



Firefighter Pension Schemes Local Pension Board Minutes

Date of meeting	Wednesday 2nd September 2020
Time of meeting	3.00pm
Location of meeting	Virtual meeting held on Microsoft Teams

Attendees:

Employer representatives:

Dave Bill, Assistant Chief Fire Officer, Director of Innovation, Risk and Future Development (Chair)

Colette Black, Assistant Chief Executive Officer – People, Culture and Values

Moirra Bruin, Assistant Chief Fire Officer, Director of Operations

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

Observer:

Roger Hirst, Police, Fire and Crime Commissioner and Scheme Advisory Board Employer Representative

Janet Perry, Strategic Head of Performance and Resources, Police, Fire and Crime Commissioner for Essex

Apologies from:

Michael Jerrison, Pensions Officer

	Agenda item	Action
1	Welcome, introductions and apologies Dave welcomed all to the meeting. Michael Jerrison gave his apologies. The meeting was declared as quorate.	
2	Conflict of interest declarations No further conflicts of interest were declared from existing Board members. Paul Moth received his conflict of interest form on the day of the meeting. He will complete and return it so it can be recorded on the conflict register.	

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	<p>Board members that are members of the Firefighter Pension Scheme have previously declared conflicts of interest.</p>	
3	<p>Minutes of last meeting</p> <p>Dave went through the minutes and actions from the last meeting on Thursday 5th March 2020.</p> <p><u>The form will be posted to Paul so he can complete it.</u></p> <p>This has been received by Paul as per Agenda item 2.</p> <p><u>National Insurance query to be added to the agenda.</u></p> <p>Added as part of Agenda item 8 for this meeting.</p> <p><u>James will discuss with Glenn and other FRAs in the region about contacting ill-health retirees and family of deceased members about remedy.</u></p> <p>Following discussions with other FRAs in the region, they have only forwarded the communication documents to their employee. No other communications have been sent. Glenn confirmed that this should also be Essex's approach at the current time.</p> <p><u>Dave to discuss with James what can be done to inform retirees about how remedy affects them.</u></p> <p>Dave and James exchanged emails over this and agreed that the current actions were sufficient:-</p> <ul style="list-style-type: none"> • Information regarding the consultation went in the Shout on 20th July. • Other FRA's in the region have emailed a link to the consultation • The remedy is explained as part of the pre-retirement course. • Discussions with Essex Pension Fund to include remedy in their template letters for retirement estimates and retirement letters. • The Annual Pension Benefit statements (due out 31 Aug) contain wording about the case, explain why it is not possible to include remedy calculations in their statement at this time, and that benefits are therefore projected under the current circumstances. <p><u>James will provide a paper re: way forward with Booth.</u></p> <p>Added as Agenda item 7 of this meeting.</p> <p><u>James to provide information on the Booth case.</u></p> <p>James has provided this. The judgment can be found here:- http://fpsregs.org/images/Legal/Caselaw/BoothvMWWFRA.pdf. A pensionable pay factsheet can be found here http://fpsregs.org/images/Pensionable-pay/Pensionable-pay-factsheet-May-2019.pdf</p>	

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	<p><u>Board to complete TPR module 'Providing information to members and others' before the next meeting.</u></p> <p>All Board members have completed the module. James gave thanks to the members of the Board.</p> <p><u>James to email the link to the module and a reminder.</u></p> <p>James sent the email on 31 July 2020 and a reminder on 27 August 2020.</p> <p><u>James to discuss starter information with the AD of HR.</u></p> <p>This has been discussed and further discussions have taken place with the recruitment team.</p> <p><u>James to revise starter information and provide to Andy Knowles and Alistair Castle.</u></p> <p>Following discussions with the recruitment team, a proposal for new starter information including a new starter video have been shared with Andy and Alistair.</p> <p>Both have provided their feedback which will be taken into account. Both mentioned problems accessing the videos which James will investigate.</p> <p>No further comments were received and the minutes were agreed as an accurate reflection of the meeting.</p>	<p>James to implement the amendments to the new starter information and investigate issues with the videos.</p>
4	<p>Training Item – Defined benefit and defined contribution schemes</p> <p>James provided the training item on defined benefit and defined contribution pension schemes.</p> <p>There are 2 main types of pension schemes in the UK: Defined Contribution (DC) - a pension pot based on how much is paid in; and Defined benefit (DB) - usually a workplace pension based on your salary and how long you've worked for your employer.</p> <p>Defined Contribution Schemes (DC Schemes) are sometimes called 'money purchase' pension schemes. These are usually either personal or stakeholder pensions. They can be workplace pensions arranged by your employer or private pensions arranged by you.</p> <p>Money paid in by you and/or your employer to a DC scheme is put into investments (such as shares) by the pension provider. The value of your pension pot can go up or down depending on how the investments perform. Some schemes move your money into lower-risk investments as you get close to retirement age. You may be able to ask for this if it does not happen automatically.</p>	

