

Minutes of the Suffolk Firefighters' Pension Board Meeting held on 7 July 2016 at 10:00 am in the Rose Room, Endeavour House, Ipswich.

Present: Councillor Colin Spence (Chairman), Councillor Nick Barber, Steve Collins and Dave Pedersen.

Supporting officers present: Rebekah Butcher (Democratic Services Officer) and Stuart Potter (Pensions Operations Manager).

1. Apologies for Absence and Substitutions

There were no apologies for absence.

2. Declarations of Interest and Dispensations

There were no declarations made or dispensations given.

3. Minutes of the Previous Meeting

The minutes of the meeting held on 18 January 2016 were confirmed as a correct record and signed by the Chairman.

4. Employment Tribunal

At Agenda Item 4, the Board heard an update from the Pensions Operations Manager in relation to the Fire Brigade Union's (FBU) legal challenge against the transitional protection arrangements for scheme members who moved from the 1992 or 2006 schemes into the 2015 scheme.

Board Members heard that there were some similarities between this case and a challenge taken by a group of Judges which was ahead of the FBU's challenge. A technical hearing was held between 31 May 2016 and 1 June 2016 and these technical arguments were the first stage of the challenge. It was expected to be a lengthy legal battle and a decision would not likely be made before 2017.

Decision: The Board agreed:

- a) To note the verbal update from the Pension Operations Manager.
- b) To receive an update from the Pensions Operations Manager at the next meeting.

Reason for decision: The update contained matters relevant to the Board.

Alternative options: There were none considered.

Declarations of interest: There were none noted.

Dispensations: There were none granted.

5. Valuation and Annual Statements

At Agenda Item 5, the Board heard an update from the Pensions Operations Manager in relation to the triennial valuation process which required Suffolk County Council to look at all Fire Membership Data and submit to the Government Actuary's Department (GAD).

The Board heard that payroll providers were required to provide the Council with data for 2015/2016 financial years by 30 April 2016, and this data was received on time. Officers were now working with colleagues to clarify the data and ensure it was ready to submit to the GAD. This data had to be submitted by 12 August 2016 and Board Members heard that there should not be any issues in achieving this target.

Following the submission of the data to GAD, the Council would be in a position to commence the work in producing the Annual Pension Statements for Firefighters which must be issued by 31 August 2016. The Board heard that there should be no issues in achieving this. However, before this work could be implemented, some template information needed to be loaded into the software system by the supplier with a view that the templates would be available in the test system from 25 July 2016 and the live system from 4 August 2016.

The Board was advised that once a clear date was identified for when the Annual Pension Statements would be issued, the Pensions Operations Manager would liaise with the Assistant Chief Fire Officer regarding sending out communications to all firefighters.

Decision: The Board agreed:

- a) To note the verbal update from the Pension Operations Manager.
- b) To receive an update from the Pensions Operations Manager at the next meeting.

Reason for Decision: The update contained matters relevant to the Board.

Alternative options: There were none considered.

Declarations of interest: There were none noted.

Dispensations: There were none granted.

6. Protected Pension Age (PPA)

At Agenda Item 6, the Board heard an update from the Pensions Operations Manager in relation to the case of the Police and Crime Commissioner (PCC) vs Cherry and the ruling of that in relation to protected pension age.

The Board heard that firefighters who had reached 50 years of age and had enough service were able to retire and take their full pension under the 1992 scheme regulations. This was a protected pension age because in 2010, changes to the Finance Act 2004 changed the normal minimum pension age from 50 to 55. There was a loss of protected pension age, however if the individual was re-employed before they were 55 unless they satisfied certain employment conditions which would mean lump sum and pension payments would have become unauthorised and they would have faced a substantial tax bill. This included if someone left their 'whole-time' position but continued in an 'on-call' role.

The re-employment conditions were:

- a) the member not re-employed until at least 6 months after they become entitled to their benefits under the scheme;
- b) the member was re-employed within 6 months but after a break of at least 1 month but the pension scheme was a public service pension scheme and the member's benefits under the scheme included a scheme pension which was liable, until at least attaining age 55, to abatement whilst the member was so employed; and
- c) the member was employed within 6 months but after a break of at least 1 month in an employment(s) which was materially different in nature from the employment in which the member was employed immediately before becoming entitled to their benefits.

The Board heard that this case was raised by Mr Cherry as he said the PCC had failed to inform him of the tax penalties on his retirement benefits when taking subsequent re-employment. Ombudsman Findings in respect of this decided in Mr Cherry's favour as the Commissioner had not informed him of the implications of re-employment and so should meet the tax liabilities.

Board Members were informed that the Suffolk Fire and Rescue Authority (FRA) first became aware of this issue in 2013 and at that stage checked to ensure there were no affected individuals. The service at the time had a flexible retirement policy which insisted on the necessary break in employment but has subsequently not been in use.

