

**HUMBERSIDE FIRE AUTHORITY**

**PENSION BOARD**

**10 JULY 2017**

**PRESENT:**

Employer representatives: Councillor Shepherd and P Shillito (Director of Public Safety)

Scheme Member representatives: Mr G Marshall

Executive Director Service Support/Section 151 Officer and Scheme Manager, Monitoring Officer/Secretary, Finance Manager, Senior Finance Officer (Contracts and Procurement), Finance Officer and Committee Manager.

The meeting was held at the Humberside Fire and Rescue Service Headquarters, Kingston upon Hull. Meeting commenced at 2.05 p.m.

*(The Monitoring Officer/Secretary took the Chair for the following item (Minute 5528).)*

**5528 APPOINTMENT OF CHAIRPERSON** – The Monitoring Officer/Secretary submitted a report on the appointment of a Chairperson for 2017/18 indicating that the Chairperson is an annual appointment made at the Annual General Meeting of the Authority or elected at the first meeting of the Pension Board following the Annual General Meeting. The Terms of Reference of the Pension Board as set out in Article 10A of the Constitution provided that the position of Chairperson will normally rotate on an annual basis between the Employer's representatives and the Scheme Member representatives on the Board. In 2016/17 the Chairperson was a Scheme Manager representative.

**Resolved** – That Councillor Shepherd be appointed Chairperson of this Board until the Annual General Meeting of the Humberside Fire Authority in 2018.

*(Councillor Shepherd took the Chair.)*

**5529 DECLARATIONS OF INTEREST** – There were no declarations.

**5526 MINUTES – Resolved** – That the minutes of the meeting of the Board held on 27 January 2017 having been printed and circulated amongst the Members, be taken as read and correctly recorded and be signed by the Chairperson.

**5527 MATTERS ARISING FROM THE MINUTES** – There were no items.

**5528 PENSION BOARD COMPOSITION 2017/18 AND TERMS OF REFERENCE** – The Monitoring Officer/Secretary submitted a report confirming the composition of the Pension Board for the current year as approved by the Fire Authority on 5 June 2017 as follows:

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|---|--|
| <u>Employer representatives</u> (2):      | 1 Elected Member (Councillor Shepherd)<br>1 Officer (Director of Public Safety)  |
| <u>Scheme Member representatives</u> (2): | 1 representative nominated by the representative bodies via discussion and agreement at the Joint Consultative Committee (Mr G Marshall)<br><br>1 representative selected from expressions of interest by individual HFRS FPS members or those eligible to be HFRS FPS members. (1 Vacancy following resignation of Mr D Riggall in May 2017). |

A copy of the Board's Terms of Reference extracted from the Constitution was attached for Members' information at Appendix 1 to the report. Article 10A.5 provides that the membership of the Pension Board shall be determined at the Annual General Meeting of the Authority and that Board Members may be appointed for a maximum of two 3 year terms. The Monitoring Officer/Secretary drew Members' specific attention to a proposed Conflicts of Interest policy that relates to Members of the Pension Board set out in Appendix 2 to the report and stated that the Pensions Regulator had recommended that Pension Boards should adopt such a policy.

**Resolved** – (a) That the report be noted;

(b) that it be noted that following consideration by the Corporate Management Team of expressions of interest received for the vacancy among Scheme Member representatives a recommendation for appointment as a Scheme Member representative will be submitted to the meeting of the Fire Authority on 28 July 2017, and

(c) that the Conflicts of Interest policy set out in Appendix 1 to these minutes be approved and adopted.

**5529 CALENDAR OF BOARD MEETINGS 2017/18** - The Monitoring Officer/Secretary submitted a report indicating that the Annual General Meeting of the Authority on 5 June 2017 had set the calendar of its meetings for the forthcoming year. With regard to the Pension Board, its calendar of meetings was a matter for the Board. The report indicated that in terms of meetings of the Pension Board, Article 10A.12 of the Constitution provided that there shall normally be two ordinary meetings of the Pension Board in each year and that the schedule of meetings shall be decided at the Annual General Meeting of the Authority. In addition, extraordinary meetings may be called at such other times as the Board or Chairperson of the Board may determine. The report set out the dates proposed for meetings of this Board during 2017/18. Attached at Appendix 1 to the report was a schedule showing the calendar of meetings approved by the Fire Authority with the proposed dates for meetings of this Board incorporated. In answer to a query the Executive Director Service Support/Section 151 Officer reminded Members that a training session for Members of the Board would be held on 7 September 2017 and undertook to re-circulate details to Members.

