



OFFICIAL

Scrutiny and review

Local Pension Board

Date: 11 January 2019

Agenda Item:

5

Submitted By: Chief Employment Services Officer

Purpose

To scrutinise and review the following:

- GMP Reconciliation
- Discretions made by Scheme Manager
- Breaches register
- Pensions Risk register
- Compliance deadlines

Recommendations That the report be noted and further action taken as identified.

Summary

It is one of the requirements of the Local Pension Board that members undertake to scrutinise areas of relevant to the administration of the Firefighters' Pension schemes. This report identifies six areas of scrutiny and review.

Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes:

- Annex A - GMP Reconciliation
- Annex B - Discretions made by Scheme Manager
- Annex C - Breaches register
- Annex D – Pension Risk register
- Annex E – Compliance deadlines

- 1 Introduction**
- 1.1 Local Pension Board members are to be conversant with Firefighter Pension scheme rules and other administration policies relevant to the schemes.
- 2 Information**
- 2.1 This report covers six areas for scrutiny and review as follows:
- GMP Reconciliation
 - Discretions made by Scheme Manager
 - Breaches register
 - Pension Risk register
 - Compliance deadlines
- 2.2 Members are invited to consider the annexes and consider if any further action would be appropriate.
- 3 Financial Implications**
- 3.1 There are no financial implications arising from this report.
- 4 Legal Implications**
- 4.1 The Chief Legal & Governance Officer has considered this report and has no observations to make at the time of submission of this report but may provide legal advice at the committee meeting and/or respond to any requests by members for legal advice made at the meeting.
- 5 Human Resource and Diversity Implications**
- 5.1 There are no HR or Diversity implications arising from this report.
- 6 Health and Safety Implications**
- 6.1 There are no Health and Safety implications arising from this report.
- 7 Service Plan Links**
- 7.1 Keeping members updated with regard to pension legislation is an integral part of the acquisition of knowledge and learning required by the relevant regulations and is demonstrative of the Authority's commitment to provide "effective and ethical governance".

AGENDA ITEM No. 5 – ANNEX A

Guaranteed Minimum Pension (GMP) Reconciliation

On 12 June 2018 Claire Hey (Assistant Firefighters' Pension Adviser) wrote to all FRAs requesting an update on progress of meeting the deadline for contracted-out reconciliation by the end of this year.

West Yorkshire Pension Fund will deal with this exercise on our behalf and were asked to provide an update on progress. Although the Pensions Officer has sent a number of emails to WYPF asking for this a reply is yet to be received.

A response was sent to Claire Hey at the end of July advising that we're having difficulty getting the information they require from our administrators. We therefore had no option than to report a Red RAG rating.

Update

West Yorkshire Pension Fund confirmed the following in their November monthly report:

Contracting-out reconciliation update

Data has been submitted to HMRC by the deadline of 31 October 2018. The types of queries submitted to HMRC consist of:

Member on our records but not HMRC records

Member on HMRC records but not on our records

Where HMRC and Fire Authority Scheme Contracted out numbers are different (SCON)

Where HMRC and Fire Authority contracted out dates are different

Where HMRC shows Fire Authority have GMP liability but member has transferred out of the FPS.

We are now waiting form HMRC to respond, they have a 3 month target date to complete their investigation, and responses will follow in due course.

AGENDA ITEM No. 5 – ANNEX B

Discretions made by Scheme Manager

Since the last Local Pension Board meeting the Scheme Manager has been asked to exercise his discretion on one occasion. This was to extend time limits for transfer in request.

Background: The individual was under the impression that they had transferred in all previous pension rights when they first joined WYFRS. It was only when their previous provider wrote to them with the value of their deferred benefits that they realised one had been missed.

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

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

Compliance Breach Register

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

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
Failure to put appropriate governance arrangements in place and monitor risk	2	7	14	<ul style="list-style-type: none"> Scheme Manager and Pension Board awareness of legal responsibilities Pension Board given up to date information on legal responsibilities • Terms of reference in place and under review • Procedures for assessing and managing risk • Procedure to identify, assess and report breaches • Suitable frequency of Pension Board meetings 	<p>Scheme Manager</p> <p>Pension Board Chair</p>	<p>Annual</p> <p>As Required</p>	<p>July 2019</p> <p>July 2019</p> <p>July 2019</p> <p>July 2019</p>
Failure to interpret rules or legislation correctly	2	7	14	<ul style="list-style-type: none"> Appropriate Pension Board Member training Up to date and documented training log, showing completion of scheme-specific training and The Pensions Regulator's educational material • Technical advice and regular updates made available 	Scheme Manager	Ongoing	<p>LPB Meetings</p> <p>LPB Meetings</p>

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
				<ul style="list-style-type: none"> • Monthly KPI reporting on data issues – provide summary at each PB meeting 	Pensions Administrator / Scheme Manager	Ongoing
				<ul style="list-style-type: none"> • Data review arrangements in place including periodic address cleanse 	Pensions Administrator / Scheme Manager	As Required
				<ul style="list-style-type: none"> • Process to enact a Data Improvement Plan and report breaches, if required 	Scheme Manager	As Required
Administration process failure / maladministration	4	8	32	<ul style="list-style-type: none"> Formal SLA in place with third party administrator and monitoring arrangements assessed as adequate Quarterly client meetings and monthly reports including KPIs 	Scheme Manager	Monthly
				<ul style="list-style-type: none"> • Ongoing dialogue between Scheme Manager and third party administrator, including process improvement plans 	Scheme Manager	Ongoing
				<ul style="list-style-type: none"> • Clear identification of roles, authority levels, data security and data protection processes 	Scheme Manager	Annual

Risk Area 3 - Financial		Score (likelihood x impact)		Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	As per internal audit cycle	Annual	Scheme Manager	As per internal audit cycle
• Scheme Manager Disaster Recovery Plan up to date and appropriate											
• Contracts and other essential documents recorded on a central database											
Excessive charges by suppliers / additional liabilities on the operating budget	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	As per internal audit cycle	Annual	Scheme Manager	As per internal audit cycle
• Periodic review of suppliers	3	2	6	Regular checks of transactions and charges against contract terms/ robust methodology used to forecast pension accounting data							
• Annual review of scheme budget, quarterly review of cost incurred against budget					Scheme Manager	Quarterly	July 2019				
• 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 2019				

Fraud / Fraudulent behaviour	1	10	10	Budget monitoring and appropriate payment processes including use of authorised signatories and data validation
				• Monitor incoming and outgoing scheme funds and membership movements against scheme forecasts – reconcile actual transactions against forecasts
				• Authorisation of transactions in accordance with audit requirements and carried out by authorised signatories only
				• Robust data validation processes in place by third party administrator and Scheme Manager to ensure all transactions authentic
				• Audit reporting on both third party administrator and Scheme Manager's processes
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
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
				Test
				Next review

scheme				
	• Processes in place to comply with regulatory requirements on contribution rates and pensionable pay definitions	Scheme Manager	Ongoing	As per internal audit cycle
	• 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. 5 – ANNEX E

Compliance Deadlines

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

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

31 May – Year end Data

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

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

31 August – ABSs

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

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

31 October – Pension Savings Statement

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

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

30 November – TPR Survey

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

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



OFFICIAL

Employers' Pension Contributions

Local Pension Board

Date: 11 January 2019

Agenda Item:

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Submitted By: Chief Finance and Procurement Officer

Purpose To inform Members of the changes to the employers pension contributions for the 2015 Firefighters' Pension Scheme.

Recommendations That Members note the report

Summary The Government announced on 6 September that the discount rate used to determine firefighter employers' pension contributions rates had been reduced from 3% to 2.4%. This has resulted in an average increase in employers pensions contributions of 12.6% from the 1st April 2019.

Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: Letter from National Fire Chiefs Council – 1 November 2018

1 Introduction

- 1.1 Contribution rates for unfunded public service pension schemes are set using the SCAPE discount rate (Superannuation Contributions Adjusted for Past Experience) which is a methodology developed by the Government in the absence of a fund of assets.
- 1.2 The Chancellor announced in the March 2016 budget that the SCAPE discount rate was to reduce from 3% to 2.8%.
- 1.3 The Government Actuary Department (GAD) is in the process of evaluating current pension data to determine the employer's pension contribution to be applied.
- 1.4 Keeping all other assumptions unchanged, a lower discount rate will result in higher contribution rates at the next scheme valuations.
- 1.5 The greatest impact of the discount rate change will be contributions in respect of the 2015 Firefighters Pension Scheme simply because the other schemes are closed to new members. The revised contribution rates for the individual fire fighter pension schemes are currently under consultation with the Scheme Advisory Board whose results are expected mid-December.

2 Information

- 2.1 The SCAPE discount rate was introduced in 2011 and it is a model where unfunded pension scheme employer contributions are calculated. This is reviewed every 5 years and the methodology of calculation every 10 years. The budget in March 2016 announced the outcome of the first 5-yearly review and Government decided that the SCAPE discount rate should be revised from 3% to 2.8% above CPI inflation (Consumer Price Index).
- 2.2 The discount rate does not affect cash spent each year on public sector pensions, what it does affect is the split between the amount funded by employee and employer contributions and the balancing amount from the Treasury. Therefore, a reduction in the discount rate means that the Government is reducing the amount it contributes so the balance will have to be met by fire authorities.
- 2.3 Changes to the discount rate are outside cost cap agreements so increased costs cannot be shared with employees.
- 2.4 The reduction in the discount rate announced in March 2016 was estimated to increase employer pension contributions by 3% from April 2019 and this has been included within the Authority's Medium Term Financial Plan costing an estimated additional £1.1m per annum.
- 2.5 The announcement of 6 September 2018 that the discount rate would be revised down from 3% to 2.4% will mean on average an increase in employer firefighter pension contributions of 12.6% which is much greater than expected. This increase has been estimated to cost the Authority an additional £4.5m in employer pension contributions per annum from April 2019.
- 2.6 The Treasury have indicated they will provide additional funding in 2019/20 to cover the majority of these costs but have not committed to beyond that. This further adds to our funding pressures and will require the Fire Authority to find further savings to meet this ongoing revenue cost. Although we could use our reserves in the short term to cover the funding shortfall, this is not sustainable over the longer term as reserves can only be used once.

3 Financial Implications

- 3.1 Provision is included within the Medium Term Financial Plan (MTFP) for an increase of 3% in employer pension contributions. The announcement that the discount rate will reduce from 3% to 2.4% is higher than was previously estimated. This is projected to increase pension contributions by £4.5m per annum, an additional £3.4m on current MTFP provisions. The Treasury have indicated that financial assistance will be available in 2019/20 only, meaning that the Authority will be required to find further savings to meet this increased cost.

4 Legal Implications

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

5 Human Resource and Diversity Implications

- 5.1 There are no human resource or diversity implications associated with this report

6 Health and Safety Implications

- 6.1 There are no health and safety implications associated with this report

7 Conclusions

- 7.1 Changes to the SCAPE discount rate will increase employer pension contributions from April 2019. Based on current estimates this could increase revenue pension costs by over £4.5m per annum which means the Authority will need to find further ongoing revenue savings.



NFCC
National Fire
Chiefs Council

The professional voice of the
UK Fire & Rescue Service

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1 November 2018

Dear Chief Secretary,

Changes to the cost of the Firefighters Pension Scheme

The National Fire Chiefs Council has reviewed the announcement about the Valuation Directions relating to the Firefighters Pensions Scheme. As we feared, the impact of the Valuation Directions is a sizeable increase in the employer contribution from 17.6 per cent to an expected 30.2 per cent. This increase is driven by the reduction of the SCAPE discount rate to Consumer Prices Index (CPI) inflation plus 2.4 per cent, which has come out of cycle from the intent to review the level of discount rate every five years, and the methodology every ten years.

This will have a major impact on the funding challenge facing fire authorities, placing an additional 12.6 per cent on to the salary costs of firefighters, which is by far the biggest element of fire authorities' expenditure. We understand that Treasury and Home Office calculate the impact of this cost increase in 2019/20 to be £107 million, of which we understand there will be some funding of £97 million for the first year. After this period, any future funding support for these changes will need to form part of the Comprehensive Spending Review.

Unless that review secures additional funding, the impact of these pension changes is predicted to equate to the loss of a further 2700 firefighters—a reduction in frontline fire cover that could have a direct impact on public safety. This is starkly at odds with government intention in the 2010 consultation¹ on implementing the SCAPE rate, that departmental budgets set in the Spending Review will not come under additional pressure due to a change in the discount rate.

This outcome that the increase in costs falls entirely on the employer conflicts with the commitment of the Hutton Report to fix the unfair sharing of pension costs between employer and employees costs. The Hutton Report set out a 'deal', by which "*the Government should establish a fixed cost for the employers' contribution to public service pension schemes*". It is apparent from these valuation figures that this commitment has not been met, with all cost increases falling solely on the employer. We note the intention to consult on the cost cap

¹ Para 1.31

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/81610/consultation_on_unfunded_pension_condoc.pdf

mechanism, and I hope that the National Fire Chiefs Council will be engaged before and after that consultation, in order to contribute to the content and analysis.

As a result of previous government funding decisions, fire and rescue authorities have already been forced to reduce the pay bill, with the firefighter pensionable payroll falling from £1.11 billion in the 2012 valuation to a forecasted £844 million from 2019. Loading a disproportionate increase of past service costs on this smaller pay base is unsound and brings with it the risk of a perverse outcome, as fire authorities will need to apply further reductions to numbers of firefighters to afford the increased employer contribution, which in turn will increase employer contributions. In our view this would place a sizeable risk on the operation of the Firefighter Pension Scheme.

The National Fire Chiefs Council questions the soundness of a valuation process which increases employer contributions by 8.1 per cent and then due to the cost cap mechanism further imposes increases of 4.5 per cent on employers.

We would be grateful for your considerations in this matter.

Yours sincerely,



Roy Wilsher OBE, QFSM
Chair, National Fire Chiefs Council



OFFICIAL

Pension Ombudsman - update

Local Pension Board

Date: 11 January 2019

Agenda Item:

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Submitted By: Chief Employment Services Officer

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

Recommendations That the report be noted.

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

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

Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

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

1 Introduction

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

2 Information

- 2.1 Attached to this report is one Pension Ombudsman rulings that has been made since the date of the last meeting as follows;
- Mr W et al – Pensionable pay (Mid and West Wales Fire and Rescue Authority)
 - Mr N – recovery of overpayments (Kent and Medway Fire and Rescue Authority)

3 Financial Implications

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

4 Legal implications

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

5 Human Resource and Diversity Implications

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

6 Health and Safety Implications

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

7 Service Plan Links

- 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 provide "effective and ethical governance".

Ombudsman's Determination

Applicant	Mr W, Mr H, Mr S and Mr E (Mr W et al)
Scheme	The Firefighters' Pension Scheme 1992 (the 1992 Scheme); The New Firefighters' Pension Scheme (Wales) (the 2007 Scheme); and The Firefighters' Pension Scheme (Wales) 2015 (the 2015 Scheme)
Respondent	Mid and West Wales Fire Rescue Authority (the Authority)

Complaint Summary

1. Mr W et al complain that the Authority is not treating certain elements of their pay as pensionable. They believe this is contrary to the 1992, 2007, and 2015, Scheme rules.
2. The relevant rules are set out in The Firemen's Pension Scheme Order 1992 (as amended) (**the 1992 Regulations**), The Firefighters' Pension Scheme (Wales) Order 2007 (**the 2007 Order**), and The Firefighters' Pension Scheme (Wales) Regulations 2015 (**the 2015 Regulations**), respectively (see the Appendix).
3. The pay elements in dispute are Training allowance, Day crewing allowance, Self-rostered crewing (**SRC**) allowance and Urban Search and Rescue (**USAR**) allowance.

Summary of the Ombudsman's Determination and reasons

4. The complaint is partly upheld against the Authority because it has wrongly interpreted the Scheme rules and relevant case law in relation to some of the pay elements in dispute. In particular, Mr W's Training allowance and Mr E's USAR allowance payments should be considered pensionable pay.
5. I do not uphold Mr H's complaint, as the Authority is treating his Day Crewing allowance as pensionable and, in any event, I find it is not required to do so under the relevant Regulations and case law.

6. I do not uphold Mr S' complaint, as the Authority is treating part of his SRC allowance as pensionable, and I find that it is not required to treat any of the SRC allowance as pensionable under the relevant Regulations and case law.

Detailed Determination

Material facts

7. Mr W has now retired but he received Training allowance and accrued benefits under the 1992 Scheme. The allowance is paid when a firefighter is providing training. The Authority has said that firefighters typically do this for 2-3 years as part of career development; however, they can potentially carry out the role up until retirement. Mr W himself carried out training school duties as a Direct Trainer up until retirement. In particular, on 13 June 2012, the Authority confirmed in writing that his position was permanent. Its letter confirmed that he was contracted to provide 42 hours per week of day duties, and he would receive a 12% supplement to his income for the role. The 12% supplement was paid in recognition of Mr W being required to work evenings and weekends as part of the role.
8. Mr H receives Day crewing allowance and has accrued benefits under the 2007 and 2015 Schemes. Day crewing allowance is paid to firefighters working the Day crewing duty system. Under this duty system, firefighters are required to provide 35 hours per week of positive cover, and a further 7 hours per week of standby cover. The allowance is paid as a 7.5% supplement of the firefighter's basic pay.
9. Mr S receives SRC allowance and has accrued benefits under the 2007 and 2015 Schemes. SRC allowance is paid to firefighters working the SRC duty system. Under this duty system, firefighters are required to work 182 positive 12-hour shifts per year, or an average of 42 hours a week. SRC firefighters usually work a 12-hour day shift, from 10am to 10pm. In addition, they are required to provide on-call cover for a further 12 hours immediately following the day shift. Mr S has confirmed his SRC allowance is paid as a supplement equivalent to 25% of his basic pay in recognition of the contractual standby duties, and he receives it every time he is paid.
10. Mr E receives USAR allowance and has accrued benefits under all three Schemes. However, he only began USAR work in 2009 and so he believes he should have accrued benefits as a result of his USAR allowance under the 2007 and 2015 Schemes. USAR work is carried out under a secondary contract, which is separate to his primary firefighter's contract. It is also funded separately by the Welsh government. USAR contracts are generally for a fixed term of one year and renewed annually, providing that funding continues to be in place. A USAR firefighter carries out his USAR duties for an agreed remuneration in addition to his duties under his primary firefighter contract.
11. The parties to the complaint have cited case law to support their respective positions. In particular, they reference several relevant case law authorities which have

considered the meaning of “pensionable pay” in relation to firefighter pension schemes.

12. Of particular interest in this instance are Kent & Medway Towns Fire Authority v Farrand [2001] OPLR 357 (**Kent & Medway**) and Norman v Cheshire Fire & Rescue Service [2011] EWHC 3305 (QB) (**Norman**). Both of these cases considered the meaning of pensionable pay under the 1992 Scheme and Regulations. However, the judgments also give some guidance as to the interpretation of the 2007 Order and 2015 Regulations.
13. In Kent & Medway, Blackburne J identified three indicia of pensionable pay at paras 35, 36 and 39. These can broadly be summarised as:-
 1. The pay must be calculated in accordance with the firefighter’s ordinary rate of pay;
 2. The pay must be for work done under the contract of employment (a payment in lieu of leave not taken was not considered pensionable pay); and
 3. The pay must be regular in nature.
14. In relation to this last criterion, Blackburne J said regular pay is pay which is in contrast to “payments of a one-off nature, however calculated, which happen to arise or become payable in the course of, or as a result of some unexpected or extraordinary event occurring in, the firefighter’s employment”. He added that “the concept of pensionable pay is not concerned to pick up payments...above what the firefighter would have received in the ordinary course of his employment”.
15. Both parties have also referred to Norman, in which Smith J considered the pay of a firefighter who worked under the Day crewing duty system. In particular, Mr Norman was a regular firefighter who undertook retained duties, and was a member of the 1992 Scheme. The court considered whether his retaining fee, disturbance fee, and public holiday pay were pensionable after they had been incorporated into his basic salary by means of an uplift.
16. In reaching his judgment, Smith J cited Blackburne J’s three-limbed test for pensionable pay. Smith J noted, since the elements of pay had been incorporated into Mr Norman’s basic pay by way of a salary uplift, Blackburne J’s criteria were satisfied.
17. There are also two Determinations, previously issued by our Office, which are relevant in this matter. Firstly, our Office considered a complaint (reference PO-3511) in which the above case law was applied to the 2007 Order.
18. PO-3511 was a matter initially considered by our Office, before being brought before the High Court and subsequently remitted back to our Office for reconsideration on one point concerning the annual retainer fee. When considering the matter on appeal, the High Court ruled that the then Deputy Pensions Ombudsman had not erred in law

in stating that the rent, fuel and light allowances paid to the complainant were not part of the complainant's pensionable pay. In particular, the Court agreed that these elements of pay were only payable by virtue of the firefighter's assignment to a specific duty system. As such, they were not considered permanent emoluments under the relevant Regulations, as they would not be payable if the firefighter were to be transferred to a different duty system.

19. In addition, our Office recently determined a case involving similar issues (reference PO-15584). In this case, the firefighter was a retained firefighter and the relevant Regulations were The Firefighters' Pension Scheme (England) Order 2006 (**the 2006 Order**). Whilst these Regulations are not in dispute here, the provisions regarding pensionable pay are almost identical to the corresponding provisions under the 2007 Order and 2015 Regulations.
20. The parties agreed that the pay elements in dispute were emoluments for work performed in the duty of the firefighter's role. However, the Authority in that case argued that they were not pensionable as they were temporary and not permanent emoluments.
21. The Ombudsman noted that the Regulations specifically referred to pensionable pay as being pay for work performed in the duty of the firefighter's role which is not temporary; or, alternatively, any pay that is permanent. The Ombudsman found it significant that the firefighter was contractually obliged to provide services attracting the relevant pay elements regularly. The Authority argued that the firefighter might receive more of the relevant pay in some weeks than others, as he may do more than his minimum contractual obligations. However, the Ombudsman was satisfied that it was sufficient that the pay was expected. It was not necessary for the exact level of pay to always be predictable.
22. Importantly, in PO-15584, the Ombudsman did not have to consider whether the pay elements in dispute would still be considered permanent if the firefighter could be moved to another duty system. This was because the firefighter in that case was a retained firefighter working under the retained duty system. Retained firefighters only work under the retained duty system and so he could not be moved to another duty system.

Summary of the Authority's position

23. The Authority argues that the pay elements in question here arise out of specific working arrangements and as such do not have the required element of permanency to be pensionable pay.
24. In relation to Training allowance, the Authority has confirmed that the pay would not be considered as falling under B5C(5) of the 1992 Regulations. However, it reiterated that most firefighters only provide corresponding services for 2-3 years. As such, the allowance is temporary and it is only in rare instances that it would be paid permanently.

25. The Authority has also explained that SRC and day crewing allowance are paid in respect of services provided under specific duty systems. The Authority has highlighted that it retains the right to transfer firefighters from one duty system to another, and as such the relevant allowances may only be paid temporarily.
26. Regarding all three allowances, the Authority has confirmed that they are not consolidated into the firefighter's basic salary. Instead, the supplement is based on the firefighter's basic salary but paid as a separate line item on his payslip, and only for the duration for which he is providing the relevant services.
27. The Authority has added, however, that Day Crewing allowance is treated as pensionable for members of the 2007 and 2015 Schemes. This is because Day Crewing allowance is a retaining fee payment as per Section 4 Part B Paragraph 9 Grey Book, which states:

"An employee on the day crewing duty system who undertakes retained duties shall be paid an annual retainer of 5% of his or her full-time annual basic pay together with the disturbance...payments...".
28. The Authority argues that all retaining allowances are pensionable under Part 1(b) of the 2007 Order and s26(1)(b) of the 2015 Regulations, which state that a Scheme member's permanent emoluments will be pensionable, "including, in the case of a retained firefighter, **any retaining allowance**" [bold added].
29. Following on from the above, the Authority also treats part of SRC allowance as pensionable for members of the 2007 and 2015 Schemes.
30. The Authority explains that the SRC duty system is not a duty system under the Grey Book, but it has treated 5% out of the 25% uplift as pensionable for consistency. It adds that disturbance payments are paid separately under the Day Crewing system, but that they are incorporated into the larger SRC allowance. As such, it is reasonable to say that only part of the SRC allowance, the part that represents a retaining payment, is pensionable. The remaining part of SRC allowance is not treated as pensionable.
31. In relation to USAR work, the Authority has highlighted that this arises out of a secondary contract. As such, the allowance is not pay in relation to the performance of the duties of a firefighter's role, which is an explicit requirement of pensionable pay for all the Schemes.
32. Furthermore, the Authority has said that USAR contracts are fixed-term contracts and will only be renewed if the welsh government continues to fund USAR work. As such, the firefighter's USAR contract has a known end date and he may not continue USAR work after this.

