

# ROYAL BERKSHIRE FIRE AUTHORITY



<b>COMMITTEE</b>	<b>AUDIT AND GOVERNANCE COMMITTEE</b>
<b>DATE OF MEETING</b>	<b>19 JULY 2021</b>
<b>SUBJECT</b>	<b>LOCAL PENSIONS BOARD ANNUAL REPORT</b>
<b>LEAD OFFICER</b>	<b>LINCOLN BALL, CHAIR OF LOCAL PENSIONS BOARD</b>
<b>LEAD MEMBER</b>	<b>N/A</b>
<b>EXEMPT INFORMATION</b>	<b>NONE</b>
<b>ACTION</b>	<b>NOTE</b>

## 1. EXECUTIVE SUMMARY

- 1.1 This annual report updates the Audit and Governance Committee with:
- The 2020-21 pension schemes' administrator's performance figures;
  - The recent activities of the Local Pensions Board (for all firefighter pension schemes);
  - Relevant aspects of firefighters' pensions administration; and
  - An overview of current national issues.
- 1.2 The Local Pensions Board considers the performance of the local firefighter pensions' administrator as broadly to a good standard. There are a few areas where targets are not met with ongoing interaction to address this, although overall performance against targets is at 95.6%.
- 1.3 Complexity in relation to the administration of firefighters' pension schemes is increasing and this has a commensurate impact on the current risks.
- 1.4 National issues continue to dominate firefighters pensions and in particular:
- The mechanism to provide remedy for the age discrimination created by the introduction of the 2015 pension scheme. Amongst the issues are:
    - Long-term remedy with legislative amendments are awaited.
    - Short-term (immediate detriment) remedy where legal determinations have been made and some, but not comprehensive, guidance has been published by the Home Office.

## **2. RECOMMENDATION**

- 2.1 The Committee is recommended to **NOTE** the contents of the report.

## **3. REPORT**

### **Background**

- 3.1 The Public Service Pensions Act 2013 makes it a legal requirement to have a Local Pensions Board for the various public sector pensions.
- 3.2 Firefighter pensions in RBFRS are administered by a contractor, West Yorkshire Pension Fund, who work with team members in the RBFRS Human Resources department.
- 3.3 The Fire Authority itself is the Scheme Manager for the various Firefighter pension schemes and the local Pensions Board exists to assist the Fire Authority in its role as Scheme Manager.
- 3.4 The Board consists of four members: two management representatives (Lucy Greenway and Mark Arkwell) and two scheme member representatives (Lincoln Ball and Steve Collins). The Chairmanship of the Board rotates between the management and the member representatives. Currently Lincoln is the Chair and Lucy the vice-Chair.
- 3.5 Given the significant knowledge requirements, all members strive to provide a minimum four-year term.
- 3.6 Additionally, to retain knowledge and aid succession, the board members plan for the replacement of its members to be staggered rather than losing all or most of its members at the same time.
- 3.7 The Board reports to this Committee twice per year, one of which incorporates an April to March annual report. The last report to the Committee was on 28 January 2021 and incorporated a delayed 2019-2020 Annual Report. As such, and to get back into 'sync' with the annual cycle, this report incorporates the 2020-2021 Annual Report.

### **Local Pensions Board Activity**

- 3.8 The Board has formally met (remotely) on one occasion since 28 January 2021. At the board meetings reports are received from the responsible managers in the Human Resources department.
- 3.9 Between formal meetings the board members keep in contact as issues arise and where necessary will meet informally.
- 3.10 Since the last report to the Committee, the Pensions Board has not been made aware of any potential breaches that needed to be reported to the Pensions Regulator.
- 3.11 The Board has continued to scrutinise the performance of the Pensions Administrator. As West Yorkshire Pension Fund also provides services to other Fire and Rescue Services, the Board has been able to compare the level of service provided to RBFRS against that provided to other authorities.

- 3.12 The Board maintains a risk register which has recently been updated to align more closely with the primary purpose of the Board.
- 3.13 Members of the Board undertake a variety of activities including attending regional meetings, assisting with surveys and audits and undertaking development activities.
- 3.14 Members of the Board work closely with the managers in the Human Resources department and have assisted in the completion of surveys.

