

FIRE FIGHTERS PENSION BOARD

16 January 2020, 12:30
Room 1, Fire HQ, Pirehill ST15 0BS

Present: Mr Glynn Luznyj, Employer Representative (**Chairman**)
Mr David Greensmith, Director of Finance Assets and Resources
Mr Richard Mortimer, Fire Pension Scheme Member (Employee Representative)
Mr Robert Moss, Fire Pension Scheme Member (Employee Representative)
Ms Helen Scargill, West Yorkshire Pension Fund (WYPF)
Ms Irina Volkova-Heath, Pension Co-ordinator

Apologies: Mr Glynn Dixon, Employer 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 and initiated a round of introductions. There were no declarations of conflict of interest noted.

2. Minutes and Actions arising

- 2.1 DG raised one issue with the minutes from the last meeting on 28 October 2019. It was noted previously that DG would update the Risk Register – this is ongoing and a full review of the Risk Register will be undertaken at the next meeting. In terms of accuracy, the previous minutes were approved.

AGREED – The minutes of the Fire Pension Board held on 28 October 2019 be signed by the Chairman.

- 2.2 The following points from the Action Log were discussed:

Action 13	Agreed to leave as a standing item on the Action Log
Action 25	Board agreed not to progress yet due to the upcoming PFCC election. Will be updated once this has taken place in May 2020
Action 26	Closed
Action 27	GL & DG to discuss the split pension issues with the Pension Regulator (TPR) as a follow on action to the reporting of the breach in 2019.
Action 28	Full review of the Risk Register to be undertaken at the next meeting
Action 29	Closed

Action 30 IV to continue to work on Abatement Policy – there has been a number of permutations affected across all roles

A greater general discussion was had in regards to there being no formal Abatement Policy and how/when this should be applied. The policy regulations state that on re-employment, the FRA has discretion to abate employees but this is unclear in the case of the Fire service and how this is enforced. There were questions raised around employees who were on the pension scheme and were re-employed as On-Call Firefighters, can they take both their salary and their pension payment.

IV asked HS for the details of Dave Garforth at WYPF (Pension Manager) to assist in investigations taking place on this topic which will help to determine a position for the scheme manager.

RiM questioned whether a cost benefit analysis would be useful to look at the benefits of each option. HS commented that this puts the FRS in a vulnerable position and would increase press attention and possibly create negative headlines.

GL went on to say that we should look at all information and guidance available to assess and determine the cost benefits, this should be done stage by stage as and when we receive correct information.

ACTION 31 – HS to provide IV with contact details of Dave Garforth at WYPF.

3. McCloud/Sargent Pensions Judgement (Latest Communication)

GL noted the paperwork distributed for this meeting, including an update from recent case of Sargent vs the Government, Home Office Fact Sheets and internal papers which are open for discussion or questions in relation to the remedy of this particular case.

DG raised an issue surrounding realistic timescales of Remedy – this is not going to be resolved quickly. The view from the Government isn't due for 6 months, then implementation and correction will follow – this is not a quick fix. GL continued that this was purpose of getting the information out to members now and why WYPF have been clear around calculations. GL has met with a Pension Specialist from the Home Office, who pointed out that we do have to wait as we can't change the 2015 Scheme until regulations have changed legally. GL continued that we don't want members contacting WYPF for Pension calculations as we can't do anything until there is a legal change and new regulations are set out, which takes time.

HS commented that it is not clear how benefits will effect this and from an individual member's position, we aren't sure what the most beneficial options are going to be yet. The general principal is that members will be worse off as result of the change. However, there will be a number of people who are better off in the 1992 Scheme.

RiM said that he had received questions from people who considering retiring now - do they go on the current 2015 Scheme and then when the issue is resolved, move onto the other scheme? HS confirmed this would be the case. RoM had questions from people who were transferred from the 1992 Scheme into the 2015 Scheme and some individuals, for financial reasons, want to remain in the 2015 scheme. It was pointed out that these situations exist. HS went on to say that there are also questions around ill health – it's not necessarily in the individuals interest to be converted back, however, we can't say what is the most beneficial - it is based on individual circumstances. GL asked HS whether they had been inundated with queries on this. HS confirmed not but they had received some communication asking for quotes from people who weren't 100% happy.

GL continued that people have seen the ruling and want clarification – there was a discussion in regards to whether individual members should have choice to transition. Wording ‘entitled’ brings with it a suggestion that there is an element of choice.

HS confirmed that there would be an element of choice for whether they convert to the 1992 Scheme but not a specific choice to transition.

GL asked the group whether there was anything that was required from the Board at this stage but the board agree that it needed to wait for more information from the Home Office.

RiM questioned who we waiting for to confirm the ruling. GL mentioned the Treasury, the Home Office, the LGA, other administrators and the Scheme Manager. HS clarified that the first statement from the Treasury is out at the end of this month. However, it will be a global Public Sector notice, each affected scheme should look at see if this works for them individually. It was noted that not one size fits all. During mid-march, a consultation document will be distributed – then the regulations will be amended after that, around July.

