

NORTHUMBERLAND COUNTY COUNCIL

Firefighters' Pension Scheme (FPS) Local Pension Board

The Board's Terms of Reference sets out: Urgent business of the Firefighters' Pension Scheme Local Pension Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Firefighters' Pension Scheme Local Pension Board including telephone conferencing and e-mails.

At a virtual meeting of the **FPS Local Pension Board** held on Wednesday, 3 May 2022 at 10.00 a.m.

PRESENT

S Richards (SR)
(Chair, in the Chair)

EMPLOYER REPRESENTATIVES COUNCILLORS

Beynon, J (JB)

Robinson, M. (MR)

OFFICERS IN ATTENDANCE

C Gorman (CG)

P Hedley (PH)

C Johnson (CJ)

N McDermott (NM)

H Scargill (HS)

N Turnbull (NT)

J Willis (JW)

Principal Accountant (Pensions) -
Project Officer

Chief Fire Officer (CFO)

Board Secretary

Senior Accountant

Client Relationship Manager
(WYPF)

Democratic Services Officer

Executive Director of Finance
(Section 151 Officer)

Definition of Terms

ABS

CARE

Common Data

FPS

FRA

GAD

GMP

HMT

IDRP

LPB

Annual Benefits Statement

Career Average Revalued Earnings

E.g. name, address and date of birth, held
for pensions processing

Firefighters' Pension Scheme

Fire and Rescue Authority

Government Actuary's Department

Guaranteed Minimum Pension

HM Treasury

Internal Dispute Resolution Procedure

Local Pension Board

Ch.'s Initials.....

NFRS	Northumberland Fire and Rescue Service
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
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 Guy Tiffin and Deputy Chief Fire Officer Binning.

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

It was noted that the minutes of the meeting of the Firefighters' Pension Scheme Local Pension Board, held on Tuesday 25 January 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. Chairs' Briefing

The Chair asked that the Scheme Manager support provision of hybrid arrangements for future Board meetings. WYPF attendees could continue to participate on a virtual basis, and Board members/NCC officers could attend in person.

Updates would be given on the McCloud / Sargeant case and IDRPs appeal which were included as agenda items.

5. WYPF Business Continuity Update

HS reported that, with effect from 20 April 2022, WYPF's full-time staff were now working back in the office two days per week with part-time staff working 50% in the office. HS was now in the office one day per week due to her travel and attendance at external meetings.

In answer to a question, she reported that the WYPF Administration Team had not experienced any additional IT difficulties or systems' speeds reduction as a result of remote working during the last two years.

6. WYPF Report to NCC's FPS LPB on 3 May 2022

A copy of the report was circulated electronically before the meeting.

HS highlighted the following:

- Template letters had been issued by WYPF for the different cohorts of FPS members moving to the 2015 scheme from April 2022.
- FRAs would be contacted with the recommended course of action if it was identified that any members of the 2006 scheme joining after 1 April 2012 should have been treated as unprotected and moved to the 2015 scheme.
- An opt out factsheet had been produced for members wishing to leave the 2015 scheme.
- A template was to be produced by the LGA to set out the discretions within the 1992 scheme and 2006 scheme where FRAs would still need a policy to cover deferred and pensioner members. FRAs would no longer need a policy for discretions applicable to active members once the work on Remedy was concluded.
- Minutes for the WYPF Fire Client Quarterly meeting held on 20 April 2022 were not yet available and would be circulated in due course.
- The Public Service Pensions and Judicial Offices Act came into force on 1 April 2022, closing the final salary schemes and putting all FPS members in the 2015 scheme. Anyone with a final salary added years' contract could continue to make payments. Members retiring on ill-health grounds where the process commenced before 1 April 2022 would receive protection so that the pension would not be less than it would have been at 31 March 2022.
- Month 12 data from NCC Payroll had been received by WYPF but not yet processed. An update on Annual Benefit Statements would be given at the next Board meeting.
- WYPF had no breaches to report.
- Remedy "Your Questions Answered" and members' benefit illustrations had been published by the LGA and made available to NFRS's members via the WYPF website.
- The latest KPIs for April 2022 were circulated with a slight fluctuation mainly resulting from the process required for leavers. There were no concerns for NFRS's data scores.

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).

- a) February 2022
- b) March 2022

Board members were recommended to read the Monthly Report from February 2022 (item 7(a)), particularly Part 3, which contained details of the processing of estimates after April 2022, developments expected from Civica regarding for McCloud, and benchmarking and audit information. HS drew the Board's attention to WYPF's ISO accreditation which had recently been audited. The audit reported no findings which was very pleasing and provided reassurance to clients, including NFRS, of WYPF's service as FPS administrator.

The Board **gained assurance** regarding WYPF's administration service from its continued ISO 9001:2015 accreditation.

