

ROYAL BERKSHIRE FIRE AUTHORITY REPORT



COMMITTEE	AUDIT AND GOVERNANCE COMMITTEE
DATE OF MEETING	24 JULY 2023
SUBJECT	LOCAL PENSIONS BOARD – ANNUAL REPORT
LEAD OFFICER	LINCOLN BALL, CHAIR OF LOCAL PENSIONS BOARD
LEAD MEMBER	N/A
EXEMPT INFORMATION	NONE
ACTION	NOTE

1. EXECUTIVE SUMMARY

- 1.1. This annual report updates the Audit and Governance Committee with:
 - The scheme administrator's performance figures for 2022-23;
 - The recent activities of the Local Pensions Board (for the firefighter pension schemes); 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 90.2% (down from 94.7% in statistics year 2021-22)
- 1.3. Complexity remains in relation to the administration of firefighters' pension schemes and this has a commensurate impact on the Scheme Manager's current risks. However, the beginnings of a steady-state pensions' environment are emerging.
- 1.4. The two main national issues are:
 - Legislation to remedy for the age discrimination created by the introduction of the 2015 pension scheme is set to be in place by 1 October 2023, although Royal Berkshire has been providing 'immediate detriment' pensions to new retirees since 2021.
 - Exercises to address the backdating of and providing access to a pension scheme for previously employed retained / on call firefighters as a result of tribunal decision are ongoing and detailed.

2. RECOMMENDATION

- 2.1. The committee is invited to **NOTE** the contents of this report.

3. REPORT

Background

- 3.1. In the aftermath of several pension fund scandals in the 1980s, notably at Mirror Group Newspapers, pensions' legislation in the UK was changed to improve transparency, widen governance and enhance oversight. One of the notable changes was the introduction of Pension Boards.
- 3.2. The Royal Berkshire Fire Authority's Local Pensions Board is established under the Public Service Pensions Act 2013 and it exists to assist the Scheme Manager in assuring that there is compliance with the scheme rules.
- 3.3. 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 can rotate between the management and the member representatives although the Board agreed in May 2023 for Lincoln to remain as the Chair and Lucy the vice-Chair until 2024.
- 3.4. Given the knowledge requirements, all members strive to provide a minimum four-year term.
- 3.5. Additionally, to retain knowledge and aid succession, the Board plans for the replacement of its members to be staggered rather than losing all or most of its members at the same time.

Local Pensions Board Activity

- 3.6. The Board has met on four occasions since last year's Annual Report with all meetings being quorate. Also attending Board meetings are representatives from the Human Resources department and the Chief Fire Officer as the named Scheme Manager. An invite is also offered, periodically, to a representative from West Yorkshire Pensions Fund, the scheme administrators for Royal Berkshire.
- 3.7. Board members keep in touch between meetings as and when needed.
- 3.8. The Board monitors all its activities and the key performance indicators and consolidates them into a Pensions Board Dashboard to assist with currency and oversight.
- 3.9. Over the last twelve months all the Board's documents have been updated including the Terms of Reference, the Code of Conduct and Conflicts of Interest Policy and the role description for Board members.
- 3.10. The Board has reviewed its risk register and made minor amendments but overall risks have slightly reduced over the period as confidence is growing in the knowledge levels of the Board members.
- 3.11. Board members keep up to date with fire pensions bulletins issued monthly by the Local Government Association and develop their knowledge through the Pension Regulator's education toolkit for public sector pensions.
- 3.12. The Chair attended the annual Fire and Police Pensions Conference.

- 3.13. The Chair meets with members of the Human Resources department periodically to track progress against planned activities.
- 3.14. The Chair is also invited to contract meetings between the Human Resources department and West Yorkshire Pension Fund and attends these meetings periodically.
- 3.15. Members of the Board assist the service in completing surveys, assisting with audits and working on new activities such as the recent amendments to the discretionary powers that the Scheme Manager has responsibility for.
- 3.16. At each Board meeting the Board scrutinises the performance of the Scheme Administrator and where necessary discuss matters with the Human Resources officers for observations or questions to be raised at contract meetings.

