

		Impact					
		Negligible	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Rare	1	1	2	3	4	5
	Unlikely	2	2	4	6	8	10
	Possible	3	3	6	9	12	15
	Likely	4	4	8	12	16	20
	Almost certain	5	5	10	15	20	25

Risk Register for Fire Pensions

Risk number	Date identified	Risk area	Risk description	Likelihood	Impact	Risk score	Control measure / mitigation	Likelihood after mitigation	Impact after mitigation	Risk score after mitigation	Risk owner
1	12/05/2017	Operations	Failure to administer the pension scheme in a proper and effective manner	2	3	6	a) Liaison with employer b) End of Year c) Employer web (UPM access) d) Fire Employer Group & Pensions Admin Group e) Fire Pension Board f) Management oversight and escalation to Rob Carr g) Diversification – we run a Shared Services arrangement h) Ability to call in temporary staff for peak workloads i) Business continuity plan	1	3	3	Scheme Manager
2	12/05/2017	Financial	Failure to pay the right amounts on time and in line with legislation	3	3	9	Pensions Services:- a) Testing software b) Internal and External Audits c) Standardisation of systems and processes d) All processes and calculation have a “doer” and a separate “checker” e) Monthly mortality screening for pensions in payment f) Declaration of Entitlement forms annually to pensioners and beneficiaries living overseas or upon mail being returned g) Participation in National Fraud Initiative reporting	2	3	6	Pension Administrator
3	12/05/2017	Funding	Failure to adequately account for fund pension contributions	2	4	8	a) Strong financial plan for HFRA b) Planned budget c) Aim to complete all Home Office returns on time	1	4	4	Scheme Manager
4	12/05/2017	Regulatory and Compliance	Failure to identify and interpret and implement legislation correctly	3	4	12	a) Scheme Advisory Board b) Local Government Association (LGA) c) Regional Fire Pension Officer Groups d) Fire Pension Board e) Employer Pension Manager as a dedicated resource liaising between - Fire Employer Group & Pensions Admin Group, pulling together - Key Accountabilities for IBC Pensions Admin Team, HR and Hampshire Pension Services	1	4	4	Scheme Manager
5	08/10/2020	McCloud	Failure to adequately resource and successfully implement the McCloud remedy to all affected members within the timescales prescribed	4	4	16	a) Staff recruited specifically for McCloud tasks or to backfill positions so more experienced staff can be released for project b) Communications are developed in a timely manner c) Project is managed effectively with robust plans, reporting and escalation d) Key involvement from the Employer Pension Manager with both the Fire Technical Group and Fire Communications Working Group to ensure all information is received e) Work across departments to be co-ordinated from the Fire Employer Group	2	4	8	Scheme Manager

BEFORE MITIGATION		Impact					
		Negligible	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Rare	1					
	Unlikely	2			1. Failure to administer the pension scheme in a proper and effective manner	3. Failure to adequately account for fund pension contributions	
	Possible	3			2. Failure to pay the right amounts on time and in line with legislation	4. Failure to identify and interpret and implement legislation correctly	
	Likely	4				5. Failure to adequately resource and successfully implement the McCloud remedy to all affected members within the timescales prescribed	
	Almost certain	5					

AFTER MITIGATION		Impact					
		Negligible	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Rare	1			1. Failure to administer the pension scheme in a proper and effective manner	3. Failure to adequately account for fund pension contributions 4. Failure to identify and interpret and implement legislation correctly	
	Unlikely	2			2. Failure to pay the right amounts on time and in line with legislation	5. Failure to adequately resource and successfully implement the McCloud remedy to all affected members within the timescales prescribed	
	Possible	3					
	Likely	4					
	Almost certain	5					



**Hampshire
& Isle of Wight**
FIRE & RESCUE AUTHORITY

Purpose: Decision

Date **9 JANUARY 2021**

Title **PENSION CONSIDERATIONS FOR THE COMBINED FIRE AUTHORITY**

Report of Chief Finance Officer

SUMMARY

1. This report provides an update on the development of key items associated with pension decisions relating to the new Combined Fire Authority. As a new entity, there is a requirement to take specific decisions around a number of pension related items as set out in this report.
2. For the most part these mirror decisions or policies that were already in place within both Hampshire and the Isle of Wight Fire and Rescue Authorities but in some areas there are differences, which have been highlighted within the report.

