



OFFICIAL

# Local Pension Board - appointment of Chair and Vice chair 2019 - 20

## Local Pension Board

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Date: [Date of Meeting]

Agenda Item:

1

Submitted By: Chief Legal and Governance Officer

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### **Purpose**

To appoint a Chair and Vice Chair of the Local Pension Board for 2019 – 20 in accordance with the Terms of Reference.

### **Recommendations**

That appointments be made to the positions of Chair and Vice chair of the Board.

### **Summary**

It is a requirement of the Terms of Reference that appointments to the positions of Chair and Vice chair of the Local Pension Board be made on an “annual rotational basis”. This report invites members to make the relevant appointments from the membership

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Nicky Houseman, Committee Services Manager  
T: 01274 655740  
E: [nicky.houseman@westyorksfire.gov.uk](mailto:nicky.houseman@westyorksfire.gov.uk)

Background papers open to inspection: None

Annexes: None

## **1 Introduction**

- 1.1 It is a requirement of the Local Pension Board Terms of Reference that appointments to the positions of Chair and Vice chair be made on an “annual rotational basis”. This report invites members to make the relevant appointments

## **2 Information**

- 2.1 Chair of the Board in 2018 – 19 was Paul Drinkwater as Scheme Member representative with Councillor Peter Harrand as Vice chair representing the Scheme Manager.

- 2.2 In accordance with the requirement to rotate on an annual basis the posts will be as follows for 2019 – 20;

Chair            Scheme Manager representative

Vice chair     Scheme Member representative

- 2.3 Nominations are invited from the membership for appointment to the posts

## **3 Financial Implications**

- 3.1 There are no direct financial implications arising out of this report.

## **4 Legal Implications**

- 4.1 The Chief Legal and Governance Officer has considered this report and has no observations to make at the time of submission of this report but may provide legal advice at the committee meeting and / or respond to any request by Members for legal advice made at the meeting.

## **5 Human Resource and Diversity Implications**

- 5.1 There are no direct human resources and diversity implications arising from this report.

## **6 Health, Safety and wellbeing implications**

- 6.1 There are no direct health, safety and wellbeing implications arising from this report.

## **7 Your Fire and Rescue Service priorities**

- 7.1 The subject of this report supports all the Fire and Rescue Service 2019 – 2022 priorities.



OFFICIAL

# Local Pension Board Membership 2019 - 20

## Local Pension Board

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Date: 5 July 2019

Agenda Item:

2

Submitted By: Chief Legal and Governance Officer

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**Purpose** To advise of membership of the Board in 2019 - 20.

**Recommendations** That the report be noted.

**Summary** Appointments to the Board are made on an annual basis. This report advises of the membership for 2019 – 20.

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Nicola Houseman, Committee Services Manager  
E: [nicky.houseman@westyorksfire.gov.uk](mailto:nicky.houseman@westyorksfire.gov.uk)  
T: 01274 655740

Background papers open to inspection: None

Annexes: None

## **1 Introduction**

- 1.1 Appointments to the Local Pension Board are made on an annual basis. This report advises of the appointments for 2019 – 20.

## **2 Information**

- 2.1 The Local Pension Board has four members with equal representation (2) from both Scheme Members and the Scheme Manager.
- 2.2 Appointments as Scheme Member representatives are made on an annual basis following formal advertisement of the posts, written application and a selection process as appropriate.
- 2.3 At a meeting held on 21 May 2019, the West Yorkshire Fire and Rescue Authority's Executive Committee confirmed the following appointments as Scheme Member representatives on the Local Pension Board for 2019 -20;

Mr Chris Lawton

Mr Paul Drinkwater

- 2.5 Appointments as Scheme Manager representatives are made at the Annual Meeting of the West Yorkshire Fire and Rescue Authority. At its meeting on 27 June the Fire Authority appointed the following elected members as Scheme Manager representatives on the Local Pension Board for 2018 – 19;

Councillor Peter Harrand

Councillor Angela Wenham

## **3 Financial Implications**

- 3.1 Local Pension Board members can submit claims in respect of out of pocket expenses. Provision has been made in the revenue budget for members' allowances claims.

## **4 Legal implications**

- 4.1 The Chief Legal and Governance Officer has considered this report and has no observations to make at the time of submission of this report but may provide legal advice at the committee meeting and / or respond to any request by Members for legal advice made at the meeting.

## **5 Human Resources and Diversity Implications**

- 5.1 There are no direct equality and diversity implications arising from this report.

## **6 Health, Safety and Wellbeing Implications**

- 6.1 There are no direct health, safety or wellbeing implications arising from this report.

## **7 Your Fire and Rescue Service priorities**

- 7.1 This report supports all the Your Fire and Rescue Service 2019 – 22 priorities.

**AGENDA ITEM NO 4**

**DRAFT**

**EXCLUSION OF THE PUBLIC - SECTION 100A LOCAL GOVERNMENT ACT 1972**

**RESOLVED :** That the public be excluded from the meeting during the item of business specified below as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this time, there would be disclosure to them of exempt information of the description respectively specified.

<b>AGENDA ITEM NO.</b>	<b>TITLE OF REPORT</b>	<b>MINUTE NUMBER (to be added)</b>	<b>Description of exempt information by reference to the paragraph number in Schedule 12a of the Local Government Act 1972</b>
None			

**Disclosure of Disclosable Pecuniary Interests (DPI's)**

- 1 Members present at the meeting who are aware that they have a DPI in a matter being considered must disclose the details of that DPI to the meeting unless it is already recorded on the Authority Members DPI Register.
- 2 Any Member with a DPI may not participate in any discussion or vote and under Authority Standing Orders is required to leave the meeting during any discussion or vote unless they have been granted a dispensation from exclusion from the meeting by the Executive Committee or in certain circumstances by the Monitoring Officer before any consideration of the item by the committee starts.

**Footnote:**

- (1) Members are referred to the Authority Constitution and to the provisions of sections 30-34 of the Localism Act 2011 and to the statutory regulations made thereunder which define the meaning of a DPI.
- (2) Members are reminded of the potential criminal sanctions and disqualification provisions under Section 34 of the Act applicable to breaches of disclosure and non- participation requirements.
- (3) A Member with a sensitive DPI need not disclose the details of that interest with the Monitoring Officers agreement but must still disclose the existence of a DPI and must withdraw from the meeting.

*Application for dispensation to vote*

*Attached is a blank "application for dispensation" form which Members of the Committee may use to seek the grant of an individual dispensation on any item on the agenda.*

*Where possible, the completed form should be returned to the Monitoring Officer in advance of the meeting so that he can consider whether a dispensation should be granted. Block dispensations affecting a significant number of Members will be referred to the Executive Committee for approval, if time permits.*

West Yorkshire Fire and Rescue Authority

Sections 31 and 33 Localism Act 2011

## **Member Participation & Voting Dispensation Request**

### **Section for completion by Member**

Name of Member:

Correspondence/ email address:

Dispensation applied for: (1) Participation (2) Voting (3) Both

Details of Meeting/agenda Item:

Full details of why you are applying for a dispensation:

Signed:

Dated:

Please send your application to the Monitoring Officer at Fire & Rescue Service  
Headquarters Birkenshaw BD11 2DY – [Michael.barnes@westyorksfire.gov.uk](mailto:Michael.barnes@westyorksfire.gov.uk)

### **Section for completion by Monitoring Officer:**

No in Register:

Received on:

Granted/ Refused

Reasons for refusal / Statutory Grounds relied upon for grant:



# Minutes

## Local Pension Board

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Date: 11 January 2019

Time: 12 noon

Venue: Fire and Rescue Headquarters, Birkenshaw

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Present: Paul Drinkwater (Scheme Member representative – in the chair), Councillor P Harrand (Scheme Manager representative) and Stuart Wilson (Scheme Member representative)

In Attendance: Ian Brandwood – Chief Employment Services Officer, Claire Johnson – Technical Adviser and Alison Wood (Chief Finance and Procurement Officer for items 1 – 4 and 6 only Min nos. 29 – 33 refer)

Apologies: Councillor T Austin

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### **29 Minutes of the last meeting**

#### **RESOLVED**

That the Minutes of the last meeting held on 5 October 2018 be signed by the chair as a correct record.

### **30 Urgent item – Opting out request for information**

A request for information relating to opting out of the pension scheme had been received in Bulletin 15 (December). The response to the Scheme Advisory Board had not been available at the time of despatch of papers. The Chair agreed that the item would be included on the agenda at agenda item 10c) (Min no. 37 refers).

### **31 Admission of the public**

There were no items which required the exclusion of the public and press.

### **32 Declarations of interest**

There were no declarations of disclosable interest in any matter under consideration in the meeting.



### **33 Employers' Pension Contributions**

Consideration was given to a report of the Chief Finance and Procurement Officer which advised of a reduction in the discount rate used to determine firefighter employers' pension contribution rates from 3% to 2.4%.

The reduction in the discount rate would result in an average increase in employers' pension contributions of 12.6% from 1 April 2019. Members were advised however that no confirmation had been received to date from Government Actuary Department with regard to the final contribution rate.

It was further reported that the reduction had been greater than anticipated - a 3% increase had been included in the Medium Term Financial Plan (MTFP). Some financial assistance would be made available in 2019 – 20 only and, in the absence of confirmation of any additional government funding, further savings would have to be found to meet the increased cost.

#### **RESOLVED**

- a) That the report be noted; and
- b) That Members be advised of any response from HM Treasury to the concerns raised in a letter from that National Fire Chiefs Council dated 1 November 2018.

### **34 Scrutiny and review**

The Chief Employment Services Officer submitted information relating to the following areas for scrutiny and review;

- Guaranteed Minimum Pension (GMP) reconciliation – notification received in November 2018 indicated that the required data had been submitted by West Yorkshire Pension fund by the 31 October 2018 deadline (Min no. 25 refers). Members were advised that HMRC had a 3-month target date for responses
- Discretions made by Scheme Manager – one case had been considered since the date of the last meeting relating to an extension of time limits for "transfer in". Based on the individual nature of the case the request had been approved.
- Compliance breach register – no new breaches had been recorded since the date of the last meeting and the 11 cases of incorrect deduction of pension contributions reported at that time had been resolved with the establishment of individual payment plans
- Pensions risk register – Members were advised that there had been no change since the date of the last meeting
- Compliance deadlines – members were provided with a list of compliance deadlines to enable effective scrutiny of compliance issues

#### **RESOLVED**

- a) That the report be noted; and
- b) That advice be sought with regard to any requirement to report the incorrect deduction of pension contribution breach.

### **35 Pension Ombudsman – update**

Members received a report of the Chief Employment Services Officer which presented two relevant cases reviewed by the Ombudsman since the date of the last meeting as follows;

- Mr W et al – Mid and West Wales Fire and Rescue Authority – pensionable pay
- Mr N – Kent and Medway Fire and Rescue Authority – overpayment of injury pension

#### **RESOLVED**

That the report be noted.

### **36 Legislative update**

Consideration was given to a report of the Chief Employment Services Officer which provided an update with regard to a number of relevant issues as follows;

- Transitional protections- it was reported that the Fire Brigades' Union legal case had been won. Members were advised that the Government had already lodged an appeal against the decision. It was possible that the appeal court could remit a remedy to the employment tribunal in due course but any financial implications for the Authority were impossible to predict at this stage.
- Ill health injury compensation pensions – tax issues – all affected pensioners (8) had been contacted to make them aware that they would be able to reclaim tax from HMRC. Any shortfall in payments from the HMRC would have to be met by the Authority. Proposals had been submitted to the Scheme Manager for repayment of tax in the form of a compensation payment to other pensioners affected outwith the relevant period. This would require the approval of the Authority.
- Revised GAD factors – new cash equivalent transfer values had been issued by the Home Office and would be applied to those pensioners affected by the temporary suspension of payments. A revision had been also been made to the commutation factors which would benefit 1992 Pension Scheme members. West Yorkshire Pension Fund had confirmed that the payments would be actioned without delay.

#### **RESOLVED**

That the report be noted.

### **37 Survey responses**

The Chief Employment Services Officer submitted a report which advised of responses which had been given to recent surveys issued since the date of the last meeting as follows;

- The Pensions Regulator (TPR) survey – annual survey about scheme governance
- Administration benchmarking survey – to enable the Scheme Advisory Board to better understand the costs associated with the administration of the pension schemes.

#### **RESOLVED**

That the report be noted

### **37 Firefighter Pensions bulletins**

Consideration was given to the content of bulletins 13 – 15 which had been circulated to Members upon issue by the Scheme Advisory Board (SAB).

The following issues were highlighted;

- Cost cap breach – 2015 scheme
- Ill health and injury – role of the IQMP
- Contracting out and GMP reconciliation – overpayments to be written off
- GMP equalisation
- Survivor benefits and same sex marriages – consultation issued
- Revised factors
- Opt out rate data – a copy of the response was circulated for Members at the meeting

#### **RESOLVED**

That the content of Bulletins 13 – 15 be noted.

[The opt out rate data response had been considered as an urgent item as this was not available at the time of despatch of papers for the meeting.]

### **38 Scheme Advisory Board – update**

In addition to the SAB Minutes that had been published Members also considered detail of the Scheme Advisory Board levy for 2018 – 19 which would equate to £7.69 per active firefighter – totalling a cost of £8405.17 for the Authority. The figure included a now statutory levy to fund the Firefighters' Pension Schemes adviser post.

#### **RESOLVED**

- a) That the Minutes of the Scheme Advisory Board Effectiveness Board at a meeting held on 25 September 2018 be noted; and
- b) That detail of the Scheme Advisory Board levy for 2018 – 19 be noted.

### **39 Local Pension Board activity report**

The Chief Employment Services Officer submitted a report which set out performance in key areas for the period 1 September – 30 November 2018.

It was noted that there had been

- 23 new entrants into the Scheme during the relevant period (new recruits)
- 20 retirements to pension
- 1 IDRP stage 1 appeal
- 2 opt-outs, and
- 57 pension estimates processed

#### **RESOLVED**

That the report be noted.

## **40 West Yorkshire Pension Fund – key performance indicators**

Consideration was given to a report the Chief Employment Services Officer which advised Members of West Yorkshire Pension Fund performance in key areas for the period 1 September - 30 November 2018 together with total performance from 1 April – 30 November 2018.

It was reported that, during the period 1 September – 30 November 2018 the minimum performance target had not been reached in respect of the following;

- Pension estimates – did not reach the target due to the volume of requests received (it was anticipated that these would reduce following the recent court case decision)
- Transfer-in quotes – below target due to the withdrawal of factors on 31 October 2018 and consequent stockpiling of cases

Similarly, performance for the year to 30 November 2018 had not reached target on the following;

- Pension lump sum set-up payments – all the work had been completed well in advance of retirement and no late payments of lump sums had been made
- Transfer-in quotes – due to withdrawal of factors and impact on workloads

### **RESOLVED**

That the report be noted.

## **41 Date of next meeting**

### **RESOLVED**

That the Local Pension Board meet on a date in July to be agreed by the Full Authority at its meeting on 21 February 2019.

Chair



# Minutes

## Local Pension Board

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Date: 18 April 2019

Time: 12.32 pm

Venue: Meeting conducted by email

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Present: Paul Drinkwater – Scheme Member representative (in the Chair), Councillor T Austin – Scheme Manager representative, Councillor Peter Harrand - Scheme Manager representative and Stuart Wilson – Scheme Member representative

In Attendance: Ian Brandwood – Chief Employment Services Officer / Technical Adviser and Claire Johnson – Technical Adviser

Apologies: None

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Minutes of a meeting held in accordance with the West Yorkshire Fire and Rescue Authority Constitution Article 10A (Local Pension Board), paragraph 10.A3(ii)

### **42 Draft Local Pension Board Annual Report 2018 - 19**

In accordance with the Local Pension Board Terms of Reference which allow for urgent business between meetings, in exceptional circumstances, to be conducted, with the approval of the Chair, via communications between members of the Board including telephone conferencing and emails, Members considered the Annual Report 2018 – 19 which had previously been considered at the January 2019 meeting of the Board and had been updated to reflect that meeting.

#### **RESOLVED**

That the Annual Report 2018 – 19 be submitted for formal ratification by the Human Resources Committee at its meeting on 6 July 2019.

Chair



OFFICIAL

# Local Pension Board Terms of Reference - annual review

## Local Pension Board

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Date: 5 July 2019

Agenda Item:

7

Submitted By: Chief Legal and Governance Officer

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**Purpose** To review the Terms of Reference for the Local Pension Board.

**Recommendations** That the report be noted and proposals for amendment made as required.

**Summary** In preparation for the establishment of the Local Pension Board on 1 April 2015, the Authority's Human Resources Committee approved the draft Terms of Reference at its meeting held on 23 January 2015 which were subsequently reviewed and amended in July 2016. Further reviews were undertaken in July 2017 when it was resolved that the Terms of Reference adequately reflected the purpose of the Local Pension Board and that no amendments were required and again in January 2018 when Human Resources Committee resolved at its April 2018 meeting that no amendment should be made in response to the recommendations of the January meeting of the Local Pension Board.

It is a requirement that the Terms of Reference be reviewed on an annual basis.

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Nicola Houseman, Committee Services Manager  
E: [nicky.houseman@westyorksfire.gov.uk](mailto:nicky.houseman@westyorksfire.gov.uk)  
T: 01274 655740

Background papers open to inspection: None

Annexes: Terms of Reference – Local Pension Board

## **1 Introduction**

- 1.1 This report invites Members to review of the Local Pension Board Terms of Reference.

## **2 Information**

- 2.1 The Local Pension Board Terms of Reference have been kept under review since its establishment in April 2015. A copy of the current Terms of Reference is attached at Annex A.
- 2.2 Most recently, at the 12 January 2018 meeting of the Board it was resolved that consideration be given by the Human Resources committee to a change in the Terms of Reference. This matter was the subject of an agenda item at the Human Resources Committee meeting held on 13 April 2018, when it was resolved as follows;

“That no recommendation be made to the full Authority for an amendment to the Terms of Reference for the Local Pension Board in respect of the issues raised in the report now submitted.”

- 2.3 It is a requirement of the Board that the Terms of Reference be reviewed on an annual basis. Members are now invited, therefore, to consider the Terms of Reference for the 2019 – 20 year and note that any amendment will be included in the Local Pension Board’s Constitution document and will require formal approval from the Fire Authority.

## **3 Financial Implications**

- 3.1 There are no direct financial implications arising from this report.

## **4 Legal implications**

- 4.1 The Chief Legal and Governance Officer has considered this report and has no observations to make at the time of submission of this report but may provide legal advice at the committee meeting and / or respond to any request by Members for legal advice made at the meeting.

## **5 Human Resources and Diversity Implications**

- 5.1 There are no direct equality and diversity implications arising from this report.

## **6 Health, Safety and wellbeing implications**

- 6.1 There are no direct health, safety or wellbeing implications arising from this report.

## **7 Your Fire and Rescue Service priorities**

- 7.1 The report supports all the Your Fire and Rescue 2019 - 22 priorities.

# **West Yorkshire Fire and Rescue Authority**

## **Local Pension Board**

### **Terms of Reference**

#### **Function and Responsibilities**

The function of the Local Pension Board is to assist the Scheme Manager (West Yorkshire Fire and Rescue Authority) in administering the various firefighter pension schemes. This will be achieved by providing governance and by scrutiny of policies, pension documentation, decisions and outcomes.

The Local Pension Board will also assist the Scheme Manager to:

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

#### **Duties of the Board**

The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of these duties Board members:

- should act always in the interests of the Scheme and not seek to promote the interests of any stakeholder group above another
- should be subject to and abide by the Local Pension Board approved code of conduct

#### **Frequency of meetings**

The WYFRA Local Pension Board will meet six monthly (July and January in each municipal year), to review / report on previous actions and determine work streams and priorities for the future.

The Chair of the Board, with the consent of the Board membership, may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and e-mails.



## **Local Pension Board membership**

To comply with the regulations the Board must have a minimum of four members (two Scheme Member representatives and two Scheme Manager representatives). A Local Pension Board membership of four is the most straight forward and cost effective way of providing the Local Pension Board and complying with the Regulations.

Membership of the West Yorkshire Fire and Rescue Authority Local Pension Board will be:

2 X Scheme Member representatives

2 X Scheme Manager representatives (elected Members)

Non-voting Officer Advisor(s) as appropriate

Scheme Manager (elected Member) representation on the Board will be determined by the Fire Authority at its Annual Meeting (or as otherwise required).

The Officer Advisor will be a specific officer who is to assist the Board in gathering/analysing information and writing reports. The Board will also be able to request assistance from any officer who has specific knowledge of a subject matter they are investigating.

### ***Scheme Member representatives***

Scheme Member representatives shall be appointed to the Board on an annual basis (or as otherwise required) by the Executive Committee of the West Yorkshire Fire and Rescue Authority following a formal application process.

Scheme Member representatives will be active, deferred or retired members of one of the firefighter pension schemes administered by WYFRA.

Scheme Member representatives should be able to demonstrate

- their capacity to represent pension scheme members
- capacity to attend and complete the necessary preparation for meetings, and
- capacity to participate in training as required

### ***Scheme Manager representatives***

Scheme Manager representatives shall be appointed on an annual basis to the Board at the Annual Meeting of the Authority (or as otherwise required)

Scheme Manager representatives with delegated responsibility for discharging the Scheme Manager function of WYFRA may not serve as Scheme Manager representatives on the Board.

Scheme Manager representatives should be able to demonstrate

- their capacity to represent the Scheme Manager
- capacity to attend and complete the necessary preparation for meetings, and
- capacity to participate in training as required

## **Appointment of Chair and Vice chair**

Local Pension Board Members will act as the Chair and Vice- chair on an annual, rotational basis ie. when a Scheme Manager representative is appointed Chair of the Board, the position of Vice chair will be filled by a Scheme Member representative and vice versa on an annual basis.

## **Notification of appointments**

On appointment to the Board, WYFRA shall publish the name of the appointees, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

## **Objectives**

WYFRA Local Pension Board should consider the following:

- Are pension statements timely and accurate?
- How long does it take between retirement and receipt of pension?
- The number of errors made by the pension administrator.
- Are relevant policies in place and of a sufficient standard?
- Are pension estimates accurate and timely?
- Is the West Yorkshire Pension Fund (WYPF) website accurate and user friendly?
- Ensure that annual CARE scheme calculations are being carried out.
- Scrutinise data quality.
- Ensuring pension rules and regulations are being complied with, when officers are making decisions on pension matters.
- If complaints/appeals are being dealt with correctly and the correct procedures being followed.
- Review internal audit reports

This list is not exhaustive. The Local Pension Board will have the power to investigate anything it wishes in relation to the firefighters' pension schemes within WYFRS.

## **Conduct and Conflict of interest**

Members of the Board are responsible for ensuring that their board membership does not result in any conflict of interest with any other posts they hold.

All members of the Board must declare to WYFRA on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Board. On appointment to the Board and following any subsequent declaration of potential conflict WYFRA shall ensure that any potential conflict is effectively managed in line with both the internal procedures of WYFRA and the requirements of the Pensions Regulator's codes of practice on conflict of interest for Board members.

Members of the Board must not use their membership for personal gain.

Gifts and hospitality should only be accepted with the permission of the Authority - any gifts accepted should be reported on in the Local Pension Board's annual report.

Members of the WYFRA Local Pension Board should maintain confidentiality when discharging their duties.

The WYFRA Local Pension Board has the right to use WYFRA facilities and resources in the course of discharging its duties.

### **Knowledge and understanding (including Training)**

Knowledge and understanding must be considered in light of the role of the Board to assist WYFRA as detailed above. The Board should establish and maintain a policy and framework to address the knowledge and understanding requirements that apply to Board members. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.

Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy and framework. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

### **Term of office**

Term of Office should be in accordance with the committee cycle in WYFRA

Board membership may be terminated prior to the end of the term of office due to:

- A Scheme Member representative no longer holding the office or employment or being a member of the body on which their appointment relied
- A Scheme Manager representative no longer holding the office or employment or being a Member on which their appointment relied
- The representative no longer being able to demonstrate their capacity to attend and prepare for meetings or to participate in required training

Board Members may be re-appointed for more than one term of office following an approved appointment / nomination process.

### **Reporting**

The West Yorkshire Local Pension Board will produce an Annual Report which will highlight areas of concern and identify good practice.

The report will also contain information on the number of retirements (natural and ill health), new starters, membership and opt-out numbers.

The Board will report to the Human Resources Committee.

## **Resourcing and funding**

Members of the WYFRA Local Pension Board will be entitled to claim any reasonable out of pocket expense incurred through discharging their Local Pension Board responsibilities.

The Board will not have a dedicated budget. Requests for finance to purchase technical assistance, Board member training and anything else the Board may require to effectively discharge its duties will be made through the WYFRA Finance and Resources Committee.

## **Quorum**

A meeting is only quorate when three Board members are present (including either the Chair or Vice chair).

## **Voting**

The Chair shall determine when consensus has been reached. There will be no casting vote.

Where consensus is not achieved this should be recorded by the Chair.

## **Relationship with West Yorkshire Fire and Rescue Authority**

In support of its core functions the Board may make a request for information to WYFRA with regard to any aspect of the Scheme Manager function. Any such a request should be reasonably complied with in both scope and timing.

In support of its core functions the Board may make recommendations to WYFRA which should be considered and a response made to the Board on the outcome within a reasonable period of time.



OFFICIAL

# Local Pension Board - Annual report 2018 - 19

## Local Pension Board

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Date: 5 July 2019

Agenda Item:

8

Submitted By: Chief Legal and Governance Officer

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**Purpose** To receive the Annual Report for the Local Pension Board 2018 – 19.

**Recommendations** That the Annual Report for the Local Pension Board 2018 – 19 be noted.

**Summary** It is a requirement that the Local Pension Board produces an Annual report each year setting out activity during the course of the previous year.

The report has been formally submitted to the Human Resources Committee for approval on 5 July 2019. Members will be verbally updated of any comments made at that meeting which may require amendment(s) to the Annual Report.

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Nicky Houseman, Committee Services Manager  
T: 01274 655740  
E: [nicky.houseman@westyorksfire.gov.uk](mailto:nicky.houseman@westyorksfire.gov.uk)

Background papers open to inspection: None

Annexes: Annual Report 2018 - 19

## **1 Introduction**

- 1.1 The Local Pension Board is required to submit an Annual Report for formal ratification by West Yorkshire Fire and Rescue Authority's Human Resources Committee as set out in its Terms of Reference.

## **2 Information**

- 2.1 The draft Annual Report was submitted to the Board for comment at its meeting held on 18 April 2019.
- 2.2 It was agreed that the Report be submitted to the Human Resources Committee for formal ratification. The Report was submitted to the 5 July 2019 meeting of the Committee.
- 2.3 A verbal update will be given at the meeting to advise of the decision of the Human Resources Committee as detailed at paragraph 2.2

## **3 Financial Implications**

- 3.1 There are no direct financial implications arising from this report.

## **4 Legal implications**

- 4.1 The Chief Legal and Governance Officer has considered this report and has no observations to make at the time of submission of this report but may provide legal advice at the committee meeting and / or respond to any request by Members for legal advice made at the meeting.

## **5 Human Resources and Diversity Implications**

- 5.1 There are no direct equality and diversity implications arising from this report.

## **6 Health, Safety and wellbeing implications**

- 6.1 There are no health, safety or wellbeing implications arising from this report.

## **7 Your Fire and Rescue Service priorities**

- 7.1 Production of the Annual Report and its submission for formal ratification by the Human Resources Committee supports all the Your Fire and Rescue Service 2019 – 22 priorities.



# LOCAL PENSION BOARD

## Annual Report 2018 - 2019

**OFFICIAL**

Ownership: Legal and Governance

Date Issued:

Version:

Status: Draft



# Revision and Signoff Sheet

## Change Record

Date	Author	Version	Comments
		V1 – initial draft	To submit to Local Pension Board for final comment and recommendation for approval to HR Committee on 6 July 2019.

