

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 Thursday, 22 July 2021 at 10.00 a.m.

PRESENT

S Richards
(Chair, in the Chair)

EMPLOYER REPRESENTATIVES COUNCILLORS

Oliver, N. (NO)

OFFICERS IN ATTENDANCE

C Gorman (CG)	Principal Accountant (Pensions) - Project Officer
P Hedley (PH)	Chief Fire Officer (CFO)
C Johnson (CJ)	Board Secretary
N McDermott (NM)	Senior Accountant
H Scargill (HS)	Client Relationship Manager (WYPF)
N Turnbull (NT)	Democratic Services Officer

OBSERVER

Tiffin, G. (GT)	FBU Observer
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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

Ch.'s Initials.....

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

1. 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.

GT reported that he had just retired but was expecting to commence employment as a retained firefighter following the required break between jobs. He would be continuing in his role as FBU Secretary and confirmed that he was willing to continue as a member of the Board.

CG confirmed that the meeting was already quorate with representatives in attendance from the employer (NO) and scheme members (SR). GT could be viewed as attending the meeting as an observer on this occasion, though since he remained a FPS member and a FBU representative, he continued to meet the criteria as a member of the Board.

2. 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 20 April 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.

3. Chairs' Briefing

The Chair welcomed the new members, Councillors Peter Jackson and Nick Oliver and also Paul Hedley, Chief Fire Officer. He commented that:

- The Annual Report of the NCC FPS Local Pension Board was included on the agenda as item 12. He expressed his thanks to CG for her assistance with its preparation.
- Former members Malcolm Robinson and Ian Swithenbank were thanked for their contribution to the successful operation of the Board.

4. WYPF Business Continuity and COVID-19 Update

HS commented that the WYPF Fire Pensions Team was working well at home and there was nothing to report on business continuity. Within WYPF's Pensions Team, a few members of staff were isolating due to testing positive for covid and other members were on long term sick leave. However, WYPF was in the process of recruiting additional members of staff, some of whom would be allocated to the Fire Pensions Team.

6. WYPF Report to NCC's FPS LPB on 22 July 2021

HS highlighted the following:

- Fire Communications Meeting held on 13 July confirmed that the LGA member website had been launched in May, with some positive feedback. A revised draft of the Pensions Administration Strategy document had been recirculated to those who had commented on the previous draft. It was hoped that this would be published with the July LGA Bulletin. Communications for Remedy remained a priority with a Q and A sheet for FPS members being prepared. Three "standard" letters were to be produced, one each to cover:
 - those currently fully protected,
 - those in scope for Remedy, and
 - those not thought to be eligible, with the letter providing an opportunity for this to be verified.
- Fire Technical Community Meeting held on 15 July. The Home Office had confirmed that the draft legislation for Remedy was on target to be issued mid-2021. This legislation would close the final salary schemes on 31 March 2022 and move all FPS members into the FPS 2015 on 1 April 2022. The legislation would also be expected to confirm that Remedy would mean that all FPS members were deemed to be members of their legacy scheme, with detail of the deferred choice underpin to be provided. The work, by FRAs and administrators, would need to be completed by October 2023. An update had been given by the HO on the Matthews case, i.e. a case which had highlighted discrimination against part-time retained firefighters treated less favourably than full-time firefighters. It was expected that the terms be agreed in the next couple of months with consultation over 12-18 months and completion of work within 18 months. Clarification was provided on roles and tasks to be undertaken by FRAs and the administrator.
- Monthly returns were now being received by WYPF from NCC Payroll. An issue with the March 2021 return was in the process of being resolved and

was expected to be corrected within the following week. This would hold up issue of ABSs for NCC's FPS members, but they remained on track to be issued by the 31 August deadline.

- Data scores had been updated in June 2021. The issue with the RDS Modified members had been resolved and indicators were now as expected.

In answer to questions, she confirmed that:

- WYPF would send letters to all categories of members to communicate about Remedy. NCC/NFRS would only need to send to letters to FPS optants out.
- A letter template was to be provided by the LGA.

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) May 2021
- b) June 2021
- c) July 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

CG reported that there had been no changes to the guidance since the previous meeting; the majority of updates had been carried out within the first few months of the pandemic. It had been recognised that administrators had worked well during the pandemic lockdowns, including WYPF and NCC Payroll, with most staff working from home. (A copy was filed with the signed minutes and marked as Item 8).

9. Minutes of the WYPF Fire Client meeting held on 21 April 2021

The Board received a copy of the minutes of the WYPF Fire Clients meeting dated 21 April 2021. The meetings were attended by CG, CJ and NM.

WYPF now had 21 FPS clients and it had been confirmed that additional staff were being recruited to meet the additional workload from acquiring extra clients.

