

**LEICESTER, LEICESTERSHIRE AND RUTLAND COMBINED FIRE  
AUTHORITY  
LOCAL PENSION BOARD**

**To: Members of the Local Pension Board**

Mr. J. T. Orson JP CC

Cllr. H. Rae Bhatia

Graham Vaux, Leicestershire Fire and Rescue Service

Adam Taylor, Leicestershire Fire and Rescue Service

Copies by email to:

Other Members of the Combined Fire Authority for information only

CFO and ACFO

Pension Scheme Manager, Leicester City Council

West Yorkshire Pension Fund

Dear Sir/Madam,

You are invited to attend a meeting of the **Leicester, Leicestershire and Rutland Combined Fire Authority's Local Pension Board** which will be held at **Leicestershire County Council, County Hall, Glenfield**, (with some officers joining remotely via Microsoft Teams) on **Wednesday 22 September 2021** following the meeting of the Combined Fire Authority for the transaction of business set out on the attached Agenda.

Yours Faithfully



Lauren Haslam  
Monitoring Officer



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**LEICESTER, LEICESTERSHIRE AND RUTLAND COMBINED FIRE  
AUTHORITY LOCAL PENSION BOARD  
WEDNESDAY 22 SEPTEMBER 2021  
Following the meeting of the Combined Fire Authority**

*Location*                    **Leicestershire County Council, County Hall, Glenfield**

*Officer to contact*   **Anna Poole (Tel: 0116 305 2583)**

*E-Mail*                    **anna.poole@leics.gov.uk**

**AGENDA**

<u>Item</u>	<u>Report by</u>	
1. Apologies.		
2. Minutes of the Local Pension Board meeting held on 16 June 2021.		(Pages 5 - 8)
3. Conflicts of Interest.		
4. Scheme Manager's Update.	The Pension Scheme Manager	
<i>A verbal update will be given.</i>		
5. LFRS Firefighters' Pension Scheme Risk Register.	The Pension Scheme Manager	(Pages 9 - 24)
6. LFRS Firefighters' Pension Scheme Breaches Register.	The Pension Scheme Manager	(Pages 25 - 26)
7. Firefighters' Pension Scheme - Age Discrimination Remedy Update.	The Pension Scheme Manager	(Pages 27 - 34)
8. Scheme Administrator's Update.		(Pages 35 - 38)
9. Employee Representative's input.		
<i>A verbal update will be received from an employee representative.</i>		
10. Date of next meeting.		
<i>The next meeting of the Local Pension Board will be held on Friday 3 December 2021 following the meeting of the Combined Fire Authority.</i>		
11. Any other business.		

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Minutes of a meeting of the Leicester, Leicestershire and Rutland CFA - Local Pension Board held at Leicestershire County Council, County Hall, Glenfield on Wednesday, 16 June 2021.

PRESENT

Mr. J. T. Orson JP CC (in the Chair)

Cllr. Hemant Rae Bhatia

Adam Taylor  
Graham Vaux

In attendance

Callum Faint, Chief Fire and Rescue Officer  
Colin Sharpe, Pension Scheme Manager  
Mick Grewcock, Interim Assistant Chief Fire and Rescue Officer  
Paul Weston, Interim Assistant Chief Fire and Rescue Officer  
Sean Connor, Senior HR Partner, Derbyshire Fire and Rescue Service  
Yunus Gajra, West Yorkshire Pension Fund  
Helen Scargill, West Yorkshire Pension Fund  
Anna Poole, Democratic Services Officer

1. Appointment of Chairman.

At the Leicester, Leicestershire and Rutland Combined Fire Authority meeting held on 16 June 2021, Mr. J. T. Orson CC was nominated as Chairman Elect of the CFA's Local Pension Board.

It was moved and seconded that Mr. J. T. Orson CC be elected Chairman of the CFA Local Pension Board for the period ending with the date of the Annual Meeting of the Combined Fire Authority in 2022.

**RESOLVED:**

That Mr. J. T. Orson CC be elected Chairman of the CFA Local Pension Board for the period ending with the date of the Annual Meeting of the Combined Fire Authority in 2022.

Mr. J. T. Orson CC – in the Chair

2. Apologies.

No apologies were received.

3. Conflicts of Interest.

The Chairman invited members who wished to do so to declare conflicts of interest in respect of items on the agenda.

No declarations were made.

4. Minutes of the previous meeting.

It was moved by Councillor H. Rae Bhatia and seconded by Graham Vaux that the minutes of the meeting held on 20 April 2021 be taken as read, confirmed and signed.

**RESOLVED:**

That the minutes of the meeting held on 20 April 2021 be taken as read, confirmed and signed.

5. Pension Fund Administration Report.

The Board considered a report of the Pensions Scheme Administrator which provided an update on the administration of the fire fighter pension scheme for the period 1 January – 31 March 2021. A copy of the report marked 'Agenda Item 5', is filed with these minutes.

