



MEETING OF THE DERBYSHIRE FIRE & RESCUE AUTHORITY PENSIONS BOARD

1530 HOURS, 27 FEBRUARY 2020

SLT MEETING ROOM, HEADQUARTERS, RIPLEY

AGENDA

1. Apologies
2. Declarations of Interest
3. Minutes of the meeting held on 23 October 2019 (to note/matters arising)
4. Review Risk Register Presentation
5. Update on SLA with LCC - C Tapp
6. New Pensions Administration Update - S Allsop
7. Pension Board Update (HR Matters) - S Connor
8. Administrator's Update - I Howe
9. Update on Member Training Events/Pensions Conference (verbal) - S Allsop
10. Split Pension - C Tapp/I Howe.
11. McCloud judgement - immediate affected members - C Tapp
12. Modified Scheme - O'Brien remedy and Tax/NIC refunds - S Connor
13. AOB

DERBYSHIRE FIRE & RESCUE AUTHORITY

PENSIONS BOARD

MINUTES OF MEETING

HELD ON 23 OCTOBER 2019

Board Members: Chris Tapp FBU (Chair), Cllr Jim Perkins (part),
Cllr Steve Marshall-Clarke, Marc Redford (FBU),
Simon Allsop (Director of Finance), Sean Connor (HR)

Attendees: Ian Howe (LCC Pensions)

Notes: Marie Lloyd-Jones

1. Apologies

Annette Barrett (HR Partner), Jane Edwards (Payroll Manager),
Elena Johnston (LCC Pensions)

2. Declarations of Interest

None.

3. Minutes of the Meeting held on 25 March 2019

The Board agreed the accuracy of the minutes of 25 March 2019.

4. Brewster Case

Members noted the change in law following the “Brewster” case. The LGPS provides survivor pensions payable upon the death of a member. Before 1 April 2008, we could only pay survivor pensions to surviving spouses, civil partners and eligible children. We were not able to pay these pensions to surviving cohabiting partners.

The government amended the Scheme's rules on 1 April 2008 so to provide survivor pensions to cohabiting partners. The change, however, only applied in respect of members who paid in to the scheme on or after 1 April 2008. To receive a pension, certain conditions must be met.

I Howe would provide guidance for wider circulation.

4. 2019 Annual Benefits Statements - projections and benefits

Members noted that Leicestershire County Council issued the annual benefit statements by 31 August 2019 and issued the taxation saving statements to those concerned by the statutory deadline of 6 October 2019.

5. Update on Service Level Agreement with Leicester County Council

Members noted the Pension Fund Administration Report - Quarter 1 July to 30 September 2019.

Members were informed that 2020 is a valuation year for Firefighters' Pension Scheme and therefore it is expected that GAD will be issuing a notification to Fire Authorities in the forthcoming months which details the information that will be needed in order to submit the valuation data and complete the process.

Members noted the position is currently the same as the previous quarter in that the total remaining cases where we are now awaiting an HMRC reply is still 14.

Members noted that the Leicestershire County Council Pension Manager has terminated the pensions administration function for Derbyshire Fire Authority with effect from 31 March 2020. This is because of the increasing complexity in this area of work as a result of the introduction of the Career Average Revalued Earnings scheme, which is now compounded by the recent McCloud Supreme court judgement on age discrimination.

Members wished to thank I Howe and his team for the excellent service provided to date and I Howe confirmed that he would continue to provide support where possible.

S Allsop would be considering future provision from 1 April 2020 and would circulate recommendation/business cases to the Board/to Fire Authority Members for a decision on the best option available for members in the Pension Scheme.

6. Pension Board Update

"Payroll Update" would become a standing Agenda item.

A Barrett and C Tapp have reviewed/refreshed the Pension Board page on the intranet.

A Barrett and C Tapp have produced a WIS article explaining what pension information is available and what is chargeable.

7. Administrator's Update

Members noted that HMRC have now replied to the 17 outstanding requests and information has been provided on the '92 and 2015 schemes.

I Howe would continue to assist where possible and confirmed that there are a number of Firefighter pension administration providers in the market and the Pension Manager has committed to work constructively with Derbyshire Fire Authority to help procure the specialist service required.

New/no administration should be added as a risk to the Risk Register.

S Allsop would bring the Risk Register to the next meeting.

8. Derbyshire Quarter End Statistics

Members noted the Quarter End Statistics (1.4.19 to 30.6.19) and confirmed there were no concerns regarding KPIs.

9. Regional Pensions Board Progress Update

S Allsop confirmed that he is keeping in contact on the Regional Pension Board. Members noted the need for a common approach.

10. Update on Member Training Events/Pensions Conference

C Tapp updated Members on events/conferences recently attended.

The Board agreed that any useful relevant training would be welcomed.

11. IDRPs in relation to McCloud & Sargeant Judgement

Members noted what has happened since the McCloud & Sargeant Judgement and what might happen next after the remedies hearing in December. An update to Members would be given at the Joint Planning Day in November and a WIS article would be produced.

