

# **LEICESTERSHIRE**

## **FIRE and RESCUE SERVICE**

**Status of Report:** Public

**Meeting:** Local Pension Board

**Date:** 16 June 2021

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

**Report by:** The Treasurer/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 (LPB) on developments concerning the Firefighters' Pension Scheme - Age Discrimination Remedy since the last update received by the Board on 20 April 2021.

### **Recommendation**

2. The Board is asked to note 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.

### **Executive Summary**

3. At its meeting on 20 April 2021 The Local Pension Board received a comprehensive report on the Firefighters' Pension Scheme - Age Discrimination Remedy, as matters stood at the time. The report is available through the link detailed in the 'Background Papers' section below. The remedy stems from the national McCloud and Sergeant judgements, together with the Employment Appeal Tribunal judgement related to the Firefighters' Pension Scheme handed down on 12 February 2021.
4. This report provides a brief update as at the time of writing. Developments are moving quickly, so a further verbal update will be given to the Board at the meeting, reflecting the latest developments at that date.

## Background

5. The Board at its last meeting supported four actions. The progress against each of these is detailed below:
  - i. The tapering of members onto the FPS 2015 scheme has ceased.
  - ii. Pension scheme members who are approaching retirement and any ill-health cases are being provided with the choice to have their benefits calculated in their own legacy scheme or in the 2015 scheme. This is being progressed for a small number of urgent cases and is demonstrating the complexities and uncertainties of the calculations, implications and decision making for both the employee and the employer.
  - iii. Work to retrospectively review the calculations of pensioners who have already retired after 1 April 2015 on the grounds of ill health has not yet started. Priority is being given to those approaching retirement, and greater clarity nationally on a range of points is ideally required.
  - iv. A retrospective view of all retired members since 1 April 2015 has similarly not yet started and will follow once resources allow and greater clarity is available.
6. In line with the measures above, a number of new and ongoing cases are being processed.
7. A range of national guidance, decisions and regulatory/legislative changes are however required to enable the age discrimination remedy to be implemented nationally in a certain and consistent manner, thereby much reducing the risk on scheme employers and retired members. The timeline for these clarifications and directions is not yet entirely clear, with some expected imminently and other changes to the schemes expected to take place in 2022 and 2023.
8. Much activity is nonetheless already taking place locally and nationally to identify and progress the numerous issues that will arise when implementing the remedy. Activities include:
  - i. The Chair of the Firefighters' (England) Pension Scheme Advisory Board has written an open letter to HM Treasury on remedy issues.
  - ii. The Scheme Advisory Board has launched a remedy self-assessment survey, which all Fire and Rescue Authorities are asked to complete. The Leicestershire response is being worked through.
  - iii. Data is being collected locally, to inform overall understanding and the calculations for individual scheme members.
  - iv. A waiver document is being worked on locally, using a West Yorkshire Pension Fund (WYPF), the Pension Administrator, template. This is intended to assist and protect the CFA, WYPF and individual scheme members in choosing individual pension arrangements in the context of the remedy and immediate detriment.

- v. The resourcing of this significant additional workload within the finance and HR teams is being reviewed. A government grant will help to offset the costs.
9. At the meeting on 16 June, a further verbal update will be presented to the Board on the latest developments and position.

### **Report Implications/Impact**

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

A range of legal implications arise from the remedy, as outlined in the previous report.

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

A number of financial risks present themselves, including actions taken proving to not be entirely correct or with unresolved and/or unforeseen consequences. If no action is 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.

#### 12. 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.

#### 13. 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.

#### 14. Environmental

There are no environmental implications arising from this report.

#### 15. 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>

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