

REPORT REFERENCE NO.	DSFRA/15/5
MEETING	DEVON & SOMERSEST FIRE & RESCUE AUTHORITY (BUDGET MEETING)
DATE OF MEETING	20 FEBRUARY 2015
SUBJECT OF REPORT	ESTABLISHMENT OF LOCAL PENSIONS BOARD FOR FIREFIGHTERS' PENSIONS SCHEMES
LEAD OFFICER	Clerk to the Authority
RECOMMENDATIONS	<p>(a) that, with effect from 1 April 2015 (and subject to the Regulations coming into force from that date), a local pension board (“the Firefighters Pensions Scheme Local Pension Board”) – comprising a total of four members - be established as set out in Section 4 of this report to secure compliance with the requirements of the Firefighters’ Pension Scheme (Amendment)(Governance) Regulations</p> <p>(b) that, specifically in relation to (a) above:</p> <ul style="list-style-type: none"> (i) the Clerk (and Monitoring Officer) and Treasurer (as proper financial officer) be appointed as the two employer representatives on the Board; (ii) the Director of People and Commercial Services be delegated authority to undertake an appropriate process to determine and subsequently appoint two employee (scheme member) representatives to the Board; (iii) that the Director of People and Commercial Services be delegated authority to arrange appropriate training for both employer and employee (scheme member) appointees to the Board to facilitate the effective and efficient discharge of the role of Board member; (iv) that the arrangements for Board meetings including application of relevant Authority Standing Orders, as identified in paragraphs 4.10 to 4.12 inclusive of this report, be approved; and <p>(c) that any arrangements for establishment of a local pension board in accordance with (a) and (b) above be subject to review and amendment as necessary following approval of the final Regulations and any associated guidance on local pension boards.</p>

	<p>(d) <i>that, with effect from 1 April 2015 and in accordance with Regulation 5 of the Firefighters Pension Scheme (England) Regulations 2015, responsibility for the day-to-day management and administration of firefighters pensions schemes functions be delegated to the Director of People and Commercial Services;</i></p> <p>(e) <i>that the Clerk be authorised to make consequential amendments to the Authority's approved Scheme of Delegations to reflect those matters delegated to the Director of People and Commercial Services as indicated in this report and identified in recommendations (b)(ii) and (ii) and (d) above.</i></p>
EXECUTIVE SUMMARY	This report advises on the governance changes to the Firefighters Pensions Scheme including the responsibilities of Local Pensions Boards. It proposes establishment of a Board for this Authority as required by Regulations scheduled to come into force on 1 April 2015.
RESOURCE IMPLICATIONS	Any resource implications associated with the proposals contained in this report (e.g. training requirements) will be contained from within existing resources.
EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing human rights and equality legislation.
APPENDICES	<p>A. The draft Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015</p> <p>B. The Public Pensions Regulator Quick Guide on Local Pensions Boards.</p> <p>C. The Public Pensions Regulator Quick Guide for Members of Local Pensions Boards.</p>
LIST OF BACKGROUND PAPERS	<p>A. Report RC/14/16 (Firefighters' Pension Scheme 2015: Consultation on Proposals for New Governance Arrangements) as submitted to the meeting of the Resources Committee on 20 November 2014.</p> <p>B. Minutes of the meeting of the Resources Committee held on 20 November 2014.</p> <p>C. The Public Services Pension Act 2013.</p> <p>D. The Firefighters' Pension Scheme (England) Regulations 2014.</p> <p>E. The draft Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015.</p>

1. BACKGROUND

- 1.1 The Public Services Pension Act 2013 (“the Act”) enshrines many of the reforms of public service pension schemes recommended following the independent review of public service pension schemes led by Lord Hutton.
- 1.2 In particular, the Act provides for the governance of public sector pension schemes whereby pension regulations must provide for the administration of each public service pension to become the responsibility of a Scheme Manager, a local Pension Board and a Scheme Advisory Board.
- 1.3 This report:
- identifies the government’s proposals (Regulations) in relation to these issues which, it is understood, will come into force on 1 April 2015;
 - sets out the implications for this Authority; and
 - recommends a course of action for the Authority to secure compliance with the new proposals.