In presenting the report, the Pensions Administrator informed members that:

- i. Those members who were fully protected members of the final salary pension scheme would provisionally move to CARE on 25 June 2022. In line with the Local Government Association guidance, projections of benefits would not be provided. Annual Benefit Statements could be viewed and downloaded from the pensions portal and members would be notified when the ABS was available. However, pay information for members for 2020/21 was awaited and if this was not received in time, the ABS would not be produced by the deadline of 31 August which presented a breach that would need to be reported to the Pensions Regulator.
- ii. Action was currently being taken to remedy the age discrimination and data was currently being collected.
- iii. The KPI data (paragraph 10 in the report) that related to death was impacted by the delay in notification of the death by the next of kin.
- iv. It was the FRS responsibility to inform pension scheme members that their ABS did not reflect their remedy choice.
- v. Not all ABS would reflect the remedy choice made, as legislation was awaited to enable the software to be updated.
- vi. Communications to pension scheme members on the arrangements with production of the ABS had been published in the staff magazine Service Matters and would be published in two further editions.

**RESOLVED:**

That

- a. Officers at LFRS would provide the necessary pay information to West Yorkshire Pension Fund to enable the timely production of the ABS.
- b. That the update provided on the administration of the fire fighter pension scheme for the period 1 January – 31 March 2021 be noted.

6. Pension Fund Scheme Manager's Update.

The Board was informed that the CFA had approved Colin Sharpe (Deputy Director of Finance at Leicester City Council) as the new Scheme Manager.

The Board received a short verbal update from the Pension Scheme Manager which introduced the following two agenda items: Firefighters' Pensions Scheme Risk Register and Firefighters' Pension Scheme Breaches Register.

7. LFRS Firefighters' Pension Scheme Risk Register.

The Board considered a report of the Pension Scheme Manager which presented the current risk register for the Leicestershire Fire and Rescue Service Local Pension Scheme. A copy of the report marked 'Agenda Item 7' is filed with these minutes.

Members were informed that:

- i. The West Yorkshire Pension Fund (WYPF) had been appointed since the last report to the Board. They provided pension scheme administration for the Leicestershire, Nottinghamshire and Derbyshire Fire and Rescue Services.
- ii. The risk register had been updated to reflect the age discrimination remedy of the firefighter pensions.

It was moved by Mr. J. Orson CC and seconded by Councillor Bhatia that the risk register be approved.

**RESOLVED:**

That the risk register be approved.

8. LFRS Firefighters' Pension Scheme Breaches Register.

The Board considered a report of the Pension Scheme Manager which gave an update on the Breaches Register. A copy of the report marked 'Agenda Item 8' is filed with these minutes.

The Breaches Register had been circulated to the Board and identified that no breaches had taken place in the reporting period.

**RESOLVED:**

That the Breaches Register, attached at Appendices 1 and 2 to the report, which identified that no breaches had taken place in the reporting period, be noted.

9. Firefighters' Pension Scheme - Age Discrimination Remedy Update.

The Board considered a report of the Pension Scheme Manager which gave an update on the developments concerning the Firefighters' Pension Scheme – Age Discrimination Remedy since the last update received by the Board on 20 April 2021. A copy of the report marked 'Agenda Item 9' is filed with these minutes.

Sean Connor, the Regional Pensions Adviser informed the Board that the Home Office had issued guidance last Thursday and the Local Government Association had issued guidance on implementing the Home Office guidance. The LGA had hosted a workshop the previous day for FRS and pension scheme administrators to discuss and interpret the guidance received. The guidance received had clarified those cases that were immediately out of scope or were achieving immediate detriment.

In response to questions, members were informed that:

- i. Tax legislation could not yet be changed to prevent a breach of the annual allowance and limit any tax implications. Firefighters needed to give the Service as much notice as possible of their impending retirement so that any potential tax relief could be actioned while they were in employment.
- ii. Any tax relief could be actioned as late as October 2023. Further guidance was needed and was complex.
- iii. Processes were currently being handled manually while the new software was awaited.
- iv. In calculating immediate detriment, priority was being given to active firefighters and pensioners. Death in Service and future Death in Service cases were out of scope for Immediate Detriment.

**RESOLVED:**

That the update provided on developments concerning the Firefighters' Pension Scheme - Age Discrimination Remedy since the last update received by the Board on 20 April 2021, be noted.

10. Joint Pension Board - Update.

The Board received a verbal update from the Pension Scheme Manager regarding the formation of the Joint Pension Board.

Members were informed that officers awaited the Government's decision and a report would be brought back to all three Local Pension Boards once this had been received.

**RESOLVED:**

That the update provided on the formation of the Joint Pension Board be noted.

11. Employee Representative's input.

The employee representatives informed the Board that their input had been addressed in the discussion on the previous agenda items and they had no further input.

12. Date of next meeting.

The next meeting of the Local Pension Board will be held on Wednesday 22 September 2021 following the meeting of the Combined Fire Authority.



**Status of Report:** Public

**Meeting:** Local Pension Board

**Date:** 22 September 2021

**Subject:** Firefighters' Pension Scheme Risk Register

**Report by:** The Scheme Manager

**Author:** Colin Sharpe, Deputy Director of Finance, Leicester City Council

**For:** Discussion

### **Purpose**

1. To provide an update to the Local Pension Board on the Fire Fighters' Pension Scheme Risk Register.

### **Recommendations**

2. The Board is asked to review the content of the risk register attached at Appendix 1. The Board is asked to then approve the register if it feels that, subject to any amendments it makes, it adequately reflects current risks.

