



## Firefighter Pension Schemes Local Pension Board Minutes

<b>Date of meeting</b>	<b>Thursday 5<sup>th</sup> March 2020</b>
<b>Time of meeting</b>	<b>1.30pm</b>
<b>Location of meeting</b>	<b>Meeting Room FF33, First Floor, Kelvedon Park</b>

### **Attendees:**

#### **Employer representatives:**

Dave Bill, Assistant Chief Fire Officer, Director of Innovation, Risk and Future Development (Chair)  
Sally Froment, Head of HR Partnering

#### **Scheme Member representatives:**

Alistair Castle, FRSA  
Andy Knowles, FBU  
Paul Moth, Retired Member Representative

#### **Invited participants:**

James Durrant, Pensions Manager  
David Golding, Technical Analyst, Essex Pension Fund

#### **Apologies from:**

Colette Black, Assistant Chief Executive Officer – People, Culture and Values  
Moira Bruin, Assistant Chief Fire Officer, Director of Operations  
Michael Jerrison, Pensions Support Officer

	<b>Agenda item</b>	<b>Action</b>
1	<b>Welcome, introductions and apologies</b>  Dave welcomed all to the meeting.  There were apologies from Moira Bruin and new Board member Colette Black. Michael Jerrison also gave his apologies.  The meeting was declared as quorate.  Paul Moth was welcomed to the Board as the new Retired Member Representative. All introduced themselves to Paul.	
2	<b>Conflict of interest declarations</b>  No further conflicts of interest were declared from existing Board members.	

	Agenda item	Action
	<p>New member Paul Moth declared a conflict of interest as he is in receipt of a Fire Service pension. James will provide Paul with conflicts form at the next meeting so that this can be recorded formally on the conflict register.</p>	
3	<p><b>Minutes of last meeting</b></p> <p>Dave went through the minutes and actions from the last meeting on Thursday 16<sup>th</sup> January 2020.</p> <p>The Essex Internal Dispute Resolution procedure and the Pension tax guidance document were sent following the meeting in an email on 5<sup>th</sup> February 2020.</p> <p>The possibility of Annual Benefit Statements being emailed to scheme members will be discussed with Chris Pickford, Systems Manager at Essex Pension Fund at a workshop he is hosting next week (w/c 9 March 2020).</p> <p>Risk register has been added as a standard agenda item.</p> <p>James thanked those who have completed the training module from TPR following the last time and encouraged anyone who had not yet completed it to do so.</p> <p>Andy asked about the Pension Tax training that was discussed at the last meeting. James said that this will take place on Monday 30<sup>th</sup> March 2020 at Kelvedon Park, from 10am to 12pm. This has been advertised in the Shout weekly newsletter on Monday 2<sup>nd</sup> March. Andy asked whether this could be advertised further as an item popping up on desktops. Dave agreed and James to contact Emily Cheyne in the Corporate Communications team. Dave asked James to email his p.a. so that Flexi Officers can be sent invitations. James confirmed that whilst this might not apply to Board members on a personal level, it would count as attendance at a training event for recording pension-training purposes.</p> <p>No further comments were received and the minutes were agreed as an accurate reflection of the meeting.</p>	<p>James to contact Emily in the Comms team and Dave's p.a. to advertise the tax session more widely.</p>
4	<p><b>Training Item – Valuation and Scheme Costs</b></p> <p>Three Board members had returned their completed Training Needs Analysis exercise. From this, the Valuation and Scheme costs was identified as an area which those members required training on.</p> <p>James provided the training on this item, which informed the Board of GAD's role, what an actuarial valuation is and why it is important.</p> <p>The last valuation (based on data up to 31 March 2016) set employer contribution rates from 1 April 2019 to 31 March 2023. The next valuation will be based on data up to 31 March 2020 and will set employer contribution rates from 1 April 2023 to 31 March 2027.</p>	

