

Due to the current heightened security level at all our premises, Members are reminded to wear their identity badges whilst attending meetings. Any visitors must produce photographic identification at Reception.

LOCAL PENSION BOARD COMMITTEE SUMMONS

SOUTH WALES FIRE & RESCUE AUTHORITY

You are required to attend a meeting of the Local Pension Board Committee **To be held on StarLeaf - Access Code: 4220891898**
on **Monday, 28 June 2021 at 1030 hours**

Please ensure you join the meeting 15 minutes prior to meeting time

Any issues please contact
01443 232000 and ask for Member Services

A G E N D A

1. Apologies for Absence
2. Declarations of Interest

Members of the Fire & Rescue Authority are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct.

3. Chairperson's Announcements
4. To Receive the Minutes of:-
 - Local Pension Board Committee Meeting held on 25 January 2021 3
5. Report on Scheme Data for the Firefighters' Pension Schemes 7
6. Local Pension Board Terms of Reference (ToR) 15

7.	Local Pension Board - Service Level Agreement (SLA)	29
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11.	Publications, Updates, Information (Standard Item)	87
12.	Training Session for Members – To be presented on the day	139
13.	Forward Work Programme for Local Pension Board 2021/2022	141
14.	To consider any items of business that the Chairperson deems urgent (Part 1 or 2)	147

Signature of Proper Officer:



MEMBERSHIP
Councillors:

S	Bradwick	Rhondda Cynon Taff
L	Brown	Monmouthshire
V	Smith	Monmouthshire
D	White	Bridgend
R	Bailey	Fire Brigades' Union
D	King	FRSA
R	Prendergast	Association of Principal Fire Officers
S	Saunders	Fire Brigades' Union

SOUTH WALES FIRE & RESCUE AUTHORITY

MINUTES OF THE LOCAL PENSION BOARD MEETING HELD ON MONDAY 25 JANUARY 2021 AT SOUTH WALES FIRE & RESCUE SERVICE HEADQUARTERS OR REMOTELY VIA STARLEAF

31. PRESENT:

Councillor	Left
S Bradwick (Chair)	Rhondda Cynon Taff
D White	Bridgend
L Brown	Monmouthshire
V Smith	Monmouthshire
S Saunders	Fire Brigades Union
D King	Fire & Rescue Service Association
R Prendergast	Association of Principal Fire Officers
Mr I Traylor	Pensions Service Director, Rhondda Cynon Taff BC

OFFICERS PRESENT:- DCO Sally Chapman - Monitoring Officer, ACO A Reed – Director of People Services, Mr C Barton – Treasurer, Ms K Jeal, Accountant, People Services

32. DECLARATIONS OF INTEREST

All Members declared a personal non-prejudicial interest in each agenda item which affected their Authority.

33. CHAIR'S ANNOUNCEMENTS

Cllr Bradwick welcomed new member Cllr White who also sits on the Swansea Council Local Pension Board.

Mr King asked as a mark of respect that a minutes silence be held as there has been a number of retired Service members who have recently passed away.

34. MINUTES OF PREVIOUS MEETING

The minutes of the Local Pension Board meeting held on 19 October 2020 were received and accepted as a true record of proceedings. Item 23 the words "the noted" were deleted as duplicated.

35. LOCAL PENSION BOARD - FIREFIGHTER PENSIONS ADMINISTRATION: KEY PERFORMANCE INDICATORS AND ADMINISTRATION ACTIVITY

Mr Ian Traylor presented Members with an update on the KPI Statistics, and administration activity. The report updated members on key activity undertaken for the period 1st April to 30 November 2020. Mr Ian Traylor reported that there remains a high level of compliance and they will continue to monitor. The question was raised regarding cases going over 5 working days and Mr Ian Traylor explained that this was due to some case being of a complex nature, the compliance target level is 90 - 95% but the expectation is to meet 100%.

Mr Ian Traylor advised that they ensure that the data quality held for FS Members is appropriate and continues to improve. The Member Self-Service Statistics continue to increase with a higher level of active members, whilst the number of retired members is lower this will increase over time as staff retire from the Service.

RESOLVED THAT

Members noted the noted the performance data, relevant pension administrative activity and update.

36. LOCAL PENSION BOARD - MEMBERS HANDBOOK

ACO People Services presented the completed members Handbook Chapters 1-16 for final approval by the members.

RESOLVED THAT

Members approved the completed version of the members Handbook and agreed to an annual review beginning January 2022.

37. LOCAL PENSION BOARD - JANUARY 2021 TRAINING FRAMEWORK

ACO People Services reported that all members had now completed their Training Needs Analysis (TNA) to support the training strategy for the year ahead. ACO People Services will ensure all relevant paperwork and TNA will be forwarded to new Member Cllr White. Today's training session will focus on the role of advisors and key persons.

RESOLVED THAT

Members agreed to this meetings area of focus of the training strategy.

38. TRAINING SESSION FOR MEMBERS - VERBAL

Mr Ian Traylor provided an update to members on the:

- Role of the advisors and key persons
- Service Level Agreement (SLA)
- Responsibilities
- Discretions

Mr Ian Traylor stated that the RCT team continue to maintain their in house expertise, there are 3 members of staff that have a depth of knowledge and experience around the FRA as well as the broader wider team. The following items were part of a number of services provided as agreed in the SLA:

- Supporting the Pension Board
- Member Pension Benefits - accurate records and data
- Pension Payroll
- Member Communication
- Annual Benefit Statements
- Pension Tax Statements
- Annual Return to Regulator on behalf of FA

Mr Ian Traylor encouraged all Members to go through the SLA in detail as it set out the responsibilities of both parties.

Cllr Smith asked for information around the backing up of data with employees now working from home. Mr Ian Traylor reported that as per RCT's Business Continuity Plan all data is held by a third party and arrangements are in place for a daily back up to take place in a data centre which is held in the UK. All securities are in place. All information is held on a portal and secured.

RESOLVED THAT:

Members noted the update. It was agreed that an annual review of the SLA will take place going forward.

39. UPDATE ON PENSIONS CONSULTATION

ACO People Services reported that there has been no outcome of the McCloud / Sargent Case. The employers response that was previously

brought to this group has been given to the Treasury and the deadline for response closed in October 2020. It is usual to take around 4 months to review and it is expected that the outcome of the consultation will be published in February. Separate to this ACO People Services continues to keep a watch and brief on the awaited judgement from the Employment Tribunal (ET) held in December regarding FRA Legal Powers to implement the outcome of the ET decision (immediate detriment). As soon as a response is received Members will be advised of the outcome.

RESOLVED THAT:

Members noted the update.

40. FORWARD WORK PROGRAMME FOR LOCAL PENSION BOARD 2020/2021

The ACO People Services advised Members with the Forward Work Programme for 2020 / 2021 was now completed. The ACO People Services will put together the Forward Work Programme for 2021 / 2022 and include a review of the SLA and Members Handbook, which was agreed by Members.

30. TO CONSIDER ANY ITEMS OF BUSINESS THAT THE CHAIRPERSON DEEMS URGENT (PART 1 OR 2)

There were no items of urgent business for Members to consider.

THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 5
28 JUNE 2021

LOCAL PENSION BOARD COMMITTEE

REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

REPORT ON SCHEME DATA FOR THE FIREFIGHTERS' PENSION SCHEMES

THIS REPORT IS FOR INFORMATION ONLY

REPORT PRESENTED BY IAN TRAYLOR, SERVICE DIRECTOR, RHONDDA CYNON TAF CBC (SCHEME ADMINISTRATOR)

SUMMARY

South Wales Fire & Rescue Authority, as the duly appointed Firefighters' Pension Scheme Manager, is responsible for compiling and maintaining membership data for each of the Firefighters' Pension Schemes in accordance with that Scheme's regulations.

This report provides factual statistics on Scheme Membership Data.

RECOMMENDATIONS

That Local Pension Board Members note the composition of the Scheme(s) Membership as at 1 April, 2021.

1. BACKGROUND

- 1.1 South Wales Fire & Rescue Authority, as the Scheme Manager, is responsible for compiling and maintaining membership data for each of the Fire Pension Schemes. The role of the Local Pension Board (as described in its Terms of Reference) is to provide oversight and assistance to the Scheme Manager.

2. ISSUES

- 2.1 When the Firefighters' Pension Scheme 2015 was introduced an agreement was reached on the 'tapering' arrangements for active members of the FPS 1992, NFPS 2007, and the FPS 2007 Modified Scheme moving into the 2015 Scheme.
- 2.2 The agreement gave full statutory protection for accrued rights for all Scheme members as follows:-

- All benefits accrued under final salary arrangements will be linked to the members' final salary, in accordance with the rules of the members' current Schemes, when they leave the reformed Scheme.
- Full recognition of a member's expectation to double accrual under the 1992 Scheme, so that a member's full continuous pensionable service upon retirement will be used to calculate an averaged accrual rate to be applied to service accrued under the 1992 Scheme.
- Members to be able to access their 1992 Scheme benefits when they retire at the Scheme's 'ordinary pension' age (i.e. from age 50 with 25 years pensionable service), subject to abatement rules for that Scheme. Pensionable service for the purpose of calculating the ordinary pension age will include any continuous pensionable service accrued under both the 1992 Scheme, and 2015 Scheme.
- Members of the 1992 Scheme will continue to have access to an actuarially assessed commutation factor for benefits accrued under that Scheme.

2.3 The transitional protections are as follows:-

- All active members who, as of 1 April, 2012, had 10 years or less to their Normal Pension Age (1992 Scheme age 55, and 2002 Scheme age 60), would see no change in when they could retire, nor any decrease in the amount of pension they receive at their current Normal Pension Age. This protection will be achieved by the member remaining in their current Scheme until they retire, which could be beyond 31 March, 2022.
- All active members who were up to 14 years from their current Normal Pension Age, as at 1 April 2012, received a further 4 years of limited tapered protection, so that on average for every month of age they go beyond 10 years of the Normal Pension Age, they gain about 53 days of protection.
- The last day of protected service for any member benefitting from the tapered protection will be 31 March, 2022. At the end of the protected period they will be transferred into the 2015 Scheme arrangements.

2.4 In summary, Scheme members who on 1 April, 2012, were in the 1992 Scheme, and between the ages of 41 and 45, or were in the 2006 Scheme, and between the ages of 46 and 50, will continue to accrue

pension in their existing Scheme on a tapered basis. They gain about 53 days of protection in their existing Schemes for every month they are older than 41 years in the 1992 Scheme, and 46 years in the 2006 Scheme.

- 2.5 Members in the 1992 and 2007 Schemes will be able to take their pension on retirement at their ordinary pension age (1992 Scheme), and Normal Pension Age (2006) Scheme, subject to abatement rules. After this, members are transferred into the 2015 Scheme, and continue to accrue their 2015 pension.
- 2.6 The number of contributing Scheme members fluctuates as people retire, transfer into the Service, and new appointments are made. Appendix A demonstrates the membership of each of the Schemes as at 1 April, 2019, 2020 and 2021.
- 2.7 The table demonstrates the distribution of membership across the Firefighters' Pension Schemes on 1 April, 2021.
- 2.8 By 31 March, 2022, the 1992 and 2007 Schemes will in effect be closed, and the members of the 2015 Scheme will be funding all pensions in payment. This will place an additional burden on the pension fund.
- 2.9 The reason for this is that under the 2015 Scheme the pension contributions are lower than the 1992 and 2007 Schemes, and the benefits paid under these Schemes is greater than the new 2015 Scheme. As these Schemes are all unfunded with no investment assets, any differences are met by a 'top up' grant from Welsh Government. The effect being that until all 1992 and 2007 Scheme members in receipt of a pension become deceased, there will be an imbalance in benefits paid out, and contributions paid in.
- 2.10 In December 2018, the 'tapering' arrangements were challenged in the Court of Appeal by a group of judges and firefighters. The outcome was a ruling that stated the Government had discriminated against the two groups on the grounds of age, race, and equal pay in relation to changes to their pension. In consideration of appropriate remedy, in February 2021, the Government published its response to the 'Public service pensions schemes; changes to the transitional arrangements to the 2015 schemes'.
- 2.11 The number of normal retirements for the period 1 April, 2020, to 31 March, 2021, was 62. In the corresponding period there was 10 ill-health retirements all at the lower tier.

- 2.12 The total number of retired members in receipt of a pension is 1,184, as opposed to 1,156 in 2019/2020.

3. IMPLICATIONS

3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

3.2 Regulatory, Strategy and Policy

Legal	Yes	Data Protection / Privacy	Yes
Financial	Yes	Health, Safety and Wellbeing	No
Procurement	No	Governance & Audit	Yes
Corporate Risk	Yes	Service Policy	No
Information Management	Yes	National Policy	No

3.3 Resources, Assets and Delivery

Human Resource and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	Yes

4. EVALUATION & CONCLUSIONS

- 4.1 As expected, the number of members in the 1992 scheme has reduced steadily over the last three years. The largest proportion of members (1,197) are now in the 2015 scheme.

5. RECOMMENDATIONS

- 5.1 That Local Pension Board Members note the composition of the Scheme(s) Membership as at 1 April, 2021.

Contact Officer:	Ian Traylor Service Director Pensions, Procurement & Transactional Services, Rhondda Cynon Taf CBC (Scheme Administrator)
Background Papers	Appendix A – Statistical Scheme Information

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Appendix A

Firefighter Pensions Schemes - scheme data

Scheme	1 April 2019	1 April 2020	1 April 2021
Total number of members in the 1992 FPS	93 Protected 47 Tapered	79 Protected 28 Tapered	49 Protected 9 Tapered
Total number of members of the 2007 NFPS	19 Protected 2 Tapered	19 Protected 2 Tapered	18 Protected 2 Tapered
(a) Number of Retained members in the 2007 NFPS	10 Protected 2 Tapered	10 Protected 2 Tapered	10 Protected 2 Tapered
(b) Number of Wholetime members in the 2007 NFPS	9 Protected 0 Tapered	9 Protected 0 Tapered	9 Protected 0 Tapered
Number of members in the RDS Modified Scheme	19 Protected 8 Tapered	17 Protected 4 Tapered	13 Protected 3 Tapered
Total number of members of the 2015 FPSW	1196	1126	1197
(a) Number of Retained members in the 2015 FPSW	441	414	456
(b) Number of Wholetime members in the 2015 FPSW	755	712	741

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THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 6
28 JUNE 2021

LOCAL PENSION BOARD COMMITTEE

REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

LOCAL PENSION BOARD TERMS OF REFERENCE (ToR)

THIS REPORT IS FOR DECISION ONLY

REPORT PRESENTED BY ACO A REED

SUMMARY

This report invites Members to review the Terms of Reference (ToR) for the Local Pension Board Committee.

RECOMMENDATIONS

That Members review the current Terms of Reference (ToR) for the Local Pension Board, attached to the report as Appendix A.

1. BACKGROUND

- 1.1 Terms of Reference (ToR) define the purpose and structures of a project, committee, meeting, negotiation, or any similar collection of people who have agreed to work together to achieve a shared goal.
- 1.2 Terms of Reference provide a documented basis for making future decisions and for confirming or developing a common understanding of the scope among stakeholders.
- 1.3 Terms of Reference should include the following:-
 - Objectives, scope and deliverables (i.e. what has to be achieved)
 - Roles and responsibilities (i.e. who will take part in it)
 - Resources (i.e. how it will be achieved)

2. ISSUES

- 2.1 The current Terms of Reference were revised in 2019. It is good practice to review the Terms of Reference regularly. Members are invited to review the Terms of Reference and provide comments at the meeting.

3. IMPLICATIONS

3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

3.1.1 There are no additional financial issues arising as a result of this report.

3.2 Regulatory, Strategy and Policy

Legal	Yes	Data Protection / Privacy	Yes
Financial	Yes	Health, Safety and Wellbeing	Yes
Procurement	No	Governance & Audit	Yes
Corporate Risk	Yes	Service Policy	Yes
Information Management	Yes	National Policy	Yes

3.3 Resources, Assets and Delivery

Human Resource and People Development	Yes
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	Yes

4. EVALUATION & CONCLUSIONS

4.1 An Equality Risk Assessment has been undertaken to assess the potential impact of this report. The assessment concluded that there were no immediate or long term adverse impacts on any individual or group of personnel arising from this particular report.

5. RECOMMENDATIONS

5.1 That Members review the current Terms of Reference (ToR) for the Local Pension Board, attached to the report as Appendix A.

Contact Officer:	Alison Reed Director of People Services
Background Papers	Appendix A

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Membership of the Local Pension Board

The Local Pension Board shall consist of up to 9 members and be constituted as follows:-

- (a) 4 employer representatives
- (b) 4 scheme member representatives
- (c) 1 representative selected by Scheme Manager

Named substitutes will be permitted and will be required to attend training events, and will receive all paperwork for each meeting.

The Scheme Manager shall make appropriate arrangements for the establishment of the membership of the Pension Board.

Term of Office

Fire and Rescue Authority members appointed remain members as long as they are eligible, and to assist in continuity of experience on the Local Pension Board.

Attendance

Each Board member should endeavour to attend all Local Pension Board meetings during the year. In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the Scheme Manager.

Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the unanimous agreement of all of the other members. The removal of the independent member requires the consent of the Scheme Manager.

The Local Pension Board may, with the approval of the Scheme Manager, co-opt persons who are not members of the Board to serve on sub-committees, particularly where this would add skills and experience. Notwithstanding the appointment of co-opted members, the majority of the Board shall be comprised of employer and Scheme member representatives, represented in equal number.

Quorum

At least four people must be present, including the Chair and at least half members present are employee representatives.

Advisers and co-opted persons do not count towards the quorum.

Conflicts of Interest

The policy for identifying conflicts of interest is set out in a separate statement.

Local Pension Board Review Process

The Local Pension Board will undertake each year a formal review process to assess how well it and its committees, and the members are performing with a view to seeking continuous improvement in the Board's performance.

Chapter 3

Terms of Reference

TERMS OF REFERENCE AND DELEGATED AUTHORITIES (As determined for a Sub-Committee of South Wales Fire & Rescue Authority)

1. INTRODUCTION

The purpose of this document is to set out the Terms of Reference for the Local Pension Board of the South Wales Fire and Rescue Authority (Firefighters' Pension Fund). Appendix 'A' establishes the relationship between the Fire and Rescue Authority and the Local Pension Board.

The Local Pension Board will exercise all its powers and duties in accordance with the law and the Terms of Reference.

The Local Pension Board is providing oversight and assistance to the Scheme Manager. Accordingly, the Local Pension Board is not a decision making body in relation to scheme management and administration but merely makes recommendations to assist in such activities.

2. ROLE OF THE LOCAL PENSION BOARD

The role of the Local Pension Board as defined by Sections 5 (1) and (2) of the Public Service Pensions Act 2013, is to:

- Assist the South Wales Fire and Rescue Authority as Scheme Manager:
 - To secure compliance with the Firefighters' Pension Scheme(s) regulations and any other legislation relating to the governance and administration of the Firefighters' Pensions Scheme(s)
 - To secure compliance with requirements imposed in relation to the Firefighters' Pension Scheme(s) by the Pension Regulator
 - To secure effective and efficient governance and administration of the Firefighters' Pension Schemes
 - In such other matters as the Firefighters' Pension Scheme(s) regulations may specify
- Secure the effective and efficient governance and administration of the Firefighters' Pension Scheme(s) for the South Wales Fire and Rescue Authority (Firefighters' Pension Fund)

- Provide the Scheme Manager with such information as it requires to ensure that any member of the Local Pension Board or person to be appointed to the Local Pension Board does not have a conflict of interest.

The role of the Local Pension Board will be confined to these matters and not decision making.

The Local Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.

The Local Pension Board will also help ensure that the Firefighters' Pension Scheme(s) are managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.

The Local Pension Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively, and at least 3 times per municipal year.

Minutes of each meeting will be e-mailed to Fire Authority Members. In addition, reports and recommendations will be made to the Fire Authority insofar as they relate to the role of the Local Pension Board.

3. APPOINTMENT OF MEMBERS OF THE LOCAL PENSION BOARD

The process for selecting members of the Local Pension Board is set out below.

The Local Pension Board shall consist of up to 9 members and be constituted as follows:-

- (d) 4 employer representatives
- (e) 4 scheme member representatives
- (f) 1 representative selected by Scheme Manager

Named substitutes will be permitted and will be required to attend training events, and will receive all paperwork for each meeting.

The Scheme Manager shall make appropriate arrangements for the establishment of the membership of the Pension Board.

No elected member or officer of the Scheme Manager who is responsible for the discharge of any function for the Firefighters' Pension Scheme(s) may be a member of the South Wales Fire and Rescue Authority Local Pension Board.

The Scheme Manager must be satisfied that:-

- a person to be appointed to the Pension Board as an Employer Representative has the capacity (i.e. time and resources) to represent the employer on the Pension Board; and
- a person to be appointed as a Scheme Member Representative has the capacity to represent members on the Pension Boards; and
- a person to be appointed as an Independent Member / Chair has the capacity to fulfil this role on the Pension Board.

Each Employer Representative and Scheme Member Representative will have an individual voting right.

The Scheme Manager must be satisfied that any person to be appointed as a member of the Pension Board does not have a conflict of interest.

