



OFFICIAL

Local Pension Board Membership 2021 - 22

Local Pension Board

Date: 19 January 2022

Agenda Item:

Submitted By: Jik Townson, Committee Services

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- Purpose** To advise of a change of membership of the Board in 2021 – 22, to appoint a Vice Chair of the Board for 2021 – 22 in accordance with the Terms of Reference and to note the approved change to the Terms of Reference.
- Recommendations** That the report be noted and that appointment be made to the position of Vice Chair of the Board.
- Summary** Appointments to the Board were made in July 2021 but following the resignation from the brigade of a board member, a new Scheme Member Representative has been appointed. This report advises of the revised membership for 2021 – 22 and also invites members to make the appointment of Vice Chair of the board who should be a Scheme Member representative. This report also confirms an approved change to the Terms of Reference with regard to the term of office.

Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: None

1 Introduction

- 1.1 This report advises of a change of membership of the board for 2021 – 22 and invites members to appoint a new Vice Chair. It also notes a change to the Terms of Reference.

2 Information

- 2.1 The Local Pension Board has six members with equal representation (3) from both Scheme Members and the Scheme Manager.
- 2.2 At a meeting of the Executive Committee on 17 September 2021 it was resolved that following the resignation of Scheme Member Chris Lawton that Ian Dunkley be appointed as Scheme Member representative on the Local Pension Board for 2021 – 22 with immediate effect.
- 2.3 The Board has carried a vacancy in the position of Vice-chair since the resignation of Chris Lawton from the brigade.
- 2.4 Nominations are invited from the membership for appointment to the post of Vice-Chair, who should in accordance with the Terms of Reference be a Scheme Member representative.
- 2.5 Following the amendment to the Terms of Reference approved at the Full Authority Committee in December 2021 the revised term of office will be 2 years and current membership appointments will be until 30 June 2023.

3 Financial Implications

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

4 Legal Implications

- 4.1 The Monitoring 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 Beyond normal procedures there are no immediate implications from this report. However, ensuring the confidence of staff in the execution of these above roles is key to our values and building inclusion into our service and decision-making processes.

6 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? (EIA guidance and form 2020 form.docx (westyorksfire.gov.uk))	No
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7 Health, Safety and Wellbeing Implications

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

8 Environmental Implications

8.1 There are no environmental implications arising directly from this report.

9 Your Fire and Rescue Service Priorities

9.1 This report supports all the Fire and Rescue Service priorities.



OFFICIAL

Activity report

Local Pension Board

Date: 19 January 2022

Agenda Item:

7

Submitted By: Chief Employment Services Officer

Purpose	To inform Members of performance in key areas for the period 1 July 2021 to 31 December 2021
Recommendations	That the report is noted.
Summary	<p>This report informs Members of the Authority's key areas relating to the Local Pension Board as follows:</p> <ul style="list-style-type: none">Number of pension scheme members across the various schemesNumber of new pension scheme membersNumber of retirees in the periodNumber of pensioner members of each schemeNumber of deferred members of each schemeNumber of IDRPs stage 1 and 2 complaintsNumber of Opt Outs from the pension schemesNumber of pension estimates requested and processed

Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: None

1 Introduction

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:

2.1.1 As of 31 December 2021:

1992 Fire fighters Pension Scheme	92
2006 Fire Firefighters Pension Scheme	13
2015 Firefighters Pension Scheme	915
Fire Fighters Modified Scheme	11

2.2 Number of pensioner members across the various schemes:

2.2.1 As of 31 December 2021:

1992 Fire fighters Pension Scheme	2367
2006 Fire Firefighters Pension Scheme	52
2015 Firefighters Pension Scheme	38
Fire Fighters Modified Scheme	7

2.3 Number of deferred members across the various schemes:

2.3.1 As of 31 December 2021:

1992 Fire fighters Pension Scheme	88
2006 Fire Firefighters Pension Scheme	105
2015 Firefighters Pension Scheme	124
Fire Fighters Modified	14

2.4 Number of 1992 FPS Scheme members with tapered protection

As of 31 December 2021, there are **0** 1992 FPS, 2006 NFPS and RDS Modified members that have tapered protection and will transition into the 2015 FPS before 31 March 2022.

2.5 Number of new pension scheme members (Opt In's)

In the period 1 July 2021 to 31 December 2021, there has been **3** 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 – 30		
31 – 40	1	
41 – 50	1	
51 – 60	1	
Total	3	

2.6 Number of retirees

In the period 1 July 2021 to 31 December 2021, **21** members retired to pension.

2.7 Number of Opt Outs

In the period 1 July 2021 to 31 December 2021, **4** members opted out of the pension scheme.

This can be broken down into the following demographic:

Age	Male	Female
18 – 30	2	
31 – 40	1	
41 – 50	1	
51 – 60		
Total	4	

2.8 Estimate Requests

In the period 1 January 2021 to 30 June 2021 a total of **20** estimates were processed.

3 Summary of new recruits

In the period 1 January 2021 to 30 June 2021, we appointed **10** Wholetime Firefighters **3** On Call Firefighter. Of those, **1** recruit chose to opt out of the pension scheme.

The recruits can be broken down into the following demographic:

Age	Male	Female
18 – 30	10	
31 – 40	3	
41 – 50		
51 – 60		
Total		

4 IDRPs

In the period 1 January 2021 to 30 June 2022, there have been **0** IDRPs complaints at Stage One and **0** at Stage Two.

5 Grey Book Head Count

The total number of grey book employees on 31 December 2021 was **1057**. Of these, **1031** are current pension scheme members.

6 Financial Implications

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

7 Legal implications

4.1 The Monitoring 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.

8 Human Resource and Diversity Implications

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

9 Health, Safety and wellbeing implications

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

10 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.

11 Environmental implications

11.1 There are no environmental implications arising directly from this report.

12 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? (EIA guidance and form 2020 form.docx (westyorksfire.gov.uk))	Yes / No
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OFFICIAL

Scrutiny and review

Local Pension Board

Date: 19 January 2022

Agenda Item:

8

Submitted By: Chief Employment Services Officer

Purpose

To scrutinise and review the following:

- 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 four areas of scrutiny.

Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: Annex A – Pension risk register
Annex B – 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.
- 1.2 In accordance with this requirement updates have been provided on the following legislative issues:
 - Discretions made by Scheme Manager
 - Breaches register
 - Pension risk register
 - Compliance deadlines
- 1.3 Members are invited to consider the remaining annexes and consider if any further action would be appropriate.

2 Information

2.1 Discretions made by Scheme Manager

2.1.1 For the period from **1 July 2021 to 31 December 2021** the Scheme Manager has been asked to exercise their discretion on three occasions. Details can be found in the table below:

Transfer request outside initial 12 months	FPS2015	Wanted to ensure that Firefighting was the right career choice before committing to transfer	Approved - No immediate cost to the Authority and risk of redundancy minimal
Reinstalment of spouse's pension	FPS1992 - C9: A person entitled to a pension under this Part who remarries is not entitled to receive any payment on account of the pension in respect of any subsequent period; but if the marriage is dissolved or the other party to it dies the fire authority may pay the whole or any part of the pension for such period after the dissolution or death as they think fit.	Second husband has since died and left no widows provision	Partially approved - Pension reinstated from date of application and not backdated to date of second husband's death
Payment into an alternative bank account	FPS1992 - If it appears to the fire and rescue authority that a person entitled to payment of an award is, by reason of mental disorder or otherwise, incapable of managing his affairs— (a) they may in their discretion pay the award or any part of it to a person having the care of the person entitled, or such other person as they may determine, and (b) insofar as they do not pay the award in that manner, they may apply it in such manner as they think fit for the benefit of the person entitled or his dependants.	Member's wife does not have a bank account - due to ID issues. She also suffers from agoraphobia so cannot go to the bank when she gets <u>ID</u> and the banks are not doing home visits due to covid. Daughter in law requested for monies to be paid to her.	Rejected - No 'evidence' to prove claims of agoraphobia or ID issues. Suggested that POA is applied for.

2.2.1 For the period from 1 July 2021 to 31 December 2021 **0** breaches have been identified.

2.3 Pension risk register

2.3.1 The current risk register can be found in Annex A.

2.4 Compliance deadlines

2.4.1 Members need to be mindful of 4 key milestones of the pension administrative cycle and the dates associated with it:

- Year End deadline – 31 May
- Annual Benefit Statement (ABS) deadline – 31 August
- Pension saving statement deadlines - 6 October
- TPR Survey – November

2.4.2 At the July meeting, West Yorkshire Pension Fund (WYPF) confirmed that they were confident in achieving both the ABS and Pension Savings Statement deadlines. I am pleased to advise that both dates were successfully achieved.

2.4.3 Ordinarily TPR would launch their annual governance survey in November, however, the survey has been delayed, expected date remains unknown.

2.4.4 Work is already underway to ensure that we meet the Year End deadline (31 May). To ease the burden at year end we supply our administrators with monthly postings, meaning that regular data checks and reconciliation can be carried out, this in turn reduces the number of year end queries.

3 Financial Implications

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

4 Legal implications

4.1 The Monitoring 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 how the scheme is operating and what decisions have been made 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.

8 Environmental implications

8.1 There are no environmental implications arising directly from this report.

9 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? (EIA guidance and form 2020 form.docx (westyorksfire.gov.uk))	No
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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				
				<ul style="list-style-type: none"> Pension Board given up to date information on legal responsibilities 	Pension Board Chair	As Required		
				<ul style="list-style-type: none"> Terms of reference in place and under review 	Scheme Manager	Annual	July 2022	
				<ul style="list-style-type: none"> Procedures for assessing and managing risk 	Scheme Manager	Annual	July 2022	
				<ul style="list-style-type: none"> Procedure to identify, assess and report breaches 	Scheme Manager	Annual	July 2022	
				<ul style="list-style-type: none"> Suitable frequency of Pension Board meetings 	Scheme Manager	Annual	July 2022	
Failure to interpret rules or legislation correctly	2	7	14	Appropriate Pension Board Member training				
				<ul style="list-style-type: none"> 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	
				<ul style="list-style-type: none"> Technical advice and regular updates made available 	Scheme Manager	Ongoing	LPB Meetings	
				<ul style="list-style-type: none"> Ongoing process for acquiring relevant knowledge and understanding, with regular refreshers 	Scheme Manager	Ongoing	LPB Meetings	
				<ul style="list-style-type: none"> Training of new Pension Board Members 	Scheme Manager	As Required	LPB Meetings	
				<ul style="list-style-type: none"> 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				
				<ul style="list-style-type: none"> Conflicts of interest policy in place and fully understood 	Scheme Manager	Ongoing	July 2022	
				<ul style="list-style-type: none"> 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				
				<ul style="list-style-type: none"> Training of new Pension Board Members 	Scheme Manager	Ongoing		
				<ul style="list-style-type: none"> Technical advice and regular updates made available at LPB meetings 	Scheme Manager	Ongoing		
Risk Area 2 - Operations	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				
				<ul style="list-style-type: none"> Monthly processes to monitor records and carry out reconciliation 	Scheme Manager	Monthly	July 2022	
				<ul style="list-style-type: none"> Monthly KPI reporting on data issues – provide summary at each PB meeting 	Pensions Administrator / Scheme Manager	Ongoing	July 2022	
				<ul style="list-style-type: none"> Data review arrangements in place including periodic address cleanse 	Pensions Administrator / Scheme Manager	As Required	July 2022	

				<ul style="list-style-type: none"> • Process to enact a Data Improvement Plan and report breaches, if required 	Scheme Manager	As Required	July 2022	
Administration process failure / maladministration	4	8	32	Formal SLA in place with third party administrator and monitoring arrangements assessed as adequate				
				<ul style="list-style-type: none"> • Quarterly client meetings and monthly reports including KPIs 	Scheme Manager	Monthly	July 2022	
				<ul style="list-style-type: none"> • Ongoing dialogue between Scheme Manager and third party administrator, including process improvement plans 	Scheme Manager	Ongoing	July 2022	
				<ul style="list-style-type: none"> • Clear identification of roles, authority levels, data security and data protection processes 	Scheme Manager	Annual	July 2022	
				<ul style="list-style-type: none"> • Audit reporting on both third party administrator and Scheme Manager's processes 	Scheme Manager	Annual	July 2022	
				<ul style="list-style-type: none"> • Disaster Recovery Plans up to date and appropriate 	Scheme Manager	Annual	July 2022	
				<ul style="list-style-type: none"> • Ability to commission independent assurance report, if required 	Scheme Manager	As Required	July 2022	
Inadequate, late or inaccurate communications	5	7	35	Communication requirements fully understood and The Pensions Regulator's recommendations applied				
				<ul style="list-style-type: none"> • Communications provided under SLA fully understood and deemed adequate for basic requirements 	Scheme Manager	Annual	July 2022	

				<ul style="list-style-type: none"> Ad hoc communications provided by LGA Pensions Adviser monitored, fully understood and tailored as necessary 	Scheme Manager	Ongoing	July 2022	
				<ul style="list-style-type: none"> Develop Communications Strategy and keep under review 	Scheme Manager	Annual	July 2022	
Operational disaster (fire/flood etc)	1	6	6	Business continuity procedures in place				
				<ul style="list-style-type: none"> Third party scheme administrator Disaster Recovery Plan up to date and appropriate 	Scheme Manager	Annual	As per internal audit cycle	
				<ul style="list-style-type: none"> Scheme Manager Disaster Recovery Plan up to date and appropriate 	Scheme Manager	Annual	As per internal audit cycle	
				<ul style="list-style-type: none"> Contracts and other essential documents recorded on a central database 	Scheme Manager	Annual	As per internal audit cycle	
Risk Area 3 - Financial	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	Regular checks of transactions and charges against contract terms/ robust methodology used to forecast pension accounting data				
				<ul style="list-style-type: none"> Annual review of scheme budget, quarterly review of cost incurred against budget 	Scheme Manager	Quarterly	July 2022	
				<ul style="list-style-type: none"> Periodic review of suppliers 	Scheme Manager	Annual	July 2022	

				<ul style="list-style-type: none"> Processes in place to ensure robustness of method to forecast and calculate pension accounting data. Liaise with third party administrator when making forecasting assumptions 	Scheme Manager	Annual	July 2022	
Fraud / Fraudulent behaviour	1	10	10	Budget monitoring and appropriate payment processes including use of authorised signatories and data validation				
				<ul style="list-style-type: none"> Monitor incoming and outgoing scheme funds and membership movements against scheme forecasts – reconcile actual transactions against forecasts 	Scheme Manager	Monthly	July 2022	
				<ul style="list-style-type: none"> Authorisation of transactions in accordance with audit requirements and carried out by authorised signatories only 	Scheme Manager	Ongoing	As per internal audit cycle	
				<ul style="list-style-type: none"> Robust data validation processes in place by third party administrator and Scheme Manager to ensure all transactions authentic 	Pensions Administrator / Scheme Manager	Ongoing	As per internal audit cycle	
				<ul style="list-style-type: none"> Audit reporting on both third party administrator and Scheme Manager's processes 	Scheme Manager	Annual	As per internal audit cycle	
Risk Area 4 - Funding	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	1	10	10	Contribution deductions and payments – monthly reconciliation of schedule of payments due and amount paid across				

scheme			<ul style="list-style-type: none"> Processes in place to comply with regulatory requirements on contribution rates and pensionable pay definitions 	Scheme Manager	Ongoing	As per internal audit cycle	
			<ul style="list-style-type: none"> Suitable reporting and reconciliation processes in place ahead of payment including checks on changes in contract and transition to 2015 Scheme 	Scheme Manager	Monthly	As per internal audit cycle	

AGENDA ITEM No. 8 – ANNEX B

Compliance Deadlines

Members at previous Local Pension Board (LPB) meetings 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 to 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 our year-end data to them. This data is required to produce 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 monthly. 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 breached 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 Manager, with support from the LPB Chair, Scheme Manager and administrator.



OFFICIAL

Legislative update

Local Pension Board

Date: 19 January 2022

Agenda Item:

9

Submitted By: Claire Johnson

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.

Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: Annex A – MoU/Framework
Annex B – HMT Note on Immediate Detriment

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.

1.2 In accordance with this requirement an update has been provided on the following legislative issues:

- Public Service Pensions & Judicial Offices Bill
- Memorandum of Understanding/Framework
- Unauthorised Payment Charges (UPCs)
- Withdrawal of Immediate Detriment Guidance

2 Information

2.1 Public Service Pensions & Judicial Offices Bill

2.1.1 On 19 July 2021, [HM Treasury \(HMT\) introduced the Public Service Pensions & Judicial Offices Bill \(PSP&JO Bill\)](#) to the House of Lords.

2.1.2 The PSP&JO Bill sets out in law how the Government will remove the discrimination identified by the courts in the way that the 2015 reforms were introduced for some members (i.e., remedy).

2.1.3 This is the primary legislation which closes final salary schemes for accrual past 31 March 2022 and moves all remaining members into FPS 2015, while ensuring that existing transitional protections such as the final salary link and double accrual are retained.

2.2 Memorandum of Understanding/Framework

2.2.1 A legal case was brought in the High Court against the London Fire Commissioner (LFC) and Nottinghamshire and City of Nottingham Fire and Rescue Authority (NFRA). The cases concerned Immediate Detriment issues in relation to the McCloud/Sargeant judgment and the claimants were supported by the Fire Brigades Union (FBU).

2.2.2 It was apparent similar issues would arise more widely across the sector. The FBU was clear that matters for affected individuals needed to be resolved sooner rather than later and it would, if necessary, support further legal cases. Many Fire and Rescue Authorities (FRAs) across the UK on an individual basis had indicated that they wished to be able to deal with Immediate Detriment issues as soon as possible. The problem was not an unwillingness to do so but rather the need to identify and develop a suitable mechanism to be able to do so in a way which minimised the risks while the Government is putting in place the McCloud/Sargeant remedying legislation.

