



**HAMPSHIRE
FIRE AND
RESCUE
AUTHORITY**

Purpose: Noted

Date **8 October 2020**

Title **FIRE PENSION BOARD STATUS REPORT & RISK REGISTER REVIEW**

Report of Chief Finance Officer

SUMMARY

1. This report provides an update on the development of key items.
2. This report, together with attachments, provides the framework for this meeting agenda.

STATUTORY REPORTING

3. The Accounting for Tax (AFT) for quarter 1 2020/21 was submitted to HMRC on 29 July 2020 and paid on 7 August 2020. The table below shows the breakdown of the payments made.

Type of payment	Number of members	Tax year relates to	Amount paid
AFT – Annual Allowance	1	2019/20	£15,593
Total paid to HMRC			£15,593

RISK REVIEW

4. There are a number of items in pension administration and governance which contain elements of risk to varying degrees. Risks are captured through a variety of ways; some are on the risk register, while others are picked up as part of the regular horizon scanning that the Employer Pension Groups do.

RISK REGISTER

5. The board are asked to review the Risk Register and to suggest any amendments. The Risk Register can be found in APPENDIX A.

SARGEANT CASE

6. This is also known as the McCloud case; it relates to the age discrimination court case that was brought against the transitional protections for the 2015 Fire Pension Scheme.
7. Due to the complexities and size of this issue, the Board are asked to consider if they would like the McCloud / Sargeant remedy to appear as a separate specific issue on the Risk Register.

SARGEANT CASE - CONSULTATION

8. On 16 July 2020, HM Treasury published a consultation for all unfunded Public Service Pension Schemes, including Fire, Police, Teachers, NHS, Armed Forces, Civil Service and Judicial Schemes; the consultation closes on 11 October 2020. The Governments consultation webpage can be found in APPENDIX B.
9. The Home Office have issued an FAQ document, and this can be found in APPENDIX C.
10. As the consultation document is 70 pages long, which makes it a challenging and technical read, the Employer Pension Manager has pulled together a short summary which lists the key points. The summary can be found in APPENDIX D.
11. There are many issues and concerns with the consultation, some of which are listed in the summary in APPENDIX D. The LGA have raised several questions with the Home Office and have asked for urgent clarification.
12. The consultation provides some ideas of timescales for the completion of remedy, The Government intends to bring forward new primary legislation to take effect from April 2022, however it is likely to be some time after this before all the relevant scheme legislation is in place to enable administrators to implement remedy.
13. We anticipate that the Government will respond to this consultation early next year, it is at this point that we will be a little clearer about the way forward and we hope it will also provide clarification on the likely timetable for implementation. The timescales will also need to include a further consultation period on proposed amendments to the Fire Pension Schemes legislation.
14. In addition to the issues of implementing remedy, HFRA will have an additional complication due to the CFA taking effect from 1 April 2021. Because of both the payroll arrangements and HMRC requirements to make all employees a new starter under the new employer; it means that there will not be access to historical payroll data prior to 1 April 2021.

15. This means that we will not be able to use the SAP HR/Payroll system to automatically calculate the necessary member contributions and pay details that will be required for the remedy period for both the legacy and reformed schemes.
16. There will be significant challenges to calculate the relevant information for all members of the CFA and members that have left HFRA or IWFRS within the remedy period, as all this work will need to be done manually.
17. The Employer Pension Groups are agreeing the way forward as the work required for the McCloud / Sargeant remedy is substantial and will require a lot of resources. We are currently looking at this and starting to put some plans in place. It is anticipated that the additional resources required for this project will inevitably mean that there will be increased costs for all partners.
18. A response to the consultation has been drafted, and the Board are asked for their comments and views on this and to agree the consultation response as set out in APPENDIX E.

