



LOCAL PENSION BOARD

25 FEBRUARY 2022 at 10.30 am

MEMBERS PRESENT:

Cllr Chris Windows (Chair), Cllr. Andrew Brown, Andy Cunningham

Scheme Members Representatives: Steven McGreavy & Mark Jacobson

Avon Fire Authority: Angela Feeney (Director of Corporate Services),
Amanda Brown (Monitoring Officer), Julie Pound (Finance Manager)

Avon Pension Fund (Bath and Northeast Somerset Council): Geoff Cleak (Pensions Manager), Anna Capp (Member Services Manager)

1. APPOINTMENT OF AN INDEPENDENT CHAIR OF THE LOCAL PENSION BOARD

The Clerk explained that the first item on the agenda was the appointment of a new Chair to the Local Pension Board (LPB) and asked for a proposer and seconder.

Councillor Windows proposed and Steve McGreavy seconded that Andy Cunningham be appointed as Chair of the LPB.

Andy gave a summary of his experience and background and that he currently worked for Wiltshire Pension Fund and had previous experience administering the Firefighters schemes on behalf of Wiltshire Fire Authority (prior to its merger with Dorset Fire Authority).

RESOLVED: That Andy Cunningham be appointed as Independent Chair to the Local Pension Board.

2. APPOINTMENT OF MARK JACOBSON AS NEW MEMBER REPRESENTATIVE

The Clerk advised the Board that in accordance with Paragraph 17 of the LPB Terms of Reference and following a recruitment campaign and interviews, Mark Jacobson (a serving Avon Fire & Rescue Service (AF&RS) Crew Manager) had been selected as the new Member representative as he had demonstrated at interview that he could support the effective delivery of the purpose of the LPB.

RESOLVED: That Mark Jacobson be appointed as the new member representative to the Local Pension Board.

3. APOLOGIES FOR ABSENCE

None received.

4. EMERGENCY EVACUATION PROCEDURES

The Director of Corporate Services (DoCS) confirmed the emergency evacuation procedure for the building.

5. CHAIR'S BUSINESS

1. The Chair made a statement regarding the continuing need for restrictions due to COVID-19. As no press or public were able to attend the meeting in person, it would be recorded and uploaded to YouTube for reference.
2. The Chair explained the voting system for the benefit of new Members. Votes against a motion are recorded first, followed by abstentions, then votes for.
3. The Chair advised Members that this was Councillor Chris Windows last meeting. Members thanked Chris for his work on the Board.
4. The Chair reminded Members that the LPB purpose was to ensure compliance and was not a decision-making body. Decision making was the role of the Avon Fire Authority (or their authorised officer delegates) as the Scheme Manager.

6. PUBLIC ACCESS

None received.

7. CONFLICT OF INTEREST DECLARATION

No declarations of a conflict of interest were made.

8. MINUTES OF THE LOCAL PENSION BOARD MEETING HELD ON 3 SEPTEMBER 2021

Cllr Windows proposed and Steve McGreavy seconded that the Minutes be approved as an accurate record of the meeting.

RESOLVED – that the Minutes of 3 September 2021 be approved as an accurate record of the meeting.

9. REGULATORY AND LEGISLATIVE UPDATE

The Board received a report from the Pensions Manager which provided updates on the latest regulatory updates concerning the Firefighters Pension Scheme (FPS) and any proposed regulatory matters that could affect the scheme administration.

The report provided a summary of the main regulatory updates since the last Local Pension Board meeting, including brief comment on what the implications were for the Avon Pension Fund (APF) and what the next steps would be.

A key update was on progress regarding the Public Sector Pensions and Judicial Offices Act 2022, a bill currently going through the Parliamentary process, to make provision about public service pension schemes, including retrospective provision to rectify unlawful discrimination in the way in which existing schemes were restricted and the transition to the 2015 scheme applied. It was hoped that this Act would be agreed in time for the deferred choice underpin to be implemented by October 2023.

Regarding the Department of Work and Pensions consultation on the Dashboard Regulations, the APF had drafted a response and would share it with AFA, and/or LPB, at the appropriate time.

Cllr Brown proposed, and Steve McCready seconded that the report be noted.

RESOLVED –

That the current position regarding the developments that could affect the administration of the fund be noted.

10. FIREFIGHTERS PENSION SCHEME - AVON PENSION FUND SCHEME ADMINISTRATOR REPORT

The Board received a report from the Pensions Manager about the performance of the Fund Administration for the period 1 June 2021 to 31 January 2022. The report also addressed the Fund's business operational position from an overall risk perspective.

The Pensions team was currently in temporary accommodation in Bath and had limited workstations that could be operated, and this had an impact on work output. It was anticipated that the team would return to the Keynsham office by the end of the year. Performance was generally in line with key performance indicators (KPIs). Additional resource had been found to address immediate detriment cases and any under-performing areas of work.

Following Member questions, the following points were clarified:

1. 99.5% of active member statements had been issued by the statutory deadline of 31 August 2021 with only three not received in this timeframe. This number was not considered to be materially significant, and it was noted that 100% had been produced on time but three had been returned undelivered as 'not known at this address'. Once correct addresses had been received from the scheme member or manager they would be re-issued.
2. The Pensions Regulator (TPR) Code of Practice 14 required the Fund to measure the accuracy of scheme member data. For the APF the main errors were incorrect/not updated addresses.

