



OFFICIAL

# Local Pension Board - appointment of Chair and Vice chair 2022 - 23

## Local Pension Board

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Date: 5 August 2022

Agenda Item:

**01**

Submitted By: Monitoring Officer

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<b>Purpose</b>	To appoint a Chair and Vice Chair of the Local Pension Board for 2022 – 23 in accordance with the Terms of Reference.
<b>Recommendations</b>	That appointments be made to the positions of Chair and Vice chair of the Board.
<b>Summary</b>	It is a requirement of the Terms of Reference that appointments to the positions of Chair and Vice chair of the Local Pension Board be made on an “annual rotational basis”. This report invites members to make the relevant appointments from the membership

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Jik Townson, Committee Services  
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Background papers open to inspection: None

Annexes: None

## 1 Introduction

- 1.1 It is a requirement of the Local Pension Board Terms of Reference that appointments to the positions of Chair and Vice chair be made on an “annual rotational basis”. This report invites members to make the relevant appointments

## 2 Information

- 2.1 Chair of the Board in 2021 – 22 was John Roberts as Scheme Manager representative with Jim Davies as Vice chair representing the Scheme Members.
- 2.2 In accordance with the requirement to rotate on an annual basis the posts will be as follows for 2022 – 23;
- |            |                               |
|------------|-------------------------------|
| Chair      | Scheme Member representative  |
| Vice chair | Scheme Manager representative |
- 2.3 Nominations are invited from the membership for appointment to the posts

## 3 Financial Implications

- 3.1 There are no direct financial implications arising out of this report.

## 4 Legal Implications

- 4.1 The Monitoring Officer has considered this report and is satisfied it is presented in compliance with the Authority’s Constitution.

## 5 Human Resource and Diversity Implications

- 5.1 There are no direct human resources and diversity implications arising from this report.

## 6 Equality impact assessment

6.1

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? ( <a href="#">EIA guidance and form 2020 form.docx (westyorksfire.gov.uk)</a> )	No
Date EIA Completed	N/A

## **7 Health, Safety and wellbeing implications**

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

## **8 Environmental implications**

8.1 None

## **9 Your Fire and Rescue Service priorities**

9.1 The subject of this report supports all the Fire and Rescue Service 2020 – 2023 priorities.





OFFICIAL

# Local Pension Board Membership 2022 - 23

## Local Pension Board

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Date: 5 August 2022

Agenda Item:

**02**

Submitted By: Monitoring Officer

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**Purpose** To advise of membership of the Board in 2022 - 23.

**Recommendations** That the report be noted.

**Summary** Appointments to the Board are made on an annual basis. This report advises of the membership for 2022 – 23.

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Jik Townson, Committee Services  
E: [Jik.Townson@westyorksfire.gov.uk](mailto:Jik.Townson@westyorksfire.gov.uk)  
T: 01274 682311 X 671340

Background papers open to inspection: None

Annexes: None

## **1 Introduction**

- 1.1 Appointments to the Local Pension Board are made on an annual basis. This report advises of the appointments for 2022 – 23.

## **2 Information**

- 2.1 The Local Pension Board has six members with equal representation (3) from both Scheme Members and the Scheme Manager.

- 2.2 Appointments as Scheme Member representatives are made on an annual basis following formal advertisement of the posts, written application and a selection process as appropriate.

- 2.3 the following were appointed as Scheme Member representatives on the Local Pension Board for 2021 -22;

Mr Chris Lawton, for part of the year

Mr Ian Dunkley from 17.09.21

Mr Ryan Binks

The third Scheme member representative is from the FBU - Firefighter Jim Davies.

- 2.4 Appointments as Scheme Manager representatives are made at the Annual Meeting of the West Yorkshire Fire and Rescue Authority. At its meeting on 30 June the Fire Authority appointed the following elected members as Scheme Manager representatives on the Local Pension Board for 2022 – 23;

Councillor Peter Harrand

Councillor Fozia Shaheen

Chief Fire Officer John Roberts

## **3 Financial Implications**

- 3.1 Local Pension Board members can submit claims in respect of out of pocket expenses. Provision has been made in the revenue budget for members' allowances claims.

## **4 Legal implications**

- 4.1 The Monitoring Officer has considered this report and is satisfied it is presented in compliance with the Authority's Constitution

## 5 Human Resources and Diversity Implications

- 5.1 There are no direct human resources and diversity implications arising from this report.

## 6 Equality impact assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? ( <a href="#">EIA guidance and form 2020 form.docx (westyorksfire.gov.uk)</a> )	No
Date EIA Completed	N/A

## 7 Health, Safety and wellbeing implications

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

## 8 Environmental implications

- 8.1 None

## 9 Your Fire and Rescue Service priorities

- 9.1 The subject of this report supports all the Fire and Rescue Service 2020 – 2023 priorities.





**DRAFT**

**EXCLUSION OF THE PUBLIC - SECTION 100A LOCAL GOVERNMENT ACT 1972**

**RESOLVED :** That the public be excluded from the meeting during the item of business specified below as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this time, there would be disclosure to them of exempt information of the description respectively specified.

<b>AGENDA ITEM NO.</b>	<b>TITLE OF REPORT</b>	<b>MINUTE NUMBER (to be added)</b>	<b>Description of exempt information by reference to the paragraph number in Schedule 12a of the Local Government Act 1972</b>



**Disclosure of Disclosable Pecuniary Interests (DPI's)**

- 1 Members present at the meeting who are aware that they have a DPI in a matter being considered must disclose the details of that DPI to the meeting unless it is already recorded on the Authority Members DPI Register.
- 2 Any Member with a DPI may not participate in any discussion or vote and under Authority Standing Orders is required to leave the meeting during any discussion or vote unless they have been granted a dispensation from exclusion from the meeting by the Executive Committee or in certain circumstances by the Monitoring Officer before any consideration of the item by the committee starts.

**Footnote:**

- (1) Members are referred to the Authority Constitution and to the provisions of sections 30-34 of the Localism Act 2011 and to the statutory regulations made thereunder which define the meaning of a DPI.
- (2) Members are reminded of the potential criminal sanctions and disqualification provisions under Section 34 of the Act applicable to breaches of disclosure and non-participation requirements.
- (3) A Member with a sensitive DPI need not disclose the details of that interest with the Monitoring Officers agreement but must still disclose the existence of a DPI and must withdraw from the meeting.

*Application for dispensation to vote*

*Attached is a blank "application for dispensation" form which Members of the Committee may use to seek the grant of an individual dispensation on any item on the agenda.*

*Where possible, the completed form should be returned to the Monitoring Officer in advance of the meeting so that he can consider whether a dispensation should be granted. Block dispensations affecting a significant number of Members will be referred to the Executive Committee for approval, if time permits.*

West Yorkshire Fire and Rescue Authority

Sections 31 and 33 Localism Act 2011

## **Member Participation & Voting Dispensation Request**

### **Section for completion by Member**

Name of Member:

Correspondence/ email address:

Dispensation applied for: (1) Participation (2) Voting (3) Both

Details of Meeting/agenda Item:

Full details of why you are applying for a dispensation:

Signed:

Dated:

Please send your application to the Monitoring Officer at Fire & Rescue Service Headquarters Birkenshaw BD11 2DY – [martinmccarthy@westyorksfire.gov.uk](mailto:martinmccarthy@westyorksfire.gov.uk)

### **Section for completion by Monitoring Officer:**

No in Register:

Received on:

Granted/ Refused

Reasons for refusal / Statutory Grounds relied upon for grant:



# Minutes

## Local Pension Board

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Date: 19 January 2022

Time: 10:30

Venue: Microsoft Teams

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Present: John Roberts (Scheme Manager representative) in the chair, Councillor Fozia Shaheen (Scheme Manager representative), Ryan Binks (Scheme Member representative), Ian Dunkley (Scheme Member representative), Jim Davies (Scheme Member representative)

In Attendance: Claire Johnson - Technical Adviser

Apologies: Cllr Harrand

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### 18 Chairs Announcements

The new member of the Board – Ian Dunkley - was welcomed to the meeting.

### 19 Admission of the Public

There were no items which required the exclusion of the public and press.

### 20 Urgent Items

None

### 21 Declarations of Interest

There were no declarations of disclosable interest in any matter under consideration at the meeting.

### 22 Minutes of the last meeting held on 22 July 2021

#### RESOLVED

That the Minutes of the meeting held on 22 July 2021 be signed by the Chair as a correct record.

## **23 LPB Membership 2021.22**

Members considered a report submitted by the Committee Services Manager confirming the change of membership and the change in the Terms of Reference. In addition, members were invited to nominate a Scheme Member Representative to the position of Vice Chair, following the resignation of the previous Vice Chair.

### **RESOLVED**

- a) That the report be noted
- b) That Jim Davies, Scheme Member Representative be appointed Vice Chair of the Local Pension Board.

## **24 LPB Activity Report**

Members considered a report submitted by the Chief Employment Services Officer concerning performance in key areas for the period 1 July 2021 to 31 December 2021.

Members requested clarification of the following specific issues;

- Administration costs for management of the opt in and opt out members.
- The controls in place regarding membership auto-renewal.

### **RESOLVED**

That the report be noted.

## **25 Scrutiny and Review**

The Chief Employment Services Officer submitted information on the following areas for scrutiny and review;

- Discretions made by Scheme Manager – 3 occasions detailed in the report
- Breaches register - none identified during the relevant period
- Pension Risk register - attached at Annex A to the report
- Compliance deadlines - detail of the different compliance deadlines

In respect of the compliance deadlines it was reported that West Yorkshire Pension Fund (WYPF) achieved both the ABS and Pension Savings Statement deadlines. It was also confirmed that the TPR annual governance survey has been delayed, a new date yet to be advised and that work is well underway to ensure the Year End deadline of 31 May is met.

### **RESOLVED**

That the report be noted

## **26 Legislative update**

The Chief Employment Services Officer submitted a report which provided an update with regard to the following;

- Public Service Pensions & Judicial Offices Bill - this is the primary legislation which closes final salary schemes for accrual past 31 March 2022 and moves all

remaining members into FPS 2015, while ensuring that existing transitional protections such as the final salary link and double accrual are retained.

- Memorandum of Understanding/Framework
- Unauthorised Payment Charges (UPCs) - since publication of the Framework, HMRC has published a policy document and Finance (No. 2) Bill which both now indicate a move towards making payments of lump sums paid more than 12 months after retirement ('late lump sums') authorised.
- Withdrawal of Immediate Detriment Guidance – on 29 November 2021 we were informed by LGA that, with immediate effect, the Home Office has withdrawn its informal guidance on immediate detriment. Further legal guidance has been sought on this matter and a paper will be considered by Executive Committee on 24 January 2022.

Members requested confirmation that WYFRS will be ready to adopt the new legislation from 1 April 2022 and that we have communicated with all members effected by the changes.

#### **RESOLVED**

- a) That the report be noted;
- b) That the decision made at the Executive Committee on 24 January 2022 be communicated to members
- c) That the outcome of the Public Service Pensions & Judicial Offices Bill is communicated to members.

## **27 Pension Ombudsman – update**

Members received a report of the Chief Employment Services Officer which presented one relevant sample case reviewed and upheld by the Pension Ombudsman since the date of the last meeting as follows;

Mr E – Recovery of an overpayment of pension amounting to £9964 that the FRS is seeking to recover following its decision to abate his pension. Specifically, that the FRS had a duty of care to alert him at the outset that his pension would be abated. The complaint was upheld to the extent that the FRS did not follow a reasonable process when exercising discretion under “rule K4” and making its decision to abate Mr E’s pension but it was stated the FRS did not have an additional duty of care towards Mr E, other than the requirement to make factually correct information available to him, as supported by relevant case law.

It was noted that the LGA are intending to work with Warwickshire FS and challenge the decision of the Pension Ombudsman

Members requested information on the abatement process for WYFRA and if abatement was applied to the salary or the pension payment.

#### **RESOLVED**

- a) That the report be noted;
- b) That the outcome of the challenge be reported back to the Local Pension Board

## **28 SAB Response to HO Consultation**

Members received a report of the Chief Employment Services Officer which informed members of the SAB response to the recent Home Office consultation on prospective remedy changes.

Full details of the consultation questions and responses can be found in Annex A to the report.

### **RESOLVED**

That the report be noted;

## **29 FRA Remedy Self-assessment Survey**

Members received a report of the Chief Employment Services Officer which informed members of the feedback received from LGA/SAB in relation to the Scheme Managers response to the remedy self-assessment survey.

As part of their statutory role to provide advice to Scheme Managers and Local Pension Boards in relation to the efficient and effective administration and management of the Firefighters' Pension Scheme, the Board wanted to understand more about arrangements for managing the pension scheme and specifically for implementing the age discrimination remedy.

To do this, the Board prepared a self-assessment survey to take a temperature check of current arrangements.

WYFRS responses were shared with members at July's meeting and can also be found in Annex A to the report.

Members enquired about the need to set up a project team to monitor the outcome

### **RESOLVED**

That the report be noted;

## **30 West Yorkshire Pension Fund – key performance indicators**

Consideration was given to a report of the Chief Employment Services Officer which advised of West Yorkshire Pension Fund (WYPF) performance in key areas for the period 1 July 2021 to 31 December 2021.

### **RESOLVED**

That the performance of West Yorkshire Pension Fund in key areas be noted.

## **31 Firefighter Pension Scheme bulletins 47 – 52**

Consideration was given to the content of bulletins 47 – 52



[FPS Bulletin 47 – July 2021](#) had no actions arising and was purely for information.

[FPS Bulletin 48 – August 2021](#) had two actions for the FRA which have been completed.

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

[FPS Bulletin 49 – September 2021](#) had no actions arising and was purely for information.

[FPS Bulletin 50 – October 2021](#) had no actions arising and was purely for information.

[FPS Bulletin 51 – November 2021](#) had no actions arising and was purely for information.

[FPS Bulletin 52 – December 2021](#) had no actions arising and was purely for information.

#### **RESOLVED**

That the content of Bulletins 47 – 52 be noted

### **32 Scheme Advisory Board Minutes**

- a) Local Pension Board Effectiveness Committee held 8 July 2021
- b) Scheme Advisory Board held 30 September 2021

#### **RESOLVED**

That the Minutes of the Scheme Advisory Board at meeting held on 30 September 2021 and the minutes of the Local Pension Board Effectiveness Committee held on 8 July 2021 be noted.

Chair





OFFICIAL

# Local Pension Board Terms of Reference - Annual Review

## Local Pension Board

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Date: 5 August 2022

Agenda Item:

**07**

Submitted By: Monitoring Officer

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**Purpose** To review the Terms of Reference for the Local Pension Board.

**Recommendations** That the report be noted and proposals for amendment made as required.

**Summary** In preparation for the establishment of the Local Pension Board on 1 April 2015, the Authority's Human Resources Committee approved the draft Terms of Reference at its meeting held on 23 January 2015.

It is a requirement that the Terms of Reference be reviewed on an annual basis and amendments have been made in July 2016 and January 2020. A further amendment was approved by the WYFRA Full Authority Committee on 17 December 2021, to extend the term of office for members to two years.

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Local Government (Access to information) Act 1972

Exemption Category: None

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T: 01274 682311 X 671340

Background papers open to inspection: None

Annexes: Terms of Reference – Local Pension Board

## 1 Introduction

- 1.1 This report invites Members to review of the Local Pension Board Terms of Reference.

## 2 Information

- 2.1 The Local Pension Board Terms of Reference have been kept under review since its establishment in April 2015. A copy of the current Terms of Reference is attached at Annex A.
- 2.2 It is a requirement of the Board that the Terms of Reference be reviewed on an annual basis. Members are now invited, therefore, to consider the Terms of Reference for the 2022 – 23 year and note that any amendment will be included in the Local Pension Board’s Constitution document and will require formal approval from the Fire Authority.

## 3 Financial Implications

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

## 4 Legal Implications

- 4.1 The Monitoring Officer has considered this report and is satisfied it is presented in compliance with the Authority’s Constitution

## 5 Human Resource and Diversity Implications

- 5.1 There are no direct equality and diversity implications arising from this report.

## 6 Equality Impact Assessment

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

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

## 8 Environmental Implications

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

## 9 Your Fire and Rescue Service Priorities

- 9.1 The report supports all the Your Fire and Rescue 2020 - 23 priorities.

# **West Yorkshire Fire and Rescue Authority**

## **Local Pension Board**

### **Terms of Reference**

#### **Function and Responsibilities**

The function of the Local Pension Board is to assist the Scheme Manager (West Yorkshire Fire and Rescue Authority) in administering the various firefighter pension schemes. This will be achieved by providing governance and by scrutiny of policies, pension documentation, decisions and outcomes.

The Local Pension Board will also assist the Scheme Manager to:

- secure compliance with the Regulations, any other legislation relating to the governance and administration of the Schemes, and requirements imposed by the Pensions Regulator in relation to the Schemes and;
- ensure the effective and efficient governance and administration of the Schemes

#### **Duties of the Board**

The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of these duties Board members:

- should act always in the interests of the Scheme and not seek to promote the interests of any stakeholder group above another
- should be subject to and abide by the Local Pension Board approved code of conduct

#### **Frequency of meetings**

The WYFRA Local Pension Board will meet six monthly (July and January in each municipal year), to review / report on previous actions and determine work streams and priorities for the future.

The Chair of the Board, with the consent of the Board membership, 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 conferencing and e-mails.

## **Local Pension Board membership**

To comply with the regulations the Board must have a minimum of four members (two Scheme Member representatives and two Scheme Manager representatives). A Local Pension Board membership of four is the most straight forward and cost effective way of providing the Local Pension Board and complying with the Regulations.

Membership of the West Yorkshire Fire and Rescue Authority Local Pension Board will be:

3 X Scheme Member representatives (including 1 x FBU representative)

3 X Scheme Manager representatives (2 x elected Members, 1 x Officer representative)

Non-voting Officer Advisor(s) as appropriate

Scheme Manager (elected Member) representation on the Board will be determined by the Fire Authority at its Annual Meeting (or as otherwise required). The Officer representative will be nominated by the Authority's Management Board.

The Officer Advisor will be a specific officer who is to assist the Board in gathering/analysing information and writing reports. The Board will also be able to request assistance from any officer who has specific knowledge of a subject matter they are investigating.

### ***Scheme Member representatives***

Scheme Member representatives shall be appointed to the Board on an annual basis (or as otherwise required) by the Executive Committee of the West Yorkshire Fire and Rescue Authority following a formal application process.

2 x Scheme Member representatives will be active, deferred or retired members of one of the firefighter pension schemes administered by WYFRA.

1 x Scheme Member representative will be nominated by the Fire Brigades' Union.

Scheme Member representatives should be able to demonstrate

- their capacity to represent pension scheme members
- capacity to attend and complete the necessary preparation for meetings, and
- capacity to participate in training as required

### ***Scheme Manager representatives***

2 x elected Member Scheme Manager representatives shall be appointed on an annual basis to the Board at the Annual Meeting of the Authority (or as otherwise required)

1 x Officer Scheme Manager representative shall be appointed/confirmed on an annual basis by the Authority's Management Board.

Scheme Manager representatives with delegated responsibility for discharging the Scheme Manager function of WYFRA may not serve as Scheme Manager representatives on the Board.

Scheme Manager representatives should be able to demonstrate

- their capacity to represent the Scheme Manager
- capacity to attend and complete the necessary preparation for meetings, and
- capacity to participate in training as required

### **Appointment of Chair and Vice chair**

Local Pension Board Members will act as the Chair and Vice- chair on an annual, rotational basis ie. when a Scheme Manager representative is appointed Chair of the Board, the position of Vice chair will be filled by a Scheme Member representative and vice versa on an annual basis.