2.2.3 With that in mind, the Local Government Association (LGA) and the FBU have been in discussions to identify a mutually acceptable Framework, setting out a mechanism for handling Immediate Detriment cases, to assist all parties prior to completion and implementation of the McCloud/Sargeant remedying legislation. This would help in resolving the genuine difficulties that had arisen for FRAs in making payments to those affected (including for example issues around unauthorised payment charges and contribution holidays) and in removing the potential for further court claims (not just against NFRA and LFC).

- 2.2.4 During the discussions, the Government laid primary legislation before Parliament in the Public Service Pensions and Judicial Offices Bill and will make secondary legislation pursuant to the Bill (together, the Remediating Legislation) to provide the affected pension scheme members with a remedy for the discrimination found in the McCloud/Sargeant claims.
- 2.2.5 Following a series of complex discussions including respective legal representatives, which were also able to utilise the longstanding national relationship between the LGA and FBU, an agreement has been reached as set out in Annex A - Memorandum of Understanding and Framework.
- 2.2.6 It is believed that the Memorandum of Understanding and Framework are consistent with the principles currently set out in the Bill and will mean that appropriate action can be taken. As and when parts of the Remediating Legislation covering the relevant part of the Framework come into effect the MoU and Framework indicate that the relevant Remediating Legislation will then be used instead.
- 2.2.7 Each FRA was asked to consider adoption of the Framework and such adoption was encouraged to provide a consistent approach to Immediate Detriment cases across the fire and rescue service.
- 2.2.8 Prior to the introduction of the MoU/Framework, FRAs only had the ability to use the Home Office Immediate Detriment guidance on active employees i.e. those yet to retire to pension. Adoption of the Framework will allow FRAs to remedy those already in receipt of their pension before the final legislation is in place (expected October 2023).
- 2.2.9 Adoption of the Framework was considered at a meeting between the Scheme Manager, CFO and Pensions Manager on October 13. It was agreed that a decision to adopt the framework should be deferred until clarity was received from our third party providers, mainly WYPF and Kirklees Council, that they could adhere to the time limits built into the agreement. Communications to this effect were issued to affected employees and Trade Unions. Discussions with third party providers commenced.
- 2.2.10 In November 2021 we received confirmation from our third party providers that systems were in place to ensure that the deadlines set out in the Framework could be achieved.
- 2.2.11 Unfortunately, we were still not able to commit to the MoU/Framework due to complications outlined in paragraphs 2.3 and 2.4 below.

2.3 Unauthorised Payment Charges (UPCs)

- 2.3.1 Since publication of the Framework, HMRC has published a policy document and Finance (No. 2) Bill which both now indicate a move towards making payments of lump sums paid more than 12 months after retirement ('late lump sums') authorised.
- 2.3.2 This is contrary to the earlier indications given by the government and the provisions of the Bill that late lump sum payments would be unauthorised and that under the remedy FRAs would be required to compensate the member for any tax charges which could ultimately be reclaimed from government. This change will only impact Category 2 members who left the scheme more than 12 months ago.
- 2.3.3 Category 2 members are defined as Members who, at the date of the MoU (8 October):
- (a) have already retired (for any reason, including ill-health) and who are receiving a pension under the 2015 Scheme, and who wish to be treated as having retired as a member of their Legacy Scheme: or

(b) have left the fire and rescue service and did not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme and are therefore left without a pension in payment.

- 2.3.4 Currently both the extent (whether such authorisation would apply in all cases) and the timing (the date from which payments become authorised) are not yet clear and may not become clear until secondary legislation implementing the Finance (No.2) Bill is available.
- 2.3.5 Clarification is currently being sought on the extent and timing of this change and in any case, joint contact will be made by the LGA and the FBU to the government seeking to achieve a change of position, primarily on making all late lump sum payments made to remedy the discrimination authorised, regardless of when the payments were made.
- 2.3.6 The reason why clarification or a change of position from UK government is being sought as a matter of urgency is because this new HMRC position means an FRA will need to be mindful of the risks that would be created in proceeding to make top-up lump sum payments until such time as the HMRC position is amended or an implementation date is clear.

2.4 Withdrawal of Home Office Immediate Detriment Guidance

- 2.4.1 On 29 November 2021 we were informed by LGA that, with immediate effect, the Home Office has withdrawn its informal guidance on immediate detriment.
- 2.4.2 The decision to withdraw the guidance is based on HM Treasury's best assessment on the advisability of processing immediate detriment cases. The Home Office has stated that, although the decision remains for scheme managers to make, it does not advise schemes to process any immediate detriment cases before legislation is in place, given in its view the risk and uncertainty of correcting benefits before the PSPJO Bill, scheme regulations and relevant tax legislation come into force.
- 2.4.3 HMT's note suggests that Section 61 cannot be relied upon to fully rectify a member's benefits and may have unintended and adverse tax consequences. It also indicates that members may face multiple corrections to their benefits once legislation is in place. Full details of the note can be found in Annex B.
- 2.4.4 Concerns have also been raised concerning the Home Office's latest position on funding for immediate detriment, which was communicated with the Treasury's note on 29 November 2021:

"... As the Government does not advise that immediate detriment cases should be processed in advance of the legislation coming into force, we will not be in a position to provide any additional funding for those costs which are paid outside of the pension account. These costs include payments that are not considered to be legitimate expenditure under the pension scheme regulations and any associated administration costs including any charges from your pension administrator. These will need to be funded locally by your fire and rescue authority from local budgets.

In relation to immediate detriment costs paid from the pension account in the course of processing pipeline cases, FRAs will need to ensure that these payments comply with the financing regulations of the pension scheme. If they are considered to be legitimate expenditure, then they will be considered for payment as part of the established processes for claiming the AME top up grant."

2.4.5 Further legal guidance has been sought on this matter and a paper will be considered by Exec Committee on 24 January.

3 Financial Implications

3.1 At this stage financial implications are unclear.

4 Legal Implications

4.1 The Monitoring 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 an ongoing 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.

8 Environmental implications

8.1 There are no environmental implications arising directly from this report.

9 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? (EIA guidance and form 2020 form.docx (westyorksfire.gov.uk))	No
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Dated 8 October 2021

MEMORANDUM OF UNDERSTANDING

PARTIES

- (1) Local Government Association of 18 Smith Square, Westminster, London, SW1P 3HZ (the **LGA**); and
- (2) Fire Brigades Union of Bradley House, 68 Coombe Rd, Kingston-upon-Thames, Surrey, KT2 7AE (the **FBU**).

1 BACKGROUND

- 1.1 The LGA represents Fire & Rescue Authorities (**FRAs**) in England, Scotland, Wales and Northern Ireland in connection with the matters covered by this memorandum of understanding (**MoU**).
- 1.2 The FBU is a trade union that represents firefighters and other employees employed by the FRAs (together the '**Members**') who are affected by the matters covered by this MoU.
- 1.3 The LGA (on behalf of the FRAs) and the FBU (on behalf of the Members) wish to record the basis on which they will collaborate with each other to ensure that Members who have (or will) suffer an "**Immediate Detriment**" (as described in para. 4.1 below) by reason of their retirement (or impending retirement), following the decision made by the Court of Appeal on 20 December 2018 and the Employment Appeal Tribunal on 12 February 2021 in the *Sargeant* claims, are provided with a remedy as swiftly as possible.
- 1.4 A framework (the **Framework**) and a timetable for providing a remedy for each affected Member is set out in Annex 1 and Annex 2 to this MoU, which the parties expect the FRAs and Members to adhere to. Nothing in the MoU shall be interpreted to mean that the FBU will not initiate or support legal proceedings on behalf of any Member whose case is not dealt with in accordance with the Framework or that timetable.
- 1.5 The MoU only covers compensation relating to any shortfall in the pension commencement lump sum, pensions benefits and contributions payable to or payable by a Member (including issues relating to tax relief, interest and charges connected to those amounts) as set out in Annex 1. This MoU does not cover any additional remedies currently under consideration in the Employment Tribunal.
- 1.6 In this MoU:
 - 1.6.1 references to a Member's **Legacy Scheme** are references to the pension scheme in which the Member was an active member on 31 March 2012; and
 - 1.6.2 references to the **2015 Scheme** are references to the firefighters' pension schemes in England, Wales and Scotland created under the Public Service Pensions Act 2013.

2 OBJECTIVES

- 2.1 The parties acknowledge the importance of ensuring that Members who have suffered (or will suffer) an Immediate Detriment (as described in para. 4.1 below) receive compensation or are otherwise remedied now. They recognise that the Government has laid primary legislation before Parliament in the Public Service Pensions and Judicial Offices Bill (the **Bill**), and will make secondary legislation pursuant to the Bill (together, the **Remedying Legislation**) to provide the affected Members with a remedy for the discrimination found in the *Sargeant* claims.

The parties believe that the Framework is consistent with the principles currently set out in the Bill. In particular, any compensation or remedy provided to Members under this MoU:

2.1.1 amounts to “compensation” of the type anticipated by clause 21¹ of the Bill; and/or

2.1.2 is to be taken into account when assessing whether the Member has:

(a) “benefited from an immediate detriment remedy” for the purposes of clause 29 of the Bill; and/or

(b) been provided with a remedy under any scheme regulations of the type anticipated by clause 28 of the Bill

(to avoid a situation where the Member receives additional recoveries under the Bill which have already been compensated for under this MoU).

2.2 This MOU is separate from, and is not subject to or dependent on, any guidance issued in relation to “Immediate Detriment” before the Remedying Legislation comes into force.

3 PRINCIPLES OF COLLABORATION

3.1 The LGA will request that the FRAs, and the FBU will request that its Members, adopt the following principles:

3.1.1 Collaborate and co-operate. To adhere to the Framework so that activities are delivered and actions taken as required;

3.1.2 Act in a timely manner. Recognise the importance of moving things forward swiftly and responding accordingly to reasonable requests for support; and

3.1.3 Act in good faith to support achievement of the objectives and adherence to these principles.

4 IMMEDIATE DETRIMENT CASES IN SCOPE

4.1 The Framework will apply to Immediate Detriment cases that have already arisen, or arise before the Remedying Legislation comes into force, namely cases for:

4.1.1 Members who, at the date of this MoU, are employed by an FRA and:

(a) become eligible to retire (for any reason, including ill-health) and draw any pension and/or lump sum benefit and want to have all their benefits paid from their Legacy Scheme (not the 2015 Scheme); or

(b) do not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme and are therefore left without an immediately payable pension, but would be entitled to such a pension under their Legacy Scheme

(Category 1 cases);

4.1.2 Members who, at the date of this MoU:

¹ In this MoU, references to clause numbers in the Bill refer to the clauses as numbered on the date when the MoU is signed.

- (a) have already retired (for any reason, including ill-health) and who are receiving a pension under the 2015 Scheme, and who wish to be treated as having retired as a member of their Legacy Scheme; or
- (b) have left the fire and rescue service and did not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme, and are therefore left without a pension in payment but would be entitled to such a pension under their Legacy Scheme

(Category 2 cases).

- 4.2 The Category 2 cases include the claims set out in High Court claim number QB-2021-000636, although the parties acknowledge that the claimants and the defendants in that claim will (subject to agreeing the position on legal costs) need to file a consent order recording any settlement achieved in accordance with the Framework set out in this MoU.

5 FRAMEWORK

- 5.1 The parties intend that the various issues that arise in relation to Category 1 and Category 2 cases will be resolved in accordance with the Framework set out at Annex 1 to this MoU.

- 5.2 The parties anticipate that the Remediating Legislation will provide a mechanism that will allow some matters to be dealt with more conveniently once it comes into force. These matters are:

5.2.1 compensation for any tax relief foregone on the arrears of contributions payable by the Member (except for Category 1 cases where the contribution arrears can be processed through PAYE);

5.2.2 interest payable by the Member on the arrears of contributions;

5.2.3 interest payable to the Member on adjusted employee contributions under the 2006 Scheme; and

5.2.4 CETVs and added pension (for Category 1 cases).

- 5.3 These matters (and only these matters) will be calculated and processed once the Remediating Legislation is in force. Where applicable, the way they will be dealt with until that point is reached is set out in Annex 1. The parties agree that the mechanism provided by the Remediating Legislation will be used to make the calculation and the amounts will be processed in accordance with the Remediating Legislation.

- 5.4 The LGA and the FBU will encourage the relevant FRA and Member to document the agreed compensation or remedy in line with the template set out at Annex 3 to this MoU (the **Compensation Record**). This does not apply to the High Court claim referred to in para. 4.2 above where the terms of any settlement will be recorded in a confidential settlement agreement attached to a consent order.

- 5.5 The FBU agrees that it will not provide any financial or other support to Members who have received compensation or are otherwise remedied under the Framework to bring any court or tribunal proceedings relating to matters which have been (or are being) addressed under the Framework (or, in the case of those matters listed at para. 5.2 above, will be addressed under the Remediating Legislation). The FBU's agreement does not apply, however, to any question or dispute as to whether the Framework has been applied correctly in accordance with this MoU, or to any question or dispute regarding a matter that is not covered by the Framework.

6 CONCERNS OR COMPLAINTS

- 6.1 If either party has any issues, concerns or complaints about any matter in this MoU that party shall notify the other party and the parties shall then seek to resolve the issue through discussion (consistent with the objectives and principles set out at paras. 2 and 3 above). Those discussions may involve the relevant FRA and Member where appropriate.
- 6.2 Either party may terminate such discussions at any time. Where it has been agreed that the Framework is being used, the fact that such discussions could be commenced or have been commenced will not act as an impediment to any Member who alleges that the FRA concerned is not dealing with their case in accordance with the Framework and seeks relief from the Court. Nor will it act as an impediment to the FBU providing legal or other support to such a Member.

7 REVIEW, TERM AND TERMINATION

- 7.1 This MoU shall commence on the date of signature by both parties.
- 7.2 The parties will meet periodically on dates to be agreed between them (the first such meeting to take place within five weeks of the date of this MoU) to:
- 7.2.1 review the application of the Framework and the process set out in Annex 2, paying attention, in particular, to the timetable for processing cases in the light of the number of cases being dealt with by FRAs; and
 - 7.2.2 discuss whether any changes to the Framework are needed if the passage of the Bill (and the secondary legislation made pursuant to the Bill) adversely affects the ability of an FRA or a Member to implement the Framework and/or the process set out in Annex 2 and work in a spirit of cooperation to agree those changes.
- 7.3 If, on the date Remediating Legislation applicable to an issue set out in Annex 1 comes into force, a case that includes that issue is still being processed under the Framework, that issue will instead be processed under the Remediating Legislation and that fact will be noted in the Compensation Record (Annex 3). For the avoidance of doubt the rest of the issues in the case will be dealt with in accordance with Annex 1.
- 7.4 If all of the issues relevant to a case are covered by Remediating Legislation which has come into force before a Compensation Record is signed by the Member and the FRA that case will instead be processed under the Remediating Legislation.
- 7.5 This MoU will automatically expire on the last date on which Remediating Legislation applicable to all of the issues set out in Annex 1 comes in to force and will in any event expire on 1 October 2023. However, the parties agree that the timeframes set out in Annex 2 will continue to apply to the issues set out in Annex 1 where those issues are being processed under the Remediating Legislation provided that the timeframes do not put an FRA in breach of its obligations under the Remediating Legislation.
- 7.6 This MoU may be terminated (in whole or in part) by agreement in writing between the parties.
- 7.7 This MoU may be terminated by either party if the other party is in serious or repeated breach of its terms, and does not remedy the breach within 21 days of notice being given requiring it to do so.

8 VARIATION

- 8.1 This MoU, including Annexes 1, 2 and 3, may only be varied by written agreement of the parties.

9 CHARGES AND LIABILITIES

- 9.1 Liability for the legal costs incurred in High Court claim number QB-2021-000636 will be payable in accordance with any agreement reached between the parties to that claim or any order made by the Court in those proceedings.
- 9.2 Subject to para 9.1, and except as otherwise provided, the parties, FRAs and Members shall each bear their own costs and expenses incurred in agreeing to and implementing this MoU and the Framework.
- 9.3 Each party shall remain liable for any losses or liabilities incurred due to their own actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

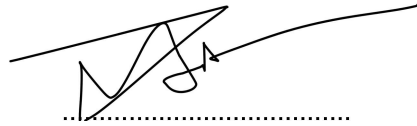
10 STATUS

- 10.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.
- 10.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, or authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

11 GOVERNING LAW AND JURISDICTION

- 11.1 This MoU shall be governed by and construed in accordance with the laws of England and Wales and, without affecting the procedure set out in para. 6, each party agrees to submit to the non-exclusive jurisdiction of the courts of England and Wales.

Signed by **JEFF HOUSTON**
for and on behalf of the **LGA**



HEAD OF PENSIONS

8th October 2021

[Date]

Signed by **MATT WRACK**
for and on behalf of the **FBU**



GENERAL SECRETARY

8 October 2021

CONTACT POINTS

LGA

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FBU

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E-mail Address: Mark.Rowe@fbu.org.uk

ANNEX 1 – FRAMEWORK

Issue	Category 1 cases	Category 2 cases
Shortfall in retirement lump sum and past pension payments	Retirement lump sum and benefits paid on retirement through Legacy scheme (so that no shortfall arises).	Pay as lump sums (comprising pension lump sum and arrears lump sum likely made in two payments) through the 1992 scheme (as arrears). Pension arrears will be subject to PAYE, but if any additional income tax is payable by the member that would not have been payable if the member had never been treated as a member of the 2015 Scheme, the FRA will compensate the member for that tax liability.
Interest on shortfall in retirement lump sum and past pension payments	No interest due because correct lump sum and pension benefits will be paid on retirement.	Interest paid at 3% p.a. simple, from the date lump sum / benefits should have been paid.
Employee contributions: 1992 Scheme	Member pays shortfall (since 2015) through payor as a deduction from retirement lump sum.	Member pays any shortfall (since 2015) as a deduction from retirement lump sum. If no lump sum is payable, the member will need to pay any contributions owed from their own resources and to be given a reasonable time to pay based on their individual circumstances.
Employee contributions: 2006 Scheme	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.
Tax relief on employee contributions	Process through PAYE to the extent possible if time/amount allows. If time does not allow, then any tax relief not collected through PAYE will be calculated and paid when the remedying legislation is in force. FBU and FRAs will encourage members to give as much notice of retirement as possible to facilitate payment through PAYE.	Compensation for any tax relief foregone will be paid to the individual when the remedying legislation is in force. So, for now, individuals will pay the gross amount of contributions due.

