



HAMPSHIRE
FIRE AND
RESCUE
AUTHORITY

Meeting: Hampshire Firefighters' Pension Board

Purpose: Decision

Date 17 JULY 2017

Title FIRE PENSION BOARD STATUS REPORT

Report of the Chief Financial Officer

1. SUMMARY

- 1.1 This report provides an update on the development of key items.
- 1.2 This report, together with attachments, provides the framework for this meeting agenda.

2. RECOMMENDATIONS

- 2.1 That the board is invited to note the content of this report, and confirm that they specifically support recommendations at:

Item 8.10 – Voluntary Scheme Pays (VSP) is allowed for any affected HFRS employee.

Item 9.5 - The board provide an opinion on whether members that are not in a pension scheme should be contacted to provide them with details of the benefits of the pension scheme.

Item 15.2 –To approve the Risk Register

3. THE PENSION REGULATOR (TPR) ONLINE PORTAL

- 3.1 At the last pension board meeting it was reported that the 2006 Fire Pension Scheme had still to be set up by TPR on their central database. This has since been achieved all schemes are now accessible through the online portal.
- 3.2 The TPR pensions education portal has online training containing seven topics, each topic takes around 30 minutes to complete; the topics are:

- Conflicts of interest
- Managing risk and controls
- Maintaining accurate member data
- Maintaining member contributions
- Providing information to members and others
- Resolving internal disputes
- Reporting breaches of law

3.3 Board members are invited to improve their knowledge and understanding by completing the modules. Once all modules are complete, a certificate is available and this should be submitted for inclusion on the Board Member's training record.

4. PRESENTATION FROM LPP

4.1 There has been interest to receive a presentation from LPP, an alternative pension provider, to understand how they see the Fire Pension administration developing in the future, and more specifically how they manage and administer their current business. The board will be invited to attend a separate meeting in due course.

5. 30 YEAR PENSION CONTRIBUTION HOLIDAY

5.1 The refund of pension contributions as a result of the 30 year rule has now been completed. The final number of retired personnel in scope was 65. The number of affected personnel was lower than that previously reported following an audit of the data before cases were finally processed.

5.2 Repayments have been made to 62 out of the 65 retired personnel. The outstanding three retired firefighters have not yet been paid as they have not returned a signed HMRC declaration along with their bank details; this is despite three letters being sent to their home addresses using the Royal Mail 'signed-for' service. These are no longer being pursued.

5.3 The total gross amount due to the 65 firefighters affected was £314,134; the net amount was £187,880. So that a refund can be given to HFRS, the amounts have been notified to the Home Office.

5.4 For employed firefighters who achieve 30 years service before their 50th birthday and who remain in the 1992 Fire Pension Scheme, a manual process has been introduced to cease pension contributions and re-commence again

at age 50. There are currently 10 employees within scope and a further 11 have been identified.

6. UNAUTHORISED PAYMENTS

- 6.1 HMRC have now provided the final contract settlement amount in respect of the 4 outstanding unauthorised payment cases relating to retirements / re-employment cases dating back to 2010 to 2011.
- 6.2 A total payment of tax and interest amounting to £115,107 will be made within 30 days of receipt of the acceptance letter from HMRC. It is therefore anticipated that this matter will be concluded by the end of this month. A provision with the fire pension accounts of £142,000 more than covers the payment due to HMRC.

7. TRAINING ALLOWANCES

- 7.1 At the HFRS Standards & Governance Committee held on 23 March 2017 the recommendation to make the 10% training allowance pensionable was approved. Since this date work has been undertaken to amend the training allowance wage type within the payroll system so that it is included within the pension contribution calculation.
- 7.2 It is anticipated that this will be implemented in time for the July payroll and arrears between 1 April and 30 June will be collected. Members previously identified have been written to advising them of the delay.
- 7.3 As part of the work to determine eligibility a number of firefighters have been identified as receiving a 10% training allowance although they are not working within the academy. Work is underway to determine why a 10% allowance is being paid and whether it should continue.
- 7.4 There are potentially a further 13 firefighters who may be impacted and the board will be updated on the outcome of this work when it is completed by the HR department.

8. VOLUNTARY SCHEME PAYS

- 8.1 HMRC have set limits on the amount of pension savings that an employee can contribute in any tax year. This is called the Annual Allowance (AA) and is presently capped at £40,000.

- 8.2 The Government has now (for 2017/18) introduced a tapered AA for certain high earning employees which can have the effect of reducing the AA to £10,000
- 8.3 Where a member's pension contributions exceeds the AA in any one tax year and they do not have any unused allowances from the previous three years to cover the excess, then this will result in a tax charge.
- 8.4 The member can request that the scheme pays the tax charge on their behalf and as a consequence, the annual pension will have a permanent debit, this is known as Scheme Pays offset.
- 8.5 To enable the member to utilise the Mandatory Scheme Pays (MSP) option they must fulfil three criteria:
 - (a) The tax charge must be greater than £2,000
 - (b) The pension savings must be greater than the AA limit for the year. Any tapered AA is ignored for this purpose.
 - (c) An election to use Scheme Pays must be made within the relevant deadlines.
- 8.6 Where a member does not meet the three criteria above, then this is considered to be Voluntary Scheme Pays (VSP) and it is this option which has led to some uncertainty.
- 8.7 VSP is likely to occur where either the tax charge is less than £2,000 or where the member has a tapered AA and exceeds this, but does not exceed the total limit.
- 8.8 The Local Government Association (LGA) has sought legal advice over whether Fire & Rescue Authorities (FRA) can utilise Voluntary Scheme Pays (VSP) and the advice received is attached in Appendix A.
- 8.9 Our interpretation of this advice is that an FRA can offer VSP to members, but it is up to each FRA to make their own decision. HCC Legal Services have confirmed that the advice provided from LGA is reasonable. A report will be provided to Standards & Governance Committee on 15 September 2017.
- 8.10 It is recommended that the pension board supports a recommendation to allow VSP for any affected HFRS employee.

