

NOTICE OF MEETING

<i>Meeting</i>	HFRA Hampshire Firefighters' Pension Board	<i>Clerk to the Hampshire Fire and Rescue Authority</i> John Coughlan CBE
<i>Date and Time</i>	Thursday, 8th October, 2020 2.30 pm	<i>The Castle, Winchester Hampshire SO23 8UJ</i>
<i>Place</i>	Virtual Teams Meeting - Microsoft Teams	
<i>Enquiries to</i>	<u>members.services@hants.gov.uk</u>	

FILMING AND BROADCASTING NOTIFICATION

This meeting will be broadcast live via the HFRS YouTube Channel

Agenda

1 APOLOGIES FOR ABSENCE

To receive any apologies for absence received.

2 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.

3 MINUTES OF PREVIOUS MEETING (Pages 3 - 10)

To confirm the minutes of the previous meeting.

4 DEPUTATIONS

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

5 CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements the Chairman may wish to make.

6 SCHEME ADVISORY BOARD

For the Board to receive a verbal update on the Scheme Advisory Board.

7 FIREFIGHTERS PENSIONS OFFICERS GROUP

For the Board to receive a verbal update on the Firefighters Pensions Officers Group.

8 LEGISLATION AND LOCAL GOVERNMENT ASSOCIATION (LGA) UPDATE REPORT (Pages 11 - 54)

For the Board to receive a report providing an update on legislation and the Local Government Association.

9 FIRE PENSION BOARD STATUS REPORT AND RISK REGISTER REVIEW (Pages 55 - 94)

For the Board to receive an update on the development of key issues and to review the Risk Register.

ABOUT THIS AGENDA:

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

Agenda Item 3

AT A MEETING of the HFRA Hampshire Firefighters' Pension Board held remotely using Microsoft Teams on Wednesday, 15th July, 2020

Chairman:
* Stew Adamson

Vice-Chairman:
* Richard North

*Councillor Roger Price

*Richard Scarth

*Dan Tasker

*Present

Also present with the agreement of the Chairman:

Jo Thistlewood, Technical Finance Manager, Isle of Wight Council

92. **APOLOGIES FOR ABSENCE**

There were no apologies received.

93. **ELECTION OF CHAIRMAN**

The Clerk called for nominations for a Chairman until the 31 March 2021, after which point the Combined Fire Authority will be established. Stew Adamson was nominated, seconded and in the absence of any further nominations duly appointed Chairman of the Pension Board until 31 March 2021.

94. **ELECTION OF VICE-CHAIRMAN**

The Chairman called for nominations for a Vice-Chairman. Richard North was nominated, seconded and in the absence of any further nominations, duly appointed Vice-Chairman of the Pension Board until the 31 March 2021, after which point the Combined Fire Authority will be established.

95. **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.

There were no declarations of interest received for the meeting.

96. MINUTES OF PREVIOUS MEETING

The minutes of the last meeting were reviewed, and it was noted that there had been a typing error and Ross Singleton's name had been misspelt.

With this amendment, the minutes were agreed.

97. DEPUTATIONS

There were no deputations on this occasion.

98. CHAIRMAN'S ANNOUNCEMENTS

The Chairman thanked the Board on his election to Chairman of the Board, and acknowledged that this would be the last year as a Hampshire only Firefighters' Pension Board before the Combination Order between Hampshire Fire and Rescue Service and the Isle of Wight Fire and Rescue Service.

The Chairman also highlighted that there was currently a vacancy on the Board for a scheme member representative following the retirement of Malcolm Eastwood, and a recommended appointment to this vacancy would be brought to the HFRA meeting on the 22 July for approval.

99. SCHEME ADVISORY BOARD VERBAL UPDATE

The Board received a verbal update from Cllr Roger Price on the Scheme Advisory Board (SAB) (Item 8 in the Minute Book).

Members were informed about recent communication regarding the budget of the SAB and the levy. The Board also heard that the Home Office had confirmed that the McCloud/Sargeant pensions public consultation would be published on Thursday 16 July which would consult on both retrospective pension changes to address discrimination, as well as government future plans. It was noted that an update on the costs control mechanism would also be released at the same time.

Members of the Board also noted the compensation available for families of those who had died from Covid related illnesses whilst undertaking health service work, and there could be difficulties if this occurred in determining where the virus had been caught.

It was heard that because of the complexities of the firefighters' pension scheme, some services were looking to administrators to take these over, and it was highlighted that this was becoming a national issue. It was also noted that there had been discussions with Officers in relation to pensionable pay, and the

possibility of further information being presented to the Board at a future meeting.

The Board were content with the update and no questions were raised. The Chairman thanked Cllr Price for the informative update.

RESOLVED:

That the Firefighters' Pension Board noted the verbal update.

100. FIRE PENSION BOARD ANNUAL REPORT (2019/20)

Members received a report of the Chief Finance Officer which set out the work of the Pension Board throughout 2019/20 (Item 9 in the Minute Book).

The Chairman expressed his thanks to Officers on behalf of the Board for their work in terms of the Pension Regulator returns. Members of the Board were content with the report and no questions were raised.

RESOLVED:

That the annual report was agreed for submission to HFRA Standards and Governance Committee.

101. HAMPSHIRE FIRE PENSIONS ADMINISTRATION REPORT 2019/20

Members received a report from Pension Services providing the Board with an update on pensions administration (Item 10 in the Minute Book).

The report was introduced and Officers outlined that due to the current Covid-19 pandemic, the majority of staff had been homeworking and technology had enabled this to be fulfilled effectively. By using Microsoft Teams software for calls, the telephone contact team's functionality was now back to where it was pre-pandemic, and this software would continue to be used going forward. It was noted that some staff have needed to go into the office during the pandemic and undertake certain office based tasks such as dealing with post and scanning. As part of work being undertaken looking at processes and systems, areas of work which receive paper would also be examined to look at possibilities for future paperless working. Members noted that when exploring possibilities for future paperless working, Officers would need to be mindful of factoring in the older age of clients and any difficulties this may present.

Members attention was drawn to Section 5 of the report which highlighted administration performance, and it was noted that for each quarter of the year, the Service Level Agreement of 15 working days for all processes had been met without exception. It was explained that these figures were pre-Covid but the expectation was that this performance would continue to be high.

Officers outlined Section 6 of the report which illustrated that the uptake in Firefighters' registering for the Members portal was disappointing, with a total figure of 16.2%. It was noted that there had been a change to the process for

new starters, and from April 2020 new starters would be asked to register to the portal to access starter information.

Section 9 of the report outlined work being undertaken to implement the new Combined Fire Authority (CFA) and the actions being taken to ensure all Isle of Wight fire pension data would be transferred by the 1 April 2021, and it was heard that this was progressing well. Officers also highlighted the substantial audit ratings received by the pensions administration team as set out at Section 11, and how difficult it was to receive such a rating. The Chairman extended his congratulations to the Team for all their work and the impressive audit outcome.

Questions relating to the report were asked of Officers. Members of the Board, whilst acknowledging there had been an increase in numbers, were concerned about the numbers registering for the portal, and discussed whether there were any other mechanisms which could be used to encourage sign-up. Officers explained that there were communications linked to the Annual Benefit Statement and reminders were also published on the internal intranet but ultimately was reliant on personal responsibility. It was noted that the new process in place for new starters would help to increase registration numbers and awareness. It was also highlighted that consultations as referred to in the Scheme Advisory Board verbal update were also useful, and these would raise the profile and awareness of pensions.

The Chairman highlighted that in his role as Chairman of the Operations Management Board (OMB), he would take an action back to the OMB to look at communications amongst workforce teams. This would also be an opportunity to look at the promotions route and whether anything could be targeted there to engage people as they progress through promotion. In answer to a query about opportunities to work with the Unions in joint working, the Chairman would also explore this further through the joint trade union mechanism and raise as an agenda item.

RESOLVED:

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

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

The Board were provided with an update on Legislation and the Local Government Association (LGA) (Item 11 in the Minute Book).

Officers introduced the report and drew the Board's attention to paragraph 6 of the report which highlighted that as part of remedy work, numbers had been provided to Government to identify potential areas where people could be affected as a result of the Sargeant case. The table in paragraph 6 illustrated numbers and it was explained that a total of 131 non-claimants could be affected. As a result of the consultation being published tomorrow, and earlier than expected, officers would be busy over the forthcoming weeks analysing this.

Members were content with the report and no questions were raised.

RESOLVED:

Members noted the contents of the report.

103. **FIRE PENSION BOARD STATUS REPORT AND RISK REGISTER REVIEW**

The Board received a report which provided an update on ongoing issues (Item 12 in the Minute Book). The report was introduced and the Board's attention was drawn to the Risk Register at Appendix A of the report, and Members were invited to suggest any amendments to this. The Chairman queried whether the risk 'Regulatory and Compliance' was still a medium risk? Officers highlighted that the impact was still there but the likelihood after mitigation could be reduced to a score of 'one' as the risk was being managed well with connections to the SAB, information from the Pension Regulator and dedicated resources in place to examine new legislation.

Officers again highlighted the Sargeant/McCloud case as outlined in paragraphs 7 – 11, and the consultation which would be published tomorrow which would help significantly in explaining the timescales that remedy would apply to. The O'Brien case was outlined which related to part-time working and pensions, and it was highlighted that the potential remedy and work involved in this going forward could be significant, and Officers were unsure at this stage how remedy would apply.

Paragraph 21 provided the Board with an update on Covid-19 and it was noted that while some Hampshire Pension Service workers had HCC supplied hybrids or laptops, other fixed desk workers were reliant on home PC's to access systems which didn't offer them full functionality. As working from home would be in place until at least the end of September and possibly longer, HCC has recently made the decision to provide all fixed desk workers with the necessary IT equipment to work from home more effectively and efficiently.

Paragraph 26 highlighted that also as a result of Covid, some scheduled pre-retirement courses have had to be cancelled. It was heard that the next course was scheduled for the 23 November, and the Board were asked to give their view on holding virtual pre-retirement courses if not in a position to run these face to face. The Board supported holding these virtually if not in a position to run these face to face, which was the preferred option. Members agreed that holding these virtually would ensure that those approaching retirement had the opportunity to receive relevant information they needed and also the opportunity to ask questions. Officers were mindful that holding these courses virtually may not enable as much interaction, but separate one to one sessions could be arranged afterwards if needed. The Chairman highlighted that he would follow this up with the academy that organise the courses and discuss the planning for these, potentially catering for both face to face and virtual courses depending on circumstances at the time, and to make people aware in advance. The Chairman would feedback to Officers after academy discussions.

Members noted that there had been a recent appointment panel for a new Scheme Member representative on the Board. It was heard that the successful applicant would be recommended for appointment at the HFRA meeting next week. The other applicant, who was also of a high standard, would be recommended to fill any future Scheme Member vacancy without the need for a further appointment process.

Officers drew attention to some of the preparations for the new Combined Fire Authority (CFA) as outlined at paragraphs 47 – 51 in the report, and arrangements for the creation of a new Firefighters' Pension Board and Terms of Reference. The Board's thoughts were sought on the potential to increase membership on the new Pension Board by two members, to include Members from the Isle of Wight Fire Pension Board. Jo Thistlewood from the Isle of Wight Council highlighted that their Scheme Member representatives were keen to ensure that there was ability for an Isle of Wight Scheme Member to be included on the new Pension Board. It was noted that in governance terms this would need to be examined so were in a position to be able to appoint to the new Board before 1 April 2021.