SARGEANT CASE – IMMEDIATE DETRIMENT CASES

19. The Home Office issued guidance on 21 August 2020 on the treatment of “immediate detriment” cases. This would apply to two groups of people, who were unprotected members or who had tapered protection.
 - (a) who become eligible to retire at age 50 with at least 25 years’ service and want to have all their benefits paid from the legacy scheme; or,
 - (b) who don’t qualify for lower tier ill health pension under the single pot but would do so under the ill health arrangements in their legacy scheme.
20. This six-page note, which can be found in APPENDIX F, does not go into enough detail to provide any real clarity for administrators and raises yet more questions.
 - (a) This guidance means that it cannot be applied to anyone that has already retired, yet it does not clarify what date that it is effective from.
 - (b) We do not know the legal status of this guidance and whether it can apply to all relevant members. The Home Office have said that it is legally underpinned and can be used. The LGA have said that in their opinion, this can only be applied to claimants and that there is no legal basis to be able to apply this to non-claimants as there is no tribunal order, or legislation to rely on.
 - (c) There are a number of unresolved issues such as contributions, transfers into the 2015 scheme, scheme pays and annual allowance assessments etc.

21. Should we use the “immediate detriment” guidance for any members, then they will be required to sign declarations / waivers, and after April 2022, we will be obliged to revisit these cases to finalise any unresolved issues, which may mean that that the member will have a further bill to pay. This would leave the member with some degree of uncertainty with an unknown amount that would need to be paid in the future. There may also be decisions in the outcome of the consultation which could impact any benefits in payment.

MATTHEWS CASE

22. This is also known as the O’Brien case; it relates to part time working and pensions. In essence, these cases had employment going back to the 1970’s, but were only eligible to enter the pension schemes from 2000, when the Part Time Workers Directive came into force; however, the court determined that the whole of the employment should count for pension purposes and not just the period from 2000.
23. A consultation was expected in late spring, but that was before Covid-19 hit, so has been delayed; we have no information on when this is now expected. The consultation will help us to define the parameters of this work and to be able to start to identify the volume and scope of what will be required.

COMMUNICATION

24. The next pre-retirement course was scheduled for 23 November but this has now been pushed back to the 17 December, these courses are always very popular and fully attended. The Academy have confirmed that this course is planned to go ahead in person with reduced numbers.

MEETINGS

25. The Employer Pension Manager has been attending fortnightly online coffee mornings for the Fire Technical Group. She has also attended an online meeting for the South East Fire Regional Pension Officers Group which vice chair Richard North also attended in place of the Board chair. The Employer Pension Manager has also attended meetings to discuss the immediate detriment cases for McCloud / Sargeant remedy and the Fire Communications Working Group.
26. There was also attendance at the Fire AGM on 22 and 23 September, it was a virtual AGM this year due to Covid-19 restrictions. This meant that we did miss out on some of the networking that happens at these events, but overall it was a good event and heavily themed around the McCloud / Sargeant remedy.

27. There were sessions from a variety of speakers and a useful workshop on the second day.
- (a) Nick Gannon the Policy Lead from TPR gave a presentation on breaches, covering what they are and when and how to report them.
 - (b) Des Pritchard the chair of the Administration and Benchmarking Committee gave an update on the work of the committee, including, the AON survey, the pension administration strategy, and that they are planning a survey to enable a review of the administration and management structure.
 - (c) Jennifer Miles a partner from Eversheds Sutherland gave a case law update covering McCloud, and three determinations from the Pension Ombudsman
 - (d) Rob Fornear from the Government's Actuary Department gave a presentation on data for the 2020 Valuation, the impact of McCloud and the unpausing of the cost cap
 - (e) Peter Spreadbury, the Head of Police Workforce and Professionalism Unit at the Home Office joined by phone to give a very brief update on the Police & Fire Team and to talk about how they want to engage with the fire community
 - (f) The last part of the day was the workshops, each delegate was allocated one of three rooms, technical, data or communications. Each room was looking at what was needed, issues, concerns, what we can do now and how to have consistency and engagement across the sector.

MEMBER PORTAL

28. There has been a slight increase of those registered for the Member Portal from 27% to 32%.
29. Numbers of those registered as at 17 September 2020 are shown in the table below:

Pension online registration numbers as at 17/092020							
Number of actives per age range							
HFRA FIRE	under 30	30-40	40-50	50-55	55-65	65+	Total
Registered	15	55	131	77	33	2	313
Not registered	113	206	224	83	45	2	673
Total	128	261	355	160	78	4	986
Percentage of actives per age range							
HFRA FIRE	under 30	30-40	40-50	50-55	55-65	65+	
Registered	12%	21%	37%	48%	42%	50%	
Not registered	88%	79%	63%	52%	58%	50%	
Total	100%	100%	100%	100%	100%	100%	
Percentage of all actives per age range							
HFRA FIRE	under 30	30-40	40-50	50-55	55-65	65+	Total
Registered	2%	6%	13%	8%	3%	0%	32%
Not registered	11%	21%	23%	8%	5%	0%	68%
Total	13%	27%	36%	16%	8%	0%	100%

PENSION BOARD MEMBERSHIP

30. In July 2020, the Fire Authority ratified the appointment of Mark Hilton as the new Scheme Representative Board member.
31. Mark joins the Board at a challenging time with both the consultation starting on the Public Service Pension Schemes in relation to the McCloud / Sargeant remedy case and also with the Combined Fire Authority coming into being on 1 April 2021.

