

**Status of Report: Public**

**Meeting: Local Pension Board**

**Date: 25 January 2023**

**Subject: Scheme Manager's Report**

**Report by: The Scheme Manager**

**Author: Colin Sharpe, Scheme Manager**

**For: Discussion**

### **Purpose**

1. To provide an update on the management of the Firefighters' Pension Scheme, including the approach to payment of the immediate detriment remedy for category 2 retired members.

### **Recommendation**

2. The Local Pension Board is asked to note this update and make any comments to the Scheme Manager and/or the CFA.

### **Executive Summary**

3. The Board previously received an update on 10 November 2022 and in particular discussed the approach to paying the remedy to Category 2 members. The recommendation of the Pension Scheme Manager not to offer category 2 members the option of taking their immediate detriment remedy in advance of the October 2023 legislation was approved. This was reported to the CFA on 30 November 2022, as requested by the Board.
4. Following publication in December of the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022, this remains the Scheme Manager's recommendation.
5. Leicestershire Fire and Rescue Service (LFRS) Finance and HR teams continue to process day to day pensions work and the gathering of data relating to immediate detriment (McCloud/Sargeant) and the retained firefighters second options exercise (Matthews).
6. No breaches have been identified for the period to 31 December 2022.
7. The risk register has been reviewed, with no significant changes proposed.

8. Sector updates continue to be a useful source of information; these are also referenced in the West Yorkshire Pension Fund (WYPF) monthly report (attached as Appendix A) and the Administrator's report directly to the Board elsewhere on the agenda.

## **Background**

### Local Management and Administration

9. The local management and administration of the scheme continues. The Finance and HR teams continue to process day to day pensions work and the gathering of data relating to immediate detriment (McCloud/Sargeant) and the retained firefighters second options exercise (Matthews).
10. The data gathering is, however, a substantial task and even at the more basic level requires some knowledge of fire pensions and payroll. Supplementing the existing team resources is not straightforward, however desirable or necessary this may become. The Scheme Manager is exploring options with finance and payroll colleagues.
11. Meetings continue to be held with the Regional Adviser and with colleagues at Derbyshire and Nottinghamshire. Staff attend the LGA 'coffee mornings', where general updates are provided, together with a focus on a particular topic.
12. Staff also attend meetings with WYPF as the scheme administrator. A tailored monthly client report is received, which provides useful general information and enables any specific issues to be picked up and addressed. It is customary elsewhere for this to be shared with Local Pension Boards. The January report is attached as Appendix A.
13. As noted in the previous report, it is proposed that a more detailed update on the new national Pensions Dashboard be brought to a future meeting.

### Breaches

14. The Pensions Act 2004 requires that the Pension Regulator must be informed of breaches of the law where that breach is likely to be of material significance. No breaches have been identified for the period to 31 December 2022.

### Age discrimination remedy / immediate detriment – proceedings to date

15. The Board will recall from previous reports that following an employment tribunal and subsequent appeals, the transitional protections related to the 2015 Firefighters' Pension Scheme were found to be age discriminatory. These reports have provided a detailed background and updates as matters have progressed. The report to the November 2022 meeting provided a detailed review of remedy process for Category 2 members, these being the scheme members who have already retired after being transferred into the 2015 scheme and who are entitled to the immediate detriment remedy.
16. On 14 December 2022, HM Treasury made the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022 and these came into force on 19

December 2022. The Directions set out how certain powers in the Public Service Pensions and Judicial Offices Act 2022 (PSPJO) must be exercised. The Act gives relevant Government departments powers to rectify Sargeant/ McCloud discrimination by making secondary legislation. A summary is provided towards the end of the WYPF monthly report at Appendix A.

17. The Directions do not, however, change the position regards 'early' payment of Category 2 immediate detriment, i.e. ahead of October 2023. Following discussions with LGA, the Regional Pensions Adviser has clarified the Directions do not open any doors to officially help FRAs avoid paying the Unauthorised Payment Charges if they choose to make the remedy payment before October 2023. Although the Regulations talk about retrospective effect, they are in fact only retrospective if FRAs pay remedy after October 2023 when the expected secondary legislation and the Regulations specifically integrate. The tax charge certainties and risks for FRAs and scheme members of paying before October 2023 therefore remain, as previously reported.
18. The Board will also recall that the PSPJO Act states that with effect from 1 October 2023, all in scope members must be rolled back into their relevant legacy scheme; and reformed service, for the remedy period, should be kept as an underpin (known as the deferred choice underpin). Section 23 of the Act allows (but does not require) a scheme manager to pay compensation in respect of compensatable losses incurred by members, subject to certain conditions.

### Risk Register

19. Good governance requires that an appropriate Risk Register is in place and is regularly reviewed. It is also a requirement of The Pensions Regulator's code of practice on the governance and administration of public service pension schemes.
20. The Register presented has been reviewed, and no significant updates are required. It can be found at Appendix B.
21. The implementation of the national age discrimination remedy judgements of course remains the key risk in practice.

### General Sector Update

22. The LGA monthly Firefighters' pensions update bulletins focus on the administration of the scheme, immediate detriment, the retained firefighters second options exercise and wider national pensions updates. Some key points are reflected earlier in this report. The bulletins can be found at <https://www.fpsregs.org/>.
23. Further sector updates can be found in the Administrator's monthly report (attached as Appendix A) and their report directly to the Board elsewhere on the agenda

### **Report Implications/Impact**

#### 24. 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 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.

#### 25. 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, or continues to be taken, the CFA could be subject to legal proceedings, which would incur costs.

There is also a potential financial liability on the Authority and/or retiring members, for example tax costs pending the intended changes to tax regulations. This risk would become more significant if the immediate detriment remedy is offered to category 2 retired members ahead of October 2023.

Payments made under the Immediate Detriment Framework will either be a scheme payment and therefore from the pension fund account, or an employer payment which cannot be met from the pension fund account and will fall to the Authority to fund.

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

The CFA continues to face a number of risks associated with the management of pensions and the implementation of the remedy.

#### 27. 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.

#### 28. Environmental

There are no environmental implications arising from this report.

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

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

### **Appendices**

Appendix A – WYPF monthly report, January 2023  
Appendix B – Risk Register

**Background Papers**

Previous Local Pension Board agendas.

**Officer to Contact**

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