### **Notification of appointments**

On appointment to the Board, WYFRA shall publish the name of the appointees, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

### **Objectives**

WYFRA Local Pension Board should consider the following:

- Are pension statements timely and accurate?
- How long does it take between retirement and receipt of pension?
- The number of errors made by the pension administrator.
- Are relevant policies in place and of a sufficient standard?
- Are pension estimates accurate and timely?
- Is the West Yorkshire Pension Fund (WYPF) website accurate and user friendly?
- Ensure that annual CARE scheme calculations are being carried out.
- Scrutinise data quality.

- Ensuring pension rules and regulations are being complied with, when officers are making decisions on pension matters.
- If complaints/appeals are being dealt with correctly and the correct procedures being followed.
- Review internal audit reports

This list is not exhaustive. The Local Pension Board will have the power to investigate anything it wishes in relation to the firefighters' pension schemes within WYFRS.

### **Conduct and Conflict of interest**

Members of the Board are responsible for ensuring that their board membership does not result in any conflict of interest with any other posts they hold.

All members of the Board must declare to WYFRA on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Board. On appointment to the Board and following any subsequent declaration of potential conflict WYFRA shall ensure that any potential conflict is effectively managed in line with both the internal procedures of WYFRA and the requirements of the Pensions Regulator's codes of practice on conflict of interest for Board members.

Members of the Board must not use their membership for personal gain.

Gifts and hospitality should only be accepted with the permission of the Authority - any gifts accepted should be reported on in the Local Pension Board's annual report.

Members of the WYFRA Local Pension Board should maintain confidentiality when discharging their duties.

The WYFRA Local Pension Board has the right to use WYFRA facilities and resources in the course of discharging its duties.

### **Knowledge and understanding (including Training)**

Knowledge and understanding must be considered in light of the role of the Board to assist WYFRA as detailed above. The Board should establish and maintain a policy and framework to address the knowledge and understanding requirements that apply to Board members. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.

Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding



policy and framework. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

### **Term of office**

Term of Office should be for 2 years and in accordance with the committee cycle in WYFRA

Board membership may be terminated prior to the end of the term of office due to:

- A Scheme Member representative no longer holding the office or employment or being a member of the body on which their appointment relied
- A Scheme Manager representative no longer holding the office or employment or being a Member on which their appointment relied
- The representative no longer being able to demonstrate their capacity to attend and prepare for meetings or to participate in required training

Board Members may be re-appointed for more than one term of office following an approved appointment / nomination process.

### **Reporting**

The West Yorkshire Local Pension Board will produce an Annual Report which will highlight areas of concern and identify good practice.

The report will also contain information on the number of retirements (natural and ill health), new starters, membership and opt-out numbers.

The Board will report to the Human Resources Committee.

### **Resourcing and funding**

Members of the WYFRA Local Pension Board will be entitled to claim any reasonable out of pocket expense incurred through discharging their Local Pension Board responsibilities.

The Board will not have a dedicated budget. Requests for finance to purchase technical assistance, Board member training and anything else the Board may require to effectively discharge its duties will be made through the WYFRA Finance and Resources Committee.

## **Quorum**

A meeting is only quorate when three Board members are present (including either the Chair or Vice chair).

## **Voting**

The Chair shall determine when consensus has been reached. There will be no casting vote.

Where consensus is not achieved this should be recorded by the Chair.

## **Relationship with West Yorkshire Fire and Rescue Authority**

In support of its core functions the Board may make a request for information to WYFRA with regard to any aspect of the Scheme Manager function. Any such a request should be reasonably complied with in both scope and timing.

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



OFFICIAL

# Local Pension Board Annual Report 2021 - 22

## Local Pension Board

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Date: 5 August 2022

Agenda Item:

**08**

Submitted By: Monitoring Officer

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- Purpose** To receive the Annual Report for the Local Pension Board 2021 - 22
- Recommendations** That the Annual Report for the Local Pension Board 2021 - 22 be noted.
- Summary** It is a requirement that the Local Pension Board produces an Annual Report each year setting out activity during the course of the previous year.

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: Jik Townson, Committee Services  
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T: 01274 682311 X 671340

Background papers open to inspection: None

Annexes: Annual Report 2021 - 22

## 1 Introduction

- 1.1 The Local Pension Board is required to submit an Annual Report for formal ratification by West Yorkshire Fire and Rescue Authority's Human Resources Committee as set out in its Terms of Reference.

## 2 Information

- 2.1 The Annual Report of the Local Pension Board is attached at annex a.

## 3 Financial Implications

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

## 4 Legal Implications

- 4.1 The Monitoring Officer has considered this report and is satisfied it is presented in compliance with the Authority's Constitution

## 5 Human Resource and Diversity Implications

- 5.1 There are no direct human resources and diversity implications arising from this report.

## 6 Equality Impact Assessment

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

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

## 8 Environmental Implications

- 8.1 There are no direct environmental implications arising from this report.

## 9 Your Fire and Rescue Service Priorities

- 9.1 Production of the Annual Report and its submission for formal ratification by the Human Resources Committee supports all the Your Fire and Rescue Service 2020 – 23 priorities.



# LOCAL PENSION BOARD

## Annual Report 2021 - 2022

**OFFICIAL**

Ownership: Legal and Governance

Date Issued:

Version:

Status: Final



# Revision and Signoff Sheet

## Change Record

Date	Author	Version	Comments
		V1 – initial draft	To submit to Local Pension Board for final comment and recommendation for approval to HR Committee – 5 August 2021
		V2 – final version	To submit to HR Committee for formal ratification

## Reviewers

Name	Version Approved	Position	Organisation	Date
Nicola Houseman		Committee Manager	WYFRA	7/7/22

## Distribution

Name	Position	Organisation
Local Pension Board		West Yorkshire Fire and Rescue Authority
Human Resources Committee		7 October 2022

## Document Properties

Item	Details
Document Title	LOCAL PENSION BOARD
Author	Administrator
Creation Date	7 July 2022
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## 1 Foreword

The purpose of this Annual report is to provide a source of information about the status of West Yorkshire Fire and Rescue Authority Local Pension Board for Scheme members and for the Scheme Manager together with a summary of issues considered in the relevant period (1 April 2021 – 31 March 2022)

In accordance with Section 5 and s.30 (1) of the Public Service Pensions Act 2013 and Regulation 4A of the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015, the West Yorkshire Fire and Rescue Authority Local Pension Board was established in February 2015 to provide advice on the effective and efficient administration and management of the various firefighter pension schemes.

[The Local Government Pension Scheme for Green Book employees is monitored by a separate Local Pension Board established by the West Yorkshire Local Government Pension Scheme and does not form part of this Annual Report].

The Report includes commentary on the following;

- A summary of the work undertaken by the Local Pension Board during 2021 – 22
- Detail of areas investigated and how these areas were dealt with
- Any conflicts of interest and how these were managed
- Any identified risks and other areas of potential concern
- Any expenses and costs incurred by the Board
- Gifts and hospitality received by members of the Board
- Training for Board members
- Breaches
- Scrutiny and review

Information has also been categorised in parts of this Annual Report on the basis of the following Classifications

Classification	Action
	Outstanding
	Partially complete
	Complete

## 2 Membership and meetings of the Board

2.1 The West Yorkshire Fire and Rescue Authority Local Pension Board comprises 6 members as follows (as approved by the Full Authority on 24 June 2021);

3 x Scheme Member representatives (Ryan Binks, Chris Lawton (for part of the year), Jim Davies (FBU) and Ian Dunkley from 17.9.21)

3 x Scheme Manager representatives (Councillors Peter Harrand and Fozia Shaheen, and John Roberts CEx/CFO - Chair)

(plus Non-voting Officer Adviser(s) as appropriate)



2.2 The Board has met on 2 occasions in the 2021 – 22 year. There was an attendance of 83.3% during the period in question.

2.3 One of the Scheme Member representatives, Chris Lawton, had retired from the Brigade and consequently from membership of the Local Pension Board. The ensuing vacancy was filled by Ian Dunkley with effect from 17.9.21.

### **3 Work undertaken by the West Yorkshire Fire and Rescue Authority Local Pension Board 2021 – 22**

3.1 The work undertaken by the Board during the course of the year has been defined by the extant Terms of Reference (initially approved at the 24 June 2016 meeting of the West Yorkshire Fire and Rescue Authority) and as amended in December 2021 with regard to the revised term of office (two years).

3.2 During the period 1 April 2021 – 30 June 2022 the following items were considered by the Board;

- Updates on the work with the national Scheme Advisory Board (SAB) & its sub-committee (Ensuring the effectiveness of the Local Pension Board)
- Pension Fund – Key Performance Indicators and corporate risks
- Discretions made by the Scheme Manager
- Annual benefit statements and pension saving statement deadline
- Annual review of Terms of Reference (amended)
- Pension Risk Register
- Compliance deadlines and Breaches Register
- Pensions administration audit
- Pension Ombudsman sample cases
- Legislative updates (including Memorandum of Understanding, updates / revisions to immediate detriment guidance re McCleod / Sargeant)
- Firefighter Pensions England bulletins
- The LGA self-assessment survey 2021
- Exit payments in the public sector
- RDS Modified Scheme update

3.3 The Activity report (submitted to each meeting) includes detail on the number of;

- pension scheme members across the various schemes
- number of new scheme members
- retirees
- pensioner members
- deferred members
- IDRPs stage 1 and 2 complaints
- Opt-outs
- Pension estimates requested / processed

3.4 Each agenda also includes the following standing items;

- legislative update (see section 10.)
- scrutiny and review (including discretions, breach and risk registers)
- Pensions ombudsman cases (see section 9.)
- Member training update
- WY Pension Fund key performance indicators

## 4 Specific investigations and Board resolutions

4.1 A summary of the areas considered during 2021 – 22 which warranted further investigation and action and the relevant outcomes are detailed in the table below.

Meeting	Summary	Outcome / resolution	Status
22 July 2021	Noted that pensions remedy had been included on the corporate risk register (moved from Pension Board register)	Completed	
19 January 2022	Outcome of Public Service Pensions and Judicial Offices Bill be communicated to members	Updates pending	
	Outcome of Warwickshire FRS challenge to Pensions Ombudsman be reported	Updates pending	

## 5 Conflicts of interest

5.1 As statutorily required, members of the Local Pension Board complete a Declaration of Interests. The register is maintained by the West Yorkshire Fire and Rescue Authority Committee Services section. Members of the Board reviewed their Declarations in July 2021.

5.2 There have been no declarations made by any member, adviser or attendee at any meeting of the Board during the relevant period.

## **6 Identified Risks and areas of concern**

6.1 No specific risks or areas of concern were raised during the year.

## **7 Expenses and Costs**

7.1 There has been no expenditure or costs incurred within the relevant period for the administration of the Board.

## **8 Gifts and Hospitality**

8.1 There have been no declarations of gifts or hospitality received by Members of the Local Pension Board during the relevant period.

## **9 Training**

9.1 It is a statutory requirement of the Public Service Pensions Act 2013 that members of the Local Pension Board should have the capacity to become conversant with, and develop a knowledge of, detailed related issues in order to effectively carry out their duties.

9.2 The following training has been provided during the course of the year to Local Pension Board members;

- Pensions Regulator e-learning package
- Monthly bulletins from LGA Pension Advisory Service
- LGA National training programme – update / refresher training

9.3 One standing item on the Local Pension Board agendas is consideration of relevant Pension Ombudsman cases. The summaries provided and Ombudsman decisions serve as a learning tool for LPB members.

## **10 Legislative updates**

10.1 As a statutory requirement, members of the Local Pension Board have been provided with regular legislative updates.

10.2 The following have been provided during the relevant period;

- Public Service and Judicial Offices Bill
- LGA / FBU Memorandum of Understanding / Framework
- Unauthorised payment charges
- Immediate detriment guidance
- RDS Modified Scheme
- Exit payments in the public sector

## **11 Scrutiny and review**

11.1 Members are required to scrutinise areas relevant to the administration of the Firefighters' Pension Schemes.

11.2 The following areas were scrutinised during the relevant period;

- Pension Risk and breaches policy
- Discretions
- Breaches register
- Pension Risk register
- Compliance deadlines
- Pension administration audit



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# Activity report

## Local Pension Board

Date: 5 August 2022

Agenda Item:

09

Submitted By: Chief Employment Services Officer

<b>Purpose</b>	To inform Members of performance in key areas for the period 1 January 2022 to 30 June 2022
<b>Recommendations</b>	That the report is noted.
<b>Summary</b>	<p>This report informs Members of the Authority's key areas relating to the Local Pension Board as follows:</p> <ul style="list-style-type: none"><li>Number of pension scheme members across the various schemes</li><li>Number of new pension scheme members</li><li>Number of retirees in the period</li><li>Number of pensioner members of each scheme</li><li>Number of deferred members of each scheme</li><li>Number of IDRPs stage 1 and 2 complaints</li><li>Number of Opt Outs from the pension schemes</li><li>Number of pension estimates requested and processed</li></ul>

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Local Government (Access to information) Act 1972

Exemption Category: None

Contact Officer: James Clarkson, Pensions Manager  
T: 01274 682311 EXT: 680157  
E: [james.clarkson@westyorkshire.gov.uk](mailto:james.clarkson@westyorkshire.gov.uk)

Background papers open to inspection: None

Annexes: None

## 1 Introduction

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

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

## 2 Information

### 2.1 Number of pension scheme members across the various schemes:

#### 2.1.1 As of 30 June 2022:

1992 Firefighters' Pension Scheme	0
2006 Firefighters' Pension Scheme	0
2015 Firefighters' Pension Scheme	1016
Firefighters' Modified Scheme	0

### 2.2 Number of pensioner members across the various schemes:

#### 2.2.1 As of 30 June 2022:

1992 Firefighters' Pension Scheme	2404
2006 Firefighters' Pension Scheme	9
2015 Firefighters' Pension Scheme	19
Firefighters' Modified Scheme	42

## 2.3 Number of deferred members across the various schemes:

2.3.1 As of 30 June 2022:

1992 Firefighters' Pension Scheme	83
2006 Firefighters' Pension Scheme	91
2015 Firefighters' Pension Scheme	164
Firefighters' Modified Scheme	12

## 2.4 Number of new pension scheme members (Opt Ins)

In the period 1 January 2022 to 30 June 2022, there has been **105** new 2015 CARE pension scheme members.

This includes employees who joined because of our re-enrolment duties on 20/06/2022.

This can be broken down into the following demographic:

Age	Male	Female	Prefer to use own term
18 – 30	20	2	0
31 – 40	47	5	1
41 – 50	19	2	0
51 – 60	5	1	0
60+	3	0	0
Total	94	10	1

## 2.5 Number of retirees

In the period 1 January 2022 to 30 June 2022, **22** members retired to pension.

## 2.6 Number of Opt Outs

In the period 1 January 2022 to 30 June 2022, **41** members opted out of the pension scheme.

This can be broken down into the following demographic:

Age	Male	Female
18 – 30	5	1
31 – 40	19	2
41 – 50	8	2
51 – 60	1	1
60+	2	0
Total	35	6

## 2.7 Estimate Requests

In the period 1 January 2021 to 30 June 2021 a total of **46** estimates were processed.

## 3 Summary of new recruits

In the period 1 January 2022 to 30 June 2022, we appointed **40** Wholetime Firefighters and **11** On Call Firefighters. Of those, **2** recruits chose to opt out of the pension scheme.

The recruits can be broken down into the following demographic:

Age	Male	Female	Prefer to use own term
18 – 30	16	4	
31 – 40	22	3	1
41 – 50	4		
51 – 60	1		
Total	43	7	1

## 4 IDRPs

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

## 5 Grey Book Head Count

The total number of grey book employees on 30 June 2022 was **1,070**. Of these, **1,016** are current pension scheme members.

## 6 Financial Implications

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

## 7 Legal implications

7.1 The Monitoring Officer has considered this report and is satisfied it is presented in compliance with the Authority's Constitution

## 8 Human Resource and Diversity Implications

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

## 9 Health, Safety and wellbeing implications

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

## 10 Your Fire and Rescue Service priorities

10.1 Keeping Members informed with regard to legislation and current ombudsman pension issues is an integral part of the acquisition of knowledge and learning required by the relevant regulations and is demonstrative of the Authority's commitment to the Your Fire



and Rescue Service priorities 2019 – 22.

## 11 Environmental implications

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

## 12 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? ( <a href="#">EIA guidance and form 2020 form.docx (westyorksfire.gov.uk)</a> )	No
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# Scrutiny and Review

## Local Pension Board

Date: 5 August 2022

Agenda Item:

10

Submitted By: Chief Employment Services Officer

### Purpose

To scrutinise and review the following:

- Discretions made by Scheme Manager
- Breaches register
- Pension Risk register
- Compliance deadlines

### Recommendations

That the report be noted and further action is taken as identified

### Summary

It is one of the requirements of the Local Pension Board that members scrutinise areas relevant to the administrations of the Firefighters' Pension Schemes.

This report identifies four areas of scrutiny.

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Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: Annex A – Pension risk register  
Annex B – Compliance deadlines

## 1 Introduction

- 1.1 Local Pension Board members are to be conversant with Firefighter pension scheme rules and other administration policies relevant to the schemes.
- 1.2 In accordance with this requirement updates have been provided on the following legislative issues:
- Discretions made by Scheme Manager
  - Breaches register
  - Pension risk register
  - Compliance deadlines
- 1.3 Members are invited to consider the remaining annexes and consider if any further action would be appropriate.

## 2 Information

### 2.1 Discretions made by Scheme Manager

- 2.1.1 For the period from **1 January 2022 to 30 June 2022** the Scheme Manager has been asked to exercise their discretion on one occasion. Details can be found in the table below:

Request	Regulations	Mitigating Factors	Outcome
Abatement costs to be paid by WYFRS	Abatement costs can be paid by the individual or the Fire Authority		Ian Brandwood agreed for abatement costs to be paid for by WYFRS with effect from 6/12/2021 for the foreseeable future

### 2.2 Breaches register

- 2.2.1 For the period from 1 January 2022 to 30 June 2022 **0** breaches have been identified.

### 2.3 Pension risk register

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

### 2.4 Compliance deadlines

- 2.4.1 Members need to be mindful of the following key milestones of the pension administrative cycle and the dates associated with it:
- Year End deadline – 31<sup>st</sup> May 2022
  - Annual Benefit Statement (ABS) deadline – 31<sup>st</sup> August 2022
  - Pension saving statement deadlines – 6<sup>th</sup> October 2022
  - TPR Survey – TBC
  - Triennial Re-enrolment – 23<sup>rd</sup> September 2022

- 2.4.2 The following is a list of answers provided by West Yorkshire Pension Fund in response to questions regarding whether the first three deadlines listed have been/will be met:

## Annual Benefit Statements

1. Was the year-end data submitted by 31 May? – **Yes**
2. Are there any issues with the data supplied? – **Only some minor pay issues which were resolved & the return re-submitted**
3. When do you envisage that ABS production will commence for WYFRS? **w/c 8 Aug with production continuing over 7 working days**
4. Are there any calculation issues that may delay the process? **No**
5. Do you expect to meet the deadline of 31 August? **Yes, all outstanding queries have been resolved and there are currently no cases blocked**
6. Will you be including the ABS factsheet on remedy (or equivalent information) referred to in FPS Bulletin 58? **Yes (as part of our web notes rather than the statement itself)**

## Pension Saving Statements

1. Do you have all the data required to commence production of pension saving statements? **Any breaches identified as part of the ABS process will result in the WYFRS being emailed with a request for specific pay for the last 4 tax years (typically)**
2. Do you expect to meet the deadline of 6 October? **Yes (for cases where the pay request has been received)**

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

2.4.4 WYFRS completed their re-enrolment obligations on 20<sup>th</sup> June 2022. 43 employees were re-enrolled into FPS 2015.