10. Updated FPS Governance Policy Statement

The Board received an updated copy of the FPS Governance Policy Statement (copy enclosed with the minutes as agenda item no 10). CG reported that Northumberland County Council's Constitution had been updated in February 2021 and therefore the FPS Governance Policy Statement needed updating to cross reference appropriately. The Governance Policy Statement had been in place since 2015 when the FPS Local Pension Board had been formed. She outlined the legal requirements under the Public Services Pension Act 2013, the role of the Scheme Manager, Local Pension Board, Fire Disputes Panel and the governance objectives.

The Governance Policy Statement would need to be approved by the Scheme Manager, the Section 151 Officer in consultation with the Chief Fire Officer.

11. Revised Terms of Reference of the Board

The Board received a copy of revised Terms of Reference of the Board (copy enclosed with the minutes as agenda item no 11).

CG reported that as with the previous item and changes to the Council's Constitution, the Terms of Reference had been updated. Changes included reference to Article 18 on page 101, and Section 5 (Location and Timing of meetings) to include specific reference to virtual meetings or hybrid.

As the changes to the Terms of Reference were of a minor nature, they could be agreed by the Monitoring Officer or his/her deputy.

In answer to a question, it was confirmed that the Council was required to have a Section 151 Officer and Monitoring Officer in post at all times. For years, oversight of the pension function had been delegated to the Deputy Section 151 Officer, which meant there had been continuity in recent years when there had been changes in the postholder of the Section 151 Officer.

12. 2020/21 Annual Report of the NCC FPS Local Pension Board to be reported at Audit Committee on 28 July 2021

It was noted that the Annual Report of the NCC FPS Local Pension Board for 2019/20 was to be reported to the Audit Committee on 28 July 2021. (A copy was filed with the signed minutes and marked as Item 12).

The Chair briefly outlined the content and main messages of annual report, which followed the same format of previous years.

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 (to WYPF), by the Payroll Section, which had been raised in 2020, and discussed over a the course of several Board meetings. She explained that following escalation by GT and the Chair, and the involvement by the Service Director (Finance), matters had been rectified before the errors resulted in a breach of the law.

The Service Director (Finance) had been meeting with NCC Payroll staff monthly to resolve ongoing issues, including the requirement for monthly contribution postings. WYPF had provided training for Payroll on the requirements of the FPS regulations.

HS had reported earlier in the meeting that there were issues with the monthly submission made for March, and Board members thought monitoring should be continued, and a further update be made at the next meeting.

The Board **agreed** that the item remain on the agenda.

14. FPS Advisory Board's self-assessment survey on remedy, submitted 28 June 2021

CG referred the Board to a self-assessment survey issued by the SAB in May 2021. Its purpose was to understand arrangements for managing the FPS and implementation of age discrimination remedy and the Matthews remedy.

CG reported that she had consulted with WYPF, the former and newly appointed Deputy CFOs, the Deputy Section 151 Officer and colleagues in NCC's HR and Payroll, prior to competing and submitting the survey before the 30 June 2021 deadline. The survey had been helpful in raising awareness of the issues through the consultations with colleagues.

It was acknowledged that the collection of data (by NFRS and Payroll) would be problematic due to the time required to gather information, much of which had been archived. Feedback from the survey (via the LGA) was awaited to see what could be learned from other FRAs and how they were dealing with the issues.

15. McCloud/Sargeant remedy: update

HS reported that many details were now known regarding Remedy. Draft legislation was awaited to close the final salary schemes on 31 March 2022 with all members being transferred to the FPS 2015 on 1 April 2022.

Details regarding the transition which took place on 1 April 2015 were already known, therefore the same principles could be applied for the 1 April 2022 transition, including the eligibility to retire. The retirement decision trees

produced in 2015 for the 1992, 2006 and RDS Modified schemes remained relevant for the 1 April 2022 transition as no changes were proposed to the basic structure of the FPS 2015.

The legislation and subsequent consultations were awaited to provide details to commence the process including member contribution repayments, tax, interest, 2015 CARE transfers in, retrospection for retired members who could convert benefits and the detail for the deferred choice underpin.

16. Updated Immediate Detriment Guidance

CG provided a brief summary of the position resulting from the Court of Appeal decisions in December 2018 and the principles which would apply to all public sector pension schemes with transitional protections, following the Government's subsequent commitment to remove the age discrimination within schemes with effect from 1 April 2022.

Due to the long period of time between December 2018 and introduction of Remedy from 1 April 2022, the FBU had sought earlier redress for FPS members retiring during this "limbo" period. Particularly for certain FPS members retiring on ill-health grounds, if Remedy had already been in place they would be eligible to retire with a higher pension. Therefore, waiting years for Remedy legislation to come into force could put those members in a position of facing immediate detriment.