8. Immediate Detriment progress/update

CG provided a summary of the changes to ID processing within the FPS, and the guidance/information issued by the HO, HMT and HMRC, and the current position. (A copy was filed with the signed minutes and marked as Item 8).

She explained that following the McCloud and Sargeant court cases which had concluded in 2018, the FPS 2015 scheme and other public sector pension schemes were found to be age discriminatory due to the transitional protections within the reformed schemes. Guidance had been issued by the HO and LGA in 2021 to address issues of potential hardship for those members who would be eligible for a higher pension once the age discrimination remedy legislation was in place. FRAs had been encouraged to adopt the Memorandum of Understanding and Framework issued jointly by the LGA and FBU, to provide a consistent approach to ID cases across FRAs. Whilst NCC had been minded to adopt the Framework, HM Treasury had published a note on 29 November 2021 which set out that in their view, 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.

Whilst the HO guidance had been in place, the Scheme Manager had followed the guidance for two members retiring from NFRS and a further case being treated as a pipeline case after the guidance was withdrawn. Work had also been undertaken to determine the number of Category 1 and 2 cases.

Legal advice had been obtained which recommended that FRAs compare the risk of implementing ID against the risk of not doing so, although it was difficult to quantify the risk of either with any degree of confidence.

The CFO reported a member had expressed an interest in retiring at age 50 under the rule of 75 with 25 years' service. Discussions had been held with the LGA regarding the updated Framework which was expected to be issued within the next few months.

In order that the governance process was clear, the Scheme Manager was about to formally make the decision to process Category 1 ID cases. It was envisaged that this decision would remain in place until it was replaced with a decision to adopt the (soon to be) revised MoU and Framework. The CFO confirmed that this was expected to be a temporary decision, and the position

would be reviewed when the revised Framework was issued. Very few retirements of FPS members were expected in the next few months and therefore, the risk (to the FRA) of adopting ID was viewed as low, when compared with the risk of legal action which could be brought by the FBU if NFRS did not process any ID cases.

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

9. Minutes of the WYPF Fire Client meeting held on 12 January 2022

The Board received a copy of the minutes of the WYPF Fire Client meeting dated 12 January 2022.

CG found it extremely beneficial to attend these Fire Client meetings and discuss national issues and the various approaches adopted. It was hoped that the meetings would continue in their current virtual format, as it was an efficient use of time avoiding the need for travel.

10. March 2022 communication with optant-out firefighters

The Board received a copy of an urgent communication issued by the LGA on 25 March 2022 which was enclosed with the minutes as agenda item no 10.

CG explained that some firefighters had opted out of FPS in 2015 rather than transitioning to the FPS 2015. It was now accepted that they might have taken a different course of action had they known that continued membership of their legacy scheme during the remedy period would be an option. Should such members wish to retire from the FPS as an active member (rather than as a deferred member) to access their pension from a lower age, they would need to rejoin the FPS before 1 April 2022.

It was confirmed that NFRS had contacted all firefighters who had opted out of the FPS when the FPS 2015 was introduced to make them aware of the likely implications. The majority of those contacted had opted back in.

The CFO placed on record his gratitude to NFRS colleagues, and particularly Jill Macauley, who had spent considerable time contacting around two dozen eligible firefighters to make them aware of the imminent deadline.

11. NCC Payroll monitoring

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 subsequent action that had been taken to address the problems identified.

A new Payroll Manager, Hannah Harvey, was now in post and had been liaising with the LGA regarding staff training on Remedy. The data collection template was expected to be received in June and NCC's Payroll Team would have until December to gather information. NCC's Payroll Team had requested that the data be provided in one submission, including 2021/22, as this would be more efficient when reviewing members records than providing it in two submissions.

It was noted that the original payroll issues had been closely monitored by the Service Director – Finance and were now rectified. Nevertheless an update on FPS developments and the implications for the Payroll Team would be retained as a standing item on the Board's agenda because the payroll function was an integral part of the Scheme Manager function, and its smooth running was of continued interest to the Board.

The CFO reported that he had been in discussions with officers in Finance and Payroll regarding resources and would request authorisation for additional help, should this be required. Jan Willis, Executive Director of Finance confirmed that she had also been in discussions with the Service Director – Finance regarding resource issues within Payroll due to the departure of the former Payroll Manager and the Team's current workload.

The Chair **gained assurance** that arrangements to bring in additional resources were in place should this be required.

In answer to a question, HS reported that the only delay anticipated with the data collection template would be due to the posting of monthly returns up to 31 March 2022, which was needed for a complete extract to be sent. Any delay would depend on the quality of the March monthly return, level of manual intervention required at WYPF, and speed of responses to queries by FRAs. HS hoped that WYPF would be able to provide the data collection template to NCC in June 2022. To date, none of WYPF's FRA clients had requested the data collection template be provided in two batches.

