

## NOTICE OF MEETING

<i>Meeting</i>	<b>HFRA Hampshire Firefighters' Pension Board</b>	<i>Clerk to the Hampshire Fire and Rescue Authority</i> <b>John Coughlan CBE</b>
<i>Date and Time</i>	<b>Tuesday, 9th July, 2019 10.00 am</b>	<i>The Castle, Winchester Hampshire SO23 8UJ</i>
<i>Place</i>	<b>Meeting Room C, Fire and Police HQ, Leigh Road, Eastleigh</b>	
<i>Enquiries to</i>	<b><u><a href="mailto:members.services@hants.gov.uk">members.services@hants.gov.uk</a></u></b>	

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## Agenda

### 1 **APOLOGIES FOR ABSENCE**

To receive any apologies for absence received.

### 2 **ELECTION OF CHAIRMAN**

To elect a Chairman of the Pension Board in accordance with the Terms of Reference until the first meeting of the Board following the 2020 HFRA AGM.

### 3 **ELECTION OF VICE-CHAIRMAN**

To elect a Vice-Chairman of the Pension Board in accordance with the Terms of Reference until the first meeting of the Board following the 2020 HFRA AGM.

4 **DECLARATIONS OF INTEREST**

To enable Members to disclose to the meeting any disclosable pecuniary interest they may have in any matter on the agenda for the meeting, where that interest is not already entered in the Authority's register of interests, and any other pecuniary or non-pecuniary interests in any such matter that Members may wish to disclose.

5 **MINUTES OF PREVIOUS MEETING** (Pages 5 - 8)

To confirm the minutes of the previous meeting.

6 **DEPUTATIONS**

Pursuant to Standing Order 19, to receive any deputations to this meeting.

7 **CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements the Chairman may wish to make.

8 **SCHEME ADVISORY BOARD VERBAL UPDATE**

To receive a verbal update on the Scheme Advisory Board.

9 **FIRE PENSION BOARD ANNUAL REPORT (2018/19) AND PROPOSED CHANGES TO THE PENSION BOARD TERMS OF REFERENCE** (Pages 9 - 32)

To receive the Fire Pension Board Annual Report for 2018/19, and Proposed Changes to the Pension Board Terms of Reference.

10 **HAMPSHIRE FIRE PENSIONS ADMINISTRATION REPORT 2018/19** (Pages 33 - 38)

To receive a report providing an update on Pensions Administration for 2018/19.

11 **LEGISLATION AND LOCAL GOVERNMENT ASSOCIATION (LGA) UPDATE REPORT** (Pages 39 - 98)

To receive a report providing an update on Legislation and the Local Government Association.

12 **FIRE PENSION BOARD STATUS REPORT** (Pages 99 - 104)

To receive a report providing an update on the development of key issues.

**ABOUT THIS AGENDA:**

This agenda is available on the Hampshire Fire and Rescue Service website ([www.hantsfire.gov.uk](http://www.hantsfire.gov.uk)) and can be provided, on request, in alternative versions (such as large print, Braille or audio) and in alternative languages.

**ABOUT THIS MEETING**

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# Agenda Item 5

AT A MEETING of the HFRA Hampshire Firefighters' Pension Board held at the Fire and Police Headquarters, Eastleigh on Friday, 26 April, 2019

Chairman:

\* Stew Adamson

- \* Malcolm Eastwood
- \* Richard North
- \* Councillor Roger Price  
Dan Tasker  
VACANCY – Scheme Member

\*Present

**Also present with the agreement of the Chairman:**

Jo Thistlewood, Technical Finance Manager, Isle of Wight Council  
Cllr Reg Barry, Member of Isle of Wight Fire Authority Firefighters' Pension Board

Paula White, Northern Island Fire and Rescue Service

Carolyn Lyness, Northern Island Fire and Rescue Service

**57. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Dan Tasker.

**58. DECLARATIONS OF INTEREST**

Members were mindful of their duty to disclose at the meeting any disclosable pecuniary interest they had in any matter on the agenda for the meeting, where that interest was not already entered in the Authority's register of interests, and their ability to disclose any other personal interests in any such matter that they might have wished to disclose.

No declarations of interest were received.

**59. MINUTES OF PREVIOUS MEETING**

The minutes of the last meeting on the 8 January 2019 were agreed and signed by the Chairman.

**60. DEPUTATIONS**

There were no deputations on this occasion.

**61. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman announced that Dan Tasker had been formally appointed at the last Authority meeting as an employer representative to the Board, replacing Tom Simms who had recently retired from the Service.

The Chairman clarified some arrangements around the future new combined fire authority, and confirmed that arrangements for the operation of the new authority would be reviewed once the new authority was constituted.

**62. LEGISLATION AND LOCAL GOVERNMENT ASSOCIATION (LGA) UPDATE REPORT**

The Pension Board received a report of the Chief Finance Officer providing an update on Legislation and the Local Government Association (Item 6 in the Minute Book).

Officers took Members of the Board through the report highlighting and explaining key issues. It was noted that there was a dedicated resource in place to examine key issues arising and Members of the Board extended their thanks to Officers for their hard work in compiling the update report. In relation to the Court of Appeal Transitional Protection Case, it was heard that the government were still waiting for a response from the Supreme Court regarding the right to appeal, and information on this would be communicated in a timely and appropriate manner.

Following a Board Member query in relation to the "Walker judgement" amendment as set out in paragraph 10 of the report, it was confirmed that the number of relevant members of the pension scheme who could be affected would be included in the next pensions administration report.

RESOLVED:

That the HFRA Firefighters' Pension Board noted the contents of the report.

**63. FIRE PENSION BOARD STATUS REPORT**

Members of the Board received a report of the Chief Finance Officer (Item 7 in the Minute Book) regarding ongoing issues.

The report was introduced and Officers led Board Members through the report highlighting the development of key issues. Officers drew attention to issues such as Internal Dispute Resolution Procedures (IDRP's) and the court ruling against Mid and Wales FRA. Since the last Board meeting there had been a Stage 2 IDRP which was unusual, as given the complexity of the pension scheme, the number of IDRP's was very low. The situation in relation to the court ruling against Mid and Wales FRA as set out in paragraphs 15-24 of the report was explained, and it was heard that the Employer Pension Manager had looked into whether HFRS would be affected, but as the full judgement was not publically available, it was not possible to confirm this at this time.

In relation to communications, it was heard that the Employer Pension Manager had recently attended a regional session of scheme manager training and this had proved particularly useful. It was also noted that the member portal for fire pension schemes went live on the 1 April 2019, and Members of the Board felt it would be useful to receive a demonstration of this at a future Board meeting.

It was heard that the Employer Pension Manager had been invited by individual station managers to attend a number of full-time fire stations such as Rushmoor, Gosport, Fareham and Basingstoke to present on pensions. These had been well received and the Chairman would investigate promoting this service on the portal.

Officers highlighted that in relation to Pension Board training, the LGA would be offering essential training for new Board Members in June, but this was also open to other Board Members to attend if they so wished. Following on from the resignation of Alex Rhodes, it was agreed that Richard North would lead on training needs on behalf of the Board. The Chairman would also liaise with the Employer Pension Manager in relation to a regional training session.

An update on the situation around injury pensions was given, and Board Members heard that there was a responsibility to carry out reviews of injury pensions, but individuals in receipt of DWP benefits also had responsibility to inform of their individual situation. Officers highlighted that the response rate was good with 84 replies received from the 89 pensioners in receipt of an injury pension who were written to. The Board were asked to consider what constituted an appropriate interval for any further reviews, and the period of five years was proposed and agreed.

Issues relating to scheme specific conditional data were highlighted as set out in paragraphs 47-51 of the report. It was explained that the scores reported for the scheme specific conditional data were 97% or higher, which was seen to be good, but it was highlighted that the scoring did not take into account of any scheme specific conditional data that may be held by the employer. Officers drew attention to the differences between common and conditional data and it was noted that confusion nationally over scoring had led to the LGA looking to establish a focus group to provide guidance.

Officers provided an overview of employer contributions and the flow of employer contributions. In relation to employer contributions, the complexities around the increase in these were set out in paragraphs 52 - 58. Officers explained that the initial grant funding from Government to HFRA and other FRA's would need increasing as there will be a shortfall. It was noted that the Government would honour the shortfall, but final confirmation of this was still to be received. The uncertainty of what would result from the Spending Review was also highlighted.

An update on GMP Scheme Reconciliation and the Combined Fire Authority (CFA) was given as set out in page 63 of the agenda report pack. It was noted that in relation to the CFA, and once approved by the Secretary of State, a new Fire Pension Board would need to be set up and the structure of the Board and the Terms of Reference would need to be reviewed.

The Chairman asked Malcolm Eastwood to provide a brief verbal update on the Scheme Advisory Board (SAB), and it was heard that this would be added to future agendas as a standing agenda item. Malcolm reported that various issues were being looked at, including differences between the local Pension Boards, as well as concerns relating to recruitment and retention. Malcolm also reported the concerns relating to the financial burden being experienced by all Fire Authorities. A question was raised about whether the previously circulated SAB questionnaire would be sent out again, and it was heard that it had been discussed at the SAB as to whether this would be a recurring event.

RESOLVED:

- i. That the HFRA Firefighters Pension Board endorsed a time period of five years for any further reviews of injury pensions
- ii. That the HFRA Firefighters' Pension Board noted the contents of the report.

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Chairman,





**HAMPSHIRE  
FIRE AND  
RESCUE  
AUTHORITY**

Purpose: Noted

Date and meeting:

**9 July 2019 (HFRA Firefighters' Pension Board)**

**23 July 2019 (STANDARDS AND GOVERNANCE COMMITTEE)**

**Title FIRE PENSION BOARD ANNUAL REPORT (2018/19) AND PROPOSED  
CHANGES TO THE PENSION BOARD TERMS OF REFERENCE**

Report of Chief Finance Officer

## SUMMARY

1. This is the annual report from the Fire Pension Board to the Standards and Governance Committee and summarises the work of the Board for the 2018/19 financial year in the exercise of its functions.
2. This report provides an update on the progress of key issues during the reporting period.

## PENSION BOARD MEETINGS

3. The Pension Board met periodically during the 2018/19 financial year. Three meetings were held during the year:
  - (a) 5 July 2018
  - (b) 19 October 2018
  - (c) 8 January 2019
4. The meeting in July 2018 saw the re-election of Stew Adamson to Chairman and Richard North to Vice-Chairman. Both will hold the position until the first meeting of the Fire Pension Board following the annual meeting of the Fire Authority in 2019.
5. The Fire Pension Board received two resignations at the January 2019 meeting. Tom Simms and Alex Rhodes were thanked for their work. Dan Tasker has been ratified as the new Employer representative. It is anticipated that a new Scheme representative will be confirmed in time for the July 2019 Fire Pension Board meeting.

6. The key items covered at these meetings are as follows, more detailed information about each of these items can be found later in the report.
  - (a) Deferred pensioners
  - (b) Injury pension reviews
  - (c) Temporary Promotions and Additional Pension Benefits
  - (d) IDRPs
  - (e) Communication and engagement
  - (f) Surveys
  - (g) Annual Benefit Statements
  - (h) Annual and Lifetime Allowance
  - (i) Voluntary Scheme Pays
  - (j) Legislation updates
  - (k) Terms of reference review
  - (l) Work plan
  
7. The pension board status and other associated reports can be found in APPENDICES A – I.

#### DEFERRED PENSIONERS

8. It was reported to the Pension Board how Hampshire Pension Services keeps in touch with deferred members of the scheme. These are members who have left the scheme but are not yet able to have their pension paid to them.
  
9. Depending on which scheme the member was in, will depend on when these benefits can come into payment which can be from age 60. All benefits have to come into payment by age 75 to avoid it becoming an unauthorised payment, which is subject to tax charges.
  
10. There are a small number of members with whom Hampshire Pension Services have lost contact with and when the deferred pension becomes due for payment, they will pass the details to Target, this is a company that they use for tracing members with whom they have lost contact.

#### INJURY PENSION REVIEWS

11. There is a legislative requirement, which HFRA has not previously actioned, to review the degree of disablement awarded in respect of injury pensions. HFRA made a policy in March 2017 that it would carry out such reviews when injury pension payments had been in payment for a period of between three and five years.

12. During 2018/19 some progress was made with regard to the injury pension reviews. The board heard how the process had been agreed in principle, which would mean that initially a letter would be sent to the individual asking them to confirm whether or not the disablement from their qualifying injury has substantially changed or not.
13. For HFRA, there will only be two or three cases that will need to be reviewed.
14. This project is being led by the HR department, it was hoped that the review process would be implemented in September 2018 but there have been some setbacks mainly due to HR resourcing issues and some complexities around the process itself. This will now be implemented in 2019/20.

#### INJURY PENSION AND DWP BENEFIT REVIEWS

15. When a retired member receives an injury pension award, the member is asked to confirm what relevant additional benefits they are receiving from the Department of Work and Pensions (DWP). This is because any additional benefits that the member is receiving must be deducted from any injury pension awarded.
16. A regular review of these benefits should take place to ensure that the correct level of benefits is being paid to the member, but HFRA had not previously carried out any such review.
17. It was reported to the Pension Board that the Employer Pension Manager had written to all 89 recipients of an injury pension in November 2018 asking them to confirm the DWP benefits that they were receiving.
18. At the January 2019 meeting, the Board heard how 62 members had already responded and that the remaining 27 members would receive a more strongly worded letter during January 2019.
19. Subsequent to this, all replies have been received and the Employer Pension Manager was able to determine that the correct level of benefits were being paid to all members and therefore no amendments to any injury pension payments were necessary.

#### TEMPORARY PROMOTIONS AND ADDITIONAL PENSION BENEFITS

20. There was an amendment to legislation on 1 July 2013 which allowed individual FRAs to decide whether the additional pay received because of a temporary promotion for 1992 and 2006 schemes was pensionable or not. Legislation means that temporary promotions within the 2015 Scheme are not pensionable.

21. HFRA took the decision to make temporary promotions within the 1992 and 2006 schemes pensionable, which meant that Fire Fighters would now earn an Additional Pensionable Benefit (APB) whilst on Temporary Promotion.
22. It was reported to the Board that further work had been undertaken to review the position of the pensionable status of temporary promotions for members of the 1992 and 2006 schemes; and whether this was a beneficial decision for the member.
23. Through the regional Fire Pension Officer Groups, FRAs were asked to respond to some questions regarding their approach to temporary promotions.
24. Of those that responded, the results showed that there was a 50/50 split over whether temporary promotions had been made pensionable or not. The four main reasons cited for not making them pensionable were
  - (a) Cost
  - (b) Pressure on cost cap
  - (c) Limited benefit to firefighters
  - (d) Administrative complexity
25. Illustrative examples of pension contributions paid out versus APB awarded have been produced, these include the estimated time taken for the employee to recover the pension contribution costs after retirement. The illustrations can be found in APPENDIX A.
26. The timescales for an individual to recover their contribution costs will be reduced in two ways
  - (a) The APB will increase each year in line with Consumer Price Index (CPI) and
  - (b) If the member elects to commute, then some of the clawback will occur immediately
27. Because a member can earn back their additional contributions in around six years and as the feedback from the Unions was that they are in favour of keeping temporary promotions pensionable; The Board endorsed the decision to keep temporary promotions as a pensionable payment.

#### INTERNAL DISPUTE RESOLUTION PROCEDURES (IDRP)

28. The Board heard how the process for the receipt of IDRPs had now been clearly defined, meaning that there is now one single route for an IDRP to be received. The process can be found in APPENDIX F.

29. Prior to the introduction of this new process, there was no central log of IDRPCs and it was very difficult to identify how many cases had occurred. The revised process now enables a central log of all IDRPCs across all schemes and partners to be recorded. This will ensure that any common themes are being identified and addressed.

#### COMMUNICATION AND ENGAGEMENT

30. The Board heard that various communications have been published during the year in Routine Notice. The aim of this is to generally raise awareness of pensions and to make it easier for members to find information.
31. There have been changes made to the Fire intranet homepage portal as there is now a Pensions button on the homepage, which links directly to the Employer Pension Web Pages.

#### EMPLOYER GROUPS

32. The Employer Pension Manager has continued to hold Employer Pension Group meetings which pull together representatives from HR, Finance, Hampshire Pension Services and IBC Pensions Admin. There are three employer groups; one for LGPS, one for Police and one for Fire; along with a Pensions Administration group.
33. Due to significant improvements, we are able to move into more of a forward planning and continual improvement position, the groups are now meeting every other month and keep track of pension related issues and legislation, provide updates as well as discussing upcoming items that may require communications to members or a more detailed piece of work.
34. These groups enable a complete overview of pensions, across all schemes and partners and ensure a level of consistency. They have also been instrumental in improving internal communications and collaborative working.

#### OTHER MEETINGS

35. HFRA has been represented at several meetings during the year. The Employer Pension Manager regularly attends the regional Fire Pension Officer Group and the Fire Technical Group. There was also attendance at two conferences put on by the Scheme Advisory Board (SAB), the annual Fire Pension conference and the Police & Fire Local Pension Board Governance conference.

36. The Employer Pension Manager was asked by the Local Government Association (LGA) to participate in a forecasting workshop along with representatives of other FRAs.
37. Every FRA is required to provide forecasting to the Home Office, which among other things includes details about predicting retirements and likely pension and lump sum amounts. It is necessary to provide an accurate forecast to the Home Office to facilitate the Office of Budget Responsibility (OBR) to have accurate information about the cost of the scheme.
38. Hampshire has a very robust and accurate way of forecasting and it is hoped that best practice can be shared to improve the forecasting nationally.

### PRESENTATIONS

39. It was reported to the Board that the Employer Pension Manager has delivered several presentations on Fire pensions. The table below shows the number of presentations delivered in 2018/19:

<b>Presentation</b>	<b>Number</b>
Pre-retirement courses	4
Mid career (visits to Cosham, Basingstoke, Southsea and Rushmoor stations)	8

40. The presentations include information on all four Fire Pension Schemes and cover how the schemes work, examples of how benefits are calculated, along with a brief explanation of Annual and Life Time Allowances and HMRC maximum benefits.
41. The Board heard how these presentations have been very well received and well attended, with lots of questions and engagement from those that attended.

