

Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Date: Thursday 26 November 2020
Time: 2.00 pm
Venue: Microsoft Teams

Membership

Keith Bray (Chair)
Barnaby Briggs
Caroline Jones
Councillor David Reilly
Sian Marsh
Paul Morley
Tony Morgan

Items on the agenda: -

1. General

(1) Apologies

(2) Board Members' Disclosures of Interest

(As stipulated by the Public Sector Pensions Act 2013 and set out in Annex A of the Agreed Board Terms of Reference).

(3) Minutes of the Previous Meeting 5 - 8

- | | | |
|----|---|---------|
| 2. | Pension policies and review dates for Warwickshire Fire & Rescue | 9 - 12 |
| 3. | Regulatory Update Firefighter Pension Schemes | 13 - 16 |
| 4. | Pensions Administration Update | 17 - 20 |
| 5. | McCloud - Age Discrimination Remedy and Immediate Detriment Guidance | 21 - 24 |

6. Next Steps

7. Any Other Business

8. Future Meeting Dates

The following meeting dates are proposed.

Thursday, 4 March 2021

Tuesday, 14 September 2021

Tuesday, 9 November 2021

Monday, 14 February 2022

Tuesday, 10 May 2022

All meetings start at 2.00pm, unless specified otherwise and will be scheduled to take place virtually or at Shire Hall, Warwick (subject to government guidance).

Monica Fogarty

Chief Executive

Warwickshire County Council

Shire Hall, Warwick

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Disclaimers

Webcasting and permission to be filmed

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Disclosures of Pecuniary and Non-Pecuniary Interests

Members are required to register their disclosable pecuniary interests within 28 days of their election of appointment to the Council. A member attending a meeting where a matter arises in which s/he has a disclosable pecuniary interest must (unless s/he has a dispensation):

- Declare the interest if s/he has not already registered it
- Not participate in any discussion or vote
- Must leave the meeting room until the matter has been dealt with
- Give written notice of any unregistered interest to the Monitoring Officer within 28 days of the meeting

Non-pecuniary interests must still be declared in accordance with the Code of Conduct.

These should be declared at the commencement of the meeting

The public reports referred to are available on the Warwickshire Web

<https://democracy.warwickshire.gov.uk/uuCoverPage.aspx?bcr=1>

Public Speaking

Any member of the public who is resident or working in Warwickshire, or who is in receipt of services from the Council, may speak at the meeting for up to three minutes on any matter within the remit of the Committee. This can be in the form of a statement or a question. If you wish to speak please notify Democratic Services in writing at least two working days before the meeting. You should give your name and address and the subject upon which you wish to speak. Full details of the public speaking scheme are set out in the Council's Standing Orders.

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Tuesday 21 July 2020

Minutes

Attendance

Chair:

Keith Bray (Chair)

Barnaby Briggs

Tony Morgan, Fire and Rescue Services Association

Officers:

Helen Barnsley, Democratic Services Officer

Neil Buxton, Technical Specialist - Pension Fund Policy and Governance

Liz Firmstone, Service Manager (Transformation)

Victoria Jenks, Pensions Admin Delivery Lead

Caroline Jones, Finance Portfolio Lead (Communities & Resources)

Andrew Marson, Head of Pensions Administration

Deborah Moseley, Senior Democratic Services Officer

Jane Pollard, Legal Services Manager

1. General

The Chair recorded his personal thanks and those of the Board to the Fire Service for their actions during the pandemic.

(1) Board Members' Disclosures of Interests

None.

2. Apologies

The Board noted apologies from Paul Morley.

3. Minutes of the Meeting 26 February 2020

Subject to amending the attendance to reflect the new title for the Retained Fire Fighters representative to Fire and Rescue Service Association Representative and also removing the

plural from Assistant Chief Fire Officers in the attendance details, the minutes were approved as a true and accurate record of the meeting held on 26 February 2020.

4. Fire Pension - Current Pension Issues

Victoria Jenks, Pensions Admin Delivery Lead advised the Board that the FPS England 2020 valuation was due in the current year although the timescale had been extended from September to December so that administrators could supply the information to the Government Actuaries Department (GAD) by December. Warwickshire would run reports to provide the required information to GAD on behalf of the Fire Service. Aquila Heywood, the software supplier for pension administration, had developed a tool to more easily extract all the information required for uploading to the GAD portal.

