

ROYAL BERKSHIRE FIRE AUTHORITY REPORT



COMMITTEE	AUDIT AND GOVERNANCE COMMITTEE
DATE OF MEETING	23 JANUARY 2023
SUBJECT	LOCAL PENSION BOARD UPDATE
LEAD OFFICER	LUCY GREENWAY, SENIOR HR ADVISER
LEAD MEMBER	NONE
EXEMPT INFORMATION	NONE
ACTION	DECISION

1. EXECUTIVE SUMMARY

- 1.1 The Local Pensions Board is seeking Audit and Governance Committee agreement to a proposed update to its Terms of Reference document. The update better aligns the Terms of Reference to the legislation.
- 1.2 Further to the 28 July 2022 Audit and Governance Committee, the Pensions Board has considered its current size and made an assessment as to whether increasing the size of the Board would help improve the quoracy of meetings. The Board is unanimous in the view that improved attendance at meetings is better achieved through management and self-discipline than it would be by increasing the size of the board.
- 1.3 The Board has continued its monitoring of the provision of the Firefighters Pension Scheme and report that there are no significant concerns with how the scheme is administered within a complex operating environment.

2. RECOMMENDATION

That Audit and Governance Committee:

- 2.1 **APPROVE** (Appendix A) revised Terms of Reference for the Local Pensions Board.
- 2.2 **NOTE** the Local Pensions Board's view on the size of the Local Pensions Board and **APPROVE** the size of the board going forward to be set at four members.
- 2.3 **NOTE** the Local Pensions Board's six-monthly update.

3. REPORT

Terms of Reference

- 3.1 The Local Pensions Board works to a Terms of Reference agreed in 2015.
- 3.2 The Terms of Reference has recently been reviewed by the Board and a draft updated version is attached in Appendix A. The proposed amendments are highlighted in yellow.
- 3.3 In the main, the proposed amendments better align the Terms of Reference to the four items of legislation that Local Pensions Boards operate within.
- 3.4 In a bit more detail, the main changes of the updated draft are:
- i. Sections 3.2 and 3.7. The draft supports any future change in the composition of the Board by stipulating that the number of board members are a minimum.
 - ii. Section 3.13. The introduction of observers to Board meetings to help support succession planning and transparency.
 - iii. Section 3.15. In order to align with the legislation, making it unambiguous that termination of membership of the Board is the responsibility of the Scheme Manager.
 - iv. Sections 3.15.6 and 7. The introduction of two further reasons for termination of membership that align with the legislation.
 - v. Section 5.6. Providing clarity, aligning with the legislation, that only member and employer representatives are permitted to vote.
 - vi. Section 6.1. Linking the Board's reporting line to the Audit and Governance Committee
 - vii. Section 6.2. Stipulating the minimum reporting intervals from the Board to the Audit and Governance Committee. This section pre-empts the Fire Authority's decision in this area and will need to change should the Fire Authority's decision be otherwise.
 - viii. Section 6.4. Detail of the records kept by the Board. Most of these are required by the legislation.
 - ix. Section 6.5. Detail of the Board information that is made public.
 - x. Sections 6.6 and 7. Details of what must be recorded in terms of meetings and decisions made.

Size of the Local Pensions Board

- 3.5 At the 28 July 2022 Audit and Governance Committee there was discussion about the issue of attendance levels at the Local Pensions Board given a number of meetings in the previous period had been inquorate.
- 3.6 This issue was discussed at the Local Pensions Board on 25 November 2022. There are a number of factors to consider should the size of the Board be increased, including finding the employer reps, the ease of finding calendar space for an increased number of members and the time lost to knowledge acquisition and maintenance versus the potential benefits of a lower quorum ratio.
- 3.7 The Board agreed unanimously that increasing the size of the Board would not likely improve the goal of improving attendance levels.

3.8 The Board has instigated a few measures since July 2022 to help facilitate good attendance levels and both meetings held since July 2022 have been quorate whilst the four meetings planned for 2023 are currently forecasted to be quorate.

Six-Monthly Report

3.9 The Board consists of four members – two employer 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.

3.10 The board has met on two occasions since 28 July 2022.

3.11 At the Board meetings updates are received from the Human Resources department which, in part, administers the scheme.

3.12 The bulk of the administration of the scheme is undertaken by contractor West Yorkshire Pension Fund and their representative attended the 7 September 2022 Board meeting.