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	<p>The amount you'll get when you take your pension pot depends on, how much was paid in, how well the investments have done, how you decide to take the money, for example as regular payments (pension/annuity), a lump sum or smaller lump sums. You usually get 25% of your pension pot tax free. The pension provider usually takes a small percentage as a management fee.</p> <p>Defined Benefit Schemes (DB Schemes) are usually workplace pensions arranged by your employer and are sometimes 'final salary' or 'career average' pension schemes. Usually a better pension type compared to a defined contribution scheme, as it guarantees a set income when you retire.</p> <p>How much you get depends on your pension scheme's rules, not on investments or how much you've paid in. Workplace schemes are usually based on a number of things, for example your salary and how long you've worked for your employer. The pension provider will promise to give you a certain amount each year when you retire.</p> <p>DB schemes are subject to stricter requirements than DC schemes. These requirements are intended to ensure there are sufficient funds to provide the pensions promised to members. The scheme must undergo regular valuations and make contributions to the Pension Protection Fund (PPF), which pays compensation to scheme members if the employer is declared insolvent and can no longer meet their pension commitments.</p> <p>You can usually choose to get 25% of the capital value of your pension benefits tax free. You'll get the rest as regular instalments of pension.</p> <p>Prior to 2013, the number of DB schemes was greater than DC schemes. Following the introduction of Automatic Enrolment, there are far more DC schemes. However, those in DB schemes are usually paying significantly more towards their pension. Far more people are now saving towards their retirement but are paying relatively low amounts into their scheme.</p> <p>No questions were raised.</p> <p>For the next training session Andy asked if this could be on ill-health retirements and medical appeals. The Board agreed and James will include this as the training item at the next meeting.</p>	<p>Board to receive training on ill-health retirements and medical appeals</p>
5	<p>Administrative arrangements during COVID-19</p> <p>David Golding updated the Board on the administrative arrangements in place during the Coronavirus crisis.</p> <p>Officers from both Essex Pension Fund have been working from home since mid-March. A skeleton staff continue to work from Essex Pension Fund's office to process post and carry out printing whilst ensuring social distancing. The management will meet soon to discuss increasing the number of staff in the office. Staff are encouraged to visit the office once per week.</p> <p>Annual Benefit Statements have been sent out without any delays and they are working on the Annual Allowance pension saving statements.</p>	

