



Firefighter Pension Schemes Local Pension Board Minutes

Date of meeting	Thursday 3rd December 2020
Time of meeting	9.30am
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

Moira Bruin, Assistant Chief Fire Officer, Director of Operations

Austin Page, Finance and Compliance Manager

Scheme Member representatives:

Alistair Castle, FRSA

Andy Knowles, FBU

Gavin Tripp, FOA

Invited participants:

James Durrant, Pensions Manager

David Golding, Technical Analyst, Essex Pension Fund

Michael Jerrison, Pensions Officer

Apologies from:

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

Paul Moth, Retired Member Representative

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

	Agenda item	Action
1	<p>Welcome, introductions and apologies</p> <p>Dave welcomed all to the meeting. Paul Moth had given his apologies. The meeting was declared as quorate.</p>	
2	<p>Conflict of interest declarations</p> <p>No further conflicts of interest were declared from existing Board members.</p> <p>Dave Bill declared a conflict of interest as he would be affected by immediate detriment.</p> <p>Board members that are members of, or in receipt of a pension from 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 2nd September 2020.</p> <p><u>James to implement the amendments to the new starter information and investigate issues with the videos.</u></p> <p>The new starter information has gone live and James believes that the videos are now working but will monitor this.</p> <p><u>Board to receive training on ill-health retirements and medical appeals</u></p> <p>To be provided under Agenda item 4 of this meeting.</p> <p><u>Following the SAB meeting, Roger will contact Dave Bill regarding immediate detriment.</u></p> <p>This was not received, but this has moved on further through a different route. A further update to be provided at Agenda item 6.</p> <p><u>James will pass the Board's recommendation re: 'Booth' to Glenn</u></p> <p>These were passed on and an update will be provided at Agenda item 7.</p> <p><u>James to progress the NI refund claims.</u></p> <p>An updated to be provided under Agenda item 8a) of this meeting.</p> <p><u>ABS options to be put on the agenda for the next meeting.</u></p> <p>To be provided under Agenda item 9 of this meeting.</p> <p><u>Dave took an action to raise the issues relating to Sargeant.</u></p> <p>Dave has completed the action to raise the risks created due to the Sargeant case.</p>	

	Agenda item	Action
	<p><u>Board to complete TPR module 'Reporting breaches of the law' before the next meeting.</u></p> <p>5 Board members have completed the TPR module 'Reporting breaches of the law' and 3 members have still to do it.</p> <p><u>James to email the link to the module and a reminder.</u></p> <p>Email with the training link was sent on 18 September 2020 and a reminder was sent on 30 November 2020.</p> <p><u>James will provide details of how to book on the Firefighter Pensions AGM.</u></p> <p>An email with the booking link was sent on 15 September 2020.</p> <p><u>Board to receive training on retirement options</u></p> <p>To be provided under Agenda item 4 of this meeting.</p> <p>No further comments were received and the minutes were agreed as an accurate reflection of the meeting.</p>	
4	<p>Training Item – Ill-health retirements & Retirement Options</p> <p>James provided the training item on Ill-Health Retirements & Retirement Options.</p> <p>The Firefighters Pension Schemes provide for early payment of benefits to scheme members who are found to be permanently disabled to undertake the duties of their role. The level of benefits payable to a member is determined by length of service, final pensionable pay and capability to undertake regular employment. The Firefighters' Compensation Scheme (FCS) allows the award of further benefits where the incapacity has been occasioned by a qualifying injury: the level of benefits payable is determined by his or her earnings capacity. The FCS also covers those who have opted out of the pension scheme.</p> <p>Prior to consideration for ill-health retirement, much work is carried out under the Attendance Management policy, such as</p> <ul style="list-style-type: none"> • Prognosis - Will they return to operational duties? If so, when? • Treatment Options – Have all treatment options been exhausted? • Redeployment – Are there any opportunities for redeployment? <p>Ill-Health retirement should be the last resort if it is not possible to make reasonable adjustments or to redeploy.</p> <p>The medical prognosis is the key input to the final decision as to whether to grant ill health retirement. The Fire and Rescue Authority (FRA) must obtain written opinion of an Independent Qualified Medical Practitioner (IQMP) before awarding ill-health retirement.</p>	

