



Dorset Fire Authority

MEETING	Dorset Fire Authority
DATE OF MEETING	10 February 2015
OFFICER	Chief Fire Officer
SUBJECT OF THE REPORT	Pensions Board - Firefighters' Pension Schemes
EXECUTIVE SUMMARY	<p>Since December 2013, the Department for Communities and Local Government (DCLG) has published a number of consultation documents introducing a new Firefighters Pension Scheme from April 2015. Towards the end of 2014, the DFA responded to the latest consultation document outlining proposals to introduce local pension boards for firefighters' pension schemes in conjunction with requirements under the Public Sector Pensions Act.</p> <p>DFA Members have already agreed that a regional board would be the most preferable option. If this is not possible, this report sets out preferences to consider whether the DFA is able to defer the setting up of a local pension board (Wiltshire and Swindon Fire Authority are making a similar request) until after Combination.</p> <p>If the above two options are not possible, the next preferred option is the setting up a joint pension board with Wiltshire and Swindon Fire Authority for 2015/16, the legalities of which are being clarified. The alternative is for a local firefighter Dorset Pension Board to be set up for a period of one year.</p>
RISK ASSESSMENT	Pension scheme reform is currently the matter of industrial dispute. Such industrial unrest could continue in 2015 and FBU members may not wish to take part in the composition of such boards.
COMMUNITY IMPACT ASSESSMENT	N/A
<p><i>Note: If the matrix indicates negative impacts on the community or staff, an equality impact assessment (EIA) will need to be completed.</i></p>	

BUDGET IMPLICATIONS	The recommendations set out the requirement to set up a budget to take account of cost recovery for members of the board and provision of specialist advice.
RECOMMENDATIONS	It is recommended that Members note the contents of this report and agree the recommendations set out in paragraph 4.
BACKGROUND PAPERS	None
APPENDICES	A: Third consultation response regarding Pension Boards
REPORT ORIGINATOR AND CONTACT	Darran Gunter, Chief Fire Officer Tel: (01305) 252604

1. Background

- 1.1 Following a Government-commissioned review of Public Service pensions by Lord Hutton, 27 recommendations were made for public service pension reform. This reform, to make pensions more sustainable and affordable in the long term and fair to both the employer and taxpayer, is underway.
- 1.2 On 24 May 2012, DCLG published a Proposed Final Agreement on the scheme design for the Firefighters' Pension Scheme in England to be introduced from April 2015. The Proposed Final Agreement builds on the proposals brought forward by Lord Hutton in his independent report and aims to strike a balanced deal between public service workers and the taxpayer.
- 1.3 As part of Lord Hutton's review he recommended that every public service pension scheme should have a properly constituted, trained and competent Pension Board, with member nominees, responsible for meeting good standards of governance. The recommendations by Lord Hutton were accepted by the Government and were carried forward into the Public Service Pensions Act 2013.
- 1.4 On 10 October 2014, DCLG published a third consultation document on the proposed Pension Board arrangements in relation to the Scheme, and the Public Sector Pensions Act 2013. The consultation was for a six-week period and ended on 21 November 2014. Appendix A sets out the response to the third consultation document. This report was noted by Members at the DFA on 5 December 2014.

2. Formation of Pension Boards

- 2.1 Since the consultation period ended in November, no further guidance has been received regarding the setting up of local pension boards, however, legislation dictates that they should be in place by 1 April 2015.
- 2.2 Members will note from the response set out in Appendix A that the preferred option is the formation of a regional pension board for the firefighter pension schemes. This is because regional pensions boards would be far more effective, both in terms of scrutiny and cost effectiveness. As we know, the work of the fire pensions boards is to scrutinise the investments, management, administration and governance of the national pensions schemes, ensuring statutory compliance with the scheme regulations and any requirements of the Pensions Regulator. They are also in place to ensure decisions made locally by fire authorities in the management of the pensions schemes are consistent and fair. The pension board will look at systems underpinning the administration of the scheme, or how decisions are made. However, the pension board is not a decision making body.
- 2.3 This work can be carried out more effectively by one regional pensions board, rather than a number of local boards - with one representative from each fire and rescue service - which

would reduce the cost, prevent duplication and ensure consistencies in approach. Regional pension boards would also assist with conflict of interest as decisions and scrutiny could be applied regionally.