Interest payable on adjusted employee contributions (1992 Scheme)	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). If tax relief was not processed through PAYE (because time/amount did not allow), where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amounts will be deducted from that payment.	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).
Interest payable on adjusted employee contributions – compensatory amount (2006 Scheme)	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).
Contribution holidays: excess employee contributions	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.
CETVs and added pension	If an issue arises, then look at it at that point. Individual and FRA will work together to agree a holding compromise that the CETV/added pension will stay in the 2015 scheme until the legislative solution arrives.	Deal with as and when arises.
Annual Allowance charges	Recalculate pension input amount for each year of remedy. If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise). If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for the annual allowance	Recalculate pension input amount for each year of remedy. If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise). If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for any annual allowance

	charge that is demanded (or any excess over the lesser charge that would have applied).	charge that is demanded (or any excess over the lesser charge that would have applied).
Scheme pays (MSP/VSP)	Member pays tax through VSP for statutory tax years for which it becomes due.	Member pays tax through VSP for statutory tax years for which it becomes due.
Converting scheme pays debits	FRA to recalculate the pension debit as if taken at time of original scheme pays election using actuarial factors applicable at time.	FRA to recalculate the pension debit as if taken at time of original scheme pays election using actuarial factors applicable at time.
Converting pension sharing debits	Deal with on a case by case basis as issues arise.	Deal with on a case by case basis as issues arise.
Dependents	Deal with on a case by case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).	Deal with on a case by case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).
Taper members	Tapering to stop (because that is the only step that is consistent with the ET decision).	Tapering to stop (because that is the only step that is consistent with the ET decision).
Unauthorised payments	N/A	The FRA will compensate the member for unauthorised payment charges which the member has had to pay and which he or she would not have had to pay if the member had not transferred to the 2015 Scheme.

ANNEX 2 – THE PROCESS

- 1 Any Member who believes that he or she is a Category 1 or a Category 2 case, and any person who believes that he or she is a dependant of a Category 1 or a Category 2 case Member ('an **Applicant**'), may give notice to the FRA which last employed the Member concerned requiring the FRA to investigate their case. Any such notice must be given in writing (by post or by email).
- 2 Within 14 days of receipt, the FRA shall acknowledge receipt of any such notice in writing (by post or by email), and inform the Applicant:
 - 2.1 either that the FRA accepts that the Applicant is entitled to a remedy under the Framework; or
 - 2.2 explain why, in the FRA's view, the Applicant is not entitled to a remedy under the Framework.
- 3 If the FRA accepts that the Applicant is entitled to a remedy under the Framework, as soon as reasonably practicable and in any event within 62 days after receiving an application under paragraph 1, the FRA shall send to the Applicant:
 - 3.1 In a Category 1 Case:
 - 3.1.1 a statement of the benefits that the Member would be entitled to receive if he or she retires under the rules of the Member's Legacy Scheme;
 - 3.1.2 a statement of the benefits that the Member would be entitled to receive if he or she retires under the rules of the 2015 Scheme; and,
 - 3.1.3 a form inviting the Applicant to choose to take benefits in accordance with the rules of the 2015 Scheme or the Member's Legacy Scheme.
 - 3.2 In a Category 2 Case:
 - 3.2.1 a statement of the benefits that the Member would have received if he or she had retired under the rules of the Member's Legacy Scheme, calculated as at the date of retirement or, in the case of a Member who left employment without an immediate pension, as at the date of leaving;
 - 3.2.2 a statement of the benefits that the Member received or was prospectively entitled to receive under the rules of the 2015 Scheme, calculated as at the date of retirement or, in the case of a Member who left employment without an immediate pension, as at the date of leaving;
 - 3.2.3 a statement of the arrears of pension and lump sum that the FRA will pay if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme;
 - 3.2.4 a statement of the arrears of contributions that will have to be paid or that will be reimbursed (if any) if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme;
 - 3.2.5 a statement of any tax adjustments that will have to be made if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme (including details of any "scheme pays" election that the Applicant might be able to make); and

3.2.6 a form inviting the Applicant to choose to take benefits in accordance with the rules of the 2015 Scheme or the Member's Legacy Scheme.

4 If the Member's entitlements under their Legacy Scheme cannot be determined without further medical advice, the period between the date of the request for further medical advice and the date when that advice is received shall be ignored for the purposes of the timetable set out in paragraphs 2 and 3 above.

5 Once the FRA receives notice of the Applicant's election, and if the Applicant chooses to receive benefits under the rules of the Member's Legacy Scheme:

5.1 In a Category 1 Case, the Applicant's entitlements shall be progressed as "business as usual".

5.2 In a Category 2 Case, the FRA shall:

5.2.1 adjust the Applicant's pension debit if required to allow for any "scheme pays" election that the Applicant makes on account of any annual allowance charge that would have arisen if the Member had never been treated as a Member of the 2015 Scheme;

5.2.2 begin to pay benefits in accordance with the Legacy Scheme rules with effect from the next pension payroll date which is at least one month after the receipt of the Applicant's election;

5.2.3 as soon as reasonably practicable and in any event within 28 days after receipt of the Applicant's election, pay to the Applicant the arrears of pension and lump sum, calculated under 3.2.3 above and rolled forward to the date of payment, with interest calculated in accordance with the Framework to the date of payment, plus compensation for any excess contributions paid, after deducting:

(a) any arrears of contributions calculated under 3.2.4 above; and

(b) any additional tax required to be paid under PAYE on arrears of pension that would have arisen if the Member had never been treated as a Member of the 2015 Scheme.

If the deductions to be made under paragraph 5.2.3(a) and (b) exceed the arrears to be paid under 5.2.3, the FRA shall not be obliged to begin to pay benefits under the Legacy Scheme rules in accordance with 5.2.2 until a reasonable schedule for payment of the excess has been agreed between the Applicant and the FRA.

6 In a Category 2 case, no further action is required if the Applicant chooses to continue to receive benefits under the Rules of the 2015 Scheme.

7 Until the Applicant makes an election under paragraph 3.1.3 or 3.2.6, no further action is required.

8 Giving effect to the Applicant's election under paragraph 3.1.3 or 3.2.6 to receive benefits calculated in accordance with the Legacy Scheme rules shall be conditional on the Applicant signing and returning a settlement agreement substantially in the form of the record of agreed compensation and remedy set out in Annex 3 to the MoU.

9 The member and an FRA's commitment to adhere to the process and timeframes as set out above is in consideration of the Principles of Collaboration and the ongoing review of the Framework as provided for at clauses 3 and 7.2 of the MoU respectively.

ANNEX 3 – RECORD OF AGREED COMPENSATION / REMEDY

I [NAME OF MEMBER] have agreed with [NAME OF FRA] in its capacity as both an employer and scheme manager to receive compensation and/or a remedy in line with the framework set out in the MoU dated [DATE] between the LGA (on behalf of FRAs) and the FBU (on behalf of its members).

I am a “Category [1/2]” case.

I understand and agree that:

- the Government has proposed to make new legislation that is intended to provide me with the pension benefits that I could have received if the pension changes made in 2015 had not been made, but that new legislation may not come into force until October 2023;
- some of the issues relating to my pension benefits have not been fully resolved and will not be fully resolved until the new legislation comes into force in October 2023, and as a consequence some payments (including tax relief and some interest amounts) might be calculated and processed once the new legislation comes into force. These issues are noted in the table below;
- The compensation I have received will be taken into account for the purposes of the new legislation (to avoid a situation where I receive additional amounts under the new legislation which have already been compensated for under the agreed framework);
- I understand that survivor benefits under the 1992 Firefighters Pension scheme are payable only to a legal spouse or civil partner, meaning a partner with whom I have entered into a formal registered civil partnership. If I choose to receive benefits under the rules of the Firefighters’ Pension Scheme 1992 and I am unmarried and not in a civil partnership at the date of my death then a survivor’s pension will not be payable;
- The decision I make to receive benefits under the rules of the Firefighters’ Pension Scheme 1992/ Firefighters’ Pension Scheme 2006/ Firefighters’ Pension Scheme 2015 [delete as applicable] is irrevocable. Neither I nor my dependants will be given an option to reconsider this decision once the new legislation comes into force;
- The way in which the issues relevant to my case are dealt with under the framework (as noted in the table below) amounts to a full and final settlement of my claim. I will not commence or continue any court or tribunal proceedings against [NAME of FRA] (in its capacity as employer or pension scheme manager) in relation to any matters that are covered by this agreement (other than a failure to abide by the terms of this agreement); and

The issues in my case have or will be addressed as follows:

[PARTIES TO INSERT RELEVANT ROWS FROM THE ANNEX 1 FRAMEWORK TABLE WITH AN ADDITIONAL COLUMN TO DOCUMENT THE ACTUAL PAYMENT, ADJUSTMENT AND/OR RECORD ALTERATION MADE FOR EACH SPECIFIC ISSUE FOR THAT MEMBER.]

Signed by [NAME of MEMBER] on [DATE]

Signed by [NAME] on behalf of [FRA] on [DATE]

Processing immediate detriment cases – November 2021

This note sets out HM Treasury's best assessment at this point on the advisability of processing immediate detriment cases before new legislation to enact the McCloud remedy is in place, and the implications of this assessment for the Home Office guidance on processing immediate detriment cases published in August 2020 and revised in June 2021.

Background

Before the McCloud legislation is in place, any corrections to individuals' pension arrangements depend on an interpretation of how section 61 Equality Act 2010 would operate.

The government made clear in its July 2020 consultation and February 2021 consultation response that it accepts that members who moved to the reformed pension schemes on or after 1 April 2015 and have subsequently retired already have an entitlement to be treated as a member of their legacy scheme for the remedy period if they wish. This is based on the view that section 61 Equality Act 2010 permits pension scheme regulations to be read as though discriminatory provisions do not apply, allowing members in this position to be treated as a member of their legacy scheme.

It was initially thought that section 61 would be sufficient to allow the position of unprotected individuals due to retire before the deferred choice underpin is implemented ('pipeline' immediate detriment cases), who wished to receive legacy scheme benefits, to be corrected before the McCloud Bill, scheme regulations and relevant tax legislation came into force. This was reflected in the position set out in the July 2020 consultation document, which stated that the government would work with schemes to give members of reformed schemes due to retire before 2022 a choice of benefits, where this was administratively possible. It was acknowledged that there were still some policy and administrative issues to work through, and the consultation document noted the complexity involved and that systems changes may be required.

Consistent with that, the Home Office guidance document originally published in August 2020 was the best attempt possible at that time to set out a pathway for processing pipeline cases ahead of legislation. The document was produced in response to specific requests from the Firefighters' Scheme Advisory Board and in recognition of the particular pressures affecting the locally administered schemes. In producing the document, the complexity of these issues became increasingly apparent. The guidance did not therefore cover cases where individuals had already retired ('rectification' cases). Home Office and HMT were also clear that the document contained gaps in respect of pipeline cases, and that cases may need to be revisited, though the belief at the time was that it provided a basis to process at least some pipeline immediate detriment cases.

The February 2021 consultation response also reflected this position and acknowledged the particular complexities associated with rectification cases. The updated version of the Home Office guidance document published this year following further discussions with the sector was an attempt to provide more detail in some areas where this was possible, and to correct areas where thinking had moved on as a result of the further work that had been done. Both of these guidance documents were produced in good faith based on the best information available at the time, and it was made clear that there were still gaps and uncertainties.

Current assessment

The further work done by HMT and HMRC on drafting the remedy in the McCloud Bill (i.e. the Public Service Pensions and Judicial Offices Bill) has made it clear that these gaps and uncertainties are considerably greater than was previously thought. In some situations, it now appears that section 61

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may not give all the powers required to operate the remedy smoothly and predictably, without generating significant uncertainty for schemes, and risking significant second or third adjustments for individuals.

Because of this, HMT's current view is now that immediate detriment cases, including those yet to retire, cannot be processed before legislation is in place without considerable risk, uncertainty and administrative burdens for individuals, schemes and employers.

The fundamental issue is that to support correction of immediate detriment cases before new legislation is in place, section 61's impact on some fairly obscure aspects of the McCloud remedy needs to be understood. Any such interpretation of how section 61 comes into play on these points is novel and contestable, and actions taken on the basis of it are risky.

This risk has become more apparent over time, as HMT and HMRC have worked through the McCloud remedy and its tax consequences in more detail. On some of these points, the effect of section 61 would only be known for certain if it is tested in a court of law. This means schemes face significant uncertainty on how to proceed.

For example, where an individual's situation is corrected before legislation is in place, analysis at this point suggests it is not certain that section 61 will allow contributions paid in the past to reformed schemes to have been paid, as a matter of fact, into legacy schemes. This could call into question certain aspects of the remedy, including those contributions' tax relievable status. That could mean that the individuals in question will owe tax on contributions made in the past to their reformed scheme. This issue could affect all individuals who have made contributions into their reformed scheme – not just those for whom an adjustment in the amounts of contributions is required. Schemes and employers could then face difficult decisions over how to deal with those past contributions, plus significant administrative burdens as they attempted to fully unwind historic situations. Some individual members could lose out – potentially temporarily, but to a significant degree if tax is owed on past contributions but compensation for tax relief on contributions now being made into the legacy scheme is not available until the full remedy is in place. Individuals may also face significant second, and sometimes third, corrections once legislation is in place, as some of these problems are corrected.

Other areas of uncertainty exist and based on the experience so far of preparing the McCloud remedy, it is reasonable to conclude that further issues could emerge as work continues on the detailed McCloud remedy for changes to tax legislation and through scheme regulations.

The legislation the government is putting in place, through the McCloud Bill and tax legislation, and through the scheme regulations changes, aims to address uncertainties to deliver proportionate and reasonable results which are robust to further challenge on the grounds of discrimination, in line with the policy set out in the consultation and response documents. It is HMT's view at this point, based on the analysis as it currently stands, that cases cannot be smoothly and predictably processed until this legislation is in place and that there are risks and uncertainties for schemes and for individuals if cases are processed ahead of that.

Therefore HMT and Home office do not advise that schemes process pipeline immediate detriment cases before the legislation is in place, given the uncertainty of how to proceed on some elements, and the significant risk of generating unintended tax consequences that may, to a greater or lesser extent, then need to be reversed once legislation is in force.

It is of course still up to schemes to choose to process cases or not based on their own assessment of the competing legal risks, but at this stage it is not possible to give any guarantees that the remedy and its tax consequences will work as intended for everyone, before the legislation is in place.

Implications for the Home Office guidance

Whilst section 61 permits individuals affected to be treated as members of their legacy scheme, given the uncertainty around how it operates on some of the detailed elements of the McCloud remedy, HMT no longer views the current version of the Home Office guidance as accurately representing the situation. Unfortunately, that uncertainty also means the guidance cannot be revised to give schemes a clear way forward on how to process these cases that is certain to be correct. Home Office have therefore taken the difficult decision to withdraw this guidance.

It is also important to note that if schemes process cases and run up against tax issues which it is not straightforward to resolve – because the situation is either ambiguous under current rules due to uncertainty about how section 61 acts on some elements, or the current rules generate unwelcome tax outcomes – they will have to operate within the existing tax legislation and HMRC will not be able to help resolve those issues. This may mean that individuals could face unwanted tax bills and/or corrections to their tax affairs, which may then need to be corrected again once the legislation is in place.

For cases that have already been dealt with, or are in the process of being dealt with, the new legislation will give powers intended to allow schemes to put these individuals into the correct position, drawing on the provisions of the McCloud Bill. However, this could entail significant second or third corrections and so HMT would not advise that schemes continue to process cases on the assumption these provisions will mean a smooth and predictable experience for themselves and for members.



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Pension Ombudsman - update

Local Pension Board

Date: 19 January 2022

Agenda Item:

10

Submitted By: Chief Employment Services Officer

Purpose To present Members with information on recent Pension Ombudsman rulings related to the Firefighters' Pension Scheme and other relevant schemes.

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.

Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Claire Johnson, Pensions Manager
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Background papers open to inspection: None

Annexes: None

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 There has been one relevant Pension Ombudsman ruling that has been made since the date of the last meeting. Details are as follows:

[PO25374](#) - Mr E – Recovery of overpayment.

2.2 Complaint Summary:

Mr E's complaint concerns an overpayment of pension, amounting to £9,964, that the Fire and Rescue Service is seeking to recover following its decision to abate his pension. Specifically:-

The Fire and Rescue Service had a duty of care to alert him at the outset that his pension would be abated.

2.3 Summary of the Ombudsman's Determination and reasons:

I do not consider that the Fire and Rescue Service had an additional duty of care towards Mr E, other than the requirement to make factually correct information available to him. This is supported by relevant case law.

The complaint is upheld to the extent that the Fire and Rescue Service did not follow a reasonable process when exercising discretion under "rule K4" and making its decision to abate Mr E's pension. My Directions are set out in paragraph 113 below.

3 Financial Implications

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

4 Legal implications

- 4.1 The Monitoring 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.

8 Environmental implications

8.1 There are no environmental implications arising directly from this report.

9 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? (EIA guidance and form 2020 form.docx (westyorksfire.gov.uk))	No
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SAB Response to Home Office Consultation

Local Pension Board

Date: 19 January 2022

Agenda Item:

11

Submitted By: Chief Employment Services Officer

Purpose	To inform members of the SAB response to the recent Home Office consultation on prospective remedy changes.
Recommendations	That the report be noted.
Summary	The SAB have provided an official response to the recent consultation Home Office have run on the prospective legislation changes which are needed for remedy implementation.

Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Claire Johnson, Pensions Manager
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Background papers open to inspection: None

Annexes: Annex A – SAB Response

1 Introduction

- 1.1 On 8 November 2021, the Home Office launched a consultation on the amendments to the pension scheme regulations to deliver the first set of changes to remove the transitional protections from the FPS 2015: Amendments to the firefighters' pension schemes in England 2022 - GOV.UK (www.gov.uk)
- 1.2 This includes how the Home Office will ensure that all members of the Firefighters' Pension Schemes who continue in service will be members of the reformed scheme from 1 April 2022. This means closing the legacy schemes to future accrual from 31 March 2022, so that all members are treated equally for future service. This involves moving any remaining legacy scheme members - i.e. those who had received full transitional protections - into the reformed scheme from 1 April 2022.

2 Information

- 2.1 The purpose of the Board is to provide advice to scheme managers in relation to the effective and efficient administration and management of the Firefighters' Pension Schemes (FPS).
- 2.2 To develop the Board's response to the consultation, the Board attended an engagement session with the Home Office team including its drafting lawyers and discussed the consultation at the Board meeting of 9 December 2021 which included the Board's independent legal, actuarial, and technical advisers. The Board thanks the Home Office for the opportunity for informal engagement ahead of the formal consultation.
- 2.3 Full details of the consultation questions and responses can be found in Annex A.

3 Financial Implications

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

4 Legal implications

- 4.1 The Monitoring 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 responses to requests from LGA 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.

8 Environmental implications

8.1 There are no environmental implications arising directly from this report.

9 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? (EIA guidance and form 2020 form.docx (westyorkfire.gov.uk))	No
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Sent by email to:
Firepensionspublicservicepensionsremedy@homeoffice.gov.uk

2 January 2022

Consultation on firefighters' pensions prospective remedy: Firefighters' Pensions (England) Scheme Advisory Board Response

The [Firefighters Pensions \(England\) Scheme Advisory Board](#) (the Board) submits its response to the Home Office consultation on the amendments to the pension scheme regulations to deliver the first set of changes to remove the transitional protections from the FPS 2015 as attached to this letter.

This response is submitted on behalf of the Board by the Local Government Association (LGA) who act as secretariat to the Board. Neither the Board nor LGA act in the capacity of [scheme manager](#) or Fire and Rescue Authority (FRA).

The purpose of the Board is to provide advice to scheme managers in relation to the effective and efficient administration and management of the Firefighters' Pension Schemes (FPS).

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Scheme Advisory Board Secretariat
18 Smith Square, London, SW1P 3HZ: Email: bluelight.pensions@local.gov.uk

In order to develop the Board's response to the consultation, the Board attended an engagement session with the Home Office team including its drafting lawyers and discussed the consultation at the Board meeting of 9 December 2021¹ which included the Board's independent legal, actuarial, and technical advisers. The Board thanks the Home Office for the opportunity for informal engagement ahead of the formal consultation.

If you have any questions, please let me know.

Yours sincerely



Joanne Livingstone

Chair of the Firefighters' (England) Pension Scheme Advisory Board

¹ [9 December 2021: Paper 1 – Response to Home Office consultation](#)

Consultation questions

Question 1. As required by the PSPJO, the draft regulations seek to ensure that the legacy schemes are closed to future accrual from 31 March 2022 and that all members are in the 2015 Scheme in respect of any pensionable service from 1 April 2022. Are the draft regulations sufficient to meet this aim? Do you think there are any changes or additions required to the draft regulations to achieve the stated policy aims?

The [draft regulations](#) close the legacy schemes to future accrual from 31 March 2022 by ensuring that the legacy schemes have a “closing date” of 31st March 2022 for all “full protection members”, who then transition to the 2015 scheme on 1 April 2022.

The Board agrees that the draft regulations provide for all scheme members to be moved into the existing 2015 scheme from 1 April 2022 with benefits calculated based on the existing regulations of each of those schemes. As such, all members will be treated equally from 1 April 2022.

As all tapered protection already ends on 31 March 2022 (with the exception of paragraph 3(3) of Schedule 2, which is also being amended), the draft regulations would appear to be sufficient to meet the stated aim, and there are no changes or additions required.

Question 2. The government is proposing that the regulations will be drafted to make additional provision for ill-health retirements that straddle the transfer date. This provision would ensure that a protected member who applies for ill-health retirement before 31 March 2022, and which is determined in their favour after that date, is treated no less favourably than if the application had been determined on that date. Do you have any views on the proposals regarding ill-health retirement cases that straddle 1 April 2022? In particular, do you have any views on how the “underpin” should work or be provided for in the draft regulations?

The Board agrees that there is a risk of unfairness towards some legacy scheme members whose need to retire as a result of a disabling injury or illness arose before the 31 March 2022 but for whom the final retirement decision was not made until after that date, due to the differing qualifying criteria between the 1992 and 2015 schemes. Board members support the proposal that provision should be made to protect the position for ill-health retirement (IHR) cases that straddle 1 April 2022.

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However, thought needs to be given as to which cases this protection will be applied to and this should be specifically defined in the regulations. There is no “application” as such for IHR and FRAs can have a very different way of dealing with the process, with some engaging an Independent Qualifying Medical Practitioner (IQMP) fairly early in the process, while others are much slower at engaging an IQMP. Thought needs to be given as to what stage in the IHR process this protection will be triggered, particularly given that there can be difficulties in finding suitably qualified IQMPs to provide the medical assessment, which can also slow down the instruction process.

Two suggestions have been put forward by Board members:

- The ill-health retirement process is deemed to be pending or in progress if the individual’s last day of performing the normal duties of their role pre-dated 1 April 2022.
- If the IQMP decision is that an injury results in the ill-health retirement and this occurred pre-transfer into the 2015 scheme, then that retirement should be assessed under the legacy scheme criteria for the underpin even if the IQMP process did not start before transfer into the 2015 scheme.

On the second suggestion, there appears to be a precedent set in the protection granted to retained firefighters in 2014. A retained firefighter employed prior to 6 April 2006, who didn’t subsequently become a ‘special member’ under the terms of the modified FPS 2006 arrangements and who was retrospectively awarded an injury and ill health pension after 1 April 2014, is entitled to an injury and ill health pension under Part 8, rule 2 of the Firefighters’ Compensation Scheme under the protected right granted in [SI 2014/447](#) [rule 3, paragraph 2], where it has been determined that the injury is a qualifying injury and was sustained before 1 April 2014.

Other likely issues that are going to arise will be with regard to those cases that do not get decided before 1 April 2022, where the member qualifies for an IHR pension under the legacy scheme but, under the ‘one pot’ rule, does not qualify under the 2015 scheme. FRAs are likely to face claims if there is any suggestion that they did not complete the process in a timely manner and the firefighter has lost out on an IHR pension.

The consultation document acknowledges that cases will become subject to different qualifying criteria once members have transitioned to the 2015 scheme on 1 April 2022, but there is no acknowledgment of the issues that this could potentially cause as IHR processes can take a considerable time to conclude. While accepting that this was the situation when the 2015 scheme was first introduced, it still has the potential to be an area that causes FRAs significant issues going forward.

This could be particularly relevant for mental health conditions, such as PTSD, which are often cumulative and may take some time to materialise. The member could be disadvantaged if the IQMP process commences after 1 April 2022 and they are assessed against the 2015 scheme criteria which sets a higher bar than the legacy 1992 scheme.

One possible mitigation that the Board asks the Home Office to consider is a revision of [Regulation 68](#) (review of ill-health award or early payment of retirement pension) and [Regulation 69](#) (consequences of review) in the 2015 scheme.

Currently an ill-health pension in payment can only be reviewed downwards, so a higher tier award can be reduced to lower tier, and a lower tier award can be stopped. There is no facility to uplift an award where a member's ill-health condition has worsened and this is not due to a natural deterioration.

When an IQMP makes an assessment involving an injury or condition (particularly a mental health condition), it is highly unlikely that they will be able to confidently state that a person will be permanently disabled and unable to undertake regular employment to normal pension age (NPA) for individuals whose NPA is 60.

Differentiation between the terms 'likely to' and 'will' does not help materially since it remains very difficult for any medical practitioner to say whether conditions such as depression or work-related stress will improve once a person leaves FRS employment. An individual's mental health might improve but whether they would be able to undertake 'regular' employment is an unknown quantity.

There is a problem where, contrary to IQMP opinion, the individual does not become able to undertake regular employment before NPA. In such cases it may, over time, become evident that the original opinion was flawed, and the scheme member will not have received the level of pension that would have been due at the time the original IQMP assessment was made.

For situations where it transpires that a member does not improve to the extent that they are able to undertake regular employment, there should be a provision to increase the level of ill-health pension since the reason that a lower-tier pension was awarded is the IQMPs inaccurate assessment of future recovery inability or their unwillingness to commit to a long-term prognosis.

Contrary to opinion that the issue would be deterioration of ill-health, the Board considers that the issue is the accuracy of IQMP opinion when even the best medical experts may not be able to accurately forecast the long-term impact of conditions which existed at the time of the original IQMP referral. Some safeguard is required to provide for the correction of opinions that turn out to be inaccurate.

A significant concern for the Board is the difficulty of predicting a person's health and capacity for work in the long-term. Where experience shows that an IQMP opinion is not correct, there is no scope to rectify an inaccurate forecast except in cases of people with 'qualifying injury' for which the award can be varied both up and down on review.

This has been discussed by the Board on previous occasions and the Board wishes to take this opportunity to raise the issue again for Home Office consideration:

- Review of ill-health award (lower tier to upper tier): [Meeting 20.06.2018](#)
- Review of ill-health award (lower tier to upper tier): Meeting 04.10.2018 [confidential]
- Review of ill-health award (lower tier to upper tier): [Meeting 13.06.2019](#) [[Item 8](#)]

More generally, the Board seek clarity on the process for splitting lower tier benefits back out from the 'one pot' arrangement once the member reaches normal pension age² i.e. how will the equivalent amount be determined and whether any consequential adverse impact on survivor benefits has been considered.

² See Paragraphs 23 and 25 of Part 3A to Schedule 2 of the FPS 2015 regulations – inserted by [SI 2015/589](#).

Question 3. The regulations will need to ensure that provisions which allow arrangements for purchasing service in the legacy schemes by periodical contributions, entered into before 1 April 2022, can continue on and after that date and that additional benefit purchasing in the legacy schemes ceases on 31 March 2022. In your view, would existing provisions in the relevant reformed scheme regulations achieve these aims? Alternatively, would additional provisions be needed to achieve this outcome?

The Board is comfortable that provision has been made in the reformed scheme regulations to ensure that the payment of periodical contributions can continue in specified circumstances, by the insertion of Paragraphs 31(2)(a) (pensionable service under the NFPS) and 34(5) (continuous pensionable service under the 1992 Scheme) into Schedule 2 by [SI 2015/589](#).

The Board notes that the corresponding provisions of the 1992 scheme [[Rule G7](#) (payment of periodical contributions for increased benefits)] and 2006 scheme [[Part 11, Chapter 2, paragraph 71](#) (duration of periodical contributions and premature cessation)] were also amended in 2015.

No fully protected members of the legacy schemes would now be able to enter into a new arrangement before they transition into the 2015 scheme, as by virtue of their protected status they must now be less than two years away from the normal retirement age of the respective legacy schemes. An election to pay periodical contributions to purchase additional service must be made at least two years before a person's normal retirement age.

The Board also notes the addition of new [clause 83 to the Public Service Pensions and Judicial Offices Bill](#) which states that new arrangements cannot be entered into after 31 March 2022.

However, it would be preferable to include additional provisions in the proposed scheme amendments so there is absolute clarity on exactly which arrangements can continue. There are several different arrangements in the legacy schemes for purchasing additional benefits (see attached schedule).

The Board notes that, once returned to their legacy scheme former unprotected or taper members may have been retrospectively eligible to purchase added years within the remedy period. The Board expects that the retrospective regulations should make clear whether this option will be available to members under a contingent decision claim.

Question 4. We are interested in understanding whether the scheme regulation amendments will have an impact on people with protected characteristics, beyond those equality considerations undertaken and set out in the EIA undertaken alongside the consultation and PSPJO. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the draft regulations and policy intent as set out above will have any positive or negative impacts on people with protected characteristics, beyond those already considered? If so, which and why/why not?

The Board reiterate the points raised in its response to the government consultation on changes to the transitional arrangements to the 2015 schemes³. For example:

- *The challenge of maintaining fitness until age 60 may raise age and gender discrimination issues, for example early retirement factors will impact if firefighters cannot maintain fitness levels to age 60 and leave at age 55.*

The Board's scheme member representatives have undertaken to seek additional analysis on whether the ageing effects such as reducing upper body strength or menopausal effects are affecting female firefighters' ability to perform the duties of the firefighter's role beyond age 55.

This matter is raised again now as fully protected members transferring to the 2015 scheme will be aged 55 or older and taper-protected members will be approaching that age. As a consequence, the 2015 scheme's age profile will increase. While this may bring forward the ability to assess the impact of ageing on early or ill-health retirement, there may be consequences for scheme design or scope for legal challenge if it can be shown that a group with a particular protected characteristic suffers a more material detriment than others.

- *The legacy Firefighters' Schemes are complex, with caps on pensionable service and double accrual within FPS 1992. This could mean that members of similar age and total service might receive very different benefits outcomes, for example from the way in which tapering is applied or the cut off dates for members to be eligible for remedy.*

³ [SAB response to the HMT consultation on changes to the transitional arrangements of the 2015 Public Service Pension Schemes](#) [Paragraphs 73 – 74]

In their response, the Board additionally recommended that a full, scheme-specific Equality Impact Assessment (EIA) should be undertaken of the eventual proposed solution for remedy to minimise the risks of future challenges. The Board is pleased to note that a draft Equality Impact Assessment (EIA) is attached to the consultation at Annex A.

Question 5. Are there any other areas which you think should be addressed in these regulations to ensure all members are moved to the relevant reformed scheme from 1 April 2022, and that the differential treatment, as identified by the Court of Appeal, is ended?

The Board noted with interest the policy issue set out in the Home Office consultation on amendments to the Police Pension Scheme (PPS) regulations, concerning the interaction of retirement ages between the schemes. As in the firefighters' 1992 scheme, the legacy 1987 and reformed 2015 police schemes allow a member to draw their pension at different ages.

The 1992 scheme allows members to draw their legacy scheme pension before age 55. However, if they choose to retire before age 55, the rules of the 2015 scheme mean that they either have to wait until State Pension age (rather than age 60) to take an unreduced 2015 pension or they can take an actuarially reduced 2015 pension once they have reached the age of 55 (the reduction being based on State Pension age).

Such reduction is to reflect that the pension is coming into payment early and will be in payment for longer. More penal early retirement factors apply when a member retires from deferred status than from active status⁴, as the period of time between normal payment dates is longer.

While this issue is a consequence of the changes to the public sector pension schemes introduced in 2015 and has therefore existed since that time, it has been raised as a specific concern now as the remaining protected members are due to transition into the reformed schemes for the first time on 1 April 2022.

⁴ [The Firefighters' Pension Scheme 2015 \(England\) Early payment reductions Factors and guidance](#)

This concern is exacerbated for the PPS as members originally received transitional protection based on both age and service, so there could be members who are under age 55 on 1 April 2022 and will be unable to access any 2015 scheme benefits they have built up at least until that age. In contrast, all fully protected FPS members will be age 55 or over, as members were protected based on age only.

The Home Office states that it will give due regard to the interaction of retirement ages between schemes and consider whether any changes are needed to ensure any cohort of police pension scheme members are not unduly disadvantaged, especially having regard to the needs of members from protected groups where these are different from the needs of other members.

While the Board would welcome similar consideration for the Firefighters' Pension Schemes, the employer representatives of the Board in particular are keen to understand:

- the number of members who could potentially be affected;
- the estimated financial impact to the scheme of aligning deferred early retirement factors with those used for active members (or compensation to mitigate the effects of the differing early retirement factors); and
- whether any proposed solution would generate any unintended discriminatory consequences.

The Board has previously raised the issue of the discrepancy between the early retirement factors in the 2006 legacy scheme and 2015 scheme⁵; noting the anomaly within the 2006 scheme which means that members cannot retire early from active status, and therefore the early retirement factors are significantly higher than they would otherwise be (being based on a normal benefit age of 65).

The Board acknowledges that this not a direct function of the age discrimination remedy but rather the 2006 and 2015 scheme designs, so would welcome the opportunity to engage with the Home Office separately from the consultation on the prospective regulations.