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	<p>Dave Bill asked whether there has been any issues for members trying to get through on the phone. David replied that they can no longer report on the numbers of phone calls but no issues have been reported. Staff are able to receive phone calls at home. The Council's ICT department have fast-tracked the delivery of software to enable working from home.</p> <p>Dave Bill asked about the long term plan. David Golding replied that it is unlikely that Essex County Council will return to the way of working before the pandemic. There is a white paper which is looking at the reform of the Council's estates.</p>	
6	<p>“Sargeant” Transitional Protection Remedy</p> <p>James updated the Board on the developments with regard to the Sargeant Transitional Protection Remedy.</p> <p>The consultation that the government has now published, sets out proposals for how the government will remove the discrimination.</p> <p>These options involve providing members with a choice of which set of pension scheme benefits, those under their old scheme or the new scheme, they would like to receive for the remedy period. All members will transfer to the FPS 2015 on 1 April 2022.</p> <p>The consultation will run for 12 weeks and will close on Sunday 11 October.</p> <p>Scheme members who were serving on or before 31 March 2012 and still serving on or after 1 April 2015 will be in scope of these proposals.</p> <p>This includes those members who are currently active, deferred or retired, and those with a qualifying break in service of less than 5 years. You do not need to put in a legal claim to be eligible for the changes proposed in the consultation.</p> <p>Members who originally received transitional protection will also be provided with a choice of which scheme benefits they would prefer to receive for the remedy period. The government will provide affected members with the option to choose between their old (final salary) and new (career average) pension scheme benefits for service between 1 April 2015 and 31 March 2022.</p> <p>The differences between the old and new pension schemes mean the set of benefits that is best for individuals depends on personal circumstances. Some members are better off in the new schemes.</p> <p>Neither the government nor the Scheme Manager are able to make this choice for members as it depends on personal circumstances and preferences. Members will be provided with information to allow them to make an informed choice.</p> <p>The government is seeking views on how this choice might work. There are two different proposals:</p>	

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<p>1. An Immediate Choice Exercise: The choice will be made as soon as practicable.</p> <p>2. A Deferred Choice Underpin: Members would remain in, or be returned to, the old schemes for service between 2015 and 2022. At the point of retirement (or when benefits become payable) or as soon as practicable (for members who have already had a pension award), members would be then able to choose to instead receive new scheme benefits for that period.</p> <p>The consultation discusses those scheme members who have died and whether the remedy choice should be made by the scheme manager or the beneficiaries. James highlighted that these decisions are likely to be contentious, if for example, a member of the FPS 1992 had died and left an unmarried partner and dependent children. As no spouse's pension would have been paid, the child's pension would have been increased. But if the partner now chooses FPS 2015 benefits, a pension would be payable to them, meaning the increase to the child's pension would need to be cancelled and presumably recovered.</p> <p>The consultation discusses those who have opted out of the scheme and proposes that schemes are to consider on a case-by-case basis whether to allow those who have opted out an opportunity to return to their old scheme provided that they pay the contributions. James said that it is unclear whether 'scheme' means that the Home Office decides, or individual Fire & Rescue Authorities decide. If it is individual Fire & Rescue Authorities, will neighbouring Authorities do the same thing and what, if any, evidence will we ask for. Andy Knowles asked where it says about optants out. James replied that this is in the consultation document.</p> <p>Those who have transferred in other pensions or purchased additional pension in the FPS 2015 are to be credited with extra pension in their legacy scheme, if they choose their legacy scheme for the remedy period.</p> <p>The consultation states that interest will be due on over or underpayments of both contributions and payments, but it has not yet been decided what rate of interest will be applied.</p> <p>Regarding the annual allowance, the Government will collect any extra tax due to the annual allowance that was incurred within four years of the remedy choice. If the member's remedy choice means their annual allowance liability is reduced, the member will receive a refund of tax.</p> <p>James updated the Board on how this will affect those who have retired or will retire before 2022. All affected members will be given a choice between old and new scheme benefits for service between 2015 and their retirement date. The payments will be backdated.</p> <p>On 21 August 2020, Home Office issued a note directly to finance directors at FRAs regarding the treatment of immediate detriment cases in the age discrimination proceedings. Immediate detriment was defined as those who:-</p>	

