

Recommended change to the Constitution relating to the Firefighters' Pension Scheme for Northumberland Fire & Rescue Service

Version 1: 1 April 2015 agreed at Council

Version 2: September 2016 agreed by Monitoring Officer

Version 3: March 2019 agreed by Monitoring Officer

Addition to PART 2 – ARTICLES OF THE CONSTITUTION

The following shall be added at the end of Article 8 (Regulatory and Other Committees):

8.02 Firefighters' Pension Scheme for Northumberland Fire & Rescue Service Local Pension Board

In accordance with Section 5 of the Public Service Pensions Act 2013, a local Pension Board assists Northumberland County Council, in its capacity as Fire and Rescue Authority, in the governance and administration of the Firefighters' Pension Scheme (FPS). The Board's role, members, terms of reference and working arrangements are contained in Appendix 4 to this Constitution. Note that this FPS Local Pension Board is not a local authority committee.

Addition to PART 3 – MATTERS RESERVED TO ELECTED MEMBERS & COMMITTEE TERMS OF REFERENCE

The following shall be added to Part 3 of the Constitution - MATTERS RESERVED TO ELECTED MEMBERS & COMMITTEE TERMS OF REFERENCE

Firefighters' Pension Scheme for Northumberland Fire & Rescue Service Pension Board

In accordance with Section 5 of the Public Service Pensions Act 2013, a local Pension Board assists Northumberland County Council, in its capacity as Fire and Rescue Authority, in the governance and administration of the Firefighters' Pension Scheme for Northumberland Fire & Rescue Service.

**NORTHUMBERLAND COUNTY COUNCIL
AS FIRE AND RESCUE AUTHORITY AND SCHEME MANAGER OF THE
FIREFIGHTERS' PENSION SCHEME FOR NORTHUMBERLAND FIRE AND
RESCUE SERVICE**

FPS LOCAL PENSION BOARD TERMS OF REFERENCE

1) Introduction

The purpose of this appendix is to set out the Terms of Reference for the FPS Local Pension Board of the Northumberland Fire and Rescue Service, part of Northumberland County Council. The FPS Local Pension Board is established by Northumberland County Council as Fire and Rescue Authority and a scheme manager as defined under Section 4 of the Public Service Pensions Act 2013 ("the Act") under the powers of Section 5 of the Act and regulation 4A of the Firefighters' Pension Scheme (England) Regulations 2014 ("the Regulations"). As such, the Constitution of Northumberland County Council does not apply to this FPS Local Pension Board unless expressly referred to within and permitted by these Terms of Reference.

2) Powers of the FPS Local Pension Board

The FPS Local Pension Board will exercise all its powers and duties in accordance with the law and these Terms of Reference.

3) Role of the FPS Local Pension Board

The role of the FPS Local Pension Board is defined by regulation 4A (1) of the Regulations as to assist Northumberland County Council as Scheme Manager:

- to secure compliance with the Regulations and any other legislation relating to the governance and administration of the Scheme, and requirements imposed in relation to the FPS by the Pensions Regulator; and
- to ensure the effective and efficient governance and administration of the FPS.

The Council considers this to mean that the FPS Local Pension Board is providing oversight of these matters and, accordingly, the FPS Local Pension Board is not a decision making body in relation to the management or administration of the FPS but merely makes recommendations to assist in such management. The Council's management powers and responsibilities which have been, and may be, delegated by the Council to committees, sub-committees and officers of the Council, remain solely the powers and responsibilities of those committees, sub-committees and officers.

The FPS Local Pension Board will ensure that in performing its role it:

- is done effectively and efficiently;
- complies with relevant legislation; and

- is done by having due regard and in the spirit of the Code of Practice on the governance and administration of public service pension schemes issued by the Pensions Regulator and any other relevant statutory or non-statutory guidance.

The Board must provide minutes of each meeting to the Chief Financial Officer and may make reports and recommendations to the Chief Financial Officer in so far as they relate to the role of the FPS Local Pension Board.

In addition, an annual report of the FPS Local Pension Board (as prepared by the Chair of the FPS Local Pension Board), must be provided to the Chief Financial Officer, the Monitoring Officer and the Audit Committee.

