

NORTHUMBERLAND COUNTY COUNCIL

FIREFIGHTERS' PENSION SCHEME LOCAL PENSION BOARD

At the meeting of the **Firefighters' Pension Scheme Local Pension Board** held at Council Chamber - County Hall on Friday, 15 July 2022 at 10.00 am.

PRESENT

S Richards (Chair) (in the Chair)

EMPLOYER REPRESENTATIVES COUNCILLORS

M Robinson

SCHEME MEMBER REPRESENTATIVE

OFFICERS

C Gorman

Principal Accountant (Pensions) - Project Officer

P Hedley

Chief Fire Officer

C Johnson

Principal Accountant

N Turnbull

Democratic Services Officer

Definition of Terms

ABS	Annual Benefits Statement
CARE	Career Average Revalued Earnings
Common Data	E.g. name, address and date of birth, held for pensions processing
FPS	Firefighters' Pension Scheme
FRA	Fire and Rescue Authority
GAD	Government Actuary's Department
GMP	Guaranteed Minimum Pension
HMT	HM Treasury
ID	Immediate Detriment
IDRP	Internal Dispute Resolution Procedure
LPB	Local Pension Board
PASA	Pensions Administration Standards Association
SAB	Firefighters' Pensions (England) Scheme Advisory Board
Scheme Manager	The Scheme Manager (a function not a person) is responsible for managing and administering a scheme
Scheme Specific (Conditional) Data	E.g. employment record and contribution history held for pensions processing
TOR	Terms of Reference of the Board

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tPR	The Pensions Regulator
WYPF	West Yorkshire Pension Fund, as provider of shared administration service for NCC and other FRAs

1 **APOLOGIES**

Apologies for absence were received from Councillor Beynon and N McDermott.

2 **CONSIDERATION (DECLARATION) OF CONFLICTS OF INTEREST**

The Chair informed Board members that they would need to consider whether they had a conflict of interest arising from any of the agenda items to be discussed at each meeting. None were declared.

3 **MINUTES OF THE FPS LOCAL PENSION BOARD MEETING HELD ON 3 MAY 2022**

It was noted that the minutes of the meeting of the Firefighters' Pension Scheme Local Pension Board, held on Tuesday 3 May 2022, had already been adopted and signed by the Chair as a true record (in accordance with the Board's terms of reference), and were received for information.

4 **CHAIR'S BRIEFING (VERBAL UPDATE)**

The Chair was pleased that the Board was able to meet face to face again at County Hall. He informed members that he had been reappointed as Chair of the Board for an additional 4-year period.

He reported that a meeting was to be arranged to discuss the Annual Report with the Scheme Manager.

5 **WYPF BUSINESS CONTINUITY UPDATE (VERBAL UPDATE)**

There was no representative in attendance (virtually) from WYPF and therefore no update given.

6 **WYPF REPORT TO NCC'S FPS LPB ON 15 JULY 2022 (TO BE TABLED AT THE MEETING)**

A copy of the report was circulated electronically the day before the meeting and paper copies made available at the meeting.

The report was noted.

7 **MONTHLY CLIENT REPORTS FOR NCC FROM WYPF**

Members of the FPS Local Pension Board received a copy of the following reports (copies of which are filed with the signed minutes and marked as Item 7). Standard headings within the reports included: Regulations, Member Issues, Administration Update including Member Web registrations, Membership Numbers and Key Performance Indicators (KPIs).

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- a) April 2022
- b) May 2022
- c) June 2022

The reports were noted.

8 **DRAFT ANNUAL REPORT OF THE NCC FPS BOARD 2021/2022**

It was noted that the Annual Report of the NCC FPS Local Pension Board for 2021/22 was to be reported to the Audit Committee on 27 July 2022. (A copy was filed with the signed minutes and marked as Item 8).

The Chair highlighted the following:

- The content and main messages of the Annual Report, which followed the same format used since the Board had been established. These included Statement of Accounts, Immediate Detriment (ID), payroll issues, Matthews second options exercise etc.
- Changes to Board membership during the year. He was grateful that Councillors Beynon and Robinson had been appointed as the Board could not function without them. He was particularly pleased that Councillor Robinson had been reappointed, due to his previous Board experience and pension knowledge.
- There had been no change to the administration service provided by WYPF over the year, and the systems put in place during the pandemic had worked well. He particularly wished to thank HS for her work and support.
- There had been very little change in NFRS's FPS membership numbers.
- He thanked the officers for their assistance with the Board, without which it would not be possible to operate.