## **3 Financial Implications**

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

## **4 Legal implications**

4.1 The Monitoring Officer has considered this report and is satisfied it is presented in compliance with the Authority's Constitution

## **5 Human Resource and Diversity Implications**

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

## **6 Health, Safety and wellbeing implications**

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

## **7 Your Fire and Rescue Service priorities**

7.1 Keeping Members informed with how the scheme is operating and what decisions have been made is an integral part of the acquisition of knowledge and learning required by the relevant regulations and is demonstrative of the Authority's commitment to the Your Fire and Rescue Service priorities.

## 8 Environmental implications

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

## 9 Equality Impact Assessment

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? ( <a href="#">EIA guidance and form 2020 form.docx (westyorkfire.gov.uk)</a> )	<b>No</b>
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Risk Area 1 - Regulatory and Compliance	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	Score (likelihood x impact)	Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment
Failure to put appropriate governance arrangements in place and monitor risk	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	14	• Terms of reference in place and under review	Scheme Manager	Annual	Jul-22	
				• Procedures for assessing and managing risk	Scheme Manager	Annual	Jul-22	
				• Procedure to identify, assess and report breaches	Scheme Manager	Annual	Jul-22	
				• Suitable frequency of Pension Board meetings	Scheme Manager	Annual	Jul-22	
				Appropriate Pension Board Member training				
				• Up to date and documented training log, showing completion of scheme-specific training and The Pensions Regulator's educational material	Scheme Manager	Annual	LFB Meetings	
				• Technical advice and regular updates made available	Scheme Manager	Ongoing	LFB Meetings	
				• Ongoing process for acquiring relevant knowledge and understanding, with regular refreshers	Scheme Manager	Ongoing	LFB Meetings	
				• Training of new Pension Board Members	Scheme Manager	As Required	LFB Meetings	
				• Awareness and understanding of relevant documentation as per TPR Code of Practice 14 paras 42-46	Scheme Manager	Annual	LFB Meetings	
Failure to interpret rules or legislation correctly	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	7	• All Pension Board members to declare any conflicts				
				• Conflicts of interest policy in place and fully understood	Scheme Manager	Ongoing	Jul-22	
				• Request for interests to be declared at each meeting	Scheme Manager	Ongoing	LFB Meetings	
				All pension Board members to keep upto date with TPR compliance deadlines				
				• Training of new Pension Board Members	Scheme Manager	Ongoing		
				• Technical advice and regular updates made available at LFB meetings	Scheme Manager	Ongoing		
				Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment

Risk Area 2 - Operations	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	Score (likelihood x impact)	Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment
Member data incomplete or inaccurate	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	7	• Data review arrangements in place including periodic address cleanse	Pensions Administrator / Scheme Manager	As Required	Jul-22	
				• Monthly KPI reporting on data issues – provide summary at each PB meeting	Pensions Administrator / Scheme Manager	Ongoing	Jul-22	
				• Monthly reconciliation	Scheme Manager	Monthly	Jul-22	
				• Monthly processes to monitor records and carry out reconciliation				
				• Formal SLA in place with third party administrator and monitoring arrangements assessed as adequate				
				• Quarterly client meetings and monthly reports including KPIs	Scheme Manager	Monthly	Jul-22	
				• Ongoing dialogue between Scheme Manager and third party administrator, including process improvement plans	Scheme Manager	Ongoing	Jul-22	
				• Clear identification of roles, authority levels, data security and data protection processes	Scheme Manager	Annual	Jul-22	
				• Audit reporting on both third party administrator and Scheme Manager's processes	Scheme Manager	Annual	Jul-22	
				• Disaster Recovery Plans up to date and appropriate	Scheme Manager	Annual	Jul-22	
Conflicts of interest	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	5	• Process to enact a Data Improvement Plan and report breaches, if required	Scheme Manager	As Required	Jul-22	
				• Ability to commission independent assurance report, if required	Scheme Manager	As Required	Jul-22	
				• Communication requirements fully understood and The Pensions Regulator's recommendations applied				
				• Communications provided under SLA fully understood and deemed adequate for basic requirements	Scheme Manager	Annual	Jul-22	
				• Ad hoc communications provided by LGA Pensions Adviser monitored, fully understood and tailored as necessary	Scheme Manager	Ongoing	Jul-22	
				• Develop Communications Strategy and keep under review	Scheme Manager	Annual	Jul-22	
				Business continuity procedures in place				
				• Third party scheme administrator Disaster Recovery Plan up to date and appropriate	Scheme Manager	Annual		
				• Scheme Manager Disaster Recovery Plan up to date and appropriate	Scheme Manager	Annual		
				• Scheme Manager Disaster Recovery Plan up to date and appropriate	Scheme Manager	Annual		

Administration process failure / maladministration	4	8	32	32	8	7	35	6	1
Administration process failure / maladministration	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	32	• Process to enact a Data Improvement Plan and report breaches, if required	Scheme Manager	As Required	Jul-22		
				• Formal SLA in place with third party administrator and monitoring arrangements assessed as adequate					
				• Quarterly client meetings and monthly reports including KPIs	Scheme Manager	Monthly	Jul-22		
				• Ongoing dialogue between Scheme Manager and third party administrator, including process improvement plans	Scheme Manager	Ongoing	Jul-22		
				• Clear identification of roles, authority levels, data security and data protection processes	Scheme Manager	Annual	Jul-22		
				• Audit reporting on both third party administrator and Scheme Manager's processes	Scheme Manager	Annual	Jul-22		
				• Disaster Recovery Plans up to date and appropriate	Scheme Manager	Annual	Jul-22		
				• Ability to commission independent assurance report, if required	Scheme Manager	As Required	Jul-22		
				• Communication requirements fully understood and The Pensions Regulator's recommendations applied					
				• Communications provided under SLA fully understood and deemed adequate for basic requirements	Scheme Manager	Annual	Jul-22		
Inadequate, late or inaccurate communications	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	7	• Ad hoc communications provided by LGA Pensions Adviser monitored, fully understood and tailored as necessary	Scheme Manager	Ongoing	Jul-22		
				• Develop Communications Strategy and keep under review	Scheme Manager	Annual	Jul-22		
				Business continuity procedures in place					
				• Third party scheme administrator Disaster Recovery Plan up to date and appropriate	Scheme Manager	Annual			
				• Scheme Manager Disaster Recovery Plan up to date and appropriate	Scheme Manager	Annual			
				• Scheme Manager Disaster Recovery Plan up to date and appropriate	Scheme Manager	Annual			
				Operational disaster (fire/flood etc)					

				• Contracts and other essential documents recorded on a central database	Scheme Manager	Annual	As per internal audit cycle	
Risk Area 3 - Financial	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	Score (likelihood x impact)	Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment
Excessive charges by suppliers / additional liabilities on the operating budget	3	2	6	Regular checks of transactions and charges against contract terms/ robust methodology used to forecast pension accounting data				
				• Annual review of scheme budget, quarterly review of cost incurred against budget	Scheme Manager	Quarterly	Jul-22	
				• Periodic review of suppliers	Scheme Manager	Annual	Jul-22	
				• Processes in place to ensure robustness of method to forecast and calculate pension accounting data. Liaise with third party administrator when making forecasting assumptions	Scheme Manager	Annual	Jul-22	
Fraud / Fraudulent behaviour	1	10	10	Budget monitoring and appropriate payment processes including use of authorised signatories and data validation				
				• Monitor incoming and outgoing scheme funds and membership movements against scheme forecasts – reconcile actual transactions against forecasts	Scheme Manager	Monthly	Jul-22	
				• Authorisation of transactions in accordance with audit requirements and carried out by authorised signatories only	Scheme Manager	Ongoing	As per internal audit cycle	
				• Robust data validation processes in place by third party administrator and Scheme Manager to ensure all transactions authentic	Pensions Administrator / Scheme Manager	Ongoing	As per internal audit cycle	
				• Audit reporting on both third party administrator and Scheme Manager's processes	Scheme Manager	Annual	As per internal audit cycle	
Risk Area 4 - Funding	Likelihood (1:least likely, 10:most likely)	Impact (1:least likely, 10:most likely)	Score (likelihood x impact)	Main Control/ Specific Risk Reduction Actions	Owner	Test	Next review	Comment
Employer failure to pay correct contributions into scheme	1	10	10	Contribution deductions and payments – monthly reconciliation of schedule of payments due and amount paid across				
				• Processes in place to comply with regulatory requirements on contribution rates and pensionable pay definitions	Scheme Manager	Ongoing	As per internal audit cycle	
				• Suitable reporting and reconciliation processes in place ahead of payment including checks on changes in contract and transition to 2015 Scheme	Scheme Manager	Monthly	As per internal audit cycle	



## **AGENDA ITEM No. 10 – ANNEX B**

### **Compliance Deadlines**

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

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

#### **31 May – Year end Data**

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

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

#### **31 August – ABSs**

TPR have imposed a deadline of 31 August to produce all ABSs. Failure to comply with this deadline can result in a financial penalty, the amount would be determined by TPR, in making their decision they would consider the numbers involved and the reason for non-compliance.

#### **6 October – Pension Savings Statement**

TPR have imposed a deadline of 6 October to produce all pension saving statements. These statements are only applicable for employees who have breached their Annual Allowance (AA), generally numbers are relatively low (50-100 max). Failure to comply with this deadline can result in a financial penalty, the amount would be determined by TPR, in making their decision they would consider the numbers involved and the reason for non-compliance. It would also have a knock-on effect for the employee. If the employee has breached their AA, and they don't have any carry forward to offset, a tax charge is payable. HMRC have imposed a deadline of 31 January for Voluntary Scheme Pays (VSP) and 31 July for Mandatory Scheme Pays (MSP). If the individual does not comply with these deadlines HMRC can impose sanctions.

#### **30 November – TPR Survey**

TPR send out an annual survey, the survey focuses on governance of the scheme. Although this survey isn't mandatory and failure to complete wouldn't result in a fine, failing to reply could damage our reputation with TPR and SAB. The survey is normally completed by the Pensions Manager, with support from the LPB Chair, Scheme Manager and administrator.

### **23 September – Re-enrolment**

Every three years an employer must put certain staff back into a pension scheme. This is known as 're-enrolment'. This is an employer's legal duty and WYFRS must let TPR know that they have done it by completing and submitting a re-declaration of compliance.

Failure to comply with these duties would result in enforcement action from TPR such as compliance notices and penalty notices (fines)



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# Pension Ombudsman - update

## Local Pension Board

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Date: 5 August 2022

Agenda Item:

11

Submitted By: Chief Employment Services Officer

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### Purpose

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

### Recommendations

That the report be noted.

### Summary

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

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

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Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: None

## 1 Introduction

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

## 2 Information

### 2.1 Pensions Ombudsman Decisions

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

[CAS-38812-C6W1](#) – Mr N – Contributions: refunds.

- 2.1.2 Complaint Summary:

Mr N has complained that he was unreasonably denied the opportunity to claim a refund of contributions. He contends that the criteria Merseyside FRS set for entitlement to this refund was unnecessarily restrictive, following an amendment to the regulations governing the Scheme.

- 2.1.3 Summary of the Ombudsman's decision and reasons:

'I find that the implementation date of the Regulations Amendment and the reasons for selecting that date were a matter for the Government to rule on in view of its legislative authority over the Scheme. Similarly, the timing of the age discrimination legislation, that Mr N has referred to, was a point for the Government to consider before determining that it would be implemented from 2006, under the Equality Act 2010. MFRS is required to act in accordance with the regulations governing the Scheme. The Regulations Amendment became effective from 1 December 2006. Consequently, I find that MFRS had no discretion to pay Mr N a refund of contributions, because he had retired before that date.'

### 2.2 Update following decision [PO-25374](#) (abatement)

- 2.2.1 Following the Ombudsman's decision to partially uphold Mr E's complaint, the LGA obtained advice from the Scheme Advisory Board's legal advisor. The advice confirmed that the Ombudsman's decision was correct.
- 2.2.2 The decision is supported by case law on exercising discretions and the process that should be followed. The issue was with the FRA's blanket policy that abatement would apply following re-employment, which meant that there was no room to consider any circumstances in which it would not apply.
- 2.2.3 The legal advice confirmed that FRAs are required to consider, on a case-by-case basis, whether it is appropriate for abatement to apply and to document each decision.
- 2.2.4 WYFRS is in the process of reviewing their Retirement and Re-engagement policies and forms to ensure that these requirements are met

## 3 Financial Implications

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

## **4 Legal implications**

- 4.1 The Monitoring Officer has considered this report and is satisfied it is presented in compliance with the Authority's Constitution

## **5 Human Resource and Diversity Implications**

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

## **6 Health, Safety and wellbeing implications**

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

## **7 Your Fire and Rescue Service priorities**

- 7.1 Keeping Members informed with regard to legislation and current ombudsman pension issues is an integral part of the acquisition of knowledge and learning required by the relevant regulations and is demonstrative of the Authority's commitment to the Your Fire and Rescue Service priorities 2019 – 22.

## **8 Environmental implications**

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

## **9 Equality Impact Assessment**

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? ( <a href="#">EIA guidance and form 2020 form.docx (westyorksfire.gov.uk)</a> )	<b>No</b>
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OFFICIAL

# Legislative update

## Local Pension Board

Date: 5 August 2022

Agenda Item:

12

Submitted By: Chief Employment Services Officer

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

**Recommendations** That the report be noted.

**Summary** It is a requirement of the Public Service Pensions Act 2013 and subsequent 2015 regulations, for Members of a Local Pension Board to have a knowledge and understanding of the law relating to pensions and such other matters. This report provides an update on the latest relevant legislative issues.

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Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: Annex A – Second Option Exercise MoU

## 1 Introduction

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

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

- Public Service Pensions & Judicial Offices Act 2022
- Finance Act 2022
- Immediate Detriment Framework
- Matthews – Second Option Exercise
- Judicial Review into Remedy Costs

## 2 Information

### 2.1 Public Service Pensions & Judicial Offices Act 2022

2.1.1 The [Public Service Pensions and Judicial Offices Act 2022](#) received Royal Assent on 10 March 2022.

2.1.2 The purpose of the Act includes addressing the age discrimination that arose when public service pension schemes were closed to certain members

2.1.3 Following this, the [Police and Firefighters' Pension Schemes \(Amendment\) Regulations 2022](#) were laid before parliament on 21 March 2022 and came into force on 1 April 2022. These amendments implement phase one of the age discrimination remedy by closing the final salary schemes to future accrual on 31 March 2022 and moving affected members to the FPS 2015 from 1 April 2022.

2.1.4 Our payroll provider and WYPF have confirmed that the relevant updates to members' records were applied to ensure contributions and calculations reflect this change.

2.1.5 WYPF wrote to affected members on our behalf in April 2022 to confirm the changes and outline key features of FPS 2015.

2.1.6 A Home Office consultation on draft regulations to implement phase two of the remedy is expected later this year

### 2.2 Finance Act 2022

2.2.1 The [Finance Act 2022](#) received Royal Assent on 24 February 2022

2.2.2 The Act provides the Treasury with powers to make regulations to address tax impacts that arise from the implementation of phase two of the remedy. More information on these powers can be found in this [policy note](#) issued by HMRC

2.2.3 The regulations will require secondary Treasury legislation, which is not anticipated until later this year



## **2.3 Immediate Detriment Framework**

- 2.3.1 WYFRS has deferred a decision on adopting the Immediate Detriment Framework for retired members. This is due to the complications and potential risks arising from the treatment of Unauthorised Payment Charges (UPCs), as outlined in the previous update.
- 2.3.2 The LGA is continuing to explore with the FBU and respective legal representatives what, if any, amendments could be agreed to the Framework to minimise risk to FRAs and scheme members in light of recent statements from the Home Office and HM Treasury, and which would further assist FRAs in being able to process immediate detriment cases under that Framework.
- 2.3.3 WYFRS is continuing to allow current employees to retire using the Immediate Detriment process previously agreed

## **2.4 Matthews – Second Option Exercise**

- 2.4.1 Following *Matthews v Kent and Medway Towns Fire Authority*, retained firefighters employed between 1 July 2000 and 5 April 2006 were allowed to join FPS 2006 as “special members”, with service backdated to their start date or 1 July 2000, whichever was later.
- 2.4.2 A European Court of Justice decision concerning fee paid judges in *O’Brien v Ministry of Justice* means that remedy can now extend back before the Part-time Workers Directive was implemented on 7 April 2000.
- 2.4.3 A Memorandum of Understanding (see Annex A) to implement a second exercise has been agreed between the government, FBU, the Fire and Rescue Services Association and FRAs. This will allow in-scope individuals the opportunity to purchase pension entitlement as a special member for some or all of their service between 7 April 2000 and 5 April 2006, as well as any continuous service up to 7 April 2000 and/or continuous service from 5 April 2006.
- 2.4.4 The regulations to implement the exercise will be drafted by the Home Office and consulted on before they are laid before Parliament. It is anticipated that the legislation will come into force in the latter half of 2023 and FRAs will be expected to start the exercise soon after.
- 2.4.5 WYFRS have provisionally identified 171 current or former employees who may be in scope for this exercise

## **2.5 Judicial Review into Remedy Costs**

- 2.5.1 The FBU and BMA have been granted a judicial review into the government’s decision to include the cost of the age discrimination remedy in public service pension schemes’ 2016 valuations.
- 2.5.2 As a result of the government’s decision to include remedy costs, the FPS breached the cost cap ‘ceiling’ by 14.6%. Had remedy costs been excluded, the FPS would have breached the cost cap ‘floor’, resulting in an improvement to benefits to bring costs back to within the target.
- 2.5.3 The case is expected to be heard and decided later in 2022. If the claim is successful, it is not expected that any benefit improvements will be backdated; however, if they are, then this will require additional recalculations alongside the work that is already being done to implement the remedy.

### **3 Financial Implications**

3.1 At this stage financial implications are unclear.

### **4 Legal Implications**

4.1 The Monitoring Officer has considered this report and is satisfied it is presented in compliance with the Authority's Constitution

### **5 Human Resource and Diversity Implications**

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

### **6 Health, Safety and wellbeing implications**

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

### **7 Your Fire and Rescue Service priorities**

7.1 Keeping Members informed with regard to legislation an ongoing pension issues is an integral part of the acquisition of knowledge and learning required by the relevant regulations and is demonstrative of the Authority's commitment to the Your Fire and Rescue Service priorities 2019 – 22.

### **8 Environmental implications**

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

### **9 Equality Impact Assessment**

Are the recommendations within this report subject to Equality Impact Assessment as outlined in the EIA guidance? ( <a href="#">EIA guidance and form 2020 form.docx (westyorkfire.gov.uk)</a> )	<b>No</b>
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**Memorandum of Understanding**

**Dated 9 March 2022**

## **Retained Firefighter pension claims**

### **Introduction**

The parties have discussed the resolution of these claims. Although they are still engaged in without prejudice negotiations, they now wish to record in open correspondence their intentions regarding the scope and operation of the proposed second options exercise. This letter will remain on a without prejudice basis until it is signed by the last signatory identified below. It is not intended to be legally binding. The ultimate scope and operation of the proposed second options exercise will be set out in the legislation referred to in paragraph 8 below, which will be subject to consultation and the secondary legislation making processes.