⁵ [SAB response to the HMT consultation on changes to the transitional arrangements of the 2015 Public Service Pension Schemes](#) [Paragraph 22]

Schedule

**Firefighters' Pension Scheme
Purchasing additional benefits**

The Firemen's Pension Scheme Order 1992		
Regulation	Details	Additional Information
Paragraph F4 (Previous service reckonable on payment)	A person who— (a) has retired from employment with a fire and rescue authority with no pension other than an ill-health pension the unsecured portion of which has been terminated as mentioned in rule K1(3), and (b) has again taken up employment as a regular firefighter with that or another fire and rescue authority, and (c) within 6 months of taking up that employment, or such longer period as his employing authority may allow, has undertaken to pay in accordance with paragraph 1 of Part I of Schedule 6 a sum calculated in accordance with paragraph 2 of that Part, is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.	Schedule 6, Part 1 – 1 (1) Subject to sub-paragraphs (2) to (4), an amount which a person undertakes to pay in accordance with this paragraph shall be paid by such regular instalments as will secure that the whole of the amount has been paid within a period of 5 years and before he reaches normal pension age; the instalments are payable to the fire and rescue authority by whom he was employed when he gave the undertaking, who may deduct them from his pay. (2) The person may at any time discharge his liability in whole or part by paying to the fire and rescue authority the whole or, as the case may be, a part of the balance then outstanding. (3) If before he has paid the whole of the amount he— (a) retires and does not become entitled to an award other than one under rule B6 (repayment of aggregate pension contributions), or (b) dies, any balance then outstanding shall be treated as having been paid. (4) If before he has paid the whole of the amount he retires and becomes entitled to an award other than one under rule B6 , the fire and rescue authority may deduct the balance then outstanding from payments of any award payable to him.
F5 (Period during which	(1) A person who— (a)	Schedule 6, Part 1 – 1

<p>injury pension was payable)</p>	<p>(i) on retiring from a brigade before 1st October 2004, or from employment with a fire and rescue authority before 1st April 2006, became entitled to an injury pension under rule B4 (as it existed before that date); or</p> <p>(ii) on retiring from employment with a fire and rescue authority on or after 1st April 2006, becomes entitled to an injury pension under the Compensation Scheme, and</p> <p>(b) resumed service as a regular firefighter in that or another brigade before 1st October 2004, or took up employment with a fire and rescue authority on or after that date, following an offer of employment under rule K1A(2)(b), and</p> <p>(c) within 6 months of his resuming service, or taking up that employment, or such longer period as the fire authority, or as the case may be, the fire and rescue authority, may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6, is entitled to reckon as pensionable service the period during which he was entitled to the injury pension ("the pension period").</p> <p>(2) The required amount is the total of the pension contributions (excluding such additional and further contributions as were mentioned in articles 57 and 58 of the 1973 Scheme) that would have been payable by him for the pension period if he had continued to serve as a regular firefighter in the rank he held or, as the case may be, role he had immediately before the retirement.</p>	<p>(1) Subject to sub-paragraphs (2) to (4), an amount which a person undertakes to pay in accordance with this paragraph shall be paid by such regular instalments as will secure that the whole of the amount has been paid within a period of 5 years and before he reaches normal pension age; the instalments are payable to the fire and rescue authority by whom he was employed when he gave the undertaking, who may deduct them from his pay.</p> <p>(2) The person may at any time discharge his liability in whole or part by paying to the fire and rescue authority the whole or, as the case may be, a part of the balance then outstanding.</p> <p>(3) If before he has paid the whole of the amount he—</p> <p>(a) retires and does not become entitled to an award other than one under rule B6 (repayment of aggregate pension contributions), or</p> <p>(b) dies,</p> <p style="padding-left: 40px;">any balance then outstanding shall be treated as having been paid.</p> <p>(4) If before he has paid the whole of the amount he retires and becomes entitled to an award other than one under rule B6, the fire and rescue authority may deduct the balance then outstanding from payments of any award payable to him.</p>
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<p>G2A (Optional pension contributions during maternity and adoption leave)</p>	<p>(1) A regular firefighter who—</p> <p>(a) is on maternity or adoption leave, which would not otherwise count as pensionable service under rule F2A; and</p> <p>(b) who, for the whole or part of the leave period, is not entitled to receive pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992), may elect to pay pension contributions in respect of that leave period.</p> <p>(2) The contributions shall be calculated by applying rule G2 to the pensionable pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992) received by him immediately before the start of the unpaid period in question...</p> <p>(3) An election must be made by giving notice in writing to the fire and rescue authority before the expiry of the period of 30 days (or such longer period as the authority may allow) beginning with—</p> <p>(a) the day on which he returns to work, or</p> <p>(b) if he does not return to work after the leave period, the day he ceases to be employed by the authority.</p>	
<p>G6 (Election to purchase increased benefits)</p>	<p>(1) Subject to paragraphs (2) to (4), an eligible person may, by giving written notice to the fire and rescue authority, elect to purchase a specified number of sixtieths of his average pensionable pay by paying to the fire and rescue authority—</p> <p>(a) a lump sum calculated in accordance with paragraph 1 or 2 of Part I of Schedule 8, or</p> <p>(b) periodical contributions calculated in accordance with paragraph 3 or 4 of that Part.</p> <p>(2) The number of sixtieths specified—</p>	

	<p>(a) must not be such that, if he continued to serve as a regular firefighter until his normal pension age, more than 40 sixtieths of his average pensionable pay would count in calculating his pension, and</p> <p>(b) need not be a whole number.</p> <p>(3) An election to pay a lump sum—</p> <p>(a) must be made within 12 months after the date on which he last became a regular firefighter, and</p> <p>(b) if the sum is not paid within 3 months after the date on which notice was given, shall be treated as not having been made.</p> <p>(4) An election to pay periodical contributions must be made at least 2 years before the person's normal pension age, but no such election may be made if the fire and rescue authority so resolve, unless the person has at their own expense undergone a medical examination and satisfied the authority as to his or her good health.</p> <p>(5) An election under this rule—</p> <p>(a) takes effect, subject to paragraph (3)(b), on the day on which the written notice is received by the fire and rescue authority, and</p> <p>(b) is irrevocable.</p>	
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The Firefighters' Pension Scheme (England) Order 2006

Regulation	Details	Additional Information
Part 11, Chapter 1, Para 4 (Optional pension contributions during maternity and adoption leave)	(1) A firefighter member who—	

	<p>may elect to pay pension contributions in respect of that leave period.</p> <p>(2) The contributions shall be calculated by applying rule 3 to the pensionable pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992) received immediately before the start of the unpaid period in question.</p> <p>(3) Subject to paragraphs (6) and (7), an election must be made by giving written notice to the authority before the expiry of the period of 30 days (or such longer period as the authority may allow) beginning with—</p> <p>(a) the day on which he returns to work, or</p> <p>(b) if he does not return to work after the leave period, the day he ceases to be employed by the authority.</p>	
<p>Part 11, Chapter 2, Para 5 (Purchase of additional service)</p>	<p>(1) A person who satisfies the conditions specified in paragraph (2) may, in accordance with the following provisions of this Chapter, elect to purchase additional service for the purpose of securing increased benefits under this Scheme.</p> <p>(2) The conditions are that the person—</p> <p>(a) is a firefighter member of the Scheme,</p> <p>(b) is not a pension credit member, and</p> <p>(c) would be entitled to reckon less than 40 years' pensionable service at normal retirement age.</p> <p>(3) Additional service may be purchased as years or part of a year, but the aggregate of—</p> <p>(a) the period purchased,</p> <p>(b) the person's pensionable service up to the date of the purchase, and</p> <p>(c) his prospective service from that date to normal retirement age, must not exceed 40 years.</p>	

	<p>(4) Additional service may be purchased—</p> <p>(a) by payment of a lump sum calculated in accordance with tables provided by the Scheme Actuary; or</p> <p>(b) subject to paragraphs (5) and (6), by deduction from the person's pensionable pay of periodical contributions of such percentage of that pay as shall be determined by the Scheme Actuary.</p>	
<p>Para 8 (Discontinuance and resumption of periodical contributions)</p>	<p>(1) An authority may—</p> <p>(a) at the request of a firefighter member who has elected to purchase additional service by the payment of periodical contributions; and</p> <p>(b) solely on the grounds of his financial circumstances,</p> <p style="padding-left: 40px;">agree to discontinue the making of deductions from his pay by way of such contributions.</p> <p>(2) Where the firefighter member and the authority agree that deductions should be discontinued for a period not exceeding six months ("the discontinuance period"), the authority shall resume the making of deductions as soon as reasonably practicable after the end of that period or, at the request of the firefighter member, at such time before the end of that period as may be agreed.</p> <p>(3) Where the firefighter member and the authority agree that deductions should be discontinued for a period of six months or more, the member's election under rule 6 shall be treated as cancelled with effect from the date of the agreement.</p>	<p>Power to discontinue for up to 6 months</p>
<p>Para 9 (Periodical contributions in respect of periods of unpaid service or absence)</p>	<p>(1) A firefighter member who—</p> <p>(a) has elected to purchase additional service in respect of a period of unpaid service or unpaid leave which falls within the period in respect of which contributions are payable in accordance with rule 7(1), and</p>	

	<p>(b) complies with the requirements of paragraph (2), is entitled to require the authority to treat that period of unpaid service or unpaid leave as a period of pensionable service or special pensionable service.</p> <p>(2) The requirements of this paragraph are that the firefighter member must, not later than one month after the end of the period of unpaid service or leave (as the case may be), require the authority to deduct from his pay an amount equal to the aggregate of the contributions that would have been made in respect of that period if it had been a period of paid service.</p> <p>(3) In paragraphs (1) and (2) “unpaid leave” means adoption leave, additional adoption leave, additional maternity leave or ordinary maternity leave or other absence without pay (including absence while participating in a strike).</p> <p>(4) Contributions payable under paragraph (2) may be paid—</p> <p>(a) during the unpaid leave period; or</p> <p>(b) within six months of returning to duty after the end of that period; or</p> <p>(c) within such longer period as the authority may allow.</p>	
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OFFICIAL

FPS remedy self-assessment survey - Feedback

Local Pension Board

Date: 19 January 2022

Agenda Item:

12

Submitted By: Chief Employment Services Officer

- Purpose** To inform members of the feedback received from LGA/SAB in relation to the Scheme Managers response to the remedy self-assessment survey.
- Recommendations** That the report be noted.
- Summary** As part of their statutory role to provide advice to Scheme Managers and Local Pension Boards in relation to the efficient and effective administration and management of the Firefighters' Pension Scheme, the Scheme Advisory Board are looking to understand more about arrangements for managing the pension scheme and specifically for implementing the age discrimination remedy.

Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Claire Johnson, Pensions Manager
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Background papers open to inspection: None

Annexes: Annex A – WYFRS Survey Response

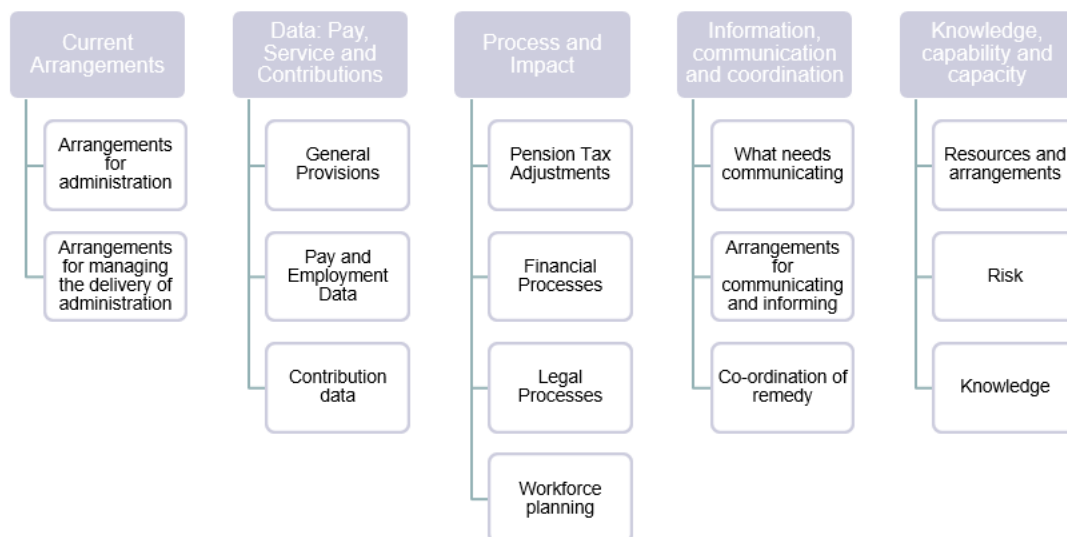
1 Introduction

- 1.1 As part of their statutory role to provide advice to Scheme Managers and Local Pension Boards in relation to the efficient and effective administration and management of the Firefighters' Pension Scheme, the Board wanted to understand more about arrangements for managing the pension scheme and specifically for implementing the age discrimination remedy.
- 1.2 To do this, the Board prepared a self-assessment survey to take a temperature check of current arrangements.
- 1.3 WYFRS responses were shared with members at July's meeting and can also be found in Annex A.

2 Information

- 2.1 The survey focused on the following areas:

Self-Assessment Survey Areas



- Establishing appropriate internal controls for legal matters relating to pensions (i.e. having a suitable Nominated Contact in place)

- Establishing a remedy project team or having a named lead contact for remedy issues

- 2.2.1 Since Michael Barnes' departure our nominated contact duties have been delegated to CESO, Ian Brandwood.

- 2.2.2 On reflection, it appears that we may have incorrectly answered Q51: Do you have a remedy project team? The remedy project is being managed by our Pensions Manager, with support from the Pensions Assistant and our payroll providers, Kirklees Council.

3 Financial Implications

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

4 Legal implications

4.1 The Monitoring 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 responses to requests from LGA 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.

8 Environmental implications

8.1 There are no environmental implications arising directly from this report.

9 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? (EIA guidance and form 2020 form.docx (westyorkfire.gov.uk))	No
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#11

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, June 14, 2021 9:46:06 AM
Last Modified: Monday, June 14, 2021 10:01:48 AM
Time Spent: 00:15:41
IP Address: 95.152.244.222

Page 1: Section 1: Current arrangements

Q1 **West Yorkshire Fire and Rescue Service**

Fire and Rescue Authority:

Q2 **West Yorkshire Pension Fund**

Who is your pension administrator:

Q3 **Third party - Local LGPS admin authority**

Is this arrangement:

Q4

Year current admin arrangement started:(Enter 4-digit year e.g. 2005 or don't know)

2019

Q5

Year current admin arrangement ends:(Enter 4-digit year e.g. 2005 or don't know)

2023

Q6 **Don't know**

Do you plan to tender at the end of your current contract:

Q7 **Respondent skipped this question**

If yes to Q6, please indicate the method of procurement:

Q8 **3 - 4 "super" administrators**

Do you have a preference on future admin arrangements for the scheme:

Q9

What position within your FRA oversees delivery of pension administration:

Pensions Manager

Q10

Who line manages that post-holder:

Corporate HR Manager

Page 2: Section 2: Data - pay, service, and contributions

Q11

Yes

Have you started work to identify data requirements for Sargeant (age discrimination):

Q12

No,

Have you started work to identify data requirements for Matthews (special members). The linked factsheet gives more information about the second options exercise:

If yes, what are your key requirements or actions:If no, can you tell us why::
Clarity needed around scope

Q13

Yes

Do you expect to need additional resource for implementation for either or both of these projects:

Q14

What position within your FRA will lead on remedy data for both cases:

Pensions Manager

Q15

Which department manages ill-health retirements (IHR) for your FRA:

Pensions (HR)

Q16

Yes

The HMT consultation response indicates that IHR cases may need to be reassessed against the member's opposite scheme under Sargeant remedy. Will relevant teams be sufficiently resourced to revisit IHR cases:

Q17

No

Do you have any planned resilience in place to deal with revisiting IHRs:

Page 3: Section 2: Data - pay, service, and contributions

Q18

Outsourced

Is your payroll service:

Q19

Outsourced

Is your pension payroll service:

Q20

No

Have you changed payroll provider or payroll system since 2015:

Q21

How many years do your payroll records go back:(Please answer in whole numbers)

10

Q22

Please detail any problems you can foresee obtaining pay data for the following:(N.B. Pay data for Sargeant will date back to 2015, pay data for Matthews could relate to as early as the 1970s)

Sargeant:

N/A - All data accessible via Kirklees SAP

Matthews:

Depending on the scope we would have major issues with the data pre 2011

Q23

For Matthews, eligible individuals will have the opportunity to buy scheme membership back to the start date of their employment. We are interested to know if you will still have access to historic employment records. How many years do your employment records go back:(Please answer in whole numbers)

6

Page 4: Section 2: Data - pay, service, and contributions

Q24

Which department currently manages business as usual (BAU) contribution deductions:

Pre programmed into payroll system by payroll provider

Q25

Which department will manage your remedy contribution adjustment process:

Pensions (HR) with support from payroll provider

Q26

Yes

Will you be able to obtain/ calculate backdated contribution data:

Q27

No

Do you expect to apply different solutions for different types of member e.g. active, deferred, pensioner:

Q28

Which department will manage adjustments to tax relief (PAYE):

Kirklees Payroll

Q29

The HMT consultation response indicates that interest will be due on amounts paid to and from the schemes. Which department will manage the interest process:

Pensions (HR) with support from payroll provider

Q30

Please detail any issues you think might occur with adjustments of contributions:

Hardship cases - guidance needed on how to apply a consistent approach.

Page 5: Section 3: Processes and impact

Q31

Are you confident that existing tax processes are robust enough to perform annual allowance recalculations for up to 7 years of remedy:

No,

If no, please give details of changes needed e.g. systems, procedures::

HMRC tax legislation will need to be looked at. In addition, it would be useful if a dedicated HMRC project team was established.

Q32

Administrator

Who undertakes Event Reporting to HMRC on scheme pays and unauthorised payments:

Q33

Yes

Does your FRA have a voluntary scheme pays (VSP) policy in place:

Page 6: Section 3: Processes and impact

Q34 **Yes**

Do you have a nominated finance lead on pensions:

Q35 **Yes**

Do you expect to need additional resource to deal with financial adjustments and impact on BAU:

Q36 **No**

Do you have an allocated budget for direct and indirect remedy costs:

Page 7: Section 3: Processes and impact

Q37 **No**

Do you have a nominated legal lead on pension matters:

Q38 **Respondent skipped this question**

If yes to Q37, is that person your "nominated contact" for the proceedings in Sargeant that are managed collectively by the LGA:

Page 8: Section 3: Processes and impact

Q39

Who leads on workforce planning and retention for your FRA:

Chief Employment Service Officer

Q40 **No**

Is the potential impact of Sargeant remedy being modelled into plans:

Q41 **Yes,**
If yes, please confirm approximate numbers::
800

Are you able to identify the cohort of members affected by Sargeant remedy:

Page 9: Section 4: Information, communication, and coordination

Q42 **Online tool directly linked to scheme membership data**

Following the confirmation of deferred choice underpin (DCU) in Sargeant, please indicate what information you would like members to have access to (tick as many as apply): Please note this is not a menu or guarantee of delivery. It will allow us to understand individual FRA preferences but does not guarantee delivery of any of the options.

Q43 **Yes,**

Are you currently providing information to individual members: If yes, please provide details: :

Estimates upto 31 March 2022. Let's talk event held with employees.

