

SOUTH YORKSHIRE FIRE AND RESCUE AUTHORITY

LOCAL PENSION BOARD

20 JANUARY 2022

PRESENT: A Bosmans (Chair)

Members: GM Bragger (Fire Officers' Association), N Carbutt (SY Fire Brigades' Union), Councillor R Frost (Barnsley MBC), S Kelsey (South Yorkshire Fire and Rescue Service), DCFO C Kirby (South Yorkshire Fire and Rescue), M Nicholls (SY Fire Brigades' Union) and J Weston (Independent Member)

Advisors: C Davies (South Yorkshire Fire and Rescue), A Kilner (South Yorkshire Fire and Rescue Service), H Scargill (West Yorkshire Pension Fund), S Slater (South Yorkshire Fire and Rescue) and L Stones (South Yorkshire Fire and Rescue Service)

Item 5 'Risk Register' only - E Durdey and S Locking (South Yorkshire Fire and Rescue Service)

Officers: M Bray and L Noble (Barnsley MBC)

Apologies for absence were received from:-
C Hey and S Smith

1 WELCOME AND INTRODUCTIONS

A Bosmans welcomed everyone to the January 2022 meeting of the Board, which was held virtually, due to the continuing COVID-19 situation.

Members noted that Claire Johnson would commence in her role as the LGA Firefighters' Pensions Adviser on 24 January 2022.

2 APOLOGIES FOR ABSENCE

Apologies for absence were noted as above.

3 DECLARATIONS OF INTEREST

N Carbutt declared an interest in relation to Item 6 on the agenda entitled 'Immediate Detriment: Update'.

4 MINUTES OF MEETING HELD ON 7TH OCTOBER 2021

DCFO Kirby commented that his apologies had been omitted from the minutes of the last meeting.

At the last meeting, N Carbutt had referred to a number of the Service's employees that had not received their final pension forecasts up to, and including, the date of retirement. C Davies reiterated what she had said at that the last meeting; from the Service's perspective, the delays had related to the timing of when the retirement notifications had been sent into the Payroll Department. There were no delays in providing the information to the individuals prior to retirement if sufficient notice is given.

In relation to future pre-retirement workshops, S Kelsey commented that future sessions would be planned. Helen Scargill was able to provide the dates of those – 14th March 2022 and 19th September 2022.

RESOLVED – That subject to the above amendment, that the minutes of the Local Pension Board held on 7 October 2021 were agreed as a correct record.

4a Matters Arising

In relation to the Shared Services Agreement, S Slater was progressing matters with WYPF and the Service's Procurement Department. An update would be provided to the next Board meeting.

J Weston referred to the draft contract which contained the KPIs, and he queried whether they would be included within the final contract.

Members were referred to the work underway with WYPF to compare the current contract and the template. The KPIs were also reported through the monthly client reports.

In relation to the electronic IDRPs that had been requested as part of the Digital Transformation 3 request, S Kelsey commented that the decision would be considered at the Service's Senior Leadership Team w/c 24 January 2022.

5 RISK REGISTER - FOR CONSIDERATION / COMMENT / UPDATING & 'DEEP DIVE' INTO RISK 013

Members were presented with the Risk Register for consideration and comment.

A request had been made at the last Board Meeting for a 'deep dive' to be undertaken in relation to **Risk 013** 'Failure to ensure there are robust information governance arrangements in place within the Fire and Rescue Services to ensure the organisations are managing data appropriately, and complying with the appropriate legislation'.

To remind the Board, J Weston commented that he had suggested a 'deep dive' should be undertaken into Risk 013, following the 14 risks that had been highlighted by The Pensions Regulator (TPR) around data and cyber-attacks. He queried how many of those 14 risks were covered by the Service and WYPF.

E Durdey provided the Board with reassurance in relation to the data protection arrangements that were in place within the Service. A Data Protection Officer had been in post within the Service since 2018; she had taken up the position in 2019. She attended the monthly Corporate Management Board meetings and provided half yearly reports to the Authority's Audit & Governance Committee. Through close working with S Locking, ICT Manager, a host of quarterly checks around access permissions to all areas of the network and email groups were undertaken. She also worked closely with all departments across the organisation in relation to data protection, impact assessments, file structures and retention periods. GDPR e-learning was provided to employees on a bi-annual basis, together with face-to-face training provided to those high risk departments which dealt with personal data. It is worth noting that FRA Members have also received a virtual awareness session on GDPR and FOI.