Agenda item	Action
<p>GAD requires data from FRA's / their administrators up to 31 March 2020, such as:-</p> <ul style="list-style-type: none"> <li>• The types and numbers of members (i.e. how many active members, pensioner members etc);</li> <li>• Gender and age of members;</li> <li>• Rate of pensionable pay of members;</li> <li>• Number of members leaving or opting out of the scheme;</li> <li>• Number of retirements;</li> <li>• Mortality rates.</li> </ul> <p>David confirmed that he has received the draft specification from GAD and that the data will be required in August.</p> <p>It is the Home Secretary that sets the assumptions that GAD should use (after taking advice from GAD) for predictions in relation to:-</p> <ul style="list-style-type: none"> <li>• Pensioner mortality;</li> <li>• Numbers of Age retirements from service;</li> <li>• Numbers of Ill-health retirement from service;</li> <li>• Voluntary withdrawal from service – leaving / opting out before retirement;</li> <li>• Death before retirement;</li> <li>• Promotional pay progression;</li> <li>• Commutation of pension for cash at retirement;</li> <li>• Family statistics, e.g. no. of married/partnered/single scheme members</li> </ul> <p>Sally asked if it is measured whether the assumptions used are correct. James replied that this is reflected in whether the employer contribution rates remain stable from one valuation to the next.</p> <p>The Board were then trained on the 2015 scheme cost-cap process, specifically what it is and how and how often it is measured.</p> <p>The target cost is 16.8% of pensionable pay. If it is within 2% of the target cost then no changes to the scheme are required. If it is above 2%, i.e. more than 18.8%, then changes must be made to the scheme to the detriment of scheme members, e.g. increasing pension contributions or worsening the accrual rate (how much pension builds up). If it is more than 2% below the target, i.e. less than 14.8%, then changes must be made to the scheme to the benefit of scheme members, e.g. reducing pension contribution rates or increasing the accrual rate.</p> <p>At the 2016 valuation, the result was 11.6%, 5.2% below the target cost. The Scheme Advisory Board was proposing improvements to the FPS 2015 but the Government paused the process due to the McCloud court case.</p>	

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	<p>The Board noted that the FBU have told the Government that these improvements to the FPS 2015 must be put in place notwithstanding that the remedy for Sargeant has not been finalised.</p> <p>The Board members completed an assessment exercise, which would be stored on their Pension training records.</p>	
5	<p><b>Pensions Court Cases:-</b></p> <p><b>i) “Sargeant” Transitional Protection Remedy</b></p> <p>James reminded the Board of the background of the Sargeant case.</p> <p>In all the main public service CARE schemes introduced in 2015, those closest to their scheme’s Normal Pension Age (NPA), (when a member could choose to retire with an unreduced pension) given ‘full’ transitional protection, i.e. those within 10 years of their NPA at April 2012 were allowed to remain in their current scheme. In most of these schemes those who were between 10 and 14 years from normal retirement age were given ‘tapered’ transitional protection, meaning they move to the 2015 scheme, at a later date than those members without transitional protection.</p> <p>Two claims brought; Judges’ pension scheme (the McCloud case), the Firefighters’ pension scheme (the Sargeant case) claiming that transitional arrangements were discriminatory on the basis of age, sex and race.</p> <p>The Court of Appeal determined that transitional protection gave rise to unlawful age discrimination in the judges’ and firefighters’ pension schemes. The position at the previous meeting of the Board on 6<sup>th</sup> June 2019 was that we were awaiting confirmation as to whether the Supreme Court would allow the Government to appeal. Since then, the Supreme Court refused the Government’s application for permission to appeal, meaning that the Court of Appeal decision stands.</p> <p>On 15 July 2019 the Chief Secretary to the Treasury made a written ministerial statement (HCWS1725) confirming that, as ‘transitional protection’ was offered to members of all the main public service pension schemes, the government believes that the difference in treatment will need to be remedied across all those schemes. A case management hearing was scheduled for 18 December 2019 in the Sargeant case, with a view to setting out the steps to appropriately implement the Court of Appeal decision.</p> <p>The Age discrimination needs to be remedied across the public sector schemes whilst protecting those members who may have been better off in the 2015 scheme. Government are informally engaging with public sector pension advisory boards via a series of technical discussions. The Firefighters Pensions (England) Scheme Advisory Board formed a working group made up of administrators, software providers, National Fire Chief’s Council representatives and senior Fire and Rescue officers, to advise the Home Office.</p>	