Members also questioned whether there would be any administration issues in transferring Isle of Wight pension data to the Hampshire pension system, but it was heard that this was progressing well. Jo Thistlewood from the Isle of Wight Council highlighted that the total number of active, deferred and retired Isle of Wight Firefighters' was under 400 and didn't anticipate any difficulties with the transfer of data.

Members also queried about temporary promotions with the formation of the new CFA, and Officers confirmed that this was in the process of being explored.

Questions were also raised about awareness of the new administration of pensions for Isle of Wight Firefighters', and whilst Officers were confident that there wouldn't be any huge differences, it would be helpful for Officers from Hampshire and the Isle of Wight to discuss this further. It was noted that as Isle of Wight Firefighters' didn't have a pensions portal, there could be an increase in numbers signing up to the portal with the formation of the CFA.

Members agreed to add an extra recommendation for an options report to be brought to the next Board meeting setting out options for membership and any other decisions that would need to be made in forming the new Pensions Board. This would then need to be brought to the Shadow Authority for approval.

RESOLVED:

- a) That the content of the report was noted by the Hampshire Fire Pension Board
- b) That the Risk Register as set out in paragraphs 5-6 and APPENDIX A be approved by the Hampshire Fire Pension Board and the Board note that for Risk 4, 'likelihood after mitigation' be moved to a score of '1'.
- c) That the appropriate facilities for the pre-retirement courses as set out in paragraph 26 are endorsed by the Hampshire Fire Pension Board.

- d) That the Hampshire Fire Pension Board ask officers to explore options for the new Hampshire and Isle of Wight Pension Board as discussed at the meeting, and to bring a report to the next meeting of the Hampshire Fire Pension Board.

Chairman,

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**HAMPSHIRE
FIRE AND
RESCUE
AUTHORITY**

Purpose: Noted

Date **8 October 2020**

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 three 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 website.
3. Bulletins 34 to 36 can be found in APPENDICES A to C. There is a lot of information contained within these bulletins; the key items are set out below.

ANNUAL BENEFIT STATEMENTS - MEMBER COMMUNICATIONS (BULLETIN 34)

4. As it was not possible to include any details on the McCloud / Sargeant remedy within the Annual Benefit Statements (ABS') for 2020, the LGA provided some standard wording that all administrators could use to explain the current position with regard to the age discrimination court case.
5. It was agreed that the 2020 ABS' would provide the same information as provided last year, based on current legislation and pension arrangements, this is also likely to be the position for 2021.

RAISING TAX AWARENESS THROUGH JOB ADVERTS (BULLETIN 34 & 35)

6. Thresholds for the Annual and Lifetime Allowances have decreased, and there is an increased likelihood of members breaching tax limits by accepting a promotion or change of position which attracts pensionable allowances.

7. The LGA have recommended some suggested wording for FRAs to use in job adverts is as follows:

Pension considerations

Annual Allowance and LifeTime Allowance

Please note that it is your personal responsibility to check whether by applying / accepting this position it would result in any Annual Allowance or LifeTime Allowance implications. A breach in the Annual Allowance or LifeTime Allowance threshold could result in a Tax charge.

Further information is available on the Employer Pension web pages or from Hampshire Pension Services.

Temporary Promotions / Positions

Non-pensionable – 2015 Fire Pension Scheme

Any period of “temporary”, whether that is by way of promotion or allowances associated with a temporary position, will be treated as non-pensionable.

Pensionable – 1992 or 2006 Fire Pension Schemes

Any period of “temporary”, whether that is by way of promotion or allowances associated with a temporary position, will be treated as pensionable by way of an Additional Pension Benefit (APB).

8. The Board are asked for their views on this and whether it would be helpful to provide this information to HR so that it can be included in specific job adverts in the future.

PENSIONS DASHBOARD (BULLETIN 34)

9. The Pensions Schemes Bill, which is expected to be taken through the House of Commons later this year, provides legislation to support the creation of Pension Dashboards.
10. One of the aims of the dashboard is to provide one central place for all pension arrangements that someone has. This is primarily being aimed at Money purchase / defined contribution schemes, but the plan will no doubt be to eventually include defined benefit schemes information, including those from Public Sector pension schemes.
11. A new website for the Pensions Dashboards programme has been launched - www.pensionsdashboardsprogramme.org.uk/

TEMPLATE ADMINISTRATION STRATEGY (BULLETIN 34 & 35)

12. The SAB issued a consultation on a proposed template for a pension administration strategy.

13. Although we did not respond to the consultation, the Employer Pension Manager had fed into this document prior to the consultation being issued when she attended a meeting of the Administration and Benchmarking committee in 2019.
14. Whilst HFRA have a good relationship with Hampshire Pension Services, not all FRA's do have a good relationship with their pension administrator; and this template enables the relationship to be formalised somewhat and helps to clarify who is responsible for what and the relevant timescales.
15. Hampshire County Council, Hampshire Constabulary and Hampshire Fire & Rescue Authority have a Shared Services accession agreement which does cover the relevant content in this proposed template.

EQUALISATION OF MALE SURVIVOR BENEFITS (BULLETIN 35)

16. The Chief Secretary to the Treasury made a written statement on public service pensions: Survivor benefits for opposite-sex widowers and surviving male civil partners. The statement can be found in APPENDIX D.
17. In an Employment Tribunal case for the Teachers Pension Scheme, it was found that male survivors of female scheme members remain entitled to a lower survivor benefit than a comparable same-sex survivor. The Government is therefore intending to remedy this across other public sector schemes where the husband or male civil partner of a female scheme member are in a similar situation.
18. This could only affect the 1992 Fire Pension Scheme as we are talking about membership prior to April 1988. However, the 1992 Fire Pension Scheme legislation does not differentiate between a male or female survivor and therefore the benefits are already equalised and LGA do not consider that any amendments to Fire Pension Schemes will be required.

McCLOUD / SARGEANT REMEDY (BULLETIN 35 & 36)

19. The LGA have provided details in these bulletins of both the consultation and also the immediate detriment guidance. Both of these are covered in detail in the main Fire Pension Board Status Report.

RECOMMENDATION

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

APPENDICES ATTACHED

21. APPENDIX A - [FPS Bulletin 34 June 2020](#)
22. APPENDIX B - [FPS Bulletin 35 July 2020](#)
23. APPENDIX C – [FPS Bulletin 36 August 2020](#)
24. APPENDIX D - [Written Statement HCWS397](#)

Contact:

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FPS Bulletin 34 – June 2020

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

We hope that readers remain safe and well.

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

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

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

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

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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 email claire.hey@local.gov.uk

Table 1: Calendar of events

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

Actions arising

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

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

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

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

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

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

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

FPS

FPS England – 2020 valuation final data specifications

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

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

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

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

Protected Pension Age - HMT extension

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

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

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

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

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

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

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

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

ABS 2020 – member communications

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

This is because:

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

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

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

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

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

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

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

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

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

Raising tax awareness through job advertisements

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

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

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

Pension Considerations

Annual Allowance

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

Lifetime Allowance

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

Temporary Promotions/Positions

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

Guide to linking benefits in the FPS

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

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

[Click here to return to Contents](#)

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

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

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

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

IQMP patient confidentiality and the pension scheme rules

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

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

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

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

Table 2: FPS regulations on IQMP examinations and reports

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

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

Website and resources update

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

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

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

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

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

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

June query log

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

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

[Click here to return to Contents](#)

FPS England SAB updates

COVID-19 FPS governance survey

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

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

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

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

Template administration strategy consultation

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

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

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

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

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

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

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

SAB minutes index

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

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

Other News and Updates

TPO determine on data

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

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

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

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

Pension dashboard update

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

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

[Click here to return to Contents](#)

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

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

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

Transfer arrangements for CARE additional pension (FPS 2015)

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

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

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

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

Events

FPS coffee mornings

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

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

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

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

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



Brew and a Chat

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

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



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

Annual Local Pension Board wrap-up training 2020

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

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

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

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

HMRC

HMRC newsletters/bulletins

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

[Click here to return to Contents](#)

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

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

Legislation

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

Useful links

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

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FPS Bulletin 35 – July 2020

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

We hope that readers remain safe and well.

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

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

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

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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 email claire.hey@local.gov.uk

Table 1: Calendar of events

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

Actions arising

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

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

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

FPS

Sargeant remedy consultation published

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

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

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

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

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

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

Raising tax awareness through job advertisements – update

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

We therefore suggest the following optional paragraphs:

Temporary Promotions/Positions

Non-pensionable

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

Pensionable as an APB

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

FPS England – 2020 valuation update

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

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

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

Website and resources update

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

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

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

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

July query log

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

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

FPS England SAB updates

Template administration strategy consultation – reminder

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

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

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

The consultation will run until 31 August 2020 and responses should be sent to bluelight.pensions@local.gov.uk.

SAB levy 2020-21

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

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

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

Other News and Updates

Equalisation of male survivor benefits in public service pension schemes

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

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

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

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

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

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

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

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

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

[Click here to return to Contents](#)

Government launch call for evidence on pensions tax relief

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

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

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

TPO publish corporate plan 2020–2023

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

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

[TPO corporate plan 2020-2023](#)

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

TPR publish corporate plan 2020-2021

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

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

PASA launches GMP equalisation guidance

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

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

Events

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

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

FPS coffee mornings

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

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

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

Local Pension Board wrap-up training 2020 – event summary

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

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

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

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

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

HMRC

HMRC newsletters/bulletins

HMRC have published the following newsletters in July:

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

Useful links

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

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FPS Bulletin 36 – August 2020

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Table 1: Calendar of events

Event	Date
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North East regional FPOG – TBC	16 September 2020
Virtual SAB	17 September 2020
Virtual Firefighter Pensions Technical Community	22 September 2020
Virtual FPS AGM FPS AGM - Day 1 - Tues 22 Sept 2020 FPS AGM - Day 2 - Weds 23 Sept 2020	22-23 September 2020
Fire Finance Network conference	7-8 October 2020
SAB	10 December 2020

Actions arising

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

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

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

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

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

FPS

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

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

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

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

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

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

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

Home Office immediate detriment note published

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

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

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

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

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

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

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

Medical Appeal Boards - service update

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

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

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

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

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

FPS England – 2020 valuation data collection

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

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

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

Consultation on FPS Wales

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

The proposed amendments address the Supreme Court rulings of:

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

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

Website and resources update

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

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

August query log

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

[Click here to return to Contents](#)

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

FPS England SAB updates

New Chair of the FPS (England) Scheme Advisory Board

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



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

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

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

SAB informal response to initial HMT remedy thinking

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

Within the response the Board highlighted the following points:

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

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

COVID-19 FPS governance survey update

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

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

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

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

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

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

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

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

Other News and Updates

The Pensions Regulator (TPR) scheme return 2019-20

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

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

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

PSPS survey – modernisation of GAD’s actuarial factors

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

GAD need your help

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

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

If you have any technical difficulties in accessing the surveys, please contact GAD immediately on enquiries@gad.gov.uk.