9. OPT OUTS

- 9.1 During the period 1 July to 31 December, there were 55 opt outs from the 2015 Fire Pension Scheme as set out in the following table:

| | Deferred pension entitlement | New joiner | Automatic re-enrolment | Total |
|--------------|------------------------------|------------|------------------------|-----------|
| Retained | 3 | 1 | 5 | 9 |
| Whole-Time | 2 | 19 | 25 | 46 |
| Total | 5 | 20 | 30 | 55 |

- 9.2 Given that the automatic re-enrolment date was 1 October 2016 it is not surprising that the number of opt outs increased in this period. For information, the youngest was aged 21 and the oldest age 57. The average age of the optant out members was 38.
- 9.3 Currently there are 3,775 roles subject to the Fire Pension Schemes within Hampshire and a total of 1,365 are opted out (36%).
- 9.4 The majority of roles that are not in a pension scheme are retained roles; a member could be in a scheme in their whole time post but not their retained post.
- 9.5 The board are asked to consider if they have a view on whether members that are not in a pension scheme should be contacted to provide them with details of the benefits of the pension scheme.

10. CONTRIBUTION RATES PUBLIC SECTOR SCHEMES

- 10.1 Details of other public sector schemes contribution rates have been compiled. This can be found in Appendix B.

11. THE PENSION REGULATOR (TPR) SELF ASSESSMENT TOOL

- 11.1 In the last board report there was a summary of the amber and red items from the TPR self assessment survey, along with all the results of the survey.

11.2 The survey is split into three categories,

- Governing your scheme,
- Managing risks and issues and
- Administration.

11.3 To confirm that improvements have been made, the self assessment has been completed again. The board is invited to note that over the last four months, substantial progress has been made. The results are in Appendix C.

11.4 There are now three amber and one red item remaining. One of the amber items relates to member communications being clear, accurate and easily accessible. It is anticipated that this item will be resolved with the launch of the new Employer Pension web pages. The remaining amber and red items are all covered by the record keeping plan

12. RECORD KEEPING PLAN

12.1 The board report in February stated that the target date for completion of the record keeping plan was 31 March 2017.

12.2 The record keeping plan has not yet been completed partly due to a change in management of Pension Services and partly due to a decision to create a composite record keeping plan for all partners (HFRS, LGPS and Police).

12.3 There is a record keeping statement but there are no tools to assess the current position to develop an improvement plan.

12.4 Hampshire Pension Services were going to buy this service from South Yorkshire Pension Fund, but they have withdrawn this for the time being. Therefore the options available need to be reassessed.

13. EMPLOYER PENSION GROUPS

13.1 The Employer Pension Manager, Claire Neale, has been making good progress in her role. There have been some quick wins and some longer term items are in progress.

13.2 The Employer groups consisting of 3 groups; one for LGPS, one for Police and one for Fire; along with a Pensions Admin group were set up in April 2017 with Terms of Reference having been agreed for each of them.

- 13.3 Each of the groups meets monthly. They review an issues log and provide updates where necessary as well as discussing any upcoming items that may require communication to members or a more detailed piece of work.
- 13.4 Items are also referred to the Pensions Admin Group so that there is a complete overview for the Employer Pension Manager and Head of Finance.
- 13.5 The member estimate request process was identified as an immediate item that could be improved. The estimate request form has been re-drafted to accommodate all four schemes and this is now available upon request from members. This is an interim step as the form will be available via the new Employer pension pages once launched.

14. PRESENTATIONS

- 14.1 The Employer Pension Manager has delivered some pension training to new recruits. The briefing covered the benefits of the new 2015 Fire Pension Scheme. This was well received and clearly shows that there is an appetite for pension information to be available.
- 14.2 The Employer Pension Manager has three pre-retirement courses lined up where a pension presentation will be delivered as part of the course. The first one is on 24 July.
- 14.3 The pre retirement course will cover most aspects of the four fire pension schemes including how the pension is calculated, the options with commutation, the HMRC limits, the retirement process, protected pension age and re-engagement issues, contacts and further information.

15. RISK REGISTER

- 15.1 A risk register has been compiled and can be found in Appendix D.
- 15.2 It is recommended that the pension board approves the risk register.

16. GOVERNANCE OF FIRE PENSIONS

- 16.1 At the last board meeting it was agreed that a governance chart would be prepared. This is attached in Appendix E and shows the relevant bodies involved in the governance of fire pensions, together with a brief summary of the roles and responsibilities for each body.

17. WEB PAGES / INTRANET ACCESS AND CONTENT

- 17.1 The Employer Pension Manager, in consultation with HR and other stakeholders has developed a new suite of Employer Pension web pages. This will replace what is already there but in a much more simplified format, with hopefully less confusing information.
- 17.2 The new pension pages will link from the new fire portal and will have three main sections with subheadings under each category.
 - I want to....
 - Policies
 - Further information on....
- 17.3 Details of the tiles on the new web pages are in Appendix F. When a user clicks on each of these tiles, there will be some information provided; this could be outlining the process, a link to relevant forms / documents / web pages, or simply information.
- 17.4 The draft Employer Pension web pages can be found <http://hantsweb-staging.hants.gov.uk/hfrspensions>. Feedback from board members will be welcome before go live launch.
- 17.5 At go live, there will be communications sent out to not only to members, but also to HR, IBC Pensions Admin Team and Pensions Services to publicise the new pages. All parties will be asked to signpost members to these pages.
- 17.6 Feedback from all users on an ongoing basis will be useful and if there are changes required, then these can be made as and when required.
- 17.7 Continuing management and maintenance of the new web pages will be the responsibility of HR.