- 2.4 At this stage, there has been no confirmation that regional pension boards will meet the statutory requirements. As part of the Wiltshire and Swindon Fire Authority response to the consultation, a request was made either to set up a regional board or to defer the setting up of local pension boards for Wiltshire and Swindon until after Combination, and if this request is granted then it is expected that no further action regarding the recommendations in this report needs to be taken prior to 1 April 2016. It is recommended that the DFA also adopt this approach as a second option.
- 2.5 The third preferred option is to set up a joint firefighters' pension board with Wiltshire and Swindon Fire Authority. Officers are in the process of seeking clarity as to whether this third option will be legally compliant.
- 2.6 The final option is to set up a Dorset Pension Board for the firefighters pension schemes for one year until the new combined Dorset and Wiltshire Fire and Rescue Service is in place.

3. Membership of the Firefighters' Pension Board

- 3.1 The draft Regulations for the 2015 scheme made provision for the definition of 'scheme manager' as the fire and rescue authority.
- 3.2 The scheme manager is responsible for the administration of the scheme. The consultation indicates that there is anecdotal information that, in practice, the decisions concerning the administration of the scheme are delegated to an officer of the authority and that officer exercises discretion within that delegated authority.
- 3.3 The scheme manager must be satisfied that the pension board members do not have a conflict of interest and that the board must have equal numbers of employer and member representatives and must consist of at least four members.
- 3.4 The Regulations give board discretion to the scheme manager to determine the procedures applying to its board, including the voting rights and the establishment of sub-committees. It is suggested in the consultation that it will be for the scheme manager to determine the membership of the pension board, including how the members are appointed and removed from the board.
- 3.5 The scheme manager must be satisfied that the pension board members have the capacity to represent the employer or scheme members, as appropriate. The scheme manager must also be satisfied that there is no conflict of interest, both before appointment and subsequently from time to time. An individual who is, or is to be appointed must provide the scheme manager with any information which it reasonably requires to satisfy itself as to whether there is conflict.

- 3.6 Employee member representatives are appointed for the purpose of representing members of the firefighters' pension schemes, and can consist of, but not limited to, trade union representatives. Our understanding at this stage is that former firefighters (which could include pensioner members if they are no longer employed as a firefighter) cannot be an employee member representative.
- 3.7 Employer representatives are appointed for the purpose of representing employers. These can be, but not limited to, councillors and/or officers of the authority. However, an officer or member of the authority which is responsible for making decisions on the pension scheme is not permitted to be a member of the board as the board may be scrutinising the decisions of that officer or member. This will mean that any member on the pension board would not be able to vote on firefighter pension scheme discretions or any other related matter at Fire Authority meetings.
- 3.8 It is for the scheme manager to determine whether any expenses should be paid in relation to the running of the local pension board. The DCLG view is that costs should be on an exceptions basis and only to recover costs. It is possible, in the view of the DCLG, that the pension board will look to obtain specialist professional advice, such as actuarial advice, and the scheme manager may wish to provide an annual budget to the pension board for such instances.
- 3.9 So far no response has been issued from DCLG to the consultation responses, although a Pensions Boards Webinar held on 28 January 2015 provided some degree of clarity. A further meeting has been scheduled for 3 February for members of the Fire Finance Network, HR representatives and Pension Scheme Administrators, where pension boards are one of the items to be discussed. A verbal update will be provided at the DFA meeting on 10 February 2015.