In the exceptional circumstances that the Board considers that a matter brought to the attention of the Chief Financial Officer has not been acted upon or resolved to its satisfaction, the FPS Local Pension Board will provide a report to the Monitoring Officer and Head of Audit who will provide a separate view on the matter, taking expert advice as considered appropriate.

4) Composition of the FPS Local Pension Board

The Appointments Panel will oversee the appointment process and decide which individuals should be appointed to the FPS Local Pension Board. It will define and keep under review any further eligibility and/or selection criteria that will apply to FPS Local Pension Board members having due regard to the FPS Regulations and any other relevant Code of Practice and guidance (statutory or otherwise).

The FPS Local Pension Board Appointments Panel will consist of:

- the Portfolio Holder for Corporate Resources;
- the Chairman of the Pension Fund Panel;
- the Monitoring Officer or Deputy Monitoring Officer ; and
- the S151 Officer or Deputy S151 Officer.

a) Membership

The FPS Local Pension Board shall consist of 4 or 5 members and be constituted as follows:

- i) two Employer Representatives;
- ii) two Scheme Member Representatives; and
- iii) one Independent Member (optional as outlined in clause 4f) below).

Substitutes for the Employer or Scheme Member Representatives are not permitted (but see below in relation to temporary appointments). The Independent Member, if appointed, may have an Alternate who will carry out FPS Local Pension Board business if the Independent Member is not available to do so.

b) Eligibility and selection criteria

- i) Two Employer Representatives who are elected members of Northumberland County Council as agreed by the Council, having regard to the selection criteria set out by the Appointments Panel and preferably members of the Pension Fund Panel, other than the Chairman of the

Pension Fund Panel or members of the Disputes Panel (Fire & Rescue Service)

In both cases the Employer Representatives must have the capacity to represent the employer.

ii) Two Scheme Member Representatives as follows:

- A FPS union representative, sourced from a union that represents the FPS members in NCC. If more than one union puts forward a representative, preference will be given to the union with the biggest share of NCC FPS union membership (“Representative 3”); and
 - A FPS active or pensioner member, sourced by seeking interest from members via a direct request (“Representative 4”).
- In both cases the Member Representatives must have the capacity to represent Pension Fund members.

In accordance with the FPS Regulations, no officer or elected member of Northumberland County Council who is responsible for the discharge of any function of the Scheme Manager under the FPS Regulations may be a member of the FPS Local Pension Board.

c) Appointment of the Active or Pensioner Scheme Member Representative (Representative 4)

The process for selecting the Active or Pensioner Scheme Member Representative is as set out below.

Step 1 – All NCC FPS active and pensioner members will be invited via a Newsletter from the Council or other similar means of communication to apply for the position of Scheme Member Representative.

Step 2 – The Appointments Panel will determine who should be appointed from the received applications based on whatever process they consider appropriate, which may include, but is not restricted to, a formal interview. The Appointments Panel can reject any application made including where:

- it considers the individual does not appropriately meet its eligibility and/or selection criteria, including, in particular, that the individual does not have the capacity to represent Pension Scheme members
- the number of applications merits a short-list being created for interview purposes and where that is the case, the information provided on the application will be assessed by the Appointments Panel against the selection criteria to determine who should be short-listed.

Step 3 – Where Steps 1 and 2 fail, a second representative will be sought from the NCC FPS unions. If more than one union puts forward a representative, preference will be given to the union with the largest share of NCC FPS union membership, excluding the union to which Representative 3 belongs.

Step 4 – Where Steps 1, 2 and 3 all fail the Appointments Panel will take any other action it considers appropriate to appoint a suitable Scheme Member Representative.

In all cases, when appointments to the Board have been made, Northumberland County Council shall publish the names of the Board members and the process followed in their appointment.

d) Term of Office

- i) The terms of office for representatives will be as follows:
- for the Employer Representatives, as per their membership of the Pension Fund Panel;
 - Representative 3 (as defined above) will be appointed for a an initial period of six years from the date of establishment of the FPS Local Pension Board or the date of his/her appointment if later;
 - Representative 4 (as defined above) will be appointed for an initial period of seven years from the date of establishment of the FPS Local Pension Board or the date of his/her appointment if later. This period may be extended by up to four years if jointly agreed by the Appointments Panel.