SALARY SACRIFICE SHARED COST AVCs

3. For Local Government Pension Scheme (LGPS) members, they have the option of topping up their pension by paying into Additional Voluntary Contributions (AVCs). Any AVCs paid by the member attract tax relief.
4. Prudential, one of the AVC providers for Hampshire Pension Fund, has the facility to allow a Salary Sacrifice Shared Cost AVC (SS SCAVC) arrangement. This means that both the employer and employee contribute to the SS SCAVC; The employee sacrifices part of their salary and the employer pays this to the AVC fund and the employee must pay £1 as their contribution.
5. The benefit of this arrangement over a standard AVC is that both the employee and the employer will pay less in National Insurance contributions.
6. It is proposed that from 1 April 2021, that this facility is offered to all LGPS members employed by the Hampshire and IOW Fire and Rescue Authority.

DISCRETIONS POLICY

7. The pension schemes require employers to take discretions for certain rules within the legislation. These are formed into policies called Discretion Policies.
8. Part of the work to align Hampshire and IOW in preparation for the Combined Fire Authority from 1 April 2021 was to look at the discretions policies in place for both authorities in respect of the LGPS and the Fire Pension Scheme.
9. The policies from both authorities do align which means that there are no amendments required and therefore we are recommending that these are published in the new format under the new employer name of Hampshire and IOW FRA. The LGPS Discretions Policy can be found in APPENDIX A, and the Fire Pension Scheme Discretions Policy can be found in APPENDIX B.
10. The only item which is not aligned is regarding Temporary Promotions for the Fire Pension Schemes and this is a separate item below.

FIRE PENSION SCHEME TEMPORARY PROMOTIONS

11. On 1 July 2013, the 1992 Fire Pension Scheme regulations were amended in that each FRA had to make their own decision about whether to treat Temporary Promotions as pensionable or not.
12. Prior to this date, Temporary Promotions were all pensionable and the member was entitled to use the Temporary Promotion pay as their final pay when it came to calculate their pension benefits.
13. The change from 1 July 2013, not only allowed each FRA to determine the pensionable status of Temporary Promotions, but where it was deemed to be pensionable going forward, it removed the right to have it treated as final pay and instead the legislation allowed for it to be awarded as an Additional Pension Benefit (APB). This is an additional amount which is added to the members annual pension, based on the amount of Temporary Promotion pay, the contributions paid on it and the age of the member at the end of each Scheme Year.
14. HFRA made the decision to make temporary promotions pensionable but the IOW did not. This means that up to the point of the combination of the Fire Authorities, IOW members will have any Temporary Promotions treated as non-pensionable.
15. As the HIWFRA becomes a new employer from 1 April 2021, a new decision has to be made as to the pensionable status of Temporary Promotions for all members from that date going forward.

16. It is recommended that from 1 April 2021 all Temporary Promotions within the 1992 or 2006 Fire Pension Schemes for members employer by HIWFRA are treated as pensionable and awarded an APB in respect of the additional pay received.
17. There are 25 members from IOW that are currently on a Temporary Promotion and are in either the 1992 or 2006 Fire Pension Schemes. These will continue to be paid as non-pensionable up to 31 March 2021, but from 1 April 2021, they will be paid as pensionable. This will mean that the member will see an increase in their monthly pension contribution deductions and there will be a corresponding increase in the employer contributions.
18. There is a communication plan to advise these members of the changes that will affect their pay from 1 April 2021.

FIRE PENSION SCHEME RISK REGISTER

19. The Hampshire Fire Pension Board have a Risk Register and at the HFRA Firefighters Pension Board meeting in October, the Board were keen to add McCloud to the Risk Register as a separate item. The revised risk register can be found in APPENDIX C.