Contact:

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APPENDIX A

‘Voluntary Scheme Pays’ in the Firefighters’ Pension Schemes

Background

Mandatory Scheme Pays (‘MSP’)

1. Individuals whose annual growth in pension savings during the Scheme’s ‘Pension Input Period’ exceeds **HMRC’s standard Annual Allowance Limit (‘HMRC AA Limit’)**, currently set at £40,000, and who have no unused Annual Allowance to carry forward from the previous three tax years will be subject to an **Annual Allowance tax charge (‘AA tax charge’)**.
2. The individual can pay the AA tax charge from their own personal finances, however, the Finance Act 2004 provides that a pension scheme must provide a ‘Scheme Pays’ facility¹ where all of the following qualifying conditions are met:
 - (i) The HMRC AA limit (currently set at £40,000) has been exceeded in the pension scheme that the Scheme Pays election is made; and
 - (ii) An AA tax charge exceeding £2,000 has been triggered; and
 - (iii) The relevant time limits for making an election have been met.

Voluntary Scheme Pays ‘VSP’

3. Where a member does not meet the conditions for Mandatory Scheme Pays ‘MSP’ to apply or they do not make their nomination in time then a scheme may decide to pay the member’s annual allowance charge on a voluntary basis ‘VSP’.
4. Changes to the tax rules now mean that some high earning members with income of more than £150,000 per annum are now subject to a **Tapered Annual Allowance (‘tapered AA’)** which reduces from £40,000 to £10,000 incrementally for those earning between £150,000 and £210,000 per annum.

Members who are subject to a tapered AA will incur an AA tax charge where their pension growth exceeds their tapered AA. The tapered AA will be lower than the £40,000 HMRC AA limit and therefore these members cannot use MSP to pay this charge.

5. With the introduction of the 2015 Scheme, members of the 1992 Firefighters’ Pension Scheme (‘1992 Scheme’) and 2006 Firefighters’ Pensions Scheme (‘2006 Scheme’) who have transferred into the 2015 Scheme on or after 1 April 2015 will effectively be members of two pension schemes and will see pension benefit growth in both schemes until retirement:

¹ A scheme pays facility works by having the pension fund pay the member’s tax charge initially. This is then repaid by the member as a debit is added to their pension once it comes into payment

By virtue of accruing their pension growth across two rather than one pension scheme, there is an increased likelihood that although the member's total annual pension growth across both schemes may exceed £40,000, the pension growth in any one of the schemes may fall short of the HMRC AA limit. As such, they will not be eligible to use MSP to pay the AA tax charge.

Home Office Proposal

6. At their meeting of 6th March 2017, the Firefighters Scheme Advisory Board considered and agreed an initial proposal from the Home Office to amend the Firefighter Pension Regulations to allow the charge to be met in the circumstances below using Voluntary Scheme Pays (**VSP**)
 - (i) transitional members with pension growth of over £40,000 across both schemes (HMRC AA limit) and a corresponding tax charge, to use the scheme to pay this cost initially, before it is repaid by a pension debit added to the member's pension when it comes into payment
 - (ii) members subject to a tapered AA, to use the scheme to pay their charge initially and then this be repaid via a pension debit. For this option, it is also recommended that the member should be required to make an initial contribution of £2,000 from their own finances towards the resultant AA tax charge.
7. It is now for the Home Office to seek the new administration's views on the proposal after the General Election. Assuming this is taken forward the working assumption is that these changes would be introduced via an amendment to the pension scheme regulations rather than guidance. Legislative amendments take time and therefore will not be introduced in the short term.
- 8. It is important to note that this is simply a proposal at this time and is not a guarantee that legislation will change. It will be dependent on a number of factors.**
9. Therefore unless or until that legislation is introduced it is for the FRA to consider their approach to this issue ensuring that what they do is both lawful and appropriate.

Can an FRA operate Voluntary Scheme Pays?

10. This note therefore considers whether FRAs have the ability to offer **Voluntary Scheme Pays ‘VSP’** without an amendment to the Firefighter Pension Regulations, and that it is both lawful and appropriate.
11. LGA has recently sought legal advice on behalf of English FRAs, in order to determine whether an FRA can offer voluntary scheme pays, without the need for a change to legislation.
- 12. The legal advice was prepared solely for the Local Government Association (“LGA”). Sharing of this legal advice does not amount to a waiver of legal privilege by Eversheds Sutherland.**
13. To operate voluntary scheme pays there are two different steps.
 1. The first is for the Fire Authority to pay the annual allowance charge on behalf of the scheme member to HMRC
 2. The second is for the Fire Authority to adjust the members benefit to reflect the payment made by the administrator

Step 1 – Can the Fire Authority satisfy a member’s annual allowance charge on a voluntary basis?

14. The legal advice we have sought opines ‘yes, we consider that it is possible for an FRA to operate voluntary “scheme pays”’.

The instruction to Eversheds Sutherland from LGA was

“Does a FRA have the power to agree to voluntary “scheme pays”, taking into account both the relevant provisions of the FPS Regulations and the FRA’s general powers, and to pay the member’s tax liability from the Firefighters’ Pension Fund (the “FPF”) maintained under the FPS Regulations?”

15. The short answer was ‘yes’ the longer answer (paraphrased) was ‘yes because they have a power of general competence, which may be exercised reasonably where there are sufficient grounds for doing so’.