S Locking referred to the annual vulnerability and penetration assessments that were undertaken within the Service. The Service adhered to the National Cyber Security Cyber Essentials Plus accreditation, and had its own ESN code of connection accreditation. The Service's remote access was last tested in January 2022 where it received an A+ rating.

H Scargill commented that WYPF's servers and data were covered by Bradford Council's protocols, together with in-house cyber security testing. The monthly reports would include any cyber security issues.

J Weston would provide L Noble with the 14 risks identified by the TPR to be forwarded onto E Durdey for consideration. S Slater would collate the responses from E Durdey and S Locking with a view to providing an update at the next Board meeting.

A Bosmans expressed his thanks to E Durdey and S Locking for their contributions and information provided.

In relation to **Risk 010** 'Failure to ensure employers pay the correct contributions to the scheme, and that their employees are contributing appropriately', S Slater had upgraded the risk in relation to Immediate Detriment and the McCloud and Sargeant case.

In relation to **Risk 002** 'Failure to ensure legislation, rules and guidelines are interpreted correctly', S Slater had made a number of changes to the controls and mitigations due to the frequent changes in relation to the McCloud and Sargeant case.

N Carbutt referred to the local 'deep dive' that had been undertaken into the divorce settlements, which had not currently identified any cases.

At the next Board meeting a further risk would be identified for a 'deep dive' to be undertaken at the Autumn meeting.

RESOLVED – That Members noted the updates to the Risk Register.

6 IMMEDIATE DETRIMENT : UPDATE

DCFO Kirby provided Members with an update on Immediate Detriment. The Authority, as Scheme Manager had agreed at its meeting held in November 2021, to adopt a nationally agreed framework between the Fire Brigades Union (FBU) and the Local Government Association (LGA) to apply remedy to those individual members of the pension schemes who were either in retirement or were eligible to retire shortly, and were in scope of Immediate Detriment. The Memorandum of Understanding (MOU) and the financial framework allowed all fire and rescue authorities to adopt a consistent and standardised methodology to apply remedy in relation to Immediate Detriment cases, prior to the final remedy being in acted by the Government, which was expected in October 2023.

On 29 November 2021, the Home Office had withdrawn the national guidance regarding how to facilitate those arrangements. This had significantly elevated the financial liabilities faced by the fire and rescue authorities, as scheme managers. The Monitoring Officer and legal advisors at BMBC had reviewed the information provided through the LGA, national forums and the internal finance department in relation to the potential costings that were associated with the removal of assurance.

An extraordinary Fire Authority Meeting would be held on 24 January 2022, where Members would discuss a number of options to determine how to progress matters.

A Bosmans thanked DCFO Kirby for the update.

N Carbutt highlighted that the Board consisted of a majority of pension experts within the Service and the Authority. The Scheme Manager had the difficult task of judging the information to reach a decision without that expert advice. He queried what role the Board had to play in the decision making process.

In response, L Noble commented that G Kirk and D Nuttall, the legal advisors at BMBC, had undertaken a significant amount of work to familiarise themselves with the situation. She considered that the report to be presented to the extraordinary Fire Authority meeting was comprehensive and would provide Members with a series of Options on which to reach a decision. The FRA also had the benefit of a 'Lead Member' – Cllr Frost – who had been party to the discussions as a member of the Board and could provide feedback to other Members of the FRA.

A Bosmans highlighted the limited scope of the discussions within the Board without having had sight of the report.

N Carbutt queried whether Councillor Frost could convey the Board's concerns and comments to the Scheme Manager at the extraordinary Fire Authority Meeting on 24 January 2022. He expressed concern that the stakeholders who sat on the

Board had not been involved in the information-gathering process, and he considered that the Board should be afforded the opportunity to put forward their collective views to the Scheme Manager, after having received the information on which to make recommendations or decisions.

M Nicholls echoed the points raised by N Carbutt.

DCFO Kirby commented that the Board needed to assure itself whether its terms of reference extended to having an influence or say in how the Scheme Manager administered or proposed the scheme be administered. He assured the Board that the Monitoring Officer, Clerk to the Authority and the legal advisors at BMBC had taken the matter extremely seriously.

Councillor Frost also agreed that the report that had been prepared for the extraordinary Fire Authority Meeting was very comprehensive and included a range of scenarios and costings. He would ensure the views of the Board were fed back to the FRA.

A Bosmans suggested that a further letter should be sent on behalf of the Board to the Chair of the National Scheme Advisory Board (SAB). This should express concerns and ask that the SAB request the Government justify the decision that had been taken, and reiterate the position this puts many fire and rescue authorities in.

