

**DEVON & SOMERSET FIRE & RESCUE AUTHORITY**

**LOCAL PENSIONS BOARD**

<b>DATE OF MEETING</b>	30 October 2019
<b>SUBJECT OF REPORT</b>	SCHEME MANAGER UPDATE
<b>REPORT AUTHOR</b>	Head of Human Resources
<b>EXECUTIVE SUMMARY</b>	<p>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.</p>

## **1. INTRODUCTION**

- 1.1. This is the update report from the Devon & Somerset Fire & Rescue Authority (the Authority) delegated Scheme Manager for the Authority's 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 LPB 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 at subsequent LPB meetings.

## **2. PENSION SURVEYS & ANNUAL RETURNS**

- 2.1. Since the last meeting of the LPB in August 2019, the results of the Firefighter Pension Scheme (FPS) Administration Benchmarking Review have been released. The review was commissioned by the Scheme Advisory Board (SAB) and was undertaken by AON. The main recommendations were presented at the LGA Fire Pensions Conference in September and the summary slides can be found as an Appendix to this report.
- 2.2. Nick Gannon, Policy lead for the Pension Regulator (TPR) has confirmed that its annual survey will be available for completion in November & December 2019 and he highlighted the importance of having a risk register in place together with procedures for assessing and managing risk.

## **3. PENSION COMMUNICATIONS**

### **Annual Benefit Statements**

- 3.1. There is a legal requirement to provide an Annual Benefit Statement (ABS) to all active members by no later than the 31 August each year, i.e. those who are in pensionable service with the Devon & Somerset Fire & Rescue Service (the Service). This requirement is set out in the Public Service Pensions Act 2013.
- 3.2. At the last LPB meeting, it was reported that although the majority of ABS statements would be produced within the statutory deadline of the 31st August there was a delay with the FPS 2006 Modified Scheme. In 2018 a specific problem had been encountered with these statements, relating to the transfer of data from the Service's previous pension administrator to West Yorkshire Pension Fund (WYPF). This year the delay has been across all clients. WYPF had expected to produce the Modified Scheme statements by the 31 August, with an automated approach developed for future years. In late August, however, WYPF reported that whilst it had been seeking to provide coding for the pension system (Civica) so that the calculations could be produced, the complexity of the coding resulted in this not being possible in sufficient time to produce the statements by the 31 August deadline. Consequently, the calculations had to be undertaken manually.

- 3.3. WYPF has confirmed that the statements have been produced and should have been with the scheme members during week commencing 14 October 2019. This breach of the statutory requirements is one which is reportable to the Pension Regulator.
- 3.4. WYPF has confirmed that in future the modified scheme members will get an automated ABS similar in style to the standard ABS issued to other members of staff. This shows the benefits at:

- age 55 for protected members
- the end of the next month for protected members who are over age 55 at the ABS date
- age 55 and 60 for taper and unprotected members

This additional information has been very well received by scheme members rather than the basic ABS provided in 2018. For the longer term, WYPF has also confirmed that the revised coding will also have an automated retirement calculation which will speed up the processing and increase the accuracy of the figures provided to scheme members for estimates and retirements.

- 3.5. The last Scheme Manager's report noted that there had been an ongoing issue for the Service affecting the automatic production of monthly pension data from the iTrent payroll system required for the production of ABS information. The report has now been reconfigured and some automated checking processes built, which means this problem has now been resolved. Reports covering the missing months from April 2019 are now being produced for submission to WYPF.

#### **Annual Allowances**

- 3.6. An Annual Allowance factsheet has been produced, along with a table which highlights where a promotion could potentially take an employee over the threshold for Annual Allowances.
- 3.7. The table has been prepared in a way which will enable ease of refresh following future pay reviews and reference to the table will be added to the Service's promotion letters. The factsheet will be added to the intranet and referred to in future promotional offer letters.

#### **WYPF My Pension Portal**

- 3.8. Configuration and testing continues on the online My Pension Portal. WYPF had intended to launch the enhanced site during August 2019 but this has been delayed and they are now aiming for the end of November. WYPF advises that, when launched, the site will need further work to add in the Fire calculations.

### **4. PENSION PROJECTS**

#### **Pensionable Pay for Allowances**

- 4.1. At the last LPB meeting in August it was reported that the Head of HR and HR Rewards & Benefits Manager had attended the LGA Pensionable Pay workshop on 18 July 2019 where the Head of HR had presented, from a practitioners perspective, on the Service's experiences in decision making and implementation of pensionable pay. As a follow-up to this workshop the LGA commissioned its legal advisors to provide advice on corrective action and retrospective payments. The Head of HR attended a small working group to give input on legal advice received by the SAB which would need to decide whether the advice would be circulated to all fire and rescue services.

- 4.2. At the August meeting, the Scheme Manager sought input from the LPB on whether three additional payments made by the Service should be pensionable. The LPB recommended an approach to each of the three additional payments consistent with the Blackburne principles. This approach was then discussed with the Service FBU Secretary who had previously registered pensionable pay as a matter of dispute. While the Service FBU Secretary was satisfied with the recommendations from the LPB, the Regional FBU representative still has concerns regarding the Day Crewing Rent Allowance (which had previously been determined as non-pensionable). It is intriguing that the Regional FBU representative should take this position since the previous national FBU advice had been that this allowance was not pensionable and from a Service perspective this matter is now closed.
- 4.3. There has been one new allowance considered since the last LPB meeting - payments in relation to a Crewing Pool. The crewing pool is a bank of staff voluntarily contracted to provide operational cover at stations when required and perform other work activities whilst there. This operational support mechanism is managed by the Operational Resource Centre (ORC) as a central function. The key consideration here is that opting to participate in the crewing pool is purely voluntary and as such is not considered as pensionable pay.