9 **IMMEDIATE DETRIMENT PROGRESS/UPDATE**

CG provided a summary of the position on ID, whilst waiting for the Remedy legislation to rectify the age discrimination caused by the transitional protections built into public sector pension schemes, including FPS 2015. The FPS Remedy legislation was not expected to be in force until October 2023. (A copy was filed with the signed minutes and marked as Item 9).

She explained that informal and non-statutory guidance had been issued by the Home Office (HO) in August 2020 to address issues of potential hardship for those members with pensions coming into payment (later becoming known as "Category 1" cases) who would be eligible for a higher pension once the age discrimination remedy legislation was in place. This guidance had been updated in June 2021 and had confirmed that employers could rely on Section 61 of the Equalities Act 2010 to process ID cases.

In October 2021, the FBU and LGA had jointly issued a Memorandum of Understanding and Framework, to provide a consistent approach to ID cases, which FRAs were encouraged to adopt.

Whilst NCC had been minded to adopt the Framework, on 29 November 2021

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HM Treasury had published a note which set out that in their view the ID cases could not be processed under Section 61 of the Equalities Act 2010, before the Remedy legislation was in place. The HO guidance had then been withdrawn.

The Scheme Manager had followed the HO guidance for the two eligible members retiring from NFRS whilst it had been in place. A further case had been treated as a pipeline case after the guidance was withdrawn. Work had been undertaken to determine the number of Category 1 (members coming up to retirement) and Category 2 cases (members already retired).

There had been a period following the withdrawal of the HO guidance during which no retirements, where ID could apply, had occurred until a recent request had been received from a FPS member. An updated ID Framework had been expected for the last 6 months but had not yet been issued. At its meeting on 3 May 2022, the Board was informed that the Scheme Manager was about to formally confirm a decision to follow the previous HO guidance (i.e. the June 2021 version), as a temporary measure until the ID Framework was reissued, at which point it was expected that the Framework would be adopted by NFRS. There had been no further changes since May 2022.

The CFO confirmed that he was in agreement with the update given by CG. He added that he was not expecting a significant number of Category 1 cases and therefore the risks to the Scheme and the FRA of applying ID were low.

GT reported that the FBU was expected to issue legal proceedings against individual FRAs who were not processing Category 1 and 2 cases. The FBU was of the view that all ID cases should be processed. He was unsure of timescale for the issuing of legal proceedings.

CG believed that most FRAs were processing Category 1 cases but not Category 2 cases. It was hoped that as NFRS was processing Category 1 cases, the risk of litigation by the FBU would be low.

The Chair thanked the officers for the detailed update on the current position.

10 **MINUTES OF THE WYPF FIRE CLIENT MEETING HELD ON 20 APRIL 2022**

The Board received a copy of the minutes of the WYPF Fire Client meeting dated 20 April 2022.

CG stated that she had been unable to attend the meeting on this occasion although NFRS had been represented by DCFO Binning. From the minutes, she highlighted that:

- Civica software charges for remedy were to be recharged over 5 years and on a per member basis instead of a per client basis. This would be beneficial to NFRS as one of WYPF's smaller clients with fewer members.
- The recommendations of WYPF's internal audit report highlighted concerns, shared by NFRS, that WYPF was growing its FPS client base too fast. There was a growing concern that WYPF did not have enough resources to service the increasing number of clients, although CG was aware that WYPF was making efforts to address this. HS had provided updates about

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recruitment to senior post vacancies at previous meetings. To date, there was no indication that the service to members had been impacted at all and it was thought to be more of a governance and client servicing/set up issue.

The Chair asked officers to enquire why WYPF had not been represented at the Board meeting.

The Board **noted** the information about software recharges on a per member basis and requested that the WYPF governance issues be monitored.

