

NORTHUMBERLAND COUNTY COUNCIL

FIREFIGHTERS' PENSION SCHEME LOCAL PENSION BOARD

At a virtual meeting of the **Firefighters' Pension Scheme Local Pension Board** held on Tuesday, 20 April 2021 at 10.00 am.

PRESENT

S Richards (Chair) (in the Chair)

MEMBERS

M Robinson

OFFICERS

C Johnson

Principal Accountant

C Gorman

Principal Accountant (Pensions) - Project Officer

N McDermott

Senior Accountant

N Turnbull

Democratic Services Officer

H Scargill

Client Relationship Manager

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

1 APOLOGIES

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Apologies for absence were received from Councillor Swithenbank.

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 28 JANUARY 2021**

It was noted that the minutes of the meeting of the Firefighters' Pension Scheme Local Pension Board, held on Thursday 28 January 2021, 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 reported that:

- The Scheme Manager would be contacted to ascertain the arrangements to be put in place with regard to the upcoming workload to address Remedy arising from the McCloud / Sargeant age discrimination case.
- The HMRC Lifetime Allowance limit was to be frozen until 2025/26.
- The remote meeting legislation was not being extended beyond 6 May 2021. NT reported that the results of a High Court challenge were awaited. CG explained that the Board did not meet under the same legislation and its Terms of Reference allowed other means of communication, including remote meetings.
- Accounting data needed to be up to date to ensure the top up grant was received.
- Work would be commencing on the Board's 2020/21 annual report before consideration at the next Board meeting and the Audit Committee, in due course.

5 **WYPF BUSINESS CONTINUITY AND COVID-19 UPDATE (VERBAL UPDATE)**

HS commented that there was nothing to report on business continuity as systems had been working well as reported at the previous few meetings.

6 **WYPF REPORT TO NCC'S FPS LPB ON 20 APRIL 2021**

HS highlighted the following:

- Fire Communications Meetings 11.02.21 and 31.03.21 and Fire Technical Community 25.03.21 – discussions had focused on Remedy and Immediate Detriment Guidance, legislation, data gathering and templates, bulk uploading of data, communications and milestone dates. Remedy Data Collection Guidance Notes were to be updated and templates expected to be available at the end of April. FPS member website available in the next 2 or 3 months following completion of final accuracy checks.
- Fire Quarterly Meeting 20.01.21 – the next meeting was to be held the

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following day (21.04.21). Overriding disclosure time limits were now included in client reports. Two additional clients would be joining from 1 July 2021.

- WYPF Update – They were not experiencing any issues due to covid 19. Recruitment of pension officers continued, an additional employee had recently started in the Fire Team, 2 other new members of staff also had fire experience. Monthly reports had recently been received from NCC Payroll and now needed to be checked and uploaded to the Members records. KPIs were included on the monthly report; data scoring had recently been updated and remained broadly similar. An issue with RDS Modified data scoring report was being investigated by their IT team.

In answer to questions, HS confirmed that:

- The Data Collection Template would need to be completed by NCC Payroll, so that WYPF could apply Remedy to NCC's eligible FPS members. WYPF would need the data (including hours worked, unpaid absences, breaks in service, pay and pension contributions as if the member had been in the non-2015 scheme, CPD data, etc.) to apply Remedy.

The Board expressed gratitude to Alison Elsdon for progressing the monthly contributions postings (by NCC Payroll to WYPF) development work at NCC.

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 2021
- b) March 2021
- c) April 2021

8 MAIN GUIDANCE FOR FPS ADMINISTRATORS FOR MEASURES INTRODUCED BY GOVERNMENT TO CONTROL THE SPREAD OF COVID-19

- a) LGA FPS Regulations/ Guidance COVID-19 webpage
- b) tPR COVID-19 scheme administration guidance
- c) PASA COVID-19 Guidance for Administrators
- d) SAB review of impact of COVID-19 on FPS governance

CG reported that there had been no changes to the guidance or papers since the previous meeting, with the exception of additional information within 8d and the inclusion of an extract from the LGPS Advisory Board regarding remote meeting legislation which only applied to meetings before 7 May 2021 with no plans to extend it. However, the Board meetings did not need to comply with this legislation and its own terms of reference allowed for meetings being held using other means of technology. Information would be sought from NCC regarding the manner of meetings to be held going forward. She suggested that it would be beneficial for the representative from WYPF to attend remotely if technology allowed for mixed in person and virtual meetings.

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9 **PASA DATA MANAGEMENT PLAN GUIDANCE**

CG reported that the guidance released in March 2021 required data to be managed, clean, accurate and complete. It did not provide additional requirements over and above tPR's long standing data management requirements. WYPF had taken over NCC's FPS administration in 2018 and regular data scoring and cleansing had been carried out since then.

10 **EXIT CAP (£95K) REVOCATION**

CG stated that, following a judicial review, the legislation to introduce a £95k exit cap in public sector schemes had been revoked by Government, due to unintended consequences and implementational difficulties. Very few FPS members, nationally, would have been affected by the cap in any event.

