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NOTICE OF MEETING

Meeting	**HIWFRA Firefighters' Pension Board**	*Clerk to the Hampshire & Isle of Wight Fire and Rescue Authority* ***CFO Neil Odin***
Date and Time	**Thursday, 15th April, 2021 2.00 pm**	*Fire & Police HQ Leigh Road, Eastleigh Hampshire SO50 9SJ*
Place	**Virtual Teams Meeting - Microsoft Teams**	
Enquiries to	**members.services@hants.gov.uk**	

FILMING NOTIFICATION
This meeting will be recorded and broadcast on the HFRS YouTube channel.

Agenda

1 **APOLOGIES FOR ABSENCE**

To receive any apologies for absence received.

2 **ELECTION OF CHAIRMAN**

To elect a Chairman of the Pension Board in accordance with the Terms of Reference until the first meeting of the Board following the 2021 HIWFRA AGM.

3 **ELECTION OF VICE-CHAIRMAN**

To elect a Vice-Chairman of the Pension Board in accordance with the Terms of Reference until the first meeting of the Board following the 2021 HIWFRA AGM.

4 **DECLARATIONS OF INTEREST**

To enable Members to disclose to the meeting any disclosable pecuniary interest they may have in any matter on the agenda for the meeting, where that interest is not already entered in the Authority's register of interests, and any other pecuniary or non-pecuniary interests in any such matter that Members may wish to disclose.

5 **MINUTES OF PREVIOUS MEETINGS** (Pages 3 - 10)

To receive and note the minutes of the last meeting of the HFRA Firefighters' Pension Board and the minutes of the last meeting of the Isle of Wight Fire Authority Fire Fighters Pension Board.

6 **DEPUTATIONS**

To receive any deputations to this meeting.

7 **CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements the Chairman may wish to make.

8 **TERMS OF REFERENCE FOR HIWFRA FIREFIGHTERS' PENSION BOARD** (Pages 11 - 22)

To receive and note the Terms of Reference for the Hampshire and Isle of Wight Fire and Rescue Authority Firefighters' Pension Board.

9 **SCHEME ADVISORY BOARD**

To receive a verbal update on the Scheme Advisory Board.

10 **FIRE PENSION BOARD ANNUAL REPORT (2020/21)** (Pages 23 - 32)

To receive the Fire Pension Board Annual Report for 2020/21.

11 **LEGISLATION AND LOCAL GOVERNMENT ASSOCIATION (LGA) UPDATE REPORT** (Pages 33 - 92)

To receive a report providing an update on legislation and the Local Government Association.

12 **FIRE PENSION BOARD STATUS REPORT AND RISK REGISTER REVIEW** (Pages 93 - 208)

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

ABOUT THIS AGENDA:

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

AT A MEETING of the HFRA Hampshire Firefighters' Pension Board held virtually via Microsoft Teams on Wednesday, 27th January, 2021

Chairman:
* Stew Adamson

Vice-Chairman
* Richard North

* Councillor Roger Price
* Dan Tasker
Richard Scarth
Mark Hilton

*Present

Also present with the agreement of the Chairman:
Councillor Reginal Barry, Isle of Wight Fire Authority Firefighters Pension Board
Sean Harrison, Isle of Wight Fire Authority Firefighters Pension Board
Matthew Collier, Pensions Manager at the Isle of Wight Council

113. **APOLOGIES FOR ABSENCE**

Apologies were received from Richard Scarth.

114. **DECLARATIONS OF INTEREST**

Members were mindful of their duty to disclose at the meeting any Disclosable Pecuniary Interest they had in any matter on the agenda for the meeting, where that interest was not already in the Authority’s register of interests, and their ability to disclose any other personal interests in any such matter that they might have wished to disclose.

No interests were declared.

115. **MINUTES OF PREVIOUS MEETING**

The minutes of the last meeting were reviewed and agreed.

116. **DEPUTATIONS**

There were no deputations for the meeting.

117. CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Sean Harrison and Councillor Reginald Barry, members of the Isle of Wight Fire Authority Firefighters Pension Board to the meeting as observers. The Chairman also welcomed to the meeting as an observer, Matthew Collier, Pensions Manager at the Isle of Wight Council.

The Chairman invited Pension Board Members to provide feedback on the draft response to the recent TPR questionnaire which had been drafted and circulated to members by the Employer Pension Manager. The Chairman also thanked Pension Board Members for completing the recent training needs assessment.

The Chairman also highlighted the recent NFCC seminar recently attended by himself and the Employer Pension Manager which was based around the McCloud judgement, and in particular the issue of Immediate Detriment.

118. SCHEME ADVISORY BOARD VERBAL UPDATE

There were no formal updates for this meeting.

119. DRAFT TERMS OF REFERENCE FOR HIWFRA FIREFIGHTERS' PENSION BOARD AND MEMBERSHIP OF THE BOARD REPORT

The Board received a report of the Committee Clerk on the draft terms of reference for HIWFRA Firefighters’ Pension Board and Membership of the Board (Item 7 in the Minute Book).

The report was introduced and Members of the Board noted the proposed draft report at Annexe A and the proposed draft Terms of Reference for the HIWFRA Firefighters Pension Board at Annexe B which would be considered by the Shadow Authority on the 10 February. The background to the membership report was explained and it was also confirmed that the proposed Terms of Reference aligned closely with the current Terms of Reference for the HFRA Firefighters’ Pension Board.

In response to a query, it was confirmed that at paragraph 6 of Annexe A, current Board membership would be included in the Shadow Authority report, to reflect which Members were current Hampshire Fire and Rescue Authority Firefighters’ Pension Board Members, and which were current Isle of Wight Fire and Rescue Authority Firefighters’ Pension Board Members.

Members of the Board were content with the report.

RESOLVED:

That the HFRA Firefighters’ Pension Board note and support the recommendations to the Shadow Authority, as set out in the report at paragraphs 10 – 11.

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

The Board received an update report of the Chief Finance Officer on Legislation and the Local Government Association (LGA) (Item 8 in the Minute Book).

The Chief Finance Officer highlighted key issues and Members attention was drawn to the section on Immediate Detriment and the background to this was explained. It was heard that the Scheme Advisory Board had requested the number of people who could be affected by Immediate Detriment up until March 2022. The table in paragraph 6 of the report detailed the number of HFRA pension scheme members who could be affected by Immediate Detriment, and it was explained that two of those were claimants.

Paragraph 14 of the report detailed the recent statement from the Home Office in relation to qualifying injury and Covid-19, and it was explained that while the Home Office would be unable to provide global assurance on this, each individual Fire and Rescue Service would have responsibility to make decisions in relation to this. Following discussions, Board Members agreed that it would be useful to put out some communication on this and officers would draft some communication on behalf of the Pension Board.

RESOLVED:

That the Board note the contents of the report.

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

The Board received a report which provided an update on ongoing issues (Item 9 in the Minute Book). The report was introduced and key issues were highlighted to Members of the Board.

Members attention was drawn to the section of the report which explained TPR Scheme returns, and the table in paragraph 6 highlighted the data quality scoring for year ending 31 March 2019 and 31 March 2020 which showed an improvement across all areas from 2019 to 2020. Officers highlighted that if the Board were content, then they would look further into why the common data score and conditional data score for the 2006 fire pension scheme were lower than other schemes. The Board were content with this action.

It was heard that in relation to the Risk Register, a risk had been added to the Register specifically around the McCloud remedy work, and having the resources and capacity to implement the ensuing work. This risk has also been added, in agreement with the Board, to the Organisational Risk Register of the Authority. Also related to McCloud, it was noted that a response to the Government consultation had been submitted, and a response from Government to the Consultation was expected soon.

Paragraphs 12 – 18 of the report explained the current position with Immediate Detriment, and it was heard that so far there were no cases to be dealt with. The Board’s views on future communication on the Immediate Detriment position were sought. A discussion ensued and it was felt that because of the complexities around the issue and the limited amount of people this may affect, that there may not be any gains from issuing wider communications on this. It was noted that members of the pension scheme who were due to retire, were sent individual communication and invited to contact pension services if they had any queries around this issue. Following discussions, Members of the Board were content not to put out wider communications on Immediate Detriment.

In relation to the McCloud remedy project, it was heard that a piece of work was being undertaken to assess which actions can be undertaken prior to April 2022 and which can be done afterwards, and a project plan to examine resources required has also been undertaken. Paragraph 23 of the report also showed the projected costings for this work, and a query was raised about whether Government would be able to assist with the costs. Officers explained that representations could be made to Government to highlight the administrative costs of this work, and Councillor Price highlighted that he would also raise this issue at the Scheme Advisory Board.

Paragraphs 27 – 28 detailed the slight increase in numbers of those registered for the member portal, and officers were hopeful that these numbers will continue to gradually rise, and it was heard that Board Members have also been working to encourage registration. In response to a query, it was confirmed that for future reports, the breakdown of registration by age groups would be detailed.

The situation in relation to fire pension scheme temporary promotions and the formation of the new Combined Fire Authority (CFA) was explained, as set out in paragraphs 11 – 18 of the report. It was heard that most temporary promotions were due to end before the CFA takes effect, but those members affected would be written to in order to inform them of the change. Officers would look into potential issues around the 25 members from IOW that are currently on a temporary promotion and are in either the 1992 or 2006 Fire Pension Schemes.

Members of the Board were thanked for completing the recent training needs analysis, and it was highlighted that the topics of annual allowances and lifetime allowances would be covered in an informal training session after the next meeting of the Board.

RESOLVED:

i) That the contents of the report is noted by the Firefighters' Pension Board.

ii) That the Risk Register as set out in paragraphs 4 – 6 and Appendix A is approved by the Firefighters' Pension Board.

Chairman,

Minutes

Name of meeting	**ISLE OF WIGHT FIRE AUTHORITY FIRE FIGHTERS PENSION BOARD**
Date and Time	**WEDNESDAY 10 MARCH 2021 COMMENCING AT 2.00 PM**
Venue	**VIRTUAL (MS TEAMS)**
Board Members	R Singleton (Chairman), S Harrison, Cllrs R Barry and D Stewart
Also Present	Matt Collier, Jo Thistlewood, Megan Tuckwell

9. **Minutes**

RESOLVED:

i) THAT the Minutes of the meeting held on 14 October 2020 be confirmed.

ii) THAT the Chairman be authorised to sign as a true record a copy of the Minutes from this meeting when they have been produced.

10. **Declarations of Interest**

Cllr Stewart declared an interest as a member of the Shadow Combined Fire Authority.

11. **The Pensions Regulator Scheme Returns 2019-2020**

The Technical Finance Manager presented the scheme returns submitted on 11 December 2020, and the board were asked to note that compliance with the Pension Regulators' requirements and deadlines had been achieved. No comments or questions by board members were raised at this stage and the update was noted.

RESOLVED:

THAT the Pensions Regulator Scheme Returns 2019-2020 be noted.

12. **The Pensions Regulator Governance and Administration Survey 2020**

The Technical Finance Manager presented the Pension Regulator's annual governance and administration survey submitted on 11 February 2021. The board were asked to note that compliance with the Pension Regulators' requirements and deadlines had been achieved, and board members were thanked for their contributions. It was confirmed that there would be no requirement to submit future surveys from 1 April 2021 when the Isle of Wight Fire Authority would cease to exist. No comments or questions by board members were raised at this stage and the update was noted.

RESOLVED:

THAT the submission of the Pensions Regulator's Governance and Administration Survey 2020 be noted.

13. **Membership Update**

The Pensions Manager presented information on membership numbers as at 31 January 2021. No comments or questions by board members were raised at this stage and the update was noted.

RESOLVED:

THAT the membership update be noted.

14. **LGA and Legislation Update**

The Technical Finance Manager presented the report which provided an overview of the latest developments from the LGA (including the transitional protections age discrimination case), and it was advised that all future actions would be covered by the Combined Fire Authority. No comments or questions by board members were raised at this stage and the update was noted.

RESOLVED:

THAT the update be noted.

15. **Breaches and Complaints**

The Board noted that there had been no breaches or complaints reported since the meeting. The Chairman highlighted that correspondence with the Pensions Manager had been ongoing with regards to pension enquiries.

RESOLVED:

THAT the update be noted.

16. **Combined Fire Authority Update**

The Board received an update on the progress towards the Hampshire and Isle of Wight CFA, including the adoption of the terms of reference and membership of the new combined authority pension board.

The Technical Finance Manager advised that the new board would be chaired by Stew Adamson, and it was confirmed that Sean Harrison and Ross Singleton would sit as board employer and scheme member representatives, respectively. With regards to governance and administration, it was confirmed that the combined fire board would be supported by a dedicated Employer Support Officer and the board were reassured that the pensions of local scheme members would be managed appropriately.

The Pensions Manager advised that weekly meetings were being held in relation to data transfer and no issues had been identified. It was confirmed that communications to all scheme members had been circulated and clarification was provided with regards to final payroll arrangements. Discussion took place in relation to the arrangements for future data storage, the issuing of P60's, and temporary promotion refunds. The board were reassured that transition was anticipated to be smooth and there would be very little impact on scheme members.

RESOLVED:

THAT the decisions of the Shadow Authority be noted.

17. **Other matters for the board's attention**

Discussion took place regarding data cleansing and the Chairman offered any additional support to the administration team. The Pensions Manager advised that issues in relation to modified members had been escalated, and the Chairman was thanked for his support.

Questions were raised in relation to the CFA transition and temporary postholder's eligibility for full scheme benefits. It was clarified that advice should be sought from the Payroll Team leader.

All board members and officers were thanked for their ongoing support and efforts.

CHAIRMAN

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HIWFRA Firefighter's Pension Board

Purpose: Noted

Date: **15 April 2021**

Title: **TERMS OF REFERENCE FOR THE HIWFRA FIREFIGHTERS' PENSION BOARD**

Report of Monitoring Officer

SUMMARY

1. For the HIWFRA Firefighters' Pension Board to receive and note the Terms of Reference for the Board.

BACKGROUND

2. The Terms of Reference for the HIWFRA Firefighters' Pension Board were approved at the meeting of the Shadow Authority on the 10 February 2021.

RESOURCE IMPLICATIONS

3. There are no financial or resource implications from the contents of this paper.

IMPACT ASSESSMENTS

4. There are no specific equality or other impacts arising from the proposals contained in this paper.

LEGAL IMPLICATIONS

5. It is a requirement to have a local Pension Board of the HIWFRA.

CONCLUSION

6. For the HIWFRA Firefighters' Pension Board, at its inaugural meeting, to receive and note the Terms of Reference for the Board.

RECOMMENDATION

7. That the HIWFRA Firefighters' Pension Board receive and note the Terms of Reference for the Board.

APPENDICES ATTACHED

8. Appendix A – Terms of Reference.

Contact: Jackie Taylor, on behalf of the Monitoring Officer,
jackie.taylor@hants.gov.uk

Terms of Reference for the Pension Board of the Hampshire and Isle of Wight Firefighter's Pension Scheme

1 Introduction

1.1. Hampshire and Isle of Wight Fire and Rescue Authority (HIWFRA) has established a Pension Board in accordance with the requirements of the Public Service Pension Act 2013.

2 Role and Powers of the Hampshire and Isle of Wight Firefighter's Pension Board

2.1. The role of the Board is to:

- Assist HIWFRA as the administering authority of the Hampshire and Isle of Wight Firefighter's Pension Scheme (HIWFFPS):
    - to secure compliance with the Firefighter's Pension Scheme (FFPS) Regulations and any other legislation relating to the governance and administration of the FFPS.
    - to secure compliance with requirements imposed in relation to the FFPS by the Pensions Regulator.
- To ensure the effective and efficient governance and administration of the HIWFFPS by the Authority.
- To consider how discretionary and other pension related issues are being addressed from an operational viewpoint.
- To present an annual report to the Authority on the exercise of its functions.

2.2. The Board shall have the power to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.

3 Members of the Hampshire and Isle of Wight Firefighter's Pension Board

3.1. The Board shall initially consist of 8 members and be constituted as follows:

4 employer representatives;

4 scheme member representatives;

3.2. The Chairman of the Board will be elected by the Board, from amongst its number at the first meeting of the Board following the Annual General Meeting (AGM) of the HIWFRA in each year. Should the Board meet prior to the AGM in 2021, the Chairman will be elected by the Board, from amongst its number at its inaugural meeting, until the first meeting of the Board after the AGM in 2021.

3.3. With regard to 3.4, the Vice Chairman of the Board will be elected by the Board from amongst its number at the first meeting of the Board following the Annual General Meeting (AGM) of the HIWFRA in each year. Should the Board meet prior to the AGM in 2021, the Vice-Chairman will be elected by the Board, from amongst its number at its inaugural meeting, until the first meeting of the Board after the AGM in 2021.

3.4. If the Chairman is a scheme member representative then the Vice Chairman will be an employer representative and vice versa.

3.5. The employer representatives will be appointed by the Authority at any time during the year.

3.6. Scheme member representatives will be appointed by the Authority, at any time during the year, in accordance with the recruitment policy agreed by the relevant Committee with responsibility for Scheme Management. They must be active, deferred or pensioner members of the FFPS. Where possible, and subject to suitable applications being received, scheme members will be appointed from both the Hampshire and Isle of Wight geographical areas.

3.7. The term of office of the Chairman and Vice Chairman will be one year, but either can be re-elected by the Board up to a maximum of four years.

3.8. Each employer representative and scheme member representative so appointed shall serve for a fixed four-year period which can be extended for a further period of four years.

3.9. Employer representatives and scheme member representatives will remain as members of the Board during their appointed term of office unless they become incapable of acting, cease to represent their constituency, resign by giving written notice to the Chairman of the HIWFRA or are removed from the Board pursuant to Paragraph 4 of the Board's Code of Conduct.

3.10. Employer representatives and scheme member representatives may also be removed from office during their term of appointment by a majority decision of a quorate meeting of the HIWFFPS Board if they do not comply with the requirements of paragraph 3.9. The removal of any Board member also requires the agreement of the HIWFRA.

3.11. Each Board member should endeavour to attend all Board meetings during the year and is required to attend at least half of the meetings held in each year.

4 Quorum

4.1. Half of the members of the Board will represent a quorum for Board Meetings.

4.2. In the absence of both the Chairman and the Vice-Chairman the members of the Board shall appoint a Chairman for that meeting who shall while presiding have any power or duty of the Chairman in relation to the conduct of the meeting.

5 Advisers to the Board

5.1. The Board will be supported in its role and responsibilities by officers of the HIWFRA and it will consult with such officers to help better perform its duties.

In the event that specialist professional advice is not available from the officers of the HIWFRA then the Board may ask the Chief of Staff to seek independent professional advice through the appointment of advisers on their behalf, subject to financial and legal considerations.

6 Knowledge and Skills

6.1. A member of the Board must be conversant with:

- The legislation and associated guidance of the FFPS.
- Any document recording policy about the administration of the FFPS which is for the time being adopted by the HIWFRA.

6.2. A member of the Board must have knowledge and understanding of:

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

6.3. A member of the Board representing employers or scheme members must have the relevant experience and capacity to represent employer and scheme members respectively on the Board.

6.4. Notwithstanding the requirements set out above, it is anticipated that training will be given to Board Members to help them fulfil their role and to keep them updated on changes in the FFPS.

7 Board Meetings

7.1. Meetings of the Board will be conducted in accordance with the Standing Orders of the HIWFRA and for all purpose including but not limited to notice of meetings, publication of agendas and reports, recording and publication of minutes of meetings and consideration of urgent items meetings of the Board shall be treated as if they were a meeting of a Committee of the HIWFRA.

7.2. There will be a minimum of two Board meetings a year and the Chairman of the Board, with the consent of the Board may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone or video conferencing and e-mails.

8 Voting

8.1. Each member of the Board will have an individual vote and items will be decided by a simple majority of members attending the meeting but it is expected the Board will as far as possible reach a consensus. The Chairman shall determine when consensus has been reached.

8.2. Where consensus is not achieved, this should be recorded by the Chairman who shall then have a casting vote.

8.3. In support of its core functions, the Board may make a request for information from the Scheme Manager, with regard to any aspect of the scheme manager’s function. Any such request should be reasonable complied with in both scope and timing.

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

9 Standards of Conduct

9.1. The role of Board members requires the highest standards of conduct and therefore the 'seven principles of public life' apply to all Board members, these are:

Selflessness
Integrity
Objectivity
Accountability
Openness
Honesty
Leadership

9.2. The Code of Conduct for Board Members set out in Annex A shall apply to all members of the Board. Members of the Board who are also a member of other authorities also remain bound by the Member's Code of Conduct of their own authority.

10 Publication of Pension Board Information

10.1. Up to date information will be posted on the Authority's website showing:

- The names and information of the Board members.
- How the scheme members are represented on the Board.
- The responsibilities of the Board as a whole.
- The full terms of reference and policies of the Board and how they operate.
- The Board appointment process.
- Who each individual Board member represents.
- Any specific roles and responsibilities of individual Board members.

11 Accountability

11.1. The Board will be collectively and individually accountable to the relevant Committee with responsibility for Scheme Management and the Authority.

12 Reporting Breaches

12.1. Any potential or actual Breach that comes to the attention of the Board shall be dealt with in accordance with the Protocol for Reporting Breaches agreed from time to time between the Board and the Authority.

13 Expense Reimbursement

13.1. No basic allowance is payable to Board members although employer and scheme member representatives shall be entitled to claim Travelling

Allowances on the terms set out in the then current Member's Allowance scheme, or HFRS employees scheme as appropriate.

14 Definitions

14.1. The undernoted terms shall have the following meaning when used in this document:

Breach	Means non-compliance with a duty relevant to the administration of the FFPS which is likely to be of material significance to the Pensions Regulator in the exercise of any of its functions
'Hampshire and Isle of Wight Firefighter's Pension Board', 'Fire Pension Board', 'Pension Board' or 'Board'	Means the Pension Board of Hampshire and Isle of Wight Fire and Rescue Authority for the Hampshire and Isle of Wight Firefighter's Pension Scheme as required under the Public Service Pensions Act 2013.
'HIWFFPS', 'FFPS' or Regulations	The Firefighter's Pension Scheme as constituted by the Firefighter's pension scheme 1992, as amended, the Firefighter's Pension Scheme 2006, as amended and the Firefighter's Pension Scheme Regulations 2014 as amended.

‘Scheme’	Means the Firefighter’s Pension Scheme as defined under ‘HIWFFPS’ above.
‘Scheme Member’	Means active, deferred or pensioner members of the Firefighter’s Pension Scheme

15 Interpretation

15.1. Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Authority’s Monitoring Officer.

Annex A
Code of Conduct for Members of the Hampshire and Isle of Wight Firefighter's Pension Board Members

1. Introduction

This Code of Conduct for the Hampshire and Isle of Wight Firefighter's Pension Board has been adopted by the HIWFRA pursuant to its statutory duty to appoint a Pension Board for the HIWFFPS.

This Code applies to members of the Hampshire and Isle of Wight Firefighter's Pension Board when acting in their capacity as members of the Board. For the avoidance of doubt, members of the Board who are also members of other authorities also remain bound by the Member's Code of Conduct of their own authority.

This Code is based on and is consistent with the principles of;

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty and
- Leadership

2. Obligations of Members of the Board

As a Member of Hampshire and Isle of Wight Firefighter's Pension Board, your conduct will address the principles of the Code of Conduct by:

a. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing the interests of the HIWFFPS, or the good governance of the HIWFFPS in a proper manner.

b. Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.

c. Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the HIWFRA (or those acting on their behalf), taking all relevant information into consideration, remaining objective and making decisions on merit.

d. Being accountable for your decisions and co-operating when scrutinised internally and externally.

e. Contributing to making the Board's decision-making processes as open and transparent as possible.

f. Restricting access to information when the wider public interest, the Board's Terms of Reference or the law requires it.

g. Valuing your colleagues and Officers of the HIWFRA and engaging with them in an appropriate manner.

h. Always treating all people with respect and propriety.

3. Conflicts of Interest

a. No member of the Board may participate in any business of the Board if they have a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board (this does not include a financial or other interest arising merely by virtue of membership of the Scheme or any connected Scheme) ('Conflict of Interest').

b. All Board members must before becoming a member of the Board declare any potential Conflict of Interest to the Monitoring Officer of the HIWFRA.

c. After appointment all Board members must within 14 days of becoming aware of any new potential Conflict of Interest declare that potential Conflict of Interest to the Monitoring Officer of the HIWFRA.

d. A member of the Board must at any time provide the Monitoring Officer of the HIWFRA with such information as he or she requires for the purpose of establishing whether or not the Board member has a Conflict of Interest.

e. A Board member should disclose any Conflict of Interest in any business of the Board either at the commencement of the meeting, the commencement of the consideration of the item or when the Conflict of Interest becomes apparent.

f. If a Board member has a Conflict of Interest in any business of the Board then that Member may not participate in any discussion of, vote on or discharge any function in relation to the matter. In addition, the Board member should withdraw from the room where the meeting is being held.

4. Non-Compliance with the Code of Conduct

Any alleged non-compliance with this Code of Conduct shall be referred to the relevant Committee with responsibility for Scheme Management for consideration. In the event that the Committee find that a member of the Board has failed to comply with the provisions of this Code then the Committee may determine that the Member is to immediately cease to be a member of the Board or take such other action as the Committee regard as appropriate. This can include but is not limited to requiring the member to apologise or requiring the member to undertake such training as they feel is appropriate.

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Purpose: Noted

Date: **15 APRIL 2021 (HIWFRA FIREFIGHTERS' PENSION BOARD)**
26 JULY 2021 (HIWFRA STANDARDS AND GOVERNANCE COMMITTEE)

Title: **FIRE PENSION BOARD ANNUAL REPORT (2020/21)**

Report of Chief Financial Officer

SUMMARY

1. This is the annual report from the Fire Pension Board to the Standards and Governance Committee and summarises the work of the Board for the 2020/21 financial year in the exercise of its functions.

2. This report provides an update on the progress of key issues during the reporting period, relating to Hampshire Fire and Rescue Authority only.

PENSION BOARD MEETINGS

3. The Pension Board met periodically, holding three meetings, during the 2020/21 financial year; A meeting that was scheduled for April 2020 was cancelled due to the Covid-19 pandemic. The three other meetings in the year were all held as virtual meetings.

   (a) 15 July 2020
   (b) 8 October 2020
   (c) 27 January 2021

4. The meeting in July 2020 saw the re-election of Stew Adamson to Chairman and Richard North to Vice-Chairman. Both will hold the position until the 31 March 2021, after which point the Combined Fire Authority will be established.

5. There was a vacancy in the Board membership and Mark Hilton was appointed as a new Scheme Representative member and joined the Board for the meeting in October.

6. The key items covered at these meetings are as follows, more detailed information about each of these items can be found later in the report.

   (a) Statutory reporting
   (b) Risk review
   (c) Communications
   (d) TPR Scheme return
   (e) Scheme Advisory Board levy
   (f) Temporary Promotions and Additional Pension Benefits

7. The pension board status and other associated reports can be found in APPENDICES A – H.

STATUTORY REPORTING

8. There are a number of statutory reporting events that occur during the Scheme Year all with legislative deadlines.

ACCOUNTING FOR TAX

9. Accounting for Tax (AFT) is the way that tax charges are reported to HMRC, these occur when certain types of payments are made to members of the Fire Pension Scheme. These are reported and paid quarterly, the exception to this is Annual Allowance tax charges as they have different deadlines.

Type of payment	**Number of members**	**Tax year or quarter relates to**	**Amount paid**
Annual Allowance	1	2017/18	£37,481
Annual Allowance	1	2018/19	£29,520
Annual Allowance	1	2019/20	£15,593
Life-Time Allowance	1	2019/20	£3,817
Total paid to HMRC	**4**		**£86,411**

EVENT REPORTING

10. In April 2020, the details of the Event Reporting for the 2018/19 tax year were reported to the Board. These are specific events that occur, primarily upon retirement when benefits are crystallised and incur a tax charge. They are reported to HMRC by the 31 January, following the end of the tax year.

Type of payment	Number of members	Tax year or quarter relates to	Amount paid
Event 1 – Unauthorised payments	17	2018/19	£103,543
Total paid to HMRC	**17**		**£103,543**

RISK REVIEW

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

12. These groups are now well established, meeting regularly and include representatives across the board from pensions, HR, finance and others.

13. The Board heard about two specific risks arising from two court judgements that will inevitably have an impact on Fire Pensions. These are:

    (a) The O'Brien case which is for part time workers in the Judiciary Pension Scheme

    (b) The McCloud / Sargeant transitional protections case for the Judiciary and Firefighters pension schemes

O'BRIEN v MINISTRY OF JUSTICE COURT CASE

14. This is also known as the Matthews case; it relates to part time working and pensions. In essence, these cases had employment going back to the 1970's, but were only eligible to enter the pension schemes from 2000, when the Part Time Workers Directive came into force; however, the court determined that the whole of the employment should count for pension purposes and not just the period from 2000.

15. It was reported to the Board that a consultation was expected in late spring of 2020, but that was before Covid-19 hit, and has subsequently been delayed; we have no information on when this is now expected. The consultation will help us to define the parameters of this work and to be able to start to identify the volume and scope of what will be required.

SARGEANT v LONDON FIRE AND EMERGENCY PLANNING AUTHORITY COURT CASE

16. This is also known as the McCloud case and relates to the age discrimination court case that was brought against the transitional protections for the 2015 Fire Pension Scheme.

17. The Board heard that HM Treasury issued a consultation on 16 July 2020 about their proposals of how to apply remedy for the age discriminations; the consultation closed on 11 October 2020 and a response to the consultation was approved and submitted on behalf of the Fire Pension Board.

18. It was reported to the Board that the Employer Pension Manager is project managing the McCloud remedy work for Hampshire Pension Services. This will cover the Local Government Pension Scheme, the Police Pension Schemes and the Fire Pension Schemes across all partners and employers that Hampshire Pension Services provide a pension administration service for.

19. An initial project plan has been drafted and split between actions and tasks that can be undertaken before or after April 2022. It is currently anticipated that while some initial preparation work can be actioned prior to April 2022, the majority of the work will take place after April 2022. This means that although some resources are required now this will need to be increased as the project continues.

20. The Board heard that the process of pulling together some high level indicative costs based on anticipated resources and work required was underway. Hampshire Pension Services will be looking to share the cost between all its partners for which it administers pensions, but there will be some efficiencies and common work across the partners.

21. In addition to the issues of implementing remedy, it was reported to the Board that the FRA will have an additional complication due to the CFA taking effect from 1 April 2021. Because of both the payroll arrangements and HMRC requirements to make all employees a new starter under the new employer.

22. It means that there will only be manual access to historical payroll data prior to 1 April 2021 and that we will not be able to use the SAP HR/Payroll system to automatically calculate the necessary member contributions and pay details that will be required for the remedy period for both the legacy and reformed schemes.

23. There will be significant challenges to calculate the relevant information for all members of the HIWFRA and members that have left either FRA within the remedy period, as all this work will need to be done manually.

COMMUNICATION

24. Due to the Covid-19 pandemic, some pre-retirement courses had to be cancelled. One face to face, socially distanced course went ahead in December 2020 and it was then agreed that for the foreseeable future, future courses would be held via MS Teams, the first one was in February 2021 and was well received.

25. Two virtual pension presentations were also held for new recruits in February and March 2021.

MEETINGS

26. The Board heard how HFRA have been represented at a variety of meetings. The Employer Pension Manager regularly attends the Fire Technical Group, the Fire Communications Working Group and the regional South East Fire Pension Officers Group. Over the last year, the LGA have held fortnightly "coffee mornings" which has been a great way to keep in touch and to keep up to date with all the latest developments. All of these meetings have been held online.

27. The Board also heard about the attendance at the online Fire AGM in September 2020, there were a number of speakers and the AGM focussed very much on the McCloud remedy

MEMBER PORTAL

28. At the February Fire Pension Board meeting, it was reported that registrations to the Pensions Member Portal still remain low, although are slowly rising, with around 36% of current active members registered.

29. Hampshire Pension Services are now encouraging new starters to the scheme and retirees to register for the portal through improved processes. We also hope to improve the functionality of the portal and this will also entice more members to register. The portal will also be used as more of a communication tool for McCloud rather than sending letters to members, they may be required to view documents via the portal.

TPR SCHEME RETURNS

30. It was reported to the Board that the Employer Pension Manager completed the annual pension scheme returns for The Pension Regulator. This survey requires information to be submitted about scheme membership numbers, details of the scheme manager, Fire Pension Board members, details of the administrator and other relevant contact details.

31. TPR also require data scoring which consists of common data and scheme specific conditional data. The common data score is made up of things like personal data such as name, address, date of birth etc, while the scheme specific data score varies from scheme to scheme and for Fire would include specific things such as membership data including any transfer in details, CPD, temporary promotions etc.

32. The table below shows the scores for year ending 31 March 2019 and the latest year 31 March 2020, which shows that improvements have already been

made across most areas. Hampshire Pension Services have a data improvement plan in place which will aim to increase the data scores year on year.

The Pension Regulator Scheme Returns - FIRE Schemes

Year end	**31/03/2019**					
TPR Scheme Return	**November 2019**					
Scheme	**Actives**	**Deferreds**	**Pensioners**	**Beneficiaries**	**Common Data Score**	**Conditional Data Score**
1992 Fire Pension Scheme	110	81	836	131	96%	90%
2006 Fire Pension Scheme	30	421	37	5	84%	75%
2006 Modified Fire Pension Scheme	27	42	67	2	98%	82%
2015 Fire Pension Scheme	1,055	358	5	0	97%	73%
Total	**1,222**	**902**	**945**	**138**		

Year end	**31/03/2020**					
TPR Scheme Return	**December 2020**					
Scheme	**Actives**	**Deferreds**	**Pensioners**	**Beneficiaries**	**Common Data Score**	**Conditional Data Score**
1992 Fire Pension Scheme	53	68	831	136	98%	92%
2006 Fire Pension Scheme	13	411	43	4	88%	98%
2006 Modified Fire Pension Scheme	15	38	73	3	98%	90%
2015 Fire Pension Scheme	1,057	443	5	7	98%	97%
Total	**1,138**	**960**	**952**	**150**		

SCHEME ADVISORY BOARD LEVY

33. It was reported to the Board that the Scheme Advisory Board (SAB) levy for 2020/21 was £8.29 per active fire-fighter, which is calculated at £6.20 for the SAB and £2.09 for employers.

34. The levy is important as it enables costs savings for Fire Authorities by reducing duplication and undertaking guidance and communications centrally and helps to ensure national consistency.

TEMPORARY PROMOTIONS AND ADDITIONAL PENSION BENEFITS

35. There was an amendment to legislation on 1 July 2013 which allowed individual FRAs to decide whether the additional pay received because of a temporary promotion for 1992 and 2006 schemes was pensionable or not. Legislation means that temporary promotions within the 2015 Scheme are not pensionable.

36. HFRA took the decision to make temporary promotions within the 1992 and 2006 schemes pensionable, which meant that firefighters would now earn an Additional Pensionable Benefit (APB) whilst on Temporary Promotion.

37. Affected members were informed of this change on 5 August 2016. Members were placed in one of three cohorts according to their earliest possible retirement date.

(a) Cohort one was for members already retired

(b) Cohort two was for members who could retire within three years of the date of the notification letter (5 August 2016)

(c) Cohort three was for members with a retirement date further ahead

38. The 42 members in cohorts one and two therefore became protected members under this local arrangement and the maximum cost envelope agreed by HFRA of the estimated costs were £256,000 for lump sums and £35,700 a year for annual pensions.

39. Up to 2019/20 there had been 23 retirements and it was reported to the Board that the differences that have been paid out so far for these members were broadly in line with the estimated figures prepared in 2016; and are all still within the maximum cost envelope.

(a) Total of all lump sum differences paid are £178,128.84

(b) Annual pensions differences paid for 2019/20 are £24,663.62

40. There are a number of factors which could mean that the estimated figures might be exceeded:

(a) A different retirement date to the one used in the estimate

(b) Pay increases since 2016 to date of retirement

(c) A protected and unbroken period of temporary promotion which continues until date of retirement

(d) The increase in the commutation factors for the 1992 scheme that came into effect in October 2018

41. The Board heard that should we get close to exceeding the maximum cost envelope then further approval will need to be sought for additional funding.

<u>OTHER ITEMS</u>

42. At the July meeting, the Board received a report of the Pension Administrator. They were pleased to note that Hampshire Pension Services had performed very well during the year. The Board heard that they had once again been awarded Customer Service Excellence accreditation with compliance plus in seven areas.

FUTURE ISSUES

43. The Fire Pension Board annual report has identified considerable development across a variety of areas. The focus for the 2021/22 year includes:

    (a) Improvements to functionality of Member Portal

    (b) Work to complete the transfer of data for the Combined Fire Authority

    (c) Remedy and impact from McCloud / Sargeant judgement

    (d) Potential impact from the O'Brien judgement

CONCLUSION

44. As set out in this report, there has been continued progress across all areas of fire pensions during 2020/21; in particular around governance and control, together with significant improvements in the quality and range of pension information that is available to firefighters.

45. For 2021/22, the year will be about sustaining the continuous improvement and building on the foundations that have been put in place. It will also be a challenging year with a number of upcoming changes to the pension schemes.

46. Although the list of future issues only contains four items, the volume of work for each of these should not be underestimated. Each area will have its own complexities and challenges and having the right amount of resources in place will be key.

47. Hampshire Fire Pensions are in a good place as there is already a robust structure in place with the Employer Pension Manager and the Employer Pension Groups which are an excellent multi-departmental resource across the Shared Services partnership and they will be crucial in co-ordinating the work involved.

<u>RECOMMENDATION (to the *HIWFRA Firefighters' Pension Board)*</u>

48. That the annual report be agreed for submission to the HIWFRA Standards and Governance Committee

<u>RECOMMENDATIONS (to the *HIWFRA Standards & Governance Committee)*</u>

49. That the content of the report be noted by the HIWFRA Standards and Governance Committee

50. That feedback on previous work or future areas of priority is provided to the HIWFRA Firefighter's Pension Board by the HIWFRA Standards and Governance Committee

APPENDICES ATTACHED

51. APPENDIX A – Fire Pension Board report and Risk Review (15 July 2020), report, appendices

52. APPENDIX B - Legislation and Local Government Association (LGA) Update report (15 July 2020), report, appendices

53. APPENDIX C - Pension Administration update report (15 July 2020), report

54. APPENDIX D – Fire Pension Board report and Risk Review (8 October 2020), report, appendices

55. APPENDIX E - Legislation and Local Government Association (LGA) Update (8 October 2020), report, appendices

56. APPENDIX F – Fire Pension Board report and Risk Review (27 January 2021), report, appendices

57. APPENDIX G - Legislation and Local Government Association (LGA) Update (27 January 2021), report, appendices

58. APPENDIX H – Draft Terms of Reference for HIWFRA Pension Board and Membership (27 January 2021), report, Annexe A, Annexe B

Contact:

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Purpose: Noted

Meeting: **HIWFRA Firefighters' Pension Board**

Date: **15 APRIL 2021**

Title: **LEGISLATION AND LOCAL GOVERNMENT ASSOCIATION (LGA) UPDATE REPORT**

Report of Chief Financial Officer

SUMMARY

1. This report, together with attachments, provides the framework for the agenda item.

FPS BULLETINS

2. LGA issue a bulletin at the end of each month; there have been two bulletins issued since the last Fire Pension Board report. The bulletins are emailed out to a variety of contacts but can also be accessed via the www.fpsregs.org website.