2. THE FIREFIGHTERS’ PENSION SCHEME (ENGLAND) REGULATIONS 2014

- 2.1 These Regulations (“the Pension Regulations”) were made in accordance with the provisions of the Act, laid before Parliament on 28 October 2014 and will come into force on 1 April 2015. Amongst other things, the Pension Regulations will:
- introduce the latest firefighters’ pension scheme on 1 April 2015; and
 - make the Authority the Scheme Manager for the latest and, by virtue of Section 4(6) of the Act, previous firefighters’ pension schemes (Regulation 4).
- 2.2 As Scheme Manager, the Authority will be responsible for the management and administration of the firefighter’s pension schemes. Specifically, Scheme Managers will be responsible for the key areas of governance and administration including:
- managing risks and ensuring there are adequate internal controls
 - keeping records and ensuring the quality of member data
 - ensuring the correct contributions are paid to the scheme
 - managing conflicts of interest
 - publishing information about the board
 - communicating information to members
 - resolving disputes and reporting certain breaches of the law.
- 2.3 Regulation 5 of the Pension Regulations empowers the Scheme Manager to delegate functions under the Regulations to an individual. In practice, the routine day-to-day administration and management of the firefighters’ pension schemes functions are currently undertaken by the Service Human Resources section (part of the People and Commercial Services Directorate) with, in turn, detailed work being outsourced to Peninsula Pensions.

- 2.4 For clarification purposes and in light of Regulation 5 of the Pension Regulations, it is suggested that the Authority confirms that day-to-day administration and management of the firefighters' pension schemes functions is formally delegated to the Director of People and Commercial Services.
- 2.5 Additionally, the various firefighters' pension schemes provide for a number of discretionary matters (e.g. commutation of pension payable, in certain circumstances). It is proposed that a report be brought a future meeting of the Authority identifying these discretionary matters and recommending whether these should be exercised either by the full Authority, an appropriate Committee (e.g. Human Resources Management & Development Committee) or an individual.

3. THE [DRAFT] FIREFIGHTERS' PENSION SCHEME (AMENDMENT)(GOVERNANCE) REGULATIONS 2015

- 3.1 These Regulations (the draft Governance Regulations), which are also due to come into force on 1 April 2015, amend the Pension Regulations by inserting Regulations addressing the required governance arrangements for the various firefighters pension schemes. Specifically, the Governance Regulations insert the following additional provisions into the Pension Regulations:

Regulations 4E, 4F and 4H

- 3.2 Regulation 4E establishes a national scheme advisory board - the Firefighters' Pension Scheme Advisory Board ("the SAB") - with responsibility for providing:
- advice to the Secretary of State on the desirability of making changes to any of the firefighters' pensions schemes; and
 - advice to scheme administrators and local pensions boards (see paragraphs below) on the effective and efficient administration of firefighters' pensions schemes.
- 3.3 Regulation 4F deals with membership of the Board (namely, persons to be appointed by the Secretary of State) while Regulation 4H provides for the SAB to provide an annual budget (for approval by the Secretary of State) with the Board expenses to be defrayed by authorities in such proportions as are determined by the Board and based on the approved budget and the number of members in the firefighters' pensions schemes for which each authority is responsible.
- #### ***Regulations 4A to 4D***
- 3.4 Regulations 4A to 4C deal with the establishment (4A) and membership (4B) of local pension boards, conflicts of interest (4C) and for the Secretary of State to issue guidance on local pension boards to which the Scheme Manager must "have regard" (4D).
- 3.5 The draft Governance Regulations are attached in Appendix A, for ease of reference.
- 3.6 The draft Governance Regulations were recently subject to consultation to which this Authority responded (Minute *RC/11 of the meeting of the Resources Committee held on 20 November 2014 refers). In essence, the local pension board is intended to provide a scrutiny function over operation of the firefighters pensions schemes. The consultation document on the draft Governance Regulations contains the following clarification in relation to the role and functions of the local pensions board:

".....the [draft] regulations require the local pension board to assist the scheme manager to comply with the regulations governing the Firefighters' Pension and Compensation Schemes and any requirements imposed by The Pensions

*Regulator. The [draft] regulations also require the local pension board to assist the scheme manager to ensure the effective and efficient governance and administration of the scheme. This is, potentially, a wide ranging role and allows, for instance, the board to look at the systems underpinning the administration of the scheme or how decisions are taken. **However, the local pension board is not a decision making body.***

3.7 For the purpose of the above Regulations, “conflict of interest” is defined in Section 5(5) of the Act as:

“... a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme”.

3.8 The Pensions Regulator has published two quick Guides - “Public Service Pension Boards” and “Public Service Pension Board Members” – both of which are appended to this report for information.

4. APPLICABILITY TO THIS AUTHORITY

4.1 While the Pension Regulations have been laid before Parliament, at the time of drafting this report it is not known what the position is in relation to the Governance Regulations other than the previously-announced government expectation that they will be in force from 1 April 2015. It also remains the case that guidance from the Secretary of State in relation to such boards, as provided for by the Governance Regulations, has yet to be issued in any form.

4.2 There is, as such, currently a lack of clarity as to the true extent of the role and impact of the local Pension Board required for this Authority albeit there is the expectation that a local Pension Board will need to have been established by 1 April 2015.