Agenda item	Action
<p>The decision to grant ill health retirement, or refuse it, should not be taken by the IQMP. This is a decision that can only be taken by the employer, although the authority will be bound by the opinion of the IQMP on medical issues.</p> <p>“IQMP” is a medical practitioner holding DipOccMed, AFOM, MFOM, FFOM ,or a qualification from an equivalent institution of an EEA State, who has not previously advised, or given his/her opinion on, or otherwise been involved in, the particular case for which the opinion has been requested, and is not acting, and has not at any time acted, as the representative of the employee, the authority, or any other party in relation to the same case. This presumably means that a doctor is only disqualified if they have been directly involved in the current problem. They could in theory act as the IQMP if they had only seen the firefighter e.g. for routine medical assessments, not related to the current problem.</p> <p>The questions that the IQMP must answer are:</p> <ul style="list-style-type: none"> • Is the firefighter by reason of the incapacity, disabled for performing their duties? • Is the disablement likely to be permanent? i.e. to normal retirement age. • Is the disablement such that he/she is incapable of undertaking regular employment. <p>The requirements of the 1992 Scheme and the 2006 and 2015 Schemes are different. 1992: incapable of “undertaking regular employment”, 2006 & 2015: "permanently disabled from undertaking regular employment"</p> <p>Full protection and taper protected members who have not yet transitioned to the FPS 2015 to be assessed under the rules of their pension scheme. Unprotected and taper protected members who have transitioned to be assessed under the single source ill-health arrangements.</p> <p>Single source (or ‘one pot’) ill-health means that it is the rules that are in force at the time of ill health retirement that are relevant in determining access to benefits. So, members who have been moved into the 2015 scheme (FPS 2015) from the final salary scheme would be considered for ill-health under the rules of the 2015 scheme only, even if the majority of their service is under another FPS. But, due to the Sargeant case, FRAs have been sending both the legacy scheme’s form and the reformed 2015 scheme forms to the IQMP.</p> <p>Lower tier ill-health is where if the firefighter is by reason of the incapacity, disabled for performing their duties and the disablement is likely to be permanent i.e. to normal retirement age, they meet the criteria for a lower tier ill-health retirement. The pension becomes immediately payable at ill-health retirement date. Any early retirement reduction from FPS 2006 or FPS 2015 waived. Can commute ¼ of their lower tier pension only for a lump sum.</p> <p>If the firefighter meets the criteria for a lower tier ill-health retirement and is incapable of “undertaking regular employment“ (FPS 1992) or "permanently</p>	

Agenda item	Action										
<p>disabled from undertaking regular employment” (FPS 2006 & FPS 2015) then the pension becomes immediately payable at the ill-health retirement date. Any early retirement reduction from FPS 2006 or FPS 2015 waived. Pensions are enhanced but can commute ¼ of their lower tier pension only for a lump sum.</p> <p>The FCS provides Injury awards for Firefighters injured on duty. The costs are borne entirely by the Fire Authority. Payment of an injury pension and injury gratuity is made to a firefighter who has retired and who is permanently disabled if the infirmity was occasioned by a qualifying injury. A qualifying injury is an injury received by a person without his/her own default, in the exercise of his/her duties as a firefighter. An injury shall be treated as having been received by a person without his/her default unless the injury is wholly or mainly due to his/her own serious and culpable negligence or misconduct. You do not have to be a member of a pension scheme to qualify.</p> <p>The degree of disablement is calculated as follows:- $(A - B \div C) \times 100 = C$ $C \times D = (E) \%$</p> <p>Where (A) Current earnings relevant to wholetime firefighter role (B) Potential (wholetime) average level of earnings as a non firefighter after receiving the injury. If the IQMP is of the opinion that the person is not medically capable of working wholetime, then use the potential level of earnings for the hours which can be worked. (C) The unadjusted degree of disablement. (D) the apportionment of contribution of injury to disablement (if the disablement was partially caused by duties as a firefighter). (E) Degree of Disablement</p> <p>The injury gratuity is a lump sum based on a percentage of “average pensionable pay”. The percentage is decided according to the degree of disablement (DOD) as follows:</p> <table border="1" data-bbox="148 1422 1173 1706"> <thead> <tr> <th>Degree of Disablement</th> <th>Gratuity</th> </tr> </thead> <tbody> <tr> <td>Slight Disablement (25% or less)</td> <td>12.5% of average pensionable pay</td> </tr> <tr> <td>Minor Disablement (more than 25% but not more than 50%)</td> <td>25% of average pensionable pay</td> </tr> <tr> <td>Major disablement (more than 50% but not more than 75%)</td> <td>37.5% of average pensionable pay</td> </tr> <tr> <td>Severe disablement (more than 75%)</td> <td>50% of average pensionable pay</td> </tr> </tbody> </table> <p>The injury pension is based on a percentage of “average pensionable pay”. The percentage is decided according to the degree of disablement and service as follows:</p>	Degree of Disablement	Gratuity	Slight Disablement (25% or less)	12.5% of average pensionable pay	Minor Disablement (more than 25% but not more than 50%)	25% of average pensionable pay	Major disablement (more than 50% but not more than 75%)	37.5% of average pensionable pay	Severe disablement (more than 75%)	50% of average pensionable pay	
Degree of Disablement	Gratuity										
Slight Disablement (25% or less)	12.5% of average pensionable pay										
Minor Disablement (more than 25% but not more than 50%)	25% of average pensionable pay										
Major disablement (more than 50% but not more than 75%)	37.5% of average pensionable pay										
Severe disablement (more than 75%)	50% of average pensionable pay										

