

# Portfolio Holder Decision

## Warwickshire Fire and Rescue Service (Pensioners) - GMP rectification report

<b>Portfolio Holder</b>	<b>Leader of the Council</b>
<b>Date of decision</b>	<b>12<sup>th</sup> May 2023</b>
	<b>Signed</b>

### 1. Decision taken

The Leader approves the decision that Warwickshire Fire & Rescue Service (WFRS) will not seek to recover any past overpayments to Fire Pension Scheme members which have been identified through the GMP reconciliation exercise.

### 2. Reasons for decisions

2.1 Since 2015 there has been a national exercise for UK pension schemes to reconcile the guaranteed minimum pension (GMP) value held on members' records with the values held by HMRC. Whilst the majority of records held by both public and private sector matched to the data held by HMRC, there were a number of discrepancies resulting from incorrect or incomplete information being passed between scheme employers, pension funds and HMRC. With the ending of contracting out and the scaling down of the HMRC team, all Pension Schemes were required to reconcile their data with HMRC and agree the correct records.

2.2 In April 2022, Warwickshire Pension Fund completed the exercise for members of the Local Government Pension Scheme (LGPS) and a decision was made to not seek repayment for any overpayments, for consistency we are now looking for the same decision to be applied to Firefighter Pensioners.

#### ***Underpayments***

2.3 In line with the decision taken in respect of the equivalent LGPS exercise, it is the intention that we write to all pensioners and dependents who have suffered an underpayment, setting out the correct pension they should now be receiving, along with the value of the historic underpayment. We expect to correct the pension in payment and make payment of the historic payments owed as soon as practically possible. The cost of underpayments will be recovered from the government through the existing Fire Pensions "top-up" grant process.

#### ***Overpayments – reduction to ongoing pension***

2.4 With regard to overpayment cases, the pension in payment must be adjusted to

the correct value going forward as we cannot knowingly make incorrect payments to any scheme member.

- 2.5 In many cases, the scheme member will have been in receipt of the overpaid pension for a number of years, and therefore officers do not believe it is equitable to implement an immediate reduction in pension without providing prior notice. It is proposed to give individuals affected a notice period of no less than 2 months.

***Recovery of historic overpayments***

- 2.6 In line with the decision already taken with regard to the LGPS GMP reconciliation exercise, the following reasons form the basis for recommending that we do not seek to recover historic overpayments:
- Given the complexities around the GMP rules it would be unfair to assume that the member could have had any knowledge or understanding that this resulted in their pension being overpaid.
  - Many of the people affected are likely to be elderly and vulnerable and already facing rising inflation and costs of living. These factors could make it difficult to recover some or all the overpayment and lead to additional unrecoverable costs.
  - It is arguable that the Authority could have discovered the overpayments itself at an earlier point in time which could render some claims time barred under limitation rules.
- 2.7 This approach aligns with LGA guidance (2018), which was based on guidance from the Home Office, and takes account of the distress that any attempt to recover the overpaid sums would inevitably cause.  
<https://www.fpsboard.org/images/PDF/Bulletin13/Bulletin13.pdf>
- 2.8 Where an overpayment of pension is made, there is a risk that this will be deemed to be an unauthorised payment and can attract a charge to tax. However, under Regulation 13 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 - Regulation 13 says that a payment made in error will be an authorised payment if the:
- payment was genuinely intended to represent the pension payable to the person,
  - administering authority believed the recipient was entitled to the payment,
  - administering authority believed the recipient was entitled to the amount of pension that was paid in error.
- Officers therefore believe that there should be no adverse tax consequences in respect of the decision not to seek recovery of the historic overpayments.
- 2.9 It is therefore recommended that whilst the pension value is corrected going forward, there should not be any recovery of overpaid amounts, consistent with the decision made for LGPS members.

### 3. Background information

***Rectification Process and Issues***

- 3.1 Prior to April 2022 the administration of the Fire Pension Schemes for WFRS was provided by the Pensions Administration Team (PAS) at Warwickshire. However due to the complexities of the schemes and the difficulties in retaining knowledge, expertise, and resilience within the PAS to maintain this service it was decided that the administration should be transferred to another provider – WYPF.
- 3.2 This meant that the GMP rectification work for WFRS would be completed by the new provider, WYPF. This work has now begun and a number of cases of under and overpayments identified.

#### 4. Financial implications

- 4.1 The project to review payments is ongoing and therefore the final value of under or overpayments is not yet known.
- 4.2 The cost of payment of arrears will be recovered from the government via the Fire Pensions top-up grant.
- 4.3 Overpayments that are not recouped have already been accounted for in the year the overpayment has occurred. There will therefore be no impact on revenue budgets.

#### 5. Environmental implications

- 5.1 None

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<b>Portfolio Holder</b>	Leader of the Council

<b>Urgent matter?</b>	Yes
<b>Confidential or exempt?</b>	No
<b>Is the decision contrary to the budget and policy framework?</b>	No

#### List of background papers

None

#### Members and officers consulted and informed

Portfolio Holder - Izzi Seccombe Leader of the Council

Corporate Board – Sarah Duxbury, Rob Powell

Legal – Jan Cumming/Sarah Cowen

Finance – Andrew Felton

Fire Service – Ben Brook

Equality – Delroy Madden

Democratic Services – John Cole

Councillors – Warwick, Birdi, Boad, Phillips and W Roberts

Local Member(s): n/a