HIWFRA Firefighters Pension Board

Purpose: Noted

Date: **13 AUGUST 2024**

Title: **FIREFGHTERS PENSION BOARD STATUS REPORT AND RISK REGISTER REVIEW**

Report of Chief Financial Officer

SUMMARY

1. This report provides an HIWFRA specific activity update. Due to the crucial stages in the implementation of the McCloud and Matthews remedies and the importance and complexity of this work, the report mainly focuses on these issues.

COMMUNICATION

2. The Chief Financial Officer delivered a presentation at the pre-retirement course in July. The delivery of the courses will transition to the in-house HR team over the course of the financial year.

3. Communications about how to find out more information about pensions, including requesting an estimate were issued in routine notice in July. These will be repeated in September.

MEETINGS

4. Representatives from HIWFRA, IBC pensions administration and Hampshire Pension services continue to attend information sharing meetings as appropriate. The Chief Financial Officer has also attended National Fire Chief Council calls on pensions related matters.

5. Monthly meetings between Hampshire Pension Services, HR and the Chief Financial Officer, to review bulletins and meeting actions and to agree on actions have continued.

6. The Chief Financial Officer continues to attend McCloud remedy working group meetings with representatives from Pension Services, IBC pensions administration and Hampshire Constabulary.

PENSIONS RE-ENROLMENT

7. Every three years it is requirement that all eligible members are re-enrolled into pension schemes. The FPS re-enrolment took place at the start of the financial year. 68 members were enrolled in the pension scheme. Of these 55 members opted back out.

8. Information on opt outs for new recruits suggests that opt out levels are very low.

McCLOUD REMEDY

9. Progress on the implementation of the McCloud remedy continues but there are a number of significant remaining challenges.

10. Board members will recall that last meeting there was discussion about an issue surrounding tax on interest payments owed to members. The original issue that was raised affected Immediate Choice members only i.e. members who retired between 2015 and 1 October 2023. The issue was that interest owed to those members that exceeded the Bank of England base rate plus 1% would be taxed at 40%.

11. There has been some progress on this issue. The concerns surrounding tax on interest have now been resolved and members will not pay a tax penalty for interest, which is positive news.

12. However, a new issue has emerged, affecting members of the 1992 scheme who originally took a lump sum in excess of the 25% allowable by HMRC. The current legislative position is that tax on any new lump sum cannot be offset against the tax paid on the original lump sum. For example, a member originally paid £4,000 tax on their lump sum in excess of HMRC limits. Their new total tax liability is £6,000. The current position is that rather than owing an additional payment of £2,000, the member would owe the full £6,000.

13. It is clear that this is an unintended consequence of the legislation. However, due to wider national issues, no written ministerial statement committing to address this issue has yet been issued.

14. The LGA advice is that the processing of cases for all members affected should be paused. However, using delegated powers Executive Group have opted to allow the first cohort of members (those who ill health retired) to be processed. Should the issue not be resolved, the financial liability will stay with the Fire Authority rather than the member. The rationale for this decision is as follows:

(a) The intention of the judgement was to remove the discrimination that resulted from the original changes. This would likely be an example of further discrimination, so is unlikely to be maintained as a policy position
(b) We are now a significant way through the remedy period and any further delays will cause further delays to members who have waited a long time for this resolution as well as jeopardising our ability to process all cases within the required deadlines.
(c) The current financial risk to the service is low.

15. Should further cohorts of members become payable before the issues are resolved, Executive Group will make decisions on a cohort by cohort basis. Due to the timings of the Boards and the fast pace of these developments, it was not possible to consult the Board in advance of this decision. However, views are now sought and will be used to inform decision making about future cohorts.

16. The next development on the McCloud pensions remedy is the launch of guidance about compensation. There are two types of compensation:

(a) Automatic
(b) Non-automatic.

17. Automatic compensation covers payments such as the refund of pension contributions. These will be automatically resolved as part of the remedy process.

18. Non-automatic compensation needs to be claimed by members. Members must be able to evidence that they have incurred financial loss as a result of the remedy. For example, it may have been necessary to seek legal advice to renegotiate a pension sharing agreement.

19. The Service has not yet been in a position to open a compensation scheme. In part this is because, although guidance on how to approach the issue of guidance has been issued, it is not yet sufficiently granular to allow a process to be developed. It is clear that there must be repeatable, national decision making on these cases.

