

CUMBRIA FIRE LOCAL PENSION BOARD

Meeting date: 22 October 2020

From: Chief Fire Officer

MONITORING REPORT FOR THE PERIOD TO 30 JUNE 2020

1.0 EXECUTIVE SUMMARY

1.1 *This report advises Cumbria Fire Local Pension Board Members of any material risk management, policy or governance issues and national regulatory changes to 30th September 2020 and any performance monitoring issues of the Scheme to 30th June 2020.*

Risk Management:

1.2 *The Cumbria Fire Local Pension Board (the Board) follows accepted best practice across Public Sector Pension Schemes in formally reviewing Scheme risks at every meeting.*

1.3 *The risk register (as presented in Appendix 1) outlines the key risks to the Scheme.*

1.4 *One risk has been added to the register as a result of COVID-19.*

1.5 *Whilst there have been a number of developments that have led to amendments to the comments associated with some of the risks on the register, there are no proposed amendments to the scores associated with the impact or likelihood of the risks occurring.*

Pensions Administration:

1.6 *Performance against key performance indicators for YPS was 96.8% (against the SLA of 95%) for the quarter to 30th June 2020.*

Governance:

1.7 *There are no legal breaches to report during the period.*

1.8 *There were no discretions exercised during the period.*

Policy & Regulation:

1.9 Work continues on the development of a Discretions Policy for the Scheme. The Board have reviewed the draft policy and the sign off process is underway.

2.0 STRATEGIC PLANNING AND EQUALITY IMPLICATIONS

2.1 The Council's vision is to be "A Council that works with residents, businesses, communities and other organisations to deliver the best services possible within the available resources". As part of the approach to delivering this vision the Council aims to "Put customers at the heart of everything we do".

2.2 Good governance and risk management will aid the Council in its role as Scheme Manager in ensuring its regulatory responsibilities are met, a good service is provided to scheme members and costs are controlled. Cost control will have a direct impact on revenue budgets.

2.3 There are no direct equality implications arising out of the recommendations in this report.

3.0 RECOMMENDATION

3.1 It is recommended that the Cumbria Fire Local Pension Board receive and note the performance of the Cumbria Firefighters' Pension Scheme (FPS) to 30th June 2020 and any material policy or governance issues and national regulatory changes to 30th September 2020.

4.0 RISK

4.1 Risk management is a key element of good governance for any organisation. Officers of the Scheme continually review and monitor risks bringing any significant emerging issues to the Boards attention throughout the year, with Members formally reviewing these at each meeting. This quarterly review process ensures consistent and timely Member oversight of risk monitoring and thereby provides enhanced due diligence in this regard.

4.2 The current risk register at September 2020 is attached at Appendix 1. The register currently has 13 risks comprising 1 red risk (information security arrangements); 2 amber risks (pension administration processes and the Sargeant Judgement); and 10 green risks.

- **New Risk in Q4: Ref 1.7 - COVID-19 Impact on Pensions' Administration**

Impact of occurrence score	3
Likelihood of occurrence score	2
Total Risk Score	6 (Green)

COVID-19 Impact on Pensions' Administration has been added as a specific risk noting the potential for resourcing issues within Local Pensions Partnership (currently trading as Your Pension Service (YPS) in Cumbria) and the Fund to continue to provide an effective pensions administration service through the pandemic. The risk has a score of 6 ("moderate" but "unlikely").

The Scheme and YPS have sought to mitigate this risk where possible to ensure that the Scheme can operate effectively throughout the pandemic with limited risk to the scheme members and the employer. For example, staff resources at YPS have been focussed on providing essential administration services including payment of monthly payroll, commencing pensions for new pensioners and processing any payments payable following the death notification of a death of a scheme member.

Performance of YPS has continued to be in excess of the SLA targets throughout the pandemic to date, but, given the risks involved, Officers are continuing to monitor this position on an enhanced and on-going basis.

- 4.3 In addition to the new risk detailed above, the comments associated with some risks have been amended to reflect a number of developments including the release of the consultation on the proposed resolution to the Sargeant judgement. However, there has been no amendments to the scoring of any of the risks.

5.0 SCHEME MONITORING

5.1 YPS Performance

- 5.1.1 To allow members of the Board to perform effective governance and oversight of the Fund Administration, the annual performance report from YPS for 2019/20 and the quarterly performance report from to 30th June 2020 have been attached at Appendix 2 and 3 respectively.