Summary of Mr W et al's position

33. Mr W et al have confirmed that they became aware they had cause for complaint following an email from their Union in July 2016. The Union had been aware of the potential issue and had first raised it with the Authority without involvement from any Scheme members. The Union says its negotiations with the Authority began following the Norman judgment, as it highlighted that the Authority's position on pensionable pay may have been incorrect.
34. In relation to Training allowance, Mr W has argued that he received the pay in question as a supplement to his basic pay. In particular, it was calculated as a percentage of his basic pay and paid for the performance of his duties as a Direct Trainer. He has also said that he received it every time he was paid.
35. In relation to Day crewing and SRC allowance, Mr H and Mr S have highlighted that the court in Norman confirmed pay could be regarded as pay for the performance of a firefighter's duties, even if the pay element was specific to a particular duty system. In particular, at para 64 of the Norman judgment, Smith J said: "it might be that the payments are made in relation to the duty system but it is a false dichotomy to infer that therefore they are not made in relation to the performance of the duties of the role".
36. Furthermore, Mr H and Mr S argue that the pay elements in Norman were regarded as pensionable, as they had been paid as an uplift to Mr Norman's salary. They highlight that Day Crewing and SRC allowance are similarly paid as uplifts to their salaries, as they are supplements calculated as a percentage of their basic salary; they believe Norman ought to be followed in this case.
37. Mr H and Mr S note the ruling for PO-3511 (as summarised in paragraph 18 above) but say that it ought not to be followed, as it cannot be reconciled with Norman. They emphasise that the ratio of Norman is that a pay element becomes pensionable if it is paid via an uplift and therefore satisfies Blackburne J's indicia of pensionable pay. They argue that Norman found, at para 83, that the 2006 Order (and thereby the 2007 Order and 2015 Regulations) did not intend to change the definition of pensionable pay as set out in the 1992 Regulations.
38. Mr H and Mr S go on to argue that Mr Norman's additional pay elements would have been considered pensionable, even if they were not paid by way of an uplift to his salary. They highlight that Smith J said, at para 73, that the flexible duty system allowance was pensionable, for example.
39. In any event, Mr H and Mr S say that the Authority has not acted consistently in treating their allowance as pensionable in some instances and not others. Mr H has confirmed that his Day Crewing allowance is 7.5%, not 5%, of his basic pay; and all of this is treated as pensionable but it is not treated as pensionable for 1992 Scheme members. Mr S highlights that the way the Authority has split the SRC allowance into different types of payments is arbitrary and not supported by his SRC contract. Mr S

argues that the SRC allowance has all the characteristics of a retainer payment, and so should be considered as one in this respect.

40. Mr H and Mr S add that PO-3511 is inconsistent with Rule B5A of the 1992 Regulations and Part 3 Rule 7 of the 2007 Order (see Appendix), as these provisions refer to a Scheme member being subject to a reduction in pensionable pay as a result of being moved within an existing role. Mr H and Mr S have said that these provisions would not make sense if the Authority's arguments are correct, as an allowance could not be pensionable pay in the first place if it could be lost by a Scheme member being moved within their existing role.
41. Finally, Mr H and Mr S highlight that PO-3511 is inconsistent with Part 2 Rule 3 of The Firefighters' Compensation Scheme (Wales) Order 2007, which states that compensation payments will be the equivalent of five years' of "pensionable pay". They argue that the provision does not indicate this will differ depending on which scheme the firefighter is a member of, indicating that the definition of pensionable pay was not changed under the 2007 and 2015 Scheme rules.
42. In relation to USAR allowance, Mr E has argued that he receives the pay for the performance of his duties. He does not believe it is relevant that these duties are under a secondary contract. He adds that, although his contract is on a fixed term basis, he does not believe the draftsman would wish to discriminate between permanent and fixed-term workers; this should not render the pay non-pensionable.
43. Where there is a dispute regarding permanency, Mr W et al have argued that all the allowances may be paid up until retirement. They all have an unspecified end date and the fact they are not guaranteed to be paid until retirement is insufficient to refer to them as temporary. They add that it would be impractical to wait until the end of a firefighter's career to see which allowances had been 'permanent' after all, as there would be contribution arrears and potentially breaches of auto-enrolment. The allowances should be considered permanent, and not temporary, simply because there is an intent they will continue to be paid and no specified date at which they will cease.

Conclusions

44. There have been a significant number of issues and arguments raised by the parties to the complaint. Also, it is important to note that there are different schemes and rules which have different definitions of pensionable pay. I have considered each firefighter's circumstances and benefits under separate headings below.

Mr W's case

45. Mr W has benefits under the 1992 Scheme. His pay must therefore come within the relevant definition in the 1992 Regulations in order to be pensionable. Mr W needs to show that his Training Allowance was pay for the performance of the duties of his role and did not fall under one of the benefits specified in rule B5C(5).

46. In addition, Blackburne J's three indicia of pensionable pay from Kent & Medway provide assistance in establishing whether Mr W's Training Allowance ought to be considered pensionable.
47. Having considered all of the information provided to me and also the judgment in Kent & Medway, I am satisfied that Mr W's Training allowance is pensionable. It was paid to him for the performance of the duties of his role as a Direct Trainer, which formed part of his overall contractual duties. The allowance also did not fall under any of the benefits specified in rule B5C(5), as confirmed by the Authority.
48. In addition, the pay was a percentage of his basic pay, and so it was calculated in accordance with his ordinary rate of pay. Lastly, the pay was regular. He received it every time he was paid, it was expected, and it was not one-off, exceptional or extraordinary.
49. For completeness, I believe Mr W's Training allowance would have been pensionable regardless of whether his role was made officially permanent or not. He was not a member of the 2007 and 2015 Schemes, and so I do not need to consider whether the Training Allowance was permanent in a strict sense of the word; only whether it was regular and had an element of permanency. The difference between an allowance being permanent and having an element of permanency is something I will discuss further below in relation to Mr H's and Mr S' cases.

Mr H's case

50. Mr H only has benefits under the 2007 and 2015 Schemes. I consider that the 2007 Order and 2015 Regulations are more restrictive than the 1992 Regulations, as they specifically refer to pensionable pay as being pay which is permanent and not temporary.
51. I agree that Mr H's Day Crewing allowance is paid as an uplift to his salary, in a similar way to how Mr Norman's relevant pay elements were paid as an uplift to his salary. In both cases, the pay element is calculated as a percentage of the firefighter's basic pay, rather than a fixed fee. It is unclear whether Mr Norman's pay elements were listed as separate line items on his payslip, but I cannot see that it would matter.
52. I note Mr H also argues that Smith J said, in Norman, pensionable pay can be pay for the performance of a firefighter's duties even if it is specific to a duty system. Overall, I agree that the Day Crewing allowance is pay for the performance of Mr H's duties.
53. However, whilst this satisfies part of the relevant Regulations' definition of pensionable pay, it is not completely satisfied. Whilst Smith J may have confirmed duty-specific pay could still be pay for the performance of a firefighter's duties, he did not go on to add that it could also be considered permanent and not temporary.
54. When considering PO-3511, the High Court endorsed the previous Ombudsman's approach in considering whether duty-specific pay elements can be permanent (see

paragraph 18 above). This case related to different Regulations, but the relevant wording is the same. I do not see that I can distinguish Mr H's case from PO-3511.

55. I acknowledge that Mr H has argued that PO-3511 cannot be reconciled with Norman. However, the court in Norman was primarily considering the 1992 Scheme rules. In PO-3511, and in this case, different rules are being considered.
56. The 2007 Order and 2015 Regulations (as with the 2006 Order), explicitly include the words "not temporary" and "permanent". The 1992 Regulations did not, and the case law on the 1992 Regulations refers to an *element* of permanency being a requirement of pensionable pay. In particular, this is the language used by Blackburne J in Kent & Medway, and his approach was endorsed by Smith J in Norman.
57. I believe there is a difference between saying something must have an element of permanency and saying something must be permanent. As such, there is a crucial difference between the 1992 Regulations and the later Regulations, which allows me to reconcile Norman with PO-3511. The High Court endorsed the approach in PO-3511.
58. Mr H has argued that Smith J, at para 83 of Norman, indicated the relevant wording in all the Regulations is not materially different. He highlights that Smith J said the words "not temporary" and "permanent" are only included in the later Regulations as a way of stating that a retained firefighter's retainer fee is pensionable. Mr S says that the definition for pensionable pay under the 2007 Order and 2015 Regulations should therefore not be seen as delineating from the definition for pensionable pay under the 1992 Regulations.
59. Smith J says (at para 83 that:

"It is, to my mind, readily understandable that the rules of the NFPS, under which retained firefighters were for the first time given pensionable rights, should deal specifically with what part of their pay was pensionable and should do this by drawing an express distinction between temporary emoluments and a permanent emolument. Even so, it was not considered necessary to state specifically that the retainer fee of regular firefighters undertaking a retained element should be pensionable under the NFPS. I cannot find in the definition of pensionable pay in the rules of the NFPS any telling indication whether retainer fees were pensionable pay under the rules of the FPS".
60. When reviewing para 83 of the judgment in Norman, I believe Smith J is primarily rejecting counsel for the Authority's argument that retainer fees were not pensionable under the 1992 Regulations on the basis that they were only referred to as pensionable later, under the 2006 Order. Overall, I believe Smith J is saying that is not necessarily the case, as it is understandable why the draftsman would explicitly include the terms "temporary" and "permanent emoluments" in the 2006 Order, without it meaning that those terms were not relevant to the 1992 Scheme.

61. I find that Smith J's comments are not conclusive of whether the 2006 Order (and thereby the 2007 Order and 2015 Regulations), amended the definition of pensionable pay from the 1992 Regulations. In light of PO-3511, I therefore find that the definition of pensionable was amended for the later Schemes.
62. I appreciate the amendment is subtle, given that the case law on the 1992 Regulations referred to 'permanency', and I note that Smith J was not satisfied there was a change in the definition of pensionable pay. However, turning that point on its head, Smith J was also not satisfied there was *not* a change in the definition of pensionable pay. These nuanced factors mean that PO-3511 can be reconciled with Norman.
63. I have considered Mr S' comments that Smith J confirmed the flexible duty system allowance was pensionable. In short, I do not agree he did this. Instead, he commented that the flexible duty system allowance was "generally considered" to be pensionable. He did not confirm this was actually the case and noted in passing that, whilst the Grey Book also stated the flexible duty system allowance was pensionable, the Grey Book cannot be relied on as a conclusive resource for confirmation of what pay elements are pensionable. Instead, Smith J confirmed that only a proper interpretation of the Regulations can conclusively state what is pensionable.
64. Lastly, I have noted Mr H's and Mr S' argument regarding whether these findings are consistent with other provisions within the corresponding legislation. In relation to references concerning Rule B5A of the 1992 Regulations and Part 3 Rule 7 of the 2007 Order, the Authority has explained that some roles have different weightings within the same "rolemap"; for example, because the job size will change depending on location. I believe the provisions can be reconciled with Smith, because these roles do not attract specific allowances that are gained and lost as the member is moved around. Instead, it is the same type of pay itself which simply varies according to the appropriate weighting. The provisions can be applicable to some scenarios, even where PO-3511 is followed.
65. In relation to their reference to Part 2 Rule 3 of The Firefighters' Compensation Scheme (Wales) Order 2007, I note that the provision assumes "pensionable pay" is known, and provides for compensation to be calculated based on that assumption. In this case, I am considering whether an allowance ought to be included in the pensionable pay taken into account by the Compensation Scheme.
66. Therefore, I do not find that Day Crewing allowance is pensionable under the 2007 Order or the 2015 Regulations.
67. Notwithstanding my findings, I note that the Authority is currently treating Day Crewing allowance as pensionable for members of the 2007 and 2015 Schemes, on the basis that the corresponding 2007 Order and 2015 Regulations state all retaining allowances are pensionable. I do not agree that this is what the legislation requires. I agree that the 2007 Order and 2015 Regulations refer to a retaining allowance as

being pensionable, but this is with specific reference to a retained firefighter's retaining allowance. I am not satisfied that the draftsman meant for the example given to be extended to all retaining allowances, not least because it would have been easy for the draftsman to have simply stated that.

68. However, if the Authority has agreed to treat Day Crewing allowance as pensionable for 2007 and 2015 Scheme members, then that is a matter for the Authority and so I will not make any further comment.
69. The Authority does not treat Day Crewing allowance as pensionable for members of the 1992 Scheme but this does not affect the position for Mr H, so I have not determined that particular point. However, I hope my comments may provide some useful guidance on the matter.

Mr S' case

70. Mr S has benefits under the 2007 and 2015 Scheme. I do not find that SRC allowance is pensionable for members of the 2007 and 2015 Schemes. This is for the same reasons that I have given in relation to Day Crewing allowance. I have not addressed the position of the 1992 Scheme members as the 1992 Regulations do not apply in Mr S' case..
71. I note that the Authority has agreed to treat part of Mr S' SRC allowance as pensionable. Whilst I find that it is not obliged to do so under the 2007 Order or 2015 Regulations, treating the allowance as pensionable is a matter for them.

Mr E's case

72. Mr E began USAR work in 2009, any benefits he accrued in relation to it accrued under the 2007 and 2015 Schemes. The relevant Regulations are the same as for Mr H and Mr S. In particular, the USAR allowance must be permanent in the strict sense of the word rather than simply regular.
73. The Authority has argued that the USAR allowance is not pay for the performance of the duties of Mr E's role. I disagree. The 2007 and 2015 Regulations do not specify that pensionable pay can only be pay which arises from a firefighter's primary contract of employment. Mr E has an entirely separate contract for his USAR work, and he has firefighter duties that arise from that contract for which he is paid. In short, I believe the USAR allowance is paid for the performance of the duties of Mr E's role.
74. Notably, Mr E does not work under a specific duty system as part of his USAR contract. He, therefore, does not work under a system from which he can be transferred, and he will not lose his USAR allowance unless he ceases the role altogether. So, I believe his USAR allowance is as permanent as it is possible to be. For example, it is permanent in the same way that a firefighter's basic salary is permanent, and it is therefore pensionable.

75. The Authority has emphasised the USAR work is carried out under fixed term contracts. However, from reviewing Mr E's contract, I do not find that there is an intention for the contract to end. Instead, the contract indicates that the firefighter's role will be renewed providing there is sufficient funding. For example, it provides the renewal date of his contract and says it is "subject to continued funding". The letter dated 28 August 2009, which was sent to Mr E with his contract, similarly states "this contract...will be renewed annually in line with the agreed duration of funding".
76. In addition, part m of the contract, entitled, 'Termination of Contract', outlines a notice period once Mr E has worked 12 years or more. This provision would not be necessary, if Mr E's contract was intended to be temporary.
77. It is true to say that a USAR firefighter might not continue the role indefinitely, or that he may have to cease USAR work due to a lack of funding. However, if that were to render the pay as temporary then even a firefighter's basic salary under his primary contract of work would not be pensionable. The Oxford dictionary defines "permanent" as "lasting or intended to last or remain unchanged indefinitely". In turn 'indefinitely' is defined as "for an unlimited or unspecified period of time". I find that Mr E's USAR position meets these definitions.
78. I therefore find that USAR allowance is to be considered as pensionable pay under the 2007 Order and 2015 Regulations.

Closing observations

79. I note that this Determination may have repercussions for other firefighters. However, this is not a class action case; only Mr W et al have complained to me, and I have considered the relevant arguments and authorities specifically in relation to their circumstances. I do not have the power to bind others who are not joined in this complaint. Nevertheless, any members in a similar position should liaise with the Authority.

Directions

80. The Authority shall treat Training allowance and USAR allowance as pensionable pay for the purposes of calculating Mr W's and Mr E's pensions respectively. Within the next 28 days, the Authority shall:-
 - Calculate the contribution arrears owed by Mr W and Mr E, and the arrears in relation to the Authority's contributions;
 - Offer Mr W and Mr E an opportunity to: either pay the arrears as a lump sum; or pay their arrears through a repayment plan over a reasonable period of time. The Authority should mirror their actions. That is, if Mr W and Mr E pay their contribution as a lump sum, the Authority will do so too. However, if they pay by instalments, then the Authority will be able to do the same should they wish to do so; and

- Pay Mr W pension benefit arrears which have accrued since he retired, on the basis that his Training Allowance ought to have been included in his pensionable pay. The Authority shall pay the pension benefits arrears with simple interest, calculated using the base rate for the time being quoted by the reference banks.

Anthony Arter

Pensions Ombudsman
2 October 2018

Appendix

Relevant provisions from The Firemen's Pension Scheme Order 1992 (as amended)

Rule B5A

- (1) A regular firefighter who—
(a)on taking up a different role; or
(b)becoming entitled to a different rate of pay in his existing role,

suffers a reduction in the amount of his pensionable pay such that the amount to be taken into account in the calculation of the pension to which he will be entitled at normal pension age is less than it would otherwise have been, is entitled to two pensions.

Rule B5C:-

- (1) Where a fire and rescue authority determines that the benefits listed in paragraph (1) are pensionable, and in any additional pension benefit year pays any such pensionable benefits to a regular firefighter, the authority shall credit the firefighter with an amount of additional pension benefit in respect of that year.
- (2) Subject to paragraph (3), the amount of additional pension benefit in respect of that year shall be determined on 1st July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary.
- (3) The amount of additional pension benefit determined in accordance with paragraph (2) shall be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if that additional pension benefit were a pension to which the Pensions (Increase) Act 1971 applied and the beginning date for that pension were the 1st July of the tax year immediately before the relevant tax year.
- (4) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 shall be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11th April 2011.
- (5) The benefits referred to in paragraph (1) are-

- (a)any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of the firefighter's duties under the contract of employment but are within the wider functions of the job;
- (b)the amount (if any) paid in respect of a firefighter's continual professional development;
- (c)the difference between the firefighter's basic pay in their day to day role and any pay received whilst on temporary promotion or where he is temporarily required to undertake the duties of a higher role;

(d)any performance related payment which is not consolidated into his standard pay.

Rule G1:-

(1) Subject to paragraphs (2), (9) and (10), the pensionable pay of a regular firefighter is the aggregate of—

- (a) the amount determined in relation to the performance of the duties of his role (whether as a whole-time or part-time employee) other than those amounts payable to him in respect of the benefits within rule B5C(5); and
- (b) the amount (if any) of any benefits which are pensionable under rule B5C(1).

Relevant provisions from The Firefighters' Pension Scheme (Wales) Order 2007

Schedule 1, Part 3 - Entitlement to two pensions

7.-(1)Subject to paragraphs (6) and (9), a firefighter member who—

(a)satisfies an eligibility condition; and

(b)on taking up a different role within the authority or becoming entitled to a different rate of pay in the member's existing role, suffers a reduction in the amount of pensionable pay such that the amount to be taken into account in the calculation of the pension to which the member will be entitled at normal retirement age is less than it would otherwise have been,

is entitled to two pensions.

Schedule 1, Part 11:

1.—(1) Subject to paragraph (3) and rule 3(3), the pensionable pay of a firefighter member is the aggregate of—

- (a)the firefighter member's pay in relation to the performance of the duties of the firefighter member's role, other than any allowance or emoluments that are paid to the firefighter member on a temporary basis, and
- (b)the firefighter member's permanent emoluments (including, in the case of a retained firefighter, any retaining allowance).

Relevant provisions from The Firefighters' Pension Scheme (Wales) Regulations 2015

26.—(1) For the purpose of calculating a member's pension or other benefits under this scheme, the member's pensionable pay is—

- (a)the member's pay received for the performance of the duties of the member's role except any allowance or emoluments paid to that member on a temporary basis;
- (b)the member's permanent emoluments (including, in the case of a retained firefighter, any retaining allowance);

Ombudsman's Determination

Applicant	Mr N
Scheme	Firefighters' Pensions Scheme (FPS)
Respondents	Kent and Medway Fire and Rescue Authority (KMFA) Kent County Council (KCC)

Outcome

1. Mr N's complaint against KMFA is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) KMFA should pay Mr N £500 for significant distress and inconvenience.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr N has complained about the length of time taken to identify and notify him of an overpayment of injury pension and regarding the information provided in connection with the overpayment claim, which he considers to be insufficient and confusing. Mr N also considers the payslips provided in connection with his injury pension to be confusing and open to abuse.

Background information, including submissions from the parties

Background

4. The sequence of events is not in dispute, so I have only set out the key points in my Opinion. I acknowledge there were other exchanges of information between the parties.
5. Mr N retired on health grounds in 1988. He is also in receipt of an injury pension. Mr N was also in receipt of certain state benefits paid by the Department for Work and Pensions (**DWP**).
6. On 15 January 2014, KCC wrote to Mr N informing him that it had received confirmation, from the DWP, that his Incapacity Benefit had ceased with effect from 10 July 2013 and his claim for Employment Support Allowance (**ESA**) had been disallowed. KCC confirmed that Mr N's injury pension would have to be reassessed. It said his injury pension would increase to £1,264.48 per month (gross) from 10 July

2013 and the adjustment would be made in February 2014. It enclosed a calculation of Mr N's injury pension.

7. KCC also said all injury pensions were being reviewed from April 2010. It explained that the review had been prompted by changes to the way in which DWP benefits and injury pensions were increased each year. Until 2008, DWP benefits had been increased at the same rate as injury pensions and, as a result, there was no need for a review. In 2009, some DWP benefits were increased by more than the injury pensions and, in 2010, DWP benefits were increased but injury pensions were not.
8. KCC said the 2010 review had identified an overpayment of Mr N's injury pension dating from April 1994. It said this had occurred because the incorrect amount of Industrial Injury Disablement Benefit (IIDB) had been deducted from his injury pension. KCC said KMFA was not seeking to reclaim the overpayment back to 1994, but would seek to recover the overpayment from 12 April 2010. Mr N says the agreement not to seek recovery back to 1994 had, in fact, been reached in 2002.
9. KCC said the overpayment since 2010 amounted to £9,361.36. KCC also said Mr N had been underpaid for the period 10 July 2013 to 31 January 2014 by £2,389.75. It said this amount had been offset against the overpayment so that £6,971.61 remained to be recovered. KCC said it proposed to recover this amount in 36 monthly instalments starting in February 2014. Mr N was asked to contact KMFA if this would cause him severe financial hardship.
10. On 10 February 2014, in response to a query from Mr N, KCC sent him a bundle of documents relating to the calculation of the overpayment. This included: the calculation of his basic injury award, a summary of monthly payments since October 2006, letters from Jobcentre Plus relating to his DWP benefits, and a copy of the spreadsheet used to calculate the overpayment. KCC said it had only supplied documents relevant to the calculation of the overpayment. It said Mr N had the right to see all of the information held on file for him, subject to payment of a fee of £10. It enclosed a copy of its data subject access request procedure.
11. On 2 June 2014, Mr N wrote to KMFA saying he wished to appeal. He subsequently met with KMFA in June 2014. Following further correspondence, KMFA wrote to Mr N, on 19 August 2015, apologising for the delay in responding to his June 2014 letter. It said it had obtained copies of case documents from KCC and asked Mr N if he had taken up the option to see the information held by KCC; as explained to him by KCC in February 2014.
12. Mr N asked to have his case considered under the Scheme's internal dispute resolution (IDR) procedure. KMFA issued a stage one decision on 10 November 2015. It identified Mr N's complaint as:-
 - He disputed the calculations of the overpayment and underpayment of his injury pension.

