

## Pensions Update

### Report of the Chief Fire Officer

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#### 1 Executive Summary

This report provides Members with an update on the Service's implementation of changing pension legislation, the challenges associated, and solutions currently being explored.

#### 2 Recommendations

The Fire Authority is asked to note the report.

#### 3 Background

Pensions are a complex subject and recent legal challenges and changes are having a significant impact on both current and future workloads within the Service. Providing the information and data required to ensure the Service's pensions administrators, West Yorkshire Pension Fund, (WYPF) can process pensions accurately and within the legislative timescales is both complex and resource intensive.

Prior to WYPF In November 2020 the previous provider, Shropshire County Pension Fund informed the Service that due to the additional resource needed to undertake the proposed McCloud Sargeant remedy the Shropshire Team would no longer be able to offer a service beyond 31 March 2022. Therefore, the Service undertook a tender process in conjunction with Warwickshire Pension Fund to secure a new provider. This new provider was West Yorkshire Pension Fund and the contract commenced on 1 April 2022.

Before joining West Yorkshire Pension Fund in 2022, all of the administration and technical queries were managed by Shropshire County Pension Fund, therefore requiring minimal input from the service.

However, since the move to West Yorkshire Pension Fund, this workload has increased considerably and there is an expectation that the Service provides much more support and administration. In addition, all Fire and Rescue Services have been given two extensive pieces of work to complete i.e.

**Matthews and others v Kent and Medway Towns Fire Authority** is the test case on the Part-time Workers Regulations 2000 brought by retained firefighters alleging they have been less favourably treated than full-time firefighters.

**McCloud/Sargeant:** Prior to 2015, public sector pension schemes provided benefits on a final salary basis. This was then shifted to a career average scheme in 2015, but the McCloud/Sargeant judgement in December 2018 found the protections introduced in 2015 to be discriminatory against younger members of the final salary schemes.

This paper primarily focuses on the challenges faced dealing with McCloud/Sargeant however both areas of legislation will require the use of specialist pension knowledge and an ever-increasing capacity. The Service also has members of the Local Government Pension Scheme (LGPS) which is still administered by Shropshire Council, and this too may have significant change and challenge in the future.

#### **4 McCloud/Sargeant**

The Fire Brigades Union brought a case of Age Discrimination against the Government for its construction of the 2015 Pension Scheme, which the Union won at Employment Tribunal and then at Court of Appeal in December 2018. Appeal to the Supreme Court was denied in 2019, effectively meaning that Firefighters should be returned or remain in their legacy scheme (the 1992 and 2006 schemes). The 2015 scheme has been re-introduced with the age discrimination removed, from April 2022.

**The key elements of this case are:**

- During the seven years under contention (2015 to 2022), Firefighters continued to be moved into the 2015 scheme, effectively this was due to a lack of regulation and guidance.
- Many of those Firefighters retiring during this period (and subsequently) remain financially disadvantaged.
- Firefighters still in service during this period have had limited confidence and certainty of their pension figures, affecting their decision whether to retire or not.
- The Local Government Association (LGA) and Fire Brigades Union constructed an agreement for Fire and Rescue Authorities (FRAs) to use should they wish to return Firefighters to their legacy scheme.

- The Home Office and Treasury advised that FRAs needed to be cognisant of financial risk regarding taxation if they returned Firefighters to their legacy scheme prior to October 2023.
- This advice resulted in a split between FRAs, with a number returning Firefighters to their legacy scheme should they wish to do so and those that chose not to until the legislative change predicted for October 2023. Shropshire chose not to, along with many other Services due to the risks highlighted by the Treasury and specialist legal advice to the Service.
- The Government legislated that remedy for those affected would be in place by October 2023. This has now been realised as of 1 October 2023. The likelihood of this legislation being laid within the October deadline has been subject to continual speculation throughout the period prior to its recent confirmation in September 2023. This created further uncertainty for the Service, Pension Board and pension members.
- Throughout this period the Service has been working with all stakeholders to prepare the required data, however this has not been without challenge due to the specialist nature of the subject and the contract differences between Shropshire Council Pension Fund and the Service's current provider West Yorkshire Pension Fund.

## 5 Current Position and Proposals

The Pension Board met on 6 July 2023, and under its Terms of Reference, agreed the need to advise the Fire Authority as the Scheme Manager to undertake a review of its decision and position on not processing detriment ahead of the legislation as it was still unclear if the legislation would arrive for October or be subjected to further delay.

Since the Pension Board met, WYPF have provided assurances that with the necessary waiver<sup>1</sup> now signed by SFRS, detriment will be processed for those retiring on or after 1 October. This will be carried out by WYPF despite ongoing delays with the new national software. This is subject to the Service providing WYPF with the necessary data.

