

Hampshire Fire and Rescue Authority

Standards & Governance Committee

Item 6

7 December 2016

Annual report of Pensions Board

Report by Head of Finance

Contact: Rob Carr (Head of Finance)

email: rob.carr@hants.gov.uk

1 Summary

- 1.1 The Hampshire Fire and Rescue Authority Pension Board (PB) was established with effect from the 1st April 2015, as required by the Public Service Pension Scheme Act 2013. The annual report was considered by the PB at their meeting on the 18 August 2016 and the PB made minor updates at the 21 November 2016 meeting.
- 1.2 In accordance with the Terms of Reference (TOR) of the PB, the Board is required to present an annual report to the Scheme Manager on the exercise of its functions. Following changes agreed at the Authority meeting in June, responsibility for Scheme Management transferred from Finance and General Purposes Committee to Standards and Governance Committee.
- 1.3 This report is the first annual report from the PB to Standards & Governance Committee, and summarises the work of the Board for the 2015/16 Financial Year in the exercise of its functions.

2 Recommendations

- 2.1 That the contents of this report are received and acknowledged, in particular the implications for resources arising from pension activity set out in paragraph 9.25.

3 Introduction and background

- 3.1 The purpose of this report is to summarise, for awareness of the Committee, the work of the PB for the 2015/16 financial year, including setting out the PB membership, Terms of Reference and key areas of work covered during the year.
- 3.2 Standards and Governance Committee acts as the 'Scheme Manager' for the Fire Fighter's Pension Scheme (FFPS) and it is in this capacity that it receives the report from the Board.

3.3 The Scheme Manager's role is defined as :

“managing or administering the scheme and any statutory pension scheme that is connected with it”

Whilst this clearly has to be carried out with due regard to the appropriate regulations, it also includes making local decisions around discretionary policies that apply to the various Fire Fighter's Pension Schemes that currently exist.

3.4 Furthermore, the rules of the scheme provide that the Scheme Manager shall determine questions of individuals' entitlement to an award of benefits. In general terms these will be in line with the regulations and will be processed as a matter of course, although there was one exceptional case that was heard by F&GP Committee earlier this year that did deal with the specific position of an individual Fire Fighter.

3.5 In reality, the number of decisions that the Scheme Manager has to make are very limited and unlike members of the PB, members of Standards and Governance Committee are not required to have a detailed knowledge of the operation of the pension schemes themselves, although it has been agreed that some basic overall training on the different schemes and the key issues will be provided.

4 Establishment of the HFRS Pensions Board

4.1 As administering Authority of the Firefighters Pension Scheme (FFPS), HFRA (the Authority) was required to establish a Pension Board (PB) by 1 April 2015 to comply with the Public Service Pension Scheme Act 2013. The PB covers those staff who are members of schemes applicable to the firefighting profession employed by Hampshire Fire and Rescue Service. It does not cover employees who work for the Fire Authority but are members of Local Government Pension Scheme (LGPS).

4.2 At its meeting on the 21 February 2015, the Authority approved the establishment of a Firefighter's Pension Board, consisting of three scheme members and three employer representatives, together with Officer advisors covering Financial, Legal and HR matters.

5 Pension Board Meetings

5.1 The PB met periodically during the 2015/16 financial year, which was partly driven by the requirements of business during the early period of the PB. Three meetings were held during the year :

- 27th July 2015
- 30 September 2015

- 8 January 2016

6 Terms of Reference

6.1 The TOR for the PB were initially agreed by the Authority at its meeting on 20 February 2015, and were subsequently updated in July 2015, September 2015 and September 2016. The current TOR are attached as appendix 1, although these will need amending following the change to the Scheme Management responsibilities.

6.2 In summary, the Role of the Board as set out in the TOR is to:

- Assist HFRA as the administering authority of the Hampshire Firefighter's Pension Scheme (HFFPS):
 - to secure compliance with the Firefighter's Pension Scheme (FFPS) Regulations and any other legislation relating to the governance and administration of the FFPS
 - to secure compliance with requirements imposed in relation to the FFPS by the Pensions Regulator
- To ensure the effective and efficient governance and administration of the HFFPS by the Authority
- To consider how discretionary and other pension related issues are being addressed from an operational viewpoint
- To present an annual report to the Authority on the exercise of its functions

6.3 In addition, the Board shall have the power to do anything which is calculated to facilitate is conducive or incidental to the discharge of any of its functions

7 Pension Board Membership

7.1 The TOR for the HFRA PB set out that the PB shall initially consist of 6 members, constituted as follows:

- 3 employer representatives
- 3 scheme member representatives

7.2 The term of office for both employer and scheme member representatives is 4 years, which can be extended for a further period of 4 years.