## Reviewers

Name	Version Approved	Position	Organisation	Date
Nicola Houseman		Committee Manager	WYFRA	17/4/19

## Distribution

Name	Position	Organisation
Local Pension Board		West Yorkshire Fire and Rescue Authority
Human Resources Committee		6 July 2019

## Document Properties

Item	Details
Document Title	LOCAL PENSION BOARD
Author	Administrator
Creation Date	7 November 2018
Last Updated	



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## 1 Foreword

The purpose of this Annual report is to provide a source of information about the status of West Yorkshire Fire and Rescue Authority Local Pension Board for Scheme members and for the Scheme Manager together with a summary of issues considered in the relevant period (1 April 2018 – 31 March 2019)

In accordance with Section 5 and s.30 (1) of the Public Service Pensions Act 2013 and Regulation 4A of the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015, the West Yorkshire Fire and Rescue Authority Local Pension Board was established in February 2015 to provide advice on the effective and efficient administration and management of the various firefighter pension schemes.

[The Local Government Pension Scheme for Green Book employees is monitored by a separate Local Pension Board established by the West Yorkshire Local Government Pension Scheme and does not form part of this Annual Report].

The Report includes commentary on the following;

- A summary of the work undertaken by the Local Pension Board during 2018 – 19
- Detail of areas investigated and how these areas were dealt with
- Any conflicts of interest and how these were managed
- Any identified risks and other areas of potential concern
- Any expenses and costs incurred by the Board
- Gifts and hospitality received by members of the Board
- Training for Board members
- Breaches
- Scrutiny and review

Information has also been categorised in parts of this Annual Report on the basis of the following Classifications

Classification	Action
	Outstanding
	Partially complete
	Complete

## 2 Membership and meetings of the Board

2.1 The West Yorkshire Fire and Rescue Authority Local Pension Board comprises 4 members as follows;

2 x Scheme Member representatives (Paul Drinkwater, Chair and Stuart Wilson)

2 x Scheme Manager representatives (Councillors Peter Harrand and Tracey Austin)

(plus Non-voting Officer Adviser(s) as appropriate)

- 2.2 The Board has met on 3 occasions in the 2018 – 19 year - one of these meetings were called by the Chair with the consent of the Board membership in accordance with the Terms of Reference. A fourth meeting was conducted by email on 18 April 2019.

### **3 Work undertaken by the West Yorkshire Fire and Rescue Authority Local Pension Board 2018 – 19**

- 3.1 The work undertaken by the Board during the course of the year has been defined by these Terms of Reference approved at the 24 June 2016 meeting of the West Yorkshire Fire and Rescue Authority.
- 3.2 Membership of the Scheme Advisory Board sub-committee (Ensuring the effectiveness of Local Pension Boards) continued as follows;
- Stuart Wilson (Scheme member representative)
- 3.3 During the period 1 April 2018 – 31 March 2019 the following items were also considered by the Board;
- Updates on the work and levy associated with the national Scheme Advisory Board (SAB) & its sub-committee (Ensuring the effectiveness of the Local Pension Board)
  - Pension risk register and possible inclusion into Corporate Risk Register
  - Pension Fund – Key Performance Indicators and corporate risks
  - Discretions made by the Scheme Manager
  - Annual benefit statements (including Annual Benefit Survey 2018)
  - Review of Terms of Reference
  - General Data Protection Regulations (GDPR) – privacy notices
  - Pension Risk Register – implementation and adoption as standing item
  - Compliance breaches Register – implementation and adoption as a standing item
  - Response to SAB survey 2017 on effectiveness of Local Pension Boards (including West Yorkshire position statement)
  - Guaranteed Minimum Pension (GMP) reconciliation
- 3.4 Each Activity report includes detail on the number of;
- pension scheme members across the various schemes
  - number of new scheme members
  - retirees
  - pensioner members
  - deferred members
  - IDRPs stage 1 and 2 complaints
  - Opt-outs
  - Pension estimates requested / processed
  - Compliance and complaints

3.5 Each agenda also includes the following standing items;

- legislative update
- scrutiny and review (including discretions, breach and risk registers)
- Pensions ombudsman cases (see section 9.)

## 4 Specific investigations and Board resolutions

4.1 A summary of the areas considered during 2018 – 19 which warranted further investigation and action and the relevant outcomes are detailed in the table below.

Meeting	Summary	Outcome / resolution	Completed
6 July 2018	Terms of reference – business case for amendment		
	Pension Risk Register	Update with detail of testing intervals	
	Privacy notice	Issue to Scheme members	
	Pension risk register	To be a standing item	
5 October 2018	Incorrect pension deductions	Defer pending outcome of negotiations with FBU	
	Report to Fire Authority on possible penalties for late submission of data for Annual Benefit Statements	Full Authority considers Local Pension Board at each meeting (as appropriate)	
	Seek reassurance from West Yorkshire Pension Fund	WYPF to confirm that projected Service Level Agreement (SLA) is compliant following recent significant expansion of customer base	
11 January 2019	Breaches register	Advice sought with regard to requirement to report incorrect deductions	

## 5 Conflicts of interest

- 5.1 As statutorily required, members of the Local Pension Board complete a Declaration of Interests. The register is maintained by the West Yorkshire Fire and Rescue Authority Committee Services section. Members of the Board reviewed their Declarations in July 2018.
- 5.2 There have been no declarations made by any member, adviser or attendee at any meeting of the Board during the relevant period.

## 6 Identified Risks and areas of concern

6.1

Meeting	Summary of risk	Outcome / resolution	Completed
4 December 2015	Ongoing pension dispute –	FBU legal case upheld in Court – Government has lodged an appeal	
7 July 2017	Appeal regarding pension transition arrangements	New Pensions Governance and Administration Policy to include a section on the pension risk management system and how this links with the corporate risk management system ie. pension related risks/risk areas that do not relate to WYFRS pensions internal governance and administration arrangements will be managed by the Authority's Risk Management Strategy Group and if significant will be included on the Corporate Risk Matrix	

- 6.2 IDRPs Stage 1 and 2 complaints are included as appropriate in the Activity report at each meeting of the Board.
- 6.3 Breaches – the reporting system was bedded in during the course of the year and advice sought with regard to the level of breach required to be escalated.

## 7 Expenses and Costs

- |     |                   |              |                                |
|-----|-------------------|--------------|--------------------------------|
| 7.1 | 17 July 2018      | Rail £196.51 | SAB                            |
| 7.2 | 17 September 2018 | Rail £65.07  | Conference plus £8.51 expenses |
| 7.3 | Brigade car       | 25.9.18      | SAB meeting                    |
| 7.4 | 15 May 2019       | Rail £265.41 | Annual Conference              |
- 7.5 There has been no additional expenditure or costs incurred within the relevant period for the administration of the Board.

## 8 Gifts and Hospitality

- 8.1 There have been no declarations of gifts or hospitality received by Members of the Local Pension Board during the relevant period.

## 9 Training

- 9.1 It is a statutory requirement of the Public Service Pensions Act 2013 that members of the Local Pension Board should have the capacity to become conversant with, and develop a knowledge of, detailed related issues in order to effectively carry out their duties.
- 9.2 The following training has been provided during the course of the year to Local Pension Board members;
- Pensions Regulator e-learning package
  - Bulletins from LGA Pension Advisory Service
  - LGA National training programme – update / refresher training
- 9.3 There was also attendance by a Local Pension Board member at the Local Government Association Pension Conference on 17 September 2018.
- 9.4 One standing item on the Local Pension Board agendas is consideration of relevant Pension Ombudsman cases. The summaries provided and Ombudsman decisions serve as a learning tool for LPB members.
- 9.5 During the course of the year, the following cases were reviewed;
- 9.5.1 Mr A – Scheme interpretation (Warwickshire FRA)
- 9.5.2 Mr B – Incorrect calculation (West Midlands FRA)
- 9.5.3 Mr N – Scheme transfer (Northumbria Police)
- 9.5.4 Messrs W,H,S and E – pensionable pay (Mid and West Wales FRA)
- 9.5.5 Mr N – overpayment of injury pension (Kent and Medway Fire and Rescue Authority)

## 10 Legislative updates

10.1 As a statutory requirement, members of the Local Pension Board have been provided with regular legislative updates.

10.2 The following have been provided during the relevant period;

- Ill health injury compensation pensions – Tax issues
- legal challenge – transitional protections 2015 FFPS
- General Data Protection Regulations (GDPR)
- FPS Valuation 2016
- Retained Duty System (RDS) firefighters' pensions
- Revised GAD factors and impact on the Fire Authority's budget

## 11 Scrutiny and review

11.1 Members are required to scrutinise areas relevant to the administration of the Firefighters' Pension Schemes.

11.2 The following areas were scrutinised during the relevant period;

- Annual Benefit Statements
- Discretions
- Guaranteed Minimum Pension (GMP) regulations
- Changes in policy
- Breaches and compliance deadlines
- Local Pension Board CPD (Continuous Professional Development) training



OFFICIAL

# Local Pension Board Activity Report

## Local Pension Board

Date: 5 July 2019

Agenda Item:

9

Submitted By: Claire Johnson

**Purpose** To advise Members of performance in key areas for the period 1 December 2018 to 31 May 2019

**Recommendations** That Members note performance in key areas for the period 1 December 2018 to 31 May 2019

**Summary** This report informs Members of the Authority's key areas relating to the Local Pension Board as follows;

- Number of pension scheme members across the various schemes
- Number of new pension scheme members
- Number of retirees in the period
- Number of pensioner members of each scheme
- Number of deferred members of each scheme
- Number of IDRPs stage 1 and 2 complaints
- Number of Opt Outs from the pension schemes
- Number of pension estimates requested and processed

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### Local Government (Access to information) Act 1972

Exemption category	None
Contact officer	Claire Johnson T: 01274 655811 E: <a href="mailto:claire.johnson@westyorksfire.gov.uk">claire.johnson@westyorksfire.gov.uk</a>
Background papers open to inspection	None
Annexes	None



## 1 Introduction

1.1 This report informs Members of the Authority's key areas relating to the Local Pension Board as follows;

- Number of pension scheme members across the various schemes
- Number of new pension scheme members
- Number of retirees in the period
- Number of pensioner members of each scheme
- Number of deferred members of each scheme
- Number of IDRP stage 1 and 2 complaints
- Number of Opt Outs from the pension schemes
- Number of pension estimates requested and processed

## 2 Information

2.1 **Number of pension scheme members across the various schemes at 31 May 2019**

1992 Fire fighters Pension Scheme	<b>128</b>
2006 Fire Firefighters Pension Scheme	<b>5</b>
2015 Firefighters Pension Scheme	<b>858</b>
Fire Fighters Modified Scheme	<b>18</b>

2.2 **Number of pensioner members of each scheme at 31 May 2019**

1992 Fire fighters Pension Scheme	<b>2374</b>
2006 Fire Firefighters Pension Scheme	<b>10</b>
2015 Firefighters Pension Scheme	<b>6</b>
Fire Fighters Modified Scheme	<b>32</b>

2.3 **Number of deferred members of each scheme at 31 May 2019**

1992 Fire fighters Pension Scheme	<b>80</b>
2006 Fire Firefighters Pension Scheme	<b>97</b>
2015 Firefighters Pension Scheme	<b>80</b>
Fire Fighters Modified Scheme	<b>18</b>

2.4 **Number of 1992 FPS Scheme members with tapered protection**

At 31 May 2019, there are **90** 1992 FPS members that have tapered protection in the scheme, before transitioning into the 2015 CARE scheme.

2.5 **Number of 2006 NFPS Scheme members with tapered protection**

At 31 May 2019, there are **9** 2006 NFPS members that have tapered protection in the scheme, before transitioning into the 2015 CARE scheme.

## 2.6 Number of new pension scheme members

In the period 1 December 2018 to 31 May 2019, there has been **49** new 2015 CARE pension scheme members. Please note that this does not include members that have transitioned due to taper protection.

This can be broken down into the following demographic:

Age	Male	Female
18 - 25	7	1
26 - 30	18	2
31 - 35	11	0
36 - 40	5	2
41 - 45	2	0
46 - 50	1	0
51 - 55	0	0
56 - 60	0	0
61 - 65	0	0

Total	44	5
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## 2.7 Number of retirees in the period

In the period 1 December 2018 to 31 May 2019, **31** members have retired to pension.

## 2.8 Number of IDRPs stage 1 and 2 complaints

In the period 1 December 2018 to 31 May 2019, there has been **0** IDRPs complaints at stage 1 and **0** at stage 2.

## 2.9 Number of Opt Outs from the pension schemes

In the period 1 December 2018 to 31 May 2019, **2** members opted out of the pension scheme. This can be broken down into the following demographic:

Age	Male	Female
18 - 25	0	0
26 - 30	0	0
31 - 35	0	0
36 - 40	1	1
41 - 45	0	0
46 - 50	0	0
51 - 55	0	0
56 - 60	0	0
61 - 65	0	0

Total	1	1
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### 3 Pension Estimates

Number of pension estimates processed for the period 1 December 2018 to 31 May 2019 – **156**

### 4 Summary of New Recruits

In the period 1 December 2018 to 31 May 2019, we appointed **33** Wholetime Firefighter Trainees and **12** On Call Firefighter Trainees. Of those, **0** recruits chose to opt out of the pension scheme. The recruits can be broken down into the following demographic:

Age	Male	Female	Wholetime (WT) / On Call (OC)
18 - 25	7	1	4 WT, 4 OC
26 - 30	17	2	14 WT, 5 OC
31 - 35	11	0	9 WT, 2 OC
36 - 40	4	1	4 WT, 1 OC
41 - 45	2	0	2 WT, 0 OC
46 - 50	0	0	WT, 0 OC
51 - 55	0	0	WT, 0 OC
56 - 60	0	0	WT, 0 OC
61 - 65	0	0	WT, 0 OC
Total	41	4	33 WT, 12 OC

# Scrutiny and review

## Local Pension Board

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Date: 5 July 2019

Agenda Item:

10

Submitted By: Chief Employment Services Officer

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### Purpose

To scrutinise and review the following:

- Pension Risk and Breaches Policies
- Discretions made by Scheme Manager
- Breaches register
- Pension Risk register
- Compliance deadlines

### Recommendations

That the report be noted and further action is taken as identified

### Summary

It is one of the requirements of the Local Pension Board that members scrutinise areas relevant to the administrations of the Firefighters' Pension Schemes.

This report identifies five areas of scrutiny.

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Local Government (Access to information) Act 1972

Exemption Category:

None

Contact Officer:

Claire Johnson, Pensions Officer

T: 01274 655811

E: [Claire.johnson@westyorkfire.gov.uk](mailto:Claire.johnson@westyorkfire.gov.uk)

Background papers open to inspection: None

Annexes:

Annex A – Pension Risk and Breaches Policies

Annex B – Discretions made by Scheme Manager

Annex C – Breaches register

Annex D– Pension risk register

Annex E – Compliance deadlines

## **1 Introduction**

- 1.1 Local Pension Board members are to be conversant with Firefighter pension scheme rules and other administration policies relevant to the schemes.

## **2 Information**

- 2.1 This report covers four areas for scrutiny and review as follows:

- Pension Risk and Breaches Policies
- Discretions made by Scheme Manager
- Breaches register
- Pension risk register
- Compliance deadlines

- 2.2 Members are invited to consider the Pension Risk and Breaches policies. Member are asked to consider if any further action is be appropriate and confirm that they are happy for publication.

- 2.3 Members are invited to consider the remaining annexes and consider if any further action would be appropriate.

## **3 Financial Implications**

- 3.1 There are no financial implications arising from this report.

## **4 Legal Implications**

- 4.1 The Chief Legal and Governance Officer has considered this report and has no observations to make at the time of submission, but may provide legal advice at the committee meeting and/or respond to any requests by members for legal advice made at the meeting.

## **5 Human Resource and Diversity Implications**

- 5.1 There are no HR or Diversity implications arising from this report.

## **6 Health and Safety Implications**

- 6.1 There are no Health and Safety implications arising from this report.

## **7 Service Plan Links**

- 7.1 Keeping members updated with regard to pension legislation is an integral part of the acquisition of knowledge and learning required by the relevant regulations and is demonstrative of the Authority's commitment to provide "effective and ethical governance".



## Pension Breaches Policy

**OFFICIAL**

Ownership: Claire Johnson, Pensions Officer

Date Issued: 18/06/2019

Version: [Version] Status: [File Status Field]



## Revision and Signoff Sheet

### Change Record

Date	Author	Version	Comments

### Reviewers

Name	Version Approved	Position	Organisation	Date

### Distribution

Name	Position	Organisation

### Document Properties

Item	Details
Document Title	Pension Breaches Policy
Author	Administrator
Creation Date	18 June 2019
Last Updated	26 June 2019

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## 1 Requirements, Regulations and Responsibilities

West Yorkshire Fire and Rescue Service (WYFRS) pension arrangements take account of The Pensions Regulator Code of Practice No. 14: Governance and Administration of Public Service Pension Schemes.

The Scheme Manager of a public service pension scheme must establish and operate internal controls. These must be adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules and in accordance with the requirements of the law.

Internal controls are systems, arrangements and procedures that are put in place to ensure that pension schemes are being run in accordance with the scheme rules and other law. They should include documented procedures for assessing and managing risk, reviewing breaches of law and managing contributions to the scheme. Internal controls can help protect pension schemes from adverse risks, which could be detrimental to the scheme and members if they are not mitigated. The Scheme Manager will employ a risk-based approach and ensure that sufficient time and attention is spent on identifying, evaluating and managing breaches by developing and monitoring appropriate controls. They will seek advice as necessary.

## 2 Introduction

- 2.1** This document sets out the procedures to be followed by certain persons involved with the WYFRS Local Pension Board - including the Scheme Manager (delegated to CESO) in relation to reporting breaches of the law to The Pensions Regulator.
- 2.2** Breaches can occur in relation to a wide variety of tasks normally associated with the administrative function of a scheme such as keeping records, internal controls, calculating benefits and making investment or investment-related decisions.
- 2.3** This procedure applies, in the main, to:
- All members of the Pension Board and Scheme Manager;
  - All officers involved in the management of the Pension Schemes;
  - Any professional advisers including auditors, actuaries, legal advisers and fund managers;
  - Employee representatives.
- 2.4** However, any person involved with a scheme has a duty to report an identified breach. This does not include scheme members.

### 3 Requirements

This section clarifies the full extent of the legal requirements and to whom they apply.

#### 3.1 Pensions Act 2004

Section 70 of the Pensions Act 2004 (the Act) imposes a requirement on the following persons:

- a trustee or manager of an occupational or personal pension scheme;
- a member of the pension board of a public service pension scheme;
- a person who is otherwise involved in the administration of such a scheme an occupational or personal pension scheme;
- the employer in relation to an occupational pension scheme;
- a professional adviser in relation to such a scheme; and
- a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme, to report a matter to The Pensions Regulator as soon as is reasonably practicable where that person has reasonable cause to believe that:
  - (a) a legal duty relating to the administration of the scheme has not been or is not being complied with, and
  - (b) the failure to comply is likely to be of material significance to The Pensions Regulator

The Act states that a person can be subject to a civil penalty if they fail to comply with this requirement without a reasonable excuse. The duty to report breaches under the Act overrides any other duties the individuals listed above may have. However the duty to report does not override 'legal privilege'. This means that, generally, communications between a professional legal adviser and their client, or a person representing their client, in connection with legal advice being given to the client, do not have to be disclosed.

#### 3.2 The Pension Regulator's Code of Practice

Practical guidance in relation to this legal requirement is included in The Pension Regulator's Code of Practice including in the following areas:

- Implementing adequate procedures
- Judging whether a breach must be reported
- Submitting a report to The Pensions Regulator
- Whistleblowing protection and confidentiality

## 4 Reporting Breaches Procedure

The following procedure details how individuals responsible for reporting and whistleblowing can identify, assess and report (or record if not reported) a breach of law relating to the Firefighters' Pension Schemes. It aims to ensure individuals responsible are able to meet their legal obligations, avoid placing any reliance on others to report. The procedure will also assist in providing an early warning of possible malpractice and reduce risk.

### 4.1 Clarification of the law

Individuals may need to refer to regulations and guidance when considering whether or not to report a possible breach. Some of the key provisions are shown below:

- Section 70(1) and 70(2) of the Pensions Act 2004:  
[www.legislation.gov.uk/ukpga/2004/35/contents](http://www.legislation.gov.uk/ukpga/2004/35/contents)
- Employment Rights Act 1996:  
[www.legislation.gov.uk/ukpga/1996/18/contents](http://www.legislation.gov.uk/ukpga/1996/18/contents)
- Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (Disclosure Regulations):  
[www.legislation.gov.uk/uksi/2013/2734/contents/made](http://www.legislation.gov.uk/uksi/2013/2734/contents/made)
- Public Service Pension Schemes Act 2013:  
[www.legislation.gov.uk/ukpga/2013/25/contents](http://www.legislation.gov.uk/ukpga/2013/25/contents)
- Firefighters Pension Regulations  
<http://www.fpsregs.org/index.php/regulations>
- The Pensions Regulator's Code of Practice:  
<http://www.thepensionsregulator.gov.uk/codes/code-governanceadministration->  
In particular, individuals should refer to the section on 'Reporting breaches of the law', and for information about reporting late payments of employee or employer contributions, the section of the code on 'Maintaining contributions'.
- [LGA/ SAB breach assessment template](#)

Further guidance and assistance can be provided by the LGA Fire pensions' team, the SAB secretariat or TPR provided that requesting this assistance will not result in alerting those responsible

### 4.2 Clarification when a breach is suspected

Individuals need to have reasonable cause to believe that a breach has occurred, not just a suspicion. Where a breach is suspected the individual should carry out further checks to confirm the breach has occurred. Where the individual does not know the facts or events, it will usually be appropriate to check with the Scheme Manager or others who are able to explain what has happened. However, there are some instances where it would not be appropriate to make further checks, for example, if the individual has become aware of theft, suspected fraud or another serious offence and they are also aware that by making further checks there is a risk of either alerting those involved or hampering the actions of the police or a regulatory authority. In these cases The Pensions Regulator should be contacted without delay.

### 4.3 Determining whether the breach is likely to be of material significance

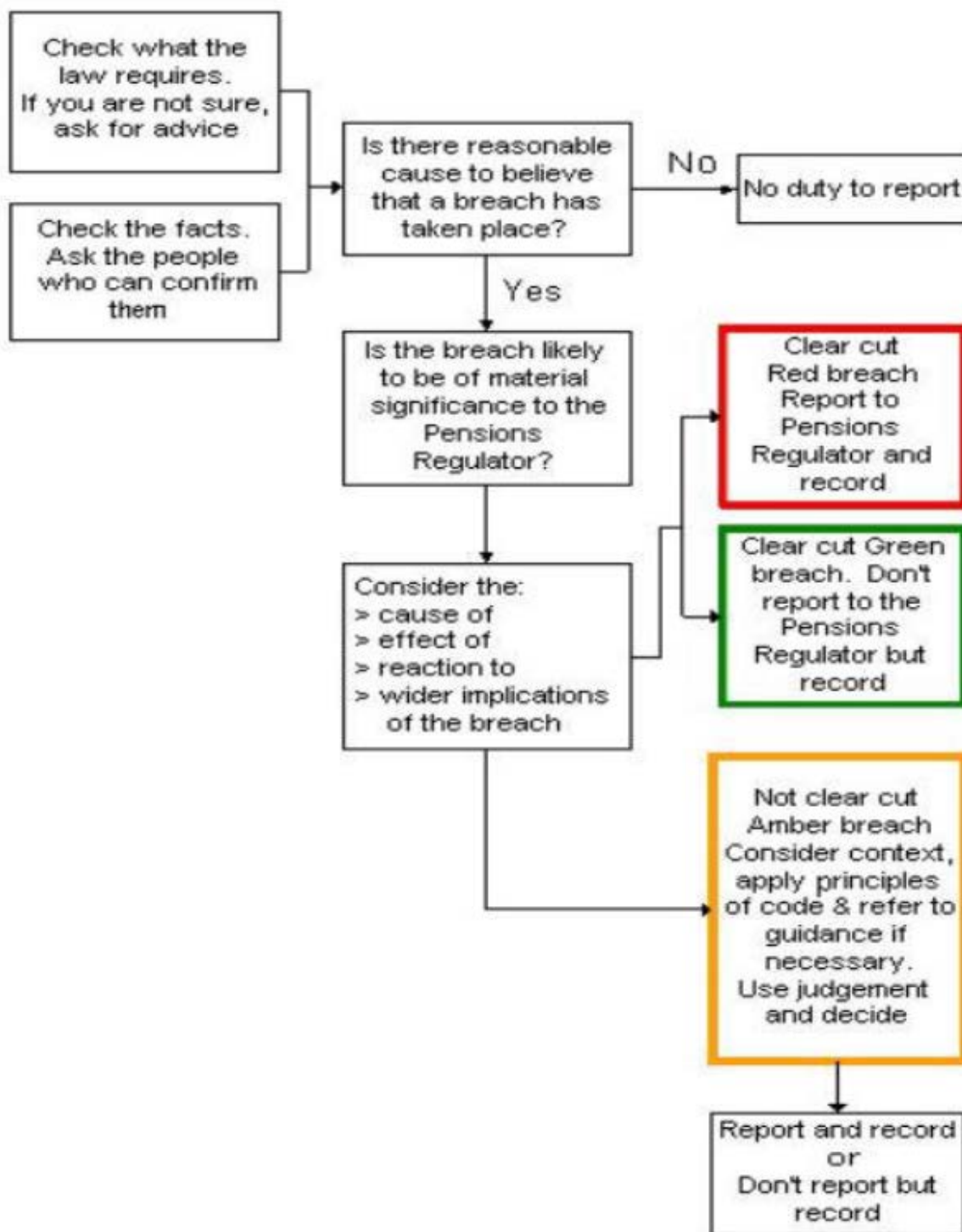
To decide whether a breach is likely to be of material significance an individual should consider the following, both separately and collectively:

- Cause of the breach (what made it happen);
- Effect of the breach (the consequence(s) of the breach);
- Reaction to the breach; and
- Wider implications of the breach.

Further details on the above four considerations are provided in Appendix A to this procedure. Individuals should use the traffic light framework described in Appendix B to help assess the material significance of each breach and to formally support and document their decision.

- 4.4** A decision tree is provided below to show the process for deciding whether or not a breach has taken place and whether it is materially significant and therefore requires to be reported.

# Decision-tree: deciding whether to report



3.5.

#### 4.5 Referral to a level of seniority for a decision to be made on whether to report

The Scheme Manager is responsible for ensuring procedure is appropriately followed, the Scheme Manager will be able to identify a person or persons who has appropriate experience to help investigate whether there is reasonable cause to believe a breach has occurred, to check the law and facts of the case, to maintain records of all breaches and to assist in any reporting to The Pensions Regulator, where appropriate.

If the breach relates to a reported error by payroll to deduct the correct pension contributions or the pensions administrator to calculate and pay pension benefits, the matter should be highlighted to the Scheme Manager at the earliest opportunity to ensure the matter is resolved as a matter of urgency. Individuals must bear in mind, however, that the involvement of the Scheme Manager is to help clarify the potential reporter's thought process and to ensure this procedure is followed. The reporter remains responsible for the final decision as to whether a matter should be reported to The Pensions Regulator.

The matter should not be referred to any officer if doing so will alert any person responsible for a possible serious offence to the investigation (as highlighted in section 2). If that is the case, the individual should report the matter to The Pensions Regulator setting out the reasons for reporting, including any uncertainty – a telephone call to the Regulator before the submission may be appropriate, particularly in more serious breaches.

#### 4.6 Dealing with complex cases

Guidance and information on particularly complex cases may be available from LGA, TPR, the administrator or national resources such as the Scheme Advisory Board [www.fpsboard.org](http://www.fpsboard.org) or the LGA Bluelight team [www.fpsregs.org](http://www.fpsregs.org). If timescales allow, legal advice or other professional advice can be sought and the case can be discussed at the next Local Pension Board meeting.

#### 4.7 Timescales for reporting

The Pensions Act and Pension Regulators Code require that if an individual decides to report a breach, the report must be made in writing as soon as reasonably practicable. Individuals should not rely on waiting for others to report, nor is it necessary for a reporter to gather all the evidence which The Pensions Regulator may require before taking action. A delay in reporting may exacerbate or increase the risk of the breach. The time taken to reach the judgements on “reasonable cause to believe” and on “material significance” should be consistent with the speed implied by ‘as soon as reasonably practicable’. In particular, the time taken should reflect the seriousness of the suspected breach.

