



Police Pensions Board

Date: WEDNESDAY, 12 JUNE 2019

Time: 3.00 pm

Venue: COMMITTEE ROOM - 2ND FLOOR WEST WING, GUILDHALL

Members: Alderman Ian Luder (Chairman) (Manager Representative)
John Todd (Member Representative)
Alexander Barr (Manager Representative)
Philp Hodgson (Member Representative)
Helen Isaac (Manager Representative)
Tim Parsons (Member Representative)

Enquiries: Alistair MacLellan
alistair.maclellan@cityoflondon.gov.uk

NB: Part of this meeting could be the subject of audio or video recording

John Barradell
Town Clerk and Chief Executive

AGENDA

1. **APOLOGIES**

2. **MEMBERS DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

3. **TERMS OF REFERENCE**

To receive the terms of reference of the City of London Police Pensions Board following the meeting of the City of London Police Authority Board meeting on 16 May 2019.

For Information
(Pages 1 - 2)

4. **MINUTES**

To agree the public minutes and non-public summary of the meeting held on 25 January 2019.

For Decision
(Pages 3 - 6)

5. **OUTSTANDING REFERENCES**

Report of the Town Clerk.

For Information
(Pages 7 - 8)

6. **PRESENTATION**

The Corporate Treasurer to be heard.

For Information

7. **THE CITY OF LONDON: POLICE PENSION SCHEME - UPDATE**

Report of the Chamberlain.

For Information
(Pages 9 - 22)

8. **REVIEW REPORT FOR POLICE AUTHORITY BOARD**

Report of the Chamberlain.

For Decision
(Pages 23 - 24)

- a) **Appendix - The City of London Police Pension Board - Review of Activities for the period 1 April 2018 to 31 March 2019** (Pages 25 - 30)

9. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD**

10. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

11. **EXCLUSION OF THE PUBLIC**

MOTION – that under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act.

For Decision

12. **NON-PUBLIC MINUTES**

To agree the non-public minutes of the meeting held on 25 January 2019.

For Decision

(Pages 31 - 32)

13. **NON-PUBLIC OUTSTANDING REFERENCES**

Report of the Town Clerk.

For Information

(Pages 33 - 34)

14. **NON-PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD**

15. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT THAT THE BOARD AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

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CITY OF LONDON POLICE PENSIONS BOARD

Composition

- Three Scheme Manager Representatives
 - Three Scheme Member Representatives
1. The Chairman of the Pensions Board is appointed by the Police Authority Board. The Chairman of the Police Pensions Board then appoints the Board.

Terms of Reference

In line with the requirements of the Public Services Pensions Act 2013 and the Police Pensions Regulations 2015 for the management of the City of London Police's Pension Scheme, to be responsible for assisting the Scheme Manager (the City of London Police) in the following matters:

- a) *Securing compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme and any statutory pension scheme that it is connected to;*
- b) *Securing compliance with requirements imposed in relation to the scheme and any connected scheme by the Pensions Regulator; and*
- c) *Other such matters as the scheme regulations may specify.*

Frequency of Meetings

Three times per year

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POLICE PENSIONS BOARD

Friday, 25 January 2019

Minutes of the meeting of the Police Pensions Board held at the Guildhall EC2 at 11.30 am

Present

Members:

John Todd (Deputy Chairman) (In the Chair) Tim Parsons
Alexander Barr

Officers:

Alistair MacLellan	- Town Clerk's Department
Kate Limna	- Chamberlain's Department
Matt Mott	- Chamberlain's Department
Graham Newman	- Chamberlain's Department
David Scott	- Chamberlain's Department – City Procurement

1. APOLOGIES

Apologies were received from Alderman Ian Luder, Philip Hodgson and Helen Isaac. John Todd was in the Chair,

2. MEMBERS DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

3. MINUTES

RESOLVED, that the public minutes and non-public summary of the meeting held on 3 October 2018 be approved as a correct record subject to a typographical amendment being made.

4. OUTSTANDING REFERENCES

Members considered a report of the Town Clerk regarding outstanding references arising from previous meetings.

RESOLVED, that the report be received.

5. PRESENTATION - PROCUREMENT

The Chamberlain was heard regarding City Procurement and the following points were made.

- In response to a question, the Chamberlain replied that Members and officers could be confident of making qualitative decisions regarding procurement provided that the right requirements were articulated early on in the decision-making cycle, and by requesting detailed case studies from interested suppliers.