4.3 Given these circumstances, it is suggested that the Authority should – pending any further, detailed guidance – establish a small local pension board (“the Firefighters Pensions Schemes Local Pensions Board”) as set out below.

Membership of Board

4.4 The consultation document on the draft Governance Regulations contains the following commentary on membership of the local pension board:

“It will be for the scheme manager to determine its membership, and how the members are appointed and removed from the board. However, the board must have an equal number of member and employer representatives and must consist of at least four members. Member representatives are appointed for the purpose of representing members of the Firefighters’ Pension Scheme. These may be, but are not limited to, trade union representatives. However, the member must be in scheme employment and therefore must be a firefighter who is currently employed by a fire and rescue authority. This means that former firefighters (which could include pensioner members if they are no longer employed as a firefighter) cannot be a member representative.

Employer representatives are appointed for the purpose of representing employers. These may be, but are not limited to, councillors or officers of the authority. However, an officer or member of the authority which is responsible for making decisions on the pension scheme is not permitted to be a member of the board as the board may be scrutinising the decisions of that officer or member”.

- 4.5 In light of this and given that the draft Governance Regulations require a local pension board comprising a minimum of four in total, apportioned equally between employers and scheme members (employees) representatives, it is proposed that, initially, the Authority may wish to appoint the Monitoring Officer and Treasurer (as proper financial officer) as the required two employer representatives of the Board.
- 4.6 For the two member (employee) representatives, it is proposed that this should be delegated to the Director of People and Commercial Services following internal advertisement and an appropriate process to determine that the persons so appointed have the appropriate qualities and requisites to undertake the role. This appointment process should take place in sufficient time to enable the Board to be constituted by 1 April 2015.
- 4.7 In relation to the term of office of the appointments, it is suggested that – initially – these are not time limited but that this (and indeed all other matters relating to establishment and operation of the Board) be revisited in light of any guidance that may be forthcoming either from the Secretary of State or the Scheme Advisory Board, as the case may be.

Terms of Reference

- 4.8 It is suggested that the Terms of Reference for the local pension board be as per Regulation 4A(1)(a) and (b), reproduced in appendix A.

Board Meetings

- 4.9 The Pensions Regulator quick guide on local pension boards stipulates:

“Pension board meetings will be formal, minuted occasions, where the status of the scheme and associated issues are reviewed and recommendations will be made concerning the standards of scheme governance and administration.

There may be standard items on the agenda at every meeting, with extra items added as needed. There should be adequate time to deal with each issue on the agenda. If a board member feels that any particular subject is not being given enough time they should highlight this as a concern”.

- 4.10 In accordance with this guidance, it is intended that Board meetings will have a formal agenda, circulated in advance, with appropriate minutes drafted and retained for each meeting. Any relevant recommendations that may arise from Board meetings will be reported to the full Authority (as Scheme Manager) for consideration.
- 4.11 It is proposed that the quorum for Board meetings should be 50% and that the Authority’s Standing Orders on voting (Standing Order 24) and election of Chairs for Committees (Standing Order 32) should apply to Board meetings.
- 4.12 Given the knowledge and training requirements for Board members (see below), it is proposed that substitutes are not allowed.

Training

- 4.13 All members of the Board must have the capacity and understanding to respectively represent the employer or employees (pension members). They must be conversant with the rules of the schemes and documented administration policies. They must also have knowledge of the law relating to pensions. The intention is that Pension Board members must have the breadth and understanding to enable them to understand fully and challenge any information or advice they are given.
- 4.14 This task should not be underestimated. Pension law is complex and regularly changes. Training and development of Pension Board members will be essential and compulsory.

- 4.15 In its quick guide for local pension board members, the Pensions Regulator indicates that it will provide a free online learning programme on public service pensions that will provide information and education on key legal requirements for public service pension schemes and the Pension Regulators code of practice.
- 4.16 It is proposed that the Director of People and Commercial Services be delegated authority to arrange appropriate training for all Board members (once appointed), with any associated costs to be contained from within existing resources.

5. CONCLUSION

- 5.1 Regulations establishing the new firefighters pension scheme will come into force on 1 April 2015. Linked to this, there is a government expectation that – at the same time - measures relating to governance of all firefighters pensions schemes (as required by the Public Services Pension Act 2003) will also come into force.
- 5.2 This report sets out proposals that, if approved, should ensure that the Authority is statutorily compliant from 1 April 2015. It is recognised, however, that the final governance Regulations have still to be made and that, in accordance with the Regulations, guidance may well be forthcoming on the operation of local pension boards. Consequently, it is also proposed that the measures set out in this report should be subject to review and revision as necessary in light of the final regulations and any associated guidance that may be forthcoming.

MIKE PEARSON
Clerk to the Authority