#### 4.8 Early identification of very serious breaches

In cases of immediate risk to the scheme, for instance, where there is any indication of dishonesty, The Pensions Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these

necessary checks. In cases of potential dishonesty the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert The Pensions Regulator to the breach.

#### 4.9 Recording all breaches even if they are not reported

The record of past breaches may be relevant in deciding whether to report a breach (for example it may reveal a systemic issue). West Yorkshire Fire and Rescue Authority will maintain a record of all breaches identified by individuals and reporters should therefore provide copies of reports to the Scheme Manager.

Records of unreported breaches should also be provided as soon as reasonably practicable and certainly no later than within 20 working days of the decision made not to report. These will be recorded alongside all reported breaches. The record of all breaches (reported or otherwise) will be included every Local Pension Board agenda.

#### 4.10 Reporting a breach

Reports must be submitted in writing via The Pensions Regulator's online system at [www.tpr.gov.uk/exchange](http://www.tpr.gov.uk/exchange), or by post, email or fax, and should be marked urgent if appropriate. If necessary, a written report can be preceded by a telephone call. Reporters should ensure they receive an acknowledgement for any report they send to The Pensions Regulator. The Pensions Regulator will acknowledge receipt of all reports within five working days and may contact reporters to request further information. Reporters will not usually be informed of any actions taken by The Pensions Regulator due to restrictions on the disclosure of information.

As a minimum, individuals reporting should provide:

- full scheme name;
- description of breach(es);
- any relevant dates;
- name, position and contact details;
- role in connection to the scheme; and
- employer name or name of Scheme Manager

If possible, reporters should also indicate:

- the reason why the breach is thought to be of material significance to The Pensions Regulator;
- scheme address (provided at the end of this procedures document);
- Scheme Manager contact details
- pension scheme registry number; and
- whether the breach has been reported before.

The reporter should provide further information or reports of further breaches if this may help The Pensions Regulator in the exercise of its functions. The Pensions Regulator may make contact to request further information.

#### 4.11 Confidentiality

If requested, The Pensions Regulator will do its best to protect a reporter's identity and will not disclose information except where it is lawfully required to do so. If an individual's employer decides not to report and the individual employed by them disagrees with this and decides to report a breach themselves, they may have protection under the Employment Rights Act 1996 if they make an individual report in good faith.

#### 4.12 Reporting to the Local Pension Board

A report will be presented by the Scheme Manager (or representative) to the Local Pension Board setting out:

- all breaches, including those reported to The Pensions Regulator and those unreported, with the associated dates;
- in relation to each breach, details of what action was taken and the result of any action (where not confidential);
- any future actions for the prevention of the breach in question being repeated; and
- highlighting new breaches which have arisen in the last year/since the previous meeting.

This information will also be provided upon request by any other individual or organisation (excluding sensitive/confidential cases or ongoing cases where discussion may influence the proceedings). An example of the information to be included in the LPB papers is provided in Appendix C.

#### 3.13. Review

This Reporting Breaches Procedure was originally developed in June 2019. It will be kept under review and updated as considered appropriate. It may be changed as a result of legal or regulatory changes, evolving best practice and ongoing review of the effectiveness of the procedure.



## 5 Appendix A

### 1. Determining whether a breach is likely to be of material significance

1.1 To decide whether a breach is likely to be of material significance individuals should consider the following elements, both separately and collectively:

- cause of the breach (what made it happen);
- effect of the breach (the consequence(s) of the breach);
- reaction to the breach; and
- wider implications of the breach

### 2. The cause of the breach

2.1 Examples of causes which are likely to be of concern to The Pensions Regulator are provided below:

- acting, or failing to act, in deliberate contravention of the law;
- dishonesty;
- incomplete or inaccurate advice;
- poor administration, i.e. failure to implement adequate administration procedures;
- poor governance; or
- slow or inappropriate decision-making practices.

2.2 When deciding whether a cause is likely to be of material significance individuals should also consider:

- whether the breach has been caused by an isolated incident such as a power outage, fire, flood or a genuine one-off mistake.
- whether there have been any other breaches (reported to The Pensions Regulator or not) which when taken together may become materially significant.

### 3. The effect of the breach

3.1 Examples of the possible effects (with possible causes) of breaches which are considered likely to be of material significance to The Pensions Regulator in the context of the FPS are given below:

- Scheme Manager or Local Pension Board members not having enough knowledge and understanding, resulting in the Pension Board not fulfilling its role, the scheme not being properly governed and administered and/or the Scheme Manager breaching other legal requirements.
- Conflicts of interest of the Scheme Manager or Local Pension Board members, resulting in them being prejudiced in the way in which they carry out their role and/or the ineffective governance and administration of the scheme and/or the Scheme Manager breaching legal requirements.
- Poor internal controls, leading to schemes not being run in accordance with the scheme regulations and other legal requirements, risks not being properly identified and managed and/or the right money not being paid to or by the scheme at the right time.

- Inaccurate or incomplete information about benefits and scheme information provided to members, resulting in members not being able to effectively plan or make decisions about their retirement.
- Poor member records held, resulting in member benefits being calculated incorrectly and/or not being paid to the right person at the right time.
- Misappropriation of assets, resulting in scheme assets not being safeguarded.
- Other breaches which result in the scheme being poorly governed, managed or administered.

#### **4. The reaction to the breach**

**4.1** A breach is likely to be of concern and material significance to The Pensions Regulator where a breach has been identified and those involved:

- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
- are not pursuing corrective action to a proper conclusion; or
- fail to notify affected scheme members where it would have been appropriate to do so

#### **5. The wider implications of the breach**

**5.1** Reporters should also consider the wider implications when deciding whether a breach must be reported. The breach is likely to be of material significance to The Pensions Regulator where the fact that a breach has occurred makes it more likely that further breaches will occur within the Fund or, if due to maladministration by a third party, further breaches will occur in other pension schemes.

## 6 Appendix B

### Traffic light framework for deciding whether or not to report

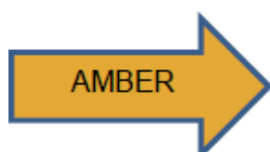
It is recommended that those responsible for reporting use the traffic light framework when deciding whether to report to The Pensions Regulator. This is illustrated below:



Where the cause, effect, reaction and wider implications of a breach, when considered together, are likely to be of material significance.

These must be reported to The Pensions Regulator.

Example: Several members' benefits have been calculated incorrectly. The errors have not been recognised and no action has been taken to identify and tackle the cause or to correct the errors.



Where the cause, effect, reaction and wider implications of a breach, when considered together, may be of material significance. They might consist of several failures of administration that, although not significant in themselves, have a cumulative significance because steps have not been taken to put things right. You will need to exercise your own judgement to determine whether the breach is likely to be of material significance and should be reported.

Example: Several members' benefits have been calculated incorrectly. The errors have been corrected, with no financial detriment to the members. However the breach was caused by a system error which may have wider implications for other public service schemes using the same system.



Where the cause, effect, reaction and wider implications of a breach, when considered together, are not likely to be of material significance. These should be recorded but do not need to be reported.

Example: A member's benefits have been calculated incorrectly. This was an isolated incident, which has been promptly identified and corrected, with no financial detriment to the member. Procedures have been put in place to mitigate against this happening again.

All breaches should be recorded even if the decision is not to report.

When using the traffic light framework individuals should consider the content of the red, amber and green sections for each of the cause, effect, reaction and wider implications of the breach, before you consider the four together. Some useful examples of this framework is provided by The Pensions Regulator at the following link:

[http:// www.thepensionsregulator.gov.uk/codes/code-related-report-breaches.aspx](http://www.thepensionsregulator.gov.uk/codes/code-related-report-breaches.aspx)

7 Appendix C



Compliance Breach Register

Breach No.	Breach Advice Date	Breach Details	Reported to	Investigation details, progress, outcome, corrective action, confirmation Breach permanently rectified? Reason not reported to TPR





## Pension Risk Register Policy

**OFFICIAL**

Ownership: Claire Johnson, Pensions Officer

Date Issued: 18/06/2019

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## Revision and Signoff Sheet

### Change Record

Date	Author	Version	Comments

### Reviewers

Name	Version Approved	Position	Organisation	Date

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## 1 Requirements, Regulations and Responsibilities

West Yorkshire Fire and Rescue Service (WYFRS) pension arrangements take account of The Pensions Regulator Code of Practice No. 14: Governance and Administration of Public Service Pension Schemes.

The Scheme Manager of a public service pension scheme must establish and operate internal controls. These must be adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules and in accordance with the requirements of the law.

Internal controls are systems, arrangements and procedures that are put in place to ensure that pension schemes are being run in accordance with the scheme rules and other law. They should include documented procedures for assessing and managing risk, reviewing breaches of law and managing contributions to the scheme. Internal controls can help protect pension schemes from adverse risks, which could be detrimental to the scheme and members if they are not mitigated. The Scheme Manager will employ a risk-based approach and ensure that sufficient time and attention is spent on identifying, evaluating and managing risks and developing and monitoring appropriate controls. They will seek advice as necessary.

## 2 Risk Management and Internal Control

The Scheme Manager along with members of the Local Pension Board will identify the main risks associated with the objectives, functions and activities of the scheme. An effective risk assessment process will help schemes to identify a wide range of internal and external risks, which are critical to the scheme and members.

The Scheme Manager/Local Pension Board is responsible for approving entries onto the pension risk register. They are also responsible for approving the removal of risks in instances where the risk has ceased to be.

Once risks have been identified they will be allocated an owner, analysed (scored), evaluated and recorded on the pension risk register (Appendix B).

All risks will be reviewed periodically, taking into account the operation and adequacy of controls and risk reduction actions. The likelihood and impact scores will be reviewed and the score amended if required.

Risks will be analysed/scored using a 5 x 5 risk matrix, and then evaluated to ensure adequate internal controls/risk reduction action plans are established and monitored for effectiveness.

Risks scoring 15 or above will be forwarded to the Risk Management Strategy Group for consideration and further discussion with a view that the issue/risk may/may not be included on the Corporate Risk Matrix as well as the pension risk register.

All pension risk reviews/activity will be recorded at the Local Pension Board meetings and recorded in the minutes.

### 3 Appendices

#### 3.1 Appendix A - Local Pension Board Terms of Reference

Approved 24.6.16 WYFRA annual meeting

## West Yorkshire Fire and Rescue Authority Local Pension Board Terms of Reference

### Function and Responsibilities

The function of the Local Pension Board is to assist the Scheme Manager (West Yorkshire Fire and Rescue Authority) in administering the various firefighter pension schemes. This will be achieved by providing governance and by scrutiny of policies, pension documentation, decisions and outcomes. The Local Pension Board will also assist the Scheme Manager to:

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

### Duties of the Board

The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of these duties Board members:

- should act always in the interests of the Scheme and not seek to promote the interests of any stakeholder group above another
- should be subject to and abide by the Local Pension Board approved code of conduct

### Frequency of meetings

The WYFRA Local Pension Board will meet six monthly (July and January in each municipal year), to review / report on previous actions and determine work streams and priorities for the future.

The Chair of the Board, with the consent of the Board membership, may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and e-mails. Approved 24.6.16 WYFRA annual meeting

### Local Pension Board membership

To comply with the regulations the Board must have a minimum of four members (two Scheme Member representatives and two Scheme Manager representatives). A Local Pension Board membership of four is the most straight forward and cost effective way of providing the Local Pension Board and complying with the Regulations.

Membership of the West Yorkshire Fire and Rescue Authority Local Pension Board will be:

2 X Scheme Member representatives

2 X Scheme Manager representatives (elected Members)

Non-voting Officer Advisor(s) as appropriate

Scheme Manager (elected Member) representation on the Board will be determined by the Fire Authority at its Annual Meeting (or as otherwise required).

The Officer Advisor will be a specific officer who is to assist the Board in gathering/analysing information and writing reports. The Board will also be able to request assistance from any officer who has specific knowledge of a subject matter they are investigating.

### *Scheme Member representatives*

Scheme Member representatives shall be appointed to the Board on an annual basis (or as otherwise required) by the Executive Committee of the West Yorkshire Fire and Rescue Authority following a formal application process.

Scheme Member representatives will be active, deferred or retired members of one of the firefighter pension schemes administered by WYFRA.

Scheme Member representatives should be able to demonstrate

- their capacity to represent pension scheme members
- capacity to attend and complete the necessary preparation for meetings, and
- capacity to participate in training as required

### *Scheme Manager representatives*

Scheme Manager representatives shall be appointed on an annual basis to the Board at the Annual Meeting of the Authority (or as otherwise required)

Scheme Manager representatives with delegated responsibility for discharging the Scheme Manager function of WYFRA may not serve as Scheme Manager representatives on the Board.

Scheme Manager representatives should be able to demonstrate

- their capacity to represent the Scheme Manager
- capacity to attend and complete the necessary preparation for meetings, and
- capacity to participate in training as required

### **Appointment of Chair and Vice chair**

Local Pension Board Members will act as the Chair and Vice- chair on an annual, rotational basis ie. when a Scheme Manager representative is appointed Chair of the Board, the position of Vice chair will be filled by a Scheme Member representative and vice versa on an annual basis.

### **Notification of appointments**

On appointment to the Board, WYFRA shall publish the name of the appointees, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

## Objectives

WYFRA Local Pension Board should consider the following:

- Are pension statements timely and accurate?
- How long does it take between retirement and receipt of pension?
- The number of errors made by the pension administrator.
- Are relevant policies in place and of a sufficient standard?
- Are pension estimates accurate and timely?
- Is the West Yorkshire Pension Fund (WYPF) website accurate and user friendly?
- Ensure that annual CARE scheme calculations are being carried out.
- Scrutinise data quality.
- Ensuring pension rules and regulations are being complied with, when officers are making decisions on pension matters.
- If complaints/appeals are being dealt with correctly and the correct procedures being followed.
- Review internal audit reports

This list is not exhaustive. The Local Pension Board will have the power to investigate anything it wishes in relation to the firefighters' pension schemes within WYFRS.

## Conduct and Conflict of interest

Members of the Board are responsible for ensuring that their board membership does not result in any conflict of interest with any other posts they hold.

All members of the Board must declare to WYFRA on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Board. On appointment to the Board and following any subsequent declaration of potential conflict WYFRA shall ensure that any potential conflict is effectively managed in line with both the internal procedures of WYFRA and the requirements of the Pensions Regulator's codes of practice on conflict of interest for Board members.

Members of the Board must not use their membership for personal gain.

Gifts and hospitality should only be accepted with the permission of the Authority - any gifts accepted should be reported on in the Local Pension Board's annual report.

Members of the WYFRA Local Pension Board should maintain confidentiality when discharging their duties.

The WYFRA Local Pension Board has the right to use WYFRA facilities and resources in the course of discharging its duties.

## Knowledge and understanding (including Training)

Knowledge and understanding must be considered in light of the role of the Board to assist WYFRA as detailed above. The Board should establish and maintain a policy and framework to address the knowledge and understanding requirements that apply to Board members. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.

Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy and framework. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

### **Term of office**

Term of Office should be in accordance with the committee cycle in WYFRA

Board membership may be terminated prior to the end of the term of office due to:

- A Scheme Member representative no longer holding the office or employment or being a member of the body on which their appointment relied
- A Scheme Manager representative no longer holding the office or employment or being a Member on which their appointment relied
- The representative no longer being able to demonstrate their capacity to attend and prepare for meetings or to participate in required training

Board Members may be re-appointed for more than one term of office following an approved appointment / nomination process.

### **Reporting**

The West Yorkshire Local Pension Board will produce an Annual Report which will highlight areas of concern and identify good practice.

The report will also contain information on the number of retirements (natural and ill health), new starters, membership and opt-out numbers.

The Board will report to the Human Resources Committee.

### **Resourcing and funding**

Members of the WYFRA Local Pension Board will be entitled to claim any reasonable out of pocket expense incurred through discharging their Local Pension Board responsibilities.

The Board will not have a dedicated budget. Requests for finance to purchase technical assistance, Board member training and anything else the Board may require to effectively discharge its duties will be made through the WYFRA Finance and Resources Committee.

### **Quorum**

A meeting is only quorate when three Board members are present (including either the Chair or Vice chair).

### **Voting**

The Chair shall determine when consensus has been reached. There will be no casting vote. Where consensus is not achieved this should be recorded by the Chair.

**Relationship with West Yorkshire Fire and Rescue Authority**

In support of its core functions the Board may make a request for information to WYFRA with regard to any aspect of the Scheme Manager function. Any such a request should be reasonably complied with in both scope and timing.

In support of its core functions the Board may make recommendations to WYFRA which should be considered and a response made to the Board on the outcome within a reasonable period of time.

3.2 Appendix B – Scoring Matrix

Probability				
Very Low (1)	Low (2)	Medium (3)	High (4)	Very High (5)
Less than a 5% chance of circumstances arising OR Has happened rarely / never	5% to 20% chance of circumstances arising OR Only likely to happen once every 3 or more years	20% to 40% chance of circumstances arising OR Likely to happen in the next 2 to 3 years OR Risk seldom encountered	40% to 70% chance of circumstances arising OR Likely to happen at some point in the next 1 to 2 years OR Risk occasionally encountered	More than a 70% chance of circumstances arising OR Potential occurrence OR Risk frequently encountered
Financial and Other Impacts				
Very Low (1)	Low (2)	Medium (3)	High (4)	Very High (5)
< 1% of budget OR Up to £100,000	1% - 5% of budget OR Up to £250,000	6% - 10% of budget OR Up to £1m	11% - 20% of budget OR Up to £5m	> 20% of budget OR Over £5m
Very Low (1)	Low (2)	Medium (3)	High (4)	Very High (5)
Minimal or no effect on the achievement of Authority objectives AND / OR  Minimal or no effect on the delivery of Service objectives - Little disruption to the delivery of services - Very confident the risk can be improved AND / OR Very achievable objective Very easily influenced Very tolerable / easy to accept - Insignificant injury AND / OR Near miss, no damage incurred to Authority assets - Insignificant environmental damage - Insignificant Reputational damage AND / OR No internal coverage / no social media attention	Little effect on the achievement of Authority objectives AND / OR  Little effect of the delivery of Service objectives -  Some disruption to the delivery of services - Confident the risk can be improved AND / OR Achievable objective Easily influenced Tolerable - Minor injury AND / OR Incident occurred, minor damage incurred to Authority assets - Minor damage to the immediate local environment - Minimal damage to Reputation (minimal negative coverage in local press) AND / OR Minimal internal negative coverage / minimal social media attention	Partial failure to achieve Authority objectives AND / OR Partial failure to achieve Service objectives - Significant disruption to the delivery of services -  Moderate confident that the risk can be improved AND / OR Possible to achieve objective Able to influence Somewhat tolerable - Threat of violence or serious injury AND / OR Some damage incurred to Authority assets - Moderate damage to the immediate or wider local environment - Significant negative coverage in the local press or minimal negative coverage in regional press AND / OR Some internal negative coverage / some social media attention	Significant impact on achieving Authority objectives AND / OR  Significant impact on achieving Services objectives - Loss of critical services for more than 48 hours, but less than 7 days - Little confidence the risk can be improved AND / OR Unachievable objective Difficult to influence Out of tolerance but possible to accept - Extensive multiple injuries AND / OR Significant damage incurred to Authority assets - Major damage to immediate or wider environment - Significant negative coverage in regional press AND / OR Significant internal coverage / significant social media attention	Non-delivery of Authority objectives AND / OR Non-delivery of Service objectives - Loss of critical services for over 7 days - Very little confidence that the risk can be improved AND / OR Totally unachievable objective Very difficult to influence Out of tolerance - Fatality or multiple major injuries AND / OR Total loss of Authority assets - Significant damage to immediate or wider environment - Extensive negative coverage in national press and TV AND / OR Extensive internal coverage / Extensive social media attention

Risk Matrix

	5	10	15	20	25
IMPACT	4	8	12	16	20
	3	6	9	12	15
	2	4	6	8	10
	1	2	3	4	5
PROBABILITY					

Risk Score

Risk Score	RAG Rating
1 - 5	Green
6 - 14	Amber
15 - 25	Red

A '5X5' Risk matrix covering **Probability** and **Impact** (including 'Financial' and 'Other Impacts') is used when assessing the level of Risk.

This analysis should be undertaken by Managers and Supervisors **with experience in the area in question**.

The Risk 'Score' is identified by considering the probability of the event occurring, and the impact of the risk, should it manifest.

A numeric value is applied to each of the selections for Probability and Impact, and these are referenced in the Risk Matrix to give a 'RAG' rated Risk 'Score'.

## 3.3 Appendix C – Risk Register Guidance Sheet

Item Reference	Item Name	Item Description
a	Risk Number	A unique three-digit reference for each risk. Risk Numbers must not be recycled or reused.
b	Risk Type	The grouping to which the risk belongs. Current Risk Types include: .Financial; .People; .Partnerships; and, .Income Generation  This allows for discrete reporting on specific risk types.
c	Risk Owner	The name of the person identified as being best placed to own and manage the risk.
d	Risk Name / Description	The name, and details of the risk in questions. Consider using the principle below when considering a risk: Event > Consequence > Impact  This field can be used the record the risk event.
e	Risk Probability (Current)	The Probability of the risk occurring, based on <i>where we are right now, prior to mitigations being in place</i> . This field is a drop down menu, and users are asked to select one of the following Probability options: .Very Low; .Low; .Medium; .High; and, .Very High.  See the 'front page' for more information on the risk assessment process.
f	Risk Impact (Current)	The Impact of the risk occurring, based on <i>where we are right now, prior to mitigations being in place</i> . This field is a drop down menu, and users are asked to select one of the following Impact options: .Very Low; .Low; .Medium; .High; and, .Very High.  See the 'front page' for more information on the risk assessment process.
g	Risk Score (Current)	This field is automatically populated and RAG rated, following completion of the Risk Probability (Current) and Risk Impact (Current)
h	Impact / Consequences	The impact and consequences of the risk in question. Consider using the principle below when considering a risk: Event > Consequence > Impact  This field can be used the record the risk consequences and impact.
i	Controls	This field is used to record all of the control measures, completed activities and processes that are in place to control and manage the risk.
j	Risk Probability (Target)	The Probability of the risk occurring, based on <i>all controls and mitigation being in place</i> . This field is a drop down menu, and users are asked to select one of the following Probability options: .Very Low; .Low; .Medium; .High; and, .Very High.  See the 'front page' for more information on the risk assessment process.



k	Risk Impact (Target)	<p>The Impact of the risk occurring, based on <i>all controls and mitigation being in place</i>.</p> <p>This field is a drop down menu, and users are asked to select one of the following Impact options:</p> <ul style="list-style-type: none"> <li>.Very Low;</li> <li>.Low;</li> <li>.Medium;</li> <li>.High; and,</li> <li>.Very High.</li> </ul> <p>See the 'front page' for more information on the risk assessment process.</p>
l	Risk Score (Target)	This field is automatically populated and RAG rated, following completion of the Risk Probability (Target) and Risk Impact (Target)
m	Risk Mitigation Actions	<p>This field is used to record all activities that are currently being implemented and developed.</p> <p>Consider using the following principles when developing Risk Mitigation Actions:</p> <p>S - Specific; M - Measureable; A - Achievable; R - Resourced; and, T - Time-targeted.</p>
n	Mitigation Owner	The name of the person identified as being best placed to own and manage the Risk Mitigation Action.
o	Mitigation review Date	The date that the Risk Mitigation was last reviewed and updated.
p	% Complete / RAG Rating	<p>The Risk Mitigation Owner may wish to demonstrate that the action is part-way complete by providing a percentage complete value.</p> <p>The Risk Mitigation Owner may wish to provide a RAG rating for the Risk Mitigation Action to, for example, either provide assurances that the action is being delivered (green), or that the action is at risk of failure or not achieving the desired outcomes (red).</p>
q	Next Review Date	The date for the next programmed review of the risks / risk mitigation action.
r	Risk Closed?	<p>This field is a drop down menu, and users are asked to select one of the following status's for the risk in question:</p> <ul style="list-style-type: none"> <li>.Yes - the risk is closed and ready for archiving; or,</li> <li>.No - the risk is open, and requires management.</li> </ul>
s	Scoring OK?	<p>This field is automatically populated based on the Current Risk Score and the Target Risk Score.</p> <p>If the Current Risk Score is higher than or equal to the Target Risk Score (i.e. the Current Risk Score is 'worse' than the Target Risk Score) this field will display 'OK'.</p> <p>If the Current Risk Score is less than the Target Risk Score (i.e. the Current Risk Score is 'better' than the Target Risk Score) this field will display 'SCORING ERROR' and a review of the risks assessments is recommended.</p>

## AGENDA ITEM No.10 – ANNEX B

### Discretions made by Scheme Manager

Since the last Local Pension Board meeting the Scheme Manager has been asked to exercise his discretion on two occasions.

#### Extension of time limits for transfer in request

**Background:** The individual didn't explore transferring their previous service when they first joined. The main reason for this was 'because they had no Pensions Officer in post who could explain the process'.

As the individual has worked for us for longer than 12 months they have no automatic right to the transfer, this is however something that the Scheme Manager can consider allowing under the regulations.

**Outcome:** As there were no direct cost implications for WYFRS and an immediate benefit to the pension scheme the Scheme Manager saw no reason to not approve.

#### Separated spouses pension

**Background:** Former employee died leaving a surviving spouse. They have been **separated** since he retired in 1983 **but not divorced**. Received confirmation from WYPF that they were living separately and there was no evidence of them being financially dependent on one another.

The regulations state that you can pay a long term pension based on mixed 1/3 rate and 1/2 rate options the employee chose during his employment, which would be £5416.01 pa, or you could just pay the requisite benefits which would be £885.63 p.a. However, if it was discovered that that the deceased was paying the spouse any maintenance, then the long term pension must at least equal the long term pension (up to a maximum of £5416.01p.a.).

**Outcome:** Unless the spouse could provide proof of financial dependency it was decided that only requisite benefits (£885.63) would be paid. This was on the basis that they had been separated for 36 years.