The Board **noted** the update.

12. 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 12).

- 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 scheme.
- 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). It was expected that the legislation to enable this would be completed by October 2023 and was currently being drafted.

13. 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 13).

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

The first options exercise, following the introduction of the Part-time Workers Directive 2000 and principles established in the Matthews case, was undertaken in 2014-2015. It allowed in-scope individuals to purchase pension benefits for service between 1 July 2000 to 5 April 2006.

The principle established in the O'Brien case required that remedy be extended to before the Part-time Workers Directive was implemented and potentially back to the employment commencement dates. It was noted that payroll records back to the 1980's would be required to complete the exercise, and the quality of data was likely to be impacted by changes of systems and/or payroll providers for some FRAs. It would be another challenging exercise and further information and guidance was awaited regarding calculation of estimates.

It was agreed that this be included as a standing agenda item in future.

14. Actions for FRAs: Board follow up

CJ reported that this was now 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 13).

He reported that there were no issues requiring action on the January 2022 bulletin, however, the following actions had been identified within previous bulletins:

- February 2022 – abatement policies to be reviewed with decisions to be formally documented. CFO and CG were due to meet the following week.
- March 2022 – LGA had notified FRAs of a revised deadline of 30 June 2022 for provision of the numbers of members affected by aggregation.
 - Member communication post 1 April 2022 – HS confirmed that all members had been notified by 14 March 2022 of scheme changes.
 - Top up grant 2022 – information to be provided by NM.
- April 2021 – the work required in respect of Remedy was identified as an issue for ongoing monitoring. Senior officers within NCC and WYPF had confirmed that additional resources would be provided to complete the work.
- 2021-22 LGA Statutory Levy – completed.

15. 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 15):

(a) Breaches in the quarters to 31 March 2022

It was noted that no new breaches had been identified.

(b) Scheme administration, complaints, appeals, IDRP in the quarter to 31 March 2022

There were no new issues to report.

(c) Detail of a recent IDRP

CG reported that a settlement figure had been offered to the FPS deferred member who had submitted a Stage 2 IDRP complaint regarding pension rights in the 2006 Modified Scheme. The Stage 2 IDRP remained on hold whilst the individual considered his position.

The offer had been made before it was known whether the member would be within scope in the second options exercise. It was now clear that he would be in scope, but he would not receive his benefits until 2025 (when the Regulations were expected to come into force). It was confirmed that he had been provided with the most up to date information on the second options exercise, so he could consider his options. Time would therefore be allowed for him to review his position, given the complexity of the situation.

The Board was satisfied that a fair and transparent process had been followed by NFRS in dealing with this IDRP complaint. An update would be provided to the Board in due course.

16. Future meeting dates

The Board was next scheduled to meet on 26 July 2022 although Friday 15 July 2022 was being considered as an alternative due to officer availability. The facility to hold hybrid meetings was also being investigated.

HS gave her apologies should the meeting be held on 15 July 2022 but confirmed that another WYPF officer would be available to attend. She also reported that the Annual FPS Conference meeting was being held on 25 October 2022, so she would be unable to attend the meeting scheduled for that date.

HS reported that the current practice of holding Board meetings at 10 a.m. on Tuesdays presented a scheduling conflict with the LGA's regular Update on FPS Developments for Practitioners, informally known as the 'Coffee Morning', which was also held on Tuesdays at 10.00 am. CG added that NCC/NFRS officer attendance at the LGA online Coffee Morning was essential to keep informed about changes. The Chair agreed that alternative options for future meeting dates be explored.

17. Any other business

In answer to a question on the robustness of the historical payroll data held, CG confirmed that she was confident of current data but explained that older

records had been kept for a specific purpose which had not included Remedy, ID or the second options exercise. She did not think NCC would have more problems than the average FRA, but it should be recognised that payroll and HR records from several decades ago could be patchy, at best. Some FRAs had destroyed older records following the introduction of GDPR and others had “lost” data when changing payroll providers. The CFO stated that it was likely that there would have been changes in the payroll software and databases within the period to be reviewed for the work on the second options exercise. It might also be necessary for paper records held at in the archives held at Woodhorn Museum to be examined, which was where additional resource might be required.

Missing or inaccurate data could be classed as a breach, depending on the terms of the Regulations (when drafted) and any known breaches would be included within future Board papers.

It would be important to demonstrate that all reasonable steps had been taken to identify those eligible or in-scope, using all available information (for example by asking current and former firefighters and the FBU).

The position regarding the data was unknown at the present time but an update would be provided at the next (and subsequent) Board meetings.

The Chair thanked members and officers for their contributions on complex issues.

(The meeting ended at 11.25 a.m.)

CHAIR _____

DATE _____