

Fire & Rescue Service Headquarters Summergroves Way Kingston upon Hull HU4 7BB  
Telephone 01482 565333

To: Members of the Pension Board

22 January 2021

Dear Member

I hereby give you notice that in accordance with The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, a **REMOTE MEETING** of **PENSION BOARD** will be held on **MONDAY, 1 FEBRUARY 2021 at 10.30AM.**

**To access this remote meeting please visit <<https://zoom.us/join>> and then enter:**

**Meeting ID:** 953 5184 6568

**Password:** 653888

Or telephone 0203 481 5240 and use the above Meeting ID and Password

The business to be transacted is set out below.

Yours sincerely



**Mathew Buckley**  
**Monitoring Officer & Secretary to Fire Authority**

Enc.

**A G E N D A**  
**PENSION BOARD**

**Monday 1 February 2021, 10.30AM**

Business	Page Number	Lead	Primary Action Requested
1. Apologies for absence	-	Monitoring Officer/ Secretary	To record
2. Declarations of Interest (Members and Officers)	-	Monitoring Officer/ Secretary	To declare and withdraw if pecuniary
3. Minutes of the meeting of 6 July 2020	(pages 1 - 3)	Chairperson	To approve

<b>Business</b>	<b>Page Number</b>	<b>Lead</b>	<b>Primary Action Requested</b>
4. Matters arising from the Minutes, other than on the Agenda	-	Chairperson	To raise
5. Update Report: Reporting Breaches	verbal	Procurement Manager	To receive
6. Workstreams Update	(pages 4 - 142)	Executive Director of Corporate Services	To receive
7. The Pensions Regulator Update	papers to follow	Finance Officer	To receive
8. Sargeant/McCloud Update	(pages 143 - 253)	Finance Officer	To receive
9. Matthews/O'Brien Update	(pages 253 - 256)	Finance Officer	To receive
10. Covid-19 Update	verbal	Finance Officer	To receive
11. LGA Training	verbal	Executive Director of Corporate Services	To raise
12. Any Other Business	-	All Members	To raise

Under the Openness of Local Government Bodies Regulations 2014 members of the public may film, record, take photographs or use social networking during Authority and committee meetings that are open to the public. *The Monitoring Officer/Secretary kindly requests advance warning from anyone wishing to film, record or take photographs during open meetings so that suitable provision can be made.*

**HUMBERSIDE FIRE AUTHORITY**

**PENSION BOARD**

**6 JULY 2020**

**PRESENT:**

Employer representatives: Councillor Shepherd (Chairperson) and Mr P McCourt (Director of Public Safety)

Scheme Member representatives: Mr B Johnson

Councillors Briggs and Green attended as observers.

Kevin Wilson - Executive Director of Corporate Services/Section 151 Officer and Scheme Manager; Christine Cooper - Interim Director of People and Development, David Lofthouse - Procurement Manager, Shaun Edwards - Finance Manager, Sarah Keyes - Finance Officer, Lisa Nicholson - Monitoring Officer/Secretary and Samm Campbell - Committee Manager.

The meeting was held remotely via video-conference (Zoom). The meeting commenced at 10.30a.m.

**15/20 APOLOGIES FOR ABSENCE** - Apologies for absence were received from Mr G Marshall.

**16/20 DECLARATIONS OF INTEREST** - There were no declarations of interest.

**17/20 MINUTES - Resolved** - That the minutes of the meeting of the Board held on 27 January 2020 be confirmed as a correct record.

**18/20 MATTERS ARISING FROM THE MINUTES** - There were no matters arising from the minutes.

**19/20 REPORTING BREACHES** - The Procurement Manager informed the Board that there had been no breaches since the meeting held on 27 January 2020.

**Resolved** - That the update be received.

**20/20 PENSION BOARD WORKSTREAMS UPDATE** - The Executive Director of Corporate Services/Section 151 Officer submitted a report setting out an update on the Board's workstreams for 2020/21.

The impact of restitution of the McCloud/Sergeant Pension Scheme dispute remained uncertain (Minute 7/20 refers) and guidance was yet to be received from the Home Office in relation to changes to the administration of the Pension Scheme.

During 2019/20, one complaint had been received in relation to the administration of the Fire Fighters' Pension Scheme (FFPS) and one had been received so far during 2020/21.

The Service had agreed a set of key performance indicators (KPIs) with West Yorkshire Pension Fund, which administrated the FFPS. The KPIs were monitored and reported monthly and data showed good performance in relation to most indicators.

The deficit in the Humberside Fire Authority Pension Fund Account 2019/20 (£12.6m) was due to be resolved in full by the Home Office in July 2020.

**Resolved** - That the report be received.

**21/20 COVID-19 UPDATE** - The Finance Officer provided the Board with an update in relation to the COVID-19 pandemic.

Annual benefit statements were due to be issued by 31 August as normal despite the COVID-19 pandemic and national lockdown. However, the Pensions Regulator had indicated that it would take the pandemic into account as a mitigating factor if annual benefits statements were delayed.

The Scheme Advisory Board (SAB) had been working with the Government to determine how pension schemes should treat the death of a member resulting from COVID-19. Associated advice was due to be issued to fire and rescue services nationally.

The recent health emergency had resulted in a number of retirees returning to work. While this would normally leave scheme members open to additional tax on their lump sums, the Government had relaxed these measures until November 2020 in order to allow recent retirees to assist in the light of COVID-19. However, pensioners could not earn more than the rate of their final salary while they returned to work.

The Board asked how COVID-19 had affected the Service's workforce. During the whole of the COVID-19 outbreak, four members of staff had tested positive for the virus and five tests had been inconclusive. The virus had not affected the Service's ability to respond to emergencies and appliance availability had increased during the pandemic.

**Resolved** - That the update be received.

**22/20 ANNUAL BENEFIT STATEMENT UPDATE** - The Finance Officer submitted a report updating the Board on the status of the annual benefit statements.

Since 2017, the Scheme Advisory Board (SAB) had conducted an annual, national survey in relation to annual benefit statements (ABS), the results of which had helped to improve the process every year since. The Service had improved every aspect of the system in the current year, with 90 percent of data having been reported on time and few queries received. The SAB's report concluded with five recommendations for pension administrators, which related to:

1. data submission;
2. meeting deadlines;
3. deferred members;
4. internal controls, and
5. administration and resources.

**Resolved** - That the report be received.

**23/20 REMEDY AND LEGAL CLAIMS UPDATE** - The Procurement Manager provided the Board with an update on ongoing legal proceedings.

As a result of the level of uncertainty and the lack of guidance in relation to the McCloud/Sergeant case (Minute 7/20 refers), the SAB had suggested that scheme administrators communicate to members to inform them that their benefits in the current year would remain unaffected but that they would be kept informed. Retirees would have the remedy applied to their pensions following the anticipated publication of Home Office.

In relation to the O'Brien RDS Modified case (Minute 8/20 refers), it was likely that on-call firefighters' FFPS membership would be backdated to cover their full length of service. This would entail a significant amount of work for FFPS administrators nationally. Following the application of the remedies, the Service would need to re-value its Pension Fund.



**Resolved** - That the report be received.

**24/20 SCHEME ADVISORY BOARD UPDATE** - The Finance Officer summarised the Local Government Association's recent Firefighters' Pension Scheme Bulletins.

The Scheme was subject to valuation every four years and the data deadline for the next valuation was 31 December 2020. This constituted a significant piece of work and was likely to affect benefits and contributions. The contribution rates from 2018/19 would continue to apply during 2020/21.

The SAB had recommended that potential changes to pension contributions and benefits arising from promotion or a change of role be highlighted to Scheme members during recruitment processes.

**Resolved** - That the report be received.

**25/20 ANY OTHER BUSINESS** – There were no items.

Meeting closed at 11.00 a.m.



**Report by the Executive  
Director of Corporate  
Services/S.151 Officer**

## **WORKSTREAMS UPDATE**

### **SUMMARY**

1. This report sets out an update on the workstreams that were originally agreed at the Pension Board in January 2016.
2. The workstreams are designed to ensure that the Board operates in compliance with the Pension Regulator's Code of Practice for Pension Boards.
3. The list of activities is not exhaustive and has evolved over the last 12 months and will continue to do so over the coming months.

### **RECOMMENDATIONS**

4. That the Board considers the workstreams that are set out in this report.

### **WORKSTREAMS**

5. Appendix 1 of this report sets out the workstreams proposed for the Pension Board over the short-to-medium term.
6. The workload aims to meet the requirements of the Code of Practice for Pension Boards and has therefore been shaped into three broad areas:-

#### **Governance, Administration and Communication**

7. The elements that are timetabled to be reported upon at this meeting are set out below:-

- **Governance**

#### **G3 workstream – Training**

Training has been delivered at regular points since the inception of the Board in July 2015.

In September 2017 a training session for Pension Board Members and Officers was delivered by colleagues from LGA Pensions and the Pensions Regulator and more recently training in relation to tax was delivered in October 2019.

In June 2020, the Scheme Advisory Board delivered Pension Board Wrap up Training.

### G5A workstream – Complaints

A flowchart for the complaints procedure for the FFPS was circulated and discussed at the Board meeting in January 2016. The procedure was updated in October 2020, and is attached at Appendix 2. The first stage of the existing process was formalised in line with LGA guidance, so that it now includes 2 formal stages.

### G5B workstream – Summary of Complaints Received

A clear process for complaints has been adopted and is a key component of the governance of the Firefighter Pension Schemes (FFPS).

There were no complaints in relation to our administration of the FFPS in 2016/17, 2017/18. There was one complaint in 2018/19 and one in 2019/20 which have now been concluded. There have been three complaints in 2020/21 to date, one has been concluded and two are being investigated under the complaints procedure.

### G6 workstreams – Risk Register

The Authority's team involved in the operation of the FFPS have developed a comprehensive Risk Register attached at Appendix 3.

The Risk Register identifies the three most dominant risks in Risk Areas 1, 2 and 3 as the maintenance of Member data (Risk 2), over reliance on key pensions administration officers (Risk 6), and also legislative change (Risk 7).

These risks reflect the recent significant changes in the FFPS which have brought a much greater emphasis on the completeness and accuracy of data and a number of fundamental scheme changes and legal rulings.

Risks specifically relating to the effects of the Covid 19 pandemic were assessed and included in the Risk Register in Risk Area 4. The most dominant risks are the late payment of benefits (Risk 10) and cyber security breaches due to increased remote working (Risk 12).

These risks reflect the different working practices that have had to be adopted to ensure the ongoing administration of the scheme during the current pandemic.

All of these risks will be monitored carefully and it is felt that the mitigations and controls in place at present are sufficient.

### G7 workstreams – Policies

A policy on abatement, attached at Appendix 4, was published in line with LGA guidance in December 2020.

- **Administration**

### A1 workstream – KPIs and Benchmarking, SLAs

The Service has an agreed set of Key Performance Indicators (KPIs) with West Yorkshire Pension Fund (WYPF) who act as administrators of the FFPS on our behalf.

The KPIs are monitored and reported on monthly. Appendix 5 sets out the position for quarters 1, 2 and 3 of 2020/21.

The data shows good performance in most of the key areas.

The KPIs provide a sound basis on which to manage performance going forward.

A2 workstream – Costs per Member and Number of Scheme Members

Appendix 6 sets out the latest position of scheme members including those currently contributing to the 1992, 2006 and 2015 schemes and those in receipt of a pension. This information will be brought to each Board meeting.

- **Communication**

C5 workstream – Communication by the Scheme Advisory Board

The most recent Scheme Advisory Board Bulletins are attached at Appendix 7.

STRATEGIC PLAN COMPATIBILITY

8. No direct issues arising.

FINANCIAL/RESOURCES/VALUE FOR MONEY IMPLICATIONS

9. No direct issues arising.

LEGAL IMPLICATIONS

10. The workstreams outlined in this report will ensure that HFRS can run a legally compliant Pension Board.

EQUALITY IMPACT ASSESSMENT/HR IMPLICATIONS

11. No direct issues arising.

CORPORATE RISK MANAGEMENT IMPLICATIONS

12. No direct issues arising.

HEALTH AND SAFETY IMPLICATIONS

13. No direct issues arising.

COMMUNICATION ACTIONS ARISING

14. No direct issues arising.

DETAILS OF CONSULTATION AND/OR COLLABORATION

15. No direct issues arising.


BACKGROUND PAPERS AVAILABLE FOR ACCESS

16. Papers as attached.

RECOMMENDATIONS RESTATED

17. That the Board considers the workstreams that are set out in this report.

**K WILSON**

Officer Contact: Kevin Wilson  01482 567183  
Executive Director of Corporate Services/S.151 Officer

Humberside Fire & Rescue Service  
Summergroves Way  
Kingston upon Hull

KW/SK  
12 January 2021

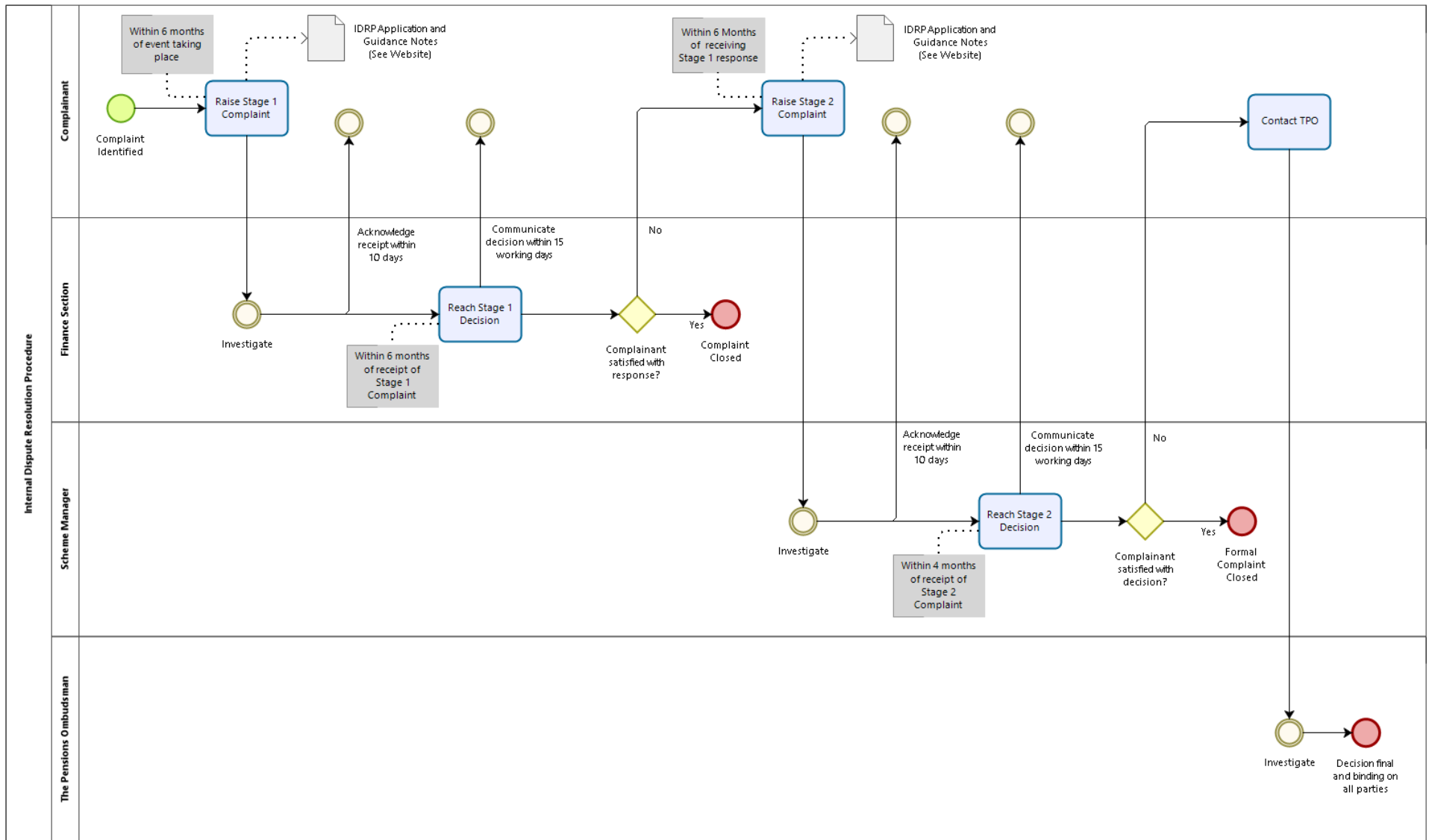
# Appendix 1

## PENSION BOARD – PROPOSED WORKSTREAMS

	Workstream	Progress	Report to Pension Board		
			Previous	Today	Future
GOVERNANCE					
G1	Establish the Pension Board	Completed	July 2015	-	-
G2	Code of Practice	Circulated and discussed at the January 2016 meeting - Completed	January 2016	-	-
G3	Training	Ongoing with initial training completed July/August 2015 and further training in April 2016 and March 2017 LGA training September 2017 WYPF training July 2018 Tax training October 2019 Pension Board Wrap up Training June 2020	July 2015 June 2016 January and July 2017 January and July 2018 January and July 2019 January and July 2020	Feb 2021	Ongoing
G4	Knowledge	Knowledge matrix as a basis on which to identify Pension Board Members' knowledge gaps circulated at January and June 2016 meetings and at April 2016 Pension Board Training	January and June 2016 and January 2017	-	-
G5A	Complaints	Flowchart for the current complaints procedure for the FFPS circulated and discussed at January 2016 meeting. Procedure updated October 2020.	January 2016	February 2021	-
G5B	Summary of Complaints received	Complaints received in 2015/16 circulated. No complaints in 2016/17 and 2017/18, one in 2018/19, one in 2019/20, and three in 2020/21 to date.	June 2016 January and July 2017 January and July 2018 January and July 2019 January and July 2020	Feb 2021	Each Pension Board
G6	Risk Register	The Risk Register is updated on an ongoing basis.	June 2016 January and July 2017 January and July 2018, January 2019 and July 2019 January and July 2020	Feb 2021	Each Pension Board
G7	Policies	Abatement Policy published December 2020	-	Feb 2021	When published
ADMINISTRATION					
A1	KPIs and Benchmarking, SLAs	KPIs are reported monthly.	June 2016 January and July 2017 January and July 2018, January 2019 and July 2019 January and July 2020	Feb 2021	Each Pension Board
A2	Costs per member and number of scheme members	Reported to January 2016 Board and each Board thereafter	June 2016 January and July 2017 January and July 2018,	Feb 2021	Each Pension Board

			January 2019 and July 2019 January and July 2020		
A3	Data for CARE and data quality	The recent move to the new ERYC payroll system has facilitated the production of this information by 31 March 2016 - Completed	June 2016	-	-
A4	Pension expenditure	Compiled as part of the Annual Accounts	June 2016 July 2017 July 2018 July 2019 July 2020	-	July 2021
COMMUNICATION					
C1	By Scheme	Latest publication presented to meetings	January 2016, January and July 2017 July 2018 July 2019 July 2020	-	When published
C2	By the Service	Latest publication presented to January 2016 meeting	January 2016	-	When published
C3	Benefit Statements	Issued week commencing 19 December 2016 and August 2017, 2018 and 2019	January 2017	-	-
C4	Calculators	Circulated at the April 2016 Pension Board Training and now on the Authority's website - Completed	April 2016 Pension Board Training	-	-
C5	By the SAB	Latest publications presented to July 2020 meeting	July 2020	Feb 2021	When published







# Internal Dispute Resolution Procedure

## Guidance Notes

## How to Complain

### Introduction

Information about the complaints procedure for the following pension schemes:

- Firefighters' Pension Scheme 1992
- Firefighters' Pension Scheme 2006
- Firefighters' Pension Scheme 2015

### Who can complain?

The complaints procedure is available to:

- **Members:** who are paying contributions into the 1992 Scheme, 2006 Scheme or 2015 Scheme; have retired and are receiving a pension under one of the above schemes; or have deferred pension benefits
- **Prospective members:** who are not members yet, but could become members on request to join the scheme
- **Dependents:** such as the widow, widower, surviving civil partner of a cohabiting partner or a child of a member or a prospective member

*The complaints procedure is also available to people who think they should fall into one of the above categories, or did so during the last 6 months.*

### Using someone as a representative

You might feel happier with someone else representing you, or you may not be able to put your case yourself.

You can choose someone else to represent you. This can be whoever you wish, your husband, wife, partner, a friend, relative, solicitor, union rep etc.

### What you can complain about

#### Decisions

From the day you join the scheme, various decisions are being made about your pension, including:

- Deciding whether you can retire on ill health grounds
- Deciding the pay we should use to work out your pension benefits
- Deciding whether or not you can join the scheme
- Applying discretions
- Explaining how you are affected by the scheme rules
- Working out your pension benefits

#### Other complaints

You can also complain about other aspects of your pension, for example if you feel that you have not been given the information you need, or you think there has been an unreasonable delay in the payment of your benefits.

## Who do I complain to?

The complaints procedure is explained in detail below. The first step is to raise your concerns with the Finance Section. If you are unhappy with the outcome, you can make a further complaint to the Scheme Manager.

### Stage 1

If you have concerns about your pension benefits, you should put your complaint in writing to:

Finance Section  
Humberside Fire & Rescue Service Headquarters  
Summergroves Way  
Hull  
East Yorkshire  
HU4 7BB

It is best to use form **IDRP Application**, as it will help you to include the correct details.

#### What happens next?

The facts of your case will be examined by the Finance Section with reference to:

- information held by Humberside Fire & Rescue Service
- information held by West Yorkshire Pension Fund
- the Pension Scheme rules
- Any other legislation which is relevant

You may also be asked for more details to help understand your case.

You should receive a written acknowledgement of your complaint within 10 days of the date your complaint arrives. This will be to acknowledge your complaint, and explain when you will have a decision.

A decision should be made within six months of the date your complaint arrives, and communicated to you within 15 working days of being made.

If your complaint is particularly complex, it may not be possible to fully investigate matters within the above time frame. If this is the case, you will be notified of the reasons for the delay, and given a timescale for a response.

### Stage 2

If you are not happy with the outcome of the investigation at Stage 1 you should put a further complaint in writing to:

Firefighters' Pension Scheme Manager  
Humberside Fire & Rescue Service Headquarters  
Summergroves Way  
Hull  
East Yorkshire  
HU4 7BB

It is best to use form **IDRP Application**, as it will help you to include the correct details.

You must make your Stage 2 complaint within six months of receiving your Stage 1 decision. Your complaint can only be looked at later than this in special cases.

#### What happens next?

The facts of your case will be examined by the Scheme Manager, along with the scheme rules, and any other legislation which is relevant. You may also be asked for more details, to help understand your case.

You should receive a written acknowledgement of your complaint within 10 days of the date your complaint arrives. This will be to acknowledge your complaint, and explain when you will have a decision.

A decision should be made within four months of the date your complaint arrives, and communicated to you within 15 working days of being made.

If your complaint is particularly complex, it may not be possible to fully investigate matters within the above timeframe. If this is the case, you will be notified of the reasons for the delay, and given a timescale for a response.

## **Where to get outside help**

### **The Pensions Ombudsman**

The Pensions Ombudsman solely deals with pension complaints. It can help if you have a complaint or dispute about the administration (including transfers/conversion) and/or management of personal and occupational pensions.

Some examples of types of complaints it considers include:

- auto enrolment;
- benefits: incorrect calculation/refusal/failure to pay or late payment;
- charges/fees;
- death benefits;
- failure to provide information/act on instructions;
- fund switches;
- guaranteed Annuity Rate;
- ill health;
- interpretation of scheme rules/policy terms;
- misquote/misinformation;
- Payment/pension increases;
- pension liberation;
- transfers: general;
- winding up; and
- with-profits issues.

There is no financial limit on the amount of money that The Pensions Ombudsman can make a party award you. Its determinations are legally binding on all the parties and are enforceable in court.

Contact with The Pensions Ombudsman about a complaint needs to be made within three years of when the event(s) you are complaining about happened – or, if later, within three years of when you first knew about it (or ought to have known about it). There is discretion for those time limits to be extended.

The Pensions Ombudsman can be contacted at:

10 South Colonnade  
Canary Wharf  
E14 4PU  
Tel: 0800 917 4487  
Email: [enquiries@pensions-ombudsman.org.uk](mailto:enquiries@pensions-ombudsman.org.uk)

Website: [www.pensions-ombudsman.org.uk](http://www.pensions-ombudsman.org.uk)

You can also submit a complaint form online:

[www.pensions-ombudsman.org.uk/our-service/make-a-complaint/](http://www.pensions-ombudsman.org.uk/our-service/make-a-complaint/)

If you have general requests for information or guidance concerning your pension arrangements contact:

Money & Pensions Service  
120 Holborn  
London  
EC1N 2TD  
Telephone: 01159 659570  
Email: [contact@maps.org.uk](mailto:contact@maps.org.uk)

Website: [www.maps.org.uk](http://www.maps.org.uk)

<p style="text-align: center;"><b>PENSIONS ACT 1995, Section 50</b> <b>Internal Dispute Resolution Procedures</b></p>
---------------------------------------------------------------------------------------------------------------------------

**IDRP APPLICATION**

*This application may be submitted by a person (or nominated representative) who is (a) an active, deferred or pensioner member of the 1992 Firefighters' Pension Scheme, the 2006 Firefighters' Pension Scheme or the 2015 Firefighters' Pension Scheme; (b) a widow, widower or surviving dependant of a deceased member of the 1992 Scheme, 2006 Scheme or 2015 Scheme; (c) a surviving non-dependant beneficiary of a deceased member of the 1992 Scheme, 2006 Scheme or 2015 Scheme; (d) a prospective member of the 2015 Scheme; (e) persons who have ceased to be within any of the categories in (a) to (d); or (f) persons who claim to be a person mentioned in (a) to (e) and the dispute relates to whether he is such a person.*

*When the form has been completed it should be signed and sent, with any relevant attachments, to the Firefighters' Pension Scheme Administrator, Humberside Fire & Rescue Service Headquarters, Summergroves Way, Hull, East Yorkshire, HU4 7BB*

**TO THE FIREFIGHTERS' PENSION SCHEME ADMINSTRATOR, HUMBERSIDE FIRE & RESCUE SERVICE:**

1. I wish to apply for a decision to be made, under Section 50 of the Pensions Act 1995, in respect of the disagreement set out in this application.
2. I understand that an application may not be made where, in respect of a disagreement:
  - A notice of appeal has been issued under the Firefighters' Pension Scheme 1992; the Firefighters' Pension Scheme 2006; the Firefighters' Compensation Scheme 2006; or the Firefighters' Pension Scheme 2015; to a board of medical referees, against a decision on an issue of a medical nature, or
  - Proceedings in respect of this dispute have begun in any court or tribunal, or
  - The Pensions Ombudsman has commenced an investigation into a complaint or a dispute referred to him.
3. The nature of the disagreement is set out overleaf and, where relevant, on the attached page(s).

*Give the following details (in block capitals) in all cases*

Full name of scheme member.....

Rank and Brigade number.....

Address of scheme member.....

.....

Member's date of birth.....National Insurance No.....

*Give the following details (in block capitals) if complainant is not a member*

Full name of complainant.....

Address for correspondence.....

.....

Relationship of complainant to scheme member (if relevant).....

Complainant's date of birth.....

## NATURE OF DISAGREEMENT

This image shows a full page of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

2  
15





## Firefighters' Pension Scheme - Administration Risk Register

Risk Assessment Form									
Organisation: Humberside Fire & Rescue Service									
Scheme Manager: Delegated to Executive Director of Corporate Services and s151 Officer									
	Risk	Assessment of Risk			Risk Control Measures	Owner	Test	Next Review	Comment
		Likelihood	Impact	Risk Rating					
	<b>Risk Area 1 - Operations</b>								
1	<b>Operational disaster (fire, flood etc)</b>	1	4	4	Business continuity plans in place for Pension Administrator	Senior Finance Officer	Annual	Jul-21	
					Business continuity plans in place for Scheme Manager	Senior Finance Officer	Annual	Jul-21	
2	<b>Member data incomplete or inaccurate</b>	3	3	9	Annual report from Pension Administrator used as basis for rectification/data cleansing plan	Senior Finance Officer	Annual	Jul-21	Less likely that data will be incomplete or inaccurate now that monthly returns are being submitted
					Returns from annual statements, Life Certificate checks, and National Fraud Initiative checks	Pension Admin	Annual	Jul-21	
3	<b>Administration process failure/maladministration</b>	1	2	2	Formal agreement in place with administrator, including SLAs	Senior Finance Officer	Annual	Jan-21	KPIs subject to quarterly review
					Authority levels clearly agreed and kept up to date	Scheme Manager	Annual	Jul-21	
					Review independent reports of administrator's process	Scheme Manager	Annual	Jul-21	
					Ongoing dialogue with administrator	Senior Finance Officer	Ongoing	Ongoing	
					Contract meetings between Pension Administrator and Senior Finance Officer	Senior Finance Officer	Quarterly	Ongoing	

	<b>Risk Area 2 - Financial</b>								
4	Excessive charges by supplier	3	2	6	Annual review of scheme budget, review of costs incurred against budget	Senior Finance Officer	Annual	Jul-21	Charges may increase with additional work required as a result of McCloud/Matthews judgments
					Periodic review of supplier	Senior Finance Officer	Annual	Jul-21	
5	Incorrect employee and employer contributions	1	5	5	Check incoming and outgoing scheme funds against scheme forecast - reconciling all funds	Senior Finance Officer	Monthly	Jul-21	
					Monitoring of contribution payments	Senior Finance Officer	Monthly	Jul-21	
					Annual audit	Finance Manager	Annual	Jul-21	
	<b>Risk Area 3 - Regulatory &amp; Compliance</b>								
6	Over reliance on key pensions administration officers	3	3	9	Key officers convey specialist knowledge on to colleagues by mentoring	Senior Finance Officer/ Pensions Admin	Ongoing	Ongoing	Additional work caused by McCloud/Matthews may pull key officers away from routine work resulting in potential administrative errors
					Enhance training by bespoke sessions/courses/workshops	Senior Finance Officer/ Pensions Admin	Ongoing	Ongoing	
7	Changes to legislation	5	4	20	Ongoing review of legislative framework	Scheme manager	Ongoing	Ongoing	McCloud/Matthews judgments will result in legislative changes
					Up to date and documented training log, showing completion of scheme specific and The Pensions Regulator's educational material	Scheme manager	Ongoing	Ongoing	
					Technical advice and updates	Scheme manager	Ongoing	Ongoing	
8	Delayed Annual Benefit statements (Special Modified Scheme)	2	2	4	Submission of monthly data, and timely submission of year end data	Senior Finance Officer/ Pensions Admin	Ongoing	Ongoing	Procedures put in place to automate production of ABS for Special Modified Scheme Members
9	Conflicts of interest	2	1	2	Pension board awareness of legal responsibilities	Scheme Manager	Ongoing	Ongoing	
					All pension board members to declare any conflicts and potential conflicts	Scheme Manager	Ongoing	Ongoing	

	Risk Area 4 - Covid-19								
10	Late payment of benefits (including processing death and survivor benefits)	3	3	9	Pension payroll operating fully on a remote basis and subject to ongoing review and testing	Scheme Manager	Ongoing	Ongoing	
11	Delay in processing retirements	2	3	6	Prioritising retirement processing in accordance with The Pension Regulator's Guidance	Scheme Manager	Ongoing	Ongoing	There may be a slight delay in the payment of retirement lump sums due to payroll processes running weekly, but payment will still be processed within time limits set out in pension legislation
12	Cyber security breaches due to increased remote working	3	4	12	Supporting good decision making and minimising the risk of scams in line with The Pension Regulator's Guidance	Scheme Manager	Ongoing	Ongoing	
13	Delayed Annual Benefit Statements	3	2	6	Submission of monthly returns ongoing	Scheme Manager	Ongoing	Ongoing	No delay in Annual Benefit Statement production, with 100% meeting the statutory deadline
					Administrators performing key duties remotely				

### Risk Matrix

The following model rates the impact and likelihood of an identified risk using a scale of 1 to 5.

The likelihood score is multiplied by the impact score (as shown in the table) to give an overall risk score.

The final score will influence the level of monitoring and/or control required in relation to each risk.

Likelihood Score	1	2	3	4	5
Descriptor	Rare	Unlikely	Possible	Likely	Almost Certain
<b>Frequency</b> How often might it/does it happen	This will probably never happen/recur	Do not expect it to happen/recur but it is possible it may do so	Might happen/recur occasionally	Will probably happen/recur, but it is not a persisting issue/circumstance	Will undoubtedly happen/recur, possibly frequently

Impact Score	1	2	3	4	5
Descriptor	Negligible	Minor	Moderate	Major	Catastrophic
<b>Risk Area 1 - Operations</b>	Minor problem easily handled by normal day to day processes	Potential for some operational disruption	Significant operational disruption possible	Operations severely damaged	Operational survival at risk
<b>Risk Area 2 - Financial</b>	Little/no financial impact	Potential for short term financial impact	Potential for medium term financial impact	Potential for long term financial impact	Potential for permanent long term financial impact
<b>Risk Area 3 - Regulatory &amp; Compliance</b>	Little/no impact	Misunderstanding of rules/regulations resulting in reduced performance	Breach of rules/regulations resulting in informal complaint(s)	Breach of rules/regulations resulting in formal report or complaint(s) being lodged	Breach of rules/regulations resulting in legal action
<b>Risk Area 4 - Covid 19</b>	Minor problem easily handled by normal day to day processes	Potential for some disruption to normal processes	Significant disruption to normal processes possible	Normal processes severely disrupted	Operational survival at risk

	Likelihood Score				
Impact Score	1	2	3	4	5
5 Catastrophic	5	10	15	20	25
4 Major	4	8	12	16	20
3 Moderate	3	6	9	12	15
2 Minor	2	4	6	8	10
1 Negligible	1	2	3	4	5

	1 to 3	Low risk
	4 to 6	Moderate risk
	8 to 12	High risk
	15 to 25	Extreme risk





HUMBERSIDE FIRE AND RESCUE SERVICE

# **CORPORATE FINANCE & PROCUREMENT**

---

## **PENSIONS – ABATEMENT**

<b>Owner</b>	<b>Executive Director of Corporate Services</b>
<b>Responsible Person</b>	<b>Finance Officer</b>
<b>Date Written</b>	<b>August 2020</b>
<b>Date of last review</b>	<b>December 2020</b>
<b>Date of next review</b>	<b>August 2022</b>

## CONTENTS

1. [Introduction](#)
2. [Equality and Inclusion](#)
3. [Application of Abatement](#)
4. [Implementation](#)
5. [Measuring Performance](#)
6. [Audit and Performance Review](#)
7. [Glossary](#)



## **1. INTRODUCTION**

Government policy, set by HM Treasury, requires public sector pensions to be abated in certain circumstances when a public sector employee is re-employed following retirement.

The principle behind abatement is to protect the public purse from paying both pension and salary to the same individual.

There are two forms of abatement:

In-service abatement occurs where a retired employee is re-employed into a post covered by the same pension scheme which is paying the individual's pension.

Inter-service abatement occurs where a retired public sector employee is re-employed to any employing public sector organisation without going through an open competition.

This policy applies to employees of HFRS only, who are members of The Firefighters' Schemes.

HFRS is statutorily obliged to apply abatement when it occurs in accordance with the regulations of the Firefighters' Schemes.

This policy does not apply to the Firefighters' Pension Scheme 2015.

## **2. EQUALITY AND INCLUSION**

HFRS aims to continuously improve the standards of service we provide to the community we serve. We recognise the importance of and are committed to promoting equality and inclusion in the provision of our services and to our employees. We are committed to encouraging equality and diversity amongst our workforce and to eliminating unlawful discrimination. We aim for our workforce to be truly representative of the community we serve and for each of our employees to feel respected and to be able to give their best.

## **3. APPLICATION OF ABATEMENT**

Abatement applies where an employee retires with a pension from one of the Firefighters' Schemes, and is subsequently Re-employed.

On Re-employment, the Re-employed Salary and the pension in payment (plus inflation) cannot be more than the Salary on Retirement.

If there is an excess, then the pension in payment will be reduced to bring the level back in line with the Salary on Retirement.

If the application of abatement results in the pension in payment being abated in full, any further excess will not be applied to the Re-employed Salary.

There is no age limit on abatement.

Abatement continues for the full period of Re-employment, or until the Re-employed Salary and the pension in payment (plus inflation) amounts to less than the Salary on Retirement.

Humberside Fire and Rescue Service Version 1.0 December 2020	Not Protectively Marked	3 of 5
--------------------------------------------------------------------	-------------------------	--------

## **CORPORATE FINANCE & PROCUREMENT ABATEMENT POLICY**

When Re-employment ends, or when the Re-employed Salary and the pension in payment (plus inflation) amounts to less than the Salary on Retirement, the pension in payment will be reinstated to the full amount.

The application of abatement under the Firefighters' Scheme rules is discretionary. Where abatement is not applied, the fire and rescue authority must make a payment equal to the amount that could have been abated into the pension fund account.

HFRS will apply abatement in all cases.

### **4. IMPLEMENTATION**

An employee who retires from HFRS with a pension from one of the Firefighters' Schemes and is Re-employed, will need to declare this to HFRS.

An employee who takes up new employment with HFRS and has previously retired from another Fire and Rescue Authority with a pension from one of the Firefighters' Schemes, will need to declare their new employment with HFRS to their previous Fire and Rescue Authority.

Overpayments will be recovered by HFRS, so it is in the member's interests to declare Re-employment as soon as possible to avoid having to repay amounts to the Firefighters' Schemes.

Contact Pensions on 01482 567410 or e-mail at [pensions@humbersidefire.gov.uk](mailto:pensions@humbersidefire.gov.uk)

### **5. MEASURING PERFORMANCE**

Abatement cases may be monitored on a quarterly basis by HFRS if it is required.

### **6. AUDIT AND PERFORMANCE REVIEW**

This policy will be reviewed every 2 years, or as and when amendment regulations are laid.

Humberside Fire and Rescue Service Version 1.0 December 2020	Not Protectively Marked	4 of 5
--------------------------------------------------------------------	-------------------------	--------

## **7. GLOSSARY**

Firefighters' Schemes	Collective term for the Firefighters' Pension Scheme 1992, the New Firefighters' Pension Scheme 2006, and the Firefighters' Retained Modified Pension Settlement.
HFRS	Humberside Fire and Rescue Service.
Re-employment	A new contract of employment with HFRS in any capacity, or a new contract of employment with any Sponsoring Employer (not including continuation of an existing contract of employment in a separate post with HFRS or any Sponsoring Employer).
Re-employed Salary	Employee's pensionable salary for Re-employment (not including any salary earned as the result of continuation of an existing contract of employment in a separate post with HFRS or any Sponsoring Employer).
Salary on Retirement	Employee's pensionable salary (plus inflation) for the contract of employment from which they have retired with a pension from one of the Firefighters' Schemes (not including any salary earned as the result of continuation of an existing contract of employment in a separate post with HFRS or any Sponsoring Employer).
Sponsoring Employer	An employer who participates in, or employs members of, an occupational pension scheme, such as a Local Authority council or another Fire and Rescue Authority.

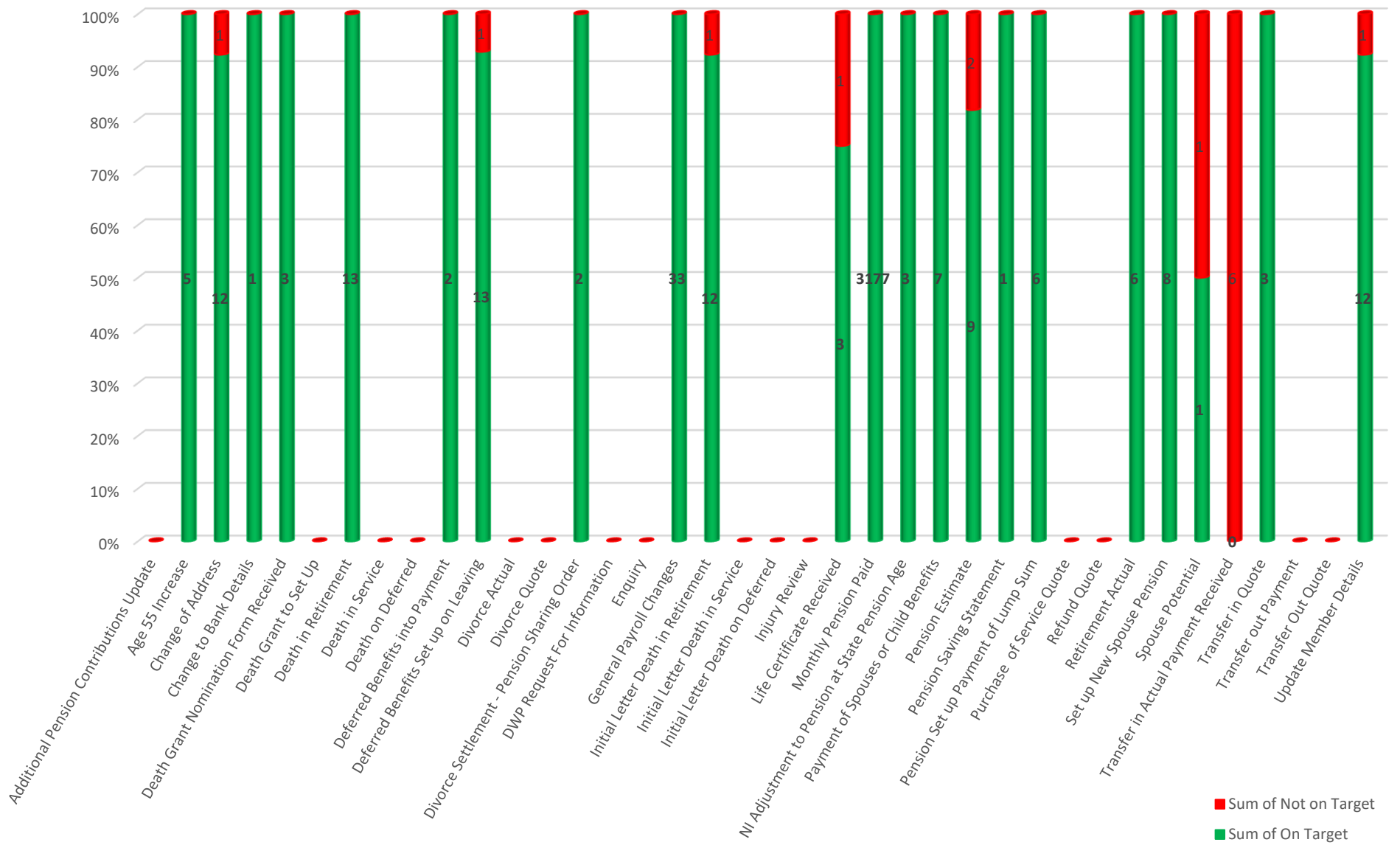
**If anyone requires any further guidance / information relating to this document  
please contact the Finance Section.**



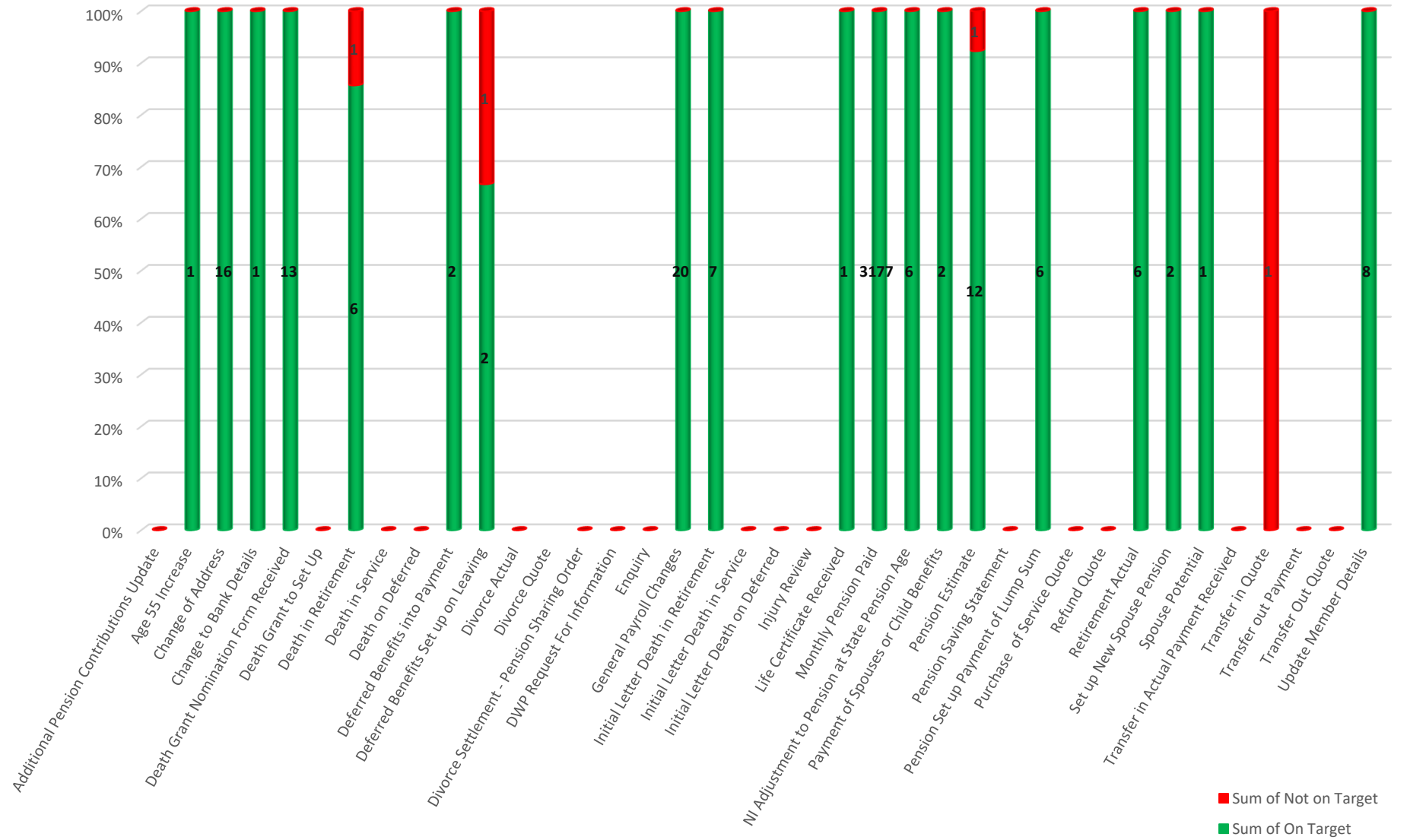
**KPIs 2020/21 Quarter 1, 2 & 3**

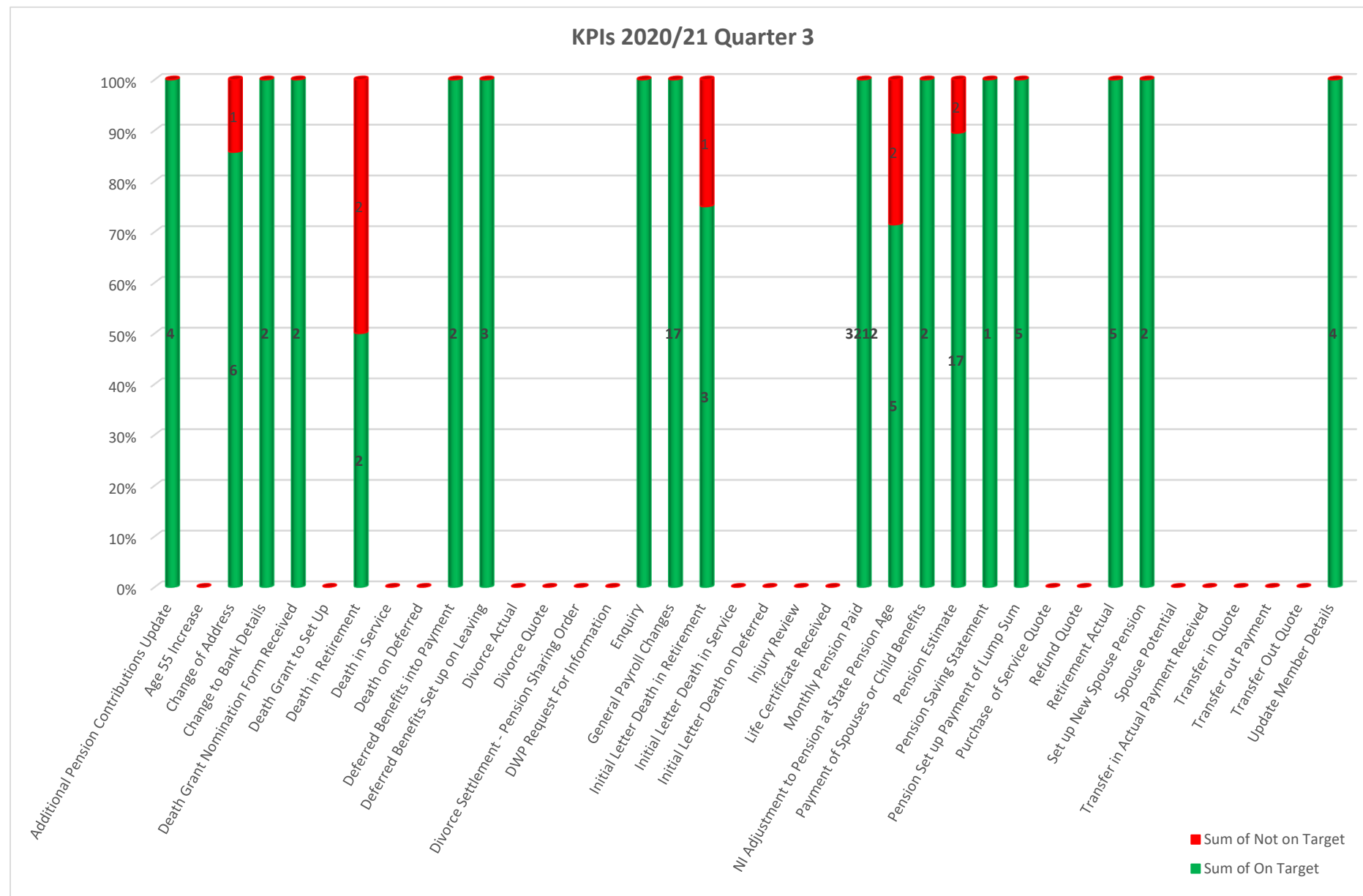
Number	Key Performance Indicator	Target Days	Minimum
1	Additional Pension Contributions Update	10	85%
2	Age 55 Increase	20	85%
3	Change of Address	20	85%
4	Change to Bank Details	20	85%
5	Death Grant Nomination Form Received	20	85%
6	Death Grant to Set Up	5	85%
7	Death in Retirement	5	85%
8	Death in Service	5	85%
9	Death on Deferred	5	85%
10	Deferred Benefits into Payment	3	85%
11	Deferred Benefits Set up on Leaving	10	85%
12	Divorce Actual	80	100%
13	Divorce Quote	35	85%
14	Divorce Settlement - Pension Sharing Order	80	100%
15	DWP Request For Information	10	85%
16	Enquiry	5	85%
17	General Payroll Changes	20	85%
18	Initial Letter Death in Retirement	5	85%
19	Initial Letter Death in Service	5	85%
20	Initial Letter Death on Deferred	5	85%
21	Injury Review	20	100%
22	Life Certificate Received	5	85%
23	Monthly Pension Paid	Due Date	100%
24	NI Adjustment to Pension at State Pension Age	20	85%
25	Payment of Spouses or Child Benefits	5	85%
26	Pension Estimate	10	85%
27	Pension Saving Statement	20	100%
28	Pension Set up Payment of Lump Sum	3	85%
29	Purchase of Service Quote	20	85%
30	Refund Quote	35	85%
31	Retirement Actual	10	85%
32	Set up New Spouse Pension	5	85%
33	Spouse Potential	10	85%
34	Transfer in Actual Payment Received	10	85%
35	Transfer in Quote	10	85%
36	Transfer out Payment	10	85%
37	Transfer Out Quote	35	100%
38	Update Member Details	20	100%