## Compliance Breach Register

Breach No.	Breach Advice Date	Breach Details	Reported to	Investigation details, progress, outcome, corrective action, confirmation Breach permanently rectified? Reason not reported to TPR
1	April 2015 – April 2018	Incorrect % deduction of pension contributions	Scheme Manager & LPB (October 2018)	<p>Full audit conducted on all employees            Audit verified by secondary source            11 issues identified            Payment plan agreed with Management, Unions and individual to recoup the underpayment            All monies have now been transferred to the pensions account</p> <p><b>This issue was discussed at our LPB meeting in Oct 2018. After consultation of the TPR breach framework it was agreed that this didn't represent a material breach (the error has now been rectified and the pension account balances).            It was therefore decided to not report to TPR.</b></p>
2	August 2018	Failure to comply with TPR deadline to issue all 2018 ABS' by 31 August 2018	Scheme Manager & LPB (October 2018)	<p>A small number (15) of annual benefit statements were not produced by the compliance deadline (31/08/2018). The cases all relate to tapered modified members. WYPFs software couldn't cope with these cases and ABS' had to be produced manually.            WYPF confirmed that these were all sent by 30/09/2018.</p> <p><b>This issue was discussed at our LPB meeting in Oct 2018. After consultation of the TPR breach framework it was agreed that this didn't represent a material breach (a small number were affected and the issue had been resolved in a reasonable timeframe).            It was therefore decided to not report to TPR.</b></p>

# Annex D

Risk Area 1 - Regulatory and Compliance	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	Score (likelihood x impact)	Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment
Failure to put appropriate governance arrangements in place and monitor risk	2	7	14	Scheme Manager and Pension Board awareness of legal responsibilities				
				• Pension Board given up to date information on legal responsibilities	Pension Board Chair	As Required		
				• Terms of reference in place and under review	Scheme Manager	Annual	July 2019	
				• Procedures for assessing and managing risk	Scheme Manager	Annual	July 2019	
				• Procedure to identify, assess and report breaches	Scheme Manager	Annual	July 2019	
				• Suitable frequency of Pension Board meetings	Scheme Manager	Annual	July 2019	
Failure to interpret rules or legislation correctly	2	7	14	Appropriate Pension Board Member training				
				• Up to date and documented training log, showing completion of scheme-specific training and The Pensions Regulator's educational material	Scheme Manager	Annual	LPB Meetings	
				• Technical advice and regular updates made available	Scheme Manager	Ongoing	LPB Meetings	
				• Ongoing process for acquiring relevant knowledge and understanding, with regular refreshers	Scheme Manager	Ongoing	LPB Meetings	
				• Training of new Pension Board Members	Scheme Manager	As Required	LPB Meetings	
				• Awareness and understanding of relevant documentation as per TPR Code of Practice 14 paras 42-46	Scheme Manager	Annual	LPB Meetings	
Conflicts of Interest	2	5	10	All Pension Board members to declare any conflicts				
				• Conflicts of interest policy in place and fully understood	Scheme Manager	Ongoing	July 2019	
				• Request for interests to be declared at each meeting	Scheme Manager	Ongoing	LPB Meetings	
Failure to comply with TPR deadlines	5	7	35	All pension Board members to keep upto date with TPR compliance deadlines				
				• Training of new Pension Board Members	Scheme Manager	Ongoing		
				• Technical advice and regular updates made available at LPB meetings	Scheme Manager	Ongoing		
<b>Risk Area 2 - Operations</b>	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	Score (likelihood x impact)	Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment
Member data incomplete or inaccurate	5	7	35	Data management and monitoring requirements under SLA fully understood and deemed adequate				
				• Monthly processes to monitor records and carry out reconciliation	Scheme Manager	Monthly	July 2019	
				• Monthly KPI reporting on data issues – provide summary at each PB meeting	Pensions Administrator / Scheme Manager	Ongoing	July 2019	
				• Data review arrangements in place including periodic address cleanse	Pensions Administrator / Scheme Manager	As Required	July 2019	
				• Process to enact a Data Improvement Plan and report breaches, if required	Scheme Manager	As Required	July 2019	
Administration process failure / maladministration	4	8	32	Formal SLA in place with third party administrator and monitoring arrangements assessed as adequate				
				• Quarterly client meetings and monthly reports including KPIs	Scheme Manager	Monthly	July 2019	

				<ul style="list-style-type: none"> <li>Ongoing dialogue between Scheme Manager and third party administrator, including process improvement plans</li> </ul>	Scheme Manager	Ongoing	July 2019	
				<ul style="list-style-type: none"> <li>Clear identification of roles, authority levels, data security and data protection processes</li> </ul>	Scheme Manager	Annual	July 2019	
				<ul style="list-style-type: none"> <li>Audit reporting on both third party administrator and Scheme Manager's processes</li> </ul>	Scheme Manager	Annual	July 2019	
				<ul style="list-style-type: none"> <li>Disaster Recovery Plans up to date and appropriate</li> </ul>	Scheme Manager	Annual	July 2019	
				<ul style="list-style-type: none"> <li>Ability to commission independent assurance report, if required</li> </ul>	Scheme Manager	As Required	July 2019	
Inadequate, late or inaccurate communications	5	7	35	<p>Communication requirements fully understood and The Pensions Regulator's recommendations applied</p> <ul style="list-style-type: none"> <li>Communications provided under SLA fully understood and deemed adequate for basic requirements</li> <li>Ad hoc communications provided by LGA Pensions Adviser monitored, fully understood and tailored as necessary</li> <li>Develop Communications Strategy and keep under review</li> </ul>	Scheme Manager	Annual	July 2019	
Operational disaster (fire/flood etc)	1	6	6	<p>Business continuity procedures in place</p> <ul style="list-style-type: none"> <li>Third party scheme administrator Disaster Recovery Plan up to date and appropriate</li> <li>Scheme Manager Disaster Recovery Plan up to date and appropriate</li> <li>Contracts and other essential documents recorded on a central database</li> </ul>	Scheme Manager	Annual	As per internal audit cycle	
<b>Risk Area 3 - Financial</b>	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	Score (likelihood x impact)	Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment
Excessive charges by suppliers / additional liabilities on the operating budget	3	2	6	<p>Regular checks of transactions and charges against contract terms/ robust methodology used to forecast pension accounting data</p> <ul style="list-style-type: none"> <li>Annual review of scheme budget, quarterly review of cost incurred against budget</li> <li>Periodic review of suppliers</li> <li>Processes in place to ensure robustness of method to forecast and calculate pension accounting data. Liaise with third party administrator when making forecasting assumptions</li> </ul>	Scheme Manager	Quarterly	July 2019	
Fraud / Fraudulent behaviour	1	10	10	<p>Budget monitoring and appropriate payment processes including use of authorised signatories and data validation</p> <ul style="list-style-type: none"> <li>Monitor incoming and outgoing scheme funds and membership movements against scheme forecasts – reconcile actual transactions against forecasts</li> <li>Authorisation of transactions in accordance with audit requirements and carried out by authorised signatories only</li> <li>Robust data validation processes in place by third party administrator and Scheme Manager to ensure all transactions authentic</li> </ul>	Scheme Manager	Monthly	July 2019	
				<ul style="list-style-type: none"> <li>Authorisation of transactions in accordance with audit requirements and carried out by authorised signatories only</li> </ul>	Scheme Manager	Ongoing	As per internal audit cycle	
				<ul style="list-style-type: none"> <li>Robust data validation processes in place by third party administrator and Scheme Manager to ensure all transactions authentic</li> </ul>	Pensions Administrator / Scheme Manager	Ongoing	As per internal audit cycle	

				<ul style="list-style-type: none"> <li>Audit reporting on both third party administrator and Scheme Manager's processes</li> </ul>	Scheme Manager	Annual	As per internal audit cycle	
<b>Risk Area 4 - Funding</b>	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	Score (likelihood x impact)	Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment
Employer failure to pay correct contributions into scheme	1	10	10	Contribution deductions and payments – monthly reconciliation of schedule of payments <b>due and amount paid across</b>				
				<ul style="list-style-type: none"> <li>Processes in place to comply with regulatory requirements on contribution rates and pensionable pay definitions</li> </ul>	Scheme Manager	Ongoing	As per internal audit cycle	
				<ul style="list-style-type: none"> <li>Suitable reporting and reconciliation processes in place ahead of payment including checks on changes in contract and transition to 2015 Scheme</li> </ul>	Scheme Manager	Monthly	As per internal audit cycle	

# AGENDA ITEM No. 10 – ANNEX E

## Compliance Deadlines

Members at the October LPB meeting agreed that it would be useful for them to have a comprehensive list of our compliance deadlines. This will enable Members to scrutinise our position, ensure that we are compliant and avoid fines from The Pensions Regulator (TPR).

I have highlighted below the key dates for members to be aware of, it's worth noting that through the year the Scheme Manager is asked comply with additional areas, however, these are just one off pieces of work. Anything significant will be report to Members through the usual LPB channels.

### 31 May – Year end Data

West Yorkshire Pension Fund (WYPF) has imposed a deadline of 31 May to send all of our year end data to them. This data is required for the production of Annual Benefit Statements (ABS). Although failing to comply would not result in a financial penalty, it means that WYPF can give no guarantees that ABS production will be completed in time for 31 August, which is the TPR deadline.

To reduce the likelihood of non-compliance WYFRS now send data to WYPF on a monthly basis. This has resulted in less work at year end and ensures that all data is sent to WYPF in a timely manner, therefore giving them ample opportunity to produce the ABSs within the compliance timeframes.

### 31 August – ABSs

TPR have imposed a deadline of 31 August to produce all ABSs.

Failure to comply with this deadline can result in a financial penalty, the amount would be determined by TPR, in making their decision they would consider the numbers involved and the reason for non-compliance.

### 31 October – Pension Savings Statement

TPR have imposed a deadline of 31 October to produce all pension saving statements. These statements are only applicable for employees who have breached their Annual Allowance (AA), generally numbers are relatively low (50-100 max).

Failure to comply with this deadline can result in a financial penalty, the amount would be determined by TPR, in making their decision they would consider the numbers involved and the reason for non-compliance. It would also have a knock on effect for the employee. If the employee has breach their AA, and they don't have any carry forward to offset, a tax charge is payable. HMRC have imposed a deadline of 31 January for Voluntary Scheme Pays (VSP) and 31 July for Mandatory Scheme Pays (MSP). If the individual does not comply with these deadlines HMRC can impose sanctions.

### **30 November – TPR Survey**

TPR send out an annual survey, the survey focuses on governance of the scheme. Although this survey isn't mandatory and failure to complete wouldn't result in a fine, failing to reply could damage our reputation with TPR and SAB.

The survey is normally completed by the Pensions Officer, with support from the LPB Chair, Scheme Manager and administrator.

### **2019 Specific**

#### **28 June – Automatic Enrolment**

Every 3 years we are obliged to comply with AE requirements. This involves re-enrolling all opted out employees into an eligible pension scheme.

TRP are to be notified of our compliance once this exercise is complete.





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# Pension Ombudsman - update

## Local Pension Board

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Date: 5 July 2019

Agenda Item:

11

Submitted By: Chief Employment Services Officer

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**Purpose** To present Members with information on recent Pension Ombudsman rulings related to the Firefighters' Pension Scheme.

**Recommendations** That the report be noted.

**Summary** It is a requirement of the Public Service Pensions Act 2013, and subsequent 2015 regulations, for Members of a Local Pension Board to have a knowledge and understanding of the law relating to pensions and such other matters.

It is advised by the Local Government Association that, in order to secure compliance with the legislation relating to the governance and administration of the Firefighter Pension Schemes, Members should review Pension Ombudsman cases.

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Nicky Houseman, Committee Services Manager  
T: 01274 655740  
E: [nicky.houseman@westyorksfire.gov.uk](mailto:nicky.houseman@westyorksfire.gov.uk)

Background papers open to inspection: None

Annexes: Annex A – decision summary (copy of full determinations available by contacting the Committee Administration Manager, West Yorkshire Fire and Rescue Authority)

## **1 Introduction**

- 1.1 It is a requirement under the Public Service Pensions Act regulations that Members of a Local Pension Board had a knowledge and understanding of the governance and administration of the relevant pension schemes.

## **2 Information**

- 2.1 Attached to this report is one Pension Ombudsman rulings that has been made since the date of the last meeting as follows;

- Mrs N's estate – ill health benefits (Derbyshire County Council)

## **3 Financial Implications**

- 3.1 There are no financial implications arising directly from this report.

## **4 Legal implications**

- 4.1 The Chief Legal & Governance Officer has considered this report and has no observations to make at the time of submission of this report but may provide legal advice at the committee meeting and/or respond to any requests by members for legal advice made at the meeting.

## **5 Human Resource and Diversity Implications**

- 5.1 There are no human resources implications arising directly from this report.

## **6 Health, Safety and wellbeing implications**

- 6.1 There are no health, safety and wellbeing implications arising directly from this report.

## **7 Your Fire and Rescue Service priorities**

- 7.1 Keeping Members informed with regard to legislation and current ombudsman pension issues is an integral part of the acquisition of knowledge and learning required by the relevant regulations and is demonstrative of the Authority's commitment to the Your Fire and Rescue Service priorities 2019 – 22.

## Ombudsman's Determination

<b>Applicant</b>	Estate of the late Mrs N ( <b>the Estate</b> )
<b>Scheme</b>	Local Government Pension Scheme ( <b>the Scheme</b> )
<b>Respondent</b>	Derbyshire County Council ( <b>the Council</b> )

### Complaint summary

The Estate's complaint against the Council is brought by the late Mrs N's husband, Dr Y. Mrs N had been approved for ill health retirement benefits, however she passed away as an active member of the Scheme shortly before her employment with the Council was terminated. Consequently, a lesser death grant was paid to Dr Y. The complaint concerns the leaving date set by the Council after it awarded Mrs N ill health retirement benefits.

### Summary of the Ombudsman's Determination and reasons

The complaint is upheld against the Council on the basis that it ought to have set her retirement date on the same date that her ill health retirement had been approved.

## Detailed Determination

### Material facts

1. The Scheme Regulations define the Council as both the Scheme Employer and the Administering Authority. For the purpose of this complaint, the Scheme Employer is defined as the Council, and the Administering Authority is defined as the Authority.
2. Mrs N was employed by the Council as a librarian. In June 2014, she was diagnosed with breast cancer, and began a period of sick leave.
3. On 15 October 2015, Mrs N met with the Council's HR representatives (**the HR department**) and management to discuss her absence. In respect of returning to work, the minutes state:

“[Mrs N] had been advised that it was for her and her manager to determine. [Mrs N's manager] explained that we will explore [Mrs N] returning to work as she knew [Mrs N] was keen to get back and [HR] will explain the process for ill health retirement but it was entirely [Mrs N's] decision as to what she felt she wanted to do and we would not force her down any route. [Mrs N] had been thinking about her options following the last meeting and had rung pensions for her figures if she was to leave on 31 March 2016. Having considered her forecast, [Mrs N] said it was not an option for her to retire earlier, due to the penalties and reductions in her pension.”
4. In respect of ill health retirement, the minutes state:

“[HR] did provide [Mrs N] with a copy of the procedure for employees to enable her to read through and consider her options as we stressed that we did not want her to make a decision today. The benefit of ill health retirement would be that [Mrs N] would receive her full pension enhanced to her retirement age and that this is why it is rarely granted due to cost implications. [HR] explained that there is only one opportunity to be considered for ill health retirement although you do have a right of appeal if it is turned down. [Mrs N] would be entitled to 12 weeks' notice plus annual leave if it was granted.”
5. The next meeting between Mrs N and the Council was scheduled for 19 November 2015. Prior to this date, Mrs N underwent an MRI scan. The results of the scan showed that Mrs N's cancer had spread to her brain, and she would have to undergo radiotherapy.
6. On 19 November 2015, Mrs N informed the HR department and management of the results of the scan, and it was agreed that an application for ill health retirement benefits would be made. Mrs N was presented with the following options in respect of her ill health retirement pension and death in service figures:-

- Option 1 - An annual pension of £17,672.86 and a lump sum of £21,993.72. Following death, a survivor's pension of £7,027.08 and a death grant of £172,274.36.
  - Option 2 - An annual pension of £12,539.38 and a lump sum of £83,595.84. Following death, a survivor's pension of £7,027.08 and a death grant of £117,882.68.
  - Death in service - A survivor's pension of £7,027.08 and a death grant of £85,686.
7. On 20 November 2015, Mrs N provided the signed consent forms for her ill health retirement application to progress. Mrs N also emailed the HR department to say she had decided to take Option 2 as outlined above.
  8. On 23 November 2015, the Council's occupational health department wrote to Mrs N's oncologist and GP requesting a medical report.
  9. On 15 December 2015, Mrs N asked the HR department for an update. It replied to Mrs N the following day saying that the Council's occupational health department was still waiting for a report from her oncologist.
  10. On 19 December 2015, Mrs N informed the HR department that her regular oncologist was on sick leave for six weeks, so she had asked for someone else to write to the Council's occupational health department on their behalf.
  11. On 23 December 2015, the Council received a medical report on behalf of Mrs N's oncologist. The report stated that Mrs N's life expectancy was "months rather than years" and supported Mrs N's application for ill health retirement.
  12. On 31 December 2015, the Council received a medical report from Mrs N's GP, which stated that her life expectancy was "to be in the region of three to six months", and also supported her application for ill health retirement.
  13. On 6 January 2016, Mrs N asked the HR department for an update. It responded on the same day and said that Mrs N's medical report had been received and was with an independent registered medical practitioner (**IRMP**).
  14. On 12 January 2016, the Council received the IRMP's certified report which supported her application for ill health retirement based on all the medical evidence received. The IRMP mentioned that Mrs N's life expectancy was "considered to be very limited, probably less than one year". The Council approved the application the same day and informed Mrs N. The 31 January 2016 was set as her last day of employment.
  15. On 13 January 2016, the Council wrote to Mrs N confirming that it agreed to award tier 1 ill health benefits, having terminated her employment on the grounds of permanent ill health.

16. On 14 January 2016, the HR department responded to Mrs N to clarify that she did not need to return any paperwork unless she intended to appeal the decision to grant her ill health retirement.
17. On 19 January 2016, Mrs N emailed the HR department to confirm that she would not appeal the decision. The HR department responded to Mrs N on the same day and said that she would receive her January salary, a payment in lieu of her 12 weeks' notice period, plus any outstanding annual leave. Mrs N acknowledged the email the following day.
18. On 25 January 2016, Mrs N was admitted to hospital.
19. On 30 January 2016, sadly, Mrs N passed away.
20. After Mrs N's passing, Dr Y asked what would happen to her ill health retirement benefits, as she died in active service. The HR department explored the possibility of retrospectively amending Mrs N's last date of employment to before her date of death. The HR department was told by the Council's legal and pensions team that rescinding Mrs N's leaving date and setting a new one was not possible, and due to Mrs N dying as an active member of the Scheme, Dr Y was only entitled to receive lesser death in service benefits.
21. In April 2016, Dr Y complained to the Authority under the Scheme's Internal Dispute Resolution Procedure (**IDRP**) in regard to Mrs N passing away as an active member of the Scheme. The complaint was not upheld at either stage of the IDRP. Whilst the Authority was sympathetic with Dr Y's circumstances, it said the Scheme Regulations did not allow it to set an earlier leaving date. As Mrs N died in active service, the Authority could only pay an in-service death grant to Dr Y, in accordance with the Scheme Regulations.
22. In November 2017, Dr Y, on behalf of the Estate, brought the complaint to this Office. Further submissions by both parties were made in regard to the Council's decision to set a leaving date of 31 January 2016.

### **Summary of the Estate's position**

23. Mrs N passed away on 30 January 2016 as an active member of the Scheme, meaning that a death in service grant of £85,686, along with a survivor's pension of £7,027.08, is payable to Dr Y. Had Mrs N had passed away on or after her leaving date of 31 January 2016, a retirement lump sum of £83,595.84 along with a pro rata pension would have been payable. In addition, Dr Y would have been entitled to a larger death grant of £117,882.68.
24. Dr Y accepts that in order to grant Mrs N ill health retirement benefits, the Council had to follow the correct procedure, which included requesting medical reports from Mrs N's GP and oncologist.

25. However, Dr Y highlighted that it was never explained to Mrs N that her ill health retirement benefits would not be payable if she passed away before her leaving date of 31 January 2016. Dr Y has said that Mrs N was only an active member of the Scheme on the date of her passing because of the “flawed actions of her employer”.
26. In Dr Y’s view, the length of time which the Council took to process Mrs N’s ill health retirement claim is irrelevant. Dr Y believes that there should be a policy in place for terminally ill employees that “effectively insulates them from the vagaries of the bureaucratic process” of applying for ill health retirement, by setting a retirement date as soon as it becomes clear that the employee’s ill health retirement claim is approved.
27. Dr Y says that it is unacceptable a dying employee could be put in a position where they have to decide to prolong their final medical care, in order to avoid a lower level of benefits being paid to their dependents.
28. The Council had set Mrs N’s leaving date as 31 January 2016 because it was unaware how little time she had left to live, which implies that even on 14 January 2016, when it set Mrs N’s leaving date, it had discretion but chose not to exercise it. It is Dr Y’s view that it is not within the remit of the employer to make a prediction as to how many days left a terminally ill employee has. In Mrs N’s case, her life expectancy could not be calculated with any precision. The Council should have assumed the worst case scenario and set her leaving date as soon as possible.
29. As a consequence of the Council’s decision to set a leaving date later than the date Mrs N’s ill health retirement application was approved, she passed away as an active member, thus she did not receive her ill health retirement benefits she would have been entitled to had the Council chosen to end her employment on the same day as approving her application.

### **Summary of the Authority’s/Council’s position**

30. The 2013 Scheme Regulations (**the Scheme Regulations**) places a statutory duty on the Authority in respect of the calculation of pensions benefits to Scheme members and their beneficiaries. Regulation 40 states that the Authority must pay a death grant following the death of an active member of the Scheme. Regulation 41 states that a surviving spouse or partner is entitled to a pension and sets out how that shall be calculated. The framework for complaints made under the Scheme Regulations do not allow for a determination to be made outside them, which the Authority must act strictly in accordance with.
31. As Mrs N died an active member, the Scheme Regulations do not provide any discretionary provision which would allow the Authority to amend Mrs N’s leaving date so she passed away in retirement.
32. There was no further contact with Mrs N after 20 January 2016, so neither the Authority nor the Council were not aware that her health had deteriorated until Dr Y

informed her line manager on 1 February 2016 that she had passed away. Had the Council been advised that Mrs N's health had deteriorated prior to 30 January 2016, her leaving date could have been brought forward to ensure her ill health retirement.

33. Any adjustment to the payment of the death grant Dr Y received would be a payment being made over two years after Mrs N passed away and would therefore be subject to Special Lump Sum Death Benefits tax, which currently stands at 25%.

## **Conclusions**

34. Mrs N passed away as an active member only a day before her retirement date of 31 January 2016, meaning that she did not receive ill health retirement benefits, despite this being previously approved on 13 January 2016. The Authority has said its hands only an in-service death grant is payable to Dr Y as the Scheme Regulations do not give it the power to posthumously amend Mrs N's leaving date. I make no criticism of that position. My conclusions bear on the conduct of the Council as Scheme Employer.
35. The Council became aware of the severity of Mrs N's condition on 19 November 2015, when Mrs N met with the HR department and informed it that her cancer had spread to her brain. From this point, I would expect it to act with urgency to make Mrs N aware of what benefits she could be entitled to, and to act swiftly in processing an application for these benefits. Initially, I am satisfied that it did; Mrs N's ill health retirement application was in the hands of the Council for a total of 12 working days before it was approved on 13 January 2016. Yet the HR department chose to delay Mrs N's retirement date to 31 January 2016.
36. When the Council approved Mrs N's ill health retirement, it had agreed that she was permanently incapacitated, meaning that she is no longer able to continue employment. This is seemingly at odds with its decision to keep her employed (albeit on sick leave), and therefore an active member, until 31 January 2016. I accept there was no suggestion in the prevailing medical evidence submitted to the IRMP, and in the IRMP's certification, that Mrs N's death was imminent, however it still stands that the Council was aware that she was terminally ill and should therefore have given Mrs N the opportunity to retire immediately. I appreciate that the Council could not predict that Mrs N would not survive her leaving date. But, its decision not to put Mrs N's benefits into payment from the day her ill health retirement was approved clearly placed her at risk of her benefits not coming into payment before she passed away.
37. I note the Council gave Mrs N the opportunity to appeal the ill health retirement decision, and her retirement date. But, that cannot affect the outcome of her complaint. The fact that Mrs N did not realise the risk or perceive a reason to appeal does not affect whether the Council's decision-making process was correct. The Council has said that it would have brought her retirement date forward had it been aware that her health had deteriorated prior to 30 January 2016. I note that and do not doubt it, but I disagree that she was therefore under a duty to tell the Council



more than they already knew. Mrs N could not know when she would die any more than the Council. Moreover, the HR department had already reassured her that everything was fine and her retirement benefits had been signed off. It did not ask her to let it know if her condition deteriorated.

38. It is clear from the correspondence between Mrs N and the HR Department that she was concerned about her ill health retirement being approved as soon as possible. She satisfied the criteria as at the date of decision and I can see no reason why the Council should have delayed bringing her benefit into payment past the date on which it was approved. Had it not delayed, she would have died in retirement rather than in active service.
39. Taking into account the above, what remains for me to consider is how to put the Estate back into the position it would had been in had Mrs N died in retirement. I accept that the Scheme Regulations do not grant the Authority the ability to posthumously amend Mrs N's leaving date. Moreover, it was the conduct of the Council, not the Authority, which resulted in Mrs N passing away in active service due to its decision not to end her employment on the date her ill health retirement was approved. Therefore, I find that the required redress should be paid by the Council, in its capacity as a Scheme employer.
40. I am also conscious that any further death benefit would be subject to a tax charge, as it is paid 2 years after Mrs N passed away. It would be inequitable for the tax charge to be borne by the Estate, so the required redress is to be paid by the Council in respect of this.
41. For the reasons above, I uphold the complaint.

### **Directions**

42. Within 21 days of this determination, the Council, as Employing Authority, shall pay the Estate compensation equal to the difference between:
  - a) the sum of the ill health benefits and pensioner death grant that would have been payable to Mrs N if she had retired on ill health tier 1 on 12 January 2016 and elected for maximum pension commencement lump sum and then subsequently died in retirement; and
  - b) the in-service death grant Dr Y received plus any income Mrs N received in respect of her employment after 12 January 2016.
43. The Council shall add simple interest to the amount payable under paragraph 42 from the date the benefits became payable, using the base rate for the time being quoted by the Bank of England and calculated up to the date of settlement.

PO-19673

44. Any tax liability which may be incurred as a result of compliance with these directions is to be accounted for by the pension administering Authority to HMRC and paid by the Council as Employing Authority.

**Karen Johnston**  
Deputy Pensions Ombudsman  
26 March 2019

## Appendix

### The Local Government Pension Scheme Regulations 2013

#### 45. 35 Early payment of retirement pension on ill-health grounds: active members

(1) An active member who has qualifying service for a period of two years and whose employment is terminated by a Scheme employer on the grounds of ill-health or infirmity of mind or body before that member reaches normal pension age, is entitled to, and must take, early payment of a retirement pension if that member satisfies the conditions in paragraphs (3) and (4) of this regulation.

(2) The amount of the retirement pension that a member who satisfies the conditions mentioned in paragraph (1) receives, is determined by which of the benefit tiers specified in paragraphs (5) to (7) that member qualifies for, calculated in accordance with regulation 39 (calculation of ill-health pension amounts).

(3) The first condition is that the member is, as a result of ill-health or infirmity of mind or body, permanently incapable of discharging efficiently the duties of the employment the member was engaged in.

(4) The second condition is that the member, as a result of ill-health or infirmity of mind or body, is not immediately capable of undertaking any gainful employment.

(5) A member is entitled to Tier 1 benefits if that member is unlikely to be capable of undertaking gainful employment before normal pension age.

(6) A member is entitled to Tier 2 benefits if that member—

(a) is not entitled to Tier 1 benefits; and

(b) is unlikely to be capable of undertaking any gainful employment within three years of leaving the employment; but

(c) is likely to be able to undertake gainful employment before reaching normal pension age.

(7) Subject to regulation 37 (special provision in respect of members receiving Tier 3 benefits), if the member is likely to be capable of undertaking gainful employment within three years of leaving the employment, or before normal pension age if earlier, that member is entitled to Tier 3 benefits for so long as the member is not in gainful employment, up to a maximum of three years from the date the member left the employment.

#### 46. 40 Death grants: active members

(1) If an active member dies before attaining the age of 75, an administering authority shall pay a death grant.

(2) The appropriate administering authority may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.

(3) The death grant is three times the member's annual assumed pensionable pay calculated in accordance with regulation 21(4) as at the date of the member's death, but where in the opinion of an IRMP the member was at the date of death in part time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account is to be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition.

(4) If the administering authority has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years beginning with the date of the member's death or, where the administering authority did not know about the member's death within that period, beginning with the date on which the administering authority could reasonably be expected to have become aware of the member's death, they must pay an amount equal to the shortfall to the member's personal representatives.

(5) In the case of an active member who is also a deferred member, pensioner member or deferred pensioner member of the Scheme, no death grant is payable under regulations 43 (death grants: deferred members) or 46 (death grants: pensioner members) but if the amount that would be payable under any of those regulations would be higher than the amount payable under this regulation, the amount payable under this regulation is that higher amount.

#### 44. 41 Survivor benefits: partners of active members

(1) If an active member dies leaving a surviving spouse, civil partner or cohabiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The appropriate administering authority shall close the active member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the amounts in sub-paragraphs (a) and (b)—

(a) the pension that the member would have been entitled to draw if—

(i) the member had been entitled to draw a pension on the date of the member's death,

(ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment either relating to the age at which it was drawn or following a Scheme pays election,

(iii) the pension excluded additional pension purchased under regulation 16 (additional pension contributions) and any additional pension awarded under regulation 31 (award of additional pension),

(iv) the member's earned pension had accrued at a rate of 1/160th of pensionable pay, and

(v) the amount of any earned pension credited under regulation 101(1) (effect of acceptance of transfer value) had been multiplied by 49/160;

(b) a sum equivalent to 1/160th of the member's annual assumed pensionable pay calculated in accordance with regulation 21(4) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age, but where in the opinion of an IRMP the member was at the date of death in part time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account is to be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition.

(5) The balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with actuarial guidance issued by the Secretary of State.

(6) The revalued balance calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following Scheme year and, thereafter, the balance in the account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the Pensions (Increase) Act 1971 applied.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1).