11 **BOARD CHAIR REAPPOINTMENT**

CG reported that the Appointments Panel had confirmed that Steve Richards be reappointed as Chair of the Board for a further four years until September 2026. The extension was permitted under the Board's Terms of Reference.

12 **NCC PAYROLL'S FPS EMPLOYER ROLE: UPDATE**

CG provided a brief history of the Payroll issues which had arisen in August 2020 when some retirement cases had been incorrectly processed and the actions taken then to address the problems identified. She confirmed that:

- There were no problems to report.
- A Matthews Second Options Working Group had been established which included key officers from Payroll.
- The Remedy data collection spreadsheet had recently been received from WYPF and clarification had been provided on a number of issues. The deadline for provision of the information was 31 December 2022.

The Board **noted** the update.

13 **MCCLOUD/SARGEANT REMEDY: UPDATE**

CG explained that legislation to address the age discrimination within the Firefighters' Pension Scheme 2015 (FPS 2015) would be in 2 stages. (A copy of the information was filed with the signed minutes and marked as Item 13).

- Future discrimination (prospective) – The legislation came into force on 1 April 2022 to transfer all members from legacy schemes into the FPS 2015 to remove future discrimination from the FPS.
- Past discrimination (retrospective) - Members who were moved into the FPS 2015 between 1 April 2015 to 31 March 2022 would be given a retrospective choice of benefits, between legacy scheme and FPS 2015, for the remedy period (known as deferred choice underpin).

14 **MATTHEWS SECOND OPTIONS EXERCISE**

The Board received an extract from the Firefighters' Pensions Schemes Regulations and Guidance website on the second options exercise. (A copy was filed with the signed minutes and marked as Item 14).

CG explained that following a decision by the European Court of Justice in the

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O'Brien case, the principle established in the Matthews case had been extended back to start on 7 April 2000 (from a previous start date of 1 July 2000). This would extend the remedy period for retained firefighters to be treated equally as full-time firefighters and given the option to access pension benefits as a special member of the FPS 2006 (as the FPS 1992 scheme had closed).

She outlined 3 different cohorts of individuals in scope for the second options exercise:

1. Retained firefighters employed on any date between 7 April 2000 and 30 June 2000 (inclusive);
2. Retained firefighters employed on any date between 7 April 2000 and 30 June 2000 (inclusive) as well as on any date between 1 July 2000 and 5 April 2006 (inclusive);
3. Retained firefighters employed on any date between 1 July 2000 and 5 April 2006 (inclusive) who were eligible to take part in the first options exercise **but were not given the opportunity to do so.**

Clarification had been provided at a recent LGA "coffee morning" briefing that to meet the test of having been given the opportunity to take part in the first options exercise individuals should have been sent:

- an expression of interest letter and reminder, to the correct correspondence address, and
- a statement of the cost of joining the 2006 Modified Scheme.

It was noted that at NFRS in the first options exercise, statements had only been provided to 128 firefighters (i.e. those who had expressed an interest) out of a total of 304 firefighters deemed to be in scope then. Members who had not responded to the expression of interest request were initially thought to be outside the scope of the second options exercise, but in light of the recent LGA guidance, it was now clear they should be included.

A summary was provided of the data held on the first options exercise. It was estimated that the second options exercise would include approximately 300 firefighters. Due to the lack of clarity on the firefighters to be included in the third cohort (shown above), an extension had been given until 31 July 2022 to provide data to the LGA on the scale of the Matthews Second Options Exercise and its interaction with age discrimination remedy and aggregation.

CG commented that it was necessary to ensure all those in scope were identified. Should the exercise be mishandled and the Regulations for the second options included a strict time limit (like the Regulations for the first options exercise), the only recourse individuals may have would be via the IDR process which was complex and lengthy for individuals and the FRA.

In answer to a question, she stated that a small number of individuals who had confirmed in writing that they did not want to join the FPS 2006 Modified Scheme in 2014, would still be included in the second options exercise as they may fall into "cohort 2". She did not know, at this stage, how much effort and evidence would be required to demonstrate that the FRA had made reasonable endeavours to identify individuals during the first options exercise. It would be unnecessary to write to all firefighters again if they had declined to participate in the first exercise

after receiving a statement.