3. Bulletins 41 and 42 can be found in APPENDICES A and B. There is a lot of information contained within these bulletins; the key items are set out below.

TPR SIX KEY PROCESSES FACTSHEET (BULLETIN 41)

4. TPR measures six key processes as key indicators of public service pension scheme performance. The six processes are:

   (a) Documented policy to manage board members conflicts of interest

   (b) Access to knowledge, understanding and skills needed to properly run the scheme

   (c) Documented procedures to assessing and managing risks

(d) Process to monitor records for accuracy / completeness

(e) Process for resolving contribution payment issues

(f) Procedures to identify, assess and report breaches of law

5. The factsheet showing a summary from the 2019 Governance and administration survey has been issued which reflects the position for all FRAs; and while some FRAs do not have all of these processes in place, it's reassuring that HIWFRA is in a good position with all six processes in place. The factsheet can be found in APPENDIX C.

PUBLIC SERVICE PENSON INDEXATION AND REVALUATION 2021 (BULLETIN 41)

6. On 12 January 2021 HMT issued a written statement confirming the Public Service Pension indexation and Revaluation for 2021. The statement can be found in APPENDIX D.

7. Public Service pensions will be increased in line with the annual increase in the Consumer Prices Index (CPI) up to September 2020. The increase from 12 April 2021 is therefore set at 0.5%.

8. The 2015 Fire Pension Scheme will use the figure of 2.4% as set out in the statement for the earnings element of the revaluation for active members to be applied at one second after midnight on 31 March 2021.

9. Hampshire Pension Services have annual processes in place to ensure that the relevant increases are applied to all active, deferred and pensioner fire records.

VALUATION (BULLETIN 42)

10. When the Government published their response to the age discrimination public services pension scheme consultation, HMT also announced the position on both the paused 2016 cost cap and the 2020 valuation.

11. The pause on the 2016 cost cap valuation has now been lifted and the Government Actuary's Department is proceeding with finalising the valuations based on the Deferred Choice Underpin (DCU) approach to removing discrimination. The Government has confirmed that by taking DCU into account, the Fire Pension Scheme would now likely breach the ceiling cost cap by more than 2%, rather than the previous estimate of breaching the floor cost cap by more than 2%.

12. If normal statutory procedures were followed, any ceiling breaches would lead to a reduction in member benefits to bring costs back to target. However, the Government have announced that it would be inappropriate to reduce member benefits at this time and the effect of any ceiling breaches on the 2016

valuation would be waived; conversely if any floor breaches are found, they will be honoured.

13. The Government has also confirmed that due to interactions with wider pension policies, in particular the McCloud remedy, completion of the 2016 valuation and the review of the cost cap control mechanism, any changes to the employer contribution rates resulting from the 2020 valuations will be delayed from April 2023 to April 2024.

SCHEDULE 22 APPEAL JUDGEMENT (BULLETIN 42)

14. On 12 February, the Employment Appeal Tribunal (EAT) gave its judgment on the FRAs appeal based on Schedule 22 of the Equality Act 2010. This 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. The EAT held that the FRAs cannot rely on the Schedule 22 defence.

15. This essentially means that FRAs have the power to be able to apply Immediate Detriment remedy to all upcoming retirements and not just to those that were claimants of the original case. HIWFRA have processes in place to determine which cases can have Immediate Detriment applied to their upcoming retirements, this is covered in more detail in the Pension Board status report.

DRAFT REMEDY DATA COLLECTION GUIDANCE (BULLETIN 42)

16. In order to credit members with their original legacy scheme membership for the remedy period, administrators will need additional data from FRAs to rebuild the final salary record. For example, an unprotected member who transitioned to the 2015 Fire Pension Scheme from the 1992 Fire Pension Scheme on 1 April 2015 and remains in employment will need a final salary record creating for the full seven years from 1 April 2015 to 31 March 2022.

17. To assist administrators and FRAs with the process of collecting data and ensure consistency where possible, LGA intend to provide a template of data items that will be required. They are currently working with the software companies to agree the required data fields and formats.

18. In the meantime, they have written a supporting document in conjunction with the Fire Communications Working Group to allow parties to identify where additional data will be required and what processes might need to be put in place to collate it. This guidance document can be found in APPENDIX E.

HMT CONSULT ON IMPLEMENTATION OF INCREASED MINIMUM PENSION AGE (BULLETIN 42)

19. The normal minimum pension age (NMPA) is the minimum age at which most pension savers can access their pensions without incurring an unauthorised payments tax charge (unless they are taking their pension due to ill-health). It is currently age 55.

20. On 11 February 2021, HMT published a consultation on implementing an increase to the NMPA from age 55 to 57 on 6 April 2028. The consultation confirms that the increase will not apply to those who are members of the Fire Pension Schemes.

RECOMMENDATION

21. That the content of the report be noted by the HIWFRA Firefighters' Pension Board

APPENDICES ATTACHED

22. APPENDIX A - FPS Bulletin 41 – January 2021
23. APPENDIX B - FPS Bulletin 42 – February 2021
24. APPENDIX C – TPR six key processes factsheet
25. APPENDIX D – HMT written statement HLWS699
26. APPENDIX E – Remedy data collection guidance

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FPS Bulletin 41 – January 2021

Welcome to issue 41 of the Firefighters' Pensions Schemes bulletin and a belated Happy New Year to all. We hope that readers remain safe and well.

Face-to-face meetings and training remain suspended due to restrictions on travel and social distancing. 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.

Contents

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 9 February 2021
Midlands regional group	9 February 2021
North East regional group	17 February 2021
Eastern regional group	18 February 2021
SAB	11 March 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:

TPR six key processes: scheme managers and LPBs to consider the six key processes factsheet, assess which they have in place and take action to address any gaps.

FPS

Age discrimination remedy consultation update

We expect that HM Treasury (HMT) will publish their response to the consultation on changes to the transitional arrangements to the 2015 public service pension schemes in early February.

In preparation, we have created a new section on the FPS regulations and guidance website for age discrimination remedy, which splits out the existing content from the earlier page under Legal Landscape. We will update the new section as more information becomes available.

Factors extended for FPS 2006 special member transfer service credits

Following an administrator request, GAD has provided the following table (Table A) to extend the conversion factors for transferred-in service credits (standard to special membership) from age 59 to age 60.

Age last birthday at relevant date	Male Conversion Factors	Female Conversion Factors
55 and under	0.700	0.710
56	0.706	0.713
57	0.716	0.721
58	0.728	0.731
59	0.740	0.740
60	0.750	0.750

The factor at age 60 should be applied in the same way as for factors at other ages. Note that the factors for ages 59 and below in the above table are unchanged from the current published table.

GAD is not aware of any exclusions which prohibit the conversion of transferred-in service credits at age 60 and this position was confirmed by the Home Office.

All factor tables and guidance notes can be found on our dedicated GAD guidance webpage.

Firefighters' Compensation Scheme

In FPS Bulletin 39 - November 2020 we commented on identifying a qualifying injury. We have received further requests regarding the FRA's position on the compensation scheme, and we offer the following points that may assist when making determinations under the compensation scheme:

- The compensation scheme is the responsibility of the employing FRA, payments from the scheme are paid from the Fire and Rescue operating account, not the notional pension account topped up by Government as per paragraphs 3.23 to 3.29 of the finance guidance.

- There have only been minor amendments to the compensation scheme rules since 2006.

- The entitlement to an injury award under the compensation scheme occurs if the infirmity is occasioned by a 'qualifying injury' [Part 2, Rule 1, sub para 1]

- 'Qualifying Injury' in defined in Part 1,Rule 7. There has only been a minor amendment to this rule by SI 2014/447 which substituted 'regular firefighter' for 'regular or retained firefighter' "references in this Scheme to a qualifying injury are references to an injury received by a person, without his own default, **in the exercise of his duties as a regular or retained firefighter**."

Click here to return to Contents

- Regular firefighter is defined in the interpretations as
  “regular firefighter” means—
  (a)a person who is employed—
  (i)by a fire and rescue authority as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter; and
  (ii)on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary;
  (b)a person who holds office as the London Fire Commissioner where the terms and conditions of appointment to that office include—
  (i)resolving operational incidents, or
  (ii)leading and supporting others in the resolution of operational incidents;”

- Retained firefighter is defined by the interpretations as
  “retained firefighter” and “retained or volunteer firefighter” mean a person employed by an authority—
  (a) as a firefighter, but not as a regular firefighter,
  (b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
  (c) otherwise than in a temporary capacity, and
  (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;”

- It is for the FRA to consider whether the qualifying injury occurred ‘**in the ‘exercise of duties’ as a ‘regular or retained firefighter**'.

- It would not be appropriate for anyone other than the employer to determine what is the exercise of duties as a firefighter; the regulatory definitions of a regular or retained firefighter do not refer to the role map, rather to their **employment** as a regular or retained firefighter.

- FRAs should take into account what the contractual arrangements for additional duties are and whether these are in the context of the existing contract as a firefighter, or whether these are contracted for separately with no reference to being employed as a firefighter. You may be aware of the employers circular FAQs Q12 regarding volunteering for additional duties “*What is the position in respect of my pension*” to which the answer is:

  “You are volunteering to assist your service's response to the pandemic, thereby agreeing to undertake a variation to your normal duties following a reasonable request by your employer. You are therefore undertaking authorised duty within the context of your existing contract and the pension scheme rules.”

January query log

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

Queries from earlier months have been grey shaded to differentiate from new items. New queries have been added under the following categories: abatement and death benefits.

FPS England SAB updates

IQMP assessments

At their meeting on 10 December 2020, the Scheme Advisory Board (SAB) discussed a paper updating Board members on medical retirements from the FPS.

The Board agreed that the paper should form a factsheet update to stakeholders on ill-health and injury retirements and that it would proceed with forming a review group for guidance.

In consideration of the question on the ability of an Independent Qualified Medical Practitioner (IQMP) to make an assessment under both the legacy and reformed schemes [paragraphs 30 to 33], the Board agreed for the secretariat to draft a statement on behalf of SAB to confirm that IQMPs may assess the same member against the criteria of multiple schemes for recognised purposes including injury awards under the compensation schemes, transitional deferred benefits, and age discrimination remedy/ immediate detriment.

This statement is included below:

"In cases of immediate detriment, some IQMPs have felt unable to make assessments under two schemes, due to wording in the scheme regulations that state the IQMP should not previously have been involved in a case for which his/her opinion has been requested, and they feel that whether the IQMP can express an opinion on both schemes simultaneously is unclear.

While the Board recognise that neither they, the LGA or the Home Office can provide a definitive interpretation of the regulations as only a court can provide a definitive interpretation of legislation, they are satisfied that the regulation wording should not prevent IQMPs from giving an opinion on both schemes, citing the example that this is currently the position for injury and ill-health retirements or deferred pension ill-health retirements, where the IQMP assesses the member under both the compensation scheme and pension scheme, or from both pension schemes for a deferred members retirement.

In consideration of the question on the ability of the IQMP to make an assessment under both the legacy and reformed schemes, the Board confirm that IQMPs may assess the same member against the criteria of multiple schemes for recognised purposes including injury awards under the compensation schemes, transitional deferred benefits, and age discrimination remedy."

Click here to return to Contents

TPR six key processes factsheet 2021

We advised readers in [FPS Bulletin 39 – November 2020] that the results of the [2019 Governance and Administration survey] had been published by the Pensions Regulator (TPR).

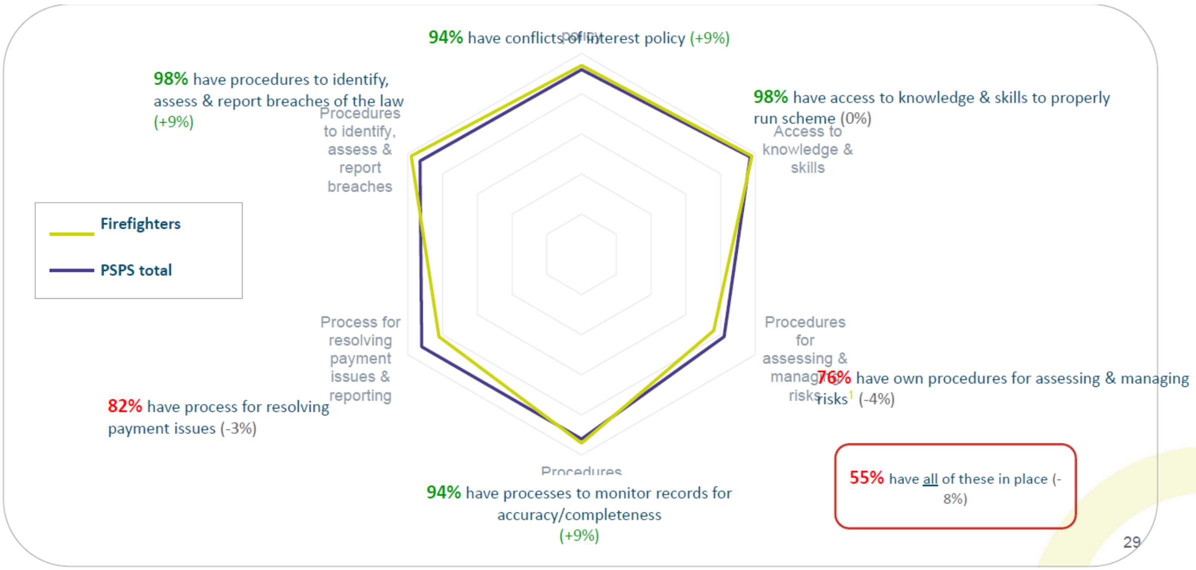
As part of the annual survey, TPR measures six processes as key indicators of public service pension scheme performance.

The six processes are:

1. Documented policy to manage board members conflicts of interest
2. Access to knowledge, understanding and skills needed to properly run the scheme
3. Documented procedures for assessing and managing risks
4. Process to monitor records for accuracy / completeness
5. Process for resolving contribution payment issues
6. Procedures to identify, assess and report breaches of the law

In 2019, 55 per cent of Firefighters' schemes across the UK reported having all six processes in place. This had reduced from 63 per cent in 2018.

Figure 1: Spider graph showing schemes' performance against the six key indicators



Source: [Local Pension Board Wrap Up Training 2020] [slide 29]

We have refreshed our [six key processes factsheet] to reflect the most recent results and give guidance to FRAs and their Local Pension Boards (LPBs) to improve understanding and compliance in the next survey.

Click here to return to Contents

SAB LPB effectiveness committee vacancy

We have a vacancy on the LPB effectiveness committee for a practitioner representative. The LPB effectiveness committee considers how local pension boards and scheme managers can be supported centrally and has been particularly active in board surveys and developing draft guidance for joint LPB applications.

This position would ideally suit an individual with an administration background who understands scheme governance and has experience of attending LPB meetings.

The required commitment is usually three to four meetings per year, although no committee meetings have taken place during the pandemic. We expect that meetings will resume as we progress through remedy and that most future meetings will be held virtually.

If you are interested in sitting on the committee or would like more information, please email bluelight.pensions@local.gov.uk.

Other News and Updates

Public Service Pension Indexation and Revaluation 2021

On 12 January 2021, HMT issued written statement HLWS699 confirming the Public Service Pension Indexation and Revaluation for 2021.

Public service pensions will be increased in line with the annual increase in the Consumer Prices Index up to September 2020. The increase from 12 April 2021 is 0.5%.

HMT has published the 2021 pensions increase multiplier tables and covering note to the GOV.UK website in advance of the Pensions Increase (Review) Order being laid.

FPS 2015 will use the figure of 2.4% as set out in the statement for the earnings element of revaluation for active members to be applied at one second after midnight on 31 March 2021.

Restriction of exit payments update

We confirmed in FPS Bulletin 39 – November 2020 that HMT had published Directions and guidance on the Exit Payments Regulations.

Just before Christmas, amended versions of these documents were published. The documents set out the obligations on individuals and employers and the waiver process for exit payments over £95,000. The new versions can be accessed below:

- Guidance on the 2020 Regulations
- HM Treasury Directions

On 21 December 2020, Lord Agnew of Oulton, Minister of State (HM Treasury), confirmed in response to a written parliamentary question on redundancy pay that employer's national insurance contributions (NICs) are not an exit payment and therefore not included when determining if the £95,000 cap has been breached.

For the latest information on exit payments in respect of FRA employees who are members of the Local Government Pension Scheme (LGPS), please see LGPC Bulletin 205 – January 2021.

The Pensions Ombudsman (TPO) stakeholder newsletter

TPO has published the latest issue of its stakeholder newsletter: Issue 10 – December 2020. The newsletter includes details of recent appointments, updates on stakeholder and customer surveys, and further enhancements to the TPO website.

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

Pensions Dashboards Programme – welcome to 2021

The Pensions Dashboards Programme (PDP) published a blog on 12 January 2021 entitled 'welcome to 2021 and brighter days ahead'. The blog outlines progress made by the PDP in 2020 and sets out milestones for the year ahead.

A significant step for the PDP will be the Pensions Schemes Bill 2019-21 passing into law. The Bill will set out high-level legislative requirements that schemes and providers must comply with. In addition, the PDP expects to start a program of procurement for the digital infrastructure needed to support dashboards.

Automatic enrolment (AE) earnings trigger annual review

The Department for Work and Pensions (DWP) published its annual review of the AE earnings trigger on 20 January 2021. The review proposes that the existing trigger of £10,000 should remain unchanged for 2021/22.

FCA publishes DB transfer advice tool

The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015 introduced the requirement for members to take independent advice where the value of their transfer value exceeds £30,000.

On 15 January 2021, the Financial Conduct Authority (FCA) published the Defined Benefit Advice Assessment Tool.

The purpose of the tool is to allow the industry to understand how the FCA assesses advice suitability given before October 2020. The FCA will publish an updated tool reflecting changes made to pension transfer permissions in October 2020 during the coming months.

Government updates Brexit pension guidance

The Government has updated the Brexit pension guidance to reflect that the State Pension will continue to be increased while the person is resident in the EU and that the transition period has ended.

Click here to return to Contents

The guidance explains the rights of UK nationals in the EU, the European Economic Area or Switzerland to benefits and pensions now that the UK has left the EU.

Events

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 9 February 2021. If you would like to join us, please email bluelight.pensions@local.gov.uk.

Useful links

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

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Click here to return to Contents

FPS Bulletin 42 – February 2021

Welcome to issue 42 of the Firefighters' Pensions Schemes bulletin. We hope that readers remain safe and well.

Face-to-face meetings and training remain suspended due to restrictions on travel and social distancing. 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.

Contents

Click here to return to Contents

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
LGA virtual annual fire conference	1 – 4 March 2021
FPS coffee and catch up	Every second Tuesday from 9 March 2021
SAB	11 March 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 should read the draft data collection guidance and consider any processes or additional resources that need to be put in place to identify the data required, in advance of the standard template being provided.

FPS

Age discrimination remedy consultation response published

On 4 February HM Treasury (HMT) published its consultation response on changes to the transitional arrangements to the 2015 public service pension schemes.

The response confirms that discrimination will be addressed in two parts.

To remove future discrimination from the schemes and ensure equal treatment, all remaining protected members who are not currently members of FPS 2015 will transfer into this scheme on 1 April 2022. This means that all future service for all members will build up in the reformed CARE scheme. Final salary benefits already built up are fully protected.

For benefits built up during the period of discrimination, 1 April 2015 to 31 March 2022, unprotected and taper members will be credited with final salary build-up in their original scheme. At retirement, all members will be able to keep their legacy final salary benefits or choose to receive the CARE benefits that they would have built up in the same period.

While we expect that transferring remaining members into FPS 2015 at 1 April 2022 will be relatively straightforward, the conversion of CARE benefits into final salary will involve complex administrative processes with adjustments of pay, contributions, tax relief, and pensions tax liabilities.

The consultation response addresses some of these issues, however, further policy decisions are needed in some areas. The Home Office will consult separately on changes needed to the Firefighters' Pension Scheme regulations to enact the remedy.

More information can be found on our age discrimination remedy implementation page.

We understand that members will have many questions about what these changes mean. At present, employers and administrators can only provide the general information that can be found in the consultation response. Until the necessary changes are made to the pension administration software systems, it will not be possible to provide estimates of benefits for members. This is likely to take some time.

Members do not need to take any action, as remedy will automatically be applied if they are eligible. The Home Office has published a list of frequently asked questions with information about scope and the decisions that the government have made.

We are working closely and at pace across the whole of the FPS sector and with government departments to support FRAs through the remedy implementation process.

Valuation

At the same time as publishing the response setting out the government's approach to removing discrimination, HMT also announced the position on both the paused 2016 cost cap valuation and the 2020 valuation, in written statement HCWS757.

2016 valuation

The pause on the 2016 cost cap valuation will now be lifted, and the Government Actuary's Department (GAD) will now proceed with finalising the valuations based on the DCU approach to removing discrimination.

The cost cap for the FPS was set as 16.8 per cent[1] as at 1 April 2015. The provisional result of the 2016 valuation before the pause was effected was a cost cap cost of 11.6 per cent[2], which was 5.2 per cent lower than the cost cap floor set in April 2015.

The current process sets out that any breach to the floor of the cost cap would see improvements to scheme benefits to bring the cost cap back within range and, conversely, any ceiling breaches would see reductions to scheme benefits. Floor breaches refer to a change in value by more than 2 per cent below the established cost cap, i.e. less than 14.8 per cent, and a ceiling breach is a change in value by more than 2 per cent above this figure, i.e. more than 18.8 per cent.

Employers are continuing to pay increased employer contributions based on improving scheme benefits because of the floor breach in the paused 2016 cost cap valuation.

The government confirmed that early estimates of the cost cap taking into account the increased value of public service schemes to members as a result of the McCloud remedy mean that on review some schemes would now breach the ceiling. For the FPS this would mean the cost cap cost once calculated would have to be above 18.8 per cent.

If normal statutory procedure were followed, any ceiling breaches would lead to a reduction in member benefits to bring costs back to target. However, the government have announced that it would be inappropriate to reduce member benefits at this time and the effect of any ceiling breaches on the 2016 valuation would be waived.

2020 valuation

In July 2020 the government announced a review to the mechanism to control the cost of public service pensions for future valuations. While this review will not affect the process of the 2016 cost cap valuation which will continue on the current mechanism, the 2020 valuation will be subject to any recommendations as a result of this review.

The Government announced in written statement HCWS757 that due to interactions with wider pension policies, in particular the implementation of the McCloud remedy reforms, completion of the 2016 valuation process and the review of the cost control mechanism, any changes to employer contribution rates resulting from the 2020 valuations will be delayed from April 2023 to April 2024.

That has the effect that employer contributions will remain at the same rate as set in the 2016 valuation until 2024. Further updates on any changes to that position will be made when information becomes available.

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[1] https://www.legislation.gov.uk/uksi/2015/465/regulation/5/made
[2] https://www.fpsregs.org/images/Valuation/Valuation2016FV.pdf [Table 3.6]

Click here to return to Contents

Transitional protections pensions claims: Schedule 22 appeal judgment

On 12 February, the Employment Appeal Tribunal (EAT) gave its judgment on the FRAs' appeal based on Schedule 22 of the Equality Act 2010. This 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. The EAT held that the FRAs cannot rely on the Schedule 22 defence.

Further information has been provided to the person nominated by each FRA to receive communications in respect of this, and related, legal cases.

The Steering Committee and legal representatives are considering whether it is appropriate to appeal the judgment.

Immediate Detriment

Following the decision of the EAT on the FRAs' schedule 22 appeal detailed above and its effect on Section 61 of the Equality Act 2010, FRAs will now want to consider their decision in relation to payments under the immediate detriment guidance, which was issued by the Home Office at the request of the Fire Brigades Union on 21 August 2020.

FRAs now need to determine whether they have the necessary information available to them to make decisions and understand the risk to their organisation. To do this they may want to consider:

1. Is the six-page note provided by the Home Office and in-house scheme knowledge sufficient to enable accurate calculations for members?

   The note from the Home Office is labelled as informal guidance only. There has been no update from HMT or the Home Office on this note since it was published in August 2020, albeit a more cautionary note was included under question 10 of the Home Office FAQs that the legislation that allows schemes to do this is limited in effect (we believe that is a reference to Section 61 of the Equality Act), which 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.

   The LGA published an immediate detriment information note for FRAs in October which gave further clarification of the technical issues yet to be commented on by the Home Office or HMT and the issues that would need to be decided by FRAs in their decision making on making any immediate detriment payments.

2. What does the local cohort of membership look like with regards to members whose calculation of benefits would be subject to policy decisions yet to be made, such as CETVs received after 1 April 2015, added pension payments, or pensions tax?

The Scheme Advisory Board (SAB) requested data from FRAs on these cohorts but only received 33 of 45 replies[3].

3. What risk is there to the member on accepting payments without key policy decisions in place, and how will the member be told of this risk?

   In considering this risk FRAs and members may wish to consider that final policy decisions have not yet been made on issues such as, how to claim tax relief on pension contributions owed, how to apply interest to contributions due, how pension tax might be calculated and paid, and what legislation is in place to deal with these issues before the pension scheme regulations are changed bearing in mind the note of caution in question 10 of the FAQs.

4. What governance might FRAs put in place to assure themselves that:

   a. The correct benefits will be paid to members

   b. Members have been satisfactorily made aware of expectations such as future payments owed due to interest being applied to contributions arrears.

   c. Necessary processes will be in place to calculate and record the payments due bearing in mind that no automated processes or systems are available for the calculations until the significant software development needed has been completed.

5. How might they record their decision making so it is clear and transparent?

   Having considered the above points, FRAs will wish to ensure they document their decision making for clarity and transparency. An assessment matrix was included with the October note to help FRAs identify whether they have all the information necessary to make a payment.

Draft remedy data collection guidance

In order to credit members with their original legacy scheme membership for the remedy period, administrators will need additional data from FRAs to rebuild the final salary record. For example, an unprotected member who transitioned to FPS 2015 from FPS 1992 on 1 April 2015 and remains in employment will need a final salary record creating for the full seven years from 1 April 2015 to 31 March 2022.

To assist administrators and FRAs with the process of collecting data and ensure consistency where possible, we intend to provide a template of data items that will be required. We are currently working with the software companies to agree the required data fields and formats. In the meantime, we have written a supporting document in conjunction with the Fire Communications Working Group (FCWG) to allow parties to identify where additional data will be required and what processes might need to be put in place to collate it.

[3] SAB 10 December 2020 - Paper 6 - Immediate detriment data

Age discrimination remedy data collection - Guidance for administrators and FRAs

FRAs should now work with their administrators to identify all eligible members and consider any processes or additional resources that need to be put in place to identify the data required, in advance of the standard template being provided.

FPS contribution rates 2021-22

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

These rates have subsequently been amended each year by an amendment order to the schemes. The most recent amendments[4] , which came into force on 1 April 2015, listed the rates applicable from 2015-2016 to 2018-2019, including contribution rates for Special Members of the Firefighters' Pension Scheme (England) 2006.

The Firefighters' Pension Scheme 2015 was introduced on 1 April 2015 by SI 2014/2848. Regulation 110 set out details rates applicable from 2015-2016 to 2018-2019.

For 2019-2020, FRAs were instructed that the 2018-2019 rates would continue to apply, due to the pause of the cost-cap mechanism. These rates will continue to apply for 2021-2022. The contribution rate factsheet reminds FRAs of the contribution rates set out in the above Regulations and Orders which will apply from 1 April 2021.

Lifetime allowance factsheet updated

The Lifetime Allowance factsheet for members has been updated in collaboration with the FCWG and is available from our website under guides and sample documents.

February query log

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

Queries from earlier months have been grey shaded to differentiate from new items. New queries have been added under the following categories: compensation scheme.

[4] SI 2015/579, SI 2015/590

Click here to return to Contents

FPS England SAB updates

SAB LPB effectiveness committee vacancy

We still have a vacancy on the LPB effectiveness committee for a practitioner representative. The LPB effectiveness committee considers how local pension boards and scheme managers can be supported centrally and has been particularly active in board surveys and developing draft guidance for joint LPB applications.

This position would ideally suit an individual with an administration background who understands scheme governance and has experience of attending LPB meetings.

The required commitment is usually three to four meetings per year, although no committee meetings have taken place during the pandemic. We expect that meetings will resume as we progress through remedy and that most future meetings will be held virtually.

If you are interested in sitting on the committee or would like more information, please email bluelight.pensions@local.gov.uk.

Other News and Updates

Exit payments cap revoked

On 12 February 2021 the government issued the Exit Payment Cap Directions 2021 which disapplied parts of the Restriction of Public Sector Exit Payments Regulations 2020 in England with immediate effect.

As the Directions disapply regulation 3, the exit cap no longer applies in England with effect from 12 February 2021.

HMT issued guidance on the Directions setting out the expectation that employers should pay the additional sums that would have been paid had the cap not applied for employees who left between 4 November 2020 and 12 February 2021.

On 25 February 2021 The Restriction of Public Sector Exit Payments (Revocation) Regulations 2021 were made and laid before parliament and will come into force on 19 March 2021. These regulations confirm the effect of the disapplication Directions made on the 12 February 2021 but are not retrospective.

The regulations contain an obligation for employers to make payments of the difference between what was paid and the exit payments that would have been payable had regulation 3 of the 2020 Regulations not been in force, to affected employees who left during the period between the original regulations coming into force (4 November 2020) and the date of the revocation regulations coming into force. As the cap was disapplied from 12 February 2021, no restricted payments should have been made after this date.

Payments made under the revocation regulations should include interest calculated in accordance with the Judgment Debts (Rate of Interest) Order 1993

As the exit cap had very limited application for the FPS, we do not believe that any relevant exits would have occurred before the cap was disapplied.

For the latest information on exit payments in respect of FRA employees who are members of the Local Government Pension Scheme (LGPS), please visit the LGPS Scheme Advisory Board public sector exit payments webpage.

HMT consult on implementation of increased normal minimum pension age

The normal minimum pension age (NMPA) is the minimum age at which most pension savers can access their pensions without incurring an unauthorised payments tax charge (unless they are taking their pension due to ill-health). It is currently age 55.

On 11 February 2021 HMT published a consultation on implementing an increase to NMPA from age 55 to age 57 on 6 April 2028. The consultation confirms that the increase will not apply to those who are members of the Firefighters' Pension Schemes [paragraph 1.12].

The consultation closes on 22 April 2021.

Pension Schemes Bill becomes law

The Pension Schemes Bill 2019/2021 was granted Royal Assent on 11 February 2021 and is now the Pension Schemes Act 2021.

The Act enhances the powers available to the Pension Regulator (TPR) to protect pension savers. On 16 February, David Fairs, Executive Director of Regulatory Policy, Analysis and Advice at TPR, published a blog examining the new provisions.

The Act also drives forward the pensions dashboards agenda, by creating a legislative framework for dashboards and paving the way for the secondary legislation that will make it mandatory for pension providers and schemes to connect to them.

Read more about the passing of the Pensions Schemes Bill and the impact on pensions dashboards on the Pensions Dashboards Programme website.

PASA publishes GMP equalisation guidance on tax issues

On 15 February 2021, the Pensions Administration Standards Association (PASA) issued GMP equalisation guidance on tax issues. The guidance highlights issues which pension schemes may encounter in adjusting benefits to correct for the inequalities of GMPs and identifies possible approaches for dealing with those issues.

Events

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 9 March 2021. If you would like to join us, please email bluelight.pensions@local.gov.uk.

LGA Annual Fire Conference March 2021

The LGA Fire Conference provides an opportunity to consider key strategic and practical developments that can be expected to impact the fire and rescue sector over the next year.

This year, the conference will be run virtually across four days from **Monday 1 March** – **Thursday 4 March** with four Zoom webinars and two interactive meeting sessions.

The session dates, timings and links to the booking webpages are below:

Fire Minister (Zoom webinar) Monday 1 March 11.00 – 12.30pm

This session will be an opportunity to hear from Lord Stephen Greenhalgh, Minister of State for Building Safety, Fire and Communities, to discuss the Government's Fire Reform Programme.

Inspection (Zoom meeting) Monday 1 March 2021, 2.00pm – 4.00pm

During this session, Sir Tom Winsor will outline his assessment of the Fire and Rescue Service, following the COVID-19 Inspections and previous State of Fire Report. We will then hear from Roy Wilsher, Chair of the NFCC and Dr Fiona Twycross, Deputy Mayor for Fire and Resilience (London), with their reflections on the future of the service.

Neurodiversity in the fire and rescue service (Zoom webinar) Tuesday 2 March 2021, 11.00am – 12.30pm

This session webinar will focus on neurodiversity in the fire and rescue service, showcasing the work that is already underway and discussing how we can build on best practice. During this session, Dr Nancy Doyle, CEO of Genius Within, will discuss what it means to be neurodiverse, and Dawn Whittaker, CFO, and Tom Glandfield, Firefighter, at East Sussex FRS, will highlight the ways in which we can improve our workplaces and ways of engaging the community to be more inclusive of people who are neurodiverse.

Building safety – Legislation (Zoom webinar) Wednesday 3 March 2021, 11.00am – 12.30pm

Building safety - Enforcement (Zoom meeting) Wednesday 3 March 2021, 2.00pm – 4.00pm

With building safety remaining the largest and most urgent challenge facing the sector, the current work regarding the Building Safety Bill and related enforcement will be explored in this session. There will also be an opportunity to attend an interactive meeting on Building Safety in the afternoon from 2.00pm- 4.00pm and you will need to book on separately for the webinar and the meeting.

Building community resilience (Zoom webinar) Thursday 4 March 2021, 11.00am – 12.30pm

COVID-19 has shaped our lives for the last year, including how our communities think and feel. This session will explore how our communities have been impacted by the pandemic, and the issues that are of key importance to them as we look at recovery, in particular climate change. Many have identified climate change as a particular concern but are unsure of their role in tackling it. This session will explore engaging with our communities on climate change and then look more specifically at the fire and rescue service role.

All of these are stand-alone sessions and therefore you will need to book a place on each session that you wish to attend. The sessions are free to attend for all councils and fire and rescue services who are in LGA membership.

If you have any questions, please contact **Catriona Coyle,** Events Manager, Phone: 020 7664 3385 / 07867 857514 Email: catriona.coyle@local.gov.uk

HMRC

HMRC newsletters/bulletins

On 3 February HMRC published Pension schemes newsletter 127 containing important updates and guidance for schemes. Articles include:

- Managing Pension Scheme service – practitioner registration and authorisation features
- Relief at source – notification of residency status reports for 2021 to 2022
- Gibraltar qualifying recognised overseas pension schemes (QROPS) – new regulations
- Pension flexibility statistics – for period 1 October 2020 to 31 December 2020

Legislation

Act	**Title**
2021 c.1	Pension Schemes Act 2021

SI	Reference title
2021/89	The Pension Schemes (Qualifying Recognised Overseas Pension Schemes) (Gibraltar) (Exclusion of Overseas Transfer Charge) Regulations 2021
2021/93	The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling) Order 2021
2021/157	The Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2021
2021/197	The Restriction of Public Sector Exit Payments (Revocation) Regulations 2021

Useful links

- The Firefighters' Pensions (England) Scheme Advisory Board
- FPS Regulations and Guidance
- Khub Firefighters Pensions Discussion Forum
- FPS1992 guidance and commentary
- The Pensions Regulator Public Service Schemes
- The Pensions Ombudsman
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Firefighters' Pensions England Scheme Advisory Board

Local Government Association

Information

The Pension Regulator – six key processes

Introduction

The Pensions Regulator (TPR) has a statutory duty for regulatory oversight under the Public Service Pensions Act 2013 and monitors six key processes as part of their annual governance and administration survey. TPR uses these key processes as indicators of public service pension scheme performance.

In 2019, two-thirds (64 per cent) of public service schemes had all six key processes in place.

For the Firefighters' Pension Scheme (FPS) across England, Wales, Scotland and Northern Ireland, 55 per cent have all six processes in place[1].

The TPR report notes that this is a decrease from 2018, which is likely due to a change to the question on assessing and managing risk. Nevertheless, the FPS had the lowest proportion of all processes in place.

Publication of the 2019 TPR research report was delayed due to the COVID-19 pandemic. The LGA surveyed Fire and Rescue Authorities (FRAs) on the impact of the pandemic on their own governance arrangements. The COVID-19 governance survey update was presented to the Scheme Advisory Board (SAB) in September 2020.

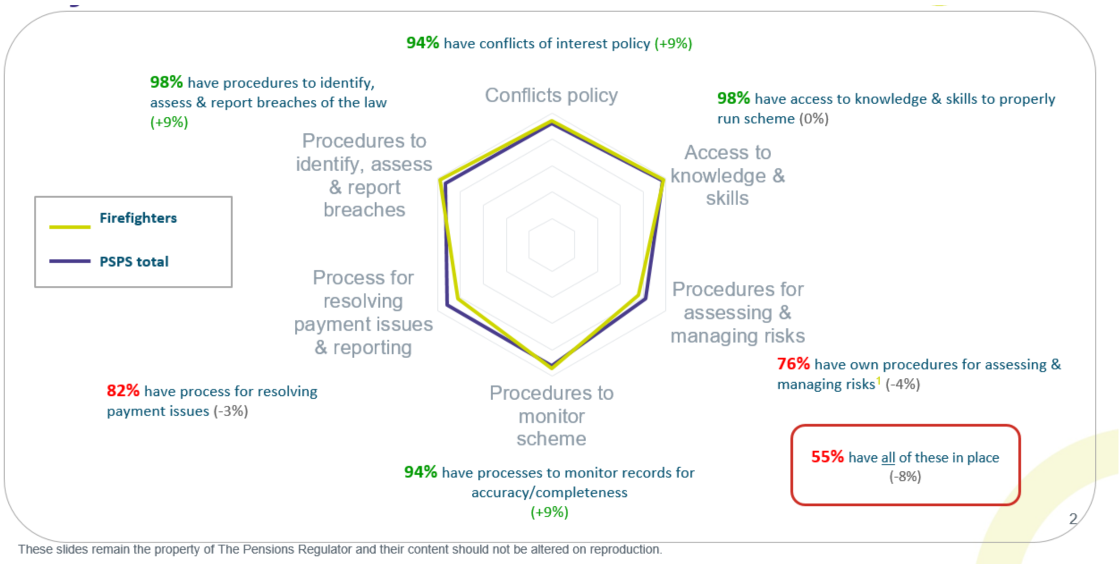
This factsheet has been updated to give further guidance to FRAs on the six key processes in order to achieve a higher rate of understanding and compliance ahead of the next survey.