One IDRPs has been received which would be dealt with by S Connor, this would be discussed with C Tapp. C Tapp declared an interest at this point as he knew the individual personally, however this was not seen as a conflict.

12. Pensionable Pay clarification

S Connor clarified some points regarding Pensionable Pay and confirmed that FRAs will need to review all contracts and allowances in place in line with the judgement and if necessary take legal advice to consider whether amendments are needed to a pensionable allowance. LGA on behalf of SAB are taking further legal advice, specifically on whether the limitations act can or should be used. S Connor would produce/circulate further guidance.

13. Any Other Business

Members agreed that the following would become standing agenda items:-

- Payroll update
- Review Risk Register
- Pension Bulletin

14. Date of Next Meeting

Dates to be confirmed and planned in on a quarterly basis.



Derbyshire
Fire & Rescue Service
Making Derbyshire Safer Together

Status of Report: Public **Agenda Item:**

Meeting: Pensions Board

Date: 3rd February 2020

Subject: Administration of the Firefighters' Pensions Scheme

Report by: Simon Allsop, The Treasurer/Scheme Manager

Author: Alison Greenhill, Leicestershire FRS

For: Discussion

1. Purpose of report

1.1 The purpose of this report is to provide the Pensions Board with and update on the project to appoint a new administrator of the Firefighters' Pensions Scheme. The board is asked to read and note the content of this report.

2. Background

2.1 The current administrators, Leicestershire County Council, submitted a contract termination notice with effect from 31st March 2020 citing the increasing complexity of regulations arising from the McCloud Supreme Court judgement.

2.2 A project team was established in collaboration with Leicestershire and Nottinghamshire Fire and Rescue Services with the objective of appointing a new supplier.

2.3 Time constraints prevented us from initiating an open tender under OJEU rules and there are no existing procurement frameworks. This limited options to either delegation or direct award via waiver subject to contract value thresholds.

2.4 The Local Pensions Partnership (LPP) is a joint venture by the London Pensions Fund Authority and Lancashire County Council providing fire pensions administration. LPP agreed in principle to a commercial contract but further scoping determined that the contract value would have breached OJEU thresholds.

2.5 Leicestershire County Council agreed to extend their contract until December 2020 to allow us time to conduct an open tender.

3. Project update

3.1 An overview of the project can be found in Appendix 1

4. Financial Implications

4.1 There are no financial implications arising directly from this report. Any financial implications for the Authority will be reported to the Governance and Performance Working Group and the Pension Board.