3. Seven Pensions Savings Statements (PSS) had been issued to active scheme members by the statutory deadline of 6 October 2021 including four with tax charges. All those scheme members were provided with written advice and guidance, but none had responded to date. No scheme members had exceeded their annual allowance in the last eighteen months.
4. Regarding APF performance on deaths payment target and the five-day notification period, APF were only aware of two pension scheme members cases but noted access to these historic records on microfiche had been an issue, due to current unavailability of microfiche equipment whilst at temporary office accommodation. The administrators had to wait for information from 3rd parties. This would be resolved when the administrators moved back to their own premises.

Cllr Brown proposed, and Steve McCreavy seconded that the report be noted.

RESOLVED –

That the Fund performance for the period 1 June 2021 to 31 January 2022 be noted.

11. SCRUTINY REVIEW AND TRAINING REPORT

The Board received a report from the Director of Corporate Services which provided information about the work needed to ensure compliance with the Firefighter Pension Schemes regulations, the effective and efficient governance, administration and application of those schemes and the management of risks.

The report focused on five key areas of scrutiny and provided information on them for the period 05 August 2021 to 14 February 2022. The report also included the pensions risk register as of 14 February 2022 and forward work plan.

Members noted the five key areas namely –

1. Discretions applied.
2. Breaches of law reported.
3. Complaints, disputes and appeals in progress.
4. Firefighter Pension Scheme risk register.
5. Compliance deadlines.

The key points highlighted were:

1. Since the last LPB no breaches of law had been identified and therefore none had required assessment or been reported to the Regulator and no new complaints under the Internal Dispute Resolution Procedure (IDRP) had been submitted.
2. For the two IDRP's in progress, one had been considered and a decision made, the other had a timetable for consideration and decision making.
3. One IDRP consisted of two complaints. One complaint relating to a delay in processing of pension payments had been recommended to be upheld however the complaint relating to the immediate detriment issue was recommended not to be upheld.

4. No discretions had been applied.

Following Member questions, the following points were clarified in respect of the risk register and work programme:

1. The Pension Advisor vacancy was largely due to a competitive job market and 'head hunting' in some cases for this type of role. Interviews were currently taking place and it was hoped that the post would be filled soon.
2. Regarding the LPB meeting its functions and contributions it was confirmed that information was being brought to the Board for scrutiny with the assistance of an external pension provider in accordance with a professional methodology. The work of LPB was then confirmed by the AFA on an annual basis through the Annual Report, and through the AFA consideration of any recommendations coming through the LPB. Both AFA and the external provider were audited. The Chair requested that confirmation of the outcome of relevant audit checks be reported to the LPB, for information, on a regular basis.
3. It was considered important for the LPB to have an oversight of delegations put in place, or being considered, by the AFA enabling officers to take certain day to day decisions on the application of the FFPS, including discretions such as paying back of missing service. It was noted that this work was included in the LPB work programme and the discretions, and delegated authority protocols, to be reviewed with recommendations made to the AFA by the LPB.
4. Whilst it was appreciated that details of the training completed by LPB members had yet to be reported to the Chair, it was considered essential that this was done for the future. It was noted that the LGA had started refresher training courses and it was agreed by Members that the most preferable method would be via an arranged session. It was suggested that this be arranged for July 2022 to coincide with the next LPB meeting with the added benefit that the new employer representative would be known by then.

Cllr Brown proposed, and Mark Jacobson seconded that the report be noted.

RESOLVED –

- 1. That the report and appendices about the work needed to ensure compliance with the Firefighter Pension Schemes regulations, the effective and efficient governance, administration and application of those schemes and the management of risks be noted.**
- 2. That the five key scrutiny areas and/or the risks set out in Appendix A be noted.**
- 3. That no further recommendations, additional actions, and controls to ensure compliance in the five areas was required to minimise the risks in the risk register.**
- 4. That LPB members should advise the LPB Chair of progress with training completion (in accordance with the Knowledge and Understanding Policy), including the self-assessment tool at**

Appendix B. This would enable the completion of the LPB training log at Appendix C.

- 5. That the amendments to the work programme in Appendix D be noted.**

12. IMMEDIATE DETRIMENT UPDATE AND OVERSIGHT

The Committee received a detailed report from the Director of Corporate Services regarding the complexities in respect of the Immediate Detriment (ID) issue. The matters were summarised in the report and were fully outlined in the 15 December 2021 report to the AFA. The Director of Corporate Services gave a detailed explanation of the issues being faced to the Board.

The Chair added that the LPB role was to assist the Scheme Manager in achieving compliance however that had to be understood in the context of conflicting government legislation which had created significant complexity.

Members were reminded of the AFA position to date which was as follows.

They had deferred a decision on formally adopting the Memorandum of Understanding (MOU) and framework, developed by the Local Government Association (LGA) and Fire Brigades Union, until further advice and clarification had been received, particularly on legal, tax and funding issues.