- He had not been provided with sufficient information relating to the overpayment and underpayment of his injury pension.
 - It had taken an inappropriate length of time to identify the correct payments.
13. KMFA said the overpayment had been identified as a result of a directive from the Department of Communities and Local Government (**DCLG**) to check injury pensions. It said KCC had provided Mr N with the necessary information and methodology for calculating the overpayment and underpayment. It also said KCC and Mr N had confirmed that he had viewed his file at KCC. With regard to the time taken, KMFA said this was a reflection of the administrative demands of undertaking the review of all injury awards.
14. On 16 March 2016, Mr N appealed further. The key elements of Mr N's appeal submission are summarised below:-
- Despite asking for clarification, no-one had explained exactly what constituted the overpayment. He had been provided with figures but no explanation.
 - No account had been taken of the fact that the first payment in each year was usually less. Although this was a small amount, it made the calculations incorrect.
 - There was reference to an additional component but neither his IIDB or his Reduced Earnings Allowance (**REA**) had an additional component.
 - The only additional component for which he could find a record related to Invalidity Benefit from 29 June 1994. His Incapacity Benefit was reduced from 2 August 1995 when the additional component was removed because of his wife's earnings.
 - There was evidence that the reduction to his IIDB had been reclaimed.
 - Correspondence from 1989 showed that overpayments from 1988/89 had been repaid. This was evidence that KCC knew of his state benefits before 1999.
 - He did not agree with the methodology for calculating the increases to his injury pension. In particular, he did not agree that his state benefits should be deducted from his injury pension before the application of pensions increase.
 - The underpayment of £2,390.16 had been retained and a deduction of £193.66 had been taken from his pension in February 2014. He had not given his agreement to either.
 - Repayment of the overpayment in 39 [sic] months would cause him considerable hardship. He asked KMFA to consider a reduction to the amount owed.

15. Mr N's case was referred to an appeals panel in August 2016. KMFA provided a paper to the appeals panel. This explained that the IIDB being deducted from Mr N's injury pension had been £7.60 per week, when it should have been £12.90 from April 1994. The lower figure was the result of recoupment of an injury gratuity. KMFA also said that the amount of Incapacity Benefit deducted from Mr N's injury pension had not included an additional component because of uncertainty as to its effective date. It provided a breakdown of the overpayment calculation (see appendix).
16. KMFA issued a stage two IDR decision on 11 August 2016. It did not uphold Mr N's appeal. It said the appeals panel had some concerns about the circumstances which led to the overpayment. It said the panel felt that, because this was public money, KMFA had no option but to seek reimbursement. It did, however, agree that Mr N should be allowed to repay the amount due over 72 months.
17. Mr N subsequently applied to the Ombudsman. A formal response was requested from both KMFA and KCC on 12 June 2017. A joint response was received on 14 July 2017.
18. The relevant rules are found in the Firemen's Pension Scheme Order 1992 (SI1992/129) (as amended) (**1992 Order**) and the Firefighters' Compensation Scheme (England) Order 2006 (SI2006/1811) (as amended) (**2006 Order**).

Mr N's position

19. Mr N's submission is summarised below:-
 - He accepts that he has received more pension than he was due over an extended period of time.
 - It is the process and the period of time which particularly concerns him. It has taken KMFA and KCC years to conclude that an overpayment has occurred. The overpayment was originally discovered before 2010 but it was not followed up. This amounts to maladministration.
 - Despite the fact that KMFA and KCC have confirmed that the overpayment occurred through no fault of his, he is faced with having to find a considerable sum of money to repay it.
 - This is not the first occasion on which errors have occurred. The associated long drawn out negotiations are detrimental to his health and wellbeing.
 - KMFA and KCC appear to expect each member to report their annual percentage increase from the DWP; rather than make a single enquiry once a year for all members. This is despite asking his permission to do so.
 - Throughout the appeal process, KMFA and KCC repeatedly breached their own protocols and timetables. He found some of the correspondence insulting; particularly, suggestions that he had tried to mislead KMFA and KCC.

- KMFA and KCC commenced recovery of the overpayment without his agreement.
- He considers the payslips provided by KMFA's payroll providers to be confusing. He suggests they could be simplified so that it would be easier to understand what was being paid. He has provided an example of a simplified payslip.
- His desired outcome is to have some kind of guarantee that this will not happen again and an explanation of where the overpayment occurred. He would also like some recompense for the time and effort he has put into trying to deal with the matter and the stress it has caused.
- He cannot point to any exceptional purchases made as a consequence of receiving the higher amount of injury benefit. He has explained that he would have spent within his means, assuming additional injury pension to be his. He did take out a mortgage to build a house in France in 2005 and started building work in 2008. He also says that, at the time, both of his daughters were in further education.
- Paying back the money will cause personal hardship and increased stress. However, the money was not his paramount concern. It is the associated turmoil which it continues to hold over him because there is no assurance that the same problem could occur in the future.
- His hope was that KMFA and KCC would be held to task to ensure that these mistakes should never be allowed to happen in the future. This would give him some sort of peace of mind as he grows older.

KMFA and KCC position

20. A joint submission has been received on behalf of KMFA and KCC. It is summarised below:-

- Mr N has been in receipt of an injury pension since 1988.
- Where the recipient of an injury pension is also in receipt of industrial injury state benefits, the injury pension will be reduced accordingly. The relevant provisions were incorporated in the 1992 Order under rule B4. The provision was subsequently incorporated in the Firefighters' Compensation Scheme Regulations 2006 under Part 1 of Schedule 1. This provision cross references to the Social Security Act 1975.
- The process of identifying the overpayment was initiated by a Government directive to review injury pensions. This was contained in DCLG Circular 2/2010.

- KCC wrote to Mr N, on 15 January and 10 February 2014, setting out the methodology by which the overpayment had been calculated. Mr N was also sent copies of relevant documents on request. He was also told how to access the personal file held by KCC.
- At both stages of the IDR process, KMFA determined that an overpayment had occurred and had been correctly calculated. The need to recover the overpayment was correctly founded upon statutory requirements.

Adjudicator's Opinion

21. Mr N's complaint was considered by one of our Adjudicators who concluded that further action was required by KMFA. The Adjudicator's findings are summarised below:-

- Under rule B4 and Part V Schedule 2 of the 1992 Order and rule 3 Part 2 Schedule 1 of the 2006 Order, Mr N's injury pension must be reduced by:
 - "(a) so much of any disablement pension under section 57 of the Social Security Act 1975 ("the 1975 Act") as relates to the qualifying injury, together with any relevant increase,
 - (b) so much of any reduced earnings allowance under section 59A of the 1975 Act as relates to the qualifying injury, and
 - (c) until the material date, any benefit mentioned in sub-paragraph (3), together with any relevant increase."
- The Adjudicator acknowledged that Mr N had been told that he had been overpaid his injury pension since 1994. However, KMFA was only seeking to recover the overpayment which it said arose since 12 April 2010. She, therefore, confined her investigation of the overpayment aspect of Mr N's complaint to the period after 12 April 2010.
- Between 12 April 2010 and 9 July 2013, Mr N had been paid more injury pension than he was due to receive. The overpayment amounted to £9,361.37 (see appendix). Between 10 July 2013 and 31 January 2014, Mr N had been paid less injury pension than he was due to receive. The underpayment amounted to £2,389.93 (see appendix). The net result was an overpayment of £6,971.44.
- The starting point in any case of overpayment was that monies paid in error may be recovered; regardless of which party was responsible for the error. There were, however, various considerations which must be taken into account in determining the extent to which recovery may be allowed.

- KMFA was seeking to recover the overpayment from Mr N by making deductions through his future injury pension payments. KMFA was, therefore, seeking to remedy the overpayment by way of recoupment. In the recent case of *Burgess & Ors v BIC UK Limited* [2018] EWHC 785 (Ch), Mr Justice Arnold had held that equitable recoupment was not a restitutionary claim for unjust enrichment (unlike the case of *Webber v Department for Education* [2016] EWHC 2519 (Ch)). Rather, it was an equitable self-help remedy which did not involve any claim for repayment of the monies paid in the past but an adjustment of accounts in the future. As such, equitable recoupment, as in the present case, was not subject to a six-year limitation period under section 5 of the Limitation Act 1980.
- Mr N had confirmed that he accepted that he had been overpaid and expected to have to repay the overpayment. However, there were circumstances in which the recipient of monies paid in error could not be required to repay some or all of the overpayment. These were referred to as defences against recovery.
- The most common defence against recovery of an overpayment was referred to as "change of position"; that is, the recipient had changed his position such that it would be unjust to require him to repay the overpayment either in whole or in part. The question was whether the injustice to the recipient in requiring him to repay the overpayment outweighed the injustice in denying restitution to the party which had made the payment.
- For a change of position defence to succeed, certain conditions had to be satisfied. Broadly, the recipient had to be able to show, on the balance of probabilities, that:-
 - He had received the overpayment in good faith. In other words, he was not or could not, on reasonable enquiry, have been aware of the overpayment. The recipient could not turn a blind eye if there was anything which suggests an error had occurred.
 - Because of the overpayment, he had detrimentally changed his position. The most obvious example of a detrimental change of position was the expenditure of money by the recipient.
 - The money had been spent on something he would not otherwise have bought and the expenditure was irreversible. Normal living expenses would not usually be considered, but funding a higher standard of living could be. As a general rule, paying off a debt would not count as a detrimental change of circumstances because the debt would have to be repaid anyway.

- The recipient of monies paid in error could be expected to mitigate the situation. For example, where an item purchased had a resale value, such as a car, the recipient would not benefit from the change of position defence against recovery to the extent of the resale value. In other words, whilst it would be up to the recipient to decide whether or not to actually sell the car, he could be required to repay the overpayment to the extent of the resale value.
- If all the above conditions were satisfied the Ombudsman might direct that the recipient should not be required to repay some or all of the overpayment.
- In the Adjudicator's view, the nature of the error was not something which would have been obvious to Mr N, nor was there anything to prompt him make enquiries. In other words, he had received the payments in good faith.
- Mr N had said that he was unable to point to any exceptional purchases made as a consequence of the overpayment. The Adjudicator acknowledged that this was more likely to be the case when the overpayment was made in the form of a lump sum. In Mr N's case, the overpayment was a monthly amount and was likely to have been absorbed into Mr N's normal living expenses. On average, for the period 12 April 2010 to 9 July 2013, Mr N had been overpaid by approximately £240 each month ($\text{£9,361.37} \div 39 \text{ months}$).
- Mr N had explained that he spent the money he was paid. On that basis, the Adjudicator thought it would be reasonable to say that the overpayment had enabled Mr N to live a slightly improved lifestyle.
- The Adjudicator noted that Mr N had taken out a mortgage in 2005 in order to build a house in France. Repayment of a debt, such as a mortgage, did not count as a detrimental change of circumstances. This was on the basis that the debt would have to be repaid in any event. However, if Mr N would not have taken out the mortgage but for the overpayment, there might be grounds for finding detrimental change. Having said this, property had a resale value and Mr N would only be able to claim detrimental change to the extent that his costs exceeded the value he could achieve on sale of the property. It would, of course, be up to Mr N to decide whether or not he actually sold the house.
- Finally, there was the question of whether it would be unjust to require Mr N to repay the overpayment. This was a matter of balancing the injustice to Mr N in asking him to repay the £6,971.44 against the injustice to the Scheme in not recovering this amount. The legal benchmark is that it would usually be considered unconscionable for monies paid in error to be kept and rarely unconscionable to request repayment. Mr N had made it clear that he expected to repay the overpayment and KMFA had agreed to recoup over 72 months (approximately £96 per month). Mr N had not said that the revised timetable would cause him undue hardship. On this basis, the Adjudicator

thought it would be difficult to say that it would be unreasonable to ask Mr N to repay the overpayment.

- There were other defences to the recovery of an overpayment; for example, estoppel and contract. These arise less often in pension cases but would be considered if the circumstances of the case suggested that this was appropriate.
- The most common estoppel defence in overpayment cases was estoppel by representation. In order for this to succeed, there must have been an unambiguous representation on which the recipient had relied. In Mr N's case, he would have to be able to show that KMFA and/or KCC had made an unambiguous representation to him that he was entitled to the higher injury pension. Mr N would then have to show that he had relied to his detriment on such a representation and that it was reasonable for him to have done so. In other words, he had taken some action he would not otherwise have done but for a representation that he was entitled to the higher pension.
- The Adjudicator said she had not been able to identify an unambiguous statement to the effect that Mr N was entitled to the higher injury pension. His injury benefit had been paid on the basis that certain state benefits would be deducted. The error was in the amount of the deduction, rather than in the deduction itself. In her view, an estoppel by representation defence was unlikely to succeed.
- There was also estoppel by convention when the parties had proceeded on the basis of an assumed state of facts or law. A party might then be prevented from going back on the assumption if it would be unjust (unconscionable) to allow it to do so. However, the courts had been quite strict in what they accepted as evidence of estoppel by convention. For example, the receipt of benefits, scheme booklets or payslips, or the payment of contributions had not, in and of themselves, been regarded as constituting more than mere passive acceptance¹. Nor had the receipt of memoranda, benefit calculations and supplemental transfer payments been considered enough to establish an estoppel by convention.
- In Mr N's case, he was aware that his injury pension would be reduced whilst he was in receipt of certain DWP benefits. The overpayment occurred because the amount of the reduction was incorrectly calculated; rather than as a result of an assumption that the benefits would not be taken into account. In

¹ *Redrow Plc v Pedley and another* [2002] EWHC 983 (Ch); *Steria Ltd and others v Hutchison and others* [2006] EWCA Civ 1551; *IMG Pension Plan HR Trustees Ltd v German and another* [2009] EWHC 2785 (Ch)

view of the above, it was the Adjudicator's opinion that an estoppel by convention defence would not succeed.

- The Adjudicator also said she had not identified the conditions required to establish a contract under which KMFA and/or KCC could be required to pay the higher injury pension. These were offer, acceptance, consideration, the intention to enter into legal relations and certainty of terms. In her view, there were no grounds to find that either KMFA or KCC had entered into a contract with Mr N to provide the higher pension.
- The Adjudicator also considered the question of non-financial injustice. She noted that it had previously been determined that, where there was maladministration in addition to the payment error, recompense for non-financial injustice might be appropriate. Mr N had made the point that the overpayment had accrued over a considerable period. The overpayment dated back to 1994; although KMFA was only seeking to recoup the amount paid from 2010. The Adjudicator accepted that KMFA had attempted to minimise the impact of recoupment on Mr N by extending the period over which this would occur. However, there was a considerable delay between Mr N first notifying KMFA that he wished to appeal (June 2014) and its IDR response (November 2015). The Adjudicator acknowledged that KMFA had been in touch with Mr N in the intervening period but this was a long time to leave matters unresolved. This was particularly so when dealing with someone who was not in good health. In her view, a payment for non-financial injustice in line with the Ombudsman's current guidelines was warranted.
- Mr N had also raised the matter of the information which had been provided for him; particularly by way of his payslips. The Adjudicator said she could understand Mr N's concern. It was not unreasonable for him to want to be able to clearly see what he was being paid and cross reference this to what he was expecting. This was particularly so when there had already been an error of this magnitude in his payments.
- Pensioners in receipt of benefits were not covered by the Employment Rights Act 1996 (as amended) because they were neither an employee nor a worker (as defined). The requirement to provide information for pensioners arose under the disclosure legislation. The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (SI2013/2734) (as amended) applied. Regulation 20 set out what information had to be provided for a member where a pension had, or was about to, become payable. This information included the amount of the pension which was payable. Where the pension was being paid before normal retirement age, the information had to be provided within two months of that date.

- Thereafter, the information to be provided for members in receipt of benefits was provided for in regulation 22. This regulation required information to be provided when the amount of benefit payable to the person altered where the alteration was not made in accordance with the scheme's provisions which would allow the payments to be altered. The information had to be given before the date on which the decision to alter the benefit took effect, where possible and in any event within one month of that date.
 - The disclosure legislation did not require schemes to provide pensioners with monthly payslips or specify that any payslips should provide a detailed breakdown of the payment.
 - The Adjudicator said she could see why Mr N believed that more could be done to make the payslips provided by KMFA and KCC clearer. However, she did not consider that there were sufficient grounds for finding the lack of detail amounted to maladministration. She suggested that it might, however, be something that KMFA and KCC could consider reviewing for the future.
 - To put matters right, the Adjudicator suggested that KMFA pay Mr N £500 for significant distress and inconvenience.
22. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr N for completeness.

Ombudsman's decision

23. There are essentially two aspects to Mr N's complaint: the overpayment of his injury pension itself; and the manner in which his case has been dealt with.
24. With regard to the overpayment itself, Mr N accepts that he has received more pension than he was strictly entitled to under the 1992 and/or 2006 Orders. KMFA is seeking to recover the overpayment by way of recoupment. In the absence of any defence against recovery, it is entitled to do so.
25. The possible defences against recovery were considered in some detail by my Adjudicator. For the reasons outlined in her opinion as summarised above, I find that Mr N does not have a defence against recovery of the overpayment. I find that KMFA may recoup the amount due from future payments of Mr N's injury pension.
26. It would be appropriate, at this point, to consider Section 91(6) Pensions Act 1995. This broadly provides that if a member disputes the amount of the recoupment, then the trustees/scheme managers cannot recoup the overpaid pension unless they have an order from a competent court.

27. In the *Bic* case, it was suggested obiter dictum (an opinion or remark which is not binding) by Mr Justice Arnold that a Determination by me did not satisfy the requirements of section 91(6) Pensions Act 1995 because the Pensions Ombudsman is not a competent court. We were not a party to those proceedings and Mr Justice Arnold did not have the benefit of hearing full arguments on the issue. In any event, the comments by Mr Justice Arnold in the *Bic* appeal were judicial dicta; that is, remarks on a point not directly before the court or essential to its decision. I am not bound to follow them. It is my view, for the reasons explained below, that a Determination by me, to the effect that KMFA may recoup an amount, would satisfy the requirements of section 91(6) Pensions Act 1995. In particular the words:

"Where there is a dispute as to its amount [my emphasis], the charge, lien or set-off must not be exercised unless the obligation in question has become enforceable under an order of a competent court."

28. Because, following this Determination, there is no "dispute as to its amount". The dispute is brought to an end further to section 151(3) Pension Schemes Act 1993 (subject to any appeal on a point of law).
29. Additionally, schedule 1, part 1, paragraph 35(e) of the Tribunals and Inquiries Act 1992 confirms that the Pensions Ombudsman is a tribunal in respect of its functions. *Peach Grey & Co. v Sommers* [1995] I.C.R. 549 confirms that a tribunal is an inferior court. Rule 52.1(c) of the Civil Procedure Rules states that a lower court includes the person from whose decision an appeal is brought (to the High Court), which includes the Pensions Ombudsman. Section 91(6) Pensions Act 1995 also includes arbitration awards. Tribunals, including the Pensions Ombudsman, therefore clearly fall within the definition of a competent court.
30. A distinction needs to be drawn between the recognition and enforcement of my determinations; as with judgments more generally. I have decided that KMFA is entitled to exercise its right of recoupment against Mr N. I am exercising my powers under section 151(2) Pension Schemes Act 1993 to direct KMFA to take such steps as specified in this determination. Therefore, subject to any appeal, my determination and direction[s] will be final and binding on the parties. This is made clear by section 151(3) Pension Schemes Act 1993. My determination must then be recognised by (amongst other things) the County Court. Although obiter dictum, Mr Justice Arnold suggested that the County Court would have the power to make a declaration duplicating a direction already made by me; section 151(3) Pension Schemes Act 1993 was not referred to by the judge. In my opinion, the County Court would not have the power to entertain the substance of a claim which was in essence res judicata (already decided by a court/tribunal).
31. By contrast, a Determination by me, may be enforced as if it were a judgment or order of the County Court: section 151(5)(a) Pension Schemes Act 1993. What this means is that enforcement orders such as charging orders, attachment of earnings orders and injunctions can be obtained following the determination in the same way

as they can be following a judgment of the County Court. In the case of the right to recoupment, it is difficult to see why enforcement measures would be necessary or relevant, given that recoupment is in essence a self-help remedy for trustees or scheme managers.

32. I move now to consider Mr N's concerns about the manner in which his case has been dealt with. Briefly, his main concerns are: the length of time taken to discover the overpayment and notify him; and the lack of information about his payments. On this latter point, Mr N is particularly concerned to prevent anything of this nature happening in the future.
33. With regard to the length of time taken to deal with the overpayment, I find that this does amount to maladministration on KMFA's part. The overpayment was discovered in 2010 but it was not until 2014 that any action was taken. Then, when Mr N appealed against the decision to recoup the overpayment, the dispute process was dragged out for over a year. This would be unacceptable in any case but it becomes even less acceptable when dealing with someone in poor health. I uphold this aspect of Mr N's complaint.
34. Mr N is concerned to prevent any repeat of this maladministration. I can understand why. However, my office is primarily concerned with putting right what has happened, rather than anticipating future events. In the absence of any legal requirement for KMFA or KCC to provide Mr N with payslips in a particular format, I do not have the grounds to make the kind of directions he is seeking. I would, however, encourage KMFA and KCC to take on board Mr N's concerns about the format of the payslips and consider ways to clarify the information provided.

Directions

35. Within 28 days of the date of this determination, KMFA shall pay Mr N £500 for the significant distress and inconvenience caused by its maladministration.

Anthony Arter

Pensions Ombudsman
9 November 2018

Appendix

Breakdown of overpayment

The following is based on figures taken from the paper presented to KMFA's appeals panel:-

Mr N's basic injury pension was £5,486.06 per year. Pensions increase is applied cumulatively in April each year:-

	Basic	Increase	Total	Rate of increase
12 April 2010	£5,486.06	£6,237.80	£11,723.86	
11 April 2011	£5,486.06	£6,601.24	£12,087.30	3.10%
9 April 2012	£5,486.06	£7,229.78	£12,715.84	5.20%
8 April 2013	£5,486.06	£7,509.53	£12,995.59	2.20%

Mr N's weekly state benefits over the period in question were:-

	IIDB	REA	IB	Total annual
12 April 2010	£29.16	£58.32	£128.88	£11,250.72
11 April 2011	£30.06	£60.12	£131.73	£11,539.32
9 April 2012	£31.62	£63.24	£136.63	£12,037.48
8 April 2013	£32.32	£64.64	£138.83	£12,261.08
10 July 2013	£32.32	£64.64	£0.00	£5,041.92

Mr N has provided details of the actual payments he received over the period in question, taken from his bank statements. I acknowledge that there are some differences in the figures. However, these are likely to be the result of converting weekly amounts into annual equivalents.

The excess injury pension after deduction should have been:-

12 April 2010	£11,723.86 – 11,250.72 = £473.14 p.a.
11 April 2011	£12,087.30 – 11,539.32 = £547.98 p.a.
9 April 2012	£12,715.84 – 12,037.48 = £678.36 p.a.
8 April 2013	£12,995.59 – 12,261.08 = £734.51 p.a.
10 July 2013	£12,995.59 – 5,041.92 = £7,953.67 p.a.

Mr N was paid:-

12 April 2010	£3,319.56 p.a.
11 April 2011	£3,422.52 p.a.
9 April 2012	£3,600.48 p.a.
8 April 2013	£3,679.68 p.a.
10 July 2013	£3,679.38 p.a.