Pension Board members must endeavor to attend all Pension Board meetings and meet key attendance and training requirements to retain their membership during the period of their appointment to the Pension Board.

Scheme member and employer representatives shall be appointed in equal number and shall together form the majority of the Local Pension Board's membership.

The Chair of the Local Pension Board will be the Fire and Rescue Authority Deputy Chair person. It will be the role of the Chair to ensure that all members of the Board show due respect for the process, that all views are fully heard and considered and to determine when consensus has been met.

Term of Office

Fire and Rescue Authority members appointed remain members as long as they are eligible, and to assist in continuity of experience on the Local Pension Board.

Attendance

Each Board member should endeavour to attend all Local Pension Board meetings during the year. In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the Scheme Manager.

Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the

unanimous agreement of all of the other members. The removal of the independent member requires the consent of the Scheme Manager.

The Local Pension Board may, with the approval of the Scheme Manager, co-opt persons who are not members of the Board to serve on sub-committees, particularly where this would add skills and experience. Notwithstanding the appointment of co-opted members, the majority of the Board shall be comprised of employer and Scheme member representatives, represented in equal number.

4. QUORUM

At least four people must be present, including the Chair and at least half members present are employee representatives.

Advisers and co-opted persons do not count towards the quorum.

5. CONFLICTS OF INTEREST

The policy for identifying conflicts of interest is set out in a separate statement.

6. LOCAL PENSION BOARD REVIEW PROCESS

The Local Pension Board will undertake each year a formal review process to assess how well it and its committees, and the members are performing with a view to seeking continuous improvement in the Board's performance. *Annual report to Fire and Rescue Authority.*

7. ADVISERS TO THE LOCAL PENSION BOARD

The Local Pension Board may make use of advisers from time to time, subject to any applicable regulation and legislation in force, but this will be optional resource subject to budget agreements.

8. KNOWLEDGE AND SKILLS

A member of the Local Pension Board must be conversant with:-

- (a) The legislation and associated guidance of the Firefighters' Pension Scheme(s)
- (b) Any document recording policy about the administration of the Firefighters' Pension Scheme(s) which is for the time being adopted by the South Wales Fire and Rescue Authority (Firefighters' Pension Fund).

A member of the Local Pension Board must have knowledge and understanding of:-

- The law relation to pensions, and
- Any other matters which are prescribed in regulations

It is for the individual Local Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Local Pension Board.

In line with this requirement, Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.

Local Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.

Local Pension Board members will comply with the Scheme Manager's training policy.

9. LOCAL BOARD MEETINGS – NOTICE AND MINUTES

The Scheme Manager shall give notice to all Local Pension Board members of every meeting of the Pension Board.

The Scheme Manager shall ensure that a formal record of Local Pension Board proceedings is maintained.

Following the approval of the minutes by the Chair of the Local Pension Board, they shall be circulated to all members.

There will be three Local Pension Board meetings per year, with the option to call more as required.

10. REMIT OF THE LOCAL PENSION BOARD

The Local Pension Board must assist the Scheme Manager with such other matters as the scheme regulations may specify. It is for scheme regulations and the Scheme Manager to determine precisely what the Local Pension Board's role entails.

11. STANDARDS OF CONDUCT

The role of Local Pension Board members requires the highest standards of conduct and therefore the 'seven principles of public life' will be applied

to all Local Pension Board members. There are: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

12. DECISION MAKING

Each member of the Local Pension Board will have an individual voting right but it is expected the Local Pension Board will as far as possible reach a consensus. The Chair of the Local Pension Board will have the final 'casting' vote which will be reported to the Scheme Manager.

13. PUBLICATION OF LOCAL PENSION BOARD INFORMATION

Scheme members and other interested parties will want to know that the South Wales Fire and Rescue Authority (Firefighters' Pensions Fund) is being efficiently and effectively managed. They will also want to be confident that the Local Pension Board is properly constituted, trained and competent in order to comply with scheme regulations, the governance and administration of the scheme and requirements of the Pension Regulator.

Up to date information will be posted on the South Wales Fire and Rescue Authority website. (*Pensions page*)

The names and information of the Local Pension Board members

- How the scheme members are represented on the Pension Board
- The responsibilities of the Local Pension Board as a whole
- The full terms of reference and policies of the Pension Board and how they operate
- The Pension Board appointment process (as per independent member of Standards Committee)
- Who each individual Pension Board member represents
- Any specific roles and responsibilities of individual Pension Board members

Local Pension Board papers, agendas and minutes of meetings will be published on the South Wales Fire and Rescue Authority website. These may at the discretion of the Scheme Manager be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A (2) of that Act and/or they represent data covered by the Data Protection Act 1998.

The Scheme Manager will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

14. ACCOUNTABILITY

The Local Pension Board will be collectively and individually accountable to the Scheme Manager.

15. EXPENSE REIMBURSEMENT (REMUNERATION AND ALLOWANCES)

LPB members do not receive any remuneration for their role.

16. REPORTING BREACHES

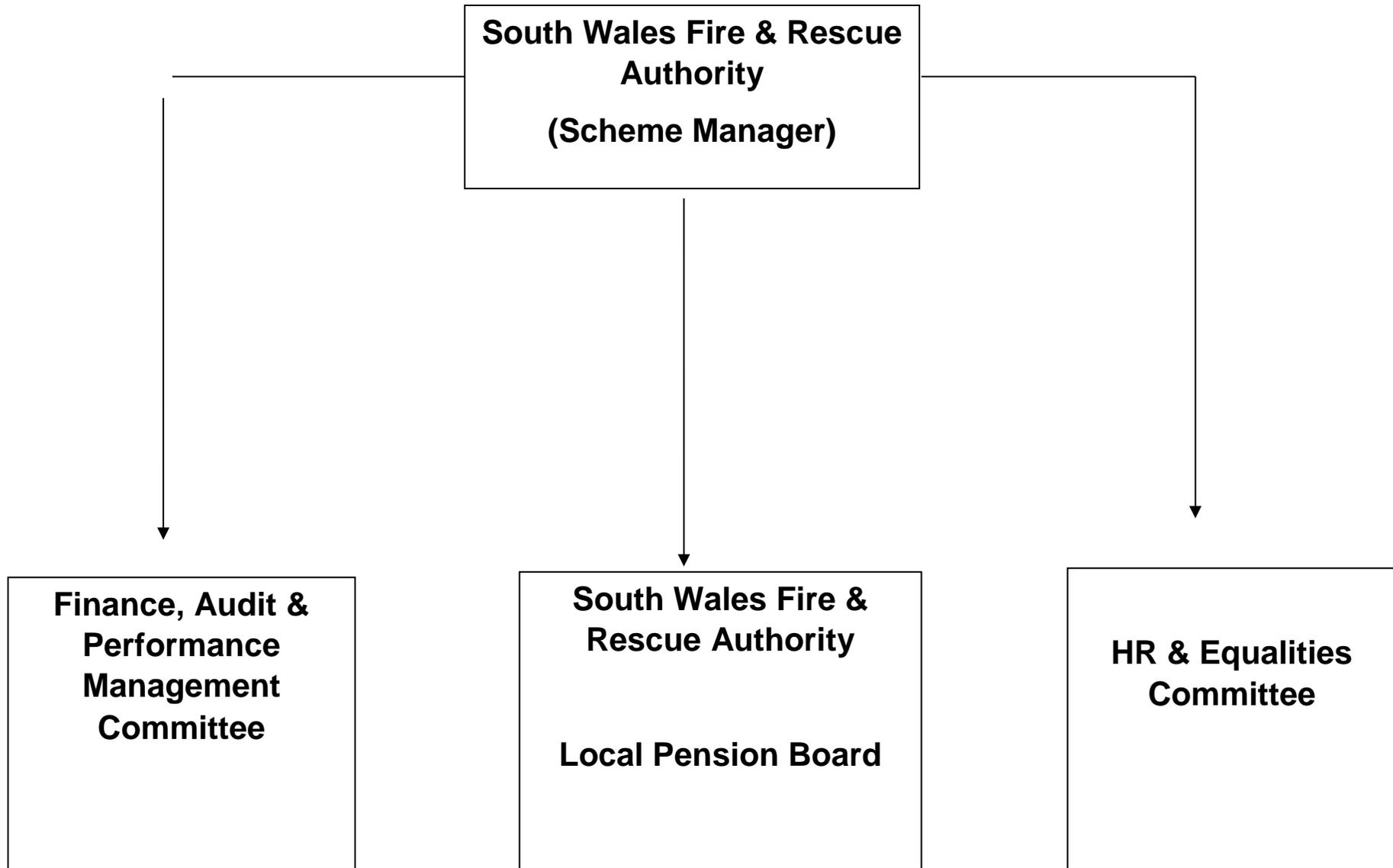
Any breach brought to the attention of the Local Pension Board, whether potential or actual, shall be dealt with in accordance with the procedure set out in a separate policy document, and would be dealt with through the appropriate channels currently in existence.

17. INTERPRETATION

Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Scheme Manager.

18. DEFINITIONS

- The term 'Local Pension Board' means the Local Pension Board for the South Wales Fire and Rescue Authority, administering authority for the South Wales Fire and Rescue Authority (Firefighters' Pension Fund) as required under the Public Service Pensions Act 2013.
- 'Scheme Manager' means the South Wales Fire and Rescue Authority as the administering authority for South Wales Fire and Rescue Authority (Firefighters' Pension Fund)
- 'Chair' refers to duties to be performed, or authorities exercised, by the Chair.
- 'Scheme' means the Firefighters' Pension Scheme 1992, the New Firefighters Pension Scheme 2007, Firefighters Compensation Scheme, RDS Modified Scheme and New Firefighters Pension Scheme 2015.



THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 7
28 JUNE 2021

LOCAL PENSION BOARD COMMITTEE

REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

LOCAL PENSION BOARD – SERVICE LEVEL AGREEMENT (SLA)

THIS REPORT IS FOR DECISION ONLY

REPORT PRESENTED BY ACO A REED

SUMMARY

A Service Level Agreement (SLA) is a contract between a service provider and its customer. It documents the service the provider will furnish and defines the service standards the provider is expected to meet. The Local Pension Board Committee last reviewed the Service Level Agreement for the provision of services for Fire Pensions in 2019. These services are provided by RCT Pensions.

RECOMMENDATIONS

1. That Members undertake a review of the Service Level Agreement attached to the report as Appendix 1.
2. That the Service Level Agreement is formally reviewed again in 2022, which is the third anniversary of the implementation of the current Service Level Agreement.

1. BACKGROUND

- 1.1 Service Level Agreements help manage expectations and describe the performance characteristics of the service being provided.
- 1.2 A Service Level Agreement will typically include a statement of objectives, a list of the services to be covered by the agreement, and will also define the responsibilities of the service provider and customer under the Service Level Agreement.
- 1.3 The Service Level Agreement attached to the report as Appendix 1 was discussed and agreed with our Pensions Administrator, Rhondda Cynon Taff (RCT), in 2019, and subsequently presented to the Local Pension Board in October 2019.

- 1.4 There are no formal changes proposed, and it is, therefore, recommended that the current Service Level Agreement is reviewed again in 2022.

2. ISSUES

- 2.1 There are no issues to report.

3. IMPLICATIONS

3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

- 3.1.1 There are no significant implications from this report. The costs of the service provided by RCT is included in the annual budget projections.

3.2 Regulatory, Strategy and Policy

Legal	Yes	Data Protection / Privacy	Yes
Financial	Yes	Health, Safety and Wellbeing	No
Procurement	Yes	Governance & Audit	Yes
Corporate Risk	No	Service Policy	Yes
Information Management	Yes	National Policy	No

3.3 Resources, Assets and Delivery

Human Resource and People Development	Yes
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	Yes
Procurement	Yes
Budget Revenue/Capital	Yes

4. RECOMMENDATIONS

- 4.1 That Members undertake a review of the Service Level Agreement attached to the report as Appendix 1.
- 4.2 That the Service Level Agreement is formally reviewed again in 2022, which is the third anniversary of the implementation of the current Service Level Agreement.

Contact Officer:	Alison Reed Director of People Services
Background Papers	Appendix 1 –Service Level Agreement

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Provision of Pension Administration Services for the Firefighters Pension Schemes

Service Level Agreement Between:

Rhondda Gynon Taf County Borough Council

and

South Wales Fire and Rescue Service

This agreement sets out, for administrative convenience, the manner in which certain duties and responsibilities are expected to be carried out. It does not override any provision or requirement in the Regulations outlined below or in any overriding legislation. The intentions of the Regulations in their application to members, potential members, deferred members and pensioners must at all times be complied with.

The principal Regulations forming the basis of this agreement are:

The Firemen's Pension Scheme Order 1992 and any amendments thereto.

The New Firefighter's Pension Scheme Order 2006 and any amendments thereto.

The Firefighters' Compensation Scheme (Wales) Order 2007 and any amendments thereto.

The Firefighters' Pension Scheme (Wales) (Amendment) Order 2014

The Firefighters' Pension Scheme (Wales) Regulations 2015 and any amendments thereto

The Firefighters' Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015

The Occupational Pension Schemes (Disclosure of Information) Regulations 1996 and any amendments thereto.

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MANAGEMENT & ADMINISTRATION

Details of how the Service will be provided

▪ **NOMINATED REPRESENTATIVE**

South Wales Fire and Rescue Service (the Employer) shall nominate a person who will be responsible for pension matters, and who will act as the Pension Section's primary contact. The name and title of this person is shown in **Appendix A** of this Agreement.

▪ **AUTHORISED SIGNATURES**

All documents and/or instructions received from South Wales Fire and Rescue Service must be signed by an 'Authorised Officer' whose name and specimen signature is recorded in **Appendix A** to this Agreement. Authorised Officers are responsible for all information passed to the Pension Section. Only information, which has been signed by a recognised authorised officer, will be actioned by the Pension Section.

Any proposed change to either the 'nominated representative', or to the list of 'Authorised Signatures' must be notified to the Pension Section who will supply South Wales Fire and Rescue Service with the necessary documentation for completion.

It is the responsibility of South Wales Fire and Rescue Service to ensure that the 'nominated representative', and the list of 'authorised signatures' are correct and to notify the Pension Section of changes to either immediately.

▪ **VARIATIONS TO THE AGREEMENT**

Either party to the agreement may notify the other in writing with suggested changes. The Pension Service Manager will notify South Wales Fire and Rescue Service's nominated representative if the change is at the suggestion of the Pensions Administrator. South Wales Fire and Rescue Service should contact the Pension Service Manager with any suggested changes.

▪ **MONITORING & REVIEW**

The agreement will form the basis of a review of services provided by South Wales Fire and Rescue Service and the Pensions Administrator. The review will be held in the form of a meeting of those officers responsible for the services set out in this agreement, and will take place annually, with more frequent operational meetings as and when necessary. The meetings will be initiated by South Wales Fire and Rescue Service.

Reporting to the Local Pension Board (LPB)

Representatives of RCT Pension Administrators attend the LPB meetings held three times per year to update the Members of the Board on:

- To update Pension Board on 'good governance' compliance against new and existing / new controls, for example Cyber security mitigation, scheme data management/scores, etc

- To support the South Wales Fire and Rescue Service mitigate key pension operational risks, in accordance with their risk register.
- To inform Board of compliance against the various statutory obligations, for example reporting of Annual Benefit Statements to scheme members by 31st August.
- To inform Board of any breaches that have occurred that may require formal reporting to the Pensions Regulator.
- To report on any formal complaints received by the Pension Service and trends.
- To report on actual performance activity against the key delivery 'Service Standards'
- To report to the Board where issues have not been resolved through the operational meetings described under "Monitoring and Review" section above.

▪ COMPLAINTS

The Pensions Service Manager will be responsible for dealing with formal complaints in respect of the service provided under this agreement. An 'Internal Disputes Resolution Procedure' for individual members with a complaint about a pension decision taken is in place within the South Wales Fire, in accordance with Wales Fire and Rescue Service Circular (09) 01, see **Appendix C**. See attached.

RESPONSIBILITIES & DISCRETIONS

The services provided by the Pensions Administrator, Rhondda Cynon Taf County Borough Council, will be:

- To set up and maintain a record for each member which contains all the information necessary to produce an accurate benefit calculation.
- To establish an active pension account for each member that meets the qualifying criteria (i.e. unprotected or tapered members) for membership of The Firefighters Pension Scheme (Wales) Regulations 2015
- To ensure that the computerised pension record system is properly updated for all changes relating to scheme members.
- To determine how any previous service or employment of an employee is to count for pension purposes.
- To notify each member of their decisions regarding the counting of service.
- To annually adjust active members CARE pension accounts by the relevant index
- To provide details about the purchase of additional benefits following receipt of information and to provide an estimate.
- To calculate adjustments necessary in respect of any notified secondment of a fire-fighter to a central fire establishment. This should normally be

accomplished within six months of the fire-fighter's return but is dependent upon other agencies outside the control of Rhondda Cynon Taf County Borough Council.

- To calculate and pay, if applicable, the appropriate benefits, based on details held on the pension administration record and the information supplied SWFRS on the termination form.
- To supply members with details of their entitlement
- To set up and maintain a record for each pensioner or dependant member.
- To increase pensions periodically in accordance with the provisions of Pensions Increase Acts and Orders.
- To calculate, notify and pay the appropriate benefits to dependants of deceased scheme members and pensioners.
- To monitor continuing eligibility of benefits paid to child dependants of deceased scheme members and pensioners.
- To calculate Cash Equivalent Transfer Values required under Pensions on Divorce Regulations 2000 within time-scales laid down in Regulations.
- To implement within the time limit stipulated in Pensions on Divorce Regulations any Pensions Sharing Orders or Earmarking Orders, see **Appendix D**.
- To set up and maintain computerised records for each Pension Credit Member established under Pensions on Divorce Regulations.
- To ensure compliance with Occupational Pension Schemes (Disclosure of Information) Regulations 1996.
- To ensure compliance with General Data Protection Regulations.
- To take steps to reduce the possibility of fraud taking place including taking part in the biennial National Fraud Initiative exercise.
- To respond to correspondence and queries received relating to pension entitlement of all Fire Scheme members and pensioners.
- To provide information for HMRC statutory returns
- To notify SWFRS of tax due to be paid in line with quarterly accounting for tax deadlines

- To ensure relevant statistical information is made on an annual basis to the Pensions Regulator.
- To comply with any orders or instructions issued by The Pensions Regulator or the Pensions Ombudsman.

Member Communications

- To provide My Pension On-line – this is an on-line facility which allows members access to their pension records to produce estimates and update personal details. Newsletters and Annual Benefit Statements will be issued using My Pension On-line. Members retain the right to opt-out of electronic communications at any time.
- To record and use the members language of choice, in accordance with Welsh Language Standards.
- Issue Newsletter(s) covering relevant matters relating to pension benefits to active members as and when required. To be agreed by RCT Pensions and SWFRS as necessary and publish electronically where possible.
- Issue Newsletters to pensioner members annually in April
- Issue Annual Benefit Statements, within timeframes as outlined in Regulations to deferred and active members. Where the year end information is not received in a timely and accurate manner RCTCBC can not guarantee the accuracy of any information provided to members.
- Issue Pension Savings Statements to members in accordance with HMRC regulations.
- To provide targeted seminars, twice yearly to educate active Firefighters Pension Scheme members on topics to be agreed by SWFRS and the Pensions Administrators. Location and delegates to be arranged by SWFRS. Representatives of RCT Pensions and SWFRS to attend each session.
- To provide, on request, standard membership reports from the pensions administration system to enable South Wales Fire and Rescue Service to comply with statutory requirements e.g. year end accounting, valuation and ad-hoc requests. All requests for reports should be fully specified in writing. The Pensions Section retains the right to make an additional charge for any report that is a non-standard report where significant resource input is necessary to compile data. Where the year end information is not received in a timely and accurate manner, RCTCBC can not guarantee the accuracy of any information provided.
- Any problems experienced by South Wales Fire and Rescue Service with the service delivery will be immediately reconciled following investigation. Such problems should, in the first instance, be submitted to the Pensions Service Manager. The Pension Section is committed to the delivery of a quality administration service. Service Standards are set out at **Appendix B**.
- The Pension Section will aim to provide a written response to any query raised in writing by the South Wales Fire and Rescue Service within 14 days of its receipt.
- The Pension Section shall respect the confidentiality of information exchanged under this agreement.