Due to the Covid-19 pandemic, there had been a call for retired members to return to work which had resulted in some potential tax implications and the relaxation of the Protected Pension Age tax rules had, therefore, been extended until 1 November 2020.

The administration team were working on local government annual benefit statements and would also be working hard to process statements on behalf of the Fire Service for the 31 August 2020 deadline.

The importance of communicating potential tax issues had been discussed at a recent meeting of the Fire Communications Working Group (FCWG) and standard wording had now been provided for inclusion in job advertisements. The wording was set out in Appendix 1 to the report. Barnaby Briggs asked for this information to be provided to Sarah McClusky (Team Lead – HR Advisory) to cascade through the HROD chain.

The Scheme Advisory Board (SAB) had made a recommendation following the administration and management review conducted by AON, to develop and implement a pension administration strategy. A key proposal of the strategy was that it should include key performance indicators and expected timescales for completion of certain processes. A draft administration strategy had been created by the FCWG and circulated to stakeholders for comment by 31 August 2020.

It was noted that following the Court of Appeal's determination that the transitional provisions in the Firefighters' pension schemes resulted in direct age discrimination, a consultation document had been released in week commencing 13 July 2020 which would be reviewed in conjunction with the Fire Service to consider the implications. The Board recognised the need to keep Members informed.

There was no further update on the pensionable pay challenge for on-call Fire Fighters.

It was noted that Warwickshire had been seeking to outsource Fire Pensions administration and a pre-tender supplier engagement exercise had commenced by sending a questionnaire to Fire Administrators regarding expressions of interest for undertaking the Firefighter Pension Schemes administration and pensioner payroll. The project plan for the outsourcing arrangement expected the tender document to be produced in August with a view to awarding the contract in October 2020.

The Chair referred to the background to his appointment and noted that as he felt he did not have enough technical knowledge to fulfil the role beyond his chairing skills, he would like to step down as Chair. He was content to continue in the role until a replacement could be found. It was noted that a formal selection process would be required in due course but in the meantime talks were ongoing with appropriate existing contacts to highlight the position's availability and assess potential interest. It was hoped that a decision could be made by the next meeting.

5. Pension Administration Update

Having received a full update in the previous item on the agenda, no further comments were made for this item.

6. Next Steps

Noting the absence of one of the Employee Representatives, the Board discussed the importance of regular and consistent attendance at meetings to ensure that all sectors of the Service were represented. The Chair agreed to discuss the most appropriate way to secure reliable representation at meetings with the Administration Team.

7. Next Meeting

It was confirmed that the next meeting was due to take place on 26 November 2020 at 2.00pm.

The meeting rose at 2.30pm

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Chair

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Pension policies and review dates for Warwickshire Fire & Rescue

26 November 2020

Recommendation(s)

1. The Warwickshire Fire and Rescue Local Pension Board (the Board) are asked to review and comment on the attached schedule of policies.

1. Executive Summary

- 1.1 To ensure the successful administration of the Firefighter Pension Schemes there are several policies and statements which need to be in place.
- 1.2 Historically, the authority has relied upon and followed the policies that have been in place for the LGPS for administering the Firefighters' Pension Schemes. The recent Finance Service restructure has helped to increase the capacity within the Pensions Service, and this should allow a greater focus on developing policies that are specific to the requirements of the Firefighters' Pension Schemes, and ensuring that the governance requirements of the Pensions Regulator are being met. At the same time, it will be important that resources are kept under review, and that any risks relating to capacity are identified early and managed appropriately.
- 1.3 Some of these are required by the Pension Regulator (tPR).

2. Financial Implications

- 2.1 The absence of these policies could lead to censure and or fines imposed by tPR.

3. Environmental Implications

None.

4. Supporting Information

None

5. Timescales associated with the decision and next steps

- 5.1 The attached schedule sets out a practical timescale for the drafting and introduction of the policies.

