

# LOCAL PENSION BOARD

## FIREFIGHTER PENSION SCHEMES



**DATE: 17 AUGUST 2023**

**TITLE: SCHEME MANAGER UPDATE**

**REPORT OF: SCHEME MANAGER**

<b>For Approval and Noting</b>
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### 1. UPDATE TO THE BOARD

#### 1.1 Governance and Administration

- **Terms of Reference**

The terms of reference have been reviewed and is attached at Appendix 1 for the Boards approval.

For Approval

- **Annual Work Programme**

The Annual work programme has been reviewed and is attached at Appendix 2 for the Boards consideration.

For Approval

- **Training & Development –**

The Boards development of FPS knowledge and awareness of governance and current issues will be undertaken at each meeting as part of the Scheme Managers FPS Update.

For noting

As new Board Members have been appointed an additional Development/induction session has been arranged which will include the full background of the FPS which will be delivered by the Brigade Pension Advisor.

A training needs analysis will be undertaken by the Board following this training and a dedicated LPB training budget is in place for any development needs.

- **Discretions Applied – none**

- **Ill Health – none**

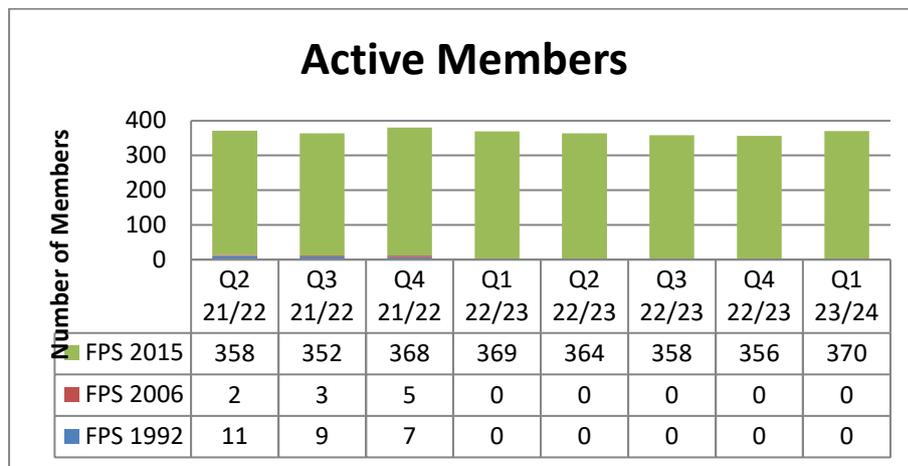
- **Appeals** – none

- **IDRP** – none

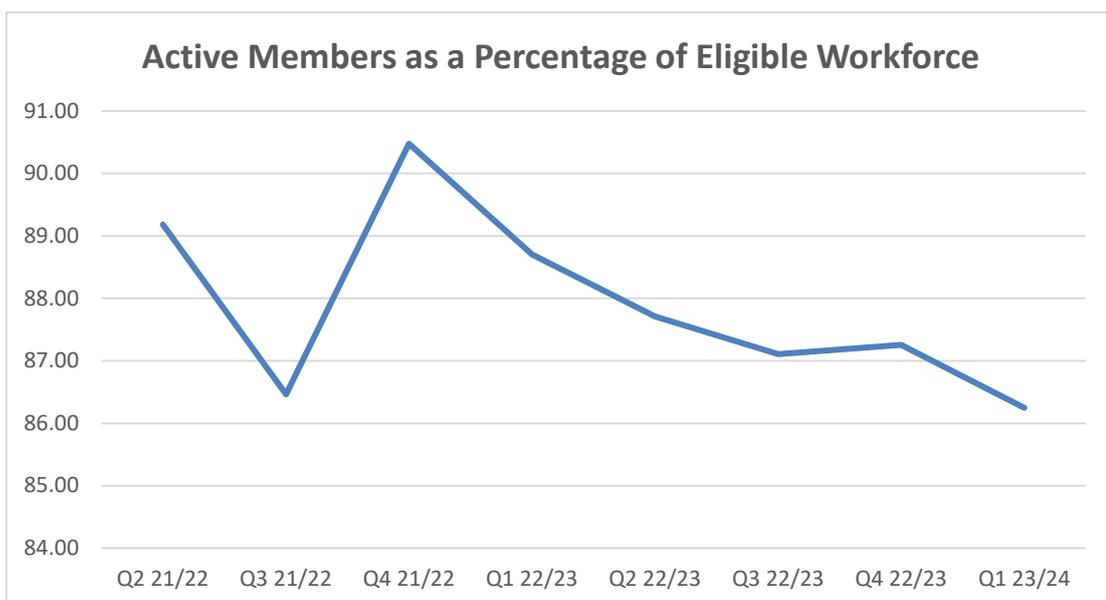
- **Membership**

For Noting

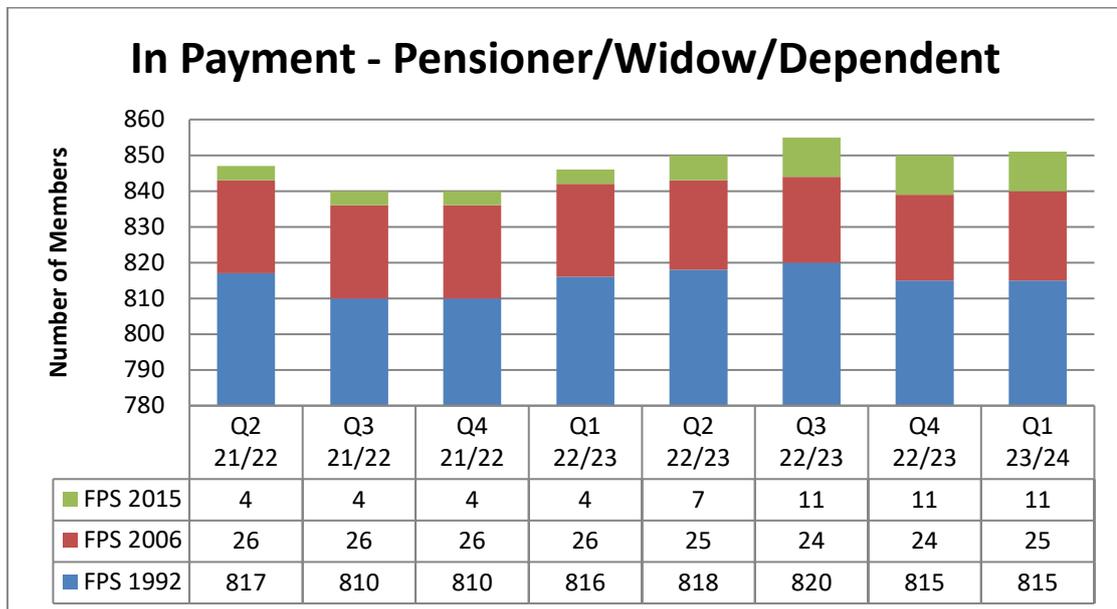
**Active Members** – The total scheme membership at 30<sup>th</sup> June 2023 was 370 with all these members being in the new 2015 scheme. The following chart shows that there has been an increase in members over the last quarter which can be explained by an intake of Wholetime Firefighter trainees.



**Percentage of Eligible Workforce** – 87% of the eligible workforce are currently a member of the pension scheme which is the same as the last quarter.



**Pensioners** - The total number of pensions in payment at 30<sup>th</sup> June 2023 was 851 with most of these payments, 96%, being from the 1992 scheme. There was a slight increase in these figures over the last quarter.



**1.2 Scrutiny**

For Noting

- Breaches of the Law – none
- Internal Audit Report – 6 June 2023, HBC reported satisfactory assurance can be provided that the risks identified are well controlled - copy attached at Appendix 3
- Cyber Security – no reported breaches
- Assurance – XPS presented an Assurance Report on their 2022 Internal Controls which was undertaken by RSM UK Risk Assurance Services. Copies are available from Bev Parker.

**1.3 Risk**

For Noting

The Board have a responsibility to take an active role in monitoring the key risks on a regular basis and driving forward improvement. The trend risk register is attached at Appendix 4 for the Boards consideration.

**1.4 Age Discrimination Remedy - McCloud/Sargeant**

For Noting

In 2015 the government reformed public sector schemes, including the fire scheme, and a policy of “transitional protection” was included. This meant that older members closest to retirement would be fully or partially protected from reform and were able to either stay in their final salary “legacy” scheme or move into the CARE “reformed” scheme at a later date.