- In response to a question, the Chamberlain confirmed that procurement was conducted in line with the London Living Wage.
- The Town Clerk agreed to circulate the presentation slides outside of the meeting **(1/2019/P)**.
- In response to a question, the Chamberlain confirmed that procurement guidelines ensured that small providers were paid within 10 working days provided the correct PO numbers being provided.
- The Chamberlain noted that it was difficult to estimate the cost of administering the current contract.
- The Chamberlain noted that the new procurement contract was an opportunity from a Police pensions perspective to address emerging needs of pension members – for example, a decade ago it was rare for persons to use online banking but that this was now a more common approach.
- The Chamberlain noted that, in terms of procurement options going forward, there were three headline options. First, the existing contract could be extended by one year. Second, existing procurement frameworks could be utilised, and third a full procurement exercise could be conducted. All of these options arose from the fact that providers all had extensive involvement nationally with the Local Government Pension Scheme and Police Pension Funds. It should be noted that dominant providers could not be found on frameworks, and that Norfolk County Council was currently drawing up a framework.
- The Chamberlain concluded by noting that he would be working with City Procurement to conduct due diligence and market research and would be communicating with current providers. He would then liaise with City Procurement further before taking a decision and communicating that to the Police Pensions Board at a future meeting **(2/2019/P)**.

6. THE CITY OF LONDON: POLICE PENSION SCHEME - UPDATE

The Chamberlain was heard regarding an update report on the City of London Police Pension Scheme and the following points were made.

- The Town Clerk noted that the Risk Register at Appendix 2, Item 12 on the agenda had been included on the non-public side of the agenda in error and could be discussed in public.
- The Chamberlain noted that cyber-security had now been included on the risk register.
- In response to a comment, the Chamberlain agreed to harmonise the wording in the Police Pension Scheme Risk Register with the wording

used in the Local Government Pension Scheme Risk Register (3/2019/P).

- The Chamberlain noted that the City of London Police had now provided a Privacy Statement for the City of London Police as a whole. The Chamberlain's understanding was that a scheme specific privacy statement was usual and has asked for assurance from the Commissioner that he was content that the Privacy Statement adequately addressed the specific needs of the City of London Police Pension Scheme.
- As the Commissioner is the scheme manager, it was at his direction how communication of the Privacy Statement to scheme members should be applied and the Chamberlain had asked for confirmation of how he intended to proceed.
- The Town Clerk agreed to ensure that representatives of the City of London Police attended future meetings of the Board (4/2019/P).
- In response to a question, the Chamberlain confirmed that an internal audit report of the scheme would be submitted to the Audit and Risk Management Committee (5/2019/P).

RESOLVED, that the report be received.

7. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD**

There were no questions.

8. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There was no other business.

9. **EXCLUSION OF THE PUBLIC**

RESOLVED, that under Section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.

10. **NON-PUBLIC MINUTES**

RESOLVED, that the non-public minutes of the meeting held on 3 October 2018 be approved as a correct record.

11. **NON-PUBLIC OUTSTANDING REFERENCES**

Members considered a report of the Town Clerk regarding non-public outstanding references arising from previous meetings.

12. **THE CITY OF LONDON: POLICE PENSION SCHEME STATISTICAL DATA**

Members considered a report of the Chamberlain regarding the City of London Police Pensions Scheme Statistical Data.

13. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD

There were no questions.

14. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT THAT THE BOARD AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED

There was no other business.

The meeting closed at 12.30 pm

Chairman

Contact Officer: Alistair MacLellan / alistair.maclellan@cityoflondon.gov.uk

POLICE PENSIONS BOARD

PUBLIC OUTSTANDING REFERENCES

Reference	Date / Detail	Responsible Officer	Update
1/2019/P	25 January 2019 Item 5 – Procurement Presentation Presentation Slides to be circulated outside of the meeting.	Alistair MacLellan (Town Clerk's Department)	Completed – emailed to Board Members on 25 January 2019 at 1.19pm
2/2019/P	25 January 2019 Item 5 – Procurement Presentation Members to be updated on due diligence and market research of current providers.	Matt Mott (Chamberlain's Department)	Update to be provided at October 2019 Board
3/2019/P	25 January 2019 Item 6 – Police Pension Scheme Update Wording in Risk Register to be harmonised with wording used in Local Government Pension Scheme Risk Register.	Matt Mott (Chamberlain's Department)	Completed - the Risk register has been updated to harmonise wording used in the Local Government Pension Scheme Risk Register

POLICE PENSIONS BOARD

PUBLIC OUTSTANDING REFERENCES

4/2019/P	25 January 2019 Item 6 - Police Pension Scheme Update Representatives of City of London Police Force to attend future meetings.	Alistair MacLellan (Town Clerk's Department)	Completed – a request has been made to the Force to send a representative to the June 2019 meeting.
5/2019/P	25 January 2019 Item 6 - Police Pension Scheme Update Report on Police Pensions Scheme to be submitted to Audit and Risk Management Committee.	Matt Mott (Chamberlain's Department)	Completed - Police Pension Scheme Update Report Submitted to the Audit and Risk Management Committee on 7 May 2019

Agenda Item 7

Committee: Police Pensions Board	Date: 12 June 2019
Subject: The City of London: Police Pension Scheme - Update	Public
Report of: The Chamberlain	For Information
Report author: Graham Newman – Chamberlain’s Department	

Summary

The Board have agreed that at each meeting that information regarding a range of topics in relation to the City of London Police Pension Scheme (the Scheme) would be provided along with any updates.