### MEMBER PORTAL

42. It was reported to the Board how Hampshire Pension Services had received the necessary upgrade to their administration system to allow Member Portal for online access to Fire Pension Scheme members.
43. The Employer Pension Manager attended two employer focus groups in year which showed the Member Portal with new enhancements including:
  - (a) Email verification for registration to Member Portal
  - (b) Ability to view and amend personal details
  - (c) Ability to view and amend death grant nominations

(d) Ability to view Annual Benefit Statements

44. The Board heard how Hampshire Pension Services planned to implement this in December 2018. This was unfortunately delayed and went live for Fire Pension Scheme members in April 2019.
45. Despite the improvements to the member portal, sign up across all schemes continues to be lower than expected for such an important personal topic.

SURVEYS

46. It was reported to the Board that the Employer Pension Manager had completed the Annual Scheme Returns issued by The Pension Regulator (TPR) by the deadline of 6 November 2018. This survey requires information to be submitted about scheme membership numbers, details of the scheme manager, Fire Pension Board members, details of the administrator and other relevant contact details.
47. As at 31 March 2018, the scheme numbers reported to the TPR were as follows:

Member status	1992 Scheme	2006 Scheme	2015 Scheme	Total
Active	151	87	931	1,169
Deferred	85	460	270	815
Pensioner	954	100	3	1,057
Total	1,190	647	1,204	3,041

48. TPR also asked for the first time, additional questions to assess the state of common and scheme specific conditional data that is held. Guidance for these types of data can be found in APPENDIX C.
49. Data for all Fire Pension Schemes was measured in October 2018 by Hampshire Pension Services and they assessed the percentage of data to be present and accurate as 95% or above for each data type and scheme.
50. The scoring for the scheme specific conditional data has been compiled by Hampshire Pension Services from a variety of reports as there is no national agreement of what data to measure as there is for common data.
51. It was also reported to the Board that the Employer Pension Manager had completed the annual TPR Administration survey 2018. To be able to complete this accurately, the Employer Pension Manager consulted with The Pension Board chair and vice-chair, Hampshire Pension Services and other representatives. She also consulted with the Scheme Manager delegatee. The Scheme Manager for Hampshire Fire Pensions is the Standards and

Governance Committee and they have delegated the day to day Scheme Manager responsibilities to the Head of Finance.

52. the Employer Pension Manager consulted with the Head of Finance in his role as the delegatee Scheme Manager, The Pension Board chair and vice-chair, Hampshire Pension Services and other representatives.

### BENCHMARKING

53. The Board heard that Aon had been commissioned by the Scheme Advisory Board (SAB) to benchmark the costs of running the Fire Pension Scheme, which had never been done before.
54. Aon issued surveys to the Administrator and the Employer for completion by 31 December 2018. The Employer Pension Manager completed these, after consultation with the Scheme Manager, Hampshire Pension Services and the Finance Teams.
55. Aon hope to be able to answer four main questions from the results of the survey
  - (a) How effective is scheme administration?
  - (b) What are the costs of running the scheme?
  - (c) Are there any themes or patterns?
  - (d) Whether anything could be done differently or better

### ANNUAL BENEFIT STATEMENTS

56. The statutory deadline for issuing Annual Benefit Statements (ABS) is 31 August each year. It was reported to the Board that the 2018 deadline was met and that ABS' were issued to home addresses.
57. The Employer Pension Manager has been involved with providing feedback to Hampshire Pension Services with regard to improvements, wording and consistency for the 2019 statements, which will be provided on-line through the new Member Portal for the first time.

### ANNUAL AND LIFE TIME ALLOWANCE

58. The statutory deadline to provide Pension Savings Statements is 6 October each year.
59. A Pension Savings Statement is automatically sent to a member where they have exceeded the Annual Allowance in the year but can be sent to any



member upon request; for 2017/18 12 Pension Savings Statements were issued to members of the Hampshire Fire Pension Schemes.

60. The issues around Annual Allowance (AA) and Life Time Allowance (LTA) are very complex and the Board were in favour of the proposal to hold seminars for those that might be affected by the AA or LTA issue.
61. Seminars were held in October and November 2018 and a number of members attended the sessions; these were put on as part of a joint training programme with two other FRAs.
62. In 2017/18 The Board had endorsed a factsheet that the Employer Pension Manager had drafted on Annual Allowance. the Board were pleased to note that a factsheet for Life Time Allowance had also now been drafted.
63. It was reported to the Board that both these factsheets would be published on the Employer Pension Web Pages so that they could provide a useful tool for members and employers.

#### VOLUNTARY SCHEME PAYS

64. Where a member has exceeded their Annual Allowance in the year and it has resulted in a tax charge. The member may elect to use the Scheme Pays option. This enables HFRA to pay the tax charge to HMRC on behalf of the member and there is a permanent offset made against their pension, called a Scheme Pays Debit.
65. There is Mandatory Scheme Pays and Voluntary Scheme Pays. Mandatory Scheme Pays is legislated for, but Voluntary Scheme Pays is not and requires a decision from each FRA as to whether they will allow it.
66. For most members, that have a tax charge as a result of exceeding the Annual Allowance, they will fall into the Mandatory Scheme Pays criteria which are:
  - (a) The tax charge must be greater than £2,000
  - (b) The Pension Savings must be greater than the standard Annual Allowance in that year.
  - (c) The Annual Allowance must be exceeded wholly in one scheme
  - (d) The election to use Scheme Pays is made within the relevant deadlines
67. Where one of these criteria is not met, then the tax charge must be treated as Voluntary Scheme Pays. The main issues with Voluntary Scheme Pays are that
  - (a) The timescales for paying the tax to HMRC are much shorter

- (b) It is not legislated for in the same way that Mandatory Scheme Pays is.
68. The Local Government Association (LGA) has sought legal advice over whether FRAs can utilise Voluntary Scheme Pays. If an FRA decides not to allow Voluntary Scheme Pays, the member would have to pay the tax charge directly to HMRC themselves, which could be a large sum.
69. The LGA's interpretation of this advice is that an FRA can offer Voluntary Scheme Pays to members, but it is up to each FRA to make their own decision. HCC Legal Services have confirmed that the advice provided from the LGA is reasonable.
70. The Board have supported the recommendation to allow Voluntary Scheme Pays to affected members. The Standards and Governance Committee are also asked to approve this recommendation, to ensure that should Hampshire Pension Services have any cases which fall under Voluntary Scheme Pays that they have the authority to offer this option to the member.

#### LEGISLATION UPDATE

71. The Board heard how during the year, HFRA and Hampshire Pension Services have been involved with one consultation on Regulation amendments, which then also came into effect. They have also dealt with the introduction of the General Data Protection Regulations and the changes to the SCAPE discount rate, which were announced in the budget in October 2018.

#### CONSULTATIONS

72. The Home Office launched a consultation on 16 April 2018 regarding
- (a) Changes to survivors' benefit arrangements in the 2006 scheme. This was in relation to the Supreme Court judgement in the case of Brewster.
  - (b) A number of unrelated minor amendments to the legislation for all schemes to ensure that certain limited aspects of the schemes work as originally intended.
73. This consultation was issued to the Employer Pension Manager as a member of the Fire Technical Group, and then taken to the Fire employer Group for discussion. This is an important role of the Fire Employer Group in ensuring that up-coming legislative changes are communicated to the relevant parties so that the necessary action can be taken. This will hopefully aid HFRA in avoiding missing any regulation changes as they did with Temporary Promotions.

## AMENDMENT LEGISLATION

74. The Police and Firefighters' Pension (Amendment) Regulations 2018 (SI 2018/997) were laid on 13 September 2018 and came into effect on 8 October 2018.
75. These regulations brought into effect the items of the consultation mentioned in paragraph 69 and the Local Government Association issued a Technical Note with guidance and actions that needed to be completed as a result of the implementation of this legislation.
76. The 2018 Amendment legislation provided clarity that the first pension amount calculated under the Two Pension Rule (Split Pension) is to be indexed by an amount "equivalent" to Pensions Increase. This was important distinction because the qualifying condition of the Pensions Increase Act do not permit payment of Pensions Increases until the members 55<sup>th</sup> birthday.
77. It was reported to the Board that Hampshire Pension Services had identified four cases that needed reviewing after this clarification. These four cases had used the Two Pension Rule and had retired before age 55.
78. The Board also heard about the 2018 legislation changes for co-habiting members of the 2006 scheme. The amendment meant that there was no longer a requirement to complete a co-habiting nomination form, which would enable their partner to receive a pension in the event of their death.
79. The Board were pleased to note that this had been communicated in Routine Notice and as a news item on the Fire portal homepage. The communication had happened within the three months allowed under the Member Disclosure Regulations.

## GENERAL DATA PROTECTION REGULATION (GDPR)

80. GDPR came into effect on 25 May 2018. This primarily concerns the privacy notices and confirming how personal data will be used. HFRA are the data controllers and Hampshire Pension Services are the data processors.
81. It was reported to the Board that HFRA was compliant with GDPR and that privacy notices had been published in respect of the Fire Pension Schemes.

## SCAPE DISCOUNT RATE

82. The Board heard how in the budget on 29 October 2018, a change to the SCAPE discount rate was announced, reducing it from 2.8% to 2.4% pa

above CPI. This meant that a number of factors used in various pension calculations would now all be reviewed and possibly amended.

83. All pension calculations were affected as they all use factors of one sort or another. The Government Actuary Department (GAD) issued new tables of factors for all calculations (such as commutation, transfers, cash equivalent transfer values and early retirement reduction factors) between October 2018 and January 2019.
84. The Board also heard how the change the SCAPE discount rate would mean a significant increase to employer contributions from 1 April 2019.
85. The Treasury made a commitment to fund all costs nationally to FRAs above £10m for 2019/20 and the Government has confirmed that for 2019/20 they will be providing specific grant funding to cover approx. 95% of additional costs to FRAs.
86. Whilst this funding is welcome, it does not cover the full additional costs to the Authority (which for Hampshire is £3.7m) and as yet there is no certainty that this funding will continue beyond 2019/20.

#### OTHER ITEMS

87. At the July meeting, the Board reviewed the Risk Register which can be found in APPENDIX B. The Board concluded that there were no amendments necessary.
88. At the October meeting, the Board also received a report of the Pension Administrator which can be found in APPENDIX E.

#### TERMS OF REFERENCE REVIEW

89. Members of the Standards and Governance Committee are asked to agree minor amendments to the Terms of Reference of the Firefighters' Pension Board (attached at APPENDIX I).
90. The Terms of Reference (ToR) for the Firefighters' Pension Board, together with the Code of Conduct were agreed by Hampshire Fire and Rescue Authority on 20 February 2015 at the same time as the Board was formally constituted. The responsibility of "Scheme Management" to Standards and Governance (S&G) Committee was approved by the Authority at its Annual General meeting on 9 June 2016. Responsibility for "Scheme Management" previously resided with the former Finance and General Purposes (F&GP) Committee.

91. The ToR was reviewed at the Firefighters' Pension Board on the 8 January 2019 (attached at APPENDIX H), with a view to changes being approved at a future meeting of the Standards and Governance Committee.
92. Changes to the overall HFRA constitution were agreed at the Annual General Meeting (AGM) of the Authority on the 5 June 2019. These included references to "Director of Professional Services" which were replaced with "Chief of Staff" in the Firefighters Pension Board ToR, and in the overall constitution. It was agreed at the Authority on the 5 June 2019 that any further amendments to the ToR would be delegated to The Clerk for approval at the next Standards and Governance Committee.
93. The current ToR states that the employer representatives will be appointed by the Authority at its AGM (as set out in 3.5 of APPENDIX I).
94. To allow for flexibility in appointing to the Board, it is proposed that the current ToR are amended to remove the requirement for employer representatives to only be appointed at the AGM of the Authority. The amended wording is set out in 3.5 of APPENDIX I.
95. To also allow for flexibility in appointing scheme member representatives, it is proposed that the current ToR are amended to reflect that scheme member representatives can be appointed at any time in the year by the Authority (as set out in 3.6 of APPENDIX I).
96. With regard to the appointment of Chairman/Vice-Chairman of the Board, these are elected by the Board at the first meeting of the Board following the AGM of the Authority (as set out in 3.2 and 3.3 of APPENDIX I). It is therefore proposed that 3.11 of APPENDIX I is deleted.
97. With regard to 3.12 of APPENDIX I, this is a duplication of 3.6 of APPENDIX I, and it is therefore proposed that this is deleted.

#### WORK PLAN

98. At the July meeting, the Chairman put forward a structured plan for the content at future meetings. With this in mind, there are naturally some items which will fall into different parts of the year and can be reported on accordingly.
99. Each Pension Board Status Report will contain standing items and any relevant additional items. Depending on the timing of meetings, this may alter when these items can be reported.
100. There will also be a legislation and Local Government Association (LGA) update report for each meeting. This will include all the Fire Pension Scheme

(FPS) bulletins issued by the LGA, any other communications that they have issued along with any legislation updates.

101. The key headings for each report for each meeting are shown in APPENDIX F. The Board endorsed this approach to future reports and meetings.

## FUTURE ISSUES

102. The report has identified significant progress across a number of areas; this is largely due to the dedicated resource of the Employer Pension Manager, which have now been made permanent. The focus for the 2019/20 year includes:

- (a) Re-assessment using the TPR self-assessment tool
- (b) Training for Pension Board members
- (c) Rolling programme of pension communications
- (d) Injury pension reviews
- (e) Implementation of Member Portal (access to pensions online)
- (f) Work towards the Combined Fire Authority
- (g) Potential impact from McCloud judgement and the cost cap

## CONCLUSION

103. As set out in this report, substantial progress has been made across all areas of fire pensions during 2018/19; in particular around governance and control, together with significant improvements in the quality and range of pension information that is available to firefighters.
104. Much of this has only been possible due to the employment of Claire Neale as the Employer Pension Manager, who has been instrumental in managing the multitude of activities throughout the year. In many authorities this level of resource cannot be justified or afforded, but the shared services arrangement within Hampshire means that this role can work across three different partners and pension schemes and can undertake an effective liaison role with Hampshire Pension Services who is the administrator across all three schemes.
105. For 2019/20 the year will be more about a period of continuous improvement and building on the foundations that have been put in place that will continue to be orchestrated by the Employer Pension Manager.

## RECOMMENDATION

106. That the Standards and Governance Committee approves the recommendation to allow Voluntary Scheme Pays as set out in paragraphs 64-70.
107. That the Standards and Governance Committee agrees the amendments to the Firefighters' Pension Board Terms of Reference as set out in paragraphs 89-97 and in APPENDIX I.
108. That the contents of this report are received and noted by the Standards and Governance Committee
109. That the Standards and Governance Committee provides any feedback to the Fire Pension Board on previous work or on future areas of priority.

## APPENDICES ATTACHED

110. APPENDIX A – Fire Pension Board report 5 July 2018, [Report](#), [Appendices 1](#), [Appendices 2](#), [Appendices 3](#)
111. APPENDIX B – Risk Register review report 5 July 2018, [Report](#), [Appendix](#)
112. APPENDIX C - Fire Pension Board report 19 October 2018, [Report](#), [Appendices](#)
113. APPENDIX D – Legislation and Local Government Association (LGA) Update report 19 October 2018, [Report](#), [Appendices](#)
114. APPENDIX E – Pension Administration update report, [Report](#)
115. APPENDIX F – Fire Pension Board report 8 January 2019, [Report](#), [Appendices](#)
116. APPENDIX G – Legislation and Local Government Association (LGA) Update report 8 January 2019, [Report](#), [Appendices](#)
117. APPENDIX H – Terms of Reference report 8 January 2019, [Report](#), [Appendix](#)
118. APPENDIX I – Proposed amendments to Terms of Reference

Contact:

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## **Terms of Reference for the Pension Board of the Hampshire Firefighter's Pension Scheme**

### **1. Introduction**

- 1.1. Hampshire Fire and Rescue Authority (HFRA) has established a Pension Board in accordance with the requirements of the Public Service Pension Act 2013.

### **2. Role and Powers of the Hampshire Firefighter's Pension Board**

- 2.1. The role of the Board is to:

- Assist HFRA as the administering authority of the Hampshire Firefighter's Pension Scheme (HFFPS):
  - to secure compliance with the Firefighter's Pension Scheme (FFPS) Regulations and any other legislation relating to the governance and administration of the FFPS.
  - to secure compliance with requirements imposed in relation to the FFPS by the Pensions Regulator.
- To ensure the effective and efficient governance and administration of the HFFPS by the Authority.
- To consider how discretionary and other pension related issues are being addressed from an operational viewpoint.
- To present an annual report to the Authority on the exercise of its functions.

- 2.2. The Board shall have the power to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.

### **3. Members of the Hampshire Firefighter's Pension Board**

- 3.1. The Board shall initially consist of 6 members and be constituted as follows:

- 3 employer representatives;
- 3 scheme member representatives;

- 3.2. The Chairman of the Board will be elected by the Board, from amongst its number at the first meeting of the Board following the Annual General Meeting of the HFRA in each year.
- 3.3. With regard to 3.4, the Vice Chairman of the Board will be elected by the Board from amongst its number at the first meeting of the Board following the Annual General Meeting of the HFRA in each year.
- 3.4. If the Chairman is a scheme representative then the Vice Chairman will be an employer representative and vice versa.

- 3.5. The employer representatives will be appointed by the Authority at any time during the year. ~~HFRA at its Annual General Meeting.~~
- 3.6. Scheme member representatives will be appointed by the Authority at any time during the year, in accordance with the recruitment policy agreed by the relevant Committee with responsibility for Scheme Management. They must be active, deferred or pensioner members of the FFPS.
- 3.7. The term of office of the Chairman and Vice Chairman will be one year, but either can be re-elected by the Board up to a maximum of four years.
- 3.8. Each employer representative and scheme member representative so appointed shall serve for a fixed four year period which can be extended for a further period of four years.
- 3.9. Employer representatives and scheme member representatives will remain as members of the Board during their appointed term of office unless they become incapable of acting, cease to represent their constituency, resign by giving written notice to the Chairman of the HFRA or are removed from the Board pursuant to Paragraph 4 of the Board's Code of Conduct.
- 3.10. Employer representatives and scheme member representatives may also be removed from office during their term of appointment by a majority decision of a quorate meeting of the HFFPS Board if they do not comply with the requirements of paragraph 3.9. The removal of any Board member also requires the agreement of the HFRA.