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<ul style="list-style-type: none"> • become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); OR • don't qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do so under the IHR arrangements in their legacy scheme. <p>The note says to now offer the choice to all those scheme members who:-</p> <ul style="list-style-type: none"> • have transitioned into the 2015 Scheme who are approaching retirement; and • have retired due to poor health but who didn't qualify for an ill-health pension under the 2015 Scheme regulations but would qualify under their legacy scheme regulations. <p>Pension authorities will need to present two sets of pension entitlement quotes to each qualifying scheme member setting out the main pension benefits that they would receive under each choice, to include, recurring annual pension (before and after commutation), commutation retirement lump sum entitlement, employee contributions owed or refunds due.</p> <p>Each scheme member should be required to provide written confirmation of their election.</p> <p>However, the note was not, as previously agreed, shared with the Local Government Association beforehand. A number of technical points have been raised with the Home Office who are discussing with HM Treasury. The note is labelled as informal guidance and we are unsure what the legal status of the document is and whether it can override legislation. FRAs have been advised not to follow the note until further instruction from LGA.</p> <p>James said that there is no timescale for how long before the FRAs can act on the note, but just in case it is imminent, preparation work should be completed, such as who is in scope and has retired, or is retiring, who needs to be re-tested for ill-health retirement under the legacy scheme. We should also</p> <p>Define those who are 'approaching retirement' in order to limit the number of pension forecasts which include remedy calculations to those who are seriously considering retirement. We should also calculate the differences in pensionable pay and contributions for those we consider to be approaching retirement.</p> <p>Roger Hirst asked about the legality of the note from the Local Government Association to halt immediate detriment and stop payment to retiring members of the schemes. James responded that the note has cast uncertainty of the legality of the Home Office note and the implementation of it has been paused expecting a quick resolution to the queries raised. Roger said he will be attending the Scheme Advisory Board meeting tomorrow (3 September 2020) and will raise this issue there. Following the SAB meeting, Roger will contact Dave Bill with an update.</p> <p>Andy Knowles suggested it may be best to wait until we have clarity.</p>	<p>Following the SAB meeting, Roger will contact Dave Bill regarding immediate detriment.</p>

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7	<p>“Booth” case – Rent and Fuel & Light allowances</p> <p>James presented a paper asking for the Board to agree a way forward on the “Booth” case Rent and Fuel & Light allowances.</p> <p>Following an upheld complaint under the internal dispute resolution procedure and in light of the High Court ruling of Booth v Mid and West Wales Fire & Rescue Authority, the Authority reviewed the treatment of certain payments previously deemed non-pensionable within the Firefighter Pension Schemes.</p> <p>Since 1 November 2019, rent allowance and fuel & light allowance became pensionable pay elements for the FPS 2006 and FPS 2015 schemes. In October 2019, affected members were written to informing them of this and stated that they will receive further information on the arrears of employee contributions due from them.</p> <p>An interim declaration for the Sargeant transitional protection case was released on 18 December 2019 which stated that members who had transitioned to the FPS 2015 will be permitted to return to their former schemes and Authorities should await further Home Office guidance. The collection of the arrears of employee contributions in respect of rent allowance and fuel & light allowance was paused whilst waiting for this further guidance.</p> <p>The Board were presented with three options:-</p> <ol style="list-style-type: none"> 1. To continue with the collection of employee contributions in relation to the allowances, or 2. To continue to pause the collection of employee contributions in relation to the allowances until we receive further guidance, or 3. To continue with the collection of employee contributions in relation to the allowances, but pause the collection for those who will be in scope to return to the FPS 1992. <p>Board members are welcome to suggest alternatives to the three options above.</p> <p>After some discussion of the pros and cons, the Board recommended a fourth option, to write to all the affected members and ask them whether they would like to make payment now or at a later time once there is more clarity on remedy. If they do elect to make payment, then these contributions will be collected.</p>	<p>James will pass the Board’s recommendation re: ‘Booth’ to Glenn</p>
8	<p>FPS 2006 (Modified) - a) National Insurance query</p> <p>James has received a reply from Clair Alcock as follows:-</p> <p><i>“This was discussed at the technical group on 5 July 2017, under item 8a (4), the group agreed that the refund would be treated as a whole rather than trying to pro-rata in line with contributions paid.”</i></p> <p>The reply has coincided with receipt of confirmation that the contracting-out certificate for the Firefighter Pension Scheme 2006 being backdated from 6</p>	

