



FPS Bulletin 42 – February 2021

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

Face-to-face meetings and training remain suspended due to restrictions on travel and social distancing. However, the Bluelight team are available at home by mobile, email or video.

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

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

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Calendar of events

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

Table 1: Calendar of events

Event	Date
LGA virtual annual fire conference	1 – 4 March 2021
FPS coffee and catch up	Every second Tuesday from 9 March 2021
SAB	11 March 2021
SAB	24 June 2021
SAB	9 September 2021
SAB	9 December 2021

Actions arising

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

[Remedy data collection](#): FRAs should read the draft data collection guidance and consider any processes or additional resources that need to be put in place to identify the data required, in advance of the standard template being provided.

FPS

Age discrimination remedy consultation response published

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

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

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

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

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

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

More information can be found on our [age discrimination remedy implementation](#) page.

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

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

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

Valuation

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

2016 valuation

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

The cost cap for the FPS was set as 16.8 per cent¹ as at 1 April 2015. The provisional result of the 2016 valuation before the pause was effected was a cost cap cost of 11.6 per cent², which was 5.2 per cent lower than the cost cap floor set in April 2015.

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

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

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

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

2020 valuation

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

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

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

¹ <https://www.legislation.gov.uk/ukxi/2015/465/regulation/5/made>

² <https://www.fpsregs.org/images/Valuation/Valuation2016FV.pdf> [Table 3.6]

Transitional protections pensions claims: Schedule 22 appeal judgment

On 12 February, the Employment Appeal Tribunal (EAT) gave its judgment on the FRAs' appeal based on Schedule 22 of the Equality Act 2010. This appeal was based on the argument that the FRAs did not make the legislation which was found by the Court of Appeal to be discriminatory on grounds of age but were bound to follow it because it was the law. The EAT held that the FRAs cannot rely on the Schedule 22 defence.

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

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

Immediate Detriment

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

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

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

The note from the Home Office is labelled as informal guidance only. There has been no update from HMT or the Home Office on this note since it was published in August 2020, albeit a more cautionary note was included under [question 10 of the Home Office FAQs](#) that the legislation that allows schemes to do this is limited in effect (we believe that is a reference to Section 61 of the Equality Act), which does not allow for all consequential matters to be dealt with satisfactorily in all cases. For example, in cases where there are interactions with the tax system, perhaps where members have incurred or will incur tax charges or where contributions differ between the schemes.

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

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

The Scheme Advisory Board (SAB) requested data from FRAs on these cohorts but only received 33 of 45 replies³.

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

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

4. What governance might FRAs put in place to assure themselves that:
 - a. The correct benefits will be paid to members
 - b. Members have been satisfactorily made aware of expectations such as future payments owed due to interest being applied to contributions arrears.
 - c. Necessary processes will be in place to calculate and record the payments due bearing in mind that no automated processes or systems are available for the calculations until the significant software development needed has been completed.
5. How might they record their decision making so it is clear and transparent?

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

Draft remedy data collection guidance

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

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

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

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

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

FPS contribution rates 2021-22

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

These rates have subsequently been amended each year by an amendment order to the schemes. The most recent amendments⁴, which came into force on 1 April 2015, listed the rates applicable from 2015-2016 to 2018-2019, including contribution rates for Special Members of the Firefighters' Pension Scheme (England) 2006.

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

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

Lifetime allowance factsheet updated

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

February query log

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

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

⁴ [SI 2015/579](#), [SI 2015/590](#)

FPS England SAB updates

SAB LPB effectiveness committee vacancy

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

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

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

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

Other News and Updates

Exit payments cap revoked

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

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

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

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

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

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

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

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

HMT consult on implementation of increased normal minimum pension age

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

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

The consultation closes on 22 April 2021.

Pension Schemes Bill becomes law

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

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

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

Read more about the [passing of the Pensions Schemes Bill and the impact on pensions dashboards](#) on the Pensions Dashboards Programme website.

PASA publishes GMP equalisation guidance on tax issues

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

Events

FPS coffee mornings

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

The next event is scheduled to take place on 9 March 2021. If you would like to join us, please email bluelight.pensions@local.gov.uk.

LGA Annual Fire Conference March 2021

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

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

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

[Fire Minister \(Zoom webinar\)](#) Monday 1 March 11.00 – 12.30pm

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

[Inspection \(Zoom meeting\)](#) Monday 1 March 2021, 2.00pm – 4.00pm

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

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

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

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

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

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

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

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

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

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

HMRC

HMRC newsletters/bulletins

On 3 February HMRC published [Pension schemes newsletter 127](#) containing important updates and guidance for schemes. Articles include:

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

Legislation

Act	Title
2021 c.1	Pension Schemes Act 2021

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

Useful links

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

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