## KPIs 2020/21 Quarter 1



## KPIs 2020/21 Quarter 2







**Quarter 1**

<b>KPI</b>	<b>WYPF Explanation</b>	<b>Average Time Taken</b>
Spouse potential	1 case out of 2 missed the target, only 2 days over the target on average.	Target – 10 days  Time taken: <ul style="list-style-type: none"><li>- April – no cases</li><li>- May – no cases</li><li>- June – 12 days</li></ul>
Transfer in Actual Payment Received	All cases completed within 10 days of receiving the payment from the previous provider, as per the KPI.  WYPF process is currently measured from the date the initial request came in – process is being amended to accurately reflect performance.	Target – 10 days  Time taken: <ul style="list-style-type: none"><li>- October – 63 days</li><li>- November – 90 days</li><li>- December – 132 days</li></ul>

**Quarter 2**

<b>KPI</b>	<b>WYPF Explanation</b>	<b>Average Time Taken</b>
Death in Retirement	1 case marginally missed the 5-day target, all other cases completed well within that time frame.	Target – 5 days  Time taken: <ul style="list-style-type: none"><li>- July – 2 days</li><li>- August – 1 day</li><li>- September – no cases</li></ul>
Deferred Benefits Set up on Leaving	Delay in an administrative exercise in order to prioritise more urgent work. Delay does not affect payment of benefits.	Target – 10 days  Time taken: <ul style="list-style-type: none"><li>- July – 26 days</li><li>- August – no cases</li><li>- September – 2 days</li></ul>
Transfer In Quote	1 case involved, no financial implications for member.	Target –10 days  Time taken: <ul style="list-style-type: none"><li>- July – no cases</li><li>- August – no cases</li><li>- March – 22 days</li></ul>

**Quarter 3**

<b>KPI</b>	<b>WYPF Explanation</b>	<b>Average Time Taken</b>
Death in Retirement	2 cases missed the 5-day target due to awaiting certificates from member and awaiting details from the executors of the estate, all other cases completed well within that time frame.	Target – 5 days  Time taken: <ul style="list-style-type: none"><li>- October – 7 days</li><li>- November – 1 day</li><li>- December – 6 days</li></ul>
Initial Letter Death in Retirement	1 case missed the target by 10 days due to awaiting details from the executors of the estate.	Target – 5 days  Time taken: <ul style="list-style-type: none"><li>- October – 1 day</li><li>- November – 15 days</li><li>- December – 1 day</li></ul>
NI Adjustment	2 cases marginally missed the 20-day target, all other cases completed well within that time frame.	Target – 20 days  Time taken: <ul style="list-style-type: none"><li>- October – 13 days</li><li>- November – 16.67 days</li><li>- December – 13.22 days</li></ul>



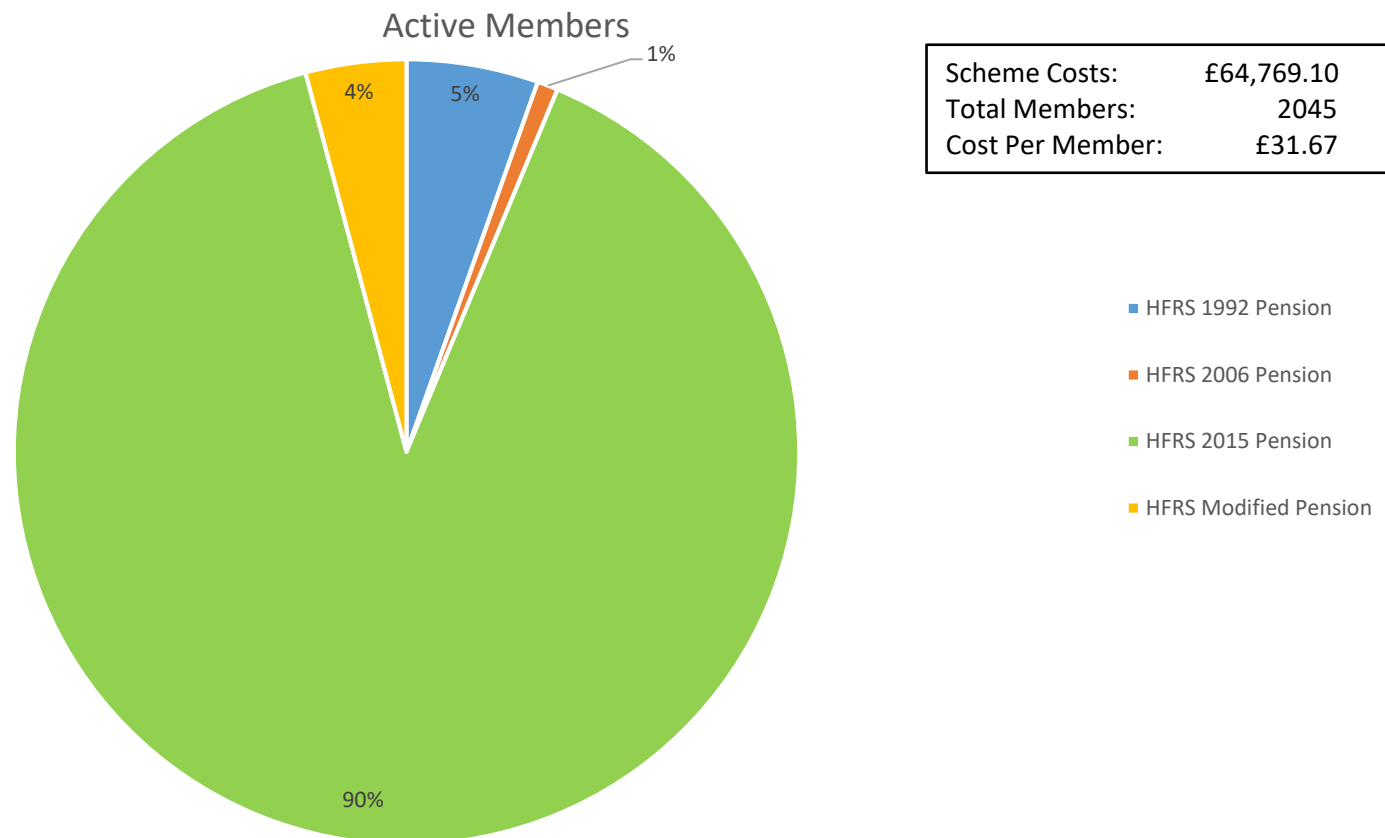
## Firefighters' Pension Scheme - Number of Scheme Members and Administration Cost Per Member as at 31/12/2020

### Total Members

Scheme Name	Active	Deferred	Pensioner	Beneficiary
HFRS 1992 Pension	38	45	832	143
HFRS 2006 Pension	6	111	11	6
HFRS 2015 Pension	627	115	7	0
HFRS Modified Pension	29	8	67	0
Total	700	279	917	149
<b>Grand Total</b>	<b>2045</b>			

### Total Costs

Service	Cost
HFRS Salary	£31,284.20
Administration	£28,429.00
Payroll	£5,055.90
<b>Total</b>	<b>£64,769.10</b>



Cost Per Member £31.67





## FPS Bulletin 34 – June 2020

Welcome to issue 34 of the Firefighters' Pensions Schemes bulletin.

We hope that readers remain safe and well.

While travel and social restrictions are gradually easing, the Coronavirus pandemic continues to raise queries and concerns for scheme employers and members. Our [COVID-19 webpage](#) is being updated accordingly, so please check in on a regular basis.

All meetings, training and travelling remain suspended for the foreseeable future but the Bluelight team are available at home by mobile, email or video (MS Teams or Skype for Business).

If you are looking for information on a certain topic, issue and content indexes are held on the [main bulletin page](#) of the website and are updated following each new issue.

If you have any comments on this bulletin or suggested items for future issues, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk).

## Contents

<b>Calendar of events</b>	<b>3</b>
<b>Actions arising</b>	<b>3</b>
<b>FPS</b>	<b>4</b>
FPS England – 2020 valuation final data specifications	4
Protected Pension Age - HMT extension	4
ABS 2020 – member communications	5
Raising tax awareness through job advertisements	6
Guide to linking benefits in the FPS	6
IQMP patient confidentiality and the pension scheme rules	7
Website and resources update	8
June query log	8
<b>FPS England SAB updates</b>	<b>9</b>
COVID-19 FPS governance survey	9
Template administration strategy consultation	9
SAB minutes index	10
<b>Other News and Updates</b>	<b>10</b>
TPO determine on data	10
Pension dashboard update	10
Transfer arrangements for CARE additional pension (FPS 2015)	11
<b>Events</b>	<b>11</b>
FPS coffee mornings	11
Annual Local Pension Board wrap-up training 2020	12
<b>HMRC</b>	<b>12</b>
HMRC newsletters/bulletins	12
<b>Legislation</b>	<b>13</b>
<b>Useful links</b>	<b>13</b>
<b>Contact details</b>	<b>13</b>
<b>Copyright</b>	<b>14</b>
<b>Disclaimer</b>	<b>14</b>



## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

Table 1: Calendar of events

Event	Date
<a href="#">Local Pension Board wrap-up training</a>	8 July 2020
<a href="#">FPS coffee and catch up</a>	Every second Tuesday – next event 14 July 2020
Virtual South East regional FPOG	27 July 2020
Virtual Fire Communications Working Group	7 September 2020
Virtual SAB	17 September 2020
SAB	10 December 2020

## Actions arising

Readers are asked to note the following actions arising from the bulletin:

[ABS 2020 - member communications](#): scheme managers to ensure members are kept informed of position relating to ABS 2020 and remedy.

[Raising tax awareness](#): FRAs to include relevant wording on job adverts.

[COVID-19 governance survey](#): scheme manager and/ or Local Pension Board chair to complete online survey by 31 July 2020.

[Template administration strategy consultation](#): all interested parties to respond to consultation by 31 August 2020.

[Transfer arrangements for CARE additional pension](#): administrators to review Club transfer in/out processes to ensure that CARE added pension is calculated using the non-Club methodology and factors.

[LPB wrap-up training 2020](#) – book places for pension board members wishing to attend.

## FPS

### FPS England – 2020 valuation final data specifications

The Government Actuary's Department's (GAD) final 2020 valuation data specifications for the Fire England schemes were issued by email to administrators and software suppliers on 3 June 2020. The document has also been uploaded to the dedicated [valuations webpage](#) in the password-protected area of the FPS Regulations and Guidance website.

The specifications are largely identical to the draft issued at the end of 2019. The one change is to clarify which members require the additional Sargeant data.

GAD are still working on the data collection spreadsheet and instructions which should be issued in the near future.

The deadline for submission of data remains 31 December 2020 as confirmed in [FPS Bulletin 32 – April 2020](#).

### Protected Pension Age - HMT extension

As previously confirmed in [written statement HCWS196](#), the Protected Pension Age (PPA) tax rules were temporarily relaxed for the period 1 March to 1 June 2020 for those returning to work as a result of COVID-19.

On 2 June 2020 HM Treasury/ HMRC announced an extension to the easement of the tax rules relating to PPA. The deadline has been extended to 1 November 2020 for retired firefighters re-employed in relation to FRAs' response to the coronavirus pandemic.

Please see the announcement in the amended [HMRC pension schemes newsletter 119 - April 2020](#), under heading 1.a.

HMT have confirmed that the effect of the statement is that anyone re-employed between 1 March and the deadline would be deemed as having satisfied the re-employment conditions, regardless of how long the employment lasted.

[New Clause 20: Protected pension age of members employed as a result of coronavirus](#) has been inserted at Report Stage of the Finance Bill 2020 and introduces a new re-employment condition to [paragraph 22\(7F\) of Schedule 36](#) to the Finance Act 2004.

HMRC have published a [tax information and impact note](#) which explains more about these changes.

We recommend that the reasons for re-employment being COVID-19 related are clearly documented and shared with your Local Pension Board.

Readers may have recently noted the ombudsman decisions [PO-15170](#) and [PO-15168 & PO-15171](#) regarding PPA and the responsibility of the employer. We have taken the opportunity to create a [new page for PPA](#) within the password protected member area of the Regulations and Guidance website to collate information and resources about PPA as it relates to members of the FPS 1992.

## **ABS 2020 – member communications**

As detailed in [FPS Bulletin 32 – April 2020](#), it will not be possible to include projections on the Annual Benefit Statements (ABS) this year which reflect the outcome of the Sargeant legal judgment.

This is because:

- a) the ongoing discussions on remedy are still confidential pending release of the consultation, and
- b) the software companies have confirmed that it will take at least 12 months to programme the software.

We have recommended that members are provided with a projection based on current regulations up to their normal pension age and that the caveat provided by HMT is included on the statement.

With both the remedy consultation and final Employment Tribunal hearing expected in July, member expectations may understandably be heightened. We appreciate the need to manage those expectations ahead of the ABS being released, so there is a clear understanding of why the statements do not reflect the outcome of the legal decision.

We suggest that wording adapted from the HMT caveat can be provided to members in advance of the ABS deadline, as follows:

*On 20 December 2018, the Court of Appeal ruled that the transitional arrangements introduced as part of the 2015 reforms to the Firefighters' Pension Scheme were discriminatory and, therefore, unlawful.*

*Following this ruling, the Government accepted that all public service pension schemes were similarly affected and is currently working on removing discrimination from the schemes for all affected members. This work is complex and is going to take some time. More information can be found in [written statement HWS187](#), which was released on 25 March 2020.*

*As yet, there is still uncertainty around the final approach to removing discrimination and for this reason it has not been possible to reflect the impact of the ruling in your ABS this year.*

*You will therefore receive an estimate of the benefits built up in your current scheme membership to 31/03/2020 and a projection of benefits based on current scheme regulations to the normal pension age for the current scheme you are a member of.*

Members can also be referred to [Bulletin 32](#), which gives a clear direction from the Scheme Advisory Board (SAB) that projections can and should be based on the current scheme rules only.

## **Raising tax awareness through job advertisements**

As thresholds for the annual and lifetime allowances have decreased, there is an increasing likelihood of members breaching tax limits by accepting a promotion or change of position which attracts pensionable allowances.

The importance of communicating potential tax issues to members has been a topic of regular discussion for the SAB and is supported by recent Pension Ombudsman determinations. Following a recent meeting of the Fire Communications Working Group (FCWG) we are pleased to provide the following standard wording to be included within job adverts.

Our thanks go to colleagues at West Yorkshire Fire and Rescue Service for supplying the suggested wording:

### **Pension Considerations**

#### **Annual Allowance**

*Please note that it is your personal responsibility to check whether by applying/accepting this position it would result in any Annual Allowance implications. A breach in the Annual Allowance threshold could result in a Tax charge. Further information on Annual Allowance can be obtained from our Pensions team.*

#### **Lifetime Allowance**

*Please note that it is your personal responsibility to check whether by applying/accepting this position it would result in any Lifetime Allowance implications. A breach in the Lifetime Allowance threshold will result in a Tax charge. Further information on Lifetime Allowance can be obtained from our Pensions team.*

#### **Temporary Promotions/Positions**

*Please note that any period of 'temporary', whether that is by way of promotion or allowances associated with a temporary position, will be treated as non-pensionable.*

## **Guide to linking benefits in the FPS**

We are pleased to release the long-awaited [guide to combining pension scheme service](#) in the Firefighters' Pension Schemes, developed by the FCWG.

The guidance set out in the booklet applies to all kinds of leaving and re-joining the FPS regardless of employment status.

[Click here to return to Contents](#)

It has been designed to assist administrators in determining the actions to be taken when members have periods of pensionable service which can be linked.

This is an informal guide only, developed with the help of the communications group and the technical group and should not be treated as a complete and authoritative statement of the law. Please also note that the guide is based on our current understanding of the scheme rules.

Although the guidance is likely to be revoked or significantly altered when the remedy provisions are implemented, we felt it was important to release the guide in the meantime, to allow FRAs and administrators to reach a consistent position to apply remedy from.

We would be grateful to receive any comments on the guide to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk). We would like to thank West Yorkshire Pension Fund for their considerable input to the guide.

## IQMP patient confidentiality and the pension scheme rules

We have previously been asked for guidance with regard to IQMPs providing the medical report directly to the member to request consent for the information to be shared with the FRA.

We have been provided with a copy of this [clarification from GMC on the sharing of confidential reports](#). While the report specifically refers to the Police Pension Scheme, we can advise that this would also cover the FPS. In brief the message is that:

- An IQMP is not required to provide a copy of their report to the applicant, this should be submitted to the FRA who must supply a copy of the opinion to the member within 14 days of the determination
- The applicant is not able to prevent the report's release to the FRA if they disagree with its contents or the IQMP's opinion. Once the examination has taken place, the IQMP is required by law to report their opinion to the FRA, and if the subject is dissatisfied with the report, they have the opportunity to appeal.

This is supported by the following rules in the Firefighters' Pension Schemes:

Table 2: FPS regulations on IQMP examinations and reports

	FPS 1992 [ <a href="#">H1</a> ]	FPS 2006 [ <a href="#">Part 8, Para 2</a> ]	FPS 2015 [ <a href="#">Part 12, Reg 152</a> ]
<b>Person must submit to an examination by an IQMP in order to determine eligibility, otherwise the fire</b>	<b>Sub Para 3</b> If the authority is unable to obtain an IQMP opinion by reason of a person's refusal or wilful or negligent	<b>Sub Para 6a</b> If the person concerned wilfully or negligently submits to medical examination the authority may	<b>Sub para 7a</b> If the person concerned wilfully or negligently submits to medical examination the authority may

<b>authority have discretion to make a decision.</b>	failure, they may give such a decision on the issue as they may choose.	make a decision on the issue.	make a decision on the issue.
<b>IQMP must report to FRA on their opinion</b>	<b>Sub Para 2</b> The IQMP must report and their opinion will be binding.	<b>Sub Para 4</b> The IQMP must report and their opinion will be binding.	<b>Sub Para 5</b> The IQMP must report and their opinion will be binding.
<b>It is for the scheme manager not the IQMP to supply a copy on the opinion to the individual.</b>		<b>Sub Para 7</b> The scheme manager must supply a copy on the opinion within 14 days of making a determination	<b>Sub Para 8</b> The scheme manager must supply a copy on the opinion within 14 days of making a determination

## Website and resources update

The following pages have been added to the member-restricted section of the [Firefighters' Pension Schemes Regulations and Guidance](#) website this month. If you require log-in details for this area, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

**[Ill-health review group 2008](#)**. This page contains papers relating to meetings held by the Firefighters' Pension Scheme ill-health review group (FPS IHRG) in 2008.

The Secretary of State for Communities and Local Government established the group to look into the operation of the regulations governing ill-health pensions and related workforce arrangements.

**[Protected pension age](#)**. This page has been developed to hold information and resources about protected pension age as it relates to members of the Firefighters' Pension Scheme 1992.

**[Unauthorised payments](#)**. This page has been created to collate information, legislation, and resources relating to unauthorised payments in the Firefighters' Pension Schemes.

A new factsheet entitled [pensionable pay resources](#) has been added to the [Factsheets](#) tab of the website. This document reinforces the basic principles that should be taken into account when pensionable pay decisions are being made and highlights the guidance and resources available to assist decision makers.

## June query log

The current [log of queries and responses](#) is available on the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log will be updated on a monthly basis in line with the bulletin release dates.

Queries from earlier months have been grey-shaded to differentiate from new items added in June.

[Click here to return to Contents](#)

## FPS England SAB updates

### COVID-19 FPS governance survey

At the time of writing, we have received 15 responses to the [COVID-19 FPS governance survey](#) which we are running to establish whether the current situation is impacting on scheme governance.

The survey should take around 10 minutes to complete and we would welcome responses from the scheme manager and/ or Local Pension Board chair.

As our distribution lists do not yet extend to delegated scheme managers, please forward this request as appropriate.

The survey deadline is extended to 31 July 2020. Please ensure that a response is provided for your FRA.

### Template administration strategy consultation

One of the recommendations arising from the SAB-commissioned [FPS administration and management review](#), as undertaken by Aon, was the development and implementation of a pension administration strategy.

One of the key proposals was that the strategy should include “expected timescales or key performance indicators which could be aligned with the provision of an effective and efficient administration service”<sup>1</sup>.

Pension administration strategies are not commonly held for the FPS, as each FRA is the single employer and scheme manager, and administration is generally contracted out. In addition, there is no legislative requirement for a strategy to be in place.

However, Aon identified that implementation of an administration strategy, to complement any formal service level agreement in place by clearly setting out the roles and expectations of scheme managers and administrators, would help to formalise standards between both parties, as well as improving communication and engagement. A clear preference emerged from the [SAB administration and benchmarking committee](#) (“the Committee”) that this should incorporate administration, management, and governance of the schemes.

A template strategy has been drafted in collaboration with the FCWG and the Committee. We are now seeking stakeholders’ views on the document.

Please find the [consultation document](#) (Appendix 1) and [draft template administration strategy](#) (Appendix 2). The consultation will run until 31 August 2020 and responses should be sent to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

---

<sup>1</sup> [Firefighters' Pension Scheme - Administration and Benchmarking Review](#) [Page 69]



## SAB minutes index

We have updated the index of SAB meeting minutes to allow readers to easily find discussion on certain topics.

The index is held on the main [Board meetings webpage](#) and will be updated following agreement of each new set of minutes.

## Other News and Updates

### TPO determine on data

The pensions' press have recently reported on a pension ombudsman decision on [Yorkshire & Clydesdale Bank Final Salary Scheme and Bradford and Bingley Staff Pension Scheme 1991](#) and the importance of good scheme data. The case centred on whether there was enough proof of a deferred benefit for a member, and the ombudsman ruled that the deferred pension should be reconstructed, and benefits paid to the individual.

A further case was upheld against the [Royal Mail Statutory Pension Scheme](#) (RMSPS) where the scheme's records did not correspond with the National Insurance Contribution Office's (NICO) records during GMP reconciliation, and the scheme could not evidence that the member's full pension benefits had been transferred to another arrangement. The ombudsman ordered that the member's full revalued deferred benefit should be paid, along with an award for distress and inconvenience.

Such data errors are not confined to private sector schemes. Examples of common data errors we see in the FPS are knowledge of eligibility for [APB's](#) and the [two pension rule](#), [loss of protected pension age](#) and lack of payroll records to calculate retained firefighter benefits.

In order to help Local Pension Boards and scheme managers ensure there is good data management in the scheme LGA run an [annual data event](#), provide advice on [TPR data scoring](#) and [accuracy weighting](#), provided training on GDPR at the data event on [29 March 2018](#), commissioned a [template privacy note](#) for use by FRAs as data controllers, provide advice on one of the top six key processes that TPR measure performance on, which is a process to monitor records for accuracy / completeness, in the [TPR six key processes](#) factsheet, and ensure that all references to good data management can be easily found in the bulletin subject index found on the [bulletin page](#) under the topic heading 'Data and Statistics'

### Pension dashboard update

We reported in [FPS Bulletin 32 – April 2020](#) that the Pension Dashboard Programme (PDP) had released two working papers outlining the Programme's current thinking on data requirements for dashboards:

[Data scope](#): setting out options for achieving early coverage across all pension sectors.

[Click here to return to Contents](#)



[Data definitions](#): listing the set of data items that could be included in the dashboards data standards.

Following a delay in consultation due to the outbreak of coronavirus, the call for input on the papers will open on 6 July 2020.

More information on the status of the project can be found in the [Money and Pension Service \(MaPS\) press release of 22 June 2020](#) and the newly launched [PDP website](#).

### **Transfer arrangements for CARE additional pension (FPS 2015)**

The Cabinet Office (who is responsible for the Club transfer rules) has confirmed that additional pension attached to CARE benefits (“CARE added pension”) cannot be transferred under Club arrangements. CARE added pension is extra pension the member has bought by paying additional pension contributions.

[The Club Memorandum](#) sets out that added pension attached to final salary benefits should not be transferred under Club arrangements (under the “outer Club” rules). When a member with added pension takes an outer-Club transfer, the transfer value must be calculated in two parts: the final salary element, calculated on Outer-Club terms; and the added pension element calculated on non-Club terms. Our LGPS colleagues queried with the Cabinet Office whether this also applies when a member with CARE added pension takes an inner-Club transfer, as it did not appear to be covered in the Memorandum.

After consulting with GAD, the Cabinet Office has informed the LGA that the Club arrangements should also not apply to CARE added pension. This is because “the value of accrued Added Pension is not affected by an active service link, so it has no need of the Club.”

The Cabinet Office will update the Memorandum accordingly at its next review. In the meantime, they will send an update to all relevant public service pension schemes.

## **Events**

### **FPS coffee mornings**

We are continuing to run our online coffee mornings every second Tuesday while social distancing measures remain in place. These informal sessions lasting up to an hour allow practitioners to catch up with colleagues and hear a brief update on FPS issues from the LGA Bluelight team.

The next event is scheduled to take place on 14 July 2020.

Future sessions will be held using Microsoft Teams, as not all organisations allow access to Zoom.

[Click here to return to Contents](#)

If you would like to join us, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) and we will forward the meeting link and any password needed.

Please note that sessions should not be recorded. These sessions are informal and should not be construed as legal advice.



### Brew and a Chat

- Come and join us every second Tuesday at 11am for a chance to catch up with colleagues starting 5 May

Invitation only: Please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) to be sent your zoom link and password.



**No responsibility whatsoever will be assumed by LGA or their partners for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information shared in these sessions.**

## Annual Local Pension Board wrap-up training 2020

We are once again running our popular annual Local Pension Board (LPB) wrap-up session, for board members who are either new to the board or those wanting an opportunity to refresh themselves on the principles of governance for the Firefighters' Pension Schemes. [Details of our previous wrap-up sessions can be found here.](#)

We are delighted to welcome Nick Gannon from TPR who will be joining us for a session on last year's TPR governance and administration survey results; you may wish to read the [six key processes factsheet](#) to refresh yourselves on the processes that TPR monitors.

The second and final session is running via Zoom on 8 July, from 11:00 until 13:30, please [click to view the full agenda.](#)

If you would like to participate click the link to [request a place on the LPB wrap-up training 8 July 2020.](#)

## HMRC

### HMRC newsletters/bulletins

HMRC have published pension schemes newsletter 121 containing important updates and guidance on pension schemes. The following issues are covered:

[Click here to return to Contents](#)

### [Pension schemes newsletter 121 – 25 June 2020](#)

- temporary changes to pension processes as a result of coronavirus (COVID-19)
- managing pension schemes service
- real time information - cessation of earlier year updates and use of full payment submissions

## Legislation

SI	Reference title
<u><a href="#">2020/630</a></u>	The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2020

## Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [Khub Firefighters Pensions Discussion Forum](#)
- [FPS1992 guidance and commentary](#)
- [The Pensions Regulator Public Service Schemes](#)
- [The Pensions Ombudsman](#)
- [HMRC Pensions Tax Manual](#)
- [LGA pensions website](#)

## Contact details

### **Clair Alcock (Senior Pension Adviser)**

Telephone: 020 7664 3189

Email: [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk)

### **Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

Email: [kevin.courtney@local.gov.uk](mailto:kevin.courtney@local.gov.uk)

### **Claire Hey (Firefighters' Pension Adviser)**

Telephone: 020 7664 3205

Email: [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

[Click here to return to Contents](#)

## Copyright

Copyright remains with Local Government Association (LGA). This bulletin may be reproduced without the prior permission of LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

## Disclaimer

The information contained in this bulletin has been prepared by the Bluelight Pensions team, part of the Local Government Association (LGA). It represents the views of the team and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this bulletin.

While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

## **Firefighters' Pension Scheme: Consultation on draft template FPS Administration, Management, and Governance strategy**

## Contents

<b>1</b>	<b>Topic of consultation</b>	<b>2</b>
<b>2</b>	<b>Scope of consultation</b>	<b>2</b>
<b>3</b>	<b>Background</b>	<b>2</b>
<b>4</b>	<b>Consultation questions</b>	<b>3</b>
4.1	Do you agree with the employer duties and responsibilities listed? If not, please outline why.	3
4.2	Do you agree with the administrator duties and responsibilities listed? If not, please outline why.	3
4.3	Are there any additional functions/ tasks which should be added to section 8: Service standards?	3
4.4	Are the standard timescales listed in Appendix 1 reasonable and in line with statutory deadlines?	3
4.5	Will you adapt and implement the template strategy for your authority in line with best practice? If not, please explain why.	3
4.6	Please detail any other comments not covered by the above.	3

## 1 Topic of consultation

Introduction of a [template pension administration strategy](#) to complement any formal service level agreement in place by clearly setting out the roles and expectations of scheme managers and administrators, helping to formalise standards between both parties, as well as improving communication and engagement.

## 2 Scope of consultation

This consultation seeks responses from interested parties on the draft document. In particular we would like to hear from administrators, scheme managers, and Local Pension Boards. The consultation applies in England only.

**The consultation will run from 30 June to 31 August 2020.**

Please send any enquiries to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk). Responses should be sent to the same address.

## 3 Background

In 2018, the SAB commissioned a [review of FPS administration and management](#). Following a procurement process, Aon were the successful bidder and carried out a survey of employers, administrators, and members in order to publish a comprehensive report on the cost and efficiency of running the schemes.

One of the recommendations arising from review was the development and implementation of a pension administration strategy.

One of the key proposals was that the strategy should include “expected timescales or key performance indicators which could be aligned with the provision of an effective and efficient administration service”<sup>1</sup>.

Pension administration strategies are not commonly held for FPS, as each FRA is the single employer and scheme manager, and administration is generally contracted out. In addition, there is no legislative requirement for a strategy to be in place.

However, Aon identified that implementation of an administration strategy, to complement any formal service level agreement in place by clearly setting out the roles and expectations of scheme managers and administrators, would help to formalise standards between both parties, as well as improving communication and engagement. A clear preference emerged from the [SAB administration and benchmarking committee](#) (the “Committee”) that this should incorporate administration, management, and governance of the schemes.

A [template strategy](#) has been drafted in collaboration with the Fire Communications Working Group (FCWG) and the Committee. We are now seeking stakeholders’ views on the document.

## **4 Consultation questions**

- 4.1 Do you agree with the employer duties and responsibilities listed? If not, please outline why.**
- 4.2 Do you agree with the administrator duties and responsibilities listed? If not, please outline why.**
- 4.3 Are there any additional functions/ tasks which should be added to section 8: Service standards?**
- 4.4 Are the standard timescales listed in Appendix 1 reasonable and in line with statutory deadlines?**
- 4.5 Will you adapt and implement the template strategy for your authority in line with best practice? If not, please explain why.**
- 4.6 Please detail any other comments not covered by the above.**

<sup>1</sup> [Firefighters' Pension Scheme - Administration and Benchmarking Review](#) [Page 69]

## **Compliance**

# **FPS Administration, Management, and Governance Strategy**

## **Contents**

<b>1</b>	<b>Background.....</b>	<b>2</b>
<b>2</b>	<b>Introduction.....</b>	<b>3</b>
<b>3</b>	<b>Compliance .....</b>	<b>3</b>
<b>4</b>	<b>Review .....</b>	<b>3</b>
<b>5</b>	<b>Liaison and communication.....</b>	<b>4</b>
5.1	Employer contacts .....	4
5.2	Administrator contacts .....	4
<b>6</b>	<b>Employer duties and responsibilities.....</b>	<b>5</b>
6.1	Discretions.....	5
6.2	Internal Dispute Resolution Procedure (IDRP).....	5
6.3	The Pensions Regulator (TPR).....	6
6.4	Data transfer.....	7
6.5	Contribution bands.....	7
6.6	Reporting breaches .....	7
6.7	Top-up grant .....	7
6.8	HMRC reporting.....	8
6.9	General Data Protection Regulation (GDPR).....	9
6.10	Disclosure.....	9
<b>7</b>	<b>Administrator duties and responsibilities.....</b>	<b>10</b>
7.1	Performance reporting .....	10
7.2	Improving performance .....	10
7.3	Overriding legislation .....	11
7.4	Data standards .....	11
7.5	Audit .....	12
7.6	Benchmarking.....	12
<b>8</b>	<b>Service standards .....</b>	<b>12</b>
<b>9</b>	<b>Local Pension Board responsibilities .....</b>	<b>18</b>
	<b>Appendix 1. Standard timescales .....</b>	<b>19</b>



# 1 Background

In 2018, Aon were commissioned by the Firefighters' Pensions (England) Scheme Advisory Board (SAB) to undertake a benchmarking review of the administration and management of the Firefighters' Pension Scheme (FPS).

One of the recommendations made within the report was the implementation of a locally developed pension administration strategy to formalise standards and expectations of the Fire and Rescue Authority (FRA) and their administrator:

*"We suggest that the Board considers recommending regulatory changes to encourage best practice among all scheme managers/FRAs and administrators across the Scheme. This could be achieved by setting out requirements for each Scheme Manager to have a locally developed pensions administration strategy in place. This could be mandated but as a minimum it could set out the need to have one to demonstrate best practice (as is the case in other schemes such as the LGPS). An administration strategy should set out the scheme manager's aims and objectives and how those are going to be achieved in conjunction with the administrator. Performance against those aims, and objectives, must then be appropriately measured and monitored and where administration levels are not to the required standard, plans should be in place to address those areas of concern. An administration strategy should be determined locally (with support in doing so made available from centrally prepared guidance).*

*A range of target timescales should be determined by each FRA and it is good practice for them to be included in an administration strategy. Scheme managers may wish to set shorter timescales or other targets for specific processes rather than relying on legal timescales in all cases. The administration strategy should be publicly available for all stakeholders (including members). It could also set out the consequences of what not achieving those targets would be."*

While there is no legislative requirement for FRAs to have such a strategy in place, the SAB secretariat have provided this template for authorities to adopt to demonstrate best practice in the administration and management of the FPS. With each of the 45 FRAs in England responsible for managing the scheme and making decisions in their own right, this document also seeks to ensure a level of consistency in the service offered to scheme members, with FRAs working in conjunction with their administrator. There are currently 18 different administrators providing administration services across the 45 FRAs.

As the FRA as [scheme manager](#) has responsibility for both administering and managing the scheme, it was determined by the SAB [Administration and Benchmarking committee](#) ("the Committee") that the scope of the document be extended to include each of these roles, and that the expectations of Local Pension Boards in their role of assisting the scheme manager should also be included.

This document has been prepared by the SAB secretariat in conjunction with the Committee and the Fire Communications Working Group. Our thanks go to the following organisations for assistance with the project: Shropshire Pension Fund, West Yorkshire Pension Fund, and Leicestershire County Council.

## 2 Introduction

[INSERT NAME Fire and Rescue Authority/ PFCC/ London Fire Commissioner] (“the Employer”) is defined in law as the scheme manager<sup>1</sup> and is therefore responsible for the management and administration of the Firefighters’ Pensions Schemes for scheme members employed by [INSERT NAME of Fire and Rescue Service].

Administration of the scheme has been outsourced to [INSERT NAME of administrator].

This document is the FPS Administration, Management, and Governance Strategy statement which outlines formal standards and expectations of the Fire and Rescue Authority (FRA) and their administrator, along with expectations of the Local Pension Board<sup>2</sup> in their role of assisting the scheme manager.

The aim of the document is to ensure that a consistent, cost-effective, and high-quality pension service is provided to members, recognising that full and transparent collaboration between stakeholders is key to achieving this aim.

## 3 Compliance

The following stakeholders have been consulted in the development of this statement: (delete as appropriate) Local Pension Board; administrator [INSERT NAME]; software provider [INSERT NAME]; other [INSERT DETAILS].

The scheme manager is the owner of the document. A copy can be found at [INSERT WEB ADDRESS].

This strategy does not override any provision contained with the scheme regulations or any administration guidance provided by the Local Government Association (LGA).

The document has been presented, considered, and ratified by the Local Pension Board on [INSERT DATE] and applies to all interested parties from this date.

## 4 Review

The strategy will be reviewed following any changes to scheme rules, processes, or procedures which affect this strategy, including a change of administrator, or every three years if this is sooner.

Changes will be made following consultation with the above-named bodies and a copy of the updated strategy will be made available online. Full consultation will not take place when there has been a change of contacts details only in 5.1 or 5.2 below.

Suggestions for improvement to this strategy are welcome from stakeholders at any time.

<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2014/2848/regulation/4/made>

<sup>2</sup> <http://www.legislation.gov.uk/ukxi/2015/465/regulation/4/made>

## 5 Liaison and communication

### 5.1 Employer contacts

The employer will nominate contacts in the following areas to allow correspondence to be directed to the most relevant individual. These contacts will be provided to the administrator and the LGA.

<b>Scheme manager (strategic) contact</b> for valuation, scheme consultations, surveys, discretions, and Internal Dispute Resolution Procedure (IDRP)  [INSERT ROLE] or [INSERT NAME] and [CONTACT DETAILS]
<b>Pension liaison contact</b> for day to day administrative duties such as completion of forms, responding to queries, and HR functions  [INSERT ROLE] or [INSERT NAME] and [CONTACT DETAILS]
<b>Payroll contact</b> for queries relating to pay, year-end postings, or pensioner payroll  [INSERT ROLE] or [INSERT NAME] and [CONTACT DETAILS]
<b>Finance contact</b> for submission of monthly/ annual returns, SAB levy payment requests  [INSERT ROLE] or [INSERT NAME] and [CONTACT DETAILS]

The delegated scheme manager is responsible for keeping the nominated contacts up to date and providing prompt notification of changes.

### 5.2 Administrator contacts

The administrator will provide the following contact information for employers and their members [ADMINISTRATOR TO COMPLETE/ DELETE AS APPROPRIATE]:

<b>Pension Fund representative</b> for regulatory or administration queries, training, advice and guidance  [INSERT ROLE] or [INSERT NAME] and [CONTACT DETAILS]
<b>Finance contact</b> to assist with the monthly returns process/ year end  [INSERT ROLE] or [INSERT NAME] and [CONTACT DETAILS]
<b>Systems contact</b> to assist with the monthly returns process/ year end  [INSERT ROLE] or [INSERT NAME] and [CONTACT DETAILS]
<b>Member helpline</b> for queries

[INSERT CONTACT DETAILS]

## 6 Employer duties and responsibilities

### 6.1 Discretions

As a matter of best practice, **the scheme manager shall prepare and publish a written statement on the exercise of discretions** which are available to them under each set of FPS regulations. The discretions policy will be kept under review and the revised version published within one month of the effective date.

A full list of [scheme manager discretions](#) is available.

### 6.2 Internal Dispute Resolution Procedure (IDRP)

If a scheme member, prospective member, dependant, or other person with an interest in the scheme, is dissatisfied with a decision made by the FRA (or the failure to make a decision) there are rights of appeal available. Each set of scheme rules contains arrangements for Internal Dispute Resolution Procedures (IDRP) based on the requirements of the Pensions Act 1995 and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008.

Firefighters' Pension Scheme 1992 (FPS 1992)	<a href="#">Rule H3</a> (as amended by SI 2013/1392)
Firefighters' Pension Scheme 2006 (FPS 2006)	<a href="#">Part 8, paragraph 5</a>
Firefighters' Pension Scheme 2015 (FPS 2015)	<a href="#">Regulation 163</a>
Firefighters' Compensation Scheme (FCS)	<a href="#">Part 6 rule 3</a>

**The scheme manager will nominate appropriate persons to hear each stage of the appeal and respond to the individual within the specified timescales.**

The nominated contacts for [INSERT NAME of FRA] are

Stage 1	
Stage 2	

Guidance on IDRPs can be found here:

- [IDRP factsheet](#)
- Guidance for decision makers [pending review]
- Guidance for individuals [to follow]

## 6.3 The Pensions Regulator (TPR)

[TPR](#) is a public body established by the [Pensions Act 2004](#) to make sure that pension schemes within the UK are run properly and can provide secure benefits for their members upon retirement. TPR has powers to "educate, enable, and enforce", and is responsible for promoting good scheme administration. The Regulator is sponsored by the Department for Work and Pensions (DWP).

TPR's oversight of public service pension schemes, including the Firefighters' Pension Schemes, was introduced by schedule 4 of the [Public Service Pensions Act 2013](#).

**The scheme manager will ensure that they are familiar with TPR's [Code of Practice 14: Governance and administration of public service pension schemes](#).**

**Each year TPR issue two requests for information which the scheme manager and Local Pension Board (LPB) shall ensure are completed:**

**[Scheme return](#)** – the scheme return is a statutory return which allows TPR to keep their register of workplace pension schemes up to date.

The return asks for information about what type of scheme the FPS is and how many members each employer has, as well as requesting up to date contact details.

The return also asks schemes to provide their common and scheme specific data scores, which enables TPR to monitor continuous data improvement. Information on data scoring for the FPS is available below

[Advice on TPR data scoring 2019](#)

[Data score weighting template 2019](#)

TPR can and will take enforcement action if the scheme return is not completed.

**[Governance and Administration survey](#)** – scheme managers are invited to complete the annual governance and administration survey in conjunction with their LPB. Although the survey is not mandatory, participation is strongly encouraged by both TPR and the Scheme Advisory Board, so that improvements in running the FPS can be monitored and evidenced.

TPR do not take any regulatory action based on survey responses, but overall trends may inform their engagement activity with schemes.

Familiarity with [TPR's six key processes](#) will assist schemes with understanding and compliance.

One of TPR's key areas of focus is record keeping and data quality. **Scheme managers shall ensure that [data is reviewed annually](#) and that a [data improvement plan](#) is in place.**

Non-completion of either of the above requests for information may indicate wider governance failings to TPR.

## 6.4 Data transfer

**The scheme manager will ensure that processes are in place for timely and accurate transfer of data.**

Data will be transferred to the administrator electronically on a [monthly/ annual] basis in line with the deadlines set out in [8. Service standards](#).

## 6.5 Contribution bands

Banded contribution rates apply to the FPS based on a member's pensionable pay.

**The scheme manager will ensure that there are processes in place to allocate members to the correct contribution band at the start of each scheme year.**

Contributions are laid in legislation for each scheme and can be found on the [annual updates](#) page of the Regulations and Guidance website.

**Until remedy in the transitional protections case is implemented, the scheme manager will have a process in place to manage members tapering** from FPS 1992 or 2006 to FPS 2015. The process should confirm how the taper date is notified to payroll and what kind of monitoring is in place to ensure contributions are changed on the correct day.

## 6.6 Reporting breaches

**Scheme managers and pension board members have a statutory obligation to report breaches of the law.**

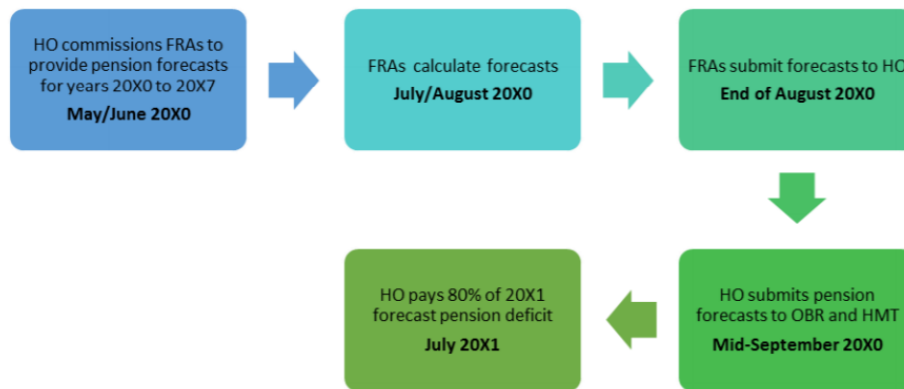
When a potential breach has been identified, the [breach assessment template](#) should be completed to assess the breach for materiality to determine whether it needs to be reported to TPR. This can also be stored as documentary evidence if the decision is later challenged.

Although a breach may not seem material in terms of numbers of members affected, if the same members are consistently affected, this should be considered, along with likely timescales for rectification and what action may be taken to ensure that the breach does not reoccur.

Further information about breach recording and reporting can be found in the [TPR six key processes](#) factsheet and from TPR at <https://www.thepensionsregulator.gov.uk/en/public-service-pension-schemes/scheme-management/reporting-breaches-of-the-law>.

## 6.7 Top-up grant

Each year the Home Office commissions FRAs to submit pension forecasts for the following seven financial years in line with the following timescales.