- To set the annual charge to include any ad-hoc charges for work undertaken outside the SLA in the previous year by no later than 31st May each year (indicative costs to be provided, as early as possible, to support budgeting), and to provide a full breakdown of the service costs including rationale in relation to any increase, for the following financial year. An example of how the level of detail that will be provided is as set out in **Appendix F**

Pensioner Payroll Services

- The following services will be provided in respect of the pensioner payroll;
 - (i) To make lump sum payments to fire-fighters upon their retirement
 - (ii) To collect various statutory and voluntary deductions from pension and advise South Wales Fire and Rescue Service to make appropriate payments to organisations concerned
 - (iii) To pay pensioners each month at the due date, that is, in advance for each calendar month on 1st of each month. Pensions are paid from the South Wales Fire and Rescue Service nominated bank account.
 - (iv) To process immediate payments to correct non/under payments of pensions where appropriate
 - (v) To reply to correspondence relating to tax queries
 - (vi) To ensure that appropriate statutory returns are made to HM Revenue & Customs
 - (vii) To ensure that Form P60 is issued to pensioners and relevant RTI submission is made to HM Revenue & Customs

Employer Responsibilities

The services provided by the employer, South Wales Fire and Rescue Service, will be:

- Issue the joining employee with Notification of Appointment Form, Nomination Form and Co-habiting Partner Form along with a 2015 Firefighters Pension Scheme Guide prior to appointment.
- On a monthly basis to provide new starter information in excel format to the Pensions Administrator and forward on corresponding completed member documentation
 - To determine an employee's pay for the purposes of calculating pension contributions.
 - To gather all information relating to a member's previous service within three months of the member joining the Scheme and to transmit this information securely to the Pension Section in the approved manner.
 - On the cessation of membership of the Scheme to determine the reason for leaving and provide the Pension Section with a completed Termination Form detailing the final pay, CPD and employee contribution figures within 5 days of the termination date, except where the leaving date is prior to SWFRS Payroll deadline.
 - South Wales Fire and Rescue Service shall obtain and consider the written opinion of at least one qualified medical practitioner, selected by them, where first instance decisions of entitlement to awards involve disablement questions or any other issues of a medical nature.
 - To accompany any statement issued to an employee relating to any decision made about the Scheme with a notice drawing the employee's attention to their right of appeal under the FPS, NFPS or FPS (Wales) 2015
- South Wales Fire and Rescue Service shall provide the Pensions Section with year-end information to 31 March each year by no later than the deadline set each year by the Pensions Administrator. The Pensions Administrator will provide appropriate documentation in March each year detailing the required format. That information shall contain the name and pensionable pay of each employee who is an active member, the amounts which represent deductions from pay, the final pay for calculating FPS and NFPS benefits, the pensionable pay relevant for the FPS (Wales) 2015 including Assumed Pensionable Pay in the circumstances described in Chapter 3 The Firefighters' Pension Scheme (Wales) Regulations 2015.
- CPD contributions are to be provided annually by the end of July in the format required by the Pensions Administrator.
- Where RCT Pensions have a query on the pay information provided SWFRS to reply within **5 working days**.
- Where a member dies in service the Pensions Administrator shall be notified within 5 working days of the death of the member
- Where a person who is, or has been a regular **fire-fighter**, dies from the effects of a qualifying injury, leaving a surviving spouse, the Pensions Administrator shall be notified within **5 working days** of the death. South Wales Fire and

Rescue Service must further inform the Pensions Administrator whether conditions apply for payment of augmented benefits.

- Aim to provide a written response to any query raised in writing by the Pensions Administrator within **14 working days** of its receipt.
- South Wales Fire and Rescue Service shall distribute any information provided by the Pensions Section for Fire Scheme members and/or potential membership within **14 working days** of its receipt.
- Above bullet will reduce to 5 days for retirement queries.
- Where information collected reveals serious example of non-compliance with targets set out above the Pensions Section will work with South Wales Fire and Rescue Service to try and resolve each issue.
- South Wales Fire and Rescue Service shall under Scheme Regulations consider, at such intervals as they think fit, whether the degree of disablement has substantially altered in cases where retirement resulted from a qualifying injury. Details of any amendments to the percentage disability should be notified to Pensions Section within **7 working days** of South Wales Fire and Rescue Service receiving a decision from the Independent Qualified Medical Practitioner so that any reassessment of injury pension payments can be made.
- Furthermore, South Wales Fire and Rescue Service may resolve to cease injury pension reassessments after 5 years from when the pension becomes payable. Pensions Section to be notified of South Wales Fire and Rescue Service's decision regarding this discretion.
- South Wales Fire and Rescue Service may withdraw a pension in cases of conviction of certain offences. South Wales Fire and Rescue Service must notify Pensions Section within **5 working days** of any such decision to cease relevant pension payments.

The Pensions Administrator is not responsible for verifying the accuracy of any information provided by the Employer for the purpose of calculating benefits under the provisions of the Firemen's Pension Scheme or the New Firemen's Pension Scheme. That responsibility rests with the South Wales Fire and Rescue Service.

SERVICE COSTS

Service costs will be amended annually in accordance with Rhondda Cynon Taff County Borough Council annual fees and charges uplift plus any additional charges e.g. system service charges. The service cost will be notified and agreed with South Wales Fire and Rescue Service accordingly.

TERMINATION

The arrangements outlined in this document can be terminated with a minimum of 12 months' notice from either party. The effective date of any change will be from the relevant next financial year.

Data Protection

Rhondda Cynon Taf County borough Council is classed as the Data Processor under the General Data Protection Regulations (GDPR) as we process data on behalf of the Data Controller, South Wales Fire and Rescue Service.

Rhondda Cynon Taf County Borough Council and South Wales Fire and Rescue Service will not do anything which could cause the GPDR to be breached. Should any request, complaint, notice or communication which relates directly to the processing of personal data be received by either the Pensions Administrator or South Wales Fire and Rescue Service the other party shall be immediately notified and action be taken to respond.

Rhondda Cynon Taf County Borough Council and South Wales Fire and Rescue Service will ensure that data held in relation to the administration of the Firefighters Pension Schemes is limited only to those employees who need access to that data in order to fulfil this Agreement and all reasonable steps should be taken to ensure that those employees fully understand their responsibilities with regard to Data Protection.

Where data is required to be shared with external parties e.g. GAD, The Cabinet Office (NFI) for the purposes of pension administration only data that can be shared for the purpose of lawful processing will be provided, not data where consent is required. Data being sent electronically will be sent securely either via secure networks or password protected.

Rhondda Cynon Taf County Borough Council is under a duty to protect the public funds it administers, and to this end may use information for the prevention and detection of fraud. It may also share this information with other bodies administering public funds solely for these purposes. Members have a right to see a copy of the information held about them on application to the Council's Data Protection Officer.

The terms and conditions of this Service Agreement are hereby agreed between the following parties:

**Agreed and signed on
behalf of South Wales
Fire and Rescue Service**

Position DIRECTOR, DEAM MONITORING OFFICER
PEOPLE SERVICES OFFICER

Date 21.10.19, 30.10.19

**Agreed and signed on
behalf of the Rhondda
Cynon Taf County
Borough Council**

SERVICE DIRECTOR PENSIONS

21.10.2019.

Nominated Representative and Authorised Signatories

Name of Employer:

South Wales Fire and Rescue Service

The person responsible for pension matters within the above Employer is:

Name: Ms Alison Reed

Title (post held) ACO People Services

Authorised Signatures

The following employees are authorised to sign pension documents on behalf of the South Wales Fire and Rescue Service, and their specimen signatures are shown below.

Name	Specimen Signature	Effective Date
Ms Alison Reed	[Redacted Signature]	21.10.19
Mrs Kim Jeal	[Redacted Signature]	21.10.19
Mrs Julia Thompson	[Redacted Signature]	21.10.19
Ms Sarah Glover	[Redacted Signature]	21.10.19.

The current version of this document must always form part of this agreement.

Signed on behalf of the South Wales Fire and Rescue Service:

[Redacted Signature]

Position DEPUTY MONITORING OFFICER

Date 30.10.19

Appendix B

**Rhondda Cynon Taf County Borough Council
Pension Section – Service Standards**

STANDARDS OF SERVICE

Standards of Service for members of the The Firemen's Pension Scheme Order 1992, The New Firemen's Pension Scheme Order 2006 and The Firefighters' Pension Scheme (Wales) Regulations 2015

The following pages detail the key service standards for members of the Firefighters Pension Schemes

The Pensions Section is committed to providing all scheme members with a professional and efficient service. We aim to deliver this service in a helpful and courteous manner.

Our aims are:

- **To provide a comprehensive and effective communication and information service.**
- **To make pension payments in a timely and accurate fashion.**
- **To meet the Service Standards laid out in this document**
- **To be cost effective.**
- **To be accountable to you for what we do by monitoring the quality of our service and reporting on how well we've lived up to our standards.**

Our standards of service specify the maximum turnaround times in which we aim to take the action indicated. The stated times will be reviewed at regular intervals. The target days stated are working days.

Our Commitment to New Employees

Basic information

When the Pensions Section receive notification that a new firefighter has joined the scheme, a pensions record will be set up

Our Commitment to Our Contributing Members

Transfers In

If requested to investigate the possibility of a transfer of pension rights from the firefighter's previous pension scheme, the Pensions Section aim to calculate the estimated benefits that a transfer value will buy and issue a quotation to the firefighter within 10 days of receiving all the necessary information. Payment of the transfer value will be requested as soon as practicable after receiving an instruction to proceed with the transfer.

We aim to confirm the actual benefits purchased by the transfer value to the employee within 10 days of receiving payment from the previous scheme.

Annual Benefit Statement

A benefit statement will be issued to members on an annual basis provided the Pension Section has received information necessary to produce an accurate statement, by the Statutory deadline of 31 August each year

Estimate Requests

Members are entitled to one estimate of future retirement benefits per calendar year commencing from the date of the last estimate provided, any further requests will be provided at the discretion of the Pensions Administrator.

***The Pensions Administrator reserves the right to make a charge of £108.00 plus V.A.T. for any subsequent quotations requested.**

The Pensions Administrator can provide factual information to members, individually, either by telephone or in person.

Paying Extra Contributions

Any member wishing to pay extra contributions to buy an additional period of FPS or NFPS membership will be provided with an estimate. The Pension Section aims to provide the estimate within 5 working days of receiving all the necessary information if the request is received within 2 months of the member's next birthday. Otherwise requests received before that date will be acknowledged and members advised when estimate to be processed.

Retirements

We aim to send details of the benefits payable and pay the tax-free cash lump sum and first payment of pension within 5 working days of retirement where all the information required from the employer and/or the member is received before the retirement date. For all other cases payment will aim to be made within 5 working days of receipt of all information required.

Deaths

We aim to send details of the benefits payable within 5 working days of receiving all of the information required. We aim to notify South Wales Fire and Rescue Service of any lump-sum death grant within 5 working days of receiving all relevant documentation in order for them to make payment.

Refunds

We aim to notify South Wales Fire and Rescue Service within 5 working days of receiving all the relevant information from the Fire-fighter in order for them to make payment.

Transfers Out

If a transfer of benefits from the FPS or NFPS is requested, we aim to issue a quotation within 10 working days of receiving all the necessary information. This quote will be guaranteed for three months.

We aim to pay a transfer value within 10 working days of receiving confirmation to proceed along with all the information we require making the payment.

*** Every member is entitled to one quote per transfer.**

The Pensions Administrator reserves the right to make a charge of £108.00 plus V.A.T. for any additional quotations requested.

Our Commitment to Our Deferred Members

Estimate Request

We aim to provide an Estimate of Retirement Benefits within 10 working days of receiving a request for details.

Preserved Benefits into Payment

Subject to a current address being held by the Pensions Section, the aim is to send details of the benefits payable so that they are received by the deferred

member 10 working days before they are due to come into payment. If all the information required by the Pensions Section is received by the date payment is due, we aim to make payment of the first payment of pension and any lump sum by commutation within 5 working days of the payment due date. Otherwise we aim to make payment within 5 working days of receipt of all relevant information.

Our Commitment to Our Pensioners

Changes in Personal Particulars

We will acknowledge receipt of a written notification of a change in name, address, bank or building society details and make the appropriate amendments to the pensioner's payroll record within 5 working days of receiving the written notification.

Change of Tax Code

We will update the pensioner's payroll record with a revised tax code within 2 working days of receiving notice of the change from the Inland Revenue. The change will be implemented from the next payment date.

Newsletter

We will send a Newsletter to each of our pensioners at least once a year, usually in April.

Deaths of Pensioners

We aim to acknowledge receipt of a notification of the death of a pensioner within 5 working days. We aim to issue notification of dependant's benefits within 5 working days of receipt of all relevant information.

Service Standards	
<ul style="list-style-type: none"> ▪ Retirements from active status (requested by SWFRS) ▪ Retirements from active status (requested by member) ▪ Retirements from deferred status ▪ Employer estimate requests ▪ Payment on death of active or deferred member 	<ul style="list-style-type: none"> ▪ 5 working days (of receipt of full and accurate information)

<ul style="list-style-type: none"> ▪ Transfer-in estimates ▪ Transfer-out actual payment 	<ul style="list-style-type: none"> ▪ 10 working days ▪ 5 working days
<ul style="list-style-type: none"> ▪ Divorce estimates ▪ Preserved benefits ▪ Refunds processed ▪ Reports showing performance against each of the above Service Standards 	<ul style="list-style-type: none"> ▪ 5 working days ▪ 5 working days ▪ 10 working days ▪ Quarterly in June, September, December and March

The above timescales represent the target for completion when the Pension Section has received all relevant information.

As a general rule, both parties also undertake to continue to introduce electronic procedures and forms wherever possible in line with a move towards greener policies, to help streamline procedures and processes and generally save costs.

Contact Information

For further information on any aspect of the Firefighters Pension Schemes members can contact the **Pensions Helpdesk on 01443 680611**.

Alternatively they can write to:

The Pensions Section
 Rhondda Cynon Taf County Borough Council
 Bronwydd
 Porth
 CF39 9DL

Or e-mail:

pensions@rhondda-cynon-taff.gov.uk

Service Agreement Appendix C

**Internal Disputes Resolution Procedures
(Copy of Scheme to be included by South Wales Fire and Rescue Service)**

Appendix D

Divorce Administration Procedures

Request for Information	Provide Information (including charges) to spouse and court within 1 month	
Draft Court Order	Respond within 21 days and request information necessary for implementation (including charges)	
Order and Decree Absolute	The effective date of the Pension Sharing Order is usually the date of the decree absolute	Transfer day
Sealed Order	Respond within 21 days and request information necessary for implementation (including charges)	
		Valuation day
Receipt of outstanding information and charges	Send implementation notice within 21 days of receipt of all outstanding information and charges	Implementation period of 4 months
Set up credit for ex spouse	Send discharge of liability notice within 21 days of setting up the credit	

Appendix E

**Advisors & External Service Suppliers appointed by the Rhondda Cynon
Taf County Borough Council in the administration of the Firefighters
Pension Scheme and New Firefighters Pension Scheme are as follows:**

Computer Software Services – Aquila Heywood Ltd, ATMOS

Appendix F

ANNUAL SERVICE COSTS

This Service Level Agreement relates to the period **1 April ?** to **31 March ?** and the costs for the provision of services provided will be **£X** and are detailed as follows:

Pensions Administration	£X
Pensions Payroll	£X

The costs are based on the following Scheme membership:

Active Scheme members	X
Pensioner members	X
Deferred Pensioner members	X
Total Membership	X

This equates to £X per Scheme member.

Payment Arrangements

Charges will be invoiced on a quarterly basis on the following dates:

Quarter 1	May
Quarter 2	August
Quarter 3	November
Quarter 4	February

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THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 8
28 JUNE 2021

LOCAL PENSION BOARD COMMITTEE

REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

LOCAL PENSION BOARD: KEY PERFORMANCE INDICATORS (KPIs) FOR FIRE PENSIONS

THIS REPORT IS FOR INFORMATION ONLY

REPORT PRESENTED BY IAN TRAYLOR, SERVICE DIRECTOR, RHONDDA CYNON TAF CBC (SCHEME ADMINISTRATOR)

SUMMARY

The Service Level Agreement (SLA) between SWFRS and Rhondda Cynon Taf Country Borough Council sets out the manner in which certain duties and responsibilities are expected to be carried out. A key element of the SLA is the reporting on actual performance activity against the agreed key delivery Service Standards. The following report is intended to provide the Local Pension Board (LPB) with an update on key activity undertaken during the reporting period and shares the performance data for the period 01st April 2020 to 31st March 2021, and 01st April 2021.

RECOMMENDATIONS

1. That Members of the LPB note the performance data included at Appendix 1.
2. That Members of the LPB note the relevant pension administrative overview and update included at Appendix 2.

1. BACKGROUND

- 1.1 The ongoing monitoring of the key performance indicators / service standards and activity, is intended as a measurement to help evaluate the success or otherwise of the service provided to the South Wales Fire & Rescue Authority on behalf of its scheme members, by the RCT Pension Service.

2. ISSUES

- 2.1 There are not issues to report.

3. IMPLICATIONS

3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

3.2 Regulatory, Strategy and Policy

Legal	No	Data Protection / Privacy	Yes
Financial	Yes	Health, Safety and Wellbeing	No
Procurement	No	Governance & Audit	Yes
Corporate Risk	No	Service Policy	Yes
Information Management	Yes	National Policy	No

3.3 Resources, Assets and Delivery

Human Resource and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	Yes
Procurement	No
Budget Revenue/Capital	Yes

4. EVALUATION & CONCLUSIONS

4.1 Members are asked to review the outturns in the Appendices with a view to discussing them at the meeting.

5. RECOMMENDATIONS

5.1 That Members of the LPB note the performance data included at Appendix 1.

5.2 That Members of the LPB note the relevant pension administrative overview and update included at Appendix 2.

Contact Officer:	Ian Traylor Service Director Pensions, Procurement & Transactional Services, Rhondda Cynon Taf CBC (Scheme Administrator)
Background Papers	Appendix 1 – Current Year Key Performance Appendix 2 – Pension Administration Update

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Appendix 1

MONTHLY SERVICE STANDARDS Scheme 090 (Protected 92 Scheme and Transitioned members)																	<u>Relates to last Month Completed</u>	
<u>STANDARD MEASURED</u>		<u>TARGET</u>	<u>INTERVENTION</u>	<u>APRIL</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN</u>	<u>FEB</u>	<u>MARCH</u>	2020/2021 Year to Date Actual %	APRIL 21	Comments
% Refund of contributions processed within 10 days	Payment	100	95	0	0	0	0	0	0	0	0	0	0	0	0	0	100	1 case and completed on time
% Divorce Estimates processed within 10 days	Statement	100	95	100	0	100	100	0	100	100	100	0	100	100	0	100	0	No cases completed.
% Preserved Benefits processed within 10 days	Statement	100	90	100	0	100	100	100	0	0	0	0	0	0	0	100	0	No cases completed.
% Employer requests for retirement estimates processed within 5 days	Statement	100	95	0	0	100	100	100	0	100	100	0	100	0	0	100	0	No cases completed.
% Retirements from Active membership processed within 5 days	Payment	100	95	100	100	50	83	40	100	100	0	100	100	33	86	82	0	No cases completed.
% Preserved Benefits into payment on retirement processed within 5 days	Payment	100	95	0	0	0	0	0	0	0	100	0	0	0	0	0	0	No cases completed.
% Transfers In processed within 10 days	Statement	100	90	0	0	0	0	0	0	0	0	0	0	0	0	0	0	No cases completed.
% Transfers Out processed within 10 days (Monthly)	Payment	100	95	0	0	0	0	0	100	0	100	0	100	0	0	0	0	No cases completed.
% death grant for active members within 5 days (Monthly)	Payment	100	95	0	0	0	0	0	0	0	0	0	0	0	0	0	0	No cases completed.

MONTHLY SERVICE STANDARDS
Scheme FIR (2006 Scheme and Transitioned members)

Relates to last Month
Completed

<u>STANDARD MEASURED</u>		<u>TARGET</u>	<u>INTERVENTION</u>	<u>APRIL</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN</u>	<u>FEB</u>	<u>MARCH</u>	2020/2021 Year to Date Actual	<u>APRIL 21</u>	<u>Comments</u>
% Refund of contributions processed within 10 days	Payment	100	95	0	0	0	0	0	0	0	0	0	0	0	0	0	0	No Cases Completed
% Divorce Estimates processed within 10 days	Statement	100	95	100	0	100	100	100	0	100	100	0	100	100	0	100	0	No Cases Completed
% Preserved Benefits processed within 10 days	Statement	100	90	100	0	100	0	100	87.5	100	100	100	100	100	100	99	100	4 cases completed. All on time
% Employer requests for retirement estimates processed within 5 days	Statement	100	95	0	0	0	0	0	0	0	0	0	0	0	0	0	0	No Cases Completed
% Retirements from Active membership processed within 5 days	Payment	100	95	100	0	0	100	0	100	100	0	0	0	0	0	80	0	No Cases Completed
% Preserved Benefits into payment on retirement processed within 5 days	Payment	100	95	0	0	0	100	100	0	100	0	0	100	0	0	100	0	No Cases Completed
% Transfers In processed within 10 days	Statement	100	90	0	0	100	0	0	0	0	100	0	75	0	0	88	0	No Cases Completed
% Transfers Out processed within 10 days (Monthly)	Payment	100	95	0	0	0	0	0	100	100	100	0	0	0	0	100	0	No Cases Completed
% death grant for active members within 5 days (Monthly)	Payment	100	95	0	0	0	0	0	0	0	0	0	0	0	0	0	0	No Cases Completed
% death grant for pensioner members within 5 days (Monthly)	Payment	100	95	0	0	0	0	0	0	0	0	0	0	0	0	0	0	No Cases Completed

The following information is intended to provide Members of Pensions Board with an overview and update on key administrative activity:

Member Self-Serve Statistics

Member Self-Serve (MSS) take-up as at 28 May 2021

	Status 1 (Actives)	Status 2 (Pending leavers)	Status 4 (Deferred)	Status 5 (Pensioners)	Status 6 (Dependants)
Scheme 090	83.77%	-	58.43%	34.56%	4.47%
<i>Total Membership</i>	382	1	89	386	1,117
Scheme FIR	43.3%	27.48%	32.74%	42.71%	0.00%
<i>Total Membership</i>	926	18	849	96	10

Scheme Member Complaints

- There are no formal complaints to report this period.