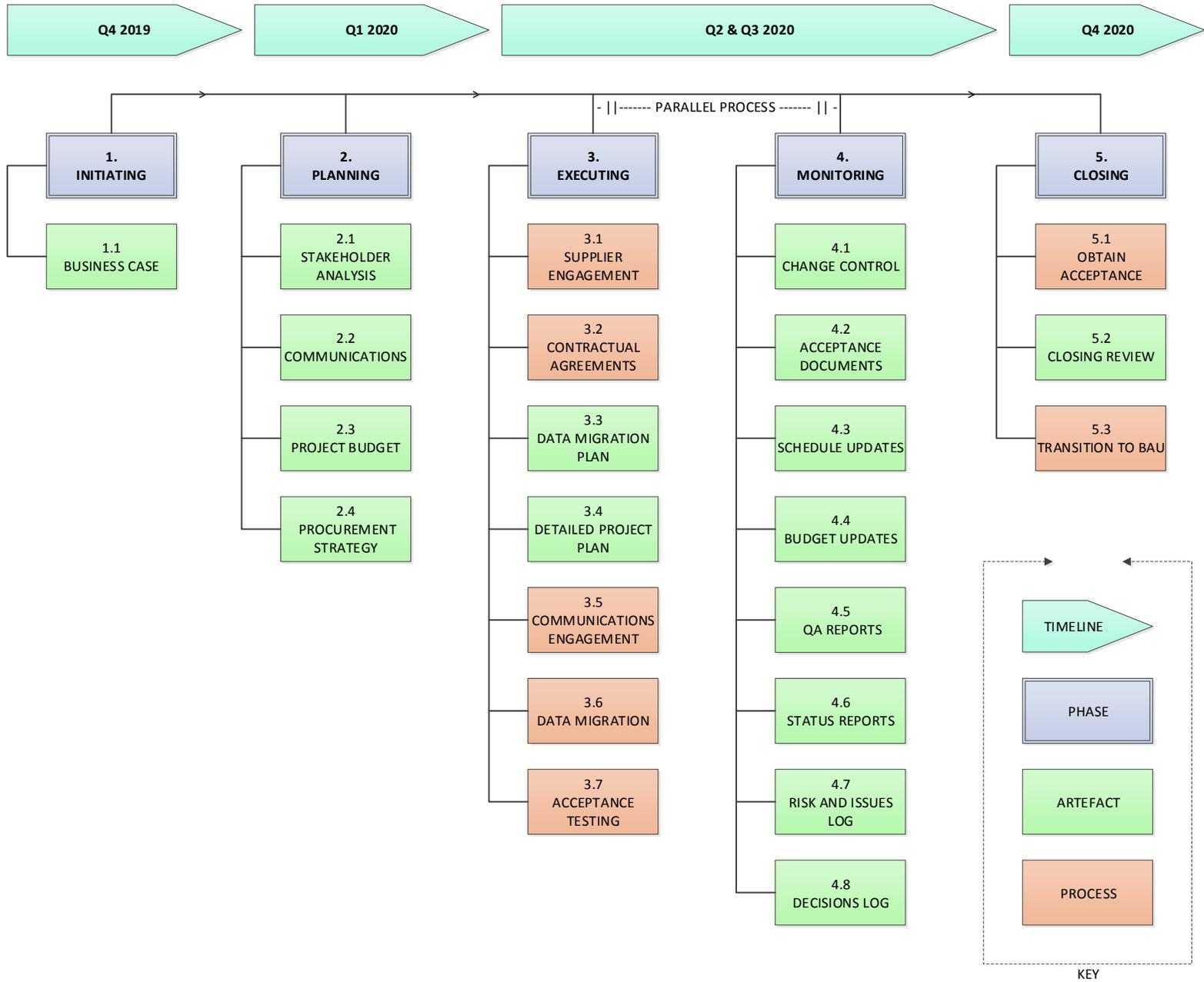
5. Legal Implications

5.1 The Public Service Pensions Act 2013 introduced a framework for the governance and administration of public service pension schemes. This report aims to fulfil the requirement for Pension Board members to assist the Scheme Manager in ensuring that effective administration arrangements are in place.

Simon Allsop

SCHEME MANAGER

WORK BREAKDOWN STRUCTURE (WBS)



WORKSTREAM UPDATE

WBS	Workstream	Start Date	End Date	Stage in Lifecycle	Workstream Lead	RAG Rating	Update
1.1	Business Case	Nov 2019	Dec 2019	Completed	Jon Lau		Business case completed and signed-off by project board.
2.1	Stakeholder Analysis	Oct 2019	Dec 2020	Ongoing	Jon Lau		Stakeholder register completed and maintained with regular updates.
2.2	Communications	Oct 2019	Dec 2020	Ongoing	Sean Connor		Communications planned to relevant stakeholders.
2.3	Project Budget	Oct 2019	Dec 2020	Ongoing	Jon Lau		Notional and actual project costs to be apportioned between the three Fire Authorities.
2.4	Procurement Strategy	Oct 2019	Mar 2020	Ongoing	Jon Lau		Procurement options fully scoped. An open tender will be conducted under OJEU rules, assisted by the Procurement Team at Leicester City Council.

RISK AND ISSUE SUMMARY

Closed Risks: 7

Open Risks: 3

Risk No.	Date Raised	Risk Owner	Description of Risk	Impact of Risk	Impact (I)	Probability (P)	Score (I x P)	Rating	Mitigating Actions
R-7	18/12/19	Fire Authorities	<p><u>Revenue costs may escalate</u></p> <p>The existing administrators have one software licence shared between the three Fire Authorities and the LGPS. The software supplier has indicated this arrangement will change upon transition to a new supplier so that each authority will require their own individual licence.</p>	Increased financial liability.	4	4	16	High	The contract will be awarded to the most economically advantageous tender. Software costs will be built into the pricing schedule which forms part of the evaluation. Tenderers will be responsible for negotiating the licence fees with the suppliers.
R-8	18/12/19	Fire Authorities	<p><u>Pressure on staff resources</u></p> <p>The project will add extra pressures on staff resources.</p>	Diverting time and resources from usual activities.	4	5	20	High	All three Authorities to contribute staff to the project and work to be distributed as evenly as possible.
R-9	18/12/19	Scheme Managers	<p><u>Differences in data</u></p> <p>The format of data provided to the Administrators differs between Authorities.</p>	Potential difficulties and errors during data migration.	4	4	16	High	<p>Build data migration requirements into specification.</p> <p>There is also an option (at cost) to outsource the migration to Aquila Heywood.</p>

Closed Issues: 0

Open Issues: 0

Home Office – Sargeant fact sheet

Background

CARE Schemes

In 2014 or 2015 all main public service pensions, including the firefighters' scheme, were reformed to provide defined benefits on a career-average basis.

In a career average scheme, members build up pension each year based on a percentage of their pensionable earnings and this is added to their pension account. The pension account contains the pension built up in previous years and is revalued each year. When a member retires, the total built up in your pension account is received as an annual pension. This is called Career Average Revalued Earnings (CARE).

Reforms were made that reflected the recommendations of Lord Hutton's Independent Public Service Pensions Commission, which produced its final report in March 2011, and were intended to make public sector pensions affordable and sustainable in the long term.

Transitional Protection

In all the main public service CARE schemes introduced in 2015, those closest to their scheme's Normal Pension Age (NPA), which is when a member could choose to retire with an unreduced pension, were given 'full' transitional protection. In practical terms this meant that those within 10 years of their NPA as at April 2012 were allowed to remain in their current scheme.

