

## Breach report to the Pensions Regulator

Breach of law details	
Breach no	TBC 002
Date breach reported	16 November 2018
Report Responsible Officer	Michael Mann
Type of breach disclosure that has been breached	A breach of the law in terms of a failure to comply with overriding legislation and statutory guidance
Details of the breach	<p>Following a court ruling in 2006 (Matthew v Kent) retained firefighters won the right to elect to join the modified section of FPS 2006.</p> <p>Eligible individuals are those who were employed as retained firefighters for all or part of the period 1 July 2000 to 5 April 2006 inclusive. The individuals were unable to join the Firefighters' Pensions Scheme 1992 when they started employment. Those who were employed as whole-time and retained under the same contract are not eligible.</p> <p>In January 2014, DCLG wrote to all Fire and Rescue Authorities informing them that enabling legislation relating to the modified scheme was due to be published shortly and FRA's would be expected to implement an options exercise to give those eligible individuals an opportunity to join the scheme. FRA's were asked to respond by 7 February 2014 detailing who would be the named contact for the exercise and confirmation that the process had started to identify eligible individuals and issued letters advising entitlement.</p> <p>The closure date for the exercise was 30/09/2015. After this deadline no further elections could be</p>

	<p>made to join the scheme. We believe no legal vires for entry to the scheme after 30/09/2015 exists.</p> <p>An e-mail from HMRC was received in June 2017 requesting information on back dated pension payments and PAYE tax deductions for the eligible individuals mentioned above. Responses were requested by 31 July 2017. We have asked and been given an extension to this timeframe.</p> <p>The Surrey Firefighters Pension Scheme has not completed this exercise and is now timed-out with effect from the 30<sup>th</sup> September 2015 in terms of complying with this court ruling.</p>
<b>Rectifying the breach</b>	
Has this breach been rectified?	No – legal advice is being sort on how to correct the matter
What steps have been taken to rectify the breach	<p>A New Senior Pension Team has recently been put in place and the resolution of this breach is a top priority for that team. Additionally:</p> <ol style="list-style-type: none"> <li>1. The problem has been “sized” as follows. As at July 2018, 214 individuals had been identified as being eligible to join the modified section of FPS 2006. Of this number; 44 are still active, 74 are leavers, 6 are pensioners and 23 are members of the New Firefighters Pension Scheme.</li> <li>2. Key Stakeholders (Surrey Fire and Rescue, Fire Local Pension Board, Surrey Chief Exec, Home Office/LGA, HMRC) have been advised that the exercise has not been completed.</li> <li>3. We are obtaining Legal advice on what our next steps and options are to correct the matter</li> <li>4. We are collecting the necessary pensionable pay and eligibility dates for the impacted</li> </ol>

	<p>individuals in order that we can correct the matter.</p> <ol style="list-style-type: none"> <li>5. Following legal advice we will contact all eligible individuals to advise them of the issue and how we propose to correct the matter.</li> <li>6. We will respond to HMRC regarding tax relief as part of declaration to stakeholders Produce a project plan and appoint a Project Manager to progress the resolution of this matter.</li> </ol> <p>TPR guidance sets out that this is a “red” Regulatory Breach as the SF&amp;R had an overriding responsibility to ensure compliance with the enabling legislation in 2014 and 2015 and this has not occurred.</p>
<b>Additional breaches of any other information</b>	
Breach details or additional information	None

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