- 5.1.2 In the quarter to 30th June 2020, performance against all but one of the KPIs has been 100%, against the SLA target of 95%. One case in the 'other' category was resolved one day late, therefore reduced the performance to 96.77%. However, other than June 2019, performance has been 100% for every month since September 2019. The risk register notes that COVID-19 poses a significant risk to the administration service provided to the Fund. It is therefore a positive outcome that YPS performance has not been materially affected by the pandemic. As noted previously, the Fund will continue to provide robust scrutiny and challenge to the quality of service provided by YPS to ensure that scheme employers are supported throughout the COVID-19 pandemic and any impact on scheme members is minimised.

- 5.1.3 In addition to the industry standard indicators provided, the YPS Performance Report (which is presented in an updated format from 2020/21, with the FPS having it's own dedicated quarterly report) also reports on whole system performance data by including statistics relating to the time

taken from when a member requests to be put into pension until the time their pension is ready for first payment.

- 5.1.4 This period can be influenced by response times from the scheme member, as well as by YPS. While YPS cannot control all these elements, monitoring the complete cycle is more representative of the scheme member experience. Such indicators help to inform the Scheme of where any systematic blockages are occurring and thereby where to direct resources aimed at improving our members' experience.
- 5.1.5 From 2020/21, the report identifies response times for new retirements for deferred members and active members with an analysis between the time taken for YPS to process the retirements and the time cases are on hold due to information being required from the scheme member, employer, or AVC provider. Monthly data for Q1 is summarised in the table below.

Time taken to put scheme members into pension:

	Deferred Members			Active Members		
	Apr 20	May 20	Jun 20	Apr 20	May 20	Jun 20
YPS processing time (average working days)	0	0	9	12	15	20
Case on hold (average working days)	2	0	41	7	2	26
Total Average Working Days	2	0	50	19	17	46

- 5.1.6 It takes YPS longer, on average, to put an active member into pension than a deferred member. This is due to often requiring additional information from employees before an active scheme member can be put into pension.
- 5.1.7 The report notes a slight increase in the number of scheme members signed up to My Pension On-Line (MPO). Since last reported to the Board, the total number of members subscribed to MPO has increased by 42, resulting in 57% of pensioners; 32% of actives and 33% of deferred members now registered online. This increase is as a result of a drive by the Scheme for more members to be using this system including use of the Council's intranet newsfeed and through the CFRS update.
- 5.1.8 YPS has recently issued a Member Communications Plan. This document, attached at Appendix 4, outlines the approach YPS is planning to take over the next twelve months to improve the service provided to scheme members.
- 5.1.9 Officers have welcomed this helpful document which addresses a number of areas of development that have previously been considered by the Board, e.g. increasing the take-up of My Pension Online and a review of communications sent to scheme members. Additionally, the plan outlines other areas for development such as a new website and greater use of video content to make pensions easier to understand.

5.1.10 As noted previously, the Scheme will continue to provide robust scrutiny and challenge to the quality of service provided by YPS to ensure that the service experienced by scheme members and employers is good, consistent and sustainable.

5.2 Local Pensions Partnership Reorganisation

5.2.1 Local Pensions Partnership (which operates in Cumbria as Your Pension Service) has, over the past year reviewed its internal structures. The organisation has recently separated its pensions administration services from its asset investment services.

5.2.2 The Local Pensions Partnership administration business is currently reviewing its existing practices and aiming to standardise a range of its key activities across all of its clients (of which Cumbria FPS is one), for example, the production of quarterly reports and the development of a new member and employer facing website, to be launched later this year. To aid, this, the organisation will be moving away from using the “Your Pension Service” brand and standardising naming conventions for all clients to Local Pensions Partnership Administration (LPPA). Officers are liaising with Local Pensions Partnership to understand a time frame for these movements which, other than the new website launch, are not expected to formally take place before 2021. There will be a clear communication plan so that scheme members and employers are advised of these amendments. The Local Pension Board will be advised of developments at future meetings.

5.3 Legal breaches recorded / reported during the quarter

5.3.1 All individuals with a role in the Scheme have a duty to report breaches of law when they have reasonable cause to believe that a breach of material significance to the Pensions Regulator has taken place. Where a breach is not deemed material there is a requirement to record the breach.

5.3.2 In line with good governance and the Scheme’s policy and procedure on reporting breaches of the law, the Fire Local Pension Board are notified of:-

- all breaches, including those reported to the Pensions Regulator and those unreported, with the associated dates;
- in relation to each breach, details of what action was taken and the result of any action (where not confidential); and
- any future actions for the prevention of the breach in question being repeated.