Further guidance was required to respond to the LGA (with information required by 31 July) which was needed so the GAD could estimate the national cost of the second options exercise.

It had previously been agreed that this issue be included as a standing item on future agendas.

15 **SHARED SERVICE CONTRACT BETWEEN NFRS AND WYPF**

The Board received a copy of correspondence between WYPF and the Board Chair regarding the position that WYPF was operating without a formal contract in place for the pensions administration service they provide to NFRS. Bradford Council's Internal Audit had identified the issue in a recent audit, as highlighted within the discussion on agenda item no 10. The matter had now been escalated. (A copy was filed with the signed minutes and marked as Item 15).

A data sharing agreement had been put in place, in 2018, to transfer NFRS data to WYPF. A suitable template contract had not been available when the service had been transferred to WYPF, and negotiations on contract drafting had not been concluded over the intervening period, although this had now recommenced.

The Board Chair had met with CG and the Scheme Manager on 5 July 2022 to discuss the position and some revisions to the proposed contract had been sent by CG and NCC's Legal Services with a response awaited from WYPF on the wording of certain clauses. Whilst it was hoped that the contract would be in place by 31 July 2022, a detailed review would need to be undertaken by Legal Services before the contract could be completed and signed by both parties, so this timescale was likely to be overoptimistic.

Ideally all WYPF's fire clients should be on the same contract terms and conditions. It was believed that formal contracts were also not yet in place with some of WYPF's other fire clients.

16 **RISK REGISTER: UPDATE**

CG reported that work had commenced to update the risk register for the NCC Firefighters' Pension Scheme. (A copy was filed with the signed minutes and marked as Item 16).

Officers had identified updates for the existing 12 risks (which remained valid) as well as the inclusion of three new risks, namely:

- Risk of structural change within FPS administration leading to, e.g. WYPF pulling out of the shared service administrator service provision.
- Risk of challenge following decisions made about Immediate Detriment.
- Risk of failure to appropriately manage the Matthews second options exercise.

The Chair referred to the discussion on the previous item and stated that 6

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months' notice would need to be given by either party to terminate the WYPF service contract. Officers believed NFRS made a valuable contribution to the partnership and did not expect to be identified as a problem client or at real risk of termination. However, it was accepted that smaller clients would be more at risk if a decision was made by WYPF to reduce its number of clients.

The updated risk register would be brought to the next meeting of the Board on 25 October 2022.

17 REVIEW OF NCC'S FPS ABATEMENT POLICY

The LGA Bulletin in February 2022 recommended that FRAs reviewed existing policies on abatement and check procedures to make sure they were appropriate, following a recent Ombudsman case. Abatement could apply to reemployed firefighters in receipt of pension, to reduce their pension so their pensions and earnings in aggregate did not exceed their previous salary. (A copy was filed with the signed minutes and marked as Item 17).

CG explained that most FRAs had a policy to abate pensions, as the alternative to abatement was for the FRA to bear the abated amount itself by paying it into the Fire Fund. The Regulations stated that FRAs must exercise a discretion on abatement, which means considering each on a case-by-case basis. In the recent Ombudsman case, the complaint was upheld because the FRA in question had applied a blanket abatement policy rather than exercising a discretion, and had also miscommunicated with the individual.

Following a review of the processes in place at NFRS, it was intended that a procedure set out on page 176 of the papers be added to the Discretions Policies Statement. This would be in place at least until October 2022 when the LGA was expected to issue guidance to FRAs on procedures for exercising discretions.

She added that FPS abatement was unusual at NFRS. This was believed to be due to most firefighters being pension aware and familiar with the concept of abatement.

GT confirmed that, following his retirement and reemployment as a retained firefighter at NFRS, he had received correspondence from WYPF which had confirmed how much he could earn before his pension could be affected. It was not known what the procedure would be if an individual had previously been employed by another FRA. CG stated that whilst all of the neighbouring FRAs were also administered by WYPF, she would ask the question of WYPF whether any checks were made about previous employment and pensions in payment with other clients. It was, in theory, the responsibility of the individual to go back to his/her original FRA to notify that reemployment had started, but in practice, many members were not aware of this responsibly.