In 2018 at the Court of Appeal, in the cases of McCloud and Sargeant (from the Judges and Fire Schemes) these “transitional protection” elements were identified as unlawful and discriminatory on the grounds of age.

In response to this ruling, the government confirmed it would take action to address and “remedy” this discrimination across all public sector schemes.

In April 2022 the Public Service and Pensions Judicial Offices Bill was enacted which included measures to address the discrimination identified in the McCloud Judgement. Regulations are now in place in respect of all members who were not a member of the 2015 CARE scheme (due to protections); these members have now been moved across into the CARE scheme with effect from the 1 April 2022. The legacy schemes with effect from 31 March 2022, are now closed.

The government has consulted on the draft Firefighters’ Pensions (Remediable Service) Regulations 2023 which were laid in parliament on 19 July 2023 and will come into force on 1 October 2023.

FRAs will have 18 months from the date they come into force to remedy all affected members. We are currently working with XPS on a review of the cohort of affected members so that a timeframe for each group can be finalised and communicated.

### **1.5 Part Time Worker Discrimination Remedy - Matthews**

For Noting

The case of Matthews & others v Kent & Medway Towns Fire Authority & others concerns the application of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 for retained duty system employees.

In response to this case, the category of members of the Firefighters’ Pension Scheme 2006 (FPS 2006) known as “special members” was introduced in 2014, and allowed retained firefighters employed between 1 July 2000 and 5 April 2006 to join the FPS 2006 with retrospective effect to 1 July 2000. A time-limited options exercise took place between 2014 and 2015 to allow eligible individuals to join.

More recently, following the European Court of Justice’s decision in O’Brien v Ministry of Justice, the judgment held that remedy could extend back before the Part-time Workers Directive was required to be implemented on 7 April 2000.

After an extended period of negotiations on the scope and mechanics of the settlement, a Memorandum of Understanding (MoU) was agreed between the Home Office, LGA, FBU and FRSA and it was confirmed that 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.

The regulations to implement the second options exercise in England are currently being drafted by the Home Office following consultation before they are laid before Parliament for implementation in October 2023.

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.

In preparation for the legislation coming into force we have identified 88 members as being in scope for the second options exercise, 8 of which are still employed, and communications with the affected members has begun. We now await the government's response to the consultation and further information on the second options exercise.

**IAN HAYTON**  
**SCHEME MANAGER**