Appendices

1. Appendix 1; Schedule of Policies.

Background Papers

None

	Name	Contact Information
Report Author	Neil Buxton, Liz Firmstone, Victoria Jenks, Chris Norton	neilbuxton@warwickshire.gov.uk, lizfirmstone@warwickshire.gov.uk, vickyjenks@warwickshire.gov.uk, chrisnorton@warwickshire.gov.uk
Assistant Director	Andrew Felton	andrewfelton@warwickshire.gov.uk
Lead Director	Strategic Director for Resources	robpowell@warwickshire.gov.uk
Lead Member	Portfolio Holder for Finance and Property	peterbutlin@warwickshire.gov.uk

The report was circulated to the following members prior to publication:

Local Member(s): None

Other members:

Fire Fighter Pension Scheme Policies

Appendix A

Policy	Description	Target Date
Administration Strategy	This policy sets out the respective responsibilities of WFRS and the administrator in the delivery of the administration of the pension schemes. This statement seeks to promote good working relationships and ensure agreed standards of quality in the delivery of the pension administration service.	October / November 2021
Breaches Policy	This policy sets out the approach taken to reporting breaches of the law.	4 March 2021
Communications Policy	This policy sets out how the administrator communicates with stakeholders.	October / November 2021
Conflicts of Interest Policy	This policy ensures conflicts of interest are managed appropriately in respect of pension scheme affairs.	4 March 2021
Cyber Security Policy	This is a new requirement expected by The Pensions Regulator, required to provide assurance that the administrator is protecting members' records.	June / July 2021
Risk Register	The risk register is a tool used to effectively identify, prioritise, manage and monitor risks associated with the administration of firefighter pension schemes.	June / July 2021
Terms of Reference	This document sets out the Terms of Reference for the Board	4 March 2021
Knowledge and Skills Assessment	An assessment tool issued by The Pension Regulator	June / July 2021

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Regulatory update Firefighter Pension Schemes

26 November 2020

Recommendation(s)

1. The Local Fire Pension Board are asked to note and comment on the contents of this report.

1. Executive Summary

- 1.1 This report seeks to update the Board on current developments in the Firefighter pension schemes.

2. Financial Implications

- 2.1 There are likely to be financial implications for the Fire Service as a result of implementation of the McCloud remedy but these are not available at this time. As the financial consequences become clearer, with the implementation of the changes, these will be reported back to the Board.
- 2.2 There will also be financial implications arising from the need to address the “second options exercise” for Special Members of the Firefighters’ Pensions Scheme. These will depend on the outcome of ongoing national discussions, and will be reported to the Board in due course.

3. Environmental Implications

- 3.1 None

4. Supporting Information

- 4.1 **McCloud / Sergeant update:**
- 4.2 Following a review of all public service pension schemes by Lord Hutton the government introduced transitional protections for older members of pension schemes who were within ten years of retirement.

- 4.3 The Court of Appeal later found that the protections afforded to older scheme members were unlawful because they discriminated against younger members of the pension schemes. The Government accepted the Court decision and have issued consultation on how best the schemes can address the changes.
- 4.4 For firefighters the remedy will involve members having the option to choose between receiving legacy or reformed scheme benefits in respect of their service between 1 April 2015 and 31 March 2022. The recent consultation issued by the Government sought views on whether that choice should be made now (in the year or two after implementation in 2022) or deferred until the point the member retires.
- 4.5 The consultation ended on 11th October 2020.
- 4.6 **Special Members of FPS 2006 – second options exercise**
- 4.7 Special members were introduced to the Firefighter Pension Scheme (FPS) 2006 in 2014 following *Matthews v Kent and Medway Towns Fire Authority*, which allowed retained firefighters employed between 1 July 2000 and 5 April 2006, to join the FPS 2006 with retrospective effect to 1 July 2000.
- 4.8 Following a ruling by the European Court of Justice on a case concerning whether fee paid judges should have been allowed access to the Judicial Pension Scheme, the UK Government have recognised the right for retained firefighters employed before 1 July 2000 to elect to become a special member of the Firefighter pension scheme from the start of their employment.
- 4.9 This will involve a second options exercise and discussions have started involving central government, the LGA (on behalf of Fire and Rescue Authorities) and trade union representatives to consider who is in scope and details of the settlement exercise.
- 4.10 Once these discussions have been concluded, regulations will be drafted. Unfortunately, no timescales are known at this stage.

5. Timescales associated with the decision and next steps

- 5.1 The Board will be updated on both McCloud / Sergeant and Special Members when further developments are available.

Appendices

None

Background Papers

None

	Name	Contact Information
Report Author	Neil Buxton, Liz Firmstone, Victoria	neilbuxton@warwickshire.gov.uk, lizfirmstone@warwickshire.gov.uk,

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Lead Director	Rob Powell	robpowell@warwickshire.gov.uk
Lead Member	Peter Butlin	peterbutlin@warwickshire.gov.uk

The report was circulated to the following members prior to publication:

Local Member(s): None

Other members:

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Pensions Administration update

26 November 2020

Recommendation(s)

1. Local Pensions Board to note this report

1. Executive Summary

- 1.1 This report updates the board on key developments affecting pensions administration and the performance of the Pensions Administration Service.