### Annual Report Information

- 3.15 The Annual Report covers the period 1 April 2020 – 31 Mar 2021.
- 3.16 The Board has maintained scrutiny in relation to the administrator's key performance indicators (KPIs).
- 3.17 Overall the administrators managed 418 activities and achieved their performance target on 400 of those occasions equating to an overall performance of achieving the performance target on 95.7% of occasions
- 3.18 These 418 activities for the period are summarised in the table below:

Activity	Target (days)	Sum of Cases	Average of %_Met
Age 55 Increase to Pension	Next payroll	10	100%
Change of Address	20	22	100%
Change of Bank Details	20	5	67%
Death in Retirement	5	13	100%
Deferred Benefits Into Payment of Lump Sum	3	4	100%
Deferred Benefits Set Up on Leaving	10	40	74%
DG Nomination Form Received	20	8	100%
Divorce Quote	40	1	100%
Divorce Settlement Pension sharing order implemented	80	2	100%
DWP Request For Information	10	1	0%
Enquiry	5	2	100%
General Payroll Changes	20	53	100%
Initial letter Death in Retirement	5	13	89%
Life Certificate received	5	8	100%
NI adjustment to Pension at State Retirement Age	20	9	100%
Payment of Spouses Child Benefits	10	6	100%
Pension Estimate	10	27	95%
Pension Saving Statement	20	1	100%
Pension Set Up Payment of Lump Sum	3	15	100%
Respond to ad hoc queries – IAS19 info	10	6	100%
Retirement Actual	10	15	100%
Set Up New Spouse Pension	5	6	70%
Spouse Potential	10	4	75%

Transfer In Quote	10	10	93%
Update Member Details	20	137	100%

Table 1: Pensions Administrator Performance 2020-21

3.19 When compared with the previous year's performance figures it is seen that the clear majority of performance is comparable to the previous year but that there is a trend of performance getting slower relative to the targets.

Variance from 2019-2020	Number of activities	Percentage variance
25-33% improvement	1	4%
0-5% improvement	1	4%
Same as 2019-20	17	65%
5-15% worse	2	8%
25-33% worse	3	11%
No comparison available	2	8%

Table 2: Variance in Pensions administrator Performance 2020-21 versus 2019-20

3.20 The reasons for KPIs periodically being below their target is addressed through contract meetings or sometimes the administrators will provide a reason in their monthly report to the service or quarterly bulletin to their clients. Broadly, things are tending to take longer as the issues are becoming more complicated given the current landscape. The Pensions Board is satisfied that adequate arrangements are in place to address administrative queries.

3.21 Membership of the various firefighter pension schemes has fluctuated during the year as many firefighters were transferred between schemes as part of the transition period resulting from the closure of the 1992 and 2006 pensions. The numbers also fluctuate as a result of retirements and recruitment.

Pension Scheme	Mar-21	Apr-20	Change
1992 – Active Members	15	24	-9
2006 – Active Members	2	1	+1
2006 – RDS Active Members	2	2	0
2015 – Active Members	388	399	-11
2015 – RDS Active Members	6	6	0

Table 3: Active members of the various firefighter pension schemes, March 2021 and April 2020

3.22 It should also be noted that the figures in the table above take account of what scheme the firefighters were paying into and have not taken full account of the impact of the age discrimination issue. At this stage it is thought that RBFRS will have 275 active members affected by remedy.

### Other Significant Issues

3.23 Significant national issues remain in relation to Firefighters Pensions.

- Remedy in relation to the age discrimination employment tribunal remains partially unresolved. Following the Employment Appeal Tribunal's determination the Fire Authority resolved on 17 February 2021

that all eligible firefighters who were members of the FPS 1992 or NFPS 2006 (their old schemes) are now deemed to be members of their old schemes, thus providing the opportunity for such individuals to make this election in relation to and retirement from this date. The lack of technical guidance in some aspects and especially in relation to applying HMRC-related matters, means some cases may not be able to be processed and will mean that every case will require recalculating when new legislation is passed.

- Remedy for firefighters already retired since between April 2015 and February 2021 and subject to the age discrimination issue is yet to be resolved and is currently the subject of a further national legal challenge.
- HM Government guidance on addressing immediate detriment has already changed once since February 2021 and this adds to the complexity. RBFRS has made adjustments to its processes as a result and the Board have reviewed the correspondence drafted for those members affected.
- HM Government is proposing new legislation which will come into force effective from 1 April 2022 although the administrative implementation of elements of that legislation may not be in place until October 2023.
- The Government Actuary's Department has indicated that the revaluation of the firefighters 2015 pension scheme which was paused in January 2019 will now go ahead with the intention of incorporating the costs incurred in remedying the 1992 pension scheme age discrimination case into the revaluation. However, this is also, reportedly the subject of a legal challenge.
- Guidance on the O'Brien/Matthews case and how retained duty system staff should be treated is still awaited. RBFRS continue to prepare for action associated with this case and the Board will seek to understand the actions required and taken by the Service as more information becomes available.