### **Background**

3. Good governance ensures that there is an appropriate Risk Register in place. It is also a requirement of the Pensions Regulator's code of practice on the governance and administration of public service pension schemes to have in place a Risk Register which is regularly reviewed.
4. The risk register consists of relevant risks considering both the administration of pensions by LFRS staff and its relationship and work undertaken by the administering body being the West Yorkshire Pension Fund.
5. The process used to identify and score risks is that of best practice and using the definition of risk taken from the International Risk Management Standard ISO31000. All risks cannot be eliminated, however risk appetite and risk awareness are key in ensuring that risks the Board are exposed to are appropriately managed.
6. Each identified risk has been scored using the 5 x 5 risk matrix as set out in Appendix 2.
7. Each risk is scored as it currently is with existing actions/controls, and then further management actions/controls are identified which should have the effect of reducing the risk score.

8. Since the previous report, the key changes reflect the on-going developments following the national age discrimination remedy judgements. These are the subject of a report elsewhere on the agenda.

### **Background Papers**

LPR Code of Practice no 14 (Governance and administration of public pension schemes).

<https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice>

ISO 31000 – Risk management principles and guidelines standard

<https://www.iso.org/iso-31000-risk-management.html>

BS65000 – Guidance on Organisational Resilience.

<https://shop.bsigroup.com/products/guidance-on-organizational-resilience?pid=000000000030258792>

### **Appendices**

Appendix 1 – Firefighters’ Pension Scheme Risk Register

Appendix 2 - Risk Assessment Matrix

### **Officer to Contact**

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**Appendix 1 – Firefighters’ Pension Scheme Risk Register**

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
1	Failure to administer the scheme in line with regulations and policies	Regulatory	Administration failure	Up to date knowledge through various sources such as SAB and the Home Office. Up to date training. Attendance at regional and national groups. regional fire administrator working group. Information on the scheme is held on the Firefighters section of the WYPF website.	1	4	M	TACT				1	4	M	TACT

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
2	Those charged with governance of the Scheme are unable to fulfil their responsibilities effectively.	Regulatory	Reputation	Requires Board members to receive continuing training.	2	2	M	OPS	Proposed creation of a Joint East Midlands Pension Board to provide efficiency and resilience	Scheme Manager	No date available, requires ministerial approval and other matters are occupying ministerial time. Updated approval from each scheme would be sought.	1	2	L	OPS

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
3	Policies not being in place and up to date	Regulatory		Policies to be reviewed and updated	3	3	H	TACT	HR action plan includes a review of all policies as part of the HR strategy	Scheme Manager	On-going	2	2	M	OPS

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
4	Failure to recognise/manage conflicts of interest	PEOPLE		Declarations of interests at the beginning of each meeting.	1	2	L	OPS				1	2	L	OPS

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
5	Potential fraudulent activity by staff/scheme members	PEOPLE	Illegal expenditure, excessive pension benefits	Clear roles and responsibilities for those administering pensions. Duties split between Finance, HR, Warwickshire County Council payroll and WYPF. HR review of processes underway. National Fraud Initiative participation. Review of declarations of interest policy. Internal audit of pensions (CFA and administrator)	1	3	M	TACT				1	4	M	TACT

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
6	Changes to the Firefighters' Pension Scheme and lack of expertise in the revised/new provisions.	Business process	Breach of regulation	The use of advisors where deemed applicable to provide relevant information and recommendations on particular areas. Professional Administrator engaged, has many fire clients (WYPF). Regional Adviser engaged. Senior officers and Scheme Manager linked in with LGA, NFCC.	2	3	M	TACT				1	3	M	OPS

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
7	Failure to provide adequate information to the Pension Board.	Regulatory	Breach of regulation	Board meetings held quarterly at which key information relating to the administration of the Scheme(s) is provided. Extraordinary meetings can also be arranged for urgent items.	1	2	L	OPS				1	2	L	OPS



PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
8	Failure to include all required information in documents issued to members under disclosure regulations	Regulatory	Breach of regulation	Officers keep up to date with disclosure regulations and distribute knowledge to teams accordingly via relevant websites, seminars and working groups.	1	4	M	TACT				1	4	M	TACT

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
9	Failure to communicate adequately with scheme members	PEOPLE	Negative impact on staff. Breach of regulation.	Website regularly updated. Newsletters published. Annual Benefit Statements produced and distributed. Updates on key scheme changes.	2	3	M	TACT	Regular pension roadshows to be arranged inviting all 3 FA's employees to update on age discrimination remedy.	Scheme Manager	Rolling programme	1	3	M	OPS

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
10	Records are not accurate or do not reflect changes in circumstances.	PEOPLE	Business process	Records are supported by appropriate documentation, input and output checks are undertaken. Regular reviews of data quality. Check and challenge between LFRS finance and HR, Warwickshire CC and WYPF.	1	4	M	TACT				1	4	M	TACT

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
11	Barriers to promotion and retention of experienced / knowledgeable senior staff due to annual allowances tax impact.	PEOPLE	Negative impact on staff	Arrangements in place with Notts/Derbyshire to share relevant pensions expertise/resource	4	3	H	TACT				3	3	H	TACT

