

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

13 February 2023

Governance and Policy Update

Recommendations

1. That the Board note and comment on the updated Terms of Reference
2. That the Board note and comment on the updated Conflicts of Interest Policy
3. The Board note and comment on the updated Abatement Policy
4. The Board note and comment on the Regulatory updates affecting Firefighter Pension schemes.

1. Policy Update

- 1.1 The Terms of Reference (ToR) policy has been reviewed and updated. The majority of changes are formatting, where a front cover and contents page have been added. The Conflict-of-Interest Policy has also been detached from the ToR and is now held as a separate document. There have been no fundamental changes made to this policy. (Appendix 1)
- 1.2 The Conflict-of-Interest Policy has also been reviewed and updated. (Appendix 2) The main change is that it is now held as a separate policy rather than as an appendix to the ToR. A review of the Conflict-of-Interest policy for the Local Government Pension Scheme has recently been undertaken and this now incorporates Officers as well as Board and Committee members. This will be taken into consideration and discussed with our legal team as to whether the Fire Local Pension Board document should also look to incorporate these changes.
- 1.3 The Abatement Policy has now been updated and ratified at Staff and Pensions Committee held in December 2022. (Appendix 3)

2. Regulatory Update

Age Discrimination – Ill Health Retirement Re-assessment

- 2.1 In the November Local Government Association (LGA) bulletin, a fact sheet relating to age discrimination – ill health retirement re-assessment was

released. The Public Service Pensions and Judicial Offices Act 2022 (PSPJOA 2022) which came into force on 1st April 2022, creates two distinct member choice groups:

- Immediate Choice (IC): These are pensioner members who retired during the remedy period, or beneficiaries of deceased members who died before the retrospective legislation is put in place. These members will be asked to make their choice within 18 months of the legislation coming into force on 1 October 2023.
- Deferred Choice (DC): These are active and deferred members who have not yet retired/ accessed their benefits and will be asked to make a choice between legacy and reformed benefits at retirement. If the member dies before retirement, their beneficiary will make the choice on the member's behalf.

2.2 This factsheet focuses on how IC members who have been ill-health retired will be dealt with.

2.3 Representatives from WCC HR, pensions and Fire service are working on identifying cases that will require review.

Autumn Statement 2022

2.4 The Chancellor of the Exchequer delivered his Autumn statement on 17th November, and there were a number of policies relating to pensions:

- The State Pension triple lock was maintained and working age benefits will increase in line with inflation in April 2023. Next year's State Pension increase will be 10.1 per cent.
- The DWP review of the State Pension age will be published early in 2023. The review is currently underway to consider whether the existing timetable to increase the State Pension age remains appropriate. The Government must publish the review by 7 May 2023.
- No changes to the annual allowance, tapered annual allowance or Money Purchase Annual Allowance in 2023/24.
- No changes to the Lifetime Allowance which will remain at its current level of £1,073,100 until the end of the 2025/26 year.
- Current personal tax thresholds for income tax and national insurance (in England and Wales) will be frozen until April 2028.
- The additional rate threshold (in England and Wales) will reduce from £150,000 to £125,140 from April 2023. This is the threshold beyond which individuals pay income tax at 45 percent.

Retained Firefighter Employment Tribunal Pension Claims

2.5 You may be aware that a Memorandum of Understanding (MoU), as featured in FPS Bulletin 55 - March 2022, was agreed on behalf of the legal parties to the "Matthews" claims on 9 March 2022 to provide a remedy to eligible retained firefighters by offering access to the FPS 2006 as special members, backdated to the start date of their employment.

- 2.6 The MoU set out the scope and mechanism for the remedy to be implemented by way of a second options exercise. However, a further issue arose during negotiation of the MoU around an inability to aggregate periods of pensionable service in the FPS as a retained firefighter with periods of service as a wholetime firefighter (“aggregation”).
- 2.7 This was addressed by affected retained firefighters (or their representatives) having the ability to give written notification of their identity and details of the factual and legal basis of any aggregation claims, with a view to discussions for six months from the MoU date leading to a resolution of those claims. The MoU stated that if agreed resolution of the aggregation issues was not reached by then that affected individuals could pursue Employment Tribunal (ET) claims to determine outstanding aggregation issues in relation to them.
- 2.8 The six-month period has elapsed, and we have recently been made aware that ET applications have been lodged by members of the Fire Brigades Union.

Consultation: The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023

- 2.9 On 25 November 2022, HMRC published a technical consultation on a draft statutory instrument, which ensures the pensions tax framework will apply as intended to pension scheme administrators and members affected by the public service pensions remedy. The consultation seeks views from pension scheme administrators on the draft regulations.
- 2.10 The regulations set out changes to how the pensions tax rules will apply to pension scheme administrators and members of public service pension schemes as a result of the public service pensions remedy.
- 2.11 The regulations will make changes to how pensions tax legislation operates in certain circumstances, including changes to how schemes will need to report and pay extra tax charges or reclaim overpaid tax and ensure that schemes can pay pension benefits as authorised payments.
- 2.12 This legislation is intended to take effect from 6 April 2023, but some provisions will have a retrospective effect.
- 2.13 The response to the consultation from both LGA and Scheme Advisory Board were issued to FRAs on 4th January and have been reviewed by the Pensions Administration Delivery Lead. There are no further issues that WFRS wish to raise separate to this.
- 2.14 The draft regulations provide reassurance that members should not be subject to additional tax charges due to being ‘rolled-back’ into their legacy schemes for the remedy period.
- 2.15 However, it is noted that the consultation for the FPS regulatory amendments that are due to be effective from 1st October 2023, is not expected until late

February 2023, with the Statutory Instrument being laid in September 2023. This does not allow much time for software developers or administrators.

Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022

- 2.16 On 14 December 2022, HM Treasury (HMT) made the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022, these came into force on 19 December 2022 and apply to all of the UK. The Directions set out how certain powers in the Public Service Pensions and Judicial Offices Act 2022 must be exercised. The Act gives relevant government departments powers to rectify Sargeant/ McCloud discrimination by making secondary legislation.
- 2.17 For the FPS, the Directions apply to the following powers in the Act:
- Powers to reduce or waive liabilities in relation to correction of benefits and tax relief on contributions adjustments – section 18. This includes the facility for FPS 2006 contributions to be retained by the scheme until a deferred choice election is made;
 - Powers to make provisions for: treatment of voluntary contributions paid in the FPS 2015 (Added Pension) – section 20, or transfers in to or out of the scheme – section 21, and of other specific circumstances – section 22.
 - A scheme manager’s power to pay compensation, setting out the scenarios in which compensation would apply – section 23 (direct compensation).
 - Powers to make regulations compensating members by adjustment to scheme pays debits – section 24 (indirect compensation).
 - Powers relating to tax relief on a contingent decision to buy Added Years – section 25.
 - The power to make regulations setting out how interest should be calculated and paid on amounts due to the remedy – section 26.
 - The Directions confirm the rates of interest that will apply to various payments, following consultation with the Government Actuary’s Department.
 - The power to make regulations setting out the process to follow for paying amounts due to the remedy, including where amounts may be netted off - section 26(1)(b).
 - Powers relating to Remediable Service Statements (RSS), including elements which must be provided – section 29.
- 2.18 The Directions confirm that the RSS must be combined with the Annual Benefit Statement, other than the first RSS which is issued.

3. Financial Implications

None

4. Environmental Implications

None

Appendices

Appendix 1 – Terms of Reference policy

Appendix 2 – Conflicts of Interest policy

Appendix 3 – Abatement Policy

Background Papers

None

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

Local Member(s): none

Other members: none