3.24 RBFRS like many fire and rescue services RBFRS has been reviewing and taking action to address the two pension arrangements and how this should be applied to retrospective cases for retirees. The two pension or split pension arrangement provides for retirees in the Firefighters' Pension Scheme (FPS) 1992 and the FPS 2006 between the periods from 1 April 2007 to 1 July 2013. A split pension occurs when there is a drop in pay; due to drop in salary, pensionable allowances, or temporary promotion. The Board has considered the action taken by the Service to be appropriate.

#### **4. CONTRIBUTION TO STRATEGIC COMMITMENTS**

4.1 Commitment 5 – We will ensure that Royal Berkshire Fire and Rescue Service provides good value for money.

## **5. FINANCIAL IMPLICATIONS**

5.1 The Fire Authority currently makes an allowance of £104 per meeting available to each Pensions Board member. However, not all board members currently choose to receive this allowance.

5.2 The Terms of Reference provide for:

- All reasonable expenses incurred by board members to be reimbursed upon production of a valid expenses claim.
- Adequate resources for the board to fulfil its role including the provision of legal advice and training. The board will seek approval from the HHR&LD for such expenditure.

## **6. LEGAL IMPLICATIONS**

6.1 The provision of the Local Pensions Board is a requirement of the Public Service Pensions Act 2013.

6.2 The Court of Appeal judged in December 2018 that the way in which the transitional provisions of the 2015 pension scheme were implemented amounted to unlawful age discrimination and this has led to the relevant sections of the legislation being overridden by that legal judgement which was clarified by a further judgement made by the Employment Appeal Tribunal on 12 February 2021.

6.3 As stated above at 3.22, guidance is still awaited on how to progress matters arising from the O'Brien/Matthews legal case.

## **7. EQUALITY AND DIVERSITY IMPLICATIONS**

7.1 The public sector equality duty requires public bodies to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.

7.2 The current national issues in relation to firefighter pensions relate directly to age discrimination and the Equality Act 2010 and as such Royal Berkshire Fire Authority's actions and procedures to address these matters also directly relate to being assured that the law is applied.

7.3 To reduce the risk of discrimination, the resolution made by the Fire Authority at its meeting of 17 February 2021 gave effect to the Employment Appeal Tribunal judgement for individuals who meet the eligibility criteria regardless of whether they are a claimant or non-claimant.

7.4 There are no additional equality and diversity implications in relation to this report

## **8. RISK IMPLICATIONS**

- 8.1 If there is a failure to comply with the requirements of The Public Service Pensions Act 2013 and related regulations which may become increasingly likely given the legal determinations, current guidance and complexity with relation to the pension schemes then we can expect that there will be an increase in reports of potential breaches of the legislation, administrative errors, complaints and further legal proceedings leading to reputational and financial loss which are significant given the Fire Authority's strategic commitments.
- 8.2 If local pension board members, who are lay members, possess insufficient knowledge of the various firefighter pensions issues, which is possible given the complexity of the firefighters pensions legislation and guidance, then we can expect that the oversight and assurance provided to the Fire Authority will be negatively affected which is significant given this is a legal requirement of the Public Sector Pensions Act 2013.
- 8.3 RBFRS conducts an annual audit of pension administrator activities, the audit outcomes are reported to Audit and Governance Committee, with the last audit outcome categorised as substantial assurance.

## **9. CONSISTENCY WITH DUTY TO COLLABORATE**

- 9.1 The legislation enables the establishment of joint boards with others. This is not a matter being pursued currently within Royal Berkshire Fire and Rescue Service.

## **10. PRINCIPAL CONSULTATION**

- 10.1 The Chief Fire Officer has been consulted on the contents of this report.
- 10.2 The Chief Finance Officer has been consulted on the contents of this report.
- 10.3 The Monitoring Officer has been consulted and on the contents of this report.

## **11. BACKGROUND PAPERS**

- 11.1 None

## **12. APPENDICES**

- 12.1 None

## **13. CONTACT DETAILS**

- 13.1 Lincoln Ball, RBFRS Pensions Board Chair, 07768 034 856