The Board considered that:

- It was unlikely that abatement would impact on a retained firefighter due to the reduced earnings in the part-time role.
- Abatement did not apply to the FPS 2015.
- If abatement applied, an individual's pension would be reduced for the period

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of employment. A prospective employee might decide against reemployment if abatement was to be applied.

18 **ACTIONS FOR FRAS: BOARD FOLLOW UP**

A summary of actions arising from the LGA monthly bulletins was included as a standing item on agendas to ensure any action was followed up appropriately. (A copy was filed with the signed minutes and marked as Item 18).

CJ reported that actions had been identified within the following bulletins:

- April 2022:
 - The deadline for completion of the second options exercise questionnaire had been extended until 31 July 2022.
 - Payroll Workshop/FRA Pension Contacts – completed, correct officers receiving information.
- June 2022:
 - Pension income / expenditure forecasts were expected to be submitted by NM to Home Office by the deadline of 19 August 2022.
 - Use of Bluelight inbox and query form. Noted.
 - ABS 2022 information factsheet – to be provided by WYPF.
 - TPR Dashboard Guidance – item to be considered at next Board meeting, if there were any implications for NFRS.
- April 2021 – the work required in respect of Remedy was identified as an issue for ongoing monitoring.
- February 2022 – Decision by Scheme Manager to adopt a Procedure for exercising a FRA discretion (agenda item 17) would be made shortly after the meeting.
- March 2022:
 - LGA to be notified by a revised date of 30 June 2022 of the numbers of members affected by aggregation – superseded by a later request and extended to 31 July 2022 (see April 2022 and agenda item 14).
 - Top up grant 2022 – information submitted by deadline by NM.

19 **REPORTS OF THE NCC FPS SCHEME MANAGER:**

Members of the FPS Local Pension Board received a copy of the following reports (copies of which are filed with the signed minutes and marked as Item 19):

19a **COMPLAINTS, APPEALS, IDRPS IN THE QUARTER TO COMPLAINTS, APPEALS, IDRPS IN THE QUARTER TO 30 JUNE 2022**

It was noted that no new breaches had been identified.

19b **BREACHES IN THE QUARTER TO 30 JUNE 2022**

There were no new issues to report.

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19c **DISCRETIONS EXERCISED IN THE QUARTER TO 30 JUNE 2022**

CG reported that this report would be included as a standing item on future agendas to make the Board aware of discretions requested or exercised by the Scheme Manager in the previous quarter.

A request had been received in the last quarter from a member for a late transfer-in of private pension. Information had been requested from the member to identify any exceptional circumstances in his case and the Scheme Manager was in the process of gathering information prior to exercising a discretion. An update would be provided at the next meeting.

20 **FUTURE MEETING DATES**

The Board was next scheduled to meet on 25 October 2022 at 11.30 a.m. in County Hall.

21 **ANY OTHER BUSINESS**

GT reported that he was no longer the NFRS FBU Secretary and would be liaising with the FBU regarding a replacement for his role on the Board. He confirmed that he could continue until a replacement was found, but it was not ideal as he was no longer a union official and therefore unaware of the latest FBU position on issues. The CFO suggested that there should be a meeting of the Brigade Committee before the next Board meeting and that it be included as an item on their next agenda.

CG confirmed that the place on the Board was allocated to a FPS union member and would check the criteria contained within the Board's Terms of Reference.

The Chair commented that GT had been a member of the Board since it had been established and on behalf of the Board thanked him for his valuable contribution.

MR sought assurance on whether there were sufficient staff resources for the work that was required to be carried out in respect of pensions.

CG commented that FRAs had been aware of the work that would be required for Remedy and the Matthews second options exercise for a considerable time and therefore plans had been put in place. She understood that resources were stretched.

The CFO added that regular meetings were being held with the Payroll Manager and he would seek the Executive's permission if more staff were required, whether this be via temporary appointments or sourced from other departments, such as HR or elsewhere. To date, this had not been requested. He commented that there had probably been several changes of software systems over the period that was required to be checked and therefore it would be sensible to undertake a quality assurance exercise of the data to ensure the information was

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a robust as possible, to mitigate risks, before the final spreadsheet information was submitted to WYPF.

(The meeting ended at 11.30 a.m.)

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