16. Extract from the ‘executive summary’ of the legal advice

3. In relation to the specific questions posed:
 - 3.1 Yes, we consider that it is possible for a FRA to operate voluntary “scheme pays”:
 - 3.1.1 A FRA which is a county council in England can operate voluntary “scheme pays” relying on s.1 of the Localism Act 2011 and reg.2 of the Modification Regulations. It would be possible to construct an argument that the necessary powers are conferred by virtue of s.111 of the Local Government Act 1972, but the position is less clear-cut than under the Localism Act.

3.1.2 For those FRAs which are metropolitan county FRAs or created by Order as a combined FRA the power to operate such a scheme is derived from s.5A of the Fire and Rescue Services Act 2004 which was inserted by s.9 of the Localism Act 2011.

3.1.3 Where a FRA agrees to operate voluntary “scheme pays”, it can properly pay the amount of the tax charge which is due to HMRC from its FPF without contravening the FPS Regulations.

17. Extract from the ‘detailed advice’ of the legal advice

3.2 First, as regards the question of whether a FRA may agree to meet a member’s liability to the annual allowance charge, the arrangements for the administration of the FPS are set out in regulations which are complex in nature and very prescriptive. This is true of many areas of local government activity, and through the Localism Act 2011 the then Government introduced a means by which specific regimes can be supplemented by the exercise of a broad general power of competence for local authorities.

3.3 Those FRAs which are county councils may exercise this power to enter into the necessary arrangements with the member and HMRC. This power cannot be exercised where there is express prohibition of the action proposed. However, since there is no express prohibition of the action proposed here, the FRA may participate in such an arrangement.

3.4 The power of general competence, like all local authority powers, must be exercised reasonably. The FRA must be satisfied that there are sound reasons to make the payments and that the interests of the authority are not harmed by so doing.

3.5 We believe that there are sufficient grounds on which the authority could conclude that there are sound reasons for offering a voluntary “scheme pays” facility, given that (for instance) the effect of the recently introduced tapered annual allowance is that scheme members may now face a substantial tax charge without being able to access the mandatory “scheme pays” facility (because the latter provisions remain based upon the standard annual allowance). Similarly, the interests of the authority will not be harmed, provided that the authority is able to make a consequential adjustment under the Modification Regulations, because the payment will ultimately be met from the member’s benefit entitlement, and because the authority will have discretion as to when to offer voluntary “scheme pays”, meaning that the administrative burden of such arrangements can be retained within manageable bounds.

3.6 It should be noted that the Localism Act 2011 provisions apply only to English local authorities.

3.7 For those English fire and rescue authorities which are not county councils there is power in the Fire and Rescue Services Act 2004 to enter into voluntary “scheme pays” arrangements subject to the same principles and constraints as apply to county councils.

3.8 Section 5A of the Fire and Rescue Services Act 2004 was inserted by s.9 of the Localism Act 2011. This provides as follows:

"Powers of certain fire and rescue authorities

(1) A relevant fire and rescue authority may do—

- (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its “functional purposes”),
- (b) anything it considers appropriate for purposes incidental to its functional purposes,
- (c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,
- (d) anything it considers to be connected with—
 - (i) any of its functions, or
 - (ii) anything it may do under paragraph (a), (b) or (c), and
- (e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.

(2) A relevant fire and rescue authority's power under subsection (1) is in addition to, and is not limited by, the other powers of the authority.

(3) In this section “relevant fire and rescue authority” means a fire and rescue authority that is—

- (a) a metropolitan county fire and rescue authority,
- (b) the London Fire and Emergency Planning Authority,
- (c) constituted by a scheme under section 2, or
- (d) constituted by a scheme to which section 4 applies.”

[Sections 2 and 4 relate to combined FRAs.]

3.9 Reliance upon s.111 of the Local Government Act 1972 requires the FRA to be satisfied that it is doing something “which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions”. The purpose of the incidental power is to enable actions to be taken in support of statutory functions, so it is necessary to identify the function before the authority can be said to be acting incidentally to it. The functions of a local authority acting as a FRA and as scheme administrator (for tax purposes) are defined by statute and regulation, and it can be argued that entry into a voluntary “scheme pays” arrangement is incidental or conducive to the performance of those functions (though the position is necessarily not as clear-cut as with the general power of competence under the Localism Act). Again, the test of reasonableness is to be applied.

'Exercised reasonably where there are sufficient grounds for doing so'

18. The power of general competence that allows an FRA to satisfy an annual allowance charge on a voluntary basis, must be exercised reasonably and the FRA must be satisfied there are sound reasons for doing so.
19. LGA consider that the circumstances below proposed by the Home Office and agreed by the Scheme Advisory Board should be considered as sound reasons.
 - Transitional members with service in one of the 1992 or 2006 Schemes, and the 2015 Scheme, are able to access a VSP arrangement in the same way that a protected 1992 or 2006 scheme member, or a member with service only in the 2015 Scheme, can do so through Mandatory Scheme Pays.
 - Scheme members with a tapered annual allowance are able to use a VSP arrangement to pay a tax charge in a circumstance where the pension growth in one scheme (or more schemes) is less than the £40,000 general AA limit but more than their own tapered AA limit.
20. Any fire authority wishing to make a Voluntary Scheme Pays arrangement for reasons outside of the two listed are advised to consider whether to do so is a reasonable exercise of their powers and they would have sound reasons for doing so. For example they may not consider allowing a VSP arrangement for a member who would have been eligible for Mandatory Scheme Pays but did not notify the authority within the statutory limit to be a reasonable exercise of their powers.

Step 2 – Can a fire authority adjust a members benefits to reflect the payment made?