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

The Pensions Ombudsman (TPO) stakeholder newsletter

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

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

Events

Virtual FPS AGM 22 and 23 September 2020

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

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

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

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

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

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

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

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

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

FPS coffee mornings

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

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

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

HMRC

HMRC newsletters/bulletins

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

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

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

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

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

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

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

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

Legislation

SI	Reference title
2020/893	The Local Government Pension Scheme (Amendment) (No. 2) Regulations 2020

Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [Khuh 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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- [LGPS Regulations and Guidance](#)
- [LGPS member site](#)

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Written questions, answers and statements

UK Parliament > Business > Written questions, answers and statements > Find written statements > HCWS397

Public service pensions, survivor benefits for opposite-sex widowers and surviving male civil partners.

Statement made on 20 July 2020

Statement UIN HCWS397

Statement made by

	Steve Barclay The Chief Secretary to the Treasury Conservative	>
	North East Cambridgeshire	

Statement

The government is committed to providing public service pensions that are fair for public sector workers and for taxpayers. The government's position remains that benefit entitlements should normally be determined based on the rules applicable at the time the member served, to maintain fairness for active scheme members and the taxpayer.

Following the *Walker v Innospec* Supreme Court ruling, the government decided that in public service schemes, surviving male same-sex and female same-sex spouses and civil partners of public service pension scheme members will, in certain cases, receive benefits equivalent to those received by widows of opposite sex marriages. The exception to this is in specific schemes where, in the past, improvements in female members' survivor benefits have involved female members making employee contributions or increasing them.

A case brought in the Employment Tribunal against the Secretary of State for Education earlier this year highlighted that these changes may lead to direct sexual orientation discrimination within the Teachers' Pension Scheme, where male survivors of female scheme members remain entitled to a lower survivor benefit than a comparable same-sex survivor.

The government has concluded that changes are required to the Teachers' Pension Scheme to address the discrimination. The government believes that this difference in treatment will also need to be remedied in those other public service pension schemes, where the husband or male civil partner of a female scheme member is in similar circumstances.

Departments responsible for the administration of affected schemes will consult on and take forward changes as soon as possible. Schemes will notify their members of changes and any actions they need to take.

Statement from

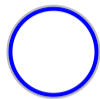
Treasury	>
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Linked statements

This statement has also been made in the House of Lords

Treasury

Public service pensions, survivor benefits for opposite-sex widowers and surviving male civil partners.



[Lord Agnew of Oulton](#)
Lords Spokesperson
Conservative, Life peer

Statement made 20 July 2020

HLWS393

Lords

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**HAMPSHIRE
FIRE AND
RESCUE
AUTHORITY**

Purpose: Noted

Date **8 October 2020**

Title **FIRE PENSION BOARD STATUS REPORT & RISK REGISTER REVIEW**

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 1 2020/21 was submitted to HMRC on 29 July 2020 and paid on 7 August 2020. The table below shows the breakdown of the payments made.

Type of payment	Number of members	Tax year relates to	Amount paid
AFT – Annual Allowance	1	2019/20	£15,593
Total paid to HMRC			£15,593

RISK REVIEW

4. There are a number of items in pension administration and governance which contain elements of risk to varying degrees. Risks are captured through a variety of ways; some are on the risk register, while others are picked up as part of the regular horizon scanning that the Employer Pension Groups do.

RISK REGISTER

5. The board are asked to review the Risk Register and to suggest any amendments. The Risk Register can be found in APPENDIX A.

SARGEANT CASE

6. This is also known as the McCloud case; it relates to the age discrimination court case that was brought against the transitional protections for the 2015 Fire Pension Scheme.
7. Due to the complexities and size of this issue, the Board are asked to consider if they would like the McCloud / Sargeant remedy to appear as a separate specific issue on the Risk Register.

SARGEANT CASE - CONSULTATION

8. On 16 July 2020, HM Treasury published a consultation for all unfunded Public Service Pension Schemes, including Fire, Police, Teachers, NHS, Armed Forces, Civil Service and Judicial Schemes; the consultation closes on 11 October 2020. The Governments consultation webpage can be found in APPENDIX B.
9. The Home Office have issued an FAQ document, and this can be found in APPENDIX C.
10. As the consultation document is 70 pages long, which makes it a challenging and technical read, the Employer Pension Manager has pulled together a short summary which lists the key points. The summary can be found in APPENDIX D.
11. There are many issues and concerns with the consultation, some of which are listed in the summary in APPENDIX D. The LGA have raised several questions with the Home Office and have asked for urgent clarification.
12. The consultation provides some ideas of timescales for the completion of remedy, The Government intends to bring forward new primary legislation to take effect from April 2022, however it is likely to be some time after this before all the relevant scheme legislation is in place to enable administrators to implement remedy.
13. We anticipate that the Government will respond to this consultation early next year, it is at this point that we will be a little clearer about the way forward and we hope it will also provide clarification on the likely timetable for implementation. The timescales will also need to include a further consultation period on proposed amendments to the Fire Pension Schemes legislation.
14. In addition to the issues of implementing remedy, HFRA will have an additional complication due to the CFA taking effect from 1 April 2021. Because of both the payroll arrangements and HMRC requirements to make all employees a new starter under the new employer; it means that there will not be access to historical payroll data prior to 1 April 2021.

15. This means that we will not be able to use the SAP HR/Payroll system to automatically calculate the necessary member contributions and pay details that will be required for the remedy period for both the legacy and reformed schemes.
16. There will be significant challenges to calculate the relevant information for all members of the CFA and members that have left HFRA or IWFRS within the remedy period, as all this work will need to be done manually.
17. The Employer Pension Groups are agreeing the way forward as the work required for the McCloud / Sargeant remedy is substantial and will require a lot of resources. We are currently looking at this and starting to put some plans in place. It is anticipated that the additional resources required for this project will inevitably mean that there will be increased costs for all partners.
18. A response to the consultation has been drafted, and the Board are asked for their comments and views on this and to agree the consultation response as set out in APPENDIX E.

SARGEANT CASE – IMMEDIATE DETRIMENT CASES

19. The Home Office issued guidance on 21 August 2020 on the treatment of “immediate detriment” cases. This would apply to two groups of people, who were unprotected members or who had tapered protection.
 - (a) who become eligible to retire at age 50 with at least 25 years’ service and want to have all their benefits paid from the legacy scheme; or,
 - (b) who don’t qualify for lower tier ill health pension under the single pot but would do so under the ill health arrangements in their legacy scheme.
20. This six-page note, which can be found in APPENDIX F, does not go into enough detail to provide any real clarity for administrators and raises yet more questions.
 - (a) This guidance means that it cannot be applied to anyone that has already retired, yet it does not clarify what date that it is effective from.
 - (b) We do not know the legal status of this guidance and whether it can apply to all relevant members. The Home Office have said that it is legally underpinned and can be used. The LGA have said that in their opinion, this can only be applied to claimants and that there is no legal basis to be able to apply this to non-claimants as there is no tribunal order, or legislation to rely on.
 - (c) There are a number of unresolved issues such as contributions, transfers into the 2015 scheme, scheme pays and annual allowance assessments etc.

21. Should we use the “immediate detriment” guidance for any members, then they will be required to sign declarations / waivers, and after April 2022, we will be obliged to revisit these cases to finalise any unresolved issues, which may mean that that the member will have a further bill to pay. This would leave the member with some degree of uncertainty with an unknown amount that would need to be paid in the future. There may also be decisions in the outcome of the consultation which could impact any benefits in payment.

MATTHEWS CASE

22. This is also known as the O’Brien case; it relates to part time working and pensions. In essence, these cases had employment going back to the 1970’s, but were only eligible to enter the pension schemes from 2000, when the Part Time Workers Directive came into force; however, the court determined that the whole of the employment should count for pension purposes and not just the period from 2000.
23. A consultation was expected in late spring, but that was before Covid-19 hit, so has been delayed; we have no information on when this is now expected. The consultation will help us to define the parameters of this work and to be able to start to identify the volume and scope of what will be required.

COMMUNICATION

24. The next pre-retirement course was scheduled for 23 November but this has now been pushed back to the 17 December, these courses are always very popular and fully attended. The Academy have confirmed that this course is planned to go ahead in person with reduced numbers.

MEETINGS

25. The Employer Pension Manager has been attending fortnightly online coffee mornings for the Fire Technical Group. She has also attended an online meeting for the South East Fire Regional Pension Officers Group which vice chair Richard North also attended in place of the Board chair. The Employer Pension Manager has also attended meetings to discuss the immediate detriment cases for McCloud / Sargeant remedy and the Fire Communications Working Group.
26. There was also attendance at the Fire AGM on 22 and 23 September, it was a virtual AGM this year due to Covid-19 restrictions. This meant that we did miss out on some of the networking that happens at these events, but overall it was a good event and heavily themed around the McCloud / Sargeant remedy.

27. There were sessions from a variety of speakers and a useful workshop on the second day.
- (a) Nick Gannon the Policy Lead from TPR gave a presentation on breaches, covering what they are and when and how to report them.
 - (b) Des Pritchard the chair of the Administration and Benchmarking Committee gave an update on the work of the committee, including, the AON survey, the pension administration strategy, and that they are planning a survey to enable a review of the administration and management structure.
 - (c) Jennifer Miles a partner from Eversheds Sutherland gave a case law update covering McCloud, and three determinations from the Pension Ombudsman
 - (d) Rob Fornear from the Government's Actuary Department gave a presentation on data for the 2020 Valuation, the impact of McCloud and the unpausing of the cost cap
 - (e) Peter Spreadbury, the Head of Police Workforce and Professionalism Unit at the Home Office joined by phone to give a very brief update on the Police & Fire Team and to talk about how they want to engage with the fire community
 - (f) The last part of the day was the workshops, each delegate was allocated one of three rooms, technical, data or communications. Each room was looking at what was needed, issues, concerns, what we can do now and how to have consistency and engagement across the sector.

MEMBER PORTAL

28. There has been a slight increase of those registered for the Member Portal from 27% to 32%.
29. Numbers of those registered as at 17 September 2020 are shown in the table below:

Pension online registration numbers as at 17/092020							
Number of actives per age range							
HFRA FIRE	under 30	30-40	40-50	50-55	55-65	65+	Total
Registered	15	55	131	77	33	2	313
Not registered	113	206	224	83	45	2	673
Total	128	261	355	160	78	4	986
Percentage of actives per age range							
HFRA FIRE	under 30	30-40	40-50	50-55	55-65	65+	
Registered	12%	21%	37%	48%	42%	50%	
Not registered	88%	79%	63%	52%	58%	50%	
Total	100%	100%	100%	100%	100%	100%	
Percentage of all actives per age range							
HFRA FIRE	under 30	30-40	40-50	50-55	55-65	65+	Total
Registered	2%	6%	13%	8%	3%	0%	32%
Not registered	11%	21%	23%	8%	5%	0%	68%
Total	13%	27%	36%	16%	8%	0%	100%

PENSION BOARD MEMBERSHIP

30. In July 2020, the Fire Authority ratified the appointment of Mark Hilton as the new Scheme Representative Board member.
31. Mark joins the Board at a challenging time with both the consultation starting on the Public Service Pension Schemes in relation to the McCloud / Sargeant remedy case and also with the Combined Fire Authority coming into being on 1 April 2021.