Q44 **Home Office**

Who do you think should provide information such as FAQs at key points in the remedy process:

Q45 **FRA**

Who do you think should be the main contact for individual member enquiries:

Q46 **FRA**

Who do you think should provide information to the workforce on timescales, next steps etc:

Q47

On a scale of 1 to 10 (1 being the lowest), please indicate how well you feel your FRA communicated the first special members options exercise in 2014/2015:

☆ 8

Q48 **Yes**

Do you feel that communication was reflected in the numbers of individuals choosing to become a special member:

Q49

Please detail any suggestions for improvement for communicating the second options exercise:

Clear, timely and consistent guidance needed from the outset.

Q50 **Direct engagement between FRA and administrator (x 44 times)**

How best would implementation of remedy be coordinated across FRAs in England:

Q51

No

Does your FRA have a remedy project team:

Q52

Respondent skipped this question

If yes to Q51, does this include your administrator:

Page 10: Section 5: Knowledge, capability, and capacity

Q53

On a scale of 1 to 10 (1 being the lowest), please indicate the level of internal pensions knowledge and capacity within your FRA:

☆

6

Q54

**Establishing new roles/ teams,
Buying in additional third party services**

What measures are you considering to address any shortfall in capacity (tick all that apply):

Q55

Yes

Has remedy implementation been identified as a risk on your corporate risk register:

Q56

Yes

If yes to Q55, has this been reported to your Local Pension Board:

Q57

LGA on behalf of FRAs

Who do you feel is best placed to lead on policy engagement with central government on the legislation needed to bring in age discrimination remedy:

Q58

**LGA ,
Other (please specify):
In conjunction with Home Office**

Who do you feel is best placed to lead on direct service wide communication or provision of content for communication:

Q59

LGA on behalf of FRAs

Who do you feel is best placed to lead on engagement with pension administrators on implementation:

Q60

On a scale of 1 to 10 (1 being the lowest), how useful has this survey been to identify gaps in your planning:

☆

8

Any final comments: :

Funding remains a concern for FRAs. Clarity is needed from Government about where the additional monies will come from i.e. top up grant.



OFFICIAL

West Yorkshire Pension Fund - Key Performance Indicators

Local Pension Board

Date: 19 January 2022

Agenda Item:

13

Submitted By: Chief Employment Services Officer

Purpose	To inform Members of West Yorkshire Pension Fund performance in key areas for the periods 1 July 2021 to 31 December 2021
Recommendations	That the report is noted
Summary	This report informs Members of the Authority's key areas against which West Yorkshire Pension Fund measure their level of service.

Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Claire Johnson, Pensions Manager
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E: Claire.johnson@westyorksfire.gov.uk

Background papers open to inspection: None

Annexes: None

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

2 Information

2.1 Data from 1 July 2021 to 31 December 2021:

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	27	20	26	85	96.3	16.74
Change of Address	33	20	32	85	96.97	2.15
Change of Bank Details	23	20	21	85	91.3	9.35
DWP Request For Information	1	10	1	85	100	1
Death Grant Nomination Form Received	3	20	3	85	100	2.67
Death Grant to Set Up	1	5	1	85	100	1
Death in Retirement	33	5	29	85	87.88	8.15
Deferred Benefits Into Payment Payment of Lump Sum	7	3	7	85	100	3
Deferred Benefits Set Up on Leaving	22	10	14	85	63.64	26.09
Divorce Quote	1	40	1	85	100	1
General Payroll Changes	79	20	76	85	96.2	13.25
Initial letter Death in Retirement	33	5	27	85	81.82	5.52
Injury Review	3	20	3	100	100	1
Life Certificate received	1	5	1	85	100	4
NI adjustment to Pension at State Pension Age	40	20	40	85	100	17
Payment of Spouses _Child Benefits	14	10	14	100	100	1.07
Pension Estimate	33	10	29	85	87.88	4.3
Pension Set Up_Payment of Lump Sum	13	3	9	85	69.23	2.31
Refund Quote	1	10	0	85	0	50
Retirement Actual	13	10	13	85	100	2.69
Set Up New Spouse Pension	14	5	14	85	100	1.29
Spouse Potential	9	20	8	85	88.89	9.56
Transfer In Quote	5	10	3	85	60	5.6
Update Member Details	16	20	16	100	100	1



OFFICIAL

Firefighter Pensions Bulletins 47 - 52

Local Pension Board

Date: 19 January 2022

Agenda Item:

14

Submitted By: Chief Employment Service Officer

Purpose	To inform Members of the contents of the bulletins published since the last Local Pension Board meeting.
Recommendations	That the report is noted and any actions arising from the bulletins are acted upon (where appropriate).
Summary	Included in this report are the actions arising from each bulletin and an update of the status of the actions.

Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer:

Claire Johnson, Pensions Manager
T:01274 682311 EXT: 671041 E:
Claire.johnson@westyorksfire.gov.uk

Background papers open to inspection: None

Annexes: None

1 Introduction

- 1.1 The Local Government Association (LGA) produces a monthly bulletin which provides pension practitioners with updates on various pension related issues.
- 1.2 The bulletins are sent to Administrators, Scheme Managers, FRA pension contacts and LPB chairs as a matter of course.
- 1.3 There is an expectation of Members to scrutinise each bulletin and seek assurance from the Scheme Manager that all actions arising have been identified and acted upon.
- 1.4 Since the last LPB meeting in January 2021, there have been 6 bulletins published by LGA, actions arising from which can be found in the section below.
- 1.5 Copies of the bulletins have been circulated to Board members on receipt.

2 Information

- 2.1.1 [FPS Bulletin 47 – July 2021](#) had no actions arising and was purely for information.
- 2.2.1 [FPS Bulletin 48 – August 2021](#) had two actions for the FRA.
- 2.2.2

Action	FRA/Administrator	Status
TPR scheme return: Scheme managers to check contact details are correct on the Exchange.	FRA	Complete
Managing Pension Schemes (MPS) service: FRAs to enrol on to the new MPS service, no later than 24 September 2021.	FRA	Complete

- 2.3.1 [FPS Bulletin 49 – September 2021](#) had no actions arising and was purely for information.
- 2.4.1 [FPS Bulletin 50 – October 2021](#) had no actions arising and was purely for information.
- 2.5.1 [FPS Bulletin 51 – November 2021](#) had no actions arising and was purely for information.
- 2.6.1 [FPS Bulletin 52 – December 2021](#) had no actions arising and was purely for information.



**Firefighters'
Pensions England**
Scheme Advisory Board

LPB EFFECTIVENESS COMMITTEE

ACTIONS AND AGREEMENTS

Thursday 8 July 2021

MS Teams

PRESENT

Matt Lamb (ML)	Chair
Joanne Livingstone (JL)	SAB Chair
Claire Neale (CN)	Technical/ Admin representative (Hampshire CC)
Alan Tranter (AT)	FRA/ LPB representative (West Midlands LPB)
Clair Alcock (CA)	LGA – Board secretariat
Claire Hey (CH)	LGA – Board secretariat (minutes)

1. Introductions and apologies

- 1.1. Apologies were received from Debbie Yeates, Becky Smeathers, and Cllr Roger Phillips. CA briefly ran through the purpose of each item on the agenda.

2. Chair's welcome

- 2.1. ML welcomed all to the committee in his first meeting as chair. ML noted that the group had not met in some time and the agenda provided useful context for the committee's objectives. Introductions were made around the virtual room.

3. TPR [Governance and Administration Report](#) considerations

- 3.1. ML said that the committee would focus on the outcomes of the Pension Regulator's (TPR's) Governance and Administration survey which was run between January to March 2021. In order to provide a benchmark, CA shared the previous position on TPR's six key processes which are the fundamental measures of good governance:

3.1.1. Access to knowledge and skills to properly run the scheme.

3.1.2. Own procedures for assessing and managing risks.

3.1.3. Processes to monitor records for accuracy and completeness.

Scheme Advisory Board Secretariat

18 Smith Square, Westminster, London SW1P 3HZ T 020 7664 3189/ 020 7664 3205 E bluelight.pensions@local.gov.uk

- 3.1.4. Process for resolving payment issues.
- 3.1.5. Procedures to identify, assess, and report breaches of the law.
- 3.1.6. Conflicts of interest policy.
- 3.2. CA explained that when TPR was first given oversight of public service pension schemes, the FPS significantly underperformed against these measures compared to other schemes. CA highlighted that there is a noticeable discrepancy between centrally and locally administered schemes, therefore the comparison is not necessarily a fair one. The central schemes are considered as a whole and CA said it would be interesting to see the individual outcomes and establish any examples of best practice or lessons learned.
- 3.3. CA noted that scores have generally increased annually. CA drew out that 98 per cent of Fire schemes stated they had access to knowledge and skills, however, the research analysis suggests that these may not be applied correctly or consistently. CA commented that the score for risk procedures dropped in 2019; however, this was not a cause for concern as could reflect that FRAs are in the process of modernising their risk registers. CA added that recent shared examples of risk registers have become more sophisticated.
- 3.4. CA highlighted that the total Fire schemes with all six processes in place was only 55 per cent in 2019 and TPR had made some unfavourable comments on the performance of the FPS, which was the lowest across the public sector in some areas. CA noted that the results are generally 12 months out of the date by the time they are published, so potentially do not reflect the current position and any improvements that have been made.
- 3.5. CA said that complexity of the scheme is regularly reported as a barrier to effective governance and administration. CA explained that while TPR has reported that the number of complaints entering Internal Dispute Resolution Procedures (IDRP) has increased, the recent [IDRP data request update](#) to the SAB has demonstrated that the procedures are working as intended.
- 3.6. CA moved on to discuss the findings from the 2020-21 survey and what actions the committee might take as a result. CA highlighted that the Fire schemes with all six processes in place had increased to 74 per cent and celebrated this as significant progress. CA commented that there had been general improvement across public sector; however, risk procedures remain an issue for all schemes.

- 3.7. CA noted that the FPS is still least likely to have four LPB meetings annually, at 32 per cent. CA felt that this was not a surprising outcome given the current circumstances and there are more pressing areas for the committee to consider. TPR did not clearly outline what would have been expected or reasonable during this period.
- 3.8. CA explained that TPR places strong importance on administration forming part of the LPB agenda and that schemes should have an administration strategy, despite there being no legal requirement for the FPS as a single employer scheme. This was picked up as a recommendation in [Aon's 2019 review of the scheme](#) and a template strategy is under development and will be launched imminently. It is therefore expected that the score of 47 per cent of Fire schemes with a strategy in place will increase for the next survey without further intervention.
- 3.9. CA confirmed that the results for timely publication of ABS remain high, which is consistent with previous surveys run by the committee, and reflects the fact that ABS are treated as a priority for FPS members. CA noted that this process would have been particularly challenging for the Fire schemes during the pandemic due to the local nature of administration and should be acknowledged as a success.
- 3.10. CA felt that TPR's expectations may need framing in relation to remediation in Sargeant which was identified as one of the top three risks to governance and administration. Due to the timing of the survey, schemes would have had limited knowledge of what the requirements of implementing remedy would be. The LGA will be supporting Fire schemes centrally to understand the changes once policy and legislation are available.
- 3.11. The score for access to knowledge and skills remained at 98 per cent for another consecutive year. Eighty-one per cent also indicated that they had sufficient time and resources to run the scheme, although this is a decrease from previous years. CA felt that these results are not always reflected in tangible outcomes and views were invited from the group.
- 3.12. AT fed back from West Midlands LPB the suggestion that the question should be further divided, as having access to knowledge and skills is not always the same as being able to apply them practically or being able to escalate issues internally. CA agreed that this would be a useful point to raise with TPR.

i. Committee to suggest redraft of questions on knowledge and understanding to TPR for a future survey.

- 3.13. CA explained that the survey outcomes are used within the LPB training package for local boards to benchmark their own performance, with a recommendation to undertake an annual evaluation in line with the results as best practice.
- 3.14. Within the survey, 87 per cent of Fire schemes said they undertook an evaluation at least annually, with 19 per cent claiming to evaluate on a quarterly basis. This is not consistent with the LGA's experience of meetings attended and CA commented that it is unclear what this evaluation process would look like.
- 3.15. The mean average hours of training undertaken per board member was seven per year for Fire schemes. The Local Government Pension Scheme (LGPS) results were significantly higher at 13 hours per member; CA noted that there are a number of consultancies which provide paid training for LGPS governance, which does not tend to be as readily available for the FPS, therefore seven hours represents a healthy figure.
- 3.16. Almost all Fire LPBs indicated that they have access to all information about the operation of the scheme needed to fulfil their role. CA commented that this does not correlate with perceived complexity as a barrier, and the question or expectation may need reframing. CN said that this was again the difference between having access to information and being able to use it to address complexity.
- 3.17. The survey then looked at cyber security which is a relatively new area of focus for TPR. Scores have increased since the last survey, however, CA noted it is too soon to draw any particular conclusions from the results. CA commented that the analysis may be more reliable for central schemes, as the data is held in a single location/system.
- 3.18. Fire and Local Government schemes reported the fewest number of pension board members. CA explained that this is to be expected for the FPS as legislation directs a minimum of four members and is therefore not a cause for concern, although recruitment can be challenging. ML agreed, noting that there are 44 individual LPBs so they will inevitably be smaller than for centrally managed schemes.
- 3.19. Just over half of Fire schemes have a succession plan in place for board members. CA commented that the committee has previously issued guidance to LPBs on terms of office for board chairs and members being a minimum of two years and staggering termination dates. This followed reported concerns of board turnover and resilience. No action is required, other than a reminder of the existing guidance.

- 3.20. CA reiterated that the scores around processes for assessing and managing risk have fallen. CA commented that the LPB training package covers risk management comprehensively and scores may reflect that FRAs are giving greater consideration to their processes. ML nevertheless expressed concern that scores had decreased for procedures that were previously in place.
- 3.21. CN commented that Hampshire LPB reviews its risk register at each meeting and the only amendment has been the addition of remedy as a standalone risk. AT noted that West Midlands LBP had identified a discrepancy between its own risk register and the corporate register which was making it difficult to raise, track, and mitigate common risks. This has now been resolved and has made a noticeable difference but may have impacted the way the survey question was answered between years.
- 3.22. CA observed that the survey takes a broad view of risk and having the appropriate level of scrutiny in place is more important than how that scrutiny is carried out. CA added that while there is more work to be done around risk, there is no particular danger for the FPS that does not exist elsewhere.
- 3.23. AT commented that the level of interest in risk may depend on the governance structure of the individual FRA and where ownership of the risk register lies. CN noted that the scores for risk processes have fallen annually for all schemes, so is not unique to Fire. TPR has provided some commentary on why this might be the case, although the conclusions are not definitive.
- 3.24. CA stressed the importance of each LPB considering its responses against the final research report. ML suggested taking an action to investigate the decline. CA agreed that it might be worthwhile to carry out some fact finding given the consistent reductions over a number of years.

ii. Committee to consider data gathering exercise on risk management procedures.

- 3.25. CA wanted to understand more around the perceived risk of remediation and whether that represents the risk of lack of knowledge or resource, or lack of understanding as to what will be required. CA said this would be key in considering how to mitigate that risk. ML observed that level of risk was not recorded for the survey either. AT reflected on his personal experiences with the West Midlands LPB which supported CA's point.

- 3.26. To further highlight the ambiguity within the survey, CA pointed out that six per cent of Fire schemes had recorded funding or investment as a top risk. Depending on TPR's expectations, this should not exist as a risk for the FPS as an unfunded scheme. However, this may reflect a concern over how the scheme will be paid for, which would be an employer risk rather than a board risk.
- 3.27. Schemes were asked what actions had been taken in respect of remedy proposals. CA said that sufficient information may not have been available at that time to allow schemes to make an informed response, and this may have set an unhelpful expectation, particularly for Fire schemes who have no direct contract management with software suppliers. CA felt that the response data in Table 4.2.5 may not be reliable and suggested asking TPR to confirm what their expectations were, to frame the context of this question.
- 3.28. JL supported a broader conversation on remedy with TPR as an action. JL felt that some of the requirements highlighted within the survey are included in the codes of practice and are therefore statutory, rather than recommended good practice.
- 3.29. AT advocated a peer review system using TPR's survey as benchmarking tool in order to gain a greater understanding of governance in place, highlighting that the outcomes are not necessarily a good reflection of how schemes are operating in practice.
- iii. LGA to invite TPR to a future meeting to discuss the G&A survey results and how the committee could effectively benchmark Fire schemes.*
- 3.30. CA asked committee members what their expectations would be for actions that LPBs could take over the next 12 months in relation to remedy and how these could be monitored. CA suggested that one area LPBs where could become more involved is greater scrutiny of the membership data, for example the size of different cohorts, and reporting back to the LGA and SAB.
- 3.31. CA asked CN what would be reasonable to request from an employer's perspective. CN confirmed that membership numbers would be reasonable, as the administrator should be able to provide this information relatively easily.
- 3.32. ML asked whether an evaluation should also be undertaken of information and communication needed at key milestones, when these might be likely to occur, and what resources would be required. AT confirmed that this had been recently discussed at West Midlands LPB and collection of data for retained employees had been identified as an issue.

- 3.33. CN suggested that LPBs could ask to see an FRA's project plan, including how this interacts with the administrator's plans, for example on data collection. This could also include projected costings. AT proposed that Prince 2 methodology should be followed where possible to ensure commonality of approach.
- 3.34. CA said that the remedy survey should feed into this workstream and provide evidence on resourcing and project plans. CA commented that some authorities may find it difficult to initiate a plan due to a lack of understanding or engagement from key stakeholders. Nevertheless, this should be reflected in a plan as a risk once in place. CA noted that LPB scrutiny of project plans may increase their knowledge and understanding of the scale of remedy, and the interdependencies involved.
- 3.35. CA highlighted that 28 per cent of Fire schemes reviewed their risk exposure quarterly; this was felt to be lower than other schemes in line with the number of LPB meetings held. CA noted that progress had been made and confirmed anecdotally that LPB agendas now tend to include a review of the risk register as a standing item.
- 3.36. CA explained that the responses to outsourcing of administration services highlighted a lack of understanding which arises from the governance structures in place. For example, a county council FRA with a linked LGPS fund would generally consider themselves to be administered in-house. CA commented that where the scheme is administered does not necessarily affect performance or governance, so this discrepancy does not warrant further action.
- 3.37. CA commented that the percentage of meetings (80 per cent) with administration as an agenda item was in line with expectations, given the need to strike a balance between management and administration. CA noted that the administrator should attend every board meeting.
- 3.38. CA said that Fire schemes could be expected to return high scores in relation to data submission as a single employer scheme and this would also correspond with the timely issue of ABS. Seventy-seven per cent submitted monthly data on time, and always provided data that was accurate and complete. CA highlighted that there could be an argument for this to be 100 per cent and suggested that this could evidence a need for improved internal controls.
- 3.39. The survey also considers how data is submitted. Around three-quarters of Fire schemes reported that they submit data electronically, however, CA observed a lack of clarity in the terminology and said it would be useful to understand what TPR's expectation is.