~~3.11. The Chairman and employer representatives will be appointed by the HFRA at the Annual General Meeting and may be replaced at any time during the year by the HFRA.~~

~~3.12. Any vacancies arising for the scheme member representatives will be recruited in line with the recruitment policy approved by the relevant Committee with responsibility for Scheme Management and will be formally appointed by HFRA at any time during the year.~~

~~3.13.~~3.11. Each Board member should endeavour to attend all Board meetings during the year and is required to attend at least half of the meetings held in each year.

#### **4. Quorum**

- 4.1. Half of the members of the Board will represent a quorum for Board Meetings.
- 4.2. In the absence of both the Chairman and the Vice-Chairman the members of the Board shall appoint a Chairman for that meeting who shall while presiding have any power or duty of the Chairman in relation to the conduct of the meeting.

## **5. Advisers to the Board**

- 5.1. The Board will be supported in its role and responsibilities by officers of the HFRA and it will consult with such officers to help better perform its duties. In the event that specialist professional advice is not available from the officers of the HFRA then the Board may ask the Chief of Staff to seek independent professional advice through the appointment of advisers on their behalf, subject to financial and legal considerations.

## **6. Knowledge and Skills**

- 6.1. A member of the Board must be conversant with:
- The legislation and associated guidance of the FFPS.
  - Any document recording policy about the administration of the FFPS which is for the time being adopted by the HFRA.
- 6.2. A member of the Board must have knowledge and understanding of:
- The law relating to pensions, and
  - Any other matters which are prescribed in regulations.
- 6.3. A member of the Board representing employers or scheme members must have the relevant experience and capacity to represent employer and scheme members respectively on the Board.
- 6.4. Notwithstanding the requirements set out above, it is anticipated that training will be given to Board Members to help them fulfil their role and to keep them updated on changes in the FFPS.

## **7. Board Meetings**

- 7.1. Meetings of the Board will be conducted in accordance with the Standing Orders of the HFRA and for all purpose including but not limited to notice of meetings, publication of agendas and reports, recording and publication of minutes of meetings and consideration of urgent items meetings of the Board shall be treated as if they were a meeting of a Committee of the HFRA.
- 7.2. There will be a minimum of two Board meetings a year and the Chairman of the Board, with the consent of the Board may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone or video conferencing and e-mails.

## **8. Voting**

- 8.1. Each member of the Board will have an individual vote and items will be decided by a simple majority of members attending the meeting but it is expected the Board will as far as possible reach a consensus. The Chairman shall determine when consensus has been reached.

- 8.2. Where consensus is not achieved, this should be recorded by the Chairman who shall then have a casting vote.
- 8.3. In support of its core functions, the Board may make a request for information from the Scheme Manager, with regard to any aspect of the scheme manager's function. Any such request should be reasonable complied with in both scope and timing.
- 8.4. In support of its core functions the Board may make recommendations to the Scheme Manager which should be considered and a response made to the Board on the outcome within a reasonable period of time.

## **9. Standards of Conduct**

- 9.1. The role of Board members requires the highest standards of conduct and therefore the 'seven principles of public life' apply to all Board members, these are:
  - Selflessness
  - Integrity
  - Objectivity
  - Accountability
  - Openness
  - Honesty
  - Leadership
- 9.2. The Code of Conduct for Board Members set out in Annex A shall apply to all members of the Board. Members of the Board who are also a member of other authorities also remain bound by the Member's Code of Conduct of their own authority.

## **10. Publication of Pension Board Information**

- 10.1. Up to date information will be posted on the Authority's website showing:
  - The names and information of the Board members.
  - How the scheme members are represented on the Board.
  - The responsibilities of the Board as a whole.
  - The full terms of reference and policies of the Board and how they operate.
  - The Board appointment process.
  - Who each individual Board member represents.
  - Any specific roles and responsibilities of individual Board members.

## **11. Accountability**

- 11.1. The Board will be collectively and individually accountable to the relevant Committee with responsibility for Scheme Management and the Authority.

## 12. Reporting Breaches

12.1. Any potential or actual Breach that comes to the attention of the Board shall be dealt with in accordance with the Protocol for Reporting Breaches agreed from time to time between the Board and the Authority.

## 13. Expense Reimbursement

13.1. No basic allowance is payable to Board members although employer and scheme member representatives shall be entitled to claim Travelling Allowances on the terms set out in the then current Member's Allowance scheme, or HFRS employees scheme as appropriate.

## 14. Definitions

14.1. The undernoted terms shall have the following meaning when used in this document:

<i>Breach</i>	Means non-compliance with a duty relevant to the administration of the FFPS which is likely to be of material significance to the Pensions Regulator in the exercise of any of its functions
<i>'Hampshire Firefighter's Pension Board', 'Fire Pension Board', 'Pension Board' or 'Board'</i>	Means the Pension Board of Hampshire Fire and Rescue Authority for the Hampshire Firefighter's Pension Scheme as required under the Public Service Pensions Act 2013.
<i>'HFFPS', 'FFPS' or Regulations</i>	The Firefighter's Pension Scheme as constituted by the Firefighter's pension scheme 1992, as amended, the Firefighter's Pension Scheme 2006, as amended and the Firefighter's Pension Scheme Regulations 2014 as amended.
<i>'Scheme'</i>	Means the Firefighter's Pension Scheme as defined under 'HFFPS' above.
<i>'Scheme Member'</i>	Means active, deferred or pensioner members of the Firefighter's Pension Scheme

## 15. Interpretation

15.1. Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Authority's Monitoring Officer.

# **Code of Conduct for Members of the Hampshire Firefighter's Pension Board Members**

## **1. Introduction**

This Code of Conduct for the Hampshire Firefighter's Pension Board has been adopted by the HFRA pursuant to its statutory duty to appoint a Pension Board for the HFFPS.

This Code applies to members of the Hampshire Firefighter's Pension Board when acting in their capacity as members of the Board. For the avoidance of doubt, members of the Board who are also members of other authorities also remain bound by the Member's Code of Conduct of their own authority.

This Code is based on and is consistent with the principles of;

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty and
- Leadership

## **2. Obligations of Members of the Board**

As a Member of Hampshire Firefighter's Pension Board, your conduct will address the principles of the Code of Conduct by:

- a. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing the interests of the HFFPS, or the good governance of the HFFPS in a proper manner.
- b. Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.
- c. Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the HFRA (or those acting on their behalf), taking all relevant information into consideration, remaining objective and making decisions on merit.

- d. Being accountable for your decisions and co-operating when scrutinised internally and externally.
- e. Contributing to making the Board's decision-making processes as open and transparent as possible.
- f. Restricting access to information when the wider public interest, the Board's Terms of Reference or the law requires it.
- g. Valuing your colleagues and Officers of the HFRA and engaging with them in an appropriate manner.
- h. Always treating all people with respect and propriety.

### **3. Conflicts of Interest**

- a. No member of the Board may participate in any business of the Board if they have a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board (this does not include a financial or other interest arising merely by virtue of membership of the Scheme or any connected Scheme) ('Conflict of Interest').
- b. All Board members must before becoming a member of the Board declare any potential Conflict of Interest to the Monitoring Officer of the HFRA.
- c. After appointment all Board members must within 14 days of becoming aware of any new potential Conflict of Interest declare that potential Conflict of Interest to the Monitoring Officer of the HFRA.
- d. A member of the Board must at any time provide the Monitoring Officer of the HFRA with such information as he or she requires for the purpose of establishing whether or not the Board member has a Conflict of Interest.
- e. A Board member should disclose any Conflict of Interest in any business of the Board either at the commencement of the meeting, the commencement of the consideration of the item or when the Conflict of Interest becomes apparent.
- f. If a Board member has a Conflict of Interest in any business of the Board then that Member may not participate in any discussion of, vote on or discharge any function in relation to the matter. In addition, the Board member should withdraw from the room where the meeting is being held.

#### **4. Non-Compliance with the Code of Conduct**

Any alleged non-compliance with this Code of Conduct shall be referred to the relevant Committee with responsibility for Scheme Management for consideration. In the event that the Committee find that a member of the Board has failed to comply with the provisions of this Code then the Committee may determine that the Member is to immediately cease to be a member of the Board or take such other action as the Committee regard as appropriate. This can include but is not limited to requiring the member to apologise or requiring the member to undertake such training as they feel is appropriate.



**HAMPSHIRE FIRE PENSIONS ADMINISTRATION REPORT 2018/19**



<b>REPORT TO:</b>	HFRA Firefighters' Fire Pension Board
<b>DATE:</b>	9 July 2019
<b>TITLE:</b>	Pensions Administration Update

Contact Name: Hayley Read      Contact Number/Email: 01962 847597 / [hayley.read2@hants.gov.uk](mailto:hayley.read2@hants.gov.uk)

## 1. Summary

- 1.1. The purpose of this report is to update the Hampshire Fire Pension Board with the current position of scheme membership; performance against service level agreements and to provide other important and current information about the administration of the Hampshire Police Pension Fund.

## 2. Background

- 2.1. Pensions Services administer the Fire pension schemes on behalf of the Chief Fire Officer, under the Joint Working agreement between Hampshire County Council, Hampshire Fire & Rescue Authority, the Police & Crime Commissioner for Hampshire and the Chief Constable of Hampshire Constabulary.
- 2.2. Responsibility for the fire schemes sits with HFRA as the scheme manager. Pensions Services therefore administer the schemes in accordance with the statutory regulations and any instructions from the HFRA on discretionary matters. HFRA are part of the shared services arrangements so all salary and service information required for pension calculations is provided to Pension by the IBC.
- 2.3. Pension Services also administer the Local Government Pension Scheme for the Hampshire Pension Fund, West Sussex Pension Fund and the Hampshire Police pension schemes.

## 3. Membership

- 3.1. The table below details the number of members against status for each of the Fire pension schemes and is correct as of the date this report was prepared;

Scheme	Active	Deferred	Pensioner	Total
2015	1,037	375	4	1,416
2006	27	422	42	491
2006 (Modified)	26	42	70	138
1992	102	81	985	1,168
<b>GRAND TOTAL</b>	<b>1,192</b>	<b>920</b>	<b>1,101</b>	<b>3,213</b>

#### 4. Administration Performance

4.1. Pensions Services' performance against agreed service level agreements are monitored monthly and for key processes.

4.2. The tables below show performance for the four quarters of 2018/19;

##### Quarter 1

Type of Case	Time to Complete					Total	% completed on time
	0 – 5 days	6 – 10 days	11 -15 days	16 – 20 days	20 – 30 days		
Active Retirement	6	2	0	0	0	8	100%
Deferred Retirement	2	0	0	0	0	2	100%
Estimates	3	14	5	5	0	27	100%
Deferred Benefits	1	22	18	1	0	42	100%
Transfers In & Out	0	0	0	0	0	0	N/A
Divorce	2	0	0	1	0	3	100%
Refunds	0	1	0	0	0	1	100%
Death Benefits	0	0	0	0	0	0	N/A
<b>GRAND TOTAL</b>	<b>14</b>	<b>39</b>	<b>23</b>	<b>7</b>	<b>0</b>	<b>83</b>	

##### Quarter 2

Type of Case	Time to Complete					Total	% completed on time
	0 – 5 days	6 – 10 days	11 -15 days	16 – 20 days	20 – 30 days		
Active Retirement	2	0	2	0	0	4	100%
Deferred Retirement	1	1	0	0	0	2	100%
Estimates	4	1	7	9	0	21	100%
Deferred Benefits	4	4	11	6	0	25	100%
Transfers In & Out	0	1	0	0	0	1	100%
Divorce	0	1	1	3	0	5	100%
Refunds	0	0	0	0	0	0	N/A
Death Benefits	0	1	0	0	0	1	100%
<b>GRAND TOTAL</b>	<b>11</b>	<b>9</b>	<b>21</b>	<b>18</b>	<b>0</b>	<b>59</b>	

### Quarter 3

Type of Case	Time to Complete					Total	% completed on time
	0 – 5 days	6 – 10 days	11 -15 days	16 – 20 days	20 – 40 days		
Active Retirement	7	2	0	0	0	9	100.00%
Deferred Retirement	2	0	0	0	0	2	100.00%
Estimates	1	3	21	0	0	25	100.00%
Deferred Benefits	2	9	10	2	0	23	100.00%
Transfers In & Out	0	0	0	0	0	0	N/A
Divorce	1	0	0	0	0	1	100.00%
Refunds	0	0	0	0	0	0	N/A
Death Benefits	5	2	0	0	0	7	100.00%
<b>GRAND TOTAL</b>	<b>18</b>	<b>16</b>	<b>31</b>	<b>2</b>	<b>0</b>	<b>67</b>	

### Quarter 4

Type of Case	Time to Complete					Total	% completed on time
	0 – 5 days	6 – 10 days	11 -15 days	16 – 20 days	20 – 40 days		
Active Retirement	3	4	3	0	0	10	100.00%
Deferred Retirement	1	0	0	0	0	1	100.00%
Estimates	1	9	13	0	0	23	100.00%
Deferred Benefits	3	5	11	6	0	25	100.00%
Transfers In & Out	0	0	0	0	0	0	N/A
Divorce	0	1	1	0	0	2	100.00%
Refunds	0	0	0	0	0	0	N/A
Death Benefits	1	0	0	0	0	1	100.00%
<b>GRAND TOTAL</b>	<b>9</b>	<b>19</b>	<b>28</b>	<b>6</b>	<b>0</b>	<b>62</b>	

## 5. Member Portal Registration

- 5.1. Active, Deferred and Pensioner members of the Firefighters' pension scheme have the ability to register for our Member Portal and update their personal details, death grant nominations, and bank details; and securely view annual benefit statements, payslips and P60's.

5.2. The table below shows the total number of registrations for each status as of 1 June 2019;

Status	Registrations to date	% of total membership
Active	80	6.71%
Deferred	12	1.30%
Pensioner	5	0.45%
<b>TOTAL</b>	<b>97</b>	<b>3.02%</b>

## 6. 2018 Benefit Statements and Annual Allowance

6.1. Every active and deferred member of the Firefighters' Pension Scheme received a benefit statement for 2018 by the statutory deadline of 31<sup>st</sup> August 2018.

6.2. As part of the exercise to produce benefit statements, we also identified 7 Firefighters who had exceeded their Annual Allowance for 2017/18 and wrote to these members by the statutory deadline of 6<sup>th</sup> October 2018.

## 7. 2019 End of Year timetable

### Pensions Increase

7.1. The Pensions Increase for April 2019 was successfully applied to all pensioner members and paid with their April instalment of pension.

7.2. Pensioner mailings were completed by the 31<sup>st</sup> May 2019 and included the following;

- A copy of April and May 2019 payslips
- P60 for 2018/19
- Pensioners Newsletter

7.3. The Pensions Increase for April 2019 has also been applied successfully to all deferred members.

### Deferred Benefit Statements

7.4. Deferred Benefit Statements will be produced for all deferred members by the statutory deadline of 31<sup>st</sup> August 2019.

7.5. The deferred benefit statements will only be available to view online, unless the member opts out of this service in writing, in which case a paper statement will be sent to their home address.

### Annual Return

- 7.6. The Hampshire Fire annual return was received on 10<sup>th</sup> April 2019 and the data provided was of very good quality.
- 7.7. Any queries that were originally raised have since been resolved, and work has started on the upload of the data to member records.

### Active Benefit Statements

- 7.8. Once we have completed the upload of this year's annual return, active benefit statements will be produced for all, by the statutory deadline of 31<sup>st</sup> August 2019.
- 7.9. The active benefit statements will only be available to view online using the member portal, unless the member opts out of this service in writing, in which case a paper statement will be sent to their home address.
- 7.10. As part of the active benefit statements process, we will also assess the Annual Allowance position for all members and communicate with those who have exceeded in 2018/19.

## **8. GMP Reconciliation**

- 8.1. We are nearing completion of the current reconciliation phase.
- 8.2. The next stage will be to review the information provided by HMRC and update records in UPM to reflect the corrected GMP figures.

## **9. Walker Case**

- 9.1. The Police and Firefighters' (Pensions etc.) amendment regulations 2019 SI 2019/378 were laid on 28 February 2019 and came into force on 1 April 2019.
- 9.2. As a result of the Walker Case, the amendment regulations included instructions to recalculate the survivors' benefits for beneficiaries of same sex marriages or civil partnerships; to include all of the deceased members pensionable service, if they joined the Firefighters' Pension Scheme before April 1988.
- 9.3. We have carried out a review of all of the beneficiaries that are or have been in receipt of a survivor's pension and can confirm that none require recalculation.

## 10. Pensions Regulator – Data Quality

10.1. The Pensions Regulator now requires all schemes to report annually a data quality score, based on the presence and validity of two data sets; common and scheme specific (previously referred to as conditional).

10.2. In November 2018 we reported our data scores to the Pensions Regulator, for the Firefighters Pension Scheme, as follows;

### Common Data

	Score
1992 Fire Pension Scheme	97.45%
2006 Fire Pension Scheme	94.99%
2006 Modified Fire Pension Scheme	99.28%
2015 Fire Pension Scheme	99.17%

### Scheme Specific Data

	Score
1992 Fire Pension Scheme	99.40%
2006 Fire Pension Scheme	98.80%
2006 Modified Fire Pension Scheme	97.83%
2015 Fire Pension Scheme	97.30%

10.3. We have an ongoing project to cleanse member records that did not meet the criteria of a complete and valid record, and are in the process of implementing a new data cleansing and reporting system. This will be in place by the end of July 2019 to further support the work we are doing in this area.

## 11. Customer Service Excellence

11.1. In May 2019 we were once again awarded Customer Service Excellence accreditation.

11.2. The number of areas where we were marked as exceeding the standard compliance criteria, and therefore awarded 'Compliance Plus', increased to 7 this year compared to the 5 awarded last year.