**Resolved** – (a) That the dates and times of meetings of this Board set out in Appendix 1 to the report be approved, and

(b) that it be noted that a training session for Members of the Board will be held on 7 September 2017.

## UPDATE REPORTS

**5530 Injury Pensions** – The Executive Director Service Support/Section 151 Officer and the Senior Finance Officer (Contracts and Procurement) submitted a paper (further to Minute 5325 of the meeting held on 27 January 2017) indicating that the Firefighters' Compensation Scheme Order provided for additional benefits to be paid to a member of the Firefighters' Pensions Schemes, where it had been deemed that they would retire on the grounds of ill health and their disability could be attributed to a qualifying injury. A qualifying injury was defined as an injury that had been received by the individual in the exercise of their duties, unless the injury was wholly or mainly due to his/her own serious and culpable negligence or misconduct. The injury award was comprised of 2 parts: an injury gratuity; or lump sum and an annual injury pension. The calculation of the benefits payable to the individual was based on assessment of the degree of disablement that the individual had suffered as a result of the qualifying injury. The degree of disablement was calculated with reference to the degree in which their future earnings capacity had been affected by the qualifying injury. The paper included a table showing how the injury gratuity and injury pension was calculated in accordance with the degree of disablement and the individual's service. The injury pension is paid as a tax free payment but is offset by the amount of any benefits that the individual is receiving in relation to the injury from the Department for Work and Pensions.

With regard to the current situation in Humberside Fire and Rescue Service (HFRS) to paper indicated that since 1974 HFRS had awarded 61 injury pensions to firefighters who have suffered a qualifying injury. The vast majority (57/61) of the injury pensions in payment were awarded prior to 2006. Only 4 had been awarded since 2006 with 3 in 2013 and 1 in 2014. West Yorkshire pension fund had recently carried out a review of the injury pensions in payment and made any necessary adjustments to the amount in payment following clarifications of any benefits that the individuals are in receipt of. Where an individual is in receipt of an injury pension award the Authority shall at such intervals that it deems fit, consider whether the degree of disablement has substantially altered, and reassess the injury pension in payment. The legislation provides for the Fire Authority to cease injury pensions reviews if they so resolve after a period of 5 years. The Injury Pension Review policy is being reviewed and currently updated to reflect the new ways of working and the 4 individuals who had been awarded an injury pension since 2006 are in the process of being reassessed by the Occupational Health Section. The paper included charts depicting the length of service at award (in years) and also the current age profile.

**Resolved** – That the report be noted.

**5531 Draft Policy – Breach Reporting to the Pensions Regulator** – The Senior Finance Officer (Contracts and Procurement) submitted a draft policy ‘Pensions – Breach reporting to the Pensions Regulator’ which was based on guidance issued by the Pensions Regulator. The policy would be referred for consultation through the normal channels.

**Resolved** – That the draft policy be received.

## **PENSION BOARD - WORKSTREAMS**

**5532 Workstreams Update** - The Executive Director Service Support/Section 151 Officer submitted a report setting out an update on the workstreams that were agreed at the Pension Board in January 2016. The workstreams were designed to ensure that the Board operates in compliance with the Pension Regulator’s Code of Practice for Pension Boards. The list of activities was not exhaustive and had evolved over the last 12 months and will continue to do so over the coming months as the work of the Board develops. Appendix 1 of the report set out the workstreams proposed for the Pension Board over the short-to-medium term. The workload aimed to meet the requirements of the Code of Practice for Pension Boards and had therefore been shaped into three broad areas:

Governance, Administration and Communication

Attention was drawn to the following elements that were timetabled to be reported upon at this meeting:

- **Governance**

G3 workstream – Training - Training had been delivered at regular points since the inception of the Board in July 2015. Upcoming in September 2017 is the training session for Pension Board Members that will be delivered by colleagues from LGA Pensions and the Pensions Regulator.