The pension forecasts for the financial year following the collection are used to make an initial assessment on each fire authority's annual top up grant entitlement for that year.

The collection of accurate annual pension forecast data is critical for ensuring sufficient budget cover is secured to make pension top up grant payments to FRAs each year.

**The scheme manager is responsible for ensuring this information is submitted accurately and on time.**

Full details are available in the [guide for fire authorities \(in England\) when calculating pension forecasts for the Firefighters' Pension Top Up Grant](#).

## 6.8 HMRC reporting

HMRC reporting may be delegated to the administrator under the terms of the service level agreement.

**Event Reporting** – the scheme administrator of a registered pension scheme must tell HMRC when certain reportable events occur no later than 31 January following the end of the tax year. This is done by submitting the Event Report for a tax year.

These reportable events are split into two categories:

- reportable changes, and
- reportable fund movements.

There are 23 reportable events. [HMRC guidance on sending pension scheme reports](#) provides more information on all events that you must report.

Full details on Event Reporting can be found in [HMRC Pensions Tax Manual 161100](#).



**Accounting for tax (AFT)** – the scheme administrator<sup>3</sup> is liable for payment of certain tax charges in connection with the scheme. When a scheme administrator does have a tax liability, the return that the scheme administrator must complete to account for that liability is called the Accounting for Tax return.

The scheme administrator is responsible for making the AFT return and for ensuring it is correct and complete.

A third-party administration provider can file the AFT on behalf of the scheme administrator but the scheme administrator remains responsible for ensuring that it is submitted on time and the contents are correct. Where a provider submits the AFT the scheme administrator should have seen and approved its content before it is submitted to HMRC. The provider must make a declaration that the scheme administrator has approved the contents before they can submit it to HMRC

Full details on AFT can be found in [HMRC Pensions Tax Manual 162100](#).

## 6.9 General Data Protection Regulation (GDPR)

**Each FRA is a Data Controller for pension scheme data under GDPR and must determine how, and for what purposes, data is to be processed.**

Resources to assist authorities in complying with their duties under the regulations are available have been made available on the following [dedicated GDPR webpage](#).

[INCLUDE STANDARD DATA PROTECTION PARAGRAPH e.g:]

[INSERT NAME of FRA] is a Data Controller as part of the Data Protection Act 2018 which incorporates the General Data Protection Regulation (GDPR). This means we store, hold and manage personal data in line with statutory requirements to enable us to provide pension administration services. To enable us to carry out our statutory duty, we are required to share information with certain bodies, but will only do so in limited circumstances. More information about how we hold data and who we share it can be found in the Authority's Privacy Notice on [INSERT WEB ADDRESS].

## 6.10 Disclosure

Under the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations, **the scheme manager must provide certain information to scheme members within certain timescales.**

Please refer to the [guide to disclosure of information requirements](#) for more information.

<sup>3</sup> Please note this is not a reference to the pension administration provider. This refers to the duties of the Fire and Rescue Authority as stated in paragraph 3, sub paragraph 2 of [2006/569](#) which confirms that references to 'scheme administrator' as set out in schedule 3 should be read as a reference to the sub-scheme administrator as per schedule 2, in which the FRAs are listed.



## 7 Administrator duties and responsibilities

### 7.1 Performance reporting

Ensuring compliance is the responsibility of both the administrator and the FRA. Parties should work closely together to ensure compliance with all statutory requirements, whether they are specifically referenced in the regulations, in overriding legislation, or in this administration strategy.

Both employer and administrator targets will be measured on a quarterly basis against specific tasks set out in the service level agreement and these will be reported to the FRA. The FRA may choose to provide the information to their Local Pension Board.

[The administrator] will ensure that they are appropriately resourced to meet the service level agreement in place.

The service level agreement can be viewed [INSERT LINK].

Minimum standards for completing tasks in line with industry good practice and regulations, where applicable, are included at [Appendix 1](#). These are provided as a guide to the minimum requirements. As a matter of best practice, administrators may want to implement shorter local timescales.

A key factor in calculating the time taken to complete a process is the point at which the 'time clock' is started. This may be from the date of the relevant event or when the administrator is informed or receives all necessary information. The clock may also need to be 'paused' during the process, for example to await instruction or documentation from the member or employer, and these waiting days can reasonably be excluded from the total time taken.

Pension administration software typically contains task-management/ work-flow modules which allow timescales to be built in.

### 7.2 Improving performance

Where areas of poor performance on either side are identified, [the administrator] will work closely with the FRA to provide the opportunity for necessary training and development and put in place appropriate processes to improve the level of service delivery.

- Initially [the administrator] will liaise with the FRA setting out the area(s) of poor performance and how they can be addressed.
- Where no improvement is demonstrated or there has been a failure to take agreed action, [the administrator] will write to the scheme manager setting out the area(s) of poor performance that has been identified and the steps taken to resolve those area(s).
- If lack of improvement continues or there has been ongoing failure to take agreed action, [the administrator] will write to the

Local Pension Board setting out the area(s) of poor performance that has been identified and the steps taken to resolve those area(s).

Administrators rely on timely and accurate data from the FRA. Where persistent and ongoing failure occurs and no improvement is demonstrated, [the administrator] will escalate this to the scheme manager and Local Pension Board.

Where an employer fails to operate in accordance with the standards described in this Strategy, which leads to extra costs being incurred by the administrator, the administrator may issue a written notice requiring that these be met by the employer.

Any third-party costs or regulatory fines incurred by the administrator as a result of poor performance by the employer will also be recovered. Such costs may include fines imposed by the Pensions Ombudsman or Pensions Regulator, and additional charges in respect of actuarial or software fees, and additional printing and distribution costs.

## 7.3 Overriding legislation

In addition to the scheme regulations, the administrator and FRA will comply with any overriding legislation, including:

- the Occupational Pensions Schemes (Disclosure of Information) Regulations 2015;
- the Pensions Act 1995, 2004 and 2014;
- any Transitional Regulations currently in place;
- the Data Protection Act 1998;
- the Freedom of Information Act 2000;
- the Disability Discrimination Act 1995;
- the Age Discrimination Act 2006;
- the Finance Act 2004;
- Health and Safety legislation;
- Employment Rights Act 2010;
- HMRC Legislation and Current GAD Guidance;
- Public Service Pensions Act 2013;
- The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014
- The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010

and any future amendments to the above legislation.

## 7.4 Data standards

**The administrator will ensure that suitable and secure methods of data transfer are available for the FRA to use.**

Personal data will only be transferred from one party to the other via an acceptable method specified by the administrator which may include any of the following:

- a. Data transfer service (Internet based application)
- b. Secure email
- c. Paper forms signed by an authorised officer from the employer
- d. Password protected excel spreadsheet

## 7.5 Audit

[The administrator] is subject to an annual audit of its processes and internal controls. It is proposed that [the administrator's] internal audit will provide assurance to the Local Pension Board by auditing the pension administration service provided to the FRA.

FRAs are expected to fully comply with any requests for information from both internal and approved external auditors.

Any subsequent recommendations will be considered and where appropriate implemented (following any necessary discussions with the FRA).

## 7.6 Benchmarking

[The administrator] will periodically monitor its costs and service performance against the initial Aon report and any other benchmarking tool which may become available, to ensure that FRAs continue to receive value for money.

## 8 Service standards

The FRA and administrator responsibilities expected in relation to member events are outlined in the table below. Minimum standards for completing each task in line with industry good practice and regulations, where applicable, are included at [Appendix 1](#).

Function/ task: New starters	
Employer responsibility	Administrator responsibility
Ensure pension information is included in new starter documentation e.g. appointment letter, contract of employment.	Create accurate member records on the pensions administration system following notification of a new entrant to the scheme.
Ensure eligible new starters are put into the scheme from their start date.	Provide new members with confirmation of joining (within 8 weeks of notification).
Provide accurate member data to the administrator on the appropriate form/via electronic interface. (within 4 weeks/ 10 working days).	Record and update member data on the pension administration system following the receipt of a completed new member form.

<p>Provide starters with a new member form and access to a scheme guide with their contract of employment.</p> <p>Determine the correct contribution band and rate for the member.</p> <p>Inform the administrator of any eligible employees subject to automatic entry, who opt out of the scheme within three months of joining.</p> <p>Process payroll refunds for these members.</p> <p>Where there is more than one contract of employment with the same employer, each membership shall be treated separately for the purposes of the above.</p>	
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

<b>Function/ task: Change in circumstances (active members)</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
<p>Inform the administrator of all material changes in circumstance on the appropriate form/via electronic interface (<b>within 4 weeks/ 10 working days</b>).</p> <p>Changes may include</p> <p><b>Personal information:</b></p> <ul style="list-style-type: none"> <li>• Change of name or address</li> <li>• Marital status</li> <li>• National insurance number</li> </ul> <p><b>Conditions of employment affecting pension such as:</b></p> <ul style="list-style-type: none"> <li>• Contractual hours</li> <li>• Changes in pay</li> <li>• Contribution rate</li> <li>• Periods of reduced pay or unpaid absence</li> </ul> <p>During periods of reduced or nil pay as a result of sickness, injury or relevant child related leave (i.e. ordinary maternity, paternity or adoption leave or paid shared parental leave and any paid additional maternity or adoption leave) assumed</p>	<p>Accurately update member records on the pensions administration system.</p>

<p>pensionable pay should be applied for pension purposes.</p> <p><b>N.B.</b> As an increase in pay may cause a member to exceed their Annual Allowance, the administrator must be informed of:</p> <ul style="list-style-type: none"> <li>• Promotions</li> <li>• Additional allowances</li> </ul>	
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

<b>Function/ task: Annual return, Valuation, Annual Benefit Statements (ABS)</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
<p>Ensure the administrator receives accurate year to date information to 31 March by [INSERT DEADLINE].</p> <p>Provide the administrator with details of all CPD, temporary payments deemed pensionable and details of any temporary promotions from 1 July previous year to 30 June current year by [INSERT DEADLINE], to enable the appropriate APB to be calculated and awarded.</p> <p>Provide any additional information that may be requested to produce ABS for service up until the 31 March in each particular year by [INSERT DEADLINE].</p> <p>Provide the administrator with up to date and correct information as and when requested in accordance with agreed timescales and the regulations.</p> <p>Ensure that all errors highlighted from the annual contribution and pensionable pay posting exercise are responded to and corrective action taken promptly.</p>	<p>Process employer year end returns within [INSERT DEADLINE].</p> <p>Produce ABS for all active members by 31 August.</p> <p>Highlight if an individual has exceeded their annual allowance and issue a pensions saving statement by 6 October.</p> <p>Produce ABS for all deferred members by [INSERT DEADLINE] (no information from employers is required).</p> <p>Provide data to the scheme actuary to carry out the 4-year valuation of the scheme</p>

<b>Function/ task: Estimates (Retirements/ Transfers)</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
<p>Determine reason for estimate and provide fully completed request including pay and other relevant information to the administrator.</p>	<p>Issue individual quotations/information after all information required to process a quotation has been received.</p>

Direct members to any available online self-service facility.	<p>Provide information to the scheme member on any potential transfer in of benefits once all information required to process the quotation has been received (transfer estimate from other pension provider, contracting out, salary details etc).</p> <p>Maintain and promote any available self-service facility which allows members to view their pension information online.</p>
<b>Function/ task: Estimates (Divorce)</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
Provide fully completed request including pay and other relevant information to the administrator, <b>within 10 working days of the request.</b>	Issue divorce information including the CETV <b>within 3 months</b> of receipt of the request from the member or the Court.

<b>Function/ task: Retirements</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
<p>Submit the relevant, fully completed retirement form to the administrator as soon as the information is available.</p> <p>On request, provide the calculation of final pensionable pay so that the accuracy of the pay figure can be checked.</p>	<p>Return any form appearing to be incorrect to the FRA for amendment as soon as reasonably possible.</p> <p>Issue an initial offer letter and benefit information to the member <b>within 5 working days</b> of receiving the correct completed form.</p> <p>Issue a letter confirming actual retirement benefits <b>within 5 working days</b> of receiving completed documentation from the member.</p> <p>Make payment of any lump sum <b>within 5 working days</b> of receiving all relevant completed forms and proof of identity from the member, or on the retirement date if this is later.</p> <p>Make monthly pension payments on the relevant payment date of each month following retirement, including any arrears due. Payment dates may be adjusted to weekends and bank holidays.</p>
<b>Function/ task: Retirements – ill-health</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
Determine whether the member is entitled an ill-health award after obtaining a medical	Calculate and pay the required benefit in line with the above timescales.

<p>opinion from an Independent Qualified Medical Practitioner (IQMP) on the relevant scheme certificate and if so, which tier – upper or lower.</p> <p>Submit the relevant, fully completed retirement form to the administrator as soon as the information is available, including a copy of the IQMP certificate and confirmation of the relevant tier.</p> <p>On request, provide the calculation of final pensionable pay so that the accuracy of the pay figure can be checked.</p> <p>Make the appropriate payment into the notional pension fund:</p> <p>2 x final pay for lower tier 4 x final pay for upper tier</p> <p>Conduct ill-health reviews at the appropriate intervals as specified in the scheme regulations and notify the administrator of any changes.</p> <p>Review Injury Award pensions on an annual basis to ensure the correct DWP deductible benefits have been taken into account.</p>	<p>Review Injury Award pensions on an annual basis to ensure the correct DWP deductible benefits have been taken into account if this falls within the SLA.</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>Function/ task: Leaving before retirement – deferred benefits</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
<p>Notify the administrator using the relevant leaver form, ensuring all information is accurately provided, <b>within 4 weeks</b> of the member's date of leaving.</p> <p><b>N.B.</b> This includes members opting out with more than three months' service.</p> <p>Pay any refunds due <b>within 10 working days</b> of notification from the administrator.</p> <p>Pay any transfer payment due <b>within 10 working days</b> of notification from the administrator.</p>	<p>Accurately update member records on the pensions administration system.</p> <p>Notify the member of their deferred benefit entitlement and options <b>within 2 months</b> of receiving the correctly completed leaver form.</p> <p>Calculate a refund to an eligible member <b>within 10 working days</b> of receiving all relevant documentation and notify the employer.</p> <p>Issue one transfer-out quotation, guaranteed for 3 months, <b>within 10 days</b> of receiving all the information required.</p>



	Notify the employer of the amount to pay for transfer-out <b>within 5 days</b> of receipt of request from member.
--	-------------------------------------------------------------------------------------------------------------------

<b>Function/ task: Members with deferred benefits</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
<p>Keep adequate records for deferred members in case of a request for early payment.</p> <p>Following an application from a former member to have their deferred benefits paid early in ill-health grounds, obtain a medical opinion from an IQMP on the relevant certificate, and determine whether the member is eligible.</p> <p>Submit the relevant, fully completed form to the administrator, including a copy of the IQMP certificate.</p>	<p>Accurately update member records on the pensions administration system.</p> <p>Provide each deferred member with an annual statement of benefits, updated by the pensions increase award when applicable.</p> <p>Calculate and pay required benefits in line with the above timescales for retirement.</p>

<b>Function/ task: Death in service</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
<p>Inform the administrator immediately following the death of a member using the appropriate means, providing details of the next of kin if known.</p> <p>Pay any death grant due <b>within 10 working days</b> of notification from the administrator.</p>	<p>Send an acknowledgement letter to the next of kin <b>within 5 working days</b> of notification of death.</p> <p>Provide a letter to dependants confirming the benefits payable <b>within 5 working days</b> of receiving all certificates, proof of identity, and relevant completed forms.</p> <p>Assist the FRA and the next of kin by ensuring that benefit options and payments are expedited in an appropriate and compassionate manner.</p> <p>Review children's pensions at age 18 or annually if continue in full time education to age 23.</p>
<b>Function/ task: Death on pension</b>	
<b>Employer responsibility</b>	<b>Administrator responsibility</b>
<p>Where the FRA is made aware of the death of retired member, ensure that the administrator has been notified of the death to avoid overpayment of pension.</p>	<p>Send an acknowledgement letter to the next of kin <b>within 5 working days</b> of notification of death.</p>



	<p>Provide a letter to dependants confirming the benefits payable <b>within 5 working days</b> of receiving all certificates, proof of identity, and relevant completed forms.</p> <p>Assist the FRA and the next of kin by ensuring that benefit options and payments are expedited in an appropriate and compassionate manner.</p>
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Function/ task: Purchase of added pension	
Employer responsibility	Administrator responsibility
<p>Provide member with factsheet and quotation form on request. Form to be returned to the administrator.</p> <p>Arrange payroll deductions as advised by administrator.</p>	<p>Provide quote and election form to member <b>within 10 working days</b> of receipt of completed request.</p> <p>Advise employer of start date of contract and deductions from pay.</p> <p>Maintain a record of additional pension contracts.</p> <p>Pay the relevant benefits alongside main scheme benefits at retirement/ transfer-out.</p>

## 9 Local Pension Board responsibilities

Local Pension Boards were required to be established by the 1 April 2015 under the provisions of [Section 5 of the Public Service Pensions Act 2013](#) and regulation 4A of [The Firefighters' Pension Scheme \(Amendment\) \(Governance\) Regulations 2015](#).

The regulations state that each FRA must have an equal number of employer and member representatives, with a minimum of four members in total. Members are expected to have a sufficient degree of knowledge and understanding of the pension scheme to allow them to fulfil their role, which is to assist the scheme manager in complying with the pension scheme rules.

The LGA Bluelight pensions team can provide annual [training](#) for boards at a local or regional level. TPR also offers a series of courses on the [Public Service toolkit](#), to help those involved in scheme governance to improve their knowledge.

The Firefighter's Pensions (England) Scheme Advisory Board (SAB) website holds a range of [resources](#) that have been developed to facilitate the effective running of Local Pension Boards.

## Appendix 1. Standard timescales

Please see [7.1 Performance reporting](#) for more information.

Work-flow/ task	Standard (working days)
Respond to member queries	5 days
New starters processed	10 days
Changes in details processed	10 days
Active ABS issued	31 August – where year-end on time
Deferred ABS issued	31 May
Year-end queries to FRA	1 month
Pension saving statements	6 October
Divorce estimates	10 days
Transfers in	15 days
Transfer out estimates	10 days
Transfers out	10 days
Refunds paid	5 days
Deferred benefits calculated	2 months
Retirement options sent	5 days
Retirement benefits processed for payment	5 days (or by retirement date if sooner)
Deferred benefits paid	5 days
Death notification processed	5 days
Dependants benefits paid	5 days
Death grant paid	5 days
Retirement lump sum paid	5 days
Payments recalled due to death	12pm day before payroll
Changes to bank details	Payroll cut off



## FPS Bulletin 35 – July 2020

Welcome to issue 35 of the Firefighters' Pensions Schemes bulletin.

We hope that readers remain safe and well.

Although restrictions on travel and social distancing are gradually easing, face-to-face meetings and training remain suspended for the time being. However, the Bluelight team are available at home by mobile, email or video (MS Teams, Skype, or Zoom).

If you are looking for information on a certain topic, issue and content indexes are held on the [main bulletin page](#) of the website and are updated following each new issue.

If you have any comments on this bulletin or suggested items for future issues, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk).

## Contents

<b>Contents</b>	<b>2</b>
<b>Calendar of events</b>	<b>3</b>
<b>Actions arising</b>	<b>3</b>
<b>FPS</b>	<b>4</b>
Sargeant remedy consultation published	4
Raising tax awareness through job advertisements – update	5
FPS England – 2020 valuation update	5
Website and resources update	5
July query log	6
<b>FPS England SAB updates</b>	<b>6</b>
Template administration strategy consultation – reminder	6
SAB levy 2020-21	6
<b>Other News and Updates</b>	<b>7</b>
Equalisation of male survivor benefits in public service pension schemes (Goodwin v Secretary of State for Education)	7
Government response to the consultation on restriction of exit payments in the public sector	7
Government launch call for evidence on pensions tax relief	8
TPO publish corporate plan 2020–2023	8
TPR publish corporate plan 2020-2021	8
PASA launches GMP equalisation guidance	8
<b>Events</b>	<b>9</b>
FPS AGM – save the date(s): 22 and 23 September 2020	9
FPS coffee mornings	9
Local Pension Board wrap-up training 2020 – event summary	9
<b>HMRC</b>	<b>10</b>
HMRC newsletters/bulletins	10
<b>Useful links</b>	<b>10</b>
<b>Contact details</b>	<b>10</b>
<b>Copyright</b>	<b>11</b>
<b>Disclaimer</b>	<b>11</b>

## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

Table 1: Calendar of events

Event	Date
Virtual Eastern regional FPOG	20 August 2020
<a href="#">FPS coffee and catch up</a>	Every second Tuesday from 1 September 2020
Virtual Fire Communications Working Group	7 September 2020
Virtual special SAB	3 September 2020
North East regional FPOG – TBC	16 September 2020
Virtual SAB	17 September 2020
Virtual Firefighter Pensions Technical Community	22 September 2020
Virtual FPS AGM	22-23 September 2020
<a href="#">Fire Finance Network conference</a>	7-8 October 2020
SAB	10 December 2020

## Actions arising

Readers are asked to note the following actions arising from the bulletin:

[Raising tax awareness](#): FRAs to include relevant wording on job adverts.

[Template administration strategy consultation](#): all interested parties to respond to consultation by 31 August 2020.

## FPS

### Sargeant remedy consultation published

On 16 July 2020, HM Treasury (HMT) published their [consultation on proposals to remove age discrimination](#) from the unfunded public service pension schemes in line with the result of the McCloud/Sargeant case, together with an [update on the employer cost cap process](#). These were accompanied by a [statement from the Chief Secretary to the Treasury](#).

The consultation relates to members of the unfunded public service schemes including Fire, Teachers and Police. A separate [consultation on remedying age discrimination within the Local Government Pension Scheme](#) (LGPS) (amending the statutory underpin) was issued on the same date by the Ministry of Housing, Communities & Local Government (MHCLG).

We will be issuing further commentary on the consultation once we have had an opportunity to review, however the major proposals by HMT are that:

- Protections will be extended to cover all unfunded scheme members who were in active scheme membership on 31 March 2012 and have membership in the reformed schemes (without a 5-year break) regardless of whether they have made a claim to a tribunal on this matter
- Protection will take the form of the right to membership of the relevant unfunded final salary scheme during the protected period which runs from 1 April 2015 to 31 March 2022
- Protection will be backdated for qualifying members even if they have left the scheme since the start of the protected period
- Accrual in all unfunded final salary schemes for existing and new protected members will cease at the end of the protected period 31 March 2022
- Protected members will be given the opportunity to elect for benefits accrued during the protected period to be calculated on a CARE basis as an alternative to protected final salary benefits
- There are two proposals for when the election is to be made – immediate (soon after the proposals are in force) or deferred (when the member takes their benefits)

For ease, we have collated the [consultation questions](#) into a separate document. A more detailed review of the proposals contained within the consultation will follow soon and all information can be found on our new webpage [Age Discrimination Remedy \(Sargeant\)](#).

The employer cost cap process, applicable to all public service pension schemes including the FPS is currently paused and will now be restarted. We understand that HMT's objective would be to complete the process by next year, taking into account the cost of the proposals to remedy age discrimination as set out in the consultation.

### **Raising tax awareness through job advertisements – update**

Following our article in [FPS Bulletin 34 – June 2020](#) on raising tax awareness, it has been pointed out that the wording was written to exclude temporary promotions from pensionable pay, whereas an FRA may exercise their discretion to treat this pay as pensionable by way of an [Additional Pension Benefit \(APB\)](#).

We therefore suggest the following optional paragraphs:

#### **Temporary Promotions/Positions**

##### **Non-pensionable**

*Please note that any period of 'temporary', whether that is by way of promotion or allowances associated with a temporary position, will be treated as non-pensionable.*

##### **Pensionable as an APB**

*Please note that any period of 'temporary', whether that is by way of promotion or allowances associated with a temporary position, will be treated as pensionable by way of an [Additional Pension Benefit \(APB\)](#).*

### **FPS England – 2020 valuation update**

The Government Actuary's Department (GAD) have advised that they are close to being able to provide FPS administrators with the 2020 valuation data collection spreadsheet. Due to the size of the spreadsheet, GAD will be providing this to administrators via a secure transfer area instead of an open link.

Contact details for each administrator have been provided to GAD, who will send an email setting out the process for receiving, completing and sending the data sheet

Contacts will then receive a further email giving them access to a secure data area in which the data collection spreadsheets will be stored, along with an email address to use for any queries.

### **Website and resources update**

As previously detailed, we have created a separate page on [age discrimination remedy \(Sargeant\)](#) which holds a timeline of the 2015 scheme reforms and subsequent legal challenges. You can also find the documents relating to the HMT consultation. We will continue to update this page as the consultation period progresses, so please check back for new information.

The [related legislation](#) page has been updated to include HMT Directions which have an impact on the FPS.

[Click here to return to Contents](#)

The following pages have been added to the member-restricted section of the [Firefighters' Pension Schemes Regulations and Guidance](#) website this month. If you require log-in details for this area, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

**[Contributions holiday](#)**. This page has been created to hold legislation and resources relating to the employee contributions holiday for FPS 1992 members who accrued or could accrue the maximum 30 years' pensionable service prior to age 50

### **July query log**

The current [log of queries and responses](#) is available on the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log will be updated on a monthly basis in line with the bulletin release dates.

Queries from earlier months have been grey-shaded to differentiate from new items added in July.

## **FPS England SAB updates**

### **Template administration strategy consultation – reminder**

A reminder that we have a separate consultation running until the end of August on the [draft template administration strategy](#).

The document has been developed with the Fire Communications Working Group (FCWG) and [SAB administration and benchmarking committee](#) to set out the roles and expectations of scheme managers and administrators, and improve communication and engagement between both parties. More information on the background to this work is available in [FPS Bulletin 34 – June 2020](#).

While stakeholder groups have been involved in the development of the draft, it is essential for us to hear the views of the wider FPS community to deliver a strategy that is fit for purpose and fully incorporates all aspects of administration, management, and governance of the schemes. Please take the opportunity to have your say by answering the questions in the [consultation document](#).

The consultation will run until 31 August 2020 and responses should be sent to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

### **SAB levy 2020-21**

Under arrangements for the Firefighters' Pension Scheme [2014 regulations 4H\(1\)](#), the Scheme Advisory Board are required to set an annual budget for approval by the Secretary of State.

We are currently awaiting approval of the 2020-21 budget by the minister and expect that we will start the collection process in August/ September. A letter will be sent to Chief Fire Officers to request a purchase order number.

[Click here to return to Contents](#)



Included in the final levy is the employers' voluntary subscription that FRAs entered into a shared agreement in 2014 in order to fund support with FRAs understanding and management of the FPS.

## Other News and Updates

### Equalisation of male survivor benefits in public service pension schemes ([Goodwin v Secretary of State for Education](#))

The Chief Secretary to the Treasury has made [written statement HCWS397](#) on public service pensions: survivor benefits for opposite-sex widowers and surviving male civil partners.

The statement was in relation to a Teachers' Pension Scheme Employment Tribunal case ([Goodwin v Secretary of State for Education](#)) where "male survivors of female scheme members remain entitled to a lower survivor benefit than a comparable same-sex survivor" and confirmed that "government believes that this difference in treatment will also need to be remedied in those other public service pension schemes, where the husband or male civil partner of a female scheme member is in similar circumstances".

Part C of the [FPS 1992 regulations](#), Awards on Death – Spouses, does not differentiate between a male or female survivor. The definition of a surviving spouse is given as a widow or widower. Therefore, the benefits from the scheme are already equalised and we do not consider that any amendments to Part C are needed.

However, Rule J1(2)(c) in relation to Guaranteed Minimum Pensions (GMP) states:

*(c) in the case of a woman who dies at any time and leaves a widower, the widower is entitled to a pension at a weekly rate equal to half of that part of the deceased's guaranteed minimum which is attributable to earnings factors for the tax year 1988—89 and subsequent tax years.*

This rule is inserted further to [section 17\(4\) of Pension Schemes Act 1993](#). We await to see whether the primary legislation is amended.

### Government response to the consultation on restriction of exit payments in the public sector

The government has now published its [response to the consultation on restricting exit payments](#) in the public sector, often referred to as the £95k cap. A reminder of what the cap means for the Firefighters' Pension Schemes (FPS) is available in our [technical note](#).

The [SAB response to the consultation](#) welcomed the exemptions applied for the Firefighters' schemes but noted that in some limited circumstances of authority initiated early retirement, the cap would still apply and that changes to the FPS and related statutory GAD guidance would be necessary in order to comply with the cap. We will take this forward with the Home Office.

[Click here to return to Contents](#)

## **Government launch call for evidence on pensions tax relief**

On 21 July 2020, HMT launched a [call for evidence on pensions tax relief administration](#) for members who receive tax relief at a different rate to their highest marginal rate.

This has the scope to affect an individual's take-home pay, particularly those earning below the tax threshold, depending on whether their employer operates a net-pay or relief at source arrangement.

The government wish to explore feasible and deliverable options for change to the system which would produce fairer outcomes and are easily understandable. The call for evidence closes on 13 October 2020.

## **TPO publish corporate plan 2020–2023**

The Pensions Ombudsman (TPO) published its corporate plan on 14 July 2020, outlining its strategic aims for the next three years and providing updated key performance indicators for 2020-21. The plan also includes information on the potential impact of COVID-19 on the Ombudsman's activities.

TPO's focus remains on improving the customer experience by resolving disputes at an early stage, making the process quicker and easier for all parties.

### [TPO corporate plan 2020-2023](#)

TPO also published its [annual report and accounts for 2019-20](#) on 16 July 2020.

## **TPR publish corporate plan 2020-2021**

On 29 June 2020 the Pensions Regulator (TPR) published its [Corporate Plan 2020-21](#), setting out its priorities for the coming year. Publication was delayed as TPR revised its plans to respond to the challenges presented by the COVID-19 pandemic.

All of TPR's resources relating to COVID-19 can be accessed here: [COVID-19 \(coronavirus\): what you need to consider](#).

## **PASA launches GMP equalisation guidance**

On 14 July 2020, the cross-industry GMP Working Group, chaired by the Pensions Administration Standards Association (PASA), published guidance on the data required for GMP Equalisation.

The aim of the guidance is to help pension schemes understand the steps they can take now to get their data ready for equalisation. You can find the [GMP Equalisation Data Guidance](#) on the PASA website.

## Events

### **FPS AGM – save the date(s): 22 and 23 September 2020**

We are considering what our offer for a virtual AGM run across two days as usual could look like and hope to finalise this shortly. Please hold the dates in your diary and we will issue invitations and an agenda in the next few weeks.

### **FPS coffee mornings**

We are continuing to run our MS Teams coffee mornings every second Tuesday while social distancing measures remain in place. These informal sessions lasting up to an hour allow practitioners to catch up with colleagues and hear a brief update on FPS issues from the LGA Bluelight team.

We are taking a break over August due to the traditional holiday period, although this may look a little different for many this year. The next event is scheduled to take place on 1 September 2020.

If you would like to join us, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) and we will add you to the invite list for the sessions.

### **Local Pension Board wrap-up training 2020 – event summary**

We were pleased to deliver our first Zoom training events to Local Pension Board (LPB) members and advisors on 10 June and 8 July 2020.

First up was a slightly challenging virtual group “discussion” on the role of and challenges to the board using Slido! Following this, Clair Alcock gave a pre-consultation update on age discrimination remedy.

Nick Gannon from TPR then joined us to give an update on the outcomes from the Regulator’s 2019 governance and administration survey.

Attendees heard a brief update on the different [stakeholders involved in the administration and management of the FPS](#), and the interdependencies between them. This was followed by an in-depth look at the [six key principles](#) or processes of good governance from our resident expert, Clair.

The full [slides from the 8 July session](#) are available to view and we intend to upload recordings of the main sessions to our password-protected [videos and webinar recordings](#) page in due course.

## HMRC

### HMRC newsletters/bulletins

HMRC have published the following newsletters in July:

- [GMP equalisation newsletter – 16 July 2020](#)
- [Managing Pension Schemes Service newsletter – 21 July 2020](#)

### Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [Khub Firefighters Pensions Discussion Forum](#)
- [FPS1992 guidance and commentary](#)
- [The Pensions Regulator Public Service Schemes](#)
- [The Pensions Ombudsman](#)
- [HMRC Pensions Tax Manual](#)
- [LGA pensions website](#)
- [LGPS Regulations and Guidance](#)
- [LGPS member site](#)

### Contact details

**Clair Alcock (Senior Pension Adviser)**

Telephone: 020 7664 3189

Email: [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk)

**Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

Email: [kevin.courtney@local.gov.uk](mailto:kevin.courtney@local.gov.uk)

**Claire Hey (Firefighters' Pension Adviser)**

Telephone: 020 7664 3205

Email: [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

## Copyright

Copyright remains with Local Government Association (LGA). This bulletin may be reproduced without the prior permission of LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

## Disclaimer

The information contained in this bulletin has been prepared by the Bluelight Pensions team, part of the Local Government Association (LGA). It represents the views of the team and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this bulletin.

While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).



## FPS Bulletin 36 – August 2020

Welcome to issue 36 of the Firefighters' Pensions Schemes bulletin.

We hope that readers remain safe and well.

Although restrictions on travel and social distancing are gradually easing, face-to-face meetings and training remain suspended for the time being. However, the Bluelight team are available at home by mobile, email or video (MS Teams, Skype, or Zoom).

If you are looking for information on a certain topic, issue and content indexes are held on the [main bulletin page](#) of the website and are updated following each new issue.

If you have any comments on this bulletin or suggested items for future issues, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk).

## Contents

<b>Calendar of events</b>	<b>3</b>
<b>Actions arising</b>	<b>3</b>
<b>FPS</b>	<b>4</b>
Home Office collection of FPS forecasts for 2019-20 to 2025-26	4
Home Office immediate detriment note published	4
Medical Appeal Boards - service update	5
FPS England – 2020 valuation data collection	5
Consultation on FPS Wales	6
Website and resources update	6
August query log	6
<b>FPS England SAB updates</b>	<b>7</b>
New Chair of the FPS (England) Scheme Advisory Board	7
SAB informal response to initial HMT remedy thinking	7
COVID-19 FPS governance survey update	8
<b>Other News and Updates</b>	<b>8</b>
The Pensions Regulator (TPR) scheme return 2019-20	8
PSPS survey – modernisation of GAD's actuarial factors	9
The Pensions Ombudsman (TPO) stakeholder newsletter	9
<b>Events</b>	<b>9</b>
Virtual FPS AGM 22 and 23 September 2020	9
FPS coffee mornings	10
<b>HMRC</b>	<b>10</b>
HMRC newsletters/bulletins	10
<b>Legislation</b>	<b>11</b>
<b>Useful links</b>	<b>11</b>
<b>Contact details</b>	<b>12</b>
<b>Copyright</b>	<b>12</b>
<b>Disclaimer</b>	<b>12</b>

## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

Table 1: Calendar of events

Event	Date
<a href="#">FPS coffee and catch up</a>	Every second Tuesday from 1 September 2020
Virtual Fire Communications Working Group	7 September 2020
Virtual special SAB	3 September 2020
North East regional FPOG – TBC	16 September 2020
Virtual SAB	17 September 2020
Virtual Firefighter Pensions Technical Community	22 September 2020
Virtual FPS AGM <a href="#">FPS AGM - Day 1 - Tues 22 Sept 2020</a> <a href="#">FPS AGM - Day 2 - Weds 23 Sept 2020</a>	22-23 September 2020
<a href="#">Fire Finance Network conference</a>	7-8 October 2020
SAB	10 December 2020

## Actions arising

Readers are asked to note the following actions arising from the bulletin:

[Home Office collection of FPS forecasts](#): FRAs in England to submit details of their pension income/expenditure forecasts for the period 2019-20 to 2025-26, by 9 September 2020.

[FPS England - 2020 valuation](#): Administrators to check that information from GAD concerning the data collection spreadsheet has been received.

[PSPS survey – GAD factors](#): Users of GAD factors and guidance notes to complete survey to inform new website design.

[FPS AGM 2020](#): Book your place now!

[Click here to return to Contents](#)



## FPS

### Home Office collection of FPS forecasts for 2019-20 to 2025-26

On 3 August 2020 the Home Office emailed all FRAs in England to request submission of their pension income/expenditure forecasts for the period 2019-20 to 2025-26.

The formal commissioning letter at [Appendix 1](#) sets out the centrally prescribed assumptions that must be applied when calculating pension income and expenditure forecasts. The forms can be accessed on DELTA. The deadline for submissions is Wednesday 9 September 2020.

FRAs are also required to complete the Excel table at [Appendix 2](#) in order to declare the local assumptions that they have applied to calculate their pension estimates. The prescribed assumptions that FRAs should use for CPI percentage increases, pay increases and employer contribution rates for the forecasting period have already been pre-populated on the table. Please note that payment of the 2021 Top Up grant will be conditional on its completion and incomplete tables will be returned to FRAs.

For the avoidance of any confusion, there are **two returns required by 9 September 2020**:

1. The online DELTA returns setting out the 6-year forecast of pension income and expenditure.
2. Assumptions returns (email direct to [anthony.mooney@homeoffice.gov.uk](mailto:anthony.mooney@homeoffice.gov.uk) attaching the completed table above).

FRAs are reminded that forecast pension accounting data is being subjected to an ever-increasing scrutiny and, as such, they should ensure that processes are in place to ensure that they have a robust methodology to calculate these. [Best practice forecasting guidance](#) was published by the Pension Forecasting Working Group in July 2019.

### Home Office immediate detriment note published

Readers may be aware that the Home Office issued a note direct to finance directors at FRAs on 21 August 2020 regarding the treatment of immediate detriment cases in the age discrimination proceedings.

While we welcome progress towards arriving at a position for employers to fulfil the terms of the employment tribunal's interim remedy order, unfortunately, the prior commitment to share this note with the LGA before issuing to FRAs was not met by the Home Office so we are now in the position of retrospectively reviewing the note and its implications.

We have received a number of queries from FRAs and stakeholders on the effect of the guidance and have raised a number of points with the Home Office both of a technical nature and confirmation that due consideration has been given to other implications.

At present, given the note is labelled as informal guidance we believe this means that FRAs would still need to make their own interpretations and possibly take legal advice, and therefore does not constitute the detailed guidance that administrators and FRAs would need in order to ensure consistency.

The Home Office have confirmed that they are discussing our questions with colleagues in HM Treasury in order to provide a reply as soon as possible; we have asked them to separately urgently confirm via written reply what they consider the legal status of this document to be and their expectations of FRAs to comply

While we await a response from the Home Office you will need to consider, no doubt along with your legal advisers, whether you feel you have sufficient information and clarity to be able to act upon the guidance at this time.

We will provide a further update, once we have heard further from the Home Office and HMT.

### **Medical Appeal Boards - service update**

You may have been aware that Duradiamond, the current contracted provider of medical appeals, temporarily suspended appeal hearings for three months from the end of March.

We have recently been notified of an email sent from Duradiamond on **7 July 2020** to confirm the following:

"We are pleased to advise that Duradiamond Healthcare is recommencing the organisation and holding of Police and Fire Medical Appeal Board Hearings from this week onwards.

The service will be running in a slightly amended format to begin with to reduce infection risk to board members and the participating parties. Therefore, initial hearings will be held in London in a COVID-19 safe manner. However, we will be in touch with all Authorities who have cases lodged with us to discuss arrangements and attendance in further detail.

In the meantime, please do send any pending cases in to Duradiamond Healthcare and we will acknowledge and process accordingly."

### **FPS England – 2020 valuation data collection**

On 21 August 2020 the Government Actuary's Department (GAD) emailed FPS administrators to confirm the process for accessing the data collection spreadsheet for the 2020 valuation. Due to its size it cannot be delivered by email and instead will be accessible using GAD's secure transfer system.

[Click here to return to Contents](#)

A further email should now have been sent from [workspace@egresscloud.com](mailto:workspace@egresscloud.com) (or similar address, please check your spam filters as GAD find some firewalls can catch the email). Following the link in this email will take you to the secure data area where you will find a copy of the spreadsheet and a user guide. The spreadsheet is to be used conjunction with the data specification supplied in June. Note the deadline for the return of the completed spreadsheet is 31 December 2020. If you have any issues with the secure transfer area please send an email to [Fire.2020Valuation@gad.gov.uk](mailto:Fire.2020Valuation@gad.gov.uk).

Contact details for each administrator were provided to GAD by the LGA, so if you are not aware that either email has been received or you want to check who they were sent to, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

## Consultation on FPS Wales

On 10 July 2020, the Welsh Government published a [consultation on various amendments to the various firefighter pension schemes](#) and the 2007 Compensation Scheme in Wales.

The proposed amendments address the Supreme Court rulings of:

- [Walker v Innospec](#), which has resulted in necessary changes to survivor benefits for civil partners and same sex spouses
- [McLaughlin](#), which has affected the pension entitlements of children of unmarried parents

The consultation also covers proposed unrelated amendments to the 1992 Scheme, the New Firefighters' Pension Scheme (Wales) (the 2007 Scheme), and the Firefighters' Pension Scheme Wales) 2015 (the 2015 Scheme) in respect of the calculation of split pensions, pension sharing on divorce, special member commutation factors, and club transfer value payments.

## Website and resources update

News archive pages for 2018 and 2019 have been created on the FPS Regulations and Guidance and Scheme Advisory Board (SAB) websites to hold stories from the homepages relating to earlier calendar years.

- [News archive 2018 – Regulations and Guidance](#)
- [News archive 2019 – Regulations and Guidance](#)
- [News archive 2018 – SAB](#)
- [News archive 2019 – SAB](#)

## August query log

The current [log of queries and responses](#) is available on the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log will be updated on a monthly basis in line with the bulletin release dates.

[Click here to return to Contents](#)

Queries from earlier months have been grey shaded to differentiate from new items added in August. New queries have been added under the following categories: FPS 2006 special members, ill-health retirement, salary sacrifice, and survivor's pension.

## FPS England SAB updates

### New Chair of the FPS (England) Scheme Advisory Board

We are delighted to confirm that the [new Chair of the Firefighters' Pension Scheme Advisory Board \(SAB\) of England has been appointed.](#)



Joanne Livingstone begins her four-year appointment as Chair on 17 August 2020.

Joanne has extensive experience relating to pensions across the public and private sectors. She is an Adviser to the Judicial Pensions Committee; she also serves as the Chair of Trustees for the Liberty Europe Pension Scheme and is a Practitioner member of the Actuarial Council among other roles.

Please visit the [SAB Board membership webpage](#) for more information.

### SAB informal response to initial HMT remedy thinking

The [HMT consultation on age discrimination](#) references at paragraph 1.21 the informal technical discussions held with scheme administrators and employer and member representatives earlier this year. The Firefighters' Pensions (England) Scheme Advisory Board has now published its [informal response](#) dated 2 April 2020 to those technical discussions.

Within the response the Board highlighted the following points:

- The lack of information available to them in order to fully assess the impact of the proposals, including at that time no mention of post remedy plans
- The considerable challenge administering the remedy would present to locally administered unfunded schemes
- Concern that a default to the final salary scheme, may not be appropriate for some members in the FPS 2006
- An immediate need for guidance on processing immediate cases.

The Board will submit a full response to the formal consultation by the deadline of 11 October 2020.

## **COVID-19 FPS governance survey update**

To measure the impact of the coronavirus pandemic on FPS governance, the Bluelight team surveyed FRAs during June and July. During that time responses were received from 26 of the 48 Fire and Rescue Authorities (FRAs) in England and Wales, equating to an overall response rate of approximately 54%.

Almost all respondents confirmed that they have held or are planning to hold virtual Local Pension Board (LPB) meetings, with MS Teams being the preferred method. We were pleased to note that two-thirds said they had not experienced any issues with meeting online, although a quarter cited technical difficulties.

In all cases, communication with scheme managers, administrators, and scheme members had not been affected, with just one reported instance of the current situation impacting on communication with the LPB.

Eight in ten respondents did not expect costs in relation to pensions to increase due to COVID-19, and two authorities noted that costs had decreased due to savings on travel expenses for LPB members.

There did not appear to be a high level of concern about any of the following due to changes in working practices: third-party providers e.g. administration, systems, consultants, advisers; potential increase of breaches of law; increased risk of cyber security issues or scams.

Almost 90% of FRAs responding confirmed that their pensions risk register had been amended or there were plans to do so. New risks identified related to business continuity arrangements for administration, potential difficulty in recruitment, and lack of occupational health provision including the suspension of medical appeal boards.

Based on the responses that were received, it is clear that FRAs have taken steps to mitigate any challenges arising from the current situation and are embracing online technology to fulfil their governance responsibilities.

The full report will be issued to the SAB to note at their meeting on 17 September.

## **Other News and Updates**

### **The Pensions Regulator (TPR) scheme return 2019-20**

The statutory TPR scheme return is scheduled to be released in Autumn in line with their usual timescales. A warm-up email will be issued to scheme manager contacts in the coming weeks.

[Information about completing and submitting a public service scheme return](#) can be found on the TPR website. Schemes are advised to make sure that their contact details are up to date on the Exchange system.

For the first time in 2018, TPR asked schemes to measure the data they hold about their members and report this on the annual scheme return. In 2019 the LGA Bluelight team issued updated [guidance on data scoring](#) and a [data score weighting template](#) to allow schemes to assess the likely accuracy of their data and adjust the score accordingly.

## **PSPS survey – modernisation of GAD’s actuarial factors**

GAD is in the process of creating a website that will hold actuarial factors and guidance notes for the FPS and is aiming for this to be accessible next year. The website will bring many benefits including having access to all the latest guidance notes and factors in one location. GAD envisages that moving the process of regular factor updates online will allow the process to be more consistent and streamlined, enabling them to provide you with a more efficient service in the future.

### **GAD need your help**

They are in the initial design stages of the website and want to get a better understanding from schemes about how they use GAD’s factors and guidance notes so that this feedback can be incorporated into the design of the website. To do this they have created a survey to be completed by administrators and other users of the factor tables and notes.

The [GAD factors guidance feedback survey](#) is to be completed by 20 September 2020.

If you have any technical difficulties in accessing the surveys, please contact GAD immediately on [enquiries@gad.gov.uk](mailto:enquiries@gad.gov.uk).

Your views are very important to GAD, and they thank you in advance for your participation in the survey.

## **The Pensions Ombudsman (TPO) stakeholder newsletter**

TPO have published the latest issue of their stakeholder newsletter: [Issue 9 – August 2020](#). The newsletter includes details of TPO’s new Chief Operating Officer, a new structure for casework, and an update on the website project.

Earlier communications from TPO and a full history of determinations in relation to the FPS are held on our [TPO webpage](#).

## **Events**

### **Virtual FPS AGM 22 and 23 September 2020**

We are delighted to offer our fire pensions annual conference – this year in a virtual format.

[Click here to return to Contents](#)

The event will be held across two days, with a governance focus on day 1 followed by virtual networking, and the full technical/ administration AGM on day 2. The theme for this year's sessions is [remedy](#).

[Details of our previous annual conferences can be found here.](#)

Delegates on both days will have the opportunity to meet the [new chair of the England Scheme Advisory Board](#), Joanne Livingstone.

We are pleased to welcome Nick Gannon from TPR on day 1, and a number of guest speakers for the sessions on day 2. Please see the [draft agenda](#) for more details.

The event will be held on Zoom across 22 and 23 September 2020.

If you would like to participate on either or both dates, please click the relevant link/s below:

[FPS AGM - Day 1 - Tues 22 Sept 2020](#)

[FPS AGM - Day 2 - Weds 23 Sept 2020](#)

### **FPS coffee mornings**

We are continuing to run our MS Teams coffee mornings every second Tuesday while social distancing measures remain in place. These informal sessions lasting up to an hour allow practitioners to catch up with colleagues and hear a brief update on FPS issues from the LGA Bluelight team.

We have taken a break over August due to the traditional holiday period and the next event is scheduled to take place on 1 September 2020.

If you would like to join us, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) and we will add you to the invite list for the sessions.