PRR REF	HAZARD STATEMENT	PRIMARY RISK HEADING	SECONDARY RISK DESCRIPTOR	CONTROL MEASURES IN PLACE	CURRENT RISK (after current control measures)				CONTROL MEASURES TO BE IMPLEMENTED	CONTROL MEASURE OWNER	PROJECTED IMPLEMENTATION DATE FOR ALL CONTROL MEASURES	RESIDUAL RISK (after all control measures implemented)			
					L	I	R	ML				L	I	R	ML
12	Impact of the McCloud judgement / Age Discrimination Remedy	PEOPLE	Breach of regulation. Negative impact on staff. Subject of legal proceeding.	Regional working with Notts/Derbys fire pensions experts. Work with the LGA and NFCC. Reference court judgements and legislation. Regular reports to the CFA and LPB.	3	3	H	TACT	Review of capacity to undertake the necessary remedies when known, across LFRS, WYPF and Warwickshire CC.	CFO and Scheme Manager	On-going	2	3	M	TACT

**ASSESSMENTS REMOVED OR ARCHIVED DURING THE CURRENT YEAR**

CRR REF	HAZARD STATEMENT	FINAL RISK ASSESSMENT SCORE				REASON FOR REMOVAL	WHEN REMOVED
		L	I	R	ML		
	Failure to implement the new Fire Pensions Administrator on time	1	3	M	TACT	WYPF appointed	June 2021

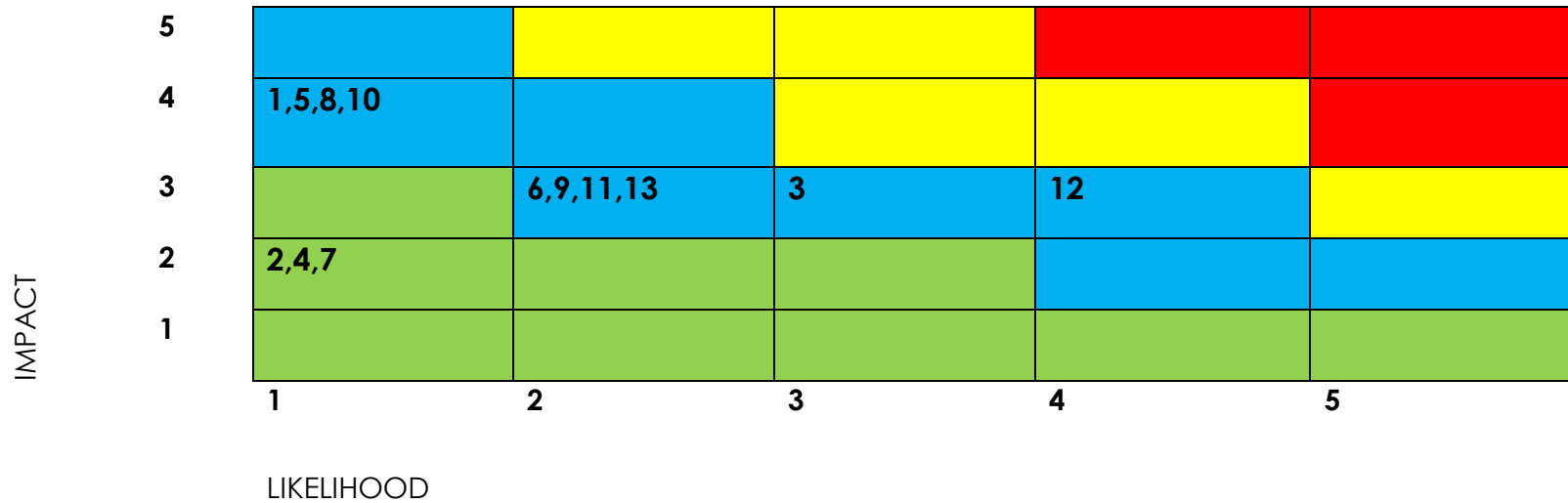
Appendix 2

**Risk Assessment Matrix**



<b>VERY HIGH</b>	High level risk with the potential to cause catastrophic damage to the reputation, finances or governance of the Service
<b>HIGH</b>	Mid-high level risk possibly requiring significant amendment to policy/procedure and significant financial outlay
<b>MEDIUM</b>	Low –mid level risk possibly requiring new policy and/or some financial outlay
<b>LOW</b>	Low level risk capable of being managed within normal service policy and procedure

**Risk Management Matrix**



<b>CORPORATE</b>	Those risks likely to require management oversight by the CFA and/or SMT
<b>STRATEGIC</b>	Those risks likely to require management oversight by SMT
<b>TACTICAL</b>	Those risks likely to require management oversight by the HSW&CRM Committee and sub-groups, Group Manager's Team (GMT) and/or individual Directors
<b>OPERATIONAL</b>	Those risks likely to require management oversight by individual Group and Station Managers and/or GMT



**Status of Report:** Public

**Meeting:** CFA Local Pension Board

**Date:** 22 September 2021

**Subject:** Firefighters' Pension Scheme Breaches Register

**Report by:** The Scheme Manager

**Author:** Colin Sharpe, Deputy Director of Finance, Leicester City Council

**For:** Discussion

### **Purpose**

1. To provide an update to the Local Pension Board on the Fire Fighters' Pension Scheme Breaches Register.

### **Recommendations**

2. That the Board notes that no breaches have taken place in the reporting period to 31 August 2021.

### **Executive Summary**

3. The Pensions Act 2004 required that the Pension Regulator must be informed of breaches to the law where that breach is likely to be of material significance.
4. A breach is where a legal duty relevant to the administration of the scheme hasn't been or isn't being complied with: this could relate for instance to keeping records, internal controls or calculating benefits.
5. The Pensions Regulator recommends that the pension scheme should have adequate procedures that enable breaches of the law to be considered and reported. This includes having a system to record breaches even if they are not reported to the regulator.
6. No breaches have been identified in the period to 31 August 2021.