DG confirmed to GL that in future, he will be attending the Fire Finance Network Meeting (which HS also attends) – he will be sitting with the LGA and will be involved in discussions. GL noted that it would be great that the Board has access through the Fire Finance Network.

RiM asked a question surrounding a potential increase in costs from WYFP, due to the extra work being carried out and when this would be billed to the FRS. HS responded that the intention surrounding additional costs isn’t clear at this stage as the bill is not calculated as a cost per member, it is based on total membership numbers. HS stated the costs are likely to be known in April 2021.

4. Pensionable Pay Update

Since the last Board meeting, GL and DG have met with Rob and Richard Williams from the FBU with regards to an update on this Scheme and the attachment for the meeting was referred to.

DG informed the Board that we have also engaged with Weightman’s (Lawyers) and also been in conversation with Jane Marshall who is doing work on behalf of the FRS with respect to the training allowance and the limitations act from a legal perspective – these items are still being worked through. Currently, they are not in a position to advise, as they are still reviewing all the information available but this will progress soon, DG said the delay was due to sickness over the Christmas period.

IV raised the issue of each case being complex with a significant amount of data to be reviewed against a backdrop of members expecting a quick remedy and payment for a 2nd layer who goes back of a lump sum.

DG wants to get the legal advice ASAP, for answers and for resolution.

RMo raised that he has received feedback from FBU representatives from the Scheme Advisory Board, who had asked if there is going to be any further guidance with regards to pensionable pay. HS confirmed that there wasn’t in terms of greater detail, however they will be looking to pull all information into one guideline document in the future – although it is not possible to say which is pensionable for each FRA. FRAs are all different – we are looking to be explicit in terms of decision making so might be communicated but this isn’t 100%.

IV proposed a question – would we be provided with further guidance surrounding implementation and payments? HS said this wouldn’t be provided as it is up to FRA as it is their cost. HS continued that WYFP are limited to 6 years and anyone effected within that, however they have allowed people who are retiring within 12-18 months to sign to say their contributions can be deducted from their lump sum. You can only recover payments over the same period that they have accrued. This is assessed on an individual basis. The FA have high contribution rates, so WYFP have to have open dialogue over affordability. IV asked a question surrounding the 6 year meaning – was this from the date of ruling or the date of pension? DG said that someone put in IRDP against training allowance 6 months ago. Starts from where claims come in. GL stated that this was why the Scheme Manager needed solid legal

advice from Weightman's. RMo commented that Weightman's sent out communications a while ago however the legal advice will say 'probably' – it won't be clear/certain. GL added that we have taken right action by seeking Weightman's view. RMo asked a question surrounding the timing of briefing the PFCC. DG confirmed that he intended to take it to the next SGB on 30 January 2020, however there won't be an official ruling due to Weightman's delay, therefore the March SGB could be more likely.

5. Split Pensions

HS informed the Board that on 15 January 2020 she had received the decision on tax treatment on lump sums. There was info at some LGA presentations that was different to what they were doing and this was flagged that it perhaps wasn't correct. In turn, Claire Allcock went to the HRMC to confirm – she had the response which was consistent in both accounts.

The decision was that it is an unauthorised payment and 40% tax should be applied to the lump sum.

HS continued that we are not proposing to look back at retrospective cases as the decision didn't apply at that time. However, HS confirmed that WYFP are starting to look at split pension cases figures in Staffordshire. WYFP can't make the payment until a form is completed, then this information is relayed into a spreadsheet and then 40% payments are made as a lump sum. HS said that the member has a choice to take lump sum with tax applied or take it all as 'pension only' which at the moment is not authorised. HS clarified that what the FRS decide to do in terms of compensation will effect whether the individual goes for lump sum or not. The FRS decision on this needs to be clarified.

IV raised a point that now the decision is clear, any pensionable pay could be affected. HS confirmed that retrospectively, they were paid correctly based on decisions at the time. The only review needs to be surrounding split pensions – WYFP will supply the FRS with figures on this.

GL and DG both said that this topic should be discussed with the Scheme Manager for a decision - will give an individual response.

RMo raised a point around the Trade Union's position – there will be members who will be aggrieved they didn't get a choice at the point of retirement. Had the pension been applied correctly at the point of pension, those individuals wouldn't have lost 40%.

There was a general consensus that it is expected that affected individuals would put through a compensation notice for the 40% payment.

DG and HS mentioned that this is on the next LGA Agenda on 31 January and findings will be brought to the next meeting.

RMo had a question around where we were on reporting back to the Pensions Regulator.

GL confirmed that they had not chased for a response yet and they are comfortable for us to work through these issues first before we go back to them.

GL asked the Board if they were in agreement to go back to the Pensions Regulator when all cases had been resolved. RMo asked if we can set a date for members for when this is done. HS confirmed that this has to be resolved by February as due to other restraints if not, this won't be done till April. The Board agreed.

ACTION 32 – GL/GD/Glynn Dixon to discuss Split Pensions and the topic of Pension Regulator to be added to the next meeting agenda on 8 April 2020.