An appointment will automatically cease:

- where an employer or scheme member representative can no longer demonstrate his/her capacity to represent the employers or scheme members, as appropriate, including not having the capacity to attend and prepare for meetings or to participate in required training; or
 - where a FPS Local Pension Board member has a conflict of interest which cannot be managed in accordance with Clause 7 of these terms of reference; or
 - where a FPS Local Pension Board member becomes responsible for the discharge of any function of the Scheme Manager under the FPS Regulations
 - for the Scheme Employer Representatives , if he/she ceases to be an elected member of Northumberland County Council or a member of the Pension Fund Panel; or
 - for the Member Representatives who are representatives by virtue of their union membership (i.e. Representative 3 and Representative 4 where Steps 1 and 2 above have failed), if their union membership ceases.
- ii) Any Independent Member's term of office will be determined by separate contract terms agreed by the Appointments Panel, but will not be longer than a period of 10 years and will be subject to ongoing review as defined in those terms.

Any FPS Local Pension Board member may be re-appointed for further terms following an appointment process.

Other than ceasing to be eligible (as set out above) an FPS Local Pension Board member, including any independent member, may only be removed from office during the term of appointment by the unanimous agreement of the Appointments Panel. Such reasons may include non-compliance with these Terms of Reference including inappropriate conduct, conflicts of interest, avoidance of training or low meeting attendance.

If an FPS Local Pension Board member wishes to resign his/her position he/she must give 3 months' notice and advise the Appointments Panel in writing.

Term dates may not be exact due to the period of the appointment process. The actual date of appointment may therefore be extended for this purpose or other exceptional circumstances by up to three months, or by a further reasonable period with the agreement of the Appointments Panel.

Where a member of the FPS Local Pension Board ceases to be such a member, the Appointments Panel may appoint, using whatever means it considers appropriate and for a period of up to but no longer than 12 months, an individual to carry out that representative's role in a temporary capacity until a permanent appointment can be made. In doing so, the Appointments Panel will have regard to the eligibility and selection criteria for that role.

e) Quorum

All Members of the FPS Local Pension Board are expected to regularly attend meetings. Records of attendance of all Members will be maintained and reported to the Chief Financial Officer and Monitoring Officer on at least an annual basis.

A meeting of the FPS Local Pension Board will only be quorate when two of the four Representatives are present, one of which must be a Scheme Member Representative and the other an Employer Representative, and where the Board has an Independent Member he must also be present in addition.

A meeting that is (or becomes at any point) not quorate will cease immediately.

f) Chair and Vice Chair

The Appointments Panel will select the Chair and Vice Chair of the FPS Local Pension Board. Where the Appointments Panel does not consider any of the members suitable for the role of Chair, it will appoint an Independent Member to the FPS Local Pension Board who will also undertake the role of Chair to the FPS Local Pension Board. The Independent Member may have an Alternate who can undertake the role of Chair in his absence.

The appointments to Chair and Vice Chair will be reviewed at such times as considered appropriate by the Appointments Panel, unless the Chair is an Independent Member, in which case the position will be linked to the term of appointment for the Independent Member.

The role of the Chair is to:

- ensure that all members of the Board show due respect for process, that all views are fully heard and considered and that decisions are democratically made where consensus cannot be reached;
- uphold and promote the purpose of the Board and to interpret its Terms of Reference when necessary;
- ensure that the FPS Local Pension Board members have the knowledge and skills as determined in the Board's Training Policy and other guidance or legislation and to maintain a training record;
- liaise with the officer nominated by the Chief Financial Officer to act as lead officer for the FPS Local Pension Board (the "Board Secretary") to arrange such advice as required subject to joint agreement by the Chief Financial Officer and Monitoring Officer on such conditions as those officers jointly agree;
- agree the agenda for each FPS Local Pension Board meeting;
- approve the minutes for FPS Local Pension Board meetings;
- ensure an attendance record is maintained along with advising Northumberland County Council on remuneration and expenses to be paid;
- advise Northumberland County Council on an appropriate budget (e.g. for the use of advisers, training, accommodation, and expenses) for the Board which should be formally approved by the Chief Financial Officer on an annual basis by no later than 30 June each year, starting in 2016;