### **Background**

7. Whilst previous breaches have been considered, and where necessary reported to the Pensions Regulator, there is currently no systematic method of capturing where potential breaches have been identified, reviewed and what subsequent action has been taken.

8. The following people are required to report breaches to the Pensions Regulator:
  - i. Scheme Manager;
  - ii. Pension Board Members;
  - iii. Employer;
  - iv. Professional Advisor;
  - v. Scheme Administrator;
  - vi. Any advisor to the Scheme Manager.
9. No breaches have been identified in the reporting period to 31 August 2021.
10. The Local Government Association have issued some suggested templates for assessing breaches. These have been used to draw up a LFRS breach assessment template, register and associated guidance.
11. The assessment considers the cause, effect, reaction and wider implications of the breach. Each of these is then assessed according to whether it is of material significance by using the Red / Amber / Green assessment tool as recommended by the Pensions Regulator.
12. The assessment should, in normal circumstances, be completed within four weeks of the breach first coming to light, signed by the Scheme Manager and reported back to the Pensions Board at the earliest opportunity.

### **Financial Implications**

13. There are no financial implications arising directly from this report. Any financial implications for the Authority will be reported to the Corporate Governance Committee.

### **Legal Implications**

14. The Public Service Pensions Act 2013 introduced a framework for the governance and administration of public service pension schemes. This report aims to fulfil the requirement for Pension Board members to assist the Scheme Manager in ensuring that effective administration arrangements are in place.

### **Officer to Contact**

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**Status of Report: Public**

**Meeting: Local Pension Board**

**Date: 22 September 2021**

**Subject: Firefighters' Pension Scheme - Age Discrimination Remedy Update**

**Report by: The Scheme Manager**

**Author: Colin Sharpe, Deputy Director of Finance, Leicester City Council**

**For: Information**

### **Purpose**

1. To provide an update on the developments concerning the age discrimination remedy / immediate detriment related to the Firefighters' Pension Scheme, together with the actions being taken in response.

### **Recommendation**

2. The Board is asked to note this update concerning the age discrimination remedy / immediate detriment related to the Firefighters' Pension Scheme.

### **Executive Summary**

3. The age discrimination remedy is of great significance to certain members of the Firefighters' pension scheme and to the Combined Fire Authority. It is important that the CFA as Scheme Manager, together with the Local Pension Board, remains aware of developments and actions. Therefore, this report will also be presented to the CFA at its meeting on 22 September 2021.
4. This report provides an update as at the time of writing. As this remains quite a fast moving area, a verbal update of any further developments will be provided at the meeting.

### **Background**

#### Role of the CFA and the Local Pension Board

5. The CFA is the Scheme Manager for the Firefighters' Pensions Scheme, as defined in the Firefighters' Pension Scheme (England) Regulations 2014. The CFA holds responsibility for managing and administering the Scheme. Under the CFA's Constitution, and as permitted by the Regulations, the CFA has delegated the scheme manager functions to an officer. However, this does not absolve the CFA of responsibility.
6. The Local Pension Board assists the CFA to secure compliance with regulations, any other legislation relating to governance and administration, and requirements imposed by the

Pensions Regulator. The Board also ensures the effective and efficient governance and administration of the scheme. The Board receives detailed reports at each meeting to support it in the discharge of its responsibilities.

### The Age Discrimination Remedy

7. The CFA and the Board have received a number of updates about the impact of the age discrimination remedy concerning the Firefighters' Pension Scheme. In the most recent reports on 16 June 2021, the Chief Fire Officer (CFO) provided background to the remedy and set out a number of urgent actions taken to mitigate the immediate pressures.
8. By way of a reminder, in 2015 the Government introduced reformed pension schemes across all the main public service workforces. Of particular note to this report, transitional protection was available for members closest to their Normal Pension Age to stay in their legacy schemes (1992 and 2006 for firefighters) for the transition period between April 2015 and March 2022 (or earlier, if retiring). The Court of Appeal later found this transitional protection to be discriminatory against younger members, known as the McCloud and Sergeant judgements. Since then the government has been working to address the discrimination. Also relevant is the Employment Appeal Tribunal judgement related to the Firefighters' Pension Scheme, handed down on 12 February 2021.
9. Between July and October 2020, the Government consulted on proposals to remove the discrimination. In February 2021, the implementation of a 'deferred choice underpin' was announced. This allows eligible members a choice when they retire, of which pension scheme benefits they would prefer to take for the remedy period (April 2015 through to March 2022). Where members are already receiving pensions, they will be given a choice as soon as practicable.
10. From 1 April 2022, all those who continue in service will do so as members of the 2015 scheme, regardless of age. This means all members will be treated equally from that date.