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<p>Issues such as costs and practicality will be considered and these discussions will inform the Scheme Advisory Board's response to the consultation. A draft response will be available at the March 2020 Scheme Advisory Board meeting. HM Treasury's consultation is expected in the Spring, however the feeling is that this will be delayed until the Summer.</p> <p>James updated the Board on the current proposals presented to him and others and meetings that he has attended. These proposals are subject to change prior to HM Treasury's consultation.</p> <p>The period in the final salary scheme up to 31 March 2015 is to remain unchanged. Next is the CARE Scheme period or 'remedy' Period, where the default position is to put the member back to the final salary scheme for the period they were in the CARE scheme. However, they may choose to be a CARE scheme member for this period. The remedy period ends when the discrimination ends. It is not yet known when this is.</p> <p>Next is the period referred to as the post-remedy period. It may be possible for this period that there will be a new scheme. Details of this are not known as HM Treasury are concentrating on the remedy period; however, this would fit with the Government's objective to reform public sector pensions so that they are affordable. It is possible that this new scheme will be career-average. It is unlikely that there will be protections as these have been proven in the courts to be discriminatory. It is not known whether there will be a final salary link for benefits in the old schemes either. 2023 had been rumoured as the date discrimination ends, however this has not been confirmed by anybody. A full Government consultation has to happen long before any new scheme is introduced.</p> <p>At retirement, the scheme member is paid the total of the three periods mentioned; the final salary period, the CARE/remedy period and the post remedy period.</p> <p>Two options have been put forward as to when the scheme member gets to choose what happens to their CARE/remedy period, 'immediate choice' and 'deferred choice'. Immediate choice means the member, much like in the 2006 options exercise, chooses as soon as possible after remedy has been confirmed. The term immediate is rather misleading as it will take a long time to resolve all the issues and change legislation.</p> <p>The other option of deferred choice is where the member chooses at retirement what they want to happen to their remedy period pension.</p> <p>The Board considered the advantages and disadvantages of both options.</p> <p>Sally asked whether the remedy would affect the employer contribution rate. James replied that the Home Office have said that there are many factors that could affect the valuations between now and then and the Sargeant ruling is just one.</p>	

