

# ROYAL BERKSHIRE FIRE AUTHORITY REPORT



<b>COMMITTEE</b>	<b>AUDIT AND GOVERNANCE COMMITTEE</b>
<b>DATE OF MEETING</b>	<b>24 JANUARY 2022</b>
<b>SUBJECT</b>	<b>LOCAL PENSIONS BOARD SIX-MONTHLY 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 six-monthly report updates the Audit and Governance Committee with respect to the activities of the Local Pensions Board.
- 1.2 The Local Pensions Board has continued its work meeting twice since last reporting to the Audit and Governance Committee in July 2021
- 1.3 It is evident to the Local Pensions Board that the complexity and resource demand in administering firefighter pensions has increased over the last six months.
- 1.4 Overall, within the context of a very challenging pensions' environment and the results of the most recent internal audit available, the Local Pensions Board considers that the administration of the firefighter pension schemes is compliant with the guidance and to a good standard.

## 2. RECOMMENDATION

That Audit and Governance Committee:

- 2.1 **NOTE** the contents of this report; and
- 2.2 **NOTE** likely future changes in the composition of the Local Pensions Board as identified in paragraphs 3.5 to 3.8.

### **3. REPORT**

#### **Background**

- 3.1 Royal Berkshire Fire Authority is the overall Scheme Manager for the various firefighter pension schemes and the Local Pensions Board exists to assist the Fire Authority in relation to assuring compliance with the legislation and guidance with respect to the pension schemes.
- 3.2 The Local Pensions Board has a Terms of Reference detailing the composition of the board, governance arrangements and responsibilities of the board members. The Board also maintains a code of conduct, a risk register, an actions and decisions log and a performance monitoring system.
- 3.3 Whilst RBFRS has staff within the Human Resources department who devote considerable proportions of their working time to pension matters, the service has also contracted administration to West Yorkshire Pension Fund, an enterprise which administers firefighters' pensions for approximately 45% of the English fire and rescue services.

#### **Local Pensions Board Membership**

- 3.4 The Board consists of four members –two management representatives (Mark Arkwell and Lucy Greenway) and two scheme member representatives (Lincoln Ball and Steve Collins). Chairing the Board rotates between the management and the member representatives. Currently Lincoln is the Chair and Lucy the vice-Chair.
- 3.5 The Chair of the Local Pensions Board, Lincoln Ball, will be retiring from the Fire and Rescue Service at the end of February 2022 and has indicated a willingness to maintain a role within the Local Pensions Board following his retirement.
- 3.6 The Terms of Reference for the Board cite two conditions for a 'member' representative of the Board:
- i. They need to be members of an RBFA Scheme. A retired firefighter is a 'beneficiary' member as opposed to an 'active' member if still employed; or have experience of representing pension scheme members in a similar capacity.
  - ii. They should be able to demonstrate their capacity to attend meetings, prepare and train.
- 3.7 The Terms of Reference also cites that up to three other members may be appointed to the Board either by the Fire Authority or by the Board itself.

- 3.8 As such, the Board considers that it would be acceptable for a retired firefighter to hold a position on the Local Pensions Board.

### **Local Pensions Board Activity**

- 3.9 The Board has met formally on two occasions since the last report to the Audit and Governance Committee (19 July 2021) and on each occasion has received an update on activities and current issues from the responsible managers from the Human Resources department.
- 3.10 The Pensions Board has been made aware of one breach of the pensions' regulations since the last report to the Audit and Governance Committee. This breach involved a single case of a firefighter not being notified that they had been auto-enrolled into the 2015 Firefighters' Pension Scheme. This breach has been properly reported to The Pensions Regulator. The underlying administrative issue has been resolved and in the absence of any feedback to the contrary, this matter is not being treated as materially significant.
- 3.11 Pension Board members also scrutinise the monthly reports sent by the administrators.
- 3.12 The Board Members also keep up to date with the broader pensions environment through reading the regular bulletins and factsheets produced by the LGA.
- 3.13 The Pensions Board has recently assisted the service with a review of the Firefighter's Pension Scheme discretions that will bring the pension scheme discretions of all firefighter pension schemes into a single document. The recommendations from this exercise will be brought to the Fire Authority in its role as the Scheme Manager.
- 3.14 The Pensions Board has continued to scrutinise the performance of the Pensions Administrator (West Yorkshire Pensions Fund) and a representative of the Board is always invited to and regularly attends formal or informal contract meetings between RBFPS and the administrator. It seems clear that the workloads of the administrators are relatively intense and in turn present an increased degree of administrative risk.

### **Other Significant Issues**

- 3.15 Addressing the age discrimination elements of the transitional provisions of the 2015 Firefighters' Pension Scheme remains an area of significant activity and ongoing complexity. 1 April 2022 is set to be the date where new legislation comes into force and all active members are transferred to the 2015 Firefighters' Pension Scheme. However, as that date has got closer the administrative complexities have intensified.

- 3.16 Home Office guidance had been in place about how to deal with immediate detriment cases, i.e. people about to retire or retired since 2015 as 2015 scheme members. A national agreement was reached between the LGA and FBU on the protocols that would be followed with union assurances that it would not support future legal challenges where the protocol had been followed. However, the Home Office subsequently withdrew its guidance in late November 2021. This has left Fire Authorities with additional financial risks of compensation payments not being funded by HM Government for any cases addressed before 1 April 2022 and litigation risks from scheme members supported by their representative body if immediate detriment cases are not addressed before 1 April 2022.
- 3.17 Royal Berkshire Fire Authority determined on 7 December 2021 that it should continue to support immediate detriment cases for active scheme members retiring before 1 April 2022 with a decision to extend this to firefighters already retired pending whilst further clarification and understanding is sought.
- 3.18 There is also a current legal challenge to HM Government from a number of public sector trade unions in relation to the Government's intention to incorporate the costs of remedying the age discrimination into the cost control mechanism of the various public sector pension schemes. As background, the cost control mechanism for the 2015 firefighters' pension scheme has a cost cap of 16.8% of pensionable earnings of members of this scheme. Broadly if the sustained costs of the scheme go more than two percentage points above the cap, known as the ceiling, the contribution rates from scheme members would need to go up. If the costs fall more than two per cent below the cap, known as the floor, then the annual accrual rates would go up. In the last valuation in 2016 it was found that the valuation costs had fallen below the floor to 11.8%. As a result the Scheme Advisory Board recommended that scheme benefits should be improved from an annual accrual rate of 1/59.7 to 1/51.2. The process was then put on hold pending the outcome of the age discrimination remedy.

#### **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 provides 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 Should the Pensions Board require additional expenditure such as attendance to conferences or delivery of training, the board will seek approval from the Head of HR&L&D.

## **6. LEGAL IMPLICATIONS**

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

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

- 7.1 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.
- 7.2 To reduce the risk of discrimination, the resolutions made by the Fire Authority at its meetings of 17 February and 7 December 2021 gave effect to the Employment Appeal Tribunal judgment for individuals who meet the eligibility criteria.

## **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 The outcomes of the 2021 RBFPS internal audit of pensions' administration are being reported separately to the Audit and Governance Committee. The previous internal audit reported in January 2021 cited 'substantial assurance' that robust systems are in place for pensions' administration and are being followed.

**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.