Key Administration Activities

- Year End activity commenced; submission received from SWFRS for membership posting in preparation for the Annual Benefit Statements
- On the 23 February 2021, The Firefighters' Pension Schemes and Compensation Scheme (Wales) (Amendment) Regulations 2021 ("the Regulations") came into force in Wales.
- Working closely with SWFRS, and other forums, software provider with regard to McCloud remedy requirements, following on from Governments response to the consultation.

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LOCAL PENSION BOARD COMMITTEE

REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

INTERNAL DISPUTE RESOLUTION PROCEDURES (IDRP)**SUMMARY**

This report shares the procedures for resolving internal disputes in relation to pension matters. It also updates Local Pension Board Members on the cases that were considered under this procedure during 1 April 2020 to 31 March 2021.

RECOMMENDATION

1. That Members note the procedures for resolving internal disputes.
2. That Members note the cases considered under the IDRP procedure during the period 1 April 2020 to 31 March 2021.

1. BACKGROUND

- 1.1 Internal dispute resolution arrangements play an important part in the management of public service pension schemes. They enable someone with an interest in the scheme to ask for a matter in dispute to be resolved.
- 1.2 Scheme managers of occupational public service pension schemes must make and implement arrangements for resolving disputes with members and other people with an interest in the scheme.
- 1.3 Where a person with an interest in the scheme is not satisfied with any matter relating to the scheme, they have the right to ask for that matter to be reviewed.
- 1.4 A person has an interest in the scheme if they:-
 - Are a member – active, deferred or pensioner
 - Are a widow, widower, surviving civil partner, surviving cohabiting partner or other surviving dependant of a deceased member
 - Are a surviving non-dependent beneficiary of a deceased member
 - Are a prospective member of the scheme
 - Are a person who has ceased to be within any of the above categories; or
 - A person who claims to be within any of the above categories and the dispute relates to whether they are such a person.

- 1.5 Dispute resolution arrangements generally do not apply to certain disputes, e.g. where a court or tribunal has started proceedings relating to the dispute or the Pensions Ombudsman's Service is investigating the dispute.
- 1.6 An IDRPs can be a two-stage procedure with a specified person carrying out the first-stage decision, or a single-stage procedure if this is considered more appropriate. On 10 June, 2021, Welsh Government issued circular WFRSC(2021)09 which replaces the previous approach (outlined in WFRSC(09)(01). Whilst amendments to the Pensions Act 1995 allowed for a single stage procedure, pension schemes have discretion to make provision for two stages. The Scheme Advisory Board in Wales discussed this but decided to retain the two stage process that is currently in existence.
- 1.7 According to the Pensions Regulator, the scheme manager must communicate information about the procedure to members and others. The scheme manager must also provide information about the Pension Ombudsman when an application is received or when notifying an applicant of the decision.
- 1.8 Appendix A attached to the report contains the current Internal Dispute Resolution Procedure (IDRP).
- 1.9 Appendix B attached to the report contains high level information in relation to the cases that have been considered under the Internal Dispute Resolution Procedure (IDRP).

2. ISSUES

- 2.1 There are no immediate issues to report.

3. IMPLICATIONS

3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

3.1.1 There are no additional financial issues arising as a result of this report. However, there may be financial implications arising out of a dispute.

3.2 Regulatory, Strategy and Policy

Legal	Yes	Data Protection / Privacy	Yes
Financial	Yes	Health, Safety and Wellbeing	No
Procurement	No	Governance & Audit	Yes
Corporate Risk	Yes	Service Policy	Yes
Information Management	Yes	National Policy	Yes

3.3 Resources, Assets and Delivery

Human Resource and People Development	Yes
Assets and Resources (Property/Fleet/ICT/Equipment)	Yes
Service Delivery	No
Procurement	No
Budget Revenue/Capital	Yes

4. EVALUATION & CONCLUSIONS

4.1 An Equality Risk Assessment has been undertaken to assess the potential impact of this report. The assessment concluded that there were no immediate or long term adverse impacts on any individual or group of personnel arising from this particular report.

5. RECOMMENDATIONS

5.1 That Members note the procedures for resolving internal disputes.

5.2 That Members note the cases considered under the IDR procedure during the period 1 April 2020 to 31 March 2021.

Contact Officer:	Alison Reed Director of People Services
Background Papers	Appendix A – Copy of Internal Dispute Resolution Procedure Appendix B – Cases considered under the IDR Procedure

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Stage One: Application

This application may be submitted by a person (or nominated representative) who is (a) an active, deferred or pensioner member of the Firefighters' Pension Scheme, the New Firefighters' Pension Scheme or Firefighters' Pension Scheme 2015; (b) a widow, widower or surviving dependant of a deceased member of the FPS, NFPS or FPS 2015; (c) a surviving non-dependant beneficiary of a deceased member of the FPS, NFPS or FPS 2015; (d) a prospective member -; (e) persons who have ceased to be within any of the categories in (a) to (d); or (f) persons who claim to be a person mentioned in (a) to (e) and the dispute relates to whether he is such a person.

To the Chief Fire Officer, Fire and Rescue Authority

1. I wish to apply for a decision to be made, under section 50 of the Pensions Act 1995, in respect of the disagreement set out in this application.
2. I understand that an application may not be made where, in respect of a disagreement:
 - A notice of appeal has been issued under Rule H3 of the Firefighters' Pension Scheme 1992, Part 8, Paragraph 5 of the New Firefighters' Pension Scheme 2007 or Part 6, rule 3 of the Firefighters' Compensation Scheme (Wales) Order 2007 (appeal to a board of medical referees against a decision on an issue of a medical nature), or Regulation 173 Firefighters' Pension Scheme 2015 (FPS 2015), or
 - Proceedings in respect of this dispute have begun in any court or tribunal, or
 - The Pensions Ombudsman has commenced an investigation into a complaint or a dispute referred to him.
3. The nature of the disagreement is set out in the attached page(s).

Complete in all cases (in Block capitals)

Full name of Scheme member

Role and employment reference

Address of Scheme member

.....

Member's date of birth Member's National Insurance No.

Complete if complainant is not a Scheme member (in Block Capitals)

Full name of complainant

Address for correspondence

.....

Relationship of complainant to Scheme member (if relevant)

Signature of complainant (or representative)Date

Nature of disagreement

Give a statement of the nature of the disagreement with sufficient details to show why aggrieved. If necessary, continue details on to another page and attach the application form with any supporting documents.

Signature of complainant (or representative)

Date

Stage One: Letter 1

Fire and Rescue Service Headed Notepaper

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME / FIREFIGHTERS' PENSION SCHEME 2015 (as appropriate):
PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage One**

Your application under Section 50 of the Pensions Act 1995 for a decision in respect of a disagreement was received on *(date)*.....

I intend to make a decision on the matters raised by your application within two months from the date the application was received.

If, for any reason, I am unable to issue you with a decision within this time-scale you/and your representative *(complete as appropriate)* will be sent:

an interim reply;

the reasons for the delay; and

an expected date for the issue of the decision.

The Money and Pensions Service is available to assist members and beneficiaries of pension schemes in connection with any difficulty with the scheme. The Money and Pensions Service can be contacted at: Holborn Centre, 120 Holborn, London. EC1N 2TD, Telephone 01159 659 570.

Yours sincerely,

(Chief Fire Officer or the person specified by him)

This acknowledgement letter must be sent, in all cases, where a Stage One application is received from a complainant. If there are problems with the way in which the application has been completed, then this letter should be adapted accordingly.

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage One: Letter 2**Fire and Rescue Service Headed Notepaper**

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/ NEW FIREFIGHTERS' PENSIONS SCHEME/ FIREFIGHTERS' COMPENSATION SCHEME / FIREFIGHTERS' PENSION SCHEME 2015 (as appropriate):
PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage One**

Further to my letter of *(date of issue of IDRPs Stage One: Letter 1)*....., I regret I am not yet in a position to issue you with a decision.

The reasons for the delay are *(reasons)*

I expect to be able to issue you with a decision on *(date)*.

Yours sincerely,

(Chief Fire Officer or the person specified by him/her)

This letter must be sent if a decision cannot be made within two months of receipt of a Stage One application from a complainant.

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage One: Letter 3

Fire and Rescue Service Headed Notepaper

Dear *(name of complainant)*

FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME / FIREFIGHTERS' PENSION SCHEME 2015 *(as appropriate)*: PENSIONS ACT 1995, SECTION 50 Internal Dispute Resolution Procedures: Stage One

I have considered your application received on *(date)*.... for a decision to be made under Section 50 of the Pensions Act 1995 in respect of your disagreement referred to in the application.

My decision is as follows:

Give a statement of the decision and make reference to any legislation (including the relevant pension or compensation scheme orders) relied upon for the decision and also including, if a discretion has been exercised under the scheme, a reference to the provisions of the scheme under which the discretion is conferred.

If you are not content with this decision, you have a right to apply for reconsideration of the disagreement by the Fire and Rescue Authority *(complete with appropriate reference to the committee or individuals who will be responsible for Stage 2 consideration)* no later than six months from the date of this notice. A form designed for this purpose can be obtained from *(complete as appropriate)*.

The Money and Pensions Service is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. The Money and Pensions Service can be contacted at: Holborn Centre, 120 Holborn, London, EC1N 2TD, Telephone 01159 659 570.

Yours sincerely,

(Chief Fire Officer or the person specified by him/her)

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage Two: Application

If a person is dissatisfied with the decision of the Chief Fire Officer or the person specified by him at Stage 1 of the IDRPs, an application may be submitted by that person (or nominated representative) for the decision to be confirmed or replaced by the decision of elected members of the fire and rescue authority. The authority may provide for decisions to be taken by or on their behalf by one or more of their number.

To theFire and Rescue Authority

1. I am applying for reconsideration of the decision ofmade under section 50 of the Pensions Act 1995. I understand that the Fire and Rescue Authority will either confirm the decision or replace it.
2. I understand that an application may not be made where, in respect of the matter:
 - A notice of appeal has been issued under Rule H3 of the Firefighters' Pension Scheme 1992, Part 8, Paragraph 5 of the New Firefighters' Pension Scheme 2007 or Part 6, rule 3 of the Firefighters' Compensation Scheme (Wales) Order 2007 (appeal to a board of medical referees against a decision on an issue of a medical nature), Regulation 173 of the Firefighters' Pension Scheme 2015 (FPS 2015) or
 - Proceedings in respect of this dispute have begun in any court or tribunal, or
 - The Pensions Ombudsman has commenced an investigation into a complaint or a dispute referred to him.
3. I attach a copy of the notice of the decision referred to in paragraph 1 and a statement of the reason(s) for dissatisfaction with that decision.

Complete in all cases (in Block capitals)

Full name of Scheme member
 Role and employment reference
 Address of Scheme member

 Member's date of birth Member's National Insurance No.

Complete if complainant is not a Scheme member (in Block Capitals)

Full name of complainant
 Address for correspondence

 Relationship of complainant to Scheme member (if relevant)
 Signature of complainant (or representative) Date

Nature of disagreement

Give a statement of the nature of the disagreement with the decision made by the Chief Fire Officer or the person specified by him. If necessary, continue details on to another page and attach the application form with any supporting documents.

Signature of complainant (or representative)

Date

Stage Two: Letter 1**Fire and Rescue Authority Headed Notepaper**

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME/ FIREFIGHTERS' PENSION SCHEME 2015 (as appropriate):
PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage Two**

Your application for a reconsideration of a decision dated made under Section 50 of the Pensions Act 1995 by *(complete as appropriate)* was received on

The Fire and Rescue Authority or one or more of their number will consider the matters raised by your application and will confirm or replace that decision under Section 50 of the Pensions Act 1995 within two months from the date your application was received.

If, for any reason, the Authority/the members of the Authority (complete as appropriate) are unable to issue you with a decision within this time-scale you/and your representative (complete as appropriate) will be sent:

- an interim reply;
- the reasons for the delay; and
- an expected date for the issue of the decision.

The Money and Pensions Service is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. The Money and Pensions Service can be contacted at: Holborn Centre, 120 Holborn, London, EC1N 2TD, Telephone 01159 659 570

Yours sincerely,

Secretary to the Fire and Rescue Authority

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage Two: Letter 2**Fire and Rescue Authority Headed Notepaper**

Dear *(name of firefighter)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME / FIREFIGHTERS' PENSION SCHEME 2015 (as appropriate): PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage Two**

Further to my letter of, I regret *the Fire and Rescue Authority/ members of the Fire and Rescue Authority appointed to consider the matter (as appropriate)* are not yet in a position to issue you with a decision.

The reasons for the delay are (reasons)

The panel expect to be able to issue you with a decision on *(date)*

Yours sincerely,

Secretary to the Fire and Rescue Authority

This letter must be sent if a decision cannot be made within two months of receipt of a Stage Two application from a complainant.

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage two: Letter 3**Fire and Rescue Authority Headed Notepaper**

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME / FIREFIGHTERS' PENSION SCHEME 2015 (as appropriate): PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage Two**

The Fire and Rescue Authority/members of the Fire and Rescue Authority (as appropriate) have considered your application received on (date)..... for reconsideration of the disagreement which was the subject of a decision made by the Chief Fire Officer/by the person specified by the Chief Fire Officer (as appropriate) under Section 50 of the Pensions Act 1995, as indicated in the notice of decision dated (date).....

The decision of the panel, made under Section 50 of the Pensions Act 1995, is as follows:

Give a statement of the decision and an explanation as to whether, and if so to what extent, that decision either confirms or replaces the decision made by the Chief Fire Officer or the person specified by him/her.

Refer to any legislation, including the FPS, NFPS or FCS relied upon for the decision and also including, if a discretion has been exercised under the Scheme, a reference to the provisions of the Scheme under which the discretion is conferred.

If you remain dissatisfied.

- The Money and Pensions Service is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. The Money and Pensions Service can be contacted at: Holborn Centre, 120 Holborn, London, EC1N 2TD, Telephone 01159 659 570.
- the Pensions Ombudsman, appointed under Section 145(2) of the Pension Schemes Act 1993 may investigate and determine any complaint or dispute of fact or law in relation to a scheme made or referred in accordance with that Act. He can be contacted at:11 Belgrave Road, London, SW1V 1RB; Telephone 020 7834 9144

Yours sincerely,

Secretary to the Fire and Rescue Authority

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Wales Fire and Rescue Service

Circular



Llywodraeth Cymru
Welsh Government

Circular number:	W-FRSC(2021) 09	Date issued:	10 June 2021
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Status:	For Action
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Title:	Firefighter Pension Schemes: Internal Dispute Resolution Procedure (IDRP)
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Issued by:	Natalie Spiller Fire Services Branch
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Addressed to:	Please forward to:
Chief Fire Officers	FRA Chairs Treasurers Pensions Officers

Summary
This circular replaces Welsh Circular W-FRSC (09)01 and provides updated guidance on the IDRP arrangements. Draft application forms and letters relating to each stage of the IDRP process has been provided at Annex 1.

For further information contact:	
Fire Services Branch Welsh Government Rhydycar Merthyr Tydfil CF48 1UZ	Direct Line: 0300 062 8487 E-mail: fire@gov.wales Website: Fire and rescue

1. Internal Dispute Resolution Procedure (IDRP)

1.1 If a scheme member, prospective member, dependant, or other person with an interest in the scheme, is dissatisfied with a decision made by a Fire and Rescue Authority (FRA), or the failure to make a decision, there are rights of appeal available.

1.2 Each set of scheme rules contains arrangements for Internal Dispute Resolution Procedures (IDRP)¹:

Firefighters' Pension Scheme 1992 (FPS 1992) - Rule H3 of Schedule 2.

Firefighters' Pension Scheme (Wales) Order 2007 (FPS 2007) - Schedule 1, Part 8, Paragraph 5.

Firefighters' Pension Scheme 2015 (FPS 2015) - Part 12, Chapter 3, Regulation 173.

Firefighters' Compensation Scheme (Wales) Order 2007 - Schedule 1, Part 6, Rule 3.

2. Background

2.1 The advice set out in this circular has been prepared to update Welsh Government circular W-FRSC(09)01, (which reflected informal guidance from the Firefighters Pension Committee [FPSC 1/2009](#)) in respect of who each stage of the appeal should be heard by, and the relevant timescales for each stage.

2.2 The advice has been agreed by the Firefighters' Pensions Scheme Advisory Board for Wales (SABW).

2.3 Each FRA should have a process in place which determines how an IDRP will be managed.

3. Who is entitled to make a complaint under IDRP?

3.1 In respect of the Firefighters' Pension Schemes, a person with an interest in the scheme and who may use the IDRP would be:-

(a) a member – active, deferred or pensioner;

(b) a widow, widower, surviving civil partner, surviving cohabiting partner or other surviving dependant of a deceased member;

(c) a surviving non-dependant beneficiary of a deceased member;

(d) a prospective member, i.e. a person who is not currently a member and could join at their request or would be automatically admitted unless they opt out, or who may be admitted subject to the consent of the FRA;

¹ Based on the requirements of Section 50 of the Pensions Act 1995 and The Occupational Schemes Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008

(e) a person who has ceased to be within any of the above categories (a) to (d); or

(f) a person who claims to be within any of the above categories (a) to (e) and the dispute relates to whether they are such a person.

3.2 As the procedures also apply to disputes relating to the FCS 2006, they are available to employees, prospective employees, and former employees, who may be entitled to benefits under that scheme, i.e. optants-out of the main FPS schemes, and retained firefighters employed before 6 April 2006 with protected rights.

4. Representation

4.1 An application under the IDRPs may be made or continued on behalf of a person who is a party to the dispute:

(a) where the person dies, by their personal representative,

(b) where the person is a minor or is otherwise incapable of acting for themselves, by a member of their family or some other person suitable to represent them, and

(c) in any other case, by a representative they have nominated.

5. How does IDRPs apply to the FPS?

5.1 The IDRPs allows any person mentioned in paragraph 3.1 above, who has a complaint relating to the pension that is not covered by the medical appeal arrangements, to have their appeal heard by the relevant scheme manager/ authority.

5.2 Amendments to the Pensions Act 1995 made in 2008² allowed for a single stage procedure, although pension schemes have discretion to make provision for two stages.

5.3 The scheme rules do not prescribe what the dispute resolution arrangements should look like or the process to be followed, only that the member should give written notice to the scheme manager/ authority within 28 days of receipt of the determination to require the scheme manager/ authority to deal with the disagreement by means of an IDRPs. How the scheme manager/ authority then responds is a matter for guidance.

5.4 The SABW has proposed that the existing guidance on how to manage this process as set out in W-FRSC(09)01 should be maintained on the following basis:

Stage one: the appeal should be considered by the Chief Officer, or a delegated senior manager (“the specified person”), who will make a stage one decision.

An appropriate delegation would be the delegated scheme manager under rule 14(1) of the 2015 regulations³.

Stage two: the stage one decision should be agreed or overturned by the decision of a nominated panel of representatives of the FRA; noting that the panel must obtain relevant

² <https://www.legislation.gov.uk/ukpga/2007/22/section/16>

³ <https://www.legislation.gov.uk/wsi/2015/622/regulation/14/made>

advice on technical or legal issues. The panel may include elected members of the authority or any other suitable representatives. The panel may provide for decisions to be taken by or on their behalf by one or more of their number.

6. Stage one

6.1 The application should be made in writing, giving details of the complaint. A suggested format is at Annex 1.

6.2 The regulations state that applications should be made within 28 days of receipt of the determination giving rise to the dispute.

6.3 However, [TPR code of practice 11](#) which comments on the specified reasonable period, gives a period of six months and allows discretion to accept applications made outside of this time period. The guidance in W-FRSC(09)01 gave a timeframe of six months for the application and the SABW consider this to still be an acceptable timeframe.

6.4 The specified person must acknowledge receipt of the application as soon as reasonably possible, and:

(a) inform the applicant that the [Money and Pensions Service](#) (MaPS) is available to assist members and beneficiaries of the scheme in connection with any difficulty with the scheme, and

(b) give the applicant the contact details for MaPS.

6.5 A stage one decision must be provided to the complainant or their representative within two months of receipt of the application or a further letter must be sent explaining the reason for the delay and the expected date of the decision.

7. Stage two

7.1 If the applicant is dissatisfied with the decision at stage one, they can apply in writing for the decision to be reconsidered by the FRA. A suggested format is included in Annex 1.

7.2 The guidance in W-FRSC(09)01 gave a timeframe of within six months of receiving the stage one decision and the SABW consider this to still be an acceptable timeframe.

7.3 When an application is received, it should be acknowledged.

7.4 A stage two decision must be taken within two months of receipt of the application or a further letter must be sent explaining the reasons for the delay and the expected date of the decision.