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<p><b>ii) “Booth” Pensionable Pay</b></p> <p>A complaint under the IDRPs was raised following the Booth case and the Authority was required to carry out a review of pensionable pay.</p> <p>This review checked to see if, following the ruling, there is a need to make an allowance or payment pensionable when it is currently considered non-pensionable or non-pensionable when it is currently considered pensionable.</p> <p>The following table summarises the outcome of that review:-</p> <table border="1" data-bbox="146 577 1273 896"> <thead> <tr> <th>Pay Element</th> <th>Decision</th> <th>Rationale</th> </tr> </thead> <tbody> <tr> <td>Rent allowance</td> <td><b>Pensionable</b> (non-pensionable in FPS 92)</td> <td>Permanent Allowance. Non-pensionable in FPS 1992 as not paid in relation to the duties.</td> </tr> <tr> <td>Fuel &amp; light payments</td> <td><b>Pensionable</b> (non-pensionable in FPS 92)</td> <td>Permanent Allowance. Non-pensionable in FPS 1992 as not paid in relation to the duties.</td> </tr> </tbody> </table> <p>James will seek advice from Clair Alcock, the Firefighter’s Pension Advisor, whether, in light of the Sargeant case, to pursue the collection of the arrears of contributions. For example, if a person who transitioned to the FPS 2015 starts making contributions and then elects to revert to the FPS 1992, those contributions will have to be refunded. It may be better to wait for further information on remedy.</p> <p><b>iii) “O’Brien”</b></p> <p>Mr O’Brien was appointed as a part-time Recorder on 1 March 1978, employed until 31 March 2005. He is entitled to a pension by virtue of the Part Time Workers Directive, which the United Kingdom was required to transpose into domestic law by 7 April 2000. Mr O’Brien won his case to have his service prior to 2000 taken into account in the calculation of the amount of his pension.</p> <p>The FPS 2006 (Retained Modified) exercise relied on the Part-Time Workers Directive. It is understood the Home Office are looking at this, but issues of pay data and tax issues are complicated and will take a long time.</p> <p>The Home Office continue to look into this but there have been no further developments since the last Board meeting.</p> <p>Dave commented that this exercise would create lot of work. David agreed, especially if this lands at the same time as the Sargeant remedy.</p>	Pay Element	Decision	Rationale	Rent allowance	<b>Pensionable</b> (non-pensionable in FPS 92)	Permanent Allowance. Non-pensionable in FPS 1992 as not paid in relation to the duties.	Fuel & light payments	<b>Pensionable</b> (non-pensionable in FPS 92)	Permanent Allowance. Non-pensionable in FPS 1992 as not paid in relation to the duties.	<p>James to seek advice from Clair Alcock, whether to pursue the collection of the arrears of contributions</p>
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<p><b>6 Retained Firefighters – National Insurance refunds for backdated pensionable service (Modified scheme)</b></p> <p>HMRC has emailed FRAs regarding claims for refunds of National Insurance Contributions (NICs) for those who joined as special members of FPS 2006 (Modified).</p>										

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	<p>A refund will be due for the difference between the NI already paid and the NI due at the lower contracted-out rate for the period of contracted-out employment. For the period to be treated as contracted-out employment a valid contracting-out certificate, backdated to 6 April 2000, is required. Once the backdated contracted-out certificate is issued, HMRC will be able to process the refund claims.</p> <p>HMRC had advised of the process to follow but required FRAs to submit details of employee's NI contributions during the period 2000 to 2006. FRAs cannot and do not hold this data. HMRC have finally conceded that they do actually hold this data, meaning the refunds can be claimed.</p> <p>HMRC have said that they require confirmation that a 3-month consultation has taken place. However, advice from LGA is that the original scheme consultation is satisfactory.</p> <p>The Board agreed that a local consultation is not necessary.</p> <p>Andy asked if the special members of the Modified scheme need to make a claim. James replied that Authorities are able to make the claim on behalf of the members and have the data to enable them to do so.</p> <p>David asked how could the special members who are paying by periodical contributions receive a refund of national insurance if they have not completed purchasing all of the service. James will ask Clair this question.</p>	<p>James will ask Clair if those paying by periodical contributions can have the NI refund.</p>
7	<p><b>Work-plan Activities</b></p> <p>James took the Board through their work-plan activities for March.</p> <p><b>i) End of year Pension returns – submission / deadline dates</b></p> <p>The deadline for submitting the return is 30 April 2020. The return will require data from Civica from 1 April 2019 to 31 March 2020. If data is submitted after this date, late submission charges are applicable.</p> <p>Any members that have transitioned into the 2015 scheme during the year, require 2 lines to be completed on the spreadsheet:- 1 for information in the old scheme and 1 for information in the 2015 scheme. 1072 lines of data sent for 2018-19's return.</p> <p>This data is used to produce the Annual Benefit Statements.</p> <p><b>ii) SLA / Shared Service Agreement</b></p> <p>Contract for 2020/21 with Essex County Council is in the process of being reviewed, then will arrange for signatures before being filed with Procurement.</p> <p>The following are targets that Essex Pension Fund must meet:-</p>	