[1] TPR public service research report 2019 [Paragraph 1.1]

The six processes

- Documented procedures for assessing and managing risks
- Process for resolving contribution payment issues
- Documented policy to manage board members conflicts of interest
- Process to monitor records for accuracy / completeness
- Access to knowledge, understanding and skills needed to properly run the scheme
- Procedures to identify, assess and report breaches of the law

TPR Governance and Administration survey results 2019



Source: Local Pension Board Wrap Up Training 2020 – slide 29

Historical results

	2019	2018[2]	2017[3]	2016[4]	2015[5]
Conflict of interest	94%	85%	94%	80%	78%
Knowledge and skills	98%	98%	92%	94%	36%
Risk	76%	80%	63%	44%	36%
Monitoring records	94%	85%	80%	88%	88%

[2] FPS AGM 2019 - slide 20
[3] FPS governance conference 2018 - slide 17
[4] FPS AGM 2017 - slide 29
[5] TPR public service research report 2015

Contribution issues	82%	85%	84%	68%	78%
Breaches of law	98%	89%	84%	78%	36%
All six processes in place	55%	63%	41%	-	-

There has been a clear improvement in most processes since the survey was introduced in 2015.

The decline in risk management processes in 2019 is likely to reflect an amendment to the questionnaire which asked if organisations have their 'own' documented procedures in place. The decrease was less marked for FPS than other named public service schemes.

Although the 2019 results appear to be improved in the majority of areas, performance still lags behind other public service schemes with only 55 per cent of Firefighters' schemes having all six key processes in place. The table below shows where improvement is most needed.

Process	Not in place
Risk	24%
Contribution issues	18%
Conflict of interest	6%
Monitoring records	6%
Breaches of law	2%
Knowledge and skills	2%

Each FRA should ensure that they assess which processes they have in place and take action to improve.

Documented procedures for assessing and managing risks

At the 2019 survey, 76 per cent of Firefighters' schemes reported to have documented procedures for assessing and managing risks, with a slightly higher proportion (86 per cent)[6] having a risk register in place.

TPR analysed the impact of risk registers on performance and found that schemes with a risk register in place performed significantly better in other areas. This demonstrates the importance of good internal controls as an indicator of effective governance.

	Risk register	No risk register
Have a documented policy to manage pension board members' conflicts of interest	95%	86%
Have a register of pension board members' interests	95%	86%
Held at least 4 board meetings in last 12 months	36%	0%
Evaluate knowledge, understanding and skills of the board at least annually	90%	57%
Have a succession plan for members of the pension board	55%	14%
Have documented procedures for assessing and managing risk	86%	14%
Reviewed exposure to new/existing risks at any board meetings (1+) in last 12 months	100%	57%
Completed a data review in last 12 months	90%	71%
Identified any issues in latest data review	85%	40%

 39

Source: Local Pension Board Wrap Up Training 2020 – slide 39

The SAB has recently published agreed and published its own risk register to demonstrate good practice.

Despite improved understanding of risk being reported as the top driver of improvement to governance and administration for the FPS at 57 per cent, TPR noted that Firefighters' schemes are least likely to regularly review their exposure to new and existing risks, with only 20 per cent reviewing this each quarter[7]. This is reflective of the fact that FPS boards are least likely to hold the recommended four meetings per year:

"Other' schemes were most likely to have held at least four board meetings in the previous 12 months (82% had) and Firefighters' schemes least likely (31% had)."[8]

Schemes were asked to comment on the top three governance and administration risks on their register. For the FPS these were record-keeping and securing compliance with regulatory change (both at 53 per cent) and recruitment and

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[6] TPR public service research report 2019 [Table 4.2.1]
[7] TPR public service research report 2019 [Table 4.2.4]
[8] TPR public service research report 2019 [page 2]

retention of staff or knowledge at 24 per cent[9]. Correspondingly, these issues were also identified within the top barriers to improving governance and administration: complexity of the scheme (84 per cent); volume of changes required to comply with legislation (55 per cent); recruitment, training and retention of staff and knowledge (31 per cent)[10].

It is interesting to note that while only 2 per cent of FRAs had identified the McCloud judgment (age discrimination remedy) as a risk, 51 per cent stated it was a barrier to improvement. We would encourage all FRAs to add this to their registers as we believe there is considerable risk in the following areas:

Age Discrimination: Deferred Choice Underpin

- Risk considered the biggest factor in supporting DCU
- Resources available to support immediate choice both at officer FRA level and administration
- Risk about the levels of technology and information available to support decision making
- Risk of knowledge being available
- Risk of members making wrong decisions

Despite record keeping (i.e. receipt and management of correct data) being listed by 53 per cent of respondents as the joint top risk, 94 per cent of FRA reported that they have processes in place to monitor records. Evidence would suggest that there is some lack of clarity and understanding in what is being measured when it comes to record keeping, and accuracy and completeness of data. Further commentary on this is made under monitoring records.

The risk of failure of internal controls had fallen from 22 per cent to 10 per cent in the 2019 survey. Internal controls are defined by TPR code of practice 14 [paragraph 103] as “systems, arrangements and procedures that are put in place to ensure the scheme is being run in accordance with the scheme rules” and are therefore fundamental to ensuring compliance. Schemes who identify that they have no satisfactory mitigation in place for internal controls would need to prioritise mitigating that risk. An example of a failure of internal controls is where the delegated scheme manager cannot be identified.

[9] TPR public service research report 2019 [Table 4.2.3]
[10] TPR public service research report 2019 [Table 4.9.1]

The FPS is an unfunded scheme with no investments, however, 8% of FRAs continued to list funding or investment as a risk. Relevant funding risk to the schemes could be considered as:

- Failure to deduct correct contributions from pay.
- Failure of the employer to pay contributions from the scheme.
- Failure to manage the notional pension fund correctly i.e. not abating pensions when necessary or claiming for payments under the compensation scheme.

It should be noted, that while the impact of increased employer contributions is certainly something that would be recognised by the wider FRA risk register, it is not a 'pensions' risk, and does not need to be included on pension risk registers.

Anecdotally, we understand that understanding who the risk register is for and whose responsibility it is to maintain is one of the most common problems for FRAs and Local Pension Boards (LPBs).

It is the LPB's statutory duty to assist the scheme manager in ensuring compliance[11], therefore the responsibility for risk sits with the scheme manager, and it is for the board to ensure there is suitable mitigation of risk in the form of a risk register and procedures.

In such cases where the role of scheme manager for the organisation appears to be unclear and there is no suitable delegation in place, then lack of internal controls would need to be on the risk register.

Common risk items are:
Failure to have appropriate governance arrangements in place.
Failure to ensure internal controls are in place to manage the scheme appropriately.
Failure to ensure legislation, rules and guidelines are interpreted correctly and therefore failure to secure compliance.
Failure to ensure any conflicts of interest are identified and declared in a transparent and open manner.
Failure to ensure member data is complete and accurate and is of suitable quality to be relied upon.
Failure of administration processes / occurrence of maladministration.
Failure to ensure that there timely and accurate communication arrangements in place.

[11] The Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 [Regulation 4A, Paragraph 1]

Failure to ensure an operational disaster such as significant fire or flood does not impact on the activities of the Local Pension Board or the Pension Administrators.
Failure to ensure suppliers and customers are not overcharging and creating additional liabilities against operational budgets resulting in a lack of value-for-money (VFM).
Failure to ensure occurrences of fraud and are identified and escalated within client / constituent authority.
Failure to ensure employers pay the appropriate contributions to the scheme, and that employees are contributing appropriately.
Failure to ensure there is appropriate membership of the LPB, as a result of planned or unplanned absence.
Failure to ensure the LPB is able to fulfil its information reporting requirements in terms of reporting to the Pensions Regulator and Local Government Association as well as reporting between the LPB, administrator, FRA and SAB etc.

An example risk register and other related resources are available on the LPB resources webpage. We recommend that schemes examine and update their risk registers to ensure relevant risks and current mitigations are reflected, and also ensure that risk is an agenda item for each quarterly meeting to review that the risk is still relevant and that appropriate mitigating controls are in place.

Process for resolving contribution payment issues

At the 2019 survey, 82 per cent of Firefighters' Pension Schemes reported to have a process for resolving contribution payment issues in place. This is a three-percentage point drop from 2018 but has risen significantly from 68 per cent in 2016. Ninety per cent have a process for monitoring the payment of contributions[12].

While it is recognised that contribution payment issues are more likely to be an issue for multi-employer funded schemes rather than a single employer non-funded scheme, there are several challenges that can arise for the FPS, both within business as usual processes and the forthcoming implementation of age discrimination remedy.

There should be a documented procedure for dealing with these challenges as part of the process for resolving contribution payment issues.

Business as usual

BAU processes include:
Calculation of correct Additional Pension Benefits (APBs) as per circular FPSC 02/2008.
Discretion to request a member to pay the employer contributions during absence from work due to illness, injury, trade dispute or authorised absence [Rule 111].
Employer ill-health contributions: two times pensionable pay for lower tier ill-health and four times pensionable pay for higher tier ill-health[13].
Identification of members who qualify for a contribution holiday upon reaching 30 years' pensionable service before age 50 and implementation of the holiday [Rule G2, paragraph 1B].
Monitoring contributions for a special member of FPS 2006 who is paying periodic contributions over ten years, particularly for those paying by direct debit.
Backdated pensionable pay decisions due to case law and subsequent adjustment to contributions.
Taper-protected contribution changes for both the employee and employer where a member transitions from FPS 1992 or FPS 2006 to the FPS 2015 every 56 days[14].

[12] TPR public service research report 2019 [Table 4.3.7]
[13] Guidance for Fire and Rescue Authorities on new financial arrangements for firefighter pensions with effect from April 2006 [Paragraph 3.4]
[14] Part 4 Taper Tables

Any taper-protected members going through the IQMP process before reaching their taper date to remain paying contributions at the relevant rate for their final salary scheme[15].

Age discrimination remedy

Contribution adjustments will be needed for members who change schemes as a result of remedy implementation. Depending on the outcome of the HMT consultation on removing discrimination, these adjustments will need to be made once or twice.

Adjustments needed:
Balancing contributions between FPS 1992 and FPS 2015.
Refund contributions between FPS 2006 and FPS 2015.
Contributions for temporary promotion to be treated as an APB under FPS 1992 and FPS 2006.
Additional balancing payments for CPD as an APB in FPS 1992 and FPS 2006.
Adjustment +/- for contribution holiday

[15] The Firefighters' Pension Scheme (England) (Amendment) Regulations 2017

Documented policy to manage board members' conflicts of interest

The Firefighters' schemes returned the highest score across the public sector for having a documented policy to manage board members' conflicts of interest. This has increased nine points to 94 per cent, from 85 per cent in 2018[16].

	Total schemes	Scheme Type			
		Other	Firefighters	Local Govt	Police
PSPS Survey 2019	**92%**	**73%**	**94%**	**92%**	**93%**
PSPS Survey 2018	90%	82%	85%	93%	91%
PSPS Survey 2017	92%	91%	94%	92%	91%
PSPS Survey 2016	81%	100%	80%	85%	71%
PSPS Survey 2015	85%	100%	79%	87%	86%

Under regulation 4C of the FPS 2015 regulations, the scheme manager must ensure that there is no conflict of interest upon appointment and manage any potential conflict of interest that may arise.

The Public Service Pensions Act 2013[17] confirms that a conflict does not arise by virtue of membership of the scheme or any connected scheme but "means a financial or other interest likely to prejudice the person's exercise of functions as a member of the board" [Paragraph 5.12].

Guidance on the creation and operation on LPBs produced in 2015 confirms:

"It is important to note that the issue of conflicts of interest must be considered in light of the LPB's role, which is to assist the scheme manager. The LPB does not make decisions in relation to the administration and management of the scheme: these decisions still rest with the scheme manager. As a result, it is not anticipated that significant conflicts will arise in the same way as would be the case if the board were making decisions on a regular basis. Nevertheless, steps need to be taken to identify, monitor, and manage conflicts effectively."

TPR code of practice 14 covers conflicts of interest at paragraphs 61 to 89; paragraph 89 provides examples of conflicts that may arise.

A documented policy to manage board members conflicts of interests should include how the scheme manager intends to identify, monitor, and manage conflicts and potential conflicts.

The SAB published its conflict of interest policy in January 2020.

[16] TPR public service research report 2019 [Table 4.1.1]
[17] Public Service Pensions Act 2013 [Section 5(5)]

Process to monitor records for accuracy / completeness

At the 2019 survey, 94 per cent of Firefighters' Pension Schemes reported to have a process to monitor membership types on an ongoing basis to ensure they are complete and accurate. This has also increased nine points, from 85 per cent in 2018[18].

Proportion with a process...		Total		Scheme Type			
		Schemes	Member-ships	Other	Fire-fighters	Local Govt	Police
To monitor records for all membership types on an ongoing basis to ensure they are accurate and complete	**2019**	**92%**	**97%**	**100%**	**94%**	**94%**	**82%**
	2018	91%	92%	91%	85%	95%	89%
	2017	85%	95%	100%	80%	88%	81%
	2016	89%	91%	91%	88%	90%	86%

TPR guidance on record keeping says "you should not rely on the statutory audit to tell you the quality and accuracy of your data or the controls around it. You should take an active role in monitoring data. This should be an ongoing process."

Processes for monitoring records should include:
How administrators are informed when someone joins or leaves the scheme, whether this is manually or electronically and how often.
How and when members might move from final salary into the CARE scheme.
How special members records will be kept up to date including how their options are recorded, for example whether they opted to pay by periodical contributions or lump sums.
How entitlement to certain benefits, such as APBs, two-pension award, or contribution holiday might be identified and recorded.
How and when contributions might change, for example moving into the next contribution band or tapering into FPS 2015.
Recording and reporting changes to a member's personal details, such as name and address.

[18] TPR public service research report 2019 [Table 4.3.7]

Whether someone who has a pension in payment (whether from the same FRA or another) is employed or re-employed for abatement and/ or protected pension age purposes.
In what circumstances a data improvement plan might be expected to be put into place.

Processes to monitor records are closely linked to data scoring and the processes in place for measuring accuracy.

Paragraphs 122 to 146 of code of practice 14 cover record keeping and data scoring.

We commented in the previous version of this factsheet that the findings around data processes contrasted with the research done by AON as part of the SAB administration and benchmarking project in 2018-19.

In the Aon questionnaire, some employers indicated that they sometimes experience difficulties in providing data for the administration of the scheme; in meeting expected turnaround times, providing data of required quality, not being clear on what was expected and extracting data.[19] There was also an inconsistency between the scheme specific data scores reported by employers (31 employers provided a score which gave an average of 90 per cent[20]) to the scores reported by administrators (34 administrators provided a score which gave an average of 67 per cent[21]).

As AON comment at page 61 of their report:

"Given, that the scheme is a single employer scheme, one might expect reasonably higher levels of data quality compared to a multi-employer scheme."[22]

While it can be difficult to draw definite conclusions, due to the differences in questions asked and uncertain nature of surveys, these discrepancies do seem to indicate that there is a lack of clarity and understanding in what should be measured in respect of accuracy and completeness of data. This position is supported by the limited data received from FRAs when asked to provide details of their immediate detriment age discrimination cases for the SAB.

Although the key process for TPR is the ongoing monitoring of all membership types to ensure accuracy, in order for that process to be effective TPR also measure whether there are:

[19] FPS administration and benchmarking review [Pages 35 to 37]
[20] FPS administration and benchmarking review [Page 40]
[21] FPS administration and benchmarking review [Page 19]
[22] FPS administration and benchmarking review [Page 61]

Administration and record-keeping processes:
Processes for employers to receive, check and review data [94 per cent][23]
Whether employers provide timely data [86 per cent][24]
Whether employers provide accurate and complete data [80 per cent][25]
Employers who submit data monthly [76 per cent] and electronically [90 per cent][26]

These scores have all increased between 6 to 15 per cent, with the most significant increase in the number of employers submitting data monthly and/ or electronically.

While Aon acknowledged in 2019 that administrators were largely content with the timely and accurate submission of data, they went on to state:

"There appears to be a need to consider improving how data is transferred for some administrators and FRAs given that 38% of FRAs and 32% of administrators indicated that they do not currently operate an employer self-service facility. Clearly data is not the only factors, but it may be impacting on why a third of members did not agree that they received timely responses to queries and requests."[27]

It is positive to see that more FRAs are now submitting data to their administrator on a monthly basis. The SAB recommend monthly electronic data uploads, as an automated process that takes employee data from the payroll system and uploads to the administration system and checks for tolerance matches is likely to result in more accurate data. This also allows validation and data cleansing to take place on a monthly basis and queries to be addressed in real time. However, an electronic process could also be in the form of a spreadsheet upload.

The percentage of Fire schemes undertaking an annual data review has increased year on year but is still lower than all other schemes except Police in 2019, at 88 per cent[28]. The most commonly identified data issues were incorrect or missing postcode, first line of address, or NI number[29].

[23] As above
[24] TPR public service research report 2019 [Table 4.3.9]
[25] As above
[26] TPR public service research report 2019 [Table 4.3.12]
[27] As above
[28] TPR public service research report 2019 [Table 4.5.1]
[29] TPR public service research report 2019 [Table 4.5.2]

	Total schemes	Scheme Type			
		Other	Firefighters	Local Govt	Police
PSPS Survey 2019	**92%**	**100%**	**88%**	**97%**	**82%**
PSPS Survey 2018	83%	82%	78%	93%	68%
PSPS Survey 2017	75%	100%	71%	74%	74%
PSPS Survey 2016	79%	100%	68%	83%	77%
PSPS Survey 2015	70%	58%	50%	77%	77%

Of those respondents that had identified issues, only 2 per cent stated that no data improvement plan had been developed and no work undertaken[30].

Although robust data underpins all pensions transactions, as we move through the process of implementing age discrimination remedy having a good understanding of where data is held, how accurate it is, and how to monitor, measure, and report it, is going to be more imporant than ever.

Some examples of data considerations specific to remedy are detailed below. The LGA are working with the Fire Communications Working Group on remedy data guidance and a standard data collection template.

Remedy data

Pay Data

- CARE Pay for current protected members
- Final Salary Pay for Remedy Period
  - Include any temporary promotion not pensionable in FPS 2015
  - For retained this will be actual pay and full time equivalent pay to establish service records

Service Records

- Final Salary Service Record will need re-creating
  - Maternity Leave
  - Paternity Leave
  - Parental Leave
  - Authorised Absence
- Have contributions been repaid to establish service?
- Changes to hours are recorded

Final Salary

- Would entitlement to two pensions have been established by a drop in pay?
- Temporary Promotion in FPS 2015 would be treated as APB in Final salary if appropriate discretion is in place
- CPD payments in FPS 2015 will need to be treated as APB in final salary scheme

Opt-Outs

- Dependent on consultation decision
- Eligibility Criteria needs to be established
- Data needed
- Collate all opt-outs from 1 April 2014
- Establish reason for opt-out, ie auto-enrolment

30 TPR public service research report 2019 [Table 4.5.3]

Procedures to identify, assess and report breaches of the law

At the 2019 survey, 98 per cent of Firefighters' Pension Schemes reported to have procedures both to identify and assess and report breaches of the law. Scoring against this process has increased each year that the survey has been carried out[31].

	Total schemes	Scheme Type			
		Other	Firefighters	Local Govt	Police
PSPS Survey 2019	**93%**	**100%**	**98%**	**90%**	**93%**
PSPS Survey 2018	93%	100%	89%	94%	93%
PSPS Survey 2017	90%	100%	84%	95%	84%
PSPS Survey 2016	84%	100%	78%	91%	69%
PSPS Survey 2015	53%	67%	36%	51%	73%

Paragraph 242 of code of practice 14 confirms a list of responsible bodies who are required by law to report a breach of law. This includes all parties who are involved with or have an interest in running the scheme.

A procedure for identifying, recording, and assessing breaches of law should:

1. Determine whether a breach of law has occurred
2. Record the Breach
3. Assess for materiality to TPR
4. Report to TPR if considered material

Identify and determine whether a breach of law has occurred

Breaches could be identified in a number of different ways:
Tracked under a regular board agenda item - i.e. annual benefit statements
Flagged from a LGA bulletin - e.g. guidance on two pension calculations
Reported by the pension administrator - e.g. incorrect benefits paid
Reported by the scheme manager - e.g. identification of a pension accounting error
Reported by a scheme member - e.g. pension entitlements incorrectly identified due to lack of procedures

[31] TPR public service research report 2019 [Table 4.8.1]

Record the breach

If a potential breach has been identified, both the facts and regulations need to be examined to clarify which regulation or statutory process has been breached[32]. Administrators may be able to help with this or FRAs can submit a technical query to the LGA Bluelight pensions team, who will respond confidentially to the query.

Once a breach of law has been determined, it must be recorded, whether or not it is subsequently found to be material. The breach can be recorded by completing the LGA breach assessment template and providing a copy to the LPB and scheme manager.

Assess the breach for materiality to TPR

The TPR survey results showed that in 2019, 27 per cent of Firefighters' schemes recorded breaches of law that excluded those relating to annual benefit statements. Of these, 10 per cent were reported as material[33].

Schemes should ensure that where a breach has not been assessed as material there is clear evidence of the assessment available.

TPR have published guidance on assessing materiality, which is often referred to as the traffic light system for assessing over four key categories: Cause, Effect, Reaction and Wider Implications. The breach assessment template has been developed to use in line with the TPR guidance.

	Potential investigation outcomes			
	Cause	**Effect**	**Reaction**	**Wider implications**
Red	Inadequate internal processes for issuing annual benefit statements, indicating a systemic problem	All members may have been affected	Action has not been taken to correct the breach and/or identify and tackle its cause to minimise the risk of recurrence and identify other members who may have been affected	It is highly likely that the scheme will be in breach of other legal requirements
Amber	An administrative oversight, indicating variable implementation of internal processes	A small number of members may have been affected	Action has been taken to correct the breach, but not to identify its cause and identify other members who may have been affected	It is possible that the scheme will be in breach of other legal requirements
Green	An isolated incident caused by a one off system error	Only one member appears to have been affected	Action has been taken to correct the breach, identify and tackle its cause to minimise the risk of recurrence and contact the affected member	It is unlikely that the scheme will be in breach of other legal requirements

Assessment for materiality should also consider any relevant history, i.e. have breaches occurred for the same membership type previously, and what action is being taken to ensure no further breaches occur.

An example of this is annual benefit statements for special members of FPS 2006. We understand there are relatively low numbers of special members who did not receive a benefit statement by the deadline of 31 August 2019 as the statement needed to be manually calculated and checked. Materiality cannot be determined on the low numbers alone; an assessment of materiality should include whether these

[32] TPR code of practice 14 [Paragraph 246]
[33] TPR public service research report 2019 [Figure 4.8.2]

members have previously experienced issues or delays with statements and calculations.

Report to TPR

Finally, if the breach is assessed as material it must be reported to TPR and submitted either by post or electronically using email or the exchange online service.[34]. The breach assessment template can be submitted as a record of the breach.

For further information on breaches, see:

FPS AGM 2020 Day 1 presentation by TPR [Slides 4 to 12]

TPR code of practice 01: Reporting breaches of the law.

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[34] TPR code of practice 14 [Paragraphs 263 to 271]

Access to knowledge, understanding and skills needed to properly run the scheme

At the 2019 survey, 98 per cent of Firefighters' Pension Schemes reported to have procedures to enable access to all the knowledge, understanding and skills necessary to properly run the scheme; this is unchanged from 2018. In addition, 88 per cent said they had sufficient time and resources to run the scheme properly.[35]

However, over one third of schemes (35 per cent) rated lack of resources or time as one of their top three barriers to improving scheme governance and administration. Additionally, 31 per cent cited training and retention of staff and knowledge.[36]

Paragraphs 34 to 60 of code of practice 14 cover the knowledge and understanding required by board members. TPR published a quick guide to personal development for board members in 2015 and expect the modules in the Public Service toolkit to be completed as a minimum training requirement.

A procedure for ensuring there is access to knowledge, understanding, and skills to run the scheme should include:
Confirmation of the legal requirements for board members
Relevant policies
Access to a development discussion (not mandatory) to discuss any requirements board members have to fulfil their role
Annual access to training to ensure knowledge and understanding of the responsibilities of the Scheme Manager and Local Pension Board
The scheme rules

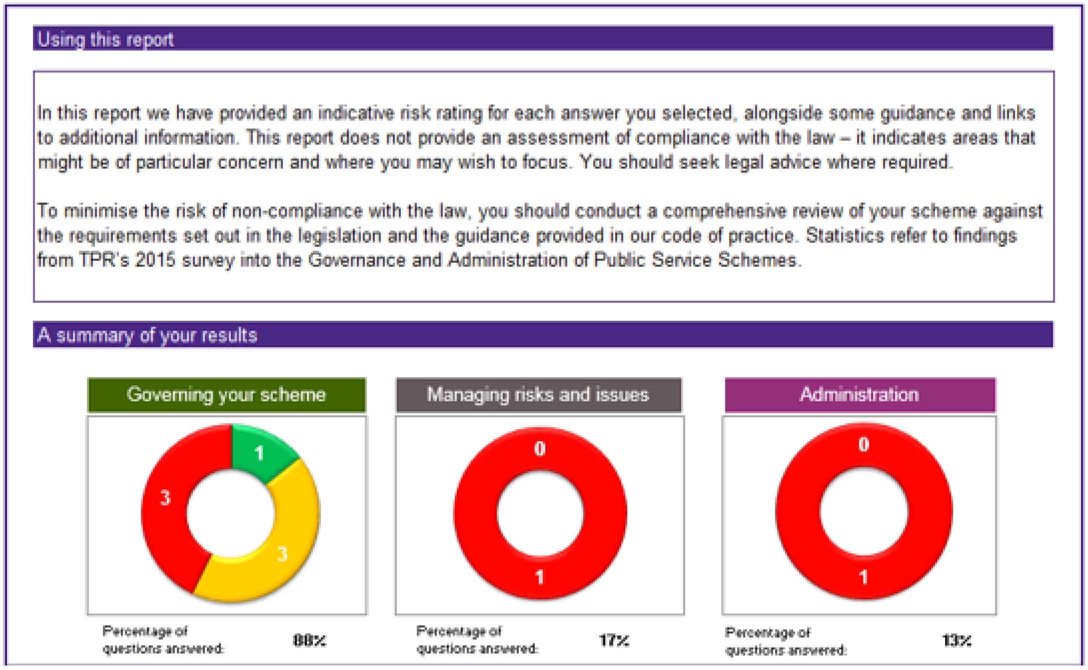
[35] TPR public service research report 2019 [Figure 4.1.4]
[36] TPR public service research report 2019 [Table 4.9.1]

TPR code of practice 14
Wider pension rules
LGA bulletins should be made available to all board members
All members should be offered an opportunity to attend national events run by LGA and sponsored by the SAB
A log of all training undertaken by board members in the form of a personal training needs analysis
An annual evaluation of skills

To assess the knowledge, understanding, and skills of the LPB, 85 per cent of scheme managers or board carry out an evaluation at least annually. Sixteen per cent evaluate on a quarterly basis.[37]

Boards need to have a robust plan to ensure that regular evaluation takes place of the skills needed to run the scheme properly, particularly for boards with a high turnover. It is also important to identify whether the skills level is split evenly or if the board relies on a particular individual as this can feed into the risk matrix.

TPR have an online tool for schemes to assess their knowledge and understanding in the following areas: governing your scheme, managing risks and issues, and administration.



[37] TPR public service research report 2019 [Figure 4.1.5]

Further Resources

- Firefighters' Pension Schemes Management and Governance Factsheet
- Scheme Manager Factsheet
- Local Pension Board Guidance, Training and Resources
- The Pensions Regulator Guidance and Resources
- Code of Practice 14
- Library of TPR Admin and Governance Surveys

This factsheet has been prepared by LGA to give guidance on the TPR six key processes and provide commentary on the TPR governance and administration survey 2019 using the regulations and TPR guidance as they stand at January 2021.

In particular we note that due to the finding of the Court of Appeal in the case of Sargeant the scheme rules may be amended. this factsheet will be amended at that time and on an annual basis, referencing any changes to the scheme and policies that might be needed.

This factsheet should not be interpreted as legal advice.

Public Service Pension Scheme Indexation and Revaluation 2021

Statement made on 12 January 2021

Statement UIN HCWS699

Statement made by

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

Statement

Public service pensions continue to be among the very best available.

Legislation governing public service pensions requires them to be increased annually by the same percentage as additional pensions (State Earnings Related Pension and State Second Pension). Public service pensions will therefore be increased from 12 April 2021 by 0.5 per cent, in line with the annual increase in the Consumer Prices Index up to September 2020, except for those public service pensions which have been in payment for less than a year, which will receive a pro-rata increase. This will ensure that public service pensions take account of increases in the cost of living and their purchasing power is maintained.

Separately, in the career average public service pension schemes introduced in 2014 and 2015, pensions in accrual are revalued annually in relation to either prices or earnings depending on the terms specified in their scheme regulations. The Public Service Pensions Act 2013 requires HMT to specify a measure of prices and of earnings to be used for revaluation by these schemes.

The prices measure is the Consumer Prices Index up to September 2020. Public service schemes which rely on a measure of prices, therefore, will use the figure of 0.5 per cent for the prices element of revaluation.

The earnings measure is the Whole Economy year on year change in Average Weekly Earnings (non-seasonally adjusted and including bonuses and arrears) up to September 2020. Public service schemes which rely on a measure of earnings, therefore, will use the figure of 2.4 per cent for the earnings element of revaluation.

Revaluation is one part of the amount of pension that members earn in a year and needs to be considered in conjunction with the amount of in-year accrual. Typically, schemes with lower revaluation will have faster accrual and therefore members will earn more pension per year. The following list shows how the main public service schemes will be affected by revaluation:

Scheme	Police	Fire	Civil Service	NHS	Teachers	LGPS	Armed Forces	Judicial
Revaluation for active member	1.75%	2.4%	0.5%	2%	2.1%	0.5%	2.4%	0.5%

Statement from

Treasury

Linked statements

This statement has also been made in the House of Lords

Treasury

Public Service Pension Scheme Indexation and Revaluation 2021

Lord Agnew of Oulton

Minister of State

Conservative, Life peer

Statement made 12 January 2021

HLWS698 Lords

Age discrimination remedy data collection - Guidance for administrators and FRAs

Contents

Background

1. On 16 July 2020, HM Treasury (HMT) published a consultation on changes to the reformed 2015 public service pension schemes in order to remove the unlawful age discrimination found by the Courts in relation to the 'transitional protection' arrangements. The consultation closed on 11 October 2020.

2. The main change proposed to rectify retrospective discrimination gives members a choice of receiving final salary (legacy) benefits or CARE (reformed) benefits for the period 1 April 2015 to 31 March 2022, or their date of leaving if earlier. This period will be known as the remedy period.

3. HMT consulted on two options as to when a member would be asked to make a choice, either within 12-18 months of 2022 (immediate choice) or at date of leaving the scheme (deferred choice underpin - DCU).

4. The outcome of the consultation as confirmed on 4 February 2021 was DCU.

5. Under DCU, all eligible FPS 2015 members will be returned to their original legacy scheme for the remedy period in 2022. This includes taper members regardless of their taper date.

6. The second part of the remedy is to remove future discrimination from the schemes by providing that all members will move to the reformed scheme (FPS 2015) from 1 April 2022.

7. All eligible members will be automatically entitled to remedy without having to make a claim. To be eligible, the member must have been in service on or before 31 March 2012 **and** on or after 1 April 2015.

8. A full background to the scheme reforms, Court processes, and documents relating to the consultation can be found on the age discrimination remedy webpage.

9. In order to return members to their original legacy scheme administrators will need additional data from Fire and Rescue Authorities (FRAs) to rebuild the final salary record. For example, an unprotected member who transitioned to FPS 2015 from FPS 1992 on 1 April 2015 and remains in employment will need a final salary record creating for the full seven-year period.

10. To assist administrators and FRAs with the process of collecting data and ensure consistency where possible, we intend to provide a template of data items that will be required for each cohort of member. This will be dependent on collaboration with the software companies to agree the required data fields and formats. In the meantime, we have written this supporting documentation which will complement the eventual template.

11. The documents have been created in conjunction with the Fire Communications Working Group (FCWG).

Identifying affected members

12. FRAs should work with their administrators to identify all eligible members.

13. Eligible members are those who were in scope for transitional protection under the original reformed schemes and includes members (or those eligible to be a member) who were in service on or before 31 March 2012 and on or after 1 April 2015, including those who had a qualifying break in service of less than five years.

14. This also includes members who have left employment since 1 April 2015.

15. The consultation also suggests that members who opted out as a consequence of the scheme reforms may be eligible to repay contributions in order to qualify for remedy. Therefore, these members should also be identified.

Identify data requirements

Pay Data

- Final Salary Pay for Remedy Period
  - Pay that is pensionable under final salary definitions that is not pensionable under CARE
    - Include any temporary promotion not pensionable in FPS 2015

Service Records

- Final Salary Service Record will need re-creating
  - Maternity Leave
  - Paternity Leave
  - Parental Leave
  - Authorised Absence
- Have contributions been repaid to establish service?
- Changes to hours are recorded
- For retained this will be actual pay and full time equivalent pay to establish service records
- CETVs and Added Pension

Benefit entitlements

- **Two pension Entitlement:** Would entitlement to two pensions have been established by a drop in pay?
- **Additional Pension Benefits (APBs)**:
  - Temporary Promotion in FPS 2015 would be treated as APB in Final salary if appropriate discretion is in place
  - CPD payments in FPS 2015 will need to be treated as APB in final salary scheme
- Pension Debits due to divorce or scheme pays

Pay

16. The final salary pensionable pay for the remedy period will require final salary actual pensionable pay for the period 1 April 2015 to 31 March 2022 or date of leaving.

17. The year-end final salary pay used for the final salary link will be stored on the member record.

18. However, consideration will need to be given to the definition of pensionable pay under the final salary scheme and whether pay under the definition of the FPS 2015 would be pensionable under the FPS 1992 or FPS 2006.

19. This will include any temporary promotion not pensionable in FPS 2015.

Final salary service record

20. As the legacy schemes are based on salary and service, all changes in hours for regular firefighters need to be correct and up to date on pension records. This is full-time to part-time, part-time to full-time, and changes as a part-time member, but isn't required for retained firefighters.

21. Additionally, any breaks in service due to periods of absence need to be recorded including:

22. Maternity, paternity, and adoption leave.

23. Authorised absence.

24. Industrial action.

25. Software suppliers have indicated that this element of work could be completed now, as facility is available within the legacy scheme records to update the hours and service break data.

26. For retained firefighters, actual and full-time equivalent reference pay will be needed to establish service records.

27. Any cash equivalent transfer values (CETVs) transferred into the FPS 2015 will need to be considered how this is converted to additional service in the legacy scheme. Schemes should now actively analyse the data to understand how many CETVs were received during the remedy period that will need converting.

28. Added pension bought during the remedy period may need to be converted to a final salary equivalent. Schemes should now actively analyse their data to understand how many members purchased added pension during the remedy period.

Benefit entitlements

Two pension awards

29. If a member has had a drop in pay since transitioning to FPS 2015, FRAs will need to establish whether they will have an entitlement to a two-pension award.

30. Pay protection is available in FPS 2015 so the administrator may already have been informed depending on current processes in place. If not, then all affected members will need to be identified.

Additional Pension Benefits (APBs)

31. Any FRA who treats temporary promotion as pensionable in the final salary scheme will need to identify members with a temporary promotion since transition to FPS 2015.

32. They will need to assess the notional pension contributions which apply to this additional temporary pay so that the pensions administrator can calculate the APB to be awarded to these members.

33. Members of FPS 2015 who have been receiving Continual Professional Development (CPD) as part of their CARE pay will also need an assessment of notional pension contributions so that the pensions administrator can calculate the CPD APB due.

Pension Debits

34. Any debits on the pension record for the remedy period, such as scheme pays or divorce, which will affect the value of the benefit at entitlement will need to be re-calculated as a debit to the final salary pension.

35. Schemes should now actively analyse their data to understand how many members have a pension debit for the remedy period on their record.

Optant outs

36. The HMT consultation response indicates that members who can evidence that they opted out as a direct consequence of scheme reform may be able to repay contributions in order to qualify for remedy.

37. The SAB recommended in their response that any option to re-join is time-limited and is based on the effective date of the opt-out, rather than a member needing to provide evidence. The [election to opt-out form] has a section to complete on reason for opting out with transfer to FPS 2015 as an option, but this is not believed to be widely completed.

38. The government has committed to undertaking further work with schemes to agree central guidance on handling cases, however, we believe that this will be relatively high level and decision making is likely to be remain with individual schemes. We cannot therefore comment on a prospective date range with any degree of certainty and the suggestions given below are purely indicative.

39. As a starting point, we suggest that initially FRAs collate opt-out data between 1 April 2015 to date, and disregard any who have opted out as part of auto-enrolment or re-enrolment exercises. This will capture any members who were due to taper into FPS 2015 after 1 April 2015 but opted out instead.

40. While tapering continues in the absence of amending legislation, opt outs should continue to be monitored and recorded.

41. There is an argument to suggest that the starting point should be retrospective to 1 April 2012, as this is the qualifying date for eligibility to remedy. We recommend that FRAs agree a date based on their resource and capacity for risk and communicate this date to their administrator.

42. It is important to note that whatever date is agreed, whether that is centrally or locally, individuals may be asked to provide some form of evidence or confirmation that they opted out as a direct consequence of scheme reform, and in all cases payment of backdated contributions (with interest) will be due.