7.5 When notification of the decision is sent to the applicant, it must include:

(a) a statement that the Pensions Ombudsman appointed under section 145(2) of the Pension Schemes Act 1993 may investigate and determine any complaint or dispute of fact or law, in relation to a scheme, made or referred in accordance with that Act, and;

(b) the Pensions Ombudsman's contact details.

8. Exemptions

a. IDRPs cannot be used where –

- (a) proceedings in respect of the dispute have been commenced in any court or tribunal;
- (b) the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him; or
- (c) a notice of appeal has been issued by the complainant in accordance with :-
 - i. Rule H2 of Schedule 2 to the Firemen's Pension Scheme Order 1992 (appeal against opinion on a medical issue);
 - ii. Rule 4 of Part 8 of Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007 (appeals against decisions based on medical advice);
 - iii. Regulation 164 of the Firefighters' Pension Scheme (Wales) Regulations 2015 (appeals against determinations based on medical evidence), or
 - iv. Rule 2 of Part 6 of Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007 (appeal to medical referee).

8.2 The appeals listed in (c) above relate to a determination made by the FRA in relation to an ill-health or injury award. The FPS and FCS contain special provisions for medical opinions to be considered by the Board of Medical Referees (BMR).

8.3 However, the person may still be eligible to make an appeal on a medically-related issue other than the outcome of a medical opinion. For example, if a firefighter believes they are entitled to an ill-health award, but the FRA make a determination of an ordinary award, without seeking a medical opinion, or if the dispute is that the correct processes have not been followed.

Natalie Spiller
Fire Services Branch.

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APPENDIX B

RESTRICTED - INTERNAL DISPUTE RESOLUTION PROCEDURES

- Cases considered (stages 1& 2) in the period 1 April 2020 – 31 March 2021

Issue	Date stage 1 outcome issued	Decision summary	Date stage 2 outcome issued	Decision summary
Eligibility for higher pension purposes in relation to the payment made under ill-health procedures.	22/12/20	Ill-health pension is calculated in accordance with the terms set out in the pensions regulations.		

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AGENDA ITEM NO 10

Report on McCloud – Tapering

-

To be presented verbally on the day

Presenting Officer: ACO Alison Reed

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THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 11
28 JUNE 2021

LOCAL PENSION BOARD COMMITTEE

REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

PUBLICATIONS, UPDATES, INFORMATION (STANDARD ITEM)

THIS REPORT IS FOR INFORMATION ONLY

REPORT PRESENTED BY ACO A REED

SUMMARY

This report shares relevant publications, updates and information relating to pension matters, with Members of the Local Pension Board

RECOMMENDATIONS

That Members review and note the attached publications which are shared for information and awareness purposes. (Attached to the report as Appendix A).

1. BACKGROUND

- 1.1 To support Local Pension Board Members discharge their duties, this report shares recent relevant publications in relation to pension matters. These are not limited to fire pensions.

2. ISSUES

- 2.1 There are no issues to report.

3. IMPLICATIONS**3.1 Community and Environment**

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No

Impact Assessment	No
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3.1.1 There are no additional financial issues arising as a result of this report.

3.2 Regulatory, Strategy and Policy

Legal	No	Data Protection / Privacy	No
Financial	No	Health, Safety and Wellbeing	No
Procurement	No	Governance & Audit	No
Corporate Risk	No	Service Policy	No
Information Management	No	National Policy	No

3.3 Resources, Assets and Delivery

Human Resource and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	No

4. EVALUATION & CONCLUSIONS

4.1 An Equality Risk Assessment has been undertaken to assess the potential impact of this report. The assessment concluded that there were no immediate or long term adverse impacts on any individual or group of personnel arising from this particular report.

5. RECOMMENDATIONS

5.1 That Members review and note the attached publications which are shared for information and awareness purposes. (Attached to the report as Appendix A).

Contact Officer:	Alison Reed Director of People Services
Background Papers	Appendix A – Publications



FPS Bulletin 44 – April 2021

Welcome to issue 44 of the Firefighters' Pensions Schemes bulletin. We hope that readers remain safe and well.

Face-to-face meetings and training remain suspended for the time being. However, the Bluelight team are available at home by mobile, email or video.

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

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

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Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please email claire.hey@local.gov.uk

Table 1: Calendar of events

Event	Date
FPS coffee and catch up	Every second Tuesday from 4 May 2021
South East regional group	14 May 2021
North East regional group	19 May 2021
Virtual SAB update event – Zoom	20 May 2021
SAB	24 June 2021
SAB	9 September 2021
SAB	9 December 2021

Actions arising

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

[Remedy data collection](#): FRAs and scheme administrators should familiarise themselves with the data collection tools and consider any processes or additional resources that need to be put in place.

[Annual Benefit Statements](#): FRAs should ensure that projections for protected members **do not include** final salary benefits projected past 31 March 2022.

[IDRP data collection](#): FRAs should return the completed IDRP data template by 31 May 2021.

FPS

Remedy data collection tools

We told readers in [FPS Bulletin 43 – March 2021](#) that we were working with software suppliers and the Fire Communications Working Group (FCWG) to develop a standard data collection template to sit alongside the draft data collection guidance.

With thanks to all involved, we are now pleased to provide the links to the template and notes for completion, and clean and tracked versions of the latest data collection guidance.

[FPS remedy data collection template](#)

[FPS remedy data collection notes for completion](#)

[Age discrimination remedy data collection - Guidance for administrators and FRAs – version 2 clean](#)

[Age discrimination remedy data collection - Guidance for administrators and FRAs – version 2 tracked](#)

The data products have been provided to complement internal processes and workflow between FRAs and administrators; they are not provided as standalone tools.

Please note that the template and associated documents have been provided to collect data relating to cases that will be remedied following implementation of legislation and software solutions. It is not intended as a data collection mechanism for immediate detriment cases.

We will be holding a workshop session at the FPS coffee morning on 4 May to discuss how documents have been developed and give colleagues the chance to ask questions.

Annual Benefit Statements 2021

The yearly process for producing Annual Benefit Statements (ABS) will have now started and readers will be familiar with the requirement for statements to be issued by 31 August 2021. The following comments have been made to recognise the position of HM Treasury (HMT) policy decisions on ABS for this year

Current Values

The scheme regulations require benefit statements to produce a current value at 31 March of the relevant scheme year and, as per paragraph A.56 of the [HMT consultation response](#), future statements will need to provide both values of legacy and reformed benefits for the remedy period within that current value.

We understand that it will be disappointing to members that the current values on this year's ABS will not be able to reflect the remedy choice between legacy and reformed benefits at this stage. However, those calculations will require significant software amendment which are not expected until 2023, therefore current values for this year will reflect members' current scheme membership only.

[Click here to return to Contents](#)

Projections

Traditionally it has been common for the Firefighters' Pension Scheme to include projections to normal pension age as part of the ABS. We understand these projections are valuable to members as it allows them to understand the likely value of their benefits at retirement age; however, projecting CARE benefits can be an imperfect science as the projections cannot cater for a future change in accrual rate due to a change in cost cap, nor can it cater for inflation on future pay and promotions.

Chapter 3 of the [consultation response](#) deals with the decision to close legacy schemes for future accrual on 31 March 2022, and the final paragraph of that section [3.56] confirms that primary legislation will be introduced to close the legacy schemes on 31 March 2022. Currently protected members of the scheme were protected based on achieving normal pension age by 31 March 2022, therefore most protected members are expected to retire before 31 March 2022. However, it is possible that a small cohort of members will continue past 31 March 2022 to reach their 30-year service date. After 1 April 2022 they will continue in the scheme as a member of FPS 2015.

Benefit statements for protected members should not reflect final salary benefits accrued past 31 March 2022.

Therefore, any projections that would ordinarily have been projected past 31 March 2022 (such as to 30 years' service) should not be included in the ABS issued this year. Unfortunately, due to the significant software amendments that are required, it is not currently possible to accurately project future benefits in FPS 2015 for currently protected members. Administrators may take different approaches with regards to this depending on whether they issue paper statements or via self-service; however, members due to retire before 31 March 2022 should be able to request an estimate in their usual way.

Appropriate messaging

It is recommended that this approach should be communicated to members in the ABS using the following caveat:

“Important: Please note that this year’s Annual Benefit Statement provides an estimate of your pension benefits built up in your current scheme membership to 31/03/2021.

On 20 December 2018, the Court of Appeal ruled in McCloud/Sargeant that the transitional arrangements introduced as part of the 2015 reforms to the Firefighters’ and Judges’ pension scheme were discriminatory and, therefore, unlawful. The Government subsequently accepted that this ruling applied to all the main public service pension schemes.

The Government has consulted on the changes needed to remove discrimination from the schemes and work is ongoing to make these changes. This work is complex and will take time. For further information please see the Written Ministerial Statement from 4 February 2021: <https://questions-statements.parliament.uk/written-statements/detail/2021-02-04/hcws757>

We understand that it will be disappointing to members that the current values of this year's statement will not be able to reflect the remedy choice between legacy and reformed benefits at this stage, however, the rules and systems are not yet in place to calculate benefits with discrimination removed. This means that it has not been possible to reflect the impact of the Court of Appeal ruling in this year's Annual Benefit Statements.

Any projections on your pension entitlement are based on the assumption that your current membership will continue until your normal pension age. All currently **protected members** will be placed in the FPS 2015 for service after 1 April 2022 (the end of the remedy period). Due to the software changes needed to illustrate this, it will not be possible to reflect this position in projected benefits this year. [Optional for those who wish to provide estimates - **Members due to retire before 31 March 2022 should be able to request an estimate in their usual way.**]

You can find more information about removing age discrimination on the FPS Regulations and Guidance website: <https://www.fpsregs.org/index.php/age-discrimination-remedy/implementation>”

In advance of statements being issued, you may also wish to re-confirm the two-stage approach¹ taken by HMT to remove the discrimination and reassure members that although remedy may not be able to be reflected in the ABS, members will in due course be able to choose to receive legacy pension scheme benefits for the remedy period (1 April 2015 to 31 March 2022). Membership of the Firefighters' Pension Schemes after 1 April 2022 will continue for all members in FPS 2015.

Details of how the Government intend to remove the discrimination can be found on the [age discrimination remedy implementation](#) page of www.fpsregs.org. We will provide an updated version of the standard ABS template in the next bulletin.

Technical 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 monthly in line with the bulletin release dates.

No new queries have been added this month.

¹ The discrimination will be removed in two parts; the first is prospectively for future benefits from 1 April 2022, the second is retrospectively for benefits built up during the period of discrimination 1 April 2015 to 31 March 2022 (the remedy period), eligible members will be able to choose to receive legacy pension scheme benefits or benefits equivalent to those available under the reformed pension scheme.

The [findings of the first IDRPs data request](#) were presented to the Scheme Advisory Board (SAB) in May 2020 and we published updated informal IDRPs guidance at that time. We are still working on guidance for decision makers and guidance for members to complement the factsheet.

FRA remedy self-assessment survey

As detailed in [FPS Bulletin 43 – March 2021](#), we will be launching the age discrimination planning survey to FRAs in the coming month.

FRAs will be provided with the questionnaire in advance of completing the online survey and all authorities will be offered a telephone or Teams appointment to help them fill it in.

Look out for more information at the [SAB update event](#) on 20 May 2021.

Other News and Updates

Hampshire and Isle of Wight FRs combine

Forty-five became forty-four on 1 April 2021 when Hampshire and Isle of Wight Fire and Rescue Services combined into a brand-new organisation.

[Find out more about this momentous day](#) on the Hampshire and Isle of Wight Fire and Rescue Service (HIWFRS) website.

Focus on... Pension scams

The Pensions Scams Industry Group (PSIG) has published [version 2.2 of its 'Code of Good Practice on Combating Pension Scams'](#).

The new version is effective from 1 April 2021 and is updated to improve usability and to reflect recent regulatory changes as well as the evolving nature of pension scams. The code includes a section outlining the key changes.

On 8 April 2021, the Pensions Regulator (TPR) published a recording of their [webinar on the pledge to combat pension scams](#).

The webinar included speakers from TPR, PSIG, the Money and Pension Service and the City of London Police. It also included recordings of calls from victims of scams.

On 20 April 2021, Action Fraud launched a new campaign on pension scams called [#ProtectYourPension](#), following figures from the national reporting centre for fraud and cyber crime that revealed £1.8 million has been lost to pension fraud already in 2021.

The campaign reminds scheme members of the importance of doing research before making changes to their pension arrangements.

TPO turns thirty

This month sees the start of a campaign to mark [30 years of the Pensions Ombudsman \(TPO\)](#) resolving pension disputes.

The service was launched on 1 April 1991 and since that time has received 100,000 written enquiries and issued nearly 9,000 determinations.

As well as investigating and determining complaints and disputes about pension schemes, TPO issues leaflets and factsheets. TPO published the following factsheets for members in March 2020:

[The Early Resolution Service](#)

[How we investigate complaints](#)

[Complaining to the party/parties at fault](#)

Events

Virtual SAB update event

On 20 May 2021, Joanne Livingstone will be hosting a [virtual SAB update event](#) on Zoom.

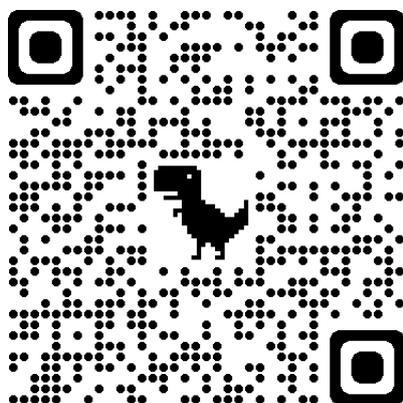
We would be delighted if readers can join us for this session. Joanne will be launching the brand-new FPS member website and discussing preparations for age discrimination remedy.

The event is open to all and joining details for the 90-minute session are shown below:

When: May 20, 2021 01:00 PM

Please click the link below to join the webinar or scan the QR code:

[Firefighters' England Scheme Advisory Board \(SAB\) Update](#)



Passcode: 576813

Dial-in details can be provided on request.

[Click here to return to Contents](#)

FPS coffee mornings

Our MS Teams coffee mornings are continuing every second Tuesday. The informal sessions lasting up to an hour allow practitioners to catch up with colleagues and hear a brief update on FPS issues from the LGA Bluelight team.

The next event is scheduled to take place on 4 May 2021 and will focus on the data collection tools for gathering remedy data.

If you do not already receive the meeting invitations and would like to join us, please email bluelight.pensions@local.gov.uk.

HMRC

The Pension (Non-Taxable Payments Following Death) (Real Time Information) Regulations 2021

[The Pension \(Non-Taxable Payments Following Death\) \(Real Time Information\) Regulations 2021](#), which commence on 6 April 2022, will require pension schemes to report certain non-taxable payments made to beneficiaries following a member's death.

Schemes will report this information to HMRC using the Real Time Information (RTI) system. This will not apply to non-taxable defined benefits lump sum death benefits and non-taxable uncrystallised funds lump sum death benefits.

HMRC has prepared [a tax information note](#) giving more information about the changes for pension scheme administrators and employers who pay pensions.

Guidance on pension scheme rates and allowances

HMRC has updated its [guidance on pension schemes rates and allowances](#) for 2021 to 2022. The guidance includes limits on the lifetime and annual allowances, as well as relevant tax charges on payments from registered pension schemes.

Guidance for members on [valuing pension for lifetime allowance protection](#) has also been updated with the standard lifetime allowance for 2021 to 2022.

Legislation

SI	Reference title
2021/197	Correction Slip 1 to the Restriction of Public Sector Exit Payments (Revocation) Regulations 2021
2021/506	The Pension (Non-Taxable Payments Following Death) (Real Time Information) Regulations 2021

Useful links

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

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While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing bluelight.pensions@local.gov.uk.

To: Fire Pension Scheme Practitioners, Regional Chairs, Directors of HR, Fire Finance Network.

CC: Chief Fire Officers, Scheme Advisory Board, Local Pension Board Chairs and Lead Contacts, Home Office Fire Team, Devolved Government Fire Leads and Boards, Advisers and Suppliers.

Dear colleagues,

Following the email from our Home Office colleagues confirming that they have now issued an update to their informal and non-statutory guidance on immediate detriment, we have also updated the LGA information note to include this additional guidance. The purpose of this information note is to provide Fire and Rescue Authorities (FRAs) with additional information relating to immediate detriment, if your FRA is receiving and considering processing claims, please liaise with your FRA's nominated contact.

[LGA immediate detriment information note – version 2](#)

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Information

Immediate Detriment

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Purpose

1. The purpose of this information note is to provide Fire and Rescue Authorities (FRAs) with additional information relating to immediate detriment.
2. Immediate detriment is the term used to refer to firefighters who will retire from the scheme before the secondary regulations are amended to bring in the age discrimination remedies outlined in Chapter 2 of the [HMT consultation response](#) dated 4 February 2021.
3. There are two main categories of immediate detriment members:
 - 3.1. Those who have already retired
 - 3.2. Those who will retire before the legislation is amended to bring in the DCU remedy.

4. This note does not attempt to deal with stopping tapering or death benefits.

This note has been updated following:

- the publication of the consultation response by HMT
- the decision by the Employment Appeals Tribunal (EAT) following the FRAs schedule 22 appeal
- [Updated Immediate Detriment guidance](#) from Home Office published on 10 June 2021

5. This note may be subject to any further changes made to guidance issued by HMT or Home Office on the matters of remedy.
6. **The LGA (on behalf of FRAs) is in ongoing discussions with the FBU about the adoption of a consistent approach. If your FRA is receiving and considering processing claims, please liaise with your FRA's nominated contact.**

Background

7. Following the 2018 Court of Appeal judgment in Sargeant, an [interim order was made by the Employment Tribunal](#) on **18 December 2019** which provided that members who had brought claims (claimants) are entitled to be treated as if they remained in the FPS 1992, as long as they were in the scheme at 31 March 2012 and 31 March 2015

“Pending the final determination of the issues of remedy, all existing Claimants who, by reason of their age would not satisfy paragraphs 12(2)(c), 12(3)(c), 13(e) or 14(e) of Schedule 2 to the 2014 English Regulations or the 2015 Welsh Regulations from 31st March 2015 are entitled to be treated as satisfying those paragraphs from that date.”

8. The Government position was communicated in [FPS Bulletin 28 - January 2020](#):

“...all entitlements including immediate ones should proceed under the 2015 scheme rules for the time being. This includes those who are due to taper into the 2015 scheme should continue to taper, and those due to retire normally at a later date should continue in the 2015 scheme.”

9. The bulletin asked FRAs to provide numbers of members who were likely to have an immediate event in 2020 and recommended some immediate steps that authorities could take in relation to ill-health assessments.
10. The Scheme Advisory Board (SAB) used the information provided to request guidance on dealing with immediate events as per their [paper submitted to the Home Office in March 2020](#).
11. On 21 August 2020, at the request of the Fire Brigades Union (FBU), the Home Office issued a note directly to English FRAs via finance leads titled '[McCloud / Sargeant ruling – Guidance on treatment of 'Immediate Detriment' cases](#)' for both the Firefighters' and Police Pension Schemes. That guidance was updated on 10 June 2021.
12. The SAB requested via [FPS Bulletin 37 – September 2020](#) for FRAs to return data providing details on the number of members expected to fall into any of the immediate detriment categories before 31 March 2022.
13. 33 of the 45 English FRAs responded to this request and the Board were provided with a [paper of these results](#) at their meeting in December 2020.
14. On 4 February 2021, HMT published its [response to the consultation](#) along with [written statement HCWS757](#). All information on the implementation of the remedy is held on the [Age discrimination remedy - implementation](#) tab of [www.fpsregs.org](#).
15. Alongside the HMT consultation response, the Home Office published an [FAQ for members](#). Within that, FAQ Q10 directly commented on immediate detriment issues, in particular highlighting that the legislation that allows schemes to return members to their former schemes is limited in effect.

Home Office immediate detriment guidance

16. The Home Office note issued on 21 August was labelled as informal guidance only; it noted that the issues raised were subject of both ongoing litigation and the UK Government's consultation, and did not confirm what basis FRAs may rely on the note for the purpose of making pension payments.
17. Home Office have now published [updated guidance](#), which confirms that the power to calculate and pay pension entitlements under the legacy schemes is through the application of section 61 of the Equality Act 2010. That provision means that these individuals have the right to be treated as though they have been in service in their legacy scheme since 1 April 2015.
18. The status of the revised guidance is still labelled as informal, and caveated that
- “it **should not** be seen as providing a definitive resolution to all of the consequences arising from the discrimination, rather as a way to progress certain immediate detriment cases (as defined in this guidance) now there is some clarity as to how certain issues should be approached. It is important to **note that ALL cases processed using this guidance will need to be revisited** once the full detail of the Government's approach is finalised, and legislation is in place. Legislation is expected to be in place by October 2023.”*
19. The Home Office guidance aims to deal only with cases where the benefits are not yet in payment (prospective cases).
20. The scope of the note includes members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, and who did not benefit from full protection and were moved into the FPS 2015 on or after 1 April 2015.
21. The category of members included has been revised to include all forms of ill-health retirement and not just those who do not qualify for lower tier ill-health in the reformed scheme:
- 21.1. who become eligible to retire (for any reason, including ill-health) and draw their pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept 2015 scheme benefits); **OR**
- 21.2. who don't qualify for lower-tier (and also therefore does not qualify for higher-tier) ill-health pension under the FPS 2015 because of the single pot³ Ill-Health Retirement (IHR) arrangement BUT would do under the IHR arrangements in their legacy scheme, and are therefore left without a pension in payment.