In most of these schemes those who were between 10 and 14 years from normal retirement age were given 'tapered' transitional protection, meaning they did move to the new 2015 scheme, but at a later date than those members who were not afforded transitional protection.

McCloud/Sargeant

Two claims were brought, one against the judges' pension scheme (the *McCloud* case), the other against the firefighters' pension scheme (the *Sargeant* case) claiming that transitional arrangements were discriminatory on the basis of age, sex and race. The claims were heard together.

The Court of Appeal determined, amongst other things that transitional protection gave rise to unlawful age discrimination in the judges' and firefighters' pension schemes. The Supreme Court refused the Government's application for permission to appeal, meaning that the Court of Appeal decision stands.

On 15 July 2019 the Chief Secretary to the Treasury made a written ministerial statement (HCWS1725) confirming that, as 'transitional protection' was offered to members of all the main public service pension schemes, the government believes that the difference in treatment will need to be remedied across all those schemes. The statement set out that government, alongside the Employment Tribunal process, will also engage with employer and member representatives, and the devolved administrations, to help inform proposals to the Tribunal and in respect of the other public service pension schemes.

A case management hearing was scheduled for 18 December 2019 in the *Sargeant* case, with a view to setting out the procedural steps to appropriately implement the Court of Appeal decision.

1. What happened at the Firefighters' case management hearing on the 18 December?

The Court of Appeal determined in its judgment in *Sargeant* that the transitional provisions in the Firefighters' pension schemes resulted in direct age discrimination between:

- a) those who were members of the old scheme (the Firefighters' Pension Scheme 1992) ("FPS") and were fully transitionally protected by remaining in that Scheme after 31st March 2015 as a result of being an active member under the 1992 Scheme on 31st March 2012,
- b) those who were members of the FPS as at 31st March 2012 and were not treated as fully transitionally protected and moved to the new English Firefighters' Pension Schemes after 31st March 2015,

In the light of this, the Tribunal in the *Sargeant* case gave an interim declaration that the claimants (who all fell in within category (b)) are entitled to be treated as if they had been given full transitional protection and had remained in their current scheme after 1 April 2015.

The Government intends to extend the same treatment to all members of the public service pension schemes (whether claimants or not) who are in the same legal and factual position as the claimants.

The Government is also aware that many non-protected members may be better off in the new career average pension arrangements than they would have been in the old pre-2015 pension schemes and would suffer a detriment if they simply moved back to the old schemes. It is therefore the government's intention to ensure that such persons can keep the benefits they have accrued and making the required changes to the public service pension schemes will take time.

2. Changes to the Firefighter Pension Schemes

The difference in treatment will in due course be removed for all members with relevant service across all the main public service pension schemes – not just those who have lodged legal claims. Any solution will need to ensure that all members can instead keep the pensions they have earned to date.

The Government will be launching a public consultation on changes to the schemes and before that will hold a series of technical discussions with stakeholders. This will progress alongside the remedy directed by the Tribunals in the *Sargeant* case.

For the Firefighters' pension scheme, some members are likely to have been better off remaining in their old scheme, while others may benefit more from the new scheme – that will depend on the individual circumstances of affected members. Any changes to the scheme must take account of this in order to ensure members can keep benefits they have already accrued.

Technical discussions will be held with the Firefighters' Pensions Scheme Advisory Board (SAB). The SAB comprises members of the Fire Brigade's Union, Fire and Rescue Services Association, the Fire Officers' Association and the Fire Leaders' Association as well as employer representatives.

These discussions will consider changes to the scheme which are necessary:

- in order to remove discriminatory provisions from the public service pension schemes for non-claimants; and

- to ensure individuals can keep benefits they have accrued regardless of changes needed to remove discrimination, for example if they would have been better off in the new scheme.

Following these discussions, the Government will formally consult on its proposals, providing a further opportunity for input.

3. What about ill-health retirees and those who have already retired?

The Government is committed to urgently addressing the position of scheme members who have been ill-health retired or have already retired from the 2015 scheme. Changes of this nature require time to implement and the Home Office will provide further detail in due course. Please contact your FRA if you are an affected claimant.

4. Does the McCloud/Sargeant judgment increase the costs of public service pensions?

Initial estimates suggest removing the difference in treatment the discrimination will add around £4bn per annum to scheme liabilities across the public services from 2015.

The underlying aims of the 2015 reforms remain: public service pensions are and will continue to be a significant cost for the taxpayer. The McCloud/Sargeant judgment does not alter the government's commitment to ensuring that the cost of public service pensions is both affordable for taxpayers and sustainable for the long term.

5. Will the additional cost of removing the difference in treatment be borne by employers?

The most recent valuation process set employer contribution rates until 2023. The next valuation will assess scheme costs in the round, in the usual way, and will set employer contribution rates from 2023. There are numerous factors that could affect the valuations between now and then, of which the McCloud ruling is just one.