N Carbutt welcomed the suggestion to write to the Chair of SAB. He urged that the Scheme Manager continued to be as open, transparent and public facing in the decision making process as much as practically possible. He suggested that any private Authority reports, which precluded the public and press, were brought back to the Board for dissemination and debate. He added that in the event that members of the South Yorkshire communities and unitary authorities became subject to detriment in terms of additional expense due to the actions of the Home Office, that legal advice was sought with a view to reclaiming the monies from the Government.

Members noted that the Chair of SAB had written to the Treasury in December 2021 to request further information regarding what they deemed as unauthorised and legitimate expenditure in relation to making remedy payments prior to the remedy legislation. DCFO Kirby would provide L Noble with a form of words for inclusion in the letter to the Chair of SAB.

N Carbutt commented that the FBU would express their concerns to the Pensions Ombudsman, and this could have reputational implications for the FRA.

S Kelsey added that, following the extraordinary Fire Authority Meeting on 24 January 2022, staff within SYFR, and retired staff, would be notified of the outcome.

P Bragger suggested that, in the event a decision would not be known until October 2023, that caution should be given when issuing information to SYFR staff and retired staff, as this could create more frustration and problems.

RESOLVED – That Members:-

- i) Noted the update.
- ii) Agreed that a letter be sent on behalf of the Board to the Chair of the National Scheme Advisory Board (SAB).

7 FRA REMEDY SELF-ASSESSMENT SURVEY - RESPONSE AND ACTIONS

Members were presented with the FRA's submission to the Remedy Self-Assessment Survey.

L Noble referred to the process and impact section of the survey. The survey stated that less than a quarter of FRAs have an allocated budget for direct and indirect remedy costs and she felt the Board may require assurance around this. In relation to the knowledge, capacity and capability section of the survey, L Noble would also clarify with the LGA when and how the additional governance training referred to would be offered in relation to remedy.

In response to the issue around budget, S Slater commented that the National Fire Finance Network would work with everyone to ascertain what was legitimate, costings and tax implications, including the software and administration related to the pension administrators. The Home Office had advised the Service to retain the grant for use at a later date. In relation to the allocated budgets for direct and indirect remedy costs, Members were referred to the caveats, risks and unknowns which would be difficult to budget for at this stage. A large proportion of work was underway by the Fire Finance Network, NFCC, LGA and others. She was unsure whether any contingency monies had been put aside.

A Bosmans expressed his thanks to everyone for completion of the survey, and he gave thanks to L Noble for the feedback provided.

RESOLVED – That Members noted the contents of the FRA Remedy Self-Assessment Survey.

8 UPDATE FROM WEST YORKSHIRE PENSIONS FUND

H Scargill provided Members with an update from WYPF, which included the Monthly Client Reports for October, November and December 2021/January 2022, and the Fire Client Minutes of 20 October 2021, together with an update on the legislation.

In relation to the McCloud costs, Members were referred to Section 3.3 of the Monthly Client Report for October 2021, which specified that Civica anticipated their software development costs would be in the region of £1.5m, to be charged across all of their Fire Administrator Clients; WYPF was the largest Fire Administrator

Client. Therefore WYPF would be responsible for at least 50% of the cost, which would be shared across the fire and rescue authorities on a shared cost basis. There would be an increase in the cost per member, which would be spread over the period, rather than an invoice for a one-off charge.

In relation to the increase in cost per member which would be borne by the Authority, N Carbutt queried whether any remedy would be passed onto the members.

H Scargill confirmed that remedy would not be passed onto the members.

Members were referred to the KPIs which were the standards that WYPF aimed to meet.

J Weston commented that most of the KPIs were 100%, but that the deferred benefits upon leaving the Service in December 2021 and January 2022 were below 100%.

H Scargill commented that this would not affect the member benefits. In times of increased workload/staff shortages, WYPF would put this area of work on hold.

A Bosmans sought assurance that the necessary actions highlighted in the FPS Bulletins had been taken on board and progressed where necessary.

In response, H Scargill confirmed that the necessary actions had been addressed in relation to administrator related issues. WYPF dealt with any actions that were allocated to them.

C Davies commented that from SYFR's perspective, the actions were dealt with internally through the SYFR's Pension Working Group to update and respond to any issues within the FPS Bulletins.

RESOLVED – That Members noted the update.

9 SURVEYS: UPDATE

C Davies confirmed that the Service had submitted a response on the general short survey in relation to the TPO Stakeholder Surveys, by the closing date of December 2021.