³ Single pot refers to the arrangements for ill-health and death that benefits are paid from FPS 2015 only with 'equivalent amounts' payable from the former legacy scheme.

22. That puts all ill-health retirements into scope under the first category of retirement (for any reason).
23. FPS 2006 members who fall into the two categories described above would come into scope of the guidance, however it is important to note that:
 - 23.1. For ordinary retirement, it is likely to only apply to special members (who have a normal retirement age of 55) and a very small cohort of standard members who would want to have benefits **paid from their legacy scheme** (i.e. do not accept deferred FPS 2015 benefits).
 - 23.2. For ill-health, it is unlikely that special and standard members of the 2006 scheme will qualify because FPS 2015 has the same criteria for ill-health as FPS 2006, and therefore if they do not qualify for lower tier ill-health in FPS 2015, they would also not qualify under FPS 2006.
24. Members who were originally protected and received benefits or will receive benefits from the legacy scheme and argue that they would want benefits paid from the reformed schemes are not in scope of the Home Office guidance.
25. Paragraph 3.4 of the revised guidance repeats the express instruction that it **should not** be applied to scheme members who have already retired and are in receipt of their pension payments. The note refers to these cases being more complex to address, especially due to complexities in rectifying the member's tax position.
26. This paragraph has also now been revised to confirm that the guidance should not be applied where the member has died in service as the Government's approach to these cases has not been finalised.
27. The revisions to paragraph 5.2 of the note now include that to provide a choice to members, two sets of pension entitlement quotes should be provided, which include legacy scheme pension entitlements becoming due such as APB and Two Pension entitlement, as well as updated pension input amounts for all the years of remedy.
28. The revised note now also confirms how scheme pays may be used to satisfy a tax charge. The note looks in detail at scheme pays tax charge in paragraphs 5.5 to 5.10 and again in paragraphs 5.31 to 5.33.
29. Under the heading '*Unresolved pension issues*', paragraphs 5.14 to 5.33 detail outstanding issues that were consulted on and will not be resolved until the Government finalises its approach to removing discrimination.

Current position

30. The Home Office note published in August 2020 was helpful to explain UK Government policy and progressed significantly from the previous position that all entitlements should proceed under the terms of FPS 2015.
31. The revised guidance is extremely helpful, expanding on policy areas that had previously not been covered.
32. However, as a policy note, it was not the intention of the Home Office note to cover the steps that FRAs and administrators would need to put into place to enact the guidance.
33. The revised guidance now offers a pathway towards paying immediate detriment payments for those whose benefits are not already in payment.
34. Nevertheless, in the guidance available from the Government, there is a clear steer that members who have **already retired cannot be processed under immediate detriment** due to complex issues that have not yet been resolved.
35. On these matters, the consultation response and the Home Office FAQs are more cautionary.
36. Q10 of the [Home Office FAQ](#) says:

“Members who have retired before the deferred choice underpin is implemented and have a period of relevant service between 1 April 2015 and 31 March 2022 will be offered a choice once the legislative changes have been made to implement the deferred choice underpin. The choice will be retrospective and backdated to the point that payment of pension benefits began.

In some cases, it may be possible for schemes to offer members a choice before the deferred choice underpin is implemented.

However, the legislation that allows schemes to do this is limited in effect. It allows schemes to return eligible members who retired from the reformed schemes to the legacy schemes in relation to service after 1 April 2015 but does not allow for all consequential matters to be dealt with satisfactorily in all cases. For example, in cases where there are interactions with the tax system, perhaps where members have incurred or will incur tax charges or where contributions differ between the schemes, it might not be possible to address all these issues before new legislation is made to implement the deferred choice underpin.

Where possible, schemes will seek to offer reformed scheme members who retire before October 2023 a choice of legacy or reformed scheme benefits for the relevant period at retirement.

In due course it may be possible for schemes to revisit cases of reformed scheme members who have already retired ahead of the introduction of the deferred choice underpin.

However, there are still some complex issues to be resolved before schemes are in a position to process cases - further details will be provided as soon as possible.

In all cases where an individual receives a revised pension award, this will be backdated to the date that their pension award relating to the remedy period was originally made.”

37. The consultation response, paragraph 2.100 (emphasis added) confirms

“As set out in the consultation, the government accepts that members who moved to the reformed pension schemes on or after 1 April 2015 and have subsequently retired, already have an entitlement to be treated as a member of their legacy scheme for the remedy period if they wish. In recognition of this, the government will work with schemes to develop processes to give effect to this entitlement for those who retire before the introduction of the DCU. Where possible, schemes will also seek to offer reformed scheme members in this position who retire before October 2023 a choice of legacy or reformed scheme benefits for the relevant period at retirement. **Once the complex issues described in paragraphs A.8 to A.12 have been resolved, schemes will also seek to revisit cases of reformed scheme members who have already retired ahead of the introduction of the DCU, where, and to the extent, this is possible.** This process will be administratively complex and individual schemes will set out their plans for beginning to process such cases in due course.”

Matters for the FRA to consider

38. Being mindful of the interim order which entitles claimants to be treated as members of the FPS 1992, FRAs now need to understand practically how they could give effect to the guidance. As the document notes in several places, it is informal guidance only.

39. The revised guidance now sets out the Home Office assertion that the legal position which underpins the application of the guidance in the note is Section 61 of the Equality Act.

40. Nevertheless, it is accepted that Section 61 cannot deal with all consequential effects of remedying the pension benefits. In the Government’s [Tax policies and consultations](#) published on 23 March 2021, paragraph 3.8 deals with the amendments to tax legislation that will be needed as a consequence of the McCloud case.

“Pensions tax technical updates – The government is finalising the remedy for the age discrimination found in the 2015 public service pension reforms (the ‘McCloud case’). In the process of designing the remedy, the government has identified several aspects of the pension tax framework that do not work as intended in all situations and need updating to deal properly with cases of this type. For example, the current framework does not straightforwardly permit individuals to ask their pension scheme to settle annual allowance charges from previous tax years by reducing their future pension benefits (‘Scheme Pays’). The government will therefore make technical updates to pension tax rules to remove such anomalies.”

41. On 12 February 2021, the EAT gave its judgment on the FRAs' appeal based on Schedule 22 of the Equality Act 2010. The appeal was based on the argument that the FRAs did not make the legislation which was found by the Court of Appeal to be discriminatory on grounds of age but were bound to follow it because it was the law. Schedule 22 can give a defence where an employer is required by legislation to act towards its employees in a way which is discriminatory.
42. The EAT's judgment is that the FRAs **cannot rely on the Schedule 22 defence**. Effectively, the EAT held that the FRAs in their capacity as scheme manager could have decided not to follow the discriminatory legislation and in fact should have done so by refusing to treat firefighters as having transferred into the FPS 2015. This is because it held that Section 61 of the Equality Act 2010 prohibits FRAs from acting in a manner which discriminates on the grounds of age and it prioritises that obligation over other provisions in the pension scheme which would oblige the FRAs to act in that way. In addition, it held that, under Section 62 of the Equality Act 2010, the FRAs have vested in them the power to pass a resolution making non-discrimination alterations to the scheme of which they are managers.
43. Given the decision of the EAT on the effect of Section 61 of the Equality Act (as above), FRAs have the power, at least in some respects, to treat claimants (and also non-claimants) as having remained within their old schemes.
44. As set out in paragraph 6 above, if your FRA is receiving and considering processing claims, please liaise with your FRA's nominated contact

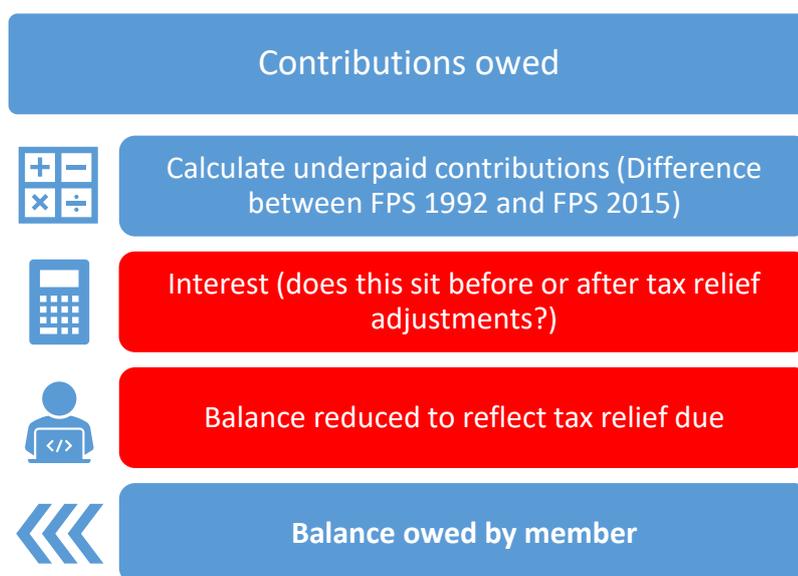
Employer contributions

45. The revisions to the Home Office guidance now confirm that there is no requirement for the FRA to make the employer contributions in order to enable payment of retirement benefits under immediate detriment.
46. The note now confirms that any adjustments in employer contributions will be captured in the scheme valuation process and reflected in the future employer contribution rates going forward.
47. [WMS HCWS757](#) confirms that any changes to employer contribution rates resulting from the 2020 valuations will be delayed from April 2023 to April 2024.
48. Existing employer contribution rates set by the 2016 valuation remain in place until 2024.

Employee contributions

49. The revisions to the Home Office guidance now consider in further detail the application of tax relief and interest to any contributions owed to the scheme or refunded to the member.
50. The guidance confirms that employee contributions owed will need to be collected before the members legacy scheme pension can be put into payment.
51. If a member chooses to have the contributions deducted from their lump sum or pay contributions via any other personal source, **they will not qualify for tax relief under the HMRC PAYE or self-assessment process**, this is a result of normal HMRC policy that tax relief is not available to non-active members of a pension scheme. Instead this will be claimed through a separate government process once the legislation is in place.
52. The consultation response refers to compensation for tax relief but does not cover any detail of how this compensation will be expected to be accessed. It should be clearly caveated in member communications that tax relief will be subject to further government policy and the regulations coming into force.
53. If the contributions are made under net pay before an individual has retired and go through the payroll, then tax relief should be available, but only on the tax code in operation at the time of payment, and adjustments will still be necessary to reflect the whole of the remedy period.
54. Paragraphs A.32 to A.34 of the [consultation response](#) confirm that government policy will be to apply interest to the sums owed by members, and that the rate of interest will be determined centrally after consultation with the Government Actuary's Department (GAD).

55. The revised Home Office guidance proposes that interest is not applied to contributions owed at this time.
56. Nevertheless, it should be clearly caveated in member communications that interest will be payable on the contributions owed and will be collected in the future, however, timescales are yet unknown.
57. The overall policy for collecting contributions, applying interest, and deducting tax relief has not yet been determined.
58. **Adjusting contributions⁵.**

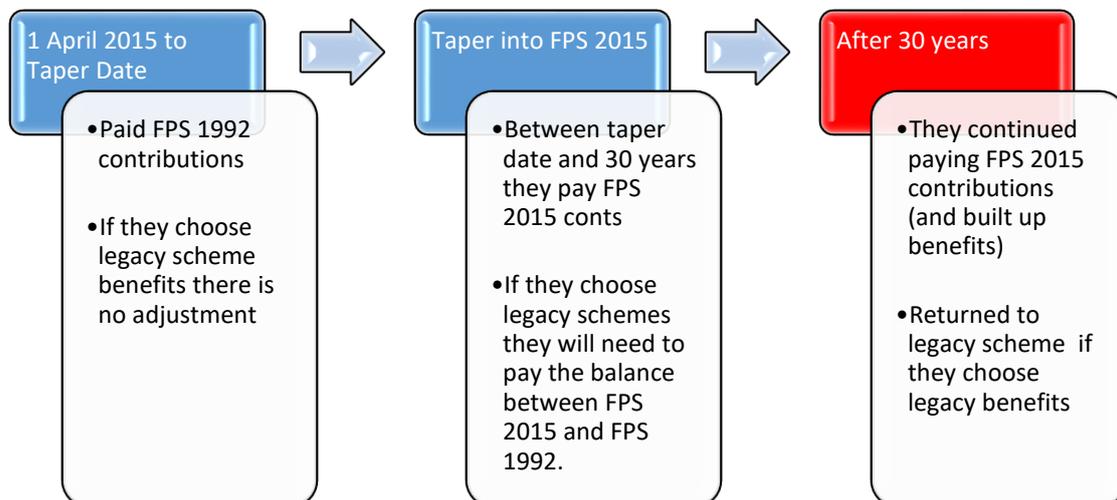


Contributions holiday

59. Under the terms of the FPS 1992 the maximum pensionable service that a member can accrue is 30 years' service, while the earliest point at which they can retire is at age 50. This means that some scheme members – mainly those who joined before age 20 – must continue to pay employee contributions beyond the point of accruing maximum pensionable service but before they are able to retire.
60. For example, if someone joined the scheme at 18 and paid contributions for 30 years by age 48 they would have accrued maximum pensionable service in the pension scheme yet could not retire until age 50.
61. The Government introduced an employee contributions holiday for FPS 1992 members who accrue the maximum 30 years' pensionable service prior to age 50. This applies from the point of accruing maximum pensionable service in the scheme until the member's 50th birthday.

⁵ Red shading indicates where policy intent is unknown

62. The [legislation](#) giving effect to the employee contributions holiday came into force on 30 September 2016 and was applied retrospectively to 1 December 2006.
63. Where contributions had already been made, the firefighter was entitled to a lump sum payable by the FRA equal to the value of the contributions they had paid with interest applied. HMRC confirmed that refunding the contributions in this way constituted unauthorised payments and as such generated unauthorised payment charges.
64. Further information on the [contributions holiday](#) is available on the password protected area of the FPS Regulations and Guidance website.
65. It is not yet clear how membership in the FPS 2015 beyond 30 years' service will be rectified where a taper member chooses legacy scheme benefits for the remedy period.
66. It is assumed that contributions paid under the FPS 2015 would need to be refunded and subject to PAYE, however, paragraph 2.95 of the consultation response confirms that the Government has changed its initial approach, and eligible individuals will receive a payment to cover the value of their contributions, but with an amount deducted to reflect the underpaid tax. The consultation does not comment on how that calculation would be done, so it is unclear where that leaves members with refunds due to them.
67. Rectifying membership after 30 years



68. Members most likely to qualify for immediate detriment by virtue of service and age may also be more likely to be eligible for a contribution holiday.
69. The Home Office revised guidance refers to contribution holidays under paragraph 5.21 and recognises that the position of applying tax relief and interest on contribution underpayments or refunds is yet to be confirmed. **Therefore, the Home Office guidance comments that these cases should not be processed at this time.**

Technical issues

70. There are some technicalities that will need to be legislated for in order to address properly; in some cases FRAs can make decisions in advance of that legislation and in other cases FRAs will need HMT to make policy decisions, which have not yet been made.
71. The revisions in the guidance now address some of these areas and a way forward where it is possible to do so, but others will be subject to legislation amendments in order to treat the benefit correctly.
72. It is not clear to what extent Section 61 applies and whether this provides the relevant vires to treat consequential matters that rely on other legislation, such as tax relief, pension tax and applying interest to contributions, in the same manner as calculating the conversion of final salary benefits.

CETVs (Cash Equivalent Transfer Values), otherwise known as transfers-in

73. When the FPS 2015 was introduced and members were automatically moved into this scheme, it opened a new window with no timing restrictions for transfers-in, and several members transferred pensions into FPS 2015. The Home Office guidance published in August 2020 originally suggested that these transfers-in should be re-calculated under FPS 1992 terms.
74. However, the rules of FPS 1992 would not have allowed those transfers to take place:
- Transfers into FPS 1992 are only accepted within 12 months of joining employment.
 - Entry to the FPS 1992 was closed from 1 April 2006.
 - A transfer-in would not be allowed in the FPS 1992 if it put someone over the 30-year service cap.
 - There are no current GAD factors to calculate FPS 1992 transfers.
75. The [consultation response document](#) does not comment on the process of restoring membership to the legacy scheme [2.91] where activity within the reformed scheme was not permitted in the legacy scheme.

76. Confirmation on how these cases should be treated is still outstanding, however it will need legislative change as current legislation does not permit transfers-in to FPS 1992.
77. The SAB sought information from FRAs on how many members may be affected. Of the 33 FRAs that responded, in a [paper submitted to the Board](#) it was confirmed that there were at least 94 identified CETV cases that had been received after 1 April 2015.
78. The revised guidance now offers a solution that “The transfer-in should remain in the 2015 Scheme until such time that the Government’s approach to removing the discrimination has been finalised and legislation is in place. It will be at this time that these cases can be revisited.”
79. While it is acknowledged that brings in additional burdensome administrative processes to keep the transfer-in within FPS 2015, the solution is recognised as a way forward to bringing most of the pension into payment.

Added pension

80. Under the FPS 2015 a member can pay contributions to purchase [additional pension](#).
81. To make up for what they considered to be a loss in pension by moving to the FPS 2015 some firefighters chose to buy added pension with the additional contributions they would have paid under the FPS 1992.
82. As confirmed in the Home Office guidance note published in August, paragraph 5.18, the legacy scheme does not currently have an added pension provision. The legacy schemes provide for added years only.
83. The rules of the added years provision in FPS 1992 scheme in some cases would not have allowed members to make additional payments.
84. Paragraphs A.34 to A.44 of the consultation response set out responses received with regards to the complexities of the treatment of voluntary member contributions that individuals have already made. It confirms that discussions are still ongoing with schemes to consider their approach and that the technical detail and proposed treatment will be consulted on in secondary legislation.
85. The SAB sought information from FRAs on how many members may have purchased added years in the FPS 2015. Of the 33 FRAs that responded, in a [paper submitted to the Board](#) it was confirmed that there were at least 22 identified added year cases that had been received after 1 April 2015.
86. As above, the revisions to the guidance now offer a solution that “any added pension accrued by a member should remain in the 2015 Scheme. As with ‘transfers-in’, these cases will need to be revisited when the Government’s approach to removing the discrimination has been finalised and legislation is in place”

87. While it is recognised that brings in additional burdensome administrative processes to keep the added pension in the FPS 2015, the solution is acknowledged to bring a way forward to bringing most of the pension into payment.

Divorce

88. When a member divorces, the value of their pension can be considered by the court as part of the financial settlement and they may determine that a pension share order (PSO) can be awarded to the ex-spouse/civil partner.

89. A PSO on the record creates a pension debit for the member and a pension credit for the ex-spouse, these are calculated in accordance with GAD factors.

90. When the 2015 reforms were introduced, we understand that the policy intent was that only the member would benefit from any protection and that all pension credit members would receive pension under the terms of the FPS 2015 only. However, that position was not finalised in the secondary legislation, and it is for the court to determine which scheme the pension credit should sit in for the pension credit member.

91. This means that for some members who divorced after 2015 they will have a pension debit ordered by a court that applies to both portions of pension built up in the legacy scheme and the reformed scheme.

92. For members who wish to receive benefits as if they have never been in the FPS 2015, a question arises as to how any pension debit that applies to the FPS 2015 should be treated.

93. The revised guidance does not comment on adjusting divorce debits, nevertheless the government approach was confirmed within paragraph A.112 of the consultation response.

94. While there remain some questions about whether a pension debit ordered by the court on the FPS 2015 can be adjusted without a further court order, it is considered the [GAD guidance for divorce cases](#) would allow for the adjustment to be re-calculated under the FPS 1992 scheme.

95. Of the 33 FRAs that responded to the SAB request for data, it was confirmed that there were at least 39 identified divorce cases that had been processed after 1 April 2015.

Final Salary Data

96. For the FRA to calculate the benefits that would have been paid under legacy terms, information needs to be available on final salary entitlements.

97. [Additional Pension Benefits \(APBs\)](#). Under the final salary schemes, certain pensionable payments such as continuous professional development (CPD), and temporary promotions are pensionable under an APB. To calculate these APB entitlements under legacy scheme terms, the FRA would need to identify where these payments had been made to the member.
98. Temporary promotion is not pensionable under CARE; however it can be pensionable under an APB in the legacy schemes. Treating temporary promotion as pensionable in the legacy schemes may increase pension growth for annual allowance purposes.
99. If there is a discretion in place to treat temporary promotion as pensionable under the FPS 1992 and a member has had a temporary promotion while a member of FPS 2015, this should be re-calculated as an APB in the estimate of benefits under FPS 1992.
100. CPD is counted towards CARE pension in the reformed schemes, however, in the legacy schemes CPD is treated as an APB. Where a member has received a pensionable CPD payment under the FPS 2015, this should be re-calculated as an APB in the estimate of benefits under FPS 1992.
101. [Two pension entitlement](#). To protect against a drop in pay in the final salary scheme, the regulations provide for the pension to be split into two elements, the first calculated at the highest pay and the second based on pay at retirement. To calculate pension under final salary terms, an FRA would need to identify if there had been any drop in pay that occurred after 2015 that would trigger a two-pension entitlement.
102. Where a member would have an entitlement to two pensions due to a drop in pay during the period 1 April 2015 to retirement date or 31 March 2022, the two-pension entitlement must be recalculated in the estimate of benefits under FPS 1992
103. Of the 33 FRAs that responded to the SAB request for data, it was confirmed that there were at least 41 identified cases where this final salary data could not be identified or was unavailable.