Agenda item					Action
Degree of Disablement	Less than 5 years	5 or more but less than 15 yrs	15 or more but less than 25 yrs	25 years or more	
Slight Disablement (25% or less)	15%	30%	45%	60%	
Minor Disablement (more than 25% but not more than 50%)	40%	50%	60%	70%	
Major disablement (more than 50% but not more than 75%)	65%	70%	75%	80%	
Severe disablement (more than 75%)	85%	85%	85%	85%	
<p>The injury pension is reduced by:</p> <ul style="list-style-type: none"> • 75% of any pension paid under the Firefighter Pension Scheme; • In the case of an optant out, 100% of any pension which would have been paid under the Firefighter Pension Scheme had the firefighter been a member. • State benefits which relate to the injury. The deductible benefits change from time to time. <p>Where new evidence on an issue wholly or partly of a medical nature is presented to within 28 days of the receipt by the member of a copy of the opinion, or the determination. Both the FRA and the member agree that the IQMP should be given the opportunity of reviewing that opinion, the FRA must invite the IQMP to reconsider that opinion. Reconsiderations are useful, particularly if it avoids incurring the time and costs involved in an appeal</p> <p>The applicant can appeal the decision. Appeals on medical issues are heard by the Medical Appeals Board. Appeals on other issues, e.g. process are dealt with under the Internal Dispute Resolution Procedure.</p> <p>Within 28 days from receipt of the decision and medical report (or such longer period as the authority may agree, not exceeding 6 months), the applicant must state the grounds of the appeal. The FRA must notify the Secretary of State of the appeal and supply copies of the appeal and the medical evidence. The Secretary of State refers the appeal to a board of medical referees.</p> <p>The board of medical referees must contain at least 3 medical practitioners, one must be a specialist in a medical condition relevant to the appeal. At least two months' notice must be given of any interview/medical examination by the board. Written evidence must be submitted to the board not less than 28 days before the appointed interview date. The board will provide a written report. The board's decision can be reconsidered if the parties agree the board has made an error of fact that materially affects its decision.</p> <p>Colette asked if mental health was covered by the ill-health retirement provisions. James replied that the disablement can be of mind or body.</p> <p>Andy has observed an appeal with another FBU representative as well as the</p>					

	Agenda item	Action
	<p>appellant.</p> <p>Andy asked whether a person who is an active member of the scheme in one role and also has a deferred pension</p> <p>The Board were provided with Retirement Decision Trees to assist the Board member with when different types of members can access pension benefits:-</p> <p><u>FPS 2015 with 1992 benefit link</u> http://fpsregs.org/images/admin/1992ret.tree.pdf</p> <p><u>FPS 2015 with 2006 (standard) benefit link</u> http://fpsregs.org/images/admin/2006standardret.tree.pdf</p> <p><u>FPS 2015 with 2006 (special) benefit link</u> http://fpsregs.org/images/admin/2006specialret.tree.pdf</p> <p><u>FPS 2015 membership only</u> http://fpsregs.org/images/admin/2015ret.tree.pdf</p> <p>These will be added to the intranet, if not already there. Alistair asked if there could be a similar decision tree for abatement and the loss of the protected pension age. James will create this.</p>	<p>James will create a decision tree for abatement and the loss of the protected pension age.</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>A skeleton staff continue to work from Essex Pension Fund’s office to process post and carry out printing whilst ensuring social distancing. There has not been much change since the last meeting.</p> <p>Dave Bill asked whether there has been any issues meeting service standards. David replied that he is not aware of any. The Council’s ICT department have fast-tracked the delivery of software and equipment to enable working from home.</p> <p>David added that they are able to produce quarterly administration reports which can be brought to future board meetings.</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 sets out proposals for how the government will remove the discrimination.</p> <p>These options involve providing members with a choice of old scheme or new scheme benefits for the remedy period, 1 April 2015 to 31 March 2022. All members will then transfer to the FPS 2015 on 1 April 2022.</p>	