The overpayment

12 April 2010	$(£3,319.56 - 473.14) \times 11.9667/12 = £2,838.52$
11 April 2011	$(£3,422.52 - 547.98) \times 11.9333/12 = £2,858.56$
9 April 2012	$(£3,600.48 - £678.36) \times 11.9667/12 = £2,914.01$
8 April 2013	$£3,679.68 - 734.51 = £2,945.17 \times 3.057/12 = £750.28$
Total	£9,361.37

The underpayment

$$£7,953.67 - 3,679.38 = £4,274.29 \times 6.7097/12 = £2,389.93$$

Net amount owed

$$£9,361.37 - 2,389.93 = £6,971.44 \text{ (KMFA figure } £6,971.61 \text{ -- difference likely to be in rounding)}$$

This does not take into account the amount recovered in February 2014.



OFFICIAL

Legislative update

Local Pension Board

Date: 11 January 2019

Agenda Item:

8

Submitted By: Chief Employment Services Officer

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

Recommendations That the report be noted.

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

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

Local Government (Access to information) Act 1972

Exemption Category: None

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

Background papers open to inspection: None

Annexes: Annex A – Transitional Protections – legal challenge
Annex B – Ill Health Injury Compensation Pensions – Tax Issues
Annex C – Revised GAD Factors

1 Introduction

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

2 Information

- 2.1 In accordance with this requirement attached to this report are updates on the following legislative issues;
- Transitional Protections – legal challenge
 - Ill Health Injury Compensation Pensions – Tax Issues
 - Revised GAD Factors

3 Financial Implications

- 3.1 There are financial implications arising directly from this report. However, the true extent of this has not yet been measured.

4 Legal Implications

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

5 Human Resource and Diversity Implications

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

6 Health and Safety Implications

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

7 Service Plan Links

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

FIREFIGHTERS



FIRE BRIGADES UNION CENTENARY 1918-2018

Matt Wrack General Secretary

Fire Brigades Union

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Circular: 2018HOC00544SS

9 November 2018

TO: BRIGADE SECRETARIES

Dear Brother/Sister,

AGE DISCRIMINATION PENSION CASE COURT OF APPEAL UPDATE: DAY 4 - 8 NOVEMBER 2018

Introduction

The day started with a detailed examination of what is, on any basis, the non-core aspects of the case – sex and race discrimination. We then went on to the core aspects of the firefighters' case – what was the Employment Tribunal's reasoning, and why is it wrong?

Sex And Race Discrimination

The sex and race discrimination claims are quite technical. They have already been referred back to the Employment Tribunal to have another look, but everyone in court recognises that, if the age discrimination claims do not succeed, it is unlikely that these subsidiary claims will succeed on their own.

The technical argument is this: if a group of (proportionately younger) women and/or BME members suffer a disadvantage (i.e. being moved to the new scheme) and comparable of (older) white male members are less likely to be moved, do they have to demonstrate a link between their sex or race and the disadvantage? Or is it enough that they prove the disadvantage, and leave it to the employer to justify their action?

A requirement to prove the link feels intuitively right. The case law probably means they do not – it is up to the employer to justify.

The age discrimination claim – where did the Employment Tribunal go wrong?

Andrew Short took the judges through the Tribunal's decision, paragraph by paragraph, and pointed out the errors:

- Whether the Tribunal had to make up its own mind, as we say, or just lightly check that the Government had a genuine social policy intention, as they say, the Tribunal went wrong because it did not scrutinise the Government's reasoning at all.

- The Government's reason for making the transitional arrangements has changed and changed. Originally, they said younger members would have time to adjust their finances by making other savings, and older members would not. But that is nonsense: older members would have less need to make any adjustment.
- It is fanciful to think that younger members could make the required savings. They would have to put aside something in the region of £19,000 per annum (which genuinely shocked the court). And making savings is just a different way of inflicting the pain – have less disposable income now, or less disposable income later.
- The problem is aggravated because their frozen FPS pensions are trapped – if you retire at the age of 50/55 your new scheme pension is reduced savagely. If you wait until 60 you lose the FPS pension you could have had at age 50/55 and get a worse commutation rate.
- So they changed tack, and said the reason was not the time available to make adjustments, but the greater expectations that older firefighters had of retiring at their FPS pension age. Even if they did not have this reason in mind when the decision was made, the law says they *can* rely on a reason which they come up with later – but in that case, the Tribunal must scrutinise their reason even more. Here, there was no scrutiny at all.
- They said that the 10 year cut-off is analogous to the 10 years' advance notice given that the State pension age was going to change. But it isn't – there, the 10 year warning did give people an opportunity to plan ahead.
- The Tribunal said that the Government "may have had a good reason", but neither it, nor the Government has said what it was.
- The Tribunal said that the safety valve is that it must still show that the means used must be appropriate and reasonably necessary; but when it got to that stage in its reasoning, it simply said that a line had to be drawn somewhere, and the Government was free to decide where to draw it.
- The result is that, even if the Government was free to decide on social policy issues subject to 'light touch' review by the Tribunal, the Tribunal failed in its task – it conducted no review at all.
- The Government's social policy must be taken into account, but if the disadvantage to younger members is massive, the social policy needs need to be correspondingly massive.

The judges asked a number of times what the reason was – we know what they did, but the reason why they did it remains obscure. All very promising.

Tomorrow the Government gets a chance to reply. Let's see what they say.

Yours in Unity,



SEAN STARBUCK
National Officer

SS/kc

AGENDA ITEM No. 8 – ANNEX B

III Health Injury Compensation Pension – Tax Issues

All FRA's need to ensure that any injury pensions paid to non-members are re-classified as non-taxable benefits as they are classed as compensation payments. This is something that WYPF will action on our behalf.

WYPF have identified 8 WYFRS pensioners who will be affected by the above. WYPF have written to all affected pensioners to make them aware that they will be able to reclaim tax from HMRC. It's unclear at this stage as to how much tax the pensioner will be able to reclaim from HMRC. If there is a shortfall on the tax HMRC are prepared to pay the onus will be upon the Authority to repay the difference to the pensioner.

Where the Authority need to re-pay tax to a member (in respect of a period the member cannot reclaim via HMRC directly) the payment should be made as some sort of compensation/ex gratia/insurers payment from the operating budget and not out of any top-up grant funding.

A proposal has been sent to the Scheme Manager for consideration. As the compensation payment will involve Authority funds any decision will need approval from the Authority.

Further updates will be supplied in due course

AGENDA ITEM No. 8 – ANNEX C

Revised GAD Factors

Cash Equivalent Transfer Values

We were informed by the Home Office on 31 October 2018 to suspend the following calculations:

- Cash Equivalent Transfer Values;
- Divorce Cash Equivalents; and
- Transfers In (non-Club).

This was because of a change to the SCAPE discount rate was formalised in the Budget on 29 October 2018. It has reduced from 2.8% pa above CPI to 2.4% pa above CPI from that date. Because of this a corresponding change was made to the discount rate used for calculating cash equivalent transfer values (CETVs) payable by the public service pension schemes.

This suspension was lifted on 6 December, and new factors were issued by the Government Actuaries Department (GAD). Assurance was sought from West Yorkshire Pension Fund (WYPF) that the stockpiled cases would now be dealt with and the new factors will be applied.

Commutation Factors

On 31 October 2018 we were informed that GAD have reviewed and issued new commutation factors for members of FPS 1992.

The revised factors are applicable for any FPS 1992 member who retires on, or after 31 October 2018.

The factors have significantly increased and therefore our 1992 FPS members will benefit from this change.

Assurance was sought from WYPF that they would apply the new factors immediately.



OFFICIAL

Survey Responses

Local Pension Board

Date: 11 January 2019

Agenda Item:

Submitted By: Claire Johnson

9

Purpose To inform members of the Scheme Managers responses to recent surveys.

Recommendations That the responses be noted and challenged where necessary.

Summary The Scheme Manager has been asked to provide responses for the following surveys:
a) The Pensions Regulator (TPR) survey
b) Administration benchmarking survey

Local Government (Access to information) Act 1972

Exemption Category: None

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

Annexes: Annex A – TPR Survey Responses
Annex B – Administration Benchmarking Survey

1 Introduction

- 1.1 Since the last Local Pension Board meeting the Scheme Manager has been asked to complete two surveys.
- 1.2 Although the surveys are not mandatory, the SAB has encouraged all FRA/FRSs to respond.
- 1.3 The TPR survey is an annual survey, the purpose is for TPR to get a better understanding of the governance of the scheme.
- 1.4 The benchmarking survey is a one-off. The SAB have asked AON to commission the survey on their behalf. The purpose is for the SAB to gain a better understanding of the cost associated with administering the pension scheme.

2 Information

- 2.1 The replies to both surveys are attached.
- 2.2 The responses were provided by Claire Johnson, Pensions Officer, with assistance from the Scheme Manager, LPB Chair and West Yorkshire Pension Fund.

3 Financial Implications

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

4 Legal Implications

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

5 Human Resource and Diversity Implications

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

6 Health and Safety Implications

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

The Pensions Regulator
Public Service Governance and Administration Survey 2018

This document is intended to be used as a guide to help you gather the information required for the survey. Please note, however, that we need you to complete the questionnaire through the online survey link contained in your invitation email.

Thank you for taking the time to complete this survey. Please answer the questions in relation to the scheme referenced in your invitation email. Where the scheme is locally administered, we mean the sub-scheme or fund administered by the local scheme manager.

Your responses will be kept anonymous unless you consent otherwise at the end of the survey. Linking your scheme name to your answers will help inform The Pension Regulator's (TPR's) engagement with you in the future.

This survey should be completed by the scheme manager or by another party on behalf of the scheme manager. They should work with the pension board chair to complete it, and other parties (e.g. the administrator) where appropriate.

There is a space at the end of the survey to add comments about your answers where you feel this would be useful.

SECTION A – GOVERNANCE

The first set of questions is about how your pension board works in practice.

A1. EVERYONE TO ANSWER

Does your scheme have a documented policy to manage the pension board members' conflicts of interest?

Please select one answer only

- 1. Yes**
- 2. No
- 3. Don't know

A2. EVERYONE TO ANSWER

Does your scheme maintain a register of pension board members' interests?

Please select one answer only

- 1. Yes**
- 2. No
- 3. Don't know

A3. EVERYONE TO ANSWER

Focusing on the scheme's pension board meetings in the last 12 months, please tell us the following:

Please write in the number for each of a-c below

Number of board meetings that were scheduled

to take place (in the last 12 months)

3

Number of board meetings that actually took

place (in the last 12 months)

3

Number of board meetings that were attended

by the scheme manager or their representative
(in the last 12 months)

3

A4. EVERYONE TO ANSWER

Do the scheme manager and pension board have sufficient time and resources to run the scheme properly?

Please select one answer only

- 1. Yes
- 2. No
- 3. Don't know

A5. EVERYONE TO ANSWER

Do the scheme manager and pension board have access to all the knowledge, understanding and skills necessary to properly run the scheme?

Please select one answer only

- 1. Yes
- 2. No
- 3. Don't know

A6. EVERYONE TO ANSWER

How often does the scheme manager or pension board carry out an evaluation of the knowledge, understanding and skills of the board as a whole in relation to running the scheme?

Please select one answer only

- 1. At least monthly
- 2. At least quarterly
- 3. At least every six months
- 4. At least annually
- 5. Less frequently
- 6. Never
- 7. Don't know

A7. EVERYONE TO ANSWER

Focusing on the composition of your pension board, please tell us the following:

Please write in the number for each of a-d below

- | | |
|--|---|
| a) Number of <u>current</u> board members | 4 |
| b) Number of <u>vacant</u> positions on the board | 0 |
| c) Number of members that have <u>left</u> the board
in the last 12 months | 1 |
| d) Number of members that have been <u>appointed</u>
to the board in the last 12 months | 1 |

SECTION B – MANAGING RISKS

The next set of questions is about managing risks.

B1. EVERYONE TO ANSWER

Does your scheme have documented procedures for assessing and managing risk?

Please select one answer only

- 1. Yes**
2. No
3. Don't know

B2. EVERYONE TO ANSWER

Does your scheme have a risk register?

Please select one answer only

- 1. Yes**
2. No
3. Don't know

B3. EVERYONE TO ANSWER

In the last 12 months, how often have you reviewed the scheme's exposure to new and existing risks?

Please select one answer only

1. At least every month
2. At least every quarter
- 3. At least every six months**
4. Less than every six months
5. Have not reviewed in the last 12 months
6. Don't know

B4. EVERYONE TO ANSWER

To what do the top three governance and administration risks on your register relate? If you do not have a risk register, please tell us to what the top three governance and administration risks facing your scheme relate.

Please select up to three options below

1. Funding or investment
2. Record-keeping (i.e. the receipt and management of correct data)
3. Guaranteed Minimum Pension (GMP) reconciliation
- 4. Securing compliance with changes in scheme regulations**
5. Production of annual benefit statements
6. Receiving contributions from the employer(s)
7. Lack of resources/time
8. Recruitment and retention of staff or knowledge
9. Lack of knowledge, effectiveness or leadership among key personnel
10. Poor communications between key personnel (board, scheme manager, administrator, etc.)
- 11. Failure of internal controls**
- 12. Systems failures (IT, payroll, administration systems, etc.)**
13. Cyber risk (i.e. the risk of loss, disruption or damage to a scheme or its members as a result of the failure of its IT systems and processes)
14. Administrator issues (expense, performance, etc.)
15. Other (please specify):
16. Don't know

SECTION C – ADMINISTRATION AND RECORD-KEEPING PROCESSES

The next set of questions is about administration and record-keeping.

C1. EVERYONE TO ANSWER

Which of the following best describes the scheme's administration services?

Please select one answer only

1. Delivered in house
2. Outsourced to another public body (e.g. a county council)
3. Outsourced to a commercial third party
4. Other
5. Don't know

C2. EVERYONE TO ANSWER

When did the scheme last review who should provide its administration services?

Please select one answer only

1. In the last 12 months
2. Between 13 and 24 months ago
3. Between 25 and 36 months ago
4. More than 36 months ago
5. Never
6. Don't know

C3. EVERYONE TO ANSWER

Which of the following do you use to monitor and manage the performance of your administrators (whether in-house or outsourced)?

Please select all the options that apply

1. Performance metrics are set out in contracts or service level agreements
2. Administrators provide independent assurance reports
3. Independent auditors review the performance of administrators
4. Administrators deliver regular reports to the scheme manager and/or pension board on the service provided
5. Administrators attend regular meetings with the scheme manager and/or pension board
6. Penalties are applied where contractual terms or service standards are not met
7. None of these
8. Don't know

C4. EVERYONE TO ANSWER

In the last 12 months, how many pension board meetings had administration as a dedicated item on the agenda?

Please write in the number below

3

C5. EVERYONE TO ANSWER

Do you have processes in place to monitor scheme records for all membership types on an ongoing basis to ensure they are accurate and complete?

Please select one answer only

- 1. Yes**
- 2. No
- 3. Don't know

C6. EVERYONE TO ANSWER

Does the scheme have an agreed process in place with the employer(s) to receive, check and review data?

Please select one answer only

- 1. Yes**
- 2. No
- 3. Don't know

C7. EVERYONE TO ANSWER

Is your scheme single employer or multi-employer?

Please select one answer only

- 1. Single employer scheme (i.e. used by just one employer)
- 2. Multi-employer scheme (i.e. used by several different employers)**

C8. ANSWER IF SINGLE EMPLOYER SCHEME (C7=1)

Does your participating employer...

Please select one answer per row

	Yes	No	Don't know
a) Always provide you with timely data?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b) Always provide accurate and complete data?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c) Submit data to you monthly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d) Submit data to you electronically?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

C9. ANSWER IF MULTI-EMPLOYER SCHEME (C7=2)

What proportion of your scheme's employers...

Please write in the percentage (from 0% to 100%) for each of a-d below. If you do not know exactly, please give an approximate percentage.

- a) Always provide you with timely data? **99%**
- b) Always provide accurate and complete data? **99%**
- c) Submit data to you monthly? **100%**
- d) Submit data to you electronically? **100%**

C10. EVERYONE TO ANSWER

Does the scheme have a process in place for monitoring the payment of contributions?

Please select one answer only

1. Yes
2. No
3. Don't know

C11. EVERYONE TO ANSWER

Does the scheme have a process in place for resolving contribution payment issues?

Please select one answer only

1. Yes
2. No
3. Don't know

C12. ANSWER IF MULTI-EMPLOYER SCHEME (C7=2)

Does the scheme have a defined escalation process in place for dealing with employers who do not provide timely or accurate data?

Please select one answer only

1. Yes
2. No
3. Don't know

C13. ANSWER IF MULTI-EMPLOYER SCHEME AND HAVE AN ESCALATION PROCESS (C12=1)

What actions are included in your process for dealing with employers who do not provide timely or accurate data?

Please select all the options that apply

1. Chase by telephone
2. Chase in writing
3. Escalate to senior staff
4. Manual correction
5. Impose penalty
6. Remove from scheme
7. Assess for breach of law
8. Other (please specify):
9. Don't know

SECTION D – CYBER SECURITY

The next set of questions is about your scheme's cyber security.

D1. EVERYONE TO ANSWER

Which, if any, of the following controls does your scheme have in place to protect your data and assets from 'cyber risk'?

By 'cyber risk' we mean the risk of loss, disruption or damage to a scheme or its members as a result of the failure of its information technology systems and processes.

Please select all the options that apply

1. Roles and responsibilities in respect of cyber resilience are clearly defined and documented
2. Cyber risk is on the risk register and regularly reviewed
3. Assessment of the vulnerability to a cyber incident of the key functions, systems, assets and parties involved in the running of the scheme
4. Assessment of the likelihood of different types of breaches occurring in the scheme
5. Access to specialist skills and expertise to understand and manage the risk
6. System controls (e.g. firewalls, anti-virus and anti-malware products and regular updates of software)
7. Controls restricting access to systems and data
8. Critical systems and data are regularly backed up
9. Policies on the acceptable use of devices, passwords and other authentication, and on home and mobile working
10. Policies on data access, protection, use and transmission which are in line with data protection legislation and guidance
11. An incident response plan to deal with any incidents which occur
12. The scheme manager has assured themselves of third party providers' controls (including administrators)
13. The scheme manager receives regular updates on cyber risks, incidents and controls
14. The pension board receives regular updates on cyber risks, incidents and controls
15. None of these
16. Don't know

D2. EVERYONE TO ANSWER

Have any of the following happened to your scheme, including at any outsourced administration provider, in the last 12 months?

Please select all the options that apply

1. Computers becoming infected with ransomware
2. Computers becoming infected with other viruses, spyware or malware
3. Attacks that try to take down your website or online services
4. Hacking or attempted hacking of online bank accounts
5. People impersonating your scheme in emails or online
6. Staff receiving fraudulent emails or being directed to fraudulent websites
7. Unauthorised use of computers, networks or servers by staff, even if accidental
8. Unauthorised use or hacking of computers, networks or servers by people outside your scheme
9. Any other types of cyber security breaches or attacks
10. None of these
11. Don't know

D3. ANSWER IF EXPERIENCED ANY CYBER SECURITY BREACHES IN THE LAST 12 MONTHS (D2=1-9)

Thinking of all the cyber security breaches or attacks experienced by your scheme in the last 12 months (including at any outsourced administration provider), which, if any, of the following happened as a result?

Please select all the options that apply

1. Software or systems were corrupted or damaged
2. Personal data (e.g. on members, beneficiaries or staff) was altered, destroyed or taken
3. Permanent loss of files (other than personal data)
4. Temporary loss of access to files or networks
5. Lost or stolen assets, trade secrets or intellectual property
6. Money was stolen
7. Your website or online services were taken down or made slower
8. Lost access to any third-party services you rely on
9. None of these
10. Don't know

SECTION E – DATA REVIEW

The next set of questions is about your scheme's approach to reviewing and improving its data.

E1. EVERYONE TO ANSWER

When did your scheme last complete a data review exercise?

Please select one answer only

1. Within the last 12 months
2. More than 12 months ago
3. Never completed one
4. Don't know

E2. ANSWER IF LAST COMPLETED A DATA REVIEW EXERCISE MORE THAN 12 MONTHS AGO OR NEVER COMPLETED ONE (E1=2 OR 3)

Is a data review exercise currently underway for your scheme but not yet completed?

Please select one answer only

1. Yes
2. No
3. Don't know

E3. ANSWER IF SCHEME HAS EVER COMPLETED A DATA REVIEW EXERCISE (E1=1 OR 2)

Did your scheme's most recently completed data review exercise look at any of the following?

Please select all the options that apply

1. Common data (e.g. member's name, DOB, NI number and address)
2. Scheme-specific data (previously called conditional data)
3. Member existence checks
4. None of these
5. Don't know

E4. ANSWER IF DATA REVIEW COVERED COMMON DATA (E3=1)

Did your scheme's most recently completed data review exercise identify any issues or problems with the common data?

Please select one answer only

- 1. Yes**
- 2. No
- 3. Don't know

E5. ANSWER IF DATA REVIEW IDENTIFIED ANY ISSUES WITH COMMON DATA (E4=1)

Has any action been taken to address the issues identified with the common data?

Please choose one answer that most closely describes the action your scheme has taken to date

- 1. An improvement plan is in development**
- 2. An improvement plan is in place but rectification work is not yet complete
- 3. An improvement plan has been put in place and rectification work has been completed
- 4. Rectification work has been undertaken without an improvement plan
- 5. No improvement plan has been developed and no work has been undertaken
- 6. Don't know

E6. ANSWER IF DATA REVIEW COVERED SCHEME-SPECIFIC DATA (E3=2)

Did your scheme's most recently completed data review exercise identify any issues or problems with the scheme-specific data?

Please select one answer only

- 1. Yes**
- 2. No
- 3. Don't know

E7. ANSWER IF DATA REVIEW IDENTIFIED ANY ISSUES WITH SCHEME-SPECIFIC DATA (E6=1)

Has any action been taken to address the issues identified with the scheme-specific data?

Please choose one answer that most closely describes the action your scheme has taken to date

- 1. An improvement plan is in development**
- 2. An improvement plan is in place but rectification work is not yet complete
- 3. An improvement plan has been put in place and rectification work has been completed
- 4. Rectification work has been undertaken without an improvement plan
- 5. No improvement plan has been developed and no work has been undertaken
- 6. Don't know

SECTION F – ANNUAL BENEFIT STATEMENTS

The next set of questions is about members' annual benefit statements.

F1. EVERYONE TO ANSWER

In 2018, what proportion of active members received their annual benefit statements by the statutory deadline?

Please write in the percentage below. If you do not know exactly, please give an approximate percentage.

99.98%

F2. ANSWER IF DEADLINE WAS MISSED FOR ANY MEMBERS (F1=0-99%)

Was the missed deadline for issuing active member statements reported to TPR?

Please select one answer only

1. Yes - and Breach of Law report made
2. Yes - but decided not to make a Breach of Law report
3. No - not reported
4. Don't know

F3. ANSWER IF MISSED DEADLINE WAS NOT REPORTED TO TPR (F2=3)

What was the main reason for not reporting the breach?

Please select one answer only

1. Not material - few statements affected
2. Not material - very short delay
3. Other reason (please specify):
4. Don't know

F4. EVERYONE TO ANSWER

What proportion of all the annual benefit statements the scheme sent out in 2018 contained all the data required by regulations?

Please write in the percentage below. If you do not know exactly, please give an approximate percentage.

100%

SECTION G – RESOLVING ISSUES

The next set of questions is about resolving issues or complaints the scheme has received.

G1. EVERYONE TO ANSWER

Does the scheme have a working definition of what constitutes a complaint?

Please select one answer only

1. Yes
2. No
3. Don't know

G2. EVERYONE TO ANSWER

In the last 12 months, how many complaints have you received from members or beneficiaries in relation to their benefits and/or the running of the scheme? And how many of these complaints have entered the Internal Dispute Resolution (IDR) process?

Please write in the number for each of a) and b) below. The number at b) should be equal to or lower than the number at a).