Data about these members

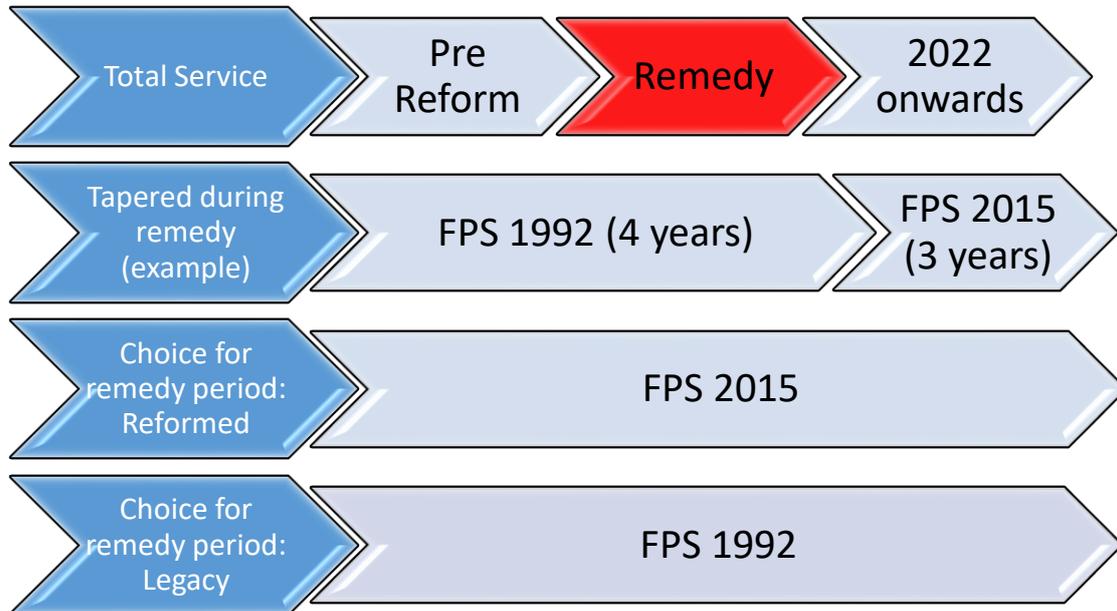
104. Data was sought on members in the above four categories as part of the SAB data research request. Of the 33 FRAs that responded to the request, it was confirmed that there were at least 196 potential cases with a technical issue on record.

CETVs	94
Divorce	39
Final salary data unidentified or unavailable	41
Added Pension	22
Total	196

Taper Members

105. A taper-protected member is somebody who was not fully protected by virtue of age to stay in the final salary scheme (FPS 1992, FPS 2006 standard or special) but was moved into the FPS 2015 between 24 May 2015 and 31 March 2022, depending on their age, as per the [table in the regulations](#).
106. Paragraphs 2.25 to 2.41 of the consultation response confirm the government approach that taper members will only be able to select legacy or reform benefits for the whole remedy period i.e. 1 April 2015 to 31 March 2022.
107. The revised guidance from the Home Office does not comment on the approach for rectifying taper members under immediate detriment. The SAB have [written to HMT](#) regarding the lack of clarity on the policy for taper members, in particular those who would have reached 30 years' service during the remedy period and continued in employment.
108. It is not clear how choice should be offered to a taper protected member in the immediate detriment category. Under the current legislation a taper protected member who has already moved into FPS 2015 would have both a pension that could immediately be paid from FPS 1992 which would include service past 1 April 2015, and a deferred entitlement in FPS 2015.
109. It is not clear whether a taper member choosing to retire under immediate detriment and accepting payment of an FPS 1992 pension based on service to date of retirement would have to forfeit any existing FPS 2015 deferred pension, and if that should be caveated at the time of retirement, based on the outcome of the consultation.

Taper member options for remedy period



Abatement

110. Abatement is the reduction or suspension of a pension in payment in the event of re-employment. Where abatement applies, and the post-retirement pension plus relevant earnings on re-employment exceed pre-retirement salary, any excess will usually be deducted (abated) from the pension in payment.

111. [Abatement](#) is commonly used in the FPS 1992 and FPS 2006, however there is no requirement to abate pension in the FPS 2015.

112. Taper members who meet their 30-year service date during the remedy period, will be the most common type of member eligible for immediate detriment benefits.

113. These members may have tapered into the FPS 2015 shortly before meeting their 30-year service date and continued earning pension and salary in the FPS 2015 with a near full 30-year FPS 1992 pension available when they retire.

114. It is not clear how proposed government policy on abatement would apply to these members who continued working after they had reached 30 years' service and would now apply for a backdated pension.

115. The consultation response acknowledges this complexity in paragraph A.120 and confirms that the Government will continue to work with schemes to consider this further.

Tax rules and consequences

Pension Tax

116. The revised Home Office guidance now offers more commentary on the position of calculating and paying pension tax where it is due.
117. The calculation of pension tax under these paragraphs refer to pension tax where it would normally fall due had the member remained in the legacy pension scheme and not because of the mechanisms of remedy.
118. The Home Office guidance now comments in paragraph 5.5 that the impact of Section 61 of the Equality Act which allows individuals to be treated as though they had accrued benefits in their legacy scheme since 2015, also allows for the Pension Input Amounts (PIAs) to be recalculated for each relevant year of the remedy period and pension savings statements to be issued for each year.
119. Apart from the revised guidance, no further written update has been received in response to the [HMRC CLM query form](#) which was submitted to HMRC to consider how pension input periods can be re-assessed.
120. If, because of the re-assessments, the annual allowance is exceeded and a tax charge falls due, the revised guidance now comments on how any pension tax charge can be paid.
121. Tax charges can usually be satisfied either individually with a payment from the member, or by scheme pays which is a mechanism that allows the member to request the scheme to satisfy the charge on their behalf with the **amount then deducted from the member via an annual debit to their pension**.
122. There are two types of scheme pays: Mandatory Scheme Pays (MSP) and Voluntary Scheme Pays (VSP).

Mandatory scheme pays (MSP)

123. Section 237B of the Finance Act 2004 allows MSP where:
- the tax charge is over £2,000, and
 - the individual is subject the standard annual allowance (currently £40k)
 - this relates to a single scheme and **to the immediately preceding tax year**.
124. If the conditions are met, then the scheme administrator becomes jointly and severally liable (with the member) for the annual allowance charge and must pay this to HMRC within a given timescale. They must also make a consequential adjustment to the member's pension savings or their benefits under the pension scheme.
125. MSP can only apply to the immediately preceding tax year, so MSP cannot be used to pay breaches of annual allowance in previous years within the remedy period.

126. For periods within the statutory time limits, where an individual **has already used MSP**, pension debits for previous years can be adjusted to accommodate any revisions to the annual allowance charge owed.

Voluntary Scheme Pays (VSP)

127. Where in certain circumstances an individual cannot use MSP to pay a relevant HMRC tax charge, they may be able to use [VSP](#), so called because the scheme can agree to voluntarily pay the tax charge and deduct from the member via the debit.

128. As a voluntary arrangement there are no conditions attached to it other than the scheme agreeing they can pay it.

129. However, under VSP the member is individually and solely liable and the charge must be paid within the normal HMRC rules for paying tax (31 January following the year of tax charge).

130. In May 2017, following legal advice a [technical note](#) was issued to confirm that FRAs were able to utilise VSP to pay tax charges on a members behalf, and [guidance](#) was subsequently issued including election forms for the [member](#) and [scheme manager](#).

131. FRAs may now wish to re-visit the decisions they made about allowing VSP, to amend the conditions they apply to payments under VSP.

Unauthorised payment charges

132. Under the rules of the Finance Act, schemes may pay a [Pension Commencement Lump Sum \(PCLS\)](#).

133. To be a PCLS, a lump sum must meet the payment conditions as follows:

- [Entitlement to pension](#)
- [Lifetime allowance \(LTA\) available](#)
- [Timing of payment](#)
- [Minimum age](#)
- [Permitted maximum](#)
- [Excluded lump sum](#)

134. If a commutation lump sum does not meet these conditions, the excess is not a PCLS and is unauthorised, and will be subject to unauthorised payment charges

135. There are three types of charges that can become due when a payment is deemed to be unauthorised. The charge is made on the difference between the authorised payment and unauthorised payment.

- [The unauthorised payments charge](#)
- [The unauthorised payments surcharge](#)
- [The scheme sanction charge](#)

136. A lump sum from the FPS is typically unauthorised when:

- It exceeds the permitted maximum
- The member has used their available LTA
- It does not meet the timing of payment condition
- The member has a [protected pension age](#) and is re-employed (minimum age)

137. The two most common conditions that cause the lump sum to be unauthorised are:

137.1. Timing of payment condition, and

137.2. Exceeds the permitted Maximum

Timing of payment condition

138. The timing of payment condition is most likely to affect any lump sum being paid due to rectification of benefits already in payment

139. The timing of payment condition means, that to be considered a PCLS, the lump sum must be paid within an 18 month period starting 6 months before and ending 12 months after the member becomes entitled to it [[Paragraph 1\(1c\) of Schedule 29 of the Finance Act 2004](#)]

“(c) it is paid within the period beginning six months before, and ending one year after, the day on which the member becomes entitled to it”

140. The meaning of the term ‘**becomes entitled to it**’ is important. If it is a new entitlement, i.e. one the person was not entitled to at retirement then schemes have a new twelve-month period in which to pay the lump sum.

141. Payments made from the FPS that may not meet this rule, i.e. are not new entitlements, are where a further lump sum is paid out more than 12 months after retirement to retrospectively correct an error. Examples of such payments are:

- Retrospective pensionable pay adjustments, such as [Booth vs Mid and West Wales](#) or [Norman v Cheshire](#)
- Retrospective [two pension entitlement](#) adjustments
- Payments from PO-1327 (often referred to as [GAD v Milne](#))

142. Guidance has been sought from HMRC and HMT whether in the circumstances of remedying the pension that would have been due from the legacy scheme, additional payments of lump sum more than 12 months after the original retirement would be treated as a new entitlement. HMT have yet to confirm.

Exceeds the permitted maximum

143. To be considered a PCLS, the lump sum must not exceed the [permitted maximum](#). The permitted maximum is the lower of two measures

143.1. Available portion of the members lifetime allowance¹². This is equal to 25% of the members standard lifetime allowance, or

143.2. The applicable amount, this broadly represents 25% of the capital value of the benefits coming into payment

144. The applicable amount is the most common measure used in most cases. [The applicable amount formula for benefits arising under a defined benefits arrangement](#) is $(LS + AC) \div 4$

- LS = Lump sum being paid
- AC = The amount crystallising, which is calculated by multiplying the annual rate of scheme pension by a factor of 20.

145. In 2011 the [commutation factors for the FPS 1992](#) were amended, and the factors went above 20. This meant that all firefighters retiring with a commutation factor above 20 would breach the permitted amount, and the lump sum would be unauthorised and subject to tax charges, unless the member chose to commute a lower proportion of pension.

146. Most firefighters retiring choose the maximum lump sum and choose to pay the unauthorised tax charge as a result of breaching the permitted maximum.

147. In cases where the lump sum has already been paid with an unauthorised tax charge payable at the original retirement date, it is not clear how the second lump sum should be calculated and the unauthorised tax charge that would have ordinarily been due when the member retired paid.

Income Tax

148. Pensions in payment are subject to income tax and changes to pensions already in payment may require adjustments to income tax. No guidance has been received on how income tax adjustments can be applied to changes in pension or what legislation an FRA would rely on to make those adjustments.

149. It is not known whether adjustments to income tax would be performed by HMRC outside of the four-year statutory period. It is likely that not all tax years within the remedy period could be adjusted through existing HMRC processes.

¹² The standard lifetime allowance for the tax year 2020/2021 is £1,073,100 - <https://www.legislation.gov.uk/ukxi/2020/342/regulation/2/made>

FRA immediate action

150. FRAs have always been mindful of the interim order which entitles claimants to be treated as members of FPS 1992 and wish to give effect to this where they are able to do so.
151. In order to ensure the FRA has all the information needed in order to proceed with an immediate detriment case under the guidance, we have provided FRAs with a [template matrix](#) to complete. This template may also be used to evidence where they do not have the information to proceed. Completion of this checklist will no doubt require both employer and administrator input; please ensure this is complete before proceeding with a case.
152. We have published [data guidance](#) in order to help FRAs collect and consider what data will be needed for both immediate detriment and main remedy cases.
153. We issued guidance in [FPS Bulletin 28 - January 2020](#) on immediate action that FRAs could take, under the heading *Update on transitional protections remedy (Sargeant)*. If that action was not taken, we recommend that FRAs do so now.
154. We are pleased to provide further commentary on immediate action below.

Current or new cases

Ill-health: IQMP assessment

155. Members with transitional FPS 1992 benefits – ask the IQMP to assess the applicant under both the 1992 and 2015 scheme terms.¹⁸
156. Under the immediate detriment note, members who don't qualify for lower-tier ill-health in FPS 2015 but would do so under FPS 1992 should be allowed to retire under the arrangements of their legacy scheme where possible.
157. Transitional special members of the 2006 scheme – ask the IQMP to assess the applicant under the terms of the FPS 2006 noting that the normal retirement age of a special member is 55¹⁹.
158. The criteria for ill-health retirement are the same for standard FPS 2006 members and transitional members of the FPS 2015, therefore assessment under the 2015 terms should be enough.

¹⁸ Ill-Health certificates are available here - <http://www.fpsregs.org/index.php/member-area/ill-health-and-injury> .

¹⁹ Rule 3, Paragraph 3 of FPS 2006 - <http://www.legislation.gov.uk/ukxi/2014/445/schedule/paragraph/2/made>

Providing information to the member to enable a choice

159. It is currently unknown whether there would be an opportunity for a member to revise their decision if it later proved to be the wrong choice for them or their dependants.
160. Guidance should be issued to members so they are clear on the benefits that would be payable from either scheme, and they are not relying on myths or misunderstanding. This is particularly important with regard to ill-health benefits particularly if the member would qualify for higher tier ill-health from the FPS 2015 or members who are unmarried and want to claim benefits from the FPS 1992.
161. Most commonly this might occur where a dependant might have benefited from a partner's pension that is paid under the FPS 2015 but is not available under FPS 1992 which can only pay spouse or civil partners pensions, and/ or the five year death in retirement guarantee which pays the balance of pension payments if the member dies within five year of retirement.
162. It is therefore important to ensure this information is communicated to the member when they make their choice as to how this could affect survivor benefits.

Estimation of benefits

163. The estimate of benefits under both schemes should include:
- The pension payable to the member.
 - The lump sum that would be payable, along with details of tax consequences, such as receiving an unauthorised lump sum or limiting the lump sum so it doesn't incur tax.
 - Dependant benefits such as a partner's pension and death in retirement five-year guarantee from FPS 2015. This is particularly important where someone is retiring under ill-health terms and is paid their pension under the 'one-pot' arrangements from FPS 2015.
 - A clear statement that all calculations are provisional and may be revised depending on decisions still to be made and changes to scheme rules, in particular regarding interest and taxation; and that further payments or refunds, or recalculation of pension benefits, are possible.

Schedule of contributions owed

164. To receive benefits under the terms of FPS 1992, the immediate detriment note confirms that employee contributions must be repaid where they are due.

165. Members should be provided with a schedule of contributions owed, to include:

- Difference between FPS 2015 and FPS 1992 contributions for the remedy period.
- This should include any additional contributions that need to be paid to count a service break.
- Contributions on FPS 1992 terms of any temporary promotion to be treated as an APB.
- Difference between FPS 2015 and FPS 1992 contributions on any CPD payments in order to calculate the APB that will be payable under the legacy scheme.

166. At this point Government guidance is that contribution holiday adjustments should not be applied, nevertheless it would be good practice to calculate these contributions.

167. It is unclear how interest on these contributions will be applied, and how the adjustment of the contribution holiday would be affected.

168. Members should be made aware of the effect of claiming tax relief on their pension contributions if they choose to have contributions deducted from their lump sum, rather than paying before retirement.

- Pension contributions made before retirement will qualify for tax relief under HMRC PAYE or self-assessment **based on their current tax code only**.
- Pension contributions made after retirement, such as deducted from the lump sum, will not qualify for tax relief under the HMRC PAYE or self-assessment process. Instead this will be claimed through a government process once the consultation has concluded.

169. The final policy on obtaining tax relief has yet to be confirmed, as such it may be different to any treatment the member receives at retirement.

Annual Allowance

170. For some members the impact of treating them as if they had never left their previous final salary scheme might mean that they would have breached the annual allowance limits in former pension input period years.
171. If benefits are put into payment under the immediate detriment note, the member will need to be aware of the recalculation of their pension input periods and the change on any carry forward, as this may affect other pension entitlements elsewhere.
172. Where a member has exceeded the annual allowance limit and there is no carry forward to mitigate the breach, a tax charge will fall due on the excess over the annual allowance. The member should be informed of any annual allowance breach for them to calculate the tax charge.
173. The FRA policy on making scheme pays debits through VSP should be notified to the member if it is likely they will have a tax charge to pay.

Retrospective Ill-health Cases

174. Paragraph 3.2 of the Home Office guidance suggests immediate detriment applies only to members who did not qualify for lower-tier (and therefore higher-tier) ill-health retirement under FPS 2015 but would have done under their legacy scheme. They may have now left the FRA but are not in receipt of pension benefits.
175. These members should be treated as above as a current ill-health case and the relevant IQMP assessment should be sought and benefits put into payment where possible.
176. For members with a pension in payment and who therefore do not fall within the scope of the immediate detriment note, FRAs may want to ensure they are prepared to offer revised benefits as soon as possible by having valid IQMP assessments in place, as detailed at paragraphs 155 to 158 above.
177. Some of these members may be better off in the reformed schemes, for example, members with a higher tier ill-health in payment under the FPS 2015. FRAs may want to ensure members are aware of this by providing a quotation of benefits under the legacy scheme.
178. FRAs will need to consider what powers they have under Section 61 to make retrospective ill-health adjustments to pensions already in payment.

Processes and governance

179. FRAs will need to make local assumptions or decisions on how to apply government policy intent.
180. FRAs who decide to make immediate detriment payments will be doing so without automated software systems.
181. Having an automated system usually provides an additional layer of governance that the calculation will be right. FRAs will need to ensure that processes are in place so that they can assure themselves the correct benefits are being paid to members.
182. FRAs will need to ensure that the details of calculations, how they applied before remedy, and the underpinned benefits on the reformed basis are properly recorded to enable rectification or answer questions once the legislation comes into force.
183. Local Pension Boards (LPBs) may want to consider what assurances they can seek that additional processes are in place to check decision making, and how decisions are being made so they are consistent between FRAs.
184. LPBs will want to assure themselves that TPR requirements are being complied with. Particularly to ensure:
- 184.1. The policies in place to support the [six key processes](#) TPR use to measure performance are updated to ensure they take account of immediate detriment decision making and payments.
 - 184.2. How [breaches of law](#) will be recorded and reported to TPR.
 - 184.3. How immediate detriment data will be measured as part of the [TPR data scoring requirements](#), without automated systems, and methods to record the data.

Please address any queries on the content of this request to bluelight.pensions@local.gov.uk

June 2021

To: Fire Pension Scheme Practitioners, Regional Chairs, Directors of HR, Fire Finance Network.

CC: Chief Fire Officers, Scheme Advisory Board, Local Pension Board Chairs and Lead Contacts, Home Office Fire Team, Devolved Government Fire Leads and Boards, Advisers and Suppliers.

Home Office informal immediate detriment guidance (June 2021)

The Home Office has now issued an update to the existing informal and non-statutory guidance on immediate detriment cases. This can be found here:

[Home Office informal detriment guidance 10 June 2021](#)

The guidance applies to pipeline immediate detriment cases (i.e. those cases where the member is about to retire and receive their pension) and does not cover where a pension is already in payment. This is technical guidance and aimed primarily at pension managers and practitioners.

As you will know, to implement remedy in full, both primary and secondary legislation are required, as well as administration work (at local FRA level) to implement the changes. The deferred choice underpin will be implemented by October 2023.

As a result, the guidance will not offer resolution to all the current issues – there are outstanding technical issues that are being worked through across the public sector pension schemes and the responsible Government departments. The updated guidance aims to provide ways forward where possible.

The guidance provides informal advice but the overall responsibility for interpreting and applying the pension scheme regulations still remains with each FRA as the relevant scheme manager. FRAs and administrators will need to consider the guidance in relation to their own process and systems.

We have worked with the LGA in their capacity as representative of the pension scheme managers in the development of this update and the LGA will be providing more information to support FRAs shortly.

To note, the linked Home Office guidance only applies to England as firefighters' pensions policy is devolved in Scotland, Northern Ireland and Wales.