COMBINED FIRE AUTHORITY (CFA)

32. When the CFA comes into effect on 1 April 2021, as it is a new entity, it will be necessary go through an auto-enrolment process. Discussions between the IBC Shared Services and HR have taken place to determine whether this should be treated as a normal cyclical auto-enrolment or as contractual enrolment. The latter means that all employments held with employees that are not in any pension scheme will be enrolled into the relevant scheme, regardless of the amount of earnings.
33. This will be a more straight forward process and less resource intensive to put in place. It does mean however that members that were auto-enrolled as part of HFRA's auto enrolment on 1 April 2020 or IWFRS auto-enrolment on 1 May

2020 and have subsequently opted out, will be enrolled again and will be required to opt out if they still wish to not remain a member of the pension scheme.

34. There is only one issue for Fire Pensions and that is to do with Temporary Promotions. IWFRS have made them not pensionable whereas HFRA has. Therefore it is recommended that the CFA make a decision confirming that from 1 April 2021, Temporary Promotions are pensionable for Fire Pension Scheme members of the CFA that are temporarily promoted whilst a member of the 1992 or 2006 Fire Pension Schemes; and the resulting additional pay will be used to award an Additional Pension Benefit to the member.
35. The decision should also confirm that, up to 31 March 2021, any members that were part of the IWFRS will not have their Temporary Promotion pay treated as pensionable; and that Temporary Promotions continue to be not pensionable for all Fire Pension Scheme members who are temporarily promoted whilst a member of the 2015 Fire Pension Scheme.

CFA BOARD MEMBERSHIP

36. The Board will recall that at the last meeting, it was agreed that officers would come back with options for the Board membership under the CFA. A number of different options were reviewed as it was agreed that we are keen to have IOW representation on the Fire Pension Board. The IOW currently has 4 board members, the two employer representatives are elected members, and the two scheme representatives are serving firefighters.
37. It was felt that the best way forward would be to contact both of the scheme representatives to see if one of them would be willing to become an employer representative as both wished to continue serving on the Local Pension Board.
38. It is confirmed that subject to the Board's recommendation and approval by the Shadow Fire Authority that under CFA, one representative is willing to become an employer representative and the other will remain as a scheme representative.
39. This means that this will increase the CFA Fire Pension Board membership to 8 members. There will therefore need to be an amendment made to the Terms of Reference for this to take effect.

RECOMMENDATIONS

40. That the content of this report be noted by the HFRA Hampshire Firefighters' Pension Board
41. That the Risk Register as set out in paragraphs 4-7 and APPENDIX A be approved by the HFRA Hampshire Firefighters' Pension Board.
42. That the response to the Public Service Pension Schemes consultation as set in APPENDIX E is endorsed by the HFRA Hampshire Firefighters' Pension Board.
43. That the proposal about the treatment of temporary promotions under the CFA as set out in paragraphs 21-22 is endorsed by the HFRA Hampshire Firefighters' Pension Board and that a report is taken to the Shadow H&IOW Fire and Rescue Authority recommending a formal decision to this effect.
44. That the proposal about the membership of the Fire Pension Board under the CFA as set out in paragraphs 36-39 is endorsed by the HFRA Hampshire Firefighters' Pension Board and that a report is taken to the Shadow H&IOW Fire and Rescue Authority to enable the necessary appointments to be made.

APPENDICES ATTACHED

45. APPENDIX A – Risk Register
46. APPENDIX B – [Public Sector Pension Scheme Consultation](#)
47. APPENDIX C – Home Office consultation FAQs
48. APPENDIX D - Summary of consultation
49. APPENDIX E – Consultation draft response
50. APPENDIX F – Immediate Detriment Guidance note

Contact:

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		Impact					
		Negligible	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Rare	1	1	2	3	4	5
	Unlikely	2	2	4	6	8	10
	Possible	3	3	6	9	12	15
	Likely	4	4	8	12	16	20
	Almost certain	5	5	10	15	20	25

Risk Register for Fire Pensions

Risk number	Date identified	Risk area	Risk description	Likelihood	Impact	Risk score	Control measure / mitigation	Likelihood after mitigation	Impact after mitigation	Risk score after mitigation	Risk owner
1	12/05/2017	Operations	Failure to administer the pension scheme in a proper and effective manner	2	3	6	<ul style="list-style-type: none"> Liaison with employer End of Year Employer web (UPM access) Fire Employer Group & Pensions Admin Group Fire Pension Board Management oversight and escalation to Rob Carr Diversification – we run a Shared Services arrangement Ability to call in temporary staff for peak workloads Business continuity plan 	1	3	3	Scheme Manager
2	12/05/2017	Financial	Failure to pay the right amounts on time and in line with legislation	3	3	9	Pensions Services: - <ul style="list-style-type: none"> Testing software Internal and External Audits Standardisation of systems and processes All processes and calculation have a “doer” and a separate “checker” Monthly mortality screening for pensions in payment Declaration of Entitlement forms annually to pensioners and beneficiaries living overseas or upon mail being returned Participation in National Fraud Initiative reporting 	2	3	6	Pension Administrator
3	12/05/2017	Funding	Failure to adequately account for fund pension contributions	2	4	8	<ul style="list-style-type: none"> Strong financial plan for HFRA Planned budget Aim to complete all Home Office returns on time 	1	4	4	Scheme Manager
4	12/05/2017	Regulatory and Compliance	Failure to identify and interpret and implement legislation correctly	3	4	12	<ul style="list-style-type: none"> Scheme Advisory Board Local Government Association (LGA) Regional Fire Pension Officer Groups Fire Pension Board Employer Pension Manager as a dedicated resource liaising between <ul style="list-style-type: none"> Fire Employer Group & Pensions Admin Group, pulling together Key Accountabilities for IBC Pensions Admin Team, HR and Hampshire Pension Services 	1	4	4	Scheme Manager

BEFORE MITIGATION		Impact					
		Negligible	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Rare	1					
	Unlikely	2			1. Failure to administer the pension scheme in a proper and effective manner	3. Failure to adequately account for fund pension contributions	
	Possible	3			2. Failure to pay the right amounts on time and in line with legislation	4. Failure to identify and interpret and implement legislation correctly	
	Likely	4					
	Almost certain	5					

AFTER MITIGATION		Impact					
		Negligible	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Rare	1			1. Failure to administer the pension scheme in a proper and effective manner	3. Failure to adequately account for fund pension contributions 4. Failure to identify and interpret and implement legislation correctly	
	Unlikely	2			2. Failure to pay the right amounts on time and in line with legislation		
	Possible	3					
	Likely	4					
	Almost certain	5					

1. Home (<https://www.gov.uk/>)
2. Public service pensions (<https://www.gov.uk/topic/work-careers/public-service-pensions>)

Open consultation

Public service pension schemes consultation: changes to the transitional arrangements to the 2015 schemes

Published 16 July 2020

From:

HM Treasury (<https://www.gov.uk/government/organisations/hm-treasury>)

Summary

This consultation seeks views on proposals relating to the 2015 public service pension scheme reforms.

This consultation closes at 11:59pm on 11 October 2020

Consultation description

1. Consultation

- Following the Court of Appeal judgment in December 2018, the government has been working to fix the discrimination identified in the policy of transitional protection that was part of the 2015 reforms to public service pension schemes. This consultation sets out the government's proposals for addressing this discrimination along with the government's plans for the future.
- The government is committed to fixing the discrimination as quickly as possible and welcomes your views on how best to do this.
- The consultation document itself, an accompanying Equality Impact Assessment and a leaflet which sets out a summary of the proposals can be found on this page. The scope of the schemes covered by this consultation can also be found on page 3 of the document itself. The consultation begins on 16 July 2020 and will close on 11 October 2020.

2. Update on the cost control element of the 2016 Valuations

- Alongside the public consultation, the government is making a related announcement on the cost control mechanism, which can also be found on this page. This provides an update on the pause of cost control mechanism, and the next steps government will take.

Documents

Public Service Pensions Consultation

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900766/Public_Service_Pensions_Consultation.pdf)

Ref: ISBN 978-1-913635-37-4, 2973, CP 253 PDF, 851KB, 74 pages

Order a copy (<https://www.gov.uk/guidance/how-to-buy-printed-copies-of-official-documents>)

Public Service Pensions leaflet

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900859/Public_Service_Pensions_Leaflet.pdf)

PDF, 63.1KB, 3 pages

Public Service Pensions EIA

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900999/Public_Service_Pensions_EIA_.pdf)

Ref: ISBN 978-1-913635-44-2, 2979 PDF, 378KB, 38 pages

Update on the Cost Control Element of the 2016 Valuations

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901141/Update_on_the_Cost_Control_Element_of_the_2016_Valuations.pdf)

PDF, 139KB, 2 pages

Published 16 July 2020

Related content

- State Pension age review: final report (<https://www.gov.uk/government/publications/state-pension-age-review-final-report>)
- A Plan for Jobs: documents (<https://www.gov.uk/government/publications/a-plan-for-jobs-documents>)
- Hong Kong BN(O) Visa: policy statement (<https://www.gov.uk/government/publications/hong-kong-bno-visa-policy-statement>)
- Our plan to rebuild: The UK Government's COVID-19 recovery strategy (<https://www.gov.uk/government/publications/our-plan-to-rebuild-the-uk-governments-covid-19-recovery-strategy>)
- UK points-based immigration system: further details statement (<https://www.gov.uk/government/publications/uk-points-based-immigration-system-further-details-statement>)

Explore the topic

- Public service pensions (<https://www.gov.uk/topic/work-careers/public-service-pensions>)



Home Office

McCloud/Sargeant – Public service pension schemes consultation

Frequently asked questions (FAQs)

Background

In 2015 all main public service pensions, including the Firefighters' Pension Scheme, were reformed. These reforms included 'transitional protection', for people closer to retirement. In December 2018, the Court of Appeal [ruled](#) that this directly discriminated against some younger pension scheme members.

On 15 July 2019 the government made a written ministerial statement ([HCWS1725](#)) confirming that, as 'transitional protection' was offered to members of all the main public service pension schemes, the difference in treatment would be remedied across all those schemes.

In addition, the government has confirmed that this will apply to all members with relevant service in affected public service schemes and not just those who have lodged legal claims.

The consultation that the government has now published, sets out options for how the government will remove the discrimination. These options involve providing members with a choice of which set of pension scheme benefits, those under their old scheme or the new scheme, they would like to receive for the remedy period.

Following the implementation of the pension changes to address the discrimination, all those who continue in service will do so as members of their respective 2015 schemes, regardless of their age.

In January 2020 the Home Office held initial technical discussions with the Firefighters' Pensions Scheme Advisory Board for England (SAB) to help with the policy development process. Feedback from these discussions provided the government with helpful comments which has been used to develop detailed proposals in the consultation.

What is being announced today?

HMT Public Consultation

The government has today launched a consultation on proposals to remove the discrimination identified in the McCloud/Sargeant litigation. This is your opportunity to put forward your views. You can find details on how to respond to the consultation here:

<https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>

The consultation will run for 12 weeks and will close on **Sunday 11 October**.