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	<p>April 2006 to 6 April 2000.</p> <p>This means that the claims for refunds of national insurance can be made. James will compile data, submit claims, communicate with affected Modified scheme members and update on progress at next Pension Board meeting.</p> <p>b) O'Brien case</p> <p>A Home Office consultation is expected but there has been nothing further since the last meeting.</p> <p>It is likely that On-Call Firefighters will be able to backdate their pension scheme membership prior to 2000.</p> <p>Issues of pay data, tax relief and national insurance contributions are complicated and will take a long time for the Home Office to resolve.</p> <p>Janet Perry asked for background to the O'Brien case. James explained that Mr O'Brien was a part-time judge who was permitted to backdate his membership of the Judicial pension scheme to 2000. Mr O'Brien contended that he was entitled to have his service prior to 2000 taken into account in the calculation of the amount of his pension. Mr O'Brien won his case and is entitled to backdate his membership to the 1980's. Although this is not about firefighters, there are similarities to the Modified scheme, where on-call firefighters were offered the opportunity to backdate their membership to 2000. Home Office are looking into this.</p>	<p>James to progress the NI refund claims.</p>
9	<p>Work-plan Activities</p> <p>James took the Board through their work-plan activities for September.</p> <p>i) Additional Pension Benefit (APB) return – Temporary Promotion & CPD – feedback/ performance against target date</p> <p>179 records for the CPD APB, which included, for each person on the return, the amount of CPD paid and the contributions paid on the CPD amounts by the employee and the employer. This was submitted on 30 July 2020. The deadline was 31 July 2020.</p> <p>28 records for Temporary Promotion APB, which included for each person, the amount of the additional pay as a result of the temporary promotion and the contributions paid on that additional pay by the employee and the employer. This was also submitted on 30 July 2020 and the deadline was also 31 July 2020.</p> <p>APB's do not apply to the FPS 2015, so the return is for those who were paid CPD or were temporarily promoted whilst members of one of the final salary Firefighter schemes.</p> <p>ii) Feedback from Annual Benefit Statements</p> <p>Annual Benefit Statements were sent on 31 August 2020.</p>	

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	<p>They include projections to normal retirement age, based on the current scheme only – with a caveat stating that the remedy to the Sargeant case has not been applied to the figures in the statement. All Fire & Rescue Authorities have agreed to do the same as per the Scheme Advisory Board’s instruction.</p> <p>Alistair said that he received his statement by email and asked if this was the procedure now or whether it was a trial. David replied that for members of certain schemes, where calculations were manual and where they held email addresses, statements were emailed. In all other cases they were posted. Dave commented that it is a case of when not if statements are to be emailed or made available on a portal. The options for the delivery of annual benefit statements will be put on the agenda for the next meeting.</p> <p>iii) TPR Public Service Governance and Administration Survey – Results discussed (carried forward)</p> <p>The report is expected soon but to date has not been released. This item to be carried over to next meeting. There may be an update on this as a representative of the Pension Regulator will be speaking at the Firefighter Pensions AGM in September.</p> <p>At the next Board meeting on Thursday 3 December 2020, the Board will look at the following work-plan activities:-</p> <ul style="list-style-type: none"> • The Pension Regulator Scheme return; • TPR Public Service Governance and Administration Survey – Results discussed (carried forward). 	<p>ABS options to be put on the agenda for the next meeting.</p>
10	<p>Internal Dispute Resolution Procedure log</p> <p>The Stage One decision maker is the Chief Fire Officer, or other decision maker specified by her. If the person remains dissatisfied after receiving the Stage One decision, they have six months from receipt of that decision to apply for a reconsideration of the disagreement under Stage Two of the IDRP process.</p> <p>At Stage Two, the Stage One decision would be reconsidered by the Police, Fire and Crime Commissioner or a person specified by him who works for the Office of the Police, Fire and Crime Commissioner.</p> <p>If the person remains dissatisfied, the Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law in relation to a pension scheme.</p> <p>James updated the board on the current complaints going through IDRP.</p> <p>An IDRP on maladministration relating to starter information is currently at stage 2. Jane Gardner is hearing this. The complaint was received 23 July 2020. At stage 1, Karl Edwards the Director of Corporate Services did not uphold it. Karl’s response was sent on 20 May 2020.</p>	