McCLOUD – IMMEDIATE DETRIMENT CASES

20. In August 2020 the Home Office issued a 6 page guidance note on Immediate Detriment, allowing FRAs to offer remedy to members that are due to retire. Whilst this provided some helpful information, it did not provide a clear set of rules to follow for all scenarios in all circumstances.
21. The LGA sought legal advice on behalf of FRAs specifically about the legality of the guidance note and whether it could be relied upon; the advice has been shared with the Scheme Managers.
22. Taking into account the Immediate Detriment (ID) guidance note, the legal advice and all the Fire Pension Schemes complexities, we are recommending that HIWFRA will not automatically apply ID in all cases, the reasons for this are:-
 - (a) ID guidance can only be used for Claimants. It cannot provide any basis for FRAs to make payments to non-claimants
 - (b) The guidance is of an informal nature, it is subject to changes and it does not set out a series of clear rules to follow; there is a high risk to both HIWFRA and the member that incorrect choices or errors in manual calculations will be made.
 - (c) We do not yet have the wording necessary for the waiver which the member would have to sign to say that they agree to remedy being

given now on the basis of the information in the ID guidance and that they will accept the Government's final position, whatever that is. This wording is awaited from the Home Office and HM Treasury.

- (d) Even if remedy, using the ID is given now, the case will have to be reviewed in April 2022 when the final position is known and it is expected that the member will be in a position where they will have further monies to pay – e.g. interest on contributions.
 - (e) Where a member will exceed their Annual Allowance or has a Pension Sharing Order within the remedy period, it is not possible to deal with these cases as the ID guidance does not explicitly explain how these cases should be treated.
 - (f) If ID were to be used on any cases, there would be a significant delay in paying any benefits as relevant information would need to be sought from the employer and manual calculations would need to be completed to be in a position to be able to present the member with a choice. The member would be encouraged to obtain independent financial advice to ensure that they are making the right decision. Only once a signed waiver declaration with an election of a choice would any benefits be able to be paid.
 - (g) No member will lose out, if ID is not utilised now, then all retired members will receive the choice of remedy after April 2022, this means that the member will have all the relevant details and the final Government position will be known. Where any arrears of pension are due these will be paid to the member and any monies due from the member can be offset against this.
23. Whilst it is recommended that this is adopted as the HIWFRA formal policy on the application of ID, we will consider individual cases on a case by case basis and in exceptional circumstances we will consider applying ID if certain conditions are met, i.e. that their circumstances are clear and straight forward.
24. We will have a conversation with members wanting to utilise ID and point out that if we use this now then we will have to review their case again in April 2022 and the position may change, but they will have to accept the Government's final position and they will not have another choice.
25. There is the potential that the benefits the member has received could be wrong and we would have to recalculate and recover any overpayments, along with them having to pay interest on contributions, and anything else that falls out of the Governments consultation response. After taking all of this into account the member will have the option to receive benefits based on the current legislation and wait to receive remedy until after April 2022 when the final position is known.

RECOMMENDATION

26. The Shadow Authority are asked to note the content of this report
27. The Shadow Authority are asked to approve the introduction of the Salary Sacrifice Shared Cost AVC arrangement as set out in paragraphs 3-6
28. The Shadow Authority are asked to approve the LGPS Discretions policy as set out in paragraphs 7-10 and APPENDIX A
29. The Shadow Authority are asked to approve the Fire Pension Scheme Discretions policy as set out in paragraphs 7-10 and APPENDIX B
30. The Shadow Authority are asked to approve the decision to make Temporary Promotions pensionable as set out in paragraphs 11-18
31. The Shadow Authority are asked to approve the Risk Register as set out in paragraph 19 and APPENDIX C.
32. The Shadow Authority are asked to approve the decision not apply Immediate Detriment automatically to all Fire Pension Scheme cases in respect of McCloud as set out in paragraphs 20-25

That the Shadow Authority delegates authority to the Chief Financial Officer in consultation with the Chief Fire Officer to apply Immediate Detriment on a case by case basis if appropriate.