- | | |
|--|----------|
| a) Total number of complaints received | 3 |
| b) Number of these complaints that have entered the Internal Dispute Resolution (IDR) process | 3 |

G3. ANSWER IF ANY COMPLAINTS RECEIVED IN THE LAST 12 MONTHS (G2a>0)

To what did the top three types of complaint relate?

Please select up to three options below

1. Eligibility for ill health benefit
2. Slow or ineffective communication
3. Inaccuracies or disputes around pension value or definitions
4. Delays to benefit payments
5. Disputes or queries about the amount of benefit paid
6. Delay or refusal of pension transfer
7. Inaccurate data held and/or statement issued
8. Pension overpayment and recovery
9. Other (please specify): Pensionable Pay
10. Don't know

G4. EVERYONE TO ANSWER

Does the scheme carry out a satisfaction survey(s) among its members and beneficiaries?

Please select one answer only

1. Yes
2. No
3. Don't know

SECTION H – REPORTING BREACHES

The next set of questions is about the scheme's approach to dealing with any breaches of the law.

H1. EVERYONE TO ANSWER

Does the scheme have procedures in place to allow the scheme manager, pension board members and others to identify breaches of the law?

Please select one answer only

1. Yes
2. No
3. Don't know

H2. EVERYONE TO ANSWER

In the last 12 months, have you identified any breaches of the law that are not related to annual benefit statements?

Please select one answer only

1. Yes
2. No
3. Don't know

H3. ANSWER IF ANY BREACHES OF THE LAW NOT RELATED TO ANNUAL BENEFIT STATEMENTS HAVE BEEN IDENTIFIED IN THE LAST 12 MONTHS (H2=1)

What were the root causes of the breaches identified?

Please select all the options that apply

1. Systems or process failure
2. Failure to maintain records or rectify errors
3. Management of transactions (e.g. errors or delays in payments of benefits)
4. Failure of the employer(s) to provide timely, accurate or complete data
5. Late or non-payment of contributions by the employer(s)
6. Other employer-related issues (please specify):
7. Conflicts of interest
8. Lack of knowledge and understanding
9. Something else (please specify):
10. Don't know

H4. EVERYONE TO ANSWER

Are there procedures in place to assess breaches of the law, and report these to TPR if required?

Please select one answer only

1. Yes
2. No
3. Don't know

H5. ANSWER IF ANY BREACHES OF THE LAW NOT RELATED TO ANNUAL BENEFIT STATEMENTS HAVE BEEN IDENTIFIED IN THE LAST 12 MONTHS (H2=1)

In the last 12 months, have you reported any breaches to TPR as you thought they were materially significant? Please do not include any breaches that related to annual benefit statements.

Please select one answer only

1. Yes
2. No
3. Don't know

SECTION I – GOVERNANCE AND ADMINISTRATION

The next set of questions is about your progress in addressing governance and administration issues.

I1. EVERYONE TO ANSWER

To what would you attribute any improvements made to the scheme's governance and administration in the last 12 months?

Please select all the options that apply

1. Improved understanding of underlying legislation and standards expected by TPR
2. Improved engagement by TPR
3. Improved understanding of the risks facing the scheme
4. Resources increased or redeployed to address risks
5. Administrator action
6. Scheme manager action (please specify):
7. Pension board action – Up to date with training.
8. Other (please specify):
9. No improvements to governance/administration in the last 12 months
10. Don't know

I2. EVERYONE TO ANSWER

What are the main three barriers to improving the governance and administration of your scheme over the next 12 months?

Please select up to three options below

1. Lack of resources or time
2. Complexity of the scheme
3. The volume of changes that are required to comply with legislation
4. Recruitment, training and retention of staff and knowledge
5. Lack of knowledge, effectiveness or leadership among key personnel
6. Poor communications between key personnel (board, scheme manager, administrator, etc.)
7. Employer compliance
8. Issues with systems (IT, payroll, administration systems, etc.)
9. Other (please specify): Engagement of LPB / Understanding the importance
10. There are no barriers
11. Don't know

SECTION J – PERCEPTIONS OF TPR

The final set of questions is about your views of TPR.

J1. EVERYONE TO ANSWER

Thinking about your overall perception of TPR, to what extent do you agree or disagree with the following words as ways to describe TPR?

Please select one answer per row

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
a) Tough	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b) Efficient	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c) Visible	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d) Fair	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e) Respected	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f) Evidence-based	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
g) Decisive	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
h) Clear	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
i) Approachable	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

J2. EVERYONE TO ANSWER

Thinking now about how TPR operates, how effective do you think it is at improving standards in scheme governance and administration in public service pension schemes?

Please select one answer only

1. Very effective
2. Fairly effective
3. Neither effective nor ineffective
4. Not very effective
5. Not at all effective
6. Don't know

SECTION K – ATTRIBUTION

Thank you for completing this survey. Your responses will help TPR understand how schemes are progressing and any issues they may face, which will inform further policy and product developments. Before you submit your answers, there are just a few more questions about your survey responses.

K1. EVERYONE TO ANSWER

Which of the following best describes your role within the pension scheme?

Please select one answer only

1. Scheme manager*
2. Representative of the scheme manager
3. Pension board chair
4. Pension board member
5. Administrator
6. Other (please specify):

**In this survey ‘scheme manager’ refers to the definition within the Public Service Pensions Act, e.g. the Local Authority, Fire and Rescue Authority, Police Pensions Authority, Secretary of State/Minister or Ministerial department.*

K2. EVERYONE TO ANSWER

What other parties did you consult with to complete this survey?

Please select all the options that apply

1. Scheme manager
2. Representative of the scheme manager
3. Pension board chair
4. Pension board member
5. Administrator
6. Other
7. Did not consult with any other parties

K3. EVERYONE TO ANSWER

To inform TPR’s engagement going forward, they would like to build an individual profile of your scheme by linking your scheme name to your survey answers. This will only be used for internal purposes by TPR and your scheme name would not be revealed in any published report.

Are you happy for your responses to be linked to your scheme name and supplied to TPR for this purpose?

Please select one answer only

1. Yes, I am happy for my responses to be linked to my scheme name and supplied to TPR
2. No, I would like my responses to remain anonymous

K4. EVERYONE TO ANSWER

And would you be happy for the responses you have given to be linked to your scheme name and shared with the relevant scheme advisory board? This is to help inform the advisory boards of areas for improvement and to further their engagement with pension boards.

Please select one answer only

1. Yes, I am happy for my responses to be linked to my scheme name and shared with the relevant advisory board
2. No, I would like my responses to remain anonymous

K5. EVERYONE TO ANSWER

TPR may conduct some follow up research on this topic to improve their advice and engagement with schemes such as yours. Would you be willing for us to pass on your name, contact details and relevant survey responses to them so that they, or a different research agency on their behalf, could invite you to take part?

You may not be contacted and, if you are, there is no obligation to take part. Your contact details will be stored for a maximum duration of 12 months, before being securely destroyed.

Please select one answer only

- 1. Yes, I am happy to be contacted for follow-up research**
2. No, I would prefer not to be contacted for follow-up research

K6. EVERYONE TO ANSWER

Please record your name below. This is just for quality control purposes and will not be passed on to TPR (unless you have agreed that they can contact you for follow-up research).

Please write in below

Claire Johnson, Pensions Officer.

K7. EVERYONE TO ANSWER

Finally, please use the space below if you have any other comments or would like to clarify/explain any of the answers you have given.

Please write in below if applicable

.....
.....
.....
.....
.....
.....
.....

Introduction

Aon invites Fire organisations to participate in a competitive exchange of benchmarking data and insights – covering resources, costs, understanding of responsibilities and other practices.

Background

The Firefighters' Scheme Advisory Board for England has commissioned a review of the Firefighters Pension Scheme (FPS) administration and management costs and wants to determine how effective the scheme's administration is.

Important

This survey must be completed by a person(s) who is responsible for making pension-related decisions in respect of the FPS. It should not be forwarded to the administrator for completion. All information collected in this survey will be treated in the strictest confidence and information that is published will be anonymised. Your comments will not be shared with the organisation in question.

About You
Meeting Your Obligations
Resources and Costs
Final

What data do I need to submit?
 Please provide data for your organisation for employees performing duties related to the FPS and for the associated costs that apply.
 For blue boxes select an option from the drop-down list. For orange boxes tick the appropriate selection box. For pink boxes provide a manual input.
 This survey contains some conditional questions so if a question turns grey then you don't have to answer that question and can move onto the next question

How long will it take to complete the survey?

It should not take longer than 45 minutes to complete this survey
 Please submit your responses by e-mail (with password protection), to [Nicky Russell \(nicky.russell@aon.com\)](mailto:Nicky.Russell@aon.com) at Aon, by **31 December 2018**.

What will I receive in return?

In exchange for you providing requested inputs to Aon, you will receive a report that summarises the findings of this study. Aon will treat all data confidentially, and only report data in aggregate (so that no data can be attributed to a specific organisation).

What is the deadline?

Please submit your responses by e-mail (with password protection), to [Nicky Russell \(nicky.russell@aon.com\)](mailto:Nicky.Russell@aon.com) at Aon, by **31 December 2018**.

Who can I contact with questions?

Craig Payne	craig.payne@aon.com
Claire Hay	claire.hay@local.gov.uk
	0117 945 3523
	07825 731924

Fire Organisation Information

Organisation Name
 If your name is not in the list, please manual input it here:
 Contact Name (person submitting this questionnaire)
 Job Title
 Direct Phone
 E-mail

West Yorkshire Fire and Rescue Service		
Claire Johnson	Pensions Officer	01274 433538
claire.johnson@westyorkshire.gov.uk		

Contact Name (person to receive results report)
 Job Title
 Direct Phone
 E-mail

Claire Johnson	Pensions Officer	01274 433538
claire.johnson@westyorkshire.gov.uk		

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FPS Employer's Survey

PRIVATE AND CONFIDENTIAL



1	Which Fire organisation do you represent?	West Yorkshire Fire and Rescue Service
----------	--	--

2	How many active (contributing) firefighters does your organisation(s) have in the FPS?	1,000 and above
----------	---	-----------------

3	Who carries out the administration of the FPS for your Fire organisation?	Third party - Public Sector Body
----------	--	----------------------------------

4	Have you changed your pension administrator within the last 3 years or are you planning to change administrator?	No
----------	---	----

4a		
Reason	Select one	Specify (if Applicable)
Cost-effectiveness	<input type="checkbox"/>	
Unsatisfactory service levels	<input type="checkbox"/>	
End of contract/previous contract has ended	<input type="checkbox"/>	
Lack of necessary resource or expertise	<input type="checkbox"/>	
Other—please specify	<input type="checkbox"/>	

FPS Employer's Survey

PRIVATE AND CONFIDENTIAL



5

How do you rate your understanding of your responsibilities in relation to the FPS

Good

5a		
Description	Selection	Please specify below
Attendance at regular training sessions (please specify frequency/type of events)	<input checked="" type="checkbox"/>	Quarterly meeting with administrators, quarterly regional group meeting
Attendance at conferences (please specify)	<input checked="" type="checkbox"/>	Annual conference & all supplementary events held by LGA throughout the year
Compliance with a training plan (covering officers / LPB members/both)	<input checked="" type="checkbox"/>	Agenda item on LPB, also forms part of our annual report
Make use of national support (please specify)	<input checked="" type="checkbox"/>	Use of the new website, bulletins provided by LGA, technical notes provided by LGA
Other (please specify)	<input type="checkbox"/>	

5b

Do you fully comply with your responsibilities in relation to the FPS

		Yes
6	Do you have a Service Level Agreement with your administrator (or equivalent if in-house)?	Yes
7	How often do you receive an administration report from your administrators (regardless of whether your administrators are in-house or a third party)?	Monthly
7a	Do you feel you receive all the required information from your administration report?	Yes
8	Have you experienced difficulties in providing data for the administration of the Scheme?	Rarely
8a	What are the difficulties you have experienced from the following? (Please select multiple)	<p>Description</p> <p>Selection</p> <input type="checkbox"/> <p>Meeting expected turnaround times</p>

Providing data of required quality	<input type="checkbox"/>
Not clear what we need to provide	<input type="checkbox"/>
Extracting data from payroll	<input checked="" type="checkbox"/>
Other - please specify	<input type="checkbox"/>

9

How many breaches of the law have you recorded in the past 12 months?

2

9a

How many of these breaches have been determined to be material and have therefore been reported to the Pensions Regulator?

0

10

Was your Fire organisation one of the authorities where some data wasn't used to set the assumptions for the 2016 valuation?

Yes

10a

How concerned are you that this is an indication of poor quality data?

Slightly concerned

10b	Have you budgetted for rectifying the data issues?
	No

11	Please confirm the data scores captured for your authority for the Common and Scheme Specific Data as required for the 2018 Pensions Regulator Survey.
Common Data	Scheme Specific Data
1992 - 99.66, 2006 - 93.10, 2006 (Modified) - 100, 2015 - 100, 2015 (Modified) - 100	1992 - 94.97, 2006 - 99.14, 2006 (Modified) - 85.51, 2015 - 97.67, 2015 (Modified) - 100

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FPS Employer's Survey

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12

How many Full Time Equivalent (FTE) posts are allocated to working on FPS related matters? (Note that we are only interested in tasks that are relevant for pension purposes)

Department	Full Time Equivalent (FTE) posts	Specify (if other)
Finance		
Payroll		
HR	1.1	
Other (please specify)	0.13	LPB Secretariat Support

13

What is the total (actual not FTE) salary for all staff working on FPS related tasks in the following departments in £s? (Only count the proportion of time staff are working solely on FPS related matters.)

Department	Total (actual not FTE) salary	Specify (if other)
Finance		
Payroll		
HR	£35,871	
Other (please specify)	£12,713	Admin support for LPB & SAB Levy

14

What is the current annual fee charged by your administrators (if external)?

Annual Fee 2016-17 (in '000)	Annual Fee 2017-18 (in '000)	Over the next 3 years do you expect this to:
£50,000	£54,000	Increase

14b

How are software provider costs charged?	Specify (if other)
Select	No software costs are separately identified or charged

15	What is the current annual fee charged by your software provider? Annual Fee: 2016-17 (in '000)	Over the next 3 years do you expect this to: Annual Fee: 2017-18 (in '000)
16	Do you currently have an employer self-service portal where you can transfer your data to your administrator?	Yes/No Yes
17	How many complaints have you received via the Internal Dispute Resolution Procedure (IDRP) in the last 3 years?	5-10
18	Have you been issued with any fines, distress and inconvenience payments or any rectification costs within the last 3 years?	No
18a	What has been the total of these fines/payments? Range of Fines/Payments	Specify (if other)
19		

What additional (estimated) costs have you incurred for implementing/rectifying cases for the following "special" projects? (This should include internal and external costs)	
Special Projects	Estimated Costs
Implementation of the 2015 Scheme [£.....]	
GAD v Milne [£]	
18-20 contribution holiday [£]	
Retrospective pensionable pay issues including Norman v Cheshire [£]	£4,000
GMP reconciliation [£]	£2,044
APB discretions [£]	
TPR data reporting requirements [£]	
Special members of the 2006 scheme [£]	

19a What is included within your (estimated) costs?	
Cost Heads	Selection
Legal advice	<input checked="" type="checkbox"/>
Costs of extra in-house staff time	<input type="checkbox"/>
Administrator fees	<input checked="" type="checkbox"/>
Other advisory fees	<input type="checkbox"/>
Other, please specify	<input type="checkbox"/>
Specify (if other)	

19b What are your annual costs for other FPS-related activities?	
Cost Heads	Cost (£)
IAS19 advice and reporting - £ (please provide 2018 costs)	£1,150
Provision of cashflow forecasts to home Office - £ (please provide 2018 costs)	
Other - £ per annum please specify activity	

20 Do you believe you have sufficient access to advice and expertise in relation to the FPS?	
Yes/No	Where do you access that advice and expertise? (Please select multiple)
	<input type="checkbox"/>
	<input checked="" type="checkbox"/>

The Local Government Association	<input checked="" type="checkbox"/>
The Home Office	<input checked="" type="checkbox"/>
Consultants	<input type="checkbox"/>
Other	<input type="checkbox"/>

21

How easy do you find it to make decisions in relation to the FPS where the Regulations permit discretions such as in relation to pensionable pay or ill-health early retirements?

How Easy	Description	If difficult/very difficult, why? (please select multiple)	
		Selection	Constant changes to the scheme Each scheme having different regulations
Difficult	Complexity of benefits Frequent changes in legislation, case law affecting administration High expectations from members Lack of support nationally Lack of support locally Other - please specify	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

22

On a scale of 1-4 (1 being very poor and 4 being very good), how would you rate the guidance and support from:

Heads	Rating	Any Comments
The Local Government Association	3	
The Home Office	3	
Regional Fire Pension Officer Group	3	

23

Are you aware of the new Firefighters' Pension Schemes Regulations and Guidance website?

Yes/No	Have you used this website?
Yes	Yes

23b

On a scale of 1-4 (1 being very poor and 4 being very good), please rate the content offered on the website?

Website	Rating	Any Comments
Content	3	

Ease of use (e.g. finding information)	3
Are there any specific areas of the FFS where you think additional guidance and support is required?	24

Comments

FPS Employer's Survey

PRIVATE AND CONFIDENTIAL



25

Are you aware of any intentions to change the structure of your Fire organisation to become any of the following?

Description	Specify (if others)	If Yes to any, how do you expect this to affect the costs of managing the FPS?
No		

26

How would you rate your costs for administering the FPS in the context of ensuring members receive the right benefits at the right time (this question isn't about employer contribution rates)?

Too costly

27

If you could change one thing about the FPS, what would it be?

Greater clarity re pensionable pay

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List of Data Items

List of Fire and Rescue Employers	
Avon Fire and Rescue Service	
Bedfordshire & Luton Fire and Rescue Service	
Buckinghamshire & Milton Keynes Fire & Rescue Service	
Cambridgeshire Fire and Rescue Service	
Cheshire Fire and Rescue Service	
Cleveland Fire Brigade	
Cornwall Fire and Rescue Service	
Cumbria Fire and Rescue Service	
Derbyshire Fire and Rescue Service	
Devon & Somerset Fire and Rescue Service	
Dorset & Wiltshire Fire and Rescue Service	
Durham & Darlington Fire & Rescue Service	
East Sussex Fire and Rescue Service	
Essex County Fire and Rescue Service	
Gloucestershire Fire and Rescue Service	
Greater Manchester Fire and Rescue Service	
Hampshire Fire and Rescue Service	
Hereford & Worcester Fire and Rescue Service	
Hertfordshire Fire and Rescue Service	
Humbershire Fire Brigade	
Isle of Scilly Fire Brigade	
Isle of Wight Fire Brigade	
Kent Fire Brigade	
Lancashire Fire and Rescue Service	
Leicestershire Fire and Rescue Service	
Lincolnshire Fire and Rescue Service	
London Fire Brigade	
Merseyside Fire and Rescue Service	
Norfolk Fire and Rescue Service	
North Yorkshire Fire and Rescue Service	
Northamptonshire Fire and Rescue Service	
Nottinghamshire Fire and Rescue Service	
Oxfordshire Fire and Rescue Service	
Royal Berkshire Fire and Rescue Service	
Shropshire Fire and Rescue Service	
South Yorkshire Fire and Rescue Service	
Staffordshire Fire and Rescue Service	
Suffolk Fire and Rescue Service	
Surrey Fire and Rescue Service	
Tyne & Wear Fire and Rescue Service	
Warwickshire Fire and Rescue Service	
West Midlands Fire Service	

Active Firefighters	
1-100	In-house
100-250	Third party - Your local LGPS administering authority
250-500	Third party - Private Sector body
500-1,000	Third party - Public Sector Body
1,000 and above	Don't know

Who Does the Administration	
In-house	
Third party - Your local LGPS administering authority	
Third party - Private Sector body	
Third party - Public Sector Body	
Don't know	

4a. What were/are the reasons behind the change in administrator? (multiple selections allowed)	
Cost effectiveness	
Unsatisfactory service levels	
End of contract/previous administrator did not re tender	
Lack of necessary resource or expertise	
Other - please specify	

5b. How do you ensure that you understand your responsibilities in relation to the FPS?	
Attendance at regular training sessions (please specify frequency/type of events)	
Attendance at conferences (please specify)	
Compliance with a training plan (covering officers / LPB members/both)	
Make use of national support (please specify)	
Other	

8a. What are the difficulties you have experienced from the following? (Please select multiple)	
Meeting expected turnaround times	
Providing data of required quality	
Not clear what we need to provide	
Extracting data from payroll	
Other - please specify	

14b. How are software provider costs charged?	
Included (at a specified amount) within the admin fee	
Core costs are included within the admin fee but specific modules are charged separately	
All software costs are separately identified and charged	
No software costs are separately identified or charged	
Other [please specify]	
Don't know	

19a. Where do you access that advice and expertise? (Please select multiple)	
Internally	
Local Support Network	
The Local Government Association	
The Home Office	
Consultants	
Other	

West Sussex Fire and Rescue Service
West Yorkshire Fire and Rescue Service

25. Are you aware of any intentions to change the structure of your Fire and Rescue Authority to become ?	
4	A Combined Authority Part of Police, Fire and Crime Commissioner Other [please specify] No
5+	Our administrator takes care of this
0	
1-5	
5-10	
10-15	
15-20	
20+	
Complaints Received	
Concern	
Very concerned	
Concerned	
Slightly concerned	
Not concerned at all	
Expectations	
Increase	
Decrease	
Stay the same	
Fines/Payments	
up to £1k	
£1k - £5k	
£5k - £10k	
£10k - £20k	
£20k - £50k	
Other (please specify)	
How Easy	
Very Easy	
Easy	
Difficult	
Very Difficult	
Change	
Rating	
1	
2	
3	
4	
Costing	
Rating With N/A	
1	
2	
3	
4	
N/A	



FPS Bulletin 13 – October 2018

Welcome to the thirteenth (unlucky for some) issue of the Firefighters' Pensions Schemes bulletin.

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

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

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Training

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Calendar of events

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

South East regional FPOG	2 November 2018
Cost-effectiveness committee	12 November 2018
South West regional FPOG	15 November 2018
LGA Leadership Essentials Fire & Rescue (Elected members)	28-29 November 2018
Eastern regional FPOG	29 November 2018
SAB	5 December 2018
Firefighter Pensions Technical Community	12 February 2019
North East regional FPOG	19 February 2019
LGA Leadership Essentials Fire & Rescue (Elected members)	26-27 February 2019
LGA annual fire conference and exhibition	12-13 March 2019

FPS

FPS 2016 valuation - update

On 11 October 2018 the Home Office commissioned the Scheme Advisory Board (SAB) for advice under [Section 7 of the 2013 Act](#) and [regulation 4E](#) of the Firefighters' Pension Scheme (England) Regulations 2014, thereby initiating formal consultation, with a view to reaching agreement, under [regulation 150A](#) of the 2014 Regulations.

The SAB is well placed to engage in this consultation. The Board's [cost effectiveness committee](#), constructed from stakeholders across the sector and supported by the Board's independent actuarial advisor, is due to meet in early November to discuss options for rectifying the breach to the cost cap floor.

The consultation will run until 5 December 2018. If agreement cannot be reached at the end of the consultation, there will be a period of three months during which the Home Office will continue to engage with the SAB to attempt to agree a consensus position. If a consensus position is not reached within that three month period, the default position of an increase to the 2015 accrual rate will be applied.

GAD have advised that the indicative accrual rate will be 1/51.2 and based on this, the indicative employer contribution rate would be 30.2% (which includes the costs of ill-health retirements). HM Treasury have indicated that there will be additional funding available in the first year to cover most of the increase in the employer's cost; after this the additional cost will be considered alongside other funding pressures as part of the comprehensive spending review. However, the final employer contribution and accrual rate will not be known until the end of the formal consultation period between the SAB and the Home Office.

Board consultations and responses will be published [here](#) once they are available, and monthly updates will be provided in the bulletins.