Item	Update
Annual schedule of events for the Pensions Scheme	Update provided (Appendix 1).
The Pensions Board’s Risk Register	No Changes (Appendix 2)
Information of Scheme Record Keeping	No amendments since the last Board meeting.
A record of any complaints or disputes under the Scheme’s complaints procedure	None to report
Any recent Police Pension Scheme breaches of the law	No breaches to report.
Any audit reports relating to the administration of the Scheme	<p>An internal audit covering the administration of the pension scheme was undertaken in December 2018.</p> <p>The 2018/19 Internal Audit Opinion and Annual Report was presented to the Audit and Risk Management Committee (A&RMC) on 7 May.</p> <p>In this report the substantial assurance rating for the administration of the Pension Fund was green.</p> <p>This means there is a sound control environment with risks to system objectives being reasonably managed.</p>
Required Training	No regulatory changes to report.
GDPR / DPA18	General Date Protection Regulations (GDPR) / Data Protection Act 2018

	<p>(DPA18) came into effect on 25 May 2018.</p> <p>The Commissioner has confirmed the privacy notice covers the Forces obligation.</p> <p>Communication of the privacy notice will be undertaken by the Pensions Office. A copy will be included with the annual benefit statements that are issued to all serving Police Officers. A copy of the statement will be sent separately to all retired and deferred Police Officers.</p>
Legal Challenge 1	<p><u>Lord Chancellor and Secretary of State for Justice v McCloud and others</u></p> <p>The Court of Appeal has ruled that reforms made to the judges and firefighters pension schemes were discriminatory on behalf of age.</p> <p>The government has sought leave to appeal to the Supreme Court and the decision is expected imminently.</p> <p>Law firm Leigh Day are representing a number of judges and firefighters and await the outcome.</p> <p>The Police Federation is reviewing the situation and is seeking legal advice as to how to proceed once the governments intentions are known.</p> <p>Ultimately it could mean that the reforms made to all public sector pension schemes in 2014 and 2015 are deemed as illegal.</p> <p>Press release regarding the case provided at Appendix 3</p>
Legal Challenge 2	<p><u>Evans & Ashcroft vs Chief Constable of South Wales</u></p> <p>This is a court of appeal case in respect of the Police (Injury Benefit) Regulations 2006.</p> <p>In October 2018 the Court of Appeal handed down its judgement in the case</p>

	<p>of Evans & Ashcroft v Chief Constable of South Wales Police. The Court held that the Chief Constable was entitled to deduct from a former police officer's police injury pension the full amount of certain social security benefits actually paid to the retired police officer, as increased with index-linking from year to year.</p> <p>However, the Court also held that the deductible levels of those social security benefits from the tax year 2010/11 onwards need to be recalculated as if the increases in the 2010/11 tax year had never been implemented and as if the base levels for subsequent increases had been correspondingly lower.</p> <p>The judgement currently only applies to the two officers involved in the case, but it is likely to be cited in any similar claims brought under those regulations for those officers that have been in receipt of a police injury pension prior to April 2010 and have had an entitlement to certain social security benefits.</p> <p>Guidance from the Home Office / Police Pensions Technical Group is awaited.</p>
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Recommendation

Members are requested to review the information and provide any comments.

Appendices:

Appendix 1 – Annual Schedule of events
Appendix 2 – Risk Register & Risk Matrix
Appendix 3 – Leigh Day challenge details

Contact:

Graham Newman
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**City of London: Police Pension Scheme
Annual Schedule of Events**

Date Due	Event	Date Completed
21 st January 2019	Police Pensions Return to the Home Office	21 st January 2019
March / April	Submit IAS19 data to Scheme Actuary	8 th March 2019
1 st April	Employee Contribution band implementation	Not applicable
1 st April	Employer Contribution implementation	1 st April 2019
1 st April	Revaluation of CARE benefits	Being processed as part of standard year-end calculations.
1 st Monday in April after 6 th April	Pensions Increase – Annual Inflation Increase	8 th April 2019
April	IAS19 month 12 update if necessary	Not required
May	Home Office Year End Finance Return and 5 year forecast	17 th May 2019
Within 2 weeks of June quarter	Tax Return for June Quarter	
31 st August	Issue of Annual Statements Deadline	
September	Home Office Autumn Finance Return and revised 5 year forecast	
Within 2 weeks of September quarter	Tax Return for September Quarter	
6 th October	Issue of Pension Saving Statements Deadline	
6 th November	Deadline for Scheme Return to the Pensions Regulator	
Within 2 weeks of December quarter	Tax Return for December Quarter	