## **HMRC**

### **HMRC newsletters/bulletins**

HMRC have published the following newsletters containing important updates and guidance on pension schemes:

[Pension schemes newsletter 122 – 31 July 2020](#)

- Relief at source - Call for evidence: Pensions Tax Relief Administration
- Relief at source - Reporting excess relief
- Relief at source - Annual return of information for the tax year 2019 to 2020
- Collective money purchase benefits (CMPs)
- Managing Pension Schemes service – accounting for tax return

[Click here to return to Contents](#)



- Guaranteed Minimum Pension (GMP) Equalisation Newsletter – July 2020
- Pension flexibility statistics
- Annual allowance - Pension savings statements for tax year 2019 to 2020
- Annual allowance - Declaring the annual allowance charge on the Self-Assessment tax return
- Qualifying Recognised Overseas Pension Schemes (QROPS) transfer statistics

### [Pension schemes newsletter 123 – 28 August 2020](#)

- Relief at source – annual returns of information for 2019 to 2020
- Annual return of information:
  - interim repayments
  - residency status reports
- Migration of pension schemes to the Managing pension schemes service
- Managing pension schemes service:
  - multiple scheme administrator IDs
  - multiple scheme practitioner IDs
  - pension scheme accounting
- Annual allowance – pensions savings statements for 2019 to 2020

A reminder to scheme administrators that you must issue annual allowance pension savings statements for tax year 2019 to 2020 to your scheme members who made pension savings of more than the annual allowance to your pension scheme, by 6 October 2020.

You can find more information about this requirement in the Pensions Tax Manual at [PTM167100](#).

## Legislation

SI	Reference title
<a href="#">2020/893</a>	The Local Government Pension Scheme (Amendment) (No. 2) Regulations 2020

## Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [Khuf Firefighters Pensions Discussion Forum](#)
- [FPS1992 guidance and commentary](#)
- [The Pensions Regulator Public Service Schemes](#)
- [The Pensions Ombudsman](#)
- [HMRC Pensions Tax Manual](#)
- [LGA pensions website](#)

[Click here to return to Contents](#)



- [LGPS Regulations and Guidance](#)
- [LGPS member site](#)

## Contact details

**Clair Alcock (Senior Pension Adviser)**

Telephone: 020 7664 3189

Email: [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk)

**Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

Email: [kevin.courtney@local.gov.uk](mailto:kevin.courtney@local.gov.uk)

**Claire Hey (Firefighters' Pension Adviser)**

Telephone: 020 7664 3205

Email: [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

## Copyright

Copyright remains with Local Government Association (LGA). This bulletin may be reproduced without the prior permission of LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

## Disclaimer

The information contained in this bulletin has been prepared by the Bluelight Pensions team, part of the Local Government Association (LGA). It represents the views of the team and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this bulletin.

While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

Dear Claim Administrator

***Please pass a copy of this letter to your FRA's Claim Approver***

## **FINANCIAL ARRANGEMENTS FOR FIREFIGHTER PENSIONS - DELTA Returns: Pension Estimates 2020/21 – 2025/26**

### **Introduction**

- 1.1** FRAs are required to submit pension estimates for financial years 2020/21 to 2025/26. Please note that the deadline for returns to this is **cop Wednesday 9 September**.
- 1.2** The estimate for 2020/21 should be an update of the information previously submitted in September 2019. The estimate for 2021/22 will form the basis for the grant payment due in July 2021.
- 1.3** The July 2021 Top Up Grant payment will consist of **(i)** 80% of any forecast pension deficit for the year 2021/22, **(ii)** the remainder of the 2020/21 requirement (based on final unaudited accounts to be submitted in May 2021) and **(iii)** any adjustments needed in respect to 2019/20 (based on audited accounts also to be submitted in May 2021).

### **Assumptions**

- 2.1** The estimates will also form the basis of this Department's bid for Annually Managed Expenditure (AME) grant to cover the cost of pension deficits. The forecasts will also be the subject of scrutiny by the Office of Budget Responsibility (a link to OBR's terms of reference is given below):

<http://obr.uk/topics/governance-and-reporting/>

FRAs are recommended to give due consideration to this when compiling forecasts and keep a record of the assumptions used e.g. for membership; leavers; ill-health etc.

- 2.2** Informal 'best practice' forecasting guidance produced by the Firefighters' Pension Forecasting Working Group has also been attached for FRAs to use when calculating their forecasts.
- 2.3** All policy changes from past fiscal events should be factored into the forecasts and the Consumer Prices Index (CPI) should be the measure of indexation. The following CPI rates advised by the OBR should be used (note that these are the uprating factors that should be applied to awards in the same year, reflecting CPI estimates from the previous September):

2019/20	2.4%
---------	------

2020/21	1.7%
2021/22	1.3%
2022/23	1.9%
2023/24	2.1%
2024/25	2.0%
2025/26	2.0%

FRAs should also apply the following paybill per head increases\*:

2020/21	1.5%
2021/22	2.2%
2022/23	3.0%
2023/24	2.5%
2024/25	2.7%
2025/26	2.8%

*\*we have assumed that 'pay drift' has no impact on the firefighters' workforce paybill*

#### 2.4 Returns **should** take account of:

- a. the current employee and employer contribution rates (reflecting the increases from April 2019) and its impact on workforce planning; and
- b. the changes to tax relief on annual and lifetime allowances and its behavioural impact of opt-outs.

#### 2.5 Please also note that we are assuming that there is no impact on the firefighters' paybill from 'pay drift' – **please let us know if this is not the case for your FRA.**

### Assumptions exercise

#### 3.1 Please **also note** that we will as a separate exercise be writing to Claim Approvers seeking details of the local assumptions applied in order to report these to the OBR. As part of this exercise, we will be asking FRAs to clarify the local assumptions that they have applied in respect of recruitment, scheme membership numbers, normal retirements, transfers in/out etc. The deadline for returns to this will also be **cop Wednesday 9 September**.

### **Action required**

- 4.1 FRAs are requested to access MHCLG's DELTA online system and to complete the FPF form to provide forecasts for the years 2020/21 to 2025/26. The online form will be made available on the DELTA website from Friday 7 August. You will receive an email advising when the online form has gone live and providing guidance on how to register, or how to access forgotten passwords, in due course.
- 4.2 This information will be used to calculate the 80% component of next year's top up grant (see paragraph 1.3(i) above).

**Deadline for certification**

- 5.1** The deadline for FRAs to complete and certify the form is **cop Wednesday 9 September 2020.**

**Please note that we need the data so that we can respond to the OBR and will not be able to grant any extension to this deadline.**

- 5.2** If you have any questions on this notification, or would like further information, please phone me on 0207 035 3372, 07504737245 or email [anthony.mooney@homeoffice.gov.uk](mailto:anthony.mooney@homeoffice.gov.uk).

Kind Regards

**Anthony Mooney**



## FPS Bulletin 37 – September 2020

Welcome to issue 37 of the Firefighters' Pensions Schemes bulletin.

We hope that readers remain safe and well.

Although restrictions on travel and social distancing are gradually easing, face-to-face meetings and training remain suspended for the time being. However, the Bluelight team are available at home by mobile, email or video (MS Teams, Skype, or Zoom).

If you are looking for information on a certain topic, issue and content indexes are held on the [main bulletin page](#) of the website and are updated following each new issue.

If you have any comments on this bulletin or suggested items for future issues, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk).

## Contents

<b>Calendar of events</b>	<b>3</b>
<b>FPS</b>	<b>3</b>
Home Office immediate detriment note update	3
Website and resources update	4
September query log	4
<b>FPS England SAB updates</b>	<b>5</b>
Template Pension Administration Strategy consultation response	5
Immediate detriment request for information	5
<b>Other News and Updates</b>	<b>6</b>
LGPS SAB draft McCloud response published	6
Update on the single TPR Code of Practice	6
Government confirms intention to increase minimum pension age	6
<b>Events</b>	<b>7</b>
FPS AGM 22 and 23 September 2020 – event summary	7
FPS coffee mornings	8
<b>HMRC</b>	<b>8</b>
HMRC newsletters/bulletins	8
<b>Useful links</b>	<b>9</b>
<b>Contact details</b>	<b>9</b>
<b>Copyright</b>	<b>9</b>
<b>Disclaimer</b>	<b>9</b>

## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

Table 1: Calendar of events

Event	Date
<a href="#">FPS coffee and catch up</a>	Every second Tuesday from 1 September 2020
South East regional FPOG	5 October 2020
Fire Finance Network conference	7-8 October 2020
Midlands regional FPOG - TBC	12 October 2020
Eastern regional FPOG	19 November 2020
SAB	10 December 2020

## FPS

### Home Office immediate detriment note update

We commented in [FPS Bulletin 36 – August 2020](#) on the [immediate detriment note](#) issued by the Home Office. We understand that the department will not be able to provide a response to the queries we have raised until October. However, in the meantime, we appreciate that FRAs are being encouraged to progress cases under the terms of the note.

We are working on providing further clarity to FRAs in three areas.

#### 1. Legal status of the note.

We are seeking legal advice on behalf of FRAs including application to claimants and non-claimants, any consequences arising from incorrect payment of benefits, and any resulting unintended discriminatory treatment.

We understand that the Home Office and HMT are relying on Section 61 of the Equality Act to provide legal underpinning to the note for non-claimants. That power is currently being contested in the FRA's appeal under Schedule 22 of the same act, in which they argue that they were required by law to follow the pension regulations and so had no choice but to implement the transitional protections for older firefighters.

[Click here to return to Contents](#)

## **2. A general information note on the key issues.**

We have drafted a note to provide additional information to FRAs on the key considerations of implementing the Home Office informal guidance.

This includes the legal considerations detailed above, the position of employer contributions, which we believe Home Office to be discussing with HMT, technical queries raised, and areas where we believe a policy steer would be helpful to enable more accurate payments to be made.

## **3. Support for practitioners, to include:**

- 3.1. Supporting FRAs to evidence robust decision making on whether a case can proceed under the current guidance, and if not, why not;
- 3.2. Working with the [Fire Communications Working Group](#) to provide a consistent template on how a member may be provided with a choice and what this should include, using [documentation provided to support choice in 2006](#) as a guide;
- 3.3. Working with administrators to provide example calculations to assist with bringing benefits into payment where the guidance is not explicit.

The information note is currently being reviewed and will be issued as soon as possible.

## **Website and resources update**

We have added the following page to the member-restricted section of the Firefighters' Pension Schemes Regulations and Guidance website this month:

[HMRC CLM queries](#). The page has been created to hold technical queries submitted to HMRC regarding the application of tax to the Firefighters' Pension Scheme.

If you require log-in details for this area, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

## **September query log**

The current [log of queries and responses](#) is available on the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log will be updated on a monthly basis in line with the bulletin release dates.

We have not added any new queries this month.

[Click here to return to Contents](#)



## FPS England SAB updates

### Template Pension Administration Strategy consultation response

The SAB secretariat published a consultation on 30 June 2020 seeking views on the introduction of a [template pension administration strategy](#). The consultation closed on 31 August.

The consultation received 15 responses in total: twelve from Fire and Rescue Authorities (FRAs) and three from scheme administrators.

The detailed consultation response can be read at [Appendix 1](#). One response was received late and is still to be incorporated into the document.

The strategy will be reviewed based on the responses to the consultation and any necessary amendments made. The organisations who responded to the consultation will be invited to comment on the revisions to ensure that their views have been suitably reflected.

### Immediate detriment request for information

The SAB note the immediate detriment guidance issued by the Home Office and wish to encourage the payment of pensions to eligible members.

The SAB also want to understand what percentage of the FPS 2015 membership within the immediate detriment category are likely to be affected by complicating factors, such as divorce or transfers.

The Board are seeking information similar to that requested in [FPS Bulletin 28 - January 2020](#) on the number of members who are likely to become eligible for immediate detriment between now and 31 March 2022. This should include:

- Any member refused ill-health retirement under the FPS 2015 as the lower ill-health criteria was not met.
- 1992 transition members of FPS 2015 who reach age 55 before 31 March 2022.
- 1992 transition members of FPS 2015 who reach 30 years' service before 31 March 2022.
- 1992 transition members of FPS 2015 who will have 25 years+ service and be over 50 by 31 March 2022.

The Board request that you complete the information sheet at [Appendix 2](#) by 31 October 2020. Please note that clicking the link downloads an Excel spreadsheet.

## Other News and Updates

### LGPS SAB draft McCloud response published

FRAAs will have employees who are members of the Local Government Pension Scheme (LGPS). As the LGPS is a funded scheme and members within 10 years of retirement at 2012 were protected in a different way, the Ministry of Housing, Communities & Local Government (MHCLG) are consulting separately on changes to address age discrimination. The consultation closes on 8 October 2020.

On 28 September 2020, the LGPS SAB published [a draft version of its response to the McCloud consultation](#).

You are welcome to use the content to help with your own responses. The LGA will not be submitting a separate response.

### Update on the single TPR Code of Practice

On 1 September 2020, the Pensions Regulator (TPR) confirmed that it now intends to launch the formal consultation on a single Code of Practice in late 2020 or early 2021.

TPR provides [15 codes of practice](#), covering topics such as early leavers, internal controls and governance and administration of public service pension schemes.

In July 2019, TPR confirmed, in a statement on its website, that it planned to review and combine the content of the 15 codes to form a single, shorter code. The statement originally set out plans to launch a consultation later in 2019.

### Government confirms intention to increase minimum pension age

In [an answer to a parliamentary question](#) on 3 September 2020, the Government confirmed that it still plans to increase the minimum pension age from 55 to 57 in 2028 and will legislate in due course.

The Government confirmed in 2014 in [its response to the consultation 'Freedom and choice in pensions'](#) that it intends to increase the minimum age from 55 to 57 in 2028 and that the change will apply to all schemes, aside from those in the public sector that do not link their normal pension age to State Pension age, namely Firefighters, Police and the Armed Forces.

## Events

### FPS AGM 22 and 23 September 2020 – event summary

We were delighted to offer our fire pensions annual conference in a virtual format this year. In long-standing tradition, the event was preceded by a meeting of the regional chairs, followed by the technical community.

Day 1 had a governance focus and following a brief introduction from the [new chair of the England Scheme Advisory Board](#), Joanne Livingstone, we were pleased to welcome Nick Gannon from TPR. Nick delivered an in-depth session on breaches of the law – considering the who, how, what, and when of recording and reporting. During the Q&A after the presentation, Nick highlighted the administrative challenges of implementing remedy and the importance of good data and communication.

[Please view the AGM 2020 day 1 presentations here.](#)

We were back online for the full technical/ administration AGM on day 2, with a full roster of guest speakers.

Joanne Livingstone welcomed approximately 100 delegates from across the FPS sector, with a more detailed introduction to herself and the role of the SAB. Joanne highlighted that the Board will seek to provide assurance rather than reassurance to stakeholders and continue to operate in a role of scrutiny and engagement on an evidence basis during her four-year term.



Senior pension adviser, Clair Alcock, then took to the “stage” to give an update from the Bluelight team at the LGA. In an event dedicated to remedy, Clair was not afraid to address the elephant in the room and provided a brief recap on the background to the age-discrimination case and the HM Treasury consultation proposals. The session concluded with a quick look at projects on the horizon.

Des Prichard, chair of the [SAB administration and benchmarking committee](#), led the last morning session with an update on the work of the committee. In particular, the session focused on the draft template administration strategy and the future of scheme administration and management. Des was keen to promote the importance of replying to SAB-issued consultations and surveys in order for the Board to deliver improvements to the sector.

[Click here to return to Contents](#)

After a brief pause for refreshment, we welcomed guest speakers from Eversheds Sutherland and the Government Actuary's Department, to provide our regular case law update and information about the FPS valuation and cost-cap, respectively.

Peter Spreadbury from the Home Office joined us to outline how the department intended to engage with stakeholders in dealing with remedy. Peter emphasised the importance of taking a professional, constructive, and forward-looking approach to working together and noted a commitment to working with stakeholders to reach a lasting resolution.

Delegates were then "zoomed" randomly into one of three breakout rooms to take part in an interactive workshop session. The workshops looked at themes underpinning the delivery of remedy, including [technical issues](#), [data](#), and [communications](#). After a 45-minute discussion, participants returned to the main room to hear feedback from each of the sessions.

**[Please view the AGM 2020 day 2 presentations here.](#)**

As always, we would like to thank all presenters and delegates for their participation and support. We have received some great feedback from the event and hope that we will be able to host next year's AGM live and in person in London.

### **FPS coffee mornings**

We are continuing to run our MS Teams coffee mornings every second Tuesday while social distancing measures remain in place. These informal sessions lasting up to an hour allow practitioners to catch up with colleagues and hear a brief update on FPS issues from the LGA Bluelight team.

The next event is scheduled to take place on 13 October 2020.

If you would like to join us, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) and we will add you to the invite list for the sessions.

## **HMRC**

### **HMRC newsletters/bulletins**

HMRC has published the following newsletter containing important updates and guidance on pension schemes:

#### **[Pension schemes newsletter 124 – 29 September 2020](#)**

- Temporary changes to pension processes as a result of coronavirus (COVID-19)
- Relief at source
- Managing Pension Schemes service

**[Click here to return to Contents](#)**

## Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [Khub Firefighters Pensions Discussion Forum](#)
- [FPS1992 guidance and commentary](#)
- [The Pensions Regulator Public Service Schemes](#)
- [The Pensions Ombudsman](#)
- [HMRC Pensions Tax Manual](#)
- [LGA pensions website](#)
- [LGPS Regulations and Guidance](#)
- [LGPS member site](#)

## Contact details

### **Clair Alcock (Senior Pension Adviser)**

Telephone: 020 7664 3189

Email: [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk)

### **Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

Email: [kevin.courtney@local.gov.uk](mailto:kevin.courtney@local.gov.uk)

### **Claire Hey (Firefighters' Pension Adviser)**

Telephone: 020 7664 3205

Email: [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

## Copyright

Copyright remains with Local Government Association (LGA). This bulletin may be reproduced without the prior permission of LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

## Disclaimer

The information contained in this bulletin has been prepared by the Bluelight Pensions team, part of the Local Government Association (LGA). It represents the views of the team and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this bulletin.

While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

# **FPS Administration, Management, and Governance strategy: Response to the consultation**

## Contents

<b>1. Introduction.....</b>	<b>3</b>
<b>2. Consultation responses and commentary .....</b>	<b>3</b>
Q1. Do you agree with the employer duties and responsibilities listed? If not, please outline why... 3	
Q2. Do you agree with the administrator duties and responsibilities listed? If not, please outline why. 3	
Q3. Are there any additional functions/ tasks which should be added to section 8: Service standards? .....	4
Q4. Are the standard timescales listed in Appendix 1 reasonable and in line with statutory deadlines? .....	5
Q.5 Will you adapt and implement the template strategy for your authority in line with best practice? If not, please explain why. ....	6
Q.6 Please detail any other comments not covered by the above. ....	6
<b>3. Annex A: Responses received.....</b>	<b>7</b>



# 1. Introduction

- 1.1. The Scheme Advisory Board secretariat published a consultation on 30 June 2020 seeking views on the introduction of a [template pension administration strategy](#). The consultation closed on 31 August, although late responses have been accepted.
- 1.2. The consultation received 14 responses in total:
  - 1.2.1. Eleven from Fire and Rescue Authorities (FRAs) and;
  - 1.2.2. Three from scheme administrators
- 1.3. The list of respondents is available at Annex A. We are extremely grateful for the responses received and will continue to refer to them while the document is finalised.
- 1.4. The document will be reviewed based on the responses to the consultation and any necessary amendments made. The organisations who responded to the consultation will be invited to comment on the revisions to ensure that their views have been suitably reflected.

## 2. Consultation responses and commentary

- 2.1. This section considers the responses to each of the six questions in turn.

### **Q1. Do you agree with the employer duties and responsibilities listed? If not, please outline why.**

- 2.2. The majority of respondents agreed that the employer duties and responsibilities were captured adequately in Section 6 of the strategy. Two submissions did not provide a direct answer to the question.
- 2.3. Suggestions for additional responsibilities included the completion of GAD information for IAS19 purposes and the importance of adhering to timescales for Internal Dispute Resolution Procedures (IDRP) at 6.2. The timescales themselves are linked within the document, in the [IDRP factsheet](#).

### **Q2. Do you agree with the administrator duties and responsibilities listed? If not, please outline why.**

- 2.4. The majority of respondents also agreed that the administrator duties and responsibilities were captured adequately in Section 7 of the strategy. Two submissions did not answer the question directly.
- 2.5. However, several suggestions for additional work activities or amendments to those listed were made:
  - 2.5.1. HMRC reporting (6.8) requires more clarity as to who is responsible for submitting AFT returns i.e. the FRA or administrator.
  - 2.5.2. Completion of GAD information for IAS19 purposes.

2.5.3. Operation of pensions payroll.

2.5.4. Improving performance (7.2) should be amended to reflect that the administrator will meet any charges arising from their own poor performance and what escalation procedures would apply. More clarity is required around escalation where no improvement is made. Consideration should also be given to reputational damage if a TPO determination or TPR fine is publicised.

2.5.5. Data standards (7.4) should be expanded to include the management of data and data checks in accordance with TPR requirements.

2.5.6. Data processor requirements under GDPR. Current document only covers Data Controller as an employer responsibility under Section 6.

2.5.7. Administrators also have responsibility to record and report breaches.

2.5.8. A copy of any audit report (7.5) should be provided to the FRA. The document does not currently clarify how assurance will be provided to the Local Pension Board. FRAs may need to consult with external auditors to confirm that the proposals within the strategy are reasonable. Additionally, administrators are expected to comply with FRA-commissioned audits when contracts for services are in place.

2.5.9. Benchmarking (7.6) results should be provided to the FRA.

2.6. One FRA noted that individual arrangements between each FRA and their administrator will differ and this may result in changes to the wording in Section 7 to better reflect those individual circumstances. The document is intended as a best practice example which can be adapted to suit the needs of the employer/administrator and complement the existing service level agreement (SLA) and any contracts in place.

**Q3. Are there any additional functions/ tasks which should be added to section 8: Service standards?**

2.7. Just over half of the replies did not identify any additional tasks or events which should be added to the section on service standards, although two of these responses noted that the list may be adjusted to suit individual employer/administrator arrangements, or subject to further consultation between the parties.

2.8. The suggested additions from the remaining respondents included:

2.8.1. An added administrator responsibility under *Death on pension* to notify the FRA to allow records to be updated accordingly.

2.8.2. Legislation changes.

2.8.3. Engagement activities.

2.8.4. Technical support.

2.8.5. Pensioner payroll.

2.8.6. IAS responsibilities could be included in the *Annual return, Valuation & ABS section*.

2.8.7. Time to record and resolve complaints or issues raised with the administrators by members or the scheme manager.

**Q4. Are the standard timescales listed in Appendix 1 reasonable and in line with statutory deadlines?**

2.9. While most responses agreed that the standard timescales listed were reasonable, almost every organisation gave further commentary.

2.10. There appeared to be a lack of clarity on what the statutory deadlines are and where this information can be found. It was noted that it would be useful to identify which are regulatory and would result in a breach if not achieved.

2.11. Some of the timescales within Section 8 were felt to be too short and would not allow for the fact of differing pay runs and deadlines. However, these are free to be amended by the FRA/ administrator to suit their individual requirements.

2.12. The following discrepancies were highlighted and will be investigated:

2.12.1. Timescale for providing estimates seems to be missing.

2.12.2. Timescale for divorce quote is 10 days in appendix 1, and 3 months in section 8.

2.12.3. Deferred ABS should be in line with actives (i.e. 31 August).

2.13. One respondent noted that the only tasks set to the minimum legal timeframe were provision of ABS and pensions savings statements and that performance standards should be better defined either against national agreed legal timeframes or specific against local SLAs. The response observed that Appendix 1 was a mixture of both.

2.14. Around one-third of submissions pointed out that a “one size fits all” approach would not be reasonable and that FRAs should have flexibility to set their own standard timescales in collaboration with their administration provider. It was felt that where contracts/ SLAs are in place, these should be referenced. One FRA stated that some of the Appendix 1 tasks are reported on a quarterly or annual basis by the administrator; however, where tasks are not currently reported, this would need to be discussed following implementation of the strategy.

2.15. It was acknowledged that the service standards at Section 8 could be helpful for each FRA to input their own specific requirements, based on their contractual agreement with their administrator for non-statutory tasks.

2.16. The intended function of section 8 is to provide a comprehensive list of functions that require input or action from both parties and suggested timescales to be agreed jointly. The list at Appendix 1 is intended to state the statutory deadlines where these exist in legislation i.e. ABS, or an agreed industry good practice timescale. Both elements will be reviewed in light of comments received and further clarity provided where possible.

**Q.5 Will you adapt and implement the template strategy for your authority in line with best practice? If not, please explain why.**

2.17. All respondents confirmed that the strategy would be implemented with adjustments to reflect individual circumstances and existing arrangements in place. Where one authority did not submit a direct reply to the questions but provided commentary on specific points in the strategy, they did note that the document was welcomed in order to provide a consistent and streamlined strategy to drive best practice between scheme managers and administrators.

**Q.6 Please detail any other comments not covered by the above.**

2.18. The final question allowed respondents to provide any additional comments or concerns that had not been addressed in the consultation.

2.19. Clarity was sought around the relationship between the administration strategy and existing SLAs, for example where timescales do not match.

2.19.1. The strategy is intended to complement existing formal arrangements in place and not override any substantive agreements. As the document is a template to be adapted to suit the requirements of individual organisations, the timescales could be adjusted in the strategy document to reflect existing SLAs, assuming that these comply with any statutory deadlines.

2.20. The Aon recommendation on page 2 made provision for the administration strategy to set out what the consequences of not meeting timescales or targets might be. One authority stated they could not find details of any such consequences within the draft document.

2.20.1. This is touched upon in Section 7.1 Performance reporting and 7.2 Improving performance but does need to be expanded to clarify that administrators also have a duty to provide a certain agreed level of service to FRAs.

2.21. One key concern was related to the timing of the exercise and any extra work that would be involved in implementation, given the current status of age discrimination remedy and other events on the horizon. In addition, concern around additional software and cost in order to implement the strategy was raised.

2.21.1. It is not anticipated that the administration strategy will suggest any areas of work that are not currently being undertaken, or any additional monitoring or reporting beyond SLAs. It is intended to formalise expectations of tasks that are already in place but may not be recognised as they form part of the business as usual contracts. The Board would not expect FRAs to incur any additional or unnecessary expense as a result of adapting and implementing this strategy as best practice.

### 3. Annex A: Responses received

Avon Pension Fund
Bedfordshire Fire and Rescue Service
Cleveland Fire Brigade
Cumbria Fire and Rescue Service
Devon & Somerset Fire and Rescue Service
Durham & Darlington Fire and Rescue Service
Lincolnshire Fire and Rescue Service
Local Pensions Partnership Administration
Norfolk Fire and Rescue Service
Peninsula Pensions
Royal Berkshire Fire and Rescue Service
Shropshire Fire and Rescue Service
Tyne & Wear Fire and Rescue Service
West Yorkshire Fire and Rescue Service



## FPS Bulletin 38 – October 2020

Welcome to issue 38 of the Firefighters' Pensions Schemes bulletin.

We hope that readers remain safe and well.

Face-to-face meetings and training remain suspended for the time being due to restrictions on travel and social distancing. However, the Bluelight team are available at home by mobile, email or video (MS Teams, Skype, or Zoom).

If you are looking for information on a certain topic, issue and content indexes are held on the [main bulletin page](#) of the website and are updated following each new issue.

If you have any comments on this bulletin or suggested items for future issues, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk).

## Contents

<b>Calendar of events</b>	<b>3</b>
<b>Actions arising</b>	<b>3</b>
<b>FPS</b>	<b>3</b>
Age discrimination consultation responses	3
Immediate detriment information note	4
Special Members of FPS 2006 - Second options exercise	4
Scheme sanction charge	5
Medical retirement IQMP certificates	5
Fire and Rescue workforce and pensions statistics published	6
Website and resources update	6
October query log	7
<b>FPS England SAB updates</b>	<b>7</b>
Immediate detriment request for information - reminder	7
SAB levy 2020-21 update	7
<b>Other News and Updates</b>	<b>8</b>
Restriction of exit payments in the public sector	8
Public Service Pensions GMP indexation consultation	8
Update on TPR scheme return 2019-20	8
TPO factsheet: Complaining to TPO on behalf of a deceased's estate	9
Pensions Dashboard Programme update	9
<b>Events</b>	<b>9</b>
Local Pension Board virtual training	9
FPS coffee mornings	9
<b>HMRC</b>	<b>9</b>
HMRC newsletters/bulletins	9
<b>Legislation</b>	<b>10</b>
<b>Useful links</b>	<b>10</b>
<b>Contact details</b>	<b>10</b>
<b>Copyright</b>	<b>10</b>
<b>Disclaimer</b>	<b>11</b>

## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

Table 1: Calendar of events

Event	Date
<a href="#">FPS coffee and catch up</a>	Every second Tuesday from 3 November 2020
Eastern regional FPOG	19 November 2020
SAB	10 December 2020
North East regional group	17 February 2021
SAB	11 March 2021
SAB	24 June 2021
SAB	9 September 2021
SAB	9 December 2021

## Actions arising

Readers are asked to note the following actions arising from the bulletin:

[Immediate detriment request for information](#): FRAs in England to submit numbers of members who qualify for immediate detriment.

## FPS

### Age discrimination consultation responses

Between 16 July and 11 October 2020, HM Treasury (HMT) consulted on changes to the transitional arrangements of the unfunded public service pension schemes introduced in 2015.

On 9 October, responses were submitted by the LGA and Scheme Advisory Board (SAB). These responses can be found on our dedicated [age discrimination remedy webpage](#), along with the submissions from the Wales and Scotland SABs.

[Click here to return to Contents](#)



### **Immediate detriment information note**

We advised in [FPS Bulletin 37 – September 2020](#) that we had drafted a note to provide additional information to FRAs on the key considerations on implementing the Home Office informal guidance on immediate detriment.

The [LGA immediate detriment information note](#) and accompanying [template matrix](#) have now been published and can be found on the [Age Discrimination Remedy \(Sargeant\) page](#).

Please note that each FRA's nominated contact for the Sargeant litigation will have further information in order to inform your authority's approach to immediate detriment cases. This is for reasons of legal privilege. Please ensure that you liaise with the nominated contact for your FRA before taking any action.

### **Special Members of FPS 2006 - Second options exercise**

We understand stakeholders are keen to receive updates on the expected second special members options exercise, sometimes referred to as Matthews or O'Brien. While at this stage we cannot provide more definitive information, we have published a new [special members factsheet](#) which provides a brief background on the introduction of special members and comments on the expectations of a second exercise.

Special members were introduced to the Firefighters' Pension Scheme 2006 (FPS 2006) in 2014, following [Matthews v Kent and Medway Towns Fire Authority \[2006\] UKHL 8](#) which allowed retained firefighters employed between 1 July 2000 and 5 April 2006 to join the FPS 2006 with retrospective effect to 1 July 2000.

Following the [European Court of Justice's decision in O'Brien v Ministry of Justice](#) which is a case concerning [fee paid judges in the Judicial Pension Scheme](#), the UK Government have recognised the right for retained firefighters employed before 1 July 2000 to elect to become a special member from the start date of their employment.

This will necessitate a second options exercise, for which legal discussions have commenced between central government, the LGA on behalf of FRAs and trade union legal representatives to consider who is in scope and the details of the settlement exercise.

Regulations for England will be drafted and consulted on following the conclusion of the legal discussions. It is expected further regulations and consultations for the devolved governments will follow later. Unfortunately, no timescales are known at this stage.

There is no further action needed at this time by FRAs or their administrators.

### **Scheme sanction charge**

From time to time we have been asked to clarify who pays the [scheme sanction charge](#) on an unauthorised payment. We can confirm that this is the responsibility of the Fire and Rescue Authority as [sub scheme administrator](#). Further we can confirm that:

- There is no provision to deduct the scheme sanction charge from the member, unless the scheme rules provide for it which the FPS does not, and
- The scheme sanction charge is payable from the operating account and is **not** chargeable to the notional pension fund.

More information on frequently asked questions for scheme sanction charge can be found under *Unauthorised payments* in the technical queries log published monthly on the [technical queries page](#).

### **Medical retirement IQMP certificates**

We have been receiving an increased level of enquiries related to medical retirement certificates for use by IQMPs.

Medical retirement is leaving employment from the FRA under either ill-health retirement or injury. Ill-health retirement can and often does occur on its own. Injury retirement occurs due to a direct result of the firefighter's work and will always also trigger ill-health retirement.

An injury pension is paid under the regulations of the [Firefighters' Compensation Scheme 2006](#) (FCS 2006). The amount of benefit payable does not depend on what pension scheme the member may be in, however, it will be calculated in reference to the service attributable to the employment in which the injury is received.

Ill-health retirement occurs under the pension scheme rules, and benefits may be different depending on the pension scheme the member is in:

- Firefighters' Pension Scheme 1992 (FPS 1992)
- Firefighters' Pension Scheme 2006 - Standard and Special members (FPS 2006)
- Firefighters' Pension Scheme 2015 (FPS 2015)

Which ill-health form to use is not laid down in legislation, subsequently it is for FRAs to satisfy themselves that the forms meet the requirements of the legislation and that the IQMP has answered the relevant questions.

In 2009, following meetings of an [ill-health review group](#), a form was developed that brought together the requirement to consider redeployment as a result of the [Marrion case](#), and the different rules and eligibility for FPS 1992, FPS 2006 and FCS 2006.

In 2015, following feedback that the forms were unwieldy to use and had led to errors of interpretation the forms were simplified and separated across the schemes. The new forms considered the questions for IQMPs only and did not try to give guidance on employment considerations.

Those forms are held on the password-protected [ill-health and injury webpage](#) and **must** be downloaded each time to ensure the most recent version of the form is being used.

Each approach to the forms has pros and cons and the SAB are considering a programme of work to ensure that more resources and information about medical retirement are readily available to FRAs and members. More detail can be found in the [minutes of the SAB meeting of 13 June 2019](#).

This work may take some time and may be impacted by the Court findings in the age discrimination case known as Sargeant and the resulting [HMT consultation on age discrimination](#) in public service schemes.

In the short term we are drafting a short summary factsheet on medical retirement issues and will be making some changes to the forms. We will advise a timescale for this work in the next bulletin.

### **Fire and Rescue workforce and pensions statistics published**

The Home Office published [workforce and pensions statistics](#) for Fire and Rescue Services (England) on 22 October 2020. The pension scheme statistics, covering April 2019 to March 2020, reflect data returns on income, expenditure and membership submitted by all 45 FRAs in England.

Some key results:

- Firefighters' Pension Scheme expenditure in 2019-20 was around £908 million.
- In 2019-20, 80 per cent of expenditure was "recurring outgoing payments" and 19 per cent was "commutation payments". "Transfers" and "miscellaneous expenditure" totaled less than 1 per cent
- Firefighters' Pension Scheme income in 2019-20 was around £387.5 million.
- Employer contributions nearly doubled from £135 million in 2018-19 to £260 million in 2019-20 as a result of changes to the discount rate set by HM Treasury from April 2019.
- In 2019-20, 67 per cent of income was "employer contributions", 30 per cent was "employee contributions" and the remaining 3 per cent comprised transfers, miscellaneous income and ill-health charges.
- The Firefighters' Pension Scheme deficit in 2019-20 was around £520 million.
- As at 31 March 2020, the total number of pensioner members was 46,228. Of these, 94 per cent were members of FPS 1992.

### **Website and resources update**

We have added the following page to the Firefighters' Pension Schemes Regulations and Guidance website this month:

[Consultations](#). This page has been created to hold consultations on the FPS and wider public service pension schemes.

[Click here to return to Contents](#)

The following factsheets for members have been updated for the current financial year by the LGA Bluelight team in collaboration with the Fire Communications Working Group (FCWG) and are available from the website:

[Annual Allowance](#)

[Topping up your State Pension](#)

### **October query log**

The current [log of queries and responses](#) is available on the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log will be updated on a monthly basis in line with the bulletin release dates.

Queries from earlier months have been grey shaded to differentiate from new items. New queries have been added under the following categories: compensation scheme, ill-health retirement, Protected Pension Age, and salary sacrifice (updated).

## **FPS England SAB updates**

### **Immediate detriment request for information - reminder**

In [FPS Bulletin 37 – September 2020](#), the SAB asked for information on the number of members who are likely to become eligible for payment of benefits under the terms of the [Home Office immediate detriment note](#). This includes:

- Any member refused ill-health retirement under the FPS 2015 as the lower ill-health criteria was not met.
- 1992 transition members of FPS 2015 who reach age 55 before 31 March 2022.
- 1992 transition members of FPS 2015 who reach 30 years' service before 31 March 2022.
- 1992 transition members of FPS 2015 who will have 25 years+ service and be over 50 by 31 March 2022.

The SAB also want to understand what percentage of the FPS 2015 membership within the immediate detriment (ID) category are likely to be affected by complicating factors, such as divorce or transfers.

To date we have only received responses from eight FRAs.

The SAB kindly request that FRAs complete the [ID information sheet](#) by 30 November 2020. Please note that clicking the link downloads an Excel spreadsheet. Completed returns should be submitted to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

### **SAB levy 2020-21 update**

We informed readers in [FPS Bulletin 35 – July 2020](#) that collection of the SAB levy would begin in August/ September.

[Click here to return to Contents](#)

The budget remains with the minister's office, so we have not yet been able to request purchase order numbers from FRAs. We are continuing to chase this up with the Home Office.

## Other News and Updates

### Restriction of exit payments in the public sector

[The Restriction of Public Sector Exit Payments Regulations 2020](#) come into force on 4 November 2020.

As expected, the regulations have limited application for the FPS, as exemptions apply to two of the exit payments which would otherwise fall within the scope of the £95,000 cap: [enhanced commutation](#) (FPS 1992) and [Authority Initiated Early Retirement \(AIER\)](#) (FPS 2006 and FPS 2015) on fitness grounds.

In some limited circumstances of AIER the cap would still apply and we understand that the Home Office is working with the Government Actuary's Department (GAD) to establish how the assessment against the cap can be undertaken for the fire scheme. This will be achieved either through regulatory change or statutory GAD guidance.

### Public Service Pensions GMP indexation consultation

On 6 April 2016, the government introduced the new State Pension which removed the mechanism that enabled public servants in "contracted-out" employment between 1978 and 1997 to have their Guaranteed Minimum Pension (GMP) fully price protected. The interim solution of full indexation was brought in, which was later consulted on and extended until 5 April 2021. This ensured that public service pensioners had the GMPs they had earned in public service fully indexed by their public service pension scheme.

On 7 October the government published a consultation on [Public Service Pensions: GMP indexation](#). The consultation sets out how the government proposes to ensure it continues to meet its past commitments to public service employees regarding the full indexation of public service pensions, including for any GMP element.

The consultation will last for 12 weeks and closes on 30 December 2020.

The consultation and supporting [written ministerial statement](#) can be found on the new [consultations page](#) of the Regulations and Guidance website.

The LGA will be responding in due course.

### Update on TPR scheme return 2019-20

We reported in [FPS Bulletin 36 – August 2020](#) that the Pension Regulator's (TPR's) statutory scheme return was scheduled to be released in Autumn in line with the usual timescales.

[Click here to return to Contents](#)

TPR has advised us that the scheme return campaign for public service schemes has been slightly delayed and notices are now due to be sent out during week commencing 2 November 2020.

### **TPO factsheet: Complaining to TPO on behalf of a deceased's estate**

On 19 October the Pensions Ombudsman (TPO) published a factsheet for survivors who may want to bring or continue a complaint on behalf of the deceased's estate.

Factsheet: [Complaining to TPO on behalf of a deceased's estate](#).

### **Pensions Dashboard Programme update**

On 28 October 2020 the Pensions Dashboard Programme (PDP) published its [second progress update report](#). The report summarises the work the PDP has undertaken since April 2020 and sets out a timeline for the development of the project.

## **Events**

### **Local Pension Board virtual training**

We are attending an increasing number of virtual pension board meetings to provide an update on current issues affecting the FPS and how to use the [six key areas of governance](#) as measured by TPR to support the scheme manager through various complexities, such as Sargeant / Matthews, pensionable pay, and ill-health decisions.

If you would like to arrange a session for your board, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

### **FPS coffee mornings**

We are continuing to run our MS Teams coffee mornings every second Tuesday while social distancing measures remain in place. These informal sessions lasting up to an hour allow practitioners to catch up with colleagues and hear a brief update on FPS issues from the LGA Bluelight team.

The next event is scheduled to take place on 3 November 2020.

If you would like to join us, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) and we will add you to the invite list for the sessions.

## **HMRC**

### **HMRC newsletters/bulletins**

On 6 October HMRC updated [pension schemes newsletter 124](#) to confirm that the protected pension age easement in relation to COVID-19 will not be extended and will expire on 1 November 2020.

[Click here to return to Contents](#)

HMT has previously confirmed that anyone re-employed between 1 March and the deadline would be deemed as having satisfied the re-employment conditions, regardless of how long the employment lasted. Therefore, we understand that the PPA easement ceases to apply for any new appointments from 1 November 2020.

## Legislation

### SI number    Reference title

2020/122    [The Restriction of Public Sector Exit Payments Regulations 2020](#)

## Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [Khub Firefighters Pensions Discussion Forum](#)
- [FPS1992 guidance and commentary](#)
- [The Pensions Regulator Public Service Schemes](#)
- [The Pensions Ombudsman](#)
- [HMRC Pensions Tax Manual](#)
- [LGA pensions website](#)
- [LGPS Regulations and Guidance](#)
- [LGPS member site](#)

## Contact details

### **Clair Alcock (Senior Pension Adviser)**

Telephone: 020 7664 3189

Email: [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk)

### **Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

Email: [kevin.courtney@local.gov.uk](mailto:kevin.courtney@local.gov.uk)

### **Claire Hey (Firefighters' Pension Adviser)**

Telephone: 020 7664 3205

Email: [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

## Copyright

Copyright remains with Local Government Association (LGA). This bulletin may be reproduced without the prior permission of LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.



## Disclaimer

The information contained in this bulletin has been prepared by the Bluelight Pensions team, part of the Local Government Association (LGA). It represents the views of the team and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this bulletin.

While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).





## FPS Bulletin 39 – November 2020

Welcome to issue 39 of the Firefighters' Pensions Schemes bulletin.

We hope that readers remain safe and well.

Face-to-face meetings and training remain suspended for the time being due to restrictions on travel and social distancing. However, the Bluelight team are available at home by mobile, email or video (MS Teams, Skype, or Zoom).

If you are looking for information on a certain topic, issue and content indexes are held on the [main bulletin page](#) of the website and are updated following each new issue.

If you have any comments on this bulletin or suggested items for future issues, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk).

## Contents

<b>Contents</b>	<b>2</b>
<b>Calendar of events</b>	<b>3</b>
<b>Actions arising</b>	<b>3</b>
<b>FPS</b>	<b>3</b>
Medical Appeal Boards service update	3
Protected Pension Age – HMT easement ended	4
Compensation Scheme – Qualifying Injury COVID-19	5
FPS England actuarial factors and guidance notes	6
FPS 2006 special member tax relief requests	6
November query log	7
<b>FPS England SAB updates</b>	<b>7</b>
SAB levy 2020-21 – Request for Purchase Order numbers	7
TPR 2019 Governance and Administration Survey	7
<b>Other News and Updates</b>	<b>8</b>
Restriction of exit payments in the public sector	8
TPR pledge to combat pension scams campaign	8
ICO issue new statutory code of practice on DSARs	8
DB schemes must equalise past GMP transfers	9
<b>Events</b>	<b>9</b>
Joint Fire and Police CIPFA webinar – Sargeant/ McCloud stakeholder management	9
FPS coffee mornings	9
<b>HMRC</b>	<b>9</b>
HMRC newsletters/bulletins	9
<b>Useful links</b>	<b>10</b>
<b>Contact details</b>	<b>10</b>
<b>Copyright</b>	<b>10</b>
<b>Disclaimer</b>	<b>11</b>

## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

Table 1: Calendar of events

Event	Date
<a href="#">FPS coffee and catch up</a>	Every second Tuesday from 1 December 2020
Fire Communications Working Group	7 December 2020
SAB	10 December 2020
CIPFA remedy engagement webinar	15 December 2020
North East regional group	17 February 2021
SAB	11 March 2021
SAB	24 June 2021
SAB	9 September 2021
SAB	9 December 2021

## Actions arising

Readers are asked to note the following actions arising from the bulletin:

[2020-2021 statutory levy](#): FRAs to provide a valid purchase order number for invoicing of the annual levy, based on the number of employees eligible to join one of the Firefighters' Pension Schemes at 1 April 2020.

## FPS

### Medical Appeal Boards service update

Readers may have been aware that Duradiamond, the current contracted provider of Medical Appeal Boards, suspended appeal hearings for three months from the end of March due to COVID-19.

In July, hearings recommenced on a limited basis in London.

[Click here to return to Contents](#)

Duradiamond provided the following service update by email on 13 November 2020:

"We are writing to advise that following a meeting with the Home Office this week, we are beginning to open up regional venues in response to appeal demand.

- We will initially open up Manchester and Leeds and pending cases which have these locations as their venue of choice will be booked accordingly.
- Edinburgh, Birmingham and Bristol are in the process of being confirmed and opened and we will be in touch as soon as the allocated venues have confirmed that they remain open to take bookings whilst Lockdown 2 is in effect.
- Regional venues are being reviewed monthly whilst any lockdown and/or COVID-19 tier structure is in place and an update will be provided to all stakeholders on a monthly basis.

We would also like to update you with regard to remote appeals. At present remote attendance is not able to be accommodated, whether that be remote attendance by any party or a full remote board. Following submission of a proposal regarding the provision of remote hearings (in any format) to the Home Office earlier in the year, the Home Office agreed at our meeting yesterday to support Duradiamond in exploring this undertaking. Duradiamond is setting up a project team to assess the feasibility and practicality of delivering any form of remote service in a secure and confidential manner. Duradiamond is aware that the HMCTS (HM Courts and Tribunals Service) is already trialling audio and video technology capability. We will keep you updated on a monthly basis as the project progresses."

### **Protected Pension Age – HMT easement ended**

You may recall that earlier in the year the tax rules for [protected pension age](#) were relaxed. That meant that for any FRA re-employing a retired firefighter under age 55 and in receipt of a pension from the FPS 1992, they didn't need a month's gap in employment to keep their protected pension age or face tax charges of potentially up to 70 per cent of their lump sum and pension. This was only where re-employment was in relation to COVID-19.

On 6 October HMRC updated [pension schemes newsletter 124 - September 2020](#) to confirm that the protected pension age easement will not be extended and would expire on 1 November 2020.

HMT have confirmed that the expiration of the exemption remains unchanged and that there are currently no plans to change this approach. Those who have returned to support the government's response to COVID-19 before 1 November will however not lose their protected pension age if they continue working after that date. This pension age is protected irrespective of whether they move jobs or employers.

More information can be found on our [COVID-19 and the FPS webpage](#).

## Compensation Scheme – Qualifying Injury COVID-19

Readers will recall that questions have been previously asked as to whether a firefighter being identified with a positive case of COVID-19 would be treated as a qualifying injury for the purposes of eligibility to benefits under the compensation scheme, and the Home Office were asked to provide clear assurances that any firefighter who dies from COVID-19 will be recognised as having died from a qualifying injury.

The Home Office have confirmed the following statement:

“The Home Office is unable to provide such assurances as this this would interfere with the established legal process for determining an entitlement to awards payable under the FCS and may set unhelpful future precedents. The responsibility for making such decisions rests with employing FRAs, who are best placed to consider the relevant facts in each case.

FRAs should note that the [IQMP guidance](#) for the firefighters’ pension schemes and compensation scheme clearly sets out the processes that employers should follow when making a decision on scheme members’ ill-health/injury/death entitlements. Paragraph 3.27 of the guidance sets out that when a case is being referred to an IQMP the employing FRA should state whether or not they accept that the injury/death being considered should be treated as a qualifying injury. This process allows employing FRAs to provide their views on whether any firefighter’s death should be treated as a qualifying injury. As explained above, employing FRAs are best placed to consider the detailed facts in each case in order to make these decisions”

In order to make a decision with regards to whether COVID-19, which is widely present in the general population, has been contracted specifically due to conditions in the workplace, the FRA will need to consider each case on a case by case basis in light of the full facts and a blanket approach would not be appropriate.