### Update on urgent actions taken by the CFO

11. The CFO undertook four urgent actions, as agreed by the Local Pension Board on 20 April 2021 and reported to the CFA on 16 June 2021. The progress against each of these is detailed below:
  - a) Cessation of the tapering of members with transitional protection onto the FPS 2015 scheme with immediate effect – this has ceased.
  - b) Allowing Pension Scheme members who are approaching retirement and any ill health related cases the choice to have retirement benefits calculated in their legacy scheme or in the FPS 2015 - this continues to be progressed for the small number of urgent cases, including members approaching retirement. Our early experience demonstrates the complexities and uncertainties of the calculations, implications and decision making for both the employee and the employer. Scheme members are being asked to provide as much notice as possible of their intended retirement date, to allow time for the necessary calculations and for the member to be able to consider which scheme to select. Advanced notice also facilitates any retrospective contributions being made whilst the member remains in employment, which is

beneficial from a tax perspective. Each case takes a number of days to process, depending upon the individual complexity.

- c) A retrospective review of the calculations for pensioners who retired after 1 April 2015 on the grounds of ill health with a view to moving them back into their legacy scheme at an early stage, where appropriate – this has not yet progressed, due to complications and uncertainties around the calculations and the focus on members approaching retirement.
- d) A retrospective review of all retired members since 1 April 2015 with a view to moving them back to their legacy scheme, where appropriate – this has not started, pending further clarity nationally (as discussed below) and the focus on the more immediate categories above.

#### Update on response by LFRS, WYPF and Warwickshire County Council

- 12. The CFO and his team continue to devote significant time and effort to immediate detriment and the wider pension changes, which are a considerable call on resources. For example, information is being made available to employees, a 'roadshow' with the shared pensions adviser is being planned, the finance team is employing an additional staff member funded by the grant previously received, as noted above urgent cases are being processed, and an information pack and waiver form has been made available to members approaching retirement. An internal coordination group meets regularly chaired by the Assistant Chief Fire and Rescue Officer (ACFO); and strategic level meetings take place with the ACFO, Scheme Manager and regional adviser.
- 13. West Yorkshire Pension Fund (WYPF) as the scheme administrator is seeing a significant workload increase, in processing members approaching retirement, arranging data collection to support the full response in due course, and working with software suppliers. This seems likely to affect turnaround times. Officers keep in close touch with WYPF, and the Local Pension Board receives detailed update reports from WYPF. As noted above, members intending to retire are being asked to provide as much notice as possible.
- 14. There are potential implications for Warwickshire County Council as payroll provider, in providing the necessary data and in the required format for WYPF to undertake the remedy calculations.

#### Government latest response

- 15. The Government states that a range of national guidance, decisions and regulatory/legislative changes are required to enable the age discrimination remedy to be implemented nationally in a certain and consistent manner, thereby much reducing the risk for scheme employers and retired members.
- 16. On 19 July 2021, HM Treasury introduced the Public Service Pensions and Judicial Offices Bill to the House of Lords. The Bill sets out in law how the Government will remove the discrimination in the way that the 2015 reforms were introduced. This is the primary legislation which will close final salary schemes for accrual past 31 March 2022 and moves all remaining members into FPS 2015, while ensuring that existing transitional protections such as the final salary link and double accrual are retained.

17. Eligible members who were moved to FPS 2015 will be moved back into their legacy pension scheme for the period during which the discrimination occurred, between April 2015 and March 2022. When payment of pension benefits commences (i.e. at retirement), they will receive a choice of which pension scheme benefits they would prefer to take for the period. This is called a 'deferred choice', or 'deferred choice underpin'. The differences between the legacy and reformed pension schemes mean the set of benefits that is best for members depends on personal circumstances and preferences at the point of retirement.
18. The Home Office advises that provisions for the deferred choice will be implemented by 1 October 2023 for all members. Schemes may implement provisions for deferred choice earlier where possible. Schemes are expected to carry out consultations on more detailed scheme specific changes to both prospective and retrospective scheme regulations.
19. The potential tax implications of retrospective changes have emerged as a key concern for scheme members and authorities alike. Where the changes legislated for through the Bill produce disproportionate tax results that cannot be resolved through powers provided in the Bill, the Home Office advises that further changes will be made in the upcoming Finance Bill and scheme regulations. For example, the current framework does not straightforwardly permit individuals to ask their pension scheme to settle Annual Allowance charges from previous tax years by reducing their future pension benefits (known as 'Scheme Pays') – this is being addressed. Further details of any further measures are expected in due course.
20. The Government accepts that affected members who have retired since 1 April 2015 or will retire before the deferred choice underpin is introduced, already have an entitlement to be treated as a member of their legacy scheme for the remedy period. However, as noted above, giving effect to this entitlement before legislation is implemented creates complex issues, particularly where there are interactions with the tax system. It is not clear that all of these cases can consistently be processed under pre-existing legislation without potentially creating adverse impacts. The Government is continuing work to resolve these issues and to make legislative changes.
21. The Government acknowledges however that many pension administrators and scheme managers are already processing some immediate detriment cases. At the request of the police and fire sectors, in June 2021 the Home Office issued informal and non-statutory guidance to assist. For the purpose of this guidance, immediate detriment covers members who become eligible to retire and want all their benefits paid from their legacy scheme; and ill health retirement where the member is left without a payment but would be eligible in their legacy scheme. Any scheme members that fall within either of these two categories can have their pensions calculated and put into payment according to the guidance. The guidance should not be applied to scheme members who have already retired and are in receipt of their pension payments. As noted above, LFRS is processing members currently retiring and approaching retirement, in common with a number of other Fire and Rescue Authorities (FRAs).
22. The LGA issued a further information note (version 2), referencing the Home Office Guidance.