Contributions schedule

43. The contributions schedule will include arrears for FPS 1992 or FPS 2006 special members as the contributions due for these members are higher than those paid while a member of FPS 2015:

44. Difference between main scheme contributions.

45. Additional contributions to treat service breaks as pensionable. (Difference between reformed and legacy scheme).

46. Additional payments for temporary promotion to be treated as an APB.

47. Additional payments for CPD APBs (difference between reformed and legacy scheme).

48. Adjustments if member is eligible for a contributions holiday.

49. Members reverting from FPS 2015 to FPS 2006 as a standard member will be owed a contribution refund.

50. It is not yet known how HMT plan to manage these contribution adjustments.

51. It is recommended that the data required to correct the contribution position is requested now from payroll departments so that FRAs and administrators are in a strong position to implement remedy from 2022 and beyond.

Contributions holiday

52. There may be members who will become eligible for a contributions holiday under legacy scheme rules upon reverting back to FPS 1992 for the remedy period. This affects members of FPS 1992 who attain 30 years' pensionable service before age 50. For the period between 30 years and age 50 their service counts in full but they don't pay employee pension contributions. The employer contributions will be paid as normal.

53. FRAs will need to calculate the amount of the contribution refund.

54. Further information and resources can be found on the password-protected contributions holiday webpage. Please email bluelight.pensions@local.gov.uk for log-in details.

55. Schemes should now actively analyse their data, in order to establish a list of members who will potentially be affected.

FAQs for employers

Why is the data collection exercise necessary?

56. The government has confirmed that changes will be made to all public service pension schemes to remove the unlawful age discrimination identified by the Courts.

57. The government has confirmed that under the DCU, effective by October 2023, all eligible members must be retrospectively returned to legacy schemes for the period from 1 April 2015 to 31 March 2022, or the date they left the scheme.

58. To maintain those final salary records for the remedy period, the administrator will need additional data.

Do I have to provide the data?

59. The data will be needed to comply with legislative changes that will be made to the FPS. You are required to provide your administrator with the information they need to calculate member's benefits.

How do I submit the data?

60. You should use the data collection template to help you collate the required data. Please check with your administrator whether data such as CARE pay needs to be in a certain format. Once you have collected all the required information, submit the completed return to your administrator via your usual means.

Do I have to submit data for employees who have left?

61. If the individual has membership from 1 April 2015, data will need to be submitted for them to make a choice, even if they are no longer employed.

Is there a deadline for submitting the data?

62. As remedy period data will be needed up to 31 March 2022, we propose that data is collated up to 31 March 2021 by each FRA and submitted after this date. A reasonable deadline for submission would be 30 September 2021.

63. FRAs could then submit data for the remaining 12 months at the end of that scheme year in line with annual postings, or each month where monthly postings are in operation.

64. These timescales are however dependent on timely provision of the standard data collection template.

What happens if I cannot supply the data?

65. Please contact your administrator if you are having difficulties obtaining the required data.

Challenges and recommendations

66. Additional resourcing may be required to implement remedy. Some FRAs have a project team in place already including finance, HR, payroll and pension colleagues, and are holding working group meetings.

67. It is suggested that each FRA nominate a remedy lead as the main point of contact for their administrator and the LGA during this time.

68. Some data elements will inevitably be more challenging to collect than others and may be held in varying ways and by different parties, requiring additional collaboration. Some items, such as pensionable pay, may require analysis and judgement-based decision making. FRAs are therefore likely to be heavily reliant on internal processes in collating the required data, and responsibility for data collection and submission should be clearly defined in advance.

69. It is possible that there will be an order of priority for retrospective cases to be addressed. Membership could be further split into cohorts for collating data if this would be helpful e.g. active, deferred, pensioner.

70. The requirement to keep payroll records is six years plus current. If an FRA has changed payroll provider since 1 April 2015 it will need to be established if data has been retained or can be recovered. Data retention may have been agreed as part of the transfer.

71. If a member has transferred from another service, the current FRA will need to contact the previous FRA to request the relevant data. FRAs should check that data can be shared inter-brigade under data protection rules.

72. Central assumptions may need to be agreed for where data cannot be obtained. However, an FRA will need to robustly evidence where they are unable to obtain data required.

73. While it would be helpful to prepare data in a format that can be validated for upload, current validations in place may reject data for members who are no longer active. Administrators will need to be mindful of this and make any adjustments necessary.

Hampshire & Isle of Wight FIRE & RESCUE AUTHORITY

Purpose: Noted

Meeting: **HIWFRA Firefighters' Pension Board**

Date: **15 APRIL 2021**

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

Report of Chief Financial Officer

STATUTORY REPORTING

1. The Accounting for Tax (AFT) for quarter 3 2020/21 and the Event reports for 2019/20 were submitted and paid to HMRC on 18 January 2021. The table below shows the breakdown of the payments made.

Type of payment	Number of members	Amount paid
AFT - Annual Allowance tax charge	9	£139,941
Event 1 – Unauthorised payment tax charge	15	£85,552
Total paid to HMRC		**£225,493**

TEMPORARY PROMOTION COSTINGS

2. The Board will recall how HFRA made a local decision regarding temporary promotions and their treatment for different cohorts of employees when we initially wrote to all affected members in August 2016.

3. Cohort 1 was made up of members that had already retired, and Cohort 2 was made up of members who had the potential of an earliest retirement date within three years of August 2016.

4. Members in cohorts 1 & 2 are protected members and as this was a local decision, any differences in their actual benefits (based on temporary promotion pay) v their legislative benefits (based on an Additional Pension

Benefit (APB) and substantive pay) must be paid for by HIWFRA and not the Home Office.

5. An APB is calculated using the contributions paid on the additional pay received because of the temporary promotion and dividing it by a Government Actuary factor based on the member's age. This provides an amount which is paid in addition to the normal annual pension.

6. The maximum cost envelope as agreed by HFRA of the estimated costs for the 41 protected members in cohorts 1 and 2 were £256,000 for lump sums and £35,700 a year for annual pensions.

Tax year	**Number of retirements**	**Additional lump sums paid**	**Additional annual pension paid**
2015/16	1	£22,491.88	£562.30
2016/17	5	£45,417.12	£7,406.19
2017/18	3	£22,788.87	£12,810.35
2018/19	5	£40,461.95	£16,285.51
2019/20	9	£46,969.02	£24,663.62
2020/21	6	£66,459.90	£32,138.95
Total	**29**	**£244,588.75**	**£32,138.95**

7. Of the differences that have been paid out so far for the 29 members across both cohorts, most are broadly in line with the estimated figures prepared in 2016 and are all still within the maximum cost envelope.

    (a) Total of all lump sum differences paid are £244,588.75

    (b) Annual pensions differences paid for 2020/21 are £32,138.95

8. The remaining 12 members are still in employment and could retire at any point. There are a number of factors which could mean that the estimated figures might be exceeded:

    (a) A different retirement date to the one used in the estimate

    (b) Pay increases since 2016 to date of retirement

    (c) A protected and unbroken period of temporary promotion which continues until date of retirement

    (d) The increase in the commutation factors for the 1992 scheme that came into effect in October 2018.

9. Out of the remaining members, it is anticipated that only three will be affected due to the others being permanently promoted or where the temporary promotion has ceased and the current pay has now exceeded any temporary promotion pay.

10. Two retirements in 2020/21 had significantly different retirement figures when compared to the estimates calculated in 2016. Overall, this made a difference of approx. £48,000 on the lump sum and £9,000 in annual pension. These variances were mainly due to the fact that the temporary promotion pay had increased significantly due to career grade progression, and the difference to the substantive grade was therefore greatly increased.

11. These variances, which could not have been anticipated when calculated in 2016, now mean that we are likely to exceed the cost cap envelope initially agreed by HFRA.

12. Based on revised estimates for the remaining three affected members and to ensure that the future provision is accounted for, we will be seeking approval from the Fire Authority to increase the cost cap envelope as follows:

    (a) For lump sums from £256,000 to £291,000 (increase of £35,000)

    (b) For annual pensions from £35,700 to £38,700 (increase of £3,000)

COMMUNICATION

13. Since the last Board meeting, there has been one online pre-retirement presentation and two online presentations to new recruits. All three presentations were well received and although not the same as in person meetings, there was still a lot of interaction and generally they worked well.

MEETINGS

14. The Employer Pension Manager has continued to attend the fortnightly “coffee mornings” put on by the LGA. She has also attended the Fire Communications Working group and the Fire Technical group, which are both national meetings. All of these are hosted by the LGA and have been online meetings.

15. The Employer Pension Manager has also recently been appointed to the practitioner vacancy on the Local Pension Board Effectiveness committee; this is one of three sub committees that the Fire SAB has in place.

MEMBER PORTAL

16. There is a very slight increase in members registered on the Pensions Member Portal from the last Board meeting. Firefighters now registered stand at 38% of active membership.

17. A breakdown of those registered split by age groups are shown in the table below:

Pension online registration numbers as at 23/03/2021							
Number of actives per age range							
HFRA FPS	**under 30**	**30-40**	**40-50**	**50-55**	**55-65**	**65+**	**Total**
Registered	19	67	148	88	42	0	**364**
Not registered	96	197	187	73	43	2	**598**
Total	**115**	**264**	**335**	**161**	**85**	**2**	**962**
Percentage of all actives per age range							
HFRA FPS	**under 30**	**30-40**	**40-50**	**50-55**	**55-65**	**65+**	**Total**
Registered	2%	7%	15%	9%	4%	0%	38%
Not registered	10%	20%	19%	8%	4%	0%	62%
Total	12%	27%	34%	17%	8%	0%	100%

COMBINED FIRE AUTHORITY (CFA)

18. At the point of transfer there was one member from IWFRS who was on a temporary promotion. The member was an RDS scheme member and therefore the impact of making his temporary promotion pensionable is not considered to be significant. The Employer Pension Manager wrote to the member and advised them of the changes that this would mean to their deductions and net pay.

19. There were 22 members that were paying their arrears of contributions for the 2006 Modified Fire Pension Scheme at the point of transfer. These members were paying by Standing Order to IWC. The Employer Pension Manager wrote to all the members and asked them to cancel their payments to IWC after their March payment had been made. They were asked to complete a Direct Debit Mandate form to set up the new payments from April 2021 with the Hampshire County Council finance team.

20. There will need to be an audit of the contributions that have been paid to IWC as there are some discrepancies over what has been paid. This will be done when the final information has been sent from IWC. The members have been informed that they will be contacted about any discrepancies in early summer.

21. The test data load and parallel pension payroll running went smoothly with only a handful of issues that have all since been resolved. The live data cut for pensions data will be loaded into UPM, the pension administration system, at the end of March 2021.

22. Fire Pension Scheme membership being transferred from IOW is as follows:

Member status	Number of members
Active	114
Deferred	115
Pensioner and beneficiary	130
Total	**359**

PENSION BOARD MEMBERSHIP

23. Due to the new Combined Fire Authority of the Hampshire and Isle of Wight Fire and Rescue Authority (HIWFRA) coming into effect from 1 April 2021, the Pension Board has been increased in membership from six members to eight members. We welcome two new members, Ross Singleton and Sean Harrison to the new HIWFRA Fire Pension Board.

24. Having a strengthened Pension Board at this time will prove invaluable as the next few years are likely to be quite challenging for pension administration.

TPR ADMIN SURVEY

25. Each year The Pension Regulator issues a Public Service Governance and Administration survey to be completed. The Employer Pension Manager sent this to all Pension Board members for their comments and the final version was submitted by the deadline on 12 February 2021. This can be found in APPENDIX A.

RISK REVIEW

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

RISK REGISTER

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

McCLOUD / SARGEANT REMEDY

28. The Government published their response to the Unfunded Public Service Pension Scheme consultation on 4 February 2021. This can be found in

APPENDIX C. The response allowed us to put out some initial comms to members with four main points:

(a) Members with 1992 benefits, will still be able to retire and receive their 1992 portion of benefits when they expect to, e.g. age 50 with at least 25 years' service, age 55 etc. Meaning that you do not need to retire on or before 31 March 2022 to receive your 1992 scheme benefits

(b) To remove discrimination going forward, all members regardless of current protection status, will move to the 2015 scheme from 1 April 2022

(c) Between April 2022 and 1 October 2023, active members will have their relevant membership moved to their "legacy scheme" for the remedy period (1 April 2015 to 31 March 2022). Implementation will involve many retrospective actions for each member that will need to be carried out

(d) All members will be able to make a choice about their benefits at the point that they retire – Deferred Choice Underpin (DCU)

29. The message also made it clear that it was not possible to provide estimates with remedy to members and also provided a link to a Home Office issued FAQ document which can be found in APPENDIX D.

McCLOUD - PROJECT

30. As the Board will be aware, we have Employer Pension Groups that have been running for some time. These will continue to pick up pension issues, but we have formed a new separate McCloud remedy group. This is combined for all partners and schemes and has representatives from Hampshire Pension Services, IBC Pensions Admin, HR and finance so that we can collectively manage the approach and workloads for McCloud. The first meeting of this group is on 22 April 2021.

31. An initial high level report has been written and covers the work plan and costings for the first six months of 2021/22. This includes all work that the Hampshire Pension Services will need to carry out and therefore covers the Local Government, Police and Fire Pension Schemes. The resources and costings will be reviewed each quarter to ensure that we have adequate allocations where necessary.

32. The report highlights that for the Fire Pension Schemes, there is a lot of data that needs to be collected for the remedy period 1 April 2015 to 31 March 2022. Some of this will be particularly complex, specifically around correctly identifying whether allowances are pensionable or not and the correct pay information around temporary promotions.

33. When the data has been collected and passed to Hampshire Pension Services it will then need to be uploaded onto each member's record and this is going to present its own challenges and difficulties.

34. Due to the complexities of the Police and Fire Pension Schemes, it takes approximately six months to adequately train a member of staff. A new appointment has been made into the Police and Fire Team within Member Services, with a view to being able to release a more experienced member of the team to deal with McCloud remedy work as the project progresses.

35. For the first six months of 2020/21 we have estimated the percentage of time that each of the team would spend on McCloud remedy work; and specifically of that how much would be on Police and Fire Schemes. We have then split the Police and Fire costs between each partner, and we have attributed 35% of this cost to HIWFRA. The indicative Police and Fire costs are shown in the table below.

POLICE AND FIRE	**Financial Year 2021/22**		**Financial Year 2021/22**		
% of costs for Police and Fire Schemes split by partner	**Q1 % split of costs**	**Q1 Costs**	**Q2 % split of costs**	**Q2 Costs**	**Total Q1 and Q2**
POLICE					
Hampshire Constabulary	47.0%	£ 4,786.94	47.0%	£ 5,516.90	**£ 10,303.84**
Police Total	**47.0%**	**£ 4,786.94**	**47.0%**	**£ 5,516.90**	**£ 10,303.84**
FIRE					
Hampshire & IOW Fire Authority	35.0%	£ 3,564.74	35.0%	£ 4,108.33	**£ 7,673.07**
West Sussex Fire Authority	18.0%	£ 1,833.29	18.0%	£ 2,112.86	**£ 3,946.15**
Fire Total	**53.0%**	**£ 5,398.03**	**53.0%**	**£ 6,221.19**	**£ 11,619.22**
POLICE AND FIRE TOTAL	**100.0%**	**£ 10,184.97**	**100.0%**	**£ 11,738.09**	**£ 21,923.06**

<u>McCLOUD – IMMEDIATE DETRIMENT</u>

36. The Board will recall from the last Board meeting that it was agreed that Immediate Detriment would be considered on a case by case basis, with three main points, we can now provide an update as the situation has changed:

(a) The outcome to the latest EAT hearing stated that FRAs do have the legal powers to provide Immediate Detriment to all members that are retiring, rather than just claimants of the original case

(b) The wording for the waiver the member has to sign has not yet been received from HMT and we have no timescales for this. We have received a disclaimer from West Midlands Police and Hampshire Constabulary have assessed the suitability of this with their legal team and deemed it to be suitable. It is therefore proposed that HIWFRA use the same disclaimer. This can be found in APPENDIX E.

(c) The pension case must be clear and straight forward. This will be determined by the completion of a matrix with input from both the IBC Pensions Administration Team and Hampshire Pension Services, with the ultimate decision resting with the employer

37. The Employer Pension Manager has been working with Hampshire Pension Services and the IBC Pensions Administration Team and a process for assessing these cases has been agreed. This can be found in APPENDIX F.

38. Where Immediate Detriment can be offered and it is approved, a letter is sent to the member outlining things that they will need to consider and asking them to confirm if they wish to proceed using Immediate Detriment or not. This can be found in APPENDIX G.

39. Where Immediate Detriment cannot be offered or is not approved, a letter is sent to the member notifying them of the decision with an explanation of why Immediate Detriment cannot be offered to them.

40. Whilst this assessment can be made at the point of retirement, it can be done prior to this and we have therefore recently issued a further comms message to ask members that are intending to retire in the next year to contact us. This will enable us to go through the initial assessment phase well before their retirement, enabling us to notify members of the decision and advise them of the timescales involved.

41. One of the main issues with Immediate Detriment is that the collection of data and all the associated calculations to provide two sets of information, one based on legacy benefits and one based on reformed benefits for the remedy period all has to be done manually and there is very little guidance for some scenarios. This means that it takes between two and three months to be able to provide this information to the member.

42. At this time, with the resources and guidance available, we are only able to provide this information once at the point of retirement. The process of collating the data and performing the calculations will only start at the point when the member has declared their intent to retire and two things have happened:

   (a) the member has handed in their resignation and their line manager has made them a leaver in the SAP portal; and

   (b) the member has completed and submitted their retirement declaration form, this can be no earlier than three months prior to retirement

43. We have so far assessed seven cases for Immediate Detriment and found them to be clear and straight forward. The first case where Immediate Detriment will be applied to a retirement is due at the end of April. We expect to have more of these cases arise over the next several months.

COMMUNICATION PLAN

44. It would be useful for the Board to provide their views on a communication plan and whether we should target specific groups and use Routine Notice, global email or other communication tools. It would also be helpful for the Board to consider appropriate timescales for these messages.

45. For instance, we may want to consider different messaging to current Protected members because if they remain in the employment and in the scheme after 31 March 2022, then they will be moved into the 2015 Scheme from 1 April 2022. It will be important to ensure that they understand those changes and how it may impact the calculation of their benefits. It is possible that they may not have paid any attention to the 2015 Fire Pension Scheme previously as it did not concern them.

46. The active and pensioner member numbers in the table below provides a snapshot as at the time of writing the report of those that are affected by remedy, (this excludes any Isle of Wight membership data as this was not available at the time of writing the report). This has been split by the member's legacy scheme and their current protection status.

	Protected Members		Tapered members		Unprotected members		Legacy Scheme
Legacy Scheme	**Active**	**Pensioners**	**Active**	**Pensioners**	**Active**	**Pensioners**	**Total**
1992	40	99	75	45	205	0	**464**
2006	11	14	31	8	336	2	**402**
2006 Modified	13	19	9	0	7	0	**48**
TOTAL	**64**	**132**	**115**	**53**	**548**	**2**	**914**

47. The 187 pensioner members have all left on or after 1 April 2015 and based on current Immediate Detriment guidance, these cases cannot be dealt with and will have to wait until all the legislation is in place. This will be some point after April 2022. Hampshire Pension Services will contact each of these members and they will be provided with their remedy calculations and will be asked to make their choice at that time.

48. There are 663 members that are current active members with either Tapered or Unprotected status, some of these may well retire in the next 12 to 18 months, but for those that remain active on 1 April 2022, the Deferred Choice Underpin will be implemented by 1 October 2023 and this will involve moving all these active members back to their legacy scheme for the whole of the remedy period and resolving all the associated work with that, i.e. member and employer pension contributions, contribution holidays, Annual Allowance, CPD payments, temporary promotions, etc.

49. Also from 1 April 2022, we will have to move any of the 64 Protected members that are still active into the 2015 Fire Pension Scheme.

RECOMMENDATION

50. That the content of the report be noted by the HIWFRA Firefighters' Pension Board

51. That Risk Register as set out in paragraphs 26-27 and Appendix B be approved by the HIWFRA Firefighters' Pension Board

APPENDICES ATTACHED

52. APPENDIX A – TPR Administration survey
53. APPENDIX B – Risk Register
54. APPENDIX C – Government response to the consultation
55. APPENDIX D – Home Office FAQ document
56. APPENDIX E – Disclaimer
57. APPENDIX F – Immediate Detriment process
58. APPENDIX G – Letter to member about Immediate Detriment offer

Contact:

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0370 779 2790

Public Service Governance and Administration Survey 2020

The Pensions Regulator

Introduction

Thank you for taking the time to complete this survey.

Please answer the questions in relation to the following scheme:

FIREFIGHTERS PENSION SCHEME 2015 - HAMPSHIRE

Within the survey all references to 'the scheme' refer to the above. Where the scheme is locally administered, we mean the sub-scheme or fund administered by the local scheme manager.

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

If you would like to print out a hard copy of this questionnaire to help you when collecting information from colleagues, please click here*. Please note, however, that we need you to complete the questionnaire through this online survey and not by filling in a hard copy.

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

There is a space at the end of the survey to add comments about your answeres where you feel this would be useful. There is also an option to print/save your responses before submitting them.

** In some internet browsers you may need to right click on the link and select 'open in new tab/window' to download the file*

Please click the arrow below to continue to the questionnaire.

Section A - Governance

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

A1 Focusing on the scheme's pension board meetings in the last 12 months, please tell us the following:

Please include any board meetings that were held remotely (e.g. via teleconference or online meeting software)

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

a) Number of board meetings that were scheduled to take place (in the last 12 months)

4

b) Number of board meetings that actually took place (in the last 12 months)

4

c) Number of board meetings that were attended by the scheme manager or their representative (in the last 12 months)

4

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

A2 Thinking about the 4 pension board meetings that took place, was this more, the same or less than in the previous 12 month period?

- ○ More
- ◉ Same
- ○ Less
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

A3 Do the scheme manager and pension board have sufficient time and resources to run the scheme properly?

- ◉ Yes
- ○ No
- ○ Don't know

A4 Do the scheme manager and pension board have access to all the knowledge, understanding and skills necessary to properly run the scheme?

- ◉ Yes
- ○ No
- ○ Don't know

A5 How often does the scheme manager or pension board carry out an evaluation of the knowledge, understanding and skills of the board as a whole in relation to running the scheme?

- ○ At least monthly
- ○ At least quarterly
- ○ At least every six months
- ◉ At least annually
- ○ Less frequently
- ○ Never
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

A6 On average, how many hours of training per year does each pension board member have in relation to their role on the pension board?

Please write in the number in the box below

[2] hours per year

A7 Does the pension board believe that in the last 12 months it has had access to all the information about the operation of the scheme it has needed to fulfil its functions?

- ◉ Yes
- ○ No
- ○ Don't know

A8 Is the pension board able to obtain sufficient specialist advice on cyber security when it needs to?

- ◉ Yes
- ○ No
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

A9 Focusing on the composition of your pension board, please tell us the following:

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

a) Number of current board members

6

b) Number of vacant positions on the board

0

c) Number of members that have left the board in the last 12 months

1

d) Number of members that have been appointed to the board in the last 12 months

1

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

A10 Does the scheme have a succession plan in place for the members of the pension board?

- (●) Yes
- ( ) No
- ( ) Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section B - Managing Risks

The next set of questions is about managing risks.

B1 Does your scheme have any of the following?

Please select one answer per row

	Yes	No	Don't know
a) Its own documented procedures for assessing and managing risk *(please select 'No' if your scheme relies on your local authority's documented procedures for assessing and managing risk)*	●	○	○
b) A documented policy to manage the pension board members' conflicts of interest	●	○	○
c) Processes to monitor records for all membership types on an ongoing basis to ensure they are accurate and complete	●	○	○
d) A process for monitoring the payment of contributions	●	○	○
e) A process for resolving contribution payment issues	●	○	○
f) Procedures to identify breaches of the law	●	○	○
g) Procedures to assess breaches of the law and report these to TPR if required	●	○	○

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

B2 When were these last reviewed by the scheme manager or pension board?

Please select one answer per row

	In the last 12 months	More than 12 months ago but less than 3 years ago	More than 3 years ago	Never been reviewed	Don't know
a) The scheme's own documented procedures for assessing and managing risk	◉	○	○	○	○
b) The documented policy to manage the pension board members' conflicts of interest	○	◉	○	○	○
c) The processes to monitor records for all membership types on an ongoing basis to ensure they are accurate and complete	◉	○	○	○	○
d) The process for monitoring the payment of contributions	○	◉	○	○	○
e) The process for resolving contribution payment issues	○	◉	○	○	○
f) The procedures to identify breaches of the law	○	◉	○	○	○
g) The procedures to assess breaches of the law and report these to TPR if required	○	◉	○	○	○

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

B3 Does your scheme have its own risk register?

Please select 'No' if your scheme relies on your local authority's risk register.

◉ Yes
○ No
○ Don't know

B4 In the last 12 months, how many of the 4 pension board meetings reviewed the scheme's exposure to new and existing risks?

Please write in the number in the box below

4

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

B5 To what do the top <u>three</u> governance and administration risks on your risk register relate?

Please select up to three options below

- [ ] Funding or investment
- [x] Record keeping (i.e. the receipt and management of correct data)
- [ ] Guaranteed Minimum Pension (GMP) reconciliation
- [x] Securing compliance with changes in scheme regulations
- [ ] Production of annual benefit statements
- [ ] Receiving contributions from the employer(s)
- [ ] Lack of resources/time
- [ ] Recruitment and retention of staff or knowledge
- [ ] Lack of knowledge, effectiveness or leadership among key personnel
- [ ] Poor communications between key personnel (board, scheme manager, administrator, etc.)
- [ ] Failure of internal controls
- [ ] Systems failures (IT, payroll, administration systems, etc.)
- [ ] Cyber risk (i.e. the risk of loss, disruption or damage to a scheme or its members as a result of the failure of its IT systems and processes)
- [ ] Administrator issues (expense, performance, etc.)
- [x] Remediation (i.e. the actions required to remedy the age discrimination in the 2015 schemes; also referred to as 'McCloud' or 'Sergeant')
- [ ] Other (please specify)
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

B6 Which, if any, of the following actions have you taken in relation to the remediation proposals?

By 'remediation' we mean the actions required to remedy the age discrimination in the 2015 schemes. This is also often referred to as either 'McCloud' or 'Sergeant'.

Please select all that apply

- [x] Assessed the possible administration impacts
- [x] Assessed the data requirements
- [ ] Commenced a specific data cleansing or data gathering exercise
- [x] Assessed any additional resources likely to be required
- [x] Discussed system requirements with IT suppliers
- [ ] Provided specific information to members
- [ ] Taken other actions (please specify)
- ○ None of these
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section C - Administration and Record-Keeping Processes

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

C1 Does the scheme have an administration strategy?

- ● Yes
- ○ No
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

C2 Thinking about the scheme's objectives in terms of administration, how important are the following?

Please select one answer per row

	Not at all important	Not particularly important	Neither important nor unimportant	Fairly important	Very important	Don't know
a) Addressing issues which impair your ability to run your scheme effectively	○	○	○	○	●	○
b) Implementing legislative change	○	○	○	○	●	○
c) Meeting TPR's expectations	○	○	○	●	○	○
d) Improving members' experience (e.g. by providing online access)	○	○	○	○	●	○
e) Increasing automation or administrator efficiency	○	○	○	○	●	○
f) Moving to a new administration system or a new administrator	●	○	○	○	○	○
g) Reducing costs	○	○	●	○	○	○

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

C3 Which of the following best describes the scheme's administration services?

- ○ Delivered in house
- ● Undertaken by another public body (e.g. a county council) under a shared service agreement or outsource contract
- ○ Outsourced to a commercial third party
- ○ Other
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

C5 In the last 12 months, how many of the 4 pension board meetings had administration as a dedicated item on the agenda?

Please write in the number in the box below

1

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

C6 Is your scheme single employer or multi-employer?

- ◉ Single employer scheme (i.e. used by just one employer)
- ○ Multi-employer scheme (i.e. used by several different employers)

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

C7 In the last 12 months, has your participating employer...

	Yes	No	Don't know
a) Always provided you with accurate and complete data?	◉	○	○
b) Always submitted the data required each month to you on time?	◉	○	○

C8 And in the last 12 months, has your participating employer submitted data to you electronically?

- ◉ Yes – all data
- ○ Yes – some but not all data
- ○ No
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section D - Cyber Security

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

D1 Which, if any, of the following controls does your scheme have in place to protect your data and assets from 'cyber risk'?

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

Please select all that apply

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

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

D2 Have any of the following happened to your scheme, including at your administration provider, in the last 12 months?

Please select all that apply

- ☐ Computers becoming infected with ransomware
- ☐ Computers becoming infected with other viruses, spyware or malware
- ☐ Attacks that try to take down your website or online services
- ☐ Hacking or attempted hacking of online bank accounts
- ☐ People impersonating your scheme in emails or online
- ☐ Staff receiving fraudulent emails or being directed to fraudulent websites
- ☐ Unauthorised use of computers, networks or servers by staff, even if accidental
- ☐ Unauthorised use or hacking of computers, networks or servers by people outside your scheme
- ☐ Any other types of cyber security breaches or attacks
- ◉ None of these
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section E - Annual Benefit Statements

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

E1A In 2020, in which of the following ways were your active members sent their annual benefit statements?

Please select all that apply

- ☑ Via a digital online portal, with notification by email
- ☐ Via a digital online portal, with notification by letter
- ☑ Via a digital online portal, with no notification
- ☐ By post
- ☑ Other way(s) (please specify)
- ○ Don't know

Please write in your 'Other' response in the box below

Via digital online, with notification via employer

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

E1B In 2020, what proportion of your active members were sent their annual benefit statements in each of these ways?

Please write in the percentage (from 0% to 100%) in each box. If you don't know exactly, please give approximate percentages.

Via a digital online portal, with notification by email

[28.3] %

Via a digital online portal, with no notification

[71.7] %

Other way(s)

[100] %

○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

E2 In 2020, what proportion of active members received their annual benefit statements by the statutory deadline?

Please write in the percentage in the box below. If you don't know exactly, please give an approximate percentage.

[100] %

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

E5 What proportion of all the annual benefit statements the scheme sent out in 2020 contained all the data required by regulations?

Please write in the percentage in the box below. If you don't know exactly, please give an approximate percentage.

[100] %

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section F - Resolving Issues

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

F1 Does the scheme have a working definition of what constitutes a complaint?

◉ Yes
○ No
○ Don't know

F2 Focusing on the complaints you have received from members or beneficiaries in relation to their benefits and/or the running of the scheme, please tell us the following information.

a) Total number of complaints received in the last 12 months

[0]

b) Number of complaints that have entered the Internal Dispute Resolution (IDR) process in the last 12 months

[0]

c) Number of complaints that were upheld by the IDR process in the last 12 months

[0]

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section G - Reporting Breaches

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

G1 Do you maintain documented records of any breaches of the law identified?

- (●) Yes
- ( ) No
- ( ) Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

G2 Do these records include the decision taken on whether or not to report the breach of the law to TPR?

- (●) Yes
- ( ) No
- ( ) Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

G3 Does the pension board receive reports on any breaches of the law identified?

- (●) Always
- ( ) Sometimes
- ( ) Never
- ( ) Don't know

G4 In the last 12 months, have you identified any breaches of the law that were <u>not</u> related to annual benefit statements?

- ( ) Yes
- (●) No
- ( ) Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section H - Governance and Administration

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

H1 What do you believe are the top three factors behind any improvements made to the scheme's governance and administration in the last 12 months?

Please select up to three options below

- [x] Improved understanding of underlying legislation and standards expected by TPR
- [ ] Improved engagement by TPR
- [x] Improved understanding of the risks facing the scheme
- [x] Resources increased or redeployed to address risks
- Administrator action (please specify) ________
- Scheme manager action (please specify) ________
- Pension board action (please specify) ________
- Other (please specify) ________
- [ ] No improvements made to governance/administration in the last 12 months
- [ ] Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

H2 What are the main three barriers to improving the governance and administration of your scheme over the next 12 months?

Please select up to three options below

- [x] Lack of resources or time
- [ ] Complexity of the scheme
- [x] The volume of changes that are required to comply with legislation
- [ ] Recruitment, training and retention of staff and knowledge
- [ ] Lack of knowledge, effectiveness or leadership among key personnel
- [ ] Poor communications between key personnel (board, scheme manager, administrator, etc.)
- [ ] Employer compliance
- [ ] Issues with systems (IT, payroll, administration systems, etc.)
- [x] The remediation process (also referred to as 'McCloud' or 'Sergeant')
- [ ] Other (please specify)
- ○ There are no barriers
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section I - COVID-19 Pandemic

The next set of questions is about the COVID-19 pandemic.

I1 Since the COVID-19 lockdown started in March 2020, how would you rate the following?

Please select one answer per row

	Not at all effective	Not very effective	Neither effective nor ineffective	Fairly effective	Very effective	Don't know
a) Communication between the scheme manager and the administrator	○	○	○	○	◉	○
b) Performance of the administrator	○	○	○	○	◉	○
c) Relationship between the scheme manager and the pension board	○	○	○	○	◉	○

I2 Prior to the COVID-19 lockdown did your scheme have a business continuity plan (BCP) in place?

- ○ Yes – its own BCP
- ◉ Yes – the local authority's BCP
- ○ No
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

I3 How would you rate the effectiveness of the BCP in helping your scheme respond to the COVID-19 pandemic?

- ○ Very effective
- ◉ Fairly effective
- ○ Neither effective nor ineffective
- ○ Not very effective
- ○ Not at all effective
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

I4 What barriers, if any, did you face in implementing the BCP?

Please select a maximum of three

- ☐ Key person risks
- ☐ Staff shortages
- ☑ Issues with administration processes
- ☐ Issues with employer(s)
- ☐ Suitability of IT infrastructure
- ☑ Suitability of IT hardware (i.e. equipment)
- ☐ Suitability of IT software
- ☑ Ability of staff to work from home
- ☐ Lack of leadership
- ☐ Other (please specify)
- ○ There were no barriers
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section J - Pensions Dashboards

The government has made a commitment to facilitate the pensions industry in the creation of a digital interface that will present all of a person's pensions together in one place. It is most often referred to in the industry as the 'pensions dashboards' project.

J1 Before this survey, had you heard about pensions dashboards?

- (●) Yes
- ( ) No
- ( ) Don't know

J2 The Pension Schemes Bill currently going through Parliament contains provisions to require trustees and scheme managers to provide data to savers through pensions dashboards. Before today, were you aware of this proposed change to pensions law?

- (●) Yes
- ( ) No
- ( ) Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

J3 To what extent do you agree or disagree with the following statements?

Please select one answer per row

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
a) The introduction of pensions dashboards is, in principle, a good idea for savers	○	○	○	●	○	○
b) The scheme will be able to deal with any administrative demands involved in delivering the pensions dashboards	○	○	○	○	○	●
c) It will be easy for the scheme to implement	○	○	○	○	○	●
d) The scheme will leave it as late as possible before preparing for the pensions dashboards	○	●	○	○	○	○

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

J4 What, if any, challenges is the scheme likely to face in terms of preparing for the pensions dashboards?

Please select a maximum of three

- [x] Knowing what is required
- [x] Availability of data
- [ ] Accuracy of data
- [ ] Participating employer reticence
- [ ] Cost
- [x] Software compatibility
- [ ] Capacity constraints
- [ ] Other (please specify)
- ( ) None – do not expect to face challenges
- ( ) Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

J5 From where do you expect to learn about the requirements for the pensions dashboards?

Please select all that apply

- [x] The Pensions Dashboards Programme (PDP) (led by the Money and Pensions Service)
- [x] TPR
- [ ] The Financial Conduct Authority (FCA)
- [ ] The Department for Work and Pensions (DWP)
- [x] Your scheme advisory board
- [x] Industry bodies e.g. PASA, PLSA
- [ ] Somewhere else (please specify)
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section L - Perceptions of TPR

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

L1 Thinking about your overall perception of TPR, to what extent do you agree or disagree with the following words as ways to describe TPR?

Please select one answer per row

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
a) Tough	○	○	○	●	○	○
b) Efficient	○	○	●	○	○	○
c) Visible	○	○	○	○	●	○
d) Fair	○	○	○	○	●	○
e) Respected	○	○	●	○	○	○
f) Evidence-based	○	○	○	●	○	○
g) Decisive	○	○	○	●	○	○
h) Clear	○	○	●	○	○	○
i) Approachable	○	○	○	○	●	○

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

L2 Thinking now about how TPR operates, how effective do you think it is at improving standards in scheme governance and administration in public service pension schemes?

- ○ Very effective
- ● Fairly effective
- ○ Neither effective nor ineffective
- ○ Not very effective
- ○ Not at all effective
- ○ Don't know

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

L3 And to what extent do you agree or disagree with the following statements?

Please select one answer per row

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
a) TPR is effective at bringing about the right changes in behaviour among its regulated audiences	○	○	○	◉	○	○
b) TPR is proactive at reducing serious risks to member benefits	○	○	◉	○	○	○
c) TPR clearly explains its expectations in respect of administration	○	○	○	◉	○	○

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

Section M - Attribution

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

M1 Which of the following best describes your role within the pension scheme?

- ○ Scheme manager*
- ◉ Representative of the scheme manager
- ○ Pension board chair
- ○ Pension board member
- ○ Administrator
- ○ Other (please specify)

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

M2 What other parties did you consult with to complete this survey?

Please select all that apply

- ☐ Scheme manager
- ☑ Representative of the scheme manager
- ☑ Pension board chair
- ☑ Pension board member
- ☑ Administrator
- ☐ Other
- ○ Did not consult with any other parties

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

M3 To inform TPR's engagement going forward, they would like to build an individual profile of your scheme by linking your scheme name to your survey answers. This will only be used for internal purposes by TPR and your scheme name would not be revealed in any published report.

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

- (●) Yes, I am happy for my responses to be linked to my scheme name and supplied to TPR for this purpose
- ( ) No, I would like my responses to remain anonymous

M4 And would you be happy for the responses you have given to be linked to your scheme name and shared with the relevant scheme advisory board? This is to help inform the advisory boards of areas for improvement and to further their engagement with pension boards.

- (●) Yes, I am happy for my responses to be linked to my scheme name and shared with the relevant advisory board
- ( ) No, I would like my responses to remain anonymous

M5 TPR may conduct some follow up research on this topic to improve their advice and engagement with schemes such as yours. Would you be willing for us to pass on your name, contact details and relevant survey responses to them so that they, or a different research agency on their behalf, could invite you to take part?

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

- (●) Yes, I am happy to be contacted for follow-up research
- ( ) No, I would prefer not to be contacted for follow-up research

Please complete all questions on this page before clicking the right hand arrow below to continue to the next question.

M6 Please record your name below. This is just for quality control purposes and will not be passed on to TPR (unless you have agreed that they can contact you for follow-up research).

Claire Neale

M7 Finally, please use the box below if you have any other comments or would like to clarify/explain any of the answers you have given.

