

The report is Not Exempt

The report is for Information

REPORT TO: LOCAL PENSION BOARD

MEETING DATE: 22/04/24

SUBJECT: FIREFIGHTERS PENSIONS – REMEDYING AGE DISCRIMINATION

PURPOSE OF REPORT AND REASON FOR RECOMMENDATION(S):

To update Members of the Local Pension Board on the progress made relating to remedying age discrimination in the Firefighters' Pension Scheme (Wales) 2015.

EXECUTIVE SUMMARY

This report provides Members of the Local Pension Board with an update on the progress made to implement a national remedy following the successful legal challenge brought by the Fire Brigades Union (FBU) relating to age discrimination in the Firefighters' Pension Scheme 2015.

RECOMMENDATIONS:

That Local Pension Board Members note the current position regarding the remedy of age discrimination in the Firefighters' Pension Scheme 2015.

REPORT APPROVAL

Clerk / Monitoring Officer:

Comments: Approved

Relevant Director:

Comments: Approved

Section 151 Officer/Treasurer:

Comments: Approved

**Chief Fire Officer /
Deputy Chief Fire Officer**

Comments: Approved

ACCESS TO INFORMATION LIST OF BACKGROUND PAPERS USED IN THE PREPARATION OF THIS REPORT:

Presenting the Report:

Mr Ian Coleman
Chair of the Local Pension Board

Report Author(s) and Designation

Mrs Sarah Tillman
Pensions Officer

Date original report written

28/03/2024

Mae'r Adroddiad Heb ei eithrio

Mae'r Adroddiad ER GWYBODAETH

ADRODDIAD I'R: BWRDD PENSIWN LLEOL

DYDDIAD Y CYFARFOD:
22/04/24

TESTUN: PENSIYNAU DIFFODDWYR TÂN – ADFER GWAHANIAETHU OEDRAN

PWRPAS YR ADRODDIAD A RHESWM DROS YR ARGYMHELLION:

Diweddaru Aelodau'r Bwrdd Pensiwn Lleol ar y cynnydd a wnaed mewn perthynas ag unioni gwahaniaethu ar sail oed yng Nghynllun Pensiwn y Diffoddwyr Tân (Cymru) 2015.

CRYNODEB: Mae'r adroddiad hwn yn rhoi diweddariad i Aelodau'r Bwrdd Pensiwn Lleol ar y cynnydd a wnaed i weithredu rhwymedi cenedlaethol yn dilyn yr her gyfreithiol lwyddiannus a gyflwynwyd gan Undeb y Brigadau Tân (FBU) yn ymwneud â gwahaniaethu ar sail oed yng Nghynllun Pensiwn y Diffoddwyr Tân 2015.

ARGYMHELLION: Bod Aelodau'r Bwrdd Pensiwn Lleol yn nodi'r sefyllfa bresennol o ran unioni gwahaniaethu ar sail oed yng Nghynllun Pensiwn y Diffoddwyr Tân 2015.

CYMERADWYO'R ADRODDIAD

Clerc:

Sylwadau: Cymeradwyd

Cyfarwyddwr berthnasol:

Sylwadau: Cymeradwyd

Swyddog Adran 151/Trysorydd:

Sylwadau: Cymeradwyd

**Prif Swyddog Tân /
Dirprwy Brif Swyddog Tân**

Sylwadau: Cymeradwyd

PAPURAU CEFNDIR A DDEFNYDDIWDYD WRTH BARATOI'R ADRODDIAD HWN:

Yn cyflwyno'r Adroddiad:

Mr Ian Coleman
Cadeirydd y Bwrdd Pensiwn Lleol

Awdur(on) yr Adroddiad a'u Swyddi

Mrs Sarah Tillman
Swyddog Pensiynau

Dyddiad yr ysgrifennwyd yr adroddiad
gwreiddiol

28/03/2024

LOCAL PENSION BOARD
22 APRIL 2024
FIREFIGHTERS PENSIONS – REMEDYING AGE DISCRIMINATION

1 Executive Summary

- 1.1 This report provides Members of the Local Pension Board with an update on the progress made to implement a national remedy following the successful legal challenge brought by the Fire Brigades Union (FBU) relating to age discrimination in the Firefighters' Pension Scheme 2015

2 National/Wales Position

- 2.1 This relates to a number of 2015 Firefighter Pension Scheme Members across the UK Fire and Rescue Services, not only those in Wales.

3 Mid and West Wales Fire and Rescue Service Current Position

- 3.1 By way of providing some background on 19 July 2021, HM Treasury (HMT) introduced the Public Service Pensions and Judicial Offices Bill (the Bill) to the House of Lords. The Bill, which was enacted on 01 October 2023 and is primary legislation that sets out in law how the Government will remove the discrimination contained within the 2015 reforms (referred to as remedy) and revert all eligible members back to their legacy schemes for the period of remedy which is 01 April 2015 to 31 March 2022.
- 3.2 The Act closed final salary schemes for accrual past 31 March 2022, and moved all remaining scheme members into the Firefighter Pension Scheme 2015 (FPS 2015) from 01 April 2022, whilst ensuring that existing transitional protections such as final salary link and the double accrual were retained. The Act provided that the Deferred Choice Underpin (DCU) would be implemented by 01 October 2023. This meant that members would make their decision between scheme benefit options at the point of retirement. In the meantime, members will be deemed to have accrued benefits in their legacy scheme rather than reformed schemes for the remedy period until they make that choice.
- 3.3 To implement these changes, secondary legislation was required to ensure that scheme regulations reflect the detailed proposals within the DCU approach. Welsh Government's consultation to Remedying Age Discrimination in the Firefighters' Pension Schemes in Wales 2023 closed on 23 June 2023 and the summary of responses to this consultation was published on 06 September 2023.
- 3.4 The Firefighters Pensions (Remediable Service) (Wales) Regulations 2023 were laid and came into force on 01 October 2023 to make provision for Scheme Managers to implement the changes necessary and these are required to be completed within an 18-month period.