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	<ul style="list-style-type: none"> <li>• The Essex Pension Fund will provide Event Report data to the Authority no later than the 31 December 2020.</li> <li>• Essex Pension Fund will calculate any Scheme Sanction Charge liability on behalf of the Authority (based on post April 2006 benefits only) and will forward the relevant details, in the form of a spreadsheet, to a nominated recipient at the Authority by 31 May 2020.</li> <li>• Essex Pension Fund will provide a standard annual benefit statement to active and deferred scheme members of the FPS, NFPS &amp; 2015 scheme in line with statutory requirements.</li> </ul> <p>The following are targets that the Authority must meet:-</p> <ul style="list-style-type: none"> <li>• Provide correct end of year returns no later than 30 April 2020.</li> <li>• Ensure all necessary data relating to Events Reports is submitted to HMRC no later than 31 January 2021.</li> </ul> <p><b>iii) TPR Public Service Governance and Administration Survey – Results discussed</b></p> <p>The report is expected soon but to date has not been released. Item to be carried over to next meeting.</p> <p>At the next Board meeting on 3 June 2020, the Board will look at the following work-plan activities:-</p> <ul style="list-style-type: none"> <li>• End of year Pension returns – submission / deadline dates</li> <li>• SLA / Shared Service Agreement</li> <li>• TPR Public Service Governance and Administration Survey 2019 – Results discussed – if available.</li> </ul>	
8	<p><b>Review of Risk Register</b></p> <p>James updated the Board on the pension risks and controls on the pensions risk register.</p> <p><u>Risk P0003 – Administration Failure / Maladministration</u></p> <p>This risk was increased from Insignificant - Rare to Significant – Likely.</p> <p>Effect of McCloud / Sargeant case leading to processing delays and reduced level of service, was added as a trigger. A control measure Attendance at relevant events and conferences was added to the risk.</p> <p><u>Risk P0002 – Incomplete or inaccurate record keeping</u></p> <p>This risk was increased from Insignificant - Likely to Minor – Likely.</p> <p>The Impact of McCloud / Sargeant may mean data is missing from records, was added as a trigger.</p>	

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	<p>The Control Measure, Preliminary work undertaken for Sargeant &amp; O'Brien case was added.</p> <p>Other factors affecting this risk was that the Pension Regulator may take a lenient view when checking data scores for 2020 in light of McCloud / Sargeant.</p> <p><u>Risk P0005 – Regulatory and Compliance Failure</u></p> <p>This risk was reduced from Minor – Possible to Minor – Unlikely.</p> <p>The Impact of McCloud / Sargeant may mean data is missing from records, was added as a trigger.</p> <p>Attendance at relevant events and conferences and Recruitment of Pension Board members were added as Control Measures.</p> <p><u>Risk P0004 – Increased Costs to Essex Fire</u></p> <p>This risk was reduced from Minor – Likely to Minor – Rare</p> <p>Impact of Sargeant &amp; O'Brien may increase costs, was added as a trigger.</p> <p>Attendance at relevant events and conferences and Recruitment of Pension Board members were added as Control Measures.</p> <p>The following other factors were noted, Government grant for 2019/20 and 2020/21 to covered increases in employer contribution rise and the Government asserts that employer rates are fixed until 2024.</p> <p>Dave stated that it may not always be possible to reduce the risk to a low level and suggested that the target rating for Risk P0003 – Administration Failure / Maladministration is increased to Medium.</p> <p>Dave also added that the risk score for Risk P0004 – Increased Costs to Essex Fire should be increased as there is likely to be increased resources costs, such as staff and software and also may be an increased employer contribution for those who move back to the FPS 1992 from the FPS 2015. James will take this recommendation to the scheme manager.</p>	<p>James will take the risk recommendations to the scheme manager.</p>
9	<p><b>Pension Board Annual Report 2019-20</b></p> <p>The Pension Board Annual Report, detailing the activity of the Pension Board is due. This report is sent to the Service Leadership Team and then to the PFCC.</p> <p>James proposed the following timescales:-</p> <ul style="list-style-type: none"> <li>• Draft Pension Board Annual Report 2019-20 to Board members by 24 April 2020.</li> <li>• Board members to provide feedback/comments by 18 May 2020.</li> </ul>	<p>Pension Board Annual Report to be drafted and reviewed before next meeting.</p>