## 12. Recommendation

12.1 The Board are asked to note the contents of this report.



**HAMPSHIRE  
FIRE AND  
RESCUE  
AUTHORITY**

Purpose: Noted

Meeting: **HFRA Firefighters' Pension Board**

Date **9 July 2019**

Title **LEGISLATION AND LOCAL GOVERNMENT ASSOCIATION (LGA)  
UPDATE REPORT**

Report of Chief Finance Officer

### SUMMARY

1. This report, together with attachments, provides the framework for the agenda item.

### FPS BULLETINS

2. LGA issue a bulletin at the end of each month; there have been two bulletins issued since the last Fire Pension Board report. The bulletins are emailed out to a variety of contacts but can also be accessed via the [www.fpsregs.org](http://www.fpsregs.org) website.
3. Bulletins 19 and 20 can be found in APPENDICES A and B. There is a lot of information contained within these bulletins; the key items are set out below.

### NEW FACTSHEET – TWO PENSION AWARD CHANGES (BULLETIN 19)

4. A new factsheet has been published to give guidance to FRAs and members about the entitlement to two pensions (split pension), this can be found in APPENDIX C
5. The Two Pension entitlement can only be applied to 1992 or 2006 benefits and occurs when a person suffers a reduction to the amount of pensionable pay on
  - (a) Taking up a different role, or
  - (b) Becoming entitled to a different rate of pay in the existing role. This excludes returning to a substantive rate of pay after temporary promotion where the temporary promotion started after 1 July 2013.

6. The Employer Pension Manager will be working with both the IBC Pensions Administration Team and Hampshire Pension Services to improve the communication with regard to the notification of Two Pension entitlements.

#### EXIT CAP CONSULTATION (BULLETIN 19 & 20)

7. The Government issued a consultation on the proposed method of implementing a cap of £95,000 on exit payments in the public sector, including which bodies should be in scope. LGA have issued a technical note which can be found in APPENDIX D.
8. For Fire Pension Schemes generally they will not be affected by the Exit cap, there are however two types of specific payments that could be considered under the Exit cap.
9. The first type of employer payment that could be subject to the cap affects certain members of the 1992 Fire Pension Scheme. An FRA has the discretion to uplift the commutation for a Firefighter who is entitled to reckon less than 30 years pensionable, and retires before normal pension age.
10. The cost to the FRA would be the difference between the restricted commutation of 2.25 times the annual pension and the full commutation if 25% of the annual pension is commuted. An example of this can be found in APPENDIX E.
11. HFRA's discretion policy for Firefighters states that this discretion will be considered on a case by case basis. The cost to HFRA would not normally exceed any statutory or enhanced redundancy pay where relevant and should result in associated savings from the resultant decrease in salary costs. To date HFRA have not considered any cases.
12. The second type of employer payment that could be subject to the cap applies to the 2006 and 2015 Fire Pension Schemes. An FRA has the discretion to grant an Authority Initiated Early Retirement for a Firefighter who is over age 55 but under normal pension age.
13. The cost to the FRA would be the difference between the reduced and un-reduced post commutation pension for each year the pension is in payment. This payment would be due annually (taking into account pensions increases) until the death of the pensioner. An example of this can be found in APPENDIX F.
14. HFRA's discretion policy for Firefighters states that it will allow an Authority Initiated Early Retirement to members age 55 or over in the 2006 and 2015 schemes and that they will have an automatic entitlement to payment of their pension benefits with no reductions. To date HFRA have not considered any cases and have not permitted this option.



### PENSIONABLE PAY GUIDANCE (BULLETIN 20)

15. In light of the recent High Court judgement which was reported to the Board at the last meeting, LGA have prepared a factsheet to give guidance to FRAs on the elements of pay that were considered in the case. The factsheet can be found in APPENDIX G.
16. Determining pensionable pay can be difficult and this can depend on the complexities that each FRA has with regard to its pay and allowances structure. It is further complicated by the fact that there is no legislative definition of what is pensionable pay; and each FRA is left to make its own decision.
17. HFRA are currently undertaking a project to review all pay and allowances. The aim is to correct a number of historical issues and to identify all allowances, providing guidance on the criteria for paying them and clearly identifying the pensionable status of each allowance. It is possible that after this work has been completed there may be a need to review some allowances with regard to their pensionable status.

### FPS TRAINING SURVEY (BULLETIN 20)

18. The LGA has issued a survey about training & events and they are looking for your views. All Board members are asked to complete the survey to share your opinions. The survey can be found at [https://www.surveymonkey.co.uk/r/FPS\\_training\\_survey](https://www.surveymonkey.co.uk/r/FPS_training_survey)

### RECOMMENDATION

19. The Board are asked to note the contents of this report.

### APPENDICES ATTACHED

20. APPENDIX A - FPS Bulletin 19 – April 2019
21. APPENDIX B - FPS Bulletin 20 – May 2019
22. APPENDIX C – Two Pension entitlement factsheet
23. APPENDIX D – Technical note on Exit Cap consultation
24. APPENDIX E – Uplift of commutation
25. APPENDIX F – Authority Initiated Early Retirement
26. APPENDIX G – Pensionable Pay factsheet

Contact:

Claire Neale, Employer Pension Manager, [claire.neale@hants.gov.uk](mailto:claire.neale@hants.gov.uk),  
01962 845481



## FPS Bulletin 19 – April 2019

Welcome to issue 19 of the Firefighters' Pensions Schemes bulletin.

If you are looking for information on a certain topic, don't forget to visit the issue and content indexes which are available on the main bulletin page of the website and are updated following each new issue.

If you have any comments on the contents of this bulletin or suggested items for future issues, please contact [Claire Hey](#).

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## 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 contact [Claire Hey](#).

<a href="#">Joint Fire and Police governance event</a>	15 May 2019
Eastern regional FPOG	30 May 2019
Administration & benchmarking committee	6 June 2019
North East regional FPOG	12 June 2019
SAB	13 June 2019
<a href="#">Local Pension Board annual wrap-up session</a>	18 June 2019
Ill health and medical appeals seminar	19 June 2019
Firefighter Pensions Technical Community	26 June 2019
CLASS annual conference: Manchester Holiday Inn	3-4 July 2019
Midlands regional FPOG	9 July 2019
Pensionable pay workshop	18 July 2019
South East regional group	26 July 2019
LPB effectiveness committee	7 August 2019
Firefighters' Pensions AGM	24-25 September 2019
SAB	3 October 2019
Pensions tax seminar	12 November 2019
SAB	12 December 2019

## FPS

### Annual Benefit Statement survey 2018

Between 28 September and 14 November 2018, FPS stakeholders were invited to participate in a web-based survey to measure the success of the ABS process for 2018.

During the survey period 42 completed responses were received in respect of 31 of the 47 FRAs in England and Wales, equating to an overall response rate of 66%. The results of the survey have now been collated and analysed, and we are pleased to present the final [research report](#).

The survey will be run on an annual basis following the end of each ABS cycle, with planned improvements for 2019 including separate web-based surveys for administrators and FRAs.

The [LPB Effectiveness Committee](#) would like to thank all parties that were able to submit a response for their participation in the survey, and for continuing to support the work of the SAB. The recommendations within the report will now be taken forward with the support of the Committee and the SAB.

### New and updated factsheets available

#### Two Pensions

A new factsheet on [entitlement to a two pension award](#) (split pension) has been published on the [factsheets](#) tab of the FPS Regulations and Guidance website. This factsheet has been prepared to give guidance to FRAs on when entitlement to two pensions occurs under the Firefighters' Pension Scheme 1992 (FPS1992) and the Firefighters' Pension Scheme 2006 (FPS2006) and how it is calculated.

**ACTION: FRAs should ensure that they are aware of this rule and that their pension administrator is informed when a drop in pay occurs.**

**FRAs and administrators should ensure that calculations are performed in line with guidance.**

**It is recommended good practice to acknowledge the entitlement of two pensions to the member, along with confirmation that the two calculations will be performed at retirement and the highest benefit awarded.**

#### Eligibility to join FPS

Minor amendments have been made to the factsheet on 'Eligibility to join FPS'. [Clean](#) and [tracked](#) versions are available.

In brief, the factsheet confirms that in order for a person to be eligible for the scheme they have to be employed as a 'firefighter'. The regulations provide an interpretation of a 'firefighter', and it is for each FRA to satisfy themselves that those in the scheme are employed within this definition.

#### Pensions taxation

The Bluelight team, in conjunction with the Fire Communications Working Group (FCWG), have adapted the following factsheets for members from those produced for the LGPS: [Annual Allowance](#) and [Lifetime Allowance](#). These factsheets can be found on the newly updated [guides and sample documents](#) tab of the FPS Regulations and Guidance website

## SAB cost-effectiveness committee vacancy

We have a vacancy on the [SAB cost effectiveness committee](#) for an HR FRA representative. If you are interested in sitting on this committee, please email [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk) for further information.

## April 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 March.

## SAB Request for Information update

In [FPS Bulletin 15 – December 2018](#) we asked FRAs to complete a short [form](#) in order for the SAB to collate information around opt-out levels and difficulties surrounding recruitment and retention of talented and experienced personnel due to potential tax consequences of breaching the annual allowance.

A [paper](#) was provided to the Board at their meeting on 14 March 2019 summarising the results to date. Unfortunately, only 29 FRAs responded from an expected 47.

If you did not respond and would like to, completed forms should be submitted to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

## Valuation 2016: employer contributions

The SAB do not have a remit for FRA funding, nevertheless the Board noted the following employer pension contribution increase across the three schemes, which will apply for four years from 1 April 2019.

	FPS1992 (including special members of FPS2006)	FPS2006	FPS2015
2012 valuation <sup>1</sup>	21.7%	11.9%	14.3%
2016 valuation <sup>2</sup>	<b>37.3%</b>	<b>27.4%</b>	<b>28.8%</b>

The Board welcomed confirmation from HM Treasury that they will be supporting FRAs in the first year with additional funding over and above the first £10m of the additional costs. This £10m is attributed to the employer contribution increases as a result of the SCAPE rate change from 3% to 2.8% as announced in Budget 2016<sup>3</sup>.

The SAB were pleased to learn that the additional funding has now been approved by the Treasury and they will be providing a grant of £115m for the 2019/2020 year.

<sup>1</sup> Table 4.3 <http://www.fpsregs.org/images/Valuation/Valuation2012FV.pdf>

<sup>2</sup> Page 3 <http://www.fpsregs.org/images/Valuation/SSrates2016FV.pdf>

<sup>3</sup> Paragraph 7.7 <https://www.gov.uk/government/publications/budget-2016-documents/budget-2016>

## Other News and Updates

### Exit cap consultation

The government has launched a consultation on draft regulations implementing a cap of £95,000 on exit payments in the public sector, which will run for 12 weeks and close on 3 July 2019. This consultation sets out the proposed method of implementing the cap, including which bodies should be in scope. This consultation sets out the proposed draft regulations, schedule to the regulations, accompanying guidance and directions. It seeks comments on the draft regulations.

Please find the consultation at: <https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector>

In respect of FPS, there are two types of employer payments with regards to exit that could be subject to the cap, these are:

1. The ability for an FRA to enhance the commutation payment to a firefighter with over 25 years' service and over age 50 to the full quarter rate commutation [\[Rule B7\(5\)\]](#). Under [\[Rule LA2 \(10\)\]](#) the authority is required to pay the difference between the restricted commutation and enhanced commutation from its operating account. Unless the exit cap regulations allowed for an exemption this payment would be deemed as an employer payment to facilitate early exit and would have had to be measured under the cap. The current draft exit cap regulations [\[7 \(ci\)\]](#) exempt this payment from the exit cap.
2. In FPS2006 & FPS2015, FRAs can allow firefighters to retire from age 55 with an unreduced pension under [Part 3, Paragraph 6](#) (FPS2006) and [Regulation 62](#) (FPS2015). However, the authority is required to pay the difference between the unreduced and reduced pension into the Firefighter notional pension fund for each year the pension is in payment. This payment would be deemed as an employer payment to facilitate early exit and would have had to be measured under the cap. The current draft exit cap regulations exempt this payment from the exit cap [\[7 \(cii & iv\)\]](#) where the FRA has agreed to put into payment an authority initiated early retirement pension having regard to above rules for a firefighter who is unable to maintain operational fitness through no fault of their own.

We were pleased to learn that the [draft regulations](#) include the exemptions that we raised after the first draft and will continue to discuss with the Home Office how the annual payment made under employer initiated retirement for FPS2006 and FPS2015 for non-fitness issues would be measured against the £95k cap. The Scheme Advisory Board will be responding to the consultation from a pension perspective.

The Bluelight team have prepared factsheets for FRAs on both [enhanced commutation](#) and [Authority Initiated Early Retirement \(AIER\)](#).

### Club Memorandum updated

The Club Memorandum has been updated to reflect the revised Club transfer factors that were issued with [FPS Bulletin 17 – February 2019](#) and come into force on 1 April 2019, and address a number of issues that had been raised since the last Memorandum was published.

The updated Club Memorandum will be uploaded onto the Civil Service Pensions website from 1 April 2019 <https://www.civilservicepensionscheme.org.uk/members/public-sector-transfer-club/>. The updated Memorandum and factors are also available from <http://fpsregs.org/index.php/gad-guidance/club-transfers>.

In addition to the change in factors, the main changes to the Club Memorandum are:

- The transfer values of final salary benefits built up before and after the end of contracting out, i.e. up to 5 April 2016 and from 6 April 2016 must be provided when a sending scheme supplies a Club transfer value calculation (if the member built up final salary benefits before and after the end of contracting out)
- The transfer values of CARE benefits built up before and after the end of contracting out ie up to 5 April 2016 and from 6 April 2016 must be provided when a sending scheme supplies a Club transfer value calculation (if the member built up CARE benefits before and after the end of contracting out)
- A separate transfer value of CARE benefits must be supplied if the member previously had an inner Club transfer of CARE benefits into the sending scheme which is subject to a different in-scheme revaluation rate than the sending scheme. (And that transfer value must also be split between CARE benefits built up pre and post contracting out, if applicable)
- The requirement to perform separate transfer in calculations based on the transfer value of the member's:
  - pre 6 April 1997 final salary benefits
  - final salary benefits built up between 6 April 1997 and 5 April 2016
  - final salary benefits built up from 6 April 2016
  - CARE benefits built up in the sending scheme before 6 April 2016
  - CARE benefits built up in the sending scheme from 6 April 2016
  - CARE benefits transferred into the sending scheme from a scheme which is subject to a different in-scheme revaluation rate than the sending scheme (split between CARE benefits built up before and after the end of contracting-out, if applicable)
- The method of interpolation that should be used for members with NPAs that do not fall on their birthday is defined.

GAD are updating guidance for the Firefighters' Pension Scheme and have advised that this should be ready around September.

### [GAD PSPS newsletter](#)

The Government Actuary's Department has issued the [March edition](#) of its Public Service Pension Schemes newsletter. This is intended to be an informal note to provide regular updates on what is happening within the PSPS area of GAD and to highlight some current hot topics that schemes and other department contacts might be interested in.



## HMRC

### HMRC newsletters/bulletins

HMRC have published pension schemes newsletter 108 containing important updates and guidance on pension schemes. The following issues are covered:-

- [Pension schemes newsletter 108 – 29 March 2019](#): Relief at source | Guaranteed Minimum Pension | Master Trusts update and an introduction to supervision | Managing Pension Schemes – adding scheme administrators to your scheme | reporting on Pension Schemes Online service | Annual allowance calculator

### Contracting-out reconciliation update

There have been no new scheme reconciliation updates since our March bulletin.

## Training and Events

### Data: Pensions in a digital era – event summary

Around 60 delegates were in attendance at 18 Smith Square on 3 April 2019, to hear a host of industry experts reflect on why data is so important for the Firefighters' and Police Pension Schemes, and how technology can play a part in getting data right.

The audience first heard a joint presentation by DWP and Aquila Heywood on the implementation of the Pensions Dashboard and how this might work in practice for Fire and Police schemes. DWP gave an update on the response to their [consultation](#) which closed on 28 January 2019; the LGA Bluelight team provided a response which can be viewed [here](#).

ITM provided an insight on [data improvement plans](#) and discussed the work undertaken with the Cabinet Office to improve their member data. This was followed by a session by Civica on using technology to communicate with members and the increasing value of offering a member self-service portal, considering that the introduction of the dashboard will drive expectation for digital solutions.



The afternoon opened with a workshop session on data scoring for TPR, led by Aquila Heywood and LGA. Last year for the first time, schemes were required to measure both their common and scheme specific data for the annual return. The LGA issued some [informal guidance](#) on how this might be carried out and will be reviewing this for 2019 based on workshop feedback. We would like to thank delegates for their participation in this session.

We were delighted to welcome GAD to give an update on the [2016 scheme valuation](#) for FPS, focusing on the importance of the data that feeds in to the process, the reasons that some data items were excluded from assumption setting this time around, and how this could be improved for 2020.



The final session of the day was delivered by Equiniti and discussed the HMRC scheme reconciliation exercise, covering where schemes should be by now and what is left to do.

The complete presentation slide decks from the event are available [here](#).

To view the full conference in pictures, visit our [@LGAWorkforce](#) twitter feed, #LGAfirepensions

### [Firefighters and Police LPB governance conference](#)

We are pleased to invite readers to a joint governance conference being held at the LGA offices at 18 Smith Square, London on **Wednesday 15 May 2019**, from 10:30 to 15:00.

This popular one day conference for both Fire and Police Pension Boards offers a chance to network with fellow board chairs, hear the results of The Pensions Regulators governance and admin survey and provides case law updates on pension issues. It will also provide an opportunity to debate how the boards offer value to assisting the scheme manager in running the scheme.

We have put together an [agenda](#) of industry speakers to reflect on the current issues of importance to pension boards.

The event has been designed for chairs and members of Local Pension Boards and those delegated in the role of Scheme Manager, along with those supporting boards such as pension practitioners, administrators, software providers and industry professionals.

Limited places are still available. [Book your place now](#).