It is too early to say whether employer contribution rates will increase from 2023. If deficits do emerge in the scheme, they will need to be paid off over the deficit recovery period in the usual way.

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**To: Chief Fire Officers
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities
Directors of Human Resources**

Members of the Employers' Side of the NJC

18 December 2019

CIRCULAR EMP/8/19

Dear Sir/Madam,

TRANSITIONAL PROTECTIONS PENSIONS CLAIMS INTERIM ORDER ON REMEDY

This circular concerns the interim order on remedy (the Order) for the above claims, which was made by the Employment Tribunal at today's preliminary hearing. A copy of that Order is attached (it is in draft format as the final version has not yet been sent out by the Tribunal).

Background

As a reminder these claims concern the issue of whether the transitional protections in the 2015 Fire Pension Scheme (FPS), which provide protections based on age allowing older members to remain in their former final salary scheme, are age discriminatory (other claims were made but it is the age discrimination claim which is the primary one). As they were named as respondents in the case, Fire and Rescue Authorities (FRAs) had to submit a defence to the legal challenge. This defence has been managed collectively on behalf of the FRAs by the LGA under the auspices of the National Employers and decisions have been taken by a central steering group made up of a number of FRA representatives.

In December 2018 the Court of Appeal found that the transitional protections unlawfully discriminated on age and the case has therefore returned to the Employment Tribunal for it to determine remedy.

The Employment Tribunal Order

The Order is only an interim order and does not bind the parties beyond the limited interim period before the final declaration. It was agreed by all parties and the main points of it and considerations for FRAs are as follows.

Paragraph 2 of the Order in effect provides that pending the final determination of all of the remedy issues, those that brought claims in England and Wales (the claimants) are entitled to be treated as if they remained in the in 1992 FPS. The

Order anticipates that the final determination on that remedy issue in regards to membership of the 1992 FPS should be resolved around mid-July 2020, although it should be noted that even when we have a final determination on that issue it may be some time before this part of the remedy can be put into effect for all claimants. Further there may be other issues relating to remedies to be resolved, for example in regards to claims for injury to feelings.

So that FRAs can implement this provision of the Order we are pushing the Home Office to quickly issue guidance on implementation which should amongst other factors cover the following points:

- Dealing with ill-health retirements, including on the IQMP process
- Backdated employee contributions (the current contribution rates for the various FPS are available here - <http://www.fpsboard.org/images/PDF/Bulletin18/Appendix2.pdf>)
- Taper members due to taper into the 1992 scheme from 21 January 2020
- Immediate normal retirements from age 50 with over 25 years of service¹

Pending that guidance, FRAs should take no immediate steps save that if they are dealing with ill-health retirements, to avoid delay, they should ask the IQMP to assess the applicant under both the 1992 FPS and 2015 FPS rules. They should also identify all applications for ill-health retirements on the 2015 FPS since 1 April 2015, so they are in a position to take steps once we have Home Office guidance. Please be aware also that a small working group of software providers and administrators, working alongside the Home Office and the LGA, are looking at practical issues with regards to effecting remedy.

The Order also covers other remedy issues, such as any potential claims for injury to feelings.

The Order only covers the existing claimants in England and Wales, all of whom were in the 1992 FPS (your authority's Nominated Contact should have a list of your claimants). It does not cover those who did not bring claims (non-claimants). However, discussions are taking place on how to provide a remedy for those non-claimants as appropriate. It is also anticipated that in due course remedy will also be put in place in Scotland and Northern Ireland.

Finally, the wording in the Order protects the FRAs' appeal on the Schedule 22 issue, which is currently with the Employment Appeal Tribunal (EAT). In summary, the Schedule 22 is our defence in the age discrimination claim that we were obliged by legislation to act as we did in implementing the pension transitional arrangements, and so we should not be liable. That appeal is currently stayed and any further stay of that appeal will be considered shortly.

Yours faithfully,



Gill Gittins

¹ <http://www.fpsregs.org/images/admin/RetirementFPS2015v1.pdf>

Case Nos: 2202235/2015

1303751/2015

1401812/2015

1601172/2016

1601173/2016

IN THE LONDON CENTRAL EMPLOYMENT TRIBUNAL

BETWEEN:

RACHEAL SARGEANT & Others

Claimants

-v-

- (1) LONDON FIRE AND EMERGENCY PLANNING AUTHORITY**
- (2) WEST MIDLANDS FIRE AND RESCUE AUTHORITY**
- (3) CORNWALL FIRE AND RESCUE AUTHORITY**
- (4) SOUTH WALES FIRE AND RESCUE AUTHORITY**
- (5) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**
- (6) THE WELSH MINISTERS**

Respondents

DRAFT AGREED DIRECTIONS

1. The current stay be lifted only in respect of the claims for age discrimination and to the extent of the following orders and directions. Save to that extent, all current and new claims remain stayed.