21. Having established that the fire authority has the vires in order to satisfy the members charge. The second question for consideration, is does the Fire authority have the power to adjust the members benefit (ie the scheme pays debit) to recover the charge?
22. The Modification of Scheme Rules [SI 2011/1791], Rule 2, Paragraph 2 allows for such an adjustment to be made to the pension (ie the scheme pays debit)
 - 2.—(1) *This regulation applies where a scheme administrator of a registered pension scheme (“the scheme”) satisfies all or part of a member’s liability to the annual allowance charge, either on a voluntary basis or pursuant to a liability under section 237B of the Finance Act 2004(1).*
 - (2) *The rules of the scheme shall be modified so as to allow for a consequential adjustment to be made to the entitlement of the member to benefits under the scheme on a basis that is just and reasonable having regard to normal actuarial practice. This paragraph is subject to paragraph (3).*
 - (3) *Any modification to the scheme’s rules made by virtue of paragraph (2) is subject to section 159 of the Pension Schemes Act 1993(2) or section 155 of the Pension Schemes (Northern Ireland) Act 1993(3) (inalienability of guaranteed minimum pension etc).*
23. The intent of this regulation is explicitly laid out in the explanatory memorandum paragraph 2.1

This instrument provides that where a scheme administrator of a registered pension scheme satisfies an annual allowance charge on behalf of a member of the pension scheme from the member’s pension benefits, any rules of the pension scheme which prevent such an adjustment to the member’s pension benefits are modified to allow for such adjustments.

For the avoidance of doubt who is the ‘scheme administrator’?

24. The modification of scheme rules refers to the ‘scheme administrator’ for the avoidance of doubt, LGA sought legal guidance onto whom this refers in the case of a Fire Authority.

Does a FRA count as the “*scheme administrator*” for the purposes of reg.2(1) of The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011 (the “**Modification Regulations**”), taking into account the effect of The Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (the “**Split Scheme Regulations**”)?

25. The legal advice opines that the FRA in this case is the ‘scheme administrator’.

4.1 Yes. The Split Scheme Regulations provide in reg.2(1)(a) that all registered pension schemes listed in Schedule 1 to the regulations are to be treated as “split schemes”. Both the 1992 scheme and the 2015 scheme are listed by name, and although the 2006 scheme (the NFPS) is not expressly listed by name, it is clear that the intention is for the reference in Sch.1 to the “Firefighters Pension Scheme” to cover both the 1992 and the 2006 schemes, since reference is made expressly to s.34 of the Fire and Rescue Services Act 2004, which is the enabling legislation for the 2006 scheme.

4.2 On the basis that all three FPS schemes are to be treated as “split schemes”, this therefore means that under reg.3(2) of the Split Scheme Regulations, in the provisions referred to in Schedule 3 to those regulations, *“any reference to the scheme administrator shall be read as a reference to the sub-scheme administrator”*. Schedule 3 includes the Modification Regulations.

4.3 Under reg.1, the “sub-scheme administrator” for a split scheme is *“the scheme administrator of a sub-scheme appointed in accordance with the rules of the split scheme to be responsible for the discharge of the functions conferred or imposed on the sub-scheme administrator by or under these Regulations”*.

4.4 In relation to the 2015 scheme, this is clearly the FRA as “scheme manager” for the purposes of the 2014 Regulations. Under reg.177 of the 2014 Regulations:

*“177 Scheme administrator for the purposes of the Finance Act 2004
The scheme manager is appointed to be responsible for all liabilities and responsibilities connected with the functions conferred or imposed on the scheme administrator by or under Part 4 of FA 2004 which the scheme manager assumes as sub-scheme administrator under regulation 3 of, and Schedule 3 to, the Registered Pension Schemes (Splitting of Schemes) Regulations 2006.”*

4.5 In relation to the 2006 scheme and the 1992 scheme, there is no explicit statement under either the 2006 Order or the 1992 Order confirming who is to act as scheme administrator for the purposes of the Finance Act 2004. However, given that under both sets of provisions, the FRA is expressly required to deduct tax / lifetime allowance charges which are due on any payments, it can be inferred that the intention was for the FRA also to be the scheme administrator for Finance Act purposes.

4.6 Therefore, a decision by a FRA to operate voluntary “scheme pays” would constitute a “*scheme administrator*” satisfying *“all or part of a member’s liability to the annual allowance charge”* for the purposes of reg.2(1) of the Modification Regulations. As such, it would trigger the operation of reg.(2)(2), which would override the provisions of the FPS to the extent needed to make the *“consequential adjustment”* to the member’s benefit entitlement.

Summary

26. In certain circumstances, an individual cannot use Mandatory Scheme Pays ‘MSP’ to pay a relevant HMRC tax charge. This note considers whether an FRA can satisfy the tax charge on a member’s behalf using Voluntary Scheme Pays ‘VSP’
27. The Home Office is considering amendment to the legislation that would allow an FRA to use ‘VSP’ in certain circumstances only. However, unless or until that legislation is introduced it is for the FRA to consider their approach to this issue ensuring that what they do is both lawful and appropriate.
28. Having taken Legal advice on behalf of FRA’s, LGA can confirm that an FRA (including County Councils, combined Fire Authorities and Metropolitans) can offer Voluntary Scheme Pays arrangements in order to pay the tax bill where a member of the scheme cannot use mandatory scheme pays because they have a power of general competence, which may be exercised reasonably where there are sufficient grounds for doing so’.
29. It is considered that FRAs should consider the test of ‘exercised reasonably where there are sufficient grounds for doing so’ to be in line with the two circumstances proposed by the Home Office and agreed by the Scheme Advisory Board:
 - Transitional members with service in one of the 1992 or 2006 Schemes, and the 2015 Scheme, are able to access a VSP arrangement in the same way that a protected 1992 or 2006 scheme member, or a member with service only in the 2015 Scheme, can do so through Mandatory Scheme Pays.
 - Scheme members with a tapered annual allowance are able to use a VSP arrangement to pay a tax charge in a circumstance where the pension growth in one scheme (or more schemes) is less than the £40,000 general AA limit but more than their own tapered AA limit.
30. The Fire Authority as the ‘scheme administrator’ have an express power under Rule 2, paragraph 2 of the Modification of Scheme Regs SI 2011/1791, to allow for an adjustment to be made to the pension (ie in this case a scheme pays debit)

Final Note

31. This note was prepared on 31st May 2017 for Fire Authorities consideration by the Local Government Association. It does not constitute legal advice and should not be treated as so.