City of London: Police Pension Scheme Risk Register for the Police Pensions Board

Risk No	Risk (Short description)	Risk Owner	Cause	Effect	Existing Controls	Current Risk				Planned Actions	Target Risk		
						Likelihood	Impact	Rating	Direction		Likelihood	Impact	Rating
1	Provision of City of London Police actuarial data to the Home Office	Chamberlain	(i) Inaccurate data supplied to the Home Office. (ii) Poor assumptions used by the Home Office.	National employer rate incorrectly determined.	Robust Year End procedures and updates. Checking for errors or inconsistencies in valuation extract report before submission to the Home Office.	Rare	Minor	Green 1	↔	Continue existing controls	Rare	Minor	Green 1
2	Failure to comply with legislative requirements.	Chamberlain	(i) Lack of appropriate knowledge or skill. (ii) Lack of training/ appropriately skilled staff	(i) Inaccurate benefits paid. (ii) Financial loss (iii) Increase in Appeals (iv) Reputational damage (v) Fines from Pensions Regulator	Recruitment of suitable staff appropriate salary levels. Appropriate training. Attendance at seminars and Forums, webinars and user groups.	Possible	Minor	Green 3	↔	Continue existing controls	Possible	Minor	Green 3
Page 15	Pension Scheme Administration (Personnel)	Chamberlain	(i) Ineffective succession planning. (ii) Inadequately trained staff. (iii) Absences/ Increased Staff turnover. (iv) Data Accuracy.	(i) Inaccurate benefits paid or delayed. (ii) Increased costs of inefficiencies. (iii) Financial penalties/ sanctions	Recruitment and training of staff plus (i) Ensuring software is the latest version and any known errors are reported. (ii) Robust checking procedures in place at all stages of record management from starting, transfers received, career changes, pension top-ups, leaving and benefit payment. (iii) If staff or other resources are lacking ensure priority cases are covered and all checking levels maintained.	Unlikely	Serious	Green 4	↔	Continue existing controls	Unlikely	Serious	Green 4
	Pension Scheme Administration (Systems)	Chamberlain	(i) Ineffective succession planning. (ii) Inadequately trained staff. (iii) Absences/ Increased Staff turnover. (iv) IT system failure (v) Data Accuracy. (vi) Lack of resources.	(i) Inaccurate benefits paid or delayed. (ii) Increased costs of inefficiencies. (iii) Financial penalties/ sanctions	Recruitment and training of staff plus (i) Ensuring software is the latest version and any known errors are reported. (ii) Ensure IT have sufficient back-ups and Disaster Recovery	Unlikely	Serious	Green 4	↔	Continue existing controls	Unlikely	Serious	Green 4

Risk No.	Risk (Short description)	Risk Owner	Cause	Effect	Existing Controls	Current Risk				Planned Actions	Target Risk		
						Likelihood	Impact	Rating	Direction		Likelihood	Impact	Rating
5	Pension Fraud	Chamberlain	(i) Continued payment of pensions following death. (ii) Staff acting inappropriately	(i) Overpaid pensions. (ii) Financial loss	Use of Mortality Screening Service and Tell Us Once Service [Government initiative that allows us to be notified of a death when registered]. Participation in the National Fraud Initiative. Sending Life Certificates to Overseas Pensioners.	Unlikely	Serious	Green 4	↔	Continue existing controls	Unlikely	Minor	Green 2
6	Protected Pension Age (PPA)	Chamberlain / City of London Police HR	Retiring officers of a certain age losing their PPA as a result of being re-employed by the same sponsoring employer without a sufficient break between retirement and re-employment.	HMRC make 'unauthorised payment' charges to both the member and the organisation.	(i) Ensuring officers are aware that a break is needed if they are retiring between ages 50 and 55 and intend to seek to be re-employed with CoL Police or the CoL. (ii) Ensuring Police HR are aware of the rules regarding PPA and re-employment	Rare	Minor	Green 1	↔	Continue existing controls	Rare	Minor	Green 1
Page 16	Cyber-Security	Chamberlain	(i) Ineffective procedures. (ii) Inadequately trained staff. (iii) IT system failure (iv) Data Accuracy. (v) Lack of resources.	(i) Inaccurate benefits paid or delayed. (ii) Increased costs of inefficiencies. (iii) Financial penalties/ sanctions. (iv) Breach of Data Protection regulations. (v) Loss/corruption of data	Training of staff plus (i) Ensuring software is the latest version and any known errors are reported. (ii) Ensure IT have sufficient back-ups and Disaster Recovery. (iii) Ensure cyber-security procedures are robust and adhered to. (iv) Following DPA18 legislation	Unlikely	Serious	Green 4	↔	Continue existing controls	Unlikely	Serious	Green 4

City of London Corporation Risk Matrix (Black and white version)

Note: A risk score is calculated by assessing the risk in terms of likelihood and impact. By using the likelihood and impact criteria below (top left (A) and bottom right (B) respectively) it is possible to calculate a risk score. For example a risk assessed as Unlikely (2) and with an impact of Serious (2) can be plotted on the risk scoring grid, top right (C) to give an overall risk score of a green (4). Using the risk score definitions bottom right (D) below, a green risk is one that just requires actions to maintain that rating.