G5B workstream – Summary of Complaints Received - A clear process for complaints had been adopted and is a key component of the governance of the Firefighter Pension Schemes (FFPS). There had been no complaints in relation to the administration of the FFPS in 2016/17 or 2017/18 to date.

G6 workstreams – Risk Register - The Authority’s team involved in the operation of the FFPS had developed a comprehensive Risk Register attached as Appendix 2 to the report. The Risk Register identifies the two most dominant risks as the maintenance of Member data (Risk 2) and also legislative change (Risk 7). These risks reflect the recent significant changes in the FFPS which have brought a much greater emphasis on the completeness and accuracy of data and a

number of fundamental scheme changes and legal rulings. Both of these risks will be monitored carefully and it is felt that the mitigations and controls in place at present are sufficient.

- **Administration**

A1 workstream – KPIs and Benchmarking, SLAs - The Service now had an agreed set of Key Performance Indicators (KPIs) with West Yorkshire Pensions Authority (WYPA) who act as administrators of the FFPS on the Authority's behalf. The KPIs are monitored and reported on monthly. Appendix 3 to the report set out the position for quarter 4 of the 2016/17 financial year. The data shows good performance in most of the key areas. The KPIs provide a sound basis on which to manage performance going forward.

A2 workstream – Costs per Member and Number of Scheme Members - Appendix 4 to the report set out the latest position of scheme members including those currently contributing to the 1992, 2006 and 2015 schemes and those in receipt of a pension. This information will be brought to each Board meeting. Perhaps most striking is that approximately 68% of those contributing are in the 2015 scheme. This should increase over time as those in the 1992 scheme either retire and draw a pension or transition into the 2015 scheme.

A4 Pension Expenditure The pension expenditure for the Firefighters' Pension Scheme for 2016/17 was attached as Appendix 5 to the report. There was £17.703m of expenditure on the scheme in 2016/17 and £6.245m of income/contributions. The 2016/17 position had been audited by KPMG (the Service's External Auditors) as part of the annual audit of the 2016/17 Accounts.

- **Communication**

C1 workstream – Communication by the Scheme - Appendix 6 to the report showed a copy of the latest Newsletters issued by the scheme administrators and also the Pensions Ombudsman.

**Resolved** – That the report be received.

**5533 BREWSTER JUDGMENT** - The Senior Finance Officer (Contracts and Procurement) submitted for Members' information a copy of the Judgement given on 8 February 2017 on an application by for Judicial Review (Northern Ireland) heard on 24 November 2016 against a decision not to award a survivor's pension. The Judgment concluded that the appeal be allowed; that the requirement in the 2009 Regulations that the appellant and her partner should have made a nomination be disapplied, and that the appellant is entitled to receive a survivor's pension under the scheme. The Senior Finance Officer (Contracts and Procurement) stated that the Judgment was not likely to affect the Humberside Fire and Rescue Service in a significant way and in any case was only relevant to the administration of the 2006 Firefighters' Pension Scheme.

**Resolved** – That the report be received.

**5534 ANY OTHER BUSINESS** – The following matter was briefly discussed:

- Survey of Public Service Pension Schemes – The Executive Director Service Support/Section 151 Officer referred to Minute 5006 of the meeting of the Board held on 29 January 2016 when two reports issued by the Pensions Regulator based on a survey of public service pension schemes that was undertaken in the summer of 2015 were submitted and stated that the findings of a subsequent survey had been received and would be circulated to Members of the Board.