The HO issued informal guidance on Immediate Detriment in August 2020, which suggested that FRAs could choose to put pensions into payment *as if* Remedy legislation was already in place. Normally pension benefits can only be paid in accordance with the legislation in force, not based on informal guidance. The informal guidance led to uncertainty regarding individual members' tax position and the requirement to comply with HMRC rules. Failure to follow tax legislation could result in fines and penalties for the FRA and/or the member. Further, for some members and beneficiaries, the terms of the FPS 2015 were better than the legacy schemes, so applying legacy scheme benefits could result in lower benefit payments for some.

The Employment Appeal Tribunal case in February 2021 ruled that FRAs could not rely on the Schedule 22 Equality Act 2010 defense. This case gave FRAs the legal basis they needed to apply the HO Immediate Detriment guidance. The HO issued replacement detailed guidance on 10 June 2021, shortly followed by guidance for FRAs from the LGA. The HO also set out a number of categories where Immediate Detriment guidance could not be applied, such as where members were taking contribution holidays, which was helpful to FRAs and administrators.

FRAs, therefore, had to determine whether to apply the HO guidance, and the criteria that would be applied.

17. NCC's approach to implementing the Home Office Immediate Detriment guidance

CG reported that the position at NCC/NFRS had been discussed by the CFO, Deputy Section 151 Officer and others. The decision was made on 14 July 2021, taking immediate effect, that NCC would apply HO guidance on Immediate Detriment for any eligible NCC FPS member who requested it.

A member would need to request payment under Immediate Detriment guidance and confirm, by signing a disclaimer, that he/she understood the risks and would pay back any overpayment, if required, when Remedy legislation was introduced and benefits recalculated.

The decision had been made by the Chief Fire Officer who had received legal advice and guidance from the LGA, in consultation with the S151 Officer. In the CFO's view, the risk to NFRS of implementing Immediate Detriment guidance was lower than the risk of not doing so. Clarification was provided on the small number of members likely to be processed under ID guidance.

The Board **noted** the decision taken to apply Immediate Detriment.

18. Scheme Manager's response to query raised by the Chair about the NCC's approach to implementing Immediate Detriment guidance

CG provided clarification in response to the emailed questions from the Chair to the Scheme Manager:

- The governance process for decision making was the same for all cases. It was expected that a small number of NCC's FPS members would be processed under the ID guidance.
- Legal advice had been provided by the LGA and the National Fire Chief's Council. NCC had not obtained separate additional advice.
- No option was without risk for NCC/NFRS. The risks had been assessed for NCC/NFRS and for FPS members eligible for retirement under ID guidance. The decision had been made by the CFO following discussions with CG, the HR department and the Deputy Section 151 Officer. The risk of implementing Immediate Detriment guidance was assessed as lower than the risk of not doing so.
- A senior NFRS officer with a conflict of interest had "stepped aside" to ensure he was not involved in NCC/NFRS's final decision.
- The LGA and HO guidance issued on 10 June 2021 was being followed.
- NCC/NFRS would continue to apply the taper.

The Chief Fire Officer thanked CG for preparing the paper to support the decision made and confirmed that although the formal decision had been made by himself in consultation with the Section 151 Officer, the issue had also been considered by NCC's Statutory Officers Group, which provided additional governance assurance.

Under the previous NFRS senior management structure, the officer disclosing a conflict of interest (reported at the previous Board meeting) had been the lead officer on pension matters. It was confirmed that he had now retired, with responsibility passing to the CFO. The decision regarding Immediate Detriment would be communicated to staff.

GT expressed his gratitude to officers for the implementation of Immediate Detriment at NCC/NFRS. The FBU was disappointed that a clearer position had not been set at a national level.

19. 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 19).

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

- April 2021 – assurance had been obtained that additional resources would be put in place by WYPF and NCC's Payroll to deal with likely data requirements of Remedy. This was described as ongoing, as continued monitoring was required.
 - HS had confirmed that final salary benefits would not be projected past 31 March 2022.
 - IDRPs data template had been completed (for NFRS) before 31 May 2021 deadline.
- May 2021 – Remedy self-assessment survey completed before 30 June 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):

(a) Breaches in the quarters to 30 June 2021

There were no new issues to report.

(b) Scheme administration, complaints, appeals, IDRPs in the quarter to 30 June 2021

CG reported that a Stage 2 IDRPs appeal had been received on 21 July 2021, which would be reported to the next quarterly meeting.

20. Future meeting dates

The Board was next due to meet on 19 October 2021.

21. Any other business

Clarification had been provided earlier in the meeting regarding the Matthews discrimination case involving retained firefighters. CG requested that GT keep a record of individuals asking the FBU about the latest position, as it was going to be difficult for NCC/NFRS to identify the firefighters in scope for the second options exercise, and FBU information could be helpful.

(The meeting ended at 11.17 a.m.)

CHAIR S Richards

DATE 4 October 2021