(A) Likelihood criteria

	Rare (1)	Unlikely (2)	Possible (3)	Likely (4)
Criteria	Less than 10%	10 – 40%	40 – 75%	More than 75%
Probability	Has happened rarely/never before	Unlikely to occur	Fairly likely to occur	More likely to occur than not
Time period	Unlikely to occur in a 10 year period	Likely to occur within a 10 year period	Likely to occur once within a one year period	Likely to occur once within three months
Numerical	Less than one chance in a hundred thousand (<10-5)	Less than one chance in ten thousand (<10-4)	Less than one chance in a thousand (<10-3)	Less than one chance in a hundred (<10-2)

(B) Impact criteria

Impact title	Definitions
Minor (1)	Service delivery/performance: Minor impact on service, typically up to one day. Financial: financial loss up to 5% of budget. Reputation: isolated service user/stakeholder complaints contained within business unit/division. Legal/statutory: Litigation claim or find less than £5000. Safety/health: Minor incident including injury to one or more individuals. Objectives: Failure to achieve team plan objectives.
Serious (2)	Service delivery/performance: Service disruption 2 to 5 days. Financial: Financial loss up to 10% of budget. Reputation: Adverse local media coverage/multiple service user/stakeholder complaints. Legal/statutory: Litigation claimable fine between £5000 and £50,000. Safety/health: Significant injury or illness causing short-term disability to one or more persons. Objectives: Failure to achieve one or more service plan objectives.
Major (4)	Service delivery/performance: Service disruption > 1 - 4 weeks. Financial: Financial loss up to 20% of budget. Reputation: Adverse national media coverage 1 to 3 days. Legal/statutory: Litigation claimable fine between £50,000 and £500,000. Safety/health: Major injury or illness/disease causing long-term disability to one or more people Objectives: Failure to achieve a strategic plan objective.
Extreme (3)	Service delivery/performance: Service disruption > 4 weeks. Financial: Financial loss up to 35% of budget. Reputation: National publicity more than three days. Possible resignation leading member or chief officer. Legal/statutory: Multiple civil or criminal suits. Litigation claim or find in excess of £500,000. Safety/health: Fatality or life-threatening illness/disease (e.g. mesothelioma) to one or more persons. Objectives: Failure to achieve a major corporate objective.

(C) Risk scoring grid

Likelihood	Impact			
	Minor (1)	Serious (2)	Major (4)	Extreme (8)
X				
Likely (4)	4 Green	8 Amber	16 Red	32 Red
Possible (3)	3 Green	6 Amber	12 Amber	24 Red
Unlikely (2)	2 Green	4 Green	8 Amber	16 Red
Rare (1)	1 Green	2 Green	4 Green	8 Amber

(D) Risk score definitions

RED	Urgent action required to reduce rating
AMBER	Action required to maintain or reduce rating
GREEN	Action required to maintain rating

This is an extract from the City of London Corporate Risk Management Strategy, published in May 2014.

Contact the Corporate Risk Advisor for further information. Ext 1297

October 2015

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20 December 2018

PRESS SUMMARY

The Lord Chancellor and Secretary of State for Justice and another v McCloud and Mostyn and others [2018] EWCA Civ 2844

On appeal from UKEAT/0071/17/LA

Sargeant v London Fire and Emergency Planning Authority and others [2018] EWCA Civ 2844

On appeal from UKEAT/0116/17/LA and UKEAT/0137/17/LA

The Court: Longmore LJ, Sir Colin Rimer and Sir Patrick Elias.

BACKGROUND TO THE APPEALS

The claimants in McCloud are judges, each of whom had been members of the Judicial Pension Scheme (“JPS”). On 1 April 2015, a New Judicial Pension Scheme (“NJPS”) was introduced, membership of which is admitted to be substantially less attractive than membership of the JPS. The claims in McCloud concern not the reformed scheme itself, but rather the transitional provisions by which that scheme was introduced. Those provisions define judges’ entitlement to remain active members of the JPS by reference to their age. Existing members of the JPS who were born on or before 1st April 1957 have full protection and remain entitled to continuing active membership of the JPS; those born between 2nd April 1957 and 1st September 1960 are entitled to time-limited protection; and those born after 1st September 1960 are not entitled to any protection and are excluded from active membership of the JPS. The claimants, who are all entitled to limited or no protection, brought claims (i) alleging direct discrimination on grounds of age; (ii) for equal pay on the basis that the transitional provisions disproportionately adversely affect women; and (iii) alleging indirect sex and race discrimination. The respondents do not dispute that the transitional provisions discriminate on grounds of age, but argue that they are justified as a proportionate means of achieving a legitimate aim.