- 7.3 The TOR set out that Employer representatives are to be appointed by the Authority at its annual meeting, and the Authority duly appointed 3 employer representatives, all of which were elected Members.
- 7.4 The TOR set out that Scheme Member representatives would be appointed by the Authority in accordance with the recruitment policy agreed by the Authority's Finance and General Purpose Committee (F&GP), and must be active, deferred or pensioner members of the FFPS.
- 7.5 The F&GP Committee received delegated authority to research and implement an appropriate recruitment mechanism for the three scheme members of the Pension Board. Whilst a recruitment process was drawn up, only three people applied to be on the PB and therefore after confirming each candidates suitability, these applicants were appointed to the Board without any further interview process.
- 7.6 The appointment of the Chairman and Vice Chairman falls within the remit of the PB, with a term of office of 1 year, but each can be re-elected by the PB up to a maximum of 4 years.
- 7.7 The TOR set out that the Chairman and Vice Chairman of the PB will alternate between the employer and scheme representative each year, although this has subsequently been amended to provide more flexibility for the Board itself to make decisions on these matters.

8 Key Issues Covered by the HRFS PB 2015/16

- 8.1 As set out earlier in this report, the HRFA PB met 3 times during the 2015/16 financial year, and set out below are the main items of business covered at each meeting

Meeting 27th July 2015

- 8.2 The key issues covered were:
- **Terms of Reference** – following changes to the final regulations, some minor amendments were required to the TOR
 - **Pension Board Issues** – the Board received a report and an additional appendix from the Chief Finance Officer regarding a range of practical and planning issues relating to the future smooth running of the Board
 - **Transitional Pension Arrangements** – this was an exempt item dealing with an Employment Tribunal claim against the transitional arrangements introduced in the 2015 FFPS.

Meeting 30th September 2015

8.3 The key issues covered were:

- **Pension Board Formal Documentation** – this report recommended changes to the TOR to include 2 areas that were not adequately covered elsewhere in existing formal documentation. The TOR were therefore updated as follows:
 - a new section on 'Reporting Breaches', which included agreeing a Breaches Policy appended to the TOR
 - an update to the Conflicts of Interest Policy included within the TOR as part of the Code of Conduct; the update incorporated the process to be followed in the event that an alleged breach of conduct occurred.
- **FireFighters Pension Scheme Statistics** – this purpose of this report was to enable PB members to understand the profile of membership that relate to the Fire Fighters Pension Schemes (FFPS) in Hampshire, and the report set out some of those key statistics and asked the Board to consider whether there was further information that they might find useful or whether there was any action that the Board may wish to take in terms of future membership numbers.

The HFRA PB made the following key recommendations arising from the report:

- to target communications to non-members of the pension scheme as part of a wider communication strategy to be considered at a later meeting.
 - a regular pension scheme performance report be prepared for consideration.
 - That the potential for a national communications strategy be pursued through officers and their counterparts at the LGA.
- **Pensions Issues Log** – This was the first report on what is now a standing item on the PB agenda, and ensures that the PB is sighted on the full range of issues which relate to the administration and management of Fire Fighters pensions (in the main these arise to recent changes to the scheme and to employment tribunal matters).

The log is RAG rated (Red, Amber ,Green), and a summary of the current position with the issues log will be set out later in this report.

Meeting 8th January 2016

8.4 The key issues covered were:

- **Pensions Services Performance Report** - This report was the first in a planned regular series of reports that will look at the performance of Pension Services within Hampshire County Council in administering the Firefighters Pension Scheme (FFPS); this first report focused on performance during 2015/16.

The report covered a range of issues, but did highlight that performance had been high throughout the year, with the only missed target being as a result of the introduction of a new system, and that the Customer Excellence Award had been maintained and that the partial compliances that had been identified were for minor matters.

The PB will receive performance updates at future meetings

- **Pensions Issue Log** – this standing item on the HFRA PB agenda was the second report on pensions issues. As set out above, the key pensions issues are set out separately below.