Review of scheme factors

As readers will be aware, the change to the SCAPE discount rate means that certain GAD factors have to be reviewed. The Home Office have provided a letter detailing the changes which can be viewed at [Appendix 1](#).

New commutation factors are expected imminently and will be published on www.fpsregs.org as soon as they are available, with an email notification sent to all FPS stakeholders.



As was the case in 2016, transfer calculations will need to be put on hold until new actuarial factors are issued. All factors once available will be published on the [GAD Guidance](#) section of the website.

FPS benchmarking exercise - update

As detailed in [FPS Bulletin 12 – September 2018](#), a benchmarking review of administration service and costs within the FPS is being undertaken by Aon to address one of the SAB's key objectives in ensuring the cost-effectiveness and efficiency of the schemes.

The Bluelight team has been working closely with Aon and external stakeholders to finalise the survey questions for employers, administrators, and members. The employer and administrator surveys will be issued in Excel format to allow them to be saved during and after completion if input from various departments is needed. Subject to approval of the SAB's [administration and benchmarking committee](#), these surveys will be available during November.

The member survey will be web-based and follow at a later date. We hope to promote this using our network of contacts at FRAs.

Further updates on the progress of the project will be provided in the bulletins and we intend to set up a dedicated page on the FPS regulations and guidance website to hold notes of all meetings and any other related documentation. Please watch this space and take the opportunity to complete the surveys once they are ready for completion.

ABS survey – deadline extended

We were pleased to launch the [2018 ABS survey](#) in last month's edition of the bulletin.

Thank you to those that have already completed the survey; we have received replies from a good proportion of Authorities. The deadline for responses has been extended to **14 November 2018** to allow for any final submissions to be made.

The survey should be completed by FRAs, administrators, those involved with Local Pension Boards, and any other stakeholders with an interest in the ABS process. We welcome multiple replies from FRAs to enable us to build up a comprehensive picture of the current landscape.

III-Health and Injury Determinations and role of IQMP

We have recently been made aware of a pensions ombudsman adjudicator case, where the adjudicator found the FRA to have 'acted blindly' on their acceptance of an IQMP report. The adjudicator has instructed the Authority to appoint a new IQMP and reconsider the case.

While the rules determine that the opinion of the independent qualified medical practitioner is binding on the Fire Authority, they firstly determine that the Fire Authority is the ultimate decision maker. Therefore the Authority need to ensure processes are in place to question whether the decision has been made properly and the IQMP is in receipt of all the appropriate medical evidence. This is also consistent with employment law, under which it would be unreasonable/unfair to act on a flawed medical report.

Case law further supports the argument that the decision maker must not act blindly in accepting a medical opinion, and should ensure the IQMP reaches their opinion in a proper manner.

- [Court judgment](#) for the police scheme that the Police Authority is the ultimate decision maker not the Selected Medical Practitioner (SMP)
- [PO-9253](#) (para 32) demonstrates that decision makers have a responsibility when seeking and taking medical advice and should not just rely on it at face value.

In order to ensure that Fire Authorities have not ‘acted blindly’, they should ensure they do not simply accept the advice of the IQMP without going through the report, reading it to make sure it makes sense and then asking clarification questions if something is missing or the IQMP does not appear to have considered the right questions as per the requirements of the regulations.

This is not to say that the FRA should go against the IQMP decision, but rather they should satisfy themselves that they have asked pertinent questions and obtained all relevant medical evidence with a view to having a better understanding of the medical evidence and ensuring that the medical evidence addresses the requirements of the regulations.

Local Pension Boards should ensure that scheme managers have the appropriate processes in place.

Relevant Scheme Rules

1992 Scheme	H1
2006 Scheme	Part 8, rule 2
2015 Scheme	Part 12, chapter 1
Compensation Scheme	Part 6, rule 1, paragraph 2

October query log

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

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

Other News and Updates

Budget 2018

On 29 October the [Budget 2018](#) was laid before the House of Commons by the Chancellor of the Exchequer, Philip Hammond, setting out the government’s plans for the economy and public finances.

Announcements relating to public service pensions schemes confirmed as expected the reduction of the SCAPE discount rate to 2.4% plus CPI, indicating an increased cost to employers of providing pensions in the long-term. The government further acknowledged that the provisional valuation results of all public service schemes indicate that an improvement to member benefits is needed from 2019-20.

While there were no major announcements in relation to pensions tax, it has been confirmed that Lifetime Allowance for 2019-20 will increase in line with CPI, to £1,055,000.

The government pledged support for pension savers by committing £5m extra funding for the Pension Dashboard, which will allow individuals to see all of their pension pots, including State Pension, in one place. The Budget report confirms that DWP will consult on the project later in the year.

TPR – Governance and Administration survey 2018

As always, the end of the year seems to be a popular time for gathering data, and TPR are shortly due to send out their annual Governance and Administration survey. The survey is really important to the Regulator as it helps them understand the issues that schemes are facing, in a way that is not possible within their day to day engagement activities. Last year, FPS achieved almost a 100% response rate across the UK, demonstrating the fantastic progress that has been made within the governance and administration of the schemes, and we would like your assistance in achieving a full return this year.

Our colleagues at TPR have confirmed that there have been some changes to the survey for 2018. While the survey continues to ask questions about the presence of key governance features, this year it will also be probing how well they operate. In particular, the Regulator will be looking at how well pension boards are working in practice. A new section on cyber-risks has also been introduced, which should allow parallels to be drawn between public service schemes and organisations in the private sector.

As in previous years, the survey is being run for TPR by OMB market research throughout November. We expect that initial contact emails will be sent to scheme managers, pension board chairs and scheme contacts during week commencing 29 October. This will allow schemes a little time to update any out of date details before the survey is sent. If you haven't already, please update any relevant details through the TPR Scheme Return which is currently out for completion.

The survey itself is due to be sent out to scheme managers in the week of 5 November. While the survey is web based, it can be printed off for discussion, and the closing date is the end of November. TPR expect to receive results early in February 2019 and will aim to publish these shortly thereafter.

A summary of last year's results can be found [here](#).

TPO update

Our colleagues at the Pensions Ombudsman (TPO) have provided an interesting and informative update on their FPS casework: currently 11 cases have been accepted for investigation by TPO, and eight are being investigated by the early resolution team.

The outstanding cases include three cases about protected pension ages. These are being delayed by a similar [determination](#) in the Police Pension Scheme which is subject to appeal.

Two other cases relate to individuals who missed the deadline to elect to become special members of the FPS 2006.

The options exercise for eligible individuals joining the Modified Scheme was set out in the 'special section' regulations of the 2006 Scheme. This sets out that the exercise closed on 30 September 2015 and, as such, no elections could be accepted after this date. The rules are definitive about this particular point and there is no intention for them to be amended. An update on this matter was provided in [FPS Bulletin 3 – November/ December 2017](#).

It was the responsibility of each FRA to ensure that they completed the options exercise by the closing date; informing all affected individuals of their entitlement to join and providing them with the opportunity to make an election to join, therefore neither the LGA, Home Office or the SAB intend to comment on what the position should be on rectifying the situation where an Authority have not used reasonable endeavours to satisfy their responsibilities.

The second awaited TPO determination on pensionable pay was published earlier this month under reference [PO-14863](#). This will allow the SAB to progress guidance with the Board's legal adviser. Any guidance issued will be a general set of principles that are based on case law and scheme rules; it will still be the responsibility of each Authority to determine locally which elements of pay are pensionable.

We would remind Authorities of the position taken by the Home Office that it is not for the regulations to determine whether pay for different duty systems is pensionable; the regulations and case law set out the criteria and it is for each FRA to consider whether their duty systems fit this criteria and make the judgment as to whether pay is pensionable. If having considered all the information available to them, they feel they are unable to make a decision, then they should consider taking legal advice.

The following [presentation](#) given by the SAB's legal adviser at the AGM in September gives an update on case law, general principles, and the practical implications to consider.

LGA website revamped

The LGA Pensions team has been collaborating on a new suite of pages to promote our work across public service schemes, including the Local Government Pension Scheme (LGPS) and Teachers Pension Scheme, as well as the FPS. Information about the Police Pension Scheme will be added at a later date.

Many of the pages are publicly accessible and have been redesigned to be as user friendly and engaging as possible.

The pages can be accessed from the following central link <https://www.local.gov.uk/our-support/workforce-and-hr-support/local-government-pensions>. If you have any feedback about the website or would like to find out more information about any of the schemes within our remit at the LGA, please email bluelight.pensions@local.gov.uk in the first instance.

HMRC

HMRC newsletters/bulletins

HMRC have published pension schemes newsletter 104 containing important updates and guidance on pension schemes. The following issues are covered:-

[Pension schemes newsletter 104 – 31 October 2018](#): Autumn Budget 2018 | Pension flexibility statistics | Registration statistics | Manage and Register Pension Schemes service | Reporting of non-taxable death benefits | Relief at source | Non-statutory clearances | Applications to register a pension scheme | Transfers between registered pension schemes | Reporting overseas transfer charges | Master trusts | Operating PAYE on pension payments |

Contracting-out reconciliation update

Thank you for your ongoing work with HMRC to reconcile the Guaranteed Minimum Pension (GMP) data that you hold on your scheme members that have reached State Pension Age since 2009.

FRAs should now have concluded or be in the final stages of reconciling their GMP data. HMRC has now confirmed a deadline of 31 October 2018 for submitting data after which there will be no further opportunity to raise queries direct with HMRC. If this presents any difficulty for your FRA you should raise this with your HMRC contact as a matter of urgency.

We understand that considerable progress has been made over the last few months, but that there may be a large amount of data still to submit. As FRAs may be aware, we made a request for information in [FPS Bulletin 9 – June 2018](#) for details on the progress made on the GMP reconciliation in order to inform HMT conversations with HMRC on completion of the reconciliation and deadlines. Unfortunately we only received a disappointing 16 responses from FRAs out of the 50 FRAs including NIFRS, Scotland and Wales.

The Pensions Administration Standards Association (PASA) has this month issued guidance on resolving stalemate cases with HMRC. The guidance is available at [Appendix 2](#).

Please note that the Home Office has now agreed that any confirmed overpayments identified as part of the HMRC reconciliation process should be written off with no attempt to recover the overpayment from the individual scheme members. FRAs are advised to correct these pension payments going forward as soon as is reasonably possible to avoid any possible unauthorised payment tax charges. To ensure that such tax charges are avoided we recommend that FRAs have a robust process in place to correct any affected pensions immediately once they have been identified. It is worth bearing in mind that any additional tax charges incurred cannot be paid from a FRA's pension account and will have to be paid from operational accounts. Please note it is the responsibility of each FRA to inform each affected scheme member accordingly.

The Home Office has also agreed that any confirmed pension underpayments that have been identified as part of the GMP reconciliation process should be corrected going forward as soon as is reasonably possible. FRAs should reimburse affected members for any past underpayments in their GMP entitlement. While it is not expected that interest will be included with any reimbursed pension, should a FRA decide to include interest this will need to be paid from operational accounts. Again, it is the responsibility of each FRA to inform each affected scheme member accordingly.

ACTION: Pension Board Chairs and Scheme Managers, please ensure you liaise with your pension manager to ensure the correct action is taken for your FRA.

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

[Countdown bulletin 37](#)

Updates include:

- financial reconciliation
- import amendment to phase 7 rerun plan
- HMRC banking details
- data quality
- contribution adjustment action as a result of scheme reconciliation

Please see below an addendum to Countdown Bulletin 37, recently received from HMRC:

Subject: Urgent Amendment to Count Down Bulletin 37 Contribution Adjustment

In the October Count Down Bulletin 37 we included an article titled 'Contributions Adjustment Action As A Result of Scheme Reconciliation'. This advised PSAs on the action needed to adjust Contributions from A to D and vice versa.

As part of the information required in the Trustees Approval letter we incorrectly said that a list of members that the adjustment applies to should be included, this was incorrect all that is required is the number of members the adjustment applies to, this number must match the file and the exact file name must be shown.

Apologies for any confusion this has caused.

Reporting non-taxable death benefits

HMRC have confirmed that the Real Time Information (RTI) online service has been updated to prevent P6 coding notices being incorrectly issued to beneficiaries in receipt of pension lump sum death benefits that are entirely non-taxable, with apologies for the time taken to resolve this.

Reporting of non-taxable pension lump sum death benefit payments can now resume through RTI. For 2018 to 2019 you can find guidance on how to report these payments in part 2.2.7 of the [2018 to 2019: Employer further guide to PAYE and National Insurance contributions](#).

While HMRC appreciate that it may take time for you to amend your processes to report these payments again, but want to encourage you to start reporting these as soon as you're able to.

Training

Pensions tax support – update

Thank you to those authorities that have completed the pensions tax support pro-forma that was included as an appendix to [FPS Bulletin 12 – September 2018](#). We will consider the responses in our procurement of any additional training and support, and updates will be provided via future bulletins.

We are happy to accept further responses using the [pro-forma](#), which can be completed and returned to bluelight.pensions@local.gov.uk.

Legislation

SI	Reference Title
2018/1102	The Occupational Pension Schemes (Cross-border Activities) (Amendment) Regulations 2018
2018/1103	The Occupational Pension Schemes (Governance) (Amendment) Regulations 2018

Useful links

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

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FPS Bulletin 14 – November 2018

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

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

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

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Calendar of events

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

SAB	5 December 2018
LPB effectiveness committee	23 January 2019
Administration & benchmarking committee	7 February 2019
Firefighter Pensions Technical Community	12 February 2019
North East regional FPOG	19 February 2019
LGA Leadership Essentials Fire & Rescue (Elected members)	26-27 February 2019
LGA annual fire conference and exhibition	12-13 March 2019
SAB	14 March 2019
SAB	13 June 2019
Firefighters' Pensions AGM	24-25 September 2019 (provisional)
SAB	10 October 2019
SAB	12 December 2019

FPS

FPS 2016 valuation – update

Following the initiation of formal consultation between the Home Office and the Scheme Advisory Board (SAB) under [regulation 150A](#) on 11 October 2018, the Board and its [cost-effectiveness committee](#) have met to discuss options for rectifying the breach to the cost cap floor. The draft results of the 2016 valuation show that the employer cost cap set at 16.8%¹ has fallen to 11.6%.

¹ [150A(1) <http://www.legislation.gov.uk/ksi/2015/465/regulation/5/made>]

The cost committee comprises representatives from FRAs working within finance and HR, the technical group chair representing administrators, and representatives from local pension boards. The Board itself is made up of both scheme employer and scheme member representatives (including all trade union bodies operating as representatives of their wider membership), and is supported by First Actuarial offering independent actuarial advice. The SAB have to provide their response to the Home Office for consideration on 5 December.

The Home Office then have ten days to provide an alternative option if the SAB's proposed option is not accepted. If agreement cannot be reached following this, there will be a period of three months during which the Home Office will continue to engage with the SAB to attempt to agree a consensus position.

If a consensus position is not reached within that three month period, the default mechanism is to amend the accrual rate for FPS 2015. GAD have advised that the default accrual rate would be 1/51.2 in order to fully rectify the breach.

Board consultations and responses will be published [here](#) once they are available, and monthly updates will be provided in the bulletins.

FPS benchmarking exercise – update

Following an extended period of stakeholder engagement, we were pleased to issue the final versions of the administrator and employer (scheme manager) surveys by email on 23 November, for completion with a deadline of 31 December.

The surveys were sent by email to our main contacts at administrators and FRAs. If you were expecting to receive a copy and have not, please contact claire.hey@local.gov.uk.

Aon have been commissioned to undertake the review by the Scheme Advisory Board (SAB), to help them establish a measure of the cost and effectiveness of administration and management within the schemes. An update from Aon can be viewed at [Appendix 1](#).

More information about the project can be found [here](#) and further updates will be provided in the bulletin each month.

Scheme Advisory Board levy

On 31 October we emailed all Fire Authorities with details of the 2018/2019 levy, requesting a valid purchase order for the invoice by 30 November 2018. For English Fire Authorities this was set as £7.69 per firefighter defrayed to scheme managers as per the terms of the 2014 regulations. The letter is available at [Appendix 2](#).

Many thanks to all those who have responded with a valid purchase order. To date we have received **24** responses out of an expected 49, so will be writing to those yet to provide a valid purchase order during the next month.

Pensionable pay update

As we reported in [FPS bulletin 13 – October 2018](#), TPO have now published decision [PO-14863](#) on pensionable pay in respect of the Welsh Firefighter schemes that will be of interest to English Fire Authorities. We will be asking the SAB legal adviser to consider giving guidance on what this means for all Fire Authorities

The case considers a number of different pensionable pay elements across the pension schemes which can be summarised below:

Pensionable Element	Scheme	TPO decision - Relevant paragraphs	TPO judgment
Training Allowance	1992	45-49	Pensionable
Day Crewing	2007* & 2015	50-69	Not pensionable
Self-Rostered Crewing	2007* & 2015	70-71	Not pensionable
USAR	2007* & 2015	72-78	Pensionable

*2006 Scheme in England

Please note the issues in pensionable pay cases are finely balanced and often depend on the exact detail and nature of the payments. You should read the judgment with this in mind and obtain legal advice before making any pensionable pay decisions for your Fire Authority. It is possible that TPO decision will be appealed.

[SI 2018/997 member disclosure](#)

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

Authorities will be aware of the recent changes to the FPS following the introduction of The Police and Firefighters' Pension (Amendment) Regulations 2018 which were made on 13 September 2018 and came into force on 8 October 2018 ([SI 2018/997](#)).

To assist FRAs in communicating these changes to scheme members, Shropshire Pension Fund on behalf of the Fire Communications Working Group (FCWG) have produced a [leaflet](#) containing sample text which can be copied and used as required. **Please ensure that this information is provided to members by 8 January 2019.**

[A favour to ask...](#)

As you will be aware published Pension Ombudsman (TPO) [decisions](#) are available on our [website](#) ordered by scheme. However, informal adjudicator decisions are not published by TPO. We would like to ask whether schemes would be prepared to share informal adjudicator decisions so that we can publish anonymised case studies, similar to the 'Ill-Health and Injury Determinations and role of IQMP' case study given in [FPS bulletin 13 - October 2018](#).

Within the bulletin, we commented on a recent case where an FRA had been found to be 'acting blindly' in the case of accepting an IQMP opinion, and provided some examples of case-law where this had been determined. This is further confirmed by the following TPO determinations: [PO-13645](#), [PO-19182](#) and [PO-19842](#). In all these cases it is the decision making process itself which has been found to be flawed, not the actual medical decision. Appeals on medical issues should be directed to Health Management Ltd (HML).

November query log

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

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

Website resource update – ill health

While the FCWG continue to undertake a review of ill health and injury award certificates and guidance, we have collated all existing resources into a new page in the member-restricted area of www.fpsregs.org. If you require a log-in for the site, please contact bluelight.pensions@local.gov.uk.

The [ill health and injury page](#) contains guidance and training materials along with forms for each scheme that were prepared in 2015 and circulated as drafts for authorities to use if they wished. Note, however, that these forms have not been endorsed by the LGA or the Home Office. Authorities should satisfy themselves that the certificates meet all of their requirements and do not leave the opinion open to challenge.

Other News and Updates

TPR scheme return 2018

We have been made aware that some FRAs may not yet have completed their annual scheme return to TPR. While we are aware that some delay may have been caused by the new requirement to provide common and scheme specific data scores, we would like to remind scheme managers that submission of the return is mandatory and any schemes that have not yet submitted will now have been moved to the first stage of enforcement – chasers and reminders.

In 2017 a £1,000 fine was issued against the London Borough of Barnet scheme manager for failing to submit its 2016 scheme return:

- TPR issued a scheme return notice to the scheme manager on 9 July 2016, requesting the scheme return be submitted by 12 August.
- The return was not received and further communications from TPR not replied to.
- The matter was referred to TPR's Determinations Panel on 24 February 2017.
- The penalty notice was issued to the scheme manager on 13 April and paid on 9 June.

The £1,000 fine took into account both the size of scheme (23,000 members) and governance and administration being a priority for TPR.

Find out more about the scheme return process [here](#).

TPR Governance and Administration survey 2018

On behalf of Malcolm Eastwood, chair of the Scheme Advisory Board, we would encourage any FRA who has not yet completed or submitted the TPR governance and administration survey to do so as soon as possible. The survey has been sent by email to each FRA's registered Scheme Manager contact with a closing date of 30 November 2018.

If you are experiencing any difficulty in locating the survey, please contact bluelight.pensions@local.gov.uk for clarification of the email address it has been sent to. We can arrange for the link to be resent if necessary.

TPR have reported that completed responses have been received from 17 Fire schemes up to 23 November, with 15 schemes yet to open the survey.

Updated TPR resources

TPR, in conjunction with the FCA, have launched a new ScamSmart TV advertising campaign to raise awareness of pension fraud and the most common tactics used by scammers.

As part of the ScamSmart campaign a [new customer leaflet](#) and other communication materials have been introduced. The new leaflet replaces the scorpion leaflet with immediate effect and, as before, should be included with transfer packs and is suitable to accompany annual benefit statements.

TPR have also recently issued [updated guidance on Annual Benefit Statements](#). The new guidance includes some examples of good and bad practice from the 2017 ABS run on a no-names basis and should be of interest and use to scheme managers and pension boards. Some of the points made have application beyond their specific reference to ABS too, reflecting more general issues within scheme operations.

These and other resources can be found on TPR's [new website](#) which was launched on 12 November to give more than three million yearly visitors a clearer and simpler experience. The new site is a key part of TPR's redesigned branding which highlights how the organisation is changing its approach to become clearer, quicker and tougher.

Authorities may wish to check their communications to make sure that any links to the old TPR website still work, or update where necessary.

High Court ruling on GMP equalisation

On 26 October 2018, Mr Justice Morgan handed down [judgment](#) in Lloyds Banking Group Pensions Trustees Limited v Lloyds Bank PLC, HBOS PLC, Angela Sharp, Judith Cain, Susan Dixon, Secretary of State for Work and Pensions and HMT. The High Court has held that schemes must equalise the discriminatory effects of GMPs and that this can be achieved using several methods.

We are aware that concern has been raised as to the impact to Public Service Pension Schemes. HMT have confirmed that this judgement "*does not impact on the current method used to achieve equalisation and indexation in public service pension schemes*". For more information concerning the current method of equalisation of Public Service Pension Schemes, please consult the outcome to the Government consultation [on indexation and equalisation of GMP in public service pension schemes](#) published on 22 January 2018.

Civil partnerships to be extended to opposite sex couples

At the Conservative Party Conference, Prime Minister Theresa May announced that heterosexual couples will be able to enter into civil partnerships. The move follows a [decision](#) of the Supreme Court [UKSC 2017/0060] on 27 June 2018 that the existing law around civil partnerships was incompatible with the European Convention on Human Rights as it only permitted civil partnerships between same-sex couples.

HMRC

HMRC newsletters/bulletins

HMRC have published pension schemes newsletter 105 containing important updates and guidance on pension schemes. The following issues are covered:-

[Pension schemes newsletter 105 – 23 November 2018](#): Double taxation – bulk requests for certificates of residence| Relief at source pension schemes newsletter| Overseas transfer charge - draft regulations| Manage and Register Pension Schemes service newsletter | Reporting of non-taxable death benefits | Joint article from HMRC and The Pensions Regulator |

Contracting-out reconciliation update

As you will be aware the deadline for automated queries with HMRC was 31 October 2018, with the deadline for the full exercise to be completed by the end of the year. HMT are meeting with public sector schemes to understand what if any further steps need to be taken to bring this exercise to a successful conclusion, and have asked us to provide some information with regards to the Firefighters' Pension Scheme.

Please can administrators provide us with a return for each FRA, setting out the number of cases reconciled and the number outstanding. It would also be helpful if you could include an estimate of how long you would expect is needed to reconcile the outstanding cases a) with further HMRC support and b) without such help. Reflecting past experience, can schemes also advise how many cases it might not be possible to reconcile under either scenario. If schemes are unable to provide this information, we would welcome an assessment of why it is not possible.

