



Minutes of a meeting of the Leicester, Leicestershire and Rutland CFA - Local Pension Board held at County Hall, Glenfield on Thursday, 1 September 2022.

PRESENT

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

Cllr. Hemant Rae Bhatia  
Adam Taylor

Graham Vaux

In attendance

Callum Faint, Chief Fire and Rescue Officer  
Karl Bowden, Interim Assistant Chief Fire and Rescue Officer  
Colin Sharpe, Pension Scheme Manager  
Helen Scargill, West Yorkshire Pension Fund  
Matthew Mott, West Yorkshire Pension Fund  
Sean Connor, Regional Pensions Adviser, Derbyshire Fire and Rescue Service

1. Minutes.

The minutes of the Local Pension Board held on 10 March 2022 were taken as read, confirmed and signed.

2. 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.

3. Scheme Manager's Update.

The Board received a report of the Pension Scheme Manager concerning the management of the Firefighter's Pension Scheme, including local administration, breaches, developments concerning the age discrimination remedy/immediate detriment, the risk register and sector updates. A copy of the report marked 'Agenda Item 4' is filed with these minutes.

Members were informed that no significant changes were proposed to the Risk Register and that no breaches had taken place for the period to 31 July 2022.

Consideration needed to be given to the approach to category 2 immediate detriment remedy for retired members and whether this should now be offered in advance of national implementation. This would not require category 2 members to take the remedy in advance of the national roll out from October 2023, but would give them the option. However, it was noted that there was a risk to individuals and the CFA; if an individual wished to proceed sooner they would incur an unauthorised payment charge of 55% and the potential clawback of tax relief already received on their contributions into the 2015 scheme.

Under current legislation, additional pension benefits made to category 2 pensioners more than 12 months after the original payment were subject to the unauthorised payment charge. This could amount to a significant cost and was an absolute legal obligation on the member (or the CFA if it chose to pay it). It was possible that the expected legislation could have retrospective effect to April 2022, but this had not been confirmed by Government. The Government's position was that any taxation due to be paid by way of FRAs delivering remedy before the October 2023 facilitating legislation was payable under the current tax system and would not be funded by the Government.

There was also a possibility that the CFA could find itself, at a later date, being required to reimburse the member for all or some of the tax costs if the Pensions Ombudsman or the court were to hold that the CFA should not have facilitated the member to proceed or if such an approach was to become standard.

Arising from the discussion, the following points were raised:

- i) In relation to the 55% unauthorised payment charge, this was a certainty for individuals currently. However, if they were prepared to wait for the secondary legislation, it was unlikely that this charge would be incurred as the legislation would take this into account. Legislation on the unauthorised payment charge was expected in the new year.
- ii) There was concern that the expected revised Memorandum of Understanding would not provide enough guidance and it was felt important to ensure that members were made aware of the potential risks and costs should they wish to pursue the immediate detriment remedy now. It was noted that if the Government supported the Memorandum of Understanding, there might be no risk for the individual or the FRA as the Government might undertake to fund the payment.
- iii) There was currently uncertainty as to the financial implications for the CFA. There were 19 category 2 members within Leicestershire Fire and Rescue Service and an estimate would be provided of the costs to the CFA if all took the immediate detriment remedy before October 2023.
- iv) It was suggested that legislation implicated that category 2 members could not be in a worse financial position than they would have been had the age discrimination now taken place. This would mean that the members should be reimbursed for the unauthorised payment charge and any other tax losses, or that they CFA should underwrite the risk of the future legislation not being retrospective. So, for example, there could be the possibility of choosing to offer the immediate detriment remedy to category 2 members but withhold the 55% unauthorised payment charge until further information became available. The Board agreed that there was lots of uncertainty around whether this was possible until the revised legislation was issued and that there was a potential risk to the CFA.
- v) Alternative options were suggested to ensure that the category 2 members did not have to pay the unauthorised payment charge. This included not requiring the members to hold the risk or withholding the 55% charge until further clarity on the position was received. Confirmation would be sought as to whether this was legally possible. It was agreed that estimates of immediate detriment

costs would be calculated along with the average cost of category 2 cases dealt with by West Yorkshire Pension Fund.

- vi) It was suggested that the date of the next Local Pension Board be moved forward. This would enable legal advice to be sought and produce more definite costings. A further discussion would take place at the next meeting prior to any proposals being presented to the meeting of the CFA on 30 November.

**RESOLVED:**

It was moved by Mr Orson CC and seconded by Councillor Bhatia that:

- a) The update be noted;
- b) A further discussion take place at the next meeting of the Local Pension Board on the category 2 immediate detriment remedy for retired members, prior to any proposals being presented to the next meeting of the CFA on 30 November.

4. Scheme Administrator's Update.

The Board received a verbal update from the Pension Scheme Administrator on the administration of the Firefighter Pension Scheme since the last meeting. Members were informed of the following:

- In relation to the Annual Benefit Statement production, there had been a slight delay with the monthly returns. However, 100% of the annual statements had been produced by the required deadline. For those who had signed up, the statements were now available to view online.
- The production of pension saving statements was being undertaken and it was the intention to work to a deadline of 6 October.
- The provision of information around the Matthews Case had been requested. It was likely that the legislation would be enacted in October 2023 and this would give a second option to certain members. There would essentially be three cohorts and FRAs would need to determine who fit into which of these. There would be 18 months to complete the exercise.
- Information was provided on Bulletin 59; this indicated that FRAs needed to consider special deferred members and it would be necessary to ensure that those who could make periodic payments continued to be offered this option.
- Issues with payroll had been ongoing, and this continued to be discussed.

**RESOLVED:**

It was moved by Mr Orson CC and seconded by Councillor Bhatia to note the update provided on the administration of the firefighter pension scheme.

5. Employee Representative's input.

There was nothing to report.

6. Date of next meeting.

The revised date of the next meeting of the Local Pension Board would be circulated to members once agreed.

10.00 - 11.02 am  
01 September 2022

CHAIRMAN