Cost Control mechanism

Separate to the consultation, the government has announced that the pause of the cost control mechanism will be lifted, and the cost control element of the 2016 valuations process will be completed. The costs of addressing the discrimination identified in the McCloud judgment will be included in this process.

The full announcement can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901141/Update_on_the_Cost_Control_Element_of_the_2016_Valuations.pdf

FAQs

ABOUT THE CONSULTATION

Q1: What is the purpose of this consultation?

A: In 2015 all main public service pension schemes were reformed, including the Firefighters' Pension Scheme. These reforms included 'transitional protection', for people closer to retirement. The Courts have ruled that this directly discriminated against some younger pension scheme members.

The government's proposals to remove the discrimination will apply to all pension scheme members who were in service on or before 31 March 2012 and in service on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

The government will provide affected members with the option to choose between their old (mostly final salary) and new (career average) pension scheme benefits for service between 1 April 2015 and 31 March 2022.

The government is seeking views on how this choice might work. There are two different proposals:

1. **An Immediate Choice Exercise:** The choice will be made as soon as practicable.
2. **A Deferred Choice Underpin:** Members would remain in, or be returned to, the old schemes for service between 2015 and 2022. At the point of retirement (or when benefits become payable) or as soon as practicable (for members who have already had a pension award), members would be then able to choose to instead receive new scheme benefits for that period.

Changes to the judicial and local government pension schemes are being consulted on separately.

Q2: Who is affected/in scope of the consultation proposals?

A: Scheme members who were serving on or before 31 March 2012 and still serving on or after 1 April 2015 will be in scope of these proposals.

This includes those members who are currently active, deferred or retired, and those with a qualifying break in service of less than 5 years. You do not need to put in a legal claim to be eligible for the changes proposed in the consultation.

Members who originally received transitional protection will also be provided with a choice of which scheme benefits they would prefer to receive for the remedy period.

Q3: Why are members who joined after 31 March 2012 not in scope?

A: The Court of Appeal's ruling identified unlawful discrimination between older and younger members in service on or before 31 March 2012. It is therefore these groups that the government are now equalising treatment between.

Q4: Why is government asking members to make the choice between the different sets of pension benefits?

The differences between the old and new pension schemes mean the set of benefits that is best for individuals depends on personal circumstances. We cannot simply extend transitional protection to all members and place them into the old schemes, because some members are better off in the new schemes.

The government is unable to make this choice for members as it depends on personal circumstances and preferences, and so will instead provide members with information to allow them to make an informed choice whichever option is chosen as the government's final policy.

Q5: Does the consultation document address future pension provision?

A: Yes. All public servants who are building up benefits in the main public service pension schemes, including firefighter scheme members, will be placed into the 2015 reformed pension schemes from 1 April 2022, regardless of when they joined, therefore providing equality of treatment.

The 2015 reforms to public service pensions increased fairness and affordability. The government believes these schemes provide a good pension provision and continue to be more generous than most private sector pensions.

Changes to the judicial and local government pension schemes are being consulted on separately.

Q6: How will this affect those who have retired or will retire before 2022?

A: All affected members will be given a choice between old and new scheme benefits for service between 2015 and their retirement date.

Where possible the choice will be offered at retirement. Where this is not possible the choice will be offered as soon as practicable after legislative changes are implemented. Any change to benefits will be backdated.

Q7: In March 2020, members were told to retain their tax paperwork for 2015/16, is this still the case?

A: Yes. Depending on the eventual policy, the member may need the relevant paperwork to help them access appropriate compensation. Therefore, it would be helpful if members kept their paperwork related to tax from April 2015 onwards.

This would include:

- *all self-assessment returns*
- *P60s*
- *Documents relating to any private pension schemes, and*
- *the annual statements from your pension scheme administrator and documents relating to any other private pension schemes.*

POST-CONSULTATION

Q8: What are the next steps following the consultation?

A: Following the end of the public consultation period, the government will publish its response and announce the final policy decision. HM Treasury will then lay legislation in Parliament to amend the Public Service Pensions Act to enable government to enact these changes. The Home Office will simultaneously begin drafting and consulting on amendments to scheme regulations.

Q9: When will the changes to schemes be implemented from?

A: Removing the discrimination will take time, but the government is committed to ensuring that all eligible members are treated equally and are able to choose to receive benefits under the terms of either their legacy scheme or the reformed scheme. This will not happen before 2022 but any payments will be backdated to 2015 where necessary.

COST CONTROL MECHANISM**Q10: How will the unpausing of the cost control mechanism affect the 2016 valuations?**

A: As the pause will be lifted, HM Treasury will set out in Directions the detail of how the cost control process element of the 2016 valuations will be completed.

By taking into account this increased value of public service pensions that will result from members having a choice of scheme benefits for the 'remedy period', the cost control process will show greater costs than if they were not included. The government will consider how best to take forward the cost control mechanism outcomes for each scheme once the details of these are known.

Summary of [Public Sector Pension Schemes consultation](#)

Proposals included within the consultation are summarised below:

1. What is the remedy period?

The remedy period is 1 April 2015 to 31 March 2022 and will apply to anyone that was in service on or before 31 March 2012 and in service on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, regardless of transitional protection status awarded.

- a. This means that remedy will apply to Protected members as well as Tapered and Unprotected members
- b. Remedy will apply to all relevant members, including those that have left/retired since 1 April 2015

2. What happens from 1 April 2022?

Accrual in all unfunded final salary schemes (legacy schemes¹) for existing and new Protected members will cease on 31 March 2022

- a. All members will move to the reformed schemes² from 1 April 2022, ending all transitional protections and removing the age discrimination

3. What are the two main proposals?

This consultation is for all unfunded public sector pension schemes, including Fire, Police, Teachers, NHS, Armed Forces, Civil Service and judicial pension schemes, so all public sector will have the same options and the outcome will be the same for all schemes. The Local Government Pension Scheme has its own consultation and is not included in these proposals.

The consultation provides two ways to achieve remedy, the member will have to make a choice in either scenario, but the issue is when that choice is made. 1) it is made as an “immediate choice” potentially within a couple of years of 2022. Or, 2) it is made as a “Deferred Choice” this would provide an underpin for the remedy period and means that the member will make the choice at the point when their benefits become payable. The choice the member makes will be irrevocable.

Every member with relevant membership will have the option to choose either legacy or reformed benefits for remedy period.

Administratively, both options are exceptionally challenging! Communication is going to be key.

4. Immediate Choice

This option could leave the member disadvantaged later in their career as they won't know what path their career will take or what the future schemes will look like or what provision they may provide.

There will most likely be time limits (albeit long ones) for members to respond. So a default position would need to be agreed to be able to move members to the relevant scheme for the remedy period for those that do not respond.

¹ Legacy schemes are e.g. 1992 or 2006 Fire Pension Schemes

² Reformed schemes mean the 2015 CARE pension schemes

The immediate choice exercise would take a few years to fully implement and be completed. But does then provide clarity to members about their benefits and how they are accruing.

Statements of information on 1) pension benefits, 2) member contributions owed or due as a refund, 3) tax details relating to Annual Allowance, 4) family benefits would need to be provided to the member as a minimum to enable the member to make their choice.

Where member owes contributions, they will be given the option to pay upfront or over time. Where they have overpaid, a refund will be paid. Both scenarios are likely to have interest added. Members that have been in the reformed scheme for the whole period and choose their legacy 2006 membership will have overpaid contributions and will be owed a refund.

Deferred Choice underpin (DCU)

All members will be deemed to have accrued benefits in the reformed schemes for the remedy period until such time as they make their choice.

On 1 April 2022 all members will be placed back in their legacy schemes for the remedy period, this will trigger a number of immediate actions

- Annual Allowance calculations will need to be revisited for all years from 2015/16 onwards. If there are is any tax to be paid and this falls in the current year or the four preceding years, – the member must pay it, if there is any tax due to be refunded, the Government will pay it back even if the period is more than 4 years prior.
- Contributions will be approached in two stages. Stage one will be to levy a charge on all members with reference to their legacy benefits. Stage two will be to then charge for the contributions at retirement where the members chooses the reformed scheme for the remedy period. E.g. 2006 legacy members will receive a refund at stage one and then have to pay contributions at stage two. Where member owes contributions, they will be given the option to pay upfront, or over time. Where they have overpaid, a refund will be paid. Both scenarios will have interest added.

Annual Benefit Statements would need to show two sets of figures one for legacy benefits, and one for reformed benefits. This means that data will need to be held for the remedy period based on both legacy and reformed scheme rules.

Pensions Savings statements would need to set out both legacy and reformed scheme details and provided to the member.

At the point of retirement, statements of information on 1) pension benefits, 2) member contributions owed or due as a refund, 3) tax details relating to Annual Allowance, 4) family benefits would need to be provided to the member as a minimum to enable the member to make their choice.

Where the member owes contributions for the remedy period as a result of their choice, they will be able to choose to have this deducted from their lump sum payment. Benefits will not be able to be paid until any arrears have been paid.

Protected members

- No change in legacy scheme benefits until 1 April 2022
- Will be put into reformed schemes from 1 April 2022
- If 30 years already achieved in legacy scheme (1992 Fire) then moving to reformed scheme for remedy period could be advantageous as they will be able to accrue more pension
- Could be beneficial for members who have significant earnings growth to move to the reformed scheme for the legacy period to reduce / avoid any Annual Allowance issues

Taper members

- Will continue to be tapered until 31 March 2022
- Will be put back into legacy scheme for entire remedy period
- Will be put into reformed schemes from 1 April 2022
- Will have to choose either all legacy or all reformed benefits for remedy period, may be an issue for some if 30 years achieved in this period

Unprotected members

- Will be put back into legacy scheme for remedy period
- Will be put into reformed schemes from 1 April 2022

High Level summary of Immediate Choice and Deferred Choice Underpin (DCU)

	Immediate Choice	Deferred Choice Underpin
Remedy Period	<ul style="list-style-type: none"> 1 April 2015 to 31 March 2022 	<ul style="list-style-type: none"> 1 April 2015 to 31 March 2022
When would members make their choice	<ul style="list-style-type: none"> Irrevocable choice made as soon as practicable after 31 March 2022 	<ul style="list-style-type: none"> Irrevocable choice made when a pension award becomes payable (usually when the member retires) Until then, members would be deemed to have been in their legacy scheme for the remedy period
What information would be provided	<ul style="list-style-type: none"> Decision based on assumptions, for most Schemes would provide information and online calculators to assist members in forecasting their pension entitlement under both schemes 	<ul style="list-style-type: none"> Decision based on known member entitlements Schemes would provide direct comparisons of actual entitlements under both schemes
Benefits to members	<ul style="list-style-type: none"> Addresses the issue relatively promptly, giving certainty to members as to their pension arrangements for the remedy period 	<ul style="list-style-type: none"> Ensures members can make their decision based on actual entitlement to benefits rather than having to do it based on assumptions
Potential downsides for members	<ul style="list-style-type: none"> Decision based on assumptions, so some may choose the scheme that does not turn out to be most beneficial for them 	<ul style="list-style-type: none"> Takes longer to resolve the issue so relative uncertainty over pension arrangements until members retire Some technical elements may be more complex to explain and resolve
Tax treatment and compensation where relevant	<ul style="list-style-type: none"> A member's tax position would be corrected within the statutory time limit to reflect their choice of benefits. Where they owe tax, this would be recouped for the 4 tax years before their decision point. Where they have overpaid tax, the government will repay this without a time limit 	<ul style="list-style-type: none"> Non-transitionally protected members' tax will be corrected, within the statutory time limits, in 2022 when they are deemed to have been in the legacy scheme Where tax is owed, this would be recouped for the 4 tax years before an individual's scheme benefits change. Where members have overpaid tax, the government will repay this without a time limit Where a member chooses reformed scheme benefits at the point of retirement, their tax position will be reassessed again. Where an AA tax charge arises from the choice, the scheme will compensate members for the charge