- write reports required by Northumberland County Council on the work of the Board;
- liaise with the Board Secretary on the requirements of the Board, including advanced notice for Northumberland County Council officers to attend, and to arrange dates and times of Board meetings;
- undertake other tasks which may be deemed appropriate by Northumberland County Council for the Chair of the FPS Local Pension Board; and
- undertake other tasks that may be requested by the members of the FPS Local Pension Board, within the remit of these Terms of Reference and subject to agreement with the Chief Financial Officer and Monitoring Officer.

Where an Independent Member is the Chair, the role includes acting as professional adviser for the Board.

The decision of the Chair on all points of procedure and order shall be final.

The Vice-Chair will substitute for the Chair, unless the Chair is an Independent Member.

g) Voting

Each Employer and Scheme Member Representative on the FPS Local Pension Board will have an individual voting right but it is expected the FPS Local Pension Board will as far as possible reach a consensus. Where the Chair is a Scheme Member or Employer Representative he/she will have the final deciding vote in cases where consensus cannot be reached.

If the Chair is an Independent Member, he/she will not have a voting right.

Any decision being reported to Monitoring Officer and Head of Audit must receive agreement from a majority of voting members.

The results of any voting outcomes will be reported in the Board minutes.

5) Location and Timing

The FPS Local Pension Board will normally meet at an office of Northumberland County Council.

Meetings should be within the times of 9am and 5pm Monday to Friday on a normal working day apart from in exceptional circumstances agreed by all FPS Local Pension Board members and other individuals expected to attend the FPS Local Pension Board. At least 1 week's notice will be given for all regular meetings of the FPS Local Pension Board.

The Board will meet a minimum of twice in each calendar year. The Chair may call, or agree to call, additional meetings.

Urgent business of the FPS Local Pension Board between meetings may, in exceptional circumstances, be conducted via communications between members of the FPS Local Pension Board including telephone conferencing and e-mails.

6) Remuneration and Expenses

An allowance will be made to both Employer and Scheme Member Representatives equivalent to the rates referred to in the Members' Allowances Scheme in Northumberland County Council's Constitution as follows:

- if a Representative is also Chair of the FPS Local Pension Board the allowance is the rate payable to the Independent Chair of the Standards Committee; and
- to all other Representatives the allowance is the rate payable to the Independent Co-opted Members of the Audit Committee.

In addition, Employer and Scheme Member Representatives will also be entitled to claim travel and subsistence allowances in accordance with the Members' Allowances Scheme in Northumberland County Council's Constitution.

Payments to any Independent Member will be in accordance with the terms of his/her contract.

7) Conflicts of Interest

Though members of the FPS Local Pension Board include representatives of specific categories of stakeholder (i.e. scheme members and employer) each member is required to have due regard to the role of the FPS Local Pension Board as outlined in these Terms of Reference. Accordingly all members are expected to work jointly in the best interest of the FPS administered and managed by NCC, rather than solely representing the interest of any individual stakeholders. This should not prevent Members from sharing their knowledge on how matters might impact specific stakeholders of the Fund.

A conflict of interest is defined in the Public Service Pensions Act as:

“in relation to a person, means a financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).”

Each member of the FPS Local Pension Board (as well as any other attendees participating in the meeting) will be expected to declare, on appointment and at each meeting, any interests which may lead to conflicts of interest in the subject area or specific agenda of that FPS Local Pension Board.

The Chair of the FPS Local Pension Board must be satisfied that the Board is acting within:

- the conflicts of interest requirements of the Public Service Pensions Act and the FPS Regulations; and
- in the spirit of any national guidance or code of practice in relation to conflicts of interest at the FPS Local Pension Board; and
- in accordance with any Northumberland County Council Conflicts of Interest Policy or Procedures that apply to the Board.