### [LPB annual wrap-up training 2019](#)

We are pleased to confirm that our popular annual wrap-up training for Local Pension Boards is taking place at the LGA offices at 18 Smith Square, London on **Tuesday 18 June 2019** from 10:30 to 15:30. This session is aimed at new members to boards or those requiring a refresher session. Please see the attached [agenda](#).

Refreshments will be available from 10am and a sandwich lunch will be provided. Please confirm any dietary requirements on the booking form.

There are 25 places only, so please book early to avoid disappointment. [Book your place here](#).

If you wish to enquire about full board training at your own venue, please contact the team at [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk). Each board is entitled to a free training session under the Scheme Advisory Board levy. Examples of previous sessions are held [here](#).

## Legislation

SI	Reference Title
<a href="#">2019/773</a>	The Pension Schemes (Information Requirements — Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) (Amendment) Regulations 2019
<a href="#">2019/774</a>	The Pension Schemes (Information Requirements – Repayment of Overseas Transfer Charge) Regulations 2019
<a href="#">2019/879</a>	The Equality Act (Age Exceptions for Pension Schemes) (Amendment) Order 2019

## 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](#)

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## FPS Bulletin 20 – May 2019

Welcome to issue 20 of the Firefighters' Pensions Schemes bulletin.

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North East regional FPOG	12 June 2019
SAB	13 June 2019
<a href="#">Local Pension Board annual wrap-up session</a>	18 June 2019
Ill health and medical appeals seminar	19 June 2019
Firefighter Pensions Technical Community	26 June 2019
CLASS annual conference: Manchester Holiday Inn	3-4 July 2019
Midlands regional FPOG	9 July 2019
Pensionable pay workshop	18 July 2019
South East regional group	26 July 2019
LPB effectiveness committee	7 August 2019
Firefighters' Pensions AGM	24-25 September 2019
SAB	3 October 2019
Pensions tax seminar	12 November 2019
SAB	12 December 2019

## FPS

### Pension transitional arrangements: update on application to appeal

Following the Court of Appeal judgement in December 2018 in the McCloud and Sargeant transitional protections case, the Government made an application to the Supreme Court seeking permission to appeal the Court of Appeal's decision.

Initially the outcome of that application was expected in April, but indications now are that the outcome of that application will be known in July. As before though, the time estimate could change, depending on the Supreme Court's caseload and its management of the application.

We will keep you updated on any developments as they occur.

### Pensionable pay guidance

In light of the recent High Court judgement in [Booth v Mid and West Wales](#), we have prepared a factsheet to give guidance to FRAs on the elements of pay that were considered in the case. The factsheet can be found at [Appendix 1](#).

It is important to note that the issues in any pensionable pay case are finely balanced and often depend on the exact detail and nature of the payments. As the guidance note illustrates, the reasons for pay being pensionable may depend on the nature of the contract or on the precise requirements of the role.

While the judgment considered pay for the Welsh Firefighters' Pension Schemes, the points of the judgment apply equally to pay in the English Firefighters' Pension Schemes.

### SI 2019/378 member disclosure

Under regulation 8 part 1 of Schedule 2 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, schemes must inform members of any material change to basic scheme information within three months.

Authorities will be aware of the recent changes to the FPS following the introduction of The Police and Firefighters' (Pensions etc.) (Amendment) (England and Wales) Regulations 2019 which were made on 28 February 2019 and came into force on 1 April 2019 ([SI 2019/378](#)).

To assist FRAs in communicating these changes to scheme members, we have produced a [leaflet](#) in conjunction with the Fire Communications Working Group (FCWG) containing sample text which can be copied and used as required. **Please ensure that this information is provided to members by 1 July 2019.**

### Technical note: Restricting exit payments in the public sector

Further to the article in [FPS Bulletin 19 – April 2019](#) regarding the Government [consultation](#) on restricting exit payments within the public sector to £95,000, we are pleased to publish a technical note to give guidance to FRAs on the implications with regards to payments in relation to the Firefighters' Pension Scheme only. The fifth in our series of technical notes is available at [Appendix 2](#).

Guidance for green book staff who are members of the Local Government Pension Scheme (LGPS) is available in the LGPS library<sup>1</sup>.

### FPS 1992 transitional calculations guide updated

The training guide on [FPS 1992 transitional calculations](#) has been updated to include the example on two pensions under Part B, Rule B5A<sup>2</sup>. See pages 22 – 33. This, and other guidance, can be found under the [Administration Resources](#) menu of the FPS Regulations and Guidance website.

### LTA factsheet updated

Following the release last month of the [Lifetime Allowance factsheet](#), an error within the example calculation [Example 2] was kindly brought to our attention.

We have been working with Mark Belchamber of Income for the Third Age Ltd to revise and simplify the calculation, and we are pleased to confirm that the revised factsheet is now available via the link above.

Our thanks go to Mark for his assistance in this matter.

### SAB committee vacancies

We have a vacancy on the [cost-effectiveness committee](#) for an FRA HR representative. The main objectives of the cost-effectiveness committee are to determine how much it costs to run the Firefighters' Pension Schemes and to respond to Home Office consultations regarding the actuarial cost of the scheme. Most recently, the committee have considered options for the improvement of member benefits, prior to the pause of the cost-cap rectification process.

A further vacancy has arisen on the [LPB effectiveness committee](#) for an FRA Local Pension Board representative. The LPB effectiveness committee considers how local pension boards and scheme managers can be supported centrally, and has been particularly active in board surveys and developing draft guidance for joint LPB applications.

The required commitment is attendance at three to four meetings per year, generally held in London. Attendance can be made by conference call if necessary. If you are interested in sitting on either committee, please email [clair.alcock@local.gov.uk](mailto:clair.alcock@local.gov.uk) for further information.

### May 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 April.

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<sup>1</sup> [http://lgpslibrary.org/assets/cons/nonscheme/20190410\\_95K\\_BR.pdf](http://lgpslibrary.org/assets/cons/nonscheme/20190410_95K_BR.pdf)

<sup>2</sup> <http://www.legislation.gov.uk/ukxi/2008/214/schedule/paragraph/1/made>



## Other News and Updates

### GAD PSPS newsletter

The Government Actuary's Department has issued the [May edition](#) of its Public Service Pension Schemes newsletter. This is intended to be an informal note to provide regular updates on what is happening within the PSPS area of GAD and to highlight some current hot topics that schemes and other department contacts might be interested in.

### House of Commons briefing paper – pensions tax relief

The House of Commons Library updated a [briefing paper](#) which looks at the annual and lifetime allowances. The paper includes useful background information on the reduction in these allowances since 2010 and has been updated to reflect the limits which apply for the 2019/20 tax year. Recent calls for reform of pension taxation in response to concerns about filling senior posts in the public sector are also covered.

### Updated list of public sector club transfer members

In April 2019 the Cabinet Office published an [updated list](#) of club transfer members. All of the recent changes have been highlighted in red.

## HMRC

### HMRC newsletters/bulletins

HMRC have published pension schemes newsletters 109 and 110 containing important updates and guidance on pension schemes. The following issues are covered:-

- [Pension schemes newsletter 109 – 30 April 2019](#): Pension flexibility statistics |Registration statistics |Managing Pension Schemes service |Relief at source for Scottish taxpayers |Pension scheme returns |Overseas transfer charge – regulations |Master Trusts authorisation of existing schemes |Updates to the recognised overseas pension schemes notifications (ROPS) list
- [Pension schemes newsletter 110 – 29 May 2019](#): Relief at source |Consultation on the transposition of the Fifth Money Laundering Directive |Managing Pension Schemes service – user research

### Contracting-out reconciliation update

The following bulletin, containing important guidance and information about the end of contracting out and the scheme reconciliation process, has been published by HMRC in May.

### [Countdown bulletin 45](#)

Updates include:

- extension to Phase 7 Automation - Scheme Financial Reconciliation (SFR)
- what is happening in the extended period
- what this means for Pension Scheme Administrators (PSAs)
- what the extended Phase 7 dates that PSAs need to be aware of
- how this impacts the previous engagement in the SFR Process

Gov.uk are still working on including links from the bulletin to the Guidance on the Automated Solutions and the SFR Engagement Template. In the meantime, they have been included under 'Documents' on the 'Countdown Bulletin 45 – May 2019' [index page](#).

## Training and Events

### FPS training survey

We are continuously seeking to improve our training offer to FRAs to ensure that the statutory levy provides value for money, and the feedback provided following events is invaluable for this reason. However, we are aware that this only captures the opinions based on each particular session of those that were there.

We therefore kindly request less than ten minutes of your time to complete the following survey on our current and future training provision [https://www.surveymonkey.co.uk/r/FPS\\_training\\_survey](https://www.surveymonkey.co.uk/r/FPS_training_survey).

While the 2019 program of events has already been determined, we would welcome your views on what you would like to see more (or less) of in 2020!

The survey can also be accessed by scanning the QR code below.



### Firefighters and Police Local Pension Boards governance conference – event summary

We were delighted to welcome over 60 delegates from the Firefighters' and Police Pensions sector to the LGA offices on 15 May 2019 for our second Local Pension Board governance conference. The event gave attendees the opportunity to network with fellow board chairs and representatives and participate in an interactive session on supporting the scheme manager, as well as hearing from industry experts on current issues of importance to boards.

After an inspiring opening address by the chairs of each Scheme Advisory Board, the audience heard a case law update from Eversheds Sutherland, focusing on current legal issues that may have direct or consequential impact on the schemes. This was followed by a much anticipated overview of the 2018 Governance and Administration survey outcomes presented by the Pensions Regulator.



The event then took a more participatory turn, with Tristan Ashby, chair of the SAB [Local Pension Board effectiveness committee](#), chairing an interactive session using the Sli.do app. Delegates were invited to select random hidden topics for discussion and submit questions and comments, in addition to voting in anonymous polls. A list of the most popular questions will be posted on the [Events](#) page in the coming weeks, however, one slide generating considerable interest was a depiction of the [scheme year cycle](#).



The afternoon session began with a look at how the boards of other public service pension schemes operate. Karen McWilliam took a break from her day job at Aon to share her experiences and best practice as independent chair of the Clwyd Pension Fund board with attendees. In the concluding presentation of the day, Clair Alcock of the LGA delivered some thought provoking insight into the behaviours of high performing boards, illustrating how LPBs can add value by assisting the scheme manager.



The complete presentation slide decks from the event are available [here](#).

To view the full conference in pictures, visit our [@LGAWorkforce](#) twitter feed, #LGAfirepensions

### LPB annual wrap-up training 2019

We are pleased to confirm that our popular annual wrap-up training for Local Pension Boards is taking place at the LGA offices at 18 Smith Square, London on **Tuesday 18 June 2019** from 10:30 to 15:30. This session is aimed at new members to boards or those requiring a refresher session. Please see the attached [agenda](#). The Pensions Regulator has now confirmed attendance to provide an overview of the 2018 Governance and Administration survey results.

Refreshments will be available from 10am and a sandwich lunch will be provided. Please confirm any dietary requirements on the booking form.

Limited places are still available - [book your place here](#). Joining instructions for those registered will be sent week commencing 3 June 2018.

If you wish to enquire about full board training at your own venue, please contact the team at [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk). Each board is entitled to a free training session under the Scheme Advisory Board levy. Examples of previous sessions are held [here](#).

### Legislation

There have been no new items of legislation laid since our April bulletin.

## 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](#)

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## Entitlement to two pensions

### Introduction

An entitlement to two pensions after a drop in pay is colloquially known as a “split pension”.

This factsheet has been prepared to give guidance to FRAs on when entitlement to two pensions occurs under the Firefighters’ Pension Scheme 1992 (FPS1992) and the Firefighters’ Pension Scheme 2006 (FPS2006) and how it is calculated.

### Entitlement to the two pension rule

Entitlement to two pensions occurs when there is a drop in pay before a person is moved to the Firefighters’ Pension Scheme 2015 (FPS2015), or where the person is a protected member of either FPS1992 or FPS2006.

Regulations in the FPS1992 [B5A] and FPS2006 [Part 3, Rule 7] came into force from 1 April 2007 to allow for two pensions. See [here](#) for full consolidated regulations.

The entitlement to two pensions occurs when a person suffers a reduction to the amount of pensionable pay on a) taking up a different role, or b) becoming entitled to a different rate of pay in the existing role.

A drop in pay that occurs after a person has moved into FPS2015 is explained [later](#) in this note.

## Calculation of the Two Pension Rule

### FPS1992

#### Protected Members:

A formula applies to protect the double accrual at the highest pay. The formula for calculating two pensions is set out in the regulations under paragraph 3 & 4 of rule B5A. [Appendix 1](#) sets out the formula for the calculation, with an example.

## Unprotected members, drop in pay occurs before moving to FPS2015:

Where a member has a drop in pay that occurred before they were moved to FPS2015, the same formula is used. However, the number of sixtieths used in the calculation needs to be adjusted. Please see [Appendix 2](#) for an example of this calculation

## FPS2006

In the case of FPS2006, calculation of two pensions is more straightforward.

Part 3, rule 7, paragraphs 3 & 4 prescribe that the first pension is calculated based on the pensionable pay at the highest level multiplied by the service built up to the date of drop and divided by 60. The second pension is calculated based on pensionable pay at date of retirement, multiplied by service from the date of drop and divided by 60. An example is given at [Appendix 3](#).

## Applying indexation to the first pension

Amendment order [2018/997](#) amends Rule B5A and Part 3, Rule 7 to confirm that indexation on two pensions should apply as if it were under the Pensions (Increase) Act 1971 [PIA<sup>1</sup>]. This does not change the position set out in guidance issued in [FSPC 3/2010](#)

It is important to note that the regulation does not apply actual pension increases under the pension increase act, rather it instructs the pension to be indexed by an 'equivalent' to PI. This is important because it means the payment is not subject to the Act's qualifying conditions.

Account is taken of a pension's beginning date when the increases are applied. The beginning date is the first day after the last day of service at the higher rate of pay.

When the pension is calculated at retirement age the first pension based on the higher rate of pay would be increased by the pension increase order. For example, where a firefighter has entitlement to two pensions for which the drop in pay occurred eight years before retirement, the value of the first pension would be increased by reference to all the Pensions Increase Orders that had effect in the previous eight years.

The second pension is calculated based on the pensionable pay on retirement. The two pensions would then be added together in order to compare against the alternative single pension, and the higher pension put into payment.

Please see [Appendix 1](#) for an example of applying indexation.

Please note that whilst the value of Part 1 of the pension at retirement will include the equivalent PI amount, there will be no further increases under the pensions act until age 55 unless retirement is on ill health grounds.

The [archived commentary](#) is a useful reference on applying the indexation.

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/1971/56/contents>

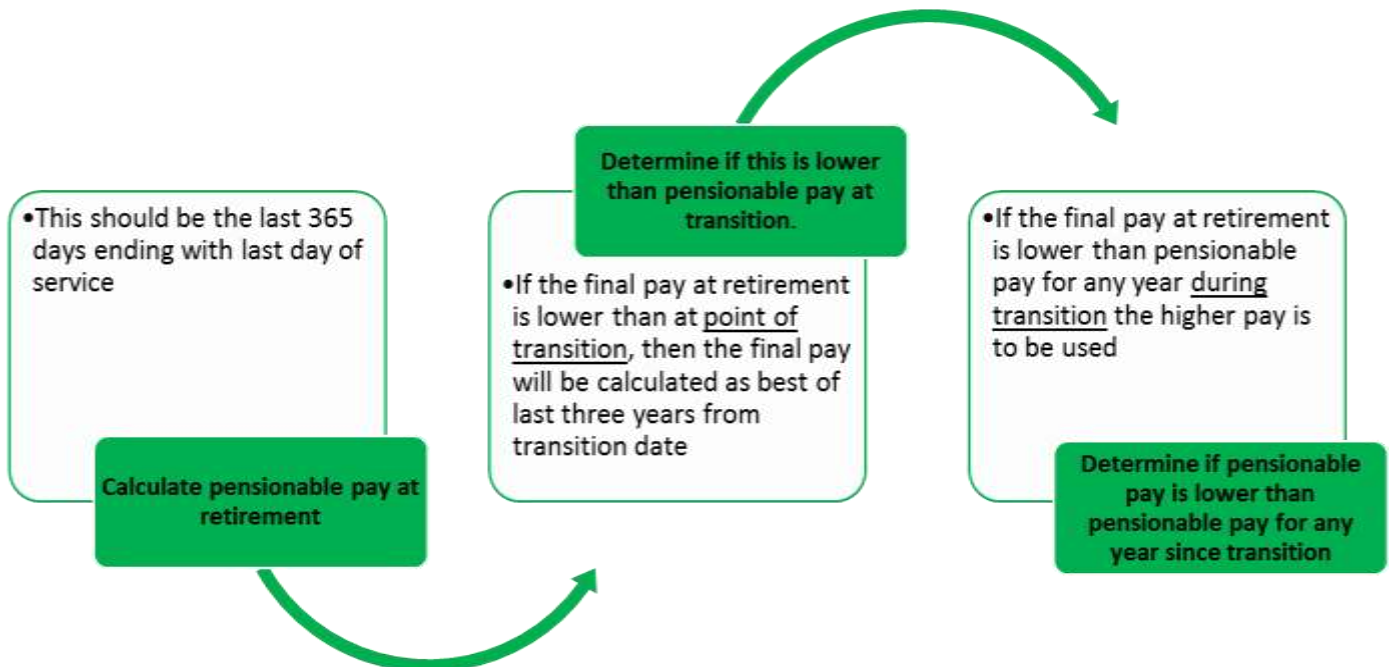
## Where the drop in pay occurs after transition to FPS2015

Where a member has a drop in pay after moving to FPS2015, the transitional provisions [Appendix 4] provide for protection and instruct the highest rate of pay since transition to be used in the calculation of the final salary pension.

At retirement the administrator should compare the pensionable pay for the last 365 days ending with the last day of service at two points:

1. Pensionable pay at the point of transitioning to FPS2015. For tapered members who have tapered into the scheme on any of the dates listed in Part 4 of schedule 2<sup>2</sup>, consideration should be given to how this pay is recorded for later comparison.
2. Pay at retirement should be compared to the pay at any point since transitioning. If the pay at any point is higher the higher pay is to be awarded.