In considering whether COVID-19 was contracted ‘in the exercise of duties as a firefighter’ FRAs would need to take several matters into account including but not limited to:

- Whether the incident has been taken into account for sick pay purposes.
- The work (and/or leave) pattern for the individual, being mindful of incubation times.
- Known COVID situations in any incident/location attended.
- Colleagues within the same Crew/Watch known to have been infected in the same timeframe.
- Known results whether positive or negative tested at any point over the relevant timeframe for the case in hand
- Any instruction by the FRS not to attend work within the relevant timeframe because of contact with a colleague who had come into work at a point when they would have been infectious
- FRA risk control measures, such as PPE, Distancing, Hygiene, Work Bubbles etc

- Medical reports

The [HSE advice in RIDDOR](#) (the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013) includes information about making a judgement and reasonable evidence for their purposes.

### **FPS England actuarial factors and guidance notes**

HM Treasury reduced the SCAPE discount rate from 2.8% to 2.4%pa above CPI from 29 October 2018. As a result of the change, the Government Actuary's Department (GAD) undertook a [factor review](#) for the Firefighters' Pension Schemes.

Over the following 12 to 18 months, new factors and guidance notes were issued to FRAs. It has recently come to our attention that the guidance notes for transfers-in and pension sharing on divorce in respect of FPS 2015 were not distributed at that time. We are pleased to now include them below.

- [FPS 2015 Individual Cash Equivalent Transfers – factors and guidance](#)
- [FPS 2015 Pension Sharing on Divorce – factor and guidance](#)

In addition, the following updated factors and guidance have been provided in November:

- [FPS 1992 and FPS 2006 CPD Additional Pension Benefit – factors and guidance](#)
- [FPS 1992 and FPS 2006 CPD Pension Factors](#) (Excel spreadsheet download)

CPD factors (Table X-801) have been extended to begin at age 20 in advance of remedy implementation.

- [FPS 2015 Early payment reductions – factors and guidance](#)
- [FPS 2015 Early Retirement Factors – Deferred members](#) (Excel spreadsheet download)

Early retirement factors for deferred members of FPS 2015 (Table x-403) have been extended to 13 years to allow for members with a State Pension age of 68.

The [consolidated factor workbook](#) has been updated to take account of the changes. All factor tables and guidance notes can be found on our dedicated [GAD guidance webpage](#).

### **FPS 2006 special member tax relief requests**

In [FPS Bulletins 10 - July 2018](#) and [11 - August 2018](#) we advised FRAs of a request from HMRC for information to be provided directly to them with regards to tax relief claims for special members of the FPS 2006. HMRC have now completed their investigations directly with the Home Office and there is no further action for FRAs to take.

[Click here to return to Contents](#)

Members should not be directly contacted by HMRC with regards to any tax relief claims made due to becoming a special member. If you are aware of any member receiving a request for payment please refer this to us via [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

### **November query log**

The current [log of queries and responses](#) is available on the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log will be updated on a monthly basis in line with the bulletin release dates.

Queries from earlier months have been grey shaded to differentiate from new items. New queries have been added under the following categories: contribution banding.

## **FPS England SAB updates**

### **SAB levy 2020-21 – Request for Purchase Order numbers**

Following our update in [FPS Bulletin 38 – October 2020](#), we are pleased to confirm that the SAB budget for 2020-21 has received ministerial approval and we can now start the invoicing process.

In 2014, FRAs entered a shared arrangement to fund a technical adviser post to support FRAs with their understanding and management of the Firefighters' Pension Schemes. The employers' voluntary subscription is included in the final levy.

The total levy for the 2020-21 year will be £8.29 per firefighter, which is calculated at £6.20 for the SAB and £2.09 for employers. A letter has been sent out to Chief Fire Officers advising them of this.

Devolved FRAs have also been sent levy requests with regards to the employer advice service provided to them by the LGA.

The first stage of the process is for FRAs to provide a valid purchase order number, stating the number of employees eligible to join one of the Firefighters' Pension Schemes at 1 April 2020. The form at [Appendix 1](#) should be used to provide this information.

### **TPR 2019 Governance and Administration Survey**

As you may be aware, the results of the [2019 Governance and Administration survey](#) have now been published by The Pensions Regulator (TPR).

The performance of the Firefighters' Schemes is commented on throughout and the Scheme Advisory Board will consider any further actions they may take.

The TPR [six key processes factsheet](#) will be updated to reflect the latest performance and give further guidance to FRAs in order to achieve a higher rate of understanding and compliance ahead of the 2020 survey.

[Click here to return to Contents](#)



At their meeting on 17 September 2020 the Board considered a report summarising the [results of the COVID-19 governance survey](#) designed to measure the impact of the coronavirus pandemic on pension scheme governance.

## Other News and Updates

### Restriction of exit payments in the public sector

We confirmed last month that [The Restriction of Public Sector Exit Payments Regulations 2020](#) came into force on 4 November 2020.

Following the enactment of the Exit Payment Regulations, HM Treasury (HMT) published the following documents:

- [Guidance on the 2020 Regulations](#)
- [Directions](#)
- [Equalities Impact Assessment](#)

Although the regulations have limited application for the FPS, FRAs will also have employees who are members of the Local Government Pension Scheme (LGPS).

The Local Government Pensions Committee (LGPC) has provided detailed information about the changes for LGPS and any actions for scheme employers in [LGPC Bulletin 203 – November 2020](#).

### TPR pledge to combat pension scams campaign

On 10 November 2020, TPR launched the [pledge to combat pension scams](#) campaign. The initiative asks administrators and employers to commit to the six pledge principles to show their intent to protect scheme members from losing their benefits in transfer scams.

The pledge is supported by the Pension Scams Industry Group (PSIG) and follows the principles of the [PSIG Code of Good Practice](#).

### ICO issue new statutory code of practice on DSARs

At the end of October 2020, the Information Commissioner's Office (ICO) issued its new statutory code of practice on data subject access requests (DSARs). It is aimed at data protection officers (DPOs) and those with specific data protection responsibilities in larger organisations. Along with providing additional guidance and clarity, the new code of practice is particularly relevant for administrators dealing with increased data requests from members, IFAs and claims management companies in respect of past transfers.

To find out more visit the [Right of access page](#) on the ICO website.



### **DB schemes must equalise past GMP transfers**

On 20 November 2020, the High Court ruled that trustees who do not equalise a member's guaranteed minimum pension (GMP) benefits at the time of calculating a cash equivalent transfer value (CETV) have committed a breach of duty. Defined benefit (DB) schemes providing GMPs should revisit historic CETVs made in the past 30 years and top them up where necessary. The judgment does not force organisations to actively correct all pensions transfers, however, employers may look to do so to avoid legal proceedings from members affected.

This [latest judgment on GMP equalisation](#) follows the initial judgment made in October 2018 involving Lloyds banking group.

We are discussing implications for the FPS with the Home Office.

## **Events**

### **Joint Fire and Police CIPFA webinar – Sargeant/ McCloud stakeholder management**

CIPFA is running a joint Fire and Police webinar on Tuesday 15 December at 10am:

“Stakeholder management will be a key component of your plan to deliver the McCloud remedy. In this seminar, we will cover the changes faced by a variety of stakeholders in the Police and Fire Network. The focus will be on member engagement, the member journey and the opportunity that presents, whilst managing the risks.”

As registration is not yet open for this event, we will circulate details by email to the bulletin distribution list as they become available.

### **FPS coffee mornings**

We are continuing to run our MS Teams coffee mornings every second Tuesday while social distancing measures remain in place. These informal sessions lasting up to an hour allow practitioners to catch up with colleagues and hear a brief update on FPS issues from the LGA Bluelight team.

The next event is scheduled to take place on 1 December 2020.

If you would like to join us, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) and we will add you to the invite list for the sessions.

## **HMRC**

### **HMRC newsletters/bulletins**

HMRC has published the following newsletter containing important updates and guidance on pension schemes:

[Pension schemes newsletter 125 – 30 October 2020](#)

[Click here to return to Contents](#)

- Temporary changes to pension processes as a result of coronavirus
- Managing Pension Schemes service – financial information
- Relief at source declaration – APSS590
- Pension flexibility statistics
- Signing in to online services
- Registration statistics

## Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [Khub Firefighters Pensions Discussion Forum](#)
- [FPS1992 guidance and commentary](#)
- [The Pensions Regulator Public Service Schemes](#)
- [The Pensions Ombudsman](#)
- [HMRC Pensions Tax Manual](#)
- [LGA pensions website](#)
- [LGPS Regulations and Guidance](#)
- [LGPS member site](#)

## Contact details

### **Clair Alcock (Senior Pension Adviser)**

Telephone: 020 7664 3189

Email: [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk)

### **Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

Email: [kevin.courtney@local.gov.uk](mailto:kevin.courtney@local.gov.uk)

### **Claire Hey (Firefighters' Pension Adviser)**

Telephone: 020 7664 3205

Email: [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

## Copyright

Copyright remains with Local Government Association (LGA). This bulletin may be reproduced without the prior permission of LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

[Click here to return to Contents](#)

## Disclaimer

The information contained in this bulletin has been prepared by the Bluelight Pensions team, part of the Local Government Association (LGA). It represents the views of the team and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this bulletin.

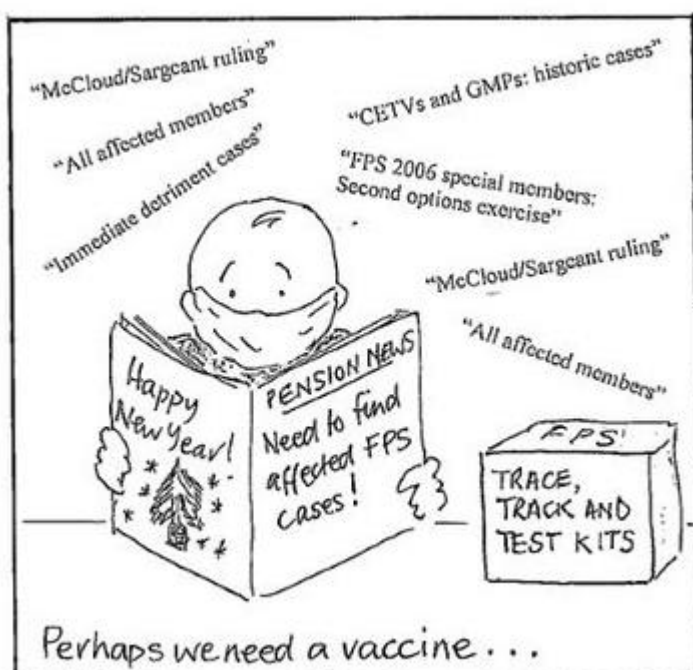
While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).



## FPS Bulletin 40 – December 2020

Welcome to issue 40 of the Firefighters' Pensions Schemes bulletin.

We hope that readers remain safe and well. May we take this opportunity to wish you all a happy festive period. Many thanks for your help and support during a challenging year – perfectly captured in this illustration by Eunice Heaney.



Face-to-face meetings and training remain suspended into 2021 due to restrictions on travel and social distancing. However, the Bluelight team are available at home by mobile, email or video.

If you are looking for information on a certain topic, issue and content indexes are held on the [main bulletin page](#) of the website and are updated following each new issue.

If you have any comments on this bulletin or suggested items for future issues, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk).

## Contents

<b>Calendar of events</b>	<b>3</b>
<b>Actions arising</b>	<b>3</b>
<b>FPS</b>	<b>3</b>
Joint statement on age discrimination remedy	3
Standard wording for inclusion with CETVs in divorce cases (and others)	4
December query log	4
<b>FPS England SAB updates</b>	<b>5</b>
Year-end message from the Chair	5
SAB levy 2020-21 – Request for Purchase Order numbers reminder	5
<b>Other News and Updates</b>	<b>5</b>
Cost-cap review stakeholder meeting	5
Pension Dashboards Programme – key data standards published	6
<b>Events</b>	<b>6</b>
FPS coffee mornings	6
Training and events – 2020 facts and figures	6
<b>HMRC</b>	<b>7</b>
HMRC newsletters/bulletins	7
<b>Legislation</b>	<b>7</b>
<b>Useful links</b>	<b>7</b>
<b>Contact details</b>	<b>8</b>
<b>Copyright</b>	<b>8</b>
<b>Disclaimer</b>	<b>8</b>

## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please email [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

Table 1: Calendar of events

Event	Date
<a href="#">FPS coffee and catch up</a>	Every second Tuesday from 12 January 2021
North East regional group	17 February 2021
SAB	11 March 2021
SAB	24 June 2021
SAB	9 September 2021
SAB	9 December 2021

## Actions arising

Readers are asked to note the following actions arising from the bulletin:

[2020-21 statutory levy](#): FRAs to provide a valid purchase order number for invoicing of the annual levy, based on the number of employees eligible to join one of the Firefighters' Pension Schemes at 1 April 2020.

## FPS

### Joint statement on age discrimination remedy

Please see below a joint statement issued on 4 December 2020 by the Home Office and LGA Bluelight team regarding public service pensions age discrimination remedy:

“As you are aware the Treasury’s public consultation on the Public Sector Pension remedy closed on the 11 October. This note is intended to outline next steps for delivery of the remedy.

The Treasury are currently considering consultation responses and expect to publish their response to the consultation in the new year. This will outline the policy intent of the remedy, including whether immediate or deferred choice will be adopted.

Changes to both primary and secondary legislation will be required to remove the discrimination. The Home Office will need to work with the Treasury to understand the policy and proposed legislation and to draft regulations to make the changes required for the Fire schemes.

In order to deliver the remedy to the timeline set out by the Treasury, the Home Office and the LGA Bluelight pensions team are committed to ensuring that you are fully up to speed with all policy and regulation developments so that work can progress at pace. It will be essential that Fire and Rescue Authorities start the process of considering what technology/administration processes will be required to implement the remedy, including what data should be retained, at the earliest opportunity and we will be engaging with you further to understand your dependencies and any challenges you will face.”

### **Standard wording for inclusion with CETVs in divorce cases (and others)**

On 14 December 2020, we emailed pension managers and administrators with the following standard wording provided by HM Treasury (HMT). The text should be included with Cash Equivalent Transfer Values (CETVs) issued prior to remedy to alert the member – and others “using” the CETV – to the fact that it may well not be a final figure:

“The Government is currently in the process of consulting on, and finalising, proposals to address discrimination identified by the Courts in respect of certain members that may affect the cash-equivalent transfer value (CETV) set out in this communication. For more information please [see the consultation documents available here](#). It is expected that, in due course, eligible members with relevant service between 1 April 2015 and 31 March 2022 may be entitled to different pension benefits in relation to that period.

It is important for the recipient of this CETV to note that the value given may change in future.”

HMT has confirmed that the wording should be used for CETVs in divorce and transfer cases, but not for Club transfers.

When using the wording, please make sure the hyperlink to the consultation is not lost if you copy and paste the text to another electronic document. If you send a hard copy of the communication rather than sending electronically, the full link text must be included.

### **December query log**

The current [log of queries and responses](#) is available on the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log will be updated on a monthly basis in line with the bulletin release dates.

No new queries have been added this month.

[Click here to return to Contents](#)

## FPS England SAB updates

### Year-end message from the Chair

Following a whirlwind four months and in keeping with tradition, we are pleased to bring you this year-end message from Joanne Livingstone, chair of the FPS England Scheme Advisory Board:

“Dear Friends & colleagues,

Although it has become a cliché to say so, it has certainly been a year that none of us will forget. For me, the process of being appointed as the Chair of the Scheme Advisory Board (SAB) for England and then getting up to speed on the Fire Pensions front was a welcome distraction from the international emergencies. And there has certainly been a lot going on for Fire Pensions.

The year was dominated by the HMT consultation on remedy for the age discrimination detriment created by the transitional arrangements for the introduction of the 2015 Scheme...”

Read [Joanne's year-end festive message](#) in full on the [Board updates page](#).

### SAB levy 2020-21 – Request for Purchase Order numbers reminder

As detailed in [FPS Bulletin 39 – November 2020](#), we have now started the collection process of the SAB and technical support levy for 2020-21.

FRAs were asked to provide a valid purchase order number by 31 December 2020, stating the number of employees eligible to join one of the Firefighters’ Pension Schemes at 1 April 2020.

Thank you to the organisations who have completed the [statutory levy form](#). We will send a direct reminder in January to those who do not respond by the deadline.

## Other News and Updates

### Cost-cap review stakeholder meeting

On 23 October 2020, the Government Actuary’s Department (GAD) held a stakeholder meeting to discuss the operation of the cost-control mechanism across public service pension schemes.

A paper setting out a [summary of the key discussion points](#) was released following the meeting.

You can find this and other documents relating to the valuation and cost-cap on our [scheme valuations](#) webpage.



## **Pension Dashboards Programme – key data standards published**

The Pension Dashboards Programme (PDP) published several updates relating to [dashboard data standards](#) on 15 December 2020. These include an introduction to data standards video and a guide containing detailed information on the data that will be needed for initial dashboards.

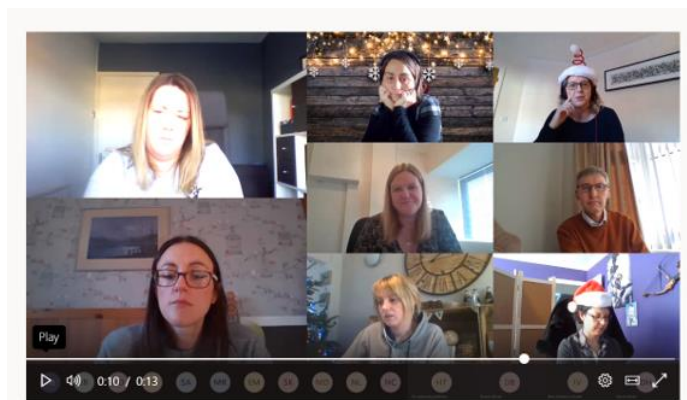
## **Events**

### **FPS coffee mornings**

We will restart our MS Teams coffee mornings every second Tuesday after the Christmas break. The informal sessions lasting up to an hour allow practitioners to catch up with colleagues and hear a brief update on FPS issues from the LGA Bluelight team.

The next event is scheduled to take place on 12 January 2021.

The sessions have been increasingly popular since we began hosting them in May. We had a record attendance of 34 at our final session on 15 December, where attendees were invited to get into the Christmas spirit early.



If you would like to join us, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

### **Training and events – 2020 facts and figures**

Even though 2020 has looked very different, it has become tradition to provide a roundup of events attended and facilitated by the team. We have become very adept at using Teams and Zoom and will happily provide training sessions virtually upon request.

This year's meetings have numbered 12 regional Fire Pension Officer Group meetings, 12 local or regional training sessions for Local Pension Boards (LPBs) and scheme managers, 6 meetings of the SAB including two special meetings to discuss the HMT consultation, 12 technical discussions with stakeholders on remedy, 3 communications group, and 2 technical group meetings.

[Click here to return to Contents](#)

In addition to our business as usual engagements, we managed to continue to hold our two popular annual events: Local Pension Board 'wrap up' training and the two-day AGM. Information about our national events can be found on our [Events page](#).

Finally, we have been regular virtual visitors to the devolved SAB meetings to provide an overview of issues arising in England and continue to represent FPS interests at sector specific forums including HMT led meetings.

## HMRC

### HMRC newsletters/bulletins

On 3 December HMRC published [Pension schemes newsletter 126](#) containing important updates and guidance for schemes. Articles include:

- Managing Pension Schemes
- Relief at source
- Pension scheme returns for 2019 to 2020
- Signing in to online services
- In-specie contributions
- Annual allowance charge - members declaring their annual allowance charge on their Self-Assessment tax return

## Legislation

SI number	Reference title
-----------	-----------------

2020/1332	<a href="#">The Occupational Pensions (Revaluation) Order 2020</a>
2020/1391	<a href="#">The State Pension Debits and Credits (Revaluation) (No. 2) Order 2020</a>
2020/1392	<a href="#">The State Pension Revaluation for Transitional Pensions (No. 2) Order 2020</a>
2020/1511	<a href="#">The Firefighters' Pension Schemes and Compensation Scheme (Wales) (Amendment) Regulations 2020</a>

## Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [Khub Firefighters Pensions Discussion Forum](#)
- [FPS1992 guidance and commentary](#)
- [The Pensions Regulator Public Service Schemes](#)
- [The Pensions Ombudsman](#)

[Click here to return to Contents](#)

- [HMRC Pensions Tax Manual](#)
- [LGA pensions website](#)
- [LGPS Regulations and Guidance](#)
- [LGPC Bulletins](#)
- [LGPS member site](#)

## Contact details

### **Clair Alcock (Senior Pension Adviser)**

Telephone: 020 7664 3189

Email: [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk)

### **Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

Email: [kevin.courtney@local.gov.uk](mailto:kevin.courtney@local.gov.uk)

### **Claire Hey (Firefighters' Pension Adviser)**

Telephone: 020 7664 3205

Email: [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

## Copyright

Copyright remains with Local Government Association (LGA). This bulletin may be reproduced without the prior permission of LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

## Disclaimer

The information contained in this bulletin has been prepared by the Bluelight Pensions team, part of the Local Government Association (LGA). It represents the views of the team and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this bulletin.

While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

[Click here to return to Contents](#)



## HUMBERSIDE FIRE AUTHORITY RESPONSE

### Public Service Pension Schemes: Changes to the transitional arrangements to the 2015 schemes.

**Question 1:** Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

HFRS have considered the Public Service Pensions: changes to transitional arrangements to the 2015 schemes, Central equality impact assessment (July 2020).

This analysis has been undertaken by HM Treasury to inform the proposals currently subject to consultation to remedy the unlawful discrimination in the main public service pension schemes identified by the Court of Appeal.

The consultation seeks views on that proposal and especially on which of the two possible approaches should be taken to making this choice, and how each of these approaches work. The two possible approaches to how this choice might work are:

1. an immediate choice; or,
2. a deferred choice underpin (DCU).

The approach set out in the consultation document is expected to have a broadly positive impact for these Members in that it will address the discrimination identified by the Courts. The proposals to address the discrimination treat all those in the remedy cohort equally, regardless of age.

HFRS intend to conduct an equality analysis once the final decisions about the changes are known and communicated.

**Question 2:** Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

See above

**Question 3:** Please set out any comments on our proposed treatment of Members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

The majority of fire pension Members affected will be in, or approaching, a dual accrual situation and therefore will choose to remain in their legacy scheme so they accrue maximum benefits for the full remedy period.

There will be additional tax implications encountered due to those who have transitioned being returned to legacy schemes, in respect of the Annual Allowance.

Legacy scheme contributions will need to be calculated and collected based on the legacy scheme.

**Question 4:** Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

Members will need to be made aware of the implications of not responding. The process of chasing Members up for a response will be time consuming and a robust record will need to be kept in order to protect from any future IDRP, or legal claims.

Those Members who have retired and have been subject to tapered protection would have retired via protected rights from the legacy 1992 Scheme and as such the tapered service in the reformed scheme will be subject to dual accrual in the legacy scheme so will provide increased benefits.

Tax implications and backdating of contributions will need to be understood prior to planning.

**Question 5:** Please set out any comments on the proposals set out above for an immediate choice exercise.

Immediate choice would allow the full process to be completed and finalised within a set timescale, however it will only allow the Member to make a choice on their personal situation at the time of planning. Personal situation will change over time which may have an impact on benefits depending on the scheme, which may have an impact on the decision they previously made.

Full financial impacts could be identified, and arrangements put in place.

**Question 6:** Please set out any comments on the proposals set out above for a deferred choice underpin.

The deferring of the choice until retirement will enable the Member to make a choice based on all the facts at the time, ensuring that they make a choice which will provide them with the most appropriate benefits.

By deferring the decision, they could be subject to additional interest charges on backdated contributions. i.e. they could be making a choice 15-20 years in the future.

Knowledge and understanding of the remedy situation will dilute through time and record keeping will need to be accurate to enable future changes to be calculated and communicated accordingly.

This will also include any payments where APB may be applicable for the period 1/4/2015 to 31/3/2022

Question 7: Please set out any comments on the administrative impacts of both options

Both options will place a significant burden on administration, although at different times, the deferred choice will place the burden on the administrator during the retirement process, the Member will not have the full picture of what benefits they will receive until they have started the retirement process.

The immediate choice will place the admin burden on the employer at the time which will require significant additional resource to meet any timescales proposed.

The immediate decision process will allow for the financial impacts to be identified for both the employee and employer and plans put in place. With the deferred option, financial impacts wouldn't be realised until the employee makes the final decision on retirement. Tax and interest charges won't be understood until the retirement process is commenced.

Question 8: Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

Immediate choice would be the preferred option due to the ability to finalise the process and understand the financial impacts for both employee and employer.

Question 9: Does the proposal to close legacy schemes and move all active Members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

Yes, it will ensure that all future benefits will be treated equally.

Question 10: Please set out any comments on our proposed method of revisiting past cases.

Case reviews for retired Members will involve a recalculation of the full pension history from retirement benefits to pension provided over time and changes to these will need to be calculated, communicated and explained to Members, which could be extremely time-consuming. Most firefighters who have retired will be better off in their legacy schemes, due to the dual accrual after 30 years, and different commutation factors.

Question 11: Please provide any comments on the proposals set out above to ensure that correct Member contributions are paid, in schemes where they differ between legacy and reformed schemes.

The collection of contributions will be a complicated process, to calculate the contributions for the remedy period may involve payments which are not treated as pensionable under the reformed scheme but are under the legacy scheme, therefore the collection of contributions will also involve the calculations of APB benefits due.

The DCU option, using a 2-stage process could result in the employee paying contributions for the remedy period to put them back into the legacy scheme and then refunding these same contributions should the employee make the option to be in the reformed scheme on retirement.

Interest charges will be complex.

From 2010 onwards Humberside Fire Authority has received constrained and reducing funding settlements from Government. The reduced employer pension contributions for the 2015 Firefighters' pension scheme has reduced the pressure on Fire Authority budgets. If the remedy requires additional Employer Pension Contributions to be paid into the pension fund, then an appropriate increase in funding will also be required to meet this significant cost pressure as well as the significant additional admin costs of implementing the remedy.

**Question 12:** Please provide any comments on the proposed treatment of voluntary Member contributions that individuals have already made.

No comments

**Question 13:** Please set out any comments on our proposed treatment of annual benefit statements.

Providing 2 sets of benefits on the ABS will involve substantial preparation and changes to the statement, which will involve system changes so that the information can be reported correctly. This will increase the substantial admin burden on employers and administrators in changing systems and supporting employees. The immediate choice option will be easier to administer and following the completion of the remedy period, will be finalised.

**Question 14:** Please set out any comments on our proposed treatment of cases involving ill-health retirement.

No comments

**Question 15:** Please set out any comments on our proposed treatment of cases where Members have died since 1 April 2015.

No comments

**Question 16:** Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

Treating each on a case by case basis will allow for the potential for an IDRP should one be treated differently to another, acceptance of a representation will be subjective.

The Member will be required to repay contributions, allowing all Members affected to re-join will remove any subjectivity around the representation.

**Question 17:** If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

The bringing of the date forward to the Club transfer date will simplify the process of updating the individual's record with the pension service. The employee will know the full



picture when planning to transfer. However, the employee may not be not knowing the full picture due to future events

**Question 18:** Where the receiving Club scheme is one of those schemes in scope, should Members then receive a choice in each scheme or a single choice that covers both schemes?

To understand the implications fully the employee should receive details of both scheme benefits and be supported through the process to make the correct decision whether to transfer.

**Question 19:** Please set out any comments on our proposed treatment of divorce cases.

No comments

**Question 20:** Should interest be charged on amounts owed to schemes (such as Member contributions) by Members? If so, what rate would be appropriate?

Interest rates should be applied to Member's contributions where refunds or retrospective collections are required to provide consistency across schemes, interest charges have already been applied to backdating of contributions in the Modified exercise.

The same process should be used for retrospection during this exercise.

**Question 21:** Should interest be paid on amounts owed to Members by schemes? If so, what rate would be appropriate?

See above

**Question 22:** If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

See above

**Question 23:** Please set out any comments on our proposed treatment of abatement.

Agree the application of retrospective adjustments to abatements payments should not be made as the employee may have made different decisions around their re-employment.

**Question 24:** Please set out any comments on the interaction of the proposals in this consultation with the tax system

The tax situation and application will be extremely complex, and employees will need to be made aware of all the implications prior to deciding whether either route is used as this could have an impact on the final benefits payable.

The DCU route will defer this to the period of retirement and the tax application may change substantially from the situation now, which won't be able to be projected. The full impact on the pension benefit won't be understood until the retirement process commences, when the information is provided.

By using the immediate choice option, the situation will be understood at the time of making the decision and the employee will be able to plan accordingly.

Pensions Remedy Project Team  
HM Treasury  
2/Red  
1 Horse Guards Road  
London  
SW1A 2HQ

Sent by email to Pensions Remedy Project Team  
[PensionsRemedyProjectConsultation@hmtreasury.gov.uk](mailto:PensionsRemedyProjectConsultation@hmtreasury.gov.uk)

9 October 2020

Dear Sir or Madam

**Public service pension schemes: changes to the transitional arrangements to the 2015 schemes: Local Government Association response**

Thank you for the Department's consultation on Public service pension schemes: changes to the transitional arrangements to the 2015 schemes, which commenced on 16 July 2020.

I respond on behalf of the Local Government Association (LGA). The LGA is a politically led, cross-party membership organisation which represents more than 330 councils of all types and 44 fire authorities across England. We work on behalf of our members to support, promote and improve local government.

The response has been drafted by the Pensions Team at the LGA. The team provide employer and administrator support to various public service pension schemes, including the Local Government Pension Scheme (LGPS), the Teachers' Pension Scheme (TPS), and the Firefighters' Pension Scheme (FPS).

The response deals specifically with considerations relating to the TPS and FPS as within scope of this consultation.

The FPS in England provides benefits to current and former firefighters and their dependants. It comprises the 1992 and 2006 final salary schemes (both special<sup>1</sup> and standard members) and 2015 career average scheme. The scheme is managed by 45 FRAs on behalf of over 89,000 members<sup>2</sup>. It is unfunded with expenses for running the scheme met by FRAs (i.e. the employers).

TPS is administered centrally by Teachers' Pensions on behalf of the Department for Education. The TPS Annual Accounts 2018/19<sup>3</sup> reports that there were 1,391,104 active and pensioner members in the TPS in 2018.

We are pleased to provide our responses to the consultation questions below.

Yours faithfully,



Jeff Houston

Head of Pensions

---

<sup>1</sup> FPS 2006 was amended in 2014 by [SI 2014/445](#) to introduce a new category of member called Special Members that reflected service for retained Firefighters prior to 5 April 2006. These members could accrue benefits in FPS 2006 under special terms that generally reflected the FPS 1992.

<sup>2</sup> [From Fire Statistics Table 1304 2017/18 Firefighters' pension membership by membership type in England](#)

<sup>3</sup> [TPS Annual Accounts 2018/19](#)

**Question 1:** Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

While we do not have specific views on the implications of the consultation proposals, we think that it would be appropriate for each scheme to be subject to an individual Equalities Impact Assessment (EIA) due to the differing public service workforces in scope of the proposals.

**Question 2:** Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

See answer to Question 1.

There is considerable history in schemes such as Fire and Police of legal challenge on a wide range of pensions issues (e.g. Milne v GAD; Ashcroft & Evans) and historic correction / remedies being applied retrospectively over many years.

A full, scheme-specific EIA should therefore be undertaken of the eventual proposed solution for remedy to minimise the risks of future challenges.

**Question 3:** Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

Although the treatment is technically correct in line with options given to other cohorts of members to ensure effective removal of age discrimination, some members of the Firefighters' Pension Scheme (FPS) may have been better off with tapering than a single choice covering the whole remedy period, for example those with a service cap in the legacy scheme who could have continued to accrue service in the reformed scheme. It is possible that FPS members may have made a different decision i.e. to retire or not retire and this may lead to the possibility of changing a contingent decision under paragraph A.43 of the consultation document.

It may also cause issues with retention of experienced employees and uncertainty for workforce planning.

We were assured prior to the consultation that no member would lose their accrued benefits under remedy. This does not appear to be the case under the proposals for tapering; there are some cases where an individual's position may be worsened.

**Question 4: Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.**

We support the proposal in principal that any member who did not respond to an immediate choice exercise would be deemed to have chosen to accrue benefits in their existing scheme for the remedy period.

This would ensure that no adjustment of contributions is needed where rates differ between legacy and reformed schemes. Deduction of contribution arrears could be challenged where a member has not made a positive election.

Additionally, it is not clear that all members would be financially better off moving back to the relevant legacy scheme.

Paragraph 2.39 of the consultation document does not clearly set out a proposed treatment of tapered members. A decision will need to be made at scheme level and applied consistently to avoid risk of unintended future discrimination.

The operation of the choice exercise imposes a huge additional workload of connecting with active, deferred and pensioner members across a wide range of media. Although the consultation is proposing multiple efforts to contact members, we are concerned that a significant number of members would not respond to an immediate choice exercise.

For example, data for the Teachers' Pension Scheme (TPS) shows that many teachers are not engaged with their pension. The TPS communicates with members electronically, via email and articles on the TP website. Just over 60% of active and pensioner members are registered on My Pension Online (MPO), the member portal on the TPS website. The TPS Annual Accounts 2018/19<sup>4</sup> reports that there were 1,391,104 active and pensioner members in the TPS in 2018. Over 830,000 of those members are not registered on MPO.

While FPS members tend to be more engaged, we commonly find that there are misconceptions about the schemes and, anecdotally, an over-reliance on advice from colleagues who are perceived to be knowledgeable.

---

<sup>4</sup> [TPS Annual Accounts 2018/19](#)

Our view is that there is a risk that in the future, that members who do not respond to an immediate choice exercise could claim they were not given the opportunity to make choice i.e. they did not receive the 'choice' correspondence from their scheme or at retirement, they could claim that they were not given enough information to make an informed decision. Or for FPS that they would deliberately not make a choice in order to make a future claim.

**Question 5: Please set out any comments on the proposals set out above for an immediate choice exercise**

We have set out a number of considerations grouped under the headings below.

**Costs**

- Under the immediate choice exercise, there could be additional costs for some employers in respect of additional employer contributions. For example, under the TPS legacy scheme, part time employment with full time employment is not pensionable. For a member who elected to move from the legacy scheme to the reformed scheme for the remedy period, previously excluded employment would become pensionable. For some employers in the TPS, such as small schools, additional, unexpected employer contributions could impact on their budgets.
- Increased employer costs will be an issue for both immediate and deferred choice in FPS due to higher rates in 1992 legacy scheme. We have received clarification from one metropolitan Fire and Rescue Service that between £5m to £7m would be needed to make good all retrospective employer contributions for retired / current FPS members in 2021-22 to cover members going back into their legacy schemes with effect from 1 April 2015.
- For an immediate choice exercise to be successful, a separate IT system must be developed to record immediate choice. This would be a significant cost to schemes.
- There will need to be considerable software changes in order to cater for an underpin based on reformed scheme benefits. Initial costs will be in developing new processes. Revised or new data collection and processing tools will be required.
- In the short-term, manual calculations will be required. This will increase the amount of resource that is required. Immediate choice is likely to be a resource intensive project which could lead to temporary increases in the administrator workforce to deal with the workload. Any increase in administration costs will be passed down to the employers.

- There will be other substantial costs to schemes in the short term such as the development of tools/calculators to enable members to make an informed choice.

## **Timescale**

- Our understanding of the proposals in the consultation document is that software systems and tools/calculators would need to be in place by 2022. These developments are crucial to the success of immediate choice. If this timescale is correct, there is concern that there would not be enough software development time for schemes to successfully produce these. As an indicative timetable within an ambitious timeframe for regulations it may take just under two years to deliver the software from the point of the decision on immediate or deferred choice.
- New software systems must include a reconciliation process to ensure members' responses are accurately recorded and received.
- It should also be noted that many administrators and software providers deal with more than one public service scheme, and will be delivering remedy across them all, increasing the time pressure. We are aware that the LGPS would like to implement their remedy in advance of 2022 and we would welcome this to free up administration and software time for the unfunded schemes.

## **Advice for members**

- Members must be provided with information, including tools, to make an informed decision. Given the number of members impacted across public service pension schemes, it is likely that there will be insufficient independent advice available for members and many members will be totally reliant on scheme guidance. Tools such as calculators must be built to a very high standard to avoid future claims.
- For locally administered schemes, this will be particularly challenging where the employer does not have a direct relationship with the software suppliers, and there is a risk of inconsistent information being provided due to variances between employers such as available budget and resources.
- Immediate choice may be indirectly discriminatory to younger members who will need to make more assumptions on their career path, future indexation, and any personal circumstances/ events which may later affect their seven-year remedy period accrual. There is also uncertainty over the FPS CARE accrual rate from 2019 to 2023 while the cost-cap remains to be revalued.



- Employers are cognisant of reputational damage if they are unable to implement immediate choice effectively and are later subject to legal action from members.

**Question 6: Please set out any comments on the proposals set out above for a deferred choice underpin (DCU).**

We have set out a number of considerations grouped under the headings below.

**Costs**

- While there would be costs for schemes in the long term for DCU, in maintaining systems and data, there will also be major administrative activities for schemes to undertake in 2022.
- DCU proposes that members would be returned to the legacy scheme for the remedy period. This would be a significant exercise for schemes to undertake as schemes would have to review members' records to identify differences between the legacy and reformed schemes. It would be extremely challenging to achieve without automated systems which are unlikely to be available at that time.
- While the bulk of the cost will be in the set-up costs, there will be a requirement to document instructions and decisions made during the remedy period to ensure that those who are charged with administering the scheme in the future have the necessary understanding to process the benefits in accordance with the regulations.
- Uncertainty over which benefits members would elect for in the future would affect scheme valuation assumptions and make it more difficult for employers to budget for changes to contribution rates.

**Maintenance of data**

- Under DCU some members may not take their benefits for many years. Schemes would have to ensure that service data could be maintained for several decades. Whilst the DCU exercise would be an opportunity to raise members' awareness and for schemes to improve their data, it would be very difficult to resolve historic service queries in the future.

## **Voluntary contributions**

- For the TPS, placing members in the legacy scheme for the remedy period takes away members' choice on voluntary contributions made under the reformed scheme during the remedy period. Where a member, at the point of taking their benefits, chose the reformed scheme for the remedy period and chose to restore their original elections, there may be a financial impact on the member. For example, a TPS member makes an election in 2015 to buy out their actuarial reduction for 3 years. In 2022, the member is moved into the legacy scheme for the remedy period and is refunded the buy-out contributions. They are moved into the reformed scheme in 2022 when the member makes a fresh buy out election. When they take their benefits, would the total cost of the buy-out be more expensive for the member as the buy-out in 2022 would be based on different assumptions i.e. age and factors?

## **Governance**

- Under the FPS regulations, each of the 45 Fire and Rescue Authorities (FRAs) are responsible for the management and administration of their scheme and are defined in law as the scheme manager. There are also 45 separate Local Pension Boards. Consequently, there are already challenges to consistency in the interpretation and application of scheme rules. As the LGA we are looking for options to support improvement to administration and governance. It is possible that the longer implementation period necessary for DCU will extend the risk of ineffective governance.
- This is not perceived to be as much of a concern for centrally administered schemes, such as the TPS.

## **Timescale**

- Without the required software in place, it would be extremely challenging for schemes to return members to their legacy scheme in 2022 and carry out the required annual allowance recalculations in line with HMRC deadlines.
- In addition, under the current DCU proposals, benefit statements at 31 August 2022 would theoretically need to reflect accrual in the legacy scheme up to 31 March 2022 as well as the reformed scheme underpin.

- Early conversations with FPS software suppliers<sup>5</sup> have confirmed that the software companies believe they cannot start the specifications needed for the change to systems until a decision has been made on whether immediate choice or deferred choice will be implemented due to the different solutions that may be needed. Timescales for programming, development, testing, and delivery then need to be accounted for.
- As an indicative timetable within an ambitious timeframe for regulations it may take just under two years to deliver the software from the point of the decision on immediate or deferred choice.

### Administrative burden

- There is a considerable amount of administrative work to be done for some schemes in reverting members to their legacy schemes with the potential for it to be redundant if the member later elects for reformed benefits. For example, the FPS has different contribution rates across all schemes. These would need to be adjusted with tax relief for each member. Some members will owe money, and some will be owed money, in the knowledge that they are accruing a debt to be repaid at retirement.
- An example of the impact for a transitional FPS 2006/ FPS 2015 member is shown below

Date	Salary	EE%		ER%		2022 (+)		Retirement (-)	
		2006	2015	2006	2015	EE	ER	EE	ER
2015	£29345	10.4	12.2	11.9	14.3	£528	704	£528	704
2016	£29638	10.4	12.5	11.9	14.3	£622	711	£622	711
2017	£29934	10.4	12.7	11.9	14.3	£688	718	£688	718
2018	£30533	10.4	12.9	11.9	14.3	£763	733	£763	733
2019	£31144	10.4	12.9	27.4	28.8	£779	436	£779	436
2020	£31767	10.4	12.9	27.4	28.8	£794	445	£794	445
2021	£31767	10.9	12.9	27.4	28.8	£634	445	£634	445
Totals						+£4811	+£4192	-£4811	-£4192

- Where service details for part time members have not been recorded under the reformed scheme but are needed for the legacy scheme, these details will need to be obtained and backfilled. This will be particularly onerous for retained firefighters.

---

<sup>5</sup> Aquila Heywood and Civica

## **Proposal**

- In order to mitigate some of the administrative challenges of DCU and uncertainty over costs in the long-term for the FPS, we would like to suggest two possible options:
  - Firstly, we would strongly recommend that individual schemes are given the option to choose which scheme members default into.
  - While a default deals with many of the concerns, it would be preferable for the member to make their own indicative choice on which scheme to base benefits for the remedy period. Offering members an indicative choice removes the risk of an irrevocable choice and lessens the potential complications of reversal at retirement.

## **Question 7: Please set out any comments on the administrative impacts of both options**

### **Software/system development**

- Both options would require schemes to develop complex software systems and guidance. DCU is administratively more complex and would impact more on employers as a result of systems/records/data to be maintained for a much longer period. It is set out in the consultation document that the expectation of the administration of an immediate choice exercise would be that it would be completed within a few years.
- Under the DCU option, it is proposed that benefit statements would record both legacy and reformed scheme benefits. This would be complex for schemes to administer as they would need to record all data e.g. pensionable pay, elections for both schemes for the remedy period, for a long period. See Question 13.
- New software systems would be essential to record a member's decision for immediate choice; this would not be required under DCU. There would put pressure on schemes to have in place complex systems and processes in 2022 for immediate choice.
- Modellers and calculators would need to be developed for both options. This guidance would be complex for schemes to develop and there would be additional pressure on schemes in respect of the immediate choice option as these tools would need to be available for members from 2022.

- In the FPS, employers have no direct contract with the software suppliers. This is managed by the administrator who is the client of the software provider. This could have implications for the development of modellers and calculators needed for members to make an informed choice. Online web solutions are developed separately to the main development underpinning the software solutions and would be dependent on and additional to the main development needed to implement remedy. The alternative would appear to be a spreadsheet calculator (provided by GAD), with all the limitations that entails – such as the inability to account for all of the features of a particular scheme and lack of accessibility.

## **Guidance**

- As well as modellers and calculators, new guidance on scheme websites, fact sheets and revised forms would need to be in place for members to make an immediate choice.
- Guidance would also be required to explain to members the different features of the reformed and legacy schemes and the possible impact on pensionable service i.e. reformed scheme flexibilities: buy out, faster accruals and pensionable pay differences.

## **Administration**

- Under immediate choice, reconciliation of members' choice would need to be completed to ensure as many members as possible made a choice. This would be resource intensive to schemes. All attempted contact with members would need to be recorded to avoid future claims. The schemes would need to have a process to record non-respondents i.e. where members remained in the 'default position' for the remedy period as proposed by the consultation.
- There would be complex administrative processes to set up and administer as a result of the immediate choice exercise. For TPS members choosing the legacy scheme for the remedy period, they would need to be refunded for any buy out elections and the conversion of faster accrual elections to additional pensions. There would also be pensionable pay differences between the legacy and reformed schemes to be administered which could result in complicated transfers, e.g. for the TPS it would be to the LGPS, for excluded employment or processing refunds. For TPS members choosing the reformed scheme, there could be additional member and employer contributions to be processed in respect of previously excluded employment.

- Under the DCU option, it is proposed that all members would be placed in the legacy scheme for the remedy period from 2022. This would be a significant administrative exercise for schemes both in terms of amending members' records and communicating changes to members. There would also be additional, complex changes to rectify differences between the reformed and legacy schemes: pensionable pay differences where some employment would not be eligible for the TPS under the legacy scheme and reviewing and administering flexibilities' elections that were not part of the legacy scheme e.g. refunds, conversions to additional pensions.
- Similar changes to members' benefits and administrative tasks could be required where a member chooses the reformed scheme for the remedy period when they take their benefits under DCU. Any transfers, pension debits, added years would all need to be reversed which is likely to be administratively difficult.
- Under both options, all members must be placed in the reformed schemes from 1 April 2022. We are concerned that there will not be enough time for software development and changes to be in place by 1 April 2022 and ask for clarification on this point.
- We understand that recruitment and retention of experienced pensions staff is already a problem for public service schemes, particularly the locally administered schemes. If we expect that more administrators are going to withdraw from the market in coming years (for FPS), it is possible that DCU presents a higher risk due to extended record-keeping, data transfer, and even fewer experts in field at the time options need to be explained to a member.
- Immediate choice avoids the refunding/ collecting of member contributions and issues for members who could accrue a contributions 'debt' at retirement under DCU. Under DCU, schemes would be required to provide dual calculations for annual benefit and pension saving statements for many years to come which would not be required under immediate choice. Therefore, immediate choice would remove one layer of administration, communication, and tax complexity arising from moving all members back to legacy scheme from 1 April 2015.

**Question 8: Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?**

We would broadly support DCU as the preferred choice to mitigate member risk and allow for the deferral of administrative support. DCU is also recognised as reducing the reputational risk to employers of members making a decision that may later prove to be less beneficial and attract future legal challenge.

However, under the HMT proposals there is a significant administrative burden that might not be met in time for April 2022.

- As detailed under Question 4 there are a significant number of members that are not engaged with their pension; our concern is that some members would not respond to an immediate choice exercise, despite the measures suggested in the consultation document to engage with members. This could result in future claims.
- There is also a risk from members who responded to the immediate choice exercise. While the consultation document states that the decision is irrevocable, members could later claim that they had not been provided with adequate information to make an informed decision.

**Question 9: Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?**

Moving all members into the same scheme on the same date ensures equal treatment. However as detailed in Question 1, we would like to see scheme specific EIAs to support the proposal.

Protected members will have reached their NPA by this time and be able to retire if they do not wish to go into the reformed scheme, and all tapered members would have tapered by this date.

Final salary link for pensionable pay and other protections such as double accrual guarantee (for Fire and Police only) should be retained for members moving to the reformed schemes in 2022.

**Question 10: Please set out any comments on our proposed method of revisiting past cases.**

There will be many complexities to consider both on implementation issues and the member choice such as deaths and transfers. It is important that restrictions in existing legislation do not override the policy intention which we understand to be that members are as far as possible put back in the same position as if they were able to remain in their legacy schemes (until 2022) or choose the reformed scheme for service from 2015 onwards.

Clarification is needed over the tax position for amending benefits in payment e.g. whether they will be treated as authorised if they do not meet the timing of payment conditions<sup>6</sup>.

### **Actuarial factors**

- The consultation document proposes that the actuarial factors used in re-calculations should be the factors used at the time of retirement. This is consistent with retirements currently being recalculated in the TPS.
- In some cases, such as CETVs for members returning from FPS 2015 to FPS 1992, factors are not available as the scheme has been closed for some years.

### **Compensation under the TPS**

- Revisiting past cases could impact on mandatory and discretionary compensation paid under the TPS by employers. Where a pensioner member is placed in a different scheme during the remedy period, if they had been granted mandatory or discretionary compensation under the TPS at retirement, this would need to be reviewed by TP at this point.
- This could result in arrears of compensation owed by employers.

