



## Firefighter Pension Schemes Local Pension Board Minutes

<b>Date of meeting</b>	<b>Tuesday 20<sup>th</sup> March 2018</b>
<b>Time of meeting</b>	<b>10.00am</b>
<b>Location of meeting</b>	<b>POD room 5, Ground Floor, Kelvedon Park</b>

Attendees:

### **Employer representatives:**

David Bill, Director of Prevention, Protection and Response (Chair)  
*Sally Froment, HR Business Partner (apologies)*  
Glenn McGuinness, Assistant Director of Finance

### **Employee representatives:**

*Alistair Castle, RFU (apologies)*  
Martin Leach, FBU  
Gavin Tripp, FOA

### **Invited participants:**

James Durrant, Pensions Manager  
David Golding, Team Manager, Police and Fire Pension team, Essex Pension Fund  
Michael Jerrison, Pensions Support Officer  
*Mark Stagg, Director of Transformation (delegated Scheme Manager) (apologies)*

	<b>Agenda item</b>	<b>Action</b>
1	<b>Welcome, introductions and apologies</b>  Dave welcomed all to the meeting. There were apologies from Sally Froment, Alistair Castle and Mark Stagg. The meeting was declared as quorate.	
2	<b>Conflict of interest declarations</b>  No new conflicts of interest were declared.	
3	<b>Minutes of last meeting</b>  Dave went through the minutes and action points from the last meeting on Tuesday 5th December 2017.  No points of accuracy were raised and the minutes were agreed as a true and accurate account of the meeting.  Updates from the actions agreed at the last meeting are as follows.	

	Agenda item	Action
	<p><u>James to check on the position of the delegation of Scheme Manager</u></p> <p>James has reviewed the pension wording in the constitution. A few tweaks and legislation references need to be altered, but this work needs to be placed on hold. This is because a new delegated Scheme Manager needs to be selected for when Mark Stagg, the current delegated Scheme Manager leaves the organisation at the end of April.</p> <p>For the Firefighter Pension Schemes, the Scheme Manager is the relevant Authority and so for Essex, the Police Fire and Crime Commissioner is the Fire Authority. Mark Stagg has written to Roger Hirst to ask who he would like to delegate the Scheme Manager function to when Mark leaves.</p> <p><u>James to ask regional groups how their boards are constituted</u></p> <p>To be discussed at Agenda Item 4 – Review of Terms of Reference.</p> <p><u>James to update the terms of reference with the Fire Authority’s new name.</u></p> <p>To be discussed at Agenda Item 4 – Review of Terms of Reference.</p> <p><u>James to arrange an ill-health / injury retirement review workshop and find out other Authorities’ policies.</u></p> <p>Other Authorities have been asked about their policies, but the number of responses have been low. James will attempt to get more responses.</p> <p>The cost of sending a person to the IQMP has been received, this will be taken into account when forming the Authority’s policy.</p> <p><u>James will send the link to the training module. Board members to complete the module.</u></p> <p>To be discussed at Agenda Item 11 - Update on training/training plan.</p>	
4	<p><b>Review of Terms of Reference</b></p> <p>As requested at the meeting of Tuesday 5th December 2017 the board reviewed the Terms of Reference.</p> <p><u>Chairing Arrangements</u> No expressions of interest to Chair the Board were received, so Dave Bill will continue as Chair.</p> <p><u>Change to PFCC</u> James has updated the terms of reference to reflect change from Essex Fire Authority to Police, Fire and Crime Commissioner Fire and Rescue Authority or “the Authority”</p>	

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	<p><u>Election of pensioner members to the Board</u></p> <p>8 Authorities in the Eastern Region responded to James with details of the Board membership.</p> <p>6 out of the 8 have 2 employee representatives, 1 has 3 (the same as Essex) and 1 has 5.</p> <p>Of those, 2 Authorities have a pensioner representative on their pension board.</p> <p>The Board discussed whether if a pensioner member was appointed, whether there would be a suitable candidate to fill an employer vacancy that would need to be created.</p> <p>It was decided that there is not an urgent need to have a pensioner representative, but Dave Bill will discuss with a retired firefighter whether pensioners have any issues that they would like to discuss at the Pension Board and therefore whether a place on it would be helpful.</p>	<p>Dave to feed back at next meeting following his discussion with a retired firefighter.</p>
5	<p><b>Training Item – Reporting Breaches of the law to the Pensions Regulator</b></p> <p>James presented the Board’s training item on Reporting Breaches of the law to the Pensions Regulator.</p> <p>The Pensions Act 2004 Section 70 imposes a requirement on certain persons to report a breach of the law to the Pensions Regulator.</p> <p>The matter should be reported to The Pensions Regulator as soon as is reasonably practicable where that person has reasonable cause to believe that:</p> <p>(a) a legal duty relating to the administration of the scheme has not been or is not being complied with, and</p> <p>(b) the failure to comply is likely to be of material significance to The Pensions Regulator.</p> <p>The ‘certain persons’ are the Scheme Manager, members of a pension board, a person who is otherwise involved in the administration of the scheme.</p> <p>Serious breaches (fraud/theft) must be reported to the Regulator straight away. Others may require further information to assess whether they need to be reported.</p> <p>Martin asked where there are delays in the ill-health retirement process, whether this would constitute a breach. James replied that this depends on where the delay is. David reminded the Board that it does need to be a breach of the law, so should probably check with the internal process first. James should be notified of any delays that</p>	