- 3.5 The Regulations placed all eligible active employees back into their legacy schemes for the period 01 April 2015 to 31 March 2022 and offer a choice of legacy scheme or reformed scheme benefits upon retirement.
- 3.6 The Regulations not only affect current employees but include former employees who are deemed eligible members. The Service has identified and communicated with all members considered to be in scope
- 3.7 The detailed Regulations can be access at <http://www.legislation.gov.uk> and work is ongoing with the Administrators, the Dyfed Pension Fund, to ensure implementation within the prescribed timescales.
- 3.8 A detailed review of each payroll and pension record is required to ensure that each element of pay is correctly treated for pension purposes. The employee's pension contribution will also require adjustment and arrangement is made within the Regulations for the treatment of tax relief on such contributions. The work is concluded through the provision and actioning of a Remediable Service Statement (RSS) for each eligible member.
- 3.9 The Local Government Association (LGA) commissioned an external agency to provide templates for the various Remediable Service Statements (RSS) that will be required to be used by all Fire and Rescue Authorities (FRAs). The LGA shared the template with the three Services in Wales to enable an "All Wales" RSS to be developed so that it meets the needs of the Firefighter Pension Schemes' in Wales.
- 3.10 The three Service's in Wales have agreed on the RSS templates and they have been issued to the Administrators to ensure they are useable prior to them being issued to pension scheme members over the next few months, based on the suggested co-hort scheduling for Immediate Choice members attached at Appendix 1, and Deferred Choice members attached at Appendix 2, provided by the LGA.
- 3.11 In addition, the Government Actuary's Department released a calculator for FRAs to calculate contribution adjustments, including tax relief and interest, for members in-scope for remedy.
- 3.12 The calculator requires the inputting of contribution and tax data for the relevant remedy years (01 April 2015 to 31 March 2022) and works out the net money owed by members to the scheme for underpaid contributions, and compensation owed by the scheme to the member for overpaid contributions, where applicable.
- 3.13 For individuals retiring from 01 October 2023, who are known as Deferred Choice retirement cases, the GAD calculator has been used so that this can be included within the contribution adjustment in their benefit illustrations.

3.14 To date, 08 deferred choice retirement cases have been processed since 01 October 2023 and all lump sum and pension benefits were paid within the timescales set out in the Service Level Agreement.

3.15 Members are advised that this highly technical work is being carried out by the Service's Pensions Officer and the Pensions Assistant and this will be completed within the specified time frame.

4 Proposal

4.1 That Local Pension Board Members note the current position regarding the remedy of age discrimination in the Firefighters' Pension Scheme 2015.

5 Service Commitments, Improvement Objectives and Well-being goals

5.1 The Service is committed to ensuring that the key principles of the Wellbeing of Future Generations (Wales) Act 2015 are supported.

6 Financial/Procurement Implications

6.1 It is not possible to accurately predict the potential financial implications of the remedy process due to the complexities of the calculations. However, it will likely result in increased pension benefit entitlements.

7 Risk Assessment/Legal and Compliance Implications

7.1 The Service will apply remedy to all new retirements in accordance with the scheme regulations and retrospective remedy will be applied as part of the rectification exercise.

7.2 Failure to complete the remedy exercise within the 18 month timeframe will be a breach of the law.

8 Fire Authority Governance Implications

8.1 Pension Scheme Governance is the responsibility of the Fire Authority as Scheme Manager, assisted by the Local Pension Board.

9 Equality and Diversity, including the Socio-economic Duty and Welsh Language Standards implications

9.1 This is a national issue relating to transitional provisions in the Firefighter's Pension Scheme Regulations 2015. The Service's internal procedures are compliant with equality and Welsh language requirements.

10 Data Protection and Privacy Issues

10.1 All personal and sensitive information is processed in accordance with the requirements of Data Protection legislation and the Authority's Data Protection Procedures.

11 Consultation and Communication

- 11.1 Internal consultation is considered not necessary. The Service will communicate with those affected by the remedy direct and as part of the options exercise.

12 Prevention, Protection and Response Implications

- 12.1 Considered, but deemed not relevant to the report.

13 Human Resources and People Development Implications

- 13.1 The remedy will likely have a significant impact on the Human Resources Department's day to day activities, particularly in relation to an options exercise and the necessary adjustments to Scheme Member's records.
- 13.2 Financial data in respect of members in the Firefighter Pension Scheme 1992 (FPS 1992) has been provided to the Dyfed Pension Fund and the outstanding work relating to the data to members of the Firefighter Pension Scheme 2007 is in progress to ensure that the Administrators can undertake the appropriate calculations.
- 13.3 The Service appointed a temporary additional Pensions Assistant on 30 October 2023 to meet the ongoing demands of the remedy process and to ensure continuation of the day to day service provision. In recognition of the increased demand going forward the temporary post has now been substantiated.

14 Information and Communications Technology (ICT) / ICT Strategic Advisory Team (ISAT) Implications

- 14.1 Considered, but deemed not relevant to the report.

15 Estates Implications

- 15.1 Considered, but deemed not relevant to the report.

16 Fleet, Engineering and Logistics Implications

- 16.1 Considered, but deemed not relevant to the report.

17 Evaluation

- 17.1 Considered, but deemed not relevant to the report.

18 Recommendations

- 18.1 That Local Pension Board Members note the current position regarding the remedy of age discrimination in the Firefighters' Pension Scheme 2015.

