



DEVON & SOMERSET

FIRE & RESCUE SERVICE

LOCAL PENSION BOARD REPORT

Notes:

1. Papers will usually be issued a week before the meeting. It is the responsibility of the report author to ensure sufficient time is allowed for drafting, discussion and to meet the deadline for issue.

DATE OF MEETING	31 JANUARY 2019
SUBJECT OF REPORT	SCHEME MANAGER UPDATE
REPORT AUTHOR	Head of Human Resources
EXECUTIVE SUMMARY	This report provides a summary of current pension matters both nationally and locally which have required input from the Service. This report should also be considered in conjunction with the regular monthly Bulletins which are issued by the Firefighters' Pensions Advisory Board.
APPENDICES	Appendix A: WYPF Monthly Client Report

1. INTRODUCTION

- 1.1 This is the update report from the Authority delegated Scheme Manager for the Devon & Somerset Fire & Rescue Authority - Local Pension Board (LPB). The Scheme Manager is defined as being the Fire and Rescue Authority under The Firefighters' Pension Scheme (England) Regulations 2014. However, the Scheme Manager may delegate any functions under these Regulations. The Authority has set out in the Discretions Policy where decisions will need to be taken by the Authority. However, the day-to-day managing and administering of the pension schemes, and any statutory scheme that is connected with them, is delegated to the Head of Human Resources.
- 1.2 The Local Pension Board provides a number of functions as set out in the Terms of Reference, which include: assisting the Scheme Manager to ensure compliance with the relevant regulations and the efficient and effective management of the pension administration; advising on member communications; and monitoring complaints.
- 1.3 This report provides a summary of current pension matters both nationally and locally and further updates will be provided on these matters in future reports, together with any items for which the LPB has specifically requested further information. The report is split into the following sections:
- Pension Surveys and Returns
 - Pension Communications
 - Project Work
 - Reporting Breaches of Law
 - Internal Dispute Resolution
 - Pension Administrator Quality of Service

2. PENSION SURVEYS & ANNUAL RETURNS

- 2.1 The Service and Pension Administrator have responded to a number of surveys including the following:
- 2.2 FPS Administration Benchmarking - Employer Survey**
- 2.2.1 This survey was commissioned by the Scheme Advisory Board as a benchmarking review part of FPS administration in relation to cost and service provided. The Scheme Advisory Board have commissioned Aon to undertake this benchmarking review. As part of this survey, members and pensioners will also be surveyed. This survey will be open until 28 February 2019 with WYPF contacting pensioners and the Service distributing information to all employees by email.
- 2.3 The Pensions Regulator's (TPR's) Public Service Governance & Administration Survey:**
- 2.3.1 This is the annual survey that the TPR undertake and from which the TPR provide a report. The report has been beneficial for us to benchmark with other organisations and Local Pension Boards and to assist with our action plans.
- 2.4 The Pensions Regulator's (TPR's) Annual Scheme Return**
- 2.4.1 This has been completed by WYPF on behalf of the Service for the 1992, 2006 and 2015 Pension Schemes.

