

FIRE FIGHTERS PENSION BOARD
8 April 2020, 10am, Dial in Meeting

Present: Glynn Luznyj, Employer Representative (**Chairman**)
Glynn Dixon, Employer Representative
David Greensmith, Director of Finance, SFARS
Richard Mortimore, Fire Pension Scheme Member (Employee Representative)
Helen Scargill, West Yorkshire Pension Fund (WYPF)
Irina Volkova-Heath, Pension Co-ordinator
Rich Williams, FBU

Apologies: Robert Moss, Fire Pension Scheme Member (Employee Representative)

Also present: Beckie Shepherd, Business Support

*Documents referred to in these notes 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.*

1. Attendance, Apologies and Conflicts of Interest

GL welcomed the group to the call and initiated a round of introductions. There were no declarations of conflict of interest noted.

2. Minutes and Actions Arising

2.1. In terms of accuracy, the previous minutes from 16 January 2020 were approved.

2.2 The following points from the Action Log were discussed:

Action 13	Update given at meeting – ongoing.
Action 25	PFCC Election postponed, review at next meeting, ongoing.
Action 27	Update given at meeting – ongoing.
Action 28	Full review of the Risk Register to be undertaken at the next meeting
Action 30	On hold for now. Ongoing.
Action 31	Ongoing.
Action 32	Split Pensions decision on hold, to be closed when work completed.
Action 33	Closed.
Action 34	Ongoing, escalation not required at this time.
Action 35	Update given at meeting – ongoing issue.
Action 36	Defer to next meeting on 6 July.

3. McCloud/Sargeant Pensions Judgement (Latest Communication)

GL asked to defer this to Point 6 below, Update from Administrator.

4. Pensionable Pay Update

GL firstly commented that the Pensionable Pay & Split Pensions Papers were distributed and discussed at the SGB Fire Meeting held on 26 March 2020, for decision by the Scheme Manager.

DG updated the group on the long standing Pensionable Pay Issues. These issues came from Booth vs Mid & West Wales high court ruling where it was noted that a certain allowance of pay should be pensionable as part of the 1992 scheme. Weightman's were enlisted for professional legal advice and to back up recommendations in papers.

The case considered by is whether 3 areas of allowances and payments are pensionable within the meaning of the Firefighter Pension Scheme rules:

- Training Allowance – Weightman's findings were that the allowance was in place up to 2017, anyone in receipt of allowance then should have this made pensionable. The Limitation Act says should only look back over 6 years. **In terms of remedy, these affected members back to 2014 should be reviewed and we should correct any active members affected.**
- Resilience Allowance – in place 2007-2011, 8 years since ceased. This allowance should have been pensionable. The limitation act also applies so **no remedy is required.**
- Day Crewing Allowance - The 5% retaining fee allowance should have been pensionable. The limitation act also applies so **no remedy is required.**

DG informed the Board that the Scheme Manager at the SGB Meeting supported and agreed the recommendations above and in the report. Weightman's have agreed to work with the authority to ensure remedy is in place for Training Allowance. They will also ensure it is done robustly and implemented fairly across all affected members.

IVH asked for clarity on the date this ruling would be effective from as there are 39 members affected and dependant on dates (in 2014), some will fall out of the ruling. DG confirmed that through working with Weightman's, we will ensure it is applied professionally and they will be able to provide more detail of when adjustments should be paid by.

RM noted that the pensionable pay ruling should apply to both the 2006 scheme and 1992 scheme. He then raised a point regarding the role of this Pension Board and whether the Board should have reviewed Weightman's information first, before going to the Scheme Manager.

GL noted that this topic was discussed at the last meeting, just without the legal advice and reminded that the Pension Board cannot make decisions on behalf of the Scheme Manager. Since this is a timing issue, the best intention is to get issue resolved as quickly as possible on receipt of the advice. RM suggested that the Board could meet ad-hoc, by phone if required, to discuss these issues before they went to Scheme Manager. GL agreed to ensure this issue doesn't set precedence and in future will take this point on as a way to conduct the Pension Board Meeting.

GD raised that the advice from Weightman's had taken a considerable amount of time to come through and so asked if DG could push to obtain the timeline for resolution. DG will speak to Jane Marshall at Weightman's and believes it is reasonable to have plan in place in next 4-6 weeks.

ACTION 037 – DG to work with Weightman's for a timescale for application of Pensionable Pay.