#### **Transition Protection Judgement**

- 4.4. There has been no change to the situation on to the Transitional Protection Judgement since the last report, when the Board was advised that the Supreme Court had denied the Government permission to appeal the Court of Appeal's judgement that transitional provisions introduced to the reformed judges and firefighters pension schemes in 2015 gave rise to unlawful age discrimination.
- 4.5. Amar Pannu, Head of Police & Firefighter's Pensions at the Home Office, presented at the LGA Fire Pensions Conference. Amar confirmed that the Government will be engaging with the Employment Tribunal and employer and member representatives, as well as the devolved administrations, to help inform its proposals to the Tribunal for remedy.
- 4.6. Amar indicated that the Home Office would be producing a factsheet on this subject which it intend to distribute in October 2019. Amar also highlighted that there were difficulties to address including that for some active members reverting to the previous scheme could mean that they were worse off in terms of scheme benefits. There was also the ongoing requirement for pensions to be sustainable as originally set out in the Hutton review.

#### **Abatement**

- 4.7. As a reminder, 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 abated 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 a fire authority in any capacity. When the re-employment ends, the pension will be reinstated to the full amount.
- 4.8. It was previously reported that a number of staff had been identified that should have been abated but had not been. The Service has fully investigated the circumstances around these cases and the interpretation that the previous pension administrator applied. It appears that there have been cases where the pension has been abated but then re-instated when pensioners had reach normal pension age, i.e. 55 for the 1992 scheme.

4.9. The Service's previous pension administrator applied this approach based on a 2009 CLG circular for what was termed 'inter-service'. However, this circular does not have any statutory status and is not endorsed by the Home Office as a policy position. On the basis of research undertaken, it would appear that under such circumstances the Service can make these unabated pensionable payments under the regulations, but in doing so the Authority must transfer a sum equivalent to the abatement amount to its firefighter pension account. The Service has now reinstated the pension abatement to those staff who continue to be re-employed. A further problem was identified with a member of staff who retired but re-joined the Service in a support role and had not been abated. The Service will need to put in steps to ensure that there are adequate checks to ensure that this does not happen again.

4.10. The Pension Fund account has been reimbursed for the full amount of the abatement that was not applied and the Director of Finance and Resourcing has written to the previous pension administrator requesting that the issues referred to in paragraph 4.9 above and 4.11 below are remedied.

### **Two Pensions**

4.11. It was noted previously that WYPF was reviewing pensioners who had entitlement to two pensions which is colloquially known as a "split pension". This was because the Service's previous pension administrator had applied more than one pension split where this was advantageous to the retiree, when in fact only a single split pension should have been applied. It is also now recognised that equivalent indexing should be applied to the first pension and this was not always the case.

4.12. WYPF has completed the analysis on 43 such cases relating to the Service. There were 4 cases where multiple splits had been applied and a further 12 cases where the indexing has not been applied. For all of those affected, there had been underpayments and WYPF has made the necessary corrections. There was one case where a small overpayment had been made and this has been corrected going forward. This misapplication of the Scheme is considered as a breach of the law and one that it is reportable to the Pension Regulator.

## **5. REPORTING BREACHES OF LAW**

5.1. Within the LPB Reporting Breaches Procedure, Section 70 of the Pensions Act 2004 (the Act) is referenced. This requires 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

then they must give a written report on the matter to the Regulator as soon as is reasonably practicable.

5.2. Paragraph 3.2 above refers to the delay in the modified pension Annual Benefit Statements and this will be a reportable breach to the Pension Regulator. The same applies to the Two Pensions matter referred to in paragraph 4.11.

## **6. INTERNAL DISPUTE RESOLUTION**

- 6.1. Within the Firefighters' Pension Scheme formal complaints are made via the Internal Disputes Resolution Procedure. There have been no new complaints under this procedure since the last Local Pension Board meeting.
- 6.2. There is one live case at Stage 2 which has been heard by Authority Members. A final decision on this is still awaited.
- 6.3. Information concerning the Internal Disputes Resolution process has been added to the Service web page along with links to the information on the WYPF website.

## **7. PENSION ADMINISTRATOR QUALITY OF SERVICE**

- 7.1. The client service that WYPF provides continues to be to an excellent standard and it is recognised that WYPF is working hard to ensure that clients receive the best possible service.
- 7.2. In terms of the administration functions and the monthly reporting from WYPF (see Appendix A), the reporting does not currently align with that agreed under the contract and there would be a benefit from including performance trend lines in the monthly reports. The Director of Finance and Resourcing has been seeking to discuss with WYPF the performance measures used but has experienced difficulty in getting feedback from the WYPF Business Development Manager.
- 7.3. Since the last report, discussions have been held with WYPF which has agreed to feedback on the KPIs agreed under the contract to ensure that:
  - (a) all agreed KPIs are reported;
  - (b) it will be made clear where indicators will only be reported by exception (e.g. rare cases); and
  - (c) consideration is given to the use of performance trend analysis to add further value to the report.
- 7.4. The Scheme Manager recently contacted the call-line with queries concerning the modified pension scheme, which can be very complicated for active members because of the various options. It was interesting to experience the assistance that an employee would receive in that there was only one pension advisor with sufficient knowledge to answer the specific questions and this advisor was not available at the time of the call.

## **8. RECRUITMENT OF LPB MEMBER REPRESENTATIVES**

- 8.1. Since the last meeting, James Leslie and Ben Redwood have been appointed to the two Scheme Member vacancies on the Local Pension Board. The new representatives are warmly welcomed onto the Board and their induction will now be arranged to ensure that they are able to fulfil their role.

**STEVEN POPE**  
**Head of Human Resources**