	Agenda item	Action
	<p>The consultation ran for 12 weeks and closed on Sunday 11 October. Government is to issue a response to the consultation.</p> <p>Members who were in service on 31 March 2012 and after 31 March 2015 are in scope. Members who first joined after 31 March 2012 are not affected.</p> <p>On 21 August 2020, the 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 is those members who 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). Also, those who 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> <p>The note says to offer the choice to all those scheme members who 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> <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 to the scheme or to be refunded to the member. Each scheme member should be required to provide written confirmation of their election.</p> <p>A number of technical points have been raised with the Home Office who are discussing with HM Treasury and were due to respond in October. Legal advice has been provided to FRAs. An information note for FRAs by LGA provided additional information to the immediate detriment guidance note, but does not give detailed guidance on the process of payment of benefits and is subject to any changes supplied by Home Office.</p> <p>A meeting will be convened with the PFCC to discuss Essex's approach.</p>	
7	<p>“Booth” case – Rent and Fuel & Light allowances</p> <p>At the September meeting of the Board it was agreed to ask the affected scheme members who transferred to the FPS 2015, whether they want to pay the arrears or wait until they hear more about remedy.</p> <p>10 former members of the FPS 1992 (now FPS 2015) were written to. 2 wish to begin paying the arrears. 4 wish to pause the collection. 4 did not respond and will be reminded.</p> <p>Gavin Tripp asked what the default option will be should someone not respond. James replied that the collection would be paused until remedy is</p>	

	Agenda item	Action
	<p>applied.</p> <p>To be updated at the next Board meeting.</p>	
8	<p>FPS 2006 (Modified)</p> <p>a) National Insurance query</p> <p>HMRC have confirmed receipt of 119 claims from ECFRS.</p> <p>When asked about the next steps, a reply was received last week from HMRC that stated they were not yet in a position to process the refund claims as due to retrospective nature of this, an issue has arisen that could affect the amount of refund payable to individuals who are already receiving their State Pension.</p> <p>HMRC are currently taking advice on this and hope to finalise their position shortly so they can move ahead with all of the claims.</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>No further update on this since the last meeting.</p>	
9	<p>Annual Benefit Statement Options</p> <p>ABS' were sent on 31 August 2020. They included projections to normal retirement age, based on the current scheme only, with a caveat about the Sargeant case and they will be offered at some point to be returned to their legacy scheme.</p> <p>They are currently posted to the scheme member's home addresses.</p> <p>The options for future delivery of the statements are:-</p> <ol style="list-style-type: none"> 1) A PDF emailed to the scheme member's work email address. 2) Available on Civica HR self-service. 3) To investigate member self-service options with Essex Pension Fund. 4) Continue to post to home addresses. <p>James highlighted that option 1 would save on postage costs but the</p>	

	Agenda item	Action
	<p>statement could still become lost in someone's mailbox. Option 2 would mean it is always available but is not sure if everybody can access self-service easily or if it is popular. Option 3 would be the most expensive and is not sure if this is available yet. Option 4 is the current method and mostly works well but people often either do not receive or lose them as re-prints are often requested.</p> <p>Andy asked if the options were to replace what we currently do, or are in addition to what we currently do.</p> <p>Colette suggested that we could run a poll so members can vote for what they want.</p> <p>Gavin suggested that we should do option 2 and 4.</p> <p>Dave expressed uncertainty regarding option 3 as to whether logging into yet another system would be welcomed. Option 4 should always be available as not everybody would want it to be sent electronically. Dave suggested it should be option 2 with a choice of option 4 instead.</p> <p>Andy said that many people will still want option 4.</p> <p>The Board resolved to continue with option 4 but to investigate further whether the information can be held within Civica as well.</p>	
10	<p>Work-plan Activities</p> <p>James took the Board through their work-plan activities for September.</p> <p>i) TPR Scheme Return</p> <p>Scheme Managers are required by law to provide TPR with certain information about their Scheme by submitting a Scheme Return. Our scheme return notice was received on 3 November 2020 with a deadline for completion of 15 December 2020.</p> <p>The Scheme Return asks for numbers of scheme members at 31 March (actives, deferreds & pensioners) and who undertakes the key roles: delegated scheme manager, pension board, administration etc. Can lead to fines if deadline is missed.</p> <p>Board to be notified of achievement of this return against the deadline, at next meeting.</p> <p>ii) TPR Public Service Governance and Administration Survey – Results discussed (carried forward)</p> <p>The results of the 2019 Governance and Administration survey were published by The Pensions Regulator (TPR) in November.</p> <p>The performance of the Firefighters' Schemes is commented on throughout.</p>	