The claimants in Sargeant are English and Welsh firefighters, each of whom had been members of the Firefighters’ Pension Scheme 1992 (the “1992 FPS”) or an equivalent scheme. On 1 April 2015, new firefighters’ pension schemes were introduced in England and Wales (together, the “2015 FPS”). The terms of the 2015 FPS are admitted to be less favourable than those of the 1992 FPS. As with the claims in McCloud, the claims in Sargeant concern the transitional provisions by which the 2015 FPS was introduced. The structure of the transitional provisions, and the types of claim advanced, are essentially the same as in McCloud.

The Employment Tribunal (the “ET”) in McCloud held that the respondents had failed to identify a legitimate aim, or to demonstrate that the transitional provisions were a proportionate means of achieving any assumed legitimate aim. In contrast, the ET in

Sargeant held that the transitional provisions in issue in those claims did comprise a proportionate means of achieving legitimate aims.

The Employment Appeal Tribunal (“EAT”) in McCloud held that the ET had misdirected itself in concluding that no legitimate aim had been established by focusing on an absence of evidence to conclude that the aim of protecting older judges was irrational, in circumstances where that aim was not susceptible to evidential proof because it was informed by moral or political value judgments. The decision of the ET was nevertheless not to be disturbed because its analysis of proportionate means was unimpeachable. In particular, the ET had in its analysis of both aims and means accorded the respondents a sufficient ‘margin of discretion’. There was a tension between European authorities requiring that a wide margin of discretion be accorded by the court to the government’s identification of legitimate aims and proportionate means; and English authorities which encouraged judicial scrutiny of aims and means. However, those conflicting authorities had been reconciled by the Supreme Court in Seldon v Clarkson Wright & Jakes [2012] UKSC 16.

The EAT in Sargeant held that a margin of discretion was to be applied in relation to aims but not means. The ET had applied that margin correctly in its analysis of aims, but had erred by failing to scrutinise whether the means adopted was proportionate. The EAT therefore ordered that matter to be remitted to the ET.

JUDGMENT

Age discrimination claims

The Court of Appeal held that the age discrimination claims in both McCloud and Sargeant were made out. In the judges’ case the court upheld the ET’s conclusions on legitimate aims. As such, the issue of proportionate means did not fall to be considered [95]. The court nevertheless expressed its view that although the reasoning of the ET on proportionate means disclosed some errors, none of them vitiated the conclusion reached [96]-[99]. As for Sargeant, the court overturned the ET’s finding that the government parties had established legitimate aims [164], such that the issue of proportionate means did not fall to be considered [165].

The central issue of law concerned the margin of discretion to be applied. There was no tension between the European and domestic authorities on this issue [84]. The correct approach, and the approach consistent with both the domestic and the European authorities, was for the court to afford the government some margin of discretion in relation to both aims and means, but to determine for itself what the appropriate margin should be in each particular case; and then, applying that appropriate margin, to determine whether a particular aim is legitimate or a means proportionate [85]-[87]; [143]-[145]. The Court emphasised that once a court has established a social policy aim is capable of being a legitimate aim, it must further determine whether it is in fact legitimate in the particular circumstances of the case [86]; [151]. The ET in McCloud followed that approach [89]. The ET in Sargeant failed to follow that approach in relation to legitimacy of aims by proceeding straight from a finding that the claimed

aims were social policy aims, to the conclusion that they were also legitimate aims [152]-[155].

A further issue concerned whether supporting evidence was required to substantiate the legitimacy of the aims relied on by the government parties in both actions. The court held that the legitimacy of those aims could not be established without supporting evidence. It was not sufficient simply to assert a claimed belief that it ‘felt right’ to protect older firefighters or older judges, and then to characterise the decision to do so as a moral decision incapable of evidential substantiation [157]. The government needed to show how it had arrived at the conclusion that that aim ‘felt right’, which analysis would have to be supported by evidence [157]-[160]. So far as concerns Sergeant, the ET erred in finding that the aims relied upon were legitimate in the absence of any supporting evidence [163]. The EAT erred in finding the reasoning of the ET to be unimpeachable [164]. As for McCloud, the moral and political aims relied upon before the EAT were not argued as separate aims before the ET, such that the reliance the ET placed on a lack of evidence did not concern such aims [91]-[92].