COMBINED FIRE AUTHORITY (CFA)

32. When the CFA comes into effect on 1 April 2021, as it is a new entity, it will be necessary go through an auto-enrolment process. Discussions between the IBC Shared Services and HR have taken place to determine whether this should be treated as a normal cyclical auto-enrolment or as contractual enrolment. The latter means that all employments held with employees that are not in any pension scheme will be enrolled into the relevant scheme, regardless of the amount of earnings.
33. This will be a more straight forward process and less resource intensive to put in place. It does mean however that members that were auto-enrolled as part of HFRA's auto enrolment on 1 April 2020 or IWFRS auto-enrolment on 1 May

2020 and have subsequently opted out, will be enrolled again and will be required to opt out if they still wish to not remain a member of the pension scheme.

34. There is only one issue for Fire Pensions and that is to do with Temporary Promotions. IWFRS have made them not pensionable whereas HFRA has. Therefore it is recommended that the CFA make a decision confirming that from 1 April 2021, Temporary Promotions are pensionable for Fire Pension Scheme members of the CFA that are temporarily promoted whilst a member of the 1992 or 2006 Fire Pension Schemes; and the resulting additional pay will be used to award an Additional Pension Benefit to the member.
35. The decision should also confirm that, up to 31 March 2021, any members that were part of the IWFRS will not have their Temporary Promotion pay treated as pensionable; and that Temporary Promotions continue to be not pensionable for all Fire Pension Scheme members who are temporarily promoted whilst a member of the 2015 Fire Pension Scheme.

CFA BOARD MEMBERSHIP

36. The Board will recall that at the last meeting, it was agreed that officers would come back with options for the Board membership under the CFA. A number of different options were reviewed as it was agreed that we are keen to have IOW representation on the Fire Pension Board. The IOW currently has 4 board members, the two employer representatives are elected members, and the two scheme representatives are serving firefighters.
37. It was felt that the best way forward would be to contact both of the scheme representatives to see if one of them would be willing to become an employer representative as both wished to continue serving on the Local Pension Board.
38. It is confirmed that subject to the Board's recommendation and approval by the Shadow Fire Authority that under CFA, one representative is willing to become an employer representative and the other will remain as a scheme representative.
39. This means that this will increase the CFA Fire Pension Board membership to 8 members. There will therefore need to be an amendment made to the Terms of Reference for this to take effect.

RECOMMENDATIONS

40. That the content of this report be noted by the HFRA Hampshire Firefighters' Pension Board
41. That the Risk Register as set out in paragraphs 4-7 and APPENDIX A be approved by the HFRA Hampshire Firefighters' Pension Board.
42. That the response to the Public Service Pension Schemes consultation as set in APPENDIX E is endorsed by the HFRA Hampshire Firefighters' Pension Board.
43. That the proposal about the treatment of temporary promotions under the CFA as set out in paragraphs 21-22 is endorsed by the HFRA Hampshire Firefighters' Pension Board and that a report is taken to the Shadow H&IOW Fire and Rescue Authority recommending a formal decision to this effect.
44. That the proposal about the membership of the Fire Pension Board under the CFA as set out in paragraphs 36-39 is endorsed by the HFRA Hampshire Firefighters' Pension Board and that a report is taken to the Shadow H&IOW Fire and Rescue Authority to enable the necessary appointments to be made.

APPENDICES ATTACHED

45. APPENDIX A – Risk Register
46. APPENDIX B – [Public Sector Pension Scheme Consultation](#)
47. APPENDIX C – Home Office consultation FAQs
48. APPENDIX D - Summary of consultation
49. APPENDIX E – Consultation draft response
50. APPENDIX F – Immediate Detriment Guidance note

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