OFFICIAL

# Legislative update

## Local Pension Board

Date: 5 July 2019

Agenda Item:

12

Submitted By: Chief Employment Services Officer

**Purpose** To provide a legislative update to Members on matters related to the Firefighters' Pension Scheme(s)

**Recommendations** That the report be noted.

**Summary** It is a requirement of the Public Service Pensions Act 2013 and subsequent 2015 regulations, for Members of a Local Pension Board to have a knowledge and understanding of the law relating to pensions and such other matters.

This report provides an update on the latest relevant legislative issues.

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Claire Johnson, Pensions Officer  
T: 01274 655811  
E: Claire.johnson@westyorkshire.gov.uk

Background papers open to inspection: None

Annexes: Annex 1 – Transitional Protections – legal challenge  
Annex 2 – Revised GAD Factors  
Annex 3 – Booth v Mid and West Wales – High Court judgement on pensionable pay  
Annex 4 – Automatic Enrolment  
Annex 5 – Exit Payments

## **1 Introduction**

- 1.1 It is a requirement under the Public Service Pensions Act regulations that Members of a Local Pension Board have a knowledge and understanding of the governance and administration of the relevant pension schemes.

## **2 Information**

- 2.1 In accordance with this requirement attached to this report are three updates on the following legislative issues;

- Transitional Protections – legal challenge
- Revised GAD Factors
- Booth v Mid and West Wales – High Court judgement on pensionable pay
- Automatic Enrolment
- Exit Payments

## **3 Financial Implications**

- 3.1 There are potential financial implications arising from this report. True extent unknown at this time. The financial implications will be dependent on decision from Management Board on pensionable pay recommendations and Legal guidance from LGA on whether change to pensionable allowance should comply with limitations act.

## **4 Human Resource and Diversity Implications**

- 4.1 There are no HR or diversity and equality implications of this update.

## **5 Health and Safety Implications**

- 5.1 There are no health and safety implications arising directly from this report.

## **6 Service Plan Links**

- 6.1 Keeping Members updated with regard to pension legislation is an integral part of the acquisition of knowledge and learning required by the relevant regulations and is demonstrative of the Authority's commitment to provide "effective and ethical governance".

# AGENDA ITEM No.12 – ANNEX A

## Transitional Protections – Legal Challenge

Since our last meeting in January there has been very little movement on this. As we know the Court of Appeal handed down the judgment in the Firefighters transitional appeals case. The judgment remits it to the employment tribunal to consider but, before that step Government can apply for permission to appeal to the Supreme Court.

We know that the Government have applied to the Supreme Court, and were expecting a decision on this within 3 months, however, due to the Supreme Courts workload no decision is expect until July 2019.

We have been keeping employees up to date with any developments via internal communications. We have also been liaising with the Unions to ensure that a consistent message is cascaded to those affected.

### What happens next?

Firstly, we need to wait for the Supreme Court's decision. If the Supreme Court accept the case for appeal this will rumble on for another 12/18/24 months. If the Supreme Court rejects the case for appeal then the next step is to remit to the employment tribunal for a decision on 'remedy'.

The January 2019 LGA bulletin expanded further on what needs to be remedied:

The transitional appeals case has centred on whether the [transitional provisions](#) of the 2015 scheme are lawful. There has been no challenge to the primary legislation, the [Public Services Pensions Act 2013 \[18\]](#), which restrict the continuing provision of the existing final salary schemes. Therefore it is only by the virtue of the transitional provisions in the 2015 scheme that some members have been protected and continue to have pension benefits calculated in the 1992 or 2006 scheme.

As the court of appeal have found the transitional protections are unlawful, the question of remedy centres on how the transitional provisions should be made lawful, and how taper protected and unprotected members who have been subject to those provisions from the date the legislation came into force (1 April 2015) and moved into the 2015 scheme would be compensated if required.



## **AGENDA ITEM No.12 – ANNEX B**

### **Revised GAD Factors**

Since our last meeting in January there have been a number of revised factors released from GAD.

The factors in question relate specifically around the areas of divorce and transfers.

Confirmation has been sought from our administrator that they are now working from the new factors and the stockpiled cases are being processed.

We are to be mindful that as cases had to be stockpiled there could be a knock-on effect to our KPI's

## **AGENDA ITEM No.12 – ANNEX C**

### **Pensionable Pay**

Members can be assured that the guidance note on pensionable pay has been considered.

On the whole, the Scheme Manager is confident that we are correctly applying the legislation. However, a paper went to Management Board prior to this new piece of case law, the paper set out recommendations to change amend some existing from non-pensionable to pensionable. If anything the outcome from Booth v Mid and West Wales only reinforces the need to make this amendment.

## Pensionable Pay

### Introduction

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

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

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

### Background

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

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

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

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

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

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

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

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

### What are the issues?

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

#### ■ The regulations

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

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

#### ■ A definition of 'temporary'

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

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

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

Paragraph 39 says

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

### ▪ **The ‘Blackburne Principles’**

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

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

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

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

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

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

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

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

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

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

### ▪ Training Allowance

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

The judge considered the following points in making his conclusion.

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

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

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

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

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

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

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

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

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

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

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

### **Actions for FRAs**

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

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<sup>9</sup> Paragraph 12

<sup>10</sup> Paragraph 17

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

## ▪ Day Crewing and Self-Rostered Crewing

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

The case considered two main points;

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

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

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

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

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

### Actions for FRAs

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



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

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

The case considered two main points;

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

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

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

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

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

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

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

### **Actions for FRAs**

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

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<sup>11</sup> Paragraph 56

<sup>12</sup> Paragraph 59

## Corrective Action

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

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

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

## Further Information

LGA Firefighters Pension Scheme Conference 2018; Firefighters Pension Scheme – pensionable pay update: Jane Marshall, Weightmans - <http://www.fpsregs.org/images/admin/AGMpenpayv1.pdf>

### ■ Known Case Law

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

### ■ Pensionable Pay Regulations

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

### ■ Additional Pension Benefits (APBs)

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

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

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

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at April 2019, however they should be used only as an informal view of the interpretation of the firefighters' pension scheme as only a court can provide a definitive interpretation of legislation. This factsheet should not be interpreted as legal advice

Please address any queries on the content of this factsheet to  
[bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)

May 2019

## AGENDA ITEM No.12 – ANNEX D

### Automatic Enrolment

To encourage workers to start building up retirement benefits, the Government introduced pension reforms through the Pensions Act 2008 that requires all employers to offer workplace pension schemes and to enrol eligible workers into their schemes. July 2019 marks WYFRS 3 year anniversary for Auto Enrolment (AE), we are therefore obliged to run the process again.

In total we had 59 employees who were eligible to be reenrolled into a Firefighter Pension Scheme.

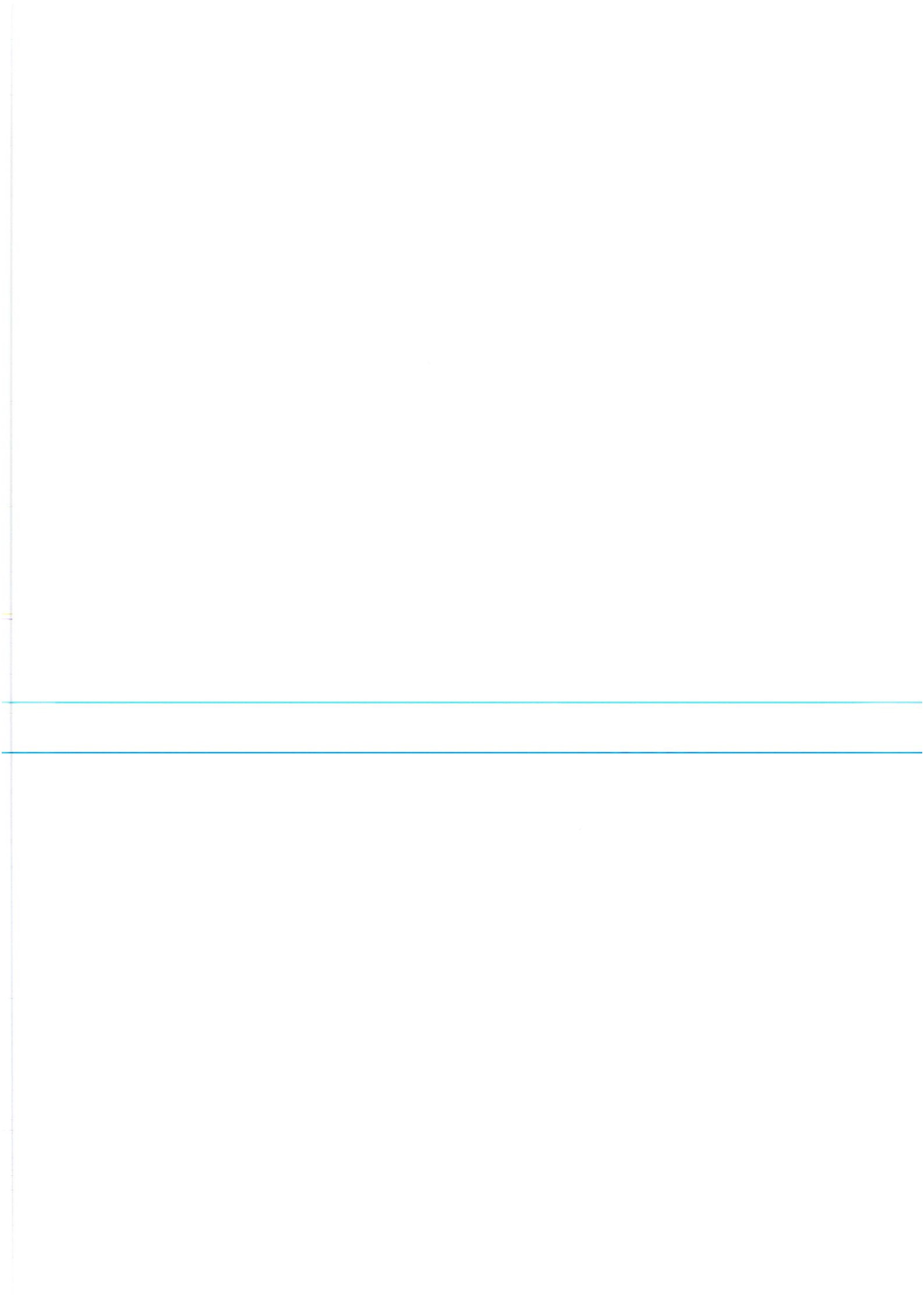
We've have communicated with the employees individually (via letter), we fully explained the necessity and background to AE and so far had 5 employees who have elected to opt out (up to date data to be provided at the meeting).

No major issues to report.

Pensions Officer, Claire Johnson, declaring our compliance with TPR when the exercise is complete and the opt out number are known. .

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## Firefighters' Pension Scheme

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

#### Introduction

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

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

#### Background

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

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

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

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

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

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

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

## Power to relax the restriction on exit payments

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

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

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

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

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

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

### 1. FPS 1992 Enhanced commutation

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

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

A factsheet giving more information on this enhancement and the cost to the FRA is available here.

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

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/794150/mandatory\\_HMT\\_directions\\_exit\\_payments.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/794150/mandatory_HMT_directions_exit_payments.pdf)

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

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

- **Exemptions**

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

- **Implications for FRAs**

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

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

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

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

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

- **Exemptions**

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

- **Implications for Fire Authorities**

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

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

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



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

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

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

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

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

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

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

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

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

### **Devolved administrations**

#### **Wales**

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

#### **Scotland**

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

#### **Northern Ireland**

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

## Further Information

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

HMT Consultation documents

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

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

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

'The Regulations' include:

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

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

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

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

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

<sup>7</sup>

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

<sup>8</sup>

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

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

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

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

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

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

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

## Version

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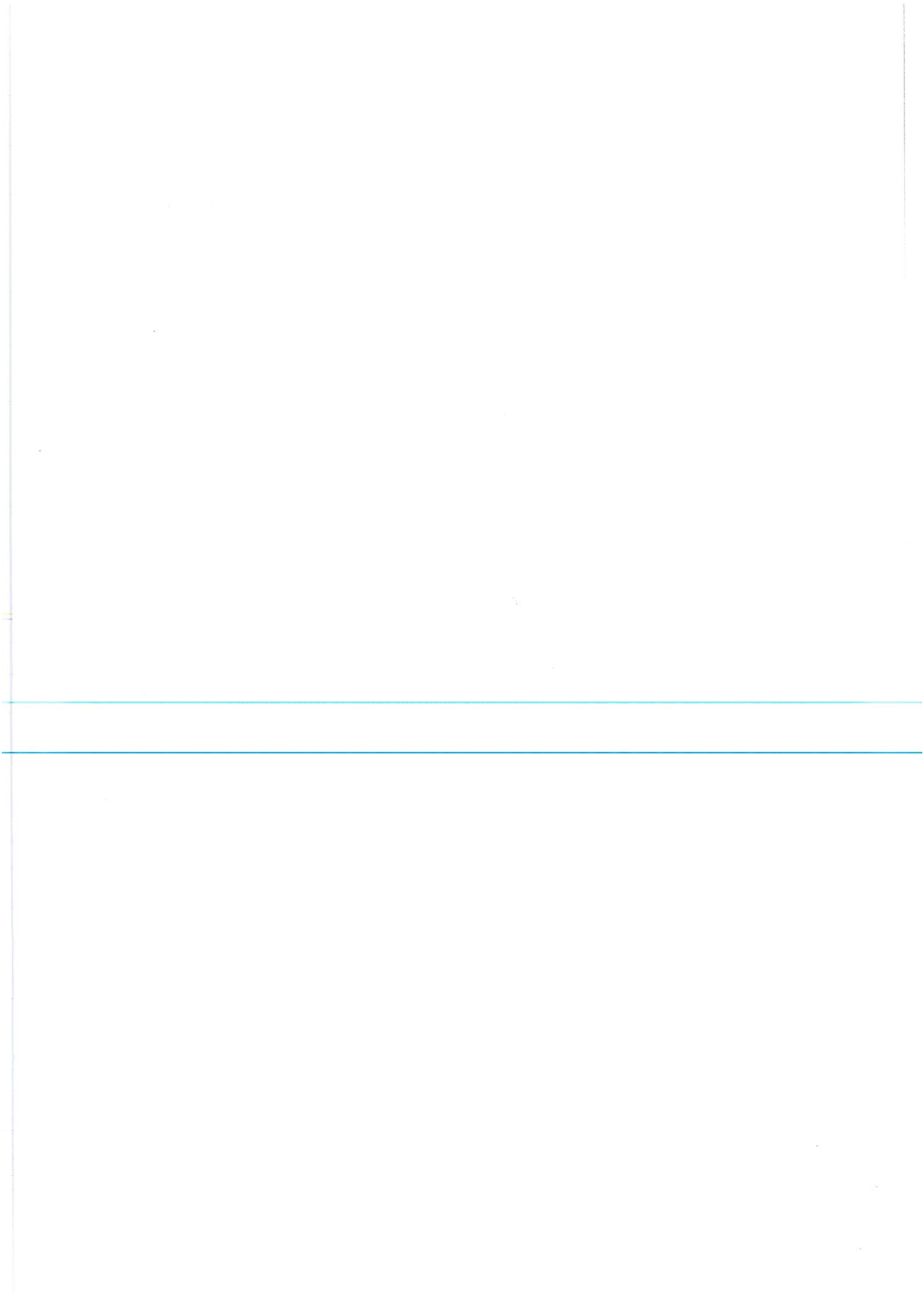
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Clair Alcock  
Local Government Association  
18 Smith Square  
London  
SW1P 3HZ

email: [Clair.Alcock@local.gov.uk](mailto:Clair.Alcock@local.gov.uk)  
email: [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)  
Phone: 07958 749056



## FPS Bulletin 16 – January 2019

Happy New Year! And welcome to issue 16 of the Firefighters' Pensions Schemes bulletin.

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

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

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## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please contact [Claire Hey](#).

Administration & benchmarking committee	7 February 2019
Firefighter Pensions Technical Community	12 February 2019
North East regional FPOG	19 February 2019
<a href="#">LGA Leadership Essentials Fire &amp; Rescue</a> (Elected members)	26-27 February 2019
Eastern regional FPOG	27 February 2019
Midlands regional FPOG	1 March 2019
<a href="#">LGA annual fire conference and exhibition</a>	12-13 March 2019
SAB	14 March 2019
South East regional FPOG	18 March 2019
Data seminar	3 April 2019
LPB effectiveness committee	18 April 2019
Joint Fire and Police governance event	15 May 2019
SAB	13 June 2019
Ill health and medical appeals seminar	19 June 2019
Pensionable pay workshop	18 July 2019
Firefighters' Pensions AGM	24-25 September 2019 (provisional)
SAB	10 October 2019
Pensions tax seminar	12 November 2019
SAB	12 December 2019

## FPS

### Transitional protections – what is remedy?

Further to the court of appeal judgment and our brief statement in [FPS Bulletin 15 - December 2018](#), we understand that there are still some questions with regards to the outcome of the judgment.

We understand that government have now appealed to the Supreme Court. If the Supreme Court reject the case for appeal then the next step is to remit to the employment tribunal for a decision on 'remedy'.

While recognising that we are unable to speculate on what the remedy might be, we thought it would be helpful to confirm what it is that needs to be remedied.

The transitional appeals case has centred on whether the [transitional provisions](#) of the 2015 scheme are lawful. There has been no challenge to the primary legislation, the [Public Services Pensions Act 2013 \[18\]](#), which restricts the continuing provision of the existing final salary schemes. Therefore it is only by the virtue of the transitional provisions in the 2015 scheme that some members have been protected and continue to have pension benefits calculated in the 1992 or 2006 scheme.

As the court of appeal have found the transitional protections are unlawful, the question of remedy centres on how the transitional provisions should be made lawful, and how taper protected and unprotected members who have been subject to those provisions from the date the legislation came into force (1 April 2015) and moved into the 2015 scheme would be compensated if required.

### FPS 2016 valuation - HMT written ministerial statement

On 30 January 2019, HM Treasury issued a [written ministerial statement](#) with regards to the effect of the recent judgments on the McCloud and Sargeant cases on the valuation.

As a result of this announcement, the cost cap rectification process for the Firefighter Pension Scheme will be suspended, pending the outcome to the Government's appeal.

HM Treasury has also advised that the employer rate that Fire and Rescue Authorities pay towards firefighter pensions should be increased as of 1 April 2019. Following this announcement GAD are able to calculate the individual employer contribution rate for the four firefighter schemes which we will confirm these rates as soon as possible.

**There will be no changes to firefighter pension schemes member's contribution rate or the accrual rate at this stage.**

In light of the above, the Board's proposal to the Home Office on rectification of the cost cap breach will be suspended. Any consultation and response documents will be published [here](#) once they are available, and monthly updates will be provided in the bulletins.

### Revised Fire (England) factors

Further to the letter issued by the Home Office on 31 October regarding the [review of scheme factors](#) due to the change to the SCAPE discount rate, GAD has provided the following replacement factor tables.



### [Appendix 1: Added Years/Added Pension and CPD.](#)

These factors replace those currently in use with immediate effect from 11 January 2019.

We can confirm that there is no obligation to split the year; the new factors on CPD are now in force and should be used for all cases that arise going forwards. Note that the CPD factors (table x801) now commence from age 49, as this is the youngest age at which these factors might now be needed due to the structure of tapered protection. This is based this on the table in Part 4 of Schedule 2 of the FPS (England) Regulations 2014.

### [Appendix 2: Tax charge debits.](#)

These factors replace those currently in use with immediate effect from 24 January 2019. This is still the case when calculating a scheme pays debit for a pensions tax charge incurred in the 2017/2018 year.

The spreadsheet contains the revised factors which are based on a SCAPE discount rate of 2.4% net of CPI increases. The spreadsheet provides replacement Tax charge debit factors for those currently included within GAD guidance notes.

The impact of the change in discount rate is generally that members using Scheme Pays to meet Annual Allowance or Lifetime Allowance tax charges will need to convert a lower amount of pension to pay a given charge.

### [Appendix 3: Non-Club Transfer-In \(“TV-in”\).](#)

The suspension of these cases from 31 October 2018 can now be lifted and these factors can be used with immediate effect, including on any stockpiled cases.

The spreadsheet contains the revised TV-in factors which are based on a SCAPE discount rate of 2.4% net of CPI and, where appropriate, a long-term earnings growth assumption of 4.2% pa. The spreadsheet provides replacement TV-in factors for those currently included within GAD’s guidance notes for FPS 2015. For FPS 2006 GAD intend to discontinue the factors issued previously and proceed on a case by case basis going forwards.

The impact of the change in discount rate is generally that the TV-in factors are increased, therefore members transferring in will, all else being equal, receive a smaller service credit / pension credit in the receiving scheme.

For the tables above, GAD has adopted unisex factors (using 95% male members and 5% female members) in line with the current membership of the scheme. All of the tables in the spreadsheets are explained in the ‘Factor List’ tab.

**We would be grateful if administrators could undertake some sample calculations using the new factors, which we can forward to GAD to ensure that they have been implemented in line with current guidance. Please send any examples to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).**

GAD has informed us that they will update the guidance and example calculations to reflect these revised factors at a later date. The updated tables and subsequent guidance will be made available at <http://fpsregs.org/index.php/gad-guidance> in due course.

**ACTION: Pension Board Chairs and Scheme Managers, please ensure you liaise with your pension manager to ensure that the factors are applied with immediate effect.**

### FPS benchmarking exercise – member survey launched

As readers will be aware, Aon have been commissioned to undertake a benchmarking review of FPS administration in relation to cost and service provided. More information can be found on our dedicated [benchmarking review](#) webpage.

We were delighted to be able to launch the web-based member survey on 21 January and are even more delighted to report that we have already received well over 1,000 responses at the time of writing. The member survey will run until 28 February 2019.

The survey can be accessed at <http://bit.ly/FPS-Memb-Survey> and we are interested to hear from all member stakeholders, whether they be active, deferred, pensioners or dependents.

We are relying on your support to advertise the survey as widely as possible. However, our expectation is that employers and administrators will only contact members where it is efficient and cost-effective to do so. For example: by email, using social media for business such as Workplace or [LinkedIn](#) where available, and existing contact groups and networks for pensioners or other out of trade members. The Scheme Advisory Board do not wish any Authority to incur additional unnecessary expenses in printing or postage costs.

We have produced the attached poster ([Appendix 4](#)) to promote the survey at stations or any other Fire and Rescue Service premises and include some sample text below that can be used to issue the survey link to your members, where email addresses are held. The survey can also be completed via the benchmarking review webpage.

Suggested email text:

*FPS administration benchmarking - member survey - action required*

*The Firefighters' Pensions (England) Scheme Advisory Board in partnership with Aon is undertaking a survey of the service you receive in relation to your pension. They are interested to hear your views on the frequency and quality of information you receive about your benefits. This data will be collected by Aon to feed into a report to benchmark the standard of service across the Firefighters' Pension Scheme in England.*

*Please complete the survey here: <http://bit.ly/FPS-Memb-Survey>*

*The survey will take around 5 minutes to complete and all responses are anonymous. The closing date is 28 February 2019.*

### SAB request for information – deadline extended

As detailed in [FPS Bulletin 15 – December 2018](#), SAB members have been made aware over the past year of increasing concern at FRAs around opt out levels, and difficulties surrounding recruitment and retention of talented and experienced personnel due to potential tax consequences of breaching the annual allowance.

In order to support the Board in presenting a case to the Home Office on how schemes might be better managed to give choice and flexibility to pension members to stay in the scheme, a request for quantitative information was made in December, to support the anecdotal evidence received.

Unfortunately, we have received a limited number of responses, and those that have been received do not support the supposed position. Therefore, we are extending the deadline for responses to 28 February 2019. The SAB would be grateful for your assistance in completing the request for information at [Appendix 5](#). Completed forms should be submitted to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

### Website resource update – ill health

In [FPS Bulletin 14 – November 2018](#), we advertised our new [ill health and injury page](#) for practitioners, containing guidance and training materials along with forms for each scheme that were prepared in 2015 and circulated as drafts for authorities to use if they wished.

Authorities should note that a new version of FPS 1992 Medical Certificate B (deferred pension medical opinion) has been added to the site, incorporating a question to ascertain whether the deferred member is “permanently incapacitated by physical or mental infirmity from engaging in any regular full-time employment”, in order to determine eligibility for immediate payment of Pensions Increase if they are below the age of 55 when the deferred pension comes into payment.

FRAs should also bear in mind that [Rule B5\(4\)](#) was amended by SI 2005/2980 to state that a deferred pension could be paid before age 60 “*from any earlier date on which he becomes permanently disabled for engaging in firefighting or performing any other duties appropriate to his former role as a firefighter*”. Therefore, the member needs to be incapacitated from all the duties of his/her former role, not just firefighting, to be eligible for a deferred award on the grounds of ill health.

Note, that these forms have not been endorsed by the LGA or the Home Office. Authorities should satisfy themselves that the certificates meet all of their requirements and do not leave the opinion open to challenge.

If you require a log-in for the site, please contact [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

### SAB cost-effectiveness committee vacancy

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

### Amendments to FPS (England) consultation response

In [FPS Bulletin 15 – December 2018](#), we reported that the Home Office had launched a [consultation on draft legislation](#) to make changes to survivor benefits in the Firefighters’ Pension Scheme 1992 and the Firefighters’ Compensation Scheme 2006, plus a minor unrelated correction to the Firefighters’ Pension Scheme 1992. The LGA response to that consultation can be found [here](#).

### January 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 December.

## Other News and Updates

### SFGB goes live

After becoming a legal entity in October 2018, the government's Single Financial Guidance Body (SFGB) has now officially adopted its delivery functions.

For the first time, the SFGB consolidates the services offered by the Money Advice Service, TPAS, and Pension Wise. On its [official website](#), the SFGB sets out its five core functions, including pensions guidance, debt advice, and consumer protection.

The SFGB is funded by levies on both the financial services industry and pension schemes. The new body is sponsored by the Department for Work and Pensions, but will also engage with HM Treasury, which is responsible for policy on financial capability and debt advice. The body will also change its name in 2019 as it develops a new outreach strategy, which will include a new integrated service offer and enhanced partnership working with the wider industry, employers and key stakeholders.

### Pensions dashboards consultation response

In [FPS Bulletin 15 – December 2018](#), we reported that the DWP had opened a [consultation](#) on pensions dashboards. The Scheme Advisory Board response can be found [here](#).

### GAD PSPS newsletter

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

## HMRC

### HMRC newsletters/bulletins

HMRC have published pension schemes newsletter 106 containing important updates and guidance on pension schemes. The following issues are covered:-

[Pension schemes newsletter 106 – 30 January 2019](#): Pension flexibility statistics | Lifetime allowance for 2019 to 2020 | Reporting non-taxable death benefits | Changes to HMRC email addresses | Guaranteed Minimum Pension (GMP) | Relief at source – January 2019 notification of residency status reports | Relief at source – annual return of information declaration | Change of name for the Manage and Register Pension Schemes service | Master Trusts |

Also published this month:

[Relief at source pension schemes newsletter](#) – 17 January 2019

## Contracting-out reconciliation update

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

### [Countdown bulletin 41](#)

Updates include:

- Scheme financial reconciliation update
- Scheme financial reconciliation in scheme cessation
- Contributions Equivalent Premiums
- Resubmission responses

## Training and Events

### Scheme manager training – new!

New for 2019 is a refreshed training session for scheme managers and pension boards. The training is a five hour session that splits into three, allowing you to decide whether the attendees need to stay for the full five hours. However, as ever, we are happy to provide a bespoke version as you desire. The full programme is a two hour scheme manager training session in the morning, followed by an hour on understanding the results of the recent valuation and the changes that might be made to the scheme as a result, and the transitional protections case, finishing with a two hour pension board session.

The delegates for the scheme manager training should be those who are assigned the scheme manager role under [regulation 4](#), which is the “fire and rescue authority for an area in England determined in accordance with section 1 of the Fire and Rescue Services Act 2004”, those who have a formal delegation of scheme manager under [regulation 5](#), and the local pension board whose role under [regulation 4A](#) is to assist the scheme manager achieve compliance, i.e. ensuring that any delegation in place under regulation 5 is managed properly.