Agenda item	Action
<ul style="list-style-type: none"> <li>• Final version to be considered at Board meeting on 4 June 2020.</li> <li>• Presented at SLT meeting on 23 June 2020.</li> <li>• Presented to PFCC at next available meeting after 23 June 2020.</li> </ul> <p>The Board agreed to the timetable proposed.</p>	
<p><b>Update on training/training plan</b></p> <p><u>TPR Module</u></p> <p>As reviewing the risk register will become a standing agenda item, James suggested that the Board members complete the <i>'Managing Risk and Internal Controls'</i> TPR module ahead of the next meeting.</p> <p>The Board agreed. James will email the link to the training module.</p> <p><u>Training Needs Analysis - Questionnaire</u></p> <p>James has received some but not all of the Training Needs Analysis Questionnaires and will remind those who have not completed it to do so. This will also be sent to new members of the Board although it is recognised that their scores may be low.</p> <p>The Questionnaire asks Board members to rate their level of knowledge and understanding on the required areas as follows:-</p> <ul style="list-style-type: none"> <li>• <u>Strongly Agree</u> – My knowledge on this subject is very good and I don't believe I require further training on it.</li> <li>• <u>Somewhat Agree</u> – I know quite a lot about this subject, but there are a few gaps.</li> <li>• <u>Neither Agree nor disagree</u> – I have some knowledge on this subject but there are many gaps.</li> <li>• <u>Somewhat Disagree</u> – I only know a little bit about this subject.</li> <li>• <u>Strongly Disagree</u> – I know very little or nothing about this subject.</li> </ul> <p>This will form the training plan for the year ahead.</p>	<p>Board to complete TPR module <i>'Managing Risk and Internal Controls'</i> before the next meeting.</p> <p>James to email the link to the module.</p> <p>Board members to complete and return the training needs analysis questionnaire.</p>
<p><b>Any other business</b></p> <p>Andy raised a question about a person who was on a temporary promotion and placed into the next contribution percentage band. James replied that there was amending legislation that states that the person should be assigned to the band which relates to their substantive pay, i.e. the pay that the final salary calculation of their pension will be based on. Anybody affected will receive refund. James stated that this was not too far away from completion.</p> <p>Andy also raised that one new whole-time recruit may raise a complaint under the internal dispute resolution procedure.</p>	<p>James to process refunds for those affected by being placed in the wrong contribution band</p>

Agenda item	Action
<p>The member did not receive anything about pensions at the induction. He was then at the training school and was unable to view payslips. He had an issue with his tax code so assumed it was that that was affecting his take home pay and not the membership of a pension scheme.</p> <p>He wanted to opt out but this has exceeded the 3-month limit to receive a refund.</p> <p>James sympathised with the situation and mentioned that he is not currently on the induction programme. Dave stated that the Authority should be talking about the pension scheme at induction.</p> <p>Dave asked James to email him about the issue.</p>	<p>James to email Dave about the induction issue</p>
<p><b>Date of next meeting</b></p> <p>The next meeting is on Thursday 4th June 2020 at 9.30am in meeting room FF41 at Kelvedon Park.</p> <p>Future meetings are as follows:-</p> <ul style="list-style-type: none"> <li>• Wednesday 2nd September 2020, 3.00pm, FF41 and;</li> <li>• Thursday 3rd December 2020, 9.30am, FF41.</li> </ul>	