3.13 The Local Pensions Board continues to monitor the performance of West Yorkshire Pension Fund. Over the five months of monitoring since the last report to the Committee, West Yorkshire Pension Fund has met its targets on 86% of cases. Drilling into the figures in the table below, the 54% attainment in relation to Deferred Benefits Set Up on Leaving is less worrying to the Board given the setting up of these benefits are for realization years or decades into the future so a few days of delay is not seen as materially significant. Potentially of more concern is the 67% attainment of Pension Estimates meaning six of the eighteen people asking for a pension estimate in the five-month period waited more than ten days to receive it. WYPF informs us that this missed target is as a result of an increase nationally of people requesting pensions estimates given the changes to the pension schemes.

Key Performance Indicator	Cases	Average
Age 55 Increase to Pension	1	100%
Change of Address	6	100%
Change of Bank Details	3	100%
Death in Retirement	6	100%
Deferred Benefits Into Payment of Lump Sum	2	100%
Deferred Benefits Set Up on Leaving	15	54%
General Payroll Changes	14	100%
Initial letter Death in Retirement	6	83%
Pension Estimate	18	67%
Retirement Actual	3	100%

Set Up New Spouse Pension	3	100%
Spouse Potential	1	0%
Update Member Details	27	100%
Grand Total	105	86%

Table 1 WYPF Performance Jun-Oct 2022

- 3.14 Given the current risks and issues reported to the Audit and Governance Committees on 28 July 2022, the Board has focused on mechanisms for addressing these including planning meetings on an annual basis and more visible oversight of Board member's learning activities. Additionally, the Board is exploring attending Human Resources meetings as a means to improve knowledge acquisition.
- 3.15 Since 28 July 2022, the Board has not been notified of any reported or potential breaches of the legislation. Potential breaches of the legislation that are likely to be of material significance are legally required to be reported to The Pensions Regulator.
- 3.16 The Board has also maintained its monitoring of the monthly Local Government Association Fire Pensions' Bulletin and scrutinized the resultant actions required of the Service.
- 3.17 At its 25 November 2022 meeting the Board agreed a plan moving forward that included:
- i. Methods to lower the risks associated with the attainment of knowledge
 - ii. Commitment to maximizing attendance at Board meetings
 - iii. Reviewing how the board publishes its activities, membership and documents within the legislation.
 - iv. Bringing together all the Board's datasets to support easier monitoring and management.
- 3.18 Notwithstanding the complexity and workload of the current pensions' environment, the Local Pensions Board has no significant concerns relating to the provision and administration of the Firefighters Pension Scheme and continues with its role of assisting the Authority in securing compliance with the various pensions' legislation.
- 3.19 The Board has also sensed that whilst there is still a complex period of administration ahead as legislation is introduced to correct age discrimination and part-time worker issues, there is a little light at the end of the tunnel and the beginnings of seeing what steady-state will look like in a few years.

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 Local Pensions Board member. However, not all board members currently choose to receive this allowance.
- 5.2 The current Terms of Reference provide for:
- i. All reasonable expenses incurred by board members to be reimbursed upon production of a valid expenses claim.
 - ii. 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 sections 5 & 6 of the Public Service Pensions Act 2013.
- 6.2 The operation of the Local Pensions Board is also governed by:
- iii. The Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 (regulations 4A to 4D),
 - iv. The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 (regulation 6)
 - v. The Pensions Act 2004 (section 248A)
- 6.3 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.

7. EQUALITY DIVERSITY AND INCLUSION 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 resolutions made by the Fire Authority at its meetings of 17 February 2021, 7 December 2021 (Management Committee) and 28 April 2022 gave effect to the Employment Appeal Tribunal judgement for individuals about to retire who meet the eligibility criteria regardless of whether they are a claimant or non-claimant. Currently in RBFPS this applies only to pension scheme members who have retired since February 2021 with members retiring on the 2015 scheme before that (back to 1 April 2015) yet to have their cases resolved.
- 7.4 There are no additional equality and diversity implications considered 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 (as amended), The Firefighters' Pension Scheme (England) Regulations 2022 (as amended) 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 Board maintains a risk register which is reviewed regularly. The five main identified risks are related to: oversight, performance monitoring, knowledge, loss of knowledge and conflicts of interest. All risks are managed and are being monitored with only one risk (knowledge) needing more treatment.

9. CONSISTENCY WITH DUTY TO COLLABORATE

- 9.1 The legislation enables the establishment of joint boards with others. This was discussed briefly at the last Local Pensions Board meeting on 25 November 2022.
- 9.2 Currently the provision of a joint board is not a matter being pursued within Royal Berkshire Fire and Rescue Service.
- 9.3 Locally, especially given a shared administration provider, there is a potential for a joint Local Pensions Board with Buckinghamshire and Milton Keynes Fire Authority.

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 Appendix 1. Draft Revised Local Pensions Board Terms of Reference

13. CONTACT DETAILS

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