From a pensions perspective, the Council would highlight to the FRA any cases where someone was retiring, but their on-call contract appeared to be continuing. Since January further steps have been put in place to ensure the Council has no problem:

- a) On 30 March 2016, the Assistant Chief Fire Officer issued an email to the Fire Service detailing Protection and re-employment conditions making the information available to individuals.
- b) A question entitled: 'When can I return to employment after claiming my Fire Service Pension?' has been written and added to 'Ask HR' to help individuals.
- c) A revised Retirement Policy was being drafted which would include information on abatement and the necessary break in relation to re-employment. Protected Pension Age was also included in this document. This was presently with HR colleagues to complete.
- d) The Resourcing Team had been involved to include documentation to ensure new recruits were captured if they had previously left a different service under PPA.
- e) The Pensions Team would continue to highlight any potential issues as soon as they were seen and would continue helping individual members who asked questions in respect of this.

Decision: The Board agreed:

- a) To note the verbal update from the Pension Operations Manager.

Reason for Decision: The update contained matters relevant to the Board.

Alternative options: There were none considered.

Declarations of interest: There were none noted.

Dispensations: There were none granted.

7. **Government Actuary's Department (GAD) vs Milne**

At Agenda Item 7, the Board heard an update from the Pensions Operations Manager in relation to the case of Milne vs GAD which ruled in Mr Milne's favour and resulted in members who had retired between 1 December 2001 and 21 August 2006 being entitled to better commutation factors as a result.

At the meeting on 18 January 2016, the Board were informed that the Council had proceeded to pay cases where possible, with the majority paid in December 2015. There were three cases that were unable to be paid which were still being worked on.

The Board heard that the three remaining cases had been resolved, which required information in relation to estates as the members were now deceased, and monies owed paid to their widows. The total value paid was £850k (£850,370.27) and inside the grant amount from Department for Communities and Local Government (DCLG) that was received (£865k). The difference was being sorted with the DCLG via accounts.

This project was therefore completed and all members recompensed as per the guidance issued. The necessary notification to HMRC to avoid tax issues had also been issued.

Decision: The Board agreed:

- a) To note the verbal updates from the Pension Operations Manager.

Reason for Decision: The update contained matters relevant to the Board.

Alternative options: There were none considered.

Declarations of interest: There were none noted.

Dispensations: There were none granted.

8. **Audit Outcome**

At Agenda Item 9, the Board heard an update from the Pensions Operations Manager in relation to an internal audit on Fire Pensions which took place during July to October 2015.

The Board heard that following the work and investigations a report was published in October 2015. This report was shared by the Assistant Chief Fire Officer with the Fire Strategy group and with the Finance and Pensions Teams.

Board Members were informed that there were some control weaknesses identified which included some incorrect coding of ill health/injury payments and a lack of separation of duties in some of the financial/accounting arrangements however the audit opinion was concluded as 'effective'.

As a result of the audit, actions were agreed that should improve the effectiveness of these controls and it was agreed a follow up review would be

undertaken to assess the implementation of the relevant risk findings and agreed actions.

Following conversations with the Pensions Operations Manager and examination of the documentation, Audit Services confirmed they were happy the findings had been addressed and agreed actions previously raised had been implemented. The audit opinion remained as 'effective' and confirmation was received on 10 May 2016.

The Pensions Operations Manager, Assistant Chief Fire Officer and Auditors had spoken about the plan going forward, and identified that the Fire audit was replicating what had already been actioned as part of the Local Government Pension Scheme audit. Therefore, it was proposed to incorporate the two going forward, ensuring that the parts that were different were still covered as part of this audit. Fire cases would then be tested as part of the usual sample testing that was completed through this process.

Decision: The Board agreed:

- a) To note the verbal updates from the Pension Operations Manager.
- b) To receive an update from the Pensions Operations Manager at a future meeting.

Reason for decision: The update contained matters relevant to the Board.

Alternative options: There were none considered.

Declarations of interest: There were none noted.

Dispensations: There were none granted.

9. Urgent Business

There was no urgent business.

Before the meeting closed, Mr Steve Collins mentioned an item for possible consideration at a future meeting: 18-20 holidays and its pay pension contributions. Mr Collins informed the Board that the Fire Brigade Union (FBU) found in favour of the ruling, but it was being delayed by the Home Office and the FBU had threatened to take them to court. As of 6 July 2016, a letter had been received from the Home Office and the FBU were happy with their response. The Pensions Operations Manager confirmed that the Fire Service/Pensions were waiting for guidance from DCLG and were aware the FBU had chased them. Once guidance was received the plan of action would be agreed and communications issued. An update would be provided to the Board at its next meeting on 23 January 2017.

Members were also informed that the Annual Fire Pensions Conference 2016 was taking place in October and this might be an informative session for members to attend.

The meeting closed at 10.17 am.

Chairman