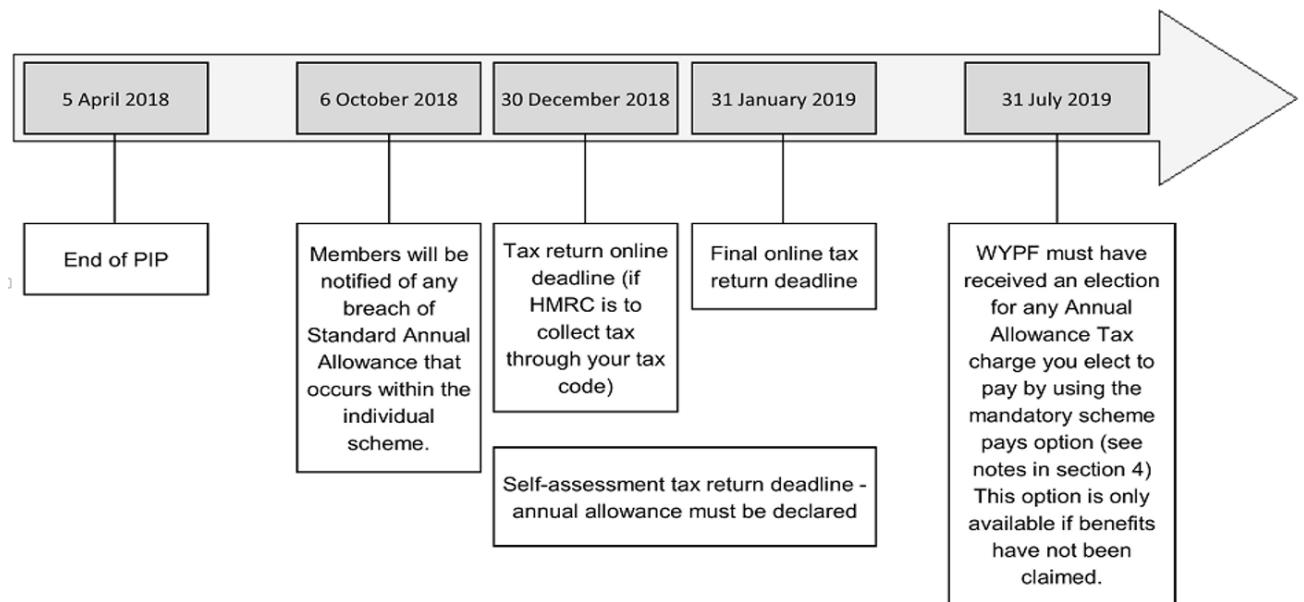
3. PENSION COMMUNICATIONS

3.1 Annual Benefits Statement

- 3.1.2 There is a legal requirement to provide an Annual Benefit Statement (ABS) to all active members ie those who are in pensionable service with Devon & Somerset FRS. This requirement is set out in the Public Service Pensions Act 2013. The requirement is that the ABS are provided to staff by no later than the 31st August each year. In the main, WYPF have made good progress with this and in their original correspondence they were able to confirm that the bulk of the statements were printed and distributed prior to the deadline. There were slight delays with 18 statements but there was only 1 outstanding by the 14th September 2018 and this was also eventually cleared by December 2018. The holdup with this statement was due to a transfer in with the purchase of final salary service rather than CARE benefits which required a manual calculation.
- 3.1.3 There was however, a problem with the On-call Modified Pension which WYPF treated as a separate exercise. These members had not previously had an ABS and WYPF did not hold all of the necessary information. There are 71 members of the On-call Modified Scheme plus another 38 who have already transitioned to the 2015 Scheme. The Service has been working with WYPF to provide the initial elective decisions from DSFRS staff and also the cost calculation information. WYPF are therefore able to proceed with these calculations and estimate that the statements will be produced by the end of February. In future years WYPF will have the information they need and therefore will not have the same difficulties that they encountered for the 2017/18 statement.
- 3.1.4 The ABS from WYPF complies with the national mandated requirement but does not include the same level of information as previously provided by Peninsula Pensions who used the Heywoods Pension System rather than Civica which is used by WYPF. This has resulted in more staff contacting WYPF to seek additional estimates and with the increased volume of requests for pension estimates it has meant that the response times have increased. Across all clients for Q3, WYPF received 399 requests for pension estimates and met their target for 69.17% of these requests. WYPF have however recruited new staff and intend to bring forward the development of a self-service calculator to be made available through the online My Pension.