Each member of the FPS Local Pension Board, or a person proposed to be appointed to the Board, (as well as attendees participating in the meeting) must provide the Chair

of the FPS Local Pension Board with such information as he or she reasonably requires for the purposes of demonstrating that there is no conflict of interest.

The Chief Financial Officer and Monitoring Officer will jointly adopt the role of ensuring that the Chair of the FPS Local Pension Board does not have a conflict of interest in the same way as the Chair does in relation to all other FPS Local Pension Board members. Further they must be satisfied that the Chair is carrying out his or her responsibilities under this part appropriately.

8) Receipt of Advice and Information

The Board will be supported in its role and responsibilities by the Independent Member, if there is one appointed. In addition, FPS Local Pension Board members will receive any reports or minutes (or extracts thereof) of any items considered by the Fire Service Disputes Panel which relate to NCC's role as scheme manager of the FPS and may attend Disputes Panel meetings in relation to any matters specifically related to NCC's role as scheme manager of the FPS, including during exempt items.

In so far as it relates to the role of the FPS Local Pension Board, it may also;

- request and receive information and reports from the Council, Chief Financial Officer or any other body or officer responsible for discharging the scheme manager function
- examine decisions made or actions taken by the Disputes Panel or any other body or officer responsible for discharging the scheme manager function.

The Board Secretary will provide such information as is reasonably requested. Any further requests for information and advice are subject to the approval of the Chief Financial Officer, who will be required to consider positively all reasonable requests in relation to the role of the FPS Local Pension Board whilst being mindful of value for money. The Board Secretary will arrange for such information and advice to be provided as is approved.

9) Knowledge and Skills

Under the requirements of the Public Service Pensions Act, a member of the FPS Local Pension Board must be conversant with:

- a) the legislation and associated guidance of the FPS; and
- b) any document recording policy about the administration of the FPS which is adopted by Northumberland County Council.

In addition, a member of the FPS Local Pension Board must have knowledge and understanding of:

- the law relating to pensions; and
- any other matters which are prescribed in regulations.

It is for each FPS Local Pension Board member to be satisfied that he/she has the appropriate degree of knowledge and understanding to enable him/her to properly exercise his/her functions as a member of the FPS Local Pension Board.

In line with this requirement FPS Local Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. FPS Local Pension Board members are therefore required to:

- participate in training events (a written record of relevant training and development will be maintained);
- undertake a personal training needs analysis or other method to identify gaps in skills, competencies and knowledge; and
- comply with any Training Policy which is developed for FPS Local Pension Board members.

10) Standards of Conduct

Part 1 of the Northumberland County Council Code of Conduct for Elected Members in the Council's Constitution shall apply in relation to the standards of conduct of FPS Local Pension Board members (both Employer and Scheme Member Representatives) as if they were co-opted members of the Council.

11) Administration

The Chair will agree an agenda with the Board Secretary of the FPS Local Pension Board prior to each FPS Local Pension Board meeting. The agenda and any papers for the FPS Local Pension Board will be issued at least 5 working days (where practicable) in advance of the meeting except in the case of matters of urgency. Draft minutes of each meeting including all actions and agreements will be recorded and circulated to all Board members within 20 working days after the meeting. These draft minutes will be subject to formal agreement by the Chair taking consideration of comments by Board members (which may be done electronically between meetings).

The minutes may, at the discretion of the Chair, be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 2018.

The Pension Board must comply with Northumberland County Council's data protection policy. It must also adhere to Northumberland County Council's requirement, controls and policies for Freedom of Information Act compliance.

12) Access to the Public and Publication of FPS Local Pension Board Information

The FPS Local Pension Board will not be a meeting of the Council open to the general public.

An officer of Democratic Services will be permitted to attend FPS Local Pension Board meetings to take minutes and provide other appropriate administrative support.