Annual Report Information

- 3.17. The Annual Report covers the period 1 April 2022 – 31 Mar 2023.
- 3.18. The Board has maintained scrutiny in relation to the administrator's key performance indicators (KPIs).
- 3.19. The following table identifies the broad performance of the Scheme Administrators compared with the previous two years:

Area	2022-23	2021-22	2020-21
Discrete Activities	296	286	418
Performance Target met	90.2%	94.6%	95.7%

Table 1 Comparison of Pension Administrator's Broad Performance 2020-2023

- 3.20. Drilling into the types of activities undertaken by the administrators, these are summarised in the table below:

Activity	No of cases	Target met as %	Target % compared with 2021-22
Age 55 Increase to Pension	4	100%	+2%
Change of Address	13	100%	Same
Change of Bank Details	11	100%	+4%
Death in Retirement	14	78.57%	-4.5%
Deferred Benefits Into Payment of Lump Sum	8	100%	Same
Deferred Benefits Set Up on Leaving	45	73.33%	+7.3%
Divorce Quote	1	100%	N/A
General Payroll Changes	51	100%	Same
Initial letter Death in Retirement	14	92.86%	-7.1%
Pension Estimate	45	88.89%	-8.1%
Retirement Actual	15	100%	Same

Set Up New Spouse Pension	10	100%	Same
Spouse Potential	4	25.00%	-8%
Transfer In Quote	1	100%	Same
Update Member Details	52	92.31%	-7.7%
Dependant Pension To Set Up	5	100%	N/A
Deferred Benefits Into Payment Quote	3	66.67%	N/A

Table 2 Pension Administrator's Performance 2022-23

3.21. Administrator's performance is a key standing item in the quarterly contract meetings where narrative is provided on areas where the performance targets are not met and a focus placed on performance areas where any delays could be materially significant, for example resolving pension issues upon a bereavement. Broadly, the administrator's explanations for performance targets being missed is the complexity of issues in some cases and delays in getting information back from people such as receiving paperwork after a bereavement.

Other Significant Issues

3.22. Age discrimination remedy.

- Although there is much work to be completed, there are the beginnings of clarity for a steady-state firefighters' pensions' environment.
- HM Government consultation on the remediable service legislation was completed in May 2023 and, notwithstanding Royal Berkshire is already paying out pensions based on immediate detriment, it is expected that remedy legislation will be in place in October 2023.
- HM Government won a court case relating to how the additional costs for age discrimination remedy would be funded meaning the remedy will be funded from within the costs of the existing public sector schemes.

3.23. In relation to on-call firefighter pensions, after losing a legal case, HM Government has consulted on a mechanism to backdate on-call firefighters' pension entitlements to before 2000. The mechanism will also mean that firefighters who did not previously join the pension scheme will be offered the opportunity again. This exercise will involve significant activity as paper-based pay record archives back to the 1970s will need to be looked at.

3.24. The past year has seen some changes in relation to scheme costs and the prospect of continuing rising pension costs has increased.

- After a review, HM Government has decided to maintain its approach to the cost caps on public sector pensions. The mechanism used brings together a number of sometimes contradictory elements to firstly ensure that the cost caps are not breached so as to protect the taxpayer and secondly to ensure that the growth rates of the unfunded public sector pension schemes are in line with the market-environment sensitivities of the private sector pension schemes.
- As a result of these exercises in 2022 and 2023, scheme costs will go up. This is reported separately to the Fire Authority by Head of Finance and Procurement. For 2023-24 the additional costs have been covered by a

government grant and there is a contingency in the RBFA Reserves Policy to cover any loss of this grant funding at least for the short term.

4. CONTRIBUTION TO STRATEGIC COMMITMENTS

- 4.1. Given the costs of the firefighter pension schemes there is a link to commitment 5, Sustainability. We will ensure that we provide a financially sustainable and environmentally friendly service to our communities.

5. FINANCIAL IMPLICATIONS

- 5.1. The Fire Authority currently makes an allowance of £117 per meeting available to each Local 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 Head of Human Resources and Learning and Development (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:
- i. The Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 (regulations 4A to 4D),
 - ii. The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 (regulation 6)
 - iii. 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 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 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 RBFRS 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

- 9.1. 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.
- 9.2. 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.
- 9.3. 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.

10. CONSISTENCY WITH DUTY TO COLLABORATE

- 10.1. 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.
- 10.2. Currently the provision of a joint board is not a matter being pursued within Royal Berkshire Fire and Rescue Service.
- 10.3. Locally, especially given a shared administration provider, there is a potential for a joint Local Pensions Board with Buckinghamshire and Milton Keynes Fire Authority.

11. 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.

12. BACKGROUND PAPERS

- 12.1. None.

13. APPENDICES

13.1. None.

14. CONTACT DETAILS

14.1. Lincoln Ball, RBFRS Pensions Board Chair, 07541 263386,
lincoln_ball@live.co.uk