The following bulletins, containing important guidance and information about the end of contracting-out and the scheme reconciliation process, were published by HMRC in November.

[Countdown bulletin 38](#)

Updates include:

- Scheme Reconciliation Service (SRS) stalemate queries
- phase 7 automated rerun plan
- scheme financial reconciliation
- contribution adjustment action
- requests for SRS data
- scheme cessation

Of particular interest is the article on stalemate queries. The article sets out three scenarios and confirms that HMRC will accept stalemate queries (based on their three scenarios) up to 31 December 2018. Thereafter, various processes may be followed depending upon the outcome.

[Countdown bulletin 39](#)

Updates include:

- Scheme Financial Reconciliation
- scheme cessation
- scheme reconciliation service
- Contributions Equivalent Premiums notified by automated responses

In [FPS bulletin 13 - October 2018](#) we included an addendum to [Countdown Bulletin 37](#) from HMRC regarding contribution adjustment. HMRC have subsequently provided further clarification on this issue:

Important Note

The recent updates around 'A to D' and 'D to A' cases were only to clarify what is required in terms in Trustee Approval. There is no change to the circumstances in which these cases should be submitted i.e. a scheme must be confident that their records are correct and indicate that one of their employers has deducted the wrong rate of contributions. HMRC will therefore have to have provided employer details and contribution category letters according to their records for schemes to confirm this. Schemes also need to carefully consider the impact on the individual and the employer when requesting contribution adjustment.

Here is a further update

The clerical deadline of 31st October for A-D D-A cases still stands, however, the business will give the schemes up to 4 weeks after submission of those cases to obtain that trustee approval.

If no trustee approval is received within that timeframe, the cases will at that point be rejected.

In respect of multi SCONs then we'll accept these on one letter as long as the letter is specific with file names and numbers.

On submission the files should be clearly noted by the PSAs as "contribution adjustment cases"

Events

A view from Torquay

This month saw the popular pensions managers conference for LGPS in Torquay, so what can Fire learn from LGPS?



As you might expect the focus was on many of the same areas affecting Firefighter Pensions: increasing scheme complexity and the challenges facing administrators; what to expect from this year's TPR survey and their focus for next year; measuring and cleansing Data; an engaging session on how TPO are modernising the way they work followed by a topical look at ill-health processes from Eversheds Sutherland; the importance of member communications and ways to engage members in their pensions, and of course a topic facing all public sector schemes, the outcome of the 2016 valuations.

The Bluelight team came away with copious notes and plenty of ideas for next year's seminars and conferences so watch this space!

Legislation

SI	Reference Title
2018/1217	The State Pension Revaluation for Transitional Pensions Order 2018
2018/1218	The Occupational Pensions (Revaluation) Order 2018
2018/1219	The State Pension Debits and Credits (Revaluation) Order 2018

Useful links

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

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FPS Bulletin 15 – December 2018

Welcome to issue 15 of the Firefighters' Pensions Schemes bulletin.

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

May we take this opportunity to wish you all a very merry Christmas and happy New Year. Thank you for your help and support during 2018.

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

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Calendar of events



Many readers will remember Eunice Heaney and the tales of "Willie Sprinkler". We are delighted that Eunice has reprised Willie's starring role for our final bulletin of the year.

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

LPB effectiveness committee	23 January 2019
Fire Communications Working Group	30 January 2019
Administration & benchmarking committee	7 February 2019
Firefighter Pensions Technical Community	12 February 2019
North East regional FPOG	19 February 2019
LGA Leadership Essentials Fire & Rescue (Elected members)	26-27 February 2019
Eastern regional FPOG	27 February 2019
Midlands regional FPOG	1 March 2019
LGA annual fire conference and exhibition	12-13 March 2019
SAB	14 March 2019
SAB	13 June 2019
Firefighters' Pensions AGM	24-25 September 2019 (provisional)
SAB	10 October 2019
SAB	12 December 2019

FPS

A message from the chair

"Dear friends & colleagues,

If you're reading this, 'Congratulations!', you have virtually made it to the end of another busy year working in and supporting the Fire Pensions domain; only a few more days and you can officially relax, chill and hopefully enjoy your Festive celebrations with family and friends.

It has undoubtedly been a busy year..."

Read more from Malcolm Eastwood, chair of the Firefighters' Pensions (England) Scheme Advisory Board at [Appendix 1](#), with a summary of the year that has passed and a look the challenges ahead in 2019.

Court of Appeal transitional protections judgement

As you will be aware, yesterday the Court of Appeal handed down the judgment in the Firefighters transitional appeals case. The full judgment is available [here](#).

It is important to note that the case relates only to the transitional protection arrangements in the 2015 firefighters' pension scheme, and whether these are discriminatory. It does not address the introduction of that scheme itself by the primary legislation of the Public Service Pensions Act 2013.

The case itself has rested on two principles:

- Did government have a 'legitimate aim' in introducing the transitional protection as it did, noting a legitimate aim cannot be solely for financial reasons?
- and
- Were the means to achieve this appropriate and reasonably necessary?

The earlier employment tribunal and the employment tribunal appeals had reached the answer 'yes' on this first question, however, the court of appeal has overturned the first two judgments, coming to the conclusion in paragraph 233 that 'the manner in which the transitional provisions have been implemented has given rise to unlawful direct age discrimination'.

The court found that, having introduced the protections, the Government should have justified the discriminatory impact but that it had failed to do so, and therefore justification on the grounds of legitimate aims must fail. As a result they dismissed any further deliberation over the question on proportionality of means.

The judgment remits it to the employment tribunal to consider remedy (as per the final sentence of paragraph 164) but, before that step Government can apply for permission to appeal to the Supreme Court, so we cannot speculate on what remedy might involve or what timeframe. **It is important to note that nothing has yet changed in law, and so there is no action for scheme managers or administrators to take with regards to the scheme.**

We understand that Fire and Rescue Authorities and pension administrators will be responding to many queries on this from Firefighters who may believe the judgment from the Court of Appeal automatically amends the scheme rules, and would suggest the following text in reply to such queries.

"Many thanks for your enquiry, we are aware that the Court of Appeal has handed down the judgment in the Firefighters transitional appeals case, finding that the transitional protections introduced with the new Pension scheme in 2015 were unlawfully discriminatory on grounds of age.

It is important to note that the case relates only to the transitional protection arrangements in the 2015 firefighters' pension scheme, and whether these are discriminatory. It does not address the introduction of that scheme itself by the primary legislation of the Public Service Pensions Act 2013.

What happens next?

We realise that scheme members want to understand what this means for their pension, however, we cannot yet speculate on what remedy might involve. The judgment remits it to the employment tribunal to consider remedy, but before that step Government can apply for permission to appeal to the Supreme Court. So it will most likely be many months before we are able to understand what this means for pension scheme benefits.

In the immediate future, your pension benefits will remain calculated as under the current regulations.

We will endeavour to keep you informed as things progress."

FPS 2016 valuation – update

On 7 December 2018, the Scheme Advisory Board (SAB) submitted their proposal to the Home Office for rectifying the breach to the cost cap floor by improving member benefits. As advised in previous bulletins, the draft results of the 2016 valuation show that the employer cost cap set at 16.8%¹ has fallen to 11.6%.

The Home Office are considering the proposal with input from HM Treasury and the Government Actuary's Department (GAD) before a full response can be made to the SAB. If the proposed option is not accepted, the Home Office will provide an alternative option and there will be a period of three months if agreement cannot be reached, during which the Home Office will continue to engage with the SAB to attempt to agree a consensus position.

If a consensus position is not reached within that three month period, the default mechanism is to amend the accrual rate for FPS 2015. GAD has advised that the default accrual rate would be 1/51.2 in order to fully rectify the breach.

Our colleagues at the Home Office have looked into whether it would be possible to provide indicative scheme specific employer contribution rates from April 2018. GAD has advised that they can't provide indicative rates and that FRAs will have to wait until the Scheme Valuations are finalised and the final scheme specific rates are published.

As such, the general indicative rate of 30.2% is the only information available at present which FRAs can use for budget planning purposes.

Board consultations and responses will be published [here](#) once they are available, and monthly updates will be provided in the bulletins. GAD's [Public Service Pension Scheme December newsletter](#) also contains interesting information on the valuation and the SCAPE discount rate.

¹ [150A(1) <http://www.legislation.gov.uk/ksi/2015/465/regulation/5/made>]

Amendments to Firefighter Pension Schemes (England) - Consultation

On 18 December 2018 the Home Office launched a consultation on changes to survivor benefits in the Firefighters' Pension Scheme 1992 and the Firefighters' Compensation Scheme 2006, plus a minor unrelated correction to the Firefighters' Pension Scheme 1992.

In the event of a member's death, the firefighters' pension schemes provide for the payment of certain benefits and awards to a member's spouse or partner ('survivors' benefits'), but as regards qualification for benefit, there are different regulations according to which particular pension scheme the member belonged.

A recent Supreme Court case relating to the entitlements of a pension scheme member's partner has led the Government to give fresh consideration to this matter for all public service pension schemes, including those for firefighters.

In addition, an unrelated minor amendment is required to ensure that one particular aspect of the 1992 Fire scheme works as originally intended.

This [consultation](#) seeks the views of interested parties on [draft legislation](#) to enact these changes. The consultation closes on 29 January 2019.

Revised Fire (England) factors

Further to the letter issued by the Home Office on 31 October regarding the [review of scheme factors](#) due to the change to the SCAPE discount rate, GAD has provided the following replacement factor tables for use with immediate effect from 6 December 2018.

[Appendix 2:](#) Early and Late retirement.

Please note that there are different late retirement factors for mainstream pension and added pension.

[Appendix 3:](#) CETV and Pensioner Cash Equivalent (for divorce purposes).

CETV and certain other calculations should have been suspended on 31 October 2018. Such calculations can now recommence using the new factors, including on any stockpiled cases. For all other types of calculation, including early retirement, FRAs should follow the usual practice of changing their methods of calculation from the time when new factors are circulated.

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

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

FPS benchmarking exercise – update

The deadline for the administrator and employer (scheme manager) benchmarking surveys is fast approaching. If you have not yet had opportunity to do so, we would encourage you to ensure that a response has been submitted for your organisation. We are relying on the support of our stakeholders to collect as much data as possible to allow for meaningful analysis. We are happy to accept responses up to 14 January 2019.

The surveys were sent by email to our main contacts at administrators and FRAs. If you were expecting to receive a copy and have not, please contact claire.hey@local.gov.uk.

Aon have been commissioned to undertake the review by the Scheme Advisory Board (SAB), to help them establish a measure of the cost and effectiveness of administration and management within the schemes. An update from Aon can be viewed [here](#).

More information about the project is available on our dedicated [benchmarking webpage](#) and further updates will be provided in the bulletin each month.

SAB request for information

During the course of their activities throughout the year, SAB members have been made aware of concern at FRAs around opt out levels, and difficulties surrounding recruitment and retention of talented and experienced personnel due to potential tax consequences of breaching the annual allowance.

To date, the evidence received has been anecdotal. In order to support the Board in presenting a case to the Home Office on how schemes might be better managed to give choice and flexibility to pension members to stay in the scheme, more quantitative data is required.

The SAB needs your help in collecting this information. Please see the request for information at [Appendix 4](#). Completed forms should be submitted to bluelight.pensions@local.gov.uk by 31 January 2019.

December query log

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

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

Website resource update – guides and sample documents

We are pleased to add the following documents that have been produced in collaboration with the Fire Communications Working Group to the [guides and sample documents](#) page of www.fpsregs.org:

Retirement from FPS 2015 - member factsheet
Opting out of FPS 1992 – notes
Opting out of FPS 2006 (standard member) – notes
Opting out of FPS 2006 (special member) – notes
Opting out of FPS 2015 – notes
Election to opt out (all schemes)

Other News and Updates

Pensions dashboards

The results of a feasibility study to explore the options for the delivery of online pensions dashboards were released in the form of a government [consultation](#) on 3 December 2018. The consultation is seeking views on how the government can best facilitate an industry-led delivery of a pensions dashboards. The consultation closes at 11pm on 28 January 2019.

The consultation proposals include the following:

- a non-commercial dashboard be hosted by the [Single Financial Guidance Body](#) (SFGB) together with multiple commercial dashboards hosted by different organisations, in order to improve consumer choice and enable them to use the dashboard that most suits their needs.
- the establishment of a delivery group, convened and stewarded by the SFGB, which would work towards the successful implementation of the technology that will allow pensions dashboards to operate.
- a single 'Pension Finder Service' (PFS) will act as a search engine to find pension schemes linked to an individual.
- state pension data will ultimately be part of the service.
- with the consent of the individual, pension schemes will be required in legislation to provide an individual's data via pensions dashboards.
- Public service pension schemes be given longer lead-in times to prepare their data prior to on-boarding. It is expected that the pensions industry will start to supply data to a dashboard, on a voluntary basis, from 2019, the majority of schemes will be on-boarded within 3 to 4 years from the first dashboards being available to the public.

New TPR Chief Executive

On 18 December, the Pensions Regulator (TPR) [announced](#) they have appointed Charles Counsell as their new Chief Executive. Charles Counsell is currently Chief Executive of the Money Advice Service and will join TPR at the start of April following the departure of Lesley Titcomb at the conclusion of her term as Chief Executive at the end of February.

TPO news

On 17 December, DWP [announced](#) that Anthony Arter has been re-appointed as the Pensions Ombudsman for a further two years until 31 July 2021.

On 19 December, the government published a [consultation](#) seeking views on proposals for a new function at TPO for the earlier resolution of disputes prior to a determination; allowing employers to make complaints or refer disputes to TPO on behalf of themselves and associated signposting provisions. The consultation closes at 11pm on 18 January 2019.

TPO have published the fifth edition of their stakeholder newsletter which is attached to this bulletin as [Appendix 5](#).

Earlier communications from TPO and a full history of determinations in relation to FPS can be found [here](#).

Indexation of public service pensions

On 4 December, HMT issued an updated [direction](#) under Section 59A of the Social Security Pensions Act 1975. The direction continues existing indexation provisions and, as a result of HMT's 2017 consultation on [GMP indexation and equalisation](#), extends the arrangements to some additional groups of pensioners.

Our colleagues on the Local Government Pension Committee Secretariat have confirmed that they will review the updated direction and issue guidance which may be adapted for use by the other PSPS in the new year.

HMRC

HMRC newsletters/bulletins

HMRC have published the following newsletters this month:

[Manage and Register Pension Schemes service newsletter – 11 December 2018](#)

[Relief at source pension schemes newsletter – 5 December 2018](#)

Contracting-out reconciliation update

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

[Countdown bulletin 40](#)

Updates include:

- Scheme Financial Reconciliation
- Contributions Equivalent Premium guidance
- Shared Workspace
- Clerical Scheme Reconciliation Service (SRS)
- SRS Stalemate Queries

Events

That was the year that was...

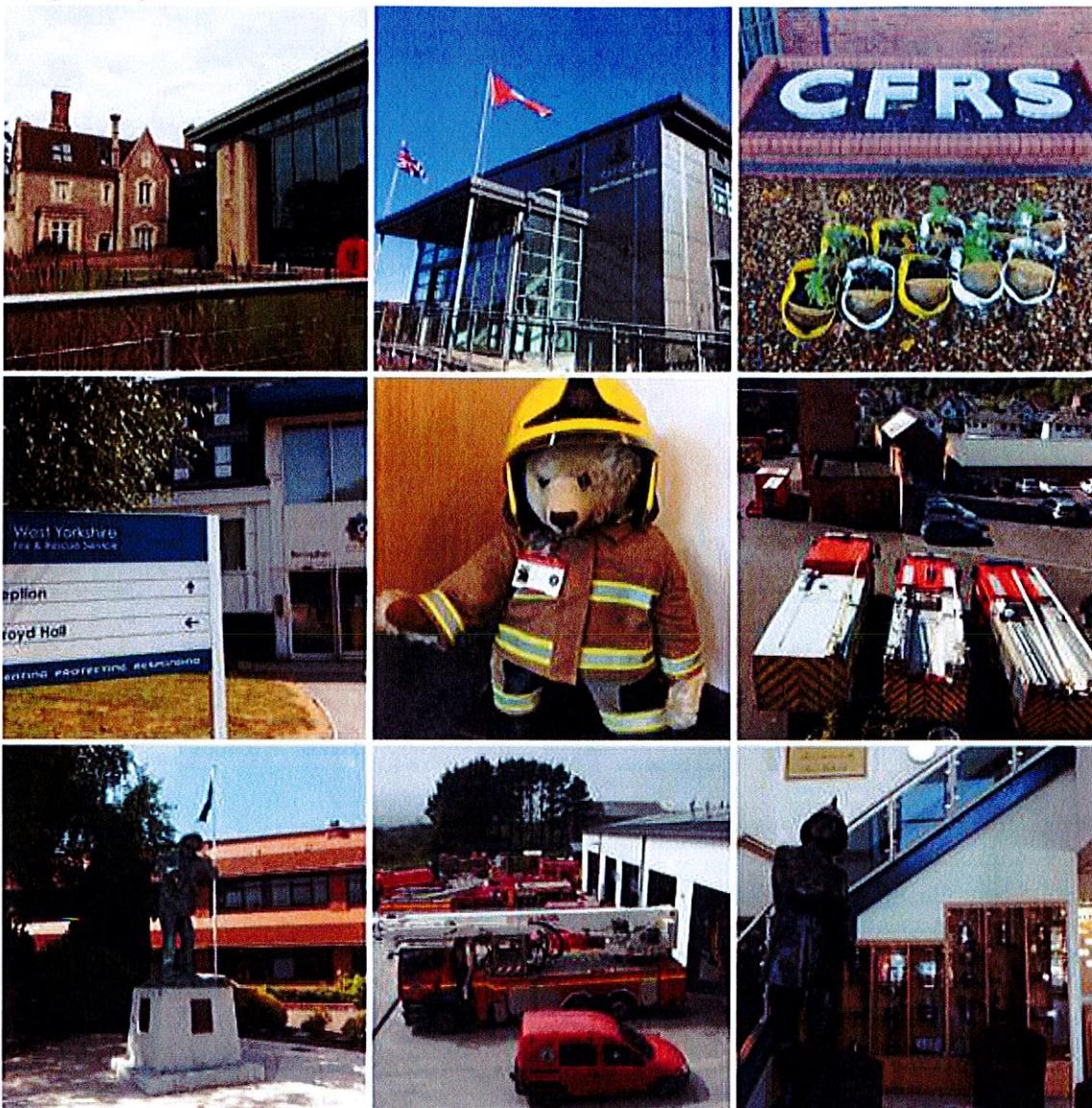
Throughout the year we have been privileged to travel the country, attending meetings and providing training to FRAs, LPBs, and administrators. We have held a number of national training seminars at the LGA offices in London, as well as pursuing joint opportunities with our colleagues in police.

Information about our national events can be found on our [Events](#) page.

The year in figures

14 Local Pension Board meetings/ training	1 administrator training
1 scheme manager training	1 software provider training
4 SAB and 8 SAB committee meetings	3 technical group meetings
3 communication group meetings	15 regional FPOGs
1 AGM	2 subject specific workshops
1 joint governance event	10 sector-wide events

The year in pictures



We look forward to offering an exciting and varied programme of events in 2019, and as ever, are happy to tailor bespoke sessions for local and regional groups. For information, please contact us as bluelight.pensions@local.gov.uk.

Legislation

SI

Reference Title

[2018/1330](#) The Financial Guidance and Claims Act 2018 (Commencement No. 5) Regulations 2018

Useful links

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

Contact details

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Claire Hey (Assistant Firefighters' Pension Adviser)

Telephone: 020 7664 3205

Email: claire.hey@local.gov.uk



Request for information

Opting out of the scheme – cause and effect

Introduction

The purpose of this information request is to gain more quantitative data to support the Scheme Advisory Board in their discussions with the Home Office on how schemes might be better managed to give choice and flexibility to pension members to stay in the pension scheme.

The Scheme Advisory Board wish to understand more information on two particular issues:

Opt-out rates from the scheme?

The board are concerned to learn that members opt out of the scheme, and wish to understand if there are any particular drivers for this. Anecdotally the board are told this tends to happen for two particular reasons:

- the first is about affordability of the scheme, particularly in areas where Firefighters are impacted by a high cost of living
- the second is to stop pension growth accruing above the annual allowance limits.

Effect on recruitment and retention

The board have been informed that a fear of breaching annual allowance limits and getting a year on year tax bill is causing Fire and Rescue services problems with recruitment and retention of talented and skilled personnel.

In order to take these issues forward and to fully understand the impact of these two issues on the scheme, the board would like to substantiate these stories with any factual evidence of Firefighters who have:

- Opted out of the scheme due to affordability or pensions tax reasons
- Turned down promotion due to the effect of pensions tax
- Left the fire service or are considering leaving the fire service due to tax reasons

Information Requested

We would be grateful if you would complete the below table and return to bluelight.pensions@local.gov.uk by **31 January 2018**.

Questions about the 2016/2017 scheme year	
How many pension savings statements were sent for your Fire Authority on 6 October 2017	
Did you have any requests to pay pensions tax via Voluntary Scheme Pays	
How much pension tax was paid on behalf of scheme members breaching the annual allowance for the scheme year 2016/2017 (This is known as Scheme Pays)	
Do you know of any Firefighter choosing to pay tax themselves	
Are you aware of any promotion opportunities during the year 2016/2017 that were turned down primarily because of pension tax fears	
How many opt-outs of the scheme did you have in 2016/2017	
Of those opt-outs did anyone particularly mention affordability or pension tax	
Questions about the 2017/2018 scheme year	
How many pension savings statements were sent for your Fire Authority on 6 October 2018	
For the scheme year 2017/2018 have you had any requests to pay VSP by 31 January 2019	
Are you aware of any promotion opportunities during the year 2017/2018 that were turned down primarily because of pension tax fears	
How many opt-outs of the scheme did you have in 2017/2018	
Of those opt-outs did anyone particularly mention affordability or pension tax	
Finally	
Are you able to identify those have opted-out of the scheme by salary band	
Do you collect reasons for opting out	
Are you aware of anyone who has left the Fire Service to work for private sector primarily because of pension tax	
Is there anything else you'd like to tell us about how concern over pension tax is driving behaviour of employees	

Scheme Advisory Board Secretariat

December 2018



Firefighters' Pensions England

Scheme Advisory Board

LPB EFFECTIVENESS COMMITTEE

ACTIONS AND AGREEMENTS

Tuesday 25 September 2018

Lincolnshire FRS, Fire & Police HQ, Deepdale Lane, Nettleham

PRESENT

Tristan Ashby (TA)	Chair
Malcolm Eastwood (ME)	Scheme Advisory Board chair
Clair Alcock (CA)	LGA
Ian Howe (IH)	Technical/ Admin representative (Leics CC)
Stuart Wilson (SW)	LPB representative (WYFRS)
Dave Limer (DL)	SAB Scheme member representative
Debbie Yeates (DY)	FRA/ HR representative (Lincolnshire)
Simon Allsop (SA)	FRA/ Finance representative (Derbyshire)
Claire Hey (CH)	LGA – Board secretariat (minutes)

1. Introductions

- 1.1. Introductions were made around the room. There were no apologies for the meeting.

2. Chair's welcome

- 2.1. TA welcomed all to the meeting and thanked all for attending.

3. Review previous actions (17 July 2018)

- 3.1. The minutes of the previous meeting were agreed.
- i. *CH to reissue request for reconciliation status and case numbers to administrators.*
- 3.2. An email requesting detailed statistics was sent to pension managers on 7 August 2018. Responses have been received in respect of eight English FRAs.