The training is intended to strengthen the relationship between the scheme manager and the pension board, and we have attached an example of both the [scheme manager training](#) delivered in October to South Yorkshire FRA, and the [report](#) that they produced following the training. The aim of these sessions is to give both boards and scheme managers confidence that the scheme is being managed well.

To complement the training package, we have prepared a short factsheet to give guidance on the role of scheme manager. The factsheet is available at [Appendix 6](#), and also can also be viewed on our [factsheets](#) page.

### 2019 events

We have put together a topical and varied programme of national events for 2019. Details of the dates can be found in the [calendar](#) section of the bulletin.

We will continue to offer bespoke in-house training throughout the year. Each board is entitled to a free annual training session under the statutory levy, which can be utilised on the scheme manager training package above.

For more information or to book a session, please contact us as at [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

## Legislation

SI	Reference Title
<a href="#">2019/29</a>	The Finance Act 2004 (Standard Lifetime Allowance) Regulations 2019

## Useful links

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

## Contact details

### **Clair Alcock (Firefighters' Pension Adviser)**

Telephone: 020 7664 3189

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

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

Telephone: 020 7664 3202

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

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

Telephone: 020 7664 3205

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

## FPS Bulletin 17 – February 2019

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<a href="#">LGA annual fire conference and exhibition</a>	12-13 March 2019
SAB	14 March 2019
South East regional FPOG	18 March 2019
Data seminar	3 April 2019
LPB effectiveness committee	18 April 2019
Joint Fire and Police governance event	15 May 2019
Administration & benchmarking committee	6 June 2019
SAB	13 June 2019
Ill health and medical appeals seminar	19 June 2019
Firefighter Pensions Technical Community	26 June 2019
Pensionable pay workshop	18 July 2019
Firefighters' Pensions AGM	24-25 September 2019 (provisional)
SAB	10 October 2019
Pensions tax seminar	12 November 2019
SAB	12 December 2019



## FPS

### Revised Fire (England) factors

Further to the letter issued by the Home Office on 31 October regarding the [review of scheme factors](#) due to the change to the SCAPE discount rate, GAD has provided the following replacement factor tables.

#### [Appendix 1: Trivial commutation](#)

These factors replace those currently in use with immediate effect from 18 February 2019.

The spreadsheet contains the revised factors which are based on a SCAPE discount rate of 2.4% net of CPI increases. The spreadsheet provides replacement trivial commutation factors for those currently included within GAD guidance notes.

**We would be grateful if administrators could undertake some sample calculations using the new factors, which we can forward to GAD to ensure that they have been implemented in line with current guidance. Please send any examples to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).**

GAD has informed us that they will update the guidance and example calculations to reflect these revised factors at a later date. The updated tables and subsequent guidance will be made available at <http://fpsregs.org/index.php/gad-guidance> in due course.

**ACTION: Pension Board Chairs and Scheme Managers, please ensure you liaise with your pension manager to ensure that the factors are applied with immediate effect.**

### FPS benchmarking exercise – update

As readers will be aware, Aon have been commissioned to undertake a benchmarking review of FPS administration in relation to cost and service provided. More information can be found on our dedicated [benchmarking review](#) webpage.

We are delighted to report that we received a 100% response rate from all administrators and FRAs to the surveys. Aon have now commenced analysis of the responses and are due to present a draft report to the Scheme Advisory Board at their meeting in June. If any data is missing or seems incongruous within a submission, Aon may make a follow up call to the named contact to ensure that the information has been reported as intended.

The closing date for the web-based member survey is 28 February 2019 and we have received an overwhelming response rate of 3,900 at the time of writing. This data will be exported to Aon to include within their analysis. We would like to thank all stakeholders for advertising and promoting the member survey as widely as possible. As member experience is at the heart of good pension administration, it was vital that we obtain data from those at the receiving end, to add to the information we have collated from employers and administrators.

## Technical queries

At the meeting of the Firefighter Pensions Technical Community on 12 February 2019, a number of queries were discussed and the outcomes are detailed below:

### **Scheme pays**

Where a tax charge arises which can be settled using a combination of MSP and VSP<sup>1</sup>, the group were asked to consider what obstacles there would be to paying the MSP charge within the timescales for VSP.

A combination of MSP and VSP may arise in the following circumstances:

- Where the pensions savings in one scheme is above £40k (therefore qualifying for MSP) but the pension savings in the other scheme is less than £40k and doesn't qualify for MSP, therefore VSP can be used. Please note that whilst this may usually present itself so that the 1992 scheme has a pension input amount of over £40k, using MSP is not limited to the final salary schemes only
- Where the member is subject to a tapered annual allowance between £10k & £40k, MSP could be used to pay the tax arising from a pension input amount over £40k and VSP used to settle the tax bill between £10,000 and £40,000

There is a difference in timings, processes and abilities between using MSP and VSP. A request to use a combination of VSP and MSP potentially means two event reports for a breach over two separate tax years, two payments over two separate financial years for the FRA, and other complex administrative processes.

Each administrator is currently following different procedures, based on instruction from their finance teams. Guidance will be issued on best practice.

### **APBs for temporary promotion**

The group were asked to consider whether a temporary promotion which began before 1 July 2013 should continue to be treated as pensionable pay where the member has been promoted again after that date with no break in service, and is now substantive in the role.

The technical group agreed that any new period of temporary promotion commencing after the introduction of The Firefighters' Pension Scheme (England) Amendment Orders 2013 for FPS 1992<sup>2</sup> and FPS 2006<sup>3</sup>, should be treated as a discretionary APB.

However, FRAs should carefully consider the wording of an individual's contract when determining whether to award an APB, as to whether the job is a new role or a continuation of an existing contract. Where an APB is deemed to apply, this would be based on the difference in pay between the original substantive post and the new temporary promotion.

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<sup>1</sup> Paragraphs to 56 to 61 - <http://www.fpsboard.org/images/PDF/Bulletin4/Appendix4v2.pdf>

<sup>2</sup> <http://www.legislation.gov.uk/ukxi/2013/1392/contents/made>

<sup>3</sup> <http://www.legislation.gov.uk/ukxi/2013/1393/contents/made>

## **Contributions on unpaid absence**

The group were asked to consider whether a member could be allowed to repay pension contributions on a period of unpaid absence if they do not subsequently return to work.

The relevant scheme rules do not make a specific reference to returning to work or still being an active member.

England	<a href="#">34(3b)</a>	<a href="#">111</a> (paragraphs 4 & 5)	<a href="#">114</a> (paragraph 3)
Wales	<a href="#">43(3bi)</a>	<a href="#">120</a> (paragraphs 4 & 5)	<a href="#">123</a> (paragraph 3)

The consensus of the meeting was that a former employee should be allowed to repay the contributions, as the regulations do not prevent repayment after leaving. Contributions should be repaid by lump sum within six months of the last day of employment.

## **Pension sharing on divorce (transitional members)**

In [FPS Bulletin 3 – November/ December 2017](#) we informed readers of the following method of calculating a pension credit where the pension debit member is a member of FPS 2015 with transitional entitlement to either the 1992 or 2006 scheme:

*Given that eligibility for protection to remain in the final salary scheme applies to members of the scheme only and does not extend to spouses, the CETV should be calculated across the schemes (and the debit calculated from each) but the credit should be applied in the 2015 scheme only.*

*The pension credit should be based on the value of the whole ESCE (i.e. the shareable value of both the 1992 + 2015 CETV) and the credit should be calculated using the [2015 scheme guidance](#), using the [addendum](#) dated 13<sup>th</sup> May 2016.*

Following an extended period of deliberation and discussion, the Home Office have confirmed that, although this was the original intent of HMT policy and was legislated for within LGPS, there is no equivalent provision within FPS and no intention to amend the regulations at this time.

Therefore, practitioners should implement pension credits in respect of transitional members within the originating scheme, as there would be no legal recourse upon appeal. We are seeking guidance on how to remedy this retrospectively and will provide further updates via the bulletins.

## **SAB cost-effectiveness committee vacancy**

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

## **February 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 January.

## Other News and Updates

### Public Service Pension Indexation and Revaluation 2019

On 20 February 2019, HM Treasury issued a [written statement \[HCWS1347\]](#) to confirm that public service pensions will be increased from 8 April 2019 by 2.4 per cent, in line with the annual increase in the Consumer Prices Index up to September 2018.

Revaluation for active members of FPS 2015 is applied in line with Average Weekly Earnings up to September 2018. The figure for the earnings element of revaluation is 2.8 per cent.

The treasury has issued a [covering note](#) and [multiplier tables](#) to help scheme administrators correctly apply the annual increase to public service pensions.

### The Public Service Pensions (Valuations and Employer Cost Cap) (Amendment and Savings) Directions 2019

HM Treasury issued a [Written Ministerial Statement](#) on 30 January 2019 stating that the cost cap rectification will be paused pending the outcome of appeals in the Sargeant and McCloud cases on transitional protections.

HM Treasury has now issued new [directions](#) which remove references to the cost cap mechanism, while confirming that public sector employers should continue to pay the contribution rates set by the interim valuation results from 1 April 2019.

The average FPS employer rate from 1 April 2019 is 30.2%. We hope to be able to issue the individual scheme rates imminently.

As previously confirmed, there will be no changes to member contribution rates or the accrual rate at this stage. There will also be no change to the member contribution banding rates, therefore administrators should continue to use the bands that came into effect April 2018.

#### Contribution rates from 1 April 2018 to 31 March 2019 (percentage of pensionable pay).

Pensionable pay	FPS 1992 and FPS 2006 Special Members
Up to and including £15,609	11.0%
More than £15,609 and up to and including £21,852	12.2%
More than £21,852 and up to and including £31,218	14.2%
More than £31,218 and up to and including £41,624	14.7%
More than £41,624 and up to and including £52,030	15.2%
More than £52,030 and up to and including £62,436	15.5%
More than £62,436 and up to and including £104,060	16.0%
More than £104,060 and up to and including £124,872	16.5%
More than £124,872	17.0%

2.—(1) In the case of a part-time regular firefighter, the pension contribution mentioned in rule G2(1) is the percentage of his pensionable pay ascertained from the Table [in paragraph 3] by reference to the amount of pensionable pay which he would have received had he been a whole-time regular firefighter. [SI 2012/953 [Schedule 8, Part A1, rule 2, paragraph 1](#)]

<b>Pensionable pay</b>	<b>FPS (England) 2006</b>
Up to and including £15,609	8.5%
More than £15,609 and up to and including £21,852	9.4%
More than £21,852 and up to and including £31,218	10.4%
More than £31,218 and up to and including £41,624	10.9%
More than £41,624 and up to and including £52,030	11.2%
More than £52,030 and up to and including £62,436	11.3%
More than £62,436 and up to and including £104,060	11.7%
More than £104,060 and up to and including £124,872	12.1%
More than £124,872	12.5%

2. The amount of pensionable pay of a retained or volunteer firefighter for the purpose of the first column of the Table shall be that firefighter's reference pay.

3. The amount of pensionable pay of a part-time regular firefighter for the purpose of the first column of the Table shall be the amount of pensionable pay of a whole-time regular firefighter of equivalent role and length of service. [SI 2012/954 [Annex A1, paragraphs 2 & 3](#)]

<b>Pensionable pay</b>	<b>FPS 2015</b>
Up to £27,818	11.0%
£27,819 to £51,515	12.9%
£51,516 to £142,500	13.5%
£142,501 or more	14.5%

(3) The amount of pensionable pay of a retained or volunteer firefighter for the purpose of the first column of the table must be that firefighter's reference pay.

(4) The amount of pensionable pay of a part-time regular firefighter for the purpose of the first column of the table must be the amount of pensionable pay of a whole-time regular firefighter of equivalent role and length of service. [2014/2848 [Regulation 110, paragraphs 3 & 4](#)]

## New Club transfer factors

New Club factors will come into effect from 1 April 2019.

The updated factors calculated using the new SCAPE discount rate for NPAs 55, 60, 65, 66, 67 and 68 can be found at [Appendix 2](#) and have been uploaded to <http://fpsregs.org/index.php/gad-guidance/club-transfers>.

The following process for applying the new factors has been agreed between public service pension schemes:

- where a Club transfer estimate was issued before 1 April 2019 and the option forms are returned within the guarantee period, the payment is made as quoted (i.e. based on the pre 1 April 2019 factors). In turn, the receiving club scheme completes the transfer in based on the club factors used by the sending club scheme (i.e. the pre 1 April 2019 factors), by reference to the calculation date.
- any new estimates from 1 April 2019 or recalculations where the option forms were received outside the guarantee period would be on the new factors (i.e. the new factors effective from 1 April 2019). Again, the receiving club scheme completes the transfer in based on the factors used by the sending club scheme (i.e. the new factors effective from 1 April 2019), by reference to the calculation date.

## Britain's exit from the EU

On 24 January 2019, The Pensions Regulator (TPR) published a [statement](#) on the UK's exit from the European Union, aimed primarily at the trustees of defined benefit (DB) pension schemes.

The statement confirms that because UK workplace pensions are largely domestic in nature, TPR does not expect the UK's departure from the EU to have a significant effect in respect of the legislative basis under which schemes operate or trustees' ability to continue to administer their scheme effectively (whether or not the departure is with 'deal' or 'no deal' scenario). However, there are some specific areas that authorities may need to pay attention to and these are detailed within the statement (largely relating to cross border activities and the payment of occupational pensions to EU citizens).

On 15 February 2019, DWP updated two sets of guidance explaining the rights of [UK nationals in the EU](#), and [EU citizens in the UK](#), to benefits and pensions if the UK leaves the EU without an agreement (a 'no deal' scenario).

The guidance confirms in respect of both parties that:

"There is nothing in UK private occupational pensions legislation that prevents occupational pension schemes from making pension payments overseas. We do not expect that this will change as a result of the UK withdrawing from the EU."

## HMRC

### HMRC newsletters/bulletins

HMRC have published pension schemes newsletter 107 containing important updates and guidance on pension schemes. The following issues are covered:-

[Pension schemes newsletter 107 – 27 February 2019](#): Relief at source | Master Trusts - the closing date for applications for authorisation is 31 March 2019 | Reporting non-taxable death benefits| Managing Pension Schemes – registering as a scheme administrator |

## Contracting-out reconciliation update

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

### [Countdown bulletin 42](#)

This bulletin gives important information and dates regarding scheme financial reconciliation.

## Training and Events

### 2019 events

We have put together a topical and varied programme of national events for 2019. Details of the dates can be found in the [calendar](#) section of the bulletin.

We will continue to offer bespoke in-house training throughout the year. Each board is entitled to a free annual training session under the statutory levy, which can be utilised on the new scheme manager training package advertised in [FPS Bulletin 16 – January 2019](#).

For more information or to book a session, please contact us as at [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

## Legislation

SI	Reference Title
<a href="#">2019/159</a>	The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order 2019
<a href="#">2019/192</a>	The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019
<a href="#">2019/262</a>	The Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2019

## Useful links

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

## Contact details

**Clair Alcock (Firefighters' Pension Adviser)**

Telephone: 020 7664 3189

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

**Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

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

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

Telephone: 020 7664 3205

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



## FPS Bulletin 18 – March 2019

Welcome to issue 18 of the Firefighters' Pensions Schemes bulletin.

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

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

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## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please contact [Claire Hey](#).

<a href="#">Data: Pensions in a digital era</a>	3 April 2019
North West regional FPOG	4 April 2019
<a href="#">Eversheds annual Public Sector Pensions Conference – London</a>	5 April 2019
<a href="#">Eversheds annual Public Sector Pensions Conference – Leeds</a>	12 April 2019
LPB effectiveness committee	18 April 2019
Fire Communications Working Group	29 April 2019
Joint Fire and Police governance event	15 May 2019
Eastern regional FPOG	30 May 2019
Administration & benchmarking committee	6 June 2019
North East regional FPOG	12 June 2019
SAB	13 June 2019
Local Pension Board annual wrap-up session	18 June 2019
Ill health and medical appeals seminar	19 June 2019
Firefighter Pensions Technical Community	26 June 2019
CLASS annual conference: Manchester Holiday Inn	3-4 July 2019
Pensionable pay workshop	18 July 2019
Firefighters' Pensions AGM	24-25 September 2019
SAB	3 October 2019
Pensions tax seminar	12 November 2019
SAB	12 December 2019

## FPS

### 2019 amendment order – SI 2019/378

The Police and Firefighters' (Pensions etc.) (Amendment) (England and Wales) Regulations 2019 [SI 2019/378](#) was laid on 28 February 2019 and comes into force on 1 April 2019. The government response to the consultation can be found [here](#).

A [technical note](#) has been published to confirm the details of the amendment order as it relates to the Firefighters' Pension Schemes. FRAs and local pension boards should take the following action:

1. Ensure they are satisfied that the two pension rule is properly applied.
2. Identify and recalculate any survivor's pension in payment under these rules.
3. Identify and make additional payment to the estate of deceased survivor members who would have had a survivor pension in payment under these rules.
4. Identify and recalculate any CETV calculations (whether for a transfer or divorce) where the value of the survivor's pension was calculated under these rules.

We recognise that scheme records may not be held in such a way that allows the administrator to identify such cases, and therefore a communications exercise will need to take place to all persons or relatives of such persons who may be affected. The communications group will be consulted on the most effective way to communicate this and further advice will be available as soon as possible.

Consolidated versions of rule B5A as amended by this order can be found [here](#).

### Revised Fire (England) factors

Further to the letter issued by the Home Office on 31 October regarding the [review of scheme factors](#) due to the change to the SCAPE discount rate, GAD has provided the following replacement factor tables.

#### [Appendix 1: Pension Debit Adjustment and Pension Credit factors](#)

These factors replace those currently in use with immediate effect from 8 March 2019.

The pension credit factors used in each particular case should be those which correspond to those used for the calculation of the Divorce CETV. In particular, if there are any outstanding pension credits to be calculated where a determination has been made using a Divorce CETV calculated on the old factors then they should be processed using the old pension credit factors.

The pension debit adjustment factors contained in this email should be used for all calculations going forward.

**We would be grateful if administrators could undertake some sample calculations using the new factors, which we can forward to GAD to ensure that they have been implemented in line with current guidance. Please send any examples to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).**

GAD has informed us that they will update the guidance and example calculations to reflect these revised factors at a later date. The updated tables and subsequent guidance will be made available at <http://fpsregs.org/index.php/gad-guidance> in due course.

**ACTION: Pension Board Chairs and Scheme Managers, please ensure you liaise with your pension manager to ensure that the factors are applied with immediate effect.**

### Contribution rates 2019-20

Banded contribution rates were introduced to the Firefighters' Pension Scheme 1992 and the Firefighters' Pension Scheme (England) 2006 by Statutory Instruments [2012/953](#) and [2012/954](#) respectively.

These rates have subsequently been amended each year by an amendment order to the schemes. The most recent amendments<sup>1</sup>, which came into force on 1 April 2015, listed the rates applicable from 2015-16 to 2018-19, including contribution rates for Special Members of the Firefighters' Pension Scheme (England) 2006.

The Firefighters' Pension Scheme 2015 was introduced on 1 April 2015 by SI 2014/2848. [Regulation 110](#) set out details rates applicable from 2015-16 to 2018-19.

For 2019-20, FRAs have been instructed that the current rates shall continue to apply, due to the pause of the cost-cap mechanism. The factsheet at [Appendix 2](#) reminds FRAs of the contribution rates set out in the above Regulations and Orders which will apply from 1 April 2019.

### Year End update 2019

A factsheet containing relevant thresholds and rate changes is available at [Appendix 3](#).

### New factsheet – Additional Pension Benefits (APBs)

A new factsheet on [Additional Pension Benefits \(APBs\)](#) has been published on the [factsheets](#) tab of the FPS Regulations and Guidance website. This factsheet has been prepared to give guidance to FRAs on APBs, and the requirement to make a discretionary determination on whether eligible payments should be treated as pensionable or not.

More detailed information, including the regulatory background and calculation guidance, is available from the [APB](#) GAD guidance page.

**ACTION: FRAs should ensure that a policy is in place on the exercise of their discretion, and that any APBs are reported to their administrator in a timely manner.**

### SAB cost-effectiveness committee vacancy

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

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<sup>1</sup> [SI 2015/579](#), [SI 2015/590](#)

## March 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 February.

## Other News and Updates

### SFGB renamed

In [FPS Bulletin 16 – January 2019](#), we reported that the government’s [Single Financial Guidance Body](#) (SFGB) had officially adopted its delivery functions and would be seeking a new name for the organisation as 2019 progressed.

The new name has now been confirmed by [The Financial Guidance and Claims Act 2018 \(Naming and Consequential Amendments\) Regulations 2019](#) as the Money and Pensions Service.

### PASA data guidance

The Pension Administration Standards Association (PASA), in partnership with ITM, has produced the following [data guidance](#) to help those responsible for running schemes to review the quality of their existing data, and provides guidance on taking any necessary action to ensure that their data meets all stakeholders’ needs.

Once again data quality and record keeping are high on the TPR agenda, with poor administration a key regulatory concern. Over one quarter of all schemes have not measured their data within the last three years, and a further one quarter only measure common data<sup>2</sup>.

### DWP launches midlife MOT website

On 21 February 2019, the DWP launched a new website aimed at encouraging people aged 40 or over to take a ‘mid-life MOT’ to assess their finances, wellbeing and career.

In addition to the [mid-life MOT website](#) for individuals, DWP, in association with Business in the Community, has also produced [a guide](#) for smaller companies on how they can provide mid-life MOTs for their staff.

## HMRC

### HMRC newsletters/bulletins

At the time of writing, there have been no new publications since our February bulletin.

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<sup>2</sup> Pensions Age seminar 15 March 2019: Louise Sivyler, Policy Manager, TPR,

## [Contracting-out reconciliation update](#)

The following bulletins, containing important guidance and information about the end of contracting out and the scheme reconciliation process, have been published by HMRC in March.

### [Countdown bulletin 43](#)

Updates include:

- Pension Scheme Administrator queries
- Pension Scheme Administrator guidance about the end of contracting-out
- Scheme Reconciliation Service process improvements
- reminder of deadlines
- contracted-out statements

### [Countdown bulletin 44](#)

This bulletin gives important information and dates regarding scheme financial reconciliation.

## [HMRC workshops on the Manage and Register Pension Schemes service](#)

On 27 and 28 February 2019, HMRC held workshops on the Manage and Register Pension Schemes service.

The slides from the workshop are attached to this bulletin as [Appendix 4](#).

## Training and Events

### [Data: Pensions in a digital era](#)

We are pleased to invite readers to a data seminar being held at the LGA offices at 18 Smith Square, London on **Wednesday 3 April 2019**, from 10:30 to 15:15.

We know that data is a major focus this year for TPR and pension schemes, but why is data so important in a digital era and what can we do to improve our approach?

We have put together an agenda of industry speakers to reflect on why data is so important for the Firefighters' and Police Pension Schemes and how technology can help us to get it right.

The event is aimed at Fire and Rescue Authorities and Police Authorities including scheme managers and Local Pension Board representatives, pension practitioners and administrators, along with software providers and industry professionals.

There will be sessions on the Pensions Dashboard project, valuation data, data improvement plans, scheme reconciliation, and member communications, as well as an LGA-led workshop on data scoring for TPR. The full programme can be viewed [here](#).

[Book your place now!](#)

## Brighton rocks: LGA annual fire conference

The Bluelight team recently had opportunity to attend the LGA annual fire conference and exhibition in Brighton. The event is well attended by those responsible for managing Fire and Rescue Services and their budgets, along with elected members of Fire Authorities, and so provides an excellent opportunity for networking and improving our knowledge of the wider issues affecting Services across the country. We were also able to catch up with the majority of our Scheme Advisory Board employer representative members, many of whom sit on the Fire Services Management Committee (FSMC).



There were thought-provoking keynote sessions on culture, diversity and inclusion; finance, risk, and capacity; the HMICFRS inspectorate programme; and building safety, among others, in addition to a varied selection of workshops. For those interested, the complete slide decks from the two day event can be viewed [here](#).

## Legislation

SI	Reference Title
<a href="#">2019/373</a>	The Guaranteed Minimum Pensions Increase Order 2019
<a href="#">2019/374</a>	The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2019
<a href="#">2019/376</a>	The Social Security Revaluation of Earnings Factors Order 2019
<a href="#">2019/378</a>	The Police and Firefighters' (Pensions etc.) (Amendment) (England and Wales) Regulations 2019
<a href="#">2019/455</a>	The Public Service Pensions Revaluation Order 2019
<a href="#">2019/546</a>	The Pensions Increase (Review) Order 2019

## Useful links

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

## Contact details

### **Clair Alcock (Firefighters' Pension Adviser)**

Telephone: 020 7664 3189

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

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

Telephone: 020 7664 3202

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

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

Telephone: 020 7664 3205

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



## FPS Bulletin 19 – April 2019

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

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

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

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## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please contact [Claire Hey](#).

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

## FPS

### Annual Benefit Statement survey 2018

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

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

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

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

### New and updated factsheets available

#### Two Pensions

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

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

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

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

#### Eligibility to join FPS

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

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

#### Pensions taxation

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

## SAB cost-effectiveness committee vacancy

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

## April query log

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

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

## SAB Request for Information update

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

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

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

## Valuation 2016: employer contributions

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

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

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

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

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

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

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

## Other News and Updates

### Exit cap consultation

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

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

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

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

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

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

### Club Memorandum updated

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

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

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

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

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

### [GAD PSPS newsletter](#)

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

## HMRC

### HMRC newsletters/bulletins

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

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

### Contracting-out reconciliation update

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

## Training and Events

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

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

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

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



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

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



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

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

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

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

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

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

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

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

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

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

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

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



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

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

## Legislation

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

## Useful links

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

## Contact details

**Clair Alcock (Firefighters' Pension Adviser)**

Telephone: 020 7664 3189

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

**Kevin Courtney (NPCC Pensions Adviser)**

Telephone: 020 7664 3202

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

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

Telephone: 020 7664 3205

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

## FPS Bulletin 20 – May 2019

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

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

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

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## Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please contact [Claire Hey](#).

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

## FPS

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

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

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

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

### Pensionable pay guidance

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

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

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

### SI 2019/378 member disclosure

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

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

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

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

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

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

### FPS 1992 transitional calculations guide updated

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

### LTA factsheet updated

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

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

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

### SAB committee vacancies

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

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

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

### May query log

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

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

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

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

## Other News and Updates

### GAD PSPS newsletter

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

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

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

### Updated list of public sector club transfer members

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

## HMRC

### HMRC newsletters/bulletins

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

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

### Contracting-out reconciliation update

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

### [Countdown bulletin 45](#)

Updates include:

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

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

## Training and Events

### FPS training survey

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

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

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

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



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

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



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



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



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



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

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

### LPB annual wrap-up training 2019

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

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

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

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

### Legislation

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

## Useful links

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

## Contact details

### **Clair Alcock (Firefighters' Pension Adviser)**

Telephone: 020 7664 3189

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

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

Telephone: 020 7664 3202

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

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

Telephone: 020 7664 3205

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

## **ACTIONS AND AGREEMENTS**

**Wednesday 23 January 2019**

18 Smith Square, Westminster, London SW1P 3HZ

### **PRESENT**

Tristan Ashby (TA)	Chair
Malcolm Eastwood (ME)	Scheme Advisory Board chair
Clair Alcock (CA)	LGA
Ian Howe (IH)	Technical/ Admin representative (Leics CC)
Dave Limer (DL)	SAB Scheme member representative

Claire Hey (CH)                      LGA – Board secretariat (minutes)

### **1. Introductions and apologies**

1.1. Introductions were made around the room. Apologies were received from Stuart Wilson, Debbie Yeates, and Simon Allsop.

### **2. Chair's welcome**

2.1. TA welcomed all to the meeting and thanked all for attending.

### **3. Review previous actions (25 September 2018<sup>1</sup>)**

3.1. The minutes of the previous meeting were agreed.

*i. Draft surveys to be circulated to the committee once a final draft version agreed with Aon.*

3.2. Draft employer and administrator surveys were shared with all SAB committees on 8 November 2018. The survey was launched to stakeholders on 23 November 2018.