4. Recommendations

- 4.1 That the DFA seek to defer the setting up of a pension board until April 2016, if regional pension boards are not possible. If regional boards are possible, membership should be on a parity (eg Wiltshire and Swindon Fire Authority has requested that there is parity of representation - every party has one member and one employee member from each Authority/Service).
- 4.2 If the options in 4.1 are not possible, that the DFA apply to set up a joint local pension board with effect from 1 April 2015 in conjunction with Wiltshire and Swindon Fire Authority. LGA guidance suggests that this is feasible where the decision making processes are 'wholly or mainly shared', including the administration and management. Although the two fire authorities have different administration and management structures, given that we have a Joint Shadow Board in place and our closer working over the forthcoming months to bring our policies and processes together, it is felt that this is a reasonable option to explore. If this is option is successful, members are asked to agree to:

- 4.2.1 Two member representatives to sit on the Joint Pension Board (the Regulations state that it is not expected that the pension board will meet on 1 April, but they will do so within four months, and training will be available. Also recognising that any member on the pension board would not be able to vote on firefighter pension scheme discretions or any other related matter at Fire Authority meetings) alongside two employee member representatives - to be advertised internally in the first instance to members of the firefighters pension scheme who are trade union representatives. (A total of four representatives from Dorset to form a Board with four Wiltshire representatives). The Fire Authority may be minded at this stage to make two provisional nominations at this stage.
- 4.2.2 Be minded to set out a provision for a budget of £2,500 towards the joint pension board, in consultation and a comparable basis with Wiltshire and Swindon Fire Authority based on cost recovery for members of the board and provision for specialist advice.
- 4.2.3 Clearly define the delegated authority to the new Chief Fire Officer within the new Service, who would then act as the Scheme Manager on behalf the Joint Shadow Board, making decisions on the firefighters' pension schemes on a day to day basis.
- 4.3 If it is necessary to set up a local pension board with effect from 1 April 2015 alone, Members are asked to agree to:
 - 4.3.1 Two Member representatives to sit on the local Pension Board (equal number of member/officer representatives to employee representatives, and minimum number of four members in total. Also recognising any member on the pension board would not be able to vote on firefighter pension scheme discretions or any other related matter at Fire Authority meetings) alongside two employee member representatives - to be advertised internally in the first instance to members of the firefighters pension scheme who are trade union representatives. The Fire Authority may be minded at this stage to make two provision nominations at this stage.
 - 4.3.2 Be minded to set out a provision for a budget of £5,000 for the pension board, based on cost recovery for members of the board and provision for specialist advice.
 - 4.3.3 Clearly define the delegated authority to the Chief Fire Officer within Dorset Fire and Rescue Service, who would then act as the Scheme Manager on behalf the Authority, making decisions on the firefighters' pension schemes on a day to day basis.
 - 4.3.4 Agree that officers from Dorset Fire and Rescue Service should work with colleagues from Wiltshire and Swindon Fire and Rescue Service to form a new pension board for the new combined Authority.

4.3.5 Provide Members with an update on progress at the next Dorset Fire Authority meeting on 16 June 2015.

DARRAN GUNTER

Chief Fire Officer

2 February 2015

Appendix A**Third Consultation Response on behalf of Dorset Fire Authority on the Firefighters Pension Scheme 2015: Proposals for new governance arrangements**

The Dorset Fire Authority (DFA) welcomes the opportunity to respond to the Government's consultation on the Firefighters Pension Scheme 2015: Proposals for the new governance arrangements.

Before responding to the specific questions contained in the consultation document, we are disappointed that DCLG again appear to be taking a piecemeal approach to pension issues by advising of the intention to publish a number of consultations on the 2015 scheme as opposed to presenting the full picture in one comprehensive consultation. Also, this specific consultation, with a closing date of 21 November 2014 for responses, does not allow sufficient time to implement the proposals as effectively as they could have otherwise have been put in place if outcomes were known much earlier.

Once again, it would appear the consultation provides the book, chapter titles yet forgets the story. In consultations such as these, the devil is in the detail and the detail is missing.