5. Split Pensions

DG updated the Board on the Split Pensions, which refers to the entitlement for 2 pensions to be held for members. In terms of the current situation, 23 members still need addressing by either a lump sum or annual pension adjustment, both are subject to PAYE tax of 40% (formal decision from HRMC). The paper was put to the Scheme Manager at the SGB Fire on 26 March to decide what remedy would be given to those 23 affected members.

DG informed board that the Scheme Manager agreed at the SGB that where additional liability arises on the 40% (if members choose lump sum option) this will be covered by the authority. This equates to £45,577 in total. He also noted there could potentially be a Scheme Sanction charge, which may or not be applied, totalling approx. £17,000. SFARS will write to the affected members to provide them with their options and that decision on the payment of taxation liability.

RW asked for clarity on the numbers mentioned in the report. It was noted that not everyone entitled to split pension will take it as the final payment on retirement may be better – they are looked at on individual basis and offered best deal.

HS then informed the Board of an important update on Split Pension Payments and instructed to hold off on processing payment at the moment. This is due to ambiguous communication from HRMC on the original response which suggests that Pension Arrears are also an unauthorised payment and should be subject to additional taxation. HS has asked for further professional advice to establish where taxation is due and to confirm the new sanction charge as well. HS suspects an answer on this by the end of next week.

GD asked to clarify that this update has no impact on calculations on the report attached. HS confirmed the figures will remain same but potentially there could be a different figure to go along-side the calculations.

There was a general discussion of whether the lump sum taxation remedy should be communicated now, and note further work is to be done on the Arrears payment - or hold for now until we are clear on this ruling and communicate both issues together. It was proposed that if a decision hadn't been received by next week, HS will contact SFARS and then a decision can be made to pay the lump sum separately and then follow up with arrears payment.

GD agreed, he appreciated the confusion it may cause processing separately, however, if there is a further delay, we should process the lump sum first. It was noted that that some payments are high volume and members have been waiting for a long time.

GD also confirmed that a consistent view will be taken on the authority paying the liable tax in the Pension Arrears payment.

The Board agreed to wait until Friday 17 April 2020, for confirmation of the ruling from HRMC and take a decision on lump sum payment at that point.

6. Update from Administrator / Bulletins, Factsheets, Technical Notes/Events/Surveys

HS took the group through the Update paper from WTPF, which was circulated prior to the meeting. There were no updates from the Communications Meeting and the updates from the Technical Meeting were discussed, as referenced on the attachment. Key points to note:

- Annual Benefit Statements – affected by remedy – SAB will decide at their next meeting what information should be supplied for 2020.
- Still working on O'Brien – more information should be available in 16-18 weeks – **DG requested an update on this at the next Pension Board Meeting.**
- Abatement Guidance is being worked on and should be available soon.
- Cyber Security - Issue with another FRA – now resolved.
- Covid-19 - WYPF are extremely confident they will be able to continue paying pensioners through the monthly payroll process. This has been tested and if required staff can run this from home. Confirmed WYPF will continue to process new retirements (letters are being sent directly to a printing company). One change made to daily payrolls, now run once a week on a Friday which means the retirement lump sum may be paid a few days after retirement.
- Monthly Returns & Annual Benefit Statements - It is likely that the statements will still contain projections based on the scheme the member is currently in. This will probably need a communication to members before the ABS is sent. Monthly Returns have been received and posted to member records up to Feb 2020. March will be ASAP.

Bulletin 28 – Information required by LGA relating to remedy.

Bulletin 29 – Refund of NICs for RDS Modified Members. Opting In form circulated for new members.

Bulletin 30 – Reminder to complete survey that LGA asked for – DG confirmed complete. Noted the suspension of medical board appeals.

Data scores stable at the moment. The KPIs were circulated prior to the meeting and no comments were made.

IVH updated the group on the Fire Quarterly meeting. 1 retirements for next year, 1 in May – most in November & later. The Retirement Packs have been amended to inform of the delayed lump sum payment.

ACTION 038 – HS to present an update on the O’Brien case at the next Board Meeting on 6 July 2020.

7. Any Other Business

GL raised an issue raised by Rob Mortimer at the previous Board regarding on-call staff doing temporary whole-time contracts, building up multiple pension pots. He asked whether they can they be consolidated into a single pot and then deferred to a state pension age to become accessible.

HS clarified - if the member has 1 on-call contract that’s running constantly then that would have to remain separate from any whole-time short-term contracts - you can’t link concurrent employment, only if whole-time cover is less than 3 months. If it is more than 3 months, it would be a deferred pension to state pension age, however any subsequent contract they do would be deferred. HS confirmed this will be processed automatically.

Dates of next meetings

6 July 2020

6 October 2020