2. The proposed interim declaration as follows be made:

Pending the final determination of the issues of remedy, all existing Claimants who, by reason of their age would not satisfy paragraphs 12(2)(c), 12(3)(c), 13(e) or 14(e) of Schedule 2 to

the 2014 English Regulations or the 2015 Welsh Regulations from 31st March 2015 are entitled to be treated as satisfying those paragraphs from that date.

3. For the avoidance of doubt, the adoption of the interim declaration at paragraph 2 above is:-
 - a. without prejudice to any argument that may be raised by any party as to the proper wording of the final declaration;
 - b. without prejudice to the outstanding appeal by the 1st, 2nd, 3rd and 4th respondents in relation to the decision of the Employment Tribunal dated 22 June 2016.
4. The Claimants and the Respondents will send to each other and the Tribunal the wording of any final declaration that they seek in these cases by (*6th March 2020*).
5. No later than (*27th March 2020*) the Claimants and the Respondents will confirm to each other and to the Tribunal whether they agree the wording of the final declaration proposed or, if not, explaining why they do not agree and confirming or revising their own wording as appropriate.
6. The Claimants shall provide the following information by (*12th June 2020*):
 - i. The identity of any of the Claimants who are claiming an award for injury to feelings;
 - ii. The *Vento* band in respect of which each such Claimant claims injury to feelings;
 - iii. Whether that Claimant also claims damages for personal injury and/or aggravated damages;
 - iv. The basis for their claims for non-pecuniary loss.

7. The Respondents shall provide a response by (*4th September 2020*). If it is suggested that no compensation can or should be awarded as a matter of principle, the basis for this suggestion is to be set out.
8. As for claims for other financial losses, the Claimants are to provide by (*12th June 2020*):
 - i The identity of any of the Claimants who claims an award for financial losses;
 - ii For any such Claimant, details of the heads of loss and the sum under each head of loss claimed;
9. The Respondents to provide a response to this information by (*4th September 2020*), including:
 - i. Which heads of loss they accept should be remedied and their proposals in that regard; and
 - ii. Which, if any, heads of loss they say should not, as a matter of principle, be remedied and why not.
10. By (*18th September 2020*), the Claimants and the Respondents shall seek to agree 8 to 12 sample claims in respect of injury to feelings to be considered at a hearing.
11. A telephone case management hearing shall be listed for 18th March 2020 to review progress and give further case management directions.
12. A further hearing be listed for 1 day on 17th July 2020 with a view to determining the final form of declaration and, if appropriate, any other outstanding directions on remedy issues. This hearing will be listed as a Final Hearing of part of the issues and the parties consent to this being before a judge sitting alone. Any requirement for this consent to be in writing is waived. For the avoidance of doubt the parties do not consent to any issue as

to injury to feelings being heard by a judge sitting alone and such a hearing will be listed before a full Tribunal with members.

13. Skeletons to be exchanged and lodged 3 days prior to the hearing on 17th July 2020 i.e. by 4pm on 13th July 2020.
14. Further directions in respect of all stayed cases and claims to be given at the hearing on 17th July 2020.
15. Any application to lift the stay in any case must be made in writing on at least 14 days' notice to all other parties.
16. Liberty to all Claimants to apply to vary the said directions.

DERBYSHIRE FIRE AUTHORITY
PENSION BOARD

27th February 2020

REPORT FROM LEICESTERSHIRE COUNTY COUNCIL – PENSION
ADMINISTRATOR

PENSION FUND ADMINISTRATION REPORT – QUARTER 1ST OCTOBER TO 31ST
DECEMBER 2019

Purpose of the Report

To inform the Fire Pension Board of fire-fighter pension administration in the quarter.

This is designed to assist the Fire Pension Board. It is also considered best practise to provide a report of this type.

Areas

Annual Benefit Statements / Year-end / Taxation Saving Statements

Leicestershire County Council issued the annual benefit statements by 31st August 2019 and the Pension Saving statements by 6th October 2019. There were 19 Pension Saving statements sent for 2018/19 for Derbyshire Fire and Rescue Service. All members have replied where necessary for them to do so.

Valuation 2020

The Government Actuary's Department (GAD) has issued the draft 2020 valuation data specifications for FPS England. This has been circulated by email to software suppliers and administrators. The data specifications are mostly the same as they were for the 2016 valuation, with the one major addition being the inclusion of extra data requirements for salary and contribution information between 2015 and 2020 following the McCloud judgement. GAD will follow up in the near future with the required data collection spreadsheet and instructions.

Regulation Changes

None since the last report

Update on Sargeant case (transitional protections remedy)

On 18th December 2019, the Employment Tribunal made an interim order on the firefighters' transitional protections claims. An employer's circular from the National Employers has been sent to FRAs informing them of the detail. That circular is available at the following link:

<https://www.local.gov.uk/sites/default/files/documents/EMP%20%2019%20-%20FPS%202015%20CMPH%20-%20Final.pdf>

The Home Office have also provided a factsheet that can be issued to members available here:

<http://fpsregs.org/images/Bulletins/Bulletin-27-December-2019/Bulletin-27-Appendix-1.pdf>

Additionally, the LGA have issued suggested text for FRAs to use in order to respond to member queries as below:

"We are aware of the interim declaration made by the Employment Tribunal that claimants represented in the Sargeant legal case are entitled to be treated as if they remained in the Firefighters Pension Scheme 1992 (FPS 1992). In order to comply with the Tribunal's order FRAs will need further direction from Government on the practical steps to enable implementation and we await that direction, albeit the Home Office have since issued a factsheet.