*Meeting closed at 2.33 p.m.*

## **CONFLICTS OF INTEREST POLICY**

### **1. Introduction**

- 1.1. The Public Service Pensions Act 2013 (“the 2013 Act”) requires that any member of a pension board must not have a conflict of interest, which is defined as a “financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).”<sup>1</sup>
- 1.2. The 2013 Act sets out the legal requirements for scheme managers and pension boards in relation to conflicts of interest.
  - 1.2.1. Scheme managers must be satisfied:
    - 1.2.1.1. That a person to be appointed as a member of the pension board does not have a conflict of interest<sup>2</sup>; and
    - 1.2.1.2. From time to time, that none of the members of the pension board has a conflict of interest<sup>3</sup>.
  - 1.2.2. Pension board members must provide the scheme manager with such information as they reasonably require for the purposes of meeting the legal requirements in relation to conflicts of interest<sup>4</sup>.
  - 1.2.3. The pension board must include employer representatives and member representatives in equal numbers<sup>5</sup>.
- 1.3. ‘The 7 principles of public life’ (attached at Appendix A) should be applied to all pension board members in the exercise of their functions.

### **2. What is a conflict or potential conflict?**

- 2.1. Conflicts of interest may arise when pension board members must fulfil their legal duty to assist the scheme manager<sup>6</sup> and at the same time, they have either:
  - 2.1.1. A separate personal interest (financial or otherwise);
  - 2.1.2. Another responsibility in relation to that decision, giving rise to a possible conflict with their first responsibility.
- 2.2. Legal duties include securing compliance with:
  - 2.2.1. Scheme regulations;
  - 2.2.2. Other legislation relating to the governance and administration of the scheme;
  - 2.2.3. Requirements imposed by the regulator; and
  - 2.2.4. Any other matter for which they are responsible.

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<sup>1</sup> Section 5(5) of the 2013 Act.

<sup>2</sup> Section 4(a)(i), *ibid.*

<sup>3</sup> Section 4(a)(ii), *ibid.*

<sup>4</sup> Section 5(4)(b), *ibid.*

<sup>5</sup> Section 5(4)(c), *ibid.*

<sup>6</sup> Section 5(2), *ibid.*

- 2.3. Actual conflicts of interest are those which actually materialise, and are likely to prejudice a pension board member's exercise of their functions. Where an actual conflict exists, there is a risk that the board member could be biased in favour of a particular decision which favours their interests, or they could place undue weight on the arguments opposing their interests in an attempt to address the conflict. This bias could be conscious or unconscious.
- 2.4. Actual conflicts of interest are prohibited by the 2013 Act, and cannot be managed. Only potential conflicts of interest can be managed.
- 2.5. Potential conflicts of interest may arise where a person has dual interests and responsibilities which may conflict with their role as pension board member but either:
  - 2.5.1. The potential conflict has yet to materialise into an actual conflict; or
  - 2.5.2. The person declares it, and it is managed so that it does not materialise into an actual conflict.
- 2.6. Examples of potential conflicts of interest are listed at Appendix B.

### **3. Identifying and recording potential conflicts**

- 3.1. All appointments to the Pension Board will be kept under review by the Scheme Manager.
- 3.2. All members of the Pension Board must declare to the Scheme Manager on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Pension Board. This includes any potential conflicts of interest that:
  - 3.2.1. Exist already;
  - 3.2.2. May arise in the future;
  - 3.2.3. Are perceived by others whether or not they are conflicts of interest.
- 3.3. If the pension board suspects any conflict of interest it should report its concerns to the Scheme Manager.
- 3.4. The pension board shall record all potential conflict of interests in a register of interests (attached at Appendix C).
- 3.5. Education on identifying and dealing with conflicts of interest will be included as part of the training requirement in the knowledge and understanding policy and framework<sup>7</sup>.

### **4. Monitoring potential conflicts**

- 4.1. The register of interests will be circulated to the Pension Board and the Scheme Manager for ongoing review, and for publication on the Humberside Fire & Rescue Service website.
- 4.2. Conflicts of interest will be included as an opening agenda item at Pension Board meetings, and revisited during the meeting where necessary.

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<sup>7</sup> Article 10A.10 of the Humberside Fire Authority Constitution

- 4.3. Discussions about conflicts, details of conflicts reported, and actions taken regarding conflicts will be recorded in the Pension Board minutes.