L Noble commented that it was envisaged to respond to every survey, but appreciated this was not always appropriate or possible within the timescales. She expressed her thanks to C Davies, S Kelsey and H Scargill for their support.

RESOLVED – That Members noted the update.

10 BREACHES / FRAUD - UPDATE

Members noted that no breaches had been received.

RESOLVED – That Members noted the update.

11 INTERNAL DISPUTE RESOLUTION PROCEDURE (IDRP) : UPDATE

L Stones reported that there were four ongoing IDRP's at Stage 1, in relation to Immediate Detriment. A response had been provided to the individuals to indicate that matters had been put on hold, with the intention to respond in February 2022.

An IDRP Stage 2 would be discussed at the Fire Authority Appeals and Standards Committee Meeting which was scheduled to be held on 24 January 2022.

An update would be provided to the next Board Meeting.

12 PENSIONS ISSUES / WORKLOADS

Members recalled that A Kilner had been promoted to the role of Senior Payroll and Pensions Officer, in relation to McCloud and Sergeant. The Service had attempted to recruit three Payroll and Pensions Assistants on a temporary basis. Recruitment had been successful for one temporary Payroll and Pensions Assistant, and work was underway with the Service's HR Department to fill the remaining positions.

The Service had experienced a recruitment issue across the whole establishment, which was also a national issue. Many private sector companies now offered similar benefits as the Service i.e. annual leave benefits and the flexibility to work from home. The Service would be introducing the new application tracking system for corporate recruitment, which would make the process easier and more attractive for people to apply for positions at the Service. The Service continued to consider methods in which to improve recruitment through campaigns and other opportunities.

N Carbutt referred to the significant workload and the pressures on the department, and highlighted the importance of retaining individuals currently within the Service in terms of skills and knowledge.

In response, S Slater commented that the Payroll and Pensions Team was currently down by a couple of members of staff, which had put pressure on the rest of the team to ensure that business continued as usual. Any changes to the terms and conditions, and staff moving around the organisation contributed to the workload of the team. A restructure had recently been undertaken within Financial Services, which Payroll and Pensions Team formed part of. Work was underway to finalise the roles and advertisements had been issued for vacant posts.

DCFO Kirby commented that one of the challenges faced by the Service was attracting temporary, quality candidates to fill fixed term posts to cover maternity leave or longer term sickness absence. Permanent roles were more likely to attract a higher volume of quality candidates. Work would be undertaken to establish how to better incentivise the fixed term contracts.

C Davies commented that there had not been any delays in responding to members' queries in relation to pensions and retirement.

RESOLVED – That Members noted the update.

13 COMMUNICATIONS: UPDATE

N Carbutt referred to the internal communication that would shortly be made from the Service and FBU in relation to Immediate Detriment.

H Scargill commented that WYPF would shortly be sending out letters to all active members that were affected by the changes to the pensions schemes from 1 April 2022. Separate letters would be sent to those members that were fully protected, members that were taper protected, members that had already moved into the 2015 Scheme on a date that was based upon their age, and members who went into the scheme from 1 April 2015, together with a letter to everyone where the WYFR records had indicated that they were not affected by remedy. Copies of the letters had been sent to the fire and rescue authorities last week, with a request to provide any comments by 19 January 2022.

RESOLVED – That Members noted the update.

14 ANNUAL REPORTS AND RETURNS - SUBMISSION / DEADLINE DATES

L Noble presented the Annual Reports and Returns document, and requested Members to inform her of any omissions or errors.

15 NATIONAL SCHEME ADVISORY BOARD (SAB): UPDATE

H Scargill referred to the last National Scheme Advisory Board Meeting (SAB) that had been held on 9 December 2021. At that meeting, a discussion had ensued in relation to the SAB response to the Home Office Consultation on the Regulation Amendments, which had closed on 2 January 2022, and the SAB response had been made public. Immediate Detriment and the withdrawal of the Home Office guidance had also been discussed, together with budget issues and self-assessment surveys. The SAB had agreed that there should be a response to fire and rescue authorities, and that areas that had been identified for improvement should be referred back to specific fire and rescue authorities. The guidance note on abatements had also been discussed, and the SAB had given permission for it to be published within the next few weeks.

In response to a query raised by N Carbutt as to whether the Home Office had given an indication of legitimacy of payments, H Scargill commented that the Home Office had given a standard answer approach that the issue had cited unforeseen tax consequences from the Treasury, and not directly from the Home Office.