8.5 It is worth noting at this point, that in general terms, the Hampshire PB was well ahead of the rest of the sector in establishing Pension Boards and getting them off the ground. Early meetings therefore concentrated on ensuring that the appropriate governance and administrative arrangements were in place, together with ensuring more practical oversight to the resolution of pension issues within the Service and Pension Services.

8.6 At a national level, the Scheme Advisory Board had a very delayed implementation and this meant that for most of the year there was no clear direction or assistance for local Pension Boards.

8.7 This partly led to reduced activity during the year as clear messages had been given during early national training that Pension Boards should avoid duplicating work that could be led at a national level. In particular, communications and web based information was a clear area for a national focus to avoid duplication of effort across the country on these types of activities.

9 Pensions Issue Log

9.1 For information purposes, the latest Pensions Issue log, as reported to the July meeting of the HFRA PB is attached for information as appendix 2.

9.2 It should be noted that at the time of publication in July there were 18 issues on the log, 1 of which was red, 2 were amber, 7 were green and a 8 were completed.

9.3 The 2 most significant issue for Members to note are:

- **Temporary Promotions** - in particular the tax implications faced by a number of firefighters as a result of pensions contributions stemming from temporary promotions. This issue has a RAG status of RED and is covered in more detail below.
- **RDS Membership of the Modified Pension Scheme** – this has a RAG status of Amber, and relates to an Employment Tribunal decision which now allows Retained Fire Fighters, who had previously not been allowed access to the Firefighters’ Pension Scheme during the period 1 July 2000 – 5 April 2006, to now have retrospective access to the scheme for that period.

Temporary Promotions and Pension Contributions – Rag Status Red

- 9.4 The paragraphs below are a summary of this issue as reported to the HFRA PB.
- 9.5 A number of firefighters have previously been faced with significant tax liability as a result of the impact on pension benefits stemming from temporary promotions.
- 9.6 Although regulations had come into force to resolve the issue in 2013, the Fire Authority (as Scheme Manager) had at that time not taken the necessary decision as to whether temporary promotion should be pensionable or not.
- 9.7 It was noted that those affected who had since retired were in a particularly complex position and solutions to this were being investigated with the pension ombudsman.
- 9.8 A decision on this was therefore required and subsequently a report was presented to F&GP Committee for decision, following which it was possible to take retrospective action, according to HMRC regulations, to adjust tax deductions for those individuals affected.
- 9.9 At the meeting of the HFRA F&GP committee on 3rd February 2016, the committee agreed to take a retrospective decision to correct the position, by making acting-up payments pensionable which would enable corrections to be made to firefighters’ pension benefits and tax positions (where applicable).
- 9.10 As part this decision, the F&GP committee agreed that any temporary promotions that existed on or have been granted since 1 July 2013 would be treated as Additional Pension Benefits.
- 9.11 In consideration of the overall issue the PB considered whether this situation amounted to a breach of law and concluded that it was, since HFRA had failed to comply with new regulations that were introduced in July 2013.
- 9.12 The PB further considered whether this breach was material and concluded that it was, given the significant impact on individuals. The PB therefore

advised the Chief Financial Officer and the Chief Fire Officer to self report the matter as a breach of law to the Pension Regulator. This has duly happened.

- 9.13 It is worth noting that the HFRA were not the only Fire Authority who didn't make the necessary changes to the scheme following the introduction of the new regulations in 2013 and underlines why greater levels of scrutiny and governance were required in respect of complex public sector schemes.
- 9.14 The reason that this issue is still reported as Red is that there have been significant delays in obtaining the relevant information to re-calculate the tax positions for the affected Fire Fighters, firstly due to high workloads associated with year end pension returns and then subsequently because it has been discovered that it is not possible to pull the information out automatically and therefore the manual workload has been factored in to fit with other pension related priorities (it is estimated that this is 18 weeks of full time manual work).
- 9.15 The Pension Regulator has been made aware of the delay and separate control measures have been put in place to make sure that retiring Fire Fighters are checked against the list of affected staff before their retirement benefits are calculated.