- ii. CA to draft report to committee on LPB and TPR survey results to form basis of SAB commentary on FPS governance.*
 - 3.3. CA is continuing to consider the commentary. Action tabled for the next meeting.
- iii. CA to progress final version of [joint board] guidance including comments from this and other forums.*
 - 3.4. CA to update under agenda item 6.
- iv. CH to engage Webdigi to produce the online survey once budget approval is received from the relevant committee [Item 5 of the [30 November 2016 SAB meeting](#)]. Survey will then be tested before go live – completed [Item 7].*
- [19 04 2018] SA to contact CIPFA/ NAO regarding promotion of the SAB's work.*
 - 3.5. SA has contacted CIPFA and has a call arranged for week commencing 1 October 2018 to discuss best practice. SA noted that CIPFA issue a monthly bulletin containing items of interest relating to pensions.

4. AGM 2018 observations (open discussion)

- 4.1. CH asked those that attended the annual conference for their impressions of the event. The LGA team were grateful for the support of the committee, with both TA and IH presenting on day 1.
- 4.2. SW noted that the session was useful and informative. In particular, the opportunity to network with colleagues gave welcome perspective from other regions. One LPB chair commented that the board look to the SAB for guidance.
- 4.3. TA was interested to note that where some audience members seemed sceptical at the start of the session, their views had changed by the close. CA supported this view and was encouraged that boards are starting to appreciate governance risks and took questions away from the event.
- 4.4. TA asked for the number of delegates attending the conference. CH confirmed that around 60 delegates attended day 1 for the governance update, which increased to approximately 100 for the full AGM on day 2. CA highlighted the importance of the conference offering value, with so many individuals taking time out of office.
- 4.5. DY noted that a colleague from Lincolnshire had attended the medical appeals workshop and found it particularly beneficial, as cases occur so infrequently that it is difficult to maintain knowledge of the process and there are also data implications.

- 4.6. TA agreed that there is a lack of knowledge at FRAs on the appeal process and what is required. DL added there is also a lack of understanding. FBU offer training for union representatives with an emphasis on preventing cases from reaching appeal stage. Under IQMP guidance, a submission can be made prior to appeal, saving time, money, and undue stress to the member. However, DY noted that there is no equivalent training for FRAs, and the cost to convene a panel is £8,000. SA added that Derbyshire have noted a gap in knowledge in this area.
- 4.7. ME stated that although this needs to be addressed, it is not an SAB responsibility. DY countered that it is, however, a consideration for local pension boards.
- 4.8. DL remarked that a decrease in appeals has been seen lately, although this is expected to increase in line with increasing retirement ages.
- 4.9. CA informed the group of the medical appeals workshop held at Merseyside FRS in January and suggested this could be repeated in the future. The Fire Communications Working Group (FCWG) workplan includes review of the IQMP forms as there is a common conception that the forms can cause confusion, and difficulty in making determinations.
- 4.10. CA reminded the committee that the compensation scheme is funded separately from the main scheme benefits and therefore does not fall specifically within the LPB remit. However, it is something that should be considered by boards. CA noted that Jane Marshall, recently appointed legal adviser to the SAB, is an expert on ill health/ injury retirement in the Police scheme.
- 4.11. TA asked for final observations, noting that the joint board session was very popular. CA agreed that this generated a high level of discussion and engagement.

5. FPS benchmarking exercise (verbal update)

- 5.1. CA confirmed that the FPS cost and effectiveness benchmarking exercise was launched at the annual conference by Aon, who were the successful bidder in the SAB's recent [procurement exercise](#).
- 5.2. Quantitative data will be gathered by survey from administrators, employers (FRAs), and members. An initial consultation on the survey questions took place at the technical meeting on 17 September. The secretariat intends to consult with the SAB scheme member representatives on the member survey as concerns were raised that members will respond negatively to the questionnaire if they are dissatisfied with FPS arrangements.
- 5.3. CA explained that submissions will be filtered and if it proves to be the case that responses are based on scheme benefits rather than service delivery, this will be taken into account in the final report.

- 5.4. This committee can seek to engage LPBs to promote the surveys and the background to the exercise, highlighting that one of the SAB's key objectives is to ensure the cost-effectiveness and efficiency of the FPS, and to provide advice to scheme managers and local pension boards in relation to effective and efficient administration and management. CA emphasised that there is no hidden agenda and no preconceived ideas on the review's outcome.
- 5.5. DY suggested including a question about the capability of software, as this can affect administrator performance.
- 5.6. DL asked if the draft surveys will be made available to all of the SAB committees. CA agreed to send the drafts to all, and confirmed that consideration will given to extending the timescale for launch of the surveys to allow further consultation. DL agreed that it is important to capture member views.
- 5.7. CA sought agreement from the committee on deferring an SAB survey of local boards for 2018, given the various requests for information that are currently in circulation, and instead considering the results from the annual TPR governance and administration survey. The committee agreed.
- 5.8. TA noted that DL suggested several amendments for the 2017 LPB survey, so consultation with the committees is vital. DL supported delaying launch of the benchmarking surveys to allow proper consultation.
- 5.9. IH queried how the member survey will be distributed and to which groups. CA replied that all membership groups will be considered – active, deferred, pensioner and dependant. IH asked whether it is cost-effective to survey deferred members. CA agreed that communicating with deferred and pensioner members may be challenging, and requested views from the group.
- 5.10. DL remarked that members who have recently left service may be more involved and easier to engage with. DY noted that deferred members are less likely to utilise an administrator's services, so their input may be of limited value.
- 5.11. CH informed the committee that Aon will be producing member facing communications and the secretariat wish to investigate links with representative bodies to promote engagement, particularly for retired or out of trade members. SW suggested the National Association of Retired Firefighters (NARF). DL agreed this course of action.
- 5.12. CA outlined some of the questions within the survey. The member survey will focus only on effectiveness, while the scheme manager and administrators will also be asked about cost, and the different elements within that. It has never been possible to quantify the additional costs for special projects, such as GAD v Milne or FPS 2006 special members. SA agreed that this will highlight to LPBs the importance and cost implications of bad decisions.

Action:

- i. **Draft surveys to be circulated to the committee once a final draft version agreed with Aon.**

6. Joint Board applications (verbal update)

- 6.1. ME stated that the presentation at the AGM was well received and generated lots of engagement during the networking breaks. TA noted that delegates had perceived the session as promoting the formation of joint boards, when it was intended as an information piece.
- 6.2. IH admitted surprise at some of the feedback received and strength of some views, however, the level of engagement was positive. IH agreed as above that there was some perception of the presentation as an instruction. The East Midlands application is now completed and ready to be submitted once it has been signed. The submission addresses the eight points in the guidance and demonstrates how the boards will progress as a joint arrangement. The signed application will be sent to Home Office for approval, prior to submission to the Secretary of State.
- 6.3. SA added that the boards need to determine whether the chair or the scheme manager should sign the application. Each board and FRA have approved the application separately. Employee representatives raised concern that local issues may be consumed by the joint arrangements, however, they recognised that one individual member on a single board could represent a single point of failure, whereas the joint board will offer resilience from other members of the same representative body.
- 6.4. IH confirmed that the boards were reassured that the current membership would be retained initially, with the potential to reduce in future to offer cost savings. ME added that all feedback from the joint meeting attended by the Home Office in June was positive.
- 6.5. DY asked if the East Midlands boards have a similar constitution, for example, the same number of members. IH confirmed that the boards are already quite aligned. SA added that the structure of the meetings will be left open to allow a 2-part meeting to discuss local issues such as discretions.
- 6.6. DY remarked that formation of a joint board may not be practical for LPBs in regions where there are no natural partnerships. However, there is no pressure for this to be taken forward. DY considered whether PFCCs would form joint fire and police pension boards.
- 6.7. DL noted that comments on the guidance had been submitted by email in advance of the April meeting. CA confirmed receipt.
- 6.8. SW stated that the guidance generated healthy discussion at the AGM as boards considered the challenge of meeting the eight principles. CA remarked it was important to emphasise at the conference that the East Midlands decision to make an application was not administrator led, as none of the FRAs were represented at that forum.
- 6.9. TA opined that authorities will become increasingly interested once the first joint board is set up and demonstrating efficiencies. ME concurred.

6.10. CA was also surprised by the level of challenge in the feedback questions from the AGM session, as many authorities have previously expressed an interest in forming a joint board. Concerns were raised about joint administration and procurement issues, and whether formation of a joint board is a binding contract. CA clarified that these issues would be addressed as part of a new board's terms of reference and that there is a need to work within the regulations [4A, paragraphs 2 & 3] as these are unlikely to be changed in the immediate future.

6.11. SA remarked that consideration of joint boards is commensurate with the collaboration agenda. CA stated that there is nothing to prevent boards from working together without forming an official joint board, and TPR support this. The committee does not recommend formation of joint boards as the best way forward; it is just one consideration. TA noted that providing the guidance is one way of fulfilling the committee's objective of supporting LPBs.

6.12. CA confirmed the next step for the secretariat is to formalise the guidance, incorporating comments received from the committee and at the June meeting at Leicestershire CC. This will be issued to the group in early to mid-October before publication. CA offered to attend initial meetings of the East Midlands joint board once the application is approved.

6.13. SA noted that an annual review of the board will take place to ensure performance standards remain high and the eight criteria are still being met. IH suggested a follow up session for the 2019 annual conference – joint boards: one year on.

6.14. Joint boards will be added as a standing agenda item to review any potential new applications and offer support to boards considering a submission. SA again considered joint governance arrangements within PFCCs. CA clarified that this is not possible within the scheme rules, but could be done informally. CA will contact Sarah Mekins at North Yorkshire police to consider guidance. The Chief Constable is the scheme manager for the police schemes.

Action:

- ii. **CA and CH to finalise guidance and share with committee before end of October.**

7. ABS 2018 survey

7.1. CH demonstrated the [survey link](#) which had been circulated with the agenda. The web-based survey was developed as detailed at [Item 6] of the meeting on 17 July 2018. TA asked whether the committee had viewed the link prior to the meeting. All agreed and were happy for the survey to be issued.

7.2. TA queried the expected target response rate CA noted that a 100% response from administrators would be expected. IH stated that administrators are likely to want to complete the survey to demonstrate compliance. SA added that non-completion may indicate potential breaches.

7.3. DY noted that multiple responses from/ on behalf of FRAs may vary depending on who completes the survey. CA remarked that board responses may be especially helpful as LPBs may not be aware that there is a standard template. Feedback on the resources is useful and any changes will be progressed through the FCWG. CA stated that any suggestions for improvement should relate to content only, as the secretariat does not have a communications/design team to produce an elaborate template.

7.4. IH and SA clarified that the East Midlands FRAs preferred their administrator's template. IH offered to share this with CA, noting that only the statement is sent to members, with a link to the notes to reduce printing and postage costs. CA suggested that common documents such as the glossary and annexes could be hosted on www.fpsregs.org.

8. 2018 work-plan

8.1. The items discussed above will form the basis of the committee's work-plan for the year:

- i. Full analysis of LPB survey results with report to the full SAB on 9 March 2018.
- ii. Comparison of the SAB survey with TPR governance and administration results.
- iii. Consider whether items arising from the outcomes from both surveys demonstrate need for a business case to the Home Office for regulatory change.
- iv. Publication of breach assessment template ~~with materiality matrix~~.
- v. Publication of LPB annual report template.
- vi. Develop set of initial tests for joint LPB applications.
- vii. Develop ABS 2018 survey to be issued in September.
- viii. Group members to attend LPB meetings and/ or training.
- ix. Publish commentary on combined survey results.
- x. Publish joint board guidance and promote support available to applicants.

8.2. CA is working on an annual report for the SAB and will use this to develop a template for LPBs once complete [item v].

8.3. TA has contacted LPBs in the Eastern region for invitations to board meetings and has requested minutes from previous meetings. Feedback to FRAs will be on an individual basis and the committee updated at subsequent meetings. [item viii].

8.4. DY stated it would be useful to attend board meetings from an FRA perspective, although feedback would be subjective.

Action:

- iii. **CH to send an updated list of LBP engagements to the committee.**

8.5. ME asked whether the secretariat is informed of each FRAs scheme manager and LPB membership. CH confirmed that this information is not maintained. TPR have a list of named scheme managers, but will not release this to the LGA.

8.6. SA suggested that governance scrutiny could ideally be carried out by the National Audit Office, Office of National Statistics, or HMICFRS. CA observed that the Inspectorate are not asking questions about pensions or governance.

8.7. DY advised that Lincolnshire FRS has been inspected and confirmed that finance and pension arrangements were not scrutinised. The focus was on operational delivery and prevention. Hampshire FRS are leading on innovation and professional standards; this channel could be utilised to feed through into HMICFRS.

9. Future meeting dates and venues

- 23 January 2019 (18 Smith Square)

10. AOB

10.1. CH explained that queries have been received from several boards concerning recommendation 5.5 of the [LPB survey research report](#), specifically the development of KPIs. CA noted concern that boards are not self-assessing.

5.5 Board communications

It is important for boards to be able to measure and demonstrate their success, due to the tremendous amount of hard work and dedication existing within these local arrangements that should be acknowledged. The Committee therefore recommends the development of agreed success measures and KPIs.

10.2. DY commented that self-assessment is qualitative, not quantitative, and will depend on the expertise on the board. SA added that specified KPIs could over-simplify the process to a tick-box exercise. Production of an annual report should be adopted as a self-assessment tool. IH agreed that boards could measure against the key headings of an annual report template.

10.3. ME mentioned an email from TPR asking for suggested additions to the 2018 governance and administration survey. CA will circulate the email to the committee and collate any comments for a response. The SAB survey of local boards may be a useful starting point.

10.4. DY noted frustration from a functionality perspective that it was not possible to save and print the completed survey. TA welcomed the opportunity to feedback to TPR, but felt this was unfeasible without sight of the current questions.

10.5. SA proposed an additional item for the workplan to increase effectiveness of LPBs: the SAB to consider development of an MOU with TPR, CIPFA, HMICFRS, and other external stakeholders, to work as a collective to improve governance. This will be added to the agenda for the next meeting.

DRAFT

BY E-MAIL

31 October 2018

Dear Chief Fire Officer,

Firefighters' Pensions – Scheme Advisory Board levy

I am writing to advise of the scheme advisory board levy due for the 2018/2019 year.

Under the terms of the 2014 regulations [4H(2)] this levy will be defrayed to scheme managers at the following rate.

2018/2019 year £7.69 per active firefighter

This levy of £7.69 is calculated based on a total SAB budget @ £363,772 / 33934 = £7.69 per active firefighter

As advised in my letter of September last year, the 2018/2019 return will be collected on the numbers of active firefighters disclosed with the 2017/2018 return. The total return for the 2017/2018 year confirmed there were 33,934 active firefighters.

In previous years the board levy also included an additional £2 levy for the adviser post. However, in order to simplify the budget and be clearer on costs, this post has been brought in under the statutory levy.

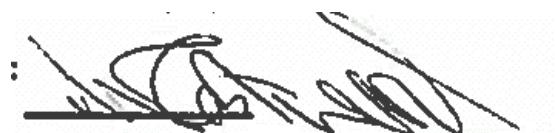
It is recognised that the proposed levy is an increase from the previous levy, however in setting the budget the objective was to look for cost savings to Fire Authorities and an improved service to members by reducing duplication and undertaking guidance and communications centrally. It is the opinion of the SAB that the budget for 2018/2019 as agreed by the minister will allow the SAB to provide increased centralised support. Feedback from Fire Authorities, is that the support from the SAB has been highly successful and has directly contributed to the increased efficiencies in running the pension scheme, and is highly appreciated by Fire Authorities.

Please complete the attached form, including a valid purchase order number by 30 November 2018 in order to issue the invoice to your authority. Please ensure the PO is made out to the 'Improvement and Development Agency'.

The 2019/2020 year will be collected on the numbers of firefighters disclosed with the 2018/2019 return.

If you have any questions, please contact the Scheme Advisory Board Secretariat on bluelight.pensions@local.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read "Malcolm Eastwood". It is written in a cursive style with some loops and variations in line thickness.

Malcolm Eastwood, CBE, CStJ, QFSM, FIFireE.
Chairman, English Firefighters' Pension Scheme Advisory Board

Scheme Advisory Board Statutory Levy 2018/2019

Name	
Job Title	
Fire and Rescue Authority	
Address	
Email address	
Telephone number	
Number of employees eligible to join one of the Firefighters' Pension Schemes as at 1st April 2018	
Purchase Order number, payable to the Improvement and Development Agency*	

Return to

Liz Cole, LGA, email Liz.Cole@local.gov.uk

*In 2011 the Local Government Association and its associated companies integrated operations so that they in effect now operate as one organisation under one management structure, but for financial and legal purposes, we still need to transact through the legal company names. The budget for this work sits in the Improvement & Development Agency company and as such all purchase orders/invoices/contracts/agreements need to be addressed accordingly.



OFFICIAL

Local Pension Board Activity Report

Local Pension Board

Date: 11 January 2019

Agenda Item:

12

Submitted By: Claire Johnson

Purpose To inform Members of performance in key areas for the period 1 September – 30 November 2018

Recommendations That Board members note performance in key areas related to the Local Pension Board for the period 1 September – 30 November 2018

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

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

Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Claire Johnson
Claire.Johnson@westyorksfir.gov.uk
01274 65 5811

Background papers open to inspection: None

Annexes: None

1 Introduction

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

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

2 Information

2.1 Number of pension scheme members across the various schemes at 30 November 2018

1992 Fire fighters Pension Scheme	166
2006 Fire Firefighters Pension Scheme	5
2015 Firefighters Pension Scheme	819
Fire Fighters Modified Scheme	29

2.2 Number of pensioner members of each scheme at 30 November 2018

1992 Fire fighters Pension Scheme	2356
2006 Fire Firefighters Pension Scheme	10
2015 Firefighters Pension Scheme	2
Fire Fighters Modified Scheme	31

2.3 Number of deferred members of each scheme at 30 November 2018

1992 Fire fighters Pension Scheme	103
2006 Fire Firefighters Pension Scheme	96
2015 Firefighters Pension Scheme	62
Fire Fighters Modified Scheme	18

2.4 Number of 1992 FPS Scheme members with tapered protection

At 30 November 2018, there are **108** 1992 FPS members that have tapered protection in the scheme, before transitioning into the 2015 CARE scheme.

2.5 Number of 2006 NFPS Scheme members with tapered protection

At 30 November 2018, there are **9** 2006 NFPS members that have tapered protection in the scheme, before transitioning into the 2015 CARE scheme.

2.6 Number of new pension scheme members

In the period 1 September – 30 November 2018, there has been **23** new 2015 CARE pension scheme members. Please note that this does not include members that have transitioned due to taper protection.

This can be broken down into the following demographic:

Age	Male	Female
18 - 25	6	0
26 - 30	10	0
31 - 35	5	1
36 - 40	0	0
41 - 45	0	0
46 - 50	0	0
51 - 55	1	0
56 - 60	0	0
61 - 65	0	0

Total	22	1
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2.7 Number of retirees in the period

In the period 1 September – 30 November 2018, **20** members have retired to pension.

2.8 Number of IDRP stage 1 and 2 complaints

In the period 1 September – 30 November 2018, there has been **1** IDRP complaints at stage 1 and **0** at stage 2.

2.9 Number of Opt Outs from the pension schemes

In the period 1 September – 30 November 2018, **2** members opted out of the pension scheme. This can be broken down into the following demographic:

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

Total	2	0
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3 Pension Estimates

Number of pension estimates processed for the period 1 September – 30 November 2018 – **57**

Summary of New Recruits

In the period 1 September – 30 November 2018, we appointed 21 Wholetime Firefighter Trainees and 4 On Call Firefighter Trainees. Of those, 2 recruits chose to opt out of the pension scheme. The remaining recruits can be broken down into the following demographic:

Age	Male	Female	Wholetime (WT) / On Call (OC)
18 - 25	6	0	6 WT, 0 OC
26 - 30	10	0	10 WT, 0 OC
31 - 35	5	1	3 WT, 2 OC
36 - 40	0	0	-
41 - 45	0	0	-
46 - 50	0	0	-
51 - 55	1	0	0 WT, 1 OC
56 - 60	0	0	-
61 - 65	0	0	-
Total	22	1	20 WT, 3 OC



OFFICIAL

West Yorkshire Pension Fund - Key Performance Indicators

Local Pension Board

Date: 5 October 2018

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 April 2018 – 30 November 2018
Recommendations	That Members note the performance of West Yorkshire Pension Fund in key areas
Summary	This report informs Members of the Authority's key areas which West Yorkshire Pension Fund measure their level of service against

Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: Annex A – 1 September 2018 to 30 November 2018 KPIs
Annex B – YTD KPIs

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

KPIs – 1 September 2018 to 30 November 2018

WORKTYPE	TOTAL_CASES	TARGET_DAYS_FOR_EACH_CASE	TARGET_MET_CASES	MINIMUM_TARGET_PERCENT	TARGET_MET_PERCENT	AVERAGE_TIME_TAKEN
Age 55 Increase Fire	11	20	11	85	100	14.64
Change of Address Fire	24	20	24	85	100	1.46
Change of Bank Details Fire	16	20	16	85	100	2.63
DG Nomination Form Received Fire	44	20	44	85	100	6.32
DWP Request For Information Fire	2	10	2	85	100	4
Death in Retirement FIRE	14	5	14	85	100	0.5
Deferred Benefits Into Payment â€“ Payment of Lump Sum	1	3	1	85	100	2
Divorce Quote Fire	2	40	2	85	100	2.5
Divorce Settlement â€“ Pension Sharing order Implemented Fire	3	80	3	100	100	12.33
Enquiry Fire	1	5	1	85	100	0
General Payroll Changes Fire	30	20	30	85	100	1.3
Initial letter Death in Retirement FIRE	14	5	14	85	100	0.57
Life Certificate received Fire	70	5	57	85	81.43	2.9
NI Modification Fire	11	20	11	85	100	15.36
Pension Estimate Fire	57	10	41	85	71.93	8.6
Pension Set Up_Payment of Lump Sum	18	3	15	85	83.33	1.61
Retirement Actual Fire	18	10	17	85	94.44	1.61
Retirement Quote Fire	18	10	16	85	88.89	2.72
Set Up New Spouse Pension Fire	8	5	8	85	100	0.13
Spouse Potential Fire	3	10	3	85	100	4
Transfer In Quote Fire	6	10	4	85	66.67	20.83

KPIs YTD – 1 April 2018 to 30 November 2018

WORKTYPE	TOTAL_CASES	TARGET_DAYS	TARGET_MET_CASES	MINIMUM_TARGET_PERCENT	TARGET_MET_PERCENT	AVERAGE_TIME_TAKEN
Age 55 Increase Fire	33	20	33	85	100	14.21
Change of Address Fire	87	20	85	85	97.7	2
Change of Bank Details Fire	36	20	36	85	100	1.69
DG Nomination Form Received Fire	56	20	55	85	98.21	6.18
DWP Request For Information Fire	4	10	4	85	100	3
Death in Retirement FIRE	31	5	31	85	100	0.45
Deferred Benefits Into Payment â€“ Payment of Lump Sum	5	3	5	85	100	1
Divorce Quote Fire	10	40	10	85	100	6.2
Divorce Settlement â€“ Pension Sharing order Implemented Fire	5	80	5	100	100	9
Enquiry Fire	5	5	5	85	100	1.2
General Payroll Changes Fire	102	20	102	85	100	1.52
Initial letter Death in Retirement FIRE	31	5	31	85	100	0.45
Life Certificate received Fire	190	5	170	85	89.47	2.45
NI Modification Fire	37	20	37	85	100	14.38
Pension Estimate Fire	200	10	181	85	90.5	4.34
Pension Set Up_Payment of Lump Sum	48	3	38	85	79.17	2
Purchase of Service Quote Fire	1	20	1	85	100	20
Retirement Actual Fire	48	10	47	85	97.92	1.98
Retirement Quote Fire	50	10	46	85	92	3.04
Set Up New Spouse Pension Fire	17	5	17	85	100	0.47
Spouse Potential Fire	8	10	7	85	87.5	10.75
Transfer In Quote Fire	13	10	8	85	61.54	13.31