 Follow us [@LGAWorkforce](https://twitter.com/LGAWorkforce) #LGAfirepensions

[Bulletin 45](#) is now available on our website

We work flexibly at the LGA. I'm emailing at this time because it works for me. I don't expect you to read, take action or respond to this email outside your normal working hours.



Firefighters' Pension Schemes

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

1.0 Purpose of guidance

- 1.1 The purpose of this note is to provide informal guidance to Fire and Rescue Authorities (FRAs) in England on processing 'immediate detriment' cases (see definition in section 3 of this guidance) in advance of legislating to remove the age discrimination as found in the McCloud/Sargeant Employment Tribunal litigation. As the guidance is non statutory and informal, it does not in itself place legal obligations on FRAs. However, FRAs have the power to calculate and pay pension entitlements for those members who fall within either of the two categories at paragraph 3.2 under their legacy schemes, through the application of section 61 of the Equality Act 2010. That provision means that these individuals have the right to be treated as though they have been in service in their legacy scheme since 1 April 2015, if that is what they want and they inform the scheme of this¹.
- 1.2 The informal guidance is provided at the request of the Fire Brigades Union and the Firefighters' Pensions (England) Scheme Advisory Board to assist employers with "immediate detriment" cases. It is specific to members of the Fire Pension Schemes.
- 1.3 The issues raised in this document are the subject of ongoing litigation and the Government's announced proposals to introduce legislation, when Parliamentary time allows, to address the discrimination identified by the Court of Appeal. As such this guidance will be kept under review to ensure that it is consistent with any judgment, or legislative proposals, and it is therefore subject to any further developments in these respects.
- 1.4 In this guidance a reference to the "2015 scheme" is to the applicable reformed 2015 Fire CARE Pension Scheme, and a reference to the "legacy scheme" is to the applicable Fire Pension Schemes that applied to a member before 1 April 2015.
- 1.5 This guidance **should not** be seen as providing a definitive resolution to all of the consequences arising from the discrimination, rather as a way to progress certain immediate detriment cases (as defined in this guidance) now there is some clarity as to how certain issues should be approached. It is important **to note that ALL cases processed using this guidance will need to be revisited** once the full detail of the Government's approach is finalised, and legislation is in place. Legislation is expected to be in place by October 2023.

¹ To note, Part 3 Chapter 1 Regulation 7(2) of the 2014 Regulations states: "A person who is in service in a scheme employment (P) is an eligible person in relation to that employment unless in relation to service in that employment— (a) P is a protected member of the 1992 Scheme or the NFPS; or (b) P is a member of any other pension scheme and the authority employing P pays contributions to that scheme in respect of P."

2.0 Background to McCloud/Sargeant ruling

- 2.1 Most public service pension schemes, including the Firefighters' Pension Schemes and, were reformed in 2015. These reforms included 'transitional protection' for scheme members closest to retirement.
- 2.2 In December 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters' and Judges' Pension Schemes. The Government respects the Court's decision and has confirmed that it will remove the difference in treatment across all main public service pension schemes, including the Police Pension Scheme.
- 2.3 The Government consulted on proposals to remove this discrimination and responded on 4 February 2021. Details of the proposal and the response are available online from GOV.UK². The changes set out in the consultation response to remove the discrimination will apply across all the main public service pension schemes and provide affected members with a choice of which scheme benefits they would like to receive for the remedy period. The remedy period is defined as between 1 April 2015 and 31 March 2022 in the consultation paper.

3.0 What are 'Immediate Detriment' cases?

- 3.1 This guidance aims to deal with cases where the benefits are not yet in payment as these are less complicated to deal with (compared to where benefits are already in payment).
- 3.2 For the purposes of this guidance, the term 'immediate detriment' applies only to individuals who were members or eligible to be members of a legacy scheme immediately prior to 1 April 2012, and have a period of service after 31 March 2015 during which they were members of a legacy or reformed scheme, where those periods of service are continuous including those with a qualifying break in service of less than 5 years (this is irrespective of whether they have submitted a legal claim or not) and who
 - I. become eligible to retire (for any reason, including ill health) and draw their pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept 2015 scheme benefits); **OR**
 - II. do not qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement, and are therefore left without a pension in payment **BUT** would be eligible under the IHR arrangements in their legacy scheme.

² <https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>

- 3.3 Any scheme members that fall within either of the two categories above can have their pensions calculated and put into payment according to the guidance set out in section 5 below. As set out above, FRAs have the power to calculate and pay pension entitlements for these members under their legacy schemes, through the application of section 61 of the Equality Act 2010. That provision means that these individuals have the right to be treated as though they have been in service in their legacy scheme since April 2015, if that is what they want and they inform the scheme of this.
- 3.4 This guidance **should not** be applied to scheme members who have already retired and are in receipt of their pension payments. As set out in more detail in para 4.4 below, these cases are likely to be more complex to resolve, including on tax. At present, it is not clear that cases where an individual has already retired can consistently be processed under current legislation without adverse impacts. Nor should the guidance be applied where the member has died in service as the government's approach to these cases has not yet been finalised.
- 3.5 This guidance applies only to unprotected and taper protected members of the reformed schemes. This guidance should not be applied to protected scheme members, whose benefits will be received from the legacy scheme.

4.0 Guidance on treating immediate detriment cases

- 4.1 Transition members are members who were members of a legacy scheme and subsequently moved into the 2015 scheme either at 1 April 2015 or later under the tapered protection arrangements in relation to their service from that date and are in scope for remedy, as set out in paragraph 3.2 above.
- 4.2 There are some transition members who have already been dismissed from work on grounds of ill-health, but without a pension as they did not qualify for an ill-health pension under the 2015 Scheme. In addition, there are transition members who are now approaching retirement and want to take their full pension benefits under their legacy pension scheme. This guidance provides employers with advice on how these cases can now be processed in advance of final remedy implementation.

Transition members who are already in receipt of a pension

- 4.3 There are cases (in respect of both ill-health/ordinary retirements) where transition members have already retired and are currently receiving an ill-health/ordinary pension. It is recognised that many of these members' pensions are lower than they would be if they had instead been members of their legacy pension scheme since April 2015. For example, where a transition member has retired on ordinary grounds below age 55, their benefits accrued under the 2015 Scheme will currently be deferred until their State Pension Age.
- 4.4 These cases are likely to be more complex to resolve, and at this stage it is not clear that cases where an individual has already retired can consistently be processed

under current legislation without adverse impacts. Even for cases that do not need legislative change, schemes and in some cases individuals will require further guidance or information to be provided on how the detail of cases should be processed, and on interpretation of existing rules where these do not provide immediate clarity, given the complexity and novelty of this situation. This material needs to be worked through in some detail, to ensure that – as far as possible – individuals whose cases are processed under section 61 receive the same, or as close as possible, treatment as those being processed once new legislation is in place. Work in this area is ongoing. FRAs may be able to process these cases once outstanding points have been resolved. However, providing a full remedy in these cases may not be possible until legislation has been implemented.

5.0 Giving scheme members a choice

- 5.1 This section provides guidance where FRAs offer members meeting the criteria set out in para 3.2 the opportunity to take all their pension benefits accrued during the remedy period under their legacy pension scheme, rather than under the 2015 Scheme.
- 5.2 In order to provide this choice, FRAs will need to present two sets of pension entitlement quotes to each qualifying scheme member, which includes any legacy scheme entitlement that becomes due such as APBs or Two Pension entitlement, and include updated Pension Input Amounts for all years of the remedy period for all members who have paid an annual allowance (AA) charge or who may be liable for an AA charge – more detail on this is set out below.
- 5.3 Whilst not an exhaustive list, each quote must also set out the pension benefits that the member would receive under each choice, to include: recurring annual pension (before and after commutation), commutation retirement lump sum entitlement, employee contributions owed/refunds due etc.
- 5.4 It should be noted that any decision to take benefits from their legacy scheme may impact earlier tax liabilities (AA charge) on the increase in a member's pension savings – FRAs should consider what support they can provide to members to revisit these assessments.
- 5.5 Given section 61 of the Equality Act allows individuals to be treated as though accruing in their legacy scheme since 2015, the information that schemes should provide to members includes:
 - recalculated Pension Input Amounts (PIAs) for every year of the remedy period to date; and
 - PIAs for 2012-13, 2013-14, and 2014-15 (which would not be changed by an election under section 61).
- 5.6 Members should contact HMRC about any changes to their AA tax liabilities for the remedy period. AA charges can only be corrected within the tax system, with HMRC,

for years within the statutory time limits. Further information about statutory time limits can be found in the Compliance Handbook (CH51300)³.

- 5.7 However, individuals will also need revised PIAs for earlier years, beyond the statutory time limits and out of scope for tax correction, including to claim compensation where they have paid higher AA charges on reformed scheme benefits for out of scope remedy period years.
- 5.8 For periods within the usual statutory time limits for correction of tax, where an individual has already used mandatory Scheme Pays, pension debits for previous years can be adjusted to accommodate any revisions to the AA charge owed.
- 5.9 Where an individual has already used voluntary Scheme Pays and there is a reduction in the AA charge owed, pension debits for previous years can be adjusted.
- 5.10 Where individuals have not used Scheme Pays before or used voluntary Scheme Pays and there is an increase in the AA charge owed, pension schemes should offer voluntary Scheme Pays to help individuals affected to pay any additional AA charge. Alternatively, individuals can pay additional AA charge owed in cash, if they prefer. An election/option must be made into Scheme Pays before an individual's pension is put into payment. Interest will be payable on late paid AA charges.
- 5.11 There remain several outstanding issues that will not be resolved until such time that the Government finalises its approach and legislation is in place to remove the discrimination identified by the McCloud/Sargeant ruling (see unresolved pensions issues section below). Each scheme member will need to agree to accept the Government's final approach and any future adjustments that this requires.
- 5.12 Each scheme member should be required to provide written confirmation of their election, stating that it is made by reference to section 61 of the Equality Act. Once written confirmation has been received from each member, the FRA can put the chosen pension into payment, once scheme pays elections have been made.
- 5.13 In the absence of any written confirmation, the default position should be the current regulatory position for a transition member. Therefore, the pension paid will be in accordance with their pension entitlement as provided under both the legacy scheme regarding accrual from years before the remedy period, and 2015 CARE Scheme regarding accrual for remedy period years.

Unresolved pension issues:

- 5.14 As outlined above, there remain outstanding issues which limit the provisions of this guidance, where the Government is still finalising the details of its approach. Legislative change will also be required in some areas, to implement a full remedy.

³ <https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch51300#:~:text=The%20normal%20time%20limit%20of%204%20years%20applies%20to%20all%20taxes>

Adjustments to employee contributions

- 5.15 Scheme members who choose to take their full pension benefits under their legacy scheme will either owe employee contributions or be entitled to a refund. Any employee contributions owed will need to be paid before the member's legacy scheme pension can be put into payment, or paid out of a member's retirement lump sum upon retirement. Where contributions owed are paid from a retirement lump sum it is less likely they will attract tax relief – as set out below in paragraph 5.18.
- 5.16 Any contributions owed will need to be based on the pay that is considered to be pensionable under the legacy scheme, which may vary from that pay which is considered pensionable under the 2015 Scheme. It will be for employing FRAs to make an assessment for each member and seek payment.
- 5.17 A member will be permitted to pay any outstanding employee contributions from their retirement lump sum or from any other personal source, though it should be noted that in these cases the individual is unlikely to get tax relief. Members will eventually have an opportunity to apply for compensation for any shortfall in tax relief in relation to those contributions when the legislation is in place. If the contributions are made under net pay before an individual has retired, and go through the payroll, then tax relief should be available. Therefore, where possible, FRAs should ensure that any employee contributions owed are paid by the member before they leave service. This may not be possible in some cases, for example for deferred members or where an individual has retired previously on ill-health grounds and did not qualify for a pension under the 2015 Scheme but would qualify under their legacy scheme. In such cases, the scheme member will have to wait until legislation has been implemented to receive any appropriate compensation.
- 5.18 Where an individual has overpaid contributions, their case should not be processed at this time. This is due to complexities regarding ensuring fair and non-discriminatory treatment of returned contributions, without new legislation, that have not yet been resolved.
- 5.19 A final decision is yet to be made in respect of whether, and at what rate, interest should be applied to contributions owed by employees should they elect to receive benefits from their legacy scheme during the remedy period (2015 to 2022). As the Government's approach to this issue is yet to be confirmed, this guidance proposes that interest is not applied to employee contributions owed at this time.
- 5.20 Notwithstanding this, any immediate detriment cases where the pension is put into payment now may need to be revisited in respect of interest if the Government's final approach includes the application of interest on owed employee contributions. FRAs should ensure that any members making a decision under this guidance are aware of, and accept, this condition. As at para 1.15, all cases processed using this

guidance will need to be revisited once the full detail of the Government's approach is finalised, and legislation is in place.

- 5.21 It is recognised that some members by virtue of age and service would qualify for a contribution holiday under the legacy 1992 Scheme having reached 30 years' service before age 50. These members may also be taper members who have paid contributions to 2015 Scheme after their 30-year anniversary date. The position of applying tax relief and interest on contributions underpayments or refunds for these members is yet to be confirmed. Therefore, these cases should not be processed at this time.

Recovery of outstanding employer contributions

- 5.22 The Firefighters' Pension Schemes are in a unique position compared to other public sector pension schemes in that they do not have a uniform employer contribution rate across all schemes. As such, any election by a scheme member under this guidance to take their full pension benefits under their legacy scheme will impact on the corresponding employer contributions owed in respect of that member during the period that they were in the 2015 Scheme.
- 5.23 Employing FRAs do not need to recalculate the contributions that they, as the employer, should have paid under the legacy scheme for each transitional member that chooses to take their full benefits under the legacy scheme. This shortfall in employer contributions will be captured in future scheme valuations as an unfunded, past service deficit and reflected in the employer contribution rates going forward.

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

- 5.24 It is recognised that there will be some transition scheme members who will have transferred benefits from an external pension arrangement into the 2015 Scheme under a Cash Equivalent Transfer Value (CETV), known as a transfer in.
- 5.25 However, the rules of the FPS 1992 legacy scheme do not permit the receipt of a transfer in after 5 April 2006 when the scheme closed.
- 5.26 The transfer-in should remain in the 2015 Scheme until such time that the Government's approach to removing the discrimination has been finalised and legislation is in place. It will be at this time that these cases can be revisited. If this is not done the transfer in will be considered an unauthorised payment for tax purposes, with the member incurring unauthorised payments charges of up to 55%, and scheme sanction charges may apply.

Treatment of purchased added pension in the 2015 Scheme

- 5.27 Some transitional scheme members will have elected to make voluntary contributions to purchase 'additional pension' in the 2015 Scheme. For those members that elect to take their full benefits under the legacy scheme, any employee contributions paid in respect of the additional pension purchased will

need to be converted to the equivalent value of additional pension that could have been purchased in the member's legacy scheme.

- 5.28 The legacy schemes do not currently have 'additional pension' provisions. Additional pension purchased in the 2015 Scheme is one of the unresolved issues for which the Government's approach has not yet been finalised. Until this issue has been resolved, any added pension accrued by a member should remain in the 2015 Scheme. As with 'transfers-in', these cases will need to be revisited when the Government's approach to removing the discrimination has been finalised and legislation is in place.

Scheme Pays – treatment of debits applied to 2015 Scheme pension

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

Revisiting AA tax assessments on previous years

- 5.31 Under current arrangements, there is generally a statutory time limit for reassessing tax for previous years – this is usually the current year and the four full previous tax years. This means that where a scheme member's pension benefits change for past years, altering their tax position in relation to their AA charge, HM Revenue and Customs can collect and refund tax where it is owed for the current tax year, and the four previous tax years. As noted at paragraph 5.8-5.10, this may require FRAs to adjust previous Scheme Pays calculations or make Scheme Pays available where it was not used previously. As set out above, where Scheme Pays has not previously been used, schemes will need to make voluntary Scheme Pays available. Otherwise, members will need to pay additional AA charges in cash.
- 5.32 Where a scheme member's benefits change due to an election under this guidance so that additional AA tax is due for a tax year that sits outside the statutory time limits, HMRC cannot collect that additional tax. As such, the member will not be required to pay this. However, the recalculation of the pension input amount will still be necessary, including to enable members to claim compensation for overpaid AA in out of scope years, where appropriate.
- 5.33 The Government has confirmed that where a scheme member's benefits change, reducing their liability to tax, the scheme member will be able to seek a tax refund from HMRC in respect of any overpaid tax charges within the usual statutory time limits.

For years outside the statutory time limit, scheme members can claim compensation for overpaid tax, once legislation is in place.

AGENDA ITEM NO 12

Training Session for Members

-

To be presented on the day

Presenting Officer: Kim Jeal

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**FORWARD WORK PROGRAMME FOR
LOCAL PENSION BOARD 2021/2022**

Report Name	Purpose of piece of work	Lead Director/ Contact Officer	Expected Date of Decision/ Submission/ Review	Progress
Report on Scheme Data for Firefighters Pension Scheme	To provide the Local Pension Board with FACTUAL STATS, Scheme Membership data and an update position on the fund.	ACO People Services Contact Officer – Ian Traylor, RCT Pensions Officer	28 June 2021	On Agenda
Report to review Local Pension Board Terms of Reference	The purpose of the report is to set out the Terms of reference for the LPB.	ACO People Services Contact Officer – ACO Alison Reed	28 June 2021	On Agenda
Report to review Local Pension Board Service Level Agreement	The purpose of the report is to review the Service Level Agreement (SLA)	ACO People Services Contact Officer – ACO Alison Reed	28 June 2021	On Agenda
Report to review Key Performance Indicators	To update Members	ACO People Services Contact Officer – Ian Traylor, RCT Pensions Officer	28 June 2021	On Agenda

Report Name	Purpose of piece of work	Lead Director/ Contact Officer	Expected Date of Decision/ Submission/ Review	Progress
Update on Internal Dispute Resolution Procedures (IDRP)	To update Members	ACO People Services Contact Officer – ACO Alison Reed	28 June 2021	On Agenda
Report on McCloud – Tapering – Verbal Update	To update Members	ACO People Services Contact Officer – ACO Alison Reed	28 June 2021	On Agenda
Standard item – Recent publications, updates, information	To update Members	ACO People Services Contact Officer – ACO Alison Reed	28 June 2021	On Agenda
Training Session for Members	To update Members	ACO People Services Contact Officer – Kim Jeal – HR Manager	28 June 2021	On Agenda

Report Name	Purpose of piece of work	Lead Director/ Contact Officer	Expected Date of Decision/ Submission/ Review	Progress
Update report on Publication of Annual Benefits Statement	To update Members	ACO People Services Contact Officer – Ian Traylor, RCT Pensions Officer	18 October 2021	
Report to review Key Performance Indicators	To update Members	ACO People Services Contact Officer – Ian Traylor, RCT Pensions Officer	18 October 2021	
Update report on McCloud	To update Members	ACO People Services Contact Officer – ACO Alison Reed	18 October 2021	
Update report from Scheme Advisory Board	To update Members	ACO People Services Contact Officer – ACO Alison Reed	18 October 2021	

Report Name	Purpose of piece of work	Lead Director/ Contact Officer	Expected Date of Decision/ Submission/ Review	Progress
Standard item – Recent publications, updates, information	To update Members	ACO People Services Contact Officer – ACO Alison Reed	18 October 2021	
Training Session for Members	To update Members	ACO People Services Contact Officer – Kim Jeal – HR Manager	18 October 2021	
Report to review Key Performance Indicators	To update Members	ACO People Services Contact Officer – Ian Traylor, RCT Pensions Officer	24 January 2022	
Update report on McCloud	To update Members	ACO People Services Contact Officer – ACO Alison Reed	24 January 2022	

Report Name	Purpose of piece of work	Lead Director/ Contact Officer	Expected Date of Decision/ Submission/ Review	Progress
Training Session for Members	To update Members	ACO People Services Contact Officer – Kim Jeal – HR Manager	24 January 2022	

Dates of meetings – 28 June, 2021, 18 October, 2021, 24 January, 2022

**ACO Alison Reed – Director of People Services
Chris Barton – Treasurer
Kim Jeal – HR Manager**

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AGENDA ITEM NO 14

**To consider any items of business that the Chairperson deems urgent
(Part 1 or 2)**

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1.	Apologies for Absence	
2.	Declarations of Interest	
	Members of the Fire & Rescue Authority are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct.	
3.	Chairperson's Announcements	
4.	To Receive the Minutes of:-	
	<ul style="list-style-type: none"> • Local Pension Board Committee Meeting held on 25 January 2021 	3
5.	Report on Scheme Data for the Firefighters' Pension Schemes	7
6.	Local Pension Board Terms of Reference (ToR)	15
7.	Local Pension Board - Service Level Agreement (SLA)	29
8.	Local Pension Board: Key Performance Indicators (KPI's) for Fire Pensions	55
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10.	Report on McCloud – Tapering – To be presented on the day	85
11.	Publications, Updates, Information (Standard Item)	87
12.	Training Session for Members – To be presented on the day	139
13.	Forward Work Programme for Local Pension Board 2021/2022	141
14.	To consider any items of business that the Chairperson deems urgent (Part 1 or 2)	147