This can be illustrated as follows:



<sup>2</sup> <http://www.legislation.gov.uk/ukxi/2014/2848/schedule/2/part/4/made>



## Other considerations

### Supplying information to your administrator

When a drop in pay occurs the employer (FRA) must inform their pension administrator that this has happened as it automatically triggers entitlement to the two pension award. The pension administrator should record the average pensionable pay at the point of the drop, i.e. the last 365 days pay, and note the entitlement.

At retirement, the administrator should perform both the two pension calculation and the single award and award the highest of the two calculations.

### Communicating entitlement to two pensions to members

It is recommended good practice to acknowledge the entitlement of two pensions to the member, along with confirmation that the two calculations will be performed at retirement and the member will be given the highest calculation.

Annual Benefit Statements should note that the entitlement applies and the calculation will be performed at retirement to determine the value of the pension.

**It is not normally necessary to provide estimates unless the member is significantly close to retirement.**

## Frequently Asked Questions

- Q1 Does the reason for the drop in pay affect entitlement?
- A1 The regulations do not cite reasons for a reduction in pay, only that when it occurs the entitlement to two pensions arises. You can therefore draw from that, that a drop in pay for any reasons, such as temporary employment ceasing, disciplinary measures, voluntary change of circumstances are all valid reductions.
- Q2 Can you split the pension more than once?
- A2 No. The legislation refers to 'entitlement to two pensions', this allows the pension to be split once only, if the pay subsequently rises and then falls again, the pension is split at the highest point of pay.
- Q3 What happens if the reduction in pay occurred before 1 April 2007?
- A3 Under FPS1992, only a drop in pay since 1 April 2007 can qualify a member for entitlement to two pensions. As FPS2006 was introduced from 6 April 2006, any reduction in pay for a member of FPS2006 would trigger an entitlement to two pensions.
- Q4 How are temporary promotions affected?
- A4 A drop in pay that occurs due to the cessation of a temporary promotion that had been in place before 1 July 2013 would be eligible for the two pension rule.
- From 1 July 2013 temporary promotion has not been pensionable, therefore the cessation of any temporary promotion that started after 1 July 2013 would not be eligible.
- Q5 Does the member have to elect for a two pension entitlement?
- A5 Please note the regulations do not require a member to 'opt' for the two pension entitlement; it automatically applies on a drop in pay.
- Q6 If at retirement the pensionable pay is higher than at the point of entitlement plus indexation, does the member have to elect in writing for a single pension to apply<sup>3</sup>?
- A6 While the regulations do request a written election, we would expect a pragmatic approach to calculate both the single pension and the two pension amount and award the higher of the two calculations.
- Q7 Does the two pension still apply on opt-outs?
- A7 Entitlement to two pensions is lost if a member opts out of the pension scheme<sup>4</sup>.

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<sup>3</sup> Paragraph 6 of rule [B5A](#) or [Part 3, Rule 7](#)

<sup>4</sup> Paragraph 7 of rule [B5A](#) or Paragraph 8 of [Part 3, Rule 7](#)

## Other references to two pensions

The archived [commentary](#) on rule B5A is a useful source of reference with regards to calculating the two pension entitlement. Albeit as an archived document, it is no longer endorsed by Home Office or LGA

[FPSC 3 / 2010](#) gave guidance on applying indexation to the two pensions.

As confirmed in [PO-2573](#) a drop in pay before 1 April 2007 does not entitle a person to a two pension entitlement under rule B5A

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at March 2019, 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)

April 2019

## Calculation Examples

### Protected Member FPS1992

In the case of FPS1992 a formula applies to protect the double accrual at the highest pay. The formula for calculating two pensions is set out in the regulations under paragraph 3 & 4 of rule B5A.

(3) The amount of the first pension is that found by applying the formula—

$$A \times \frac{B}{C} \times \frac{D}{60}$$

where—

- A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay;
- B is the firefighter's pensionable service up to that day;
- C is the firefighter's total pensionable service; and
- D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6).

(4) The amount of the second pension is that found by applying the formula—

$$E \times \frac{F}{C} \times \frac{D}{60}$$

where—

- C and D have the same meanings as in paragraph (3);
- E is the firefighter's average pensionable pay for the year ending with his last day of service; and
- F is—
  - (a) where the aggregate of—
    - (i) the pensionable service used to ascertain the value of B in his case for the purpose of the formula in paragraph (3); and
    - (ii) his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service,
 exceeds 30, the difference between B and 30;
  - (b) in any other case, his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service.

## Example

Sarah joined the scheme on 2 March 1989 with a transfer in awarded of 1 year 47 days and is retiring on 30 April 2018 with 30 years' service.

At retirement Sarah's pay is £29,934, and the average pensionable pay for the year ending with the last day of service (1 May 2017 to 30 April 2018) is £29,884.53

Sarah had a drop in pay when her temporary promotion which began on 13 May 2009 ended on 30 November 2009. Sarah's pay at 30 November 2009 was £29,971 and dropped to £28,199.13 on 1 December 2009. The average pensionable pay for the year 1 December 2008 to 30 November 2009 is £28,974.59

Sarah qualifies for a two pension award calculation because of her drop in pay on 1 December 2009.

### Part One

The first pension is calculated as  $A \times (B \div C) \times (D \div 60)$

Where

- A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay; **£28,974.59**
- B is the firefighter's pensionable service up to that day; **21 years 321 days [2 March 1989 to 30 November 2009 plus 1 year 47 days transferred service]**
- C is the firefighter's total pensionable service; **30 years**, and
- D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6); **40 years**

$$£28,974.59 \times (21/321 \div 30) \times (40 \div 60) = £14,087.74$$

PI Date = 1 December 2009

PI Rate = 1.1985<sup>5</sup>

$$£14,087.74 \times 1.1985 = \mathbf{£16,884.15}$$

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<sup>5</sup> PI multiplier table (2018) - <http://www.fpsregs.org/images/Legal/PI/PI2018.xlsm>

## Part Two

The second pension is calculated as  $E \times (F \div C) \times (D \div 60)$

Where

- E is the firefighter's average pensionable pay for the year ending with his last day of service; **£29,884.53** and
- F is his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service, restricted to 30 years minus B. **8 years 44 days**

$$£29,884.53 \times (8/44 \div 30) \times (40 \div 60) = \mathbf{£5,392.86}$$

## Total Pension

Part One + Part Two = Total Pension Award

$$£16,884.15 + £5,392.86 = \mathbf{£22,277.01}$$

## Compare two pensions to a single pension

$$£29,884.53 \times 40 \div 60 = £19,923.02$$

As £22,277.01 is greater than £19,923.02 the two pension calculation is awarded.

### Tapered or Unprotected FPS2015 member with transitional FPS1992 benefits

Where the member has been moved into FPS2015 and the drop in pay occurred before the transition, the formula as set out in paragraphs [3 & 4](#) applies, but with an adjustment to the value of D to reflect the adjusted 60ths that would be used for the final salary pension at retirement.

#### Example

Rob joined the scheme on 17 April 1990 and would retire on 16 April 2020 with 30 years' service.

Rob was entitled to tapered protection and joined FPS2015 on 30 September 2018

Rob had a drop in pay on 15 October 2011 from £25,000 to £20,000.

#### Adjusted value of D

The value of D is adjusted to reflect the number of 60ths that would be used to calculate Rob's pension at retirement. This is adjusted using the formula in Part 2A<sup>6</sup> of the 1992 scheme, which adjusts the expected accrual under FPS1992 to FPS2015.

$$A \div 60 * (B \div C)$$

Where

- B is the period in years of the person's pensionable service until the day before his transition date; **28 years 166 days [17 April 1990 to 29 September 2018 (day before transfer to FPS 2015)]**
- C is the period in years of his pensionable service and of his 2015 pensionable service (subject to a maximum of pensionable service of 30 years); **30 years [17 April 1990 to 16 April 2020]**
- A is the sum of E + (F x 2) and must not exceed 40 years  
Where—
  - E is the period in years of his pensionable service and of his 2015 pensionable service up to 20 years,
  - F is the period in years by which his pensionable service and his 2015 pensionable service exceeds 20 years; **40 years**

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<sup>6</sup> [http://www.legislation.gov.uk/ukxi/2015/589/schedule/3/paragraph/9/made as amended by Paragraph 2, sub paragraph 5 of SI 2017/892](http://www.legislation.gov.uk/ukxi/2015/589/schedule/3/paragraph/9/made%20as%20amended%20by%20Paragraph%20sub%20paragraph%205%20of%20SI%202017%2F892)

In this case as we are not calculating the proportion of 60ths we can adjust the formula to calculate D as

$$D = A * (B \div C)$$

$$D = 40 * (28/166 \div 30) = \mathbf{37 \text{ years } 343 \text{ days}}$$

### Part One

The first pension is calculated as  $A \times (B \div C) \times (D \div 60)$

Where

- A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay; **£25,000**
- B is the firefighter's pensionable service up to that day; **21 years 181 days [17 April 1990 to 14 October 2011]**
- C is the firefighter's total pensionable service; and **28 years 166 days [17 April 1990 to 29 September 2018 (day before transfer to FPS 2015)]**
- D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6). **37 years 343 days calculated as above**

$$£25000 \times (21/181 \div 28/166) \times (37/343 \div 60) = \mathbf{£11,942.16}$$

PI Date = 15 October 2011

PI Rate = 1.1337<sup>7</sup>

$$£11,942.16 * 1.1337 = \mathbf{£13,538.83}$$

### Part Two

The second pension is calculated as  $E \times (F \div C) \times (D \div 60)$

Where

- E is the firefighter's average pensionable pay for the year ending with his last day of service; **£20,000.00** and
- F is his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service, restricted to 30 years minus B. **6 years 350 days [15 October 2011 to 29 September 2018]**

$$£20000 \times (6/350 \div 28/166) \times (37/343 \div 60) = \mathbf{£3,092.85}$$

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<sup>7</sup> PI multiplier table (2018) - <http://www.fpsregs.org/images/Legal/PI/PI2018.xlsm>



## **Total Pension**

Part One + Part Two = Total Pension Award

$$£13,538.83 + £3,092.85 = \mathbf{£16,631.68}$$

## **Compare two pensions to a single pension**

Calculated using the formula in Part 2A<sup>8</sup> of FPS 1992

$$A \div 60 * (B \div C)$$

$$\mathbf{40 \div 60 * (28/166 \div 30) * £20,000 = £12,646.58}$$

As £16,631.68 is greater than £12,646.58 the two pension calculation is awarded.

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<sup>8</sup> <http://www.legislation.gov.uk/uksi/2015/589/schedule/3/made>

### FPS2006

In the case of FPS2006, calculation of two pensions is more straightforward.

Part 3, rule 7, paragraph 3 prescribes that the first pension is calculated based on the pensionable pay at the highest level multiplied by the service built up to the date of drop and divided by 60, unless the member is a special member where 60 would be replaced by 45.

*(3) The amount of the first pension is that found by multiplying the member's pensionable service up to (but not including) the day on which paragraph (1) first applies to him by the final pensionable pay to which he would have been entitled had he retired on that day, and dividing the resultant amount by 60.*

Paragraph 4, prescribes that the second pension is calculated based on pensionable pay at date of retirement, multiplied by service from the date of drop and divided by 60, unless the member is a special member where 60 would be replaced by 45

*(4) The amount of the second pension is that found by multiplying the member's pensionable service on and after the day on which paragraph (1) first applies to him by the final pensionable pay to which he is entitled on that day, and dividing the resultant amount by 60.*

### Example

Yousef joined the scheme on 22 November 2007 with a transfer in awarded from army service of 12 years. Yousef will retire on 30 August 2020.

Yousef's current pay is £45,670.

Yousef had a drop in pay after his pensionable allowance for being a trainer stopped on a move from his station. Yousef's pay at 12 January 2013 was £47,530 and dropped to £42,320 on 13 January 2013.

#### Part One

The first pension is calculated by multiplying the Yousef's pensionable service up to (but not including) the day on which the pay dropped and dividing the resultant amount by 60.

22 November 2007 to 12 January 2013 = 5 years 52 days

Transfer in = 12 years

Total service = 17 years 52 days

$£47,530 \times (17/52 \div 60) = £13,579.69$

PI Date = 13 January 2013

PI Rate = 1.0872<sup>9</sup>

$£13,579.69 \times 1.0872 = \mathbf{£14763.84}$

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<sup>9</sup> PI multiplier table (2018) - <http://www.fpsregs.org/images/Legal/PI/PI2018.xlsm>

## Part Two

The second pension is calculated based on pensionable pay at date of retirement, multiplied by service from the date of drop and divided by 60

13 January 2013 to 30 August 2020 = 7 years 230 days  
 $£45,670 \times (7/230 \div 60) = \mathbf{£5,807.81}$

## Total Pension

Part One + Part Two = Total Pension Award

$£14,763.84 + £5,807.81 = \mathbf{£20,571.65}$

## Compare two pensions to a single pension

$£45,670 \times (24/282 \div 60) = £18,856.08$

As £20,571.65 is greater than £18,856.08 the two pension calculation is awarded.

### Protected Pay after moving to FPS2015 – transitional provisions

#### FPS1992

##### **Schedule 2, Rule 33, Paragraph 4<sup>10</sup>**

(4) Where T's pensionable pay derived from service under this scheme at the time when T's average pensionable pay is determined for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link) is lower than the pensionable pay for any year after the transition date, the pensionable pay for the year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the 1992 Scheme.

#### FPS2006

##### **Schedule 2, Rule 32, Paragraph 4<sup>11</sup>**

(4) Where T's pensionable pay derived from service under this scheme at the time when T's final pensionable pay is determined for any purposes of the NFPS under Schedule 7 to the 2013 Act (final salary link) is lower than the pensionable pay for any year after the transition date, the pensionable pay for the year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the NFPS.

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<sup>10</sup> <http://www.legislation.gov.uk/ukxi/2015/589/schedule/1/paragraph/7/made>

<sup>11</sup> <http://www.legislation.gov.uk/ukxi/2015/589/schedule/1/paragraph/7/made>



## Firefighters' Pension Scheme

### Technical Note: Restricting exit payments in the public sector

#### Introduction

This technical note has been prepared to give guidance to Fire and Rescue Authorities (FRAs) on the implications of the government consultation to introduce a cap on exit payments in the public sector with regards to payments in relation to the Firefighters' Pension Scheme only.

Guidance for green book staff who are members of the Local Government Pension Scheme (LGPS) is available in the LGPS library<sup>1</sup>

#### Background

In 2015 the government first announced plans to introduce a cap on exit payments in the public sector. The cap includes any pension strain cost. The cap was legislated for in the Enterprise Act 2016, which amends the Small Business, Enterprise and Employment Act 2015, but required secondary legislation to be introduced.

On 10 April 2019, HM Treasury opened a consultation on draft regulations, Directions, and guidance to implement the exit cap. The consultation will run for 12 weeks and closes on 3 July 2019.

This consultation sets out the proposed method of implementing the cap, including which bodies should be in scope. This consultation sets out the proposed draft regulations, schedule to the regulations, accompanying guidance and directions. It seeks comments on the draft regulations.

Please find the consultation at: <https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector>

#### What is the level of the cap?

The exit payment cap is set at £95,000. Although regulation 153A(9) of the Small Business, Enterprise and Employment Act 2015 allows for Regulations to be introduced which change the cap, under the proposed Regulations there is no provision for the cap to be index-linked.

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<sup>1</sup> [http://lgpslibrary.org/assets/cons/nonscheme/20190410\\_95K\\_BR.pdf](http://lgpslibrary.org/assets/cons/nonscheme/20190410_95K_BR.pdf)

## Power to relax the restriction on exit payments

Power is given to an FRA to relax the restriction on exit payments by virtue of regulation 11<sup>2</sup>. Under the draft treasury directions<sup>3</sup> the FRA as decision maker can relax restrictions imposed by the regulations where the decision maker is satisfied –

- a. that not exercising the power would cause undue hardship
- b. that not exercising the power would significantly inhibit workforce reform
- c. i) that an agreement to exit was made before the coming into force of the Regulations;  
ii) that it was the intention of both parties that the exit would occur before that date; and  
iii) that any delay to the date of exit was not attributable to the employee or office holder as applicable.

However in order to exercise that power the FRA would need to seek consent of HM Treasury.

Where that power is exercised under regulation 13<sup>4</sup> the FRA must keep a written record in accordance with the regulations.

## Exit Payments in relation to the Firefighters' Pension Scheme

In respect of pension related payments in the Firefighters' Pension Scheme (FPS), there are two types of employer payments with regards to exit that could be subject to the cap, these are:

### 1. FPS 1992 Enhanced commutation

The ability for an FRA to enhance the commutation payment to a firefighter with over 25 years' service and over age 50 to the full quarter rate commutation [Rule B7(5)].

Under [Rule LA2 (10)] the authority is required to pay the difference between the restricted commutation and enhanced commutation from its operating account into the FPS notional pension fund.

A factsheet giving more information on this enhancement and the cost to the FRA is available [here](#).

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/791417/draft\\_SI\\_the\\_restriction\\_of\\_public\\_sector\\_exit\\_payments\\_regulations\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791417/draft_SI_the_restriction_of_public_sector_exit_payments_regulations_2019.pdf).

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/791450/mandatory\\_HMT\\_directions\\_exit\\_payments.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791450/mandatory_HMT_directions_exit_payments.pdf)

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/791417/draft\\_SI\\_the\\_restriction\\_of\\_public\\_sector\\_exit\\_payments\\_regulations\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791417/draft_SI_the_restriction_of_public_sector_exit_payments_regulations_2019.pdf)

Unless the exit cap regulations allowed for an exemption this payment would be deemed as an employer payment to facilitate early exit and would have had to be measured under the cap.

- **Exemptions**

The current draft exit cap regulations [\[7 \(ci\)\]](#) exempt this payment from the exit cap.

- **Implications for FRAs**

As an exempted payment there would be no implication for FRAs choosing to enhance commutation for eligible members. However, if the exemption were removed authorities would need to measure any enhanced payment made to the notional pension fund against the £95k cap.