APPENDIX B

Contribution rates

Parliamentary Contributory Pension Fund Ministerial Pension Scheme

| Rate | Percentage of ministerial pensionable pay | Accrual rate |
|---------------|---|--------------|
| Standard rate | 11.9% | 1/40 accrual |
| Middle rate | 7.9% | 1/50 accrual |
| Lower rate | 5.9% | 1/60 accrual |

| Ministerial position held | Additional contribution paid |
|--|------------------------------|
| Secretaries of State, Leader of the Opposition in the commons and Speaker in the house of Lords | 2.4% |
| Ministers of State, Government Chief Whip, Leader of the Opposition in the Lords, Chairman of Committees of the House of Lords and Deputy Chairman of Committees of the House of Lords | 1.6% |
| Parliamentary Under Secretaries, Government Whips and Opposition Whips. | 1% |

Ministers who are not MPs must choose accrual rate, otherwise accrual rate is same as for MPs Pension Scheme.

MPs Pension Scheme

| Rate | Percentage of MPs pensionable pay | Accrual rate |
|---------------|-----------------------------------|----------------------------|
| Standard rate | 13.75% | 1/40 th accrual |
| Middle rate | 9.75% | 1/50 th accrual |
| Lower rate | 7.75% | 1/60 th accrual |

New MPs Pension Scheme (CARE scheme from 08/05/2015)

| Rate | Percentage of MPs pensionable pay | Accrual rate |
|---------------|-----------------------------------|--------------|
| Standard rate | 11.09% | 1/51 accrual |

Summary of MPs scheme

| Rate | Ministerial Pension Scheme | MPs Pension Scheme | New MPs Pension Scheme |
|---------------|----------------------------|--------------------|------------------------|
| Standard rate | 11.9% | 13.75% | 11.09% |
| Middle rate | 7.9% | 9.75% | - |
| Lower rate | 5.9% | 7.75% | - |

| Ministerial position held | Additional contribution paid |
|--|------------------------------|
| Secretaries of State, Leader of the Opposition in the commons and Speaker in the house of Lords | 2.4% |
| Ministers of State, Government Chief Whip, Leader of the Opposition in the Lords, Chairman of Committees of the House of Lords and Deputy Chairman of Committees of the House of Lords | 1.6% |
| Parliamentary Under Secretaries, Government Whips and Opposition Whips. | 1% |

Civil Service Pension Scheme

| Annualised rate of pensionable earnings | Classic, classic plus, premium, nuvos and alpha Member contribution rate |
|---|--|
| £0.00 to £15,000 | 4.60% |
| £15,001 to £21,422 | 4.60% |
| £21,423 to £51,005 | 5.45% |
| £51,006 to £150,000 | 7.35% |
| £150,001 and above | 8.05% |

Teachers Pensions

| Annual salary rate for eligible employment | Member contribution rate |
|--|--------------------------|
| Up to £25,999.99 | 7.4% |
| £26,000 to £34,999.99 | 8.6% |
| £35,000 to £41,499.99 | 9.6% |
| £41,500 to £54,999.99 | 10.2% |
| £55,000 to £74,999.99 | 11.3% |
| £75,000 and above | 11.7% |

Local Government Pension Scheme

| Actual pensionable pay | Contribution rate | |
|------------------------|-------------------|---------------|
| | Main Section | 50/50 Section |
| Up to £13,600 | 5.5% | 2.75% |
| £13,601 to £21,200 | 5.8% | 2.9% |
| £21,201 to £34,400 | 6.5% | 3.25% |
| £34,401 to £43,500 | 6.8% | 3.4% |
| £43,501 to £60,700 | 8.5% | 4.25% |
| £60,701 to £86,000 | 9.9% | 4.95% |
| £86,001 to £101,200 | 10.5% | 5.25% |
| £101,201 to £151,800 | 11.4% | 5.70% |
| More than £151,801 | 12.5% | 6.25% |

Fire Pension Schemes

1992 Scheme & Modified Scheme

| Whole-time equivalent pensionable pay | Member contribution rate |
|---------------------------------------|--------------------------|
| Up to £15,454 | 11.00% |
| £15,454 to £21,636 | 12.20% |
| £21,636 to £30,909 | 14.20% |
| £30,909 to £41,212 | 14.70% |
| £41,212 to £51,515 | 15.20% |
| £51,515 to £61,818 | 15.50% |
| £61,818 to £103,030 | 16.00% |
| £103,030 to £123,636 | 16.50% |
| More than £123,636 | 17.00% |

2006 scheme

| Whole-time equivalent pensionable pay | Member contribution rate |
|---------------------------------------|--------------------------|
| Up to £15,454 | 8.50% |
| £15,454 to £21,636 | 9.40% |
| £21,636 to £30,909 | 10.40% |
| £30,909 to £41,212 | 10.90% |
| £41,212 to £51,515 | 11.20% |
| £51,515 to £61,818 | 11.30% |
| £61,818 to £103,030 | 11.70% |
| £103,030 to £123,636 | 12.10% |
| More than £123,636 | 12.50% |