2. Financial Implications

- 2.1 All financial implications are dealt with in the body of the report

3. Environmental Implications

- 3.1 None

4. Proposed Appointment of New Chair

- 4.1 Following notification from the current Chair of his intention to step down from the role, a process has been undertaken to find a new candidate for the position. The preferred candidate is Mr Martin Reohorn, Director of Finance and Treasurer of Hereford and Worcester Fire Service. The selection process comprised an interview with members of WCC's Finance and Fire and Rescue Services, and meeting with representatives of the Staff and Pensions and Resources and Fire Overview and Scrutiny Committee. The County Council will be asked to approve Mr Reohorn's appointment at its meeting on 15 December 2020.

5. Pensions Administration Service (PAS)

- 5.1 The PAS has a new lead officer responsible for the day to day workload for Firefighter pension scheme queries; Ian Morris, team leader for Membership. Ian has already helped to create an improved working relationship between payroll/HR, Pensions and Fire personnel.

5.2 Membership numbers

The information below shows the membership split between the 3 Firefighter pension schemes; members of the Modified Pension Scheme are captured in the 2006 scheme:

- Protected members are those that remain in a final salary scheme and will not transfer in the Care average scheme (CARE)
- Taper members are moved into the CARE scheme at some point after 1 April 2015, this is dependent on their age
- Unprotected members will have moved from final salary schemes to CARE on 1st April 2015 as they were not within 10 years of their normal retirement age in the final salary schemes

Active	1992	2006	2015
- Protected	16	3	0
- Tapered	33	2	0
- Unprotected	68	231	12
			Total Actives
			365

Deferred	1992	2006	2015
	41	205	76
			Total Deferred
			322

Pensioner /Dependants	1992	2006	2015
	364	3	1
			Total Pensioners
			368

6. Annual Benefit Statements

- 6.1 Annual benefit statements (ABS) went out to all Fire Scheme members by 31st August 2020.
- 6.2 Some queries from members have been generated from ABS, relating to pay used to calculate benefits, and these have resulted in an increase of work for the pensions team. This has led to closer working with the HR and payroll team in order to resolve these queries.

7. Data Quality

7.1 Data quality reports were run for the Fire schemes in September. The current Scores are as follows:

Common data **96%**

This represents an improvement from the 2019 score which was 89.3%

Scheme specific data	58.8%
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This represents an improvement from the 2019 score which was 49.7%

7.2 These scores are reported to the Pensions Regulator (tPR) each year. The Pensions Regulator expects to see a year on year improvement on the data scores.

7.3 There is a scoring workplan being put in place to look at the data that has failed the data tests so that it can be corrected and therefore continue with the improvement to these scores. We are also amending our processes so that the collection of data and updating of records is done on a more regular basis (monthly) so that data is kept as up to date as possible.

8. Timescales associated with the decision and next steps

None

Appendices

None

Background Papers

None

	Name	Contact Information
Report Author	Vicky Jenks Liz Firmstone	vickyjenks@warwickshire.gov.uk lizfirmstone@warwickshire.gov.uk
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Lead Director	Strategic Director for Resources	RobPowell@warwickshire.gov.uk
Lead Member	Portfolio Holder for Finance and Property	PeterButlin@warwickshire.gov.uk

The report was circulated to the following members prior to publication:

Local Member(s): None

Other members: None

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Warwickshire Fire and Rescue Local Pension Board**McCloud -Age Discrimination remedy and immediate detriment guidance**

26 November 2020

Recommendation(s)

1. To note and comment on this report

1. Executive Summary

- 1.1 Following a legal challenge to public pension scheme changes effective from 2012, the government is introducing a new remedy to provide underpin protection to affected scheme members, including members of the Fire Pension Scheme.
- 1.2 The proposals that were set out in the Age Discrimination (McCloud) consultation will apply to all members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, across all affected public service schemes. This is irrespective of whether they have submitted a legal claim or not, or whether they are currently an active, deferred or pensioner member.
- 1.3 Depending on a person's circumstances, many scheme members are likely to be better off in the reformed schemes (CARE) rather than the legacy (Final Salary) schemes. The government believes it is therefore not fair to simply move everyone back into the legacy schemes, even though this would be enough to remove the unlawful discrimination identified by the Court of Appeal.
- 1.4 The government therefore proposes to provide members with the option to choose between receiving legacy or reformed scheme benefits in respect of their service during the period between 1 April 2015 and 31 March 2022. This is referred to as the remedy period. This consultation sought views on that proposal and especially on which of two possible approaches:
 1. An immediate choice
 2. A deferred choice underpin (DCU)
- 1.5 Under the immediate choice exercise, members would make this decision in the year or two after the point of implementation in 2022. For many members, this will be some years prior to retirement, and at a time when there is still

some uncertainty over the precise benefits that would accrue to them in the alternative schemes.