If you would like to print and/or save a copy of your responses then please click the 'print' button below. This will open a new browser window (you may need to allow pop-ups from this site for it to open). You can then print this or choose to save it as a pdf document. Please do this before clicking the submit button.

IMPORTANT: Please click the 'tick' button below to submit your survey.

Once you have submitted your survey you will not be able to go back and change any of your answers or print/save a copy of your responses.

Fire Risk Register

Likelihood v Impact scoring

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

Risk Register for Fire Pensions

Risk number	Date identified	Risk area	Risk description	Likelihood	Impact	Risk score	Control measure / mitigation	Likelihood after mitigation	Impact after mitigation	Risk score after mitigation	Risk owner
1	12/05/2017	Operations	Failure to administer the pension scheme in a proper and effective manner	2	3	6	a) Liaison with employer b) End of Year c) Employer web (UPM access) d) Fire Employer Group & Pensions Admin Group e) Fire Pension Board f) Management oversight and escalation to Rob Carr g) Diversification – we run a Shared Services arrangement h) Ability to call in temporary staff for peak workloads i) Business continuity plan	1	3	3	Scheme Manager
2	12/05/2017	Financial	Failure to pay the right amounts on time and in line with legislation	3	3	9	Pensions Services: - a) Testing software b) Internal and External Audits c) Standardisation of systems and processes d) All processes and calculation have a "doer" and a separate "checker" e) Monthly mortality screening for pensions in payment f) Declaration of Entitlement forms annually to pensioners and beneficiaries living overseas or upon mail being returned g) Participation in National Fraud Initiative reporting	2	3	6	Pension Administrator
3	12/05/2017	Funding	Failure to adequately account for fund pension contributions	2	4	8	a) Strong financial plan for HFRA b) Planned budget c) Aim to complete all Home Office returns on time	1	4	4	Scheme Manager
4	12/05/2017	Regulatory and Compliance	Failure to identify and interpret and implement legislation correctly	3	4	12	a) Scheme Advisory Board b) Local Government Association (LGA) c) Regional Fire Pension Officer Groups d) Fire Pension Board e) Employer Pension Manager as a dedicated resource liaising between - Fire Employer Group & Pensions Admin Group, pulling together - Key Accountabilities for IBC Pensions Admin Team, HR and Hampshire Pension Services	1	4	4	Scheme Manager
5	08/10/2020	McCloud	Failure to adequately resource and successfully implement the McCloud remedy to all affected members within the timescales prescibed	4	4	16	a) Staff recruited specifically for McCloud tasks or to backfill positions so more experienced staff can be released for project b) Communications are developed in a timely manner c) Project is managed effectively with robust plans, reporting and escalation d) Key involvement from the Employer Pension Manager with both the Fire Technical Group and Fire Communications Working Group to ensure all information is received e) Work across departments to be co-ordinated from the Fire Employer Group	2	4	8	Scheme Manager

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

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

HM Treasury

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

Government response to consultation

CP373

February 2021

HM Treasury

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

Government response to consultation

Presented to Parliament by
the Chief Secretary to the Treasury
by Command of Her Majesty

February 2021

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Contents

Foreword

Public service workers provide vital services that all of us count on, and their unwavering commitment is inspiring, particularly, as we face down the coronavirus pandemic.

It is a long-standing practice that the overall reward package for public servants includes a generous pensions element.

The main public service pension schemes were reformed in 2015, to ensure greater fairness between lower and higher earners, future sustainability and affordability. The Coalition Government negotiated with trade unions and other member representative bodies that those closer to retirement age would be fully or partially excluded from the reforms. The courts later found this difference in treatment amounted to unjustified discrimination, particularly against younger members. In July 2020 I published a consultation requesting views on proposals to address this unlawful discrimination.

I am grateful to the many people – from a very wide range of occupations – who have voiced their views on the proposals. I am also grateful to employers and administrators for sharing their responses, and to trade unions and other member representative bodies, who made representations on behalf of more than 3.5 million public service workers.

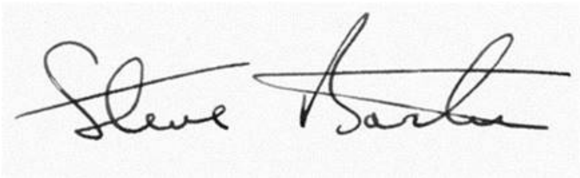
The significant majority of responses backed the introduction of a 'deferred choice underpin' (DCU) as the way to remedy the identified discrimination. This approach will enable eligible members, when they retire with a pension, to choose whether the legacy or reformed schemes would be better for them for the period between 1 April 2015 to 31 March 2022. Respondents offered strong and convincing arguments to support this view, which are set out within this consultation response.

It is clear to me that the DCU will provide greater certainty for members and is also the right approach for schemes and the government.

It avoids the need for members to make assumptions around things such as their future public service career, and retirement age, which would increase the risk of making an incorrect decision, particularly for younger members. It also results in a more manageable administrative challenge for schemes as the overall task will be spread over decades rather than just a few years.

This consultation response also confirms that the legacy schemes will close on 31 March 2022. Whilst the courts found that the transitional protection arrangements in introducing the reforms were unlawfully discriminatory, the reforms themselves are not. From 1 April 2022 therefore, anyone who remains in service will do so as a member of their respective reformed scheme, meaning everyone is treated in the same way in this respect. Public service workers will continue to receive some of the best pension scheme benefits available in the UK, but that provision is more sustainable for the long term and more affordable for the taxpayer.

This document provides more information on the policy positions I have outlined above. As I promised in the consultation document – we have listened to you. Your responses to the consultation have been indispensable in refining our proposals and coming to what I believe is a fair and correct decision – thank you.



RT HON STEVE BARCLAY MP

Chief Secretary to the Treasury

Executive summary

Removing discrimination arising from transitional protection

Between 16 July and 11 October 2020, the government consulted on two options (immediate choice or deferred choice underpin) to remedy discrimination that arose when reformed public service pension schemes were introduced in 2015.[1]

This discrimination arose when transitional protection was offered to some members – following negotiations with member representatives – alongside the introduction of the reformed pension schemes in 2015. This was intended to protect and give certainty to people who were close to retirement. In December 2018 the Court of Appeal found that transitional protection arrangements, which allowed certain members of the judicial and firefighters pension schemes to remain in their existing schemes when they were closed to other members, gave rise to unlawful discrimination, as transitional protection was only offered to older scheme members.[2] In July 2019 the government confirmed that it accepted the Court's judgment had implications for the other public service schemes that had similar transitional arrangements.[3]

The government believes it is not fair to simply move all those in scope of the remedy back into the legacy schemes, even though this would remove the unlawful discrimination identified. This is because many scheme members are likely to be better off in the reformed schemes. Instead, as set out in the consultation, eligible members will be given a choice of legacy or reformed pension scheme benefits in respect of their service during the period between 1 April 2015 and 31 March 2022 (the remedy period). The two options included in the consultation (immediate choice or DCU) differed primarily in the point in time at which the decision would be made by the member.

HMT received 3,144 responses to the consultation, expressing a broad range of views from individual members of relevant schemes, trade unions and other member

[1] This covered the following schemes: NHS in England and Wales, NHS Scotland, Teachers in England and Wales, Teachers in Scotland, Fire in England, Fire in Wales, Fire in Scotland, Police in England and Wales, Police in Scotland, UK Armed Forces, Civil Service in Great Britain, and the Civil Service (Others) scheme. Changes to the judicial pension schemes, the Local Government Pension Scheme in England and Wales, and the equivalent scheme in Scotland, as well as the public service pension schemes in Northern Ireland have been consulted on separately.

[2] *Lord Chancellor and another v McCloud and others, Secretary of State for the Home Department v Sargeant and others* [2018] EWCA Civ 2844.

[3] www.questions-statements.parliament.uk/written-statements/detail/2019-07-15/hcws1725

representative bodies, employers, administrators and other organisations. These presented a diverse range of views on both options presented by the government.

The majority of respondents to the consultation supported the DCU option, primarily as members will have greater certainty on their benefit entitlements at the point at which they make a decision. In comparison, respondents expressed concerns about the immediate choice option as it would require members to base their decision on assumptions covering many decades around factors such as their future earnings and career paths, their family circumstances, and when they expect to retire. Most respondents felt that this would place too much risk on members and could create new discrimination.

Having considered the responses to the consultation and views that were expressed at stakeholder events, the government intends to proceed with the deferred choice underpin. This means that members will make their decision between scheme benefits shortly before benefits are paid from the scheme. In the meantime, members will be deemed to have accrued benefits in their legacy schemes, rather than reformed schemes, for the remedy period, until they make that choice.

All individuals who were members or were 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, will be given such a choice 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, or whether they are currently an active, deferred or pensioner member.

Those who have already retired and/or received a pension award will be offered a choice as soon as practicable after necessary legislative and process changes can be made. The position they choose will be applied retrospectively back to the date the award was made.

It is important to make clear that all eligible members will ultimately be able to choose to receive benefits from the relevant legacy scheme or to instead receive the benefits that would have been available from the relevant reformed scheme, for any period of service between 1 April 2015 and 31 March 2022. There will be no entitlement to have the benefits of one scheme in some respects, but of the other scheme in other respects. Nor will there be any provision for a "tapered" system under which some members might be entitled or required to treat part of that period as service in one scheme, and part of it as service in another. Maintaining such an age-based system of tapered protection would perpetuate or even extend the discrimination identified by the courts.

Future pension provision

In addition to the proposals to address the discrimination identified by the courts, the public consultation also set out the proposals for future pension arrangements – and asked whether these proposals ensured equality of treatment.

The government has reviewed the responses to these proposals and has considered the points raised by respondents, and views expressed during stakeholder engagement sessions, when making final policy decisions.

The government remains committed to providing generous pension arrangements for public service workers. This provision must be sustainable and affordable. The 2015 schemes that were introduced following the recommendations of the Independent Public Service Pensions Commission (the reformed schemes) offer generous pension provision, improve affordability and sustainability, and are fairer to lower and middle earners.

The reformed schemes are some of the most generous available in the UK: backed by the taxpayer; index-linked; and offering guaranteed benefits on retirement; comparing very favourably to the typical private sector scheme.

The reforms created a fairer system. The move from (mostly) final salary to career average pension means members accrue their pension at a typically higher annual rate based on their average salary. Although some members are better off in legacy schemes, the reformed schemes are more beneficial for others, particularly many lower paid members.

The reforms reflected the need to control the significant costs of public service pension scheme benefits (now £44.3 billion for Great Britain in 2019-20) and to ensure that pension provision for public service workers remains sustainable. They also reflected the significant changes in life expectancy since the legacy schemes were established, leading to increasing costs to the taxpayer. Normal Pension Age (NPA) in most of the reformed schemes is linked to the State Pension Age (SPA), reflecting that most people can expect to live longer and have longer working lives. Nobody, though, is required to work up until the reformed scheme NPA as pensions can be taken before NPA, as long as minimum pension age (MPA) is reached, but pensions taken before the relevant NPA will be adjusted fairly to reflect the fact they are likely to be paid for longer.

Whilst the transitional protection arrangements were found to give rise to unlawful discrimination – and the government has set out its proposals to address that discrimination – the rationale for the reforms and introducing reformed schemes still stands. The government remains of the view that these schemes – of which most public servants are already members – offer generous pension provision and address the objectives of affordability and sustainability.

The reformed schemes themselves are not discriminatory, and the government wants to ensure that all members are treated equally in respect of the scheme design available to them after the discrimination has been addressed. These plans achieve this, but if some members were able to remain in legacy schemes while others were not, that key objective would not be met.

Therefore, the government remains of the view that all public servants who continue in service from 1 April 2022 onwards will do so as members of their respective reformed scheme. Legacy schemes will be closed in relation to service after 31 March 2022, closing the remedy period, during which members in scope have a choice of benefits.

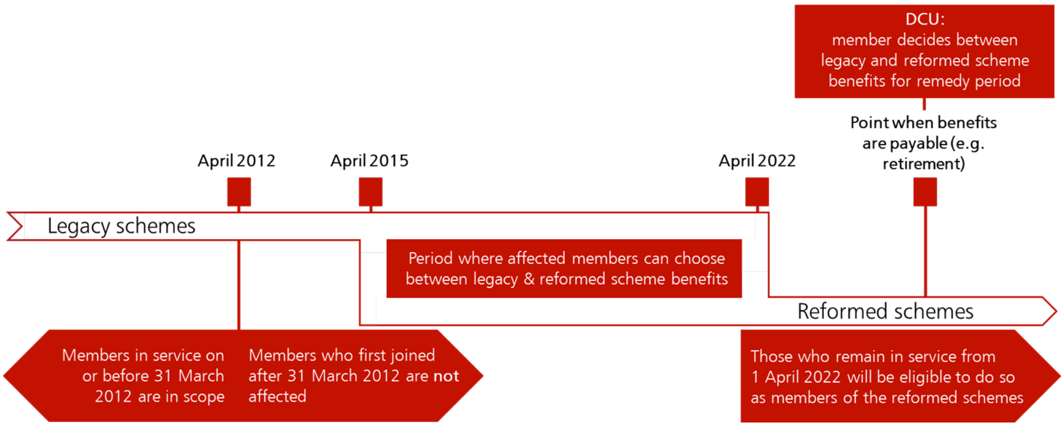
Legislating to give effect to changes

The government will bring forward new primary legislation when parliamentary time allows, in order to ensure that the discriminatory features relating to the remedy period and the transition to the reformed schemes are removed from the pension scheme rules with effect from 1 April 2022.

By legislating in this way, the government's intention is to avoid any uncertainty or other problems which might otherwise result from relying simply upon whatever automatic effect the Equality Act 2010 may have, which could not be used to implement the preferred DCU approach in any case. The government’s intention is that the changes implemented to remove the discrimination identified by the courts will apply to all relevant members and regardless of whether they have lodged a claim.

The detail of any necessary amendments required to scheme regulations, in order to implement the policies set out in this document, will, as appropriate, be the subject of further consultation on a scheme by scheme basis.

Figure 1: Diagram of the pension reform process



Chapter 1

Introduction

1.1 In 2010 to 2011 public service pension provision was reviewed by the Independent Public Service Pensions Commission (IPSPC), chaired by Lord Hutton of Furness. The Coalition Government agreed that the Commission's recommendations would form the basis of the reforms put forward for consultation with member representatives and other interested parties.

1.2 The key elements of the reforms involved moving public service scheme members to reformed schemes with benefits calculated on a career average rather than a final salary basis.[1] This allowed scheme designs to provide pensions to low and middle earners working a full career that are at least as good, if not better than under the legacy schemes.

1.3 Additionally, to reflect improvements in life expectancy and the need to rebalance working lives with the average number of years spent in retirement, the Normal Pension Age (NPA) was increased to the State Pension Age (except for the police, firefighters and armed forces schemes). To keep future costs to the taxpayer under control, the Commission also recommended setting a cost ceiling to reduce generosity, should the costs increase significantly. The intention was to increase schemes' resilience and ability to absorb shocks and provide reassurance to taxpayers by imposing firm limits on the taxpayer cost of public service pensions. Following negotiations with member representatives, the government agreed to match the cost ceiling with a cost floor, to increase generosity should the costs fall.

1.4 The government also agreed to exempt older members from the pension scheme changes. In most schemes this meant that members within 10 years of Normal Pension Age (NPA) stayed in their existing schemes (known as "transitional protection"), and members between 10 and 13.5 or 14 years of Normal Pension Age stayed in their existing schemes for a period ranging from a few months to several years after 2015, before moving to the reformed schemes (known as "tapered protection").[2]

1.5 In 2018, following claims made to the Employment Tribunals, the Court of Appeal ruled that the transitional protection given to older members of the

[1] The Civil Service Pension Scheme introduced the Nuvos pension scheme in July 2007, which provided benefits on a career average basis.

[2] All schemes have tapered protection except the Armed Forces Pension Scheme and Local Government Pension Scheme (which is outside of the scope of this consultation, apart from the issue of transfer between the LGPS and the other schemes). Tapered protection was usually for members who were from 10 to 13.5 years of their NPA on 1 April 2012, but for police and firefighters the period was between 10 and 14 years.

judges and firefighters pension schemes gave rise to unlawful discrimination (known as the *McCloud* and *Sargeant* cases).[3]

1.6 In a Written Ministerial Statement (WMS) on 15 July 2019[4] the government confirmed that it accepted that the Court of Appeal's judgment had implications for all schemes established under Section 1 of the Public Service Pensions Act 2013, as all those schemes had provided some form of transitional protection arrangements for older members. The government confirmed that it would take steps to address the difference in treatment across all those schemes and, in a subsequent written ministerial statement on 25 March 2020,[5] that it would do this for all members with relevant service, not just those who had lodged legal claims.

Consultation

1.7 Between 16 July 2020 and 11 October 2020, the government sought views on proposals to address the unlawful discrimination arising from the transitional arrangements. There were two proposed mechanisms for achieving this: an immediate choice (IC) exercise and a deferred choice underpin (DCU). Both would enable all affected members, whether they originally received transitional protection or not, to decide whether to take legacy or reformed scheme benefits for the period 1 April 2015 to 31 March 2022.

1.8 The consultation also set out the government's intention to move all affected public servants to the reformed pension schemes from 1 April 2022.

1.9 This consultation related to the main public service pension schemes which the UK Government is responsible for (the Civil Service Pension Schemes for England, Wales, Scotland and home civil servants in Northern Ireland, the Teachers' Pension Schemes in England and Wales, the National Health Service (NHS) Pension Schemes in England and Wales, the UK Armed Forces Pension Schemes, the Police Pension Schemes in England and Wales, and the Firefighters Pension Schemes in England).

1.10 Occupational pensions are a reserved matter in Wales and Scotland, which means primary legislation about them, and thus the overall shape of reform, is a matter for the Treasury and for Parliament. However, Welsh and Scottish Ministers do and will continue to have functions within that legislation. The Welsh Government is the responsible authority for the Firefighters Pension Schemes in Wales and the Scottish Government is the responsible authority for the Teachers' Pension Schemes, the National Health Service Pension Schemes, the Police Pension Schemes and the Firefighters Pension Schemes in Scotland. Decisions regarding the details of how the discrimination identified by the courts is addressed in those schemes are matters for Scottish and Welsh ministers.

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3 *Lord Chancellor and another v McCloud and others, Secretary of State for the Home Department v Sargeant and others* [2018] EWCA Civ 2844.

4 www.questions-statements.parliament.uk/written-statements/detail/2019-07-15/HCWS1725

5 www.questions-statements.parliament.uk/written-statements/detail/2020-03-25/HCWS187

1.11 Due to differences in the way transitional protection was provided in the Local Government Pension Scheme in England and Wales, and the equivalent scheme in Scotland, a separate consultation was published on changes for those schemes. The Ministry of Housing, Communities and Local Government will publish a response to the LGPS (England and Wales) consultation later this year.

1.12 The Ministry of Justice also published separate consultations on changes to the pension schemes for the judiciary, reflecting the unique situation of those schemes. Responses to these consultations will be published shortly.

1.13 Public service pension schemes managed by the Northern Ireland Executive are devolved and so are established under separate legislation to those in Great Britain, they are therefore also subject to separate consultation. This consultation closed on 18 November 2020 and the Department of Finance will publish a response shortly.

Stakeholder engagement

1.14 During the consultation period, the government ran a number of engagement sessions to ensure stakeholders were given the opportunity to directly engage with HM Treasury on the proposals set out in the consultation. A meeting of the Public Services Forum was held with unions representing workforces including the NHS, Local Government, Civil Service and Teachers. Separate meetings were held with Scheme Advisory Boards (SABs)[6] from across the UK relating to each workforce. These included bodies representing scheme members, employers and administrators. These sessions also allowed stakeholders to seek clarification on any of the aspects presented in the proposals. Most stakeholders followed up with formal written responses and the feedback received during the stakeholder sessions and in formal written responses has been considered in deciding the final policy proposals. In addition, the Chief Secretary to the Treasury (CST) met with the General Secretary of the Trades Union Congress (TUC). This allowed the TUC to share their views with the CST on behalf of their member organisations, which stretch across the public sector and are affected by the consultation.

1.15 Stakeholder engagement will remain important as the government continues to develop and then implement the final policy. The government will continue to engage with member representatives, employer representatives and other relevant stakeholders to support the successful implementation of the pension changes set out in this response. HM Treasury will continue to engage with stakeholders directly where necessary and through relevant government departments responsible for the different public service pension schemes.

[6] Statutory bodies, created by the Public Service Pensions Act 2013, that advise responsible secretaries of state on potential changes to public service pension schemes and advise on the administration and management of the relevant schemes. The SABs usually consist of representatives of the relevant employers, employees and administrators.

Responses to the consultation

1.16 Through the consultation, consultees were asked to respond to a total of twenty-four questions. Responses to each question were considered in making final policy decisions, and in the drafting of this response.

1.17 Responses to the consultation were received either in hard copy or email form and presented in different formats. Each answered all, some or none of the questions asked in the consultation document. While some responses did not necessarily address the specific questions posed in the consultation document, all responses have been considered appropriately.

1.18 The government has undertaken quantitative and qualitative analysis of the responses, and the common themes and views are summarised within this document. While trade unions and other representative bodies represent a large portion of public service workers, it should be noted that the government recognises that the number of responses received (particularly from individuals) does not accurately represent all public service pension scheme members. Therefore, any quantitative data has its limitations and has been handled with caution during the decision-making process. Where we have supplied data in this document, it is to simplify and summarise responses and provide the reader with a sense of trends – the government did not treat respondents' answers in a binary way (agree or disagree) when forming its final policy.

1.19 HM Treasury received 3,144 responses from a broad range of respondents. These consisted of 3,016 responses from individuals, and 128 responses from organisations, including trade unions and other member representative bodies, Scheme Advisory Boards (SABs), government agencies, actuarial and pensions specialists and pension scheme administrators. A large range of trade unions and other member representative bodies, including but not limited to the Trade Union Congress (TUC), Prospect, the Public and Commercial Services Union (PCS), the British Medical Association, the National Education Union (NEU), the Scottish Police Federation and the Defence Police Federation, responded to the consultation representing over 3.5 million public service workers.

1.20 The 3,016 individual responses consisted of:

a) 2,257 unique responses. These responses were used to produce the statistics used within this document

b) 250 queries

c) 128 duplicates and follow-on correspondence

d) 381 from member campaigns. Of these, 347 members of the Teachers' Pension Scheme (TPS) submitted duplicate responses. Similarly, 34 members of the Public and Commercial Services (PCS) Union submitted separate duplicate responses. While these are not reflected within the statistics produced for this document, the responses were fully considered, and form part of our qualitative analysis detailed below

1.21 Furthermore, the government received 128 responses from:

a) 47 trade unions & member representative bodies

b) 7 SABs

c) 52 employers

d) 18 pension schemes and administrators

e) 4 financial advisers and consulting actuaries

1.22 A broad range of responses were received, as shown in Chart 1.A and Chart 1.B, which have been used to identify views and issues from members and bodies in relation to all the main pension schemes. The responses have usefully informed our assessment of the equalities impacts of the policy options, and in line with the government's duty to have regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in formulating its response.

1.23 The analysis of the responses received for the overarching policy questions in relation to IC and DCU, as well as impacts on equalities, tapered protected members, and tax (questions 1 to 8, and question 24), have been set out in Chapter 2. The analysis in relation to future pension provisions (question 9) has been detailed in Chapter 3 and the analysis of the answers to the technical questions in the consultation (questions 10 to 23) has been detailed within Annex A.

Chart 1.A: Total responses received from individuals, by scheme

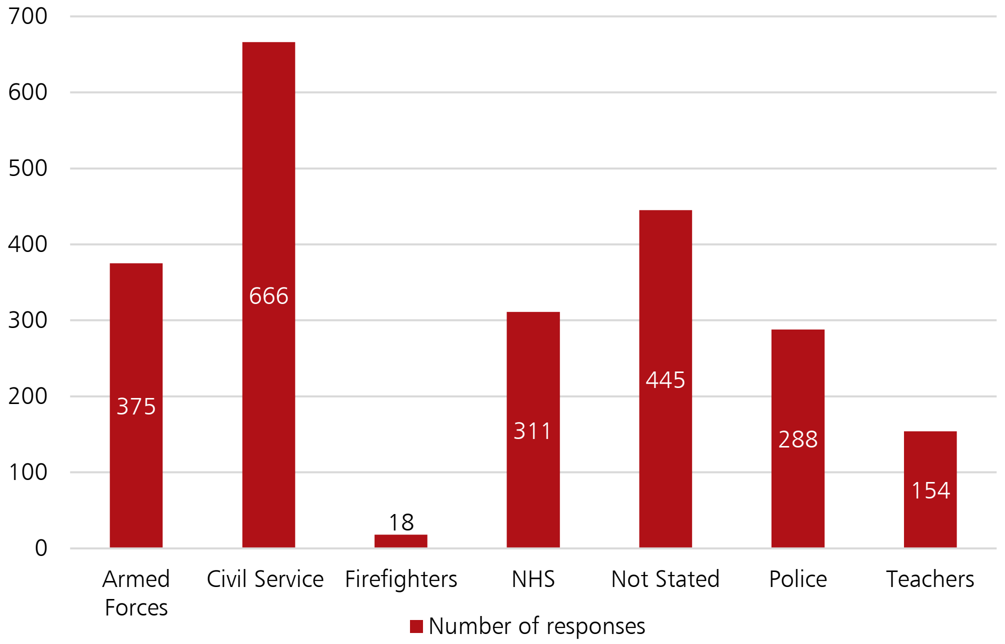
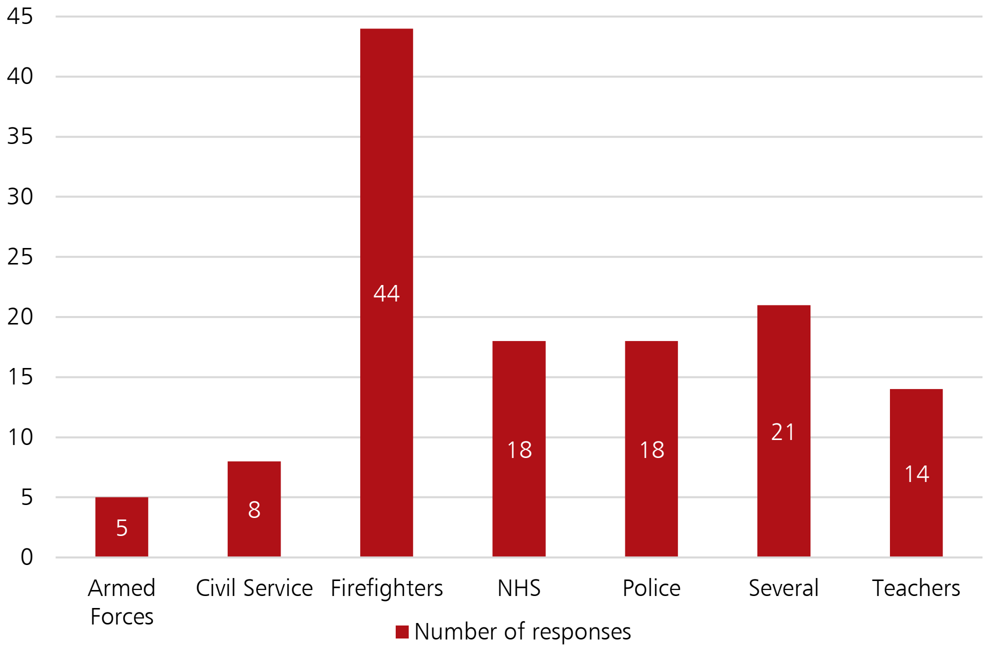


Chart 1.B: Total responses received by organisations, by scheme



Chapter 2

Removing discrimination arising from transitional protection

Members in scope

2.1 The consultation explained that the proposals set out would only apply to those who started their service on or before 31 March 2012 and remained in service on 1 April 2015. The unlawful discrimination identified by the courts was between those who were in service on 31 March 2012 and received full transitional protection and those who were in service then but did not receive full transitional protection because they were more than ten years from NPA. The government will now, therefore, equalise treatment between these groups to eliminate the discrimination identified. This applies equally to all those members, whether they are currently active, deferred or pensioner members, or have died.

2.2 Members who first joined any public service pension scheme after 31 March 2012 were ineligible for transitional protection regardless of their age, and therefore were not subject to the discrimination identified by the court. Additionally, they fell outside the rationale for transitional protection of any kind, for the reasons explained in the consultation document, including the fact that, when they joined, they could not reasonably have expected to remain in the legacy schemes. The consultation therefore proposed that they would not be offered the same choice of scheme membership in respect of service between 2015 and 2022 as was offered to those already in service at 31 March 2012.

2.3 Individuals who were in service on or before 31 March 2012 but subsequently left and re-joined will be in scope of these proposals, provided their break in service was less than five years and meets the criteria for continuous service set out in their scheme regulations. This provision for continuity of service enables those who have taken career breaks, for example, to care for young children or elderly relatives, to maintain parity with their colleagues who joined at the same time in respect of the nature of their pension terms.

2.4 Several respondents raised concerns with limiting the scope of the remedy to members who commenced relevant employment prior to 1 April 2012. One reason for this was that respondents felt that the exclusion of members who joined after 31 March 2012 but before 1 April 2015 could lead to indirect sex, race and age discrimination as those joining later are more likely to have been women, from minority ethnic groups and younger.

2.5 It is acknowledged that it is likely that more recent joiners to some relevant workforces will typically be younger, and also that in some relevant workforces more recent joiners are more likely to be women or from ethnic minority groups. However, whilst it is one thing to seek to ensure that transitional protection for those who might originally have expected to remain in legacy schemes throughout their employment is extended to everyone in that position, it would be a different matter to extend such protection to members who would never reasonably have had such an expectation. Changes to pension arrangements or other terms and conditions of employment by their nature impact differently on those who join or leave an employment at different times. The government therefore remains of the view that the limited impacts on these protected groups are justified in the context of its aim of removing earlier discrimination in a manner which is affordable and respects the rationale for having transitional protection at all.

2.6 Some respondents felt that members were not adequately informed in advance of the changes introduced for public service pensions, indicating that the factual premise for the position set out in the consultation was not well founded.

> *"The rationale provided is that those joining after 31st March 2012 would have known that the reformed schemes were coming into force and would not reasonably have expected to have been entitled under the legacy schemes (para 2.17).*
> *We are not aware of any evidence to support this assertion and consider that had it existed, the Government would have explicitly referenced it in this formal consultation. There is no indication from where such members would otherwise have derived this asserted knowledge. We therefore consider it is more probable than not that such evidence simply does not exist."*
>
> \- Scottish Police Federation

2.7 The publication of the IPSPC (Hutton) reform proposals,[1] acceptance of those by the Coalition Government[2] and the subsequent proposed introduction of the reformed schemes in the white paper 'Good Pensions That Last'[3] were well publicised at the time and were the subject of widespread media coverage. The government therefore remains of the view that those joining after 31 March 2012, considered as a group, can reasonably be expected to have known that they would not remain in the legacy schemes. Whether or not the precise date of the likely change to a reformed scheme, or the precise terms of a reformed scheme, were widely anticipated is less material.

Equality impacts of proposals

2.8 When formulating policy proposals, the government is required to comply with the Public Sector Equality Duty in the Equality Act 2010.[4] The duty

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1 'Independent Public Service Pensions Commission', Final Report, Independent Public Service Pensions Commission, March 2011.

2 'Budget 2011', HM Treasury, March 2011, paragraph 1.132.

3 'Public service pension schemes, good pensions that last (Cm 8214)', HM Treasury, November 2011.

4 www.gov.uk/guidance/equality-act-2010-guidance

requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people with different protected characteristics when carrying out their activities.

2.9 Question 1 in the consultation asked for views on the implications of the proposals for people with protected characteristics, as defined in section 149 of the Equality Act 2010.[5] This question also asked if respondents had any evidence for these matters and if anything could be done to mitigate any impacts they had identified. Question 2 in the consultation document asked if there was anything else respondents would like to add regarding equalities impacts of the proposals.

Responses

2.10 We received 337 responses from individuals and 84 responses from organisations to question 1, and 231 responses from individuals and 96 responses from organisations to question 2. The government's updated assessment of the equality impacts of these proposals is included in the accompanying updated Equality Impact Assessment (EqIA) published alongside this document; a summary of key points raised by respondents is set out below.

2.11 So far as the remedy period is concerned, the main issue raised concerned the scope of the remedy, as discussed in paragraphs 2.1 to 2.7 above. Some equalities issues were also raised in relation to the choice between the IC and DCU options. Several responses agreed that the DCU would offer a better solution in terms of minimising unequal effects on those with protected characteristics. They argued that IC would have a much greater risk of causing discrimination, specifically to younger members, as they would need to make their decision based on many more assumptions, over a longer time period, rather than known benefits as they would under DCU. They suggested that the further away from retirement a person is, the more difficult it may be to make accurate assumptions.

> *"DCU ensures more equitable treatment in terms of allowing all individuals (young and old) to make their decision at the same point in their career. "*
>
> \- A member of the Armed Forces Pension Scheme

2.12 Additionally, many individuals raised concerns that IC could be more detrimental than DCU for those likely to take a career break. This was because they felt it was not always possible to predict when a career break would be, and for how long. The DCU would allow individuals who have taken a career break to base their decision on known benefit entitlements, rather than making assumptions about their future career path as under IC. As a result, many felt that the IC could cause indirect sex discrimination as they felt that women would be more likely to take a career break than men.

2.13 There was little from respondents to suggest that DCU would cause unequal effects that would be better avoided by IC. Some points were raised as to

[5] www.legislation.gov.uk/ukpga/2010/15/contents

whether some members with disabilities might have greater difficulty with making an appropriate choice if that choice had to be postponed (that issue is further discussed in the EqIA).

2.14 In relation to membership of the reformed schemes following April 2022, the main issues raised related to increased Normal Pension Ages (NPAs) under the reformed schemes. Many of the individual responses were from those expressing concerns about being members of the reformed schemes from April 2022 as they said that they would have to work longer under the reformed schemes, due to the increased NPAs introduced alongside the 2015 pension reforms.

2.15 Respondents from some workforces, mainly firefighters and police, argued that they believed the reforms also discriminated on the basis of sex for similar reasons. The Fire and Rescue Services Association (FRSA) were concerned generally around the effect of increased NPAs for female employees.

> *"While not directly connected with the remedy, we would like to raise a general concern in relation to female firefighters. We have consistently raised our concerns regarding the structure, interpretation and implementation of the fitness standards. For female firefighters to comply with the current standards until the Normal Pension Age (NPA) they require a level of fitness that very few are able to maintain due to genetics. Therefore, female firefighters are more likely to be forced to retire prior to the NPA and receive a deferred pension compared to their male colleagues. This is an issue yet to be realised and should be addressed at the earliest opportunity."*
>
> \- FRSA

2.16 A number of responses from organisations also raised concerns about creating indirect age discrimination towards younger members. This was especially the case from member representatives of the police and firefighters. They argued that as younger members would have to work beyond their legacy schemes' NPAs, before they could access their full reformed scheme benefits, many officers would not at that point be physically and mentally fit enough to meet the demands of their job.

2.17 Member representatives for other schemes, including Ministry of Defence police officers who are members of the civil service schemes, raised similar concerns about being put into schemes with increased NPAs.

> *"We believe that imposing a pension scheme with an NPA equal to SPA [State Pension Age] is not realistic. It sets a test that most officers will be bound to "fail" in the sense that they will never be able to retire from operational duties at their NPA. In the case of the MDP [Ministry of Defence Police], it also discriminates on the grounds of (a) sex, (b) age and (c) in particular, sex and age combined."*
>
> \- Defence Police Federation

2.18 Some responses pointed out that particular schemes have a higher proportion of male (e.g. firefighters) or female (e.g. NHS) employees than the public service schemes considered as a whole. They argued that these proposals would therefore affect a higher proportion of male/female employees within these workforces than identified in the government's EqIA which considered the impacts at public sector level.

Government response

2.19 The government has taken into consideration the unequal effects identified with the IC option, and intends to proceed with the DCU for this and the other reasons set out in this document, meaning these impacts will not materialise.

2.20 There is some evidence that the decision as to who should be in scope of the remedy may have differential impacts on specific groups. This is particularly by age group, but younger members in some workforces are also more likely to be women and from ethnic minority groups because some workforces have actively sought to improve the diversity of their workforce over the years. However, the government's view is that these changes will not have a disproportionate or otherwise unjustified impact on individuals with protected characteristics.

2.21 A number of respondents believed the proposals would continue to cause implications for people with protected characteristics, and these points have been carefully considered. As set out in paragraph 3.27, however, members of the reformed schemes can choose to retire at a younger age than their NPA, as long as there is an appropriate actuarial reduction to allow for the fact that the pension will be in payment for a longer period of time. Any change from one form of pension scheme to another will inevitably involve differences from the previous scheme, and the gender profile of those who are affected by the change, in the sense of being in employment at the point when the change occurs, will naturally reflect the gender profile of the scheme membership. But it is also important to bear in mind that both the legacy and the reformed schemes provide benefits on equal terms to all their members in respect of service accrued for the purposes of that scheme, regardless of gender, race or other characteristics. The discrimination identified in the McCloud litigation related to the arrangements for transition to the reformed schemes, and not to the terms of those schemes themselves.

2.22 These issues are explored further in Chapter 3.

2.23 The full assessment of the impact of the government's final decisions, and further detail on the responses received are set out in the updated Equality Impact Assessment published alongside this document.

2.24 Individual pension schemes will consult on the specific details of the implementation of these changes when they publish their draft regulations. The government will be able to consider any specific impacts of the detailed working-out of the policy for each scheme at that stage.

Taper protected members

2.25 Following the 2015 reforms, in most schemes, members between 10 and 13.5 or 14 years of Normal Pension Age (NPA) on 31 March 2012 could stay in their existing schemes for a period ranging from a few months to several years after April 2015 (known as "tapered protection").[6] This was on a sliding scale; those taper protected members closest to NPA in 2012 stayed in the legacy schemes longer than those further from NPA.

2.26 The effect of the judgment in the McCloud case was that this tapered protection was considered to be discriminatory, and that this discrimination was unlawful. Maintaining an age-based system of tapered protection would therefore be perpetuating or indeed extending such discrimination. As a result, the consultation set out that all eligible members would be able to choose legacy scheme benefits or reformed scheme benefits for the whole remedy period. They would not be able to choose a mixture of the two.

2.27 Question 3 in the consultation sought respondents' views on the government's proposed treatment of members who originally received tapered protection, whether there would be any potential adverse impacts, and finally whether there was anything that could be done to mitigate any such impacts.

