

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, 8 December 2021 at 10.00 a.m.

PRESENT

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

SCHEME MEMBER REPRESENTATIVE

Tiffin, G (GT)

EMPLOYER REPRESENTATIVES COUNCILLORS

Beynon, J (JB)

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

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

Ch.'s Initials.....

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. 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.

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 Thursday 22 July 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 back Councillor Malcolm Robinson and also Councillor John Beynon as a new Member of the Board. He referred members to the report on FPS Immediate Detriment developments which had been circulated electronically the previous evening and would be discussed under Any Other Business.

4. WYPF Business Continuity and COVID-19 Update

HS commented that the team was working well and there was nothing to report on business continuity. In answer to a question, she confirmed that staff were mainly working at home with the exception of those that wanted or needed to be in the office.

6. WYPF Report to NCC's FPS LPB on 19 October 2021 and the data improvement plan

HS highlighted the following:

- Fire Communications and Fire Technical Community meetings had been held in July and October with focus on the work required for Remedy. A letter to eligible members was expected to be issued in early January 2022.
- WYPF Update – recruitment to new roles created following an external review of the staffing structure that commenced 24 months previously was nearly completed.
- Monthly returns from NCC Payroll were being received with any issues now of a minor nature, e.g. missing start dates
- Annual Benefit Statements – 100% of statements had been produced for active and deferred members by 31 August deadline.
- Pension Savings Statements – 5 statements had been produced before 6 October deadline for individuals who had breached the annual allowance threshold.
- Data Improvement Plan – data scores were stable and the issue with RDS Modified members' start dates in the wrong field had been corrected.

In answer to questions, she confirmed that:

- It was expected that letters would be issued to members to check eligibility in at least 12 months' time, following the decision in the O'Brien case. The consultation and process required to draft and finalise regulations would take at least a year. CG requested GT (or FBU) keep a record of all members who enquire about O'Brien pension rights so that they can be contacted about eligibility in due course as identification of in-scope members would be difficult.
- 12 of WYPF's 23 clients had started making Immediate Detriment (ID) payments. 4 of the 12 had adopted the Framework although 1 had now suspended payments awaiting further advice from the LGA. WYPF had not received information from the remaining clients to indicate whether they would be adopting ID or the Framework.

GT reported that the FBU would take legal action against individual FRAs if the Framework was not adopted.

The CFO commented that it was a very difficult situation and not without risk whatever decision was taken.

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) August 2021
- b) September 2021

8. Main guidance for FPS administrators for measures introduced by Government to control the spread of COVID-19

CG reported that there had been no recent changes to the guidance with the majority of updates having 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). She reported that:

- (a) LGA FPS Regulations/ Guidance COVID-19 webpage - No new developments had been required in the last 12 months.
- (b) tPR COVID-19 scheme administration guidance – The tPR advice had now been archived.
- (c) PASA COVID-19 Guidance for Administrators - There had been no recent changes to the guidance.

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

The Board received a copy of the minutes of the WYPF Fire Clients meeting dated 21 July 2021.

The number of FPS clients had increased to 23. Concerns regarding staffing resource were being addressed and an update on recruitment had been given earlier in the meeting. Finding the right personnel was difficult due to the specialist knowledge required.

CG commented that attendance at the meetings was beneficial for discussions with other clients and to note different approaches of the FRAs. It was useful to discuss how others were dealing with Immediate Detriment. She reported that NCC FPS had not yet implemented the Framework.

10. FPS Conflicts of Interest Policy and individual declarations

The Board received an updated copy of the FPS Conflicts of Interest Policy (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 Conflicts of Interest Policy needed updating to ensure cross references were appropriate. The Policy had been in place since the FPS Local Pension Board had been formed in 2015.

She explained that conflicts were rare and that in a recent situation, an officer had removed himself from decision making on a particular matter.

All members were required to sign a declaration, even though it was anticipated that they would not have any conflicts.

Councillor Beynon confirmed that he recently returned his signed declaration.

11. Special Members of the Firefighters' Pension Scheme 2006 second options exercise

The Board received a copy of the LGA factsheet which explained the background to the introduction of special members of the Firefighters' Pension Scheme 2006 (copy enclosed with the minutes as agenda item no 11).

CG explained that provision was to be made for a second options exercise to determine eligibility of retained firefighters who had previously not been permitted to join the FPS. Following the decision of the Court of Justice of the European Union (CJEU) on the O'Brien case in respect of a part-time judge, provision was to be made to allow retained firefighters to buy back extra years pension for service earned prior to 1 July 2000.

The first options exercise had taken place in 2014 and 2015 where eligible firefighters had to elect to join the scheme before 30 September 2015.

The Matthews case found that part-time retained firefighters had been unlawfully discriminated against under the Regulations and the legislation subsequently introduced to remove the discrimination led to the first options exercise.

CG acknowledged that it would be a difficult exercise as the FRA would need to contact retained firefighters in service before July 2000 who were not FPS members as well as FPS members or their beneficiaries who had left, died and retired to ascertain their eligibility and enquire if they wished to buy back pension.