The following will be entitled to attend FPS Local Pension Board meetings in an observer capacity:

- members of the Disputes Panel (Fire and Rescue Services);

- the Board Secretary;
- the Chief Financial Officer, Chief Fire Officer, Principal Accountant (Pensions), Pensions Administration Manager, Monitoring Officer and Head of Audit;
- other officers or advisers of Northumberland County Council involved with the management of the FPS subject to approval in advance by the Chair, or on request by the Chair;
- any scheme member of the FPS who is or was employed by Northumberland County Council or any officer/representative of the Northumberland Fire & Rescue Service, subject to advanced notice of intention to attend being sent to the Chair and the Chair having the right to refuse attendance during items that may be considered confidential or for other justifiable reasons;
- any other person requested to attend by the Chair; and
- any other person subject to approval in advance by the Chair.

Any such attendees will be permitted to speak at the discretion of the Chair.

In accordance with the Public Service Pensions Act, Northumberland County Council is required to publish information about the FPS Local Pension Board including:

- who the FPS Local Pension Board members are;
- representation on the Board; and
- the role of the FPS Local Pension Board.

In accordance with good practice, Northumberland County Council may publish other information relating to the FPS Local Pension Board as considered appropriate from time to time and which may include:

- the agendas and minutes;
- training and attendance logs; and
- an annual report on the work of the FPS Local Pension Board.

All or some of this information may be published using the following means or other means as considered appropriate from time to time:

- on the Northumberland County Council website; and/or
- within the Northumberland County Council Annual Report and Accounts.

Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 2018.

In addition, the Board will need to consider any additional communication necessary with scheme members and employers, and liaise with the Board Secretary with a view to carrying this out in an efficient and effective manner.

13) Accountability

The FPS Local Pension Board will be collectively and individually accountable to Northumberland County Council.

14)Review, Interpretation and Publication of Terms of Reference

These Terms of Reference have been agreed by Northumberland County Council. The Council will monitor and evaluate the operation of the FPS Local Pension Board and may review these Terms of Reference from time to time.

These Terms of Reference will be incorporated into the Council’s Constitution and will be publicly available as part of the Constitution as defined in the Council’s Constitution and may be amended by the same means as permitted for the Constitution.

15)Definitions and Interpretation

Points of interpretation:

- All references to job titles of officers are to officers within Northumberland County Council unless otherwise stated.

The undernoted terms shall have the following meaning when used in this appendix:

<i>“FPS Local Pension Board” or “Board”</i>	The FPS Local Pension Board for Northumberland County Council, scheme manager for the Firefighters' Pension Scheme of Northumberland Fire & Rescue Service as required under the Public Service Pensions Act 2013
<i>“Pension Fund Panel”</i>	The Northumberland County Council Pension Fund Panel or any committee or sub-committee that may be established with delegated powers for the management and administration of the Northumberland County Council Pension Fund on behalf of Northumberland County Council as Administering Authority.
<i>“the FPS Regulations”</i>	The Firefighters' Pension Scheme (England) Regulations 2014 (as amended)
<i>“the Public Service Pensions Act” or “the Act”</i>	The Public Service Pensions Act 2013 (as amended)
<i>“Scheme Manager”</i>	Northumberland County Council as Northumberland Fire & Rescue Authority.
<i>“Chair”</i>	The appointed Chairperson of the FPS Local Pension Board
<i>“FPS”</i>	The Firefighters' Pension Scheme in England
<i>“Scheme”</i>	The Firefighters' Pension Scheme in England
<i>“Chief Financial Officer”</i>	The Chief Financial Officer of

	Northumberland County Council or an alternative officer nominated by the Chief Financial Officer
<i>“Chief Fire Officer”</i>	The Chief Fire Officer of Northumberland County Council or an alternative officer nominated by the Chief Fire Officer
<i>“Monitoring Officer”</i>	The Monitoring Officer of Northumberland County Council or an alternative officer nominated by the Monitoring Officer
<i>“Principal Accountant (Pensions)”</i>	The Principal Accountant (Pensions) of Northumberland County Council or an alternative officer nominated by the Principal Accountant (Pensions)
<i>“Pensions Administration Manager”</i>	The Client Relationship Manager of West Yorkshire Pension Fund (an officer of City of Bradford Metropolitan District Council) or an alternative officer nominated by Business Development Manager of West Yorkshire Pension Fund (an officer of City of Bradford Metropolitan District Council)