- 1.6 In contrast, under DCU, this decision would be deferred until the point at which a member retires (or when they take their pension benefits). Until that deferred choice is made, all members would be deemed to have accrued benefits in the legacy scheme, rather than the reformed scheme, for the remedy period.
- 1.7 The Home Office have released informal guidance to Fire and Rescue Authorities in England on the processing of 'immediate detriment' cases in advance of a decision on the Government's final approach to removing the age discrimination as found in the McCloud/Sargeant Employment Tribunal litigation.
- 1.8 Immediate detriment includes those scheme members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, and who did not benefit from full protection and were moved into the 2015 Scheme on or after 1 April 2015:
 1. Who become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); OR
 2. Who don't qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do so under the IHR arrangements in their legacy scheme.
- 1.9 Any scheme members that fall within either of the two categories above can have their pensions calculated and put into payment according to this guidance.
- 1.10 If followed this guidance should not be applied to scheme members who have already retired and are in receipt of their pension payments. These cases are more complex to address, especially due to complexities in rectifying the member's tax position.
- 1.11 It is important to note that any cases processed using this guidance would need to be revisited once the Government's approach to removing the discrimination has been finalised, due to relevant matters that are currently subject to consultation, to include interest on contributions etc. This is likely to be after April 2022.

2. Matters for consideration

- 2.1 Fire and Rescue Authorities (FRAs) now need to understand practically how they could give effect to the guidance, should they chose to follow it. As this is informal guidance only, FRAs can choose to seek individual legal advice. WCC legal team have reviewed the guidance and are of the opinion that it should be followed where possible. Information sent out to the member for these cases must include a caveat to explain that the benefits calculated could still be subject to change.
- 2.2 FRAs need to take a cautious approach in following the HO guidance and that any legal advice taken would not form protection, against FRAS who act outside of their vires or make incorrect conclusions in the calculation of the value of pension benefits.
- 2.3 We understand that the Home Office assert the legal position which underpins the application of the guidance in the note for non-claimants (those not covered by the interim order) is Section 61 of the Equality Act. The effect of Section 61 is being contested in the FRA's appeal under Schedule 22 of the Equality Act, in which they argue that they were required to follow the pensions regulations and so by law had no choice but to implement the transitional protections for older firefighters.
- 2.4 If WCC chooses not to apply the guidance at this stage, there is a chance that the members will protectively issue an age discrimination claim in the employment tribunal. It is clear that the pension loss would be remedied in future regardless of whether a claim is made. However, a member could also claim 'injury to feelings' based on the period of inaction. Such awards, if made, are likely to be nominal but even nominal awards can quickly add up where there is a large number of employees affected.
- 2.5 The County Council's Section 151 Officer has delegated responsibility for payments in respect of all liabilities falling to be discharged by the council which are not otherwise detailed in financial regulations. A briefing is being prepared for his consideration on whether to follow the Immediate detriment guidance issued by the HO.

3. Financial Implications

- 3.1 There are potential financial implications of the cost for not following this guidance and potential claims of 'injury to feelings' being made by members. However, there is also the potential that an overpayment of benefits could arise if the regulations are not amended as suggested in the consultation.

4. Environmental Implications

None

5. Supporting Information

None

6. Timescales associated with the decision and next steps

As WCC's Section 151 Officer the Strategic Director for Resources will be required to take a decision on whether WCC should apply the informal guidance issued by the Home Office, taking account of the risks therein.

Appendices

None

Background Papers

1. <https://www.fpsregs.org/images/Age-discrimination/Home-Office-immediate-detriment-guidance-21-August-2020.pdf>

	Name	Contact Information
Report Author	Neil Buxton, Liz Firmstone, Victoria Jenks	neilbuxton@warwickshire.gov.uk, lizfirmstone@warwickshire.gov.uk, vickyjenks@warwickshire.gov.uk
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