In the interim, the AFA decided to continue processing ID cases for forthcoming retirees under the arrangements the AFA had agreed in June 2021. Since then, six retirements had been completed under ID and were in payment and a further five had been processed and were due to retire by the end of March 2022.

The AFA had also decided to continue to delegate to the Local Pension Board (LPB) oversight of the administration and processing of ID cases, with the option to refer the matter back, as needed, to the AFA.

Members were then updated on the latest national developments (since the December 2021 AFA), with some of those developments increasing the complexity regarding ensuring compliance and financial liabilities for the Authority and scheme members. Further guidance and clarifications on these matters were expected by the Treasury, Local Government Association and a tax consortium but had not yet been received.

Following Member questions, the following points were clarified:

1. If AFA did not pay out ID payments, more claims of discrimination were potentially possible.
2. The Technical Working Group would continue to report its administrative processes to the LPB for their scrutiny and include in the risk register, noting the Scheme Advisory Board's (SAB) recommendations for LPBs to consider and gain assurances about compliant processing of ID and remedy including current arrangements, data, processes and impact, information, communication and coordination, and knowledge, capacity,

and capability. It was noted that due to the individual nature of cases personal information would need to be redacted.

3. The work to resolve the pension contribution holiday issue and complexity was welcomed, with the option to wait for the contribution holiday aspect to be resolved after their retirement as part of the wider Government remedy, preferred.
4. It was noted that ID processing was an ongoing balance between risks and costs.

The Board considered the options as recommended in the report.

The Chair explained that the MOU was produced before the existing Government guidance was withdrawn and that this was an important development. The Government had therefore withdrawn their support for processing ID cases due to uncertainty about tax and compensation issues. The Chair advised that this withdrawal of the guidance had led him to conclude, amongst other factors, that the MOU should not now be adopted in its entirety, however, the Chair confirmed that he did not have a vote and simply provided Members with advice.

Regarding the vote on option D, the outcome was three in favour and one against. The reason for three LPB members recommending reconsideration of MOU adoption at this point was cited as cost implications not being the primary focus of the LPB (and with costs incurred with or without adoption) and remaining keen to resolve ID matters for scheme members before the Government legislation. These members acknowledged they were recommending reconsideration of MOU without receipt of the anticipated guidance which could assist with compliance considerations, particularly on tax, or clarification of cost implications for scheme members and managers, but they had focused on compliance with the age discrimination outcome.

The reason for voting against, was cited as the situation on tax compliance (and cost implications for scheme members and local budgets), and other matters, were not yet considered to have become significantly clearer since the Fire Authority meeting in December 2021. That situation meant that, while the LPB member was supportive of MOU adoption in the near future, they would not recommend adoption of the MOU at this point without further clarity. They noted the Treasury position on tax seemed to be that these issues would not be resolved by the age discrimination provisions (but through tax legislation in the Autumn) and costs may be incurred by scheme members in the interim.

The Clerk undertook to provide appropriate wording for the decisions made by LPB Members and circulate to members after the meeting for their agreement.

Option e) Decide whether to request that the Internal Auditors reconvene the planned audit of ID processing and, if so, at what point in the next audit year. Members agreed that if no changes were made to the MOU the audit should go ahead, conversely if there were any changes the audit should be delayed.

On being put to the vote it was resolved -

RESOLVED THAT THE BOARD –

1. Options a) and b) were noted. The Board considered the processes in place to administer ID cases and did not raise any questions or concerns in respect of the governance, compliance, and administration of ID cases.
2. Having considered the complexities of ID cases with pension contribution holidays, it was agreed to refer a decision to AFA about processing ID cases with pension contribution holidays (the holiday period could be processed later). They were content for pension contribution holidays to be separated out from retirement benefits (lump sum and annual pension) enabling this group to retire under ID. They considered this within scope of the 30 June 2021 Fire Authority decision in that the calculation of their pensions under the 1992 scheme could be made without difficulties and/or uncertainties as confirmed by the pension administrators. The pension contribution holiday aspects would be determined later in accordance with remedying pension regulations (or the MOU should it be adopted, whichever applies first). Members agreed to request the Pension Administrator to approach cases flexibly and continue to process benefits now and deal with contributions later.
3. Decided by a majority, but not unanimous, to recommend to the Fire Authority that it further considers MOU adoption at this point. In turn this meant a decision not to recommend that the Fire Authority revisits continuing with ID processing, other than extending this provision through MOU adoption.
4. If the Fire Authority decides to make no changes to the approach of processing of ID cases, then request that the Internal Auditors reconvene the planned audit of ID processing, but if the Fire Authority decides to adopt the MOU which impacts on ID processing, then recommend that the Internal Audit be delayed pending new processes being put in place.

13. ANY OTHER BUSINESS

The Chair advised that in view of the previous discussion an additional LPB meeting might be necessary, if so the Clerk to AFA would initiate the process.

14. DATE OF NEXT MEETING

Cllr Brown proposed, and Steve McCreavy seconded.

RESOLVED that the next meeting take place on 20 July 2022 at 10.30am.

The meeting closed at 12.10 pm

Chair