3.2 Notification Of Annual Allowance Breaches

- 3.2.1 Active members who have exceeded their Annual Allowance will receive a Pension Savings Statement from WYPF in October each year following the end of the Pension Input Period (PIP) in April each year. There is also further information available through the WYPF website and also the HMRC website. The WYPF Client Relationship Manager attended the Service on the 30th October to provide training sessions for those staff were most likely to be impacted by this.
- 3.2.2 The Service has previously put in place a Voluntary Scheme Pays arrangements as well as the Mandatory Scheme Pay that was already in place. Active Members who have breached can therefore choose whether to pay their tax charge directly to HMRC via HMRC self-assessment or to utilise the Scheme Pays.
- 3.2.3 Here is an extract from the training slide deck with the timeline and deadlines:



- 3.1.3 In terms of any additional guidance from staff, we will need to incorporate further information into promotion letters where there is the potential for the Annual Allowance to be exceeded.

3.3 Communications about pension changes

- 3.3.1 WYPF have written to members of the 2016 Scheme informing them of a pension rule changes concerning Surviving partner's pension. This will ensure that members are kept up-to-date with pension changes that could affect them as detailed in the LGA Bulletin 14 SI 2018/997 member disclosure. This relates to members who have a cohabiting partner and that there is no longer the requirement to complete a nomination form. This relates to the 'Brewster' case which found that it was unlawful for a cohabiting partner to have to be nominated to get a surviving partner's pension. This means 2006 scheme members no longer have to fill in a form to nominate a partner, however, the scheme still suggest that completion of the nomination form will enable surviving partner's pensions to be paid more quickly.

4 PENSION PROJECTS

4.1.3 Pensionable Pay For Allowances

- 4.1.1 The Service has previously reported on this following the acceptance that the Area Manager Rota Allowance and the Training Allowance should be treated as pensionable pay. Back-dating arrangements were put in place and these allowances are now paid as pensionable pay.
- 4.1.2 There are other Allowances that are yet to be determined as pensionable: Dog Handler allowance, Special Rescue allowance and Additional Responsibility Allowances. Despite the Grey Book stating the ARAs are not pensionable we know that this is not authoritative and that we must consider the specifics of the contract.

- 4.1.3 There is currently another case with the Pension Ombudsman about pensionable pay which is in relation to payments for undertaking separate duties under the 1992 Firefighters' Pension Scheme (such as Urban Search & Rescue) and whether such payments are 'permanent'. We are therefore awaiting the final determination of this case. At this point the LGA will be seeking to prepare further guidance for Services on Pensionable pay.
- 4.1.4 Any further work on this aspect is therefore on hold until such time as further information becomes available.

4.2 Taxation Of The Ill Health Part Of An Injury Pension

- 4.2.1 Previously, On-call Firefighters who were employed prior to 6 April 2006 and prior to 1 April 2014 were awarded an injury and ill health pension where they were injured whilst on duty. This was paid through the Compensation Scheme and the injury pension was paid tax free but the ill-health pension was paid as taxable. Through pension case law it was determined that this ill-health pension should also be treated as tax-free and a Technical Note was issued by the LGA in September 2017.
- 4.2.2 The Service arranged through Peninsula Pensions for the calculation of the taxation paid on the ill-health pension for the tax years 2014/15, 2015/16, 2016/17 and 2017/18. This effected 71 On-call Firefighter pensioners. For the year 2017/18, the tax refund was included in with the pension payment paid in April 2018. For the previous tax years, back from 2014/15, these were reclaimable via HMRC.
- 4.2.3 Peninsula Pensions also advised that Devon & Somerset Fire & Rescue Service would need to determine whether any further non-taxable refund should be paid. The Service has subsequently given further consideration as to what should happen with any previous years where there had been taxable deductions but they could not be reclaimed from HMRC. The Service sought legal advice on this matter and determined that we would extend the period of the tax refund by a further 3 years to cover 2011/12, 2012/13 and 2013/14. These payments were made in November 2018. The Service has received a small number of queries in relation to these payments and has responded to such enquiries.

4.3 Transition Protection Judgement

- 4.3.1 At this stage the Court of Appeal have determined that the manner in which the transitional provisions have been implemented has given rise to unlawful direct age discrimination'. The court found that, having introduced the protections, the Government should have justified the discriminatory impact but that it had failed to do so, and therefore justification on the grounds of legitimate aims must fail. As a result they dismissed any further deliberation over the question on proportionality of means. The CoA judgment remits it to the employment tribunal to consider remedy however the Government and Employers are likely to seek to appeal the matter to the Supreme Court.
- 4.3.2 At this stage it is a watching brief for the Service but should the final decision be in favour of Sargeant and Others v London Fire and Emergency Planning Authority then it could undo the transitional protection as it has currently been implemented and create additional work for the Service.