RDS Membership of the Modified Pension Scheme – RAG Status Amber

- 9.16 During the period 1 July 2000 and 5 April 2006 inclusive, retained firefighters were not given the opportunity to join the FFPS 1992 (the "1992 Scheme") in respect of their retained employment
- 9.17 Following an Employment Tribunal decision the Government has introduced regulations (the FFPS (England) (Amendment) Order 2014) which offers pension entitlement for all who were employed as retained firefighters between 1 July 2000 and 5 April 2006. These pension benefits are incorporated within the FFPS 2006 (the "2006 Scheme").
- 9.18 To comply with these new Regulations, HFRA was obliged to offer retrospective membership of the modified scheme to retained firefighters that were employed by the Authority at any point during the period 1 July 2000 and 5 April 2006.
- 9.19 Accordingly, information was sent to the 937 eligible retained firefighters and of these 276 returned an initial expression of interest confirming their interest in pursuing membership of the modified scheme. In June 2015 letters and further information were sent to these 276 with a deadline to return confirmation of their preferred option for membership of the modified scheme by 1 September 2015.
- 9.20 Initially there was a low response with approximately 50 completed returns by 1 September and a number of those returned were inaccurately completed making it impossible to identify the preferred option for joining the modified

scheme. Accordingly further letters and options forms were sent to prompt further responses and contact was made to clarify preferred options where necessary. Final numbers of around 160 individuals decided to join the pension scheme and pay the backdated contributions.

- 9.21 The current position is that backdated lump sum costs have been calculated for those individuals who have taken up the option of retrospective membership, and arrangements are being put in place to collect monthly pension contributions from individuals.
- 9.22 The reason that this item has an Amber status is that a number of the original (very complex) calculations were wrong and there has been a delay in arranging payment of any lump sums due to retired employees and in setting up the monthly deductions for Fire Fighters who wished to pay their contributions by Direct Debit.

Summary

- 9.23 The management and administration of the Firefighters pensions continues to be complex and drawing significant capacity from corporate shared services.
- 9.24 With the addition of further national developments and to ensure necessary progress is maintained, additional resource has been put in place for a temporary period to support the management of Fire Pension matters, both at a senior and operational level.
- 9.25 This resource has been located within the Finance Service and commenced in January 2016, and Directors agreed one off funding to support these additional resources, which are still in place at the moment. However, recent discussions at the Pension Board highlighted the significant amount of work that is still required to deal with retrospective and complex issues in respect of Fire Pension Schemes and a further request for resources will be made to management which it is hoped will be supported by S&G Committee in its role as Scheme Manager.
- 9.26 The Pensions Issues log remains a standing item on the PB agenda.

10 Member Training

- 10.1 Members of the PB are expected to have a high degree of knowledge in order to properly carry out their function. However, it was also recognised that part of the reason for establishing Pension Boards in the first place was the general lack of understanding across the sector on how public sector pension schemes worked. This was particularly true of the FFPS which now has four separate schemes all with different rules and regulations.
- 10.2 In reality, it was felt more important to get the Board established in the first place and then deal with the knowledge issue as the Board evolved and the

members of the Board became more exposed to the schemes and the issues within them.

10.3 At the first meeting one of the employee representatives was appointed as a training lead, assisted by the Officer advisors and a number of training sessions took place during the first year :

- The whole Board attended national courses arranged by the LGA which gave an overview of the role of Pension Boards and the regulations and governance that surrounds them.
- A training area for members of the Board has been set up in Moodle and links to training material contained on The Pension Regulator website were provided for individuals to undertake the various e-learning modules.
- Some Board Members and advisors attended LGA regional sessions on Pension Board and scheme regulation issues.
- A demonstration of the Moodle website was provided for Board Members
- A training session on the 2015 Fire Fighters Pension Scheme was given to Board Members.
- By nature of some of the technical aspects of the issues log, information and guidance is provided as an inherent part of most formal meetings.

11 Conclusion

11.1 It was always recognised by the Board that the work load and knowledge of the Board would need to evolve and develop over time. Initial guidance from the LGA warned against trying to fix all of the issues and cover too much ground in early meetings.

11.2 This was even more important in the absence of the national Scheme Advisory Board who are expected to set priorities and direction for the individual Pension Boards to avoid duplication of effort and ensure that Boards were concentrating on the right things.

11.3 The Hampshire PB has made solid progress in the first year, but to a certain extent will need to re-set its position following changes to Membership agreed at the Authority meeting in June.

Section 100 D – Local Government Act 1972 – background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report :

Creation of an HFRA Pension Board – HFRA 20 February 2015

Membership of FireFighters Pension Board – F&GP Committee 15 April 2015

Pension Board reports (27/07/15, 30/09/15, 8/01/16)

NB the list excludes published works and documents which disclose exempt or confidential information as defined in the Act.