N Carbutt commented that there was a perception between members and employees that, due to it being a Home Office intervention in advance of October 2023, that it was a political move by the Treasury to cease what had lawfully been won in court around applying remedy in advance of the rest of the public sector.

RESOLVED – That Members noted the update.

16 LEARNING AND DEVELOPMENT : UPDATE / EVENTS

A Bosmans urged Members to continue to read the LGA bulletins, and to raise any issues at future meetings of the Board.

RESOLVED – That Members noted the update.

17 ANNUAL WORK PROGRAMME

L Noble presented the Board's Annual Work Programme, which was reviewed on a quarterly basis.

RESOLVED – That Members noted the Annual Work Programme.

18 ANY OTHER BUSINESS

As mentioned above, H Scargill commented that the next two pre-retirement seminars for the Service would be held on 14 March 2022 and 19 September 2022.

It was envisaged that a revised framework agreement would be available towards the end of January 2022 or early in February 2022, and this may require further consideration by the FRA. Legal advice would be sought.

19 DATE AND TIME OF NEXT MEETING

Members noted the future meeting schedule (all meetings to commence at 1.00pm):-

- Thursday 14 April 2022 – To be held virtually via MS Teams
- Thursday 7 July 2022 – To be held in a hybrid format
- Thursday 6 October 2022 – To be held in a hybrid format

In response to a query raised by N Carbutt regarding the timings of the Board Meetings and the Fire Authority Meetings in relation to Immediate Detriment, L Noble highlighted that the current Terms of Reference for the Board, which were recommended for all Boards when they were established in 2015, did not allow for decision-making or to make formal recommendations to the Fire Authority as the Scheme Manager. The Board's role is one of assurance that the issues around pensions are being discussed with all interested parties, and to provide feedback to the FRA. There is a possibility the Board's Terms of Reference could be reviewed, but advice would need to be taken from the LGA as this may be outside the original (national) scope of Local Pension Boards.

In terms of feedback from the Board to the FRA, and the timing of this. The Board Meeting scheduled for 14 April 2022 was the only meeting that could be potentially be affected, as the Fire Authority Meeting would be held on 11 April 2022. That said it was not known at this point whether Immediate Detriment would be discussed at the meeting.

N Carbutt requested that the Board Meetings be held prior to a Fire Authority Meeting, wherever possible, when pension issues would be discussed.

A Bosmans suggested that Board Meetings could be held earlier than planned, should the need arise.

20 AGREED ACTIONS

	Action	Timescale	Officer(s)	Status/Update
1	Shared Services Agreement To provide an update in relation to the duration of the Service Level Agreement with WYPF.	Next Board meeting – 14-4-22	S Slater	<u>Update 20-1-22</u> S Slater was working with WYPF and SYFR Procurement to update the Agreement. Further update at Board meeting – April 2022
	That the revised Agreement contain a termination date and KPIs.	When renewed	S Slater (SYFR Procurement)	<u>Update 7-10-21</u> S Slater will look at including this information. Further update at Board meeting – April 2022

2	<p>IDRP Forms</p> <p>To provide an update as to when the electronic IDRP forms would be made available on the Service's intranet.</p>	<p>Next Board meeting – 20-1-22</p>	<p>S Kelsey</p>	<p><u>Update 20-1-22</u></p> <p>As part of the Service's Digital Transformation Strategy 3, S Kelsey added this to the list of requirements. These will be considered by the Service's Senior Leadership team w/c 24th January 2022.</p> <p>ACTION DISCHARGED</p>
3	<p>Risk Register</p> <p>J Weston to provide L Noble with the 14 risks identified by the TPR, to be forwarded onto E Durdey to be incorporated into the Risk Register.</p> <p>S Slater would collate the responses from E Durdey and S Locking with a view to providing an update at the next Board meeting.</p>	<p>Next Board meeting – 14-04-22</p>	<p>J Weston/ L Noble/ E Durdey/ S Locking/ S Slater</p>	<p><u>Update 4-2-22</u></p> <p>J Weston clarified the information he was referring to within the TPR Public Administration and Governance Survey 2021, page 4, 1.6. and a link has been sent to SYFR officers for a response.</p>
4	<p>Immediate Detriment</p> <p>To ascertain whether the Board's ToR could be extended to provide recommendations / feedback to the Scheme Manager.</p>	<p>Next Board meeting – 14-04-22</p>	<p>L Noble</p>	

6	Internal Dispute Resolution Procedure An update to be provided to the next Board Meeting	Next Board meeting – 14-04-22	L Stones	
---	--	-------------------------------	----------	--

CHAIR