1. Do the draft regulations deliver the policy objective on the introduction of local pension boards and a Scheme Advisory Board as set out in this consultation document?

We could not find an explicitly stated policy objective in the consultation document, although there is a reference to the policy context. It is difficult to argue that the draft Regulations do not implement the requirements of the Public Services Pensions Act 2013.

2. Do you have any comments on the terms of the local pension boards or Scheme Advisory Board as set out in the Regulations?

Yes. There is a clear distinction between the role of the pension boards for the Local Government Pension Scheme as this scheme is administered locally, compared to that of the Firefighters Pension Scheme which is administered nationally as there is one central fund. This brings into question the need for individual pensions boards. If the government are minded that there must be more than one national pensions board, then we believe that alternative arrangements should be put in place for Regional Fire Pensions Boards.

Regional Pensions Boards would be far more effective, both in terms of scrutiny and cost effectiveness. As we know, the work of the Fire Pensions Boards are to scrutinise the investments, management and administration of the national pensions schemes and ensure decisions made locally by fire authorities in the management of the pensions schemes are consistent and fair. This work can be carried out more effectively by one regional pensions board, rather than a number of local boards - one from each fire and rescue service - which would reduce the cost, prevent duplication and ensure consistencies in approach. Regional pension boards would also assist with conflict of interest, as decisions and scrutiny could be applied regionally.

3. Are there other powers of requirements that should be put in place for local pension boards or the Scheme Advisory Board?

The Regulations are very light touch, and it would be helpful to have clear guidance on the expectations and powers of the pensions boards. It would also be helpful if a draft Terms of Reference could be circulated and consulted upon so that fire authorities have an opportunity to shape the detail of the requirements of the board.

It is unclear what the extent of the powers of the pensions boards will be. For example, the proposals set out, as an example, that pensions boards will 'look at systems underpinning the administration of the pensions scheme and how decisions are taken'. However, it then goes on to say that pension boards 'are not a decision making body'.

4. Should the regulations be more, or less prescriptive about potential members of the local pension boards or the Scheme Advisory Board?

The Act requires the scheme manager to be satisfied that the pension board members do not have a conflict of interest, and they are to be made up of member and employer. The Regulations state that the members must be in the scheme employment and therefore must be a firefighter who is currently employed by a fire and rescue authority. We are unsure how this cannot count as a conflict of interest, as the scrutiny of the Board is likely to be carried out by those directly affected, ie recipients of the pension schemes in the future! In terms of employer representatives, the Regulations do state that that employee representatives can include, but not limited to, trade union representatives, councillors or officers of the authority. It is our view that all of these could have a conflict of interest in the management of the pensions scheme, and/or be a direct beneficiary of decisions made by the pensions board. This would particularly be the case, for individual pensions boards. However, please refer to point 2 below.

Who will make the appointments to the Pensions Boards? Who provides the training to Board members? Only those who have some knowledge or interest - managers, firefighters, retired firefighters, members, scheme managers will know who has the expertise to take on these roles - both of these may also be a conflicts of interest issue.

5. Is there an alternative funding mechanism for the Scheme Advisory Board which could be put in place rather than raising funds from scheme managers with the Secretary of State ensuring that the Board is delivering value for money?

With the Local Government Pension Scheme, the costs are directly attributable to the Pensions Fund. It seems that the costs for the Fire Pensions Board is attributable to the local Fire Authority. Dorset Fire and Rescue Service would prefer that there are no direct costs for Dorset Fire Authority.

6. Do you consider that any groups with protected characteristics under the equalities legislation are being disproportionately affected? If so, what do you consider to be the nature and scale of that disproportionate effect?

Yes. The Regulations specify that former firefighters cannot be a member representative. Given that often those who leave the operational workforce are those that retire, this will more likely affect older people who have retired, and therefore disproportionately affect this group of people - age is a protected characteristic under the Equalities Act 2010.