	Agenda item	Action
	<p>The Scheme Advisory Board will consider any further actions they may take.</p> <p>As the results were only recently published it has not been possible in the time allowed to plot Essex's results against others. This will be provided to the Board at the next meeting.</p> <p>iii) Internal Dispute Resolution Procedure log</p> <p>James updated the board on the current complaints going through IDRPs.</p> <p>Since the last meeting Jane Gardner the Deputy PFCC responded at stage 2 of the IDRPs for a complaint about maladministration relating to starter information on 1 October 2020. Jane decided not to uphold the complaint.</p> <p>Jane Gardner also responded at stage 2 of the IDRPs for a complaint about interpretation of scheme rules and policy relating to pensionable pay. Jane decided not to uphold the complaint.</p> <p>Andy raised that the response date listed on the letter and therefore the IDRPs log was later. James will check with Jane and amend.</p> <p>A new complaint has been received on 11 November 2020. Karl Edwards, Director of Corporate Services will hear the complaint at stage 1 of the IDRPs. The complaint is about pension liberation, where a former scheme member transferred out his benefits to another scheme but has later found that most if not all of the monies no longer exist. The complaint is that ECFRS and its pension administrators did not do enough to warn of the risks. Karl has until 11 January 2021 to respond.</p> <p>iv) Work Plan for 2021 & 2022</p> <p>The current pension board workplan ends in December 2020. The workplan for 2021 to 2022 has been drafted.</p> <p>The workplan lists the items to be discussed/considered at Board meetings and when they are to be discussed.</p> <p>There has been one suggested addition, Annual Allowance, which is the limit on pension growth, this was proposed to be discussed in December 2021 and December 2022. This item will report on how many pension saving statements have been sent out, in other words, how many have breached the annual allowance.</p> <p>At the next meeting of the Board, Thursday 4th March 2021, the workplan items are, end of year pension returns – submission / deadline dates, SLA / Shared Service Agreement and TPR Public Service Governance and Administration Survey – Results discussed, which has been carried forward from previous meetings.</p>	<p>James to check date sent with Jane</p>
11	<p>Review of Risk Register</p> <p>James updated the Board on the pension risks and controls on the pensions</p>	

	Agenda item	Action
	<p>risk register. The risk register status has remained largely unchanged 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>The administration impact on Essex Pension Fund and Essex County Fire and Rescue due to the Sargeant case and immediate detriment was discussed by the Board.</p>	
12	<p>Update on training/training plan</p> <p><u>TPR Module</u></p> <p>James suggested that the Board members complete the TPR training module ‘<i>Maintaining Member Contributions</i>’ ahead of the next meeting.</p> <p>The Board agreed.</p> <p>James will email the link to the training module.</p> <p><u>Next Training Item</u></p> <p>Gavin requested that the next training item was on pension scams and the measures to prevent them.</p>	<p>Board to complete TPR module ‘<i>Maintaining Member Contributions</i>’ before the next meeting.</p> <p>James to email the link to the module and a reminder.</p> <p>Board to receive training on Pension scams</p>
13	<p>Any other business</p> <p>Andy raised questions regarding the operation of the final salary link. David responded that the final salary link is maintained if the person leaves and returns to the scheme within 5 years. The final salary link is maintained if the person leaves as a wholetime firefighter and returns as an on-call firefighter. The on-call firefighter salary used is the ‘reference pay’, the wholetime equivalent of a firefighter in a similar role and with similar experience. This link will be maintained even if they have moved to another Fire Service. The link does not continue if the person retires and is re-employed.</p>	
14	<p>Date of next meeting</p> <p>The next meeting is on Thursday 4th March 2021 at 9.30am.</p>	

	Agenda item	Action
	<p>Other future meetings are as follows:-</p> <ul style="list-style-type: none">• Thursday 3rd June 2021, at 9.30am.• Thursday 2nd September 2021, at 9.30am.• Thursday 9th December 2021, 9.30am	