5.3.3 There are no breaches to report for the quarter to 30th June 2020.

5.4 Scheme Discretions

5.4.1.1 It was anticipated that the discretions policy would have been presented to this meeting of the Fire LPB with up to date and timely legal and finance comments included prior to final sign-off. This is not the case as, Legal comments have been received, however People Management have asked for further clarification therefore legal input is still required.

5.5 Pensions Ombudsman

5.5.1 Following the Pensions Ombudsman acknowledging the receipt of our initial response to a complaint made by an employee on 6th December 2019 the matter was reviewed by an Adjudicator in July 2020 (the first stage of the Ombudsman process). The Adjudicator did not agree that the complaint by the individual could be upheld and concluded that evidence did not indicate that there was maladministration on the part of CFRS.

5.5.2 On receipt of this opinion and in accordance with the Ombudsman's complaints process, both parties were given the opportunity to respond to the judgement of the Adjudicator. CFRS responded to state they agreed with their judgement however the individual challenged the Adjudicator's opinion. The Ombudsman's complaint process allows that, where any one of the parties does not agree with the Adjudicator's view, they can ask for the complaint to be referred to the Ombudsman. At the complainant's request the matter was therefore referred to an Ombudsman in September 2020 who also did not agree that the complaint could be upheld and in summary agreed with the Adjudicator. The Ombudsman's decision is final however the individual can decide to appeal to the High Court on a point of law only.

5.6 IDRP

5.6.1 Two separate IDRP appeals were received in June 2020. One was regarding the transitional arrangements associated with the Sargeant and McCloud case. As the IDRP cannot be used where proceedings in respect of a dispute have commenced in any court or tribunal the individual was informed that CFRS would not be able to take any further action on the matter. The other IDRP was in relation to the overpayment of injury pension and was an appeal against reclaiming the amount overpaid. The IDRP was reviewed at stage 1 by the Chief Fire Officer in accordance with the procedure and was partially upheld.

5.7 Pensionable Pay

5.7.1 Following the Booth v Mid and West Wales (2019) case, a recent High Court judgement on pensionable pay, CFRS was required to review and make an informed assessment on the pay provided to firefighters within the meaning of the different scheme rules to assess if they were pensionable. This included the review of:

- what payments are made

- the circumstances around those payments
- the contractual arrangements (including those undertaking secondary contracts)
- reviewing the relevant role maps
- the different definitions of permanency under the different scheme rules
- interpreting the application of pensionable pay using the 'Blackburne Principals'
 - calculated in accordance with ordinary rate of pay
 - for work done under the firefighters' contract of employment
 - regular in nature i.e. something to which the firefighter was entitled in the ordinary course of fulfilling duties under the contract, not one off or unexpected.

5.7.2 The pensionable pay assessment has now been completed and no pay elements need amending.

5.7.3 In addition, each pay element has been reviewed to ensure that it is still required and fit for purpose. An outcome of this is that some historic or duplicate elements have been identified as requiring deletion from the pay system. People Management will continue to liaise with the Service Centre to ensure this is completed.

5.8 Data Quality:

5.8.1 As the Board was notified in the July Briefing Note, due to the pressures associated with COVID-19, key projects noted on the Data Quality Improvement Plan reviewed by the Board are currently on hold. This has enabled the team to focus their resources supporting priorities such as the timely payment of pension benefits. The Scheme has benefited from the work undertaken before the pandemic, and data quality will continue to be reviewed on a regular basis to ensure that data held by the Scheme continues to be of a good quality.

5.9 Raising tax awareness through job advertisements

5.9.1 As thresholds for the annual and lifetime allowances have decreased, there is an increasing likelihood of members breaching tax limits by accepting a promotion or change of position which attracts pensionable allowances. The importance of communicating potential tax issues to members has been a topic of regular discussion for the SAB and is supported by recent Pensions Ombudsman determinations. Following advice in Bulletin 34 and 35 arrangements have been made for working to be included in the recruitment information for Station Managers and above.

6.0 **POLICY AND REGULATION**

Regulatory changes

6.1 This section of the monitoring report provides a summary for Members on recent and proposed future changes to legislation which may impact on the Scheme.

