

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

13 September 2022

## Regulatory and Policy Update

### Recommendations

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

1. notes and comments on the information included in this report.
2. endorses the decision regarding the payment of Category 1 cases in relation to immediate detriment as set out in paragraph [ 1.10 ] below.

### 1. Policy update

- 1.1 **Abatement Policy** – Following a decision regarding the application of abatement to a retired firefighter who was re-employed by the service, the Abatement Policy has been reviewed and amended.
- 1.2 The decision concluded that in the previous version of the policy the wording amounted to a blanket policy which stipulated abatement would apply. This meant that there was no room for 'discussion' in terms of the circumstances in which abatement would not apply.
- 1.3 The policy is being updated to reflect that only in exceptional circumstances would abatement not apply, and that WFRS would need to show on a case-by-case basis that consideration was given as to whether any exceptional circumstances existed.
- 1.4 We are waiting for clarification from LGA regarding how abatement applies to transitional members ( being those members who have pensions built up in both a final salary scheme (1992/2006) and 2015 scheme). This is because all members moved across to the 2015 Scheme from 1<sup>st</sup> April 2022. Abatement does not apply in the 2015 scheme.
- 1.5 The Policy will go to Staff and Pensions Committee in December.
- 1.6 **Immediate Detriment** - Following advice from the National Fire Chiefs Council (NFCC), in June 2022 Immediate Detriment payments were paused due to the risk that certain costs incurred would not be reimbursed by the government.

- 1.7 Despite the Home Office issuing informal guidance in August 2020 regarding the payment of immediate detriment cases, this was then withdrawn on 28 November 2021. There is currently no statutory guidance which stipulates how fire authorities are to treat immediate detriment cases.
- 1.8 An increasing number of legal challenges are now being received by FRAs. Because of this a further decision has been required on whether to re-instate payment of benefits or to continue to pause payment of all future immediate detriment cases until the legislation comes into full effect (the “Interim Period”), expected in October 2023.
- 1.9 The Local Government Association (LGA) released a calculator in June which provides an estimate of the additional costs relating to Category 1 and 2 cases; these are the costs that may not be re-imbursed by government. This has been used to establish the approximate additional cost (£130k) for potential retirements between now and October 2023.
- 1.10 On 19<sup>th</sup> July Corporate Board made the decision to un-pause the payment of Category 1 cases.

## Regulation Update

- 1.11 **Matthews – 2<sup>nd</sup> retained exercise** - The Home Office has recently shared a draft document which outlines the lessons learned from the first special members’ options exercise. This high-level paper has been produced for stakeholders involved in Matthews Remedy work. The purpose of this paper is to identify the areas of improvement from the previous remedy project and how to implement the lessons identified. The lessons referenced are drawn from the experience and reflections of the Home Office, Government Actuary Department and Local Government Association on Matthews Remedy options exercise, which took place between April 2014 and September 2015.
- 1.12 **Immediate Detriment** - The chair of the SAB had written an open letter to HM Treasury (HMT) on the withdrawal of the Home Office informal guidance on Immediate Detriment. The letter, dated 17 December 2021, asked for more information on the risks and uncertainties which HMT said arose as a result of processing cases ahead of legislation. On 23 March 2022, HMT provided a response outlining the factors behind the withdrawal in more detail. The response highlighted that Section 61 of the Equality Act 2010 did not, in HMT’s opinion, allow for amendment of a member’s tax position. The response detailed several tax complexities which had been identified and will be dealt with through legislation. On 20 June 2022, the chair of the SAB wrote an open letter in response to HMT’s reply which seeks further clarity on the extent of Sections 61/ 62 and the tax implications detailed.
- 1.13 **Age Discrimination Remedy (McCloud/Sargeant)** - A paper on contingent decisions was discussed at SAB meeting in June 2022. This highlights instances where a contingent decision may apply. Police and Fire SABs are involved in joint engagement sessions with the Home Office to discuss the policy definition documents (PDDs) in relation to remedy.

<https://www.fpsboard.org/images/PDF/Meetings/23-June-2022/Paper-1-Contingent-decisions.pdf>

- 1.14 **Judicial review granted over McCloud cost remedy** - Unions across the public sector sought a judicial review against the UK Government about McCloud/ Sargeant remedy costs in the cost control mechanism. The FBU, GMB, and British Medical Association (BMA) argued that the cost of rectifying the discrimination should not be met by scheme members. On 4 July 2022, the FBU and the BMA were given permission to judicially review the Government's decision.

## 2 Financial Implications

- 2.1 Financial implications are included in the body of the report.

## 3. Environmental Implications

None

## 4. Timescales associated with the decision and next steps

None

## Appendices

None

## Background Papers

1. Contingent Decisions paper - <https://www.fpsboard.org/images/PDF/Meetings/23-June-2022/Paper-1-Contingent-decisions.pdf>.

	Name	Contact Information
Report Author	Martin Griffiths, Victoria Jenks	martingriffiths@warwickshire.gov.uk, vickyjenks@warwickshire.gov.uk
Assistant Director	Andrew Felton Assistant Director Finance	andrewfelton@warwickshire.gov.uk
Strategic Director	Strategic Director for Resources	robpowell@warwickshire.gov.uk
Portfolio Holder	Portfolio Holder for Finance and Property	peterbutling@warwickshire.gov.uk

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

Local Member(s): None

Other members: None