Equal pay and indirect race discrimination claims

Given the success of the age discrimination claims, the equal pay and indirect race discrimination claims were “*of no real practical significance*” [166]. The court nevertheless stated its view, holding that the claims in McCloud were made out and, subject to one matter on which remission would have been required if the age discrimination claims had not been successful, also in Sergeant.

Note

This summary is provided to assist in understanding the Court’s decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document.

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Committee:	Date:
Police Pensions Board	12 June 2019
Subject: Review Report for Police Authority Board	Public
Report of: Chamberlain	For Decision
Report author: Graham Newman – Chamberlain’s Department	

Summary

Members agreed that a report summarising the activities of the Police Pensions Board, should be submitted on an annual basis to the Police Authority Board.

Attached is a draft report that sets out the work of this Board for the period 1 April 2018 to 31 March 2019. Subject to any comments Members may have, it is proposed that this Appendix is submitted as a public report to the 11 July Police Authority Board.

Recommendation

Members are asked to

- (i) provide comment on the draft report to the Police Committee and
- (ii) note that it will be submitted as a public report to the July Police Committee.

Appendix

Appendix – Police Pensions Board Annual Report

Graham Newman
Chamberlain’s Department

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E: graham.newman@cityoflondon.gov.uk

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Committee:	Date:
Police Authority Board	11 July 2019
Subject: The City of London Police Pension Board – Review of Activities for the period 1 April 2018 to 31 March 2019	Public
Report of: The Chamberlain	For Information
Report author: Graham Newman – Chamberlain's Department	

Summary

This report summarises the activities of the Police Pensions Board for the period 1 April 2018 to 31 March 2019. The Police Pension Scheme Regulations 2015 provided for the establishment of a Board with the responsibility of assisting the Scheme Manager (the Commissioner of the City of London Police) in ensuring the efficient and effective governance and administration of the Police Pension Scheme (PPS).

Over the last twelve months the Board:

- continues to review the working practices of the City of London Police Pensions Office including reviews of all letters and documents issued to members, prospective members, leavers and retirees;
- monitored and where appropriate updated the Risk Register for the Board;
- received training on relevant pension matters at each Board meeting; and
- continues to undertake online training modules with the Pensions Regulator's Toolkit.

The training needs of all Board Members continues to be monitored and training provided as required.

Recommendation

Members are asked to note this report.

Main Report

Background

1. The Public Services Pensions Act 2013 (the 2013 Act) included several provisions regarding better governance and improved accountability for all public-sector pension schemes. As a result, the Police Pension Scheme Regulations 2015 provided for the establishment of a Board with the responsibility of assisting the Scheme Manager in ensuring the efficient and effective governance and administration of the Police Pension Scheme (PPS).
2. The Scheme Manager for the City of London Police Pension Scheme is the City of London Police Commissioner, with responsibility for the administration of the Scheme delegated to the Chamberlain of the City of London Corporation.

The Role of the Police Pension Board

3. The Pension Board sits in an oversight role, to assist the Scheme Manager with ensuring the administration of the Scheme complies with
 - the Regulations;
 - other legislation relating to the governance and administration of the Scheme; and
 - the requirements imposed by The Pensions Regulator in relation to the Scheme.
4. In accordance with the Regulations, the structure of the Board must include an equal number of scheme member and scheme employer representatives. The City of London Police Pension Board consists of 3 scheme Member representatives and 3 scheme employer representatives.
5. The 2013 Act makes it a legal requirement that members of the Board do not have a conflict of interest and therefore all members are expected to identify, monitor and manage any potential, actual or perceived conflicts of interest. The Members of the Board are as follows:

Scheme Employer Representatives:

Alderman Ian Luder (Chairman) – Elected Member

Mr Alexander Barr – Elected Member

Superintendent Helen Isaac – Serving CoL Police Officer

Scheme Member Representatives:

Mr John Todd (Deputy Chairman) – Retired CoL Police Officer

Mr Philip Hodgson – Retired CoL Police Officer (since October 2018)

Mr Timothy Parsons – Retired CoL Police Officer (since October 2018)

Constable Davina Plummer – Serving CoL Police Officer (resigned September 2018)

Mr Kieron Sharp – Retired CoL Police Officer (Resigned September 2018)

Appendix A sets out the attendance record of each Board Member.

Activities of the Board

6. Since 1 April 2018 three meetings have been held – 30 May 2018, 3 October 2018 and 25 January 2019. It is expected that there will continue to be 3 meetings held in every year.