Responses from individuals

2.28 In total, 112 individuals responded to this question. Of those 62 individuals who stated a preference, a slight majority supported the government's proposals.

2.29 Many respondents to this question were in receipt of tapered protection and some said that they had expected to benefit from legacy scheme membership beyond 2022. They felt that being moved into the reformed schemes from 2022 would be unfair as it was not in line with their current expectations. This is, however, based on the misapprehension that they would ever have remained in their legacy scheme beyond 2022. All taper protected members were originally due to transfer to reformed schemes before 1 April 2022.

2.30 Individuals requested that information, tools and financial advice are provided to those who received tapered protection, to help them understand the impact on their benefit entitlement.

2.31 Some respondents expressed concerns that they will face a loss of benefits as a result of the removal of tapered protection. For example, a number of taper protected members recognised that they were in a better position as a result of accruing benefits in both the legacy and the reformed schemes during the different parts of the remedy period. These members suggested

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[6] All schemes have tapered protection except the Armed Forces Pension Scheme and Local Government Pension Scheme (which is outside of the scope of this consultation, apart from the issue of transfer between the LGPS and the other schemes). Tapered protection was usually for members who were from 10 to 13.5 years of their NPA on 1 April 2012, but for police and firefighters the period was between 10 and 14 years.

that they could be provided with two choices; one covering the period up to the end of their protection, and another to the end of the remedy period.

2.32 Similarly, other taper protected members who have partially retired noted that they would like to maximise their benefits by accruing benefits under one scheme during the period of full employment and another during the period of partial retirement. The affected respondents believed they should receive two choices – one to the point of partial retirement, and another from partial retirement onwards.

2.33 A small number of respondents raised a concern regarding taper protected members who chose to leave service under a civil service compensation scheme on voluntary redundancy (VR) terms during the remedy period. They argue that these members may have made different decisions if they had been given the opportunity to compare and choose between legacy and reformed scheme benefits. This issue comes under the category of contingent decisions, on which further detail on the government's response is included in Annex A.

2.34 Additionally, several respondents raised concerns over the treatment of those with tapered protection in response to the conclusions set out in the equality impact assessment. These individuals felt that the proposals in the consultation would negatively affect those with tapered protection. It was argued that the requirement for these members to change pension rights would be indirectly but equally discriminatory as it would only affect those over a certain age.

Responses from organisations

2.35 55 organisations identified additional impacts for members who originally received tapered protection. A broad variety of responses was received from member representatives, employers and administrators from all schemes.

2.36 Several respondents recognised that a small number of members would be better off under a combination of legacy and reformed schemes for the remedy period. However, most of these respondents felt that treating taper protected members differently would lead to further inequality and complexity.

> *"All members whether protected, taper protected or unprotected will be given the same options. Therefore, this equality of treatment should not result in widescale direct, adverse impacts.*
> *While it may be conceivable that for a tiny minority the benefits from the tapered position are better than being in either scheme for the whole remedy period, the FDA recognises the absurd complexity of developing a universal solution. The implication would be giving everyone a choice between 7 years in legacy, 7 years in reformed, and many combinations of X years in legacy and Y years in reformed."*
>
> \- FDA

2.37 Other respondents argued that treating taper protected members differently was justified and that there may be legal risks with not doing so, as it may be counter to individuals' expectations and involve a retrospective decrease of benefits that have already been accrued.

2.38 An alternative was also voiced that would see members whose benefits have already crystallised be protected from any changes to their retirement payments.

> *"Whilst the taper has itself been deemed to be discriminatory, the NFCC support the position that allowing members to take different decisions in respect of remedy for pre and post taper date is objectively justifiable to protect members' expectations and avoid future legal challenges..."*
>
> \- NFCC

Government response

2.39 As set out in the consultation, the circumstances in which a member would benefit from having a mix of legacy and reformed scheme benefits are very limited, and affect a small number of individuals. Most members who were previously taper protected will be better off taking only legacy or reformed scheme benefits for the whole remedy period. Anyone who would have benefitted from such a mix of benefits under the original transitional proposals would have done so by chance rather than design.

2.40 Maintaining an age-based system of tapered protection would perpetuate or even extend one aspect of the discrimination which made the original proposals unlawful. It would be extremely challenging to develop and extend to the wider membership any form of tapered protection that was not based on age. Even if this were possible, it would be extremely complicated for schemes and members, and by definition would not replicate the original expectations of members. As a result, the government continues to believe that the removal of tapered protection, as set out in the consultation, is certainly the fairest approach, and may well be the only lawful approach.

2.41 The government recognises that the removal of tapered protection changes the expected position for previously tapered members, including to some extent the position in relation to pension for past years of service, and in some cases for members who have already retired. Its view, however, is that it is not right to continue to confer an advantage which represented one facet of what has been decided to be unjustifiably differential treatment on grounds of age. The fact that those with tapered protection will be over a certain age reflects the discriminatory nature of the original provision, and the government does not consider that the removal of that unjustified discrimination can itself be considered a discriminatory act. To the extent that removal has a retrospective effect, the government considers that it is justified for the reasons above, especially bearing in mind that all those who were subject to tapered protection will have the choice of legacy or reformed scheme membership for the remedy period, and that any additional advantage beyond that was always a fortuitous one. As some respondents recognised, moreover, offering *all* relevant members choice to accrue a mix of legacy and reformed scheme benefits, in whatever combination they felt may suit them best, would be entirely unworkable. Where pensions benefits are adjusted for taper protected members who have already retired, the government will ensure that schemes take a proportionate approach to the recoupment of any overpaid benefits, including ensuring any overpayment can be collected over time.

Proposals for removing discrimination: immediate choice and deferred choice underpin

2.42 Questions 4, 5, 6, and 8 in the consultation document asked for views on the two options proposed to remove the discrimination: an immediate choice (IC) exercise and a deferred choice underpin (DCU).

2.43 In addition to the responses detailed below, we received 346 duplicate emails from members of the Teachers' Pension Scheme and 34 separate duplicate emails from members of the Public and Commercial Services Union. Both of these campaigns were strongly in favour of DCU, arguing that it was the fairest of the two proposals set out in the consultation.

Responses from individuals

2.44 We received 1,295 responses from individuals which expressed a preference between the two proposals. 40% stated the IC proposal was the preferable approach, while 60% preferred the DCU.

2.45 The most common argument to support the immediate choice exercise focused on the immediate benefits. For example, many individuals believed that minimising the time it would take to rectify the unlawful discrimination equated to a fairer result for members.

> *"Whilst there are advantages and disadvantages of the "Immediate choice" option, I believe that the advantages outweigh the disadvantages. Members would have certainty about their pensions arrangements for the remedy period much more quickly and, whilst some people might choose the scheme which turns out, in the end, to have been less advantageous for them, I believe that this is outweighed by having matters resolved at a much earlier time.*
> *In addition, I believe that the financial uncertainties and insecurities related to the current Covid-19 pandemic are such that the "immediate choice" option will give some early resolution and certainty in an otherwise very uncertain world."*
>
> \- Individual response, unspecified scheme

2.46 They also believed that the IC was simpler to understand than the DCU, which they believed was very complex.

2.47 A large proportion of respondents in support of the IC also stated that they wished to return to their legacy schemes as soon as possible, perceiving the legacy schemes to be more beneficial than the reformed schemes. They believed a DCU would cause uncertainty to members who would retire before 2022 and may already know the scheme they wish to choose.

2.48 The perceived uncertainty created by the DCU was the most commonly expressed concern with the DCU proposal, often from members who were close to retirement and felt that they had already made the decision over which scheme benefits they would choose. They argued that delaying this choice until the point at which they take their pension benefits would create uncertainty for them in the interim period.

2.49 In opposition to this point, many members stated that, unlike the DCU, the IC would discriminate against younger members who have more uncertainty about future earnings or career path, and who would be more reliant on assumptions to inform their decision. These assumptions would span a longer time than for older members closer to retirement and so are more likely to be unfounded or wrong, thereby disadvantaging younger members. Many also cited the additional uncertainty caused by Covid-19 and other factors outside of their influence which may affect the variables associated with future pension awards.

2.50 Responses from those who did not express a preference between the two options were broadly of the view that both IC and DCU address the discrimination and thus it should be an individual choice when the decision between the legacy and the reformed schemes is made. This would mean the individual deciding whether to take a DCU or IC approach rather than selecting one approach for all members.

> *"Should be a decision for whether the member wants IC or DCU as they both address the discrimination"*
>
> \- Individual response, unspecified scheme

2.51 A minority of responses believed that neither IC or DCU would remove the discrimination entirely and suggested that everybody should indefinitely remain in the scheme they started in. They believed that neither remedy option would adequately address the losses that individuals would suffer from working beyond their legacy NPA. The government's position on future pension provision, alongside responses received on this, are set out in Chapter 3.

Responses from organisations

2.52 116 responses from organisations (such as member representatives, employers and administrators) stated a preference between IC and DCU. Of those, 80% favoured the DCU proposal and 20% favoured the IC proposal.

2.53 DCU was the preferred remedy option for almost all member representatives and most employers, as they felt it would enable members to make decisions at retirement based on known entitlements, including on tax, rather than on a set of assumptions. This would therefore reduce the risk of members making wrong decisions.

> *"Under DCU members will not be making decisions based on a set of assumptions concerning the length of their working life, salary progression, career and potential promotion progression, inflation etc. Members will be able to make decisions based on actual figures that are fully reflective of their working history up to that point. Quite simply DCU provides less risk of members making the wrong decision."*
>
> \- Unison

2.54 Other responses from organisations that favoured DCU stated that their highest priority was to limit future legal risk and, in that regard, DCU was the preferred approach.

2.55 Under the DCU proposals, prior to the point at which the decision is made, all members would be deemed to have been in their legacy scheme for the remedy period, pending them ultimately making their decision at the point benefits are payable. A number of organisations, specifically some of those representing firefighters, fire employers or firefighters pension schemes suggested that, rather than all members being deemed to have been in their legacy scheme for the remedy period, members who had been in the 2006 firefighters scheme specifically, should remain in the relevant reformed scheme until they made their decision. They felt that because of the scheme design of the 2006 scheme, the reformed scheme is likely to be more beneficial than the 2006 scheme for the majority of members and so most members will ultimately choose reformed scheme benefits. The 2006 firefighters scheme also has lower member contributions than the reformed scheme, so while members would get a refund of overpaid contributions by 2023, respondents argued that they would be more likely to build up a contribution deficit in the scheme they would choose the benefits of.

> *"In simple terms, the Board feels it is the safest option for all concerned, as it would: 1. Reduce any future challenges on the grounds of incorrect choice 2. Mean any choice is made on facts rather than assumptions 3. Remove the potential age discrimination that immediate choice might indirectly cause to younger members."*
>
> \- The Firefighters Pension (England) Scheme Advisory Board

2.56 The government recognises that this may be the case for some members of the 2006 firefighters scheme, depending on their individual circumstances. However, the government does not think it is appropriate to effectively operate the DCU in reverse for these members, that is to leave them in their reformed scheme with the choice of taking legacy scheme benefits. While some members may ultimately choose the reformed scheme benefits, particularly if they take early retirement, preventing those who wish to return to their legacy scheme the opportunity to do so at the same time as members of other schemes are, would not be fair. However, the government acknowledges the potential for some of these members to ultimately choose to take reformed scheme benefits. It is therefore considering options for mitigating the potential impact on members of building up a contributions' deficit, while ensuring that those who are entitled to and want such a refund in the short-term can still receive it. More detail on this will be set out in the scheme level consultations on secondary legislation (scheme regulations) in due course.

2.57 A number of respondents representing police officers or schemes made similar representations about members of the 2006 police scheme, though the likelihood that members would choose the reformed scheme over the 2006 police scheme was far less clear. The issue in the firefighters schemes is due to very specific and unique elements of the design of that 2006 scheme, which do not exist in the 2006 police scheme. The government does not therefore intend to operate the DCU in reverse for this scheme either.

2.58 Individuals also highlighted that for the IC proposals members would have the additional pressure of seeking financial advice to understand their position, due to the increased reliance on assumptions about the future. On this point, respondents doubted whether there would be sufficient market capacity so that all affected members could access financial advice simultaneously. They felt that schemes would need to provide additional tools, information and support for the development of career and income assumptions to support a member's IC decision. While some members thought that IC may be preferable in implementing the remedy as quickly as possible and resolving the issue, they believed more uncertainties and inaccuracies may be introduced if the remedy was rushed.

2.59 An additional challenge with the IC option would be the requirement to have a default choice if members did not respond to an immediate choice exercise. Respondents to this question (4) raised the difficulties of making an irrevocable choice on behalf of members given the various factors they would need to consider and many raised concerns about the administrative challenges of contacting members who did not respond.

2.60 The main reason given for support of IC from organisations (mostly employers of police officers and firefighters) was that they welcomed the certainty provided by IC, as this would allow members to plan for the future. They stated many of their members already knew the choice they would make, and wished to make this decision immediately rather than waiting until the point at which their benefit would be awarded.

> *"This proposal would provide clarity for employers relatively quickly and would be preferable in terms of allowing them to more accurately forecast pensions costs and workforce planning assumptions"*
>
> \- Buckinghamshire & Milton Keynes Fire Authority

2.61 A couple of member representatives argued that both IC and DCU would address the discrimination identified by the courts but that a preferable model would be an "Anytime Choice", where members would be entitled to make a choice whenever they wish. These responses pointed out that the additional certainty offered by taking a choice of pension benefits pre-retirement will be advantageous to and desired by some, but that DCU will be advantageous to and desired by others.

Government policy response

2.62 Following consideration of the wide range of views expressed through the consultation, the government now intends to proceed with addressing the discrimination by implementing the DCU.

2.63 The government believes that by deferring the choice between legacy and reformed scheme benefits until the point at which benefits are paid (for many members, the point of retirement), most members will have significantly greater certainty over their benefit entitlements when making this decision, and that this is by some margin the most important consideration here. In most cases, there would be no actual financial advantage to members in being able to make an immediate choice, although the points made above in relation to the firefighters and police schemes in relation to potential contributions' deficits depending on benefits ultimately selected have been noted, and as noted above it is considering whether further mitigating measures may be available in that context.

2.64 Some of the responses from individuals suggested that they are starting from an assumption that the legacy pension arrangements are more generous. However, as the consultation set out, depending on a person's circumstances, many scheme members are likely to be better off in the reformed schemes than the legacy schemes. The government believes it is therefore not fair to simply move everyone back into the legacy schemes for the remedy period without providing a choice. Under the DCU, members will be able to make the decision on known benefit entitlements at the end of a career, in order to choose the scheme that is better for them. Although the government considers that some organisations' concerns about potential legal liability are overstated, it is to the advantage of all concerned if members receive information on their benefits and are in this way assisted to make the right choices.

2.65 Making the choice between legacy and reformed scheme benefits at the point a pension comes into payment means that the majority of members in scope of remedy will not confirm the benefits they will receive until they take those benefits (although they would know the value of the benefits available to them under both options). Respondents raised this uncertainty as a concern with this proposal. To mitigate against this uncertainty, the government will require schemes to provide details annually of the accrued benefits available to members in relation to relevant service for both the legacy and reformed scheme. This will provide members with visibility over their expected benefit entitlements for the remedy period in advance of their decision. Further detail on this is provided in Annex A.

2.66 A small number of respondents raised the potential option of making an individual choice on whether to have an immediate choice or a deferred choice. Similarly, others raised the option of an "Anytime Choice", where members could choose the point at which they made the decision about which benefits to take. However, this would be considerably more complex to administer, but more fundamentally would still incur the substantial risk that members make choices which ultimately turn out to be less beneficial. The government believes that the provision of information to scheme members on their potential benefits through benefit statements should mitigate against uncertainty and ensure members are able to plan for retirement effectively.

Administrative impacts of IC and DCU

2.67 The consultation also asked respondents to set out any comments on the administrative impacts of the IC and DCU options (question 7 of the consultation).

Responses from individuals

2.68 A total of 181 individuals responded to this question. Out of the 88 responses that assumed a clear position, 44% believed the DCU would have a greater administrative impact, 34% believed IC would have a greater administrative impact, and 22% believed both options would have the same administrative impact.

2.69 Individuals who thought the DCU would carry a greater administrative impact generally cited the longer timescales over which members would make their decisions as adding complexity (i.e. needing to operate systems over a longer timeframe with the aim of eventually providing the relevant data/calculations to members). Others highlighted the increased timeframe as an advantage as it would allow more time for schemes to process cases and update their systems.

2.70 A large portion of respondents believed the decision on whether to implement IC or DCU should not depend on the administrative burden or cost of either solution and should instead focus on removing the discrimination as effectively and equitably as possible.

> *"I recognise that both options will present different challenges and difficulties. It is important to flag the difficulties, however, given that the courts have ruled that the pension scheme changes had been unlawful, for me, the most important thing here is the members – all of us who have been discriminated against and who are expecting the wrongs that were made to be remedied as soon as possible…"*
>
> \- A member of the Civil Service Pension Scheme (CSPS)

Responses from organisations

2.71 104 organisations responded to this question. Challenges with both options were identified, but a large majority felt that the DCU would have a greater administrative impact in terms of implementation than an immediate choice exercise.

2.72 The responses from these groups echoed the reasoning provided by individuals and underlined the significant administrative burden that DCU would present as, for example, the workload in relation to calculating annual benefit statements would effectively be duplicated. However, many employers and administrators recognised that the longer timescales allowed by DCU would enable schemes to put systems in place and process cases over longer timescales – thereby reducing pressure on schemes and also reducing the risk of errors and rework.

> *"From an administrative perspective an immediate choice option would have a significant impact and immediate cost pressure on our day to day work, whereas the DCU would allow a more phased approach and therefore less of an immediate impact.*
>
> *DCU will provide a better opportunity to focus on the review and implementation of the changes required for immediate detriment cases and those who have already had a pension event, especially sensitive cases like death, ill-health, and divorce."*
>
> \- NHS Business Services Authority

2.73 Other respondents argued that the administrative impact of IC and DCU would be the same, as a DCU exercise would also need to process immediate cases where members have already retired or will retire in the near future.

2.74 A smaller number of respondents thought that IC would have a greater administrative impact given that there would be immediate additional resource requirements and that the solution would have to be mobilised in a shorter period of time. An administrator noted the increased risk of errors resulting from the need to rapidly develop new software.

2.75 A large number of employers and administrators highlighted the significant challenge of operationalising either option by April 2022, highlighting other concurrent pressures on schemes' capacity, such as the processing of immediate detriment cases. It was also highlighted that compressed timescales increase the risk of mistakes being made.

> *"Implementing the Remedy from 2022 alongside business as usual will greatly increase the workloads of pension administrators.*
>
> *There will be a major dependency on systems and software providers ability to develop, test and deliver the requirements for the various calculations by April 2022. If this functionality is not available in time then the implementation should not be imposed on the sector and either a standardised contingency is agreed or implementation is deferred."*
>
> \- Local Pensions Partnership Administration Ltd

Government response

Working with schemes to implement changes

2.76 Responses to the consultation recognised the scale of the administrative challenge of proceeding with the DCU. Scheme administrators will be required to run two sets of benefit designs alongside one another for over 40 years to deliver this remedy. Scheme administrators already run several legacy schemes alongside the reformed schemes, and most members in reformed schemes at present also have rights in a legacy scheme that are still linked to their current and future earnings. However, under DCU, schemes will be calculating benefit accrual over the period from 2015 to 2022 on the basis of two benefit designs instead of one. In addition, as set out in the consultation, considerable work will be required in the short term to move many members of the reformed schemes back to their legacy schemes for the remedy period, as well as resolving cases of members who have retired or died since April 2015. Set against this is that DCU operates over a longer time period, unlike an Immediate Choice exercise that would require ensuring that millions of members could make an informed choice about their pension provision within a relatively short time period.

2.77 Before schemes and administrators can make progress with introducing new processes and IT systems to deliver the DCU, further technical policy decisions need to be made and the necessary legislation, both primary and secondary, needs to be passed. Further complexity is present for the locally administered schemes.

2.78 The government has taken into consideration the concerns raised by respondents on the administrative challenges posed by the delivery of remedy. If schemes and administrators do not have time to build proper processes and systems to deliver the remedy, the risk of mistakes being made is considerably greater, which will have a detrimental impact on members. In the meantime, however, the discrimination that the courts have identified is continuing.

2.79 As a result, the government intends to pursue an alternative timetable for the delivery of these changes. As previously set out, the remedy period will end on 31 March 2022 and members will be moved into the reformed schemes from 1 April 2022. This will bring any remaining current discrimination to an end as rapidly as possible, by ensuring all members are treated equally with regard to future accrual. However, schemes and administrators will be given flexibility on the time needed to establish systems to deliver the retrospective changes to the remedy period. The primary legislation will state that retrospective changes must be introduced by 1 October 2023, but will allow schemes that can begin implementation sooner to specify an earlier date for this change in their regulations.

2.80 This means that after 1 April 2022, everyone will be treated the same, but full correction of the discrimination that occurred after 2015 will not happen until later. The impact on members who will retire before the date set out in their scheme regulations is set out in paragraphs 2.99 to 2.105.

2.81 Any additional time will allow for government to provide scheme administrators with answers to complex policy questions, whilst also providing scheme administrators the time needed to establish robust systems to deliver the DCU properly and to communicate the changes to their affected members.

2.82 The government believes this is a fair way to ensure that the discrimination is ended as soon as possible, while giving schemes and administrators flexibility to build the systems they need to ensure the DCU is delivered effectively.

Tax implications of DCU

2.83 The consultation outlined how different aspects of the pensions tax regime operate and how it would interact with both IC and DCU. The tax position of the majority of members will not be affected. Some members may experience a change in their tax liability, mainly due to changes in their member contributions or pensions accrual, or to their pension in payment if they have already retired.

2.84 The general principles set out in the consultation were that where an individual's pension arrangements change, and this affects their tax liability for past years, their tax position would have to be revisited. Where an individual owed tax, this would be collected in line with usual statutory time limits for tax purposes. Where an individual had overpaid tax, they would be compensated without any time limits.

2.85 The consultation also indicated that, under the DCU, if a member faced an increased annual allowance (AA) charge as a result of choosing reformed scheme benefits when they made their remedy decision, the government would compensate them for it. This is because the way the DCU has been designed concentrates the accrual of reformed scheme benefits into a single year. This could trigger a higher AA liability than that individual might have faced had the discrimination not occurred – that is, had their pension benefits for the remedy period always been the reformed scheme benefits.

2.86 Question 24 of the consultation sought views on how the wider proposals would interact with the tax system.

Consultation responses

2.87 169 respondents provided views on the tax implications of the proposed remedy. Three clear themes emerged. The first theme was that the remedy – and its interaction with the tax system – should place individuals back in the position in which they would have been, had the discrimination not occurred.

2.88 The second theme related to the complexity of the tax position, where respondents noted the need for clear communications and support to enable scheme members and beneficiaries to make informed choices. Linked to this were concerns about the administrative burden that the DCU would place on individuals. The government is continuing to work on these issues and acknowledges that it will be critical for scheme members to be provided with clear information when their pension position changes.

2.89 The third theme related to concerns that individuals might receive large and unanticipated tax demands with no means of meeting them. The government is aware of this issue and is considering how Scheme Pays and repayment plans can be used to accommodate any increases in tax or other charges, respectively, that might arise.

2.90 Some consultation responses also highlighted that the proposed approach could put some younger members in a more favourable position than some of their older colleagues, in certain situations. Specifically, if a member returning to their legacy scheme in 2023 would ordinarily have paid more tax on their legacy scheme benefits, this can only be collected for years in scope of the usual statutory time limits. This could result in a younger member, who was not transitionally protected and was moved into the reformed scheme in 2015, paying less tax on legacy benefits than an older member, who had always been in receipt of those benefits.

Government response

2.91 Under the DCU, reformed scheme members will be legally restored to membership of their legacy schemes by 2023 in respect of the remedy period. This will retrospectively alter the pension benefits they have accrued in each of the tax years during the remedy period. For the minority of members with sufficiently high income and/or pension accrual to trigger an AA charge, this could change their liability for that AA charge in a tax year or tax years falling within the remedy period. Most of these individuals will see a reduction in AA charge owed.

2.92 Where an individual paid their original AA charge up front, they will receive a refund. If the individual originally used Scheme Pays to meet the tax charge, then the associated pension debit will be amended as appropriate, and schemes will receive the refund. In those cases where additional AA charge is owed, the individual will have the opportunity to utilise Scheme Pays if they do not want to pay the tax charge upfront.

2.93 If a member then faces an increased AA charge as a result of choosing reformed scheme benefits when they take their benefits, the government will ensure they do not bear the cost of any additional AA charge that is directly caused by the member exercising that choice.

2.94 Tax adjustments will also be required in those cases where the amount of pension contributions that a member should have paid changes: either in 2023, at the point they receive their benefits, or both. As set out in the consultation, where an individual owes more contributions, they will receive tax relief on those contributions at their marginal tax rate in the tax year the additional contributions are paid. The government recognises that in some cases this may result in less tax relief than the individual would have received had the individual paid those contributions in the relevant remedy period years. In these cases, it will be possible for members to apply for compensation for the difference in the tax relief received.

2.95 The original consultation suggested that where an individual was owed a return of overpaid contributions, the excess amount would be returned to individuals, and the tax owed in respect of the income used to fund the excess contributions would be collected, but only for those years within the usual statutory time limits. Following the consultation, the government has decided that individuals will receive a payment to cover the value of their contributions, but with an amount deducted to reflect the underpaid tax. This departs from the position set out in the original consultation which set out that that individuals who had overpaid their contributions in remedy period years beyond the usual statutory time limits for tax collection would receive a full refund of contributions and not face any tax charge.

2.96 There are two reasons for this decision. First, the government agrees with those respondents to the consultation who urged that, as far as possible, individuals should be put back in the position in which they would have been, absent the discrimination. Second, as set out above, some consultation responses highlighted how the operation of statutory time limits for the collection of tax could give younger members an advantage over older members, when those younger members move into their legacy schemes in 2023. Repaying an amount reflecting the value of overpaid contributions with tax deducted will help to minimise any potential "windfall" advantage being enjoyed by one group of members over another.

2.97 Tax adjustments will also be required for individuals who have retired during the remedy period and who wish to receive different pension benefits. This is dealt with in more detail in the next section.

2.98 The government acknowledges the points made by consultees on the complexity of correcting members' tax positions historically. Where possible, the government will take proportionate steps to minimise the administrative burden on members, but it will not be possible to completely remove this burden in all cases. A member's tax position is unique to their personal circumstances and they alone may hold some of the data necessary to correct some elements of their tax position, particularly regarding their AA position. The government acknowledges the need to provide clear and accurate communications and information to members going through this process. However, the necessary tax corrections following the implementation of the DCU will still place an administrative burden on some individuals, particularly those affected by the annual allowance.

Members who retire or receive pension benefits before the DCU is introduced

2.99 The majority of members in scope of this consultation will not retire until after the DCU is implemented and will be given their choice at the point of retirement, as detailed above. However, the government recognises that significant numbers of members have already retired and received pension benefits in respect of relevant periods service or will do so between now and the introduction of the DCU by October 2023.

2.100 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.

2.101 It is important to note that, where members choose to change schemes, they may in some cases have to repay benefits that they have already received. Where this is so, or payment of additional contributions may be required, this will be made clear to members when making their choice.

2.102 As discussed in more detail in paragraph 2.95, if the benefits a member has received change as a result of the implementation of the DCU, then tax adjustments may be required. This includes where an individual has already retired and received pension benefits in respect of relevant periods of service, or will do so between now and the introduction of the DCU by 2023.

2.103 Where an individual receives a revised pension award, this will be backdated to the date their pension award was originally made. If this results in an increase in pension payments, this will be paid in a lump sum in the year that the individual's pension situation is corrected. It will be taxed in that year, at the individual's marginal tax rate at that time.

2.104 The consultation document set out that where tax is owed on pension income by a member who has retired, it will not be collected for periods beyond the usual statutory time limits. However, because backdated pension will be paid all at once in a single year, and tax will be due in that year, then all that backdated pension will fall within the usual statutory time limits for tax collection.

2.105 In some cases an individual could pay more tax on their backdated pension than they would have done had they always been in receipt of those pension benefits, for example, if the backdated payment increased their total income so that a higher marginal rate of tax would apply. In this case, individuals can apply to their pension scheme to have the backdated payment allocated to the relevant remedy period years, and then to HMRC to have the remedy period marginal rates applied.

Chapter 3

Future pension provision

Consultation proposals

3.1 In addition to ensuring that the discrimination identified by the courts is addressed, the public consultation also set out the plans for future pension provision, to ensure equal treatment of members in respect of scheme design after the remedy period ends.

3.2 The consultation set out the government's proposals to close legacy schemes to future accrual on 31 March 2022, ending the remedy period, and that all members who remain in service from 1 April 2022 onwards will do so as members of their respective reformed scheme. Whilst the transitional protection arrangements were found by the courts to be discriminatory, the reformed schemes themselves were not.

3.3 As also set out in the consultation, this will require primary legislation to be brought forward to close the legacy schemes and remove the exceptions originally made for transitional protection that were found to be discriminatory on the grounds of age. Legacy schemes will be closed to future service on 31 March 2022. The final salary link, as originally set out in the Public Sector Pensions Act 2013, will be retained. This will ensure that, from 1 April 2022, all active members are treated equally in respect of the pension scheme designs offered for future service after the discrimination has been addressed. It would be unfair for some members, and not others, to remain in the legacy scheme beyond this date.

Responses to the consultation

3.4 Question 9 of the consultation document asked whether the proposals - to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 - ensure equal treatment from that date onwards.

Responses from individuals

3.5 438 individuals responded to question 9. 248 gave a direct answer to the question and, of those, 34% broadly agreed that the government's proposals ensure equal treatment from 1 April 2022 onwards. 66% broadly disagreed that the proposals would ensure equal treatment.

3.6 A number of individuals argued that equality will only be achieved by allowing all members to accrue benefits under the terms and conditions they originally signed up for – so to effectively keep the legacy schemes in operation beyond 2022 for some members.

3.7 Several respondents believed that, by proposing that all members will accrue future benefits in the reformed schemes, some members would be discriminated against. However, in many cases no reasons were provided as to why they believe this to be the case.

3.8 Many responses were from members of the police and prison officers' schemes who disagreed with aspects of the government's equalities impact assessment. This point was also made to questions 1 and 2 of the consultation, which focus on the equalities impact of the government's proposals. These individuals expressed concerns that younger members were being discriminated against, as the NPAs in the new CARE schemes for some uniformed services are linked to age rather than length of service.

> *"The problem is that the 2015 CARE scheme will always discriminate on age and is fundamentally unfair to 1987/2006 pension officers. Two officers who join on the same day, one is 18 and one is 30. They both remain as constables for their entire service. When they both reach 30 years' service, they will have both contributed the same into the pension. However, if they both choose to retire on the same day too, at their 30-year mark, the officer who started at 30 years old gets a far better pension than the officer who started when they were 18. That officer's pension will be actuarially reduced until they reach 60-year-old. Admittedly by then that officer's pension will be a lot higher, but they are not treated the same. If when you join, you sign up to the CARE pension then you are aware of these differences, but this is what is going to be imposed on 1987/2006 members."*
>
> - A member of the Police Pension Scheme

3.9 More generally, a very large number of individuals fundamentally disagreed with moving or returning all active members into reformed schemes from April 2022, rather than the impact of the proposals on ensuring equal treatment. Some of these members raised the point that the change provided insufficient notice to members and that clarity was needed for those who partially retired before 2022.

3.10 Some respondents also took the opportunity to raise concerns with the NPAs for some of the workforces. For example, prison officers believed their NPA should align with the NPA of police and firefighters schemes as they believed the types of work they undertake are similar.

> *"Making prison officers work after the age of 60 unlike other demanding emergency services is immoral and I would propose a new separate pension scheme for prison officers like police and firefighters returning prison officers to a pension age of 60. "*
>
> - A member of the Civil Service Pension Scheme (CSPS)

3.11 Several respondents argued that paragraph 3.12 within the consultation document is incorrect: "By 1 April 2022, all members who were offered transitional protection from 2015 will in fact have reached their NPA in their legacy scheme". The respondents state that they were protected, but remain weeks, months or years away from their NPA. Most of these respondents have requested to remain within their legacy schemes until their NPA.

Responses from organisations

3.12 Of the 102 organisations that responded to question 9, 90 addressed the point on whether the government's proposals ensure equality from 1 April 2022 onwards. 63% broadly agreed that they will achieve equality, while 37% broadly disagreed. There was a broad mixture of member representatives, employers and administrators from across schemes that supported both viewpoints. It should be noted that a large portion of respondents who agreed, were not supportive of the reformed schemes more generally.

3.13 Some member representatives interpreted the court's ruling as meaning that members should be allowed to stay in their legacy schemes for the remainder of their careers.

3.14 A number of respondents claimed that members who were given full protection in 2015 have a legitimate expectation to stay in the legacy schemes indefinitely if they wish to work beyond their NPA.

> *"As the proposed date to move all members to the reformed scheme is 1 April 2022, this is the 10th anniversary of the date when protection was assessed. This will mean that all fully protected legacy scheme members will have reached their legacy scheme pension age. Protected members working beyond their legacy scheme normal pension age will have future benefit expectations changed by moving to the reformed scheme rather than previous expectations that they would remain in the legacy scheme until retirement."*
>
> \- NHS Pension SAB

3.15 The campaign by members of the PCS agreed with this position – while the proposal to close legacy schemes would ensure equal treatment, they highlighted that it would create a detriment for those under full transitional protection who expected to remain within their legacy schemes past their scheme NPA and until retirement.

3.16 Like responses from individuals, many respondents used the opportunity to comment on the reforms more generally. A key concern is the impact on retention, particularly in relation to the NHS, police and firefighters, by members retiring early or being disincentivised to re-join (due to rules preventing further accrual in the 2015 schemes once a pension is in payment from the legacy scheme).

3.17 Some bodies also reiterated their request for the NPA to be reviewed for certain workers, e.g. NHS, firefighters and prison staff, citing the physically demanding nature of the occupation.

3.18 Concerns were also raised, particularly by administrators and employers, around the timescales of implementation. These respondents generally argued that any processing or IT systems need to be up and running by 1 April 2022 to allow members to make retirement plans and decisions under the reformed schemes immediately.

Government response

The reforms and the 2015 schemes

3.19 Many respondents to the consultation believed that the legacy schemes are inherently more beneficial for all members. This is not the case and whilst it is recognised that there is significant variation across schemes; many members will be better off under reformed scheme arrangements than they would have been in the legacy schemes. The career average pension schemes ensure members accrue their pension at a typically higher annual rate based on their average salary. Although some members are likely to be better off in their legacy scheme, others, particularly lower paid members, are likely to be better off in the reformed schemes. This is why members will be offered a choice of benefits for the remedy period.

3.20 It is not correct to assume that the reformed schemes are detrimental to all members. The reformed schemes are more generous for many lower paid members. Those with very considerable increases in their earnings over their career are no longer likely to be relatively favoured compared with their colleagues who did not have such career progression. The move from mostly final salary to career average design has, therefore, allowed for a fairer system. Reversing the reforms for the future would make many members worse off.

3.21 It is also important to clarify that the reformed schemes were not found to be discriminatory, as some respondents to the consultation believe. The judgments of the courts were that the transitional protection arrangements discriminated against some members; not the reforms or the reformed schemes themselves.

3.22 Some respondents believe that it is unfair for pension arrangements to be changed at all, and that all members should be able to retire in line with the arrangements as they were when they entered service. Whilst the government is committed to ensuring that public service workers are rewarded with generous pension provision in their retirement, it is also right that it continues to assess this, and makes appropriate changes – such as those recommended by the Independent Public Service Pensions Commission (the Commission) as part of the 2015 reforms – when it is necessary to do so.

3.23 The Commission was established with the aim of ensuring public service pensions were affordable and sustainable in the long term. For Great Britain, the total annual cost of paying out unfunded public service pension scheme benefits is considerable; £44.3 billion in 2019-20. It is important that these costs are kept under control. Additionally, life expectancy has increased significantly since the introduction of the legacy schemes, which increased the cost to the taxpayer. Outside of public service schemes, individuals need to save more for a longer retirement resulting from increased longevity. The reformed public service schemes are designed on the basis of a longer working life to cover the cost of a longer retirement, as will be the case across the wider workforce.

3.24 The Independent Public Service Pensions Commission made recommendations that led to the reformed schemes being established under the Public Service Pensions Act 2013, in line with the objectives of ensuring affordability and sustainability, and the reformed schemes were accepted by the majority of trade unions and other member representatives.

3.25 Some respondents argued that the changes to pension ages are unfair, and inherently discriminatory against younger members, as they are required to work for longer.

3.26 Most of the reformed schemes have a Normal Pension Age (NPA) linked to the member's State Pension Age (SPA; the age at which a State Pension can be received) which reflect the increases in life expectancy. There are exceptions for the armed forces, the police and firefighters, where the NPA is set at 60 for those retiring from active service.

3.27 Members of all reformed schemes can, however, choose to retire at a younger age than their NPA, as long as they have reached their Minimum Pension Age (MPA) and an actuarial adjustment is made to their pension to allow for the fact that it will likely be paid for a longer period of time. Members can also choose to work beyond their NPA and receive a bigger pension.

3.28 The reformed schemes are among the best available in the workplace: backed by the taxpayer; index-linked; and offering guaranteed benefits on retirement. They compare very favourably to the typical scheme in the private sector. The government believes that these schemes represent generous pension provision for public service workers; and that the changes made as part of the reforms were necessary to ensure that this provision remains sustainable. This is why the government intends that all those in service from 1 April 2022 will be members of these schemes.

Ensuring equality of treatment

3.29 It is also important that the arrangements for future provision ensure equal treatment in terms of the scheme design available to members after the remedy period ends. If some members remain in different schemes, that objective would not be achieved.

3.30 Some respondents noted that some of those who are offered the choice of benefits as part of the remedy proposals will reach retirement before they are required to accrue any benefits in the reformed schemes, whereas others will need to continue in service after 31 March 2022 to reach retirement age, and will do so as members of their respective reformed schemes. They argued that this would discriminate against them based on their age.

3.31 The proposals to address the discrimination will mean that more people will have access to legacy benefits up to 31 March 2022 than would have otherwise been the case. Some of these members will retire before this date and before any accrual in the reformed schemes; whereas others will continue in service after 31 March 2022 as members of the reformed schemes, like those who joined after 2012 who will remain in the reformed schemes. The government does not believe, however, that this leads to further discrimination because all members are treated equally in respect of any period of service from 1 April 2022.