Some thoughts: What we don't know / issues / concerns (this is not exhaustive at all)

1. Fire 2006 members are going to be adversely affected with regard to their member contributions
2. Consultation mentions final salary link, and we can probably assume that benefits up to 31 March 2022 in final salary would be calculated the same way as now, but we do not know for sure if double accrual guarantee is in place
3. How any additional pension or transfers in whilst in the 2015 scheme and during the remedy period would count in the legacy schemes
4. Unpausing of cost cap, may mean that there are accrual rate / member contribution rate changes from 1 April 2019 and then a review every 4 years is likely, so we could have 2015, 2019, 2023 changes to contend with in the immediate future
5. Costs of removing discrimination will feed into future employer contribution rates once 2020 valuation completed. This is likely to mean an increase in employer contribution rates.
6. Will original commutation options still stand, or will these be able to be amended, or a different decision made for the remedy period amendment
7. Annual Benefit Statements will need to show legacy and reformed benefits if DCU option taken forward
8. Annual Allowance calculations will need to be done for both legacy and reformed benefits. What happens if under DCU a charge occurs post 2022, but would occur under legacy but not under reformed? What happens if there is a tax charge before the member has made their choice?
9. Fire 1992 members, if 30 years achieved before age 50, then contribution holiday applies until age 50. But will this apply as part of choice if this occurs during remedy period and member chooses legacy benefits.
10. Whether any additional lump sums paid more than 12 months after retirement will be classed as unauthorised payments and who will pay that tax.
11. Protected members that are still in employment from 1 April 2022, will be made to move to the reformed scheme, if not communicated / handled carefully, this could potentially mean a number of opt outs / leavers / retirements
12. For Fire will need to know about all temporary promotions in the 2015 scheme as will need to take into account for pension contributions / Additional Pension Benefits / Annual Allowance calculations
13. Those that have opted out of the reformed scheme appear to have the option of re-join, backdate and then be part of remedy, what evidence / representations would we want to consider on a case by case basis?

Public Service Pension Scheme Consultation

Introduction

Hampshire Fire and Rescue Authority (HFRA) welcomes the opportunity to respond to the consultation and this response has been approved by the Firefighter's Pension Board.

Technical queries

There are a number of items which are either partially eluded to within the consultation or there is no mention of some items at all.

The consultation makes reference to online tools being made available to members, to enable them to run projections and different scenarios, this would be welcomed, but it does not expand on what they would look like, who would provide them, who would be responsible for their accuracy and keeping them up to date and where would they be located.

With regard to the Fire Pension Schemes there are a number of specific items which will need to be addressed and the position clarified.

1. Continued Professional Development (CPD) payments are made to firefighters and are pensionable across all schemes, but depending on which scheme the member is in when it is paid, depends on how it is treated. For members of the 1992 or 2006 Fire Pension Schemes, an Additional Pension Benefit (APB) is awarded; for members of the 2015 Fire Pension Scheme, it is added to their CARE pensionable pay. There is no mention in the consultation if a member chooses different benefits about what will happen with the CPD payments as APB's are not permissible in the 2015 Scheme.
2. Contribution holidays for 1992 Fire Pension Scheme members were brought in retrospectively to enable firefighters in this scheme to receive a contribution holiday where they were under the age of 50 and had achieved 30 years pensionable service. The consultation provides no mention about where members are returned to the 1992 scheme and meet this criteria whether the contribution holiday will be applied.
3. Temporary promotions for 1992 or 2006 Fire Pension Scheme members have been made pensionable by HFRA and the member is awarded an Additional Pension Benefit (ABP) in respect of the additional contributions paid on any temporarily increased pay. The consultation makes no mention about a member who in the 2015 Fire Pension Scheme has had a temporary promotion (which is treated as non pensionable) and then chooses legacy scheme benefits for the remedy period, whether the temporary promotion should therefore be treated as pensionable and an APB awarded.
4. Transfers in whilst a member of the 2015 scheme are credited as additional pension. If the member were to then choose legacy benefits specifically in the 1992 Fire Pension Scheme the consultation does not make it clear what would happen, as the 1992 Fire Pension Scheme has been closed for Transfers in since April 2006. In addition to this, if any transfer in is to be calculated there are no current factors for this and if the period credited is to

be as years and days service, there is no mention about what would happen if the member were to exceed 30 years service.

5. Additional pension is possible to be purchased in the 2015 scheme, but where a member has elected for this and then chooses to move to the legacy 1992 Fire Pension Scheme, the consultation does not make it clear how this would work. It is only possible for a Firefighter to purchase additional service within the 1992 Fire Pension Scheme if they cannot achieve 30 years by the time they are 55 and that they are under the age of 53. The consultation does not mention what would happen if the member exceeds these conditions.

Draft responses to questions in consultation

1. Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

No comment.

2. Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

No comment.

Taper Protected Members (2.19)

3. Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

The treatment of members who originally received tapered protection seems logical and fair and consistent with treatment of other members. It is only right that all members are given the same option of either all legacy benefits or all reformed benefits for the whole of the remedy period.

Default position for immediate choice – tapered (2.37)

4. Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

Under Immediate choice, where a member does not reply to correspondence it would seem fair to set a default position that appears to be most beneficial for the member.

Members with full transitional protection should be deemed to be members of their legacy scheme as this is what they have had anyway.

For members with no transitional protection the default position is less clear and may be more dependent on which legacy scheme the member was part of. For 1992 Fire Pension Scheme members this is most likely to be their legacy scheme, but for 2006 Fire Pension Scheme members the member may be better off in the 2015 Fire Pension Scheme.

For tapered members the position may well be mixed for all legacy schemes and choosing a default position based on the most beneficial for the member is relying on either the Pension Administrator or the FRA to make a decision about the members benefits. The decision maker will not know what is important to the member or what their personal situation is and there is potential for the wrong decision to be made.

There could be some potential issues if as a result of moving the member to the default position there are member contribution arrears and or tax charges that arise. The member would need to agree to these before this could be actioned. In these cases, surely to ensure the status quo, the member should be left in the scheme that they are in, this would work for members that have no transitional protection, but a default position would still need to be reached for members with taper protection. This may well depend on what the member's legacy scheme is and how much transitional protection they were granted.

It is a sensible approach to have a standard default position as inevitably there will be some members that do not respond. However, the default position should depend on the legacy Fire Pension Scheme; a different default position should apply to each legacy scheme.

Immediate Choice (2.37)

5. Please set out any comments on the proposals set out above for an immediate choice exercise

In an immediate choice option, the member is going to have to make a choice based on partial information, i.e. where they are still many years from retirement, they will not know what path their career will take, or indeed what their personal, financial or family situation will be. What is important to a member at the immediate choice decision point, could very well be different at the point of retirement.

The proposals that have been laid out with regard to how the exercise would be carried out mean that it will be very labour intensive and will require a lot of resources, not only in actually dealing with the remedy calculations, but also in the communication of this to members. There will be a lot of complex information which will need to be carefully and thoroughly explained to members to enable them to make the right choice; and all in a relatively short space of time.

Some members may need access to an independent financial adviser to help advise them on the best option. This could prove problematic as there are very few financial advisers that have in depth knowledge of the Fire Pension Schemes.

Even with an immediate choice option, the timescales for implementing and completing the remedy will still be a period of years and it will be an exceptionally challenging time for members, FRAs and administrators to ensure that all members are contacted and remedied correctly, but it would also mean that after this, everyone would be remedied and everyone would know the exact position for the remedy period.

With an immediate choice option, the member will at least have made a decision and know exactly what his current pension entitlement is. It would mean that everything will be dealt with and the final position will be known.

Deferred Choice Underpin (DCU) (2.45)

6. Please set out any comments on the proposals set out above for a deferred choice underpin

In a deferred choice option, the member will be able to make their decision at the end of their career when benefit entitlements are known. This does mean that members would know be able to determine their precise pension benefits until they are near to retirement, this could cause some uncertainty.

There would be a considerable amount of work required in April 2022 to move everyone back to the legacy scheme for the duration of the remedy period. This would involve the recalculating of both employee and employer contributions, which for Fire schemes is not that easy as there are a number of issues around pensionable pay and allowances that differ not only between the schemes, but also will need to take into account items such as temporary promotions, Continued Professional Development payments and contribution holidays that may apply specifically to the 1992 Fire Pension Scheme.

There will be a requirement for the employer contributions to be corrected back to legacy schemes which is going to have a big impact on the required budget for the 2022/23 year.

The calculation of revised pension input amounts and annual allowance tax issues will be required for each of the seven years so that the position for each year can be understood. The member will be required to pay the difference in member contributions and any tax that occurred in the previous 4 years (since 6 April 2017).

The work required would then be ongoing until the member is entitled to receive the payment of their benefits and at this point, the member can choose whether they want legacy or reformed benefits. If the member chooses reformed benefits, then there will be additional work required to undo the position of them being put into the legacy scheme for the remedy period.

The DCU option leaves the member in an unknown position until retirement. Depending on their choice, there may well be items to be paid which could then impact the amount that they are expecting to receive.

Administration (2.53)

7. Please set out any comments on the administrative impacts of both options

Under immediate choice, there will be an enormous amount of resources required, specialists from payroll, pensions and finance will be required. Resources will be required in the form of additional staff, online tools, communication packs. Not to mention the need for adequate pensions software to be able to deal with the changes. There is the potential for members to make the incorrect choice or indeed not understand what the choice means. There will be members that cannot be reached for whatever reason, or those that simply do not respond to the need to make an election. In these cases, it will be necessary to have default positions and while for some it will be clear, for others that will not be the case. Therefore, we risk making the wrong decision for a member. Whilst members that make a choice do so with an irrevocable choice, where a default choice is made for a member, will they have the right to recourse later on?

Under the DCU option, there will be an enormous amount of resources required, but not only upfront to move all members back to their legacy schemes, but also ongoing for the next approx. 20 to 30 years. The challenges that will be required to restore all the records from 1 April 2015 should not be underestimated. Every year from end of remedy until the member retires, details of both sets of benefits will need to be presented on annual benefit statements; which means that every year, this will need to be explained in addition to what is already a very complex scheme.

The challenge required for adequate software to be developed and maintained to have the ability for it to record two sets of data and know what applies to each type should not be underestimated.