In the meantime, to enable us to prioritise urgent cases, if you believe you are a claimant and you have an immediate retirement event; i.e. you are going through or have gone through an ill-health retirement or you wish to retire from the scheme with immediate effect and meet the eligibility requirements of being over 50 with 25 years' service (includes service in the 2015 Scheme) please contact [insert relevant contact details] with confirmation of your status as a claimant and details of your retirement claim.

The order does not specify treatment of non-claimants at this time, however Government have confirmed their intent that non-claimants in the same legal and factual position as claimants intends to extend the same treatment to all members of the public service pension schemes, including the Firefighters' scheme, (whether claimants or not) who are in the same legal and factual position as the claimants. If you are a non-claimant with a similar immediate retirement event to claimants, please contact us. "

As a result of the need for further guidance, the Pension Section is currently unable to re-calculate any pension benefits already paid or to base benefits on the 1992 scheme where members are due to or have already transitioned into

the 2015 scheme. Once full guidance is released, FRAs and pension administrators will be in a better position to proceed.

Risk and Breaches – (material or not)

None

Common and Scheme-specific Data

Derbyshire Fire Authority requested to use the Aquila Heywood report to obtain common data and scheme-specific data for this year in order to complete TPR's annual return. As no specific fields have been agreed between the LGA and the software provider, the fields reported on are wide ranging, including fields that have not been tested before.

The scores are as follows:

Common Data score:	93.1%
Scheme-specific Data score:	66%

The results from the scheme specific report show that there are three main areas which hold noticeably lower scores. These are NI Contributions/Earnings history, Contributions and BCE7 where a death case has occurred.

NI Contributions/Earnings History

The NI Contributions/Earnings History errors are due to different reasons.

Many of these cases look to be:

Pensioner records that do not have an NI earnings screen or

Records where an NI screen is present but with no NI earnings on, however these records may have GMP details in their place.

NI earnings are used to calculate GMPs however where Pensions have received an official GMP notification, the NI earnings have had to be removed in order for the Pension system to accept the GMP on there, otherwise the system thinks that they are duplicating information. Where pensioners do not have an NI earnings screen, this does not mean that they do not have a GMP. This is held on a different screen on the system. Despite this, these records have been categorised as failures.

Contributions

Having looked through a sample of these cases, there appear to be a lot of cases where, despite all contributions being present on the records, as the system did not input a total contribution amount on the screen in question, the record has shown as a fail. This has been logged with Heywood as the system should be writing back a total amount.

BCE7

These are a small amount of cases where a member has died and the report is expecting there to have been a death grant paid. This has also been logged with Heywood as there are cases where there was no provision in the regulations for a death grant to be paid due to the particular scheme that the member was in, yet these have been shown as fails.

Pensions have a full list of the records which have errored under all the scenarios that have been tested this year. The issues above are national issues which will be affecting other fire authorities as well.

GMP Reconciliation

The position is currently the same as the previous quarter in that the total remaining cases where we are now awaiting an HMRC reply is still 14.

Termination of Administration

The Leicestershire County Council Pension Manager originally terminated the pensions administration function for Derbyshire Fire Authority with effect from the 31 March 2020. Following a request from the three fire authorities to extend this date, a revised date of 31st December 2020 has been agreed by all parties. The request to extend the date to 31st December 2020 was due to the fire authorities deciding against their original preferred provider due to costs. A full OJEU Tender is now required.

The termination of the pensions administration is due to the increasing complexity in this area of work as a result of the introduction of the Career Average Revalued Earnings scheme, which is now compounded by the recent Sargeant and McCloud Supreme court judgment on age discrimination.

There are a number of Fire-fighter pension administration providers in the market and the Pension Manager has committed to work constructively with Derbyshire Fire Authority to help procure the specialist service required.

As a result of the extended timeline there will be a number of changes in the service which will be provided by Leicestershire County Council. These were discussed at a meeting with all three fire authorities on the 21st January 2020 and were agreed by all parties. The agreed changes are as follows:

- Leicestershire County Council Pensions Section agrees to extending to 31/12/2020 to allow the three FAs time to do a full OJEU tender.
- The Pensions Manager will review the Fire budget from 1/4/2020 to 31/12/2020 and will write to scheme managers separately with the Pensions Section's revised charges.
- The Fire Team will comprise of two full time staff and additional resource as required (but only if available) – overtime for the team will be available and recharged. One member of the Fire Team still leaves on 31/3/2020, so experience reduces from 3 to 2.
- The Team Manager will need to do more “Fire task work”.
- Certain Fire checking will move to the Pensions Manager.
- The Pensions Manager will negotiate an extension to the Fire Altair system to 31/12/2020. All system charges will be recharged.
- Key Points to note;
 - It's a valuation year for Fire – meaning extra work on Fire.
 - Leicestershire County Council provide a reduced service from 1/4/2020
 - Increase the timeline for replies – new KPIs below.
 - Cease providing estimates to members – unless within 6 months from retirement (and subsequently cease providing the spreadsheet with the KPIs which shows who has asked for an estimate).
 - Cease issuing deferred ABS to 1992 members as this is not a statutory obligation.
 - Cease projecting forward on the 2020 active ABS (McCloud will change almost all Fire pension benefits, so projecting ahead becomes null and void anyway).
 - Provide metric data on a six monthly basis instead of quarterly.
 - Cease providing ad hoc reports when fire authorities ask for people's NRDs etc.
 - Non-implementation of Member Self Service (MSS) for Fire.
 - **There is potentially a large new area of fire work pending** - the new modified retained exercise, backdating even further. Leicestershire County Council Pensions Section will not do this and this will be done by the new provider – however this has to be caveated by the potential statutory obligation to complete this by a deadline (as yet unknown). **This is a large risk.**
 - McCloud – It is unlikely to have the remedy confirmed by 31/12/20 for Fire, so Leicestershire County Council Pensions Section will not do this and it

will be done by the new provider – however this has to be caveated by the potential statutory obligation to complete by a deadline (as yet unknown).

This is a very large risk.

- Pensioner payroll implications on an extension to 31/12/2020 has been discussed with Leicestershire County Council Payroll and has been agreed.
- If the tender outcome provides for the possibility of an administrator using Civica – data migration costs and time (that will be recharged) and risk, are likely to increase.
- The Pensions Manager and the Team Manager will step down from national Fire responsibilities, FOG Chair and Technical Group representative (Team Manager), CLASS management team lead – Fire and SAB Board effectiveness sub group rep (Pensions Manager), so Leicestershire County Council Pensions Section will not be as closely linked to groups involved in national policy changes and influencing system development.

- New KPIs are below;

Business Process Perspective	Target
Retirement Benefits notified to members within 10 working days of paperwork received	90%
Pension payments made within 5 working days of receiving election	90%
Death related benefits notified to dependant within 10 working days of notification	80%
Death related payments made within 5 working days	80%
Estimates provided within 10 working days	n/a*

- *The Pensions Manager is not willing to add a KPI target on estimates – The Pensions Section will monitor this.

All colleagues in the Pension Section will continue to give 100% to the extension and will continue to provide the best service possible to all three fire authorities, but fire authorities must all understand the limitations that the Pensions Section can offer by extending and appreciate this increases the risk for all parties.

All three fire authorities agreed on the 21st January 2020 to make their Pension Boards aware of the revised service. This is to support the Pension Section and to help manage firefighter’s expectations.

Key Performance Indicators

This Quarter(1.10.19 to 31.12.19)

Business Process Perspective		Target	This Quarter	Previous Quarter	Customer Perspective - Feedback		Target	This Quarter	Previous Quarter
Retirement benefits notified to members within 10 working days of paperwork received		92%	100% ▲	100%	Establish members understanding of info provided - rated at least mainly ok or clear		95%	100% ▲	100%
Pension payments made within 5 working days of receiving election		92%	100% ▲	100%	Experience of dealing with Section - rated at least good or excellent		92%	100% ▲	100%
Death related benefits notified to dependant within 10 working days of notification		92%	100% ▲	100%	Establish members thoughts on the amount of info provided - rated as about right		92%	100% ▲	100%
Death related payments made within 5 working days		92%	100% ▲	100%	Establish the way members are treated - rated as polite or extremely polite		97%	100% ▲	100%
Estimates provided within 10 working days		92%	100% ▲	100%	▼ Comments				

▲
▶
▼

Good or better than target

Close to target

Below target

Pension Scheme Member Comments

Such a helpful team. Fantastic experience

Just brilliant

Wonderful team. Well done all.

Excellent as always. Thank you.

Very satisfied. Clear, concise, timely response-good

Always receive prompt reply from Pensions department

Further details regarding estimates

	Number of estimates provided	Number of estimates already provided in the last 12 months	Number of multiple requests received	2 estimate requests	3 estimate requests	4 estimate requests	5 or more estimate requests
Notts	16	2	1	0	1	0	0
Derbys	17	3	2	2	0	0	0
Leic	12	2	1	1	0	0	0

Derbyshire Metric Data For Quarter Ending 31.12.19

Category	1992	2006	2015	Modified
Active Members	32	5	547	15
Pensioners Including Dependants	691	22	4	59
New Pensioners Including Dependants	5	0	1	1
Deferred Members	42	199	150	42
New Deferred Members	0	4	12	0
Opt Outs	0	0	0	0
Deaths	8	0	0	0
Transfers In	0	0	0	0
Transfers Out	0	0	0	0
Refunds	0	0	0	0

Officers to Contact

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