23. The Home Office also considers that provisions made through scheme regulations and established via the Bill should help ensure a consistent approach is taken to processing more complex cases; and in turn help mitigate the risk of adverse tax impacts for members.
24. The Fire Brigades Union (FBU) notes on its website that the new legislation will not provide a remedy for all cases until October 2023, unless a scheme can commit the administrative resources to sort them out sooner – and the FBU anticipates that most schemes will not.
25. It should also be noted that the Home Office guidance does not provide a definitive or complete resolution to all of the issues arising from immediate detriment cases. All cases processed using this guidance will need to be revisited once the full detail of the Government's approach is finalised, and legislation is in place. This revisiting may include some considerable adjustments regarding tax, potentially affecting the individuals and the Authority.

#### The next national steps for the Firefighters' Pension Scheme

26. It is intended that legislation to move members to the reformed schemes (the 2015 scheme, for firefighters) will take effect on 1 April 2022. Legislation to implement the deferred choice underpin will take effect by 1 October 2023 at the latest. Scheme specific policy decisions will also be taken, and necessary legislation drafted.
27. The Home Office will engage with stakeholders including the Firefighters' Pensions Scheme Advisory Board. The Home Office will also continue to engage with scheme managers and administrators to allow them to prepare for implementation of the deferred choice underpin.
28. Following the Employment Appeal Tribunal judgement in February 2021, the FBU issued court proceedings against two FRAs for an initial three test claimants who have already retired, aiming to require their employing FRAs to address the immediate detriment remedy. The claims are due to be heard in the High Court on 20 or 21 October, with the FBU having applied for summary judgement (as the FBU contends that the FRAs have no realistic defence).
29. There have been a number of without prejudice meetings with the LGA and the solicitors acting for the FRAs and further meetings are scheduled. The cut-off date to reach agreement before the High Court hearing is 20 October.
30. The FBU reports that the current negotiations, set against the backdrop of the legal challenge, seek to address the immediate detriment issues and provide a timeframe for the FRAs to follow to process retirements and resolve detriment for those already retired. The FBU reflects that there is no guarantee that all issues will be able to be resolved, but if they cannot be agreed through the negotiations then the FBU expects they will be dealt with in the October hearing.
31. Once the detailed way forward has been determined by agreement or court decision, there will be significant workloads for some considerable time as all the affected individuals are worked through and the detail of how to address particular complexities becomes clearer.

## Report Implications/Impact

### 32. Legal (including crime and disorder)

This report has been written to inform Members of the latest legal developments relating to the Firefighters' Pension Scheme and how the service is working on resolving the current situation. The legal implications of the age discrimination case, transitional arrangements and immediate detriment issues are as set out in the body of the report.

The Public Service Pensions Act 2013 introduced a framework for the governance and administration of public service pension schemes. This report aims to fulfil the requirement for Members to assist the Scheme Manager in ensuring that effective administration arrangements are in place.

### 33. Financial (including value for money, benefits and efficiencies)

A number of financial risks continue to present themselves, including actions taken proving to not be entirely correct or with unresolved and/or unforeseen consequences. If no action had been taken, the CFA could be subject to legal proceedings, which would incur costs. There is also a potential financial liability on retiring members, for example tax costs of breaching annual allowances pending any changes to tax regulations. The report sets out some of the actions and mitigations being taken.

### 34. Risk (including corporate and operational, health and safety and any impact on the continuity of service delivery)

The CFA faces a number of risks associated with the management of pensions and the implementation of the remedy.

### 35. Staff, Service Users and Stakeholders (including the Equality Impact Assessment)

An equality impact assessment has not been carried out, as the Service is trying to correct inequalities as identified by court proceedings and judgements.

### 36. Environmental

There are no environmental implications arising from this report.

### 37. Impact upon "Our Plan" Objectives

There are no specific impacts, although a general impact on all 'People' related elements of the plan.