## **2. FPS 2006 & FPS 2015 Authority Initiated Early Retirement (AIER)**

In FPS 2006 & FPS 2015, FRAs can allow firefighters to retire from age 55 with a unreduced pension under [Part 3, Paragraph 6](#) (FPS2006) and [Regulation 62](#) (FPS2015).

The FRA is required to pay the difference between the unreduced and reduced pension into the FPS notional pension fund for each year the pension is in payment. This payment is deemed as an employer payment to facilitate early exit and would have to be measured under the cap.

A factsheet giving further information on Authority Initiated Early Retirement and the cost to FRAs is available [here](#).

- **Exemptions**

The current draft exit cap regulations exempt this payment from the exit cap [\[7 \(cii & iv\)\]](#) where the FRA has agreed to put into payment an AIER retirement pension having regard to above rules for a firefighter who is unable to maintain operational fitness through no fault of their own.

- **Implications for Fire Authorities**

For FRAs who allow an AIER for reasons other than fitness, further guidance will be needed in the following areas:

- i. To measure the annual cost to the Fire Authority against the £95k cap**

The FPS regulations state that the cost to the FRA to allow early retirement with an unreduced pension is made by an annual payment to the notional pension fund representing the difference between the unreduced and reduced pension that would be paid to the member.

The regulations do not specify how to measure this annual cost of early retirement against the cap of £95k.

Guidance would be needed from the Home Office on how to measure the annual payment against the cap.

An alternative would be for Home Office to allow the early retirement cost to be paid as a capital cost on exit rather than annually.

## ii. Amendment to the pension regulations to allow partial reduction

If, on measurement, the early retirement cost would exceed the £95k cap, then the regulations would need to be changed to consider:

- How the member's benefits would be reduced to such a level that the exit payment cap is not breached.
- Whether the member would have the option of paying extra to buy-out some or all of the reduction.

The proposed regulation changes do not introduce the option to defer payment of pension benefits in the event of a FPS member who is over age 55 being made redundant or leaving on the grounds of business efficiency. As the regulations currently stand, an FPS member whose exit payment has been capped would be forced to accept a reduced pension.

In order to implement partial reduction in the FPS, guidance from the Government Actuary's Department (GAD) on partial reductions and on the cost of buying out those reductions would be required. Detailed information concerning the method of calculating the partial reduction to benefits, the method and calculation for buying out the reduction – particularly the calculation to work out the applicable reduction where some but not all of the reduction has been bought out – and the deadline that applies to an election to make such a payment, would be required.

It is likely that changes to the FPS regulations and new statutory guidance would be required to effect this change.

## Devolved administrations

### Wales

The exit payment Regulations apply to Fire and Rescue Authorities in Wales.

### Scotland

The Regulations do not apply to exit payments made by the Scottish Fire and Rescue Service.

### Northern Ireland

The Regulations do not apply to exit payments made by Northern Ireland Fire and Rescue Service



## Further Information

Guidance for green book staff who are members of the Local Government Pension Scheme (LGPS) is available in the LGPS library<sup>5</sup>

HMT Consultation documents

### **1. Consultation document - 'Restricting exit payments in the public sector: consultation on implementation of regulations'<sup>6</sup>**

The consultation document sets out what types of public sector exit payments the regulations apply to, summarises the proposed regulations and the reasons for introducing these regulations. Details of how to respond are included, and information concerning how respondents' data will be processed.

### **2. Draft regulations - 'Annex A: The Restriction of Public Sector Exit Payments Regulations 2019'<sup>7</sup>**

'The Regulations' include:

- the bodies whose exit payments are covered by the cap
- what constitutes an exit payment and what is exempt
- the requirement for individuals and public sector bodies to report and record information about exit payments and
- the circumstances in which the cap must be relaxed and the process for approval in situations where the cap may be relaxed.

### **3. Schedule – 'Annex B: £95k cap on exit payments in the public sector schedule (draft)<sup>8</sup>**

'The Schedule' sets out public sector authorities and public sector offices that may be affected by the exit payment cap. There are circumstances where the cap must or may be waived. Where relevant, the Schedule specifies what body is the sponsoring department who would be responsible for approving the relaxation of the cap.

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5 [http://lgpslibrary.org/assets/cons/nonscheme/20190410\\_95K\\_BR.pdf](http://lgpslibrary.org/assets/cons/nonscheme/20190410_95K_BR.pdf)

6 <https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector/restricting-exit-payments-in-the-public-sector-consultation-on-implementation-of-regulations>

7 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/791417/draft\\_SI\\_the\\_restriction\\_of\\_public\\_sector\\_exit\\_payments\\_regulations\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791417/draft_SI_the_restriction_of_public_sector_exit_payments_regulations_2019.pdf)

8 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/791420/95k\\_cap\\_schedule\\_draft.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791420/95k_cap_schedule_draft.pdf)

**4. Guidance – ‘Annex C: Restriction of public sector exit payments: guidance on the 2019 regulations’<sup>9</sup>**

‘The Guidance’ sets out more information on how the legislation should be implemented, and particularly gives more information about the process to follow when a public sector body wishes to relax the restriction.

**5. HMT Direction – ‘Mandatory HM Treasury directions’<sup>10</sup>**

‘The Directions’ describe when the exit payment cap must be relaxed, in what circumstances it can be relaxed and when HMT approval is required.

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<sup>9</sup> <https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector/annex-c-restriction-of-public-sector-exit-payments-guidance-on-the-2019-regulations>

<sup>10</sup> <https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector/annex-c-restriction-of-public-sector-exit-payments-guidance-on-the-2019-regulations>

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## Uplift of Commutation

### Introduction

This factsheet has been prepared to give guidance to FRAs on the discretion to uplift commutation for certain members of the Firefighters' Pension Scheme 1992 (FPS1992).

### What is it?

The discretion to uplift commutation for a person who is entitled to reckon less than 30 years' pensionable service, and retires before normal pension age<sup>1</sup> was introduced in the 2013 amendment<sup>2</sup> order to the FPS1992 regulations.

### How does it work?

Under the FPS1992, rule B7 paragraph 5<sup>3</sup> restricts the lump sum to two and a quarter times the full amount of pension for firefighters who have reckoned less than 30 years' service and retired before normal pension age. However paragraph 5A added by the 2013 amendment order allows an authority to uplift the lump sum to be paid at a quarter of the full amount of pension multiplied by the appropriate commutation factor<sup>4</sup>.

If an employer determines that an enhanced commutation payment is due, that employer has to pay the difference between the restricted and enhanced commutation lump sum into the FPS notional pension fund.

### Example

Retirement at 52 years 3 months, with 28 years pensionable service

Salary	£35,104
Length of service in 1992 scheme	28 years
Commutation factor at 52 years 3 months	23.1 <sup>5</sup>

<sup>1</sup> Normal Pension Age for FPS 1992 is age 55

<sup>2</sup> Part B, Rule B7, Paragraph 5A <http://www.legislation.gov.uk/uksi/2013/1392/schedule/paragraph/2/made>

<sup>3</sup> <http://www.legislation.gov.uk/uksi/1992/129/schedule/2/made> amended by [SI 2004/1912](#) and [SI 2005/2980](#)

<sup>4</sup> <http://www.fpsregs.org/index.php/gad-guidance/commutation>

<sup>5</sup> Using GAD Guidance dated 31 October 2018 -

<http://www.fpsregs.org/images/GAD/Commutation/1992factors311018.pdf>

	<b>Commutation under the regulations</b>	<b>Uplifted lump sum</b>
Pension before commutation	$36 \div 60 * £35,104 = £21,062.40$	$36 \div 60 * £35,104 = £21,062.40$
Lump Sum	$2.25 \times £21,062.40 = £47,390.40$	$£21,062.40 * 0.25 * 23.10 = £121,635.40$
Pension after commutation	$£21,062.40 - (£47,390.40 \div 23.10) = £19,010.87$	$£21,062.40 * 0.75 = £15,796.80$
Cost to Authority = <b>£74,244.96</b> ( $£121,635.40 - £47,390.40$ )		

## How much does it cost?

Under Rule LA2 (10)<sup>6</sup> the authority is required to pay the difference between the restricted commutation and enhanced commutation from its operating account into the FPS notional pension fund.

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at April 2019, 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)

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<sup>6</sup> <http://www.legislation.gov.uk/ukxi/2013/1392/schedule/paragraph/14/made>



## Authority Initiated Early Retirement (AIER)

### Introduction

This factsheet has been prepared to give guidance to FRAs on Authority Initiated Early Retirement.

### What is it?

The discretion to grant an Authority Initiated Early Retirement (AIER) was first introduced in the Firefighters' Pension Scheme 2006<sup>1</sup> (FPS2006). This ability is also reflected in the Firefighters' Pension Scheme 2015<sup>2</sup> (FPS2015) under the title employer initiated retirement.

The regulations give the employer the ability to award a pension to a firefighter member who is over the age of 55 but under normal retirement age<sup>3</sup> paid without the appropriate early retirement<sup>4</sup> reductions.

In both regulations an employer may only award an early retirement pension payable without reductions where that employer determines that a retirement pension awarded on that basis would assist the economical, effective and efficient management of its functions having taken account of the costs likely to be incurred in the particular case.

### How does it work?

If an employer determines that an award under AIER or employer initiated retirement is due, that employer has to pay the difference between the reduced and unreduced post-commutation pension into the FPS notional pension fund for each year the pension is in payment.

#### Example for an FPS2006 member

Age retirement at 55, on 26 August 2016. For a member who has been in the 2006 scheme since 6 April 2006.

<sup>1</sup> Part 3, Paragraph 6 - <http://www.legislation.gov.uk/ukxi/2006/3432/schedule/1/part/3/paragraph/6/made>

<sup>2</sup> Regulation 62 <http://www.legislation.gov.uk/ukxi/2014/2848/regulation/62/made>

<sup>3</sup> Normal Retirement Age for FPS2006 & FPS2015 is 60

<sup>4</sup> GAD Guidance on early retirement - <http://www.fpsregs.org/index.php/gad-guidance/early-retirement>

Salary	£35,104
Length of service in 2006 scheme	10 years 142 days
Early retirement factor applied at age 55	0.597

	Reduced Pension	Unreduced Pension
Unreduced pension before lump sum	10 years 142 days ÷ 60 x £35,104 = £6078.28	10 years 142 days ÷ 60 x £35,104 = £6078.28
Reduced pension payable at age 55	6,078.28 * 0.597 = £3,628.73 pa	£6078.28
Pension after commutation	3628.73 * 0.75 = £2721.55	£6078.28 * 0.75 = £4558.71
Total annual difference between unreduced and reduced pension (£4558.71 - £2721.55 = <b>£1,837.16</b> )		

## How much does it cost?

As per the FPS2006 regulations [Part 13, Rule 2, Paragraph 10], the cost is the annual cost of the difference between the reduced pension and the unreduced pension, and has to be paid into the pension fund by the Authority from its revenue account. This payment continues until the death of the pensioner.

*(10) Where a pension is paid under rule 6 of Part 3 (Authority-initiated early retirement), an amount equal to the difference between the amount of the pension paid and the amount that would have been paid had a pension been payable from the same date under rule 5 of that Part (member-initiated early retirement), shall be transferred to the FPF from any other fund maintained by the authority.*

In year 1 the calculation is a simple calculation of the difference calculated at retirement.

In year 2 the FRA would have to repeat the calculation but, as the two pension figures for comparison would both have increased by CPI, the net payment due from the Authority's revenue accounts into the pension fund would also uplift by CPI.

Therefore **the actual cash amount the FRA will have to pay out** is the difference between the pensions as adjusted upward for inflation in each year, for the full lifetime of the pensioner.

The 'cash cost' of this to Authorities in assessing the cost element of any request for an AIER would be based on actuarially calculated life expectancy from age 55, which is currently advised by GAD to be 33.5 years. In the example above, the cash cost in real terms would be **£61544.88** (this being the total of £1837.16 being multiplied 33.5 years).

## Home Office Cost Model

The Home Office (formerly DCLG) have previously presented their view that this cost should be calculated on a net present value (NPV) calculation. Net present value is a calculation that turns the anticipated full cash outgoings over the expected life of the firefighter into a present value cash sum by significantly discounting the monies.

The uses of NPVs for options appraisal are set out in the Green Book which is HMT guidance to public bodies to appraise the costs of policies, programmes, or action.

The Home Office have previously provided that in their view the current pension commutation<sup>5</sup> factors for FPS1992 comply with the green book discounting guidance, are age related, actuarially neutral, and take into account life expectancy and the discounting effect of money, therefore, creating a net present value.

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at April 2019, 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)

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<sup>5</sup> <http://www.fpsregs.org/index.php/gad-guidance/commutation>





## Pensionable Pay

### Introduction

This factsheet has been prepared to give guidance to FRAs on Booth v Mid and West Wales [2019] EWHC 790 (Justice Fancourt)<sup>1</sup>, a recent High Court judgment on pensionable pay. While the judgment considered pay for the Welsh Firefighters Pension Schemes, the points of the judgment apply equally to pay in the English Firefighters Pension Schemes.

It is important to note that the issues in any pensionable pay case are finely balanced and often depend on the exact detail and nature of the payments. As this note illustrates, the reasons for pay being pensionable may depend on the nature of the contract or on the precise requirements of the role. Therefore you cannot assume that if a duty system in place for your FRA has the same name as the ones in this factsheet the same rules will apply.

This factsheet should be read with that in mind and you should seek reassurance that any pensionable pay decision made for your FRA has considered all of the relevant case law.

### Background

As reported in [FPS Bulletin 14 - November 2018](#) the Pensions Ombudsman decision [PO-14863](#) considered a number of different pensionable pay elements for the Welsh Firefighter schemes as summarised below

Pensionable Element	Scheme	TPO decision – relevant paragraphs	TPO judgment
Training Allowance	1992	45 – 49	Pensionable
Day Crewing	2007 <sup>2</sup> & 2015	50 - 69	Not pensionable
Self-Rostered Crewing	2007 & 2015	70 – 71	Not pensionable
USAR	2007 & 2015	72 - 78	Pensionable

The Ombudsman's decision was appealed and considered by the High Court. This factsheet considers the High Court judgment<sup>3</sup> on this case.

<sup>1</sup> <http://www.fpsregs.org/images/Legal/Caselaw/BoothvMWWFRA.pdf>

<sup>2</sup> In England this scheme is known as the Firefighters Pension Scheme 2006 (FPS 2006) or New Firefighters Pension Scheme (NFPS).

<sup>3</sup> A summary of the High Court Judgment on these elements can be found on page [4](#)

## Does this judgment mean that all temporary allowances or overtime should be pensionable?

The judgment comments specifically on four types of allowance only. While the judge makes some useful comments on how to interpret the regulations it is still a matter for each FRA to determine what is and isn't pensionable taking into account their contractual arrangements, the regulations and all relevant case law.

### What are the issues?

The case considered by the High Court is whether these four allowances and payments are pensionable within the meaning of the Firefighter Pension Scheme rules<sup>4</sup>.

#### ■ The regulations

- The Firefighters Pension Scheme 1992 (FPS 1992) requires pay to be determined in relation to the 'performance of the duties of the role'. Under case law there has to be an 'element of permanency'.
- The Firefighters Pension Scheme 2006 (FPS 2006) and the Firefighters Pension Scheme 2015 (FPS 2015) regulations, which are virtually identical, requires pay to be determined in relation to the performance of the duties of the role but in addition the payment in effect has to be permanent as the regulations specifically exclude an 'allowance or emoluments paid on a temporary basis'.

Therefore under the FPS 2006 and FPS 2015 there is a specific requirement in the regulations for pay to be permanent, in that they specifically exclude payments 'paid on a temporary basis', whereas under the FPS 1992 the case law has determined that there has to be an 'element of permanency'. It is not clear from the case law whether this means that a payment that may be pensionable under the 1992 regulations might not be pensionable under the later regulations. However, this is a possibility that FRAs should be alive to when determining whether a payment is pensionable.

#### ■ A definition of 'temporary'

The 2006 and 2015 regulations themselves do not provide a definition of 'temporary'. Therefore the application of the those regulations has long been an issue for the Firefighters' scheme with confusion over the correct interpretation of temporary in regulations such as [\[17\(1a\)\]](#) which uses the term "the member's pay received for the performance of the duties of the member's role except any **allowance or emoluments paid to that member on a temporary basis**".

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<sup>4</sup> [Firefighters Pensionable Pay Rules](#)

The meaning of the word ‘temporary’ within the regulations has often been the subject of debate, and this judgment provides some important commentary on how to construe the meaning of the words ‘temporary’ and ‘permanent’ within the regulations.

Paragraph 39 says

“I have come to the conclusion that “permanent” in these statutory provisions does not signify pay or emoluments that must endure to the end of the employment. I consider that what is meant by “permanent” is pay other than allowances or emoluments that are **temporary in the sense of being occasional, one-off, irregular or for a limited period of time only**. The words “permanent” and “temporary” have to be construed in context. Employment as a firefighter is generally employment for the whole or majority of a member’s working life. It is not employment for a fixed term. Over a working lifetime, the way in which a firefighter’s role is performed can change frequently; the circumstances and conditions are not ossified at the outset of employment so as to endure for its duration. To suggest that only allowances and emoluments that will endure for the whole of the member’s employment are pensionable seems to me to be unrealistic and a class devoid of content. On the other hand, it is entirely **sensible and realistic to exclude from pensionable pay any emoluments that are occasional, one-off, irregular or limited in time.**”

## ▪ **The ‘Blackburne Principles’**

When interpreting the application of pensionable pay, the ‘Blackburne principles’ are often cited. In Norman v Cheshire Fire & Rescue Service [2011] EWHC 3305 (QB)<sup>5</sup> the judge cited that the decision of Kent & Medway Towns Fire Authority v Pensions Ombudsman and anor, [2001] OPLR 357 (Justice Blackburn)<sup>6</sup>, held that in order for pay to be pensionable it had to be:

- i. Calculated in accordance with ordinary rate of pay
- ii. For work done under the Firefighters contract of employment
- iii. Regular in nature, i.e. something to which the firefighter was entitled in the ordinary course of fulfilling duties under the contract, not a one off or unexpected payment

These principles have become known as the ‘Blackburne principles’ and should be considered as part of any pensionable pay decision.