In either choice, the member will need to be provided with a lot of information in a clear way and communication will be key. Regardless of how well each option is explained, members are still going to have difficulty comprehending all of the factors that will need to be taken into account. A number of members may require independent financial advice to enable them to make a decision, but while the Fire Authority and the pension administrator can provide information to the member and answer some questions, they will not be able to provide advice. It is also unlikely that IFAs more generally are going to have the detailed knowledge and experience of Fire Pension Schemes to provide accurate and comprehensive advice.

8. Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

Both options have issues and both options will involve a great deal of work. But overall, taking into account as much as possible, it would seem that immediate choice would be preferable. It means that cases would only have to be looked at once, rather than each year and then again at retirement under the DCU option. It would mean that the member and the administrator would be clear about what option and benefits the member has for the remedy period. There would be no need to provide and maintain complex software solutions for the next approx. 20

to 30 years that would be able to calculate remedy accurately. It would mean for any events (divorce, estimates, transfers etc) that occur after the member has made their choice would be able to be dealt with in a straightforward manner as the benefits for the remedy period would be known.

Firefighter's have been having this fight for a long time and many of them just want to get it resolved. For many, it will be a very clear choice and they just want to make it and move on.

If immediate choice is taken forward, then although there will be a lot of work to actually remedy all members, the final cost of the resources and the cost to the scheme will be known. Members and administrators will be able to understand the final position and pension estimates and annual benefit statements can accurately reflect the entitlements with no added complexity.

Closing the legacy schemes for all members and equalising future treatment (3.7)

9. Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

Yes

Revisiting past cases (A.1)

10. Please set out any comments on our proposed method of revisiting past cases.

Where members have previously retired and are subject to remedy, then it would be only be fair to allow them to change their original commutation decision. Although this would be more work administratively, it would seem the fair option for the member. It's possible, but not probable, that they would have made a different commutation decision and therefore allowing them to revisit that decision would seem logical.

One point which is not made clear is with regard to any Pension Commencement Lump Sum (PCLS) that is paid where the member retired more than 12 months prior to date of payment and that any additional payment of a PCLS would therefore be classed as an unauthorised payment and be subject to tax. This is an important point to clarify as this may largely affect any retrospective decisions that the member makes.

Where contributions are owed, these could be deducted from any additional lump sum that is paid to a member, but if the member choose to pay over time, what time period will be permitted for this? How will the member be granted tax relief on the member contributions?

Member Contributions (A.7)

11. Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

Under immediate choice, the member will know the position with regard to employee contributions and be able to factor it into any decision, but where contributions are owed they are almost definitely going to be in a position to pay over time rather than up front. If over time, then if deductions are made from pay then tax relief can be awarded at source, but the member could have the option of paying by DD outside of payroll. This would mean that tax relief would need to be claimed from HMRC on an annual basis. The balance of any outstanding contributions should be paid, either from the lump sum commutation or up front before any pension entitlement can be put into payment.

Under DCU, the member will be moved back to the legacy scheme and contributions owed can be paid up front or by instalments, so as above, either from pay or DD. There are similar questions around tax relief and how this will be obtained.

Legacy 2006 Fire Pension Scheme members are going to be adversely affected as initially they will receive a refund of contributions and then at retirement, if they choose reformed scheme benefits then they will have to pay the contributions back. This seems counter intuitive to refund monies and to then ask for them back many years later. Therefore under DCU, it would seem more sensible to enable members with legacy 2006 Fire Pension Scheme benefits to remain in the 2015 scheme for the remedy period.

Voluntary member contributions (A.14)

12. Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made

The proposed treatment of either additional years purchased in the legacy Fire Pension Schemes being converted to additional pension in the reformed scheme, or additional pension being purchased in the reformed scheme being converted to additional pension in the legacy schemes seems a fair way to treat any voluntary contributions.

What isn't clear from the consultation is whether this would be a one off amount to be calculated, or whether the relevant amounts would need to be calculated for each of the remedy scheme years; or how and when this amount would be increased.

Annual Benefit Statements (A.21)

13. Please set out any comments on our proposed treatment of annual benefit statements

Whilst it is important to ensure that members have the correct information with regard to remedy, providing two sets of figures and therefore making ABS' even more complicated does not seem like the sensible option. ABS' are widely misunderstood or not read and the Fire Pension Schemes are already very complex.

This is only going to be possible if accurate software can be implemented. This is going to be exceptionally complex to do as not only will the software need to be

able to hold all the relevant different bits of information but also to then use the relevant part for either the legacy or reformed calculations. The potential for errors and wrong information is high.

Under DCU all members are going to be moved to their legacy scheme and they will be deemed to be in the legacy scheme until their benefits are paid and then they will have the choice of legacy or reformed. Would it not make more sense to allow ABS to show only the legacy benefits, to keep them as straightforward as possible and then present the options only at the point of retirement? The ABS are just an illustration and are not guaranteed and if the member wanted more specific information then they would be able to contact the pension administrator to request a reformed scheme estimate.

Ill Health retirement (IHR) (A.25)

14. Please set out any comments on our proposed treatment of cases involving ill-health retirement.

The treatment of IH retirements seems fair.

Cases where members have died since 1 April 2015 (A.31)

15. Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015

The administrator is clearly going to need to assess all death cases carefully before any potential contact is made with survivors or persons dealing with the estate. There will need to be a number of items looked at under both legacy and reformed schemes, any death grant payable, any benefits payable to survivors or children. The current position will also need to be understood as well as any potential impact of changes. Similar situations may also differ depending on whether the member was active deferred or a pensioner at the point of death.

It would seem right that the administrator would need to establish if there is any benefit to the survivors and if not, then the case should be closed and no contact made with the survivors.

In cases where a member has died in the legacy scheme and no survivors pension were paid as the member was not married, but did have a partner and the scheme did not permit the payment to unmarried partners. The consultation does not make it clear about what to do with cases where it's not possible to make contact with the partner e.g. they have moved from any last known address.

Contingent decisions (A.43)

16. Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

There are many members who have opted out as they did not wish to be a member in the reformed scheme and as more information about how benefits were linked, a number of them have regretted that decision.

To avoid any discrimination it would seem right that these members are all given the opportunity to have their opt out decision removed if they so wish, but in doing so, they will obviously need to pay the relevant amount of member contributions. If they are prepared to pay this, then they should have continuous membership of the scheme and therefore the option to have remedy applied. They should also be given the option to pay these contributions over a period of time.

**Voluntary pension transfers (public sector transfer club and non-club)
(A.48)**

17. If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

No, this would not seem fair. As you would be asking the member to make an immediate choice, which would go against the DCU option.

This is exactly one of the many reasons why remedy should be dealt with as an immediate choice and not DCU.

18. Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

Where the member transfers to a different scheme within the Club arrangement, there the member should have a choice for each scheme. Although public sector schemes are broadly the same, there are differences, even the various Fire Pension Schemes differ. There will be different points that the member will want to consider in respect of each scheme and each transfer.

It would be exceptionally difficult to get two or more schemes to work together to provide one set of information to the member to enable them to make a choice. There could be issues around Data Protection and GDPR.

Divorce cases (A.58)

19. Please set out any comments on our proposed treatment of divorce cases.

Where a divorce has occurred within the remedy period, then clearly this may be impacted by any remedy option. Administrators will need to check Pension Sharing Orders to confirm whether the split was by amount or percentage. Where any split is by percentage then it could result in an increase in benefits awarded to the Pension Credit member, based on the option chosen by the scheme member. This would seem fair, and the Pension Credit member will not be penalised if the scheme member chooses a different option which would lower the value of the pension credit.

If DCU is taken forward the consultation does not make it clear whether such cases would be recalculated at this point, or whether it would only be reviewed at the point of retirement, and if so, then any CETV would need to be calculated 20 to 30 years in the future for a date 20 to 30 years in the past. The consultation

also does not make it clear about what would happen for cases where a divorce happens after 1 April 2022. What set of benefits will be used, how will the courts determine any Pension Sharing Order, how will the administrators deal with any potential pension debit or pension credit?

Divorce cases and the surrounding issues are another reason why immediate choice should be taken forward. It would mean that all calculations can be completed at the same time and all benefits rectified at the same time.

Interest of under or over payments and refunds (A.63)

20. Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

Yes, interest should be charged on amounts owed to the scheme, there is already precedent for this in the Fire Pension Schemes. The recent 2006 Modified Fire Pension exercise allowed for the calculation of interest on the arrears of contributions, as did the 1992 Fire Pension Scheme contribution holidays refunds for those under 50 with 30 years' service and the Additional payments in respect of past commutations in the GAD v Milne case.

Interest should be set at the Bank of England base rate, but as this has changed a few times since 1 April 2015, it might make sense to fix it for the entire 7 years period, rather than change it each time it is amended. The average would be around 0.4%. If interest is charged at a rate for a specific period, then it will create even more complexity with regard to calculating the exact amount upon which interest is to be charged for any period. Having a fixed rate as either the median or average, would mean that everyone is going to be paying the same. It will also make it slightly easier to explain to members

21. Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

Yes, interest should be applied to payments to the member from the scheme.

Interest should be set at the Bank of England base rate, but as this has changed a few times since 1 April 2015, it might make sense to fix it for the entire 7 years period, rather than change it each time it is amended. The average would be around 0.4%. If interest is charged at a rate for a specific period, then it will create even more complexity with regard to calculating the exact amount upon which interest is to be charged for any period. Having a fixed rate as either the median or average, would mean that everyone is going to be paying the same. It will also make it slightly easier to explain to members

22. If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

There should be a single consistent rate across all schemes at a fixed rate for the 7 year period.

Abatement (A.66)

23. Please set out any comments on our proposed treatment of abatement

The proposed treatment of abatement would seem to be advantageous to the member. It also confirms that FRA's and administrators will not need to assess all cases for abatement and only look at those where a member who has an abated pension chooses the reformed scheme in their choice.

Understanding the likely AA impacts on members (B.40)

24. Please set out any comments on the interaction of the proposals in this consultation with the tax system

Tax relief on contributions

Where a member is owed a refund of tax for member contributions, surely it would just be easier to deduct a straight 20% tax from the total amount. Rather than try and calculate what is due for the last 4 years and what is due prior to that. The date of the 4 years is surely going to depend on when the member makes their choice and this is going to make it different for members and more complex to administer.

Where members need to pay member contributions, tax relief is only going to be applied at source if the additional payments are deducted from pay, but this may not be possible in all cases. In these cases, it may be necessary to have a DD system in place and in which case contributions will need to be paid gross of tax and tax relief will need to be claimed back directly from HMRC. Will this also apply to members that are no longer active current members of the Fire Pension Schemes?

Annual Allowance

The Pension Input Amount and the Carry Forward for each year of the remedy period will need to be calculated under both legacy and reformed schemes to be able to establish whether there are any tax charges due. But then only those that have occurred within the last 4 years will be required to be paid by the member and only their Carry Forward will be able to be amended if it has differed in the last 4 years. As stated, this could mean that if under immediate choice a decision is made in June 2023, then only tax issues from 6 April 2019 onwards would be payable by the member. This will obviously be advantageous to some members who may have tax issues arise in earlier years.

However it is going to make it complicated in the fact that it depends on when the member makes their choice as to what 4 year period is included, and it also depends on whether the member is going to utilise Scheme Pays as to what their benefits are going to look like.

