LOCAL PENSION BOARD
FIREFIGHTER PENSION SCHEMES

CLEVELAND FIRE AUTHORITY

DATE: 27 FEBRUARY 2019

TITLE: CONSIDERATION OF A REGIONAL SCHEME

REPORT OF: LEGAL ADVISER AND MONITORING OFFICER

For Information

1. PURPOSE

1.1 At its meeting on 17 April, 2018, the Local Pension Board considered a report entitled ' FPS Local Pension Board Effectiveness Report – Survey of FRA Local Pension Boards 2017' (Minute 4.2 refers). In their discussion, the Board inquired 'whether it was possible to link with another FRS LPB regionally to improve effectiveness and skillbase.'. According the Legal Officer of the Fire Authority was requested to provide a report to the next scheduled meeting of the Board on the feasibility of operating such a 'regional scheme'.

2. RECOMMENDATION

2.1 That the Board notes and considers the advice contained within this report note the report.

3. BACKGROUND

3.1 In 2010 the then Chancellor of the Exchequer requested Lord Hutton to chair the Independent Public Service Pensions Commission ("the IPSPC") and to undertake a fundamental review of public service pension provision. The Commission's report published in 2011 recommended reform to public service pensions influenced by the existing and future cost of pension commitments within the public service. The Government accepted the IPSC's recommendations and this subsequently led to the publication of the HM Treasury document 'Public Service Pensions: good pensions that last' (November 2011).

3.2 Specifically for Fire Services two further documents began to shape the present governance arrangements for the administration of firefighters' pension schemes, namely:

- The Firefighters' Pension Scheme in England Heads of Agreement, - 9th February 2012
- The Firefighters' Pension Scheme in England Proposed Final Agreement, - 24th May 2012

3.3 The above provided the framework and setting for the present pension scheme Arrangements and Local Pension Boards were required to be established by 1 April, 2015 under Section 5 of the Public Service Pensions Act, 2013 (and Regulation 106 of the Local Government Pension Scheme Regulations, 2013). The primary purpose of the Board is to assist the 'Administering Authority' (through the 'Scheme Manager'), by;

- securing compliance with applicable legislation and the requirements of the Pensions Regulator (established under the Pensions Act, 2004), and

- to ensure the effective and efficient governance and administration of the pension scheme and any statutory scheme connected with it.

4. LOCAL PENSION BOARDS

4.1 The Board is required to comprise an equal number of Member and Employee representatives. Member representatives shall either be scheme members or otherwise have the capacity to represent members of the scheme. Employer representatives should have experience of representing the scheme employer.

4.2 The 'explanatory notes' to the Public Service Pension Act, 2013, also stipulates (at paragraph 37);

'The pension board will, in particular, be charged with helping the scheme manager to ensure the scheme is operated to an appropriate standard.'

The Scheme Manager (the Chief Fire Officer for the purposes of the Cleveland Fire Authority) retains ultimate responsibility for the administration and governance of the scheme. The Local Pension Board is to support the Scheme Manager in fulfilling that responsibility and in securing compliance with any requirement imposed by the Pensions Regulator, as noted above. However, '*it will be for the scheme regulations and the scheme manager to determine precisely how the pension board carries out its role.'* (paragraph 38). Further, regard must be had to '*the desirability of securing the effective and efficient governance and administration of the scheme'.*

The Act prevents a person from being a member of a Local Pension Board where they have a conflict of interest '*that could prejudice them carrying out the role.'*

In addition, through amendments made to the Pensions Act, 2004, Pension Board members must have the requisite '*knowledge and understanding about the scheme and the law relating to pensions and any other prescribed matters.'*

5. JOINT PENSION BOARDS

5.1 Through the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015, there is a provision for the operation of a 'Joint Local Pension Board.' However, this is only where '*the administration and management of a scheme is wholly or mainly shared by two or more 'Administering Authorities'.* Furthermore, those Administering Authorities may only establish a 'Joint Local Pension Board', with the approval of the Secretary of State.

5.2 It was recognised by the Local Government Pension Scheme Advisory Board in their 'Guidance on the creation and operation of Local Pension Boards in England and Wales' (2015) that '*in practical terms most Authorities do not operate shared pension schemes'*. Subject to Secretary of State approval it would also require the formal delegation to a single body to exercise the powers and functions of the existing Local Pension Boards (Section 102 of the Local Government Act, 1972 does allow for a joint committee to exercise powers on behalf of two or more authorities). It would also be for those Authorities to demonstrate to the Secretary of State how a joint pension board fully represents the interests of its scheme members and other stakeholders. It should be noted that Secretary of State approval could be subject to '*to such conditions as the Secretary of State thinks fit*' and approval may be withdrawn if such conditions are not met. The Secretary of State may also subsequently withdraw approval if in his/her opinion it is no longer appropriate for the Local Pension Board to be a Joint Pension Board.

6. SUMMARY

6.1 Cleveland Fire Authority does not share 'wholly or mainly' pension scheme arrangements with another 'Administering Authority' outside of its area. Even if it did it would need Secretary of State approval to sanction a Joint Local Pension Board and its powers and functions would need to be delegated to that Joint Local Pension Board most probably through 'joint committee' arrangements.

6.2 It is noted from earlier Local Pension Board discussions the sentiment of seeking to improve the 'skillsbase' of Local Pension Board Members. It is perfectly permissible for the Local Pension Board to engage in, for example, training and networking initiatives with other Pension Boards to increase their knowledge base and add to their overall expertise and effectiveness. But this cannot be through so formal an arrangement as a 'Joint Local Pension Board' as this concept in the case of the Fire Authority does not meet the statutory criteria and therefore would not be entertained by the Secretary of State at this point in time.

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