6. Training Events for Pension board, Scheme Manager, Scheme Administrator

IV and RiM confirmed they had updated their section and will send this over to update in readiness for the next meeting.

GL confirmed he will also speak with Glynn Dixon (not present) to update from a PFCC perspective. GL continued that this document should be kept 'live' and that bi-annually the Board should review the

Training Events, especially with new members potentially joining the Board after the next Election. It was noted that 2 members of the meeting will also be attending the AGM.

ACTION 33 – To keep Training Events on the Pension Board Agenda as a standing item and review bi-annually.

7. Bulletins, Factsheets, Technical Notes/Events/Surveys

HS gave an overview of the Firefighter's Pension England Bulletins:

- **Bulletin 26** – not much to update. HY pointed out the ABS survey which was completed by Staffordshire Fire and also by WYPF. HS continued to point out the FPS England Statistics, and mentioned that in the future, the 2015 Scheme will be replaced with another Scheme.
- **Bulletin 27** – HS took the group through the main point to this bulletin, the case management hearing, initial impact and also the steps FRAs should take in the meantime, whilst waiting for regulations to be amended. Ill health cases sat with the IQMP was pointed out. HS continued that the next taper date was January 2020, we should continue to taper as normal.

HS took the group through the Report for January 2020 – it was noted that this doesn't give much in way of an update as there has been no meetings since the last Fire Pension meeting. Key points were as follows:

- There was a LGA training session around Pension Tax in November 2019. IV and 3 employees from WYPF attended and in-house training was also done to encourage a more knowledgeable team. GL asked HS whether there has been any indication to changes to the Annual Allowance? HS confirmed not, there is a sub-subcommittee set up, to try and get evidence together.
- The Fire Quarterly Client meeting October 2019 – GL raised that Durham, Darlington and East Sussex FRS were on board – HS confirmed this takes the total to 16, but there was no more additions lined up.
- HS pointed out the November and December Monthly Client Report. It was noted that in December, there is information in regards to Internal and External Audits which were carried out. The Audit Plan is attached to the report to show transparency.
- There were no regulation amendments since April 2019.
- HS took the group through a brief update from WYFP. There was a recent cyber security issue where emails were blocked from FRA to WYPF. This has been escalated to the national cyber centre – they are working to resolve issue. In regards to Annual Allowance breaches, there were two members who were subject to the AA tax charge for 2018/19 out of the seven who received the PSS. These two have been dealt with within the required time scales & the tax will be paid this month.
- In regards to Monthly Returns & Annual Benefit Statements, IV is working with Stoke to resolve the ongoing issues. DG suggested that a visit should be made to resolve the ongoing issues and an updated Issue Log would be helpful.
- In terms of KPIs, there was nothing of interest noted. HS assured that new cases received are dealt with on time. IV asked if there was scope to push one person through – HS to pick up with IV.

ACTION 34 – IV to produce a new Issue List of Monthly Returns & Annual Benefit Statements and DG will escalate with Staffordshire County Council.

8. Any Other Business

HS took the group through the WYPF Fire Clients Meeting Minutes – this document was just for information, HS mentioned the Annual Benefit Statement actions – the layout of this has changed. The issues are highlighted on the document and the action taken to deal with it. At the technical meetings, should we provide benefits because of Remedy? Consistent with current legal requirements. When Care came in at 2015, no projections. We want recommendation and all to do the same. All Admins from FRA consistent.

RoM posed a question surrounding the earlier discussion surrounding split pensions and an individual who won't be aware of the issues with the tax payment and who feels duty bound to include this payment on their self-assessment. He asked what the FRS are planning to do.

HS clarified that as it was prior to the judgement from HMRC, nothing will be done retrospectively. To date, no one has come back with issues and they can't do anything as they have been paid. If the HMRC contact the individual and say there was an issue, the individual would have to come to the FRS.

GL asked whether the Scheme Manager would want to write to individuals to confirm the tax payment issue. DG said that in terms of FRAs that WYPF look after, we should look to being consistent. HS agreed, the payments were processed correctly at the time, and therefore we should leave it as is. It was confirmed that on this basis, new cases will be treated as per the current tax decision.

RMo then posed a further question surrounding the new calculations. The affected people originally received the first letter in September and there was concern nothing else had been communicated since and would like an update on next steps.

GL added that this is a fairly swift piece of work, which is ongoing – he is working with the Scheme Manager and will then possibly write to individuals.

IV added that if we send an update letter to individuals now without an exact position, it might cause confusion and unnecessary communication. GL agreed that we would rather give the full outcome to members.

RMo asked a final question, asking for clarity, surrounding temporary promotions and the rule change on 20 July 2013, do we as FRS take pension deductions at the full or temp rate? RMo to take this question to the representative bodies to discuss and bring back to meeting.

ACTION 35 - GL to inform the Scheme Manager of the tax implications for paying lump sums for historical cases of split pensions.

ACTION 36 - RMo to question surrounding temporary promotions to the representative bodies to discuss and bring back to meeting.

Date of next meetings

8 April 2020

6 July 2020

6 October 2020