The Government has also confirmed that the legislation supporting remedy is now in place and will be live from October 2023 as originally intended.

The legislation has subsequently been laid and as such remedy for retired members can be processed from October 2023 concluding before April 2025. Those retiring after 1 October 2023 will be automatically returned to their legacy scheme and processed as per normal.

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<sup>1</sup> The waiver is that pension calculations carried out by WYPF without the national software are based on data provided by SFRS and associated payroll providers and are the responsibility of the Service and not WYPF.

As such the Fire Authority does not need to revisit their original decision as the implementation of the new pension legislation supersedes the recommendation from the Pension Board.

With a clear legislative pension pathway and timetable now established the Service recognises challenges in both pension expertise and capacity. To meet these challenges the Service is exploring how best to proceed in what is a specialist field.

This desired expertise could come from procurement, post or collaboration and will be the Authority's key expert for the Firefighters' Pension Schemes and the LGPS. The role will be responsible for managing the Contract between the Authority and the Pension Administration Services provider, ensuring that contract is carried out in accordance with the specification. It will co-ordinate the delivery of an efficient and effective service to members, and potential members, of the Firefighters Pension Scheme and the LGPS and be the primary point of contact.

The role will also support the Pension Board, by overseeing and coordinating the necessary high level of administration and work closely with the HR and Finance teams to provide advice and guidance on all pension related matters.

This role could potentially be:

- A Pension Officer employed by SFRS.
- Expert advice procured from a third party.
- Enhancement of the current collaboration with HWFRS.

## **6 Conclusions**

The Service is fully committed to meeting the requirements of the new pension legislation impacting on the Firefighters' Pension Scheme and ensuring all pension members are correctly remunerated within the legal time limits. (Remedy for retired members by April 2025)

The Service is currently looking at ways to enhance how it processes pension data and satisfies the new legislation to ensure that retired members and those coming towards retirement are provided with the correct information and ultimately correct pensions.

The Service recognises the complexity of pensions and is exploring how best to acquire a suitably qualified resource to provide advice and guidance to all stakeholders including the Pension Board, Scheme Manager, LGA and internal departments.

## **7 Capacity**

Pensions is an ever-growing area of complex issues which requires expert knowledge and training to undertake the role. Without this specialist capacity the Service is at risk of being unable to meet its obligations of providing support to its members and managing all of the Pensions Schemes.

## **8 Fire Alliance / Collaboration / Partnership Working**

To assist with the development of the Human Resources Team's Pensions knowledge, it was agreed that the Service would approach Hereford and Worcester Fire and Rescue Service to see if they could provide any support through their Pensions Officer regarding the complex nature of the work and understanding of the Pensions Regulations.

Following this a secondment agreement of 8 hours per week for their Pensions Officer was agreed and this is currently in place until 31 January 2024.

Discussions with Hereford and Worcester FRS continue regarding wider collaboration opportunities around pensions.

## **9 Financial Implications**

It is anticipated that the financial implications of procuring an in-house Pension Officer would be up to £42K plus on costs. Grade 10 £38,296 - £42,503 at the current rates (plus on costs).

This growth is similar to the amount of money that was saved when WYPF took over from Shropshire Council as the Service's pension provider.

## **10 Legal Comment**

There are no legal implications arising from this report.

## **11 Equality Impact Assessment**

There are positive equality and diversity implications arising from this report and an e-EQIA is required. Any recruitment will be fully advertised allowing equal opportunities for all to apply.

## **12 Fire Standard Core Code of Ethics and Human Rights (including Data Protection)**

There are positive impacts relating to existing Fire Standards, namely, Code of Ethics, Leading the Service and Leading and Developing People.

Data will be managed in accordance with existing policies and procedures.

## **13 ICT**

Legacy data is being accessed to meet pension administration requirements, and this will continue to require ICT support.

## **14 The On Call Service**

The Service will require additional specialist knowledge and enhanced capacity to process the Matthews Case and meet legislative requirements.

## **15 Public Value / Service Delivery**

The acquisition of specialist pensions knowledge will improve service delivery in relation to supporting the services provided by West Yorkshire Pension Fund.

## **16 Reputation**

Pensions is a very detailed and complex area of work affecting a large proportion of our workforce. Failure to provide a robust service in this area can impact significantly on the reputation of the Service.

## **17 Training**

This is dependent on how the Service acquires specialist pension knowledge. If the decision is taken to recruit a specialist pension officer, then depending on the quality and experience of the applicant there may be some training required specifically in relation to fire pensions. If additional internal resources are required to enhance administrative pension outputs, then this too will require an element of training support.

## **18 Appendices**

There are no appendices attached to this report.

## **19 Background Papers**

There are no background papers associated with this report.