2015 scheme

| Whole-time equivalent pensionable pay | Member contribution rate |
|---------------------------------------|--------------------------|
| Up to £27,543 | 10.50% |
| £27,544 to £51,005 | 12.70% |
| £51,006 to £142,500 | 13.50% |
| £142,501 or more | 14.50% |

APPENDIX C

TPR Self assessment tool

Results in February 2017



Results in June 2017

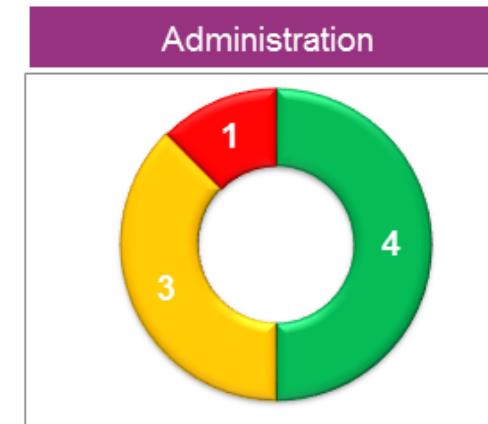
A summary of your results



Percentage of
questions answered: 100%



Percentage of
questions answered: 100%



Percentage of
questions answered: 100%

APPENDIX D

Risk Register

| | | 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 | <ul style="list-style-type: none"> • Liaison with employer • End of Year • Employer web (UPM access) • Fire Employer Group & Pensions Admin Group • Fire Pension Board • Management oversight and escalation to Rob Carr • Diversification – we run a Shared Services arrangement • Ability to call in temporary staff for peak workloads • 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 | <ul style="list-style-type: none"> • Testing software • Internal and External Audits • Standardisation of systems and processes • All processes and calculation have a "doer" and a separate "checker" • Monthly mortality screening for pensions in payment • Declaration of Entitlement forms annually to pensioners and beneficiaries living overseas or upon mail being returned • 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 | <ul style="list-style-type: none"> • Strong financial plan for HFRA • Planned budget • 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 | <ul style="list-style-type: none"> • Scheme Advisory Board • Local Government Association (LGA) • Regional Fire Pension Officer Groups • Fire Pension Board • Employer Pension Manager as a dedicated resource liaising between <ul style="list-style-type: none"> ◦ Fire Employer Group & Pensions Admin Group, pulling together ◦ Key Accountabilities for IBC Pensions Admin Team, HR and Hampshire Pension Services | 2 | 4 | 8 | Scheme Manager |

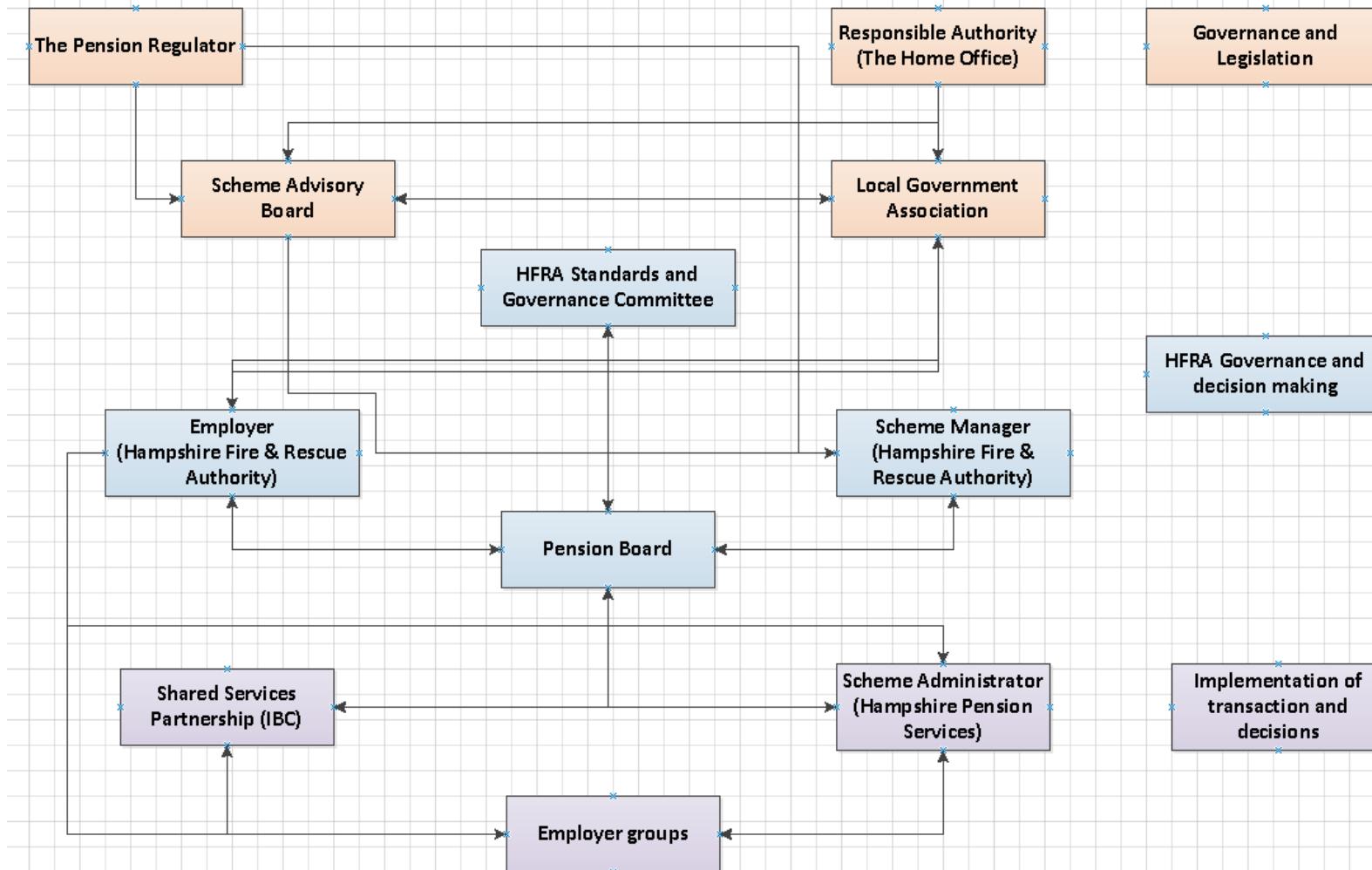
| BEFORE MITIGATION | | Impact | | | | |
|-------------------|----------------|------------|-------|--|--|--------------|
| | | Negligible | Minor | Moderate | Major | Catastrophic |
| Likelihood | 1 | 2 | 3 | 4 | 5 | |
| | Rare | 1 | | | | |
| | Unlikely | 2 | | 1. Failure to administer the pension scheme in a proper and effective manner | 3. Failure to adequately account for fund pension contributions | |
| | 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 | |
| | Likely | 4 | | | | |
| | Almost certain | 5 | | | | |