- 3.40. AT needed to leave the meeting, so thanked CA for her contributions to the improvements realised at his local board and commented that he wanted to help ensure this work was driven forward through the committee to empower boards. CA asked if AT would be willing to deliver a case study on best practice at the next LPB wrap-up training or AGM. AT's agreement was noted.
- 3.41. Expanding on some of the points raised during the meeting, CA stressed that transparency is key to governance of decision making, although this can be challenging due to the complexity of the scheme and a lack of technical understanding. A particular example of this is pensionable pay decisions, which are frequently subject to legal challenge. LPBs can potentially add value in this area by adding a layer of scrutiny.
- 3.42. ML added that decisions should also be appropriately recorded to retain the rationale for the outcome in case of future dispute. CA agreed and highlighted that new case law can often necessitate revisiting decisions.
- 3.43. CA reiterated that Fire schemes were most likely to have met the ABS deadline for all active members and said that the survey highlights a number of good news stories which could be collated into a commentary for a future bulletin. ML supported this as a statement from the committee which acknowledges the key highlights and areas for future development.
- iv. ***LGA to draft commentary on the key survey highlights and areas for development to include in a future bulletin.***

4. Role of governance for remedy

- 4.1. CA asked the committee to consider what the expectations of LPBs could be in relation to remedy. JL suggested that a project plan should be made available as previously discussed and peer support or mentoring, including an understanding of how this could be accessed. JL commented on the difficulty of engaging with boards who are typically reluctant to do so.
- 4.2. CA demonstrated a typical training session slide deck which includes a factual background of remedy and the roles and responsibilities of the LPB. This also covers a high-level timeline and areas where policy decisions remain outstanding which, if a project plan is in place, would help LPBs to identify key dependencies and risks.

- 4.3. CA commented that the training is designed to link remedy back to TPR's six key processes so that boards are aware of the areas to focus on and ask questions about, without necessarily having in-depth technical understanding. CA explained that the slides are intended to generate conversation and can be useful to help boards escalate issues if the answers received are not satisfactory.
- 4.4. CA noted that the structure of the session could be subject to change depending on the outcome of TPR's single code of practice consultation, as the six key processes currently link to the existing codes of practice, particularly code of practice 14 which covers public service schemes.
- 4.5. CA noted that all parties are currently operating in a highly reactive space and it is difficult to be proactive due to timescales and workloads. CA highlighted that LPBs will play a key role in measuring the success of implementing remedy through governance of the process. CA added that tracking of risk will allow boards to monitor success. ML commented that a project plan would also be a useful tool to track progress and evidence success.
- 4.6. CA explained that the biggest challenge for locally administered schemes is the interdependencies as no single organisation has complete control of implementation. ML said that this could be expanded on within the training to ensure that boards have an understanding of what the dependencies are and how they impact on each other.
- 4.7. The presentation finishes with a reminder about effective communication which AT had previously commented on, in that member outcomes must remain the key consideration.
- 4.8. ML asked how and when this information would be delivered. CA explained that sessions are currently delivered on request, however, this does present a resource challenge to the team. In the short-term, bespoke individual training will need to be scaled back and the annual wrap-up session will be designed to incorporate the remedy training material. The AGM would also be a useful forum to reach a wider audience. The new senior adviser will be responsible for developing a future strategy for content and delivery.
- 4.9. CA reminded the group of past discussions on committee members delivering training to boards. This has not yet been taken forward due to the necessary development of a standardised slide deck with covering notes. This could be a useful way of increasing coverage and also the committee's visibility to the sector.

4.10. ML noted that the remainder of the agenda items would be carried forward. CA added that TPR could be invited to speak about the modular code in addition to the survey outcomes when attending a future meeting.

4.11. JL wanted to ensure that absent members would be made aware of the considerable workplan for the committee, particularly in relation to the training discussion and given the limited resources available. CA noted that use of MS Teams may increase resource and capacity to deliver sessions and the next meeting could focus on the practicalities. ML requested that a follow up meeting be arranged as soon as possible to take this forward.

v. ***Committee to consider requirements and practicalities of committee members delivering standard LPB training.***

5. AOB

5.1. ML noted official thanks from the committee to CA for her hard work and dedication to the sector.

LPB EFFECTIVENESS COMMITTEE: ACTION SUMMARY

Date/ Number	Action	Comments	Priority	Owner
08 07 2021 (i)	Committee to suggest redraft of questions on knowledge and understanding to TPR for a future survey.		Medium	All
08 07 2021 (ii)	Committee to consider data gathering exercise on risk management procedures.		Low	All
08 07 2021 (iii)	LGA to invite TPR to a future meeting to discuss the G&A survey results and how the committee could effectively benchmark Fire schemes.		High	LGA
08 07 2021 (iv)	LGA to draft commentary on the key survey highlights and areas for development to include in a future bulletin.		High	LGA
08 07 2021 (v)	Committee to consider requirements and practicalities of committee members delivering standard LPB training.		High	All



Actions and agreements
Thursday 30 September 2021
MS Teams

PRESENT

Joanne Livingstone	SAB Chair
Cllr Nick Chard	Scheme Employer Representative (LGA)
Cllr Nikki Hennessy	Scheme Employer Representative (LGA)
Cllr Roger Phillips	Scheme Employer Representative (LGA)
Cllr Leigh Redman	Scheme Employer Representative (LGA)
Philip Hayes	Scheme Member Representative (FRSA)
Brian Hooper	Scheme Member Representative (FBU)
Matt Lamb	Scheme Member Representative (FBU)
Pete Smith	Scheme Member Representative (FBU)
Mark Rowe (sub)	Scheme Member Representative (FBU)
Des Prichard	Scheme Member Representative (FLA)
Glyn Morgan	Scheme Member Representative (FOA)
Jane Marshall	Legal Adviser
Helen Scargill	Technical Adviser
James Allen	First Actuarial
Craig Moran	First Actuarial
Claire McGow	SPPA (observer)
Alan Wilkinson	SPPA (observer)
Claire Hey	LGA – Board secretariat
Rachel Abbey	LGA – LGPC Pensions Team (Minutes)
Josh Goodkin	Home Office
Anthony Mooney	Home Office
Cat Weston	Home Office

1. Apologies and conflict of interest

- 1.1 Apologies were received from Cllr Roger Price, Cllr Ian Stephens, Roger Hirst, Rob Hammond, Frances Clark, and Ian Hayton.
- 1.2 Joanne Livingstone (JL) and the Board congratulated Claire Hey (CH) on her recent promotion and welcomed her to her first meeting as Senior Pensions Adviser. JL informed the Board that Rachel Abbey (RA) from the LGA LGPS team was attending to take minutes.
- 1.3 No conflicts of interest were declared. JL reminded the Board that any conflicts of interest must be declared at the meeting or by sending a note to the LGA.

2. Minutes from previous meeting and Chair's update

- 2.1 The minutes of the [meeting held on 24 June 2021](#) were accepted as true and accurate. The Board agreed not to publish any of the additional papers due to the confidentiality of their contents.

Table 1: Update on actions from meeting of 24 June 2021

Minutes reference	Action	Progress
5.1.14	Seek agreement from HM Treasury (HMT) to publish McCloud factsheet	Agreement received and McCloud factsheet published on fpsregs.org website
6.26	Board members were invited to provide comments by email in order for the SAB to write to software suppliers with follow-up questions. Secretariat to liaise with providers on availability of presentations.	No comments from the Board have yet been received. The Board is keen to maintain contact with software suppliers and to monitor their progress on remedy preparations. Providers have agreed to the publication of their papers on the Board website. Waiting for suppliers to comment on certain areas of interest. CH to work on follow up letter to suppliers to keep relationship going.
6.1 (11.06.2020)	SAB to provide views on eligibility of apprentices to the FPS and consider any updates needed to the eligibility factsheet.	No progress to report. JL asked for further comments from the Board to take this forward.

- 2.2 JL thanked First Actuarial for their input in responding to recent HMT consultations. The Board shared their responses with the Police SAB to assist with their consultation responses.

2.3 Other matters arising from the minutes of the last meeting and from the Chair's update will be covered in later agenda items.

3. Home Office legislative update

3.1 Cat Weston (CW), Anthony Mooney (AM) and Josh Goodkin (JG) from the Home Office delivered updates on current legislative issues.

3.2 CW thanked the Board for their continued input during a busy period, particularly for their recent responses to HMT consultations.

3.3 The Government is currently considering responses to the discount rate methodology consultation. HMT's review of the level of the discount rate may affect employer contribution rates from April 2024. The 2020 Scheme valuations will also be affected by the other recent HMT consultation on the public service pensions cost control mechanism.

3.4 The Public Service Pensions and Judicial Offices (PSPJO) Bill was introduced in the House of Lords on 9 July 2021 and had its second reading on 2 September 2021. Next stage is Committee, due to start in the second week of October. The latest on the Bill including minutes of the second reading is available on the [dedicated Bill webpage](#).

3.5 HMT intends to produce a policy note on remedy as a whole. CH asked whether that note would cover both prospective and retrospective remedy. CW confirmed that it would cover both, but that there would be more detail on retrospective remedy, although there is more that is yet to be determined.

3.6 Technical changes to the tax system will be introduced by the Finance Bill. This includes changes that will be necessary to make the remedy work.

3.7 The Home Office is working on drafting regulations to implement the remedy. CW expects a six-to-eight-week formal consultation to start in November. Secondary legislation will be laid in Parliament in February or March 2022 to come into force 1 April 2022.

3.8 More complexities lie in creating legislation to introduce the deferred choice underpin. The Home Office is grateful to the LGA and a group of administrators for their contribution to this project. The plan is to resolve as many issues as possible in 2021 ahead of drafting regulations and consultation in 2022. Those regulations must be in force by October 2023, and CW believes it is unlikely that they will be implementing earlier than this date due to multiple complexities.

3.9 Where the Home Office is responsible for making decisions on outstanding policy issues, it will discuss these with the Board. This includes three issues raised by the Board in its recent letter to HMT.

- 3.10 The Home Office will share an updated high-level timeline in the next couple of weeks.
- 3.11 Cllr Roger Phillips (RP) asked whether the Minister is engaged and has been briefed on the process and the importance of the implications for the Fire and Rescue Service. CW confirmed that the Minister is thoroughly engaged.
- 3.12 Des Prichard (DP) asked whether there was any risk that competition for Parliamentary time could mean that the 31 March 2022 date for moving all members to the reformed schemes could be delayed. CW confirmed that the primary legislation fixes this date, but this is on the risk register. The dates will not change if all goes well with the passage of the Bill.
- 3.13 JL asked for more information on timescales. CW confirmed that the policy note and the updated timeline are expected in the next two weeks. When discussions on outstanding policy issues can take place depends on how many issues there are and what progress is made. The Home Office is hopeful that it will be in 2021.
- 3.14 JG greeted the group and gave a brief update on the Bill Clause Assessment spreadsheet. This provides the Home Office's informal view on the clauses of the PSPJO Bill that are relevant to the Police and Firefighters' Pension Schemes. The Home Office shared the spreadsheet with the Board at the beginning of September. The aim is for the spreadsheet to indicate areas for discussion and to identify whether policies will be led by the Home Office or by HMT.
- 3.15 One issue the spreadsheet covers is the adjustment of contributions for members of the FPS 2006. The Bill allows members to defer a refund of contributions in 2023 until they make their deferred choice. The Home Office will need to decide whether to offer this option. The Home Office will discuss this issue with the Board before making a final decision.
- 3.16 JL asked whether there was any disagreement about the split of responsibilities between the Home Office and HMT. CW confirmed that the split is based on a Home Office reading of the Bill, but that HMT would have oversight of decisions made by the Home Office.
- 3.17 AM introduced the prospective drafting note that was shared with the Board in advance of the meeting.
- 3.18 The PSPJO Bill provides the primary legislative powers to implement remedy. Each public service pension scheme will make secondary scheme-specific regulations to introduce remedy.
- 3.19 Prospective aspects of remedy have to be introduced from April 2022. These were covered in the drafting note and include:

- 3.19.1 Protected members to be moved to reformed scheme from 1 April 2022 (all unprotected or taper protected members will already have moved by that date)
- 3.19.2 Legacy schemes closed to future accrual from 1 April 2022
- 3.19.3 Protect final salary link for protected members who move from the legacy scheme to the reformed scheme.

3.20 There are two outstanding policy issues:

- 3.20.1 Ill health retirement where the process begins before 1 April 2022 but ends after that date. This is an issue across all unfunded public service schemes, and there is no decision yet on which scheme the member retires under. Helen Scargill (HS) noted that a member is not necessarily better off taking ill health benefits from the legacy scheme.
- 3.20.2 What happens to contracts to purchase additional service that are ongoing after 31 March 2022.

3.21 In response to questions from JL and CH, CW confirmed that:

- 3.21.1 The secondary regulations will be laid in Parliament as normal, but the individual scheme amendments will not be seen during the passage of the Bill.
- 3.21.2 The secondary regulations are currently being drafted, but decisions are needed on outstanding issues, such as how to prevent continued accrual in the legacy schemes after 31 March 2022, before they can be completed.
- 3.21.3 The formal consultation on draft amendment regulations will give pensions professionals the opportunity to comment on those regulations and highlight any drafting errors. CW welcomed comments on the drafting note if any errors or omissions are identified.

4. [Paper 1: FRA remedy self-assessment survey](#)

4.1 CH gave an overview of the contents of Paper 1. The paper covers the survey of FRAs conducted over the summer concerning:

- 4.1.1 How prepared they are for remedy to remove age discrimination.
- 4.1.2 How prepared they are for the second options exercise for special members of the FPS 2006.
- 4.1.3 What problems are caused by the reducing number of operators in the FPS administration market.

4.2 The main points from the results of the survey are:

- 4.2.1 100 percent response rate achieved by extending the closing date, but some FRAs did not fully answer all questions.
- 4.2.2 60 percent of FRAs are covered by two administrators and smaller providers are leaving the market.
- 4.2.3 Half of FRA contracts with their administrator will end in the next five years and a third of FRAs plan to tender for a supplier at the end of the contract.
- 4.2.4 Difference of opinions about the future of the market, with half wanting to keep the current arrangements and a quarter favouring a smaller number of specialist suppliers.
- 4.2.5 85 percent have started looking at data for the Sargeant remedy, the main concern in this area is timing. The exercise to update records should not be complicated but it is expected to be time consuming. Software suppliers have started work on programmes to convert CARE into final salary service.
- 4.2.6 91 percent expect to be able to get updated contributions data for members moving from the reformed to the legacy scheme for the remedy period (and potentially back again when the member makes a deferred choice).
- 4.2.7 The mechanics of the Matthews settlement have not yet been established and so progress is limited. Some FRAs have started basic scoping for eligible individuals and working on communications.
- 4.2.8 87 percent expect to need additional resources to be able to deliver remedies, but most do not have an allocated budget for direct and indirect remedy costs. CH is working closely with the Fire Finance Network to monitor finance implications of the remedies.
- 4.2.9 Over half had changed administrator or payroll provider since the start of the remedy and this could cause problems in accessing data. The Matthews special members exercise may require payroll data from the 1970s.
- 4.2.10 Tax will cause complications – both in amending pension contributions and potentially re-opening past annual allowance pension input periods. Some processes and calculations will be the responsibility of administrators.

- 4.2.11 FRAs expressed their preference for tools to be made available to members to help them understand their options and make decisions concerning remedy. The most popular options were a suite of member scenarios and online tools with a link to the member's pension record. Standalone tools were less popular as they rely on member input to get meaningful and accurate results.
- 4.2.12 Half of FRAs are providing member-specific information, generally in relation to immediate detriment cases. They are also providing generic information based on templates produced by the LGA or the Government. The LGA is the first choice to produce member communications, although this is expected to be a collaborative effort. FRAs are expected to provide information to their workforces, although administrators may be the main point of contact for queries.
- 4.2.13 The take-up rate of the first special options exercise was lower than expected. Consistency of information and guidance may help to improve understanding and take-up rate for the second exercise.
- 4.2.14 Most FRAs have remedy on the corporate risk register (85 percent).
- 4.2.15 Most FRAs agreed that the LGA is best placed to lead on remedy implementation including policy engagement with the Government, communication, and engagement with administrators.

4.3 There are a number of recommendations following the completion of the survey:

- 4.3.1 Conducting an abridged version of the survey at regular intervals to monitor progress.
- 4.3.2 Improving routes to administration procurement – although this will not introduce any additional options. Views on this recommendation are welcomed.
- 4.3.3 Technical Group, in consultation with the Board, to set the approach to take where data is not available.
- 4.3.4 Monitoring information from Government and working with the Technical Group to produce guidance on contribution adjustments.
- 4.3.5 Work with administrators and software suppliers on pensions tax adjustments when more information is known.