APPENDICES ATTACHED

33. APPENDIX A – LGPS Discretions Policy
34. APPENDIX B – Firefighters Discretion Policy
35. APPENDIX C – Risk Register

Contact:

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Ref	Topic	Familiar	Almost	Unsure
A	Background and Understanding of the Legislative Framework of the Fire pension scheme			
A1	Differences between public service pension schemes like the Fire Pension Scheme (FPS) and private sector trust- based schemes	5	1	0
A2	Role of the Independent Public Service Pensions Commission (IPSPC) and its recommendations	1	3	2
A3	Key provisions of the 2013 Pension Act	1	4	1
A4	The structure of the scheme and the main bodies involved including the Responsible Authority, the Scheme Manager, the Scheme Advisory Board, the Local Pension Board and the Scheme employers	3	2	1
A5	An overview of local authority law and how Administering Authorities are constituted and operate	1	2	3
A6	Scheme and connected scheme rules overview (including the Regulations)	0	4	1
A7	The Firefighter Pension Scheme 1992	3	3	0
A8	The Firefighter Pension Scheme 2006 and main changes from the 1992 scheme	1	5	0
A9	The Firefighters Pension Fund	1	3	2
A10	The Firefighters Compensation Scheme	1	5	0
A11	Firefighters (Modified) Pension Scheme	0	6	0
A12	The Firefighters Pension Scheme 2015	3	3	0
		20	41	10
B	General pensions legislation applicable to the FPS - An overview of wider legislation relevant to the FPS including:			
B1	Automatic Enrolment (Pensions Act 2008)	3	3	0
B2	Contracting out (Pension Schemes Act 1993)	1	3	2
B3	Data protection (Data Protection Act 1998)	3	3	0
B4	Employment legislation including anti- discrimination, equal treatment, family related leave and redundancy rights	3	1	2
B5	Freedom of Information (Freedom of Information Act 2000)	3	3	0
B6	Pensions sharing on divorce (Welfare Reform and Pensions Act 1999)	1	5	0
B7	Tax (Finance Act 2004)	1	4	1
		15	22	5
C	Role and responsibilities of the Local Pension Board			
C1	Role of the Local Pension Board	3	3	0

Ref	Topic	Familiar	Almost	Unsure
C2	Conduct and conflicts	3	3	0
C3	Reporting of breaches	3	3	0
C4	Knowledge and understanding	1	5	0
		10	14	0
D	Role and responsibilities of the Scheme Manager			
D1	Membership and eligibility	2	4	0
D2	Benefits and the payment of benefits	2	4	0
D3	Decisions and discretions	1	2	3
D4	Disclosure of information	2	3	1
D5	Record keeping	2	3	1
D6	Internal controls	2	3	1
D7	Internal dispute resolution	1	4	1
D8	Reporting of breaches	3	3	0
D9	Statements, reports and accounts	3	2	1
		18	28	8
E	Funding and Investment			
E1	Requirement for triennial and other valuations	1	0	5
		1	0	5
F	Role and responsibilities of Scheme Employers			
F1	Automatic Enrolment & Opting Out	1	5	0
F2	Deduction and payment of contributions	3	2	1
F3	Special contributions	0	3	3
F4	Employer decisions and discretions	1	3	2
F5	TUPE and outsourcing (including Fair Deal and the Best Value Authorities Staff Transfers (Pensions) Directions 2007)	0	3	3
		5	16	9
G	Tax and Contracting Out			
G1	Finance Act 2004	0	3	3
G2	Role of HMRC	2	3	1
G3	Registration	1	2	3

Ref	Topic	Familiar	Almost	Unsure
G4	Role of 'scheme administrator'	2	2	2
G5	Tax relief on contributions	3	3	0
G6	Taxation of benefits	3	3	0
G7	Annual and lifetime allowances	2	3	1
G8	Member protections (primary, enhanced, IP etc)	0	4	2
G9	National Insurance	1	4	1
G10	Contracting out (Pensions Scheme Act 1993)	1	3	2
G11	Impact of abolition of contracting out in 2016	1	1	4
		16	31	19
H	Role of advisors and key persons			
H1	Officers of the Fire and Rescue Authority	2	4	0
H2	Auditor	2	4	0
H3	Lawyers	2	3	1
H4	Administrators – in house v. third party	2	2	2
H5	Procurement of services	2	3	1
H6	Contracts with third parties	2	3	1
		12	19	5
J	Key Bodies connected to the Scheme - an understanding of the roles and powers of:			
J1	Courts	1	2	2
J2	HMRC	1	5	0
J3	Information Commissioner	2	1	3
J4	Pensions Advisory Service	3	2	1
J5	Pensions Ombudsman	3	2	1
J6	The Pensions Regulator (including powers in relation to Local Pension Boards)	3	2	1
		13	14	8