| AFTER MITIGATION | | Impact | | | | |
|------------------|----------------|------------|-------|--|--|--------------|
| | | Negligible | Minor | Moderate | Major | Catastrophic |
| Likelihood | 1 | 2 | 3 | 4 | 5 | |
| | Rare | 1 | | 1. Failure to administer the pension scheme in a proper and effective manner | 3. Failure to adequately account for fund pension contributions | |
| | Unlikely | 2 | | 2. Failure to pay the right amounts on time and in line with legislation | 4. Failure to identify and interpret and implement legislation correctly | |
| | Possible | 3 | | | | |
| | Likely | 4 | | | | |
| | Almost certain | 5 | | | | |

APPENDIX E

Governance

Fire governance and how it works together



Governance - roles and responsibilities

Responsible authority

The responsible authority designs the scheme and determines the scheme regulations, which will specify the Scheme manager and the matters for which the Pension board is responsible. For the Firefighters Pension Schemes (England) the responsible authority is the Home Secretary (Home Office)

The Pensions Regulator

The Pensions Regulator (TPR) is the public body that protects workplace pensions in the UK. Working with employers and those running pensions it aims to ensure that people can save safely for their retirement.

TPR is sponsored by the Department for Work and Pensions and works in partnership with a number of government and regulatory bodies, including the Home Office and Local Government Association (LGA) in respect of Fire Pension schemes. TPR directly regulates Scheme managers and pension boards, but will engage with other stakeholders.

Local Government Association (LGA)

The LGA provides pension related guidance to Fire and Rescue authorities on Finance issues, authority discretions, technical advice and best practice.

Works on behalf of councils to ensure local government has a strong, credible voice with national government. LGA aims to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

Scheme advisory board (SAB)

The scheme advisory board is responsible for advising the Responsible authority about possible scheme changes. In some schemes, the board may also advise Scheme managers and/or Pension boards on improving the administration and management of the scheme.

HFRA Standards and Governance Committee (S&GC)

The S&GC oversees the discharge of the Authority's duty to promote and maintain high standards of conduct covering training, protocols adopted by the authority and related matters to enable high standards of conduct to be maintained.

Under the Governance heading the committee reviews and amends the corporate governance framework for the authority, including reports from the treasurer, internal audit, annual statement of accounts, risk management strategy and health & safety.

It approves the annual Operational Assurance statement (part of the requirements of the National Framework for the Fire and Rescue Service 2012).

Employer

Responsible for discretionary policy decisions, implementation of policy and development of local procedures. Deals with appeals and disputes from members in accordance with established best practice.

Scheme manager

The Scheme manager has overall management responsibility for the schemes. For the Firefighters Pension Scheme the administering authority is the Scheme manager.

Pension boards

Pension boards are responsible for assisting the Scheme manager in securing compliance with:

- scheme regulations
- other governance and administration legislation
- any requirements of The Pensions Regulator
- additional matters, if specified by scheme regulations
- Pension boards need to have an equal number of employer representatives and member representatives. They may also have other types of members, such as independent experts.

Scheme administrators

The scheme administrator keeps records, collects contributions from employers, calculates and pays benefits to members, deals with complex pension enquiries.

They provide Annual Benefit Statements to members in the autumn of each year.

Shared Services Partnership (IBC)

The Pension Administration Team in the IBC deal with payroll related pension queries, e.g. pension deductions from salary, opting in or out of the scheme etc.

Annually they provide pay and pension contribution details for all members to the Scheme Administrator; this is an annual reconciliation of amounts paid.

When a member requires an estimate or leaves employment, they provide the necessary pay and service information to the scheme administrator.

Employer Groups

The Employer Pension Manager provides a link between the Employer Groups for each of the partners, HR and all the Pensions administration teams. This enables a clear oversight of pension issues for all pension schemes.

The employer Groups provide a framework to consider an approach, development and provision of a joined up Pensions service for HFRA.

APPENDIX F

Website tree

I want to.....

Request an estimate

Join or opt in

Transfer in another pension

Request a Cash Equivalent Transfer Value (CETV)

Opt out

Leave or retire

Policies

Re-engagement after retirement

Temporary promotions

Contribution holidays

Firefighters pension discretionary policies

Firefighters compensation scheme

Further information on.....

Firefighters contribution rates

Auto enrolment

Pension website and Pension board information

Annual Benefit Statements

When to leave or retire

Getting help