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<sup>1</sup> <http://www.fpsboard.org/images/PDF/LPBsub/Minutes250918.pdf>

*ii. CA and CH to finalise guidance and share with committee before end of October*

3.3. Tabled under agenda item 5.

*iii. CH to send an updated list of LPB engagements to the committee.*

3.4. Circulated with draft minutes on 3 October 2018

#### **4. Joint Board applications - verbal update**

4.1. IH gave a brief verbal update on the progress of the East Midlands boards' joint application since the meeting in September. The submission document was finalised and sent to the secretariat for review. An additional point was suggested to support the bid, and the application sent to the three FRAs to agree before submission to the Secretary of State (SoS). Due to a delay in receiving comments, the application has not yet been submitted.

4.2. TA asked whether anything had occurred during the process to cause concern or delay. CA confirmed the high quality of the proposal, requiring only technical clarification around the role of scheme manager.

4.3. DL queried whether any other boards has expressed interest in forming a joint arrangement, given the high level of engagement at the 2018 AGM. The secretariat confirmed not at this point. ME added that interest generated at AGM appears to have petered out. CA commented that the legislative requirement for shared administration and management adds complexity.

#### **5. Joint Board guidance offer**

5.1. The secretariat have received an offer to provide legal advice on joint boards, in order to supplement the original LPB guidance. The views of the committee were sought as to whether there is value in commissioning this guidance or if the guidance developed by the committee is sufficient. The cost would be between £3.5 – 5k.

5.2. IH queried whether the supplementary guidance would cover the SoS process. CA clarified that the main focus would be the application. The primary benefit would be that it would complement existing guidance. TA asked if there are any underlying motives other than cost in making this offer. CA noted that they have a genuine interest in scheme governance.

5.3. DL noted that boards need to be at a certain level to form a joint arrangement and asked whether this standard was based on the original guidance. CA remarked that joint boards have not been considered other than by the committee, and following the East Midlands application. CA cited Home Office support of the process and of the eight question guidance.

- 5.4. DL felt that the existing guidance is fairly comprehensive and expressed doubt that any further expenditure would provide value at this time. CA agreed and suggested that the supplementary guidance could be considered at a later date if experience suggested it would be useful.
- 5.5. DL remarked that any proposal needs approval from the Home Office, so it could be assumed that they would comment if any area of the application process or documentation was lacking.
- 5.6. IH considered from a personal point of view that all necessary action had been taken by the East Midlands parties by inviting the Home Office to their initial meeting with board members and representative bodies to discuss progression of a joint board application for the region. IH felt that commissioning new guidance at this time could add new requirements which would necessitate a new application.
- 5.7. IH supported continuing with the existing committee guidance, noting that the East Midlands application had been subject to rigorous scrutiny from internal legal and democratic services teams.
- 5.8. DL added that legal interpretations can vary and any subsequent guidance could therefore overturn the completed East Midlands submission. If the SoS deem that there is a problem with the application, the offer could be reconsidered. TA summarised if all in agreement, the offer will be politely declined.
- 5.9. IH requested the support of the committee in progressing the final document for signature by the East Midlands FRAs. CA agreed, ME to email scheme managers. TA asked that the committee is updated of any progress between meetings.

## **6. ABS 2018 survey results (report pending)**

- 6.1. CH gave a verbal update on the headline results from the ABS 2018 survey. The research report is pending and will be sent to the committee for review before general distribution.
- 6.2. The survey was in the field from 28 September 2018 to 14 November 2018. During that time 42 responses were received in respect of 31 of 47 FRAs in England and Wales (66%).
- 6.3. Over 95% of those responding confirmed that the ABS deadline was met for active members, raising a question as to whether those who failed to comply therefore chose not to complete the survey. The Pensions Regulator (TPR) results will be compared when available, to establish whether this modifies the position.
- 6.4. The greatest proportion of members not receiving a statement by the deadline fell into the category of special members of FPS 2006, and correspondingly the most common reason for delay was software that was unable to perform the required calculations. Almost 60% of those completing the survey use UPM from Civica.

- 6.5. CA noted that the results could be useful to aid conversations with software providers, if it can be evidenced that lack of functionality is directly causing material breaches. DL raised whether this should be added to boards' risk registers.
- 6.6. IH commented that the software issue should raise a red flag to administrators. CA added that members can have such unique circumstances that occasionally it can be easier and more cost effective to calculate manually, rather than develop the required system amendments. Providers and administrators need to balance cost against resource.
- 6.7. For the committee's benefit, IH outlined the manual process that Leicestershire CC undertake in order to output ABS for all categories of member using their pension administration software.
- 6.8. DL asked whether the survey results highlight a training issue at FRAs. IH commented that this does not apply within the three East Midlands FRAs, where good communications and procedures are in place and supplemented by weekly meetings.
- 6.9. Over 90% of administrators send statements to deferred members of all schemes, which is particularly encouraging as there is no legislative requirement to provide an annual update for FPS 1992.
- 6.10. The committee identified that a complete review of questions relating to internal controls is needed for the 2019 survey, including an addition to identify if ABS is included on risk registers. A breach assessment template already exists, however, the group agreed that a dedicated factsheet on reporting ABS breaches would be a useful resource.

**Action:**

**i. CA to draft factsheet on reporting ABS breaches.**

- 6.11. IH remarked that the reporting of breaches should link back to the risk register. DL added that an education piece may be needed in order that reporting a breach to TPR is not seen as negative, but operating in an open and transparent manner.
- 6.12. IH raised the breach of the cost-cap floor at the 2016 valuation and how this may affect future ABS, stating that national guidance to administrators on the position would be helpful.
- 6.13. CA confirmed that the Home Office have been advised that a steer will be needed within regulation regarding the impact on projection of benefits to normal pension age, given the potential fluctuation in accrual rate. It may be advisable to remove projections from 2019 statements in order to meet the deadline, due to lack of certainty.
- 6.14. The committee agreed that it would be irresponsible for administrators to knowingly issue information that is incorrect. CA will progress with the Home Office.

6.15. The committee were pleased to note that over three-quarters of respondents stated that they have already implemented online self-service for members to access their ABS, although it is unclear whether this includes additional functionality for projections to be undertaken. All other replies indicated an intention to migrate to electronic statements at a future date.

6.16. The draft research report will be reviewed by committee members prior to publication.

## **7. Admin & benchmarking review – verbal update**

7.1. CH updated the committee on the number of responses received to the employer and administrator surveys, noting that the original deadline of 31 December 2018 had been extended to 31 January 2019, and reminders sent to those who have not yet submitted a response.

7.2. CA expressed concern that some of those reminded had stated that they were unaware of the surveys, as this has been well-publicised through the FPS monthly bulletins and websites, and Aon have attended the AGM, technical group meeting, and Fire Finance Network to outline the purpose and scope of the exercise.

7.3. CA suggested that this may demonstrate a lack of internal controls and confirmed that the final report will name those organisations who did not respond. The benchmarking project is vital to understanding the current administration landscape, particularly in relation to cost and level of service, and will allow evidence to be presented to the Home Office on the impact of, for example, late or retrospective changes to legislation.

7.4. ME queried whether the timing of the survey may have affected the level of responses. However, due to the timescales established for the project the surveys could not be postponed, to enable Aon to present the final report in June.

7.5. CH demonstrated the communications that had been developed to advertise the member survey, and highlighted that around 500 responses had already been received. CA noted that it will be interesting to assess how the member results correspond with the administrator and employer responses.

7.6. The following comments were received from Debbie Yeates by email:

The only issue I wished to raise was around the admin and benchmarking review – feedback from our perspective was that many of the questions were impossible to answer due to County set-up. I did feed this back prior to launch but nothing was changes which does make the whole point of benchmarking and comparison a mockery. Furthermore the recent extension to pension scheme members is going to cost us at least £300 just in postage alone to send to deferred and pensioner members ( no costs yet for the administration time/printing costs of letters) at a time of survey overload and financial constraint. These factors need to be taken into account when SAB commissions this work.



7.7. CH confirmed that Lincolnshire's feedback had been received and noted. However, the questions were deemed necessary as one of the primary drivers of the survey is to find out how much is being spent on administration, before the Scheme Advisory Board (SAB) can consider whether any recommendations or suggestions for change should be made.

7.8. Following the meeting an email was sent to all stakeholders to clarify the position around contacting members; the expectation being that employers and administrators will only contact members where it is efficient and cost-effective to do so. It was not the intention of the SAB that any Authority will incur additional unnecessary expenses in printing or postage costs

## 8. 2019 work-plan

8.1. The items discussed will form the basis of the committee's work-plan for the year:

- i. Consider whether items arising from the outcomes of SAB and TPR surveys demonstrate need for a business case to the Home Office for regulatory change – no longer deemed to be an issue given current difficulty in effecting any legislative change.
- ii. Publication of LPB annual report template.
- iii. Group members to attend LPB meetings and/ or training.
- iv. Publish commentary on combined survey results – completed via LPB training.
- v. Publish joint board guidance and promote support available to applicants.
- vi. Consider how to engage with LPBs who do not respond to requests for information nor attend training and events.
- vii. Publication of ABS 2018 survey research report.

8.2. CA to progress the LPB annual report template [item ii] based on the South Yorkshire FRS example. It may be possible to obtain copies of reports from FRAs and hold them on the [Local Pension Board](#) page of the SAB site.

8.3. TA has attended LPB meetings at Essex and Bedfordshire FRAs [item viii], with conflicting diary engagements preventing attendance at other boards in the Eastern region. It has not been possible to engage with one of the boards. TA confirmed positive impressions of both meetings, although noted a lack of resilience at Essex FRS within the pensions team. CA was also in attendance at Beds FRS to provide training.

8.4. DL will attend a future meeting of one of the East Midlands LPBs. Details sent by email.

8.5. CA will endeavour to visit all boards [item vi]. A new scheme manager training package and factsheet is being launched to strengthen the relationship between the scheme manager and the LPB.

**Action:**

- ii. **CH to send an updated list of LBP engagements to the committee.**
- iii. **CA to develop RAG matrix of board engagement, with a checklist for committee members attending meetings.**

**9. Future meeting dates and venues**

- 18 April 2019 (18 Smith Square)

**10.AOB**

10.1. IH raised a matter arising from the Heywood Police and Fire (P&F) CLASS user group. Currently records for members with transitional service are held separately for each scheme (final salary and CARE), which causes difficulty for reporting purposes.

10.2. Heywood have proposed to use the available P&F development fund to produce a suite of standard reports which are compatible with both the Altair and Civica software, for frequently requested data from organisations such as TPR and the scheme actuary.

10.3. As this would need to be agreed at national level, IH sought initial opinions from the committee with a view to progressing to technical group on 12 February to obtain buy-in from administrators. DL commented that standardised reporting feeds into best practice. CA agreed that it would support consistency and effectiveness across administrators. All agreed to support in principle.

10.4. CH fed back from the LGPS governance conference on a National Confidence assessment session presented by Hymans Robertson. This was designed to measure the knowledge and understanding of elected members on Local Pension Boards, against eight topics on the [CIPFA framework](#). 250 replies were received from 50 pension funds, with results indicating strong engagement and strong level of confidence. CH asked if the committee thought a similar exercise would be of value for FPS boards. The group were unsure, and asked if slides from the session could be made available.

**Action:**

- iv. **CH to provide slides from Hymans Robertson confidence assessment presentation.**

10.5. CA updated the committee on the judgement from the Court of Appeal in the transitional protections case. The next stage in the process will depend on whether the Supreme Court grant the Government leave to appeal, this decision may take up to 12 weeks.

10.6. If the appeal is granted, the hearing will be listed at the Supreme Court. If leave to appeal is refused, the case will be referred back to the Employment Tribunal to consider remedy. There is no certainty in terms of timing for listing in either scenario. However, until now there has been 11-12 months between hearings.

10.7. The transitional appeals case has centred on whether the transitional provisions<sup>2</sup> of the 2015 scheme are lawful. There has been no challenge to the primary legislation, the Public Services Pensions Act 2013 [18]<sup>3</sup>, which restricts the continuing provision of the existing final salary schemes. Therefore it is only by the virtue of the transitional provisions in the 2015 scheme that some members have been protected and continue to have pension benefits calculated in the 1992 or 2006 scheme.

10.8. As the court of appeal have found the transitional protections are unlawful, the question of remedy centres on how the transitional provisions should be made lawful. It may be possible to reach a resolution on remedy through negotiation, however, all other public service pension schemes are affected by this outcome.

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

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2013/25/section/18>



# Firefighters' Pensions England

Scheme Advisory Board

## LPB EFFECTIVENESS COMMITTEE

### **ACTIONS AND AGREEMENTS**

**Thursday 18 April 2019**

18 Smith Square, Westminster, London SW1P 3HZ

### **PRESENT**

Tristan Ashby (TA)	Chair
Malcolm Eastwood (ME)	Scheme Advisory Board chair
Clair Alcock (CA)	LGA
Ian Howe (IH)	Technical/ Admin representative (Leics CC)
Dave Limer (DL)	SAB Scheme member representative
Debbie Yeates (DY)	FRA/ HR representative (Lincolnshire)
Claire Hey (CH)	LGA – Board secretariat (minutes)

### **1. Introductions and apologies**

- 1.1. Apologies were received from Stuart Wilson, Becky Smeathers, and Cllr Roger Phillips.

### **2. Chair's welcome**

- 2.1. TA welcomed all to the meeting and thanked all for attending.

### **3. Changes to membership**

- 3.1. Becky Smeathers (BS) has joined the committee to replace Simon Allsop as FRA/ Finance representative. Cllr Roger Phillips has also volunteered to join as SAB Scheme employer representative. Both were unfortunately unable to attend the meeting due to short notice between their appointment and the meeting date.
- 3.2. Following some discussion, a consensus was reached to seek a volunteer replacement LPB representative to the committee. This vacancy will be advertised in a future bulletin.

Scheme Advisory Board Secretariat

18 Smith Square, Westminster, London SW1P 3HZ T 020 7664 3189/ 020 7664 3205 E [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)

#### **4. Review previous actions (23 January 2019<sup>1</sup>)**

4.1. The minutes of the previous meeting were agreed.

*i. CA to draft factsheet on reporting ABS breaches.*

4.2. Action carried forward.

*ii. CH to send an updated list of LBP engagements to the committee.*

4.3. Circulated with draft minutes on 14 March 2019.

*iii. CA to develop RAG matrix of board engagement, with a checklist for committee members attending meetings.*

4.4. CA is considering the best way to take this forward. To be discussed further under item 8.

*iv. CH to provide slides from Hymans Robertson confidence assessment presentation.*

4.5. Circulated with draft minutes on 14 March 2019. The general feeling from the group was that a similar exercise would not be of value for FPS boards at this time.

#### **5. Joint Board applications - verbal update**

5.1. IH gave a brief verbal update on the progress of the East Midlands boards' joint application since the meeting in January. The document has been agreed and referred back to the three separate boards for sign off; the process appears to have stalled here. IH noted that BS may have more information in her capacity as delegated scheme manager for Nottinghamshire FRS.

5.2. IH informed the group that he has been approached by an FRA querying the process and how to draft an application to the Secretary of State (SoS). IH expressed disappointment that the East Midlands submission has not yet been made following the work undertaken.

5.3. DL queried whether the FRAs have lost interest in the process or if the delay could signify that a wider problem has arisen, adding that approval of the application may promote interest from other boards. CA questioned whether the delay indicated a lack of engagement and understanding of pensions at a senior level. TA noted that the lack of impetus may discourage others from applying.

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<sup>1</sup> <http://www.fpsboard.org/images/PDF/LPBsub/Minutes230119.pdf>

5.4. While the committee had previously agreed that the guidance should be issued following the approval or otherwise of the first application in order to incorporate any learning points, CA suggested that the guidance now be submitted to the Scheme Advisory Board (SAB) for review and subsequently published. All agreed. DY noted that a revised version could be produced following the SoS decision.

**Action:**

- i. **CA to liaise with BS regarding status of the East Midlands joint board application.**
- ii. **CA to circulate draft guidance to SAB by email for review and approval.**

## **6. ABS 2018 survey results**

6.1. The final draft research report was circulated to the committee for review with the minutes of the previous meeting. CH asked for comments prior to sign off and a summary of points raised follows.

6.2. TA queried why the proportion of statements that were unable to be sent in respect of FPS2006 special members was so high [1.2]. CH confirmed that this is largely due to the administration software which is unable to perform the required calculations. IH asked whether the report could be used to put pressure on providers to improve solutions. DL asked whether there is an associated cost that FRAs are unwilling to pay or if providers genuinely cannot provide the correct calculations.

6.3. CA confirmed that in addition to the lack of FPS expertise within the relevant organisations, the problem is two-fold: the schemes are so complex, yet the relative membership is so small, that the cost of development outweighs the value. It is more effective for administrators to carry out manual calculations than pay for system development. However, this is indicative of wider issues with providers, for example, one has no user group for FRAs.

6.4. DY added that administration for Lincolnshire FRS was contracted prior to the amendment of FPS2006 to allow special members. While there was considerable uptake, active member numbers are ever decreasing. The administrator endeavours to produce ABS on time, and even where electronic calculations can be made, they are checked manually.

6.5. CA proposed inviting the suppliers to the next meeting of the committee to present the findings from the report. IH supported this, adding that as an administrator special member calculations pose the biggest risk, and although errors are reported to the provider, the lack of internal expertise means they cannot always be resolved.

6.6. On deferred members, TA asked whether respondents are aware that there is no statutory requirement to provide statements for FPS1992, in respect of the high percentage producing them [1.3]. CH clarified that this is widely known, yet DBS are provided as good practice for FPS1992 as there is little additional effort while already producing for FPS2006 and FPS2015.

- 6.7. TA queried whether responses from LPB employee representatives, rather than the chair and/ or scheme manager, were expected [3.2]. DY suggested that the LPB's only role in respect of the survey would be to check that it had been completed, not to provide a separate response.
- 6.8. DL noted concern over the high proportion of 'N/A' or 'Don't know' responses at Figure 4.4.1 relating to reporting delayed ABS, considering whether only 'Yes/ No' should be offered for the 2019 survey, as the Committee's primary concern is driving the effectiveness of LPBs. DY noted that the intention to provide separate administrator/ scheme manager surveys in future years will address this issue.
- 6.9. IH confirmed that Leicestershire CC report to each board as a matter of course, although not all administrators work in this way. CA noted that administrators also have a duty to report a breach of law, but are more likely to refer this to the scheme manager to make a decision on whether to inform TPR.
- 6.10. DL queried whether the comments recorded in Table 4.5.3 illustrate anything unexpected, if there were any actions for the group to take forward, and if there were further comments. CH confirmed that the full list of verbatim responses was available on page 25.

**Table 4.5.3 – Comments relating SAB support to facilitate improvements.**

Encourage software provider to account for PSO debits and AA Scheme Pays Debits in calculations.
Encourage FRAs / Scheme Administrators to work more collaboratively.
Template changes need to be issued as early as possible to enable them to be incorporated.

- 6.11. CA clarified that the first point can be incorporated with the discussion regarding special member calculations; TA suggested that the regional fire pension officer groups encourage collaboration between FRAs and administrators, with CA adding that the new scheme manager/ LPB training package also encourages cooperation. The final sample comment is an action for the Fire Communications Working Group (FCWG).
- 6.12. DY queried whether the second point related to ABS only, or was a more general suggestion. The full responses at Annex D clarified that it was specifically in relation to ABS. IH noted that Leicestershire CC worked with their three FRAs and representative bodies for six months to agree a statement template. Good feedback was received for the last cycle.
- 6.13. DY remarked that the central LGA template is not widely used as members require a projection to 30 years, not just age 55 or 60. CA confirmed that the regulatory requirement is to provide an estimate to NPA. DY asked whether promotion of online self-service is a role of the committee in order to offer members more flexibility. Meetings with the software providers have been scheduled to discuss member self-service, as administration systems have capacity to provide projections. CA stated that this also links to the Pensions Dashboard agenda.

6.14. IH confirmed that Altair MSS is ready to go live for FPS within the East Midlands region. However, the FRAs have been reluctant to sign off as there is a lack of confidence in the projection calculations, although all projections would be strongly caveated. LGPS self-service for Leicestershire CC has already been implemented. IH shared the communications that have been prepared to promote the service.

6.15. IH noted that he applied for the chair of the CLASS P&F user group due to long running concern over the system calculations. Conversations have been held with the CEO to provide examples of where the system is not up to speed. IH is presenting a session at the CLASS AGM and invited TA to attend, to promote the work of the committee in encouraging software improvements. IH highlighted that online self-service needs to be adopted nationally to move forward, particularly with the implementation of dashboards.

6.16. CA added that support is needed from members of the user group to evidence the demand from Firefighter members for a robust projection calculator. As yet the concentration of resource from the software providers appears to have been on the platform and front end, not on the underlying calculations. The SAB have had an outstanding action for two years on championing online solutions and there has been no movement on self-service provision during that time. CA confirmed that the outcomes from the benchmarking exercise should provide evidence of member expectation.

6.17. DY asked whether the outcome of the CLASS AGM may enable clients to push the other supplier for solutions, as there is no similar user group forum. CA clarified that dial-in technical meetings are held as an alternative. TA sought agreement from the committee to support IH as chair of the P&F user group. Members agreed that senior representation from each provider should be invited to the next meeting.

**Action:**

iii. **CA to invite system providers to next meeting on 7 August 2019.**

6.18. Under recommendations for internal controls [5.4] DL proposed that the committee highlight good practice and recommend that administrators report regularly to LPBs. IH suggested that a quarterly report may be devised which addresses the headings within TPR Code of Practice 14.

6.19. TA thanked all for their contribution and the report was signed off for publication.

## **7. Fire and Police LPB governance conference 15 May**

7.1. CH advised the committee of the above conference taking place in May, which would be particularly relevant to their role. DY asked who should attend, CH confirmed that the session is aimed at board chairs and scheme managers.



7.2. CA added that the event also offers a networking opportunity, emphasising the importance of ensuring that the most appropriate person attends for an organisation, as confusion remains over roles and responsibilities. TA is chairing a session on engaging the scheme manager, with debate from each side to highlight the challenges and different experiences for Fire and Police.

7.3. A speaker for the session on Public Sector Pensions Governance has yet to be secured. ME will reach out to his contacts on other boards at a national level. As each presentation lasts around 30 minutes, content must be high level and strategic.

7.4. TA asked for numbers attending, which currently stood at 28. The event will be advertised in the April bulletin. It was queried whether targeted chaser invitations could be sent based on survey results. CH will check the delegate list.

7.5. *Post meeting update 25/04/2019 – attendance now stands at 52 with a maximum venue capacity of 64.*

## **8. Improving LPB engagement – open discussion**

8.1. In relation to point 7.4 and improving LPB engagement, DY suggested approaching this by explaining that the committee are undertaking a program of visits. If boards are not performing well, it is important to establish the reason, which could be incorrect composition of members, lack of understanding, or a training need.

8.2. TA has started engaging with boards, focusing on his nearest region and asking to attend a meeting. So far, the following FRAs have been visited: Essex, Bedfordshire, Cambridgeshire, and Hertfordshire, with Norfolk scheduled for May.

8.3. Feedback from these meetings suggests a correlation between the governance structure and resources available to the board. Essex LPB is exemplary, although TA noted a lack of resilience within the pensions team. Concern was noted at other boards regarding the level of delegation of the scheme manager role. TA confirmed that the overall engagement experience had been very positive.

8.4. CA noted that DL had requested a set of slides to present when visiting boards. The training slides currently used are not annotated, therefore CA proposed creating a dedicated presentation with notes to be delivered via webinar to the committee, giving all members an overview of what to cover.

### **Action:**

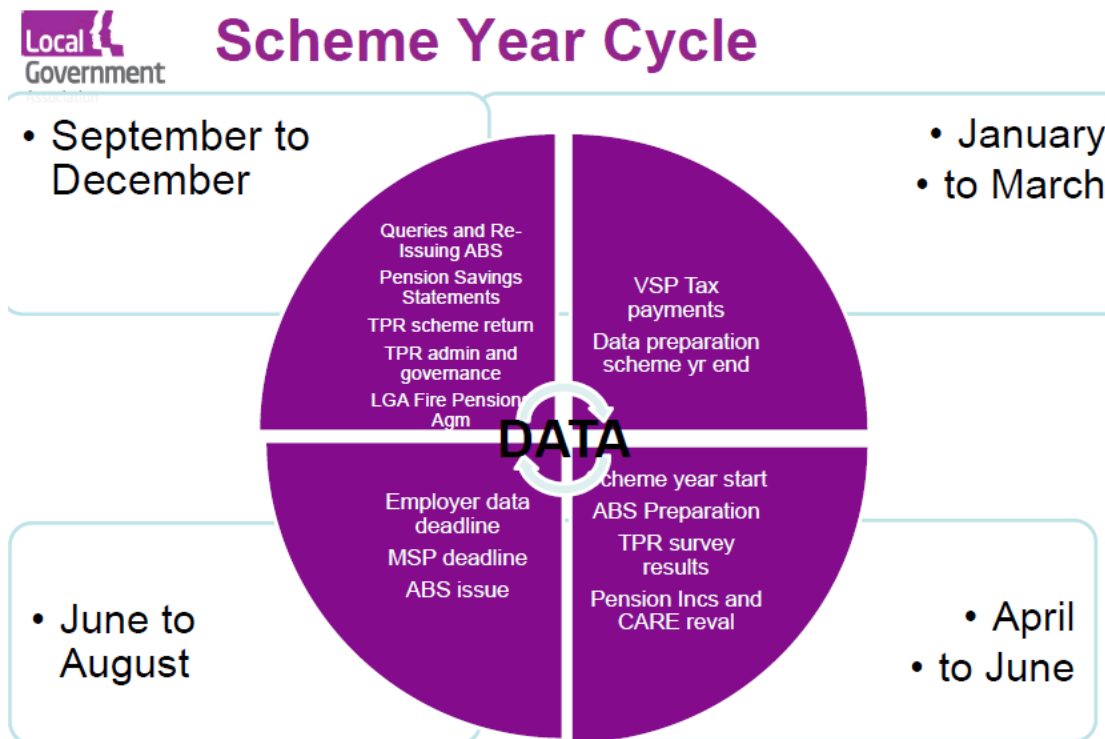
- iv. **CA to develop short, high-level slide deck and send Go-To Meeting request.**

- 8.5. There is some concern that local boards are not seen as worthwhile. CA stressed the promotion of self-assessment to evidence that they provide value. DY added that this needs to be more than a box-ticking exercise without relevant investigation. CA confirmed that boards should implement processes and frameworks (internal controls), and be able to evidence how decisions have been made, which can then be referred to when new case law is determined, such as the recent pensionable pay judgement.
- 8.6. DY asked whether there were any punitive measures that could be implemented, referencing TPR fines. CA responded that reputational damage is more of a threat, as an FRA failing in one area is more likely to be failing in many. TA highlighted the HMICFRS agenda, although the inspectorate is not considering governance as a matter of course.
- 8.7. CA informed the group of a template delegation form devised by one FRS, expressing concern that this would lead to an abdication of responsibility. It is feasible for an FRA to delegate an 'operational' scheme manager for day to day duties, however, this must be at an appropriate level of seniority for strategic decision making.
- 8.8. While the SAB cannot dictate to FRAs, ideally the CFO would be delegated scheme manager, with a further delegation to a member of the senior management team (for combined FAs). DY opined that CFOs change too regularly to gain adequate knowledge and understanding to perform the scheme manager role.
- 8.9. CA confirmed that these issues are being prioritised through the new scheme manager training package, which includes a handout detailing relevant strategic considerations for managing the scheme. However, the problem lies with those boards that are disengaged and do not request training. Additionally, providing training for individual scheme managers is time and resource intensive. TA suggested regional training as an opportunity to identify disengaged boards.
- 8.10. TA asked whether the NFCC have a lead for pensions. CA confirmed that there has been no recent engagement, DY added that the quarterly CFOA meetings have also ceased. ME offered to revive links with NFCC, noting that this shows a lack of leadership and direction at national level.
- 8.11. CA explained that Cllrs Chard and Price proposed submitting a bid through FSMC for a plenary session on pensions at the next LGA fire conference. This was supported by the West Sussex CFO, to help raise awareness and visibility of pensions at the most senior level.

## **9. Evidence for extension of term of office**

- 9.1. Stuart Wilson (SW) queried by email whether there is any available evidence to support that the term of a board member should be longer than 12 months. CA confirmed that while this cannot be enforced, it is possible to recommend best practice and there is evidence that some boards have longer terms. IH suggested length of term as a question for the next survey of LPBs.