3.32 The proposals to address the discrimination mean that all those who were denied transitional protection and continued access to legacy scheme benefits as a result of their age will be treated equally to those who were originally offered such protection, for the period in question. The proposals for future arrangements will treat all members equally after that period, in terms of the scheme design available to them – anyone in service will accrue in the reformed schemes for any service from 1 April 2022.

3.33 By 1 April 2022, those who were offered full transitional protection by virtue of being within 10 years of their NPA in the legacy schemes will have reached that NPA. Where these members choose to remain in employment from 1 April 2022, they will do so with an entitlement to be members of reformed schemes, like all other members. They will of course still be afforded a choice of scheme benefits for the period between 2015 and 2022, as a result of the remedy proposals.

3.34 Whilst there will be differences in the specifics of overall pension provision for different members across the course of their career, depending on the point at which they began their service, this will always be the case when changes to pension schemes are introduced. This is the case with past cohorts of members, as a result of previous changes.

3.35 It is right that the government has the ability to make changes when it judges it necessary to do so. The original objectives and recommendations of the Commission leading to the 2015 reforms and the reformed schemes still hold. The government believes that these schemes are the correct basis for future arrangements and remains committed to them. The plans also ensure equality of treatment in respect of scheme membership. From 1 April 2022, anyone who remains in service will do so with an entitlement to be a member of their respective reformed scheme, regardless of their age or any other factor. All members will therefore be treated equally in that respect.

3.36 Some respondents also believed that members in scope of remedy who choose to accrue legacy benefits during the remedy period (or those who already had access to such benefits, as a result of transitional protection arrangements) have a legitimate expectation of being able to remain in the legacy schemes beyond this date, until they choose to retire. In introducing the reformed schemes, however, it was never the government's intention that the legacy schemes would continue indefinitely. Members in scope will have had 20 months' notice (since consultation) of these plans, which are necessary to implement the reforms, for which the rationale still stands, and to do so in a way that treats all members equally in terms of their scheme eligibility and scheme design available to them, after the discrimination has been addressed.

3.37 The Public Services Pensions Act established that no new benefits related to future service would be provided under the legacy schemes in relation to employment after 1 April 2015. Exceptions to this were made in scheme regulations, but these were intended to be limited in their nature, because they were applied only to members who were within 10 years of their NPA under the legacy schemes, and the majority of these members are expected to have retired already or to do so in the coming years.

3.38 Whilst the courts found that these exceptions gave rise to unlawful discrimination, and government has now set out its proposals that those in service on 31 March 2012 and who have relevant service after 1 April 2015 will be offered a choice of legacy schemes for the remedy period, this does not mean that disparity of treatment should continue indefinitely. Many of this group could be expected to remain in pensionable employment for many years, long after it was envisaged that the legacy schemes would be closed. If one group should be afforded different provision to other members, this would not meet the objective of ensuring equality of treatment, and this would also increase taxpayer costs by many billions of pounds, by indefinitely extending the period during which members could choose between scheme designs for service from April 2015 onwards.

3.39 Members of the legacy schemes will have had more than 20 months' notice of the government's plans by 1 April 2022. The judgment of the Court of Appeal also set out why the transitional protection arrangements and the original aim to protect those who were eligible, was in fact not justified. These members will also, of course, be able to participate in the reformed schemes in relation to any eligible employment from 1 April 2022 onwards. Bringing the remedy period to an end as soon as reasonably practicable will also minimise the extent to which those whose employment started during the remedy period are differently treated.

3.40 Under these plans, those who were denied transitional protection because of their age will be offered the same benefits as those who were fully protected, for the remedy period; thereby addressing the discrimination identified by the courts. Thereafter, all those who remain in service will be treated equally in respect of scheme design provided to them.

Accrued rights

3.41 Some respondents were worried that if they are 'moved' from legacy to reformed schemes from 1 April 2022, for the remainder of their service, that their pension will be less valuable. It is important to note that the proposals will only affect future service from that date, and will not (subject to some issues around taper protection, that affect a very small minority of people, as discussed above) impact on pension already accrued.

3.42 Whilst accrual in legacy schemes will end when those schemes are closed on 31 March 2022, any accrual that has been built up in the legacy schemes up to that date, and the NPA at which the benefits accrued in those schemes can be taken in full, is protected.

3.43 Whilst the reformed schemes are career average schemes, the 'final salary link' is also protected. This means that all the accrual in a final salary legacy scheme will be calculated in relation to a member's final salary when they retire or otherwise leave the scheme, regardless of how many years' service was spent in the reformed schemes, and not their salary at the point when they left the legacy scheme.

3.44 Other accrued rights, such as the improved accrual rate linked to length of service for some schemes (namely older police and firefighters schemes) are also protected in relation to service in those legacy schemes.

3.45 Additionally, as set out in paragraph 3.27, since the legacy schemes have a lower NPA than the reformed schemes, members who have accrued service in both types of scheme may choose to retire when they reach that NPA, and the relevant MPA has been reached, and access the relevant pension benefits from both schemes. They will not have to wait until the NPA in the reformed scheme, which in most schemes is linked to SPA.

Scheme specific issues

3.46 Some respondents have pointed out that, due to the service length-based specifics of some schemes (namely older police and firefighters schemes), they expected to retire at a particular point in time, when their legacy scheme benefits would be most valuable to them. If this point is after 31 March 2022, they will now be required to accrue benefits for a period in the reformed schemes; as with all other members. If the point at which they were expecting, and want, to access their legacy benefits – because they have reached their expected service length - is a point at which they have yet to reach the MPA of the reformed schemes, accessing their legacy benefits will mean that they will become a deferred member of the reformed schemes. Whilst this does not preclude them from retiring and accessing benefits in both schemes, the reformed scheme benefit payments will then be actuarially reduced not from the NPA (which would be the case if they had reached MPA) - which in the schemes in question is lower than SPA - but from SPA.

3.47 Some respondents contended that this means the proposals for future service do not equalise treatment from 1 April 2022, after the remedy period has ended. This is because two members who joined on the same day, and thus reach their expected maximum service in the legacy schemes at the same point in time, will be treated differently because of their age – depending on the age when they joined, they may or may not have reached the MPA in the reformed schemes at this point.

3.48 Whilst the government acknowledges this point, it does not believe that the proposals for future arrangements constitute discrimination on the grounds of age. Those who begin service at the same point in time, but who are of different ages, will often likely retire at different points in time. If changes to pension arrangements are made – when the government judges that it is necessary to make such changes – this might mean individuals finish their career under different pension arrangements, that the precise nature of the benefits accrued across the course of their careers is different, and that they retire at a later age.

3.49 Under the proposals, the service and benefits accrued under the legacy arrangements is protected, and treated equally; any service from 1 April 2022 will be under reformed scheme arrangements, for everyone, regardless of age or any other factor.

3.50 The government acknowledges that many respondents have a desire to maintain their current arrangements until the point at which they retire, even if this is after 1 April 2022; but the government does not believe it would be fair to allow some members, and not others, to continue under different arrangements and as members of different schemes, after the discrimination has been addressed and the remedy period ends.

3.51 The government also appreciates that some members had intended to retire at a particular age or point in time, and that may not now be possible for some. Members will, however, have been given 20 months' notice of the proposals for arrangements after the discrimination is addressed. The government must have the ability to make changes so that public service pension provision is affordable and sustainable in the long term. The proposals do this in a way that treats all members equally in terms of the scheme design available to them for service from 1 April 2022 onwards.

3.52 The government does, however, understand these scheme specific complications as a result of the service-based conditions of some legacy schemes. Whilst this does not change the overall proposal for future arrangements across all public service pension schemes set out here, relevant departments will consider specific issues highlighted by some respondents in due course.

Final position on future arrangements

3.53 The government has carefully considered the responses to the consultation and the issues raised on its proposals for future arrangements after the discrimination identified by the courts has been addressed.

3.54 The government believes that the proposal that anyone who remains in service from 1 April 2022 will do so as a member of their respective reformed scheme is right and ensures equal treatment in terms of scheme membership.

3.55 The government believes that the reformed schemes, of which most public service workers are already members, offer generous pension provision to public service workers, whilst also offering protection for the taxpayer against unsustainable costs. The rationale for the reforms still stands. It is also right that anyone who remains in service will be eligible to do so as a member of these schemes, and is not treated differently by being able to remain in legacy arrangements.

3.56 The government will therefore proceed to develop the primary legislation necessary to close the legacy schemes to further accrual on 31 March 2022, remove the transitional protection arrangements that were found to be discriminatory, and ensure that all future service is under reformed scheme arrangements.

Annex A
Response to technical questions

Revisiting past cases

A.1 Question 10 of the consultation asked for views on the government's proposed method of revisiting cases where retrospective changes may arise in respect of pension benefits already paid. This will affect members who were in service for a part of the remedy period but who have since retired and are currently in receipt of a pension. The proposed approach would mean that affected members would make a retrospective choice whether to receive benefits from the legacy or reformed scheme with respect to their service after 31 March 2015 and before 1 April 2022. This would mean that:

- a member who was originally eligible for transitional protection could instead choose to receive reformed scheme benefits
- a member originally eligible for tapered protection would be required to make a choice between legacy scheme and reformed scheme benefits
- a member who was originally not eligible for any form of protection could instead choose to receive legacy scheme benefits

A.2 Only a small number of individuals expressed views on the approach set out in the consultation document, of which the majority supported the government's proposed approach. The main reason given for this was that, through the revisiting of past cases, any potential age discrimination created by not offering the choice of scheme benefits for the remedy period to those who have already retired would be addressed.

A.3 Individuals also suggested that to ensure that members were able to revisit past decisions in an informed way, members should be provided with a detailed individual assessment, including key information, access to relevant calculations or independent professional advice.

A.4 Those individuals who disagreed with the proposals did so citing the additional administrative burden for pension schemes.

A.5 The response from bodies was mixed, but mostly in favour of the proposals set out in the consultation. Those that supported the proposals tended to include a caveat that there remains a need for additional clarification and guidance, particularly around the tax position and the administrative process.

A.6 The responses from employers and administrators that expressed negative views on the proposals cited the administrative complexities of reaching out to this cohort of individuals who are now in retirement. Some employers suggested that a default option could be provided in instances where data is not available.

A.7 Some employers and member representatives, particularly from the Fire Services, disagreed with the proposed approach, suggesting that those affected should be given the choice as soon as possible rather than waiting until 2022 (at the earliest) as set out in the consultation.

Approach

A.8 Following analysis of consultation responses, and further policy analysis, the government confirms that all members with service during the remedy period will be given a choice as to whether they wish to receive legacy or reformed scheme benefits in respect of that period, including pensioner members.

A.9 For pensioner members who choose to receive alternative benefits to those already in payment, entitlements will be backdated to the date that pension commenced. Any additional amounts due will be paid from the scheme and subject to tax and any overpayments that arise will need to be repaid by the member. Overpayments will only arise where a member chooses to elect to receive alternative benefits to those already in payment or, in some cases, where the removal of taper protection (as set out in paragraphs 2.39 – 2.41) leads to a change in entitlement.

A.10 Correcting payments retrospectively will be complex in some cases. We will continue to work on the details to ensure that members are placed in the position that they would have been in had the DCU been in place at the time that their benefits, relating to their service since 1 April 2015, began to be paid.

A.11 As set out in the consultation, where an actuarial adjustment is required with regards to the pension in payment that a member could alternatively choose, then the actuarial factors in force at the date they retired with benefits earned during the remedy period will be used in determining the benefits payable to the member. This will ensure that the pension is retrospectively corrected to the same level it would have been if the member had had access to it at that retirement and that pensioner members are treated in the same way as other members in implementing the DCU.

A.12 Further detail on the treatment of cases for members who retire or receive pension benefits before the DCU is introduced can be found in Chapter 2, paragraph 2.99 to 2.105.

Member contributions and interest

A.13 Question 11 sought views on the government's proposals to ensure that correct member contributions are paid in schemes where they differ between legacy and reformed schemes. The consultation set out that under the DCU, the government would propose to adopt a two-stage approach. The first stage would occur shortly after the implementation of the DCU and would involve retrospectively applying (as appropriate) a charge upon, or a refund to all members by reference to their legacy scheme contributions. The second stage would then be at the point a member made their deferred choice where, if reformed scheme benefits are chosen, the balance of contributions that would have been due under the reformed scheme in the remedy period would be charged or refunded as appropriate, again retrospectively.

A.14 We received 111 responses from individuals on the question, and there were mixed views on the proposals. While some were supportive of members repaying contributions, several respondents argued that, given the revision of contributions is a result of a government mistake, underpayments should not be collected. A number of individuals supported the government's position that members would be given sufficient time to repay any amounts that are due, for example in instalments.

A.15 There were concerns that any refunds by the government will push members into the higher tax band in the year the refund is paid (see details on tax treatment in Chapter 2). Alternatively, several respondents proposed giving members the option to treat any excess contributions as voluntary contributions rather than a refund, to improve members' benefits.

A.16 A small number of individuals voiced a concern that the prospect of a one-off refund may unduly influence a member's decision between the legacy and reformed schemes (i.e. a member may choose a particular scheme based on receiving a one-off payment rather than considering the overall package of benefits).

A.17 There was also a concern that lower-paid members may need to take out loans (and pay financial charges) to cover any contribution payments so there may be unfair or uneven financial strain across the membership. However, as set out in the consultation, the government will ensure that members are able to make any payments over time to ensure that repayments are affordable for members.

A.18 Organisations voiced mixed views on the proposals, and a number of respondents particularly voiced concerns around tax due on refunds. Further information on tax is provided in Chapter 2.

A.19 Several respondents believed the proposal of amending some members' contributions twice under DCU – once when transitionally protected members are returned to their legacy schemes for the duration of the remedy period, and again when members retire – is more complicated and presents a higher administrative burden, when compared to IC.

> *"This will exacerbate the administrative burden and increase the potential for error. Consideration would also need to be given to how to record the adjustments and who would be responsible for doing this. FRAs frequently outsource their payroll services and concern has already been raised about change of providers during the remedy period; this is far more likely to occur during the 20-30 years that records will need to be retained for DCU purposes. This is also an issue for the TPS where an increasing number of maintained schools are outsourcing their payroll services from their local authority. Whilst the TPS is administered centrally with central records, it could be difficult to resolve historic queries."*
>
> - Local Government Association

A.20 To mitigate this additional administrative burden as well as the significant adjustment charges members may face, some schemes and member representatives have suggested various solutions, including leaving members within their current schemes or allowing members to make an indicative decision as to whether they want to accrue benefits in the legacy or reformed schemes during the remedy period.

> *"A resolution to this would be to choose the DCU option, but allow an indicative choice for initially dealing with remedy membership. This would significantly remove the requirement for a second balancing for 1992 legacy scheme members and also mitigate the impact of 2006 scheme members."*
>
> - FBU

A.21 Concerns were also raised around the logistics of the proposals on how exactly contributions due would be collected and how long members would have to pay any contributions.

A.22 Specific questions were posed on interest within the consultation document. Question 20 asked whether interest should be charged on amounts owed to schemes (such as member contributions) by members, and, if so, at what rate. Question 21 on the other hand asked whether interest should be paid on amounts owed to members by schemes, and, if so, at what rate. 154 individuals answered question 20 and 147 individuals answered question 21. 81 bodies responded to these questions.

A.23 A strong majority of respondents believe that interest should not be charged to members, while a strong majority also believe that schemes should pay interest on amounts owed by schemes. The key reason for this was that the respondents believed the remedy is a result of errors made by the government, and it should therefore bear any costs and compensate members for missing out on interest from savings or investments.

A.24 Where respondents have agreed with charging interest to either party, they have answered with a range of interest rates, such as the Bank of England rate, RPI, or the average rate for savings accounts.

A.25 Question 22 within the consultation document asked whether, if interest is applied, existing scheme interest rates be used (where they exist), or whether a single, consistent rate across schemes would be more appropriate.

A.26 107 individuals responded and the majority preferred the implementation of a single consistent rate across all schemes, as they believe it would be fairer, easier to understand, and simpler to implement.

A.27 Fundamentally, most respondents thought that the system and rate to be used should be the one that gives the most benefits to members as they have already been discriminated against.

A.28 The 69 responses from bodies were far more definitively in favour of a single consistent rate across all schemes than the responses from individuals.

> *"It would seem open to challenge to apply different rates across public sector for the same purpose...*
>
> *The SCAPE discount rate would be consistent with scheme financing but has been questioned by other services for use in scheme pays roll ups."*
>
> \- Firefighters Pension England SAB

Approach

A.29 The government has noted the concerns raised with the approach set out in the consultation, however, the government considers that it is necessary to charge members the appropriate contributions for the benefits they accrue and to do so in a way that ensures members are treated equally. In removing the discrimination identified by the courts, the government is taking steps to place individuals back into the position that they would have been in but for the discrimination and ensuring that all members with relevant periods of service are treated equally in respect of that service. If members who are moved to the legacy arrangements were not charged contributions at the rate payable in respect of other members for the same period of service, there would be a difference in treatment and the government does not consider this would be appropriate or justified.

A.30 For this reason, member contributions will be adjusted under the DCU, as set out in the consultation document at paragraph A.9. This will involve a first stage when members are moved to the legacy scheme in respect of any relevant service between 1 April 2015 and 31 March 2022. Where a member has paid higher contributions in respect of any period than are due under the legacy scheme, the difference will be paid to the member. Where a member has paid lower contributions than those due, they will owe the difference to the scheme. The second stage will apply where a member in scope of the DCU elects to receive benefits equivalent to those that would have been paid had they instead been a member of the reformed scheme in respect of the relevant period. In such cases, any difference in contributions paid to the legacy scheme compared to those that would have been paid to the reformed scheme will be corrected, with the member paying a shortfall to the scheme or the scheme paying any overpayment to the member. The two stages will ensure that members have paid the correct contributions for the benefits that they choose to receive.

A.31 Respondents to the consultation tended to support charging interest on sums owed to members, however many respondents argued that interest should not be charged on sums owed to schemes.

A.32 The government considers that it is right to add a reasonable rate of interest to sums owed to schemes and sums owed to members. This is because a member who underpaid employee contributions could have invested the additional money needed for those contributions over time and earned interest on that investment; or spent it on items that they might otherwise not have been able to afford. Their comparators in the scheme will have been paying the correct level of contributions throughout, so would not have had the benefit of the additional money over time. The government consider that interest should be applied to money owed to ensure fair and equal treatment of members.

A.33 As set out in the consultation, members will be given the opportunity to repay any sums owed upfront or over time.

A.34 The government considers that it will be desirable for it to prescribe appropriate rates of interest centrally to ensure consistency, and to recognise the fact that the issue of owed contributions – and refunds – will remain for decades. The majority of respondents to the questions on interest in the consultation supported this position. The government will consult the Government Actuary on the appropriate rate of interest to add to sums owed to and by members.

Voluntary member contributions (VMCs)

A.35 Question 12 asked for comments on the proposed treatment of voluntary member contributions that individuals have already made. The consultation set out that additional benefits purchased via VMCs in the remedy period could be converted to an equivalent value of Added Pension (AP) in the scheme that the member is not currently in. This equivalent value of AP would only come into payment where they chose to join the alternative scheme design for the remedy period. If a member's original scheme design was chosen, then they would keep the additional benefit originally purchased. However, the value of the AP in the alternative scheme will be shown on the member's benefit statement.

A.36 The consultation also set out that some of the reformed schemes include an option for members to buy-out some or all of the reduction to pension if benefits are taken before NPA. This is known as Effective Pension Age (EPA) in the reformed scheme for civil servants (Alpha), Early Retirement Reduction Buy Out (ERRBO) in the reformed NHS pension scheme and Buy Out in the reformed Teachers' pension scheme.

A.37 Because of the nature of such EPA and ERRBO-type arrangements, which are clearly related to the reformed scheme benefit design with a higher NPA, the consultation suggested that it would not be possible to convert it into an equivalent value of AP in the legacy scheme. It was therefore suggested that members who are returned to the legacy scheme for the remedy period (under either IC or DCU) would receive a refund of their contributions to such arrangements. A refund would void the EPA or ERRBO benefit even if reformed scheme benefits were ultimately chosen. Some workforces have agreements in place with employers to share the cost of EPA and ERRBO. In such situations, when receiving a refund, it was suggested that members would only be offered the full value of their own contributions, as they would no longer be providing for the early pension age for which they were specifically intended.

A.38 We received 86 responses from individuals to this question, with only a small number expressing a preference in relation to the government's proposed approach.

A.39 Of the small number who expressed an opinion on the government's proposals, the majority strongly felt that any Effective Pension Age (EPA) or Early Retirement Reduction Buy Out (ERRBO) benefits should not be lost if a member chooses to move to the legacy schemes as members are likely to have made retirement plans based on these additional pension arrangements. It is also relevant that many members will return to the reformed schemes from 1 April 2022, so would still wish to benefit from the EPA/ERRBO contributions already made in that scheme.

A.40 Some individuals suggested that instead of a refund, EPA/ERRBO should be converted to AP or Added Years (AY). Where a refund is paid, members expressed that interest should be included to cover both the opportunity cost and the cost of inflation.

A.41 Given the change in circumstances was unforeseen, several respondents also argued that members should be allowed to retrospectively purchase VMCs during the remedy period. Some members believed that those under tapered protection should be offered this option as a minimum.

A.42 Both member representatives and employers expressed similar views to members. Those that supported the approach in the consultation document did so on the basis that they believed members should retain the value of any additional contributions, specifically AP.

> *"We agree that the value of additional pension contracts should be retained by members.*
> *Where a member ends up in the alternative scheme during the remedy period, we agree that the additional pension should be converted into a cost-neutral benefit payable under the alternative scheme. We welcome that any retrospective breaches of the relevant limits would be ignored."*
>
> \- NHS SAB

A.43 Bodies that disagreed with the approach set out in the consultation document did so citing potential discrimination against members who would not receive the benefits they had paid for, particularly on the approach set out for EPA or ERRBO.

A.44 Many suggested alternatives that would allow members to retain the benefits offered to them when they originally chose to make additional contributions. These included receiving interest on refunded contributions (as suggested by the POA) or by allowing members to retain access to equivalent benefits in whichever scheme they opt for.

> "*We do not agree with the proposal for the treatment of members who have paid AVCs for the purchase of an effective pension age (EPA) or early retirement reduction buy-out (ERRBO). If a member has paid AVCs, they should receive a proper return on the investment they have made, and not simply a return of their contributions.*"
>
> \- POA

Approach

A.45 After reviewing responses, and through further engagement with schemes, the government is considering ways to ensure that members may retain rights in the schemes in which they made voluntary member contributions, specifically in respect to EPA and ERRBO.

A.46 The technical detail of how this will be implemented in each scheme will be decided through scheme level discussions, and subsequent consultations on secondary legislation (scheme regulations).

Annual benefit information statements

A.47 Question 13 asked for comments on the government's proposed treatment of annual benefit statements, which are provided to active members. The consultation set out that, under the DCU option, scheme administrators would be required to produce statements containing information on remedy period benefits under both the reformed and legacy scheme designs (as well as legacy scheme benefits for years of service before 2015; and reformed scheme benefits after 2022).

A.48 We received 138 individual responses to this question. Responses to the proposed approach were mixed.

A.49 Respondents that expressed support for the government's proposed approach welcomed the information that would be provided by receiving a statement which sets out the reformed and legacy scheme benefits annually.

A.50 Many acknowledged that the proposed approach under the DCU would complicate these statements for members. They emphasised the need for statements to clearly explain both sets of benefits to ensure members understand the choice offered to them.

A.51 Individuals expressing negative views in response to the approach set out in the consultation did so citing perceived previous errors in annual benefit information statements, and the potential for inaccuracies. Others flagged that under DCU the complexity of receiving information on multiple potential awards could introduce confusion unless accompanied by financial advice.

A.52 Responses from organisations (such as member representatives, employers and administrators) similarly expressed mixed views on the proposals.

A.53 As with responses from members, many employers, particularly in the Fire Services, expressed concerns that providing members with two sets of benefits could create confusion, and stated that receiving two sets of information would not be meaningful until a member neared retirement. Alternatives suggested included pointing members to online calculators.

A.54 The LGA also cited the additional time it would take to implement and explain the different benefits to members in a way that would be clear to them.

A.55 Those who supported the inclusion of both legacy and reformed scheme benefits on the statements for the remedy period suggested that the provision of full and detailed information would be vital for members in providing them with the necessary information to make an informed decision at the point of receiving their pension award.

Approach

A.56 The government consider that it is important that members receive information about the alternative benefits available to them under the DCU. The government considered that extending annual benefit information statements to include this information is the best approach for active members, whilst recognising the need for this information to be clearly communicated.

A.57 Some respondents raised concerns that the provision of two sets of information may not be meaningful until a member nears retirement. The government continues to believe that this information should be provided to all those in scope of the remedy, as members will want to be informed about the current value of their pension rights to help with their retirement planning, which they may start to do many years from retirement.

A.58 Information will also need to be provided to affected members who are already in receipt of their pension, to enable them to take decisions about the benefits they wish to receive in respect of any period of relevant service. Deferred members will also need to be provided with information prior to the commencement of their pension and on request, in the same way that information is being included for active members of the schemes.

A.59 To address implementation challenges, the government has worked with schemes to provide flexibility on administration timelines and has agreed to provide additional time for implementation of the DCU, set out in more detail in Chapter 2. This is intended to reduce the pressure on scheme administrators, and in addition will reduce the risk of error in these statements.

Ill health retirement (IHR)

A.60 Question 14 in the consultation document asked for views on the government's proposed treatment of cases involving IHR.

A.61 The proposal set out in the consultation suggested that members in scope who had already retired on ill health grounds would be able to retrospectively choose the benefits in the alternative scheme if they wished. However, whether their alternative choice of benefit would also be an IHR benefit would depend on whether they would be accepted for IHR pension in the alternative scheme. If such a member was refused retirement on ill health grounds in the alternative scheme, their choice would be between their existing ill health benefit and the other pension benefit that would have been awarded (at the age they retired) from the alternative scheme. This could be an actuarially reduced pension, or a deferred pension if the member is below their minimum pension age.

A.62 We received 61 responses from individuals, expressing mixed views on the government's proposed approach.

A.63 Respondents who supported the approach set out in the consultation were grateful that members in scope who have retired on ill health grounds will be given the same choice between reformed and legacy scheme benefits.

A.64 Individuals also expressed that the choice would need to be clearly explained as individual circumstances will differ. Many suggested that allowances should be made for a relative to be involved in the process, who can provide support and help with clarification. In addition, several responses expressed concerns that, as those who have taken IHR may be more likely to be older, calculations should be accessible and there should not be a reliance on online tools.

A.65 Some respondents argued that members should be entitled to the IHR arrangements they signed up to when they joined the pension scheme, and that those who have retired on ill health grounds should not have this decision revisited.

A.66 Responses from bodies (such as member representatives, employers and administrators) also expressed mixed views on the proposals.

A.67 Several responses from member representatives, including the ISU, the FBU and the Defence Police Federation voiced concerns about the need to prioritise IHR cases where members have been awarded benefits during the remedy period, and said that these members should not have to wait until 2022 to have their benefits revisited.

A.68 Both unions and employers (including the NHS Scheme Advisory Board, the Royal College of Nursing and Royal College of Midwives) also expressed the view that members should not be worse off as a result of having their cases revisited as a result of these proposals.

A.69 Many responses also expressed a desire to see further scheme-specific guidance on how IHR cases would be handled in order to make a more informed judgement on the proposals.

Approach

A.70 Members in receipt of IHR benefits will be treated in the same way as other members of the schemes and, consistent with the approach taken for other members already in receipt of pension benefits (including in relation to taper protection members), will have a choice as to which benefits they wish to receive for the relevant period. In practice, this will require schemes to consider whether the member would have been entitled to IHR benefits under the alternative scheme, which will normally require a medical practitioner to advise whether they met the criteria for the payment of IHR benefits in the alternative scheme at the relevant date (the criteria for which may also vary, depending on the extent of ill health and its implications for a member's ability to undertake work in future). Where the requirements of the alternative scheme are satisfied, the scheme will provide the member with information about the alternative benefits available to them and the member may elect to receive those instead of the benefits already in payment. Where the member would not have satisfied the criteria for IHR benefits to be paid, the scheme will advise on the alternative benefits, if any, that would have been payable under the alternative scheme from the date their current benefits commenced and the member may elect to receive these instead of the benefits already in payment.

A.71 The criteria for IHR pensions vary from workforce to workforce and between schemes, and schemes will provide further detail to relevant members when the DCU is in place.

Cases where a member has died since 1 April 2015

A.72 The consultation sought comments on the government's proposed treatment of cases where members have died since 1 April 2015. This proposed treatment would mean that, where any increase in benefits was due, schemes would notify the individual who received any death lump sum payment (if that were a nominee, rather than the member's estate), survivors in receipt of ongoing pension payments, or a late member's legal personal representative (where no survivor pensions were in payment), and arrange to make the higher payment(s). These payments could relate to a pension the member was in receipt of before their death, to a death lump sum, or to any survivor pensions in payment.

A.73 Alternatively, schemes could adopt a more complex approach and present survivors with the choice between two packages of benefits. This would be similar to the choice that the member would have been given had they still been alive; setting out the consequences of such a choice on payments already made to the member and/or their estate/survivors. The rationale behind offering such a choice stems from the fact that the reformed scheme may offer benefits not available in the legacy scheme, such as survivor pensions for unmarried partners.

A.74 There was a consensus among responses to this question that cases where members have died should be handled particularly sensitively, tactfully and constructively.

A.75 Several respondents stated that there should be no decrease to the amount of pension being paid (particularly to dependents), and that schemes should try to maximise any benefits that are due. There were mixed views on whether survivors should be contacted in the first place if they are already receiving the highest available level of benefits, to avoid further distress.

A.76 In cases where there are surviving partners who were not eligible for benefits under the legacy schemes, respondents felt they should automatically be placed into the reformed schemes and receive payments.

> *"It would appear sensible to avoid further distress that where the partner of a deceased member receives a partner's pension in payment from the reformed scheme and there are no dependent children, documentation provided to them should not offer a choice, as the choice would be to receive no pension from the legacy scheme (A.39). Although the consultation proposes that no contact be made, we would suggest that a courtesy letter is sent to reassure the partner, as they may be aware of the remedy exercise from the media or colleagues of the deceased."*
>
> \- Local Government Association

A.77 Some organisations also raised concerns about implementing the choices members made when they were alive.

> *"We would reject the argument proposed at para A38 that if a member had selected an option, whilst alive, which favoured a specific legacy scheme (resulting in lower death benefits), that the wish should be "respected". This seems to miss the point that most members would have made their choice on the basis of the legacy scheme that would provide the highest pension benefits assuming (unfortunately incorrectly in their case) that they would survive until retirement. Our view is that the choice is between the new reformed scheme and that which the member held immediately before 01/04/2015. The death benefit implications of change should be made so that an informed choice can be made by the survivors."*
>
> \- Forces Pension Society

A.78 Respondents generally welcomed the commitment that additional costs or penalties incurred as a result of such payments being made would not fall to members' estates or survivors, although further detail on implementation was requested.

Approach

A.79 These cases will be reviewed as a priority by schemes. Taking into consideration views expressed by respondents on contact preferences, schemes will check whether a higher pension or lump sum amount would be available under the alternative scheme, and inform relevant family members where this is the case. The beneficiary will then have the option to request that the additional, alternative amount is paid.

A.80 Any unauthorised payment charges or additional expenses incurred (where evidenced – e.g. from reopening a probate application) as a result of remedy would be reimbursed. This though does not extend to inheritance tax payments which may become due or which may increase as a result.

A.81 Where there are separate households containing family members who may be, or are already, entitled to survivor pensions, the choice between benefits will fall to the late member's surviving spouse or partner. The government will honour the commitment made in the consultation to protect child pensions already in payment, which would otherwise be impacted by a decision taken by someone outside the child's household. This is consistent with the approach set out in the consultation document.

Contingent decisions

A.82 Question 16 in the consultation document asked for views on the government's proposed treatment of individuals who would have acted differently, in terms of decisions made about their scheme pension membership, had it not been for the discrimination identified by the Court of Appeal.

A.83 The proposal in the consultation set out that where members wished to argue that they would have taken a different course of action had they known that continued membership of their legacy scheme during the remedy period was an option, then schemes would consider representations on a case-by-case basis. The consultation noted that unwinding some of these contingent decisions would involve complex calculations, would be likely to require evidence from the member and possibly also their employer, and tax adjustments may also need to be made.

A.84 The consultation explained that where members wished to be treated as accruing benefits in their legacy scheme in relation to service in the remedy period, then payment of the correct employee and employer contributions would be required retrospectively, with appropriate interest. Tax adjustments may also need to be made.

A.85 The consultation also explained that where a period of more than 5 years had elapsed since a member opted out of a final salary legacy scheme, they would usually lose their right to the "final salary link" (FSL) provided for by section 20 of the Public Service Pensions Act 2013. The FSL allows members in the reformed schemes with final salary legacy scheme service to have those benefits calculated in line with their final salary when they retire (or otherwise leave the reformed scheme), rather than when they left the legacy scheme. The consultation proposed that, where a member, and their employer, paid contributions owed for the relevant period then any FSL would be restored.

A.86 Many responses to this question from individuals were from members saying that they had made decisions which they now wanted to revisit. Of those that gave views on the government's proposed approach, the sentiment was mixed, with a slight majority expressing negative views on the approach set out in the consultation document.

A.87 Of those that supported the approach set out, the main reason cited was that they agreed that the review of contingent decisions should be done on a case-by-case basis, at a scheme level, as each member's situation is different.

A.88 Of those that disagreed with the proposed approach, several members cited a perceived 5-year limit imposed on cases and stated that decisions should be considered beyond this time limit. A minority of responses believe that this is discriminatory, as they feel it may penalise an individual for decisions taken over 5 years ago, and as the context behind this decision has now changed.

A.89 Other individuals did not support the proposals included in the consultation, expressing concerns that the ability to revisit contingent decisions may not fully reflect the financial impacts of past decisions.

A.90 Additionally, several respondents raised concerns around the administrative complexity of providing proof to support the rationale behind contingent decisions, often several years in the past. Several mentioned that this complexity was exacerbated under the DCU. A small number also mentioned that they did not feel that interest should be charged on contributions owed to the scheme.

A.91 Responses from organisations (such as member representatives, employers and administrators) were mixed, although broadly in favour of the proposals set out in the consultation document.

A.92 The reasons cited for positive views on the proposals were that employers and unions agreed that the decisions should take place at a scheme level, on a case-by-case basis and where appropriate consideration could be given to the evidence available. There were some caveats associated with this, mostly related to guidance on process and clarification on the types of evidence that would be sufficient to justify consideration of requests.

A.93 Additionally, several employers suggested that members would need to pay the correct contributions to be reinstated to either reformed or legacy schemes, and that options for paying these in instalments, or over a longer period of time should be considered. Some also suggested that there could be financial provisions for employers to fund additional pension contributions for those retrospectively re-joining pension schemes.

> *"We agree that claims or complaints based on change of position or reliance are extremely fact-sensitive and will therefore need to be considered on a case-by-case basis. It may be helpful to members, employers and scheme administrators to provide further guidance as to what level of evidence will be required before considering such requests."*
>
> \- Association of Pension Lawyers (APL)

A.94 Those who opposed the proposals, largely member representatives, stated that there should be automatic reconsideration for these cases. Other member representatives argued that to ensure consistency, specifically in locally administered schemes, there would need to be some sort of centralised decision making to avoid the emergence of any inconsistencies.

A.95 The employers who disagreed with the proposals largely did so citing potential abuse.

> *"The proposals are lacking any detail on eligibility and proof that an individual would have acted differently, stating they should be considered on a case by case basis. Unless there are criteria to be met this will lead to inconsistencies and the potential for another discrimination claim."*
>
> - Local Pensions Partnership Administration (LPP)
> - Bedfordshire Fire & Rescue service
> - Cumbria Fire & Rescue service

Approach

A.96 Respondents tended to agree with the position set out in the consultation document, that contingent decision cases would be given the appropriate consideration when made at scheme level. The government notes that some member representatives considered that there should be automatic reconsideration of some cases; however, government takes the view that it will not be possible for schemes to know whether members took a decision, for example to opt out of scheme membership, as a consequence of the discrimination that arose. Members will need to show that they took an action, relating to their membership of a public service pension scheme, that would have been different had it not been for the discrimination identified by the courts. The government considers that any claim will therefore need to be raised by members.

A.97 The government notes that some responses from member representatives and employers considered that there would be a need for central guidance to ensure consistent treatment across and within schemes. The government accepts the need for consistency in the approach and agrees that guidance would be beneficial around member decisions to opt-out of membership of the schemes due to the discrimination identified by the courts. The government will undertake further work with schemes to agree guidance on handling cases where members can show they have taken such contingent decisions about their scheme membership.

A.98 The government recognises that schemes may need to consider cases that are not envisaged in the guidance and may have unique or uncommon aspects. Whilst the guidance will be kept under review, schemes will also need discretion to consider such cases on their merits and on a case by case basis.

Public sector transfers

A.99 Question 17 asked 'If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?'. The response to this was mixed.

A.100 Most of the individual responses that expressed a preference disagreed with bringing forward the deferred choice for Club transfers.

> *"I would strongly object to this being the case. The whole point of DCU should be to allow all members the choice, at or close to retirement, of the scheme (or in the case of Club transfers, combination of schemes) that would be best for their circumstances. Curtailing this for those who had moved between Club members would appear to be discriminatory and not offer them the benefits being offered to other members. I do not see why those who have moved around the wider public sector to gain new skills, experience and knowledge should be penalised by it from a pensions perspective for no other reason than it might be complex to maintain their pension benefit records (the consultation paper offers no other reasons why bringing forward a decision should be considered reasonable). If concerns over complexity were driving the consideration, then DCU should not even be in scope – but if it is, then it should be in scope for everyone."*
>
> \- Member of the Civil Service Pension Scheme (CSPS)

A.101 Responses from organisations (such as employers, administrators and some member representative bodies) broadly supported bringing forward the deferred choice for Club transfers.

A.102 However, similarly to the responses from individuals, the responses from member representatives largely said that it wouldn't be fair to force transferees to make a choice at point of transfer when others were able to wait until retirement (under the DCU), as it would amount to less favourable treatment.

> *"It would be administratively easier, and easier for the member, for the DCU date of choice to be brought forward. The argument for offering DCU is to allow a member to understand the value of their benefits at the date they make the choice. They would receive this information on leaving employment."*
>
> \- Firefighter's (England) Scheme Advisory Board

A.103 Administrators largely referred to the challenge of maintaining the records relating to the transferred in service for long periods of time. This would be particularly difficult if a member transfers more than once.