### **Relevant Background**

The Claimants<sup>1</sup> are retained firefighters in England who brought proceedings under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 [SI 2000/1551] (“**the PTWR**”). One of the claims related to their exclusion from the Firefighters’ Pension Scheme, which was then provided solely to full-time firefighters (see *Matthews v. Kent and Medway Towns Fire Authority* [2006] ICR 365).

Retained firefighters were allowed to join the New Firefighters’ Pension Scheme (“**the NFPS**”) from 6<sup>th</sup> April 2006, pursuant to the Firefighters' Pension Scheme (England) Order 2006 [SI 2006/3432].

Following the *Matthews* case, the Secretary of State amended the NFPS to give eligible retained firefighters, employed between 1<sup>st</sup> July 2000 and 5<sup>th</sup> April 2006 inclusive, retrospective access to the NFPS as “special members” (special firefighter members, special deferred members or special pensioner members). This retrospective access was given

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<sup>1</sup> In this memorandum, “Claimants” means retained firefighters in England who have brought proceedings under the PTWR relating to their exclusion from the Firefighters’ Pension Scheme which was previously only provided to full-time firefighters (see *Matthews v. Kent and Medway Towns Fire Authority* [2006] ICR 365) or retained firefighters who have brought such claims but in addition brought claims relating to their exclusion from the Firefighters’ Pension Scheme under the Equal Pay Act 1970 and *Preston & others v Wolverhampton Healthcare NHS Trust & others* [2006] ICR 365

pursuant to The Firefighters' Pension Scheme (England) (Amendment) Order 2014 [SI 2014/445].

The employing Fire and Rescue Authorities in England (“FRAs”) then carried out an options exercise which opened on 1 April 2014 and closed on 30 September 2015 (“**the first options exercise**”), which was intended to allow existing and former retained firefighters with service between 1<sup>st</sup> July 2000 and 5<sup>th</sup> April 2006 an opportunity to join the NFPS, as special members, subject to the payment of appropriate contributions, in respect of their service during that period.

After the close of the first options exercise, the Court of Justice of the European Union ruled on 7<sup>th</sup> November 2018 in Case C-432/17 *O'Brien v. Ministry of Justice* ECLI:EU:C:2018:879 that a part-time fee-paid judge should have his pension backdated to include his service prior to the introduction of the PTWR on 1<sup>st</sup> July 2000.

### **Outline of the intended scope and operation of proposed second options exercise**

The parties have discussed the resolution of these claims and intend the following principles to apply to the scope and operation of the proposed second options exercise (subject to the consultation and legislation processes):

1. In order to provide a remedy to those retained firefighters affected by the *O'Brien* judgment, the parties intend there to be a second options exercise to provide access to the NFPS as special members to the groups of retained firefighters set out below in paragraphs 2 and 4 (and as further described in paragraphs 3 and 5), subject to the payment of appropriate contributions.
2. The parties intend that the second options exercise will provide access to the NFPS for those retained firefighters who, whether Claimants or non-Claimants, fall within one or both of the following categories:
  - (i) were employed on any date between 7<sup>th</sup> April 2000 and 30<sup>th</sup> June 2000 (inclusive);
  - (ii) were employed on any date between 7<sup>th</sup> April 2000 and 30<sup>th</sup> June 2000 (inclusive) as well as on any date between 1<sup>st</sup> July 2000 and 5<sup>th</sup> April 2006 (inclusive).

Those retained firefighters who have service within (i) or (ii) are eligible to participate in the second options exercise and will be able to purchase pension entitlement in respect of all of their service falling within the period 7th April 2000 to 5th April 2006 (inclusive), as well as any uninterrupted service up to and including 7<sup>th</sup> April 2000 and/or from 5th April 2006 onwards (to the extent not already purchased in the first options exercise). For these purposes, a period of absence with or without pay does not count as an interruption unless the absence is caused by or results in the termination of employment. A retained firefighter who leaves the employment of a fire and rescue authority and, without a break in service, takes up employment with another fire and rescue authority shall be treated as having uninterrupted service with the second fire and rescue authority.

3. The parties intend that the second options exercise will be open to individuals falling within the group described in paragraph 2 above, regardless of whether they declined an offer of membership of the NFPS during the first options exercise.
4. The parties also intend that the second options exercise should include those who commenced service on or after 1st July 2000 but before 6 April 2006 and who were eligible<sup>2</sup> to take part in the first options exercise (and join the NFPS as special members), but who were not given an opportunity to do so. For the purposes of this paragraph, the parties' intentions are that a retained firefighter will have been given "an opportunity" to take part in the first options exercise where the relevant FRA complied with Rules 5A(4), 5A(13), 6C(4), and 6C(5)(a) of Chapter 2, para 1, Schedule 1 of SI 2006/3432.
5. The parties' joint intentions as to the method of identifying retained firefighters falling within paragraph 4 are set out in the following principles:
  - a) The FRAs will have the initial responsibility for identifying those retained firefighters they contend were given an opportunity to take part in the first options exercise and providing the evidence set out in (b) below.

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<sup>2</sup> Eligible means a person satisfying rule 5A(2) of Chapter 2, para 1, Schedule 1 of SI 2006/3432.

- b) For the purposes of paragraph 4, the relevant FRA will be deemed to have complied with rules 5A(4), 5A(13) and 6C(4) of Chapter 2, para 1, Schedule 1 of SI 2006/3432 either:
- i) where they can produce file copy of the letters, substantially in the form of the letters in Annex A and B to this Memorandum, which were individually addressed to the individual concerned, at their correct most recently notified home address; or
  - ii) where the FRA can establish that the correct name and most recently notified home address was included at the time of sending the letters on a relevant mail merge database (and where the FRA can otherwise demonstrate that the mail merge was created before it is claimed the letters were sent which allows the FRAs to adduce other evidence that the letter was sent – for example an HR file note, in addition to having the correct name and address in the mail merge database), together with a template of the letter. Where an individual retained firefighter has consented in writing to communication by email, references in this subparagraph to “letters” include “emails” and references to “most recently notified home address” include “most recently notified email address”.
- c) For the avoidance of doubt, where there is a dispute between the retained firefighter and the relevant FRA in relation to the evidence in paragraph (b) (including whether or when it was received or responded to by the retained firefighter), then the matter is to be dealt with in accordance with the Independent Dispute Resolution Procedure (“IDRP”) provided for in the NFPS. The parties agree that the IDRP will be applicable to such disputes notwithstanding section 50(9)(a) of the Pensions Act 1995.
- d) If the IDRP does not resolve the matter, then the retained firefighter retains the ability to pursue the matter with the Pensions Ombudsman, subject to the provisions of section 146(6) of the Pension Schemes Act 1993.

6. The parties intend that the second options exercise will be open to all individuals falling within the groups set out at paragraphs 2 and 4 above (and as further described in paragraphs 3 and 5), regardless (a) of whether they have presented a claim to an Employment Tribunal concerning access to pension benefits for retained firefighters, and (b) regardless of whether they have now left pensionable service. The Respondents will not take any time limit points under the PTWR against these groups which would prevent them from participating in the second options exercise. Save for that situation, the Respondents reserve the right otherwise to rely on time limits, including where claims allege that the second options exercise does not constitute an adequate remedy.
7. The FBU and FRSA will not advertise amongst their members with service between 7<sup>th</sup> April 2000 and 5<sup>th</sup> April 2006 inclusive for further Claimants to present fresh claims to the Employment Tribunal concerning access to the NFPS or support such fresh claims, except in relation to claims which may fall within paragraph 15(b) below.
8. The second options exercise will be implemented via legislation amending the NFPS. The Home Office intends to introduce this legislation as soon as reasonably practicable. FRAs will be expected to commence the second options exercise as soon as reasonably practicable after the legislation comes into force, and it will run for a period of 18 months after it commences.
9. The Home Office will consult with the FRAs, the FBU and the FRSA (as well as any other persons the Secretary of State considers appropriate) prior to the legislation being laid before Parliament, in accordance with section 34(5) of the Fire and Rescue Services Act 2004. The FRAs will be required to carry out the second options exercise pursuant to the legislation.
10. Retained firefighters who decide to join the NFPS as special members under the second options exercise will be required to pay the relevant employee contributions. Those backdated contributions will also have interest<sup>3</sup> applied.

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<sup>3</sup> It is the Home Office's intention that the methodology for calculating interest due will mirror that applied under the first options exercise (as set out in the 2014 Order (SI 2014/445)).



11. Those retained firefighters who decide to join the NFPS as special members and who have already retired will have interest<sup>4</sup> added to their backdated pension arrears.
12. Retained firefighters who decide to join the NFPS as special members as part of the second options exercise, and who are unable to obtain tax relief through self-assessment will have the cost of purchasing past service reduced to reflect the tax relief that should have been received on their pension contributions. This will be calculated by reference to guidance provided by the Government Actuary's Department.
13. Upon commencement of the legislation implementing the second options exercise, the parties will invite all Claimants to withdraw their claims in the Employment Tribunal, with the exception of any claims falling within paragraph 15 below. The agreed process for seeking the withdrawal of these claims is set out in Annex C to this Memorandum.
14. The FBU and FRSA will not provide further legal assistance for Claimants who do not agree to withdraw their claims in response to the invitation at paragraph 13 above. Following commencement of the legislation implementing the second options exercise, the FRAs and the Home Office will be at liberty to apply to have any remaining claims with the exception of any claims falling within paragraph 15 below struck out, in accordance with the process set out in Annex C.
15. To the extent that there are any claims:
  - a) For consequential loss arising out of a Claimant's exclusion from the FPS, the Claimants will themselves, or through the FBU or FRSA (or those unions' legal advisers), give written notification to the GLD (on behalf of Home Office) and FRAs prior to the commencement of the second options exercise:
    - i) The identity of any Claimants who are claiming an award for consequential losses;  
and

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<sup>4</sup> It is the Home Office's intention that the methodology for calculating interest due will mirror that applied under the first options exercise (as set out in the 2014 Order (SI 2014/445)).

ii) For each Claimant, details of the heads of loss and the sum claimed under each head of loss, together with the factual and legal basis on which it is contended the loss arises.

b) concerning any inability to aggregate in the FPS periods of pensionable service as a retained firefighter with periods of service as a full-time firefighter, the Claimants will themselves, or through the FBU or FRSA (or those unions' legal advisers), give written notification to the GLD (on behalf of the Home Office) and FRAs prior to the commencement of the second options exercise of:

- i) the identity of those Claimants; and
- ii) details of the factual and legal basis of the claims.

In respect of potential claims falling within paragraph (b), the parties are committed to continuing discussions regarding these potential claims. However, if agreed resolution of the matters contained within (b) has not been achieved within six months of the date of this MOU, that circumstance will be regarded by the parties as sufficient for the stay to be lifted, on application by any party, to the extent necessary for the Tribunal to determine outstanding issues in relation to those matters.

Whilst the parties cannot fetter Claimants asserting claims under paragraphs (a) and (b) above it is their expectation that Claimants will only do so where they or their representatives have given proper grounds for making such a claim prior to the commencement of the second options exercise, as provided for by this paragraph.

16. After the expiry of six weeks from the Claimants providing that information, the parties shall seek to agree directions to allow the Tribunal to resolve any claims falling within paragraph 15.

17. All parties will make a joint application to the Employment Tribunal for a stay of 18 months, with liberty to apply.

## Annex A – template “expression of interest” letter

Dear \*

### **Re: The Retained Firefighters’ Pension Settlement**

#### **Introduction of the new modified scheme for individuals who were employed as retained firefighters for all or part of the period 1 July 2000 to 5 April 2006 inclusive**

When you started your employment as a retained firefighter with the Fire and Rescue Service, although you were covered by the same injury and compensation provisions as applied to regular firefighters, you were unable to join the Firefighters’ Pension Scheme 1992 (the “1992 Scheme”).

Following the Court’s decision in the Employment Tribunal case involving retained firefighters who made a claim for equal treatment with whole-time regular firefighters under the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Government has now introduced the terms of the Retained Firefighters’ Pension Settlement. The Settlement will offer new pension arrangements (the “*modified scheme*”) for all employees who were employed as retained firefighters between 1 July 2000 and 5 April 2006 inclusive (the “*relevant period*”).

The pension benefits on offer under the terms of the modified scheme are comparable, albeit different, to those provided under the terms of the 1992 Scheme. Full details on the terms of the modified scheme are set out in the accompanying employee information leaflet.

Please note that those who were employed on a day crewing contract, whereby having retained duties *and* whole-time firefighter duties under the **same contract of employment** are not eligible to join the modified scheme.

#### **Options Exercise**

Fire and rescue authorities are now required to undertake an options exercise to provide those individuals affected with an opportunity to join the modified scheme. Our records show that you were serving as a retained firefighter during the relevant period and may be entitled to join. If you are interested in joining the modified scheme but have previously joined the Firefighters’ Pensions Scheme 2006 (the “2006 Scheme”) from 6 April 2006 in respect of your retained employment, you will have the option of converting your 2006 Scheme service to service in the modified scheme.

If you express an interest in joining the modified scheme on the ‘expression of interest form’ enclosed, the details you provide will be treated at this stage as a request for further information and will not bind you to purchase pension rights. This information will be used to provide you with a personalised statement of the past service in respect of which you may be entitled to purchase, and to provide you with a quote on how much it will cost you to purchase that service. There will be **no commitment** to purchase any service at this stage.

**ACTION REQUIRED** - If you are interested in joining the modified scheme then it is important that you complete the attached form and return it **urgently** to us or, in the case where you are no longer employed as a retained firefighter, to your last employing fire and rescue authority.

**Please note** that if you fail to respond to this notification, your option to join the modified scheme may be lost. Once the options exercise has concluded there will be no further opportunity to join. The enclosed form **must** be completed and returned regardless of whether or not you intend to join.

If you were employed as a retained firefighter by more than one fire authority during the relevant period, you should also approach each authority as they will be responsible for implementing your pension entitlement in respect of that particular period of employment. You will also need to confirm on your expression of interest form whether you would like to combine the periods of retained service as a single membership. In this case, your last employing fire authority will liaise with your former employing authorities in order to determine your entitlement.

The employee contribution rate for purchasing the backdated service will reflect the contribution rate payable in the 1992 Scheme i.e. 11% of pensionable pay before April 2012 and the relevant contribution tariff in the 1992 Scheme for any period on or after April 2012. There will be a number of available options for members to pay back these contributions, please refer to the accompanying employee information leaflet.

#### Time-limited death grant

If you are the surviving spouse or civil partner of someone who was employed as a retained firefighter during the relevant period and who continued in that employment until they died before 6 April 2006, then you may be entitled to receive the payment of a death grant equal to 2.5 times the pensionable pay that the deceased earned in their last year of service, as determined by the fire authority. Your entitlement will be subject to the submission of an application to the deceased member's last employing fire authority before the 1 April 2015.

**Please note** that where there is no surviving spouse or civil partner, an eligible child of the deceased member, to be determined as on the date of the deceased's death, may make the application to the fire authority for the death grant before the 1 April 2015. Where the child is still a minor, the legal guardian of the child can make the application on behalf of the child.

#### Compensatory Injury Awards

Under the current terms of the Firefighters' Compensation Scheme there is a protected right for retained firefighters appointed before 6 April 2006 to receive a whole-time equivalent injury award and compensatory ill-health pension where they are permanently disabled whilst undertaking their role as a firefighter i.e. a qualifying injury. You will wish to note that this protected right **will be removed** from the 1 April 2014 regardless of whether you elect to join the modified scheme.

Any retained firefighter who suffers a qualifying injury on or after 1 April 2014 will receive a pro-rated injury award to reflect the part-time status of their employment. This is same treatment for retained firefighters appointed on or after 6 April 2006, and for part-time regular firefighters. The removal of these rights **will not affect** those former retained firefighters currently in receipt of an injury award.

#### Next Steps

Once the fire authority has received your completed expression of interest form, they will respond to you in writing setting out the amount of service you are entitled to purchase and the full cost of

purchasing this past service within 6 months of receiving your form. Once you have received the quote you will have 4 months to confirm that you wish to join the modified scheme; it will be at this stage that you will be required to commit to paying the backdated contributions, including interest, if you wish to join the modified scheme. Further details can be found in the employee information leaflet accompanying this letter.

If you have any questions about membership of the new modified scheme or would like additional information about this options exercise please contact [    ].

Yours sincerely



## Annex B – template “detailed offer letter”

Dear xx

### **Re: The Retained Firefighters’ Pension Settlement- Introduction to the new modified scheme**

I am writing to provide you with further information regarding your opportunity to join the modified pension scheme. Our records confirm that you were serving as a Retained Firefighter during the relevant period (2000- 2006). By returning the expression of interest form you have expressed an interest in joining the modified Scheme.

The information you supplied on your ‘expression of interest form’, along with the information we already hold, has been used to provide your individual statement of:-

- past pensionable service which you may be entitled to purchase, and
- a quote on how much it will cost for you to purchase that service.

Fire and Rescue Authorities can only provide a statement of cost and information about your options and cannot offer any financial advice. It is therefore your responsibility to seek independent financial advice as to how you proceed if you wish to do so.

You will find enclosed with this letter a document entitled ‘The Retained Firefighters’ Pension Scheme- modified pension arrangements and terms of payment for eligible individuals’. This is an informal guide which provides more information about the Scheme and your entitlements. It also contains the statement of individual details and the options election form.

As previously outlined, the modified scheme will be subject to the reforms that apply to all public service schemes from 1<sup>st</sup> April 2015. Members of the modified scheme who are not protected will transfer to the 2015 Firefighters’ Pension Scheme on 1 April 2015 or later if they are taper-protected.

If you are considering the option to convert service in the modified scheme to 2006 scheme membership and were between age 45 and age 50 on 1<sup>st</sup> April 2012, please be aware that this may impact your protected status. The Normal Retirement Age is 55 in the Modified Scheme and 60 for the 2006 scheme. Therefore members of the modified scheme as at 1<sup>st</sup> April 2012 who were within 10 years of age 55 will be protected, this changes to 10 years of age 60 for protection criteria of members of the 2006 scheme at 1<sup>st</sup> April 2012.

If you wish to progress the option to join the Modified Pension Scheme, you are now required to return the signed options election form, and a signed copy of this letter, **within four months of the date of this letter**, otherwise your option to join the Modified Scheme may be lost. Once the options exercise has concluded there will be no further opportunity to join.

**NB \* please return the options exercise form as soon as possible to confirm/decline if you wish to join this scheme.**

As detailed in previous correspondence, the employee contribution rate for purchasing the backdated service will reflect the contribution rate payable in the 1992 Scheme i.e. 11%

of pensionable pay before April 2012 and the relevant contribution tariff in the 1992 Scheme for any period on or after April 2012.

By signing the options form you are committing to paying the backdated contributions, including interest as outlined in the statement of calculations. The interest amount will increase once an actual election to proceed is received.

If you have any questions about the process, please contact me on the number above. Payment can be made by periodic contributions or by lump sum as outlined in the document. The election to join takes effect on the day on which the notice of election (on the options election form) is received by the FRA **and is irrevocable once the first contribution, or the lump sum, has been paid.**

There may be options to transfer pension rights from a previous pension arrangement, including the FPS and NFPS. This would be dealt with after you have joined the Modified Scheme, although there will be associated time limits and so this will need to be dealt with promptly if you express an interest in a transfer of, or conversion of, pension rights.