**Question 11: Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.**

For immediate choice, the consultation proposal for a member owing contributions allows these to be paid upfront or over time. It does not state over what period they would be allowed to repay and does not appear to comment on the tax relief position of paying over a period of time. We would seek clarification on this point.

Nevertheless, the proposals for immediate choice appear to be straightforward.

The proposals for DCU are more complex by the proposal of a two-stage approach, particularly for members who will build up a contribution liability if they later elect for reformed benefits.

Under the DCU proposals all members moved back into the FPS 1992 legacy scheme would have an immediate debt to pay on contributions which will have to be managed.

---

<sup>6</sup> [FA 2004, Schedule 29, Part 1, Rule 1c](#)



This will exacerbate the administrative burden and increase the potential for error. Consideration would also need to be given to how to record the adjustments and who would be responsible for doing this. FRAs frequently outsource their payroll services and concern has already been raised about change of providers during the remedy period; this is far more likely to occur during the 20-30 years that records will need to be retained for DCU purposes. This is also an issue for the TPS where an increasing number of maintained schools are outsourcing their payroll services from their local authority. Whilst the TPS is administered centrally with central records, it could be difficult to resolve historic queries.

As detailed under Question 6, the need for adjustment could be minimised by asking members to make an indicative choice under DCU or ensuring the most appropriate default scheme. As the issue of varying contribution rates is only applicable to the FPS, it seems reasonable that an adjustment could be made to the remedy solution. Another option would be for any contribution adjustment be made under either option simply at the point of leaving the scheme.

**Question 12: Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.**

#### **Additional pensions**

- Additional pensions/ added years are a feature of both the legacy and reformed TPS and FPS schemes. We support the proposal in the consultation document that breaches of the limit of additional pensions would be ignored when converting additional pensions between the legacy and reformed schemes.
- There are different eligibility requirements to purchasing added pension to added years in the FPS which might mean someone who purchased added pension in FPS 2015 would be restricted under the legacy schemes.
- Additionally, the conversion of added pension in FPS 2015 to added years in FPS 1992 or FPS 2006, particularly for special members, could take someone over the 30-year service cap.
- A.15 states that additional benefits purchased during the remedy period could be converted to an equivalent value in the alternate scheme if the member elects for that scheme. However, it is not clear how this interacts with the proposal to revert all members to their legacy scheme under DCU and what would happen to the additional benefits before the actual choice is made.

### **Faster accrual (FA)**

- In the reformed scheme of the TPS, one of the voluntary member contributions is FA where a member can elect to pay a higher contribution rate, on an annual basis.
- In the case of DCU, FAs would be converted to additional pension for the remedy period. Where a member, when taking benefits, chose the reformed scheme for the remedy period, would the member be given the choice to convert the additional pension back to a FA?
- The administration of the conversion would be complicated, and guidance would be required for members. Additional administrative processes and records would be required to record conversions, this is particularly important for DCU where benefits will be taken in the future.

### **Buy out**

- The proposal in the consultation document is for a buy out election to be refunded under DCU. This could result in a complicated process for schemes to administer.
- The consultation document proposes that a refund will revoke the buy out election. Where a member makes a fresh buy out election when they return to the reformed scheme, in 1 April 2022, it is likely that the cost of the buy out would be more expensive for the member (due to increase in the member's age and actuarial factors).
- At the point of taking benefits, some members may wish to renew the buy out election that they originally took out for the remedy period.

### **Taking away member choice and flexibility**

- This adds another layer of complexity when providing options and communicating to members. Systems and processes, including member benefit statements, would need to be amended and developed to accurately record changes to voluntary member contributions as it may be difficult for members and future scheme administrators to understand. Schemes must be supported by GAD guidance.
- If the final remedy solution is DCU, it would be sensible for any adjustment to voluntary contributions to be performed once, at the point of leaving the scheme, rather than an interim adjustment to be made for the enforced return to the legacy scheme for the remedy period.

**Question 13: Please set out any comments on our proposed treatment of annual benefit statements.**

The proposal for DCU suggests that both legacy and reformed scheme benefits need to be reflected for the remedy period each year to retirement. This is likely to be time-consuming to implement and explain.

It might be relatively straightforward to extract and display figures but challenging for projections and total sum of benefits and potential commutation.

There is also the potential impact on data requirements for pension dashboards, adding extra complexity to the project.

For FPS, it would appear more appropriate for these dual statements to only be provided on request, and/ or technology developed to enable member access to the reformed scheme projections online. Again, this is not as much of a concern for centrally administered schemes such as TPS, as they currently only provide access to online benefit statements. However, it should be possible for different schemes to implement their own solutions, providing disclosure requirements and HMT Directions are satisfied.

**Question 14: Please set out any comments on our proposed treatment of cases involving ill-health retirement.**

This appears to be a short section of the consultation for such a complex area which has raised some questions:

- The consultation document does not comment on how a member would be re-assessed for ill-health at the time of remedy, for example if the scheme has changed medical providers and the previous case details and evidence are no longer available. Also, what the subsequent outcome would be if the member's health had deteriorated and/ or the new Independent Qualified Medical Practitioner (IQMP) did not agree with the original decision, as the current FPS does not allow for an uplift from lower to upper tier.
- Consideration should be given to the cost of obtaining a new IQMP opinion and who would be responsible for meeting this.
- It is unclear whether members electing for an alternative benefit, which provided a higher lump sum but lower annual pension, would be expected to repay any overpayment as in 2.26.

- The consultation does not seem to envisage the situation for locally administered schemes where there are many different managers and administrators who will be responsible for operating the ill health criteria decisions and the resulting potential for inconsistencies to arise. For example, the FPS has 18 administrators across 45 scheme managers.
- We are also aware that IQMPs can have substantially differing levels of knowledge of the requirements of the schemes.
- As we have outlined, revisiting ill-health cases may involve significant administrative difficulties. We believe it would be helpful if the expectations of the new IQMP making a backdated determination in respect of remedy were set out in legislation or statutory guidance.
- All of the considerations under Question 10 apply equally to ill-health retirement cases.

**Question 15: Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.**

The revisiting of death cases in scope of the remedy is largely not likely to differ due to the immediate choice or DCU approach, but naturally will need to be handled sensitively.

There will be issues for scheme administrators on whom should be contacted, particularly if the death occurred in a scheme which does not provide survivor benefits to unmarried partners, such as FPS 1992, and death benefits may have been paid to the member's estate. Retrospective options may also affect children's pensions where there is no spouse / civil partner.

We agree with the proposals at A.36 and A.37 regarding the adjustment of child and survivor pensions dependent on whether they are part of the same household. We also agree that survivors should not be liable for tax charges or out of pocket expenses incurred (A.41). Survivors should not be unduly disadvantaged due to remedy.

It would appear sensible to avoid further distress that where the partner of a deceased member receives a partner's pension in payment from the reformed scheme and there are no dependent children, documentation provided to them should not offer a choice, as the choice would be to receive no pension from the legacy scheme (A.39). Although the consultation proposes that no contact be made, we would suggest that a courtesy letter is sent to reassure the partner, as they may be aware of the remedy exercise from the media or colleagues of the deceased.

However, we do not agree with the argument at A.38 for **not** offering a choice of benefits where members have previously been given an option to move to a scheme offering benefits to unmarried partners (FPS 1992 to FPS 2006). There were many other differences between the schemes in that scenario which made the new scheme less attractive than the old one. We consider that such an argument would doubtless be subject to challenge.

**Question 16:** Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

We have a number of comments on contingent decisions:

- It is not clear what is meant by ‘scheme’ in the context of A.44. In respect of a locally administered scheme such as the FPS, would decisions be made on a case by case basis per employer, or would that be a policy decision of the responsible authority, the Home Office in this case?
- A.45 states that members wishing to receive legacy benefits, under either immediate choice or DCU, would need to repay contributions before they are deemed to be eligible for remedy. It is not clear why contributions for those previously opted out would not equally need to be collected if the member wished to receive benefits in the reformed scheme (for immediate choice only as DCU will default to legacy).
- For the FPS, under current legislation and from 2006, members opting out of FPS 1992 were not allowed to re-join that scheme but were awarded deferred benefits with final salary link from age 60. We would seek clarification of the options available if they are now allowed to re-join and repay contributions; whether they would be given the option of FPS 2006 legacy benefits or be allowed access to FPS 1992. This could create unintended discrimination with members who have previously opted out and re-joined FPS 2006.
- We have concerns about the reliance of evidence from employers and possible administrative burden. In the case of a member who opted out of TPS, for example, it would be difficult for a LA employer to provide evidence of why, for instance, a member opted out as they do not have a close relationship with teachers in schools. Information would be held by the TPS in these circumstances as TPS members are invited to indicate why they are opting out of the TPS on the opt out form.

- We would reluctantly suggest that the best way forward in terms of allowing members retrospective access to the schemes and therefore eligibility to remedy would be a blanket decision across the public sector. The administrative challenge of individual cases being assessed on an evidence basis cannot be underestimated, but this is set against the highly probable risk of continuing legal challenge if members are refused access. One proposal to limit liability would be to offer a time-limited option to repurchase service, based on the effective date that the member opted out.
- Additionally, the scope of remedy must be limited to rectifying or reinstating entitlement to pension, rather than extending into other areas, such as cases where individuals claim that they left employment because of pension changes.
- We are concerned about employers meeting the cost of additional employer contributions where a member who had opted out of the remedy period was allowed to opt in. For TPS, the additional costs could put some small schools in financial difficulty. For FPS, the HMICFRS State of Fire report notes that some services are “operating in a very tight financial environment” which is having a “detrimental effect on the services they provide to their communities”<sup>7</sup>. We would be mindful of any additional pressure on operating budgets which could impact frontline services and request that schemes should treat employers sympathetically and allow repayment plans where requested.
- We do not support compound interest being charged to members or employers (A.45).
- If members are also allowed to revisit decisions of retiring/ not retiring, this will require complex adjustments of salary and/ or pension payments. There may have been overpayments, and there are likely to be tax consequences.

**Question 17: If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?**

It would be administratively easier and easier for the member to understand for the DCU date of choice to be brought forward. The argument for offering DCU is to allow a member to understand the value of their benefits at the date they make the choice. They would receive this information on leaving employment.

---

<sup>7</sup> [HMICFRS State of Fire and Rescue report](#) [Page 42]

**Question 18:** Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

A single choice covering both schemes is more equitable with members who have not transferred and will not have opportunity to 'mix and match' benefits. It would be administratively more straightforward, and members will not benefit unduly from the transfer – which is the aim of the Club.

**Question 19:** Please set out any comments on our proposed treatment of divorce cases.

We believe that public sector wide guidance should be provided on the treatment of divorce cases. We cannot comment further on the proposals without a further understanding of the primary divorce law and the expectations on revaluing assets. However, consideration should be given on exposure to the member on further costs, as some schemes levy charges for the provision of divorce CETVs and implementation of pension sharing arrangements.

**Question 20:** Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

We do not agree with compound interest being charged to members or employers.

To reduce the complexity and software changes required, we would support excluding interest payments on payments to and from members.

However, if the Government decided that interest is to be charged it should be the same for both payments. Otherwise the choice on schemes risks being influenced by whether an interest rate applies rather than the real value of the scheme. It could be charged at a rate that was set for all public service pension schemes, so that there was the same approach for all members.

It is likely that there would be financial implications for some employers meeting the cost of employer contributions retrospectively and for small employers, i.e. small schools; additional charges of interest could put them in financial difficulty with pressures on school budgets. Also see Question 16.

Charging interest on payments due at the DCU date could be very significant depending on the time period between 2022 and DCU, i.e. 20 years' worth of interest would be quite significant.

**Question 21: Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?**

It is recognised there is an argument for interest payments being made to the member, reflecting that they were deprived of access to those funds by application of the transitional arrangements and therefore need compensation.

However, it is considered that applying a different approach to interest owed to the scheme and interest owed to members may influence member choice and therefore it is preferable that interest is not charged to either the scheme or members.

As set out above, applying interest would add a further level of complexity to software changes which would extend the implementation period and increase the risk of error in the operation of pension administration.

If interest is charged, the calculation of interest payments needs to be as simple as possible to facilitate calculation and payment by administrators.

Please see the response to Question 22 for comments regarding the appropriate rate.

**Question 22: If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?**

If applied, there should be a consistent approach in respect to interest across the schemes in relation to the proposals in the consultation; we would support a single rate of interest such as that used in the TPS.

This would avoid any conflict with schemes that may have different arrangements for interest.

**Question 23: Please set out any comments on our proposed treatment of abatement.**

Although administratively complex, abatement should be recalculated and charged if a member elects for legacy benefits and their final salary pension increases, as abatement would have applied if benefits had been paid 'correctly'. However, the adjustment should only be applied to pension payments from the date of recalculation and not retrospectively. This will ensure equity of treatment with protected members. Abatement is a significant factor for the FPS due to the need to retain skills and knowledge, and robust communication will be needed.

We seek clarification on the treatment of retired members receiving mandatory and discretionary compensation under the TPS and members who have paid for added years.



**Question 24: Please set out any comments on the interaction of the proposals in this consultation with the tax system**

This is a very wide-ranging question for such a detailed annex of the consultation. However, the consultation sets out some general policy points which appear to be reasonable.

We would question the proposal to ask members to pay an annual allowance charge or incur liability under DCU when reverting to their legacy scheme at 2022 when they will have no option over this.

The consultation does not comment on how the government processes might work to compensate members who have retired or left employment and therefore ineligible for self-assessment or PAYE. It is important that those members are not disadvantaged through the retrospective choice of scheme under remedy.

We also have concern over the work involved in including calculations for a choice exercise, especially if required for all relevant pension input periods, and how members will be able to access professional advice given the niche market. We expect HMRC/HMT to recognise the lack of knowledge of both members and advisers of tax implications unique to public service schemes and provide appropriate advice.

HMRC should address why the deadlines for voluntary and mandatory scheme pays are different and seek to harmonise these going forward to streamline processes and assist in compliance.

As detailed previously, an indicative choice under DCU or ability to amend the default scheme for FPS would mitigate some of the complexity and administration work involved.

Sent by email to Pensions Remedy Project Team  
[PensionsRemedyProjectConsultation@hmtreasury.gov.uk](mailto:PensionsRemedyProjectConsultation@hmtreasury.gov.uk)

9 October 2020

## **Public service pension schemes: changes to the transitional arrangements to the 2015 schemes: Firefighters' Pension (England) Scheme Advisory Board Response**

The [Firefighters \(England\) Scheme Advisory Board](#) (the Board) submits its response to the HMT consultation on age discrimination as attached to this letter.

This response is submitted on behalf of the Board by the Local Government Association (LGA) who act as secretariat to the Board. Neither the Board nor LGA act in the capacity of [scheme manager](#) or Fire and Rescue Authority (FRA).

The purpose of the Board is to provide advice to scheme managers in relation to the effective and efficient administration and management of the Firefighters' Pension Schemes (FPS).

In order to consider the Board's response to the consultation, the Board held its own discussions and also consulted with Fire sector stakeholders in the form of a working group that had representatives from SAB, National Fire Chiefs Council (NFCC), FRAs, administrators, and software suppliers.

The response to the consultation is set out in five parts as follows;

- [Part One: The Firefighters' Pension Scheme Architecture](#)
- [Part Two: Response to the proposal that the default primary scheme will be the final salary scheme](#)
- [Part Three: Response to the Consultation](#)
- [Part Four: Areas of Clarity Requested](#)
- [Part Five: Financial Implications](#)

The Board have set out the response in this way, as the way the scheme is administered and the unique features of the Firefighters' Pension Scheme (FPS) are unreplicated elsewhere in the public sector and, as these challenges feature heavily throughout the response, it is fundamental to ensure this position is understood from the start.

**The Board's response to which option, Immediate Choice or Deferred Choice Underpin (DCU) is preferable, is that DCU is the preferable option.**

The Board identified that limiting risk was its strongest priority in its approach to considering the two options, and in that regard DCU was the option that provided the most mitigation to the risks that have been identified.

However, the likely administrative and cost implications of such a long-term remedy as it is currently proposed is undeniably challenging, particularly for the FPS which is evidenced in our response.

The proposal under DCU to default members to their former legacy scheme, is a significant issue for the FPS. The different contribution levels across the component schemes make this option significantly more difficult to administer than for other schemes and would lead to the need for many reimbursements to or from members (regardless of whether they have engaged with the exercise). We have commented in detail on those difficulties within the response.

To ease some of those challenges the Board proposes within [part two](#) of its response for an amendment to the DCU as follows:

- Different default for FPS 1992 and FPS 2006 members

The Board strongly believes there should be a different default under DCU for standard members of FPS 2006 and proposes these members should remain in the FPS 2015 for the remedy period, significantly reducing the cases that would have to be unwound at retirement.

- Indicative choice

While a default deals with many of the concerns, it would be preferable for the member to make their own indicative choice on which scheme to base benefits for the remedy period. The Board believes this would significantly remove the risk of amending benefits at retirement and removes the complications of communications throughout the period from remedy to retirement.

The Board has strong concerns over expected timescales, on which it comments in more detail in answer to [question seven](#). The architecture of the scheme and lack of central contract management will severely limit FRAs, and the Board seeks to explore further mitigations with HMT that might be put in place to ease this.

Of further concern to the Board are the HMT proposals for treatment of taper members. The Board recognises the challenges as set out in the consultation document with regards to age discrimination, but nevertheless is concerned about a proposal that seeks to remove accrued benefits from firefighters. We

believe that this will need to be considered in line with [Section 23 of the Public Services Pension Act 2013](#) which requires the consent of any scheme members that may be affected by retrospective provision. This appears to be the case under the proposals for tapering; there are some cases where an individual's position may be worsened.

The Board is offering a commitment to working with HMT and the Home Office as the responsible authority to avoid further unintended complications of an already complex area.

## **Mitigations**

Within the response the Board identifies challenges, some that will be unique to the FPS and others that will be shared across the public sector pension schemes, as such the Board would propose more detailed conversations with HMT to discuss:

- Consideration be given centrally to ease timetable pressures such as a phased approach for individual schemes.
- Measures to avoid tax conflicts by allowing retrospective action and easing of the statutory timescales.


## **Funding the proposals**

The Board accepts that Treasury Directions are needed for GAD to provide the calculations which are yet unavailable. Nevertheless, the Board wishes to be clear that the consultation has asked for comments on the two choice options without providing the underlying GAD estimates on the actuarial costs of these and the employer contributions that may fall due. Necessarily the Board has not been able to consider the cost of employer contributions within their response, nor the impact that might fall on other non-remedied members of the FPS by the interaction of these costs with the cost cap mechanism.

Similarly, there are significant financial burdens that would fall on employers to manage and administer either proposal which, due to the structure of the management of the scheme, are not all within the power of the FRA to control. These costs need to be recognised and clarity achieved as to how they will be dealt with. Details of these costs, and where they may fall are commented on in part five.

If you have any questions, please let me know.

Yours sincerely



Joanne Livingstone  
Chair of the Firefighters' (England) Pension Scheme Advisory Board

## Contents

Public service pension schemes: changes to the transitional arrangements to the 2015 schemes: Firefighters' Pension (England) Scheme Advisory Board Response.....	1
Part One: The Firefighters' Pension Scheme architecture .....	6
Administration and Management .....	6
Funding.....	7
Cost .....	7
Part Two: Response to the proposal that the default primary scheme will be the final salary scheme.....	9
Issues raised by returning members to the FPS 2006 for the remedy period.....	10
The Board's Proposals.....	13
Different defaults for different members of the FPS .....	13
Indicative choice .....	14
Part Three: Consultation Questions .....	16
Question One. Do you have any views about the implication on the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the equality act 2010? What evidence do you have on these matters? Is there anything that can be done to mitigate any impacts identified? .....	16
Question Two. Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation? .....	16
Question Three. Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified? .....	17
Question Four. Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection? .....	18
Question Five. Please set out any comments on the proposals set out above for an immediate choice exercise.....	19
Question Six. Please set out any comments on the proposals set out above for a deferred choice underpin. ....	21
Question Seven. Please set out any comments on the administrative impacts of both options .....	24
Question Eight. Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the courts and why? .....	26
Question Nine. Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards? .....	28

Question Ten. Please set out any comments on our proposed method of revisiting past cases. ....	30
Question Eleven. Please provide any comments on the proposals set out above to ensure that the correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.....	31
Question Twelve. Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.....	34
Question Thirteen. Please set out any comments on our proposed treatment of annual benefit statements.....	34
Question Fourteen. Please set out any comments on our proposed treatment of cases involving ill-health retirement. ....	35
Question Fifteen. Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.....	36
Question Sixteen. Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the court?.....	38
Question Seventeen. If the DCU is taken forward, should the deferred choice be bought forward to the date of transfer for Club transfers? .....	39
Question Eighteen. Where the receiving club scheme is one of the schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?.....	39
Question Nineteen. Please set out any comments on our proposed treatment of divorce cases.....	39
Question Twenty. Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate? .....	40
Question Twenty-One. Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate? .....	40
Question Twenty-Two. If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?.....	40
Question Twenty-Three. Please set out any comments on our proposed treatment of abatement? .....	42
Question Twenty-Four. Please set out any comments on the interaction of the proposals in this consultation with the tax system. ....	42
Part Four: Areas of Clarity Requested.....	44
Part Five: Financial Implications.....	47
Appendices.....	52
Appendix One: FPS 2006 member example of the comparison of benefits for the remedy period.....	52
Appendix Two: Example of a retirement after 1 April 2022 .....	53

Appendix Three: Scheme Complexity.....	56
Appendix Four: Illustrations of timescale and dependencies .....	57
Appendix Five: Additional information to question seven to evidence the administrative challenge .....	64

## **Part One: The Firefighters' Pension Scheme architecture**

1. This section sets out the architecture of the Firefighters' Pension Schemes (FPS) as a locally administered unfunded public service pension scheme.
2. For clarity referral to the scheme(s) as the FPS encompasses the
  - Firefighters' Pension Scheme 1992 (FPS 1992)
  - Firefighters' Pension Scheme 2006 (FPS 2006) both standard and special<sup>1</sup> members
  - Firefighters' Pension Scheme 2015 (FPS 2015)
3. More information on the pension administration market and complexity of the FPS was provided in a paper<sup>2</sup> submitted to the Board at their meeting 17 September 2020.
4. During 2020/2021 the Board will be surveying FRAs and other stakeholders to understand more about the provision of current contracts and hear views from stakeholders on what changes are necessary to adapt going forward.

## **Administration and Management**

5. Under the regulations each of the 45 FRAs are responsible for the management and administration of their scheme and are defined in law as the scheme manager. This puts the responsibility to comply with over-riding pension legislation on each of the political bodies charged with governance of the Fire and Rescue Service (FRS), i.e. Combined Fire Authorities, Police and Fire Crime Commissioners (PFCCs), County Councils, Mayoral functions etc.
6. Each FRA is required to administer the pension scheme either in-house or through appointing a third-party administrator. There are currently 17 different pension administrators, which will drop to 16 next year. They are mostly not for profit organisations, with one known exception, and are often linked to LGPS administering authorities.

<sup>1</sup> FPS 2006 was amended in 2014 by [SI 2014/445](#) to introduce a new category of member called Special Members that reflected service for retained Firefighters prior to 5 April 2006. These members could accrue benefits in FPS 2006 under special terms that generally reflected the FPS 1992.

<sup>2</sup> <http://www.fpsboard.org/images/PDF/Meetings/17092020/Paper-2-Pension-administration-market-and-complexity.pdf>

7. Administrators do not make decisions on behalf of the FRA, the responsibility for decisions such as pensionable pay and ill-health remain the responsibility of the FRA.
8. It is the responsibility of each administrator to contract a software supplier that underpins their solution. The appointment of the software supplier and therefore the deliverability of software solutions is not within the control of the FRA.
9. There are two software suppliers who supply software for the FPS: CIVICA and Aquila Heywood.
10. [A list of FRAs, their administrators and software suppliers can be accessed here.](#)

## Funding

11. The FPS is an unfunded, single employer scheme, which means each FRA is solely responsible for their individual scheme and the cost of running this must be paid from the operating account.
12. The top up grant from central government covers pension payments only. The 2016 valuation outcome saw an average **increase** of 12.6%<sup>3</sup> to employer contributions, which will place a significant pressure on the FRA operating accounts from 2021.
13. Unlike other public sector pension schemes, the employer rate for the FPS is different per scheme<sup>4</sup>, so the pressure of increased employer contributions can differ per FRA depending on their cohort of members in the scheme.

## Cost

14. In 2019 the Board undertook an [in-depth review](#) of how the framework of FPS administration and management, combined with the complexity of the scheme, impacted on its cost and effectiveness.
15. The current total annual fee charged by administrators was reported to be £1,855,120.00<sup>5</sup>. This is an average of £26.28 per firefighter member, however, only 35 of the 44 surveyed FRAs provided cost data.
16. The overall costs of managing and administering the scheme, including special projects was valued at £120.33 per firefighter member.

---

<sup>3</sup> Para 1.5 - <http://www.fpsregs.org/images/Valuation/Valuation2016FV.pdf>

<sup>4</sup> <http://www.fpsregs.org/images/Valuation/SSrates2016FV.pdf>

<sup>5</sup> Appendix One - <http://www.fpsboard.org/images/PDF/Surveys/Aonreportfinal.pdf>



17. The gaps in the provision of information on scheme costs suggests this information is not readily available for all FRAs.
18. Within this response we have commented on the impact these proposals will have on the future cost of managing and administering the schemes.

## **Part Two: Response to the proposal that the default primary scheme will be the final salary scheme**

19. The Board submits that the FPS is uniquely different to other public sector pension schemes, and that under DCU there should not be an automatic legacy default scheme, as the proposals for the default create significant difficulties for the FPS.
20. The difficulties of making the legacy scheme the default are most acute for FPS 2006 standard members, and the Board considers that this is for reasons that are not necessarily replicated in other public service pension schemes.
21. For the avoidance of doubt, special members<sup>6</sup> of the FPS 2006 should be treated as FPS 1992 members for the purposes of a default.
22. For some members in FPS 2006 retiring early from active service, it is expected that they will receive considerably lower benefits in FPS 2006 compared to FPS 2015 due to less generous Early Retirement Factors (ERFs). The FPS 2006 contains a pronounced discontinuity in the amount of pension for those who retire 1 day short of their 60th birthday.
23. For other scenarios, such as retiring at the Normal Pension Age (NPA) or retiring from deferred status, there are fewer clear-cut differences between the expected benefits in FPS 2006 and FPS 2015. The most obvious difference is that one scheme is final salary in nature, whereas the other is career average, albeit revalued annually by Average Weekly Earnings (AWE)<sup>7</sup> increases and not price inflation.
24. [Appendix One](#) shows an example where, if there is little career progression, an FPS 2006 member does not significantly benefit from a final salary link to the remedy period.
25. It is therefore likely, although cannot be guaranteed, that most members will choose to receive benefits for the remedy period in the reformed scheme.
26. Under current proposals returning members to the FPS 2006 for the remedy period will cause the following issues:

---

<sup>6</sup> <https://www.legislation.gov.uk/ukxi/2014/445/schedule/paragraph/2/made>

<sup>7</sup> AWE can be more volatile than other measures of revaluation. The impact of the COVID crisis is likely to be reflected in AWE as at September 2020

## **Issues raised by returning members to the FPS 2006 for the remedy period**

### **Standard retained Firefighters**

27. All standard retained firefighters employed before 31 March 2012 would be returned to the FPS 2006.
28. It is likely, although not guaranteed, that a standard retained firefighter is unlikely to benefit from a final salary scheme<sup>8</sup>, as their pay fluctuates greatly throughout their career in response to operational situations.
29. As such, a CARE scheme is more likely to be beneficial for these members.
30. The service history for a standard retained firefighter is created by dividing the actual pay received for the year by the reference pay for the scheme year<sup>9</sup>.
31. Under current proposals, the service history for the remedy period would immediately need to be re-created for all retained firefighters and this information would need to be supplied from payroll.

### **Maintaining records**

32. If under the proposed DCU default members opted to return to the FPS 2015 at retirement, transfers, pension debits, added years which have been converted to final salary for the purpose of the default will require ongoing maintenance in order to convert back to FPS 2015 at retirement.
33. Maintenance of such data is more difficult due to the structures of the FPS leading to increased risk of error and inconsistencies.

### **Contributions**

34. Unlike most other public service pension schemes, the FPS has different contribution levels<sup>10</sup> for each scheme, for both employee and employer contributions.
35. FPS 2006 scheme contributions are lower than FPS 2015. Under the current proposals for default arrangements, this would give the member a refund of contributions in 2022 which, if they chose to receive FPS 2015 benefits at retirement, would mean they have underpaid and owe contributions

---

<sup>8</sup> It should be noted that Special Retained Firefighters who have an accrual rate of 45ths, may be better treated as an FPS 2006 member for the remedy period. [\[Part 2, Rule 2, Para 1A\]](#)

<sup>9</sup> Part 10, paragraph 6, sub paragraph 5 -

<https://www.legislation.gov.uk/ukxi/2006/3432/schedule/1/part/10/paragraph/6/made>

<sup>10</sup> <http://www.fpsregs.org/images/Legal/Annual-updates/FPS-contribution-rates-2020-21.pdf>

36. This is illustrated below in the table using the pay scales for a competent firefighter:

37. Table 1. Example refund due on FPS 2015 contributions for remedy period for a competent firefighter

Year	Salary	EE%		ER%		2022(+)		At retirement (-)	
		2006	2015	2006	2015	EE	ER	EE	ER
2015	£29345	10.4	12.2	11.9	14.3	£528	£704	£528	£704
2016	£29638	10.4	12.5	11.9	14.3	£622	£711	£622	£711
2017	£29934	10.4	12.7	11.9	14.3	£688	£718	£688	£718
2018	£30533	10.4	12.9	11.9	14.3	£763	£733	£763	£733
2019	£31144	10.4	12.9	27.4	28.8	£779	£436	£779	£436
2020	£31767	10.4	12.9	27.4	28.8	£794	£445	£794	£445
2021	£31767	10.9	12.9	27.4	28.8	£634	£445	£634	£445
						<b>+£4811</b>	<b>+£4192</b>	<b>+£4811</b>	<b>-£4192</b>

38. In this example the member would receive a refund of contributions worth £4,811 in 2022, with the burden of knowing they had to repay this amount when they retire if they would wish to have reformed benefits for the remedy period.

39. It is not clear if the intention is that the employer would also have a refund of £4,192 at this time, which they would have to repay if the member chose reformed benefits at retirement, given that it is proposed that the employer cost of remedy is to be met through the cost cap mechanism.

40. This approach will also have a significant impact on accounting for the notional pension account, with payments made from the notional pension account and re-claimed via the top-up grant which may need to be unwound at retirement.

41. The information will need to be drawn from payroll at each FRA; some FRAs will have changed payroll during the remedy period and the information may be hard to obtain.

### **Tax and interest**

42. The consultation proposes that if contributions were to be refunded in 2022, they would be taxed as income, reclaiming any tax relief the member claimed at the time of making the contributions.

43. At retirement, if the member chose to receive benefits under the reformed scheme, the contributions would again fall due, at which point the member could claim tax relief.

44. However, there are a number of difficulties with claiming tax relief that were brought to light during the FPS 2006 special members exercise, and HMRC have since clarified that pensioners or deferred members cannot claim tax relief through self-assessment or PAYE, so any tax relief claim at retirement would need to be settled through a government process.
45. The consultation proposes that the tax relief would be due at the time of making the contributions and would not be retrospectively applied based on the tax position at the time they would have ordinarily fallen due. This could result in firefighters receiving less tax relief than they would have had no discrimination taken place, even if the earnings have stayed level, as the tax relief would be paid on the aggregation of contributions against a single year of taxable income.
46. Retained firefighters are subject to a fluctuating income and this policy might advantage or disadvantage them.
47. The consultation further asks for comments on whether interest should be due on money owed. If the policy decision is to apply interest, these members would have interest due on the contributions at the point they are required to make them at retirement. It will be a challenge to explain the choice of any rate of interest proposed, as HMT will be aware, given challenges made to the interest rate used in roll ups for scheme pays mechanisms in other schemes.

### **Annual Benefit Statements**

48. The current proposal suggests that members receive annual benefit statements and pension savings statement based on both the default scheme and the underpinned reform scheme for the remainder of their service until normal retirement age.
49. For many FPS 1992 members, this may be of little benefit, primarily since the members will be happy with the return to FPS 1992, and it may cause confusion to receive benefit statements on another basis. Furthermore, benefit statements cannot go into the different contingencies which might be the factors which cause members to make a different choice when they ultimately draw benefits, such as their family circumstances.
50. Nevertheless, under current proposals to return FPS 2006 members to the legacy scheme, a statement at that time confirming the benefits under FPS 2015 might be of value. The benefit statement may serve as a reminder that there will be contributions to pay and its tax and interest consequences.

### **Decision Making**

51. The amount of contributions to pay may impact the members' decision making. While one scheme may provide a higher pension, the

corresponding higher contribution rate may mean that this higher pension does not provide the member with value for money.

### **The Board's Proposals**

- 52. Scheme illustrations show that a significant number of FPS 2006 members would be better off in FPS 2015.
- 53. There would be significant administrative processes in 2022 to return the member to the legacy scheme that would all need to be undone at retirement if the member chose FPS 2015, as well as a member debt to settle that would have pension tax relief consequences and, depending on policy decisions, interest to pay.
- 54. The Board feel strongly that for all the reasons laid out above, there should be a different default for standard FPS 2006 members, who should be defaulted to remain in the FPS 2015.
- 55. A summary of the proposed default arrangements is set out below:

### **Different defaults for different members of the FPS**

- 56. Members of the FPS 1992 and special members of FPS 2006 are defaulted into the appropriate legacy scheme for the remedy period; and
- 57. Members of FPS 2006 are defaulted to remain in FPS 2015 for benefits earned during the remedy period.
- 58. This would avoid a majority of FPS 2006 members building up an unnecessary contribution “debt” that needs to be addressed at retirement. This is beneficial to members and employers (from a cashflow planning point of view) and administrators (as this reduces the need to calculate and administer pension debits once members retire).
- 59. However, the Board recognises that there may be a limited number of former FPS 2006 members who may benefit from being treated as FPS 2006 members during the remedy period. To further limit reversal complications for these members at retirement, and to ensure members are communicated to effectively and efficiently, the Board would go further to suggest that members make an indicative and reversible choice in 2022 as to which scheme they wish to select for the remedy period.

## **Indicative choice**

60. Rather than a default return to the legacy scheme with no initial member choice, the Board believes that the member should make an indicative choice on which scheme to base benefits for the remedy period.
61. The Board believes that this significantly reduces the risk for FPS 2006 members of having to unwind a default return to FPS 2006 at the point of making a choice upon crystallisation of benefits, i.e. death or retirement.
62. An indicative choice also means that the member would be communicated to via annual benefit statements and pension saving statements by the primary scheme of their choice, so the communication has a purpose and is valued. The communication can remind them that they do have an alternative choice, especially for those who did not make an indication and that further details are available on request.
63. This also avoids the administrative pressure of immediately having to create FPS 2006 service records for retained firefighters, if they choose to receive FPS 2015 benefits for the remedy period.
64. It is recognised that an indicative choice carries with it a communications exercise for members. However, this will help members to feel that the remedy is being actioned, and regardless of each option, members will need communications, to explain the remedy and how it might affect their eventual choice.

## **Mechanism**

65. During the lead up to 2022, it is proposed to communicate to members the general merits of each scheme and the default scheme that would be applied, so that each member has a general understanding of the choice.
66. Under the default proposed above, it would be the intent that members would be moved to the appropriate default scheme for the period 1 April 2015 to 31 March 2022, unless they indicate they wish to be treated differently and make an indicative choice.
67. Any member who does not wish to take up the default would need to indicate which scheme they wish to be treated under for the remedy period within an appropriate timeframe.
68. The exact mechanisms and timescales of making that indication will need further discussion upon understanding more about the HMT expectations of delivering remedy at 2022.
69. The broad aims of the Board by offering an indicative choice will be to minimise additional administrative burden while allowing the member to make a meaningful decision.

70. Where possible it would be the intention to draw on existing processes such as benefit statements to provide the additional information that would be necessary for the member's choice.



### Part Three: Consultation Questions

**Question One.** Do you have any views about the implication on the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the equality act 2010? What evidence do you have on these matters? Is there anything that can be done to mitigate any impacts identified?

- 71. The Board believes there is an increased risk that the remedy for discrimination against people with protected characteristics such as age and gender is more likely to fail for immediate choice than for deferred choice.
- 72. This is because younger members will have more time between making an irrevocable choice and the outcome of that choice being brought into payment. This will lead to younger members facing more uncertainty and a wider variation in the benefits that may be available to them from their legacy and reformed scheme.
- 73. The challenge of maintaining fitness until age 60 may raise age and gender discrimination issues, for example early retirement factors will impact if firefighters cannot maintain fitness levels to age 60 and leave at age 55.
- 74. The legacy Firefighters' Schemes are complex, with caps on pensionable service and double accrual within FPS1992. This could mean that members of similar age and total service might receive very different benefits outcomes, for example from the way in which tapering is applied or the cut off dates for members to be eligible for remedy.

**Question Two.** Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

- 75. The history of legal challenge across the FPS and historic correction / remedies being applied retrospectively over many years is a complicating factor.
- 76. The impact of the proposals on workforce recruitment, retention and requirements will need to be understood for the purposes of workforce planning and the Board will work with stakeholders to establish what information and data is available in this regard.
- 77. A full, scheme-specific Equality Impact Assessment (EIA) should therefore be undertaken of the eventual proposed solution for remedy to minimise the risks of future challenges.
- 78. We understand that this will be conducted by the Home Office in due course and shared with the Board.

**Question Three.** Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

79. The position of tapered members needs careful consideration and is made complex by the 30-year service cap and double accrual in the FPS 1992.
80. In the FPS 1992 members may by virtue of their age have not been protected, but still have achieved 30 years' service before being tapered into the FPS 2015. These members may have therefore accrued both a full FPS 1992 pension and currently be building up benefits in FPS 2015.
81. It is recognised that they had the right to retire at 30 years' service. However, it may be that due to their experience and skills it was beneficial to both the employee and employer to remain employed.
82. Under the proposals those taper members who have moved into the FPS 2015 and are still employed may now decide to retire leaving a skills and resource gap.
83. If the member wished to continue working, as we understand it the choice would be to either:
- 83.1. Choose legacy scheme benefits and continue paying FPS 1992 contributions even though full service may have been accrued.
  - Or
  - 83.2. Choose reformed scheme benefits for the full remedy period and accept a decrease in their FPS 1992 pension value which would be calculated to 31 March 2015 only rather than the original taper date.
84. For example, consider a firefighter who had completed 28.25 years in FPS 1992 by 2015 and tapered after 2 years to FPS 2015.
85. They will have achieved 30 years' service and would have been able to retire in 2017, however, due to their skills and knowledge they continued working and accruing benefits in FPS 2015 for a further 5 years to 2022.
86. The choice under the consultation proposals now available to them for remedy period is:
- 86.1. Final salary 1.75 years of service to maximum of 30 years
  - Or
  - 86.2. 7 years pension in FPS 2015
87. Both are less than they would have been expecting and conveyed to them by annual benefit statements and would appear to reduce the pension already accrued. They may claim that they would have retired in 2017 if they had known the choice that is now available to them.

88. Other anomalies may occur relative to members who have already taken benefits. For example, we are aware of an example where a retired taper member, in receipt of a full 30-year FPS 1992 pension has transferred their FPS 2015 pension into the civil service scheme and it is not clear what the policy intent of the consultation would have on member benefits in this case.
89. This issue continues to deepen in complexity because the transferring of individuals from their legacy scheme to FPS 2015 has continued since the tribunal interim order, and still continues despite this proposal, placing more scheme members in this position daily.
90. As we understand it, under proposals to move all members into the FPS 2015 at the end of the remedy period, unprotected members could achieve near 30 years' service just after 1 April 2022 and move into the FPS 2015, thereby achieving nearly a full FPS 1992 pension and still being allowed to accrue new benefits, which is a position that appears to have been taken away from taper members. An example of how this would be calculated has been included in [appendix three](#).
91. We believe that these proposals will need to be considered in line with [Section 23 of the Public Services Pension Act 2013](#) which requires the consent of any scheme members that may be affected by retrospective provision.
92. Whilst the taper has itself been deemed to be discriminatory, the Board believes that allowing members to take different decisions in respect of remedy for pre and post taper date is objectively justifiable to protect members' expectations and avoid the above anomalies.

**Question Four. Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection?**

93. The Board has made clear that it supports DCU, rather than immediate choice, and comments on this section should be read with that in mind.
94. The Board is greatly concerned about the risk introduced with a default choice that is irreversible and believes that this could give rise to a subsequent legal challenge. Immediate choice is hugely dependent on, and will need to be supported by, accurate advice to enable members to feel comfortable to make their choice. If they feel the information afforded to them is not suitable and sufficient, it follows that a member will not be comfortable or confident enough to make their choice.
95. Younger firefighters may well be at a disadvantage due to their shorter service and less experience than older firefighters and will have to rely more heavily on variables, assumptions and projections much further into

the future. These members may well be more likely to subsequently challenge the default which has been allocated to them.

96. Whilst the Board acknowledges that a default would be required to cater for those who don't make a choice, the use of defaults is not without risk. Some members might claim they were not aware of the default and the presence of a default option may be seen as promoting a particular option.
97. In the event of an immediate choice policy decision taken, then the proposals to engage over a twelve-month period, with at least four attempts would appear to be reasonable.
98. Potentially an appeals process could smooth the approach of a default, with the member given a suitable period in which to appeal this.
99. While it would seem appropriate that the default should be the most evidently beneficial for the most numbers of members in each cohort, e.g. assuming the majority of FPS 1992 unprotected members would wish to receive legacy benefits, the delivery of the default will require careful consideration. For example, there are challenges with how to mandate the collection of contribution arrears or to deal with any tax charges if the member has not made a positive election.
100. The Board notes that separate consideration might be given to a different option for the default choice for taper members i.e. to use the reformed schemes. However, for FPS 1992 taper members this would see them defaulted to the FPS 2015 for the period 1 April 2015 to 31 March 2022.
101. The complexities outlined above of providing an irreversible default adds to the increased risk that the Board perceives in this option.

**Question Five. Please set out any comments on the proposals set out above for an immediate choice exercise.**

102. As noted above, the Board considers the risk associated with immediate choice outweighs potential advantages of administrative easement.
103. The consultation does not state this; however, the Board assumes that the choice would not be given until any cost cap recalculations and the resulting decisions that affect the value of benefits from 1 April 2019 have been finalised.
104. The Board considers that immediate choice would result in a higher expectation of further legal challenge, especially in the event where:
  - 104.1. A member refuses to make a choice and a default decision is made on their behalf.

- 104.2. A member makes a choice, but it transpires that the choice was informed by inaccurate information provided by the employer.
105. The complexity of the current schemes combined with the unknown elements of the future of the scheme, such as the volatility of AWE, means that members may find it hard to make decisions about their future and may make a choice that will later prove to be detrimental to them. [Appendix Two](#) provides a summary of how the schemes are complex.
106. It is unclear whether the effect of implementing the second special members' option exercise known as Matthews would affect the choice available to members.
107. The Board is concerned about what advice will be available to members in order to support decision making. FRAs and their administrators are not financial advisers and cannot provide advice to members. Financial advisers would require detailed knowledge of the FPS and may be in short supply. They are unlikely to be able to make a recommendation for risk management reasons.
108. In order to support the member's decision, the consultation points to tools being developed to project benefits at retirement for the member, but it is not clear how these tools will be developed to reflect the complexities of the scheme, nor who is responsible for arranging this. This will prove very challenging to develop for the FPS due to the complexity of the administration and management arrangements.
109. The FRAs do not have contract management of the software suppliers, this sits with the administrators. The scheme as it stands is unable to commission central tools to support this option.
110. As such, the process for commissioning these by each individual scheme manager may be more complicated and could result in additional cost.
111. Accessibility in accessing the tools and communications should also be considered. Guidance<sup>11</sup> on complying with the EU accessibility act makes clear that accessibility means more than putting things online and requires the content and design to be clear and simple enough. The Board has not seen tools that yet have the capability to do this and deal with the many complexities, such as the individual salary history, variable elements of pay, differing pay definitions and split pension provisions of the FPS.
112. The Board accepts that in most cases, particularly for FPS 1992 members, the choice might be straightforward. The significant concern on risk lies with the decisions of FPS 2006 members, and a small cohort of FPS 1992, such as taper members.

---

<sup>11</sup> <https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps>

113. The Fire sector is generally considered one of the most informed of public sector employees on pension issues and does not generally suffer from the lack of engagement issues that other schemes have.
114. However, that engagement can have its disadvantages, such as rumours and a reliance on colleagues or social media to inform, rather than scheme paperwork. As such there is a significant concern that members of FPS 2006 would be influenced by the decisions of FPS 1992 members.
115. The Board considered mitigations such as communications, projections, and technology, however, there would remain a residual risk of a member making a decision they later wished to reverse.
116. There was concern about immediate choice potentially discriminating against younger people whose choice would be based both on a higher level of assumption than older people who will have experiential information about their past service, and on the decisions of those older, longer serving firefighters.

**Question Six. Please set out any comments on the proposals set out above for a deferred choice underpin.**

117. In our response we have addressed four aspects of this:

- Reasons for support
- Challenges identified
- Timescales
- Mitigations proposed
  - Different defaults for different members of FPS 2006
  - Use of indicative choice to reduce administration

### **Reasons for support**

118. The Board previously identified that limiting risk was its highest priority in its approach to considering the two options, and in that regard DCU was the proposal more likely to mitigate risk of further legal challenge.
119. In simple terms, the Board feels it is the safest option for all concerned, as it would:
- Reduce any future challenges on the grounds of incorrect choice
  - Mean any choice is made on facts rather than assumptions
  - Remove the potential age discrimination that immediate choice might indirectly cause to younger members.

120. The Board recognises that there are cost and administrative disadvantages, particularly with complicated reversal procedures at retirement, but believes that the advantages outweigh these.

### **Challenges Identified**

121. A legacy scheme default for FPS 2006 members introduces significant difficulties in the record keeping where the decision is likely to be reversed at retirement. These are detailed in full under part two [Issues raised by returning members to the FPS 2006 for the remedy period](#) of the response, briefly set out below these are:

121.1. Maintaining records; If under the proposed DCU default members opted to return to the FPS 2015 at retirement, transfers, pension debits, added years which have been converted to final salary for the purpose of the default will require ongoing maintenance in order to convert back to FPS 2015 at retirement.

121.2. Contributions; FPS 2006 contributions are lower than FPS 2015, therefore there will be refunds to pay in 2022 which will need to be paid back at retirement if opting for reformed scheme benefits.

121.3. Annual benefit statements; This will be confusing to reflect properly in annual benefit statements and communications to members.

### **Timescales**

122. Under the consultation proposals, returning members to their legacy scheme 'in 2022' will be a significant project and would be impossible to achieve without automated systems.

123. It would also require all the answers to questions currently outstanding under immediate detriment, i.e. how to convert transfers, added pension, divorce debits etc. in the FPS 2015 to final salary benefits.

124. It is unclear from the consultation, however, we believe that returning members under legislation to their legacy scheme would automatically trigger the recalculation of the pension input amount for each year of the remedy period, and, as a result, if there are annual allowance charges to pay it will trigger the tax clock for those payments to be made.

125. Under the current proposals it would also mean that current members in the FPS 2015 who were former members of FPS 2006 would be returned to their legacy scheme and contributions immediately refunded.



126. For retained firefighters defaulting from FPS 2015 to FPS 2006, administrators would have to calculate qualifying final salary service based on actual pay received during each year from 2015 to 2022 in relation to reference pay. This would place a considerable burden on organisations and would ultimately be redundant if the member later elected for reformed remedy benefits.
127. The timescale for DCU as proposed in the consultation is a significant concern and further clarity is needed with regards to the expectations. This is commented on further under question seven.