Training

7. Board Members have certain legal responsibilities and must be conversant with the PPS Regulations and the governance and administration of the Scheme to enable them to exercise their role as a Board Member.
8. Board Members were required to carry-out a training needs analysis which they all completed in 2017. The Board enlisted Barnet Waddingham, the Scheme Actuary, to analyse the training needs and this analysis has then been used by the Pensions Office to produce a training plan for the Board. All necessary training will be delivered by the Pensions Office and external providers as required.
9. Members are expected to keep their knowledge and understanding requirements under review. This will allow the training plan to be reviewed and updated as required to meet the training needs.
10. The Pensions Regulator has created an online learning programme, the Trustee Toolkit, which is aimed at the board members of occupational pension schemes. Members have been provided with the details of the Toolkit and are expected to undertake all 7 training modules.
11. The Pensions Office arranged and provided training presentations to aid the Board in their knowledge and understanding.

Training Topic	Training Content	Delivered by	Board Meeting
Police Pension Schemes: An Overview	Scheme benefits & Overview	The Pensions Office	June 2018
Local Pension Boards: an overview of legislation and expectation	Expectations of Local Pension Boards & the Scheme Advisory Board	The Pensions Regulator	October 2018
Procurement Training	Overview of the procurement process & procurement of pension software	COL Procurement Team & Pensions Office	January 2019

Annual Schedule of Events

12. In order that the Board is able to monitor and oversee the administration of the Police Pension Scheme an Annual Schedule of Events to illustrate the tasks carried out by the Pensions Office, their deadlines and the actual completion dates of each task is maintained. The Schedule is updated as required and is a standing agenda item for each Board meeting.

Risk Register

13. A risk register has been created to cover the risks in respect of the City of London Police Pension Scheme. The Register is a standing agenda item for each Board meeting and means that potential risks are continually assessed, reviewed and amended or added to or removed from the Register as deemed appropriate. Since April 2018 two additional risks have been added to the register. The additional risks are: Cyber-security and the Data Protection Act 2018 (DPA18) / General Data Protection Regulations (GDPR).

Documentation and Communication

14. The Board continues to review the working practices of the City of London Police Pensions Office, including all letters and documents issued to members, prospective members, leavers and retirees to ensure optimum clarity as well as accuracy. This work is ongoing and several recommendations have been made in the past twelve months.

Data Protection Act 2018 (GDPR)

15. On 25 May 2018 General Data Protection Regulations were introduced. Part of the requirement of pension schemes is to clearly communicate data use and retention. To meet this requirement, the Scheme Manager of City of London Police Pension Scheme must issue a privacy statement to scheme members.
16. The Pensions Office has been provided with a copy of the Police Force's generic privacy statement which the Scheme Manager has now confirmed covers the Force's obligation adequately. A copy of the privacy statement will be included with the annual benefit statement that is issued to all serving Police Officers by the Pensions Office. A copy of the privacy statement will also be sent separately to all retired and deferred officers.

Breaches of Data Security (Information Commissioner's Office (ICO) GDPR)

17. There were no known breaches during the year

Breaches of Pension Law (The Pensions Regulator (TPR) code of practice)

18. There were no known breaches during the year

Insurance and Indemnities

19. The Information Commissioner has the power to impose civil penalties under various provisions of the Data Protection Act 2018 (DPA). The penalties lie against the relevant Data Controller responsible for the breach, but Members of the Board were concerned they could have a personal liability because of the nature of the Board.
20. Utilising powers in the Local Authorities (Indemnities for Members and Officers) Order 2004 and in the Localism Act 2011, and utilising City's Cash where necessary, the City Corporation resolved to indemnify Members and officers, including former officers, and serving and former police officers, who sit as members of the Board against any personal liability that may arise to pay a civil penalty under the Data Protection Act 2018, to the extent that the City Corporation's insurance policies do not fully cover such liability, and subject to the exclusions and restrictions contained in the 2004 Order.

Conclusions

21. The Police Pension Board was created with reference to the Public Services Pensions Act 2013 and the Police Pension Scheme Regulations 2015. Since April 2018, the Board has met three times and Members continue to receive training to ensure they are compliant with the legal requirements.
22. The Board continues to review the working practices of the City of London Police Pensions Office and regularly monitors all letters and documents issued to members, prospective members, leavers and retirees. The Board maintains a Risk Register and an approved Breaches Policy.

Appendices:

Appendix A – Board Member attendance record

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Police Pension Board - Board Member Record of Attendance

	30/05/2018	3/10/2018	25/01/2019
Alderman Ian Luder	X	X	
Alexander Barr	X	X	X
Helen Isaac		X	
Davina Plummer ⁽ⁱ⁾		N/A	N/A
Kieron Sharp ⁽ⁱ⁾		N/A	N/A
John Todd	X	X	X
Philip Hodgson ⁽ⁱⁱ⁾	N/A	X	
Timothy Parsons ⁽ⁱⁱ⁾	N/A	X	X

Notes:

- (i) Served on the Board until September 2018
- (ii) Joined the Board in October 2018

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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