11 **THE PENSIONS REGULATOR'S CONSULTATION ON THE SINGLE CODE OF PRACTICE**

CG reported that a consultation exercise was being undertaken by tPR on phase 1 of a Single Code of Practice which would consolidate and replace the 15 existing Codes. The consultation was due to end on 26 May 2021. Officers would continue to review tPR's requirements on pension schemes to ensure compliance with any new responsibilities introduced. It was expected that the new code would be in place after 2022.

12 **MINUTES OF THE WYPF FIRE CLIENT MEETING HELD ON 20 JANUARY 2021**

The Board received a copy of the minutes of the WYPF Fire Clients meeting dated 20 January 2021. The meeting was attended by CG, CJ and NM. Officers found the meetings useful and hoped they could continue to be held virtually. It would be useful for NCC's HR department and Fire and Rescue Service to send a representative to future meetings.

The monthly KPI data, provided to NCC by WYPF, now included the statutory deadlines. The data demonstrated that there were no breaches of statutory deadlines for the processes undertaken by WYPF on NCC's behalf. The Board could now be satisfied that there were none, so was nothing reportable to tPR.

13 **NCC PAYROLL ISSUES RE MR B, MR C AND MR G'S RETIREMENTS IN AUGUST 2020 AND FOLLOW UP**

CG provided a brief recap of the problems and action taken following the identification of errors, including incorrect, incomplete or delayed submission of information, by the Payroll Section, which had been raised before a previous meeting. She confirmed that the issues had been discovered prior to the pensions going into payment and they therefore had not been classed as breaches. It had been noted that if monthly contribution postings had been submitted, the errors could have been identified sooner. The issue had led to the Chair contacting the Section 151 Officer to express the Board's concerns.

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CG reported that confirmation had been received from the Section 151 Officer that all 12 of the monthly postings for 2020/21 had now been submitted to WYPF. HS had confirmed earlier in the meeting that this information had now been received by WYPF and was ready to be checked.

The Chair asked officers to update the Section 151 Officer and Payroll Manager regarding the end of April date for availability of the (long awaited) Data Collection Template.

The Board **agreed** that this item needed to remain on the agenda and be referred to within the Board's annual report as an example of successful action by the Board.

14 **THE NATIONAL AUDIT OFFICE REPORT ON PUBLIC SERVICE PENSIONS PUBLISHED MARCH 2021**

CG referred the Board to a National Audit Office (NAO) report on Public Service pensions published in March 2021.

Four of the largest public service pensions schemes had been reviewed (the armed forces, civil service, NHS and teachers' pensions schemes) by the NAO which had concluded that it would take several decades for the aims of the Hutton Review of 2012 to take effect. The aims had been to make public sector pensions fairer and cheaper for employers. Whilst the FPS had not been directly reviewed, the NAO findings applied equally.

The NAO highlighted the inflexibility of public sector scheme membership and noted the administrative challenge of implementing the age discrimination remedy and the mechanism to control cost increases.

15 **MCCLLOUD/SARGEANT REMEDY: UPDATE**

HS provided an update on the McCloud/Sargeant remedy. The response to HM Treasury's consultation had been issued in February 2021. All affected members were to be given a choice under the deferred choice underpin option and would not have to make a decision regarding which scheme they preferred to be in for the remedy period, 1 April 2015 – 31 March 2022, until they retired. This would mean FPS members being in full possession of the information needed to make an informed decision between legacy benefits or reformed scheme benefits, and the cost of any additional contributions. It would give members the opportunity to make the decision which was best for them.

The Government had announced that age discrimination would be addressed in two parts: removing discrimination going forward and rectifying discrimination retrospectively for those that had already left. To do this, all active members would move to the 2015 scheme on 1 April 2022. Primary legislation would be required to implement the first part. Secondary legislation would be required to provide Remedy for eligible members.

WYPF required Fire clients to collect the data before the Remedy legislation was made. WYPF was in the process of flagging all FPS members' records where they believed the member would be in scope for Remedy. Fire clients had also

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been asked to confirm other employees in scope (i.e. those eligible to join, but not already members of the FPS) for Remedy.

She provided a brief explanation of the Remedy calculation process which would export flagged members into the data collection template which would be supplied to each Fire client. Fire clients would be asked to provide any missing data and confirm that the data was correct.

She was unable to provide an indication, at the meeting, of the number of NCC FPS members in scope but confirmed that a fairly accurate figure would be provided (to NCC's Payroll Team) in the next few weeks.

16 IMMEDIATE DETRIMENT GUIDANCE

(a) Information about Immediate Detriment

CG explained that the HO had issued informal guidance on Immediate Detriment in August 2020. In effect, the Guidance suggested that before Remedy is introduced into the Regulations (from 1 April 2022), FRAs could pay FPS members their individual legacy scheme benefits on retirement if the member preferred this to 2015 Scheme benefits. The Guidance referred to members who would not be eligible for an ill-health pension in the 2015 Scheme but would have been entitled under the pre-2015 Schemes, as well as members coming up to retirement who could be better off retiring from the legacy schemes than the 2015 scheme.

