

# CUMBRIA FIRE LOCAL PENSIONS BOARD

Meeting date: 3 May 2022

From: Chief Fire Officer

## **MONITORING REPORT FOR THE PERIOD TO 31 DECEMBER 2021**

### **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 31 March 2022 and any performance monitoring issues of the Scheme to 31 December 2021.**

#### **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 During the quarter one risk has been added to the risk register relating to Fire Governance Transition (LGR), and one risk removed associated with the COVID-19 Impact on Pensions Administration.**

#### **Pensions Administration:**

**1.5 Performance against key performance indicators for LPPA was 96% (against the SLA of 95%) for the quarter to 31 December 2021.**

#### **Governance:**

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

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

## 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 31 December 2021 and any material policy or governance issues and national regulatory changes to 31 March 2022.*

## 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 Board's 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 May 2022 is attached at Appendix 1. One risk has been added to the register between January and May 2022 associated with Fire Governance Transition.

- **New Risk in Q4: Ref 2.7 - Fire Governance Transition**

Impact of occurrence score	4
Likelihood of occurrence score	4
Total Risk Score	16 (Red)

### Fire Governance Transition

Fire pension administration is carried out under Cumbria County Council's delegation to Lancashire County Council. Lancashire have set up Local Pensions Partnership Administration (LPPA) which is their own company to deliver the service. However, LGR means that Cumbria County Council will no longer exist after the 1 April 2023 and therefore the governance arrangements for the Fire Service will need to change.

There is a risk that the transition of Fire governance could have a significant impact on the sustained quality provision of the Cumbria Firefighters' Pension Schemes until 31 March 2023 and potentially beyond. The likelihood score for this risk arising is considered to be 4 ("Likely") and the impact score to be 4 ("Major").

- 4.3 The risk associated with the COVID-19 Impact on Pensions' Administration has been removed from the risk register reflecting that this has been well managed throughout the pandemic and is now being overseen as business as usual.
- 4.4 The register currently has 14 risks comprising 3 red risks (information security arrangements, the Sargeant Judgement and Fire Governance Transition); 2 amber risks (pension administration processes, the O'Brien Judgement), and 9 green risks.
- 4.5 There have been no amendments to the scoring of any of the risks over the last quarter. The risk associated with Fire Governance Transition (LGR) has been added.

## **5.0 SCHEME MONITORING**

### LPPA Performance

- 5.1 To allow members of the Board to perform effective governance and oversight of the Scheme Administration, the quarterly performance report to 31 December 2021 is attached at Appendix 2.
- 5.2 In the quarter to 31 December 2021, performance against the KPIs was 96.5%, against the SLA target of 95%.
- 5.3 LPPA have signed a Pension Scams pledge to help improve how they protect members. The pledge has been set up by The Pensions Regulator and aims to encourage administrators to protect pension scheme Members from scams.

### Legal breaches recorded / reported during the quarter

- 5.4 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.
- 5.5 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.

5.6 There have been no breaches reported to the Regulator in the quarter.

Scheme Discretions

5.7 There have been no scheme discretions exercised during the quarter.

Pensions Ombudsman

5.8 There have been no cases referred to the Pensions Ombudsman during the quarter.

IDRP

5.9 During the quarter, no appeals were received.

5.10 A Stage 2 appeal was received in November 2021. The complaint centred around the applicant being served with a County Court Judgement following an overpayment error, made by LPPA which was not subsequently repaid. The complainant claimed they did not receive any correspondence and they were not aware of the attempts to recover the debt. The complainant had several address changes during this period however, they were not identified when the correspondence was sent out. The decision at Stage 1 was to uphold the appeal, and there would be no objection from Cumbria County Council should the complainant decide to apply to the court for the CCJ to be set-aside however, the complainant disputed the Stage 1 decision the reason being, the cost to apply to the court to have the CCJ removed, and the amount of interest applied to the original debt. The Stage 2 panel met and decided that the Stage 1 outcome was correct but recognised, that the claimant sought further resolution. The panel agreed that the claimant should not incur the cost of applying to the court to have the CCJ removed, and the fee should be refunded and that the interest applied to the original debt should be credited. They also recognised that the complainant received below standard service and subsequently offered an amount in respect of non-financial injustice which has been accepted, and the amount has been paid.

5.11 As reported at the previous FLPB meeting a Stage 2 IDRP was being investigated, this complaint was in 2 parts, firstly the complainant claimed there was an error in some of the pension estimates received and they were seeking for their pension to be recalculated based on the 2006 Modified Pension Scheme rules. The second part of the complaint related to the reclaiming of tax and NI. Stage 2 panel met, and the decision was to not uphold the appeal. The panel however, recognised that the complainant received below standard service. The complainant was subsequently offered an amount in respect of non-financial injustice which was accepted, and the amount has been paid.

## Data Quality

- 5.12 Data held within Cumbria FPS continues to be of a good quality. This is evidenced by the scoring mechanism as set out by the Pensions Regulator. The LPPA report in Appendix 2 provides TPR data scoring information at pages 34 & 35. This notes that the Scheme reported 98.5% of its common data (e.g., NI number, address etc.) was present and accurate and the scheme specific conditional data (e.g., employment details, contribution history etc.) was scored as being 96.5% present and accurate, continuing the upward trend.

## **6.0 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.

### Remedy to Sargeant Age Discrimination Case

- 6.2 There is a separate paper at Item 10 on today's agenda providing an update on the Sargeant Remedy and Immediate Detriment.