4.4 Abatement

- 4.4.1 The general abatement rule is that on re-employment the salary paid for the new employment added to the pension in payment (plus inflation) cannot be more than the member's salary (plus inflation) at the point they retired. If there is an excess then the pension in payment will be reduced to bring the level back in line with the salary at retirement. There is no age limit on abatement, and this continues for the full period of re-employment by an FRA in any capacity. When the re-employment ends, the pension will be reinstated to the full amount. It should be noted that Abatement does not apply in the Firefighters' Pension Scheme 2015. This approach has been applied to uniformed staff in accordance with our Pay Policy Statement.
- 4.4.2 The advice received from WYPF on this matter is that staff who move into the LGPS or are working on a casual basis should also be abated. For casuals, any recovery would be commenced after a 12 month period once it is known what the annual earnings have been. The Service is currently working with WYPF to determine where this further abatement should be applied to any further staff that have retired and have been re-employed.

5 REPORTING BREACHES OF LAW

- 5.1 Within the LPB Reporting Breaches Procedure, we refer to Section 70 of the Pensions Act 2004 (the Act) and the requirement that, where a person has reasonable cause to believe that:
- (a) a duty which is relevant to the administration of the scheme in question, and is imposed by virtue of an enactment or rule of law, has not been or is not being complied with; and
 - (b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions
- that then they must give a written report on the matter to the Regulator as soon as is reasonably practicable.
- 5.1. The delay in the issuing of the Annual Benefit Statement (ABS) for the Active Members of the Modified Pension Scheme as set out in section 3.1 of this report is a breach of law since there are active members who should have received an Annual Benefit Statement as is set out in the Public Service Pensions Act 2013. The ABS should be provided by no later than the 31st August each year.
- 5.2. We are aware of the reasons for this and can therefore use the decision tree within our Reporting Breaches procedure to make a judgment on whether the matter should be reported to The Pension Regulator. In doing so we need to determine whether the breach is likely to be of material significance. To decide whether a breach is likely to be of material significance, we should consider the following, both separately and collectively:
- cause of the breach (what made it happen);
 - effect of the breach (the consequence(s) of the breach);
 - reaction to the breach; and
 - wider implications of the breach.

- 5.3 In terms of the cause, we are aware that the information concerning elective decisions and cost calculations was not transferred from our previous Pension Administrator to WYPF. The effect has been that 71 active members have not received their ABS by the required deadline. The reaction from WYPF has been to obtain this information directly from the Service and this has now been provided. WYPF have confirmed that they aim to complete the remaining ABSs by the end of February 2019. They have also informed us that they are seeking further changes to their Pension System (Civica) to simplify the production of ABSs for the current financial year and that once they have produced the first statements for 2017/18 then for 2018/19 there will not be the difficulties that they have encountered this time around and so there is no increased likelihood of further breaches of a similar sort.
- 5.4 Having considered the Decision Tree within our procedure we can determine a clear cut Red Breach or clear cut Green Breach. The Service Proper Financial Officer is responsible for ensuring that the policy is followed but ultimately the potential reporter remains responsible as to whether a matter should be reported to The Pension Regulator (TPR). This matter can be discussed by the LPB but my recommendation is that it is not of sufficient material significance to warrant reporting to the TPR and therefore should remain as a Green Breach. However, the matter will need to be recorded as a breach within our Record of Breaches.

6 INTERNAL DISPUTE RESOLUTION

- 6.1 Within the Firefighters' Pension Scheme formal complaints are made via the Internal Disputes Resolution Procedure. Anonymised cases are listed below over the last 3 years and provide information for the Local Pension Board to consider whether any trends are developing. There were some multiple cases in pensionable pay and changes in the pensionability of promotional pay during 2016 but since then there have only been a further four cases. These four cases are all unrelated and do not represent any form of trend. At this point there does not seem to be any recurring issue.