9.2. The following diagram was circulated with the agenda and is a recent inclusion to the training slides, demonstrating both the need for quarterly meetings and that for consistency a longer term would be beneficial in order for members to experience more than one scheme year cycle.



9.3. CA reiterated that the committee can make a recommendation, and asked for views from the group on a three year term. The SAB has a four year term, although this may be too long for LPBs. TA agreed that three years is reasonable, considering that members can also leave voluntarily at any point.

9.4. ME noted that the electoral cycle and a lack of interest could be a problem in extending terms. There is a misconception that board members have to be elected members or trade union representatives.

9.5. DL remarked that there is equally no evidence for a one year term, and such a short tenure is a waste of time and resource which casts doubt on the value of the committee's work and the training provided by the SAB secretariat. CA agreed that boards cannot operate effectively or efficiently on a one year term.

9.6. CA explained that some local boards link terms of office to other FRA committees. A review of the draft terms of reference revealed that this is stated within the template document. It was agreed to review the draft and provide a revised version now that boards have been operational for some time.

## Term of office |

24. Term of Office should be in accordance with the committee cycle in [ INSERT FIRE AND RESCUE AUTHORITY ].

### Action:

- v. **CH to review draft TOR and issue a revised tracked version to FRAs.**

## 10.2019 work-plan

10.1. The items discussed will form the basis of the committee's work-plan for the year:

- i. Consider whether items arising from the outcomes of SAB and TPR surveys demonstrate need for a business case to the Home Office for regulatory change – no longer deemed to be an issue given current difficulty in effecting any legislative change.
- ii. Publication of LPB annual report template – [Nottinghamshire FRS](#).
- iii. Group members to attend LPB meetings and/ or training – standing item.
- iv. Publish commentary on combined survey results – completed via LPB training.
- v. Publish joint board guidance and promote support available to applicants.
- vi. Consider how to engage with LPBs who do not respond to requests for information nor attend training and events.
- vii. Publication of ABS 2018 survey research report.
- viii. Engage with software suppliers on FPS2006 special members and online self-service.
- ix. Revise and publish draft LPB Terms of Reference.

## 11.Future meeting dates and venues

- 7 August 2019 (18 Smith Square)

## 12.AOB

12.1. No items of AOB were raised. The meeting closed at 13:50.



## **ACTIONS AND AGREEMENTS**

**Thursday 14 March 2019**

18 Smith Square, Westminster, London SW1P 3HZ

### **PRESENT**

Malcolm Eastwood	Chair
Cllr Roger Phillips	Scheme Employer Representative (LGA)
Cllr Roger Price	Scheme Employer Representative (LGA)
Cllr John Bell	Scheme Employer Representative (LGA)
Cllr Nick Chard	Scheme Employer Representative (LGA)
Des Prichard	Scheme Member Representative (FLA)
Dave Limer	Scheme Member Representative (FBU)
Sean Starbuck	Scheme Member Representative (FBU)
Tristan Ashby	Scheme Member Representative (FRSA)
Glyn Morgan	Scheme Member Representative (FOA)
Brian Hooper	Scheme Member Representative (FBU)
Matt Lamb	Scheme Member Representative (FBU)
Jane Marshall	Legal Adviser
Craig Moran	Actuarial Adviser
Clair Alcock	LGA – Board secretariat
Claire Hey	LGA – Board secretariat

### **1. Apologies**

- 1.1 Apologies were received from Fiona Twycross AM, Cllr Ian Stephens, Helen Scargill and the Home Office.

### **2. Changes to membership**

- 2.1 Clair Alcock (CA) confirmed that the appointment of Labour councillor Nikki Hennessy is being progressed with the Home Office. Cllr John Bell (JB) was attending his final meeting before retirement, which would leave a vacancy for an employer representative on the Board.

- 2.2 CA noted that discussions had taken place with the Home Office with regards to a replacement, as the current Board has 12 months term remaining. The Board were asked for views on the following options:

- i. A replacement is not sought in the interim and the Board carries a vacancy for 12 months.
- ii. The Conservative group are asked to put forward a nomination.
- iii. Alternative representation is sought from an employer body, such as NFCC or the Fire Finance Network (FFN).

2.3 Des Prichard (DP) stated that the principle of the SAB calls for equal numbers of employer and scheme member representatives, therefore any vacancy should be filled. Cllr Roger Phillips (RPH) agreed that a balance should be maintained. Cllr Nick Chard (NC) requested that the LGA seek a nomination from the Conservative group, a view which received general consensus.

### **3. Conflict of interest**

3.1 All Board members completed a standard conflict of interest form. No interests were declared.

### **4. Minutes from previous meeting**

4.1 The minutes of the meetings held on 5 December 2018<sup>1</sup> and 24 January 2019<sup>2</sup> were agreed as an accurate record.

### **5. Chair's update**

5.1 Malcolm Eastwood (ME) informed the group of events attended in his capacity as chair of the SAB since the last meeting:

- Communications group
- Admin and benchmarking committee
- Technical Group
- Pensions Tax Working Group
- TPO stakeholder event
- SAB induction training
- Eastern Regional Group and London Pension Board Training
- West Midlands Pension Board

5.2 ME highlighted the benefits of being invited to industry events and engaging with stakeholders. ME noted that local boards are transient with changing FRA governance structures, for example West Midlands LPB are currently transferring to mayoral governance

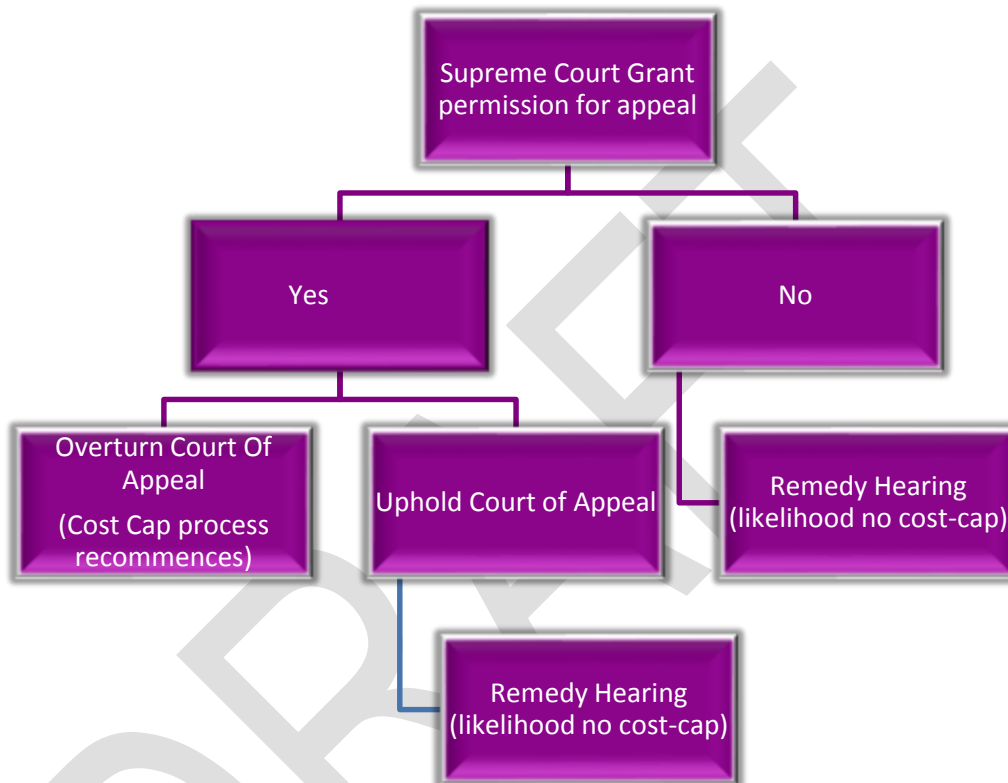
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<sup>1</sup> <http://www.fpsboard.org/images/PDF/Meetings/05122018/Minutes051218.pdf>

<sup>2</sup> <http://www.fpsboard.org/images/PDF/Meetings/24012019/Minutes240119.pdf>

## 6. 2016 Valuation Update

6.1 CA confirmed that all board members were acquainted with the background to the valuation process. HM Treasury (HMT) paused the cost-cap process on 30 January 2019 and issued new Directions on 14 February 2019. At this point, GAD were able to finalise the 2016 valuation and issue scheme specific employer contribution rates. Whether the cost-cap element recommendations will depend on the outcome of the Government's request to appeal to the Supreme Court and any subsequent determination. A decision on the leave to appeal should be known in April.



6.2 Cllr Roger Price (RP) confirmed that FRAs have now received notification of the scheme specific rates. Agreement had previously been received from Government that in year one they would provide funding to FRAs to meet the increased costs over and above £10 million, which equated to about 90% of the total bill to English Fire Authorities when based on an average rate. However, now that individual rates have been calculated, FRAs are estimating that the pressure on budgets could lead to them funding more than 10% of the increases. RP asked whether the difference will also be funded centrally. An all-party meeting was held with the Home Office, which mentioned the Comprehensive Spending Review (CSR) in relation to pensions. This will be added to the list of cost elements, although no guarantees were given.

6.3 RPH echoed this, noting concern on both the employer and member sides regarding the funding in year one and inclusion in the CSR in subsequent years. RPH stated that the lack of clarity is unhelpful.

6.4 DP added that concern had been raised by the Board when the initial results were known, that the scheme was becoming unaffordable for employers and this could potentially impact on frontline services. DP suggested that the Board take an action to write to the Secretary of State to express these concerns, although the impact cannot be altered.

6.5 NC highlighted that the autumn CSR must be transparent, as pensions is only one issue among many that will be picked up by the review.

6.6 CA reminded the Board that while the funding situation is undoubtedly difficult for employers and their concerns were appreciated, it does not fall not within the SAB remit. CA in her LGA role supports employers and attends both the FFN and the NFCC finance committee, and is liaising with Home Office on these matters. The Home Office are in discussion with HMT with regards to the original guarantee that everything above £10m will still be funded. CA will provide an update to FRAs as soon as possible.

6.7 RPH commented that any reversal of this position will cause mistrust at employers, and the problems of years two to four still remains. ME asked the Board if all were willing to support DP's proposal of writing to the Secretary of State.

## **7. Sub-committees update**

### **Local Pension Board effectiveness**

7.1 Tristan Ashby (TA) gave an update on the work of the LPB effectiveness committee:

- The ABS 2018 survey results had been analysed and a report issued to the committee to review before publication.
- One joint board application is in progress. If the application is successful, the committee will release the guidance as drafted.
- An annual report template is to be produced.
- The committee are engaging with LPBs by attending meetings. Feedback from the sessions is good, although it is a struggle to engage with certain boards to see what support is needed.

7.2 Dave Limer (DL) checked that the guidance for joint board applications will be referred back to the committee rather than full SAB. CA confirmed, and that this is pending the outcome of the East Midlands application.

### **Administration and Benchmarking**

7.3 DP updated the Board on the meeting of the Administration and Benchmarking committee in February:

- A general discussion took place on administration and benchmarking at FRAs and the difficulty around record keeping and data.
- Aon gave a presentation on some initial findings from the administration and cost benchmarking review.



- A data seminar is taking place on 3 April 2019.
- The committee heard the headline results from the ABS 2018 survey.
- The 2019 workplan was discussed, pending the outcome from the benchmarking review. Scheme specific data requirements for TPR will be reviewed.

7.4 ME confirmed that all Board members are welcome to attend the data seminar. RPH commented that poor data undermines the function of schemes, and the SAB should undertake to ensure that data quality is improving and administrators are being recognised for their hard work.

### **Cost-effectiveness**

7.5 CA provided a brief summary as no meetings have been held since RPH took the role of chair. The committee proved to be very useful in the data gathering stage of the proposal to rectify the cost-cap breach, however, there is no further update as the process has now been paused.

## **8. SAB Request for information update ([Paper 1](#))**

8.1 Paper 1 describes a request for information made on behalf of the SAB to collect data on opt out rates and tax liabilities. ME noted that there had been limited response from FRAs to date and thanked CA for following up on non-responses.

8.2 CA outlined the background to the request, noting that the information supported not only the cost-cap rectification discussion in relation to contribution flexibility reducing numbers of optant outs, but also the tax working group in gathering data on the impact of tax charges on recruitment, retention and promotion. As the FPS is a relatively small scheme, it would be difficult to make a case to HMT without collaboration with other public service schemes via the tax working group.

8.3 CA reiterated that there had been limited response to the requests made in the December and January bulletins, adding that the evidence received does not reflect the anecdotal feedback. However, this could reflect a lack of internal communication at FRAs.

8.4 Responses received indicate that optant outs relate mainly to retained firefighters or are as a result of auto-enrolment exercises. The Home Office have recently recommenced collecting opt-out statistics. FRAs have reported that data on opt-outs is not collected in relation to salary band, although this could be established. Data on reasons for opting out is considered unreliable; the template forms developed by the Fire Communications Working Group (FCWG) include this as a question.

8.5 CA explained that a direct email to CFOs in mid-January had generated a flurry of individual responses. In particular, a detailed response from Becci Bryant at Staffordshire would be useful evidence to present to Government on the impact that pension tax may have on equality and diversity in the fire service. To further this, CA proposed contacting the Women in Fire group to consider barriers to recruitment and promotion.

- 8.6 ME stated that education and perception is one of the key issues. Perceived tax implications are reportedly affecting motivation and skills loss, with a reduced number and quality of applications for senior positions.
- 8.7 NC acknowledged that pension tax implications are a problem and thanked CA for the helpful paper; however, the anecdotes are not reflected in the statistics. NC suggested that it may be worthwhile having less empirical evidence and instead focusing on holistic case-studies of a sample three or four FRAs, adding that there is increasing interest in the managerial leadership of FRAs through the HMICFRS process, which could be tied in to this work.
- 8.8 Sean Starbuck (SS) raised concern over opt out rates from the schemes. Following the Hutton review, the FBU assessed the impact of members opting out of the scheme, and believe that the scheme is untenable based on current rates. It is not known why people are choosing to opt out, which also raises concern that they are not being informed of the benefits of the scheme. Greater communication may be needed.
- 8.9 Glyn Morgan (GM) acknowledged that it is difficult to collect hard data and evidence, while recognising that tax is a growing concern. GM supported drilling down into a small cohort of FRAs. JB queried whether there are figures available on opt out rates for retained versus wholetime firefighters, as affordability could be a particular issue for retained.
- 8.10 CA responded that it would be necessary to drill down further into the statistics to obtain this information. There is potential to communicate scheme benefits through the current on-call recruitment campaign. The secretariat has previously discussed with First Actuarial production of a leaflet outlining the benefits of the scheme in comparison to a private pension arrangement. However, given the current uncertainty surrounding future scheme design, it would not appropriate at this time.
- 8.11 TA confirmed that the reasons for on-call firefighters opting out are different than for wholetime staff. These may include a lack of understanding about the scheme, a shorter term career path, and lower earnings. DL noted a reported 10% opt out rate at LFB and suggested that individuals usually have to give a reason for opting out. Jane Marshall (JM) confirmed that it will depend on the wording of the election form.
- 8.12 RPH emphasised that communication is key. Members need to be educated on the benefit of remaining in the scheme. SS added that the FBU actively encourage members to remain in an occupational scheme. DP suggested that the issue could be raised at the data conference in April, based on the statistics received from the request for information.
- 8.13 NC suggested progression through the FRA chairs to obtain data, adding that the reason is more important than the number in relation to optant outs. SS agreed that FRAs should do more to establish the basis for individuals opting out.
- 8.14 Claire Hey (CH) highlighted the opt out form template and supporting notes that had been developed by the FCWG, which gives members a list of options to choose from to indicate a reason for leaving the scheme. The template is available for FRAs to use, however, it is not possible to enforce its use, nor can it be made mandatory for the reason to be specified.

<a href="#">Opting out of FPS 1992 – notes</a>
<a href="#">Opting out of FPS 2006 (standard member) – notes</a>
<a href="#">Opting out of FPS 2006 (special member) – notes</a>
<a href="#">Opting out of FPS 2015 – notes</a>
<a href="#">Election to opt out (all schemes)</a>

Extract from election form:

<b>SECTION D: REASON FOR OPTING OUT (OPTIONAL)</b>	
<b>What is your main reason for opting out of the scheme? (Tick one)</b>	
1	Cost of the scheme (contributions)
2	Other financial commitments
3	Made alternative arrangements
4	Annual/ lifetime allowance implications (tax)
5	Transfer to FPS 2015
6	Promotion
7	Lack of job security
8	Unclear on benefits of scheme
9	Other reason (please specify):

Extract from notes:

Section D asks for the reason that you have decided to opt out and this is optional. We ask for this information as part of our on-going commitment to monitor the efficiency and cost-effectiveness of the Firefighters' Pension Schemes in order to make recommendations to the Government.

8.15 JM proposed that the form should be more widely promoted to FRAs, along with the rationale for collecting the reason for opting out. RP added that this should be a consideration for Local Pension Boards and form part of their annual reports.

8.16 GM remarked that the SAB are limited in what recommendations can be made, regardless of the underlying reasons. Flexibility is key and should be the focus. RPH agreed that this is a national issue across public service which the FPS can feed into, but also as it applies locally to the scheme, it should be discussed at the forthcoming data event.

## 9. Technical Group Update ([Paper 2](#))

9.1 CA prepared the above paper to give a brief update on technical queries discussed at the technical meeting of 12 February 2019. The group's remit is to reach consensus on technical issues relating to administration or interpretation of scheme regulations, thereby achieving consistency of application. If consensus cannot be reached, issues are referred upwards to the SAB to consider the need for legal advice.

9.2 On this occasion, the group were able to reach agreement on all of the points raised without need for escalation. The Board noted the contents of the report.

## 10. Update on actions summary/ items delivered

10.1 As recent meetings have focused solely on the valuation, CA gave a detailed update on the actions summary. Items highlighted in yellow indicate completed actions since the last meeting:

- Board policies to be drafted – Ongoing
- To note that past service costs on pensionable pay remains a risk – Open, ongoing. There is concern that FRAs are not treating pensionable pay correctly, which may affect future valuations. This action will feed in to the planned guidance, which is awaiting the outcome of the MAWW TPO appeal. A seminar is planned for 18 July to provide a refresher on pensionable pay issues. There is a huge variation in local arrangements and TPO rely largely on case law, however, as the firefighter role is constantly evolving, previous judgements are not always relevant to current responsibilities. Authorities should not make decisions based on the name of a payment, but also consider what the required activity is.
- Survey FRAs on impact of pensionable pay – Closed – new item on pensionable pay
- Draft guidance note to boards to ensure they satisfy themselves that pensionable pay is correct in light of Norman V Cheshire – Closed new item on pensionable pay
- Risk strategy
  - i. LPBs – Provided guidance
  - ii. Board – Done – ongoing review
- SAB to lead on data improvement – In progress - data conference, working with admin and bench marking committee – Done issued [guidance](#) in [bulletin 11](#) on data scoring and conditional data. Will need to monitor success. New item track data guidance
- SAB to champion use of on line technology – Ongoing, part of data conference. Member self-service solutions will be discussed and demonstrated at the conference. The Board acknowledge that there is a challenge around cost. FRAs could consider a five year plan to implement.
- The board to respond to TPO judgment on pensionable pay – Summary of case included in [bulletin 14](#), likely to be challenged. Closed – new item on pensionable pay
- AGM – Closed
- Re-issue IDRPs guidance (done) – offer training and support to FRAS (still in progress)

- LGA to establish ill-health working group with SAB and stakeholders – In progress, discussing with Home Office. Initially in relation to the upward review of tier, further issues have arisen in relation to the 2015 scheme. This item to be tabled for the June meeting.
- Home Office to consult with SAB on valuation results – Done
- Further tax training sessions and materials to be procured – Ongoing, to support FRAs with education and myth busting.
- Evidence gathered for public service tax liabilities – Done (Paper 1)
- Legal opinion to be obtained on award of pension credit benefits for transitional members – Item closed (paper 2)
- Monitor data guidance – Ongoing. Data conference, including session on TPR date scoring. Guidance to be revised for 2019 return. As data is such a key issue, this event will be run on an annual basis.

## 11. Future meeting dates and venues

11.1 All meetings in the 2019 cycle to be held at 18 Smith Square from 10:30 to 15:30. The following dates have been agreed:

Thursday 14 March  
 Thursday 13 June  
 Thursday 10 October  
 Thursday 12 December

11.2 NC noted that the October date clashes with a key NJC meeting. As this affects several members of the Board, the October date will be rescheduled. The suggested revised date is

**Thursday 3 October**

11.3 ME informed the Board of the following FPS events running throughout the year. SAB attendance is not mandatory, although the support of Board members is always appreciated.

Wednesday 3 April	– Data seminar
Wednesday 15 May	– Joint Fire and Police governance event
Wednesday 19 June	– Ill-health and medical appeals seminar
Thursday 18 July	– Pensionable pay workshop
Tuesday 12 November	– Pensions tax seminar

11.4 The FPS AGM will be held across 24-25 September and a LPB wrap-up training event will be held in June, date to be confirmed.

11.5 ME stated that the SAB induction training in January had not been well attended, and made a plea to members to respond to meeting and training invitations.

11.6 CA proposed that the date for the March 2020 meeting is booked for the Monday prior to the start of the LGA Fire conference in Blackpool, as the majority of employer representatives will be in attendance. Date to be confirmed. RP suggested that a presentation slot should be requested from FSMC, on pensions, the importance of data, and the tax challenge.

## 12. AOB

12.1 CA updated the meeting on the £95k exit cap provisions, which are expected to be legislated for shortly. Although the effect will be limited for Fire, as redundancy is limited to the statutory payment, there are two specific circumstances to be considered.

12.2 Where FRAs use their discretion to enhance commutation to the full 25% for a member aged over 50 with more than 25 years' service in FPS 1992, which would otherwise be limited to 2.25 times pension, the employer payment to the notional fund may qualify towards the cap. SS raised that enhancement is deemed to be actuarially neutral as the member commutes a higher portion of their pension. CA confirmed that this has been queried with the Home Office.

12.3 The other situation which may qualify is Authority Initiated Retirement in the 2006 and 2015 schemes, whereby an FRA has the discretion to waive any early retirement reductions which would apply, and pay the difference between the reduced and unreduced pension to the notional fund. However, as this is currently paid on an annual basis, a formula would need to be provided to calculate a capitalised amount. This has also been queried with the Home Office.

12.4 CH noted a question raised by an FRA on whether the SAB collect data on IDRPs patterns or trends to establish where advice and guidance is needed. As this data is not currently collated, the Board were asked to consider whether this is a suitable action. All agreed. The secretariat will progress.

12.5 ME prompted members to read the FPS bulletins when they are circulated and stated that the SAB are ahead of other boards in terms of the website and communications. On the pensions dashboard project, ME noted that CA had provided a response<sup>3</sup> to the DWP consultation<sup>4</sup>. It has been confirmed that the dashboard will be mandatory, within a likely timescale of three to four years. As yet there is no information available on costs or data required.

12.6 ME thanked Cllr Bell for his contribution to the Board. The meeting closed at 12:40.

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<sup>3</sup> <http://www.fpsboard.org/images/PDF/Consultations/DWPdashboard280119.pdf>

<sup>4</sup> <https://www.gov.uk/government/consultations/pensions-dashboards-feasibility-report-and-consultation/pensions-dashboards-working-together-for-the-consumer>



OFFICIAL

# West Yorkshire Pension Fund - Key Performance

## Local Pension Board

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Date: 5 July 2019

Agenda Item:

15

Submitted By: Chief Employment Services Officer

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<b>Purpose</b>	To inform Members of West Yorkshire Pension Fund performance in key areas for the periods 1 April 2018 – 31 March 2019 and 1 April 2019 – 31 May 2019
<b>Recommendations</b>	That Members note the performance of West Yorkshire Pension Fund in key areas
<b>Summary</b>	This report informs Members of the Authority's key areas which West Yorkshire Pension Fund measure their level of service against

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Claire Johnson, Pensions Officer  
T: 01274 655811  
E: Claire.johnson@westyorksfire.gov.uk

Background papers open to inspection: None

Annexes: Annex A – 2018/19 KPIs  
Annex B – 1 April 2019 to 31 May 2019

# 1 Introduction

1.1 The KPI report presents performance data from West Yorkshire Pension Fund in a number of key areas. Some of the areas included are as follows:

- Transfer in and out quotes
- Divorce quotes
- Pension estimates
- Deferred benefit set up
- Retirement quotes
- Retirement actuals
- Payroll changes
- Death notifications



# 2018/19 KPIs

WORKTYPE	CLIENT_NAME	TOTAL_CASES	TARGET_DAYS_FOR_EACH_CASE	TARGET_MET_CASES	MINIUM_TARGET_PERCENT	TARGET_MET_PERCENT	AVERAGE_TIME_TAKEN
Age 55 Increase to Pension	West Yorkshire Fire	49	20	49	85	100	14.21
Change of Address	West Yorkshire Fire	103	20	100	85	97	2
Change of Bank Details	West Yorkshire Fire	49	20	49	85	100	1.69
DWP Request For Information	West Yorkshire Fire	5	10	5	85	100	3
Death Grant Nomination Form Received	West Yorkshire Fire	77	20	76	85	98.7	6.18
Death in Retirement	West Yorkshire Fire	44	5	44	85	100	0.45
Deferred Benefits Into Payment " Payment of Lump Sum	West Yorkshire Fire	8	3	8	85	100	1
Deferred Benefits Set Up on Leaving	West Yorkshire Fire	23	10	5	85	21.74	63.17
Divorce Quote	West Yorkshire Fire	14	40	13	85	92.86	6.2
Divorce Settlement " Pension Sharing order Implemented	West Yorkshire Fire	6	80	6	100	100	9
Enquiry Fire	West Yorkshire Fire	8	5	8	85	100	1.2
General Payroll Changes	West Yorkshire Fire	177	20	177	85	100	1.52
Initial letter Death in Retirement	West Yorkshire Fire	44	5	43	85	97.7	0.45
Life Certificate received	West Yorkshire Fire	282	5	262	85	92.9	2.45
NI adjustment to Pension at State Pension Age	West Yorkshire Fire	42	20	42	85	100	14.38
Pension Estimate	West Yorkshire Fire	322	10	226	85	70.18	4.34
Pension Set Up_Payment of Lump Sum	West Yorkshire Fire	70	3	60	85	85.7	2
Purchase of Service Quote	West Yorkshire Fire	2	20	2	85	100	20
Retirement Actual	West Yorkshire Fire	70	10	69	85	98.5	1.98
Set Up New Spouse Pension	West Yorkshire Fire	19	5	19	85	100	0.47
Spouse Potential	West Yorkshire Fire	12	10	11	85	91.6	10.75
Transfer In Quote	West Yorkshire Fire	25	10	14	85	56	13.31

# 1 April 2019 – 31 May 2019 KPIs

WORKTYPE	TOTAL_CASES	TARGET_DAYS_FOR_EACH_CASE	TARGET_MET_CASES	MINIUM_TARGET_PERCENT	TARGET_MET_PERCENT	AVERAGE_TIME_TAKEN
Age 55 Increase to Pension	9	20	9	85	100	10.33
Change of Address	19	20	18	85	94.74	5.21
Change of Bank Details	10	20	10	85	100	2.7
DWP Request For Information	1	10	1	85	100	9
Death Grant Nomination Form Received	12	20	12	85	100	1.67
Death in Retirement	8	5	8	85	100	0.75
Deferred Benefits Set Up on Leaving	5	10	4	85	80	11.6
Divorce Quote	1	40	1	85	100	5
Divorce Settlement " Pension Sharing order Imp	3	80	3	100	100	4.33
Enquiry Fire	3	5	3	85	100	0
General Payroll Changes	46	20	46	85	100	1.63
Initial letter Death in Retirement	8	5	8	85	100	0.88
Life Certificate received	44	5	41	85	93.18	1.57
NI adjustment to Pension at State Pension Age	7	20	7	85	100	11.57
Pension Estimate	29	10	28	85	96.55	9.72
Pension Set Up_Payment of Lump Sum	13	3	13	85	100	2.78
Retirement Actual	13	10	13	85	100	4.54
Set Up New Spouse Pension	3	5	2	85	66.67	12
Spouse Potential	7	10	5	85	71.43	8
Transfer In Quote	2	10	1	85	50	56