### **Mitigations**

128. As per [part two](#) of the response, the Board proposes several options for dealing with some of the complexity that DCU offers.

### **Different defaults for different members of FPS 2006**

129. The Board submits that the FPS is uniquely different to other public sector pension schemes, and that under DCU there should not be an automatic legacy default scheme, as the proposals for the default create significant difficulties for the FPS.
130. The difficulties of making the legacy scheme the default are most acute for FPS 2006 standard members, and the Board considers that this is for reasons that are not necessarily replicated in other public service pension schemes.
131. For the avoidance of doubt, special members<sup>12</sup> of the FPS 2006 should be treated as FPS 1992 members for the purposes of a default.

### **Use of indicative choice to reduce administration**

132. Unlike the immediate option under the HMT proposals, DCU does not offer an indicative immediate choice for the remedy period, instead mandating that the member is deemed to have legacy scheme benefits until the point the benefits are crystallised when they can choose something else.
133. While this may suit many FPS 1992 members, as this may be their eventual deferred choice, it is considerably problematic for FPS 2006 and it would make sense to adopt the reformed scheme as their default choice.

---

<sup>12</sup> <https://www.legislation.gov.uk/ukxi/2014/445/schedule/paragraph/2/made>



134. The Board believes that longer-term administrative burdens might be reduced by notifying affected people of their default scheme at the end of the remedy period and offering the option to make a reversible immediate choice (or change of default scheme) if they are certain about plans for future service and retirement. It is considered that relatively few would need to subsequently change their choice thereby allowing administrators to process most retirements without the need to deal with complicated processes at retirement.

**Question Seven. Please set out any comments on the administrative impacts of both options**

135. It should be noted that for the FPS, the challenge lies not just with the pension administrators. The structure of the FPS with each FRA acting as scheme manager, with overall responsibility for the scheme, means that the reforms will be hardest felt by those locally administered unfunded schemes, a position FPS shares only with the Police Pension Scheme.

136. The FRA as scheme manager will be heavily impacted by the resource needed at an officer level. The governance challenge of ensuring the right decisions are taken will also be keenly felt.

137. It will be for each of the 45 FRAs to individually project manage implementation of the remedy processes, unlike centrally managed schemes who have the resources and necessary powers of delegation to manage centrally, with a project management team designated just for remedy.

138. There is no central contract management to hold suppliers to account on cost and timeframe, as there is no power to contract centrally.

139. Early conversations with the software suppliers<sup>13</sup> have confirmed that the software companies believe they cannot start the specifications needed for the change to systems until a decision has been made on whether immediate choice or DCU will be implemented, due to the different solutions that may be needed.

140. The consultation only consults on primary legislation changes and it is not clear when the secondary legislation consultation changes will be due or what timeframe draft secondary regulations could be produced in.

---

<sup>13</sup> Aquila Heywood and CIVICA

141. After that the software companies may wish to defer to development until they have had at least sight of early draft regulations. They have previously indicated that it would take 12 to 18 months to develop the changes that will be needed to support remedy.
142. Once the changes have been programmed there will be a testing cycle that needs to be completed with clients before the roll out of the software.
143. As an indicative timetable within an ambitious timeframe for regulations it may take just under two years to deliver the software from the point of the decision on immediate or deferred choice. This timetable will be impacted at every stage by the timing of decisions and regulations.
144. As the consultation does not comment on when the secondary regulations and consultation on those would start with individual schemes, it is difficult to accurately illustrate the timetable. Nevertheless, we have made some estimates as illustrated in the timetable provided in [appendix three](#).
145. The consultation suggests that under DCU members are immediately moved back into legacy schemes in 2022; under the likely indicative timetables it would not be possible to establish the benefit records and deal with the tax and contribution adjustments within the timescale.
146. Also on the practical side it should be recognised that the administrators and the software providers who support the administration of the FPS will also be implementing remedy across the wider public sector, notably LGPS, but many also support the Police and Teachers' schemes, and some devolved government health schemes.
147. This means that the FPS will be facing competition to get the resource available from the administrators and software in order to implement the necessary changes to process. Within the UK, public sector administrators, software providers, employers, policy advisers, and government departments will all be looking to recruit at the same time from a relatively small pool of public sector pension experts.
148. It should be noted that for the FPS, the additional resource that will be needed is not just at administrator and software level, the FRA as scheme manager will be heavily impacted by the resource needed at an officer level. Some of this might be mitigated by a phased approach to mitigation.

149. The impact of the second special members options exercise, known as Matthews<sup>14</sup>, at the same time as remedy cannot be underestimated. This project the first-time round was hugely significant in terms of resource required by officers of FRAs as opposed to the administrators, because as the employers they were responsible for contacting the employees and providing quotes. The resource available will be significantly impacted by workloads for remedy.
150. Any additional resource even if available will need funding.
151. Question seven only asks respondents to set out comments on the administrative impact, however there is also significant impact on workforce planning and financial planning, as well as potential for reputational risk.
152. There is significant concern over the workforce impact, with the remedy arrangements, regardless of which choice is implemented, having an impact on decisions taken by firefighters and may see firefighters retiring earlier than planned due to a lack of understanding of the planned reforms.
153. The Board would like to see the remedy measures finalised as soon as possible so that schemes can communicate them to members and provide certainty about the longer-term plans for the scheme.
154. Further evidence of the administrative tasks that will be required and the challenges this raises are included in [appendix four](#).

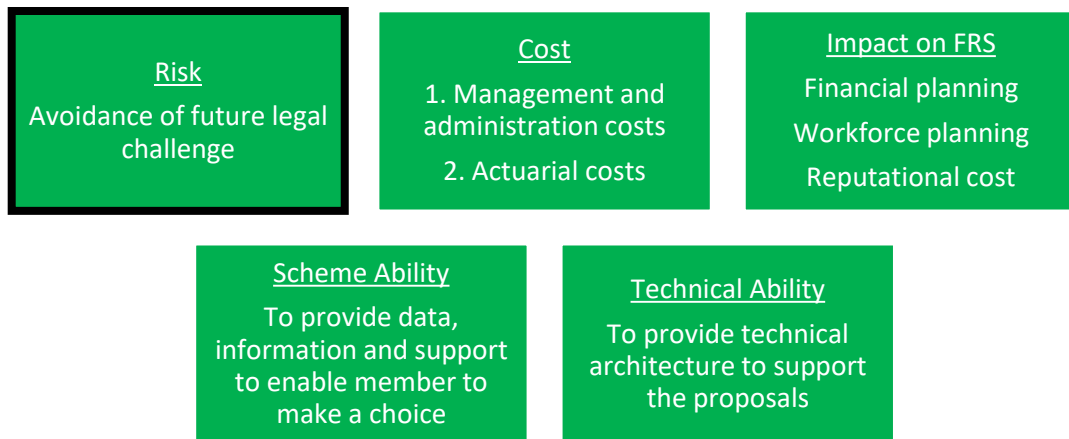
**Question Eight. Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the courts and why?**

155. In its early response to HMT's initial informal consultation, the Board supported DCU and it does so again after intensive debate of the consultation proposals.
156. That response assessed each of the two options, immediate choice and deferred choice, within five key areas: risk, cost, employer implications, administrative feasibility, and technical ability to deliver.

---

<sup>14</sup> [https://en.wikipedia.org/wiki/Matthews\\_v\\_Kent\\_and\\_Medway\\_Towns\\_Fire\\_Authority](https://en.wikipedia.org/wiki/Matthews_v_Kent_and_Medway_Towns_Fire_Authority)

157. Picture 1: Five Key Areas



158. At that time, the Board identified that limiting risk was its highest priority.

159. The Board has carefully considered all these items again, and the limitation of risk remains its highest priority, and the risk identified with immediate choice is significant enough to outweigh any administrative advantages.

160. The Board held detailed discussions with the stakeholder group in forming this view and, while they accept that from a practical view, software and administrators response to this consultation will likely be in favour of immediate choice, the stakeholder group supported the view of the Board on limiting risk and thereby supported DCU.

161. When considering risk, the Board considered risk to the employers if it were to support irrevocable immediate choice. Taking into account the data, knowledge and calculations that would be necessary to support member decisions, it felt that for locally administered schemes the reputational risk was significant. The risks can be summarised as:

161.1. Resources: Available resources and knowledge to implement a complex choice system are likely to be lower than for a centrally administered and managed scheme.

161.2. Risk of inconsistency: The arrangements for responsibility and funding of the scheme mean that some FRAs have less resources and knowledge than others, which will likely lead to inconsistencies of approach with regards to the levels of technology and information members are given to support their decisions.

162. The Board consider that DCU is preferable for ensuring that discrimination is removed because this would ensure that benefits are

adjusted according to what is best for each member, given that the information used to inform the members' decisions, is factual and based on experience to the point of retirement.

163. With the immediate choice option, decisions necessarily must be based on speculative information about a member's employment experience, resulting in some risk that assumptions prove to be incorrect in relation to actual experience. There would be a consequential risk that some employees would consider inaccurate assumptions to be discriminatory with potential to bring about a legal challenge.
164. However, while the Board is firm in its support for DCU, under the current HMT proposals there is a significant administration burden that will not be met for the FPS in time for April 2022.
165. As set out in the introductory letter, the Board thinks that phased implementation will mitigate the risks of not delivering and would welcome more detail on HMT's expectations to deliver remedy in 2022.

**Question Nine. Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?**

166. As set out in answer to question one, the Board has commented that it would like to see an EIA for the firefighter workforce. The Board has also commented on the tapering provisions.
167. The closure of the legacy schemes does not in itself ensure equal treatment if the provisions of those schemes are deemed to be discriminatory.
168. The Board has already asked HMT to ensure that equality impact considerations are considered within the review of the cost cap mechanism.
169. Submissions to the consultation in a different capacity from the employee representative members of the Board will include strong opposition to the proposal to move all members into the reformed scheme. They will identify several categories of members where they believe further clarity is needed on the effect of these proposals, and whether they raise equality issues. The Board believes that consideration needs to be given to these issues/challenges.

170. It is not clear from the consultation whether the move to reformed schemes in 2022 will retain the transition benefits between FPS 1992 and FPS 2015 and keep the double accrual guarantee as illustrated in [appendix two](#).<sup>15</sup> While the benefits in the FPS 2015 from 2022 remain unclarified, fear or a lack of knowledge may drive members to retire earlier than planned.
171. Such behavior may affect workforce retirement assumptions of FRS's and produce an evacuation of experience and knowledge from the sector.
172. Schemes will be able to provide detailed examples of how transitional retirements may work after 2022<sup>16</sup>, if the policy intent is clarified by HMT or the Home Office.
173. Another area that the Board wishes to raise is a potential concern regarding disability discrimination:
- 173.1. Eligibility for FPS 2015 lower tier ill-health requires the member to be disabled from the role of a firefighter until normal retirement age. Eligibility for higher tier ill-health requires the member to be permanently disabled from any regular employment until normal pension age.
- 173.2. These arrangements means that certain ill-health conditions, such as psychological ill-health where a diagnosis of permanency is not recommended for treatment, or degenerative diseases where symptoms are not stable can lead Independent Qualified Medical Practitioners (IQMPs) to make a more cautious approach, resulting in these disabilities not qualifying for ill-health under FPS 2015 compared to FPS 1992.
- 173.3. It may be that allowing an upward review of ill-health where circumstances change could mitigate this, nevertheless central guidance will be needed in this regard and the Board is offering a commitment to working with HMT and the Home Office as the responsible authority to avoid further unintended complications of an already complex area.

---

<sup>15</sup> <https://www.legislation.gov.uk/uksi/2015/589/schedule/3/paragraph/9/made>

<sup>16</sup> <http://www.fpsregs.org/images/admin/1992transition300519.pdf>

**Question Ten. Please set out any comments on our proposed method of revisiting past cases.**

174. The Board does not accept a position that past cases should be postponed until 2022 where it is possible to make payments now. Instead the Board has been supportive of being able to remedy past and present retirement cases and escalated a request for guidance on this in March 2020.
175. While the Board welcomed the provision of [guidance on immediate detriment](#), the guidance highlighted the difficulties in effecting solutions, and we understand that it will be rewritten to provide more direction.
176. For the FPS the most likely scenario is that members who have retired with FPS 2015 benefits during the remedy period wish to have these paid as FPS 1992 benefits.
177. It is important to ensure that there are no tax penalties for both the lump sum and pension arrears as a result of remedy.
178. Under the timing of payment rules [[FA 2004, Schedule 29, Part 1, Rule 1c](#)], a lump sum is a PCLS and therefore authorised if it is paid within 12 months of the day in which the member becomes entitled to it. Therefore, the meaning of the term **'becomes entitled to it'** is important to remedy.
179. If it is a new entitlement, i.e. one the person was not entitled to at retirement then there is a new twelve-month period in which to pay the lump sum.
180. The Board urges HMRC and HMT to clarify the meaning of 'becomes entitled to it', within the context of remedy.
181. The LGA have previously had correspondence<sup>17</sup> with HMRC on correcting pensions in payment that had come about because of a retrospective change in pay that should have applied at retirement, and whether as a result of that they were unauthorised payments.

---

<sup>17</sup> [HMRC query form dated 26 November 2019](#), [HMRC reply dated 10 January 2020](#), [HMRC query form dated 5 June 2020](#) and [HMRC reply dated 30 June 2020](#)

182. The points of principle from that correspondence were:

182.1. Payments made in error (i.e. payments that have been made, but were not due at all, or have been overpaid) can be authorised by virtue of [regulation 13 of SI 2009/1171](#)

182.2. Where the scheme pension entitlement arose at the time the original pension started means that arrears of underpaid scheme pension are already authorised and covered under normal pension rules, under [paragraph 2, schedule 28, FA 2004](#).

183. The Board would urge HMT to consider a working group to consider these complexities and to ensure the involvement of the Board's secretariat.

**Question Eleven.** Please provide any comments on the proposals set out above to ensure that the correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

184. The consultation proposal where the member owes money in contributions allows the member to pay these upfront or over time.

185. Contributions owed will likely fall in the following categories:

185.1. Difference between FPS 2015 and FPS 1992 contributions for the remedy period.

185.2. Contributions on FPS 1992 terms of any temporary promotion to be treated as an [Additional Pension Benefit](#) (APB).

185.3. Difference between FPS 2015 and FPS 1992 contributions on any CPD payments in order to calculate the APB that will be payable under the legacy scheme.

186. In several cases the contributions schedule will need to be adjusted for the contribution holiday<sup>18</sup> if the member would be eligible under the legacy scheme.

---

<sup>18</sup> The Government introduced an employee contributions holiday for FPS 1992 members who accrue the maximum 30 years' pensionable service prior to age 50. This applies from the point of accruing maximum pensionable service in the scheme until the member's 50th birthday. This change was applied retrospectively to 1 December 2006.



187. The consultation does not comment on what arrangements would be made under either immediate choice or DCU to collect the additional employer contributions, nor whether this will be necessary given the proposed treatment of the remedy as a past service cost. This is specific to the Fire sector as the employer contributions differ across the component schemes.
188. The Board welcome the recent decision under the Immediate Detriment guidance that FRAs do not need to re-calculate and pay the employer contributions that would have been paid under the legacy scheme, and that these adjustments will be captured in the scheme valuation process and reflected in the future employer contribution rates going forward.
189. If any retrospective employer contributions were to be required it would be important to understand the mechanism that might be used to recover employer contributions, when the impact might be felt, and how these interact with the cost cap mechanism.
190. If FRAs must pay the old FPS 1992 rates and any retrospective / retired members contributions during 2022/2023, this will lead to significant funding pressures.
191. It would seem preferable that the employer contributions are recovered from the 2020 valuation calculation of employer contribution rates that will apply from 2023/2024 in a similar way to that agreed for employer contributions under immediate detriment.
192. The consultation does not confirm over what time period recovery would be considered. It would seem reasonable to suggest a ten-year period with any balance to be paid upon retirement, in a similar arrangement that was allowed for special members of the FPS 2006.
193. The proposals for DCU are made more complex by the proposal of a two-stage approach, particularly for FPS 2006 members who will build up a contribution liability if they later (as expected) elect for reformed benefits.
194. There are several practical questions that need to be considered regarding the collection of contributions:
- 194.1. How will the contribution collection be mandated for FPS 1992 members under a default proposal to move members back to the legacy scheme?
- 194.2. What legislation could be used to collect contributions from salary?

194.3. For deferred members, what are HMT proposals for collecting contributions arising from a default return to legacy schemes? Under the FPS 2006 special member exercise, collecting contributions via a direct debit from members has been a significant administrative exercise which involves rigorous auditing procedures.

195. Under the DCU proposals all members moved back into the FPS 2006 legacy scheme will have a refund that becomes payable but, as has already been noted, a significant portion will make a choice for FPS 2015 benefits at retirement, which leaves them with a known debt to pay on contributions that they have already paid and had refunded.

196. The sums involved are illustrated in the table below for a competent firefighter.

197. Table 2: Example refund due on FPS 2015 contributions for remedy period for a competent firefighter

Date	Salary	EE%		ER%		2022 (+)		Retirement (-)	
		2006	2015	2006	2015	EE	ER	EE	ER
2015	£29345	10.4	12.2	11.9	14.3	£528	£704	£528	704
2016	£29638	10.4	12.5	11.9	14.3	£622	£711	£622	711
2017	£29934	10.4	12.7	11.9	14.3	£688	£718	£688	718
2018	£30533	10.4	12.9	11.9	14.3	£763	£733	£763	733
2019	£31144	10.4	12.9	27.4	28.8	£779	£436	£779	436
2020	£31767	10.4	12.9	27.4	28.8	£794	£445	£794	445
2021	£31767	10.9	12.9	27.4	28.8	£634	£445	£634	445
						<b>+£4811</b>	<b>+£4192</b>	<b>-£4811</b>	<b>-£4192</b>

198. The information in order to calculate the contribution schedules will need to come from payroll, which means the data needs to be available.

199. Finding a lump sum of £4,811 at retirement from a competent firefighter's pay which is currently £31,767, for contributions that have already been paid, refunded and possibly spent would potentially cause financial distress.

200. The pension fund accounting effect on the notional pension fund will need to reflect these payments out, which will be collected from Treasury via the top-up grant, to be paid back again at retirement.

201. The Board's suggested proposal for a default or indicative choice would reduce the need for a refund of contributions as members will more likely to have paid the correct contributions for the remedy period.

**Question Twelve.** Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.

202. The proposals need to consider both the basis for conversion and the practical side of implementation.

203. We would expect actuarial equivalence to be an important principle for conversion. The remedy will need to address the practical issues as well, some of which are described below.

203.1. In the FPS 2015 additional contributions can purchase [added pension](#), however, in the legacy scheme additional contributions purchase [added years](#).

203.2. There are different eligibility requirements to purchasing added pension to added years which might mean someone who purchased added pension in FPS 2015 would be restricted under the legacy schemes.

203.3. The conversion of added pension in FPS 2015 to added years in FPS 1992 or FPS 2006, particularly for special members could take someone over 30 years' service.

204. These questions have also been posed in relation to the immediate detriment guidance.

**Question Thirteen.** Please set out any comments on our proposed treatment of annual benefit statements.

205. Under immediate choice, annual benefit statements and pension saving statements would continue based on the member's choice.

206. Under DCU this would require two sets of annual benefit statements and pension savings statements provided to the member each year, one based on the default legacy scheme basis and another on reformed benefits.

207. For most FPS 1992 members this would be a largely pointless exercise and potentially confusing to communicate.

208. For FPS 2006 members there may be value in showing the amount of the reformed benefits but knowing there would be contributions to pay could cause financial distress to members. Careful thought would need to be given to exactly how that is shown on the statement to differentiate a CARE underpin for the remedy period, to CARE growth from 2022. It is not clear how the unknown variation between the AWE link on the CARE underpin and the potential future growth in the final salary scheme would be illustrated. The statement is unlikely to be able to show the various contingencies in which benefits may be taken e.g. early retirement.
209. Hence the Board believes there should be no requirement to routinely provide statements for two sets of benefits on an annual basis. The Board believes that the information may not be particularly meaningful until a member is nearing retirement and needs an indication of likely income should they choose to take benefits.
210. The use of technology would of course be preferable. However, as outlined at the start, the arrangements for software sits with the administrator who is appointed by the FRA, so there is no central contract management on software solutions.
211. It is accepted that members may wish to make advance plans considering matters such as the ability to repay a mortgage at retirement. A requirement to provide benefit statements on request should be sufficient for FPS purposes.
212. It is unclear from the consultation what expectations are around the production of annual benefit statements at 31 August 2022, however, on the basis of estimated timescales it is very unlikely these would be available for 31 August 2022 and the Board would welcome a discussion on the easing of statutory timescales in that year.

**Question Fourteen. Please set out any comments on our proposed treatment of cases involving ill-health retirement.**

213. The circumstance of people in ill health means that the Board would be particularly keen to see these benefits settled as soon as possible. The position is complicated because different definitions of ill health apply in FPS 2015 relative to FPS 1992.
214. The consultation does not appear to envisage the situation where there are multiple scheme managers and administrators who will be responsible

for operating the ill-health retirement criteria decisions and so setting the rules clearly within guidance will be key.

215. The consultation does not comment on the expectations for re-assessment of ill-health or reimbursement of IQMP charges. Direction may be needed from HMT on what the outcome should be if the health had deteriorated as a result of the delay between the original assessment and remedy.

216. The following factors for retirees in different situations need to be considered:

216.1. The enhancement to pension paid on the higher tier ill-health can mean in some cases that the pension per annum is higher under the FPS 2015 than it would be under FPS 1992.

216.2. Although the pension may be higher, the lump sum under FPS 2015 could be lower, so the member would need to consider the value of higher income/ survivors' pension over a bigger lump sum.

216.3. If the member was not married at the point of ill-health retirement but does have an unmarried partner, electing to retire under reformed scheme benefits would provide a partner's pension.

216.4. If the FPS 2015 pension was put into payment at the higher rate, and the member subsequently elects to have legacy benefits in order to receive a higher lump sum, would this result in overpayments from the pension scheme that would need to be repaid?

217. The Board welcomes the statement as set out in paragraph A.30 that government will work with schemes to seek to offer reformed scheme members undergoing ill-health retirement a choice of legacy or reformed scheme benefits at retirement, and would encourage HMT to consider a working group to consider these complexities and to ensure the involvement of the Board's secretariat.

**Question Fifteen. Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.**

218. Death cases are largely likely not to differ under the immediate choice or DCU approach. Naturally they will need to be handled sensitively.

219. The safeguards relating to probate and tax costs in paragraph A.41 are welcomed. However, there is no detail in the proposal to outline how this

communication exercise will be achieved and the Board would welcome some centralised guidance in this regard.

220. On a practical level the Board is keen to understand how the reimbursements referred to in A.41 will be administered.
221. For the FPS it will be important that care is taken to identify all survivors involved, particularly in relation to FPS 1992 which does not provide survivor pensions for unmarried partners but who would qualify for a survivor benefit if they elected for the FPS 2015 option.
222. There will be challenges in identifying who should be contacted, where there was no spouse/ civil partner and where death benefits may already have been paid to the estate rather than an unmarried partner.
223. In cases where it is not clear what might be legally achievable in terms of identifying the appropriate decision-maker, it is suggested that executors of the deceased's estate might be well placed (in law) to make the decision or, where no executors are appointed, the immediate next of kin would be the logical choice for making the decision (although the executor may also be the next of kin).
224. As the consultation itself suggests, it would not be reasonable to deny a choice to the surviving partners of FPS 1992 members regardless of their choice in 2006. Circumstances might have changed since and the choice made between the 1992 and 2006 schemes then is different from a choice between 1992 and 2015 scheme benefits now
225. It would appear sensible, to avoid further distress, that where the partner of a deceased FPS 1992 member has a partner's pension in payment from the reformed scheme and no dependent children, documentation provided to them should not offer a choice, as the choice would be to receive no pension from the FPS 1992. Nevertheless, it would be sensible that some contact should be made to reassure the partner that the benefits provided to them are reflective of the remedy and they are in receipt of the higher benefit.
226. On a practical level the Board is keen to understand how will the reimbursements referred to in A.41 will be administered?

**Question Sixteen. Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the court?**

227. The consultation proposes that decisions on whether to unwind a case, based on an argument that the member may have taken a different decision if they had known that continued membership of their legacy scheme was an option, should be taken on a case by case basis by the scheme.
228. It is not clear what is meant by the scheme in this case, whether it would that be on a case by case basis per FRA, or a decision of the responsible authority.
229. Such a process would be difficult to manage at the discretion of each of the 45 FRAs. Consistency on the decision would be difficult to achieve.
230. The Board would support a broad policy decision on who would be entitled to re-visit their decision, rather than on a case by case basis. However, the expectation is that it would be limited to opt-outs no further back than an appropriate point when the opt-out could be solely linked to the introduction of the reformed schemes. The Board would also expect a time limit on when cases could be presented, a period of twelve months would seem reasonable. Further scheme discussions may be necessary to agree the limitation date and time limit to present cases.
231. Naturally there are some technical complexities to be considered which the consultation does not mention. Scheme guidance will be needed on how these should be treated. This might include the following:
- 231.1. How would re-instatement of pension work for an opt-out? Currently members of the FPS 1992 who opt out are not allowed to re-join the FPS 1992, albeit the final salary link is re-instated.
- 231.2. Under the proposals addressed by question three, could taper members with 30 years' service but who stayed in the FPS 2015, argue, under the contingent decisions argument, that they would have retired at 30 years and should receive arrears of pension to the retrospective retirement date, with interest payable.
232. It is accepted that employee contributions would be due for the period of non-membership and that the sums involved will be significant. It would therefore be appropriate to allow for arrears to be paid over a period as addressed in question 10.

**Question Seventeen.** If the DCU is taken forward, should the deferred choice be bought forward to the date of transfer for Club transfers?

233. It would be administratively easier, and easier for the member, for the DCU date of choice to be brought forward. The argument for offering DCU is to allow a member to understand the value of their benefits at the date they make the choice. They would receive this information on leaving employment.

**Question Eighteen.** Where the receiving club scheme is one of the schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

234. Potentially it could benefit a member to transfer out from one scheme under legacy or reformed benefits and transfer into the new club scheme on the opposite.

235. However, this would not be equitable with members who have not transferred and will not have an opportunity to 'mix and match' benefits.

236. It would be administratively more straightforward for a single choice to cover both schemes and would ensure that members do not benefit unduly from the transfer, which is the principle of the Club.

**Question Nineteen.** Please set out any comments on our proposed treatment of divorce cases

237. The Board cannot comment on the proposed guidance without a further understanding of the primary divorce law and the expectations on revaluing assets. The response below sets out the legal questions and some specific complexities relating to FPS.

238. Primarily it would appear that the over-riding law is divorce law. The Board wonders if central legal advice has been taken with regards to revaluing assets used in the divorce settlement at the time. The Board hopes that this might establish:

238.1. What precedent has been set in law, to revalue assets that have been set and awarded by a court?

238.2. Where a pension sharing order was not made but the CETV value used to assess assets at the time of divorce, what requirement would there be to revalue the CETV now?



239. Under the 2015 reforms as we understand it, the policy intent was that protection would not apply to the spouse, and therefore when calculating the corresponding divorce pension credit (the ex-spouse pension), this should be created in the FPS 2015.

240. However, the FPS rules were not drafted<sup>19</sup> to allow the pension credit to be applied solely in the FPS 2015 and some administrators had applied corresponding pension credits in both parts of the scheme.

**Question Twenty.** Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

**Question Twenty-One.** Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

**Question Twenty-Two.** If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

241. The answers to these questions have been taken together below.

242. The Board believes that the question of interest should be dealt with in accordance with a few basic principles:

242.1. Interest should be paid out on amounts owed to members, given that they will have arisen from discrimination.

242.2. Whether interest should be due on amounts owed to the scheme depends on whether the repayment is being spread post remedy period or not. It would not feel appropriate to charge any interest for the period until which members are first able to make good any shortfall.

242.3. Thereafter interest might be appropriate, especially if the contributions are being deducted from a lump sum payable at retirement, albeit that it would be appropriate to adjust for any lost tax relief as well.

243. Some of the potential impact of interest on FPS members might be as follows:

---

<sup>19</sup> Item 10.04.2018 5d, page 22 <http://www.fpsregs.org/images/Tech/Meeting-24/Action-summary-310120.pdf>

- 243.1. Under immediate choice, this is most likely to affect former FPS 1992 members who will make a choice for legacy benefits over the remedy period, and who will need to pay balancing contributions between the FPS 1992 rates and FPS 2015.
- 243.2. Under current proposals for DCU, which sees FPS 2006 members refunded contributions in 2022 and then asked to repay at the point of DCU choice if they choose reformed benefits, interest could potentially be applied to the repayment of contribution. If FPS 2006 members could default to stay in FPS 2015 under the DCU this scenario of being refunded and then asked to pay would not be a default occurrence.
- 243.3. If under question 16 a taper member successfully argued that they would have acted differently if it was not for the discrimination and retired during the remedy period and has their pension re-instated from that point, they would be able to claim interest on those payments under this proposal.
- 243.4. If a member has been in receipt of higher tier FPS 2015 ill-health benefits which pays a higher pension and opts to receive FPS 1992 benefits in favour of a higher lump sum there may be overpayments to recover.
244. If members are charged interest on their balancing payments, would employers be correspondingly be asked to do so? This would depend on the mechanism for recovery of employer contributions.
245. Charging interest on payments due at the DCU date could be very significant depending on the time period between 2022 and DCU, i.e. 20 years' worth of interest would be quite significant.
246. There is no scheme interest rate set for the FPS. Where interest rates have been set, they are usually for individual circumstances such as the special members exercise in FPS 2006.
247. It would seem open to challenge to apply different rates across public sector for the same purpose.
248. The SCAPE discount rate would be consistent with scheme financing but has been questioned by other services for use in scheme pays roll ups.

**Question Twenty-Three. Please set out any comments on our proposed treatment of abatement?**

249. The Board notes the proposals that where the remedy choice might result in an increase to pension in the legacy schemes which would ordinarily affect the level of abatement, that the abatement would not apply.
250. Abatement is common across the FPS<sup>20</sup> with a need to retain skills and knowledge, particularly during the current pandemic. Firefighters are often re-employed in skilled areas and pensions subjected to abatement.
251. Most retirements that commonly occur across the FPS will be for currently protected firefighters, therefore abatement when it applies, applies in full and is unlikely to be impacted by the remedy.
252. Reviews of abatement are common, either at a material change or annually. Reviews are often more frequent for retained firefighters whose pay is subject to fluctuation. The common procedure upon review is to adjust abatement going forward if necessary but not retrospectively.
253. Typically, members who have retired and been re-employed during the remedy period and have not been treated as FPS 1992 members will be taper members. This proposal may see a different treatment of abatement between protected and taper members.

**Question Twenty-Four. Please set out any comments on the interaction of the proposals in this consultation with the tax system.**

254. The Board believes that the general points of principle seem reasonable. It assumes that HMT has considered whether they raise equality issues for protected members who have been paying tax during the seven-year remedy period and who would not benefit from this policy decision.
255. While simplification on tax relief applied to repaid contributions is welcome, have equality issues been considered for retained firefighters who naturally have a fluctuating income, so that one tax year does not resemble another? They might be advantaged or disadvantaged by such an approach to apply tax relief at the time of payment.
256. The consultation does not comment on how government processes might work to compensate members who have retired or left employment

---

<sup>20</sup> [Factsheet on Abatement for FPS](#)

and are therefore ineligible for self-assessment or PAYE and what information a member might need to supply in order to be eligible.

257. The advantages of immediate choice are that the annual allowance adjustment is made at the point the individual makes their choice, and not in 2022 as proposed for DCU. As the immediate choice exercise is not expected to conclude until at least 12 months after implementation, this would help smooth some of the administration challenges.
258. Only those members who choose a different option at the immediate choice date will need to have the pension input amount re-calculated for all the pension input periods during remedy in order to determine whether there is a tax charge.
259. As acknowledged by both the consultation and this response, the administrative consequences of the tax effect under DCU is significant where the member is likely to make a different choice at retirement. This would appear to be a significant risk for the FPS, which is why the Board's proposals to ensure that as many people as possible have the right default return in 2022, are important to minimise this risk.
260. Unlike the immediate choice, where only those making a choice need the pension input amount re-calculated, **all** members returned to the legacy schemes in 2022 will need to have the pension input amount for all of the pension input periods during remedy re-calculated in order to determine whether there is a tax charge. The consultation does not currently comment on this.
261. This re-calculation needs to be done at the legislative date of return - the consultation says 'in 2022' not retrospectively from 2022. This is significant in terms of delivery as it would need to be supported by system changes which are unlikely to be completed in this timeframe.

## **Part Four: Areas of Clarity Requested**

262. Throughout the response, the Board has commented where additional clarity is requested.
263. This section is provided for the purpose of convenience to draw those areas together, in order to reflect where additional conversations with HMT and Home Office will be necessary.
264. The Board welcomed the offer of an engagement session with HMT during the consultation process. Further engagement sessions during implementation will, in the Board's view, be necessary to ensure further complexity is not added to the already complex schemes.
265. The Board requests confirmation of the effect of the policy intent for taper members where a member has already taken retirement benefits from one scheme and transferred out the other.
266. For example, we are aware of an example where a retired taper member, in receipt of a full 30-year FPS 1992 pension has transferred their FPS 2015 pension into the civil service scheme and it is not clear what the policy intent of the consultation would have on member benefits in this case.
267. The consultation is not specific on how the pension input amounts are to be re-calculated for the remedy period. We believe that returning members under legislation to their legacy scheme would automatically trigger the recalculation of the pension input amount for each year of the remedy period, and, as a result, if there are annual allowance charges to pay it will trigger the tax clock for those payments to be made. Please can HMT comment on this?
268. Can HMT confirm that any choice exercise will not be able to proceed until any cost cap recalculations and the resulting decisions that affect the value of benefits from 1 April 2019 have been finalised?
269. In order to support the member's decision, the consultation points to tools being developed to project benefits at retirement for the member, but it is not clear how these tools will be developed to reflect the complexities of the scheme, nor who is responsible for arranging this? This will prove very challenging to develop for the FPS due to the complexity of the administration and management arrangements. It would be useful to discuss further with HMT to understand their thoughts on this and what

their expectations of the schemes would be to provide these tools, bearing in mind the limitations described.

270. The consultation does not comment on what arrangements would be made under either immediate choice or DCU to collect the additional employer contributions, nor whether this will be necessary given the proposed treatment of the remedy as a past service cost. The Board has been clear in its response that any attempt to recover employer contributions during 2022/2023 will lead to significant funding pressures and would welcome a decision similar to that for immediate detriment that the contributions are reflected in the future employer contribution rates going forward.
271. What time frame is proposed to collect employee contributions due?
272. How will the contribution collection be mandated for FPS 1992 members under a default proposal to move members back to the legacy scheme?
273. What legislation could be used to authorise the collection of contributions from salary?
274. For deferred members, what are HMT's proposals for collecting contributions arising from a default return to legacy schemes.? Under the FPS 2006 special member exercise, collecting contributions via a direct debit from members has been a significant administrative exercise which involves rigorous auditing procedures.
275. The consultation does not comment on the expectations for re-assessment on ill-health or reimbursement of IQMP charges. Direction may be needed from HMT on what the outcome should be if the health had deteriorated as a result of the delay between the original assessment. and remedy.
276. If the FPS 2015 pension was put into payment at the higher rate, and the member subsequently elects to have legacy benefits in order to receive a higher lump sum, would this result in overpayments from the pension scheme that would need to be repaid?
277. Under question 16 with regards to allowing contingent decisions, the consultation proposes that "schemes would consider representations on a case by case basis". It is not clear what is meant by the 'scheme' in this case, does that refer to the FPS and the Home Office as the responsible authority would be responsible, or would that be on a scheme manager basis, in which case the decision would be needed by each FRA.? The

Board is very clear in its response that a case by case basis per FRA would be very difficult to achieve.

278. How would re-instatement of pension work for an opt-out? Currently members of the FPS 1992 who opt out are not allowed to re-join the FPS 1992, albeit the final salary link is re-instated.
279. Under the proposals addressed by question three, could taper members with 30 years' service but who stayed in the FPS 2015, argue under the contingent decisions argument that they would have retired at 30 years and should receive arrears of pension to the retrospective retirement date, with interest payable?
280. The Board cannot comment on the proposed guidance for divorce without a further understanding of the primary divorce law and the expectations on revaluing assets.
281. It is not clear from the consultation whether the move to reformed schemes in 2022 will retain the transition benefits between FPS 1992 and FPS 2015 and keep the double accrual guarantee as illustrated in [appendix two](#).<sup>21</sup> While the benefits in the FPS 2015 from 2022 remain unclarified, fear or a lack of knowledge may drive members to retire earlier than planned. It would be helpful if HMT could clarify the post-2022 arrangements as soon as possible so that schemes can communicate the effect of this.
282. The Board is not clear from the consultation what the expectations of HMT are for schemes meeting statutory timescales for annual benefit statements and pension savings statements in 2022. From the estimated timetable it is unlikely the software will be in place and the Board will welcome a conversation with HMT on the expectations on this.

---

<sup>21</sup> <https://www.legislation.gov.uk/uksi/2015/589/schedule/3/paragraph/9/made>

## **Part Five: Financial Implications**

283. The Board is keen to stress the impact of additional costs on the financial viability of the FRAs.

284. Unlike central schemes, where the administration cost is recognised by an employer levy, the entire cost of managing, governing and administering the scheme is met by each FRA operating account.

285. As a result, the financial implications of increased costs to deliver the pensions remedy will affect the operational costs of the scheme and may lead to decisions being made for the service that result in a loss of public sector services.

286. Unless it is intended to increase FRA funding accordingly, employers would bear the cost of both administering and managing the remedy from the operating account, and the cost of increased benefits through increased contribution rates.

### **Actuarial Costs**

287. Actuarial costs can be described as

- Immediate costs which will be passed to the employer.
- Subsequent costs assessed at future valuations.
- Cost-cap implications.
- Impact of future scheme design in post-remedy period.

288. The impact that immediate or deferred choice might have on future valuations and the potential consequences for employer contributions has not been assessed as part of the consultation proposals.

289. The Board in their informal response requested that the impact of actuarial costs between immediate choice and DCU should be assessed immediately so that the information was available during the consultation.

290. The Board accept that Treasury Directions are needed for GAD to provide the calculations which are yet unavailable, and so this work was not possible for the Board to consider as part of the consultation.

291. Therefore, the Board wish to be clear that they have been unable to consider the cost of employer contributions within their response.



## Operating Costs

292. The top up grant from central government covers pension payments only, it does not fund administration and management of the scheme. FRAs must fund pension costs arising from the administration and management of the scheme from their operating accounts.
293. The additional cost of remedy will mostly be in additional resource and software charges. Due to the fact the ownership of the relationship with software providers is not with the FRA, it is difficult to have detailed discussions with software suppliers on ballpark costs. **We must stress that it is difficult to know with any degree of accuracy, and the actual cost could be higher or lower than the Board's estimates.**
294. The Board commented on costs in their informal response in April, and these estimates have not changed, they have been re-produced below to illustrate the significance:
295. Appendix one of the [AON report](#) commissioned by the Board in 2019 indicated that the cost of administering the scheme was £77 per annum per member.
296. Additional costs will be incurred as a result of extra resource needed to undertake the work, and additional charges from software suppliers of administrative and payroll systems to re-programme the necessary software.
297. It is hard at this stage to accurately quantify the level of additional cost required, so for the purposes of illustration we modelled the additional requirements of immediate choice as being an added quarter, half and third of current costs.
298. Initial conversations with administrators and FRAs in January through to March based on the HMT informal proposals, indicated the additional new burden will be between 50% and 75% of current costs. The further information available in the consultation confirming the proposals for post-remedy have not changed those estimates.
299. The Board wanted to differentiate the cost between immediate choice and DCU and had many conversations about how this could be reflected. The analysis of costs shows that the bulk of the expenditure would arise at implementation and would therefore be incurred irrespective of immediate or deferred choice.

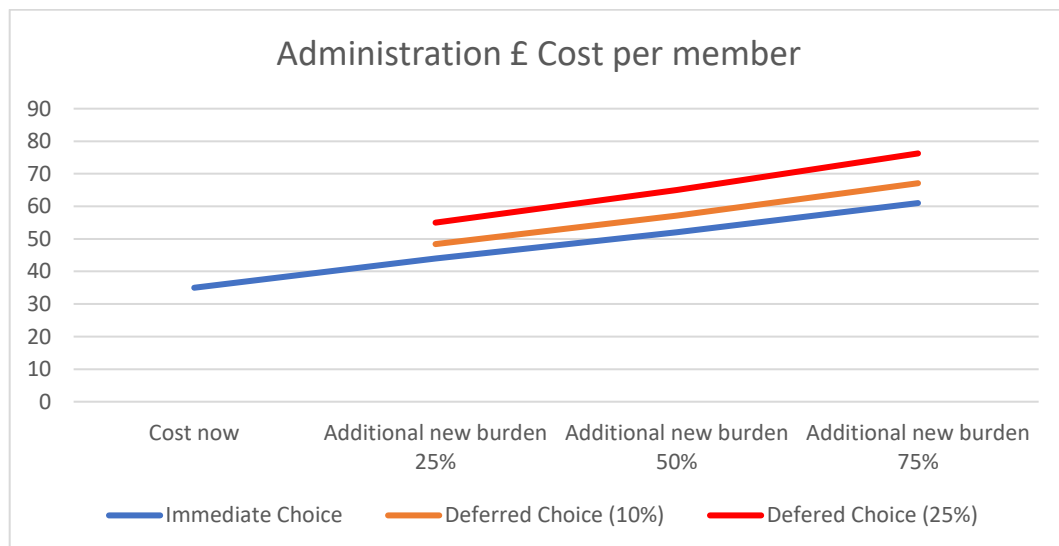
300. To analyse the additional cost of DCU, the Board considered that there are more opportunities to improve efficiency by managing the workload over a longer period and that the risk of assumptions and errors is significantly reduced, all of which contribute to lowering the cost.

301. However, the Board equally recognised the practical difficulties of a long-term remedy and the cost associated with changing processes and retaining knowledge and skills over an extended period. Therefore, the Board concluded that any additional cost incurred by DCU would reflect ongoing maintenance of solutions and processes.

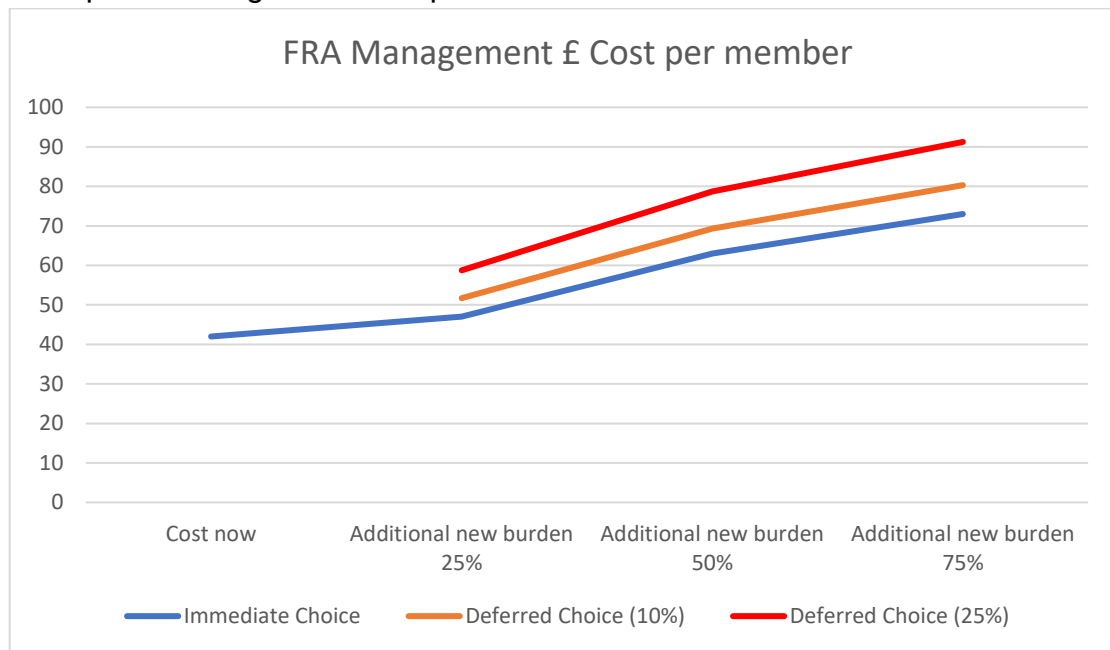
302. The Board accepts that DCU may generate higher costs and acknowledge that it is difficult to predict the quantum with any degree of accuracy. Therefore, **for the purposes of illustration only** we have modelled what the cost difference of DCU could be using an increase of additional cost between 10 to 25 percent.

303. The starting costs have been taken from appendix 1 of the [2019 Board report](#).

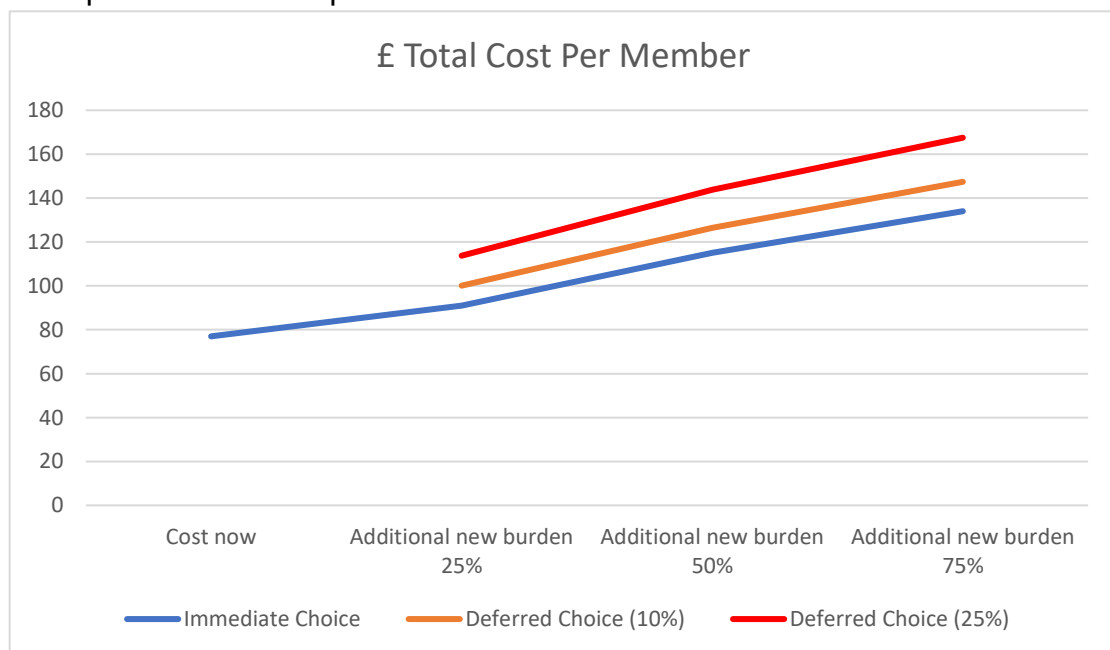
304. Graph 1. Administration cost per member in £s



305. Graph 2. Management cost per member in £s



306. Graph 3. Total costs per member in £s



307. These different assumptions are shown in the table below, **for illustration only** to show the potential new burdens of either option.

308. It is difficult to accurately benchmark these costs against other public sector schemes, as the FPS is a small scheme. However, this increase in costs will have a significant effect on budgeting for FRAs. The [2019 Board report](#) comments specifically on benchmarking on page 4.