Date of Submission	Member	Reason for Dispute	Outcome
Nov-18	Pensioner	That WYPF have applied a split pension calculation using a different approach to our previous Pension Administrator.	At Stage 1
Aug-18	Pensioner	That an ill-health pension should be based on a different level of pay.	Rejected at Stage 1 as already subject to other litigation.
Mar-18	Pensioner	That the back-dated pensionable Training Allowance should be subject to interest.	Rejected at Stage 1 and 2 and then withdrawn.
Mar-17	Active Member	That pension estimates had been mis-calculated.	Withdrawn
Mar-16	Pensioner	That an allowance should be pensionable.	Resolved
Mar-16	Active Member	Promotional Pay and information concerning changes to the pension scheme.	Resolved

Date of Submission	Member	Reason for Dispute	Outcome
Mar-16	Active Member	Promotional Pay and information concerning changes to the pension scheme.	Resolved
Mar-16	Active Member	Promotional Pay and information concerning changes to the pension scheme.	Resolved
Feb-16	Pensioner	That an allowance should be pensionable.	Resolved

7 PENSION ADMINISTRATOR QUALITY OF SERVICE

- 7.1 Having moved to a new Pension Administrator from April 2018, there have inevitably been comparisons with the previous provider. From an active member perspective, this has been most visible to the widest number of people through the ABS. I have referred to in section 3.1.4 the concerns with the change in format. This has led to there being less information made available to active members and therefore a rise in the number of requests for estimates. WYPF have experienced this across all new clients and this has resulted in a bottleneck. WYPF have achieved a 69.17% achievement rather than the 85% target level for this KPI. However, they are taking steps to resolve this under performance by recruiting new staff and bringing forward the development of a self-service calculator to be made available through the online My Pension. The self-service calculator will rely on the monthly business objects report from our payroll system operating correctly and this is currently being finalised.
- 7.2 There are three other KPIs that are below the target standard out of 30 measures and these are reviewed and discussed at the Fire Client Quarterly meetings. The Service KPIs are reported on a monthly basis directly to the Service and the Monthly Client Report is attached in Appendix A.
- 7.3 A further issue that arose with estimates was that where we have a Pre-retirement Seminar, requests for estimates were submitted in advance. However, these got incorporated into the 399 pension estimate requests rather than being separately prioritised. Our next pre-retirement seminar is in March 2019 and WYPF have asked us to separately identify these requests so that the problem does not reoccur.
- 7.4 There have also been some concerns over the timeliness of Annual Allowance information but these were completed within the required timescales. We will continue to scrutinise the KPIs and use our SLA to ensure that we receive the quality of Service that is expected.
- 7.5 My overall impression is that WYPS are working hard to meet the KPI requirements and where these or any other matter have fallen short of expectations then they are taking steps to resolve the matter. From a personal perspective, I have found the pensions advice that I receive to be comprehensive and invaluable. From an ongoing working perspective, WYPF have made a very good start as our new Pension Administrator.

STEVEN POPE
Head of Human Resources

Appendix A: WYPF Monthly Client Report

Monthly Client Report Devon & Somerset Fire Authority January 2019

Please take a few minutes to read the Firefighters' Pension (England) Scheme Advisory Board Bulletin (Link to Bulletin 15 below) and take any action required.

Bulletin 15

Some action point from the bulletin:

Amendments to Firefighter Pension Schemes (England) - Consultation

This consultation seeks the views of interested parties on draft legislation to enact these changes. The consultation closes on 29 January 2019 so please submit your comments by this deadline.

Revised GAD Factors

As confirmed last month, these have already been updated on our system with very little impact on existing workloads (no stockpile of backlogs).