The LGA had advised the HO against issuing this informal guidance on Immediate Detriment due to the contradictions it contained and complexity (of implementation) it ignored. The guidance created difficulties for FRAs in suggesting they should not follow the existing law as set out in the FPS Regulations. In normal circumstances, FPS benefits can only be paid in accordance with the legislation in force; an informal guidance note cannot "trump" the law.

However, the legal landscape changed with an Employment Appeal Tribunal case in February 2021 which ruled that FRAs could not rely on the Schedule 22 (of the Equalities Act 2010) defense. It required FRAs to make a decision whether to apply the Immediate Detriment (ID) guidance.

CG explained that, if implementing ID, FRAs were also required to make a judgement on treatment of employee and employer contributions due, and interactions with the tax regime. The ID guidance required members to acknowledge that they may owe money back to the FRA once the Remedy legislation was in place.

A disclaimer was being drafted by HM Treasury for FRAs' use, so that members could confirm in writing that they would repay money, if required.

The Board noted that no option (in the decision to follow or not follow ID guidance, and the practicalities of implementing ID) was without risk for FRAs and members.

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(b) LGA's Immediate Detriment risk register

CG referred the Board to risk 2 on the LGA project management approach to age discrimination remedy, namely knowingly working without legislation, policy and software development. The consequences of doing so included acting ultra vires, use of manual calculations, risk of complaints regarding incorrect payments, duplication of workload. She highlighted that those risks were high, and controls and mitigations available to FRAs would have limited effect.

There were risks if ID guidance was implemented, and risks of challenge if it was not.

HS reported that Immediate Detriment cases were being processed by WYPF for 4 out of 19 Fire clients and this number (of FRAs) was likely to increase over time.

Legal advice had been obtained by WYPF prior to processing and making any payment under Immediate Detriment on behalf of a Fire client.

CG had discussed with the Chair the importance of ascertaining NCC's plans on Immediate Detriment. The Board's responsibility is to assist the Scheme Manager in compliance with the Regulations, and NCC's decision making process on Immediate Detriment should be reviewed by the Board.

In answer to a question, CG explained that the NCC Fire and Rescue Service was aware of the FPS members approaching retirement. A policy decision needed to be made on ID by the Scheme Manager to ensure consistency of approach.

HS left the meeting at 11.09 a.m.

17 NCC'S FPS CONFLICTS REGISTER

CG reminded Board members of the requirement (on NCC) to keep a conflicts of interest register for the FPS. Until recently there had been no entries in the register and relevant officers/Board members had confirmed that they had no conflicts.

It had been recognised that the decision about NCCs approach to Immediate Detriment could affect the pension (in the short term), which was soon to be put into payment, of one key officer involved in the decision making process. Therefore, this officer had signed a declaration recognising this potential conflict of interests. CG reported that NCC's Chief Fire Officer had agreed that the conflicted officer would not be involved in the policy decision making process on Immediate Detriment.

The Board **noted** the approach being taken to exclude the officer from the decision-making process on Immediate Detriment.

18 ACTIONS FOR FRAS: BOARD FOLLOW UP

CJ reported that this was now a standing item on quarterly agendas to ensure any action was followed up appropriately. (A copy was filed with the signed minutes

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and marked as Item 18).

He reported the following actions had been identified within previous bulletins:

- January 2021 – tPR key process factsheet – a review of policies and procedures had been undertaken and officers confirmed these were in place, although an update was required to No. 3 (assessing and managing risks) which would be reviewed in next few months.
- February 2021 – NCC Payroll and WYPF had provided assurances that additional resources would be put in place to meet the likely data requirements of remedy. This was marked as ‘ongoing’ and would be monitored regularly.
- March 2021 – NM confirmed that information to claim top up grant from the Home Office was on track to be submitted by 7 May 2021 deadline.
- October 2020 – confirmation had been received on 13.02.21 that Payroll had now provided information on the number of members who qualified for ID to SAB.
- TPR Governance and Administration Survey 2020 – the NCC survey had been completed and submitted before the 12 February 2021 deadline.

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 15):

19a **BREACHES IN THE QUARTER TO 31 MARCH 2021 (NONE)**

There were no new issues to report.

19b **SCHEME ADMINISTRATION, COMPLAINTS, APPEALS, IDRPS IN THE QUARTER TO 31 MARCH 2021 (NONE)**

There were no new issues to report.

20 **FUTURE MEETING DATES**

The Board was next due to meet on 20 July 2021. Information would be circulated in due course regarding the nature of the meeting e.g. virtual or details of venue.

21 **ANY OTHER BUSINESS**

There was no other business.

(The meeting ended at 11.17 a.m.)

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CHAIR S Richards

DATE 25 May 2021

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