6.2 Remedy to Sargeant Age Discrimination Case

- 6.2.1 On 16th July 2020, HM Treasury launched a formal consultation on its proposed changes to the transitional arrangements to the 2015 schemes (including the Firefighters scheme) to remedy the discrimination found in the Sargeant case.
- 6.2.2 The proposed remedy is complex but thorough. CFRS welcomed the proposals and consider these are appropriate to address the discrimination found in the 2015 pension scheme amendments.
- 6.2.3 Under the proposals detailed in the consultation, scheme members will be able to choose between reformed or legacy scheme benefits for the remedy period of 2015 to 2022. The consultation provides two alternative options for when that decision should be made, either shortly after the implementation of the remedy or at the date at which the benefits become payable (i.e. the date of retirement).
- 6.2.4 The Council has responded recommending that the choice should be made shortly after the implementation of the remedy. This will ensure that the remedy is addressed in a timely manner albeit a significant workload for pensions administrators.
- 6.2.5 A copy of the consultation and CFRS's response to the consultation have been included as Appendices 5 and 6. In preparing the Council's response Officers met with YPS and four other Fire and Rescue Authorities.

6.3 Public Sector Exit Payments Cap

- 6.3.1 The government first announced plans to cap exit payments in the public sector in 2015. Her Majesty's Treasury released a consultation on exit payment caps in April 2019 and, on 21st July 2020, released its response to the consultation.
- 6.3.2 Where a public sector employee leaves employment, a range of payments may be applicable. The Government is proposing to cap the total cost of certain payments made by the employer at £95,000 with no provision for this amount to be index-linked.
- 6.3.3 The original consultation on the Exit Cap noted that:

Fire and Rescue Authorities (FRAs) have discretion to remove the current commutation lump sum restriction (of 2.25 x pension) that applies to firefighter members of the 1992 Firefighters' Pension Scheme who are under age 55 and have less than 30 years' service. Where a FRA exercises this discretion, this results in an employer related cost because it is required to make a payment equivalent to the additional amount to the member's pension fund account. It is proposed that these payments should be exempt from the scope of the regulations as they do not fund an increase in the actuarial value of the firefighter's pension.

Therefore, regulation 7(c)(i) exempts payments made by a FRA to their pension fund account, where the FRA exercises its discretion to

allow a firefighter (who is subject to the above 2.25 times pension commutation lump sum restriction) to commute up to a maximum of 25% of their annual pension for a pension lump sum. Effectively, this discretion aligns with the commutation entitlement available to firefighters who are aged 55 or over, or who have accrued the maximum 30 years' service.

The government is also considering an exemption for payments made by FRAs to their pension fund account in respect of firefighters who are unable to maintain operational fitness through no fault of their own and where the FRA has agreed to put into payment an authority initiated early retirement pension. This will honour the government's previous commitment that firefighter members of the 2006 and 2015 Firefighters' Pension Schemes in these circumstances should be awarded an unreduced pension if they cannot be redeployed.

6.3.4 The Government's response to the consultation noted that these exemptions had been welcomed by respondents.

6.3.5 The Exit Cap was approved by HM Government on 30th September 2020 and is due to become law 21 days after the Statutory Instrument is signed.

6.3.6 Additional legislation is also required to amend FPS regulations to implement the exit cap. Further guidance is expected to be issued by the Local Government Association in due course and Officers will advise the Local Pension Board when the implications to the FPS of the exit cap is clear.

6.4 Survivor Benefits for Opposite Sex Widowers

6.4.1 Following a successful case brought against the Teachers' Pension Scheme, HM Treasury have issued a note confirming that all public service pension schemes, including the FPS, will need amendment Regulations to ensure that male survivors of female scheme members receive equal treatment to female survivors of male members in terms of pension benefits.

6.4.2 It is anticipated that a consultation on the proposed remedy will be issued shortly and work can begin at that point in starting to identify members who may need their benefits recalculating once the Regulations have been amended.

6.4.3 Full details of all regulatory changes to the Firefighters' Pension Scheme are available from the Scheme Advisory Board website at: www.fpsboard.org.

7.0 OTHER MATTERS

Members Self Service Update

7.1 The number of FPS members that have enrolled for My Pension Online (MPO) as at 30th June 2020 has increased slightly to 41% of all scheme members (from 40% at 30th September 2019). This consists of 57% of pensioners; 33% of actives and 32% of deferred members.

- 7.2 MPO continues to be promoted for FPS members through the weekly Fire Bulletin, and with the support of both the employer and employee representative organisations.