- 4.3.6 Work with the Fire Finance Network on finance implications and LGA Workforce team to ensure nominated contact details are up to date and information shared with those who need it. The nominated contact at each FRA receives information about the legal processes in Sargeant and Matthews.
 - 4.3.7 The Communications Group to add some remedy specific information to the member website by the end of October and make sure members receive timely information in order to make choices.
 - 4.3.8 Encourage all FRAs to have a remedy project team with named leads.
 - 4.3.9 LGA to consider training needs and how these can best be met.
- 4.4 DP expressed concerns about the FRAs that have not reported remedy as a risk to their local pension board and can't obtain historical data, for example. DP asked whether the same FRAs that are struggling in all areas. JL acknowledged that FRAs may not be able to access payroll data from 20 years ago but expected more recent pay information to be available. The Board has a role to help develop solutions where data is not available.
- 4.5 RP echoed DP's concerns as to whether the Board could identify the FRAs that are struggling and encourage them to improve. The Home Office may get involved if they do not. An administrator survey will tell us if some FRAs are trying to abdicate their responsibilities to their administrator.
- 4.6 RP's view is that the remedy issue should be brought up with the National Fire Chiefs' Council (NFCC). There is a reputational issue for all FRAs if one fails in these exercises. CH will be presenting the survey results at a future meeting of the Age Discrimination Senior Stakeholder Group. Any gap analysis could be taken forward through the NFCC.
- 4.7 Matt Lamb (ML) believes that LPBs are best placed to concentrate efforts to improve FRA performance in these areas.
- 4.8 AM pointed out that members eligible for the second options exercise should already have been identified, although it does cover service before the year 2000. There are provisions in the scheme rules that allow the calculation of pensionable pay where complete data is not available.
- 4.9 Cllr Nick Chard (NC) asked about the cost of switching contributions when members move from one scheme to another.

- 4.10 NC asked whether 60 percent of FRAs using two administrators introduces a problem of resilience, particularly if more FRAs move to the large suppliers. HS believes that county council operators are likely to have a single expert on fire which presents a risk. A single administrator would not work due to the lack of competition. A small number of specialists in competition with each other is the best option of the three and yields the best results in HS's view.
- 4.11 JL asked where struggling FRAs can get support other than the LGA. CH is not aware of any mentoring or support networks but is looking at forming administrator working groups as the projects develop.
- 4.12 Cllr Nikki Hennessy (NH) asked whether there was any data on the numbers of complaints from retired firefighters. JL noted that complaint cases may end up with the Ombudsman. LPBs will know about complaints, but this is not data that the Board collects. CH pointed out that the Board does gather data on IDRP, but these results are not split based on member type.
- 4.13 Glyn Morgan (GM) asked whether it is possible for FRAs to attract new staff and train them to deliver remedies within a short timeframe. HS does not expect to be able to recruit experienced pension staff. They are more likely to appoint new staff to work on business as usual, with more experienced and knowledgeable staff working on immediate detriment and remedy cases.
- 4.14 HS gave the administrator perspective. Her expectation is that requests for information about remedy should go to the FRA. The administrator expects to supply specific member figures including complex annual allowance calculations. She would be happy to complete a survey as an administrator to provide an update on their position.
- 4.15 JL asked for views on the tone of the cover note that accompanies the survey results. JL believes the cover note can be used to note any surprising results from the survey. RP believes that the tone should reflect the Board's concern that some FRAs do not appear to have prioritised remedy issues. This should be followed up by contacting FRAs that are struggling directly, passing this information to the Home Office if no progress is made.
- 4.16 In CW's view it is important to emphasise the need for FRAs to be prepared for remedy. The Home Office would be pleased to work with the Board to see how they can support those who are struggling. AM pointed out the FRAs should be aware of the legal consequences of not dealing with remedy correctly.

Action 03.10.2019 (7)

- (1) Secretariat to prepare a similar but shorter survey for FPS administrators.
- (2) Secretariat to undertake further analysis to see whether gaps identified in the survey results are spread or concentrated in a small number of FRAs with a view to following up with them directly.
- (3) Cover note to be drafted on behalf of Board to accompany survey results.

5. Paper 2: Remedy tools procurement

- 5.1 CH delivered the main points from Paper 2, which follows on from the last agenda item.
- 5.2 The Fire Communications Working Group (FCWG) has been considering what materials and tools members will need to make the best choices concerning remedy.
- 5.3 The Board is asked to consider what options would be best in terms of value for money and how useful they will be for scheme members.
- 5.4 The most popular option is a collection of scenarios and personas that reflect real life situations that members may find themselves in. The purpose would be to explain how they might be impacted by the remedy and what choices are open to them. Scenarios may cover calculation of CARE and final salary benefits and the impact of the deferred choice. Scenarios could also cover the position when a member attains 30 years' service.
- 5.5 It would not be possible to cover every member's circumstances. This option would mean the information could be provided in an easily understandable format and target as much of the member population as possible. Different member types could be prioritised based on areas of greatest concern.
- 5.6 GAD can provide this tool and have produced an example. This is an early draft that does not include full information, the impact of reaching 30 years' service is omitted, for example. Other companies have expressed an interest in supplying these personas and scenarios. The Board was asked to decide on how they want to proceed.
- 5.7 Craig Moran (CM) declared that his organisation would be interested in bidding to supply these resources. He questioned whether GAD may be the preferred provider if a consistent message was required across all public service schemes. CH's view is that workforces of different schemes have different requirements that may not be met by the same tools and resources.

- 5.8 CM pointed out that scenarios present less risk as they present generic information only. An online portal purports to supply information specific to an individual and therefore there is more risk that a member will base decisions on the results a portal returns.
- 5.9 GM likes the idea of personas but wants to see proposals from other potential suppliers. CH noted that GAD is likely to produce scenarios with correct results, but they may not be the best to produce communications in plain English for members. JL agreed that the ideal provider is someone who can help members understand what will make a difference to their benefits.
- 5.10 The Scheme Management and Administration (SMA) committee saw a demonstration of the GAD prototype modeller in August. The tool is intended to allow members to model total retirement benefits in both schemes, giving members an idea of what remedy means for them, what option may be better for them and what level of income they might expect in retirement. Its use relies on the member inputting data – salary increases, average weekly earnings increases, commutation options, and retirement date. It does not reflect member-specific circumstances such as pension sharing, annual allowance debits, promotional salary increases or additional commutation options. The estimated cost of the modeller is around £60k to £80k, plus ongoing maintenance costs.
- 5.11 Half of respondents to the survey would like a modeller, but three quarters favoured an online tool directly linked to the member’s pension record. The modellers are expected to be available sooner, but a downside is its reliance on members inputting the correct information.
- 5.12 The modeller would be intended only to be used in advance of the October 2023 deadline for amending member records. Cllr Roger Price provided a view in advance of the meeting that significant spending on a short-term solution may not be the best use of funds.
- 5.13 GM agreed with Cllr Price – members want to know accurate information based on their own circumstances, not a tool that provides indicative estimates. NH noted that many members would prefer to talk to someone in person about their own position, not use a tool.
- 5.14 HS does not expect calculators for administrators to be available until after October 2023, and that member calculators will be developed separately. Member tools may not be available until 2024, and this might influence the Board’s decision on which resources to procure now.
- 5.15 ML noted that accuracy is paramount to individuals and that any tools must be readily available for members to use. The results must be accurate enough that members can make a valid decision about which scheme to choose for the remedy period.

5.16 DP made the point that any modeller can only provide indicative results. It is not possible for the modeller to reflect changes in a member's pay or allowances, or their annual allowance tax position.

5.17 CM noted that a limited number of members will be asked to make a choice of scheme for the remedy period. Only members who have already retired will have to make an immediate choice. JL said that tools to improve understanding will help to prevent members making decisions now that affect the value of their pension. There may not be a need for precise pension figures if the purpose of the resources made available is to help members understand the implications for them based on what type of member they are.

5.18 HS agreed that improving understanding was important and that scenarios could be used to convey that message to members. Administrators will not have the resources to perform multiple calculations for each member. Any calculations up to 2023 will have to be done outside of the pension administration system.

5.19 The view of the majority of the group is to proceed with scenarios.

Action 30.09.2021 (5.19)

Secretariat to pursue commissioning work on scenarios and personas to represent different member types and the impact that remedy may have on their benefits – via SMA committee.

5.20 CH went on to explain that some members do not engage with long written materials. Member videos could be an alternative to provide alongside written materials. Videos with subtitles meet accessibility requirements and could reach a large number of members. The LGPS uses animations to communicate simple messages about the scheme to members. CH asked if the Board would support the procurement of a video covering remedy for firefighters.

5.21 Videos would be hosted on the fpsmember.org website. JL asked whether members are using the national site. One of the reasons members are not using the member site at present is because it does not contain any information about remedy. RA pointed out that the LGPS videos are available on the national member website but that individual administering authorities also host the videos on their websites or provide direct links to them.

5.22 RP asked whether a simpler, cheaper option might be a video of a person describing the remedy and how it will affect members.

5.23 Mark Rowe (MR) commented that communications about the scheme are shared widely through social media and he would welcome a format that can be shared easily through these channels.

5.24 Philip Hayes (PH) raised a concern about the cost. The cost of delivering the videos would depend on how much of the work could be done by the LGA internally. The cost quoted included producing Welsh language versions of the LGPS animations and so the cost to the FPS would be lower.

5.25 CM related the experience of the NHS who launched member videos a few years ago. Members were not engaging with the written resources that were available and so videos were used to provide basic information about certain topics and directing members where to go for more information.

5.26 DP expressed concern about how much useful information you could include in short video about such a complex subject. CH pointed out that the cost was based on 90 second videos, but that they were not restricted to that timing for explaining remedy.

Action 30.09.2021 (5.26)

Secretariat to progress the procurement of videos to explain remedy.

6. Updates from committees

6.1 RP updated the Board on the meeting of the [Cost Effectiveness Committee held on 13 July 2021](#).

6.1.1 The main purpose of the meeting was to review HMT consultations on the cost control mechanism and the discount rate methodology.

6.1.2 The purpose of the cost control mechanism was stability, but the first time the process ran, all public service schemes breached the cost cap floor. HMT has proposed adding an economic check to the cost control mechanism to ensure that the scheme remains affordable and sustainable. The Government's response to the consultations is awaited.

6.1.3 JL understands that HMT responses to these consultations is expected soon. The Board is likely to call on the Cost Effectiveness Committee when those responses are published.

6.2 ML updated the board on the meeting of the [LPB Effectiveness Committee held on 8 July 2021](#). This was the first meeting of the committee since March 2020.

6.2.1 The Committee considered the results from [TPR's Public service governance and administration survey](#). This survey ran from January to March 2021 and concentrates largely on the six key processes that TPR monitors as indicators of public service scheme performance.

- 6.2.2 The Committee intends to use the results of the survey to assist LPBs. There was implied criticism that LPB membership was low. Membership of the 44 boards should be compared against the single board for the centrally administered schemes; context is important.
- 6.2.3 Important issues arising from the survey results included scheme complexity, the number of LPB meetings in the year and the impact of lockdown, risk and risk registers, annual benefit statements, knowledge and understanding of LPBs and cyber security.
- 6.2.4 The Committee considered what it could do to best assist LPBs. They want to help Boards to be able to scrutinise pensionable pay decisions and ensure the remedy process is successfully implemented in each FRA. The Committee considered project plans, training, peer support and timelines to assist LPBs.
- 6.2.5 The Committee will re-convene to finish considering the results of the survey and the rest of the agenda. They plan to invite TPR to attend a future meeting to talk about their expectations.
- 6.2.6 JL suggested that this meeting could also cover the new combined code of practice.

6.3 DP provided an update from the meeting of the [SMA committee held on 16 July 2021](#).

- 6.3.1 The priority of the Committee is to support the work of the SAB and FRAs to make sure that the scheme is well managed and administered. They focus on communicating scheme changes and facilitating collaboration to improve consistency of interpretation of the scheme rules across FRAs.
- 6.3.2 The Committee discussed the development of scenarios and the use of modellers.
- 6.3.3 The Committee discussed the reduced number of administrators and the possible impact of further reductions in the future. Fewer administrators may result in more consistency. FRAs want to minimise cost, but administration of the scheme is complex. The amount of work that an FRA undertakes in-house may impact on the administration cost. The Committee is interested to understand the LPB's involvement in overseeing the responsibilities of the FRA and the administrator and their views on the effectiveness of their respective remits.

- 6.3.4 Rising software costs will be passed on to FRAs. The survey results show that 40 percent of FRAs want to commission more services from their administrator, but it is not clear whether they have the funding in place to do so.
- 6.3.5 A member of the Committee recounted their experience of going out to tender for a new administrator. The tender process is very time-consuming, and the complexity of the FPS may make it more likely that smaller administrators will leave the market.
- 6.3.6 If a small number of larger administrators remain, there is a concern that they will not be able to recruit new staff with expertise in the fire scheme to increase their capacity.
- 6.3.7 The Committee considered how they could facilitate administrator groups so that they can better understand the issues that administrators are facing. The Committee intends to 'sponsor' a coffee morning to address the issues faced by administrators and software suppliers.
- 6.3.8 JL suggested a coffee morning for LPB chairs to improve engagement, to be added to the LPB effectiveness committee action summary.
- 6.3.9 CH raised the issue of the number of software suppliers. The two biggest administrators both use the same software supplier and if more FRAs choose to appoint them that supplier moves closer to a monopoly position. This represents a risk that the Board should be aware of.
- 6.3.10 JL asked whether anything could be done to mitigate this risk, and what might happen if the software supplier were to go bankrupt. JL asked for input from anyone on the Board who had experience in this area.

7. Paper 3: Resourcing and risk register review

- 7.1 CH went through the risk register highlighting proposed additions and changes to the risk register.
- 7.2 The key person risk is increased following the departure of Clair Alcock from the LGA team. Although Clair's post has been filled, there is still a vacancy and the team will be operating at reduced capacity until Christmas. This risk is mitigated by increasing the team size to increase resilience.
- 7.3 The wording of the 'Excessive charges' risk has been amended to emphasise the small number of suppliers who have the expertise to deliver scheme resources and tools.

- 7.4 The 'Responsible body' risk has been significantly reduced as a result of the positive engagement with the Home Office throughout the remedy process.
- 7.5 The 'Regulatory' risk has been split into two to recognise two separate issues, although both risks lead to the same result:
- 7.5.1 The first legislation risk relates to new legislation and the risk that it may be poorly drafted or contain errors that are not picked up or corrected during the consultation process.
 - 7.5.2 The second risk is that existing legislation may contain historic drafting errors or may be inconsistent between the schemes because they have been drafted at different times.
- 7.6 Both legislative risks impact on the Board's ability to provide consistent and robust advice, for example on pensionable pay and the definition of 'temporary' within the schemes.
- 7.7 A cost / funding risk has been added. This reflects the Board's interest in monitoring the costs and liabilities of the scheme. In particular the Board will interrogate the assumptions that are being used for the valuations. The Board also has a concern that historical changes in the definition of pensionable pay could lead to cross-subsidisation across FRAs.
- 7.8 There is a risk that the scheme will become unsustainable due to increased costs. There is also a reputational risk to the Board associated with not taking timely action to mitigate such risks.
- 7.9 First Actuarial has assisted the Board in providing robust responses to recent consultations. The Cost Effectiveness Committee also has a role to analyse assumptions and feed into consultation responses.
- 7.10 All risks to be reviewed in greater detail at the meeting in December 2021.
- 7.11 GM is content with proposed changes to the risk register. The Board previously considered including a breach in the cost-cap on the register in 2018. GM considers that the Board has a role to keep costs controlled and a breach in the cost-cap could be lead to a perceived failure of the Board to perform its role.
- 7.12 In JL's view, the role of the Board is to make sure that FRAs are operating consistently. All FRAs having to meet the cost of an expensive decision made by one FRA could be considered a failure of the Board. Very little discretion has been given to the Board to implement cost-cap decisions. JL asked for input about the earlier discussion.

- 7.13 In DP's view, the risk register should include risks that the Board has some degree of influence over mitigating. In his view, the Board has little control to put anything in place to mitigate the effect of the cost-cap. CM echoed DP's comments. Including the cost-cap on the risk register could mean that the Board would be criticised as a result of a breach. The Board has a role to respond to a breach in the cost-cap, but not in influencing whether such a breach occurs.
- 7.14 GM's view is that costs are central to the work of the Board and so is happy for the funding to appear on the risk register. Cllr Leigh Redman (LR) agreed that this risk should be included as the register should include all risks.
- 7.15 JL agreed that risks should be those that the Board can influence. But a risk should still be on the register even if it cannot be totally mitigated so that the Board understands the consequences of that risk.
- 7.16 CH then gave an update on resourcing. The existing adviser post has been split into two roles: one to deliver employer support, the other to provide governance support including facilitation of the Board and its committees. Splitting the roles increases resilience, ensures recruitment of high-quality individuals, and clearly defines responsibilities.
- 7.17 The Board will need to approve the additional spend to increase the team size. The budget is currently being finalised. In the interim, approval in principle from the Board would be sufficient to start the recruitment process. The additional cost would also include a half time post to provide technical support, primarily to work on web development.
- 7.18 MR asked whether employers would need to sign off this additional expenditure and what the result would be if the NFCC did not approve the spend. CH pointed out that the LGA may need to reduce the services they offer if the increased budget was not approved.
- 7.19 RP stated that the Department is responsible for approving the budget – sign off is with the Minister. Participating employers then meet that agreed budget. The general principle is the need to build capacity and resilience of the Board. A small number of FRAs present a risk of bringing down the integrity of the scheme. The Board must have the capacity to meet that challenge.
- 7.20 CH confirmed that the Minister only approves the SAB part of the budget.
- 7.21 The Board agreed to the additional funding to create a new post and a new part time post.

8. Paper 4: LGA project management update

- 8.1 CH gave a brief update on the LGA project management paper and asked the Board to note its contents.

9. Paper 5: Update on action summary

9.1 The Board was asked to note the contents of paper 5.

10. Any other business and date of next meeting

10.1 No other business was raised by the Board

10.2 The date of the next meeting is 9 December, and the meeting will be held in person at 18 Smith Square. The meeting dates for 2022 will be decided at that meeting. Hybrid meetings may be held in the future, depending on the technology and whether it distracts from those who are attending in person.