## **5. Managing potential conflicts**

- 5.1. The action taken will depend upon the nature and severity of the conflict. Any actual conflict cannot be managed, and must be reported to the Scheme Manager.
- 5.2. Possible courses of action in relation to potential conflicts include:
  - 5.2.1. The conflicted Pension Board member taking no part in the discussion of the matter giving rise to the conflict;
  - 5.2.2. The conflicted Pension Board member leaving the meeting for some or part of the time;
  - 5.2.3. A sub-committee being established, excluding the conflicted Pension Board member, to consider the matter outside of the formal meeting (where the terms of reference permit this to happen);
  - 5.2.4. The Scheme Manager seeking independent legal advice as to the way in which to manage the conflict;
  - 5.2.5. The Scheme Manager seeking independent advice from other professionals, for example an accountant or actuary, on the matter in question.
- 5.3. Where the conflict of interest is considered to be so fundamental that it cannot be effectively managed, or where a Pension Board member has an actual conflict of interest as defined in the 2013 Act, the individual will be required to resign from their position on the Pension Board.

**Appendix A**

**The 7 Principles of Public Life**

**1. Selflessness**

Holders of public office should act solely in terms of the public interest.

**2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**6. Honesty**

Holders of public office should be truthful.

**7. Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



Appendix B**Examples of potential Conflicts of Interest:**

## 1. Investing to improve scheme administration versus saving money

An employer representative, who may be a Permanent Secretary, finance officer or local councillor, is aware that system X would help to improve standards of record-keeping in the scheme, but it would be costly to implement. The scheme manager, for instance a central government department or local administering authority, would need to meet the costs of the new system at a time when there is internal and external pressure to keep costs down. In order to meet the costs of the new system, the scheme manager would need to find money, perhaps by using a budget that was intended for another purpose. This decision could prove unpopular with taxpayers. A conflict of interest could arise where the employer representative was likely to be prejudiced in the exercise of their functions by virtue of their dual interests.

## 2. Outsourcing an activity versus keeping an activity in-house

In an extension of the previous example, a member representative, who is also an employee of a participating employer, is aware that system X would help to improve standards of record-keeping in the scheme, but it would mean outsourcing an activity that is currently being undertaken in-house by their employer. The member representative could be conflicted if they were likely to be prejudiced in the exercise of their functions by virtue of their employment.

## 3. Representing the breadth of employers or membership versus representing narrow interests

An employer representative who happens to be employed by the administering authority and is appointed to the pension board to represent employers generally could be conflicted if they only serve to act in the interests of the administering authority, rather than those of all participating employers. Equally, a member representative, who is also a trade union representative, appointed to the pension board to represent the entire scheme membership could be conflicted if they only act in the interests of their union and union membership, rather than all scheme members

## 4. Assisting the scheme manager versus furthering personal interests

4.1. A pension board member, who is also a scheme adviser, may recommend the services or products of a related party, for which they might derive some form of benefit, resulting in them not providing, or not being seen to provide, independent advice or services

4.2. A pension board member who is involved in procuring or tendering for services for a scheme administrator, and who can influence the award of a contract, may be conflicted where they have an interest in a particular supplier, for example, a family member works there.

## 5. Sharing information with the pension board versus a duty of confidentiality to an employer

An employer representative has access to information by virtue of their employment, which could influence or inform the considerations or decisions of the pension board. They have to consider whether to share this information with the pension board in light of their duty of confidentiality to their employer. Their knowledge of this information will put them in a position of conflict if it is likely to prejudice their ability to carry out their functions as a member of the pension board.

**Appendix C**

<b>Pension Board Register of Potential and Actual Conflicts of Interest</b>									
<b>Date Identified</b>	<b>Name of Person</b>	<b>Role of Person</b>	<b>Details of Conflict</b>	<b>Actual or Potential</b>	<b>How Notified</b>	<b>Action Taken</b>	<b>Follow up Required</b>	<b>Date Resolved</b>	