### Matthews – Second options exercise

- 6.3 On 9 March 2022 after an extended period of negotiations a Memorandum of Understanding (MoU) was agreed by Home Office, LGA, FBU and FRSA.
- 6.4 Following this the LGA provided a summary of "Matthew" MoU and second options exercise.
- 6.5 Remedy for retained firefighters affected by the O'Brien judgment will be provided by way of a second options exercise, allowing in-scope individuals the opportunity to purchase pension entitlement as a special member of the FPS 2006.
- 6.6 The regulations to implement the second options exercise in England are still to be drafted by the Home Office and consulted on before they are laid before Parliament. The Home Office has a maximum period of 18 months to draft, consult, and introduce the necessary secondary legislation. FRAs will be expected to start the second options exercise as soon as possible after the legislation comes into force. The exercise will run for a maximum period of 18 months after it begins.
- 6.7 Prior to the legislation coming into force, Cumbria will commence work on gathering all of the relevant data to support this exercise. The Board will be advised of progress with specific reports and verbal updates when appropriate.

### Mandatory scheme pays

- 6.8 Mandatory scheme pays deadlines are changing The Finance Act 2022 and the Registered Pension Schemes (Miscellaneous Amendments) Regulations 2022 ('the new regulations') will change the timescale for members to make

or amend a mandatory scheme pays election when paying an annual allowance charge. The changes will apply when the information used to calculate a member's pension input amount is retrospectively amended. The LGA is currently reviewing the impact of these changes and we will provide more information in due course.

## **Consultations**

### Administration Strategy Consultation

- 6.9 The final template pension administration strategy was published in July 2021. An update on how Cumbria FPS will address this will be presented to a future Local Pension Board meeting.

### Pensions Dashboards – DWP Consultation

- 6.10 In March 2022 the LGA and SAB submitted their responses to the DWP consultation on the draft Pensions Dashboards Regulations 2022 in respect of the Firefighters' Pension Schemes. Whilst supportive of the dashboards and their purpose there are strong concerns over the proposed staging schedule given the conflicting pressures faced by administrator and the data that will be available at that time. Their response to the DWP was to ask for the staging date to be delayed 12 months until April 2025.

## **7.0 OTHER MATTERS**

### **Abatement**

- 7.1 Following the recent Pension Ombudsman ruling – PO25374. The LGA held a dedicated session to Officers on the PO and pension abatement.
- 7.2 To summarise, Pension Ombudsman ruling – PO25374, the FRA identified a re-employed pensioner who should have been abated on reemployment but wasn't and, as a result, an overpayment of pension was identified, which the FRA sought to recover. The member challenged this as they believed that the FRA had a duty of care to alert them at the outset that their pension would be abated.
- 7.3 The complaint was partially upheld. The Ombudsman determined that the FRA didn't have an additional duty of care to the member other than the requirement to provide factually correct information. The complaint was upheld to the extent that the FRA did not follow reasonable process when exercising their discretion under rule K4 of FPS 1992 and making its decision to abate the members pension.
- 7.4 After taking legal advice from the SAB's legal advisor, the response confirmed that the PO determination is correct. The determination is supported by case law on exercising discretions, and the process that should be followed.
- 7.5 The action recommended by the LGA was to review all existing policies on abatement and make necessary changes to ensure that proper

consideration is taken when agreeing whether abatement should apply. It was also recommended that each decision is formally documented to evidence that an informed decision has been made.

- 7.6 The main issue was the FRA had a blanket policy which stipulated abatement would apply. This meant that there was no room for 'discussion' in terms of the circumstances in which abatement would not apply.
- 7.7 A full review has been undertaken of Cumbria's existing policies and no changes were deemed necessary. In abatement cases proper consideration is taken when agreeing whether abatement should apply and consideration whether any exceptional circumstances exist, is done on a case-by-case basis.

### **Training**

- 7.8 Board Members continue to be notified of relevant training events (internal and external) as and when they arise and are encouraged to attend.
- 7.9 There is a development session immediately after today's Board meeting by Rachel Blundell, Deputy Director Member Operations at Local Pensions Partnership Administration. This will provide an update on Project PACE (Pensions Administration Core Evolution), which is the project dealing with LPPA's new pension administration system.
- 7.10 Guidance and training material can be accessed by Board Members via the link below to the dedicated Fire Local Pension Board Sharepoint site: -

<https://cumbria.sharepoint.com/sites/CLGPS/Shared%20Documents/Forms/AllItems.aspx>

### **8.0 OPTIONS**

- 8.1 To either note the performance of the Cumbria Firefighters' Pension Scheme (FPS) to 31 December 2021 and any material policy or governance issues and national regulatory changes to 31 March 2022 or request further information.

### **9.0 RESOURCE AND VALUE FOR MONEY IMPLICATIONS**

- 9.1 The Sargeant ruling has resulted in the new PSPJOA 2022 coming into force on 1 April 2022, but with the changes to the Regulations not yet in place the full extent of these changes and the anticipated increase in costs remains unknown and will only become apparent once a final remedy is in place. 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.
- 9.2 The Matthews ruling is expected to result an increase in the cost in the Firefighters' Pension Scheme. The anticipated increase in costs remains unknown at this time.

## 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.

**John Beard**  
**Chief Fire Officer**

**3 May 2022**

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## APPENDICES

Appendix 1 Cumbria Fire LPB Risk Register at May 2022

Appendix 2 LPPA Quarterly Performance Report to 31 December 2021

Electoral Division(s): All

Executive Decision	<input type="checkbox"/>	No	
Key Decision	<input type="checkbox"/>	No	
If a Key Decision, is the proposal published in the current Forward Plan?	<input type="checkbox"/>		N/A
Is the decision exempt from call-in on grounds of urgency?	<input 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"/>		N/A
	<input type="checkbox"/>	No	
Has an environmental or sustainability impact assessment been undertaken?	<input type="checkbox"/>	No	
Has an equality impact assessment been undertaken?	<input type="checkbox"/>	No	

## PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS

***No previous relevant decisions.***



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