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	<p>the Board have experienced so he can liaise with the relevant department.</p> <p>The Board discussed governance of the pension fund and whether it would be possible for a person to commit theft of the pension fund. Glenn replied that usually the public sector has tighter controls on things such as fraud, as the public sector is accountable for public money and is therefore more closely scrutinised.</p> <p>A public sector pension scheme can still breach the law if they don't send do things such as send Annual Benefit Statements to their members on time or don't submit their annual scheme returns to the Pensions Regulator by the deadline.</p> <p>The Board members completed a quiz on reporting breaches of the law to the pensions regulator, to assess what they have learnt. The Board members will be sent their own individual results separately.</p>	
6	<p><b>Risk Register</b></p> <p>James introduced the Pensions Risk Register to the Board.</p> <p>The register has been put together using the templates provided by the Pensions Regulator and Cheshire Fire and Rescue and working with the Authority's Risk &amp; Business Continuity team.</p> <p>There are five main risk areas identified for pensions:-</p> <ol style="list-style-type: none"> <li>1. Damage to records</li> <li>2. Incomplete or inaccurate record keeping</li> <li>3. Administration Failure / Maladministration</li> <li>4. Increased Costs to Essex Fire</li> <li>5. Regulatory and Compliance failure.</li> </ol> <p>For Risk 2 - Incomplete or inaccurate record keeping, this is currently scored as Possible – Insignificant. This is because it is likely that there are gaps in the data as the HR – Pensions team currently send a lot of data over to Essex Pension Fund whenever somebody retires, or leaves or requests a pension forecast. It has not yet been possible to test the data, as the Scheme Advisory Board has not yet advised the data which should be present on pension records in order to satisfy the Pension Regulator's data requirements.</p> <p>Glenn suggested two amendments to the Risk Register:-</p> <ol style="list-style-type: none"> <li>1) That the categorisation of Risk 4 - Increased Costs to Essex Fire, should be Possible – Insignificant, rather than Rare – Significant. This will be amended on the Register.</li> <li>2) Control Measure 1 for Risk 4 should say Contracts are governed by Financial and Procurement regulations, rather than OJEU rules.</li> </ol> <p>James agreed and will update the Risk Register with the suggested amendments.</p>	<p>James to update the Risk Register with the suggested amendments.</p>

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	<p>The Board will study the Risk Register and if they have any suggested amendments or questions, they will let James know.</p> <p>If there are any amendments to the Risk Register, this will be highlighted and discussed at future board meetings.</p>	
7	<p><b>Update from Pensions Manager:-</b></p> <p>James gave the update from the Pensions Manager.</p> <p><u>a) Day Crew Pensions – Norman v Cheshire</u></p> <p>At the previous meeting of the Board, 10 remaining replies were required.</p> <p>Reminders were sent on 1 December 2017, 19 January 2018 and 21 February 2018. As of the date of the meeting, 3 remaining replies are required. Further letters will be sent to those who have not yet replied. The Board will continue to monitor progress.</p> <p>For payments due to pensioners, there are ongoing discussions between ECFRS, Essex Pension Fund, Local Government Association.</p> <p>There is still a tax query with HMRC to ensure the payments will be made correctly in accordance with tax legislation before writing out to them. James is hoping to deduct what the pensioners owe in contributions from the payments (revised pensions and lump sums) that are due to be paid to them.</p> <p><u>b) 18-20 Contribution Holiday update</u></p> <p>Still 1 remaining person who has not claimed their payment (not an insignificant sum). Only needs to fill out form. Perhaps thinks it is a scam.</p> <p>Most recent reminder letter was 20 February 2018. James will continue to chase.</p> <p>The Board noted that other Authorities have outstanding payments to make to eligible pensioners.</p> <p>Board will continue to monitor progress.</p> <p><u>c) Transitional Protection Legal Challenge</u></p> <p>When the Firefighter’s Pension Scheme 2015 came in, the Government put in place transitional protection which allowed older members either to:</p> <p>remain members of their existing scheme until retirement, rather than becoming members of the replacement scheme; or</p>	

