



COMBINED FIRE AUTHORITY

16 JULY 2019

LOCAL PENSION BOARD OF COUNTY DURHAM AND DARLINGTON FIRE AND RESCUE AUTHORITY

REPORT OF CHAIR OF THE PENSION BOARD

Purpose of Report

1. This report is to inform members of the Combined Fire Authority's (CFA) governance arrangements for the Firefighters' Pension Scheme, as a result of the Public Service Pensions Act 2013.

Background

2. The Public Service Pensions Act 2013 (the "2013 Act"), introduced key provisions on scheme governance in relation to the Firefighters' Pension Scheme and other public service pension schemes. It provided for:
 - A "responsible authority" that makes the regulations for the scheme – this is the government;
 - A "scheme manager" to be responsible for administering the scheme – this is the Fire and Rescue Authority (FRA);
 - The establishment of a local "pension board" to assist the scheme manager;
 - The establishment of a national "scheme advisory board" to provide advice to the government in relation to changes to the scheme and to provide advice to the scheme manager(s) and pension board(s).

Local Pension Board of County Durham And Darlington Fire and Rescue Authority

3. For the Firefighters' Pension Scheme, the FRA is the scheme manager; however, the pension board is a completely separate entity to the scheme manager.
4. The FRA as scheme manager, is required to carry out the following:
 - Provide annual benefit information statements to each scheme member;
 - Publish scheme information;
 - Maintain scheme records;
 - Report the late payment of contributions to the Pensions Regulator;
 - Establish and maintain internal controls to ensure the scheme is managed in accordance with the rules and legislative requirements.
5. The Pension Board is not a decision-making board; its role is to assist the FRA in its role as the scheme manager to:

- Secure compliance with the relevant legislation in respect of governance and administration;
 - Secure compliance with the requirements imposed by the Pensions Regulator;
 - Assist with any other matters as may be specified in the relevant legislation;
 - Ensure the effective and efficient governance and administration of the scheme;
 - Provide reports to the scheme manager or committee of the Authority regarding the points detailed above.
6. The Pension Board should, at all times, act in a reasonable manner in the conduct of its purpose. In support of this duty, Board members will:
- Always act in the interests of the scheme and not seek to promote the interests of any stakeholder group above another; and
 - Be subject to, and abide by, the relevant codes of conduct for members and employees.
7. The Pension Board will comprise of an equal number of employer and member representatives with a minimum of no less than four in total.
8. Three scheme member representatives are appointed to the Pension Board for the purpose of representing members of the Firefighters Pension Scheme and these may, but are not limited to, trade union representatives. However, the member representative must be in scheme employment and therefore must be a firefighter who is currently employed by a fire and rescue authority. As such, two member representatives from the Fire Brigades Union (FBU) and one from the Fire Officers Association (FOA) are members of the Pension Board.
9. Three employer representatives are appointed to the Pension Board for the purpose of representing employers and these may be, but are not limited to, elected members or officers of the Authority. However, an officer or member of the Authority who is responsible for making decisions on the pension scheme is not permitted to be a member of the board as the board will be scrutinising the decisions of that officer or member. As such, two elected members of the FRA and one senior officer from the Service, this being the Assistant Chief Fire Officer: Service Support are members of the Pension Board.
10. The Chair of the Pension Board is a decision of the FRA, currently this role is allocated to Cllr Tinsley.
11. The Pension Board meets twice per year as a minimum and requires one employer and one member representative plus the Chair to be present for the meeting to be quorate.
12. Under the requirements of the Public Service Pensions Act, a member of the Pension Board must be conversant with:
- The legislation and associated guidance of the Firefighter Pension Scheme 2015 (FPS 2015), and the law relating to pensions;
 - Any document recording policy about the administration of the FPS 2015 which is adopted by the Authority;
 - Any other matters which are prescribed in the regulations.
13. In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date with Continuous Personnel Development.

14. The Authority's Constitution contains the functions and responsibilities of the Pension Board.

Scheme Administration

15. Durham County Council currently provide the administration function for the Firefighters' Pension Scheme, however, following a procurement process the West Yorkshire Pensions Fund who submitted the most economically advantageous tender will take over the provision of the service in October 2019.

Legal Ruling

16. As part of government reforms to all public sector pension schemes, the new 2015 Firefighters' Pension Scheme was introduced. This replaced the final salary arrangement with a career average revalued earnings scheme.
17. The FBU argued that transitional arrangements were established to protect older members of the scheme, and that as younger members were not awarded similar protection this was unlawful on age, race and sex discrimination grounds.
18. These transitional arrangements for pensions were ruled discriminatory by the Court of Appeal in December 2018.
19. On 27 June 2019, the Supreme Court of the United Kingdom refused the government's application to appeal a court case which ruled changes made to firefighters' pension schemes in 2015 were discriminatory. The government is now faced with implementing the ruling. The impact on members affected by this ruling will be determined by the employment tribunal but as yet no date has been set for this to occur.

Recommendations

20. Members are requested to:
 - (a) **note** the content of the report.

Cllr Tinsley, Chair of the Pension Board