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<sup>5</sup> [http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2011/3305.html&query=2011.+EWHC+3305+\(QB\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2011/3305.html&query=2011.+EWHC+3305+(QB))

<sup>6</sup> <http://www.fpsregs.org/images/Legal/Caselaw/KentvTPO.pdf>

## High Court Judgment<sup>7</sup>

As noted in bulletin 14, it was expected that the decision of the Ombudsman would be appealed. The High Court judgment handed down on 29 March 2019 was as a result of that appeal.

The case considered four different elements of pay across the three firefighter pension schemes, the High Court judgment can be summarised as follows

Pensionable Element	Scheme	High Court – relevant paragraphs	High Court judgment
Training Allowance	1992	18	Pensionable as part of permanent role, but not pensionable if attached to a temporary promotion
Day Crewing	2007 <sup>8</sup> & 2015	53	Pensionable
Self-Rostered Crewing	2007 & 2015	53	Pensionable
USAR	2007 & 2015	56 & 59	Not pensionable because it is part of a secondary contract which is paid in relation to the performance of the duties of a specialist USAR team member rather than forming the duties of the Firefighter's role as a Firefighter.

In respect of each element of pay the Court considered the 'Blackburne principles' (as noted above).

### ▪ Training Allowance

**The court determined that the training allowance while attached to a permanent role is pensionable. However before the permanent role it was received as part of a temporary promotion and, therefore, while paid on a temporary basis it was not pensionable.**

The judge considered the following points in making his conclusion.

1. Was it pay for work done was it paid in relation to the 'performance of duties as a regular firefighter?

<sup>7</sup> <http://www.fpsregs.org/images/Legal/Caselaw/BoothvMWWFRA.pdf>

<sup>8</sup> In England this scheme is known as the FPS 2006 or NFPS

The FRA argued that the allowance for training did not meet the requirements of being 'in relation to the performance of duties as a regular firefighter'<sup>9</sup>. The judge nevertheless concludes in Paragraphs 17 & 18 that "The relevant role map for Mr XXX (Watch Manager) includes supporting the development of teams and individuals and assessing candidate performance" and **as such the role of trainer should be considered in relation to the duties of a regular firefighter**. However, "Direct Trainer became part of Mr Bradshaw's role from July 2012 only".

2. Was the pay regular in nature (in line with the ordinary course of duties)?

The judge concluded in paragraph 18 that while the allowance was attached to a temporary promotion, it was not pensionable due to the temporary nature of the role and therefore the temporary nature of the payment. "I therefore consider that the allowance paid to Mr Bradshaw before July 2012 was not pensionable pay, because it was not a permanent emolument of his role". However on transfer to a new permanent role, combining firefighter duties with training duties the emolument became permanent and therefore pensionable.

3. The pay is in line with ordinary rate of pay

Under the 'Blackburne principles' it is necessary to consider whether the pay is in line with the ordinary rate of pay, i.e. paid as a % of pay according to role. The judge agreed that this was the case. "10% allowance for training is calculated in accordance with his ordinary rate of pay"<sup>10</sup>

In this case the judge concluded that the role of trainer was within the duties of a regular firefighter as it formed part of the individual's relevant role map, so was paid in relation to work done under his contract of employment. This highlights the importance of considering the contractual arrangements.

While the judge concluded that the role of trainer was within the duties of a regular firefighter and therefore any allowance received for that should be treated as pensionable, the judge also considered that it can only be treated as pensionable while it is a permanent position. If a person receives a training allowance attached to a temporary role, it does not meet the required test of being 'regular in nature'. We can draw from that whether or not an allowance is pensionable depends on the nature of the contract as well as the role.

The case considered specifically whether the training allowance was pensionable under FPS 1992. Nevertheless the argument for the allowance being pensionable once attached to a permanent role can equally be applied to FPS 2006 & FPS 2015, as both sets of regulations specifically exclude temporary allowances.

### **Actions for FRAs**

- To consider whether training allowances or other allowances paid to members of FPS 1992, FPS 2006 & FPS 2015 are paid (i) in relation to work done under the contract of employment in relation to the duties of the role; and (ii) are attached to a permanent role and paid regularly, in which case it should be made pensionable if not already treated as such.

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<sup>9</sup> Paragraph 12

<sup>10</sup> Paragraph 17

- Consider whether there are historic mistakes that need correcting (further information on corrective action is on page [8]).

## ▪ Day Crewing and Self-Rostered Crewing

**The court has determined that the allowances paid to a regular firefighter in relation to working under a particular duty system (such as the day crewing and self-rostered crewing allowances) are pensionable.**

The case considered two main points;

1. Whether the allowance is paid in relation to the performance of the duties of the firefighter member's role

The judge concludes in paragraph 32 "...in agreement with the Ombudsman's determination at para [52], that the allowances paid to Messrs Booth and Jones were "pay in relation to the performance of the duties of the firefighter member's role" or "emoluments" within the meaning of rule 1(b) of the NFPS and "pay received for the performance of the duties of the member's role" or "emoluments" within the meaning of rule 26 of the 2015 Scheme."

2. Whether the allowance is paid on a permanent or a temporary basis?

Paragraphs 33 to 53 of the judgment cover the arguments put forward by both parties on what is meant by "temporary" and "permanent" and sets out seven reasons given by the judge in paragraphs 41 to 47 on **why "permanent" in the statutory provisions does not signify that pay or emoluments must endure to the end of employment.** The judge found in favour of the appellant firefighters concluding in paragraph 53 that the whole of day crewing or self-rostered allowances are pensionable.

While the case considered specifically whether pay received for duty systems was pensionable under FPS 2006 & FPS 2015 only, the judge's concluding points could be applied to FPS 1992, as both the Kent & Medway Towns Fire Authority and the Norman v Cheshire Fire and Rescue case (see above) required there to be an element of regularity and permanency for a payment to be pensionable.

### **Actions for FRAs**

- To consider whether duty system allowances in FPS 2006 & FPS 2015 should be made pensionable if not already done so.
- To consider whether duty system allowances in FPS 1992 should be made pensionable.
- Consider whether there are historic mistakes that need correcting.

## ■ **USAR (Urban Search and Rescue)**

**The court has determined that the way the contract is structured may affect whether the payment is pensionable.**

The case considered two main points;

1. Whether the allowance is paid in relation to the performance of the duties of the firefighter member's role?

In this case the duties of the USAR role were contracted under a secondary contract. The judge concluded<sup>11</sup> that pay under the separate contract was pay in relation to contractual duties as a specialist member of the USAR team. It was not pay in relation to the performance of the duties of the member's role as a regular firefighter. This was despite the fact that it is unlikely that anyone other than a regular or retained firefighter would be paid as a USAR team member. "Thus, the allowance is not pay in relation to the performance of the duties of a regular firefighter's role; it is paid in relation to the performance of the duties of a specialist USAR team member."

2. Whether the allowance is paid on a permanent or a temporary basis?

The judge concluded<sup>12</sup> "In those circumstances, the emoluments from the secondary contract are not permanent emoluments within the meaning of rule 1(1)(b) of the NFPS or reg 26 (1)(b) of the 2015 Scheme". This is because the secondary contract was renewed on a yearly basis, depending on the continuation of Government funding. The USAR contract was effectively a short-term contract for one year, despite it being renewed yearly from 2009 onwards.

The case considered specifically whether pay received for USAR payments was pensionable under FPS 2006 and FPS 2015 only. Nevertheless the judges concluding points can equally be applied to other specialist roles that might be under a second contract, or indeed USAR payments made to the 1992 scheme members.

The judgment was specific to the terms under which the member received the USAR payment. The payment failed both tests, in that it was not paid in relation to 'the performance of the duties of the firefighter's role' and it was not paid on a permanent basis.

The judgment did not consider what the status would be in relation to a payment for USAR work which forms part of an individual's role map under their main contract or where it is paid as an additional responsibility allowance (ARA). Whether such a payment is pensionable may depend on the specific contractual arrangements. However, if those arrangements are renewed on a yearly basis or dependent on periodic funding then, we can take from the judges concluding points in paragraph 59, that such allowance would not be permanent.

### **Actions for FRAs**

- To consider secondary contract arrangements, and if the secondary contract does not include duties that are part of the Firefighter's role, to ensure that payments from secondary contracts are not treated as pensionable.
- Consider whether there are historic mistakes that need correcting.

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<sup>11</sup> Paragraph 56

<sup>12</sup> Paragraph 59

## Corrective Action

FRA's will need to review all contracts and allowances in place in line with this judgment and if necessary take legal advice to consider whether amendments are needed to a pensionable allowance. You may find that you need to make an allowance or payment either pensionable when it was previously considered non-pensionable, or non-pensionable when it was previously considered pensionable.

When making any pensionable pay decision, the reasoning for that decision and what case law has been considered should be documented.

With regards to any retrospective action that may be needed to correct pensionable pay where it has been previously deemed as not pensionable, LGA on behalf of SAB are taking further legal advice, specifically on whether the limitations act can or should be used. Please address any queries in the meantime to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)

## Further Information

LGA Firefighters Pension Scheme Conference 2018; Firefighters Pension Scheme – pensionable pay update: Jane Marshall, Weightmans -

<http://www.fpsregs.org/images/admin/AGMpenpayv1.pdf>

### ■ Known Case Law

- [Kent and Medway Towns Fire Authority v Pensions Ombudsman and anor, \[2001\] OPLR 357](#)
- [Norman v Cheshire Fire & Rescue Service, \[2011\] EWHC 3305 \(QB\)](#)
- Mr Michael Smith v South Wales Fire & Rescue Service, [PO-3511](#) (2014)
- Mr N v West Yorkshire Fire and Rescue Authority, [PO-11867](#) (2017)
- Mr A v Warwickshire Fire and Rescue Authority, [PO-15584](#) (2018)

### ■ Pensionable Pay Regulations

	England <sup>13</sup>	Wales	Scotland	Northern Ireland
<b>FPS 1992</b>	<b><a href="#">G1</a></b>	<b><a href="#">G1</a></b>	<b><a href="#">G1</a></b>	<b><a href="#">Article 56</a></b>
<b>FPS 2006<sup>14</sup></b>	<b><a href="#">Part 11, Chapter 1, 1 &amp; 2</a></b>	<b><a href="#">Part 11, Chapter 1, 1 &amp; 2</a></b>	<b><a href="#">Part 11, Chapter 1, 1 &amp; 2</a></b>	<b><a href="#">Part 11, Chapter 1, articles 61 &amp; 62</a></b>
<b>FPS 2015</b>	<b><a href="#">17</a></b>	<b><a href="#">26</a></b>	<b><a href="#">17</a></b>	<b><a href="#">26</a></b>

### ■ Additional Pension Benefits (APBs)

Certain pension payments are pensionable under an APB. The APB factsheet is available [here](#)

<sup>13</sup> The pensionable pay regulations are identical across England, Wales, Scotland and Northern Ireland, however presently the consolidated version is only available for England.

<sup>14</sup> Applies to Special Members of the FPS2006, also known as modified scheme members



This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at April 2019, 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)

May 2019

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**HAMPSHIRE  
FIRE AND  
RESCUE  
AUTHORITY**

Purpose: Noted

Meeting: **HFRA Firefighters' Pension Board**

Date **9 JULY 2019**

Title **FIRE PENSION BOARD STATUS REPORT**

Report of Chief Finance Officer

### SUMMARY

1. This report provides an update on the development of key items.
2. This report, together with attachments, provides the framework for this meeting agenda.

### STATUTORY REPORTING

3. The Accounting for Tax (AFT) for quarter 4 2018/19 was submitted to HMRC on 9 May 2019 and paid on 13 May 2019. The table below shows the breakdown of the payments made.

<b>Type of payment</b>	<b>Number of members</b>	<b>Tax year relates to</b>	<b>Amount paid</b>
AFT - Annual Allowance	1	2017/18	£25,873
Total paid to HMRC			<b>£25,873</b>

### COMMUNICATION

4. The Employer Pension Manager delivered a presentation to new recruits at SHQ on 26 June 2019.
5. The Employer Pension Manager attended the Police & Fire Governance seminar which was put on by the LGA on 15 May 2019. This included presentations from
  - (a) Eversheds with a case law update
  - (b) TPR with details of the Governance and admin survey
  - (c) A discussion about assisting the Scheme Manager

- (d) A presentation from the Chair of the Clwyd Pension Fund Board explaining their journey with Governance
  - (e) A presentation from Clair Alcock on the behaviours of high performing boards
6. The Employer Pension Manager also attended the Ill Health and Injury Pension Workshop for Police & Fire on 19 June. This included presentations from
- (a) Jane Marshall, the legal adviser to the Fire Scheme Advisory Board, covering the legislation and legal background position
  - (b) West Yorkshire FRA on the role of the scheme manager during the ill health process
  - (c) A Consultant Occupational Physician on the role and decision making of the Independent Qualified Medical Practitioner (IQMP)
  - (d) A senior employment lawyer on the impact of mental health on workforce issues
  - (e) The day was completed with a workshop / discussion one for Fire and one for Police. The Fire workshop covered things such as what guidance is available, the medical appeals process and the revision of forms for ill health retirements.
7. The day touched on the issues surrounding reviews of ill health retirement pensions and injury pensions. Nationally there is clearly an issue with conducting these reviews as there are not many FRAs that are carrying them out.
8. Member Portal for Fire Pension Schemes went live on 1 April 2019. This was publicised at the beginning of May 2019. Numbers of those registered are shown below:

Pension online registration numbers as at 04/06/2019							
Number of actives per age range							
HCC	under 30	30-40	40-50	50-55	55-65	65+	Total
Registered	2	12	31	17	9	0	71
Not registered	150	312	408	151	73	2	1,096
<b>Total</b>	<b>152</b>	<b>324</b>	<b>439</b>	<b>168</b>	<b>82</b>	<b>2</b>	<b>1,167</b>
Percentage of actives per age range							
HC	under 30	30-40	40-50	50-55	55-65	65+	Total
Registered	1%	4%	7%	10%	11%	0%	6%
Not registered	99%	96%	93%	90%	89%	100%	94%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percentage of all actives per age range							
HC	under 30	30-40	40-50	50-55	55-65	65+	Total
Registered	0%	1%	3%	1%	1%	0%	6%
Not registered	13%	27%	35%	13%	6%	0%	94%
<b>Total</b>	<b>13%</b>	<b>28%</b>	<b>38%</b>	<b>14%</b>	<b>7%</b>	<b>0%</b>	<b>100%</b>

9. The sign up for the first month shows that registration numbers are quite low. This is concerning as this will be the only way that members will be able to view their Annual Benefit Statements. We will publicise this several times in Routine Notice over the coming months and report figures to the Board at the next meeting.
10. The Board are asked for their thoughts on how this can be improved.

#### PENSION BOARD MEMBERSHIP

11. The interviews for the employee board member took place on 11 June. Two candidates were interviewed, but the panel deemed that neither candidate was suitable, and the role was re-advertised with a closing date of 5 July 2019.
12. It is anticipated that the post holder could be ratified by the full Fire Authority on 17 July 2019.

#### INJURY PENSION AWARD REVIEWS

13. The Board will recall that the HR department were putting in place a process to review the award of the degree of disablement in respect of injury pensions.
14. HFRA agreed that the award of an injury pension should be reviewed between three and five years after retirement to assess if there had been any substantial change.
15. It had been hoped that this process would have already been in place, but unfortunately there have been issues with securing HR resource to implement this project. It has recently been reported that now there are also issues with securing the resource of the Independent Qualified Medical Practitioner (IQMP) required to conduct the reviews.

#### COMBINED FIRE AUTHORITY

16. Work is underway looking at the gap analysis between Isle of Wight and Hampshire in respect of term & conditions, pay, allowances and pensions. The purpose of the gap analysis is to identify where there are differences
17. As far as Fire Pensions is concerned, there is one difference, which is regarding temporary promotions. HFRA made these pensionable for members of the 1992 and 2006 schemes, but IOWFRA have made them non pensionable.
18. A new decision will need to be made for the CFA from 1 April 2020 as to whether to treat temporary promotions as pensionable or not, and work will need to be done to understand the impact of the decision for both Hampshire and Isle of Wight fire-fighters.

#### TEMPORARY PROMOTIONS

19. The Board will recall how HFRA made a local decision with regard to temporary promotions and their treatment for different cohorts of employees when we initially wrote to all affected members in August 2016.
20. Cohort 1 was made up of members that had already retired. There were five members that were affected by the legislative changes.
21. Cohort 2 was made up of members who had the potential of an earliest retirement date within three years of August 2016. There were 33 affected members that fell into this category. Up to 2018/19 nine of these members had retired.

22. The maximum cost envelope as agreed by HFRA of the estimated costs for those in cohorts 1 and 2 were £256,000 for lump sums and £35,700 a year for annual pensions.

<b>Tax year</b>	<b>Lump sums paid</b>	<b>Annual pension paid</b>
2015/16	£22,491.88	£562.30
2016/17	£45,417.12	£7,406.19
2017/18	£22,788.87	£12,810.35
2018/19	£85,018.89	£18,019.76

23. The differences that have been paid out so far for the 14 members across both cohorts are broadly in line with the estimated figures prepared in 2016 and are all still within the maximum cost envelope.

- (a) Total of all lump sum differences paid are £175,716.76
- (b) Annual pensions differences paid for 2018/19 are £18,019.76

24. Four members have retired so far in 2019/20; the remaining 20 members are still in employment and could retire at any point. There are a number of factors which could mean that the estimated figures might be exceeded

- (a) A different retirement date to the one used in the estimate
- (b) Pay increases since 2016 to date of retirement
- (c) A protected and unbroken period of temporary promotion which continues until date of retirement
- (d) The increase in the commutation factors for the 1992 scheme that came into effect in October 2018.

25. Should we get close to exceeding the maximum cost envelope then further approval will need to be sought for additional funding.

**RECOMMENDATION**

26. The Board are asked to note the content of this report

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