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	<p>remain members of their existing scheme until the end of a period of tapered protection (dependent on their age) and then become members of the replacement scheme.</p> <p>The claimants argued that the transitional arrangements amounted to direct age discrimination and disadvantaged them over older scheme members, solely by virtue of their age. Also, the transitional provisions were also alleged to have a disproportionate impact on female and black/ethnic minority members.</p> <p>The Employment Tribunal decided that the transitional provisions in the FPS 2015 were ‘a proportionate means of achieving a legitimate aim’ and therefore could be objectively justified. The firefighters appealed against this decision.</p> <p>The Employment Appeals Tribunal recently decided that:-</p> <ul style="list-style-type: none"> <li>• The ET was correct in its conclusion that the Government had sufficiently established that it had a ‘legitimate aim’ in implementing the transitional arrangements.</li> <li>• The ET had erred by taking the wrong approach to the question of proportionality.</li> <li>• The ET had erred by stating there was no need to justify the materially adverse effect on female and black/ethnic minority firefighters.</li> </ul> <p>The EAT therefore remitted the proportionality and sex/race discrimination issues back to the ET for further hearing.</p>	
8	<p><b>Update on Guaranteed Minimum Pension reconciliation</b></p> <p>David gave the update on the Guaranteed Minimum Pension reconciliation.</p> <p>There are 80 outstanding queries with HMRC but no issues have been identified.</p> <p>The Home Office will make a decision on what to do if Authorities have overpaid any pensioners and they are discussing with Treasury. However, this has taken some time but this has probably been delayed due to change in Minister.</p> <p>James said that Scotland had taken the decision to not correct any overpayments and continue to make the overpayments for the rest of the pensioner’s life.</p>	
9	<p><b>Matters arising from the Regional Pension Officer’s Group</b></p> <p>At a previous regional meeting, representatives from the Pension Ombudsman updated the group on their work.</p> <p>They were in favour of removing the two-stage Internal Dispute Resolution Procedure (IDRP) to a one-stage process. However, the Home Office and Union representatives were not in favour of changing</p>	

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	<p>it. This will be discussed with the Scheme Advisory Board.</p> <p>N.B. Essex's IDRPs have been updated to show that for the 2nd stage, this will now be heard by the Essex PFCC, or a person specified by him who works in the Office of the PFCC for Essex. More details are on the Intranet under <a href="#">HR &amp; OD -&gt; Pensions</a> and on the dedicated Fire Pensions' page <a href="http://www.fire.essexpensionfund.co.uk">www.fire.essexpensionfund.co.uk</a>.</p>	
10	<p><b>Update on training/training plan</b></p> <p>At the last meeting the board agreed to complete the Pension Regulator's module '<i>Managing Risk and Internal Controls</i>', and 4 out of 6 of the Board members had completed it.</p> <p>Further to the Authority's IDRPs having been amended recently (see agenda item 9), the next module for the Board members to complete is Resolving Internal Disputes. James will email the link to the module.</p> <p>The Board resolved that due to Matt Mott not yet having been replaced, there will be no formal training session other than that provided in the Pension Manager's update.</p>	<p>James will send the link to the module.</p> <p>Board members to complete the module.</p>
11	<p><b>Any other business</b></p> <p>James mentioned that the Pension Board Annual Report for 2017-18 is due. James will write the report which details the Pension Board's activity for the year, as well as decisions reached and training received. The report will be passed to the board members for comment. The report will go to the PFCC.</p> <p>Martin asked about the importance of the month's break from retiring from whole time and retained if you are under 55. James explained that a firefighter would lose their protected pension age if they retired under the age of 55 and either became re-employed by an Authority within a month or continued in employment. If a firefighter lost their protected pension age it could end up in them having their lump sum and every instalment of pension until they are 55 taxed up to 70%.</p>	<p>James to draft the Annual Report 2017-18 and send it to the Board members for approvals.</p>
12	<p><b>Date of next meeting</b></p> <p>The next meeting is on Wednesday 6th June 2018 at 1pm in meeting room GF01 at Kelvedon Park.</p>	