## Background Papers

Age discrimination remedy report to the Local Pension Board, 20 April 2021

<https://leics-fire.gov.uk/wp-content/uploads/2021/04/the-report-item-4-pages-9-20.pdf>



Urgent Action taken by the Chief Fire and Rescue Officer - Firefighter Pension Scheme Age Discrimination Remedy, CFA, 16 June 2021

<https://leics-fire.gov.uk/wp-content/uploads/2021/06/firefighter-pension-scheme-age-discrimination-remedy.pdf>

Firefighters' Pension Scheme - Age Discrimination Remedy Update, Local Pension Board 16 June 2021

<https://leics-fire.gov.uk/wp-content/uploads/2021/06/firefighters-pension-scheme-age-discrimination-remedy-update.pdf>

Home Office - Guidance on treatment of 'Immediate Detriment' cases, 10 June 2021

<https://www.fpsregs.org/images/Age-discrimination/Home-Office-informal-immediate-detriment-guidance-10-June-2021.pdf>

LGA – Immediate detriment information note (version 2)

<https://www.fpsregs.org/images/Age-discrimination/LGA-immediate-detriment-information-note-version-2-June-2021.pdf>

Home Office - McCloud/Sargeant – Public Service Pensions and Judicial Offices Bill  
Frequently asked questions (FAQs)

<https://www.fpsregs.org/images/Age-discrimination/PSPJO-Bill-Home-Office-FAQ-FPS-August-2021.pdf>

FBU Pensions update, 23 August 2021

<https://www.fbu.org.uk/circulars/2021hoc0445mr/pensions-update>

FPS Bulletin 48, published 31 August 2021

<https://www.fpsregs.org/images/Bulletins/Bulletin-48-August-2021/Bulletin-48.pdf>

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West Yorkshire Pension Fund

Firefighters Pension Scheme

**LEICESTER, LEICESTERSHIRE AND RUTLAND COMBINED FIRE AUTHORITY  
LOCAL PENSION BOARD**

**22 September 2021**

**REPORT FROM WEST YORKSHIRE PENSION FUND – PENSION  
ADMINISTRATOR**

**PENSION FUND ADMINISTRATION REPORT**

**Purpose of the Report**

1. To inform the Combined Fire Authority (CFA) Local Pension Board of fire fighter pension administration in the quarter 1 April 2021 – 30 June 2021.
2. This is designed to assist the CFA Local Pension Board. It is also considered best practise to provide a report of this type.

**Recommendation**

3. That the Local Pension Board notes the update provided on the administration of the fire fighter pension scheme for the period 1 April 2021 – 30 June 2021.

**Background**

**Annual Benefit Statements**

4. 100% of statements for Leicestershire Fire active members were produced before the 31<sup>st</sup> August deadline.

There was a fairly large number where queries needed resolving before the statements could be produced but thanks to some hard work from all involved these were cleared before the deadline.

**Pension Savings Statements**

5. Following the production of the Annual Benefit Statements WYPF is now focusing on producing the Pension Savings Statements. These need to be sent to members who have breached the Annual Allowance threshold of £40,000.00. These need to be sent by 6<sup>th</sup> October.

Regulation Changes

6. None since the last report.

Risk and Breaches – (material or not)

7. None.

Update on Sargeant case (transitional protections remedy)

8. Leicester, Leicestershire and Rutland Combined Fire Authority made the decision to allow upcoming retirements under Immediate Detriment and we are now providing the retirement quotes on that basis.

Sargeant and Data Collection (age discrimination remedy)

9. The data collection template should be delivered in the next week or two. Once received it will need to be tested and then it will be populated with the relevant data and sent across to the Authority's officers to complete

Matthews (retained/part-time firefighters)

10. There is no update on this. The Home Office should now have completed their consultations with interested stakeholders. They have indicated there will be an 18 months' consultation period before the regulations come into force and then FRAs will have a further 18 months to complete the exercise.

Key Performance Indicators - 1 April 2021 to 30 June 2021

11. The Table below details performance against each of the Key Performance Indicators for the period 1 April 2021 – 30 June 2021:

WORKTYPE	TOTAL CASES	TARGET DAYS FOR EACH CASE	TARGET MET CASES	MINIUM TARGET PERCENT	TARGET MET PERCENT	AVERAG E TIME TAKEN (DAYS)
Age 55 Increase to Pension	4	20	4	85	100	15
Change of Address	42	20	42	85	100	1
Change of Bank Details	4	Next Payroll	4	85	100	1.75
Death Grant Nomination form	3	20	3	85	100	2
Death in Retirement	3	5	3	85	100	2
Deferred Benefits set up on leaving	7	10	5	85	71.43	11.4
Divorce Settlement – Pension Sharing order Implemented	1	80	1	100	100	24
General Payroll	13	Next	13	85	100	1

WORKTYPE	TOTAL CASES	TARGET DAYS FOR EACH CASE	TARGET MET CASES	MINIUM TARGET PERCENT	TARGET MET PERCENT	AVERAG E TIME TAKEN (DAYS)
Changes		Payroll				
Initial letter Death in Retirement	3	5	3	85	100	1.67
NI adjustment to Pension at State Pension Age	5	Next Payroll	4	85	80	15.6
Payment of Spouses/Child Benefit	3	10	3	100	100	1
Pension Estimate	9	10	8	85	88.89	3.89
Pension Saving Statement	1	20	1	100	100	1
Pension Set Up Payment of Lump Sum	10	3	10	85	100	1
Retirement Actual	10	10	10	85	100	1
Set Up New Spouse Pension	3	5	3	85	100	1
Spouse Potential	3	20	0	85	0	38.67
Transfer In Actual	3	10	3	85	100	1.33
Transfer In Quote	3	10	0	85	0	39.33
Update Member Details	10	20	10	100	100	1

### **Officers to Contact**

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