FPS benchmarking exercise – update

The deadline for the administrator and employer (scheme manager) benchmarking surveys is fast approaching. If you have not yet had opportunity to do so, we would encourage you to ensure that you submit a response. We are relying on the support of our stakeholders to collect as much data as possible to allow for meaningful analysis. Responses will be accepted up to 14 January 2019.

SAB request for information

SAB members have been made aware of concern at FRAs around opt out levels, and difficulties surrounding recruitment and retention of talented and experienced personnel due to potential tax consequences of breaching the annual allowance.

In order to support the Board in presenting a case to the Home Office on how schemes might be better managed to give choice and flexibility to pension members to stay in the scheme, more quantitative data is required.

The SAB needs your help in collecting this information. Completed forms should be submitted to bluelight.pensions@local.gov.uk by 31 January 2019.

Pensions Dashboards

The results of a feasibility study to explore the options for the delivery of online pensions dashboards were released in the form of a government consultation on 3 December 2018. The consultation is seeking views on how the government can best facilitate an industry-led delivery of a pensions dashboards. The consultation closes at 11pm on 28 January 2019 so please submit your comments by this deadline.

1. Member Issues

None to Report

2. Administration Update

Recovery of overpayments – under £100

The automatic write off limit for all overpayments from WYPF has now been increased from £50 to £100. This means that overpayments of less than £100 will not be recovered from the member, however the pension will be adjusted to the correct rate and a letter with an explanation will be sent to the member and the Fire Authority.

However, where there has been a bulk error, such as information received from DWP or programming error for pensions increase, which affects a number of individuals, overpayments of less than £100 may be recovered.

To ensure consistency, I am proposing to apply the increase to all Fire Service overpayments from 1 March. Unless I hear from you by 1 February, I will assume you are in agreement with this change.

A copy of WYPF's recovery policy is attached for your information.

Member Web registrations

The number of members signed up to member web are:

Status	Number
Active	76
Beneficiary Pensioner	3
Deferred	24
Deferred Ex-Spouse	0
Pensioner	104

3. Key Performance Indicators (indicative)

Devon & Somerset Fire (1 to 31 December 2018)						
WORKTYPE	TOTAL CASES	TARGET DAYS FOR EACH CASE	TARGET MET CASES	MINIMUM TARGET PERCENT	TARGET MET PERCENT	AVERAGE TIME TAKEN
Divorce Quote Fire	1	40	1	85	100	1
Pension Estimate Fire	9	10	5	85	55	14
Deferred Benefits Into Payment of Lump Sum	1	3	1	85	100	1
Retirement Quote Fire	3	10	3	85	100	2
Retirement Actual Fire	2	10	2	85	100	1
Set Up New Spouse Pension Fire	2	5	2	85	100	1
Change of Address Fire	3	20	3	85	100	1
General Payroll Changes Fire	6	20	6	85	100	1
Age 55 Increase Fire	2	20	2	85	100	1

DG Nomination Form Received Fire	3	20	3	85	100	3
Article 4 Payment Own Right Fire	1	10	1	85	100	1
Spouse Potential Fire	1	10	1	85	100	10
Death Grant to Set Up Fire	2	5	2	85	100	1
Initial letter Death in Retirement FIRE	1	5	1	85	100	2
Death in Retirement FIRE	1	5	1	85	100	1
Initial Letter Death In Service Fire	2	5	2	85	100	1
Death In Service Fire	2	5	2	85	100	1

*Pension Estimate Fire – Workloads have increased significantly across all our Fire clients. As a result we are in the process of recruiting additional staff. They should be in post late January.

4. Membership Numbers

Scheme	Actives	Deferreds	Pensioners	Beneficiaries	Leave options pending
Devon & Somerset (1992 Scheme)	125	64	901	155	1
Devon & Somerset (2006 Scheme)	54	422	196	11	1
Devon & Somerset (2006/RDS Scheme)	68	100	53	0	8
Devon & Somerset Fire (2015 Scheme)	1346	195	13	4	4
Devon & Somerset Fire (2015/RDS Scheme)	41	1	0	0	11

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