20. There continues to be engagement at a national level to try and agree consistent processes which will be adopted within the Service. An update on progress will be provided at the next board meeting.

21. Overall, progress with McCloud continues, albeit at a slower pace than would have originally been expected. All members who retired since 1 October 2023 have now been remedied. The next key milestone is to issue Annual Benefits Statements to all members by 31 August 2024. These will show benefits in both the reformed and legacy schemes and will be a significant step forward in allowing those who have not yet retired to understand their potential benefits at retirement.

22. Following this, the cases of members who retired during the period 2015 – 1 October 2023 will be processed, focusing first on those members who were transitioned from the legacy schemes.

23. Despite the number of issues that have emerged during the process of implementing the remedy, we are still on track to hit the statutory deadlines. Should any deadlines be missed, these would be reported to the Pension Board and potentially the Pension Regulator as a breach.

<u>MATTHEWS REMEDY</u>

24. As noted in the LGA update report, there have been a number of challenges with the implementation of the Matthews remedy. The complete guidance on how to deal with the full range of scenarios has not yet been published. Due to the complexity of the calculations and the tool, it is necessary for each case to be considered separately.

25. It has been particularly challenging to try and translate the outputs into a statement that is understandable for members to enable them to make decisions. We have engaged with other services who are completing this exercise and have received support from them, including revised templates for communicating with members.

26. An issue has been raised relating to tax on backdated payments for pensioners in scope of the remedy. Pensioners who choose to buy back pension will receive backdated payments relating to previous financial years. The current legislation means that pensioners will be taxed on these payments as though they all related to the current financial year. This could mean that they are paying tax at a higher rate than they would, were the payments able to be dealt with in previous financial years for tax purposes. When members estimates are sent out they are being made aware of this issue and are being given the option of waiting to see if there are changes to the arrangements for dealing with tax on backdated payments.

27. There is a further issue that has been identified relating to deferred members of the scheme. It has become clear that there was a difference in the treatment of members during the first options exercise. Active and pensioner members who were already members of the pension scheme

were given the option to convert service between the standard and modified schemes. Deferred members with existing service were not given this option.

28. This issue appears to be an unintended consequence of the regulations which was not widely understood during the first options exercise and also applies to the second options exercise. It is likely that there may be some challenge to this position as there does not seem to be a rationale for the difference in treatment.

29. However, as there is no plan or timescale for the review of this position, processing of cases for deferred members will continue. There is a risk that should the position change they will need to be offered a third option. The views of the Board on this approach would be welcomed.

30. These issues have contributed to significant challenges in delivering the Matthews remedy. However, there has been some material progress since the last board.

    (a) The original letter has been resent to those who did not respond, with a simplified covering letter encouraging people to respond even if they are not sure of the answers to all of the questions
    (b) Tracing of those who have not yet responded has begun
    (c) Options have been sent to over 100 members.

31. Although progress has been slower than we anticipated, good progress is now being made and there has been significant learning which will enable future requests to be completed more quickly. Delays in the progress on this work are disappointing but are part of a national picture of delay to the implementation of this remedy.

<u>RISK REVIEW</u>

32. There are a number of items in pension administration and governance which contain elements of risk. These are captured on the specific Pension Board risk register. Currently there are no pension related risks on the organisational risk register.

<u>RISK REGISTER</u>

33. There are limited changes to the risk register for this Board meeting. The approach to the maintenance of the risk register will be refreshed for the next Board meeting.

34. Risk 8 remains as the HR team have not yet fully taken on the envisaged pension related role. This is understandable as it is a complex area subject to significant change currently.

35. Risk 9, which related to the specific tax and interest discussed at the previous Board has been removed as that specific issue is now resolved.

36. Two new risks have been identified. Risk 10 relates to the risk that the necessary legislative changes will not be made to allow new lump sum tax payments to be offset by previous payments. This risk is mitigated by the staged approach to decision making.

37. Risk 11 relates to the risk that elements of the Matthews remedy will need to be repeated. This risk is not yet mitigated.

RECOMMENDATION

38. That the content of the report be noted by the HIWFRA Firefighters' Pension Board

39. That the risk register as set out in paragraphs 32 - 39 and Appendix A be approved by the HIWFRA Firefighters' Pension Board

APPENDICES ATTACHED

40. APPENDIX A – Risk Register

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