Please sign the declaration below, and return this letter with the signed options election form.

If you have changed your mind, or wish to obtain further information please contact me on the number above.

Yours sincerely,  
xxx



## **Annex C – Agreed process for the withdrawal of claims**

### **Claims withdrawal process prior to commencement of the proposed legislation**

1. Within 6 weeks of this Memorandum being signed by all parties, the FBU and FRSA will notify their members who may be affected by this Memorandum, using any usual written means for communicating such matters, that:

- a) it has been agreed with the Home Office and FRAs that their claims will be resolved via a second options exercise, pursuant to legislation;
- b) a detailed explanation of the terms of the second options exercise will be provided once the required legislation has been produced by the Home Office in draft.

2. Within six months of this Memorandum being signed by all parties, the Claimants' legal representatives (or their union) will write to the Claimants notifying them of the same information as set out in sub paragraphs 1 a) and b) above.

3. Once a draft of the legislation implementing the second options exercise is available, (and in any event no later than 3 weeks prior to the second options exercising commencing), and provided that the draft is consistent with the intended scope and operation of the second options exercise set out in this Memorandum:

- a) the FRAs will write to all those with service as a Retained Firefighter between 7 April 2000 and 5 April 2006 at their last known address notified to the FRA,
- b) the Claimants' representatives will write to the Claimants; and
- c) the FBU and the FRSA will write to their Retained Firefighter members;

in each case notifying them that:

- i) The parties agree that the terms of that draft legislation, if approved by Parliament and made in terms that are consistent with the intended scope and operation of the proposed second options exercise set out in this Memorandum, provide an effective remedy in respect of claims or

potential claims (relating to the matters set out in the footnote on page 1 of this Memorandum) with the exception of any claims falling within paragraph 15 of this Memorandum and subject to compliance with that paragraph 15;

- ii) It is intended that eligibility to participate in the second options exercise will be as set out in the draft legislation<sup>5</sup>;
- iii) Retained Firefighters identified by an FRA as ineligible to participate in the second options exercise will be entitled to challenge that decision via the usual IDR process, and, if necessary, the Pensions Ombudsman subject to the provisions of section 146(6) of the Pensions Schemes Act 1993;
- iv) There will be specific timeframes (set out in the legislation) for FRAs to notify eligible retained firefighters of their options under the second options exercise, and for eligible retained firefighters to respond. Eligible retained firefighters are advised to look out for correspondence from their FRA, and to respond promptly to it;
- v) The FBU and FRSA will, except in respect of any claims falling within paragraph 15 of this Memorandum, withdraw union funded legal representation in respect of the Employment Tribunal proceedings from any Union Member where she or he does not give consent to the withdrawal of their claim in the Employment Tribunal following the commencement of the legislation;
- vi) Shortly after the commencement of the legislation, Claimants will be sent a further letter inviting them to withdraw their claims in the Employment Tribunal. Failure by a Claimant to either withdraw their claim or consent to their claim being withdrawn by their legal

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<sup>5</sup> The parties expect the provisions of the draft legislation will be in accordance with paragraphs 2-5 of this Memorandum.

representative (or their union) will ultimately result in an application to the Employment Tribunal by the relevant FRA and/or Home Office to dismiss their claim or for an application for the claim to be struck out.

#### **Claims withdrawal process following commencement of the proposed legislation**

4. With the exception of any named Claimants already identified pursuant to paragraph 15 of this Memorandum, and provided that the terms of the legislation are consistent with the scope and operation of the second options exercise set out in this Memorandum, the Claimants' representatives will, within eight weeks of the commencement of the legislation, write to the Claimants they represent:
  - a) notifying them that the FBU or FRSA (as appropriate) considers that the legislation constitutes an effective remedy to their claims;
  - b) notifying them that, now that the legislation has come into force, the FBU or FRSA will not provide further legal representation in respect of their claims. This will not, however, prevent the FBU or the FRSA from providing Claimants or members with legal assistance for the purpose of enforcing entitlements under the legislation, including by way of reference to the IDRP and subsequently the Pensions Ombudsman;
  - c) inviting the individual to indicate their consent to the withdrawal of their claim in the Employment Tribunal by return slip or other suitable means.
  
5. Following confirmation by the Claimants of their instructions under paragraph 4 of this Annex, the Claimant's legal representatives will then write to the Employment Tribunal, copied to the legal representatives of the FRAs and the Home Office, in respect of any Claimant they are representing either:
  - a) withdrawing the claim; or

- b) notifying the Employment Tribunal that they will no longer represent the Claimant.
6. If a Claimant does not give instructions within three months of the letter referred to in paragraph 4(c) of this Annex, the Claimants' legal representative (or their union) will, within one month (of the expiry of that three month period), write to the Employment Tribunal, copied to the legal representatives of the FRAs and the Home Office, informing them that they no longer act for that Claimant.
7. Within two weeks of the commencement of the legislation, each FRA will write a letter to any unrepresented Claimants that they employ or formerly employed during the period set out in paragraph 3(a) of this Annex:
- a) notifying them that the FRAs and the Secretary of State consider that the legislation constitutes an effective remedy in respect of their claims;
  - b) reminding them of the time window in which to take part in the second options exercise and the method for doing so;
  - c) inviting them to withdraw their claims before the Employment Tribunal;
  - d) advising them of the steps they need to take to withdraw their claims before the Employment Tribunal;
  - e) notifying them that, in light of a) above, if their claims are not withdrawn, the FRA is at liberty to:
    - i) apply to the Employment Tribunal, asking it to send the unrepresented Claimants a "show cause" letter, in which the Tribunal will invite them to show the Tribunal why their claim should be allowed to proceed and what remedy they seek, given the commencement of the legislation; and/or

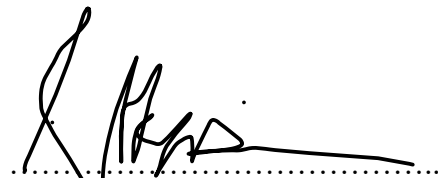
ii) apply to the Employment Tribunal for an order that their claims be dismissed and/or struck out.

8. Upon the expiry of eight months from the commencement of the legislation, and except in relation to claims notified under paragraph 15 of the MOU, the FRAs and/or the Home Office or their representatives will be at liberty to write to the Employment Tribunal applying for the Claimants' claims to be either:

a) formally dismissed upon withdrawal; or

b) in respect of any claims which have not been withdrawn, dismissed on the basis that the legislation constitutes an effective remedy in respect of their claim, and that to continue with the claim amounts to unreasonable conduct.

Signed by Rachel Atkinson/Sarah Gawley  
For and on behalf of the Home Office



.....  
Director of Fire, Events and  
Central Management

.....  
Date 3 March 2022

Signed by Jeff Houston

For and on behalf of  
the Local Government Association



Head of Pensions

.....7<sup>th</sup> March 2022.....  
Date

Signed by  
For and on behalf of the FBU



.....  
General Secretary

.....9 March 2022.....  
Date

Signed by Tristan Ashby  
For and on behalf of the FRSA



.....  
Chief Executive Officer

07 March 2022  
.....  
Date



## **Actions and agreements**

**9 December 2021**

MS Teams / 18 Smith Square (Hybrid)

### **PRESENT**

Joanne Livingstone	SAB Chair
Philip Hayes	Scheme Member Representative (FRSA)
Brian Hooper	Scheme Member Representative (FBU)
Matt Lamb	Scheme Member Representative (FBU)
Pete Smith	Scheme Member Representative (FBU)
Mark Rowe (sub)	Scheme Member Representative (FBU)
Des Prichard	Scheme Member Representative (FLA)
Glyn Morgan	Scheme Member Representative (FOA)
James Allen	First Actuarial
Craig Moran	First Actuarial
Alan Wilkinson	SPPA (observer)
Claire Hey	LGA – Board secretariat
Rachel Abbey	LGA – LGPC Pensions Team (Minutes)
Frances Clark	Home Office
Cat Weston	Home Office

### **Present – online**

Cllr Nick Chard	Scheme Employer Representative (LGA)
Cllr Nikki Hennessy	Scheme Employer Representative (LGA)
Cllr Roger Phillips	Scheme Employer Representative (LGA)
Cllr Leigh Redman	Scheme Employer Representative (LGA)
Cllr Roger Price	Scheme Employer Representative (LGA)

Cllr Ian Stephens	Scheme Employer Representative (LGA)
Janet Perry	Scheme Employer Representative (LGA)
Helen Scargill	Technical Adviser
Jane Marshall	Legal Adviser
Anthony Mooney	Home Office
Josh Goodkin	Home Office
Helen Fisher	Home Office
Rosetta Thomas	Home Office
Ian Hayton	NFCC (Observer)
Claire Johnson	West Yorkshire FRS (Observer)

## 1. Apologies and conflict of interest

- 1.1 There were no apologies received. Janet Perry (JP) substituted for Roger Hirst.
- 1.2 Joanne Livingstone (JL) welcomed Helen Fisher (HF) who was attending her first meeting representing the Home Office and confirmed that this would be Cat Weston's last meeting as she is changing roles.
- 1.3 JL and Claire Hey (CH) welcomed Claire Johnson (CJ) who is joining the LGA team in January 2022 as Firefighters' Pension Scheme Adviser, focusing on employer matters.
- 1.4 JL reminded the Board to announce any new conflicts of interest that arise. No new conflicts were declared.

## 2. Minutes from previous meeting and Chair's update

- 2.1 JL asked if the Board was happy for the [minutes of the meeting held on 30 September 2021](#) and papers 1 and 5 to be published on the SAB website, with the exception of any confidential information. The minutes were accepted as true and accurate.



2.2 Table 1: Update on actions from meeting of 30 September 2021

<b>Minutes reference</b>	<b>Action</b>	<b>Progress</b>
7 (03.10.2019)	(1) survey of FPS administrators (2) further analysis of survey results (3) cover note to accompany survey results	(1) survey not yet completed (2) see item 4 for survey results (3) cover note has been drafted and distributed to the Board for review
5.19	Commission work on scenarios	See item 9
5.26	Progress procurement of videos on remedy	In early stages

2.3 JL and CH attended an Isio webinar on pensions tax. Isio also demonstrated their tool to assist with communications about remedy. The cost was at the upper end of amount available and would involve significant work to update locally. The decision was made not to pursue this option.

2.4 Member scenarios have been discussed by the SAB Scheme Management and Administration Committee. These will be taken forward by the Board.

2.5 JL attended a coffee morning session on the self-assessment survey outcomes which generated a useful discussion.

### **3. Home Office update**

3.1 Cat Weston (CW), Anthony Mooney (AM), Frances Clark (FC) and Josh Goodkin (JG) provided a brief update on the forthcoming consultation and legislative timeline.

- 3.2 CW thanked those who attended the session on Monday covering the consultation for their input. A Home Office lawyer talked through the regulation changes at that session. The Home Office is considering how to define when an ill health application starts for the purposes of drafting these regulations.
- 3.3 The Public Service Pensions and Judicial Offices Bill (the “Bill”) has passed through the House of Lords and has had its first reading in the House of Commons. The next stage will be its second reading and debate in the House of Commons.
- 3.4 CW shared an updated McCloud remedy timeline. CW expects the Bill to achieve Royal Assent in late January or early February 2022. The Home Office consultation closes on 2 January 2022. The associated prospective remedy regulations that close the legacy schemes and move all members to the career average schemes from 1 April 2022 will be laid in March and take effect from 1 April 2022.
- 3.5 The timelines for introducing retrospective remedy have shifted back by a couple of months. This is due to the complexity of the work and making sure the remedy is effective for all members and does not create adverse outcomes.
- 3.6 The Home Office remains committed to discussing scheme specific issues with the Board, the LGA, and HM Treasury (HMT). The position on contributions for FPS 2006 members is a scheme level issue that needs a decision. Timing is not firm on this issue yet.
- 3.7 Des Prichard (DP) asked about the readiness of software suppliers to deliver the changes needed to systems to implement remedy. He recognises the complexity and has experience of delays in implementing new systems. CW noted that scheme managers are responsible for implementing the remedy. The Home Office is engaging with suppliers and administrators to help them understand the new regulations.

- 3.8 CH reported that suppliers were confident of being able to meet deadlines, but this is reliant on having regulations in place, or a clear stated policy intent that the system developments must be based on. JL thought it would be helpful for software suppliers to attend the next SAB meeting as there should be more detail of the developments needed by then. Software suppliers are on the SAB risk register and remain a high priority.
- 3.9 FC confirmed that they are currently considering how they can get policy information to suppliers and administrators to assist in timely software development.
- 3.10 Philip Hayes (PH) asked the Home Office for an update on the Matthews remedy (FPS 2006 special members). FC confirmed that the project is at an early stage and that they are in discussions with the legal parties to the case about the scope of the remedy for retained firefighters.
- 3.11 JL asked about whether there has been stability in the HMT team responsible for remedy. CW confirmed that there have been changes in the team, but they do now have the right connections across Government, including with HMRC to address issues such as pensions tax arising from the remedy.
- 3.12 Craig Moran (CM) noted the Board's concerns about administrators leaving the FPS market and asked if there have been any recent changes. CH confirmed there are 16 suppliers and no significant changes in the position since the results of the recent survey.
- 3.13 FC stated that HMT has not yet published its response to the discount rate methodology consultation. The response to the consultation on the cost control mechanism has been published.

#### **4. Response to Home Office consultation ([Paper 1](#))**

- 4.1 CH delivered the main points from Paper 1.

- 4.2 The consultation covers the amendments needed to move all members to the career average scheme from 1 April 2022 and close the final salary schemes. There are some transitional protections that continue, including the final salary link and maintaining the double accrual guarantee in the FPS 1992, but these are extensions of the protections introduced with the career average scheme in 2015.
- 4.3 The changes follow on from the provisions in the Bill. The consultation and draft regulations relate specifically to the Firefighters' Pension Schemes.
- 4.4 There are some policies in the consultation that are not covered in the draft regulations. These include paying extra contributions for added years. The intention is that members will be able to continue paying for added years when they move to the career average scheme if they have an existing contract.
- 4.5 The second area is ill-health retirement where the process starts before 1 April 2022, but a determination is made after that date. An award under the reformed scheme may be less beneficial than an award from the legacy scheme. There will be an underpin for members in this position. The benefits at retirement under the reformed scheme will be compared with the benefits under the legacy scheme at 31 March 2022. If the legacy scheme benefits are higher, the difference will be added to the reformed scheme benefits.
- 4.6 DP asked whether there was any intention to extend underpin protection to survivor benefits. AM pointed out that a survivor pension will be based on the member's pension. If the member benefits from an increase due to the underpin, this will feed into the survivor benefit calculation.

- 4.7 JL asked about the reversion to legacy scheme benefits that will happen when the member reaches normal pension age. AM confirmed that there is outstanding query for HMT on how this will affect survivor benefits, there may be a further change.
- 4.8 Brian Hooper (BH) asked whether the outstanding issue concerning the purchase of additional benefits includes transfers into the scheme. CH confirmed that the consultation document relates to paying extra contributions to buy additional service. It does not relate to transferring existing pension rights to the scheme.
- 4.9 Helen Scargill (HS) summarised the current rules on transferring in benefits from other pension schemes for the benefit of the Board. She also set out what is expected to happen from 1 April 2022 when all remaining members move to the reformed scheme.
- 4.10 CH asked whether the Board wanted to submit a response to the consultation. The Board agreed that it does want to submit a response.
- 4.11 CH asked for the Board's views on the consultation questions. JL asked for a legal view from Jane Marshall (JM) on whether the draft regulations achieve the stated policy intent. JM's view is that the regulations do achieve what they intend to achieve but would like longer to consider them more fully.
- 4.12 Question 2 covers the ill health provision and the underpin. CH asked what the Board would like to include in their response to this question. JM has already raised the issue of how to identify what date is used for the start of an ill health process.
- 4.13 JM asked what criteria a member would be assessed against as these are different in the legacy and reformed schemes. CJ confirmed that assessments are currently being made against both sets of criteria for members who may fall into this group.

- 4.14 AM highlighted that there were transitional arrangements covering ill-health retirements introduced in 2015. The approach taken then could be followed again. He will look up how these transitional arrangements were delivered, which may have been in regulations or guidance.
- 4.15 Mark Rowe (MR) noted that mental health issues could take some months or even years to manifest themselves. He asked whether the underpin would apply to a member retiring some years after the injury that led to their eventual ill health retirement. AM confirmed that the ill-health process must have started before 1 April 2022 for the underpin to apply. DP noted that ill-health retirement cases can take many years to conclude, sometimes including a long absence and a phased return before the employer refers a member to an IQMP. JL acknowledged the importance of the issue. This will be emphasised in the Board's response to the consultation.
- 4.16 Question 3 concerns purchasing additional service in the legacy schemes. CH noted that no changes were needed to the regulations to allow existing contracts to continue when a member moves to the reformed scheme. There is a provision in the Bill preventing new contracts. CH asked the Board whether the draft regulations deliver the policy intent in this area.
- 4.17 JM gave a legal view on this issue. Her initial thought is that the regulations should specify which provisions already in place will continue when a member transitions to the FPS 2015.
- 4.18 Question 4 covers the equalities impact assessment. CH asked the Board whether the draft regulations impact any groups with protected characteristics. The Board's response to the initial HMT consultation did raise issues in this area concerning maintaining fitness to age 60. It was also noted that double accrual in the FPS 1992 will result in different impacts for members with the same amount of service depending on the amount of service that they accrue before April 2022.

- 4.19 Glyn Morgan (GM) asked whether the Home Office's commitment to keep the retirement age under review is still in place. AM noted that there is not enough experience of members retiring from the FPS 2006 scheme yet to form a view. FC is not aware of any change in policy in this area, but the Home Office will come back on this question.
- 4.20 MR believes that female firefighters are more likely to leave the service early and so the increase to the normal pension age is likely to have a disproportionate impact on female members. He would be interested to see retirement statistics based on gender. MR added that some female firefighters leave the service before age 55.
- 4.21 DP noted that the fitness assessment has developed over time and changes to the firefighter role will mean that future fitness assessments will also change. It is not known at this point whether members are more or less likely to be fit enough to serve as a firefighter until age 60 in the future.
- 4.22 AM pointed out that the FPS 2015 includes provisions related to members over age 55 who are not eligible for ill-health retirement but do not meet the fitness requirements. Such a member could be retired without suffering an actuarial reduction to their pension, with the employer meeting the cost. JL will work with the Board to decide what information to include in the consultation response.
- 4.23 FC said it was unlikely that any data could be considered before the consultation close, although the Home Office is willing to have conversations based on any data that becomes available.
- 4.24 In JM's view, the potential discrimination here is related to the FPS 2015 in general, not the McCloud remedy. Statistics may be a starting point for a legal analysis of whether female members are discriminated against based on a normal retirement age of 60.

- 4.25 Question 5 asks whether there are any other areas that should be addressed in the regulations to ensure that all members move to the reformed scheme and the discrimination is removed.
- 4.26 CH outlined an issue raised in the corresponding consultation on changes to the Police Pension Scheme in relation to the 1987 scheme. The scheme rules allow an FPS 1992 scheme member to access legacy benefits before age 55, but not their reformed scheme benefits. Deferred reformed scheme benefits are payable from State Pension age but could be taken on a reduced basis from age 55 onwards. The early retirement factors are higher to access these benefits than it would be if they were paid on leaving the scheme after age 55. This issue has existed since the introduction of the career average scheme in 2015. CH asked whether the Board wanted to comment on this issue in its consultation response.
- 4.27 Cllr Leigh Redman (LR) asked for clarification on the impact of early payment, specifically how members in different schemes would be affected. He asked whether it would be possible to produce a guidance note and figures on the number of members that may be affected.
- 4.28 CM explained that the member will have a choice between taking their reformed scheme benefits at age 55 with a significant reduction or waiting to take them unreduced at State Pension age. CM said that First Actuarial could look at the possible impacts.
- 4.29 JL pointed out that all fully protected members will be over 55 on 1 April 2022 and so the issue is not as acute in the FPS as it is in the Police Scheme. CH welcomed any comments on the consultation response by 15 December 2021 and apologised for the tight timescales.