309. Table 3: Potential costs

Option	Lowest	Highest
Current	£77 per member	
Immediate Choice	£91 per member	£134 per member
Deferred Choice (10%)	£100 per member	£147 per member
Deferred Choice (25%)	£114 per member	£168 per member

## Appendices

## Appendix One

### Appendix One: FPS 2006 member example of the comparison of benefits for the remedy period.

1. FPS 2015 for the remedy period, based on a competent firefighter<sup>22</sup>

Scheme Year Start Date	Scheme Year End Date	Opening Balance	CARE Pay	AWE	Adjusted opening balance	In year accrual	Closing Balance
01/04/2015	31/03/2016	£0.00	£29,345			£492	£492
01/04/2016	31/03/2017	£492	£29,638	2%	£501	£496	£998
01/04/2017	31/03/2018	£998	£29,934	2.6%	£1,024	£501	£1,525
01/04/2018	31/03/2019	£1,525	£30,533	3%	£1,571	£511	£2,082
01/04/2019	31/03/2020	£2,082	£31,144	2.8%	£2,141	£522	£2,662
01/04/2020	31/03/2021	£2,662	£31,767		£2,662	£532	£3,194
01/04/2021	31/03/2022	£3,194	£31,767		£3,194	£532	<b>£3,727</b>

2. FPS 2006 for the remedy period, based on a competent firefighter

01/04/2015 to 31/03/2022 = Seven Years

$7 \div 60 \times £31,767 = £3,706.15$  per annum

<sup>22</sup> <http://www.fpsregs.org/index.php/member-area/firefighter-pay-scales>

### Appendix Two: Example of a retirement after 1 April 2022

#### 1. Member Details

Member would achieve 30 years' service at September 2022

Date of Birth: 31 January 1972

Date Joined FPS 1992: 25 September 1992

Retirement age at 25 September 2022: 50 years 7 months

[Commutation factor](#) at 50 years 7 months: 23.7

Pensionable Pay £30,000

#### 2. FPS 1992 Calculation (as if no reform)

Had the FPS 2015 scheme never been introduced, the pension at 30 years would have been relatively easy to calculate using the formula of  $[A \div 60 \times \text{Final Pensionable Pay}]$ , the lump sum is calculated as a quarter of the pension multiplied by the relevant [commutation factor](#)

- A = the maximum 60ths you could have accrued, based on double accrual over 20 years, i.e. if you had 25 years you would accrue 30 60ths, as you would accrue 30 years you have the maximum 60ths of 40
- Final Pensionable pay = £30,000

The 30-year pension would have been calculated as  $[40 \div 60 \times \text{Final Pensionable Pay}]$ , with lump sum calculated by commuting a quarter of pension which would be multiplied by the commutation factor to provide the lump sum.

Pay	Pension	Lump Sum	Pension after lump sum
£30,000	$40 \div 60 \times \text{£}30,000 = \text{£}20,000$	$\text{£}20,000 \times 0.25 \times 23.7 = \text{£}118,500$	$\text{£}20,000 \times 0.75 = \text{£}15,000$

#### 3. FPS 2015 (as at 31 March 2015 – discriminatory basis)

The formula to calculate the FPS 1992 benefits to 31 March 2015 (known as the date of transition) is set out in [regulations](#) as  $[(A \div 60) \times (B \div C) \times \text{Final Pensionable Pay}]$ .

- A = the maximum 60ths that could have been accrued, based on double accrual over 20 years
- B = 1992 service up until 31 March 2015 or the relevant taper date
- C = Total calendar year service in both FPS 1992 and FPS 2015
- Final Pensionable pay = £30,000

Examples of how to calculate this pension are available here in the [FPS 1992 transition guide](#).

- A = 40 [30 years doubled = maximum 60ths of 40]
- B = Assumed start date of 25 September 1992 to 31 March 2015 = 22 years and 188 days, which as a decimal figure = 22.51507
- C = Calendar years of FPS 1992 and FPS 2015 = 30

Pay	Pension	Lump Sum	Pension after lump sum
£30,000	$(40 \div 60) \times (22.51507 \div 30) \times £30,000 = £15,010.05$	$£15,010.05 \times 0.25 \times 23.7 = £88,934.52$	$£15,010.05 \times 0.75 = £11,257.53$

A CARE pension will have also accrued in the FPS 2015 scheme, which builds up at 1/59.7<sup>th</sup> of salary for each year and is revalued in line with the [revaluation orders](#). This continues for each year you are in the CARE scheme

The actual CARE pension is calculated based on your earnings for each scheme year, and at retirement a lump sum can be calculated based on commuting a quarter of the pension, which is multiplied by 12 to find the lump sum. If retirement is before age 55, the CARE pension is deferred and can be drawn at age 55, however these will be subject to [early retirement factors](#) on a deferred basis.

An example of how this is calculated is below

Start date	End date	Opening Balance	Salary	Revaluation rate applied	Revalued pension	Accrual	Closing Balance
01/04/2015	31/03/2015	£0.00	£30,000	<a href="#">2</a>		$1 \div 59.7 \times £30,000 = £502.51$	£502.51
01/04/2016	31/03/2017	£502.51	£31,500	<a href="#">2.6</a>	$£502.51 \times 1.02 = £515.58$	$1 \div 59.7 \times £31,500 = £527.64$	$£515.58 + £527.64 = £1,043.21$

#### 4. FPS 2015 (as at 31 March 2022 after remedy has been applied)

We expect the calculation of FPS 1992 benefits to remain the same as it is currently in the [regulations](#) as  $[(A \div 60) \times (B \div C) \times \text{Final Pensionable Pay}]$ . However, this is not confirmed in the consultation and may be subject to change.

The difference in the calculation under the remedied benefits would be to B, which is the years in the FPS 1992, which **would increase by seven years to 29 years and 188 days [29.51507]**

- A = 40
- B = Assumed start date of 25 September 1992, however you may have transfers in or added years which allow you to count 30 years at September 2022) to 31 March 2022 = 29 years and 188 days, which as a decimal figure = 29.51507
- C = Calendar years of FPS 1992 and FPS 2015 = 30

Pay	Pension	Lump Sum	Pension after lump sum
£30,000	$(40 \div 60) \times (29.51507 \div 30) \times £30,000 = £19,676.71$	$£19,676.71 \times 0.25 \times 23.7 = £116,584.50$	$£19,676.71 \times 0.75 = £14,757.53$

In this example a small CARE pension would also be accrued in the FPS 2015 scheme from 1 April 2022. Revaluation orders for each year as they are applied can be found [here](#)

Start date	End date	Opening Balance	Salary	Revaluation rate applied	Revalued pension	Accrual	Closing Balance
01/04/2022	24/09/2022	£0.00	£15,000 (only paid for six months)			$1 \div 59.7 \times £15,000 = £251.26$	£251.26



### Appendix Three: Scheme Complexity

1. The complexity of the scheme was evidenced by the Board's work to determine cost and effectiveness in the [Aon report](#) dated 2019.
  - 1.1. 73% of administrators reported the scheme to be complex or very complex.<sup>23</sup>
  - 1.2. 66% of FRAs found decision making difficult.<sup>24</sup>
  - 1.3. Of the scheme members who responded to the member survey, 855 members (or 22.5%) indicated they do not understand the benefits the scheme offers with 1,515 members (39.43%) unsure.<sup>25</sup>
2. Choice has been historically hard to implement and has invariably led to challenge. These Pension Ombudsman decisions illustrate the inevitable challenge that explaining and recording a choice will bring. Although the decisions relate to the Police scheme the same exercises were undertaken in the FPS.
  - 2.1. [PO-16555](#) - options exercise for 2006 Police scheme. The member passed away and an election to join the 2006 scheme had not been received, therefore no pension was due to the unmarried partner. TPO determined that all relevant information had been provided for the member to make an election. However, members do not always understand communications or that they need to act.
  - 2.2. [PO-23014](#) - uprating of widow's pension in Police scheme. Employer could not find record of election to pay increased contributions for a full half-rate pension as the query was raised 40 years after the event.
  - 2.3. [PO-22496](#) - election to join as a special member of FPS 2006 not submitted. The authority had exercised due diligence and reasonable endeavours in communications. TPO said the onus was on the individual to chase up.

---

<sup>23</sup> Page 18

<sup>24</sup> Page 40

<sup>25</sup> Page 49

## Appendix Four: Illustrations of timescale and dependencies

### 1. Software requirements and impact on timetable

It should be noted that these are estimates only based on informal stakeholder meetings, software suppliers have not yet set down their timetables and limitations in writing.

This table illustrates the reliance on software to deliver solutions for the underlying main policy decisions, and comments on the dependencies that would be required.

Policy	Immediate Choice	Deferred Choice Underpin
All members moved to CARE scheme at 1 April 2022	While we cannot comment with certainty, it is understood this may be achievable by 2022, dependent on when the primary legislation drafts are available	While we cannot comment with certainty, it is understood this may be achievable by 2022, dependent on when the primary legislation drafts are available
When would the choice exercise be expected to start	Software may not be in place to support this until the end of 2022, see below with regards to timescales for starting work on this.	
The consultation comments on being returned to legacy schemes 'in 2022'		Under the timescales set out below this would not be achievable to be automated until early 2023 at the earliest under an ambitious timeframe.

Automation required to return members to legacy schemes		Automation would be needed to return everyone as if they had been in the final salary scheme, it would require APB records being re-set, the pension input amount being recalculated and service records re-created, which would be likely to involve a series of automated processes that would need to be run in sequence. The issues raised in relation to immediate detriment would need to be resolved and legislated for. This is likely to be a substantive piece of work.
Position of annual benefit statements at 31 August 2022		If members were to be returned 'in 2022' benefit statements at 31 August 2022 would need to reflect all members being in the legacy scheme for the period to 31 March 2022, and under the current consultation proposals an underpinned statement based on being in the reformed schemes
Tax consequences of the tax clock starting from 1 April 2022		Does that mean that at 6 October 2022 all members would receive a pension savings statement based on a retrospective re-calculation of pension input amount, more people may have exceeded pension growth due to final salary accrual?

<p>The consultation references each scheme making available tools such as online calculators and models and developing online resources such as benefit calculators</p>	<p>Online web solutions are developed separately to the main development underpinning the software solutions, so the online web development would be dependent on the main developments, this could take another six months to programme.</p> <p>The software providers' clients are the administrators, not the FRAs, so how would the contract management of developing such tools be managed? FRAs would not have control of this development</p>	
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

## 2. Estimated Timescales

It is currently unclear from the consultation exactly what the expectation on timescales and implementation is going to be. We have attempted to show the dependencies the FRAs will have at each stage, and what might be achievable in an extremely ambitious timescale.

	IC/DCU choice made	Draft regulations period	Software specifications	Software Programming	Underlying Processes and Guidance	Data Collection	Communication packages	Testing software	Software available
Timescale	January 2021	Ambitious timescale would be for early drafts to be available in May / June 2021, albeit most unlikely	It is not clear when these can start without draft regulations, it may delay the start of programming in earnest	Can start once specifications are agreed  <b>Estimated will run from June 2021 to June 2022?</b>	June 2021 to June 2022	June 2021 to June 2022	June 2021 to June 2022	Three to four month period for testing June 2022 to October 2022	<b>From November 2022</b>

	IC/DCU choice made	Draft regulations period	Software specifications	Software Programming	Underlying Processes and Guidance	Data Collection	Communication packages	Testing software	Software available
Estimate caveats	Will be dependent on HMT timescales	Unknown presumably secondary legislation will need consulting. May / June 2021 is a VERY ambitious timescale	IC vs DCU will require different solutions so work <u>cannot</u> start as a minimum until that is known.  May be dependent on draft regs	Estimates from software providers suggest 12 months will be needed to programme amendments needed	Can run at same time as software programming . Draft regulations will be needed before project work can start	Can run at same time as software programming . Draft regulations will be needed before project work can start	Can run at same time as software programming . Draft regulations will be needed before project work can start		

	IC/DC U choice made	Draft regulation period	Software specificatio ns	Software Programmi ng	Underlying Processes and Guidance	Data Collection	Communica- tion packages	Testing software	Software available
Depend- encies	HMT	HMT and Home Office	HO engagemen t will be necessary during this process to confirm expectation s and liaise with HMT  LGA	A final specificatio n  Draft regulations will be necessary in order to start programmin g	HO engagement will be necessary during this process to iron out technical difficulties	A data collection template will be required to instil consistency, to be drafted in conjunction with communicatio ns group organised by LGA	How and when members will be communicate d to will need some thought.  In consultation with communicatio ns group and possibly SAB as organised by LGA	Software clients only How will SAB or FRAs understand whether the solution reflects the regulations.	Roll out time, will be depende nt on technolo gy available, which may differ per software provider, usually rolled out on a three- month timescale  May also be depende nt on the rollout of software

									for other public sector schemes.
Resource availability		HMT Home Office	Software Home Office LGA Fire technical group	Software	Home Office LGA Administrators	LGA FRAs Administrators	LGA Administrators FRAs SAB	Administrators Software	



### Appendix Five: Additional information to question seven to evidence the administrative challenge

1. The challenge for FPS does not just lie with the pension administrators, this section comments on some of the challenge that will be felt by officers of the FRA in their role of delegated scheme manager.
2. The administration of refunding and collecting contributions for the FPS 2006 members would need to be handled by the employer's payroll rather than administrators. And detailed processes will be needed in 2022 in order for these to be processed in the intervening years from 1 April 2022 to retirement.
3. If under the proposed DCU default members opted to return to the FPS 2015 at retirement, transfers, pension debits, added years which have been converted to final salary for the purpose of the default will require ongoing maintenance in order to convert back to FPS 2015 at retirement. Maintenance of such data is more difficult due to the structures of the FPS leading to increased risk of error and inconsistencies.
4. As a locally administered scheme it is the responsibility of each FRA to apply the rules of the pension scheme in accordance with their interpretation of the scheme and to obtain legal advice where they consider this is necessary. The Home Office as responsibility authority has responsibility for laying the regulations, as such they cannot interpret it.
5. This can result in 45 different legal opinions. The Board has access to some legal advice, but this can only be accessed when it is beneficial to the whole of the scheme, not when it affects a local decision only.
6. The Board would seek clarification on what escalation processes or methods of working would be in place to escalate technical issues, for example tax, final salary link applications, outstanding eligibility queries, where consensus cannot be reached.
7. During the implementation process, access to technical expertise at HMT / Home Office / GAD will be much in demand with resource implications for all parties.
8. The current proposals for refunding FPS 2006 contributions and reversing at retirement will complicate top-up grant arrangements significantly and

impact on Finance Directors and Treasurers at FRAs and will add a lot of uncertainty to long term and medium-term financial forecasting.

## **Firefighters’/Police Pension Schemes**

### **McCloud/Sargeant ruling – Guidance on treatment of ‘Immediate Detriment’ cases**

#### **1.0 Purpose of guidance**

- 1.1 The purpose of this note is to provide informal guidance to Fire and Rescue Authorities (in England) and Police Forces (in England and Wales) on processing ‘immediate detriment’ cases (see definition in section 3 of this guidance) in advance of a decision on the Government’s final approach to removing the age discrimination as found in the McCloud/Sargeant Employment Tribunal litigation.
- 1.2 The guidance is provided at the request of the Fire Brigades Union and for the purpose of assisting employers with “immediate detriment” cases. For that reason, it is only relevant to members of the Police and Fire Pension Schemes.
- 1.3 Further, it must be noted that the issues raised in this document are the subject of both ongoing litigation and the Government’s consultation. As such this guidance will be kept under review to ensure that it is consistent with any judgment or outcome from the consultation and will be amended to give effect to any such judgement or outcome.
- 1.4 In this guidance a reference to the “2015 scheme” is to the applicable reformed Police or Fire CARE Pension Scheme, and a reference to the “legacy scheme” is to the applicable Police or Fire Pension Scheme that applied to a member before 1 April 2015.
- 1.5 The term ‘pension authority’ refers to the appropriate Fire and Rescue Authority or Police Force.

#### **2.0 Background to McCloud/Sargeant ruling**

- 2.1 In 2015 most public service pension schemes, including the Firefighters’ Pension Scheme and Police Pension Scheme, were reformed. These reforms included ‘transitional protection’ for people closest to retirement.
- 2.2 In 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters’ and Judges’ Pension Schemes. The Government respects the Court’s decision and has confirmed that it will remove the difference in treatment across all main public service pension schemes, including the Police Pension Scheme.

- 2.3 The Government is currently consulting on proposals to remove this discrimination. Detail on the current proposals can be accessed here: <https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>. The changes proposed in the consultation to remove the discrimination will apply across all the main public service pension schemes and provide members with a choice of which scheme they would like to be in for the remedy period. The remedy period is defined as between 1 April 2015 and 31 March 2022 in the consultation paper.
- 2.4 The remedy only applies to members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

### 3.0 What are ‘Immediate Detriment’ cases

- 3.1 For the purposes of this guidance, immediate detriment includes those scheme members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, and who did not benefit from full protection and were moved into the 2015 Scheme on or after 1 April 2015:
- I. who become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); **OR**
  - II. who don’t qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do so under the IHR arrangements in their legacy scheme.
- 3.2 Any scheme members that fall within either of the two categories above can have their pensions calculated and put into payment according the guidance set out in section 5 below.
- 3.3 This guidance **should not** be applied to scheme members who have already retired and are in receipt of their pension payments. These cases are more complex to address, especially due to complexities in rectifying the member’s tax position.
- 3.4. It is important **to note** that ALL cases processed using this guidance will need to be revisited once the Government’s approach to removing the discrimination has been finalised, due to relevant matters that are currently subject to consultation, to include interest on contributions etc. This is likely to be after April 2022.

### 4.0 Guidance on treating immediate detriment cases

- 4.1 There are some transitional scheme members who have already been dismissed from work without a pension as they did not qualify for an ill-health pension under the 2015 Scheme. In addition, there are transitional members who are now

approaching retirement and want to take their full pension benefits under their legacy pension scheme. This guidance provides employers with advice on how these cases can now be processed in advance of final remedy implementation.

*Transitional members who are already in receipt of a pension*

- 4.2 There are cases (in respect of both ill-health/ordinary retirements) where transitional members have already retired and are currently receiving an ill-health/ordinary pension. It is recognised that many of these members' pensions are lower than they would be if they were paid under the member's legacy pension scheme. For example, where a transitional member has retired on ordinary grounds below age 55, their benefits accrued under the 2015 Scheme will currently be deferred until their State Pension Age.
- 4.3 These cases involve complex tax implications, employee/employer contribution adjustments etc. which still need to be resolved – these points are currently being consulted on and a final approach has yet to be confirmed. We will look to process these cases as a priority as soon as these outstanding points have been resolved.

## **5.0 Giving scheme members a choice**

- 5.1 Scheme members falling under the scope of this guidance will effectively be given the opportunity to take all their pension benefits accrued between 1 April 2015 and 31 March 2022 under their legacy pension scheme, rather than take some benefits under the 2015 Scheme.
- 5.2 Pension authorities can now offer this choice to all those scheme members who:
- have transitioned into the 2015 Scheme who are approaching retirement; and
  - have retired due to poor health but who didn't qualify for an ill-health pension under the 2015 Scheme regulations but would qualify under their legacy scheme regulations.
- 5.3 In order to provide this choice, pension authorities will need to present two sets of pension entitlement quotes to each qualifying scheme member. Whilst not an exhaustive list, each quote should set out the main pension benefits that they would receive under each choice, to include: recurring annual pension (before and after commutation), commutation retirement lump sum entitlement, employee contributions owed/refunds due etc. Each scheme member should be required to provide written confirmation of their election.
- 5.4 There remain a number of outstanding issues that will not be resolved until such time that the Government finalises its approach to removing the discrimination identified by the McCloud/Sargeant ruling (see unresolved pensions issues section below). Each scheme member will need to agree to accept the Government's final approach and any future adjustments that this requires.

- 5.5 Once written confirmation has been received from each member, the pension authority can put the pension chosen into payment.

***Unresolved pension issues:***

- 5.6 As explained above, there remain outstanding issues that will not be resolved until the Government finalises its approach to removing the discrimination. The Government is currently consulting on its proposed approach and will finalise its proposals following careful consideration of stakeholder responses.

***Recovery of outstanding employee contributions***

- 5.7 Any scheme members who choose to take their full pension benefits under their legacy scheme will owe employee contributions or be entitled to a refund. Any employee contributions owed will need to be paid before the member's legacy scheme pension can be put into payment.
- 5.8 Any contributions owed will need to be based on the pay that is considered to be pensionable under the legacy scheme, which may vary from that pay which is considered pensionable under the 2015 Scheme. It will be for employing pension authorities to make an assessment for each member and seek payment. The member has a choice to pay any outstanding employee contributions from their retirement lump sum or from any other personal source. Any refunded employee contributions can be repaid to the member from the employer's local pension fund account.
- 5.9 A final decision has yet to be made in respect of whether, and at what rate, interest should be applied to contributions owed by employees should they elect to receive benefits from their legacy scheme during the remedy period (2015 to 2022). As the Government's approach to this issue has yet to be confirmed, this guidance proposes that interest is not applied to employee contributions owed at this time.
- 5.10 Notwithstanding this, any immediate detriment cases where the pension is put into payment now may need to be revisited if the Government's final approach includes the application of interest on owed employee contributions. Pension authorities should ensure that any members making a decision under this guidance are aware of, and accept, this condition.

***Tax relief on employee contributions***

- 5.11 Where possible, pension authorities should ensure that the employee contributions owed are repaid by the member before they leave service to ensure that any tax relief entitlement can be applied. Where this is not possible, for example where an individual has retired previously on ill-health grounds and did not qualify for a pension under the 2015 Scheme but would qualify under their legacy scheme, the

scheme member will have to wait until the Government's final approach to removing the discrimination has been implemented to receive any appropriate reimbursement. This is likely to be after April 2022.

*Recovery of outstanding employer contributions (Firefighters' Pension Schemes only)*

5.12 The Firefighters' Pension Schemes are in a unique position compared to other public sector pension schemes in that they do not have a uniform employer contribution rate across all schemes. As such, any scheme member who elects under this guidance to take their full pension benefits under their legacy scheme will impact on the corresponding employer contributions owed in respect of that member during the period that they were in the 2015 Scheme.

5.13 It will be for each employing Fire and Rescue Authority (FRA) to recalculate the contributions that they, as the employer, should have paid under the legacy scheme for each member and pay any shortfall into their pension fund account. Where this results in an excess of employer contributions having been paid, these can be refunded to the employer from their pension fund account.

*Treatment of Cash Equivalent Transfer Value (CETV) transfers into the 2015 Scheme*

5.14 It is recognised that there will be some transitional scheme members who will have transferred benefits from an external pension arrangement into the 2015 Scheme. Where a scheme member elects to take all their benefits from the legacy scheme, the original transfer-in (the Cash Equivalent Transfer Value) will need to be recalculated to determine the amount of pensionable service that should be purchased in the member's legacy scheme.

5.15 The recalculation of the transfer-in will need to be undertaken by pension authorities as if it had been taken at the time of the original transfer, using the actuarial factors that were applicable at that time.

5.16 Where conversion of transferred benefits from the 2015 Scheme to the legacy scheme results in the pension input amount changing due to actuarial adjustment, then an individual's Annual Allowance position may need to be reassessed.

*Treatment of purchased added pension in the 2015 Scheme*

5.17 Some transitional scheme members will have elected to make voluntary contributions to purchase 'additional pension' in the 2015 Scheme. For those members that elect to take their full benefits under the legacy scheme, any employee contributions paid in respect of the additional pension purchased will need to be converted to the equivalent value of additional pension that could have been purchased in the member's legacy scheme.

- 5.18 The legacy schemes do not currently have ‘additional pension’ provisions. Additional pension purchased in the 2015 Scheme is one of the unresolved issues that the consultation is considering.

*Scheme PAYS– treatment of debits applied to 2015 Scheme pension*

- 5.19 There may be instances where transitional members have previously incurred certain tax charges and have elected for these to be paid under Scheme PAYS with the associated pension debit applying to the 2015 Scheme benefits.
- 5.20 Where this is the case and the member elects for all their pension benefits to be paid from their legacy scheme, there may be subsequent changes to the tax charges retrospectively. If this is the case, pension authorities will need to recalculate the pension debit. The recalculation of the pension debit will need to be undertaken by pension authorities as if it had been taken at the time of the original Scheme PAYS elections, using the actuarial factors that were applicable at that time.

*Revisiting AA tax assessments on previous years*

- 5.21 Under current arrangements, there is a four-year statutory time limit for reassessing tax for previous years. This means that where a scheme member’s pension benefits change for past years, altering their tax position, HMRC can collect and refund tax where it is owed for the current tax year, and the four full tax years immediately preceding the point at which the individual’s benefits change.
- 5.22 Where a scheme member’s benefits change due to an election under this guidance so that additional tax is due for a tax year that sits outside the four previous tax years, HMRC cannot collect that additional tax. As such, the member will not be required to pay this. However, the recalculation will still be necessary to ensure the member’s tax position going forward is correct.
- 5.23 The Government has confirmed that where a scheme member’s benefits change so that they are owed a reimbursement of any tax charges paid since April 2015, they will get a full refund for the full period. The scheme member will initially be able to seek a tax refund from HMRC in respect of any overpaid tax charges in the previous four tax years.
- 5.24 Any further entitlement to a tax refund for years outside the four-year period will be refunded by means of compensation payments, which are expected to be paid after the Government finalises its approach to removing the discrimination, likely to be after April 2022.

**Police Workforce and Professionalism Unit, Home Office**

**21 August 2020**



## Information

# Immediate Detriment

## Purpose

1. The purpose of this information note is to provide Fire and Rescue Authorities (FRAs) with additional information to the immediate detriment guidance note supplied by Home Office on 21 August 2020. It does not give detailed guidance on the process of payment of benefits.
2. This note will be subject to any changes on the note supplied by Home Office.

## Background

3. Following the 2018 Court of Appeal judgment in Sargeant, an [interim order was made by the Employment Tribunal](#) on **18 December 2019** which provided that members who had brought claims (claimants) are entitled to be treated as if they remained in the FPS 1992, as long as they were in the scheme at 31 March 2012 **and** 31 March 2015 *ending the final determination of the issues of remedy, all existing Claimants who, by reason of their age would not satisfy paragraphs 12(2)(c), 12(3)(c), 13(e) or 14(e) of Schedule 2 to the 2014 English Regulations or the 2015 Welsh Regulations from 31st March 2015 are entitled to be treated as satisfying those paragraphs from that date.*
4. We communicated the following Government position in [FPS Bulletin 28 - January 2020](#):  
*...all entitlements including immediate ones should proceed under the 2015 scheme rules for the time being. This includes those who are due to taper into the 2015 scheme should continue to taper, and those due to retire normally at a later date should continue in the 2015 scheme.*
5. The bulletin asked FRAs to provide numbers of members who were likely to have an immediate event in 2020 and recommended some immediate steps that authorities could take in relation to ill-health assessments.
6. The SAB used the information provided to request guidance on dealing with immediate events as per their [paper submitted to Home Office in March 2020](#).

7. On 21 August 2020, at the request of the Fire Brigades Union (FBU), the Home Office issued a note<sup>1</sup> directly to English FRAs via finance leads titled 'McCloud / Sargeant ruling – Guidance on treatment of 'Immediate Detriment' cases' for both the Firefighters' and Police Pension Schemes.

## Home Office immediate detriment guidance

8. The note headed 'McCloud / Sargeant ruling – Guidance on treatment of 'Immediate Detriment' cases' for both the Firefighters' and Police Pension Schemes is available on the dedicated [Age Discrimination Remedy \(Sargeant\) page](#).
9. The note is labelled as informal guidance only and notes that the issues raised are subject of both ongoing litigation and the UK Government's consultation. It does not confirm on what basis FRAs may rely on the note for the purpose of making pension payments.
10. The scope of the note includes members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, and who did not benefit from full protection and were moved into the 2015 Scheme on or after 1 April 2015:
  - 10.1. who become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); **OR**
  - 10.2. who don't qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do under the IHR arrangements in their legacy scheme.
11. It is unclear whether the note applies to FPS 2006 members, however, based on the scope detailed above:
  - 11.1. For ordinary retirement, it is likely to only apply to special members (who have a normal retirement age of 55) and a very small cohort of standard members who would want to have benefits **paid from their legacy scheme** (i.e. do not accept deferred FPS 2015 benefits).
  - 11.2. For ill-health, it is unlikely that special and standard members of the 2006 scheme will qualify because FPS 2015 has the same criteria for ill-health as FPS 2006, and therefore if they do not qualify for lower tier ill-health in FPS 2015, they would also not qualify under FPS 2006.

---

<sup>1</sup> <http://www.fpsboard.org/images/PDF/Boarddocs/Remedy/Home-Office-immediate-detriment-guidance-21-August-2020.pdf>

12. The note should **not** be applied to scheme members who have already retired and are in receipt of their pension payments. The note refers to these cases being more complex to address, especially due to complexities in rectifying the member's tax position. We believe this to refer to the HMRC timing of payment conditions and the potential for unauthorised payments.
13. Paragraph 5.3 of the note sets out that in order to provide a choice to members, two sets of pension entitlement quotes should be provided. The paragraph includes a "non-exhaustive" list of items to include in the quote. It does not include any mention of the change to the pension input amount for each pension input period of the remedy, or any tax charge as a result of that recalculation.
14. Under the heading '*Unresolved pension issues*', paragraphs 5.6 to 5.24 detail outstanding issues that are being consulted on and will not be resolved until the Government finalises its approach to removing discrimination.

## Current position

15. The note is helpful to explain UK government policy and shows progression from the previous position that all entitlements should proceed under the terms of FPS 2015. However, it does not cover the steps that FRAs and administrators would need to put into place to enact the guidance.

## Matters for the FRA to consider

16. Being mindful of the interim order which entitles claimants to be treated as members of the FPS 1992, FRAs now need to understand practically how they could give effect to the guidance. As the document notes in several places that it is informal guidance only, FRAs may wish to seek individual legal advice, which some authorities have advised they are pursuing.
17. We understand that the Home Office assert the legal position which underpins the application of the guidance in the note for non-claimants (those not covered by the interim order) is Section 61 of the Equality Act. The effect of Section 61 being contested in the FRA's appeal under Schedule 22 of the Equality Act, in which they argue that they were required to follow the pensions regulations and so by law had no choice but to implement the transitional protections for older firefighters.
18. The HO Guidance on the face of it does not make it clear;
  - 18.1. What the position is for FRAs if members make decisions without all the correct information, such as understanding tax relief.
  - 18.2. How auditors might treat such payments under legacy terms and on what basis an FRA can rely on the guidance to satisfy auditors.

18.3. What risk the member accepts by having benefits paid out before the consultation has concluded, although the note states that **all** cases will need to be revisited once remedy is finalised (3.4). It is understood that the Home Office and HM Treasury (HMT) are considering providing a waiver.

19. Nominated contacts at each FRA should be consulted on further matters to consider.

## Employer contributions

20. Contrary to the position as stated in paragraphs 5.12 and 5.13, we understand the Home office expectation is that revised guidance will now be issued to confirm there is no requirement for the FRA to make the employer contributions in order to enable payment of retirement benefits.

21. Any adjustments in employer contributions will be captured in the scheme valuation process and reflected in the future employer contribution rates going forward. This position would be welcomed.

## Employee contributions

22. The position of tax relief on employee contributions as stated in paragraph 5.11 means that if a member chooses to have the contributions deducted from their lump sum, they will not qualify for tax relief under the HMRC PAYE or self-assessment process. Instead this will be claimed through a government process once the consultation has concluded, this should be clearly caveated in member communications.

## Technical issues

23. There are several technical questions which have been raised with Home Office and HMT that mean in some cases the guidance cannot be applied until an answer has been received, which would leave FRAs in the position of being able to remedy some members but not others:

23.1. Paragraph 3.1 refers to 'members who were in service'. It is not clear whether this means 'in service as a firefighter' or pensionable service, and as such it is not clear whether someone who was '[eligible to be an active member](#)' is in scope, albeit as per paragraph 11 above it is noted that FPS 2006 members to whom that definition applies are likely to be out of scope.

23.2. The suggested position in paragraphs 5.14 to 5.16 on Cash Equivalent Transfer Values (CETVs) needs further clarification of how this could work in practice. Under the current rules for CETVs, benefits cannot be transferred into the FPS 1992 as the scheme is closed and there are no current factors available. So, it is unclear how a transfer could be processed under FPS 1992 terms.

23.3. Furthermore, if it was possible to calculate a CETV, the guidance does not comment on what effect this would have if the CETV took the member over the 30 year' service cap.

23.4. Where a member has paid into FPS 2015 and bought added pension, paragraphs 5.17 to 5.18 are not clear on how an equivalent added years pension would be created in the final salary scheme. It also does not comment on the position where the member would not have qualified for added years in the legacy schemes, for example, the requirement in FPS 1992 to be more than two years from retirement when purchasing added years, or what the effect would be if that added years conversion took the member over 30 years' service.

23.5. The guidance only comments under paragraphs 5.21 to 5.24 on the position where there is tax to be paid or refunded, it does not comment on the steps needed to calculate whether there is a tax liability, i.e. by re-calculating the pension input amount over each of the pension input periods in the remedy period.

23.6. It is understood that the informal position from HMT is that the pension input amount should be re-calculated over the periods in the remedy period based on the legacy scheme benefits. An HMRC CLM query form<sup>2</sup> has been submitted for further guidance and HMT and HMRC are understood to be jointly considering further guidance on this.

## Absent from the guidance

24. There are several areas where we would have expected a policy steer to be provided, but this is lacking from the guidance:

24.1. There is no commentary on the treatment of temporary promotion where an FRA has used their discretion to award Additional Pension Benefits (APBs) in the legacy schemes. Temporary promotion is not pensionable under CARE.

24.2. There is no commentary on creating an APB in the legacy scheme for a member who has received CPD during FPS 2015 membership.

24.3. There is no commentary on where a [two-pension entitlement](#) would have occurred if they had been a member of the legacy scheme.

---

<sup>2</sup> <http://www.fpsregs.org/images/HMRC/HMRC-CLM-template-immediate-detriment-implementation-and-annual-allowance.pdf>

24.4. There is no reference to invoking a [contribution holiday](#)<sup>3</sup> by returning to the legacy scheme.

24.5. There is no instruction of how to convert any divorce debits applied in FPS 2015 and the impact on pension credits.

24.6. There is no reference to caveating that the recalculated cost cap may revise the accrual rate of FPS 2015 from 1 April 2019 and whether that would retrospectively affect the calculation of CARE benefits used in the choice calculation.

24.7. There is no commentary on abatement that would apply under the legacy schemes but not reformed schemes.

24.8. The consultation proposals suggest that taper members would only be able to select legacy or reform benefits for the whole remedy period, i.e. 1 April 2015 to 31 March 2022.

- It is not clear how choice should be offered to a taper protected<sup>4</sup> member in the immediate detriment category. Under the current legislation a taper protected member who has already moved into FPS 2015 would have both a pension that could immediately be paid from FPS 1992 which would include service past 1 April 2015, and a deferred entitlement in FPS 2015.
- It is not clear whether a taper member choosing to retire under immediate detriment and accepting payment of an FPS 1992 pension based on service to date of retirement would have to forfeit any existing FPS 2015 deferred pension, and if that should be caveated at the time of retirement, based on the outcome of the consultation.

25. We understand that the Home Office are in discussion with HMT regarding the issues brought to them and are working on reflecting this in revised guidance, however, this is a complex area of work so will take some time.

26. In advance of that guidance being available, we would offer the following commentary:

---

<sup>3</sup> The Government introduced an employee contributions holiday for FPS 1992 members who accrue the maximum 30 years' pensionable service prior to age 50. This applies from the point of accruing maximum pensionable service in the scheme until the member's 50th birthday. This change was applied retrospectively to 1 December 2006.

<sup>4</sup> A taper-protected member is somebody who was not fully protected by virtue of age to stay in the final salary scheme (1992, 2006 or Special Modified 2006 Scheme), but was moved into the FPS 2015 between 24 May 2015 and 31 March 2022, depending on their age, as per the [table in the regulations](#).

## 27. Supplementary commentary

<a href="#"><u>Two Pension Entitlement</u></a>	Where a member would have an entitlement to two pensions due to a drop in pay during the period 1 April 2015 to retirement date or 31 March 2022, the two-pension entitlement must be recalculated in the estimate of benefits under FPS 1992
<b>Contribution holiday</b>	<p>Under the terms of FPS 1992, anyone who accumulates 30 years' service in the 1992 Scheme before reaching age 50 is entitled to a contributions holiday<sup>5</sup> between the date on which they reached 30 years' service and their 50<sup>th</sup> birthday.</p> <p>For those opting to retire under the 1992 Scheme, the value of this holiday must be deducted from the accumulated deficit in contributions. That may have the effect of turning the deficit into a surplus.</p> <p>If as a result of this exercise, there is:</p> <ul style="list-style-type: none"><li>• a net deficit in contributions, the member must pay it, or have it deducted from their lump sum;</li><li>• a net surplus in contributions, the employing FRA must refund it to the member or add it to their lump sum.</li></ul>
<a href="#"><u>Additional Pension Benefits (APBs)</u></a>	<p>Where a member has received a CPD payment pensionable under the FPS 2015, this should be re-calculated as an APB in the estimate of benefits under FPS 1992.</p> <p>If there is a discretion in place to treat temporary promotion as pensionable under the FPS 1992 and a member has had a temporary promotion while a member of FPS 2015, this should be re-calculated as an APB in the estimate of benefits under FPS 1992.</p>

## FRA immediate action

28. The FRAs have always been mindful of the interim order which entitles **claimants** to be treated as members of FPS 1992 and wish to give effect to this where they are able to do so.

29. This note highlights some of the issues with the content of the guidance in terms of FRAs being in a position to do this, for example in terms of;

29.1. What is absent from the guidance; or

---

<sup>5</sup> Further information on [contributions holiday](#) is available on the password protected area of the website.



- 29.2. Unanswered technical questions which would leave FRAs in the position of being able to remedy some members but not others, e.g. a technical issue, such as a CETV or divorce on the record and no guidance on how to convert to final salary benefits.
30. In order to ensure the FRA has all the information needed in order to proceed with an immediate detriment case under the guidance, we have provided FRAs with a [template matrix](#) to complete. This template may also be used in order to evidence where they do not have the information to proceed. Completion of this checklist will no doubt require both employer and administrator input, please ensure this is complete before proceeding with a case.
31. In addition, nominated contacts at each FRA should be consulted before actioning any immediate detriment cases in order to inform decision making.
32. We issued guidance in [FPS Bulletin 28](#) on immediate action that FRAs could take, under the heading *Update on transitional protections remedy (Sargeant)*. If that action was not taken, we recommend that FRAs do so now.
33. We are pleased to provide further commentary on immediate action below.

## Current or new cases

### 34. III-Health: IQMP assessment

- 34.1. Members with transitional 1992 benefits – ask the IQMP to assess the applicant under both the 1992 and 2015 scheme terms.<sup>6</sup>
- 34.2. Under the immediate detriment note members who don't qualify for lower-tier ill-health in FPS 2015 but would do so under FPS 1992 should be allowed to retire under the arrangements of their legacy scheme where possible.
- 34.3. Transitional Special Members of the 2006 scheme – ask the IQMP to assess the applicant under the terms of the 2006 scheme noting that the normal retirement age of a special member is 55<sup>7</sup>.
- 34.4. The criteria for ill-health retirement are the same for standard 2006 members and transitional members of the 2015 scheme, therefore assessment under the 2015 terms should be enough.

---

<sup>6</sup> Ill-Health certificates are available here - <http://www.fpsregs.org/index.php/member-area/ill-health-and-injury>.

<sup>7</sup> Rule 3, Paragraph 3 of FPS 2006 - <http://www.legislation.gov.uk/ukxi/2014/445/schedule/paragraph/2/made>



### **35. Estimation of benefits**

35.1. The estimate of benefits under both schemes should include:

- The pension payable to the member.
- The lump sum that would be payable, along with details of tax consequences, such as receiving an unauthorised lump sum or limiting the lump sum so it doesn't incur tax.
- Dependant benefits such as a partner's pension and death in retirement five-year guarantee from FPS 2015. This is particularly important where someone is retiring under ill-health terms and is paid their pension under the 'one-pot' arrangements from FPS 2015.
- A clear statement that all calculations are provisional and may be revised depending on decisions still to be made and changes to scheme rules, in particular regarding interest and taxation; and that further payments or refunds, or recalculation of pension benefits, are possible.

### **36. Schedule of contributions owed**

36.1. In order to receive benefits under the terms of FPS 1992, the immediate detriment note confirms that employee contributions must be repaid where they are due.

36.2. Members should be provided with a schedule of contributions owed, to include:

- Difference between FPS 2015 and FPS 1992 contributions for the remedy period.
- This should include any additional contributions that need to be paid in order to count a service break.
- Contributions on FPS 1992 terms of any temporary promotion to be treated as an APB.
- Difference between FPS 2015 and FPS 1992 contributions on any CPD payments in order to calculate the APB that will be payable under the legacy scheme.
- Adjustments for the contribution holiday if the member would be eligible under the legacy scheme.

36.3. Members should be made aware of the effect of claiming tax relief on their pension contributions if they choose to have contributions deducted from their lump sum, rather than paying before retirement.

- Pension Contributions made before retirement will qualify for tax relief under HMRC PAYE or self-assessment.

- Pension Contributions made after retirement, such as deducted from the lump sum will not qualify for tax relief under the HMRC PAYE or self-assessment process. Instead this will be claimed through a government process once the consultation has concluded.

### **37. Annual allowance**

37.1. For some members the impact of treating them as if they had never left their previous final salary scheme might mean that they would have breached the annual allowance limits in former pension input period years.

37.2. We understand that the HMT position on this is that benefits over each pension input period should be re-assessed on final salary scheme terms.

37.3. If benefits are put into payment under the immediate detriment note, the member will need to be aware of the recalculation of their pension input periods and the change on any carry forward, as this may affect other pension entitlements elsewhere.

37.4. Where a member has exceeded the annual allowance limit and there is no carry forward to mitigate the breach, a tax charge will fall due on the excess over the annual allowance. The member should be informed of any annual allowance breach for them to calculate the tax charge.

## **Retrospective Ill-health Cases**

38. Under paragraph 3.1 this applies only to members who did not qualify for lower-tier (and therefore higher-tier) ill-health retirement under FPS 2015 but would have done under their legacy scheme. They may have now left the FRA but are not in receipt of pension benefits.

39. These members should be treated as above as a current ill-health case and the relevant IQMP assessment should be sought and benefits put into payment where possible.

40. For members with a pension in payment and who therefore do not fall within the scope of the immediate detriment note, FRAs may want to ensure they are prepared to offer revised benefits as soon as possible by having valid IQMP assessments in place, as detailed at paragraphs 32.1 to 32. 4 above.

41. Some of these members may be better off in the reformed schemes, for example, members with a higher tier ill-health in payment under the FPS 2015. FRAs may want to ensure members are aware of this by providing a quotation of benefits under the legacy scheme.

## Other pensions in payment

42. Our understanding is that pensions in payment, even if they have come into payment since 21 August 2020 are not in the scope of the immediate detriment note, as there are tax and other consequences that rely on policy decisions yet to be made by the HMT consultation.

## LGA practitioner support

43. We are talking to practitioners about how best to support implementation of the note to promote best practice and aid consistency, that work includes:

43.1. Working with the [Fire Communications Working Group](#) to provide a consistent template on how a member may be provided with a choice and what this should include, using documentation provided to support choice in 2006 as a guide<sup>8</sup>.

43.2. Working with administrators to provide example calculations for:

- APB calculations for members with CPD payments or temporary promotions.
- Pension tax breaches, where high earners might breach tax limits by gaining additional final salary pension growth.
- Members who would qualify for a contribution holiday in FPS 1992 by returning to the legacy scheme.
- Members who would be liable for abatement by choosing legacy benefits.

Please address any queries on the content of this request to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)

October 2020

---

<sup>8</sup><https://webarchive.nationalarchives.gov.uk/20120919193018/http://www.communities.gov.uk/archived/general-content/fire/optionsexerciseddocuments/https://webarchive.nationalarchives.gov.uk/20120919193018/http://www.communities.gov.uk/archived/general-content/fire/optionsexerciseddocuments/>



## Information

# Special Members of the Firefighters' Pension Scheme 2006

## Purpose

1. This factsheet has been prepared to provide a background to the introduction of special members of the Firefighters' Pension Scheme 2006 (FPS 2006).
2. The factsheet provides a summary of the first options exercise where eligible individuals could elect to become members of the scheme and an update on the second options exercise in which individuals will be able to elect to extend membership beyond 1 July 2000 to any employment as a retained firefighter prior to that date.

## Background

3. The Firefighters' Pension Scheme 1992 (FPS 1992) applies only to regular firefighters and excludes firefighters employed as retained firefighters.
4. [Matthews v Kent and Medway Towns Fire Authority \[2006\] UKHL 8](#)<sup>1</sup> led to legislation allowing retained firefighters employed between 1 July 2000 and 5 April 2006 the right to be treated no less favourably than wholetime firefighters and allowed to join a pension scheme with retrospective effect to 1 July 2000.
5. [SI 2014/445](#) implemented regulations with effect from 1 April 2014 to introduce a new category of member 'special member' into the regulations of the FPS 2006.
6. While the benefits awarded to special members largely mirrored the benefits under the FPS 1992, the FPS 2006 was amended as the FPS 1992 was closed.

---

<sup>1</sup> <http://www.bailii.org/uk/cases/UKHL/2006/8.html>

## Benefits payable

### 7. Benefits payable to FPS 2006 special members

Accrual rate of 1/45th

Actuarial commutation factors

Normal Retirement Age 55

Deferred benefit age of 60

Unmarried partner benefits

## Options exercise (1)

8. The first options exercise was a time limited exercise that ran from 1 April 2014 to 30 September 2015.<sup>2</sup>
9. Fire and Rescue Authorities (FRAs) had to identify individuals who were eligible and use reasonable endeavours to notify existing and former employees who were entitled to join the scheme.
10. Eligible firefighters had to apply for a statement of service from the FRA.
11. The statement of service provided the amount of service that was available, and the options to pay contributions either via a lump sum at the time of election or by periodical contributions over ten years or until retirement date.
12. The regulations set out timescales for completion of each stage but allowed a discretion for the FRA to allow an extension to 30 September 2015 where it was not reasonably practicable to comply.
13. Eligible firefighters had to make a positive election in order to join the scheme as a special member by 30 September 2015<sup>3</sup>.
14. There are reported cases of individuals not being allowed to join the scheme because the deadlines were missed. These cases were dealt with via [Internal Resolution Dispute Procedures](#) (IDRP) and in some cases proceeded to the Pension Ombudsman<sup>4</sup> (TPO). This position was commented on in [FPS Bulletin 3 - Nov/ Dec 2017](#) under '*backdated elections to the 2006 modified scheme (RDS)*'.

---

<sup>2</sup> Extended to 30 September 2015 by Part 11, Rule 6C, Paragraph 5B [SI 2015/590](#)

<sup>3</sup> Other time limits applied in Wales

<sup>4</sup> [TPO-22496](#)

## Current position

15. Following the [European Court of Justice's decision in O'Brien v Ministry of Justice](#) which is a case concerning fee paid judges in the Judicial Pension Scheme,<sup>5</sup> the UK Government have recognised the right for retained firefighters employed before 1 July 2000 to elect to become a special member from the start date of their employment.
16. This will necessitate a second options exercise, for which legal discussions have commenced between central government, the LGA on behalf of FRAs and trade union legal representatives to consider who is in scope and the details of the settlement exercise.
17. Regulations for England will be drafted and consulted on following the conclusion of the legal discussions. It is expected further regulations and consultations for the devolved governments will follow later. No timescales are known at this stage.

## Guidance and resources

18. Bulletin articles referring to issues for 'Special Members – FPS 2006' can be found in the subject matter index held under [Bulletins](#) on the [FPS Regulations and Guidance](#) website.
19. A refresher workshop was held in 2018, slides are available on the [FPS 2006 special members events page](#).
20. The password protected page [Special members of FPS 2006](#) holds further resources.

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme and associated case law using the regulations as they stand at October 2020, however they should be used only as an informal view of the interpretation of the firefighters' pension scheme as only a court can provide a definitive interpretation of legislation. This factsheet should not be interpreted as legal advice

Please address any queries on the content of this factsheet to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)

---

<sup>5</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/894713/fjips-amendments-consultation-june-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/894713/fjips-amendments-consultation-june-2020.pdf)