The relevant 4 year period would be different under the DCU option as all members would be moved back to their legacy scheme on 1 April 2022 and therefore any tax owed would be due from 6 April 2017. The DCU at least provides a clear 4 year period that will be the same for all members.

Firefighters’/Police Pension Schemes

McCloud/Sargeant ruling – Guidance on treatment of ‘Immediate Detriment’ cases

1.0 Purpose of guidance

- 1.1 The purpose of this note is to provide informal guidance to Fire and Rescue Authorities (in England) and Police Forces (in England and Wales) on processing ‘immediate detriment’ cases (see definition in section 3 of this guidance) in advance of a decision on the Government’s final approach to removing the age discrimination as found in the McCloud/Sargeant Employment Tribunal litigation.
- 1.2 The guidance is provided at the request of the Fire Brigades Union and for the purpose of assisting employers with “immediate detriment” cases. For that reason, it is only relevant to members of the Police and Fire Pension Schemes.
- 1.3 Further, it must be noted that the issues raised in this document are the subject of both ongoing litigation and the Government’s consultation. As such this guidance will be kept under review to ensure that it is consistent with any judgment or outcome from the consultation and will be amended to give effect to any such judgement or outcome.
- 1.4 In this guidance a reference to the “2015 scheme” is to the applicable reformed Police or Fire CARE Pension Scheme, and a reference to the “legacy scheme” is to the applicable Police or Fire Pension Scheme that applied to a member before 1 April 2015.
- 1.5 The term ‘pension authority’ refers to the appropriate Fire and Rescue Authority or Police Force.

2.0 Background to McCloud/Sargeant ruling

- 2.1 In 2015 most public service pension schemes, including the Firefighters’ Pension Scheme and Police Pension Scheme, were reformed. These reforms included ‘transitional protection’ for people closest to retirement.
- 2.2 In 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters’ and Judges’ Pension Schemes. The Government respects the Court’s decision and has confirmed that it will remove the difference in treatment across all main public service pension schemes, including the Police Pension Scheme.

- 2.3 The Government is currently consulting on proposals to remove this discrimination. Detail on the current proposals can be accessed here: <https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>. The changes proposed in the consultation to remove the discrimination will apply across all the main public service pension schemes and provide members with a choice of which scheme they would like to be in for the remedy period. The remedy period is defined as between 1 April 2015 and 31 March 2022 in the consultation paper.
- 2.4 The remedy only applies to members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

3.0 What are 'Immediate Detriment' cases

- 3.1 For the purposes of this guidance, immediate detriment includes those scheme members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, and who did not benefit from full protection and were moved into the 2015 Scheme on or after 1 April 2015:
- I. who become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); **OR**
 - II. who don't qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do so under the IHR arrangements in their legacy scheme.
- 3.2 Any scheme members that fall within either of the two categories above can have their pensions calculated and put into payment according the guidance set out in section 5 below.
- 3.3 This guidance **should not** be applied to scheme members who have already retired and are in receipt of their pension payments. These cases are more complex to address, especially due to complexities in rectifying the member's tax position.
- 3.4. It is important **to note** that ALL cases processed using this guidance will need to be revisited once the Government's approach to removing the discrimination has been finalised, due to relevant matters that are currently subject to consultation, to include interest on contributions etc. This is likely to be after April 2022.

4.0 Guidance on treating immediate detriment cases

- 4.1 There are some transitional scheme members who have already been dismissed from work without a pension as they did not qualify for an ill-health pension under the 2015 Scheme. In addition, there are transitional members who are now

approaching retirement and want to take their full pension benefits under their legacy pension scheme. This guidance provides employers with advice on how these cases can now be processed in advance of final remedy implementation.

Transitional members who are already in receipt of a pension

- 4.2 There are cases (in respect of both ill-health/ordinary retirements) where transitional members have already retired and are currently receiving an ill-health/ordinary pension. It is recognised that many of these members' pensions are lower than they would be if they were paid under the member's legacy pension scheme. For example, where a transitional member has retired on ordinary grounds below age 55, their benefits accrued under the 2015 Scheme will currently be deferred until their State Pension Age.
- 4.3 These cases involve complex tax implications, employee/employer contribution adjustments etc. which still need to be resolved – these points are currently being consulted on and a final approach has yet to be confirmed. We will look to process these cases as a priority as soon as these outstanding points have been resolved.

5.0 Giving scheme members a choice

- 5.1 Scheme members falling under the scope of this guidance will effectively be given the opportunity to take all their pension benefits accrued between 1 April 2015 and 31 March 2022 under their legacy pension scheme, rather than take some benefits under the 2015 Scheme.
- 5.2 Pension authorities can now offer this choice to all those scheme members who:
 - have transitioned into the 2015 Scheme who are approaching retirement; and
 - have retired due to poor health but who didn't qualify for an ill-health pension under the 2015 Scheme regulations but would qualify under their legacy scheme regulations.
- 5.3 In order to provide this choice, pension authorities will need to present two sets of pension entitlement quotes to each qualifying scheme member. Whilst not an exhaustive list, each quote should set out the main pension benefits that they would receive under each choice, to include: recurring annual pension (before and after commutation), commutation retirement lump sum entitlement, employee contributions owed/refunds due etc. Each scheme member should be required to provide written confirmation of their election.
- 5.4 There remain a number of outstanding issues that will not be resolved until such time that the Government finalises its approach to removing the discrimination identified by the McCloud/Sargeant ruling (see unresolved pensions issues section below). Each scheme member will need to agree to accept the Government's final approach and any future adjustments that this requires.

- 5.5 Once written confirmation has been received from each member, the pension authority can put the pension chosen into payment.

Unresolved pension issues:

- 5.6 As explained above, there remain outstanding issues that will not be resolved until the Government finalises its approach to removing the discrimination. The Government is currently consulting on its proposed approach and will finalise its proposals following careful consideration of stakeholder responses.

Recovery of outstanding employee contributions

- 5.7 Any scheme members who choose to take their full pension benefits under their legacy scheme will owe employee contributions or be entitled to a refund. Any employee contributions owed will need to be paid before the member's legacy scheme pension can be put into payment.
- 5.8 Any contributions owed will need to be based on the pay that is considered to be pensionable under the legacy scheme, which may vary from that pay which is considered pensionable under the 2015 Scheme. It will be for employing pension authorities to make an assessment for each member and seek payment. The member has a choice to pay any outstanding employee contributions from their retirement lump sum or from any other personal source. Any refunded employee contributions can be repaid to the member from the employer's local pension fund account.
- 5.9 A final decision has yet to be made in respect of whether, and at what rate, interest should be applied to contributions owed by employees should they elect to receive benefits from their legacy scheme during the remedy period (2015 to 2022). As the Government's approach to this issue has yet to be confirmed, this guidance proposes that interest is not applied to employee contributions owed at this time.
- 5.10 Notwithstanding this, any immediate detriment cases where the pension is put into payment now may need to be revisited if the Government's final approach includes the application of interest on owed employee contributions. Pension authorities should ensure that any members making a decision under this guidance are aware of, and accept, this condition.

Tax relief on employee contributions

- 5.11 Where possible, pension authorities should ensure that the employee contributions owed are repaid by the member before they leave service to ensure that any tax relief entitlement can be applied. Where this is not possible, for example where an individual has retired previously on ill-health grounds and did not qualify for a pension under the 2015 Scheme but would qualify under their legacy scheme, the

scheme member will have to wait until the Government's final approach to removing the discrimination has been implemented to receive any appropriate reimbursement. This is likely to be after April 2022.

Recovery of outstanding employer contributions (Firefighters' Pension Schemes only)

5.12 The Firefighters' Pension Schemes are in a unique position compared to other public sector pension schemes in that they do not have a uniform employer contribution rate across all schemes. As such, any scheme member who elects under this guidance to take their full pension benefits under their legacy scheme will impact on the corresponding employer contributions owed in respect of that member during the period that they were in the 2015 Scheme.

5.13 It will be for each employing Fire and Rescue Authority (FRA) to recalculate the contributions that they, as the employer, should have paid under the legacy scheme for each member and pay any shortfall into their pension fund account. Where this results in an excess of employer contributions having been paid, these can be refunded to the employer from their pension fund account.

Treatment of Cash Equivalent Transfer Value (CETV) transfers into the 2015 Scheme

5.14 It is recognised that there will be some transitional scheme members who will have transferred benefits from an external pension arrangement into the 2015 Scheme. Where a scheme member elects to take all their benefits from the legacy scheme, the original transfer-in (the Cash Equivalent Transfer Value) will need to be recalculated to determine the amount of pensionable service that should be purchased in the member's legacy scheme.

5.15 The recalculation of the transfer-in will need to be undertaken by pension authorities as if it had been taken at the time of the original transfer, using the actuarial factors that were applicable at that time.

5.16 Where conversion of transferred benefits from the 2015 Scheme to the legacy scheme results in the pension input amount changing due to actuarial adjustment, then an individual's Annual Allowance position may need to be reassessed.

Treatment of purchased added pension in the 2015 Scheme

5.17 Some transitional scheme members will have elected to make voluntary contributions to purchase 'additional pension' in the 2015 Scheme. For those members that elect to take their full benefits under the legacy scheme, any employee contributions paid in respect of the additional pension purchased will need to be converted to the equivalent value of additional pension that could have been purchased in the member's legacy scheme.

- 5.18 The legacy schemes do not currently have ‘additional pension’ provisions. Additional pension purchased in the 2015 Scheme is one of the unresolved issues that the consultation is considering.

Scheme PAYS– treatment of debits applied to 2015 Scheme pension

- 5.19 There may be instances where transitional members have previously incurred certain tax charges and have elected for these to be paid under Scheme PAYS with the associated pension debit applying to the 2015 Scheme benefits.
- 5.20 Where this is the case and the member elects for all their pension benefits to be paid from their legacy scheme, there may be subsequent changes to the tax charges retrospectively. If this is the case, pension authorities will need to recalculate the pension debit. The recalculation of the pension debit will need to be undertaken by pension authorities as if it had been taken at the time of the original Scheme PAYS elections, using the actuarial factors that were applicable at that time.

Revisiting AA tax assessments on previous years

- 5.21 Under current arrangements, there is a four-year statutory time limit for reassessing tax for previous years. This means that where a scheme member’s pension benefits change for past years, altering their tax position, HMRC can collect and refund tax where it is owed for the current tax year, and the four full tax years immediately preceding the point at which the individual’s benefits change.
- 5.22 Where a scheme member’s benefits change due to an election under this guidance so that additional tax is due for a tax year that sits outside the four previous tax years, HMRC cannot collect that additional tax. As such, the member will not be required to pay this. However, the recalculation will still be necessary to ensure the member’s tax position going forward is correct.
- 5.23 The Government has confirmed that where a scheme member’s benefits change so that they are owed a reimbursement of any tax charges paid since April 2015, they will get a full refund for the full period. The scheme member will initially be able to seek a tax refund from HMRC in respect of any overpaid tax charges in the previous four tax years.
- 5.24 Any further entitlement to a tax refund for years outside the four-year period will be refunded by means of compensation payments, which are expected to be paid after the Government finalises its approach to removing the discrimination, likely to be after April 2022.

Police Workforce and Professionalism Unit, Home Office

21 August 2020