

ROYAL BERKSHIRE FIRE AUTHORITY REPORT



COMMITTEE	AUDIT AND GOVERNANCE COMMITTEE
DATE OF MEETING	16 JULY 2024
SUBJECT	LOCAL PENSIONS BOARD – ANNUAL REPORT
LEAD OFFICER	JIM POWELL, AREA MANAGER
LEAD MEMBER	N/A
EXEMPT INFORMATION	NONE
ACTION	DECISION

1. EXECUTIVE SUMMARY

1.1. This annual report updates the Audit and Governance Committee with:

- The scheme administrator's performance figures for 2023-24;
- 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 93.33% (up from 90.2% in statistics year 2022-23).

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. Whilst the beginnings of a steady-state pensions' environment are evident the schemes administrators and the service's in-house team have significant challenges to address the mandated legal remedies in two areas.

1.4. The main national issues are:

- The volume and complexity of work required to address the age discrimination remedy for wholetime firefighters, a number of which have already retired.

- The complexity of the work required to address the part-time workers discrimination for on-call firefighters.
- Compounding these factors has been the changing national guidance and amendments to official online calculators that has had a significant impact, on occasion, whereby several days' worth of calculations has had to be repeated.

2. RECOMMENDATION

That Audit and Governance Committee:

- 2.1. **NOTE** the contents of this report.
- 2.2. **APPROVE** the appointment of Jim Powell as Pension Board Chair.

3. REPORT

Background

- 3.1. 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.
- 3.2. The Board exists to enhance transparency, widen governance and enhance oversight of the firefighters' pension schemes.
- 3.3. The Board consists of four members: two management representatives (Jim Powell and Lucy Greenway) and two scheme member representatives (Lincoln Ball and Steve Collins). The Chairmanship of the Board rotates between the management and the member representatives. During the status year 2023-2024 Lincoln Ball was the Chair and Lucy Greenway the vice-Chair.
- 3.4. Jim Powell joined the board in September 2023 replacing Mark Arkwell as a management representative.
- 3.5. By agreement of the Board the chairmanship rotated on 1 April 2024 and Jim Powell is the current Chair with Lincoln Ball as vice-Chair.
- 3.6. Given the knowledge requirements, all members strive to provide a minimum four-year term.
- 3.7. 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

- 3.8. 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.

- 3.9. Board members keep in touch between meetings as and when needed.
- 3.10. 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.
- 3.11. With the agreement of the Scheme Manager the board has further updated it's Terms of Reference in the last twelve months.
- 3.12. The Board has also further developed its skills and knowledge acquisition and maintenance procedures and resources since the 2023 Annual Report.
- 3.13. Additionally, the Board has consolidated it's monitoring and recording processes by bringing them into the Service's Microsoft SharePoint system.
- 3.14. The board maintains a risk register with six risks including an additional risk of 'Individual Capacity' added in the last twelve months. Overall, the risk scores have been reducing slightly as the Board considers that its risks are being addressed.
- 3.15. 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.
- 3.16. The Chair attended the annual Fire and Police Pensions Conference and was joined by a colleague from the Human Resources team.
- 3.17. The Chair meets with members of the Human Resources department periodically to track progress against planned activities.
- 3.18. The Chair and Board members are also invited to contract meetings between the Human Resources department and West Yorkshire Pension Fund and attends these meeting periodically.
- 3.19. 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.
- 3.20. 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

- 3.21. The Annual Report covers the period 1 April 2023 – 31 Mar 2024.
- 3.22. The Board has maintained scrutiny in relation to the administrator's key performance indicators (KPIs).

3.23. The following table identifies the broad performance of the Scheme Administrators compared with the previous two years:

Area	2023-24	2022-23	2021-22	2020-21
Discrete Activities	285	296	286	418
Performance Target met	93.33%	90.2%	94.6%	95.7%

Table 1 Comparison of Pension Administrator's Broad Performance 2020-2024

3.24. 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 2022-23
Age 55 Increase to Pension	8	100%	Same
Change of Address	16	100%	Same
Change of Bank Details	12	100%	Same
Death in Retirement	16	50%	- 39%
Deferred Benefits Into Payment of Lump Sum	5	100%	Same
Deferred Benefits Set Up on Leaving	18	83.33%	+ 10%
Implement Divorce Settlement Pension sharing	1	100%	N/A
DWP Request For Information	1	100%	N/A
General Payroll Changes	57	100%	Same
Initial letter Death in Retirement	35	100%	+ 7%
Pension Estimate	22	81.82%	- 7%

Retirement Actual	9	100%	Same
Set Up New Spouse Pension	6	83.33%	-17%
Transfer In Quote	8	100%	Same
Update Member Details	63	96.83%	+4.5%
Dependant Pension To Set Up	6	100%	Same
Deferred Benefits Into Payment Quote	2	50%	-17%

Table 2 Pension Administrator's Performance 2023-24

- 3.25. In narrative of the above tables, there is seemingly a disconnect between the overall performance against the targets improving (i.e. table 1) and a number of the activities having a performance level significantly below that of the previous twelve months (i.e. table 2). Whilst this can potentially be explained by the discrete number of cases involved against the relative activities, the Board also senses that the Administrators are also experiencing increased workloads due to the discrimination remedy activity being experienced by everyone in the sector.
- 3.26. 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

- 3.27. A steady-state firefighters' pensions environment is clearly emerging with all serving firefighters now in the same pension scheme. However, the complexity and sheer scale of work to remedy the previous discrimination and court judgements is creating a significant demand on capacity and the ability to meet deadlines.
- 3.28. The two main areas of pensions remedy at the moment are:
- 3.28.1. Part-time workers remedy. In relation to on-call firefighter pensions, after losing a legal case new guidance is in place to backdate on-call firefighters' pension entitlements to before 2000.
- 3.28.2. Age discrimination remedy. The service has moved all existing firefighters onto the 2015 Firefighters Pension Scheme but is going through an exercise to correct retrospectively the contribution rates of existing firefighters which then may have knock-on tax implications. As well as that, twelve firefighters

who retired without their 'legacy' benefits are also being worked with to correct their pension entitlements in order to align with the legal judgement and legislation.

- 3.29. Service managers have informed the board of examples of where it took an entire day to work out how to remedy the retrospective pensions benefits, contributions and tax issues for a single on-call firefighter only to discover afterwards that the online calculator they were using had been superseded with a new version.
- 3.30. It should also be noted that Royal Berkshire is already paying out pensions based on immediate detriment.

4. CONTRIBUTION TO STRATEGIC COMMITMENTS

- 4.1. Given the costs of the firefighter pension schemes there is a link to commitment 5, Sustainability. We are committed to ensuring that we provide a financially sustainable Service and take meaningful action to help address the climate emergency.

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 the HHR&LD for such expenditure.

6. LEGAL IMPLICATIONS

- 6.1. The provision of the Local Pensions Board is a requirement of sections 5 and 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 held 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

discriminatory 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.

- 6.4. The remedy intended to rectify the unlawful discrimination has since been implemented through legislation in Part 1 of the Public Service Pensions and Judicial Offices Act 2022.

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 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
- 10.2. The Chief Finance Officer
- 10.3. The Monitoring Officer

11. BACKGROUND PAPERS

- 11.1. None.

12. APPENDICES

- 12.1. None.

13. CONTACT DETAILS

- 13.1. Jim Powell, RBFRS Pensions Board Chair, 07774215664, powellj@rbfrs.co.uk
- 13.2. Lincoln Ball, RBFRS Pensions Board vice-Chair, 07541 263386, lincoln_ball@live.co.uk