A.104 Question 18 in the consultation document asked, 'where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?'.

A.105 Responses to this question largely mirrored the themes outlined above. The main reason that it should be a single choice was cited as administrative simplicity (administrators, member representatives and employers strongly argued for this), and the reason that there should be choices in both schemes was due to perceived fairness (mainly from individuals).

Approach

A.106 The government notes concerns raised about fairness if members are required to take decisions at the point transfers are made. The government has confirmed that the DCU will be implemented and agrees that a consistent approach is appropriate in respect of Club transfers. Members undertaking Club transfers will not be required to make their choice at the point of transfer, but at the point they take their benefits relating to the remedy period. Any decision will relate to all service in respect of the period from 1 April 2015 to 31 March 2022, whether that arises from service in employment in the receiving scheme or service arising from a Club transfer. The details of how club transfers will operate will be set out in updates to the Club transfer rules and scheme regulations.

Divorce cases

A.107 Question 19 asked for views on the government's proposed treatment of divorce cases. The consultation set out that a deferred choice would be exercised by the scheme member (pension debit member), not the ex-spouse or civil partner (pension credit member), on the basis that the scheme member has been subjected to the discrimination so far identified by the Court of Appeal. The pension credit member will be awarded the percentage (as specified by the courts) of the higher cash equivalent transfer value (CETV) due under remedy; this will not be changed to reflect any choice the scheme member (here the pension debit member) makes, which would result in a lower pension amount.

A.108 We received 45 responses from individuals to this question and 66 responses from organisations.

A.109 The majority of individual respondents to this question did not express a clear position, with around a third of these stating that the proposals were unclear. Responses highlighted that any changes should be accompanied by guidance and/or advice to mitigate the complexity of the proposals and clarify the rights of Pension Debit Members' and Pension Credit Members'. The view on this was that Pension Debit Members should make the choice between legacy and reformed scheme benefits.

A.110 Individuals also noted the complexity of divorce cases more generally and the corresponding need for decisions to be taken on a case-by-case basis. A potential role of the courts in facilitating this was highlighted.

A.111 Around three-quarters of organisations who responded to question 19 stated their agreement with the government's proposed treatment of divorce cases, as set out in the consultation document. Support from member representatives was most pronounced, with 85% of respondents to question 19 agreeing with the proposals.

Approach

A.112 The government confirms the consultation position, taking into consideration the support for this approach from respondents. The CETV will be calculated as though the pension debit member had become a deferred member and had elected to transfer their pension rights at the relevant date, so the transfer value will be based on whichever scheme, legacy or reformed, produces the higher amount in relation to any period of service during the period between 1 April 2015 and 31 March 2022. Where the CETV provided to the court would have been higher as a result of the implementation of the DCU, the pension credit member's benefits will be increased in proportion with the increase in CETV to reflect that additional amount. The changes will come into effect when the DCU is implemented in scheme regulations.

Abatement

A.113 Question 23 asked for views on the government's proposed treatment of abatement. 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.

A.114 The proposed approach set out in the consultation stated that where the DCU resulted in a retrospective increase to a pension, which might mean that a pensioner's income from pension plus their earnings exceeded their pre-retirement earnings for the first time or by a greater amount, then abatement would not apply or would not be increased retrospectively.

A.115 Where abatement applies in the legacy scheme, and a pension award already taken had been abated, but the member chose to move to the reformed scheme for the remedy period, the consultation proposed that the abatement calculation would need to be reviewed and adjusted as necessary from 1 April 2015 or the date the pension was awarded, if later. In some other cases, a reduction in legacy scheme pension (because service during the remedy period was instead treated as earned under the reformed scheme) might mean that a remaining legacy benefit entitlement was no longer abated. Benefits earned in reformed schemes are not subject to abatement.

A.116 We received 50 responses from individuals to this question, of which only a minority agreed with the proposals as set out in the consultation document. Other respondents either disagreed with the proposals or were unclear as to the implications of them or expressed concerns about abatement more generally.

A.117 A small number of individuals noted that if members changed from legacy to reformed pension schemes for the remedy period, then they may benefit financially in terms of retrospective wiping out of pension abatement.

A.118 A more decisive response to question 23 was provided by members of those pension schemes which typically cover frontline workers or those in physically demanding professions - police, firefighters, NHS and armed forces. Three-quarters of these respondents disagreed with the proposals. They felt that abatement should be suspended for members who are able to receive their legacy scheme pension at the legacy scheme NPA if it falls before their reformed pension NPA, typically at the SPA.

"With the fact we'll have to wait until 67 to get the pension, police officers and staff will naturally go into a similar occupation after retiring from the police. Penalising for going into a natural occupation isn't fair."

"The proposed rules on abatement are completely discriminatory. It is completely unjustified that, if a firefighter was to work for the NHS as an Emergency Blood Delivery Driver then that individual could receive a full pension and full salary, but if that individual was to be employed by the same fire and rescue service in a different role inspecting equipment then the pension would be reduced subject to the rules of abatement […] What employees choose to do after employment should be completely irrelevant with regards to the full payment of their pension. After all, are their accrued benefits not 'protected'?"

- Member of the Police Pension Scheme

A.119 76 organisations responded to question 23, of which the majority agreed with the proposals as set out in the consultation document. This positive response was consistent across employers, member representatives and pension schemes and administrators.

Approach

A.120 The government has noted the potential for inconsistent treatment in the position that was set out in the consultation, specifically that those who are older and had protection (either full or tapered) will potentially have been abated throughout. Someone who is not protected may choose legacy scheme benefits but have any excess that would have been abated ignored.

A.121 The government will continue to work with schemes to consider this further, given the complexity of the issues involved. Any necessary changes to scheme regulations will be consulted on alongside changes to implement the DCU.

Annex B

Glossary of terms

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

Accrual rate – This rate is set out in a pension scheme's regulations and determines how quickly a member's pension grows. Most are written in the form of 1/n (where n is a figure such as 50 or 60) multiplied by pensionable pay and in those cases the smaller the n, the more valuable the rate is. However, some are expressed as percentages of pensionable pay, such as 1.6% or 2.0%, where the higher the percentage the more valuable it is.

Active member - Members who are working (in pensionable service) and accruing additional pension benefits from that work and from contributions paid by their employer on their behalf. In most cases the member is also making contributions.

Actuarial valuation - A report of the financial position of a defined benefit pension scheme carried out by an actuary at regular intervals. The valuation report typically sets out the scheme's assets and liabilities as at the date of the valuation; the rate at which the sponsoring employer(s) must contribute to meet the liabilities accruing as they become due; and the additional rate at which the employer(s) must contribute to eradicate any deficit (the excess of liabilities over assets) within a stated time period.

Added or additional pension (AP) - Available in some legacy and reformed schemes allowing members to purchase additional amounts of pension (employers can also contribute as well as or on behalf of the member).

Added years (AY) - Contracts available in some legacy schemes allowing members to purchase additional years of service.

Annual allowance - A limit on an individual's annual tax-relieved pension accrual. The standard allowance is £40,000 for most people but is subject to a tapered reduction for those on the highest incomes. Further information can be found at www.gov.uk/tax-on-your-private-pension/annual-allowance.

Annual allowance charge - The tax charged at an individual's marginal rate of income tax on pension accrual above the annual allowance.

Annual Benefit Statements - The statement which members receive each year telling them how much their pension is worth.

Career Average Revalued Earnings (CARE) Scheme - A defined benefit pension scheme that gives individuals a pension based on a percentage of the salary earned in each year of their working life. The annual "pot" is increased each year by a particular revaluation factor applied in that scheme.

Cash Equivalent Transfer Value (CETV) - A value placed on accrued pension rights in particular circumstances, such as when any worker ceases to be an active member of a scheme before pension is payable and wishes to transfer those pension rights to certain types of other pension scheme such as a private sector defined benefit scheme. Everyone can request a CETV except in the year before retirement, but schemes can refuse to accept them.

(The) Commission - The Independent Public Service Pensions Commission led by Lord Hutton of Furness from 2010 – 2011.

Commutation - Optional conversion of continuing pension into lump sum at a conversion rate offered by the pension scheme for that particular type of commutation of continuing benefit into lump sum. Reverse commutation is where some or all of a separately accruing pension lump sum can be converted into a continuing pension.

Consumer Prices Index (CPI) - An official measure of the cost of inflation, increasingly used for government purposes in recent decades. It examines some of the same things as RPI did, such as the weighted average of prices of a basket of consumer goods and services, such as transportation, food, and medical care. CPI has been regarded as more accurately measuring changes in overall prices than RPI.

Dashboards - Proposed online systems to allow pension scheme members to see all their pensions in one place. The government is legislating to establish pension dashboards in the Pension Schemes Bill, which is currently before Parliament.

Deferred choice underpin (DCU) - The selected remedy to remove the unlawful discrimination identified by the court. Formerly unprotected members will be returned to their legacy scheme for the remedy period (2015 – 2022). At the point benefits are payable they will be able to choose legacy or reformed scheme benefits for the remedy period.

Deferred member - A member who has stopped accruing extra benefits in their scheme, for example, after leaving employment covered by that scheme, or opting out of the scheme. No pension benefits have yet come into payment for the member from the scheme and the pension previously accrued is called a deferred or preserved pension.

Defined Benefit (DB) pension scheme - A pension scheme where the pension is related to the members' salary or some other value fixed in advance.

Defined Contribution (DC) pension scheme - A scheme where the individual receives a pension based on the contributions made and the investment return that those contributions have produced. These are sometimes referred to as money purchase schemes.

Early retirement reduction buy out (ERRBO) - In the NHS Pension Scheme 2015, the method of a member and/or their employer paying additional contributions to buy out the actuarial reduction applied when a member retires earlier than their Normal Pension Age.

Effective pension age (EPA) - As per ERRBO above – but this relates to the 2015 pension scheme for civil servants (and others) ("Alpha").

Employer Contribution Rates - The percentage of the salary of employees that employers pay as a contribution towards the employees' pension.

Final salary scheme - A type of DB scheme that gives individuals a pension based on the number of years of pensionable service, the accrual rate and final salary as defined by the scheme.

Government Actuary's Department (GAD) - A government department responsible for providing actuarial advice to public sector clients.

Guaranteed minimum pensions (GMP) - The minimum pension that occupational pension schemes have to provide for those employees who were contracted out of the State Earnings-Related Pension Scheme between 6 April 1978 and 5 April 1997.

Hutton report - The report(s) from The Independent Public Service Pensions Commission, led by Lord Hutton of Furness from 2010–2011.

Ill health retirement - A type of pension available to a member who meets the relevant test in scheme regulations when they are unable to continue working due to ill health.

Immediate choice - One of the options which was consulted on but not adopted for removing unlawful discrimination identified by the court. Members would have been asked which scheme they want to be a member of for the remedy period, shortly after 2022.

Indexation - Indexation is a technique to adjust pension payments by means of an index. It most often refers to the indexation of pensions in payment in line with a prices index in order to maintain the purchasing power of the pension after inflation.

Independent Public Service Pensions Commission - The independent commission undertaking a fundamental structural review of public service pension provision which commenced in 2010 and issued its final report in 2011. It was led by Lord Hutton of Furness.

Legacy scheme - The public service pension schemes members were in prior to 1 April 2015.

Life expectancy - Life expectancy at a given age, x, is the average number of years that a male or female aged x might be expected to live thereafter.

Lifetime allowance - A limit on the total amount of tax-relieved pension accrual an individual can have without incurring a lifetime allowance charge. Further information can be found at www.gov.uk/tax-on-your-private-pension/lifetime-allowance.

Lifetime allowance charge - The tax charged on an individual's total pension accrual above the value of the lifetime allowance. An individual can either take this excess as a lump sum, in which case it is subject to a 55% tax charge, or as a regular pension payment, in which case the excess is subject to a 25% tax charge plus marginal rate income tax upon receipt.

Longevity - The length or duration of human life.

Lump sum - A specific payment made in respect of a member's pension rights. It can be an optional or mandatory pension lump sum payable to a member when a continuing retirement pension is brought into payment (often referred to as a pension commencement lump sum (PCLS)). Other lump sums are payable in respect of events such as death.

Member contributions - The percentage of their pensionable pay paid by active scheme members into their pension schemes.

Minimum Pension Age (MPA) - The earliest age at which ordinary retirement benefits can be brought into payment for a member under the rules of that scheme, and subject to tax limits. Ill health and survivor pensions are not subject to MPAs.

Money Purchase Additional Voluntary Contribution (AVC) - These are personal pension (money purchase) contributions made by someone who is also a member of an occupational scheme as a top-up to their occupational entitlement. These are defined contribution pensions.

New fair deal - HMT guidance on pension provision for workers whose employment is compulsorily transferred to the private sector when the services they work on are moved to private sector suppliers.

Normal Pension Age (NPA) - The age at which a pension scheme member can start taking pension benefits on a voluntary basis without any reductions. NPA is set in scheme rules. A member can retire voluntarily before NPA, as long as they are over their MPA, but will then face a reduction to their benefits.

Occupational pension - A pension, which is provided via the employer. It can be an unfunded arrangement in the public sector, where the pension promises are guaranteed under statute and there is no specific pot of assets allocated to meet the pension promises. However, in some of the public sector and in the private sector the pension scheme has to be legally separate from the employer, and backed by a specific pot of assets, and usually takes the form of a trust arrangement.

Pension credit - The main income-related social security benefit for pensioners, which combines the Guarantee Credit and the Savings Credit.

Pension Input Amount - The amount of an individual's annual pension accrual that is tested against the annual allowance to determine whether that individual is required to pay an annual allowance charge.

Pensioner member - Individuals who are drawing a pension and who are mainly former employees. However, they may also include widows, widowers and other dependants of former active members.

Public Sector Transfer Club - A group of some 120 salary related occupational pension schemes. It allows easier movement of staff mainly within the public sector. It does this by making sure that employees receive broadly equivalent credits when they transfer their pensionable service to their new scheme regardless of any increase in salary when they move to their new employment.

Public service pension schemes - Pension schemes authorised by statute where the relevant ministers or officials make the rules of the schemes. The main schemes are those for civil servants, the armed forces, NHS employees, teachers, local government employees, the police and firefighters. There are over 200 public service pension schemes.

Reformed scheme(s) - The reformed public service pension schemes introduced under the Public Service Pensions Act 2013.

Remedy period - The period covered by the proposals in Chapter 2, that is 1 April 2015 – 31 March 2022.

Remuneration - The combined value of pay, pensions and other benefits that can be given a monetary value.

Retail Prices Index (RPI) - The old measurement of inflation but still published as it continues to be used to calculate price increases and indexation for certain purposes. Like CPI, RPI tracks changes in the cost of a fixed basket of goods over time, but the basket differs from CPI, as has the method of assessing overall inflation.

Scheme Pays - An arrangement that can be used in certain circumstances where an individual's annual allowance charge is paid by their scheme and the individual's pension benefits are reduced appropriately to reflect this.

State Pension age (SPA) - The age at which an individual can begin claiming their state pension. The ages vary between individuals with different birthdays.

Survivor benefits - When an active or pensioner member dies, each scheme has a range of benefits that dependent children, a spouse, civil partner and sometimes an unmarried partner may receive instead. These vary across schemes.

Tapered protection - Offered to members between 10 and 13.5 or 14 years of Normal Pension Age on 31 March 2012, meaning they could stay in their existing schemes for a period ranging from a few months to several years after 2015. As with transitional protection, this was found to be unlawful discrimination by the courts.

The Pensions Regulator (tPR) – A non-departmental public body and the UK's regulator of workplace pension schemes. It aims to ensure that workplace pension schemes (including public service schemes) are run properly so that people can save safely for their later years.

Transitional protection – Given to members within 10 years of Normal Pension Age on 31 March 2012, it meant they remained in their existing (legacy) scheme. This was found to be unlawful discrimination by the courts.

Unprotected members – All members who were moved to the reformed schemes on 1 April 2015, or anyone who first joined their pension scheme after 1 April 2015 and therefore entered the reformed schemes.

Whole of Government Accounts (WGA) - Consolidates the audited accounts of over 8,000 organisations across the public sector in order to produce a comprehensive, accounts-based picture of the financial position of the UK public sector.

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This document can be downloaded from www.gov.uk

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4 February 2021

Home Office

McCloud/Sargeant – Public service pension schemes consultation response

Frequently asked questions (FAQs)

Contents

Background

In 2015 the government introduced reformed pension schemes across all the main public service workforces. The reforms included a policy of transitional protection that meant members closest to their Normal Pension Age (NPA) stayed in their legacy schemes.

The Court of Appeal later found this transitional protection to be discriminatory against younger members in the judicial and firefighters' pension schemes. The government accepted that the judgment had implications for the other schemes including the firefighters' pension scheme, as they contained similar transitional arrangements. Since then the government has been working to address the discrimination.

The government cannot simply put all members back into their legacy schemes to remove the discrimination, as that would leave some members worse off – particularly lower or middle earners who are often better off in the reformed schemes. Therefore, the final policy design needs to allow members a choice of which scheme is better for them.

HM Treasury (HMT) ran a public consultation during the summer of 2020 to gather stakeholder views on the government's two final policy proposals – a deferred choice underpin or an immediate choice exercise. The consultation closed in October 2020 and the government is now announcing the final approach.

What is being announced today?

HMT public consultation response

The government has today published a response to the consultation on proposals to remove the discrimination identified in the McCloud/Sargeant litigation, via a deferred choice underpin (DCU).

1. Moving forward, at the point benefits are paid, e.g. at retirement, eligible members will be able to choose to receive legacy pension scheme benefits or benefits equivalent to those available under the reformed pension scheme for service between 2015 and 2022 (DCU). Not all members are better off in the legacy schemes, so it is important that individual members can choose which scheme benefits they want to receive.

2. From 1 April 2022 all those who continue in service will do so as members of the reformed schemes, regardless of age, meaning all members will be treated equally in terms of which pension scheme they are a member of.

The consultation response can be found here.

Cost Control mechanism

Separate to the consultation, the government has decided to waive the impact of any ceiling breaches that arise as part of the 2016 cost control valuations process, but to honour any floor breaches. This means no member will see a reduction in benefits and be worse off as a result.

The announcement can be found here.

4 February 2021

FAQs

Please note these FAQs will be kept under review.

BACKGROUND AND THIS ANNOUNCEMENT

Q1: Why did the government's reforms to the main public service pension schemes lead to discrimination?

A: Following negotiations with groups representing workforces, the 2015 public service pension scheme reforms included a policy of transitional protection. This meant members closest to retirement stayed in their legacy scheme as they had the least amount of time to prepare for the changes.

The Court of Appeal later found this policy to be discriminatory against younger members in some schemes. Following the ruling the government confirmed that it would take steps to address the discrimination in all affected public service schemes.

Q2: Do members need to submit a legal claim to receive any pension changes to address the discrimination identified by the courts?

A: No, members do not need to submit a legal claim to receive any pension changes addressing the discrimination.

The government has committed to applying any changes across the main public service pension schemes and so both claimants and non-claimants who are eligible members will receive the pension changes.

Q3: What steps has the government taken so far to address the discrimination?

A: Since the judgment the government has been working on different options to address the discrimination.

The government set out two proposals in a public consultation in July 2020 to gather views on which proposal would be better to remove the discrimination.

Since the public consultation closed in October 2020, the government has been working through all the responses and has now published its response setting out its final policy decisions. The government will address the discrimination through a 'deferred choice underpin'. This will allow eligible members a choice, at the point their benefits are paid, of which pension scheme benefits they would prefer to take for the remedy period.

Q4: What is a deferred choice underpin and why has the government chosen this approach?

A: To address the discrimination identified by the courts, eligible members who were moved to the reformed pension scheme in 2015 (or later if they had tapered protection) will be moved back into their legacy pension scheme for the period during which the discrimination occurred, between 1 April 2015 and 31 March 2022.

When payment of pension benefits commences for those members, or members who were originally protected, they will then receive a choice of which pension scheme benefits they would prefer to take for the period. This is called a 'deferred choice'.

The choice will be between the member’s legacy pension scheme benefits and their reformed pension scheme benefits.

Deferring the choice until the point benefits are paid allows individuals to make their choice of which pension scheme benefits are better for them, based on facts and known circumstances as opposed to assumptions on their future careers, health, retirement and other factors. The level of both pension scheme benefits will be known at retirement.

Q5: Who is in scope for these pension changes and will receive the ‘deferred choice underpin’?

A: Individuals that meet the following criteria are in scope of the changes:

- Were members, or eligible to be members, of a public service pension scheme on 31 March 2012;
- Were members of a public service pension scheme between 1 April 2015 and 31 March 2022; and
- The two periods above were continuous (or treated as continuous under the scheme regulations, including those with a qualifying break in service of less than 5 years).

Q6: **Why are members being asked to make a choice between their legacy and reformed pension scheme benefits?**

A: The differences between the legacy and reformed pension schemes mean the set of benefits that is best for members depends on personal circumstances and preferences. This is why the government is providing members with a choice, to ensure they can choose which scheme benefits are better for them.

At retirement, schemes will provide information to members setting out their entitlement under both options, so members will have a clear understanding of the benefits available to them.

Q7: Why isn’t the government just returning everyone to their old schemes?

A: The government cannot simply place all members into their legacy scheme without allowing them access to their reformed scheme benefits, because some members are better off in the reformed schemes.

Q8: What are the differences between the legacy and reformed schemes?

A: All public service pension schemes have different arrangements. However the main changes between the legacy and reformed schemes for most schemes included a change to career-average pension schemes from final salary and an increase in normal pension age.

The change to career-average means members’ pensions are now calculated on their average salary throughout their career as opposed to their final salary.

The reformed schemes were designed to make public service pensions more affordable and sustainable for the future, while still ensuring public servants received appropriate pension provision in retirement. The reforms created a fairer system. The move from (mostly) final salary to career average pension means members accrue their pension at a typically higher annual rate based on their average salary in most of the public sector pension schemes. Although some members are better off in legacy schemes, the reformed schemes are more beneficial for others, particularly many lower paid members.

Q9: Will members who had 'tapered protection' also be asked to choose between legacy and reformed scheme benefits?

A: Members who received tapered protection in 2015, or would have received such protection but for the provision that unlawfully excluded younger members from transitional protection, will be offered a choice of whether to receive legacy or reformed scheme benefits in relation to any continuous service between 1 April 2015 and 31 March 2022.

This will remove the discrimination that arose between older members who were subject to transitional protection and younger members who were not.

Q10: How will people who retire before the introduction of the deferred choice underpin be treated?

A: 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.

Q11: Will the survivors of eligible members who have died since 1 April 2015 also be asked to make a choice between the different pension schemes?

A: Where an eligible member has died since 1 April 2015, schemes will review these cases as a priority. Where the member retired from the reformed scheme, schemes will seek to revisit cases ahead of the introduction of the deferred choice underpin where this is possible. Individual schemes will check whether a higher pension or lump sum amount would be due under the alternative scheme.

In the case of any increase, schemes will inform surviving beneficiaries, and the higher amount will be paid with their agreement. If the higher amount is already in payment, the survivors will be notified.

The choice between benefits will fall to the late member's surviving spouse or partner. If there are children also in receipt of a survivor pension, and the decision maker lives in a separate household to the child, any decision taken will not affect the child's pension. Where the child and decision maker live in the same household, the usual rules around total survivor benefits payable will apply.

Q12: What was the other proposal set out in the consultation and why didn't the government choose that approach?

A**:** The other proposal set out in the consultation was called an 'immediate choice' which would allow members to choose which pension scheme benefits they would prefer to take for the period between 2015 and 2022 soon after the point at which schemes implemented the changes.

While this approach would have resolved the issue sooner and provided individuals with more certainty around pension benefits, it would have placed higher risk on the member. This is because they would be basing their choice around assumptions on their future careers, health, retirement and other factors, rather than the facts and known circumstances that will apply at the point of retirement. This would have meant that some members had ended up in a position whereby they would have been better off had they chosen the benefits of the alternative shceme, but would be unable to change their decision.

Q13: Why is the period when members will be receiving a choice of which pension scheme benefits they would prefer only between 2015 and 2022?

A: Members will receive a choice for the period between 2015 and 2022 because 1 April 2015 is the date when the reforms were introduced, and 31 March 2022 will be the point at which the legacy schemes will be closed to future accrual.

FUTURE PENSION PROVISION

Q14: What pension scheme will individuals be a member of from 1 April 2022?

A: From 1 April 2022, all those who continue in service will be eligible to do so as members of their respective reformed pension schemes (i.e. those introduced in 2015, of which many are already members), regardless of age. This includes members who were previously covered by 'transitional protection'.

This means that members will keep any service earned within the legacy schemes up until that date and will be able to access those benefits in the same way and at the same time as they are currently able to, but any pension benefits earned after will be within the reformed pension schemes.

The legacy schemes will be closed to future accrual from April 2022.

Q15: Why is the government saying all members should be in the reformed pension schemes from 1 April 2022?

A: The 2015 schemes that were introduced following the recommendations of the Independent Public Service Pensions Commission (the reformed schemes) offer generous pension provision, improve affordability and sustainability, and are fairer to lower and middle earners.

The reformed schemes are some of the most generous available in the UK: backed by the taxpayer; index-linked; and offering guaranteed benefits on retirement; comparing very favourably to the typical private sector scheme.

The reforms created a fairer system. The move from (mostly) final salary to career average pension means members accrue their pension at a typically higher annual rate based on their average salary in most of the public sector pension schemes. Although some members are better off in legacy schemes, the reformed schemes are more beneficial for others, particularly many lower paid members.

The transitional protection policy, which gave rise to discrimination, will have been removed and, from 1 April 2022, all those who remain in service will do so as members of the reformed schemes, treating everyone equally in this respect, and ensuring the aims of the 2015 reforms are met.

NEXT STEPS

Q16: What are the next steps after the consultation response?

A: Following the consultation response, the government will introduce new legislation when parliamentary time allows, expected to be in mid-2021.

The government intends that the provisions for the deferred choice underpin will be implemented by 1 October 2023, or earlier where schemes are able to implement legislative change and processes ahead of that date.

Q17: What are the next steps for the firefighters' pension scheme?

A: Before new legislation can be introduced, several remaining technical policy decisions on the overarching approach will be taken, including around intereactions with tax. It is intended that legislation to move people to the reformed schemes will take effect on 1 April 2022.

Scheme specific policy decisions will also be taken, and necessary legislation drafted.

We will engage with stakeholders including the Firefighters' Pensions Scheme Advisory Board for England during this process.

Following the publication of the consultation response and in parallel to introducing new legislation, the Home Office will engage with scheme managers and administrators to allow them to prepare for implementation of the deferred choice underpin. The changes will be implemented by October 2023.

Q18: When will the pension changes be implemented and introduced?

A: Legislation is necessary to implement a deferred choice underpin in the schemes but the government is committed to ensuring that all eligible members are treated equally and are able to choose to receive pension scheme benefits from either scheme. Where necessary, payments will be backdated to 2015.

Provisions for the deferred choice will be implemented by 1 October 2023 for all members. Schemes may implement provisions for deferred choice earlier where it is possible to do so.

Where possible, schemes will also seek to offer a choice to members of the reformed schemes who retire before October 2023 before the legislation is implemented.

ADDITIONAL AREAS

Q19: Will these pension changes result in any tax changes for members?

A: The majority of members will see no change to their tax position over the remedy period. For a minority of members, the pension changes will cause their tax position to change, which could result in tax charges for the member, or the member becoming entitled to a reimbursement of tax previously paid.

In some cases, the pension changes may mean that individuals will have to pay new or higher annual allowance charges, but typically only where their projected pension at retirement has increased. Adjustments to lifetime allowance charges may also be required, where retired members' accrual changes.

Some members may also face changes in their contributions in respect of the remedy period, which may also affect their income tax position.

Where a member has already retired, a member's total pension income may also change, and tax will be payable on any increase in pension.

Q20: I am a taper protected member. What does this announcement mean for me?

A: Members who received tapered protection in 2015 will be offered a choice of whether to receive legacy or reformed scheme benefits for the entire period of 1 April 2015 to 1 April 2022 (or their retirement date, if earlier).

This is consistent with the Court of Appeal judgment that discrimination applied to all of those who did not receive full transitional protection.

Q21: **The consultation response says all Ill Health Retirement (IHR) cases will be reviewed as soon as practicable. What does this mean?**

A: The government sees addressing Ill Health Retirement (IHR) cases as a priority, as set out in the consultation response in Annex A “all Ill Health Retirement cases (including members refused IHR) will be reviewed by schemes as soon as practicable. This will involve reconsideration of cases where they may have been a different outcome (or higher pension award) under the alternative scheme.”

The Government is working hard to resolve outstanding areas that need to be addressed before some members will be able to have their cases reviewed. There are some complex outstanding issues to work through, which means it may not be possible to resolve some cases, particularly for those who have retired and are already in receipt of some pension, until after the deferred choice underpin and supporting legislation are in place. Any additional payments of pension that result will be backdated.

Q22: Will non-claimants receive injury to feelings compensation alongside these retrospective pension changes as claimants will?

A: A deferred choice underpin will apply to all eligible scheme members regardless of whether they have made a legal claim. Members do not need to submit a legal claim to benefit from these changes.

Any further legal claims for compensation made by claimants in respect of their individual circumstances will be decided by the courts. Remedy hearings for the claims against firefighters' pension scheme (known as the Sargeant case) are underway. We are unable to comment further on ongoing litigation.

Q23: Can I still retire after 30 years of service?

A: As set out in the consultation response in more detail in Chapter 3, Future Pension Provision, “since the legacy schemes have a lower Normal Pension Age (NPA) than the reformed schemes, members who have accrued service in both types of scheme may choose to retire when they reach that NPA, and the relevant Minimum Pension Age (MPA) has been reached, and access the relevant pension benefits from both schemes. They will not have to wait until the NPA in the reformed scheme, which in most schemes is linked to State Pension Age (SPA)”.

For the firefighters' pension scheme this means that individuals can still retire after 30 years' service, subject to the normal rules.

Q24: How has COVID-19 affected the project?

A: COVID-19 has not caused any major delays to the project timeline.

Over the coming months, the Home Office, LGA Bluelight Pension Team, local Fire and Rescue Authorities and pension administrators will work through the implications of today's announcement and will be publishing further information including illustrating the impact of remedy for a scheme member.

Court of Appeal ruling – McCloud remedy

Transitional Protections – Age discrimination

Disclaimer

This calculation from immediate Detriment referred to as 'the content' is to be used as an interim remedy and will need to be revisited and recalculated once the outcome of the Remedy Consultation is known and when the Fire Pension Scheme regulations have been amended. This may be during the years 2022-2023 but this date may change. The content does not constitute investment advice or legal advice. You should consult an independent financial adviser or other professional adviser if you require any financial or other professional advice.

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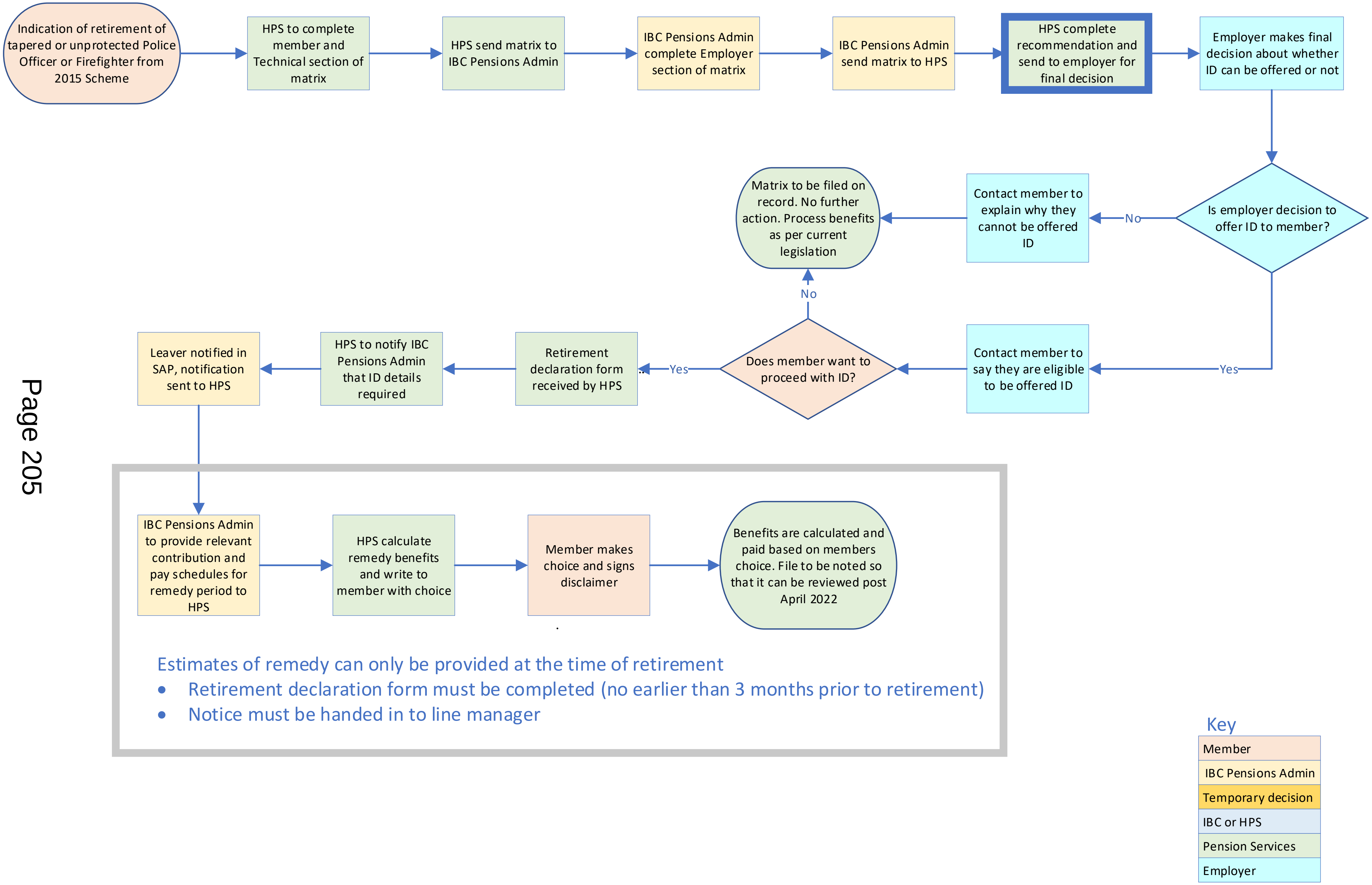
In order for remedy to be applied to your retirement benefits you are required to agree to the content of this disclaimer and sign and date this agreement below

Disclaimer declaration	
I hereby agree and understand the content of this document:	
Full Name	
National Insurance number	
Signature	
Today's date	

APPENDIX F

Police and Fire Immediate Detriment process



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Dear ,

Fire Pension Scheme retirement
McCloud remedy - Immediate Detriment

I am writing with regard to your upcoming retirement from Hampshire Fire & Rescue Authority. Your pension case has been reviewed and I can confirm that you are eligible to have Immediate Detriment for the McCloud remedy applied to your pension benefits.

This means that Hampshire Pension Services will be required to provide you with two sets of benefit entitlements to enable you to decide if you want to have legacy scheme benefits or reformed scheme benefits for the remedy period.

As there is no legislation and limited guidance on how to apply the Immediate Detriment remedy and that all calculations of benefits will have to be done manually, we want to make you aware of a number of things before proceeding.

To be able to provide remedy benefits we will have to look at:

- The difference in member pension contributions between your legacy scheme and the 2015 Fire Pension Scheme. Where there is an underpayment they will need to be paid, where there is an overpayment they will be refunded. These will also need to take account of any pension contribution holidays that might be due from the 1992 Fire Pension Scheme

- The treatment of temporary promotions differs between the schemes. In the 2015 Fire Pension Scheme they are not pensionable, but under the other Fire Pension Schemes, they are, and an Additional Pension Benefit is awarded for this period. This means that under the legacy scheme, there would be additional pension contributions payable, which would be used to calculate an Additional Pension Benefit in respect of the temporary promotion in the legacy schemes

- The treatment of CPD payments differs between the schemes, Additional Pension Benefits will need to be calculated for the legacy scheme

- The Annual Allowance calculations for your pension for each year of remedy will need to be recalculated. Putting you back into the legacy scheme, will have an impact on these calculations. If any tax charges arise, then depending on the year in which that occurs may mean that there are adjustments required to your pension and potentially tax charges may arise

- The tax relief on pension contributions and how this should be applied is not yet known. The Governments response to consultation indicates that this would not be done at source on your monthly pay and would be via a lump sum. The details on how this will be claimed, or if you will be entitled to it is not known

- There will also be interest on any pension contributions due. At this stage, we do not know how this interest will be applied or at what rate and this will need to be resolved at a later date

Option A: Proceeding with Immediate Detriment
If you decide to proceed with Immediate Detriment, you need to have declared your intent to retire by handing in your notice to your line manager and you need to have completed and submitted your retirement declaration form, which can be no earlier than three months prior to your retirement date before estimates of remedy benefits can be provided.

Only when both of these things have happened, will we be in a position to start the process of obtaining all the relevant pay, pension contributions and membership details to be able to provide you with estimates for remedy. As all calculations will have to be done manually, it will take Hampshire Pension Services approx. two to three months to write to you with two sets of benefits, you will need to sign a disclaimer and make your irrevocable choice before any retirement benefits can be paid to you. You will be required to sign a disclaimer as neither Hampshire Fire & Rescue Authority or Hampshire Pension Services will guarantee any of the remedy calculations provided to you, which will all be done manually.

At some point after April 2022, when all the legislation is in place and the final position is known, your pension case will be reviewed and where applicable your benefits will be recalculated and any adjustments will be made. It is at this point that we expect to be collecting any interest due on pension contributions and to deal with any other amendments in respect of tax.

Option B: Not proceeding with Immediate Detriment
If you decide to have your benefits paid under current legislation, then your retirement will be processed in line with current timescales and standards. At some point after April 2022, when all the legislation is in place and the final position is known, your pension case will be reviewed and you will be written to with two sets of benefits and you will then be able to make your choice and any adjustments required will be dealt with retrospectively.

You will need to confirm whether you wish to proceed under option A or option B before your retirement benefits can be processed. Please send an email to pensions@hants.gov.uk to confirm which option you wish to pursue, once Hampshire Pension Services have your decision, they will start to process your retirement benefits.

Yours sincerely

Rob Carr
Chief Finance Officer
Hampshire and Isle of Wight Fire and Rescue Authority