## 5. Immediate detriment (Paper 2)

- 5.1 CW provided an update on the withdrawal of the Home Office's informal immediate detriment guidance.
- 5.2 The Home Office, working with HMT, published informal guidance in August 2020 in relation to immediate detriment cases where the member had not yet retired. The guidance was updated in June 2021 and was based on current information and understanding at the time.
- 5.3 On 29 November 2021, the Home Office withdrew that guidance. The Government advice is for schemes not to process any immediate detriment cases before the legislation is in force. FRAs as scheme managers may make their own decision, but the Government cannot make any guarantees given the level of risk that has been identified.
- 5.4 The Home Office recognises the difficulties for individuals and FRAs. Their priority is to push through the Bill so that remedy is in place as soon as possible.
- 5.5 HF provided some more information about the risks that have been identified. Section 61 of the Equalities Act 2010 (EA 2010) gives a legal basis to address discrimination, thereby returning members to the legacy scheme if they wish. However, Section 61 does not give the legal basis to apply 'work arounds' to finance and tax rules. Legislative changes are required in these areas.
- 5.6 There is uncertainty about how some issues should be treated, such as added pension purchases. Processing immediate detriment cases could introduce unintended consequences, including tax liabilities. The Government has advised all public service pension schemes not to process any immediate detriment cases before the scheme regulations are amended to fully implement remedy. The Home Office recognises how difficult and challenging the withdrawal of the guidance is for members and FRAs.

- 5.7 Cllr Roger Phillips (RP) stressed that FRAs are in an incredibly difficult position, with numbers of affected members being greater for some authorities than others. RP noted that FRAs have been subject to legal action, at great expense. RP suggested that there may a possibility of FRA's launching a judicial review against the Government if they had a very large number of cases. RP wanted the Government to clearly understand the scale of the problem given the length of time remaining until legislation is in force.
- 5.8 Janet Perry (JP) asked for more information about the possible risks that have been identified. She noted that circular funding could mean that members could be compensated for any losses. From a whole of government perspective, she does not understand the funding issue.
- 5.9 MR explained that this has caused a huge amount of anger among scheme members. MR expressed particular concern over the timing of the withdrawal. MR noted that cases have been settled out of court in full, which led to a request to resolve these issues nationally. Subsequently, a Memorandum of Understanding (MoU) was agreed following discussions between legal representatives, which provided a consistent framework for FRAs to consider adopting.
- 5.10 Shortly afterwards, the Government published new information about unauthorised payments which was inconsistent with the provisions of the Bill, and the withdrawal of the guidance then followed in November. MR noted that the HMT note stated that scheme managers can still decide to process cases, but there may be issues which cannot be resolved until legislation is in place. MR commented that this was always the case, and the MoU advises members that cases may need to be revisited once remedy is in place.

- 5.11 MR stated that withdrawing the guidance was an unhelpful Government intervention that has caused concern among FRAs given the positive progress that had been made. MR said that members may not get the pension they are entitled to if they retire within the next 18 months.
- 5.12 FC acknowledged that the timing was not ideal, however, the withdrawal was based on the current legal assessment and the position remains as set out, that scheme managers can make a decision to process immediate detriment.
- 5.13 Cllr Roger Price (RPR) noted that the scheme is a national scheme and therefore the Government should be giving guidance on how it should be run so that the rules are applied consistently. The MoU was a welcome common-sense approach to achieve consistency. Cllr Nikki Hennessy (NH) supported these comments.
- 5.14 CH commented that the locally administered nature of the scheme makes it particularly difficult to ensure consistency. JL added that the HMT advice covers more than one scheme and the Board's role is to obtain more information to communicate to FRAs, to ensure that they fully understand the risks and can make an informed decision.
- 5.15 DP asked whether there has been any analysis on the level of tax charges and associated interest. DP felt that the amounts involved for most members will be small and that they could be recovered later. JL did not believe the Board has the information needed to make these estimates. More information has been requested on what the perceived problems are and the impact on members.
- 5.16 RP noted that there is also a reputational risk for an FRA proceeding with immediate detriment cases against Government advice. RP agreed that FRAs need to understand the risks better to make an informed decision.

- 5.17 CJ asked about the financial position if an FRA chose to go against Government guidance, for example, could an FRA in that position be able to claim the pension in payment through the top-up grant.
- 5.18 In AM's view, FRAs must interpret and apply legislation as they see fit. They may wish to take legal advice in the process of doing so. If an FRA takes the view that payment of pensions do comply with the regulations, then this would be considered legitimate expenditure for the top-up grant process.
- 5.19 CH summarised the contents of the paper and background to the current position. Following the withdrawal of the guidance, FRAs can continue to operate the framework if they choose to. The HMRC policy note published in October set out changes to the tax regime that will mean certain payments are authorised, contrary to the framework position.
- 5.20 JL had already raised a number of questions with the Home Office that were swiftly responded to, with the aim of getting more clarity about the risks that have been identified. In particular, JL sought more information and, where possible, any legal advice received on:
- 5.20.1 The nature of the newly emerging risks.
  - 5.20.2 The example provided concerning tax relief on member contributions.
  - 5.20.3 Whether Sections 61 and 62 of the EA 2010 provide an FRA with the powers they need to process immediate detriment cases.
  - 5.20.4 The uncertainty surrounding which expenditure is deemed to be 'legitimate'.

- 5.21 CH gave a summary of the Schedule 22 issue in which FRAs argued that they had to implement the scheme as introduced by law. The Employment Appeal Tribunal found in February 2021 that FRAs could not rely on the Schedule 22 defence, and therefore should have complied with both Sections 61 and 62 (power vested to make changes to the scheme to remove discrimination).
- 5.22 CH confirmed that the Board's role is to provide advice to the Secretary of State on whether any changes to the scheme are desirable, in response to a request, and to provide advice to scheme managers and Local Pension Boards on the effective and efficient administration of the scheme. CH asked the Board what information it can offer to scheme managers to achieve this second aim in relation to this issue, and what type of information could be provided to allow consistent decision making and communications.
- 5.23 Ian Hayton (IH) reiterated the difficult position scheme managers are in. Authorities will need to undertake a risk assessment to make a decision on how to proceed. IH felt the SAB could give advice on what to consider when making that assessment. In JL's view the Board needs more information on the issues before it could do so. However, it may be possible to make a start on identifying issues without quantifying the impact that they may have. JL asked JM for a legal view.
- 5.24 JM believes that seeing the legal opinion obtained by HMT would have helped understand the complex issues. It would be difficult for the Board to put any guidance together without getting a legal opinion.
- 5.25 JM said that the Home Office's informal guidance did not have any legal standing in terms of the regulations, but the Secretary of State's guidance does have some standing in terms of the funding provisions of the scheme. There are therefore financial risks, but also reputational risk.

5.26 The Board discussed the risks further:

5.26.1 The unauthorised payment risk does not arise in respect of retirements in the last 12 months or for future retirement. It is now known that past payments will become authorised via the Finance (No.2) Bill, therefore MR did not recognise the significance of this issue.

5.26.2 MR was not convinced that further legal advice is necessary, as the MoU was subject to significant legal scrutiny as to whether the identified risks were manageable. JM has not seen the legal advice in relation to the MoU, nor has the Board. CH confirmed that the advice was subject to legal privilege, although the general principles arising from the advice were shared with nominated contacts at each FRA. The LGA also sought specialist legal advice..

5.26.3 JL understood that the issue highlighted by HMT may be that all contributions to the FPS 2015 lose their tax relievable status, not just that the member would not benefit from additional relief due to the difference in contribution rates between schemes. JL suggested that a legal view may not have been sought on this point. CH commented that this would be an issue for parties to the MoU to consider, rather than the SAB.

5.26.4 DP estimated the amounts involved in the hundreds or low thousands, which he does not see as a barrier to processing immediate detriment cases.

5.27 FC suggested that the Board write to HMT to request more examples of the risks identified to get as much clarity as possible. FC noted that the understanding of the risk has been iterative in line with development of the Bill and policy planning for retrospective remedy.

5.28 The informal Home Office guidance for prospective cases was issued before Government had a deeper understanding of how the remedy will be implemented. JL asked whether HMRC also needed to be included in this correspondence. FC stated the letter should go to HMT only and will provide the right contacts.

**ACTION: SAB to write to HMT regarding the withdrawal of the Home Office guidance to request further clarification on the perceived risks.**

5.29 DP felt strongly that FRAs and scheme members should not be adversely impacted by HMRC processes. FC noted that the framework is independent of the Government's position. JL asked whether the financial position of rectification is tied into whether a case was processed while the guidance was extant. FC reiterated that AM had covered interaction with the top-up grant.

5.30 RP commented that while this may not be a major financial issue for FRAs, there may be significant reputational risk. FRAs do not want to be pressured into making inappropriate decisions. RP reiterated the challenges caused by the Government's change in position and that FRAs need a better understanding of the perceived risks before making a decision.

5.31 PH asked why the MoU was developed between the LGA and FBU and without wider consultation with all FRAs and representative bodies. MR confirmed that the framework was developed as a mechanism to settle cases resulting from legal action by the FBU against three FRAs.

5.32 CH added that all FRAs had been approached via their nominated contact and had confirmed that they required the LGA to enter into discussions with the FBU to seek an agreed solution to resolve cases consistently.

5.33 MR highlighted the potential risk of future legal action against FRAs where immediate detriment is not being addressed and the significant cost of defending court cases.

## 6. Abatement guidance ([Paper 3](#))

6.1 CH delivered the main points from paper 3. The first version of the abatement guidance was produced based on a workshop at the annual conference, technical queries received, and examples of good practice provided by FRAs.

6.2 The scheme rules are not prescriptive on abatement. They say that the FRA has a duty to reduce a pension in payment if the member is reemployed (or remains employed) and the pension plus pay exceeds the former pay. The FRA has the discretion not to reduce the pension and instead make a payment into the notional pension fund.

6.3 Two areas of uncertainty were unresolved at the time the first draft was produced. The LGA believes it has resolved these issues based on work done in response to technical queries on pensions increase and Additional Pension Benefits (APBs). The view is that pensions increase should be included in the calculation, and APBs should be abated at normal pension age in relation to ill-health retirement.

6.4 CH highlighted that it is increasingly common for firefighters to have concurrent full time and retained employments, yet it is not clear how this should be treated for abatement purposes. HMRC has a clear policy on concurrency in relation to protected pension age, and it is unclear whether the same principle applies for abatement. The Board recommended obtaining legal advice that JM has provided. In summary, the regulations provide an overriding discretion to abate if a firefighter remains in any employment with any authority.



- 6.5 The document has been updated to reflect these opinions and to incorporate responses to recent technical queries. The order and structure of the document has also been revised. JM has recommended that Home Office guidance on abatement would be welcome, as the scheme rules state that FRAs must have regard to guidance issued by the Secretary of State. CH asked whether the Board wants to make a formal request to the Home Office for abatement guidance.
- 6.6 The Home Office has previously been asked to provide informal guidance and has advised that FRAs are responsible for interpreting and applying the scheme rules. CH explained that if the Home Office is not able to provide guidance, the Board is asked to agree the LGA guide for publication.
- 6.7 AM confirmed that the department moved away from issuing informal guidance following the Norman v Cheshire guidance which was later successfully challenged in court. FRAs are not obliged to follow informal guidance and so publishing it presents a risk for the department. AM highlighted that the regulations cover abatement and FRAs must interpret the regulations to pick up the many complex working patterns that exist. AM's non-legal view is that the guidance produced by the LGA complies with the regulations and does not contradict policy intent.
- 6.8 In AM's view, the reference to guidance in the FPS 1992 regulations relates to the financing aspects of the regulations, not to the policy in abatement directly. There is an indirect link as the FRA must understand how to calculate abatement to work out the finance position.
- 6.9 JM said that previous guidance regarding abatement has been withdrawn and asked for clarity on what information remains in force and what is no longer endorsed. AM confirmed that the FPSC circulars are no longer endorsed as they represent only the informal view of the relevant department at that time.

- 6.10 CH welcomed comments from Board members by 7 January 2022. The guidance will be published shortly after this.

**ACTION: Board to provide comments by 7 January 2022.**

**Secretariat to publish updated guidance.**

## **7. Update on the remedy self-assessment survey (Paper 4)**

- 7.1 CH provided an update on Paper 4 which attempts to address concerns raised at the September meeting about the survey responses. A small number of amendments have been made to the report:

7.1.1 It would have been helpful to ask those authorities that did not consider remedy to be a corporate risk why that was their view.

7.1.2 Board concerns about certain individual responses noted.

7.1.3 Minor amendments to add clarity.

- 7.2 JL has drafted a cover note to be sent to FRAs with the survey results in the December FPS Bulletin.

- 7.3 CH has undertaken further analysis to see if those respondents who had missed key indicators in one area had also generated concern in other areas. The results are in the report. CH noted major concern about one FRA who failed to complete the survey in a meaningful way and one whose responses showed that they expect their administrator to take on responsibilities that lie with the FRA.

- 7.4 CH will send a copy of each FRAs results to their Local Pension Board (LPB) with a covering letter thanking them for their submission and highlighting any areas where they may wish to consider improvements.

- 7.5 Progress against the recommendations include:

- 7.5.1 Improvements to the administration procurement process will be investigated by the Scheme Management and Administration Committee.
- 7.5.2 Continuing to work closely with the Fire Finance Network chair on cost monitoring.
- 7.5.3 Providing letters for scheme members that include information about the changes that are happening in April 2022 and how that will affect them.
- 7.5.4 Specific information on remedy added to the member website.
- 7.5.5 Procurement underway for illustrative member scenarios.
- 7.6 CH asked for the Board's views on how to address concerns with individual FRAs. GM suggested that FRAs with incomplete responses be given a second opportunity to complete the survey.
- 7.7 JL suggested that SAB members could visit LPBs to discuss the survey outcomes. DP noted that SAB members used to visit local boards and that this engagement had been welcomed. JL asked the Board members to confirm their willingness to attend local board meetings now that travel restrictions have eased.
- 7.8 JL asked for any feedback on the survey results document or cover letter by 15 December 2021.

## **8. Update on the budget submission (Paper 5)**

- 8.1 CH updated the Board on the budget submission. The submission has been passed to the Secretary of State for approval. The levy has increased by £0.87 to £9.16 per active firefighter. The increase will pay for increased resources to the LGA team including the addition of one full- time post and one part-time post. The budget also includes a substantial allowance for procuring remedy communication tools.

- 8.2 The Board noted the paper. DP had raised a query by email which was addressed. JL confirmed that a response from government is awaited. FC said the Home Office will ensure that the process is adhered to.

## **9. Member scenarios: verbal update**

- 9.1 CM provided a brief update on behalf of First Actuarial. The SAB agreed to commission a suite of member scenarios to tell members about the impact of remedy and compare legacy scheme benefits to reformed scheme benefits. CM noted that the proposed scenarios had been shared with Board members by email and the tender exercise will be initiated shortly.
- 9.2 JL clarified that the timescales were intentionally short for submissions and selection of a supplier in order that timely information can be provided to scheme members. A decision will be made by the chair and the secretariat and can be ratified by the Board's procurement committee.
- 9.3 CH noted that under LGA procurement rules, the tender must be advertised on Delta e-sourcing and a minimum of three bids can be invited. JL highlighted that information on salary progression is still to be added to the specification but could be incorporated later.
- 9.4 JL reminded the Board that procurement of member scenarios was a different approach than for some of the devolved schemes who are commissioning a modeller. JL noted that previous discussions had determined that scenarios would be a more effective way to communicate the principles of remedy to scheme members. CM agreed, on the basis that members do not need to make an immediate choice.
- 9.5 CH added that one of the key aims is to address the recurring misconception that fully protected members would lose their final salary benefits if not accessed before 1 April 2022.

9.6 Board members were content for the request for quotes to be published to Delta.

## **10. Action summary update (Paper 6)**

10.1 JL summarised the key points from the paper which had not already been addressed during the meeting:

10.1.1 The planned data workshop was no longer required, as administrators are operating to different timescales for their remedy data extracts and some FRAs have already started collating data. The TPR scheme return has also now already been completed for 2021. The data scoring guidance will be revised for 2022.

10.1.2 Background scoping work has started on procurement of member videos to explain remedy. This includes identification of interested suppliers or parties to approach, the content/ themes of the videos, and indicative pricing.

10.2 The Board was asked to note the contents of the paper.

CH noted a lack of progress against the action summary due to reduced capacity on the secretariat team. CH proposed a full review in 2022 to assess whether all outstanding actions are still relevant. CH added that the risk register is also due to be reviewed.

## **11. Agreement of 2022 meeting cycle: verbal update**

11.1 JL notified the Board of the proposed 2022 meeting dates, falling on every second Thursday of each quarter. The format of the meetings will be considered. JL wished for some meetings to be in person and noted that hybrid arrangements generated the most cost for the Board.

- 11.2 RPR commented that all LGA meetings were proceeding via Teams and asked whether this also applied to the SAB. CH confirmed this was due to new restrictions on travel from 10 December and will apply to all external meetings until further notice.

## **12. Any other business**

- 12.1 DP raised an item of AOB in relation to issuing guidance for the benefit of new members to the SAB. DP confirmed that the SAB can issue guidance as a legally constituted board with secretariat services provided by the LGA.
- 12.2 DP said that the predecessor committee to the SAB was able to issue formal guidance that FRAs had duty to comply with, in addition to guidance provided by the responsible authority. DP highlighted that as this is no longer the case, inconsistency in the application of pension regulations and policy has increased.
- 12.3 DP asked JM for a view on whether the SAB could be held legally responsible for any guidance issued which another party had a conflicting view on.
- 12.4 JM commented that all guidance issued is heavily caveated with a disclaimer which sets out that FRAs must seek their own legal advice and cannot rely on guidance as a legal position.
- 12.5 DP stressed that the SAB and the LGA are separate entities and expressed concern about the secretariat function becoming conflicted in relation to guidance issued from either entity.
- 12.6 GM referred to the regulatory position which states that scheme managers must have regard to SAB guidance. JM said that guidance has no legal standing as FRAs must adhere to the regulations. JM added that FRAs must also comply with guidance issued by Government.

- 12.7 JL emphasised that there is a distinction between providing guidance which is a sharing of information or guidance which is an interpretation of legislation or a Board opinion. JL said the papers provided by the secretariat are generally helpful to remind the SAB of its remit.
- 12.8 DP and GM noted that the Board wished to be proactive in making recommendations to the government.
- 12.9 No other items of AOB were raised.