Training

- 7.3 Board Members continue to be notified of relevant training events (internal and external) as and when they arise and are encouraged to attend. The LGA are currently considering what a virtual FPS AGM run across two days as usual could look like and hope to finalise this shortly. The provisional dates are 22nd and 23rd September 2020, and further details will be communicated as they become available.
- 7.4 A representative from the Local Government Association (LGA) attended the group call in July to provide an update on the Sargeant case and other national news, and is providing a further training session after this meeting.
- 7.5 In line with good practice the Board's training policy and plan has been subject to an annual review and updated. This is presented at Item 9 on today's agenda.
- 7.6 Guidance and training material can be accessed by Board Members via the link below to the dedicated Fire Local Pension Board Sharepoint site:-

<https://extranet.cumbria.gov.uk/CLGPS/ers/FireLPB/default.aspx>

FPS Scheme Advisory Board (SAB)

- 7.7 A new Chair has been appointed following the retirement of Malcolm Eastwood. Joanne Livingstone took over the role in August. She has extensive experience relating to pensions across the public and private sectors.

Administration Strategy Consultation

- 7.8 The Fire SAB published a consultation on 30th June 2020 seeking views on the introduction of a template pension administration strategy. The consultation closed on 31st August and received 15 responses in total (including Cumbria): twelve from Fire and Rescue Authorities (FRAs) and three from scheme administrators.
- 7.9 The strategy will be reviewed based on the responses to the consultation and any necessary amendments made. The organisations who responded to the consultation will be invited to comment on the revisions to ensure that their views have been suitably reflected.

COVID-19 Survey

- 7.10 To measure the impact of the coronavirus pandemic on scheme governance, the LGA team surveyed FRAs in July 2020. The FRA noted that it was disappointing that there was only a 54% response rate, however based on the responses received it was clear that organisations have taken

steps to mitigate any challenges arising from the current situation and are embracing online technology to fulfil their governance responsibilities.

- 7.11 Most organisations have good risk management in place and have coped well with the transition to new working arrangements. Indeed, some have reported improvements in terms of increased attendance at meetings as a result of the new ways of working.

8.0 OPTIONS

- 8.1 To either note the performance of the Cumbria Firefighters' Pension Scheme (FPS) to 30th June 2020 and any material policy or governance issues and national regulatory changes to 30th September 2020 or request further information.

9.0 RESOURCE AND VALUE FOR MONEY IMPLICATIONS

- 9.1 The Sargeant ruling is expected to result in changes to the Firefighters' Pension Scheme and an increase in the cost of the Scheme. The full extent of these changes and the anticipated increase in costs is not yet known and will only become apparent once a final remedy has been determined by the employment tribunal. The Board will continue to be advised of progress with this valuation through the Monitoring Reports, specific reports and verbal updates to the Board when appropriate.

10.0 LEGAL IMPLICATIONS

- 10.1 The report is for the Board to note and there are therefore no direct legal implications.

11.0 CONCLUSION

- 11.1 To ensure good governance the Scheme must have in place a suite of fit for purpose policies and risk control procedures. Regular scrutiny by this Board will provide challenge and help ensure these stay current and effective.

Steve Healey
Chief Fire Officer
22nd October 2020

APPENDICES

- Appendix 1 Cumbria Fire LPB Risk Register at September 2020
- Appendix 2 Annual YPS performance report for 2019/20
- Appendix 3 Quarterly YPS performance report to 30th June 2020

Appendix 4 LPP Member Communication Update

Appendix 5 Public service pension schemes consultation: changes to the transitional arrangements to the 2015 schemes

Appendix 6 CFRS Response to the Public service pension schemes consultation: changes to the transitional arrangements to the 2015 schemes

Electoral Division(s): All

Executive Decision	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No*
Key Decision	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No*
If a Key Decision, is the proposal published in the current Forward Plan?	<input type="checkbox"/>	<input type="checkbox"/>	N/A*
Is the decision exempt from call-in on grounds of urgency?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No*
If exempt from call-in, has the agreement of the Chair of the relevant Overview and Scrutiny Committee been sought or obtained?	<input type="checkbox"/>	<input type="checkbox"/>	N/A*
Has this matter been considered by Overview and Scrutiny? If so, give details below.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No*
Has an environmental or sustainability impact assessment been undertaken?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No*
Has an equality impact assessment been undertaken?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No*

PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS

None.

REPORT AUTHOR

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