It was hoped that prior to the second options exercise, there would be a lot of national publicity to raise the prominence of the issue and assist the FRAs in making contact with the in-scope members (and non-members). Information would be gathered from as widely as possible and from all sources.

The CFO stated that given the scale of the exercise, he would put an item to the Executive Team to raise awareness of the issue and to obtain extra resource, when required.

12. NCC Payroll issues re Mr B, Mr C and Mr G's retirements in August 2020 and follow up

CG provided a brief history of the payroll issues which had been brought to the attention of the Chair and the action that had been taken to address the problems identified.

It was noted that training had been provided to the Payroll Team by WYPF in November 2020 and that additional resources had been allocated to strengthen the Team.

The Service Director – Finance had been closely monitoring the issues once these had been brought to her attention. She held monthly meetings to ensure necessary actions were progressed, such as the submission of monthly returns to WYPF. She had periodic catch-up meetings with CG and was aware of the implications of Remedy, Immediate Detriment, O'Brien etc.

The Board **noted** the update on the position and expressed their appreciation to the Service Director – Finance for the action taken to resolve the issues.

13. McCloud/Sargeant remedy: update

CG stated that an item to enable updates on Remedy were now included as a standing item at every meeting. She stated there had been no changes since the last meeting on 22 July 2021, a separate update on Immediate Detriment would be discussed in detail under Any Other Business.

In answer to questions, HS confirmed that Payroll were still waiting for the Template data collection spreadsheet. Payroll were currently working on a separate data gathering exercise which would be needed to assist WYPF in establishing all those who would be in scope. A decision would need to be made, by NCC, as to whether the extract was provided as soon as it was ready so that work could commence immediately to gather pay data for the period 2015-2021, with further data supplied for the 2021/22 financial year, or whether the information be provided in one submission with a slight delay as to when the work commenced. The issue would be referred to the Service Director – Finance for a decision as there would be resource implications and pros and cons to each method.

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 14).

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

- October 2021 – tPR's statutory Scheme Return was completed on 8 November 2021 by Tracy Weaver (WYPF).
- 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.

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 30 September 2021

There were no new issues to report.

(b) Scheme administration, complaints, appeals, IDRPCs in the quarter to 30 September 2021

CG reported that a Stage Two IDRPC appeal was ongoing. An anonymised report would be considered in due course to allow for the Board's review and assessment of any patterns.

16. Future meeting dates

The Board was next due to meet on 25 January 2022.

17. Any other business

FPS Immediate Detriment (ID) Developments

CG referred to the information circulated electronically the previous evening and provided a summary of the background and current position. Whilst the HO guidance on ID issued on 10 June 2021 had been formally implemented by NCC in July 2021, this had subsequently been withdrawn by the HO on 29 November 2021.

Prior to that date, the LGA and FBU had jointly issued a Memorandum of Understanding and Framework on 8 October 2021 which set out a mechanism for handling ID cases. Each FRA had been encouraged to adopt the Framework to provide a consistent approach to ID cases across the fire and rescue service. It introduced two categories, the first being active and deferred members and the second related to pensioners who had retired since 2015 on FPS 2015 scheme benefits, who wanted pension benefits paid from their legacy scheme.

CG explained the work required within tight timescales to implement the Framework. It had not yet been implemented by NCC, though work had been undertaken with the intention of doing so.

A policy note issued by HMRC on 27 October 2021 put work to adopt the Framework on hold. A statement jointly issued by the LGA/FBU asked FRAs to adopt the Framework despite the uncertainty caused by the HMRC policy note and impact on taxation and compensation. Work had been carried out to determine the number of category 1 and 2 cases at NCC and at that stage it

was considered that failure to implement the ID Framework outweighed the risks of implementation.

However, a note published by HM Treasury on 29 November 2021 set out that in their view, ID cases could not be processed before legislation was in place.

The LGA had sought legal advice from Bevan Brittan and this was expected in the next few days. CG stated that the balance of risks of implementing the ID Framework had changed following publication of the HMT note and the position would be reconsidered by the CFO when the legal advice was received.

The Chair welcomed the update and hoped that the position could be reviewed on receipt of the legal advice and a further review of the process by the Board be held at the next meeting on 25 January 2022.

In answer to a question from GT regarding cases at NCC, CG and the CFO confirmed that the LGA had been clear that MoU and Framework was either adopted in full or not at all. The ID cases identified at NCC could not be processed until a decision was made regarding adoption of the MoU and Framework.

GT and the FBU were thanked for their understanding of the situation which had become even more complicated in recent weeks. Ideally, all 46 FRAs should process ID cases in the same manner, however, the lack of coordination between Government departments was not helpful.

The Chair thanked everyone for their participation and wished everyone a Merry Christmas.

(The meeting ended at 11.18 a.m.)

CHAIR S Richards

DATE 11 January 2022