## Actions and agreements

24 March 2022

Location: Smith Square, London

### PRESENT

Joanne Livingstone	SAB Chair
Philip Hayes	Scheme Member Representative (FRSA)
Brian Hooper	Scheme Member Representative (FBU)
Matt Lamb	Scheme Member Representative (FBU)
Pete Smith	Scheme Member Representative (FBU)
Mark Rowe (sub)	Scheme Member Representative (FBU)
Des Prichard	Scheme Member Representative (FLA)
Glyn Morgan	Scheme Member Representative (FOA)
Cllr Nikki Hennessy	Scheme Employer Representative (LGA)
Cllr Roger Phillips	Scheme Employer Representative (LGA)
Cllr Roger Hirst	Scheme Employer Representative (LGA)
Cllr Ian Stephens	Scheme Employer Representative (LGA)
Helen Scargill	Technical Adviser
Craig Moran	First Actuarial
Rob Fornear	GAD
Claire Hey	LGA – Board secretariat
Claire Johnson	LGA – Firefighter Pension Advisor (Minutes)
Frances Clark	Home Office
Arabella Gordon	Home Office
Jane Marshall	Legal Adviser
Ian Hayton	NFCC (Observer)
Elena Johnson	Leicestershire County Council (Observer)

## **1. Apologies and conflict of interest**

- 1.1 Apologies received from Alan Wilkinson, Karen Gilchrist, Josh Goodkin, Helen Fisher, Cllr Roger Price, James Allen, Cllr Leigh Redman, Cllr Nick Chard, and Anthony Mooney.
- 1.2 Joanne Livingstone (JL) welcomed Arabella Gordon (AG) from the Home Office who was joining the meeting for the first time.
- 1.3 JL and Claire Hey (CH) welcomed Elena Johnson (EJ) from Leicestershire County Council who will be joining the LGA team in May as Firefighters' Pension Scheme Adviser, focusing on governance matters.
- 1.4 It was confirmed that Claire Johnson (CJ) would be taking minutes
- 1.5 JL reminded members of the Board to declare if any new conflict has arisen. It was confirmed that there is no requirement for forms to be completed. No conflicts were declared.

## **2. Actions arising and Chair's update**

- 2.1 JL confirmed that the minutes from the meeting held on 9 December 2021 are yet to be finalised. These will be provided as soon as possible.
- 2.2 JL suggested that actions arising be covered under item 12 to avoid duplication.
- 2.3 JL provided the Board with a Chair's update and confirmed the following:
  - 2.3.1 The SAB has now received a reply from the Home Office in relation to the SAB's response to the remedy consultation which was submitted on 2 January 2022.
  - 2.3.2 JL had attended day 2 of the LGPS governance conference which was held on 20-21 January 2022 in Bournemouth

- 2.3.3 A joint meeting between the UK SAB chairs had taken place in February. The purpose of the meeting was to agree, where appropriate, to pool resources and collaborate. This was to ensure a consistent approach to the delivery of policy across the administrative areas.
- 2.3.4 There had been ongoing engagement with Barnett Waddingham on the fact checker and member scenarios. It was confirmed that the fact checker had been well received and that the member illustrations were imminent.
- 2.3.5 JL had attended the Pension Dashboard Programme (PDP) webinars which were hosted by DWP.
- 2.3.6 The SAB had provided a robust response to the DWP dashboard consultation. This was submitted on 11 March 2022.
- 2.3.7 The SAB had received a response on 23 March 2022 from HM Treasury (HMT) in respect of the letter which asked for further clarity around the risks to immediate detriment (ID) which resulted in the Home Office withdrawing their informal ID guidance. JL confirmed that the response had been circulated to members in advance of the meeting and that the topic would be covered later on the agenda.

2.4 Mark Rowe (MR) commented on how well received the fact checker had been and confirmed that it has raised some more questions which needed clarification. Both JL and CH confirmed that they would be happy for the questions to be fed in and would discuss what further action is needed.

### **3. Home Office update**

3.1 Frances Clark (FC) and AG provided a brief update on McCloud/ Sargeant remedy, the Finance Act 2022, the SCAPE discount rate, and legal challenges on ID throughout the public sector.

- 3.2 FC confirmed that the prospective regulations for the McCloud remedy had now been laid. These will come into force on 1 April 2022. The SAB was thanked for its useful response to the consultation.
- 3.3 FC confirmed that the focus will now shift to retrospective legislation, which is anticipated to be more complex. The Home Office is currently working on fire specific policy which will then be used to provide drafting instructions.
- 3.4 FC added that Home Office tends to receive central policy which agrees the parameters that should be worked within. It is the role of the Home Office to make the documents scheme specific and fit for purpose.
- 3.5 The Home Office is expecting a pack (approx. 80 per cent) of HMT approved Provision Definition Documents (PDDs) by the end of March.
- 3.6 FC confirmed that the Home Office should be able to share some thoughts with the SAB in the coming months. This would be ahead of the public consultation which is expected later this year.
- 3.7 Cllr Roger Phillips (RP) raised a concern about the consultation; specifically allowing for adequate time to consult.
- 3.8 FC confirmed that the SAB would be able to see the documents prior to public consultation and that the consultation will run for the time agreed in statute.
- 3.9 JL asked at what stage the regulations would be drafted as this is when issues are more likely to arise. FC confirmed that the Home Office is taking an incremental approach and working on what policy they can. However, it was noted that the PDD process had been subject to delay.
- 3.10 FC confirmed that the Finance Act 2022 had received Royal Assent and that Section 11 of the Act enables the changes needed to tax legislation; the precise detail of which will be provided by HMRC via an amendment to their regulations. This is expected in Spring 2022 and will be followed by a public consultation.

- 3.11 Cllr Ian Stephens (IC) also expressed concern over the timescales, stating that meaningful consultation is time-bound.
- 3.12 AG confirmed that there was no substantive update on the SCAPE discount rate consultation. It was confirmed that the consultation has closed, and that HMT is reviewing responses. AG added that the consultation was only looking at the methodology, following which the rate itself will be reviewed.
- 3.13 Rob Fornear (RF) added that the 2020 valuation cannot begin until the rate has been set.
- 3.14 FC confirmed that some other public service pension scheme (PSPS) challenges have been brought in respect of ID. Unfortunately, the Home Office is not fully aware of all the details and therefore could not provide further comment. FC added that the SAB has now received a response to the letter sent to HMT in December 2021. This should hopefully give more clarity on the current position.
- 3.15 JL commented that the Fire SAB need to be sighted on other schemes' decisions in respect of ID to ensure consistency and transparency.
- 3.16 RP added that the Board welcomed the Home Office's engagement and their open and transparent update. FC added thanks to the LGA team and Helen Scargill (HS) for their efforts with the PDDs.
- 3.17 JL referred to an announcement on McCloud in the Spring budget statement. FC could not comment, however, agreed to speak with HMT colleagues for an update.

#### **4. Cost control valuation 2016 results: verbal update (GAD)**

- 4.1 RF attended to give a brief update on the final cost control valuation. RF confirmed that the results remain as presented to the Board in March 2021.

- 4.2 RF advised that the 2016 valuation has now been finalised and will be published imminently on the GOV.UK website.
- 4.3 RF gave a summary as to why the valuation has taken so long. Members were reminded that the valuation was paused in 2019 due to uncertainties regarding the McCloud judgment. It was then un-paused in 2020 so that the valuation could be updated to include the effects of remedy.
- 4.4 RF confirmed that, once the implications of McCloud were considered, this caused an upward pressure on the scheme which resulted in a ceiling breach of 14.6 per cent.
- 4.5 RF added that, although a ceiling breach would ordinarily result in changes to the scheme, this should not be a concern to members as the Public Service Pensions and Judicial Offices Act 2022 (PSPJOA 2022) makes a provision for all ceiling breaches to be waived. FC confirmed that there is a section within the PSPJOA 2022 which provides for this.
- 4.6 Des Prichard (DP) thanked GAD for its helpful and clear report and commented on how reader friendly it is. RF confirmed that GAD has done a lot of work to make the report more user friendly and thanked DP for the feedback.
- 4.7 DP added that the report highlights the criticality of the SCAPE rate and that even a small increase can have huge implications for the employer costs. RF noted that the discount rate has less impact on the cost control mechanism.
- 4.8 DP said that the loss of firefighters over the last ten years has resulted in an increase in pensions and a reduction in income to the scheme. This is resulting in a perfect storm and the solution cannot be to load employer costs. DP commented that the Board should communicate to the government on the sustainability of the scheme.

- 4.9 RF added that this was a significant point and that there were real pressures due to the sector having fewer active members and pensioners who are living longer.
- 4.10 JL confirmed that she expected the Home Office was aware of this issue, and that it adds to the complexity of the scheme.
- 4.11 RP confirmed that Emma Lawrence (Home Office – Fire Funding) had spoken at the LGA conference in Gateshead to confirm that the Home Office is looking to absorb the pensions grant into core spending power.
- 4.12 FC added that the Home Office is aware of the rising costs across all PSPS and that the policy and finance teams work closely to mitigate issues and come to conclusions.

## **5. Special members second options exercise (Matthews) ([Paper 1](#))**

- 5.1 Summarising the paper, CH confirmed that this issue has been brought about due to a legal case concerning the Judicial Pension Scheme, whereby a fee-paid judge challenged the right to buy back pensionable service to the beginning of their employment.
- 5.2 It was confirmed that a Memorandum of Understanding (MoU) was agreed by the FBU, FRSA, government and LGA on behalf of FRAs, on 9 March 2022. The MoU outlines the terms of the remedy.
- 5.3 CH confirmed that there is still one issue which remains outstanding, on the matter of aggregation. Both the FBU and LGA have asked FRAs to provide data on how many cases they have in their Authority. A deadline of 31 May 2022 has been given by the LGA.
- 5.4 HS asked whether this relates to employees who had concurrent or consecutive service. CH confirmed that it is consecutive service.

- 5.5 CH added that there would be a provision in the legislation to allow individuals who were not contacted by their FRA during the first exercise to apply for a remedy under the second exercise. The burden of proof lies with FRAs to evidence that the relevant correspondence was sent in the first instance.
- 5.6 CH also confirmed that there were several lessons learnt from the first exercise which will be taken forward into this.
- 5.7 CH added that the Home Office is working on the final policy which will be converted into regulations. Both the LGA and GAD are working closely with the Home Office and are being offered the opportunity to critique the policy intent.
- 5.8 Once final policy had been drafted, it will be subject to public consultation and when laid, FRAs will be given 18 months to execute the legislation.
- 5.9 CH highlighted that there were several challenges which have been captured in the paper, however where possible, mitigations have been put in place. CH added that the LGA is in a better position to assist stakeholders with the second exercise.
- 5.10 JL thanked CH for the update and asked the Board to consider the contents of the paper.
- 5.11 JL suggested that a working group on this topic would be useful and asked the Board to consider who should participate. JL added that the nature of the working group does not necessarily fit into any of the existing SAB committees.
- 5.12 HS raised a concern over workload for FRAs. It was noted that some FRAs have a small proportion of retained firefighters and therefore will not be hugely impacted. Whereas some FRAs are predominately retained and could have hundreds of members.



- 5.13 HS added that it would be useful to have adjustments to National Insurance contributions due to purchasing contracted-out service included in the GAD calculator.
- 5.14 DP commented from past experience that some FRAs struggle with data more than others. A general assumption was that smaller FRAs may have more retained staff, yet also have the least resource. DP suggested that the NFCC could offer some central support.
- 5.15 Ian Hayton (IH) will bring this issue up with NFCC colleagues. IH added that the working group should include representation from FRAs.
- 5.16 JL confirmed that the working group should be convened as soon as possible and volunteers from the Board were sought. JL confirmed that members would be nominated if no volunteers came forward. Philip Hayes (PH) volunteered to sit on the group.

**ACTION 24.03.2022 (5.16): Working group to be convened.  
Volunteers sought from Board and its committees.**

- 5.17 RF confirmed that GAD's involvement in the project is three-fold:
- 5.17.1 Early engagement to minimise roadblocks.
  - 5.17.2 Formulating the calculator. RF confirmed that this is a substantial piece of work to support all membership types. Data is a key issue, as is selecting suitable assumptions.
  - 5.17.3 Establishing the costs within scheme valuation, potentially in 2028. RF explained that there would be a delay between the options exercise taking place and the costs coming through. RF confirmed that there are several unknowns including the take-up rate.
- 5.18 HS asked whether Matthews data requirements would be factored into the 2024 valuation specification. HS would like to see what is needed in advance so that systems could be configured.

- 5.19 Craig Moran (CM) queried the average take-up rate last time and suggested that this data could be used to make an assumption. RF confirmed that it was approximately 20 per cent. It is expected to be higher for the second options exercise as members are likely to be older and therefore able to benefit from paying contributions from their retirement lump sum. HS added that the ability to buy back extended service, prior to July 2000, is likely to make it more attractive so also expected the percentage to increase.
- 5.20 RF stated that increased take-up is likely to increase employer rates, but this would be determined by HMT Directions.
- 5.21 PH asked what the member payment options would be and whether there would be an option to defer payment to retirement. HS confirmed that the members were allowed to pay by one-off lump sum or periodic contributions in the first exercise. If a member elected to pay by periodic contributions and retired, only then could the remaining balance be taken from the lump sum. Deferred members could repay by standing order or choose to stop their periodic contributions and receive a pro-rata benefit.
- 5.22 HS recommended that the legislation should allow all members to be able to curtail their contract early and settle by lump sum, thereby saving on interest due.

## **6. Home Office consultation response ([Paper 2](#))**

- 6.1 CH summarised the paper which gave members an understanding of the Home Office's response to its recent consultation on prospective remedy.
- 6.2 CH confirmed that the Home Office has legislated for the provision of an underpin for ill-health cases which are 'in train' on 31 March 2022. In addition, it was also confirmed that members who are currently purchasing added years under their legacy scheme will be able to continue with those contracts post 1 April 2022.

- 6.3 CH suggested that members may wish to consider things that fall out of scope of the consultation. CH added that there had been a lot of discussion around contingent decisions and confirmed that Section 25 of the PSPJOA 2022 does allow a provision for this.
- 6.4 CH asked members whether they felt the need to go back to the Home Office on any points and suggested that the Board prepare an acknowledgement letter.
- 6.5 CH added that the action log makes reference to the formulation of an ill-health working group and asked members whether it was now appropriate to convene such a group.
- 6.6 IH asked whether there would be any guidance on the application of the ill health underpin. CH confirmed that the Home Office had specifically left flexibility within the regulations for FRAs to work with. IH commented that there would be a need for consistency.
- 6.7 Jane Marshall (JM) acknowledged that there would be a varying approaches across the sector.
- 6.8 MR commented that, although the underpin is helpful, the overall issue had not been addressed. There has been no assurance over the index event which, in cases such as PTSD, may not manifest for several months/years. MR stated that allowing members to retire at age 55 with an actuarial reduction is not an acceptable solution. MR added that this should be addressed through the working group.
- 6.9 Glyn Morgan (GM) confirmed that certainty was required as the flexibility that the Home Office has given is inconclusive and leaves FRAs open to challenge. GM added that the Board cannot issue any guidance with legal standing.
- 6.10 JL agreed that it was now appropriate for a working group to be formed and that clarity was needed on the cut off point for 'in train' cases.

**ACTION 04.10.2018 (5): Cross-sector working group to be progressed in light of Home Office consultation response on prospective remedy. Volunteers sought from the Board.**

- 6.11 HS asked Home Office colleagues whether it was their intention to update the Compensation Scheme regulations as they do not seem to interact correctly with the FPS 2015. FC confirmed that this would be investigated.
- 6.12 Matt Lamb (ML) raised a point about contingent decision claims and asked who would make the decision. If it was to be a scheme manager, then consistency would be needed. CH confirmed that contingent decisions would be tabled for the Board's meeting in June.
- 6.13 JL confirmed that the Board will write to the Home Office to thank them for their detailed response. The letter will include reference to the points discussed and will also highlight the discrepancy of the retirement factors of the FPS 2006.

**ACTION 24.03.2022 (6.13): Board chair to draft letter and share with SAB before submission.**

- 6.14 FC commented that the Home Office is looking at this discrepancy, however, there are valid reasons behind the policy.

**7. FPS 1992 Scotland commutation ([Paper 3](#))**

- 7.1 CH summarised the paper which gave members an understanding of the recent legislative change to the FPS 1992 in Scotland.
- 7.2 CH confirmed that, in March 2022, Scotland laid regulations which removed the provision of restricted commutation for members of FPS 1992. This means that should a member retire from age 50 with more than 25 years' pensionable service, but before attaining 30 years' pensionable service or age 55, the member will no longer be restricted to 2 and a quarter times pension for their commutation. Instead, they will be allowed to commute the full quarter.

- 7.3 CH added that the changes were consulted on by SPPA on behalf of the Scottish government, who is both the responsible authority and scheme manager for the Scottish FRS. The changes mirror similar changes that were made to the Police Pension Scheme in Scotland. CH noted that colleagues from SPPA were unable to attend the meeting to provide background on the policy decision.
- 7.4 In advance of the SAB, CH asked the Home Office for an informal view as to whether there are any plans to make similar provisions to the FPS 1992 in England. The Home Office confirmed that there are a number of substantive differences between the management and governance of the FPS in England and in Scotland, including different funding arrangements.
- 7.5 CH added that FRAs in England have had the discretion to pay a lump sum in excess of two and a quarter times the full amount of the pension under regulation B7(5A)3 since 2013. If an FRA chooses to use this discretion, an amount equal to the difference between the restricted and unrestricted lump sum has to be paid by the FRA into the pension account.
- 7.6 CH welcomed views and suggestions from the Board.
- 7.7 MR believes that the removal of the commutation cap in Scotland could potentially give rise to age discrimination between the devolved administrations if it continues to apply in England. MR added that it is the view of the FBU that the FPS 1992 (England) should be amended to reflect the change applied to members of FPS 1992 (Scotland).
- 7.8 JL noted that any response or action the SAB takes should be done with the support of both employer and employee representatives. Members should consider the full implications of the regulatory amendment. JL expressed concerns about members taking large cash lump sums at a relatively young age, which may result in them losing out on continuing retirement income.

- 7.9 GM commented that the amendment was agreed in Scotland with little debate. GM suggested that scheme members may feel trapped by their pension arrangement and an unmotivated workforce could be detrimental to the FRA.
- 7.10 CM added that members would not be able to activate this option unless they had 25 years' service, which he thought could still provide a significant pension after commutation.
- 7.11 RH asked whether the decision was underwritten by Scottish government and whether any assessment of costs had been undertaken. RH commented that the amendment would increase both employee and employer costs in the future if it was loaded to the scheme.
- 7.12 CM commented that from an actuarial point of view, this would be broadly cost neutral to the scheme due to the cost-neutral cash commutation factors.
- 7.13 RF clarified that it would bring forward cash expenditure and therefore presents more of an immediate cashflow issue for FRAs, as any changes would mean that the member is accessing more lump sum immediately. RF suggested that the Board may want to consider the quantum of members affected.
- 7.14 RP acknowledged that the Board does not want FRAs to attract future legal challenge, however, robust consideration of the revenue implications would be needed before any recommendations for change are made.
- 7.15 DP commented to remind Board members that the purpose of the SAB is to provide information not advice. JL added that it is not the role of the Board to lobby for early retirement.

- 7.16 HS reminded the Board that commutation is optional for scheme members. Experience at WYPF shows that a member does not always commute the maximum available.
- 7.17 IH acknowledged that the principle was already in the regulations, however, the Board could seek more understanding of the implications around funding, workforce, and members before a formal letter is submitted.
- 7.18 GM added that it would be useful to defer this matter until more data is available from Scotland.
- 7.19 JL confirmed that it would be useful to wait for more information before taking further action and members should be provided with a holding response to queries until that time.
- 7.20 MR asked JL to seek more information from SPPA on their decision-making process. JL agreed to this request

**ACTIONS 24.03.2022 (7.20)**

- **JL to liaise with SPPA over decision making process.**
- **To commission GAD, either directly or through the Home Office, to provide assumptions on take-up rate and cost implications for FRAs.**

**8. Update on remedy tools procurement (Paper 4)**

- 8.1 CH summarised the paper and provided members with an update on the current position of the member scenarios and an update on timings for procurement of videos which has resulted in a change to the specification.

