Committee.
- Before it made the decision the Authority needed to be aware of what others were doing to provide a consistent approach.
- That the National Scheme Advisory Board should speak with HMRC on the matter.
- Advice could be sought from Clair Alcock.

Mr Mortimer commented that in his view paying the whole amount deducted looked to be the most ethical way of dealing with the matter.

The discussion concluded that before the Strategy and Resources Committee made a decision on this matter perhaps officers could explore it a little more and provide further information for the Committee.

28. **RESOLVED** – That the report be noted.

Pensions Board Annual Work Plan Update
(Schedule 4)

29. Mr Greensmith gave a verbal update on the Pensions Board Work Plan.

Mr Luznyj advised that they would again look at what further training the Pensions Board members required over the year. All members had already undertaken training but they would look to see if there was anything additional required. He advised that Mr Griffiths had provided a log template. He and Mr Greensmith were to look at provision of services from West Yorkshire and would see if there was any training required for Members on the Board. He advised that there was nothing outstanding on the previous Work Plan.

Mr Griffiths suggested that Clair Alcock and Claire Hey could be asked to come in to a Board meeting to give an overview.

Mr Mortimer advised that the training that he undertook, in Leicester last year which updated him on various pensions matters, was very useful.

30. **RESOLVED** – That the verbal update on the Pensions Board Work Plan be noted.

Firefighters Pensions England Scheme Advisory Board – FPS Bulletin 3
November/December 2017
(Schedule 5)

31. The Board considered the FPS Bulletin 3 and were advised that the next Bulletin was due out shortly.

32. **RESOLVED** – That Bulletin 3 be noted.

Firefighters Pension Scheme Risk Register Update
(Schedule 6)

33. Members considered the Fire Pensions Scheme Risk Register, including the new risks 2 – Loss of Key Personnel by the Pension Administrator and 3 – Pension Payroll and data not being transferred to the new Administrator accurately or in a timely way - risk of delay in pension payroll, risk of incorrect pension calculations.

Mr Luznyj indicated that the document recognised the Fire Pension Schemes risks and was an extremely useful document. There were no further questions in relation to the register.

34. **RESOLVED** – That the updated Firefighters Pension Scheme Risk Register be noted.

Date of Next Meeting

35. Attendees discussed possible dates for the next meeting in July 2018. It was suggested that 11, 12 and 19 July 2018 might be suitable. Other Board members would be contacted regarding their availability and Members would be advised as soon as the most convenient date was determined.

Attendees discussed the quorum for the meeting which was currently set at 2/3 of the voting members of the Board. Mr Norris commented that with the small number of members on the Board (two Employer Representatives and two Fire Pension Scheme members) it was easy to drop below the quorum. Also the Terms of Reference should reflect “whole numbers” rather than a “fraction” of a person. He advised that unfortunately intervening circumstances had meant that Mr Sweeney had had to submit his apologies and he had regretted not being able to attend to meeting. Mr Mortimer suggested that perhaps the Terms of Reference could be amended to have three Members from each side, with a quorum of one representative from each side. Mr Luznyj agreed that the Quorum for the meeting needed to be revised and this was something for the Strategy and Resources Committee, as “Scheme Manager”, to consider.

The meeting was closed. Mr Luznyj thanked members and officers for their attendance.

CHAIRMAN