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	<p>An IDRP on the interpretation of scheme rules / policy on the subject of pensionable pay was received on 12 August 2020. Austin Page, Finance and Compliance Manager heard the complaint at stage 1. The complaint was not upheld and the response was sent on 26 August 2020.</p> <p>Dave Bill was pleased that action had been taken to improve the information going to new starters.</p> <p>Andy Knowles asked for clarification that stage 1 should be heard within the Fire & Rescue Authority and that stage 2 should be heard by the PFCC. James replied that this is correct and is explained in the procedure.</p>	
11	<p>Review of Risk Register</p> <p>James updated the Board on the pension risks and controls on the pensions risk register. The risk register status is as follows:-</p> <p>Risk P0001 - Loss, disruption or damage to records or systems – Significant - Rare</p> <p>Risk P0002 - Incomplete or inaccurate record keeping – Minor – Likely</p> <p>Risk P0003 – Administration Failure / Maladministration – Significant - Likely</p> <p>Risk P0004 – Increased Costs to Essex Fire - Minor – Likely</p> <p>Risk P0005 - Regulatory and Compliance failure Minor – Unlikely</p> <p>Factors that have increased the risk are:-</p> <ul style="list-style-type: none"> • Potential for processing delays following 'immediate events' guidance. • Possibility for immediate events to increase employer contributions. • No Civica (HR & Payroll) access in the event of ECFRS' server and backup servers being unavailable. <p>Factors that mitigated or reduced the risk level are:-</p> <ul style="list-style-type: none"> • Clearer understanding of the requirements for immediate cases gives a chance to prepare and organise. • Consultation released. • Not expecting a lot of retirements imminently. • End of year data provided on time meaning in worst case scenario can pay retirees' benefits based on this information if Civica is unavailable. <p>Dave Bill added that with the work pressures coming, there are good reasons why the risks are scored as likely. Dave took an action to raise the issues relating to Sargeant.</p> <p>Janet asked whether the reference to imminent retirements refers to issues of recruitment or to administrative challenges. James replied that it relates to challenges relating to pension administration. Janet requested that this is clarified on the risk register. Dave Bill added that recruitment is on the strategic risk register and that the risk of many retirements is a risk to the Service.</p>	<p>Dave took an action to raise the issues relating to Sargeant.</p>

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12	<p>Update on training/training plan</p> <p><u>TPR Module</u> James suggested that the Board members complete the TPR training module 'Reporting breaches of the law' ahead of the next meeting.</p> <p>The Board agreed. James will email the link to the training module.</p> <p><u>Firefighter Pensions AGM</u> James advised the Board that the Firefighter Pensions AGM will take place virtually on Tuesday 22 and Wednesday 23 September 2020. Pension Board members are welcome to attend.</p> <p>Day 1 will consist of an update from the new Chair of the Scheme Advisory Board, Joanne Livingstone and an update from the Pensions Regulator. This will be followed a quiz and networking session.</p> <p>Day 2 will consist of a welcome by the new Chair of the Scheme Advisory Board, updates from Clair Alcock from the Local Government Association, the Administration and Benchmarking sub-committee of the Scheme Advisory Board. After a break, Eversheds will provide a case-law update followed by a Home Office update and finishing with a choice out of three remedy workshops; technical, data or communications.</p> <p>James will provide details of how to book on the AGM.</p>	<p>Board to complete TPR module 'Reporting breaches of the law' before the next meeting.</p> <p>James to email the link to the module and a reminder.</p> <p>James will provide details of how to book on the Firefighter Pensions AGM.</p>
13	<p>Any other business</p> <p>Andy asked if a person retires after having completed 30 years' service, is the final salary used in the calculation the pensionable pay at the end of the career, or is it capped at the 30 years' service date. James replied that the final salary link continues to the end of the career, rather than being capped at 30 years.</p> <p>The board agreed that they would also like training on the retirement options for their next session.</p>	<p>Board to receive training on retirement options</p>
14	<p>Date of next meeting</p> <p>The next meeting is on Thursday 3rd December 2020 at 9.30am.</p> <p>Dave Bill suggested that the Board continues to hold virtual meetings in the future and meet in person at one meeting per year.</p> <p>Other future meetings are as follows:-</p> <ul style="list-style-type: none"> • Thursday 4th March 2021, at 9.30am. • Thursday 3rd June 2021, at 9.30am. • Thursday 2nd September 2021, at 9.30am. • Thursday 9th December 2021, 9.30am 	