- 8.2 CH confirmed that Barnett Waddingham was appointed to provide a pension fact checker document and member illustrations. The fact checker was issued in February and has been well received. The SAB Wales (SABW) was particularly impressed and asked whether a Welsh version could be commissioned.
- 8.3 CH added that it was intended to provide the member illustrations in early March, however, the work had been more complex than initially thought which caused an inevitable delay. CH confirmed that the illustrations were now in the final stages and should be provided by 1 April 2022.
- 8.4 In addition to the factchecker and member illustrations, CH reminded members that the Board had previously agreed to the procurement of two videos.
- 8.5 CH added that, due to the timings involved in the procurement process, and the estimated delivery timescales of around eight weeks, it was not possible to secure these resources before 1 April 2022.
- 8.6 CH confirmed that a paper was presented to the Fire Communications Working Group (FCWG) on 1 March 2022 to seek views from the sector on providing a video solely on transitional benefits. Differing opinions were received from the group. While the majority were in favour of providing videos, concern was raised over value for money and repetition of information that had already been provided in other formats.
- 8.7 A particular concern was raising member expectations of providing multiple videos to cover a wide range of topics and whether budget would be available for this. For example, the videos commissioned by the LGA for the Local Government Pension Scheme cover issues such as pensions tax, transfers, and death benefits.
- 8.8 Board members were asked to provide their views on the topic and whether they still felt that this is a valuable project.



- 8.9 DP raised a question about cost and asked whether it was to come from the SAB budget and whether any provisions had been made. CH confirmed that the costs would come from the SAB budget and that budget for two videos had been ringfenced.
- 8.10 RP asked whether there would be functionality for the SAB to monitor how many views the videos received. CH confirmed that this was possible and that 'hits' could be monitored.
- 8.11 HS added that the videos would be a valuable resource for members. Experience shows that some members prefer to receive information via video rather than in written form. This additional resource may stimulate more interest in the subject.
- 8.12 IH commented that the sector would welcome all tools available to increase engagement on pensions. IH suggested that a dedicated communications plan for remedy should be in place.
- 8.13 JL asked about the content and added that pensions are a complicated topic, therefore references to further information would be needed. CH confirmed that the first video would focus on transitional protections.
- 8.14 Roger Hirst (RH) felt that it would be possible to cover sufficient material within a 90 second pictorial video.
- 8.15 DP asked HS whether a video would add value to members. HS agreed, noting that there is evidently still a lack of understanding and knowledge on the subject.
- 8.16 MR added that content would be key and that the videos should use infographics to stimulate the viewer's interest. GM supported the new recommendation to procure a single video.

**ACTION 30.09.2021 (5.26): Procurement to proceed for a single video which will inform members about transitional benefits.**

## 9. 2015 Remedy update (Paper 5)

- 9.1 CH summarised the paper which provided the Board with updates on several workstreams in relation to the age discrimination remedy.
- 9.2 CH advised that since the last SAB meeting, stakeholders have been provided with new communication materials such as a factsheet on opting out, the FPS 2015 fact checker, and that the illustrative member scenarios will be provided shortly.
- 9.3 CH added that it was the LGA's intention to provide wording for FRAs to use to notify former protected members of some key features which, as a new member of FPS 2015, will now be applicable to them.
- 9.4 CH highlighted an issue which was raised at a recent Fire Technical Working Group (FTWG) meeting whereby some members who joined FPS 2006 on or after 1 April 2012 were incorrectly awarded transitional protection. CH assured the Board that the numbers were minimal, and that remedial work would be taken to address this issue.
- 9.5 CH confirmed that the FTWG had tried to agree a consistent approach to benefit statements for 2022 annual benefit statement (ABS) production, however, some administrators were reluctant to provide projections for former protected members to age 60 on a CARE basis.
- 9.6 CH suggested that ABS for 2023 could be suppressed to avoid sending non-remediable statements. HS was concerned that this could have implications for pensions dashboards.
- 9.7 HS raised a question about the timing of remedial service statements (RSS) and how this interacts with ABS. For example, the PSPJOA 2022 confirms that RSS must be provided with 18 months of 1 October 2023. It is therefore unclear as to whether ABS should be sent for 2024.
- 9.8 CH commented that this query has been raised HMT on the cross-Whitehall technical query log.

- 9.9 CH confirmed that the two software suppliers will be invited to the June meeting to give the Board an update on their plans for retrospective remedy.
- 9.10 CH noted that there had been some difficulty in some cases engaging with the suppliers to date. It was asked whether paragraph 15.5 of the confidential paper could be shared where relevant. CH confirmed that this was possible.
- 9.11 CH added that the commercial information was required from suppliers so that there was assurance that software costs were proportioned fairly across the fire sector, given that any funding grants are allocated to FRAs based on size. HS suggested that administrators could share this information directly with the LGA.
- 9.12 JL suggested that when the software suppliers are invited to the June meeting, they should be asked to provide full transparency over costs and apportionment.

**ACTION 24.03.2022 (9.9): Invite software suppliers to present at June meeting.**

## **10. Dashboard consultation response ([Paper 6](#))**

- 10.1 CH summarised the paper which confirmed that the Board had submitted a joint response with SABW.
- 10.2 CH highlighted the main pressures for the fire sector and summarised these as:
- 10.2.1 Capacity considering retrospective remedy and pressures of Matthews.
- 10.2.2 Availability of the McCloud data at April 2024.
- 10.2.3 Size and definition of the scheme.
- 10.2.4 Value that dashboards will have for the pension saver.

- 10.2.5 Clarity over projections and definitions of Normal Pension Age.
- 10.3 CH confirmed that for the reasons highlighted above, the Boards' response stated that it is doubtful that the deadline of April 2024 is achievable and has asked for staging to be delayed until April 2025. CH said that the response had been picked up by the pensions' press who had noted the Board's robust position.
- 10.4 RP agreed that a robust response was needed as value to the member is key. ML added that accuracy is vital and asked how members would be able to obtain information in the meantime. ML asked if this presented a resource risk to administrators.
- 10.5 HS confirmed that WYPF is providing estimates for members who are eligible to retire in the next 12 months. ML asked whether this was similar for other administrators. HS confirmed that some are refusing to process estimates post 31 March 2022.
- 10.6 JL commented that staging to the dashboard does not necessarily mean that data will be available. JL expressed disappointment at the six-week timescale for responding to the consultation.
- 10.7 FC confirmed that the Home Office is aware of the challenges and is supportive of the SAB position. The department will endeavour to push back on the proposed staging date.

## **11. Abatement – TPO Determination ([Paper 7](#))**

- 11.1 CH summarised the paper which confirmed that a recent Pension Ombudsman (TPO) determination in respect of abatement was partially upheld. TPO determined that the FRA did not follow reasonable process when assessing whether the pension should be abated.
- 11.2 CH added that a legal view was requested from Jane Marshall and information on next steps was shared with FRAs in [FPS Bulletin 54 – February 2022](#). Comments were invited from the Board.

- 11.3 HS asked whether TPO gave any indication as to what constitutes exceptional circumstances.
- 11.4 JM said that it is not about what TPO believe is exceptional, as this decision sits with the FRA. The problem with the recent determination is that no consideration was made by the FRA; a blanket policy was applied, so there was no room for discussion. JM added that an FRA should consider each case individually and clearly document the decision and rationale.
- 11.5 RH added that this could be a difficult conversation to have when the person has the skills needed to fulfil a particular role.

**ACTION 17.09.2020 (5.3): Abatement guidance to be updated to reflect TPO determination, then to be published and circulated.**

## 12. Action Summary: verbal update

- 12.1 CH provided a brief update on actions which have been added to the summary or progressed since the last meeting:

DATE	ACTION	OUTCOME
04.10.2018 (5)	LGA to establish working group on behalf of SAB to consider ill-health regulations and processes	24.03.2022 Consider how to progress this action now in light of Home Office consultation response on prospective remedy.
03.10.2019 (7)	Future of pensions administration: More information to be sought via consultation on the marketplace and risk.	09.12.2021 Tabled under Item 7. Sub-actions (2) and (3) completed. (4) Secretariat to provide each FRA copy of own results highlighting areas for improvement. 24.03.2022 Sub-actions 1 (admin survey) and 4 completed

<b>DATE</b>	<b>ACTION</b>	<b>OUTCOME</b>
17.09.2020 (5.3)	Secretariat to obtain a legal view on outstanding abatement queries to incorporate into the draft guidance.	09.12.2021 Draft guidance tabled under item 6. Guidance approved for publication. Item to be closed. 24.03.2022 Guidance paused in light of TPO determination. Paper tabled under item 11. Item to be closed once guidance issued.
18.03.2021 (4.1.40)	When appropriate, cost-effectiveness committee to undertake review of report commissioned by the Home Office from GAD, on use of original 2016 assumptions for recalculation of the cost cap cost including McCloud.	24.03.2022 Consider to progress or close this action now in light of final cost control valuation results.
24.06.2021 (6.26)	Board members are invited to provide comments by email in order for the SAB to write to both software suppliers with follow-up questions to remedy assurance presentations. Secretariat to liaise with providers on availability of presentations.	24.03.2022 Software updated provided under item 9. Providers to be invited to June 2022 meeting. Propose to close this item.
30.09.2021 (5.19)	Secretariat to pursue commissioning work on scenarios and personas to represent different member types and the impact that remedy may have on their benefits – via SMA committee.	24.03.2022 Update provided under item 4. Close item once scenarios issued.
30.09.2021 (5.26)	Secretariat to progress the procurement of videos to explain remedy.	24.03.2022 Update provided under item 4. Agreement needed to procure on revised basis.
09.12.2021 (5.23)	Chair to draft letter to HMT on withdrawal of HO guidance.	24.03.2022 <a href="#">Letter submitted to CST on 17 December 2021</a> and published on SAB website. Response received 23 March 2022.

- 12.2 GM volunteered to join the proposed working group to review the ill-health regulations and process.

### **13. Any other business and date of next meeting**

- 13.1 CJ raised a concern around the contingent decision provision for optants-out.
- 13.2 CJ explained the LGA's understanding that contingent decisions only cover the remedy period (1 April 2015 to 31 March 2022). This means that should a member remain opted out beyond 1 April 2022 they may, under retrospective legislation, be given the option to buy back their opted-out service which occurred during the remedy period. However, it is unlikely that regulations will permit them to buy back service after 31 March 2022.
- 13.3 This would mean that the pension would remain deferred with a payment age of 60 for FPS 1992 and 65 for FPS 2006 (special members have a deferred payment age of 60), regardless of whether they buy back the opted- out service in respect of the remedy period.
- 13.4 The LGA intends to send out a communication to FRAs to highlight this issue so it can be shared with affected members. DP suggested that the tone of the message was important, as the final policy is yet to be determined.
- 13.5 Pete Smith (PS) expressed concern about FRAs being able to contact all affected members in the short time remaining until 1 April 202. CJ suggested that the scheme manager could have some discretion around individual members' circumstances.
- 13.6 On 23 March 2022, a response was received from HMT to the SAB's letter of 17 December 2021 requesting more information on the rationale for the withdrawal of the Home Office's informal guidance on ID. JL said that the response was somewhat helpful.

- 13.7 However, JL was not content that all of the questions raised had been addressed satisfactorily and further noted that the tone of the letter was inconsistent, varying between what the implications ‘would’ or ‘could’ be.
- 13.8 GM said that the response needed to be shared with stakeholders. MR commented that the letter provided a useful explanation of the perceived issues.
- 13.9 HS asked why tax relief has been identified as a potential blocker, as contributions have to be corrected if a member is put accidentally into the wrong scheme. CJ commented that it is because they have legislatively been put into the wrong scheme, whereas here, the member is deemed to be in the correct scheme, legislatively, until October 2023. RH commented that legislation is needed to correct a member’s tax position.
- 13.10 ML felt that it should be within the government’s gift to resolve any tax issues across the whole of public sector.
- 13.11 JM added that the Police have taken legal advice which states that immediate detriment cases cannot be settled without undue risk to the employee and employer.
- 13.12 JL, being aware of the existing Framework agreed between the LGA and FBU at the request of all UK FRAs, suggested that the letter could be used to potentially seek further advice on specific points that were raised and taken into account for any possible revisions to the Framework.

**ACTION 24.03.2022 (13:12): To publish the HMT response with the next FPS bulletin on 31 March 2022.**

- 13.13 Finally, JL noted that it was Brian Hooper’s last meeting as he retires in May. JL offered thanks for Brian’s contribution to the Board and best wishes for a long and happy retirement.
- 13.14 The date of the next meeting was confirmed as 23 June 2022. Board members were asked for views on a virtual or in-person meeting. Hybrid meetings are not felt to be an efficient solution.



13.15 GM stated that physical meetings encourage engagement from all parties. Broad agreement was reached to have two physical and two virtual meetings in the annual cycle. It is intended that the June meeting will be held at Smith Square.





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# West Yorkshire Pension Fund - Key Performance Indicators

## Local Pension Board

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Date: 5 August 2022

Agenda Item:

14

Submitted By: Chief Employment Services Officer

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<b>Purpose</b>	To inform Members of West Yorkshire Pension Fund performance in key areas for the periods 1 January 2022 to 30 June 2022
<b>Recommendations</b>	That the report is noted
<b>Summary</b>	This report informs Members of the Authority's key areas against which West Yorkshire Pension Fund measure their level of service.

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Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: None

## 1 Introduction

1.1 The KPI report presents performance data from West Yorkshire Pension Fund in a number of key areas. Some of the areas included are as follows:

- Transfer in and out quotes
- Divorce quotes
- Pension estimates
- Deferred benefit set up
- Retirement quotes
- Retirement actuals
- Payroll changes
- Death notifications

## 2 Information

2.1 Data from **1 January 2022 to 30 June 2022**:

Case Type	Total Cases	Target Days	Target Met	Minimum Target Percent	Target Met Percent	Average Time Taken
Age 55 Increase to Pension	18	20	16	85	88.89	13.67
Change of Address	29	20	29	85	100	1.69
Change of Bank Details	19	20	19	85	100	1.95
DWP Request For Information	1	10	1	85	100	6
Death Grant Nomination Form Received	2	20	1	85	50	23.5
Death in Retirement	36	5	35	85	97.22	1
Death on Deferred	1	5	1	85	100	2
Deferred Benefits Into Payment - Payment of Lump Sum	9	3	4	85	44.44	6.11
Deferred Benefits Set Up on Leaving	6	10	2	85	33.33	93.33
Divorce Quote	2	40	2	85	100	23.5
Divorce Settlement - Pension Sharing order Implemented	1	80	1	100	100	1
Enquiry Fire	3	10	3	85	100	1
General Payroll Changes	104	20	103	85	99.04	1.79
Initial letter Death in Retirement	36	5	36	85	100	1
Initial letter Death on Deferred	1	5	1	85	100	1
Injury Review	135	20	135	100	100	1
NI adjustment to Pension at State Pension Age	32	20	29	85	90.63	15.59
Payment of Spouses _ Child Benefits	22	10	21	100	95.45	11
Pension Estimate	46	10	43	85	93.48	5.35
Pension Set Up - Payment of Lump Sum	23	3	21	85	91.3	1.43
Retirement Actual	23	10	23	85	100	1.43
Set Up New Spouse Pension	22	5	18	85	81.82	11.68
Spouse Potential	8	20	6	85	75	14.88
Transfer In Actual	10	10	7	85	70	5.7
Transfer In Quote	6	10	6	85	100	1.5
Update Member Details	15	20	15	100	100	1



OFFICIAL

# Firefighter Pensions Bulletins 53 - 58

## Local Pension Board

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Date: 5 August 2022

Agenda Item:

**15**

Submitted By: Chief Employment Services Officer

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

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Local Government (Access to information) Act 1972

Exemption Category: None

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Background papers open to inspection: None

Annexes: None

## 1 Introduction

- 1.1 The Local Government Association (LGA) produces a monthly bulletin which provides pension practitioners with updates on various pension related issues.
- 1.2 The bulletins are sent to Administrators, Scheme Managers, FRA pension contacts and LPB chairs as a matter of course.
- 1.3 There is an expectation of Members to scrutinise each bulletin and seek assurance from the Scheme Manager that all actions arising have been identified and acted upon.
- 1.4 Since the last LPB meeting in January 2022, there have been six bulletins published by LGA, actions arising from which can be found in the section below.
- 1.5 Copies of the bulletins have been circulated to Board members on receipt.

## 2 Information

- 2.1.1 [FPS Bulletin 53 – January 2022](#) had no actions arising and was purely for information.
- 2.2.1 [FPS Bulletin 54 – February 2022](#) had a number of actions for the FRA and administrator.
- 2.2.2

Action	FRA/Administrator	Status
Scheme managers to review abatement policy in light of Pensions Ombudsman determination PO-25374.	FRA	In progress
All parties to ensure changes needed for 1 April 2022 are in place before that date.	FRA & Administrator	Complete
Administrators to complete self-assessment survey by 18 March 2022.	Administrator	Complete

- 2.3.1 [FPS Bulletin 55 – March 2022](#) had three actions for the FRA.

2.3.2

Action	FRA/Administrator	Status
No later than 31 May 2022 FRAs to inform LGA of total numbers of members, split by scheme (FPS 1992, FPS 2006), affected by aggregation.	FRA	Complete
FRAs to contact all current former protected members and provide	FRA	Complete

key features of FPS 2015 communication.		
In addition to the pensions income/expenditure data that you will be submitting on DELTA, FRAs to send the Home Office electronic copies of the trial balances from audited accounts where the pensions income/expenditure data was extracted for completion of the audited 2020/21 DELTA return, to include any post balance sheet adjustment events.	FRA	Complete

2.4.1 [FPS Bulletin 56 – April 2022](#) had three actions for the FRA.

2.4.2

Action	FRA/Administrator	Status
Matthews – Second options exercise: FRAs to complete data request questionnaire by 30 June 2022.	FRA	Complete
Payroll workshop: FRAs to register their interest by 13 May 2022.	FRA	Complete
FRAs to provide LGA with information on who should receive generic pension information by 31 May 2022.	FRA	Complete

2.5.1 [FPS Bulletin 57 – May 2022](#) had two actions for the FRA.

2.5.2

Action	FRA/Administrator	Status
Matthews – Second options exercise: FRAs to complete data request questionnaire by 30 June 2022.	FRA	Complete
FRAs to provide LGA with information on who should receive generic pension information ASAP.	FRA	Complete

2.6.1 [FPS Bulletin 58 – June 2022](#) had a number of actions for FRAs and administrators.

2.6.2

<b>Action</b>	<b>FRA/Administrator</b>	<b>Status</b>
FRAs to submit pension income/ expenditure forecasts by 19 August 2022.	FRA	Noted – to be submitted in line with deadline
FRAs and administrators to use the Bluelight inbox for email correspondence with the Bluelight team.  FRAs and administrators to complete query form when submitting a technical query.	FRA	Noted
Administrators to include ABS factsheet with 2021/22 benefit statement distribution.	Administrator	WYPF confirmed information will be included
TPR dashboard guidance: FRAs to read dashboard guidance and book onto webinar.	FRA	Complete