



## Surrey Local Firefighters' Pension Board 28 April 2022

### FIRE BULLETINS

The Pensions Board has adopted a procedure to ensure that any FPS Bulletins released by LGA are reviewed and any necessary actions are noted and tracked through to completion.

Bulletins 53, 54 and 55 (Annex 2) have been published since the last Board meeting.

- 1.1 Bulletin 53 highlighted the LGA is aware many FRA's are still considering whether to adopt the Immediate Detriment Framework. The LGA will shortly be contacting each FRA to ascertain their personal stance on the framework to understand the current landscape. This feedback will assist the LGA when speaking to other parties to identify solutions or support that is needed.
- 1.2 The bulletin noted the [LGA submitted its response to the Home Office consultation on the prospective changes](#) to remove the transitional protections from the 2015 scheme. The changes are due to come into force on 1 April 2022.
- 1.3 Bulletin 53 reminded readers that due to the 1 April 2022 deadline for prospective changes to be implemented with respect to the age discrimination case, many FRA's should be working through the guidance in bulletin 41 and collating the data to populate the FPS remedy data collection template. SFRS confirmed to XPS in February 2022, that the data collection exercise can commence and is waiting for the template to be sent over to start this task.  
  
The LGA added they are planning on setting up working groups and are happy to deliver training and/or knowledge refreshers. This is something which the Service will look onto obtaining as this would be beneficial for our knowledge to answer any member queries.
- 1.4 The bulletin highlighted the Scheme Advisory Board remedy self-assessment survey was distributed to each FRA in December 2021. A summary of this has been created by the Pension Project Team detailing the Service's responses against other FRA's. This was distributed to all Local Firefighters Pension Board members in February 2022. The bulletin went on to add that the LGA found the self-assessment surveys so useful to understand FRA's positions on the McCloud / Sargeant and Matthews remedies, that they are planning to run a survey targeted to the administrations. All submitted surveys will be sent to the LGA who will pass these onto the Scheme Advisory Board for analysis.

1.5 The bulletin confirmed the [SAB submitted its response to the consultation](#) on the prospective changes to the pension scheme regulations which are due to come into force on 1 April 2022. This response will be interesting for the Pension Project Team to see the SAB's views.

1.6 Bulletin 53 confirmed the SAB budget for 2021/2022 has been approved by the minister and the invoicing process has started. The invoicing process is based on the shared agreement FRA's made in 2014 to fund a technical adviser post to support FRAs with their understanding and management of the Firefighters' Pension Schemes. The employers' voluntary subscription is included in the final levy. The total levy for the 2021-22 year will be £9.16 per firefighter, which is calculated at £6.88 for the SAB and £2.28 for employers. The first stage of the process is for FRAs to provide a valid purchase order number, stating the number of employees eligible to join one of the Firefighters' Pension Schemes as of 1 April 2021, using the form provided with the letter sent to FRA's on 11 January 2022.

1.7 The bulletin highlighted FRA's are able to respond to the Department for Work and Pensions (DWP) consultation on the Pensions Dashboard Regulations. The consultation is voluntary and is open until 13 March 2022. The SAB provided links to their responses to the consultations in [2019](#) and [2021](#) on this topic as a reference point for FRA's. DWP is hosting a series of webinars connected to the consultation to help stakeholders form their responses. FRAs can register for the webinars on the [PDP webpage publicising the consultation](#). The Pensions Project team has had conversations on this topic in their steering group meetings and service meeting with XPS Administration.

1.8 Readers were informed of a dismissed judicial review which challenged the McCloud ruling brought by the Police Superintendents' Association (PSA). The PSA challenged the legality of the consultation remedying the discrimination identified in the McCloud judgment in the unfunded public service schemes and the decision to close the legacy schemes on 1 April 2022.

The Court upheld some aspects of the PSA's claims and found that the Government had not given clear conscientious consideration to the consultation responses before deciding to close the legacy schemes on 1 April 2022 and that parts of the public sector equality duty was breached. The Court decided against granting relief as it found it highly likely that the Government would have made the same decisions if the breaches had not occurred. This may explain the reason for the delay in information being sent to FRA's in relation to the McCloud / Sargeant case.

1.9 Bulletin 53 reminded readers of the [HMRC newsletter/bulletin which was released on 17 January 2022](#). The newsletter contained articles on:

- Relief at source — notification of residency status report for 2022 to 2023
- Normal minimum pension age (NMPA)
- Extension to some of the temporary changes to relief at source processes
- Maintaining qualifying recognised overseas pension schemes (QROPS) status
- Pension flexibility statistics
- Managing Pension Schemes service
- Scheme Pays reporting

The newsletter provides the Pensions Project Team the chance to gain some further information on the above points.

1.10 Finally the bulletin reminded FRA's that from Mid-March 2022, they will no longer be able to submit their Accounting For Tax returns via the Pension Schemes Online Service. Instead for returns reporting from 1 January 2022, FRA's need to migrate their pension

scheme in time to the Managing Pension Schemes service, and compile and submit their AFT by the 15 May 2022 deadline.

2.1 Bulletin 54 commenced by confirming the position on the Immediate Detriment Framework (IDF), remains the same. The LGA is continuing to press the government for further advice and is aware similar issues are arising across other public service schemes. The LGA also approached FRA's to provide their position on the IDF and barriers they are encountering via a short survey. The Pensions Project Team completed this on 24 February 2022 ahead of the 28 February deadline 2022.

2.2 The Pensions Project Team at SFRS were reminded of the recent Pension Ombudsman ruling (P25374), that all FRA's should ensure they have an abatement policy in place. This was due to a FRA identifying an re-employed pensioner should have been abated on employment and was not. The FRA sought to recover the over payment of pension, however the member challenged this as they believed the FRA had a duty of care to alert them at the outset that their pension would be abated. Whilst the Ombudsman determined the FRA didn't have an additional duty of care other than to provide the correct information, the complaint was partially upheld due to the extent the FRA did not follow a reasonable process when exercising their discretion under rule K4 of FPS 1992. The LGA confirmed the legal advice from the SAB stated FRA's should consider changing their policy on blanket abatement to allow discussion of individual circumstances, so proper consideration is taken when agreeing whether abatement should apply. It is also recommended that FRAs formally document each decision to evidence that they have made an informed decision. An abatement policy has been highlighted by the team as being required and is in place to be written by end of June 2022.

2.3 The Bulletin detailed the actions FRA's must take imminently with relation to all members transitioning to the FPS 2015 pension scheme. This included:

- All payslips stating the correct scheme the employee is contributing
- Informing all members they will now be part of the FPS 2015
- Communicating to members that their contribution rates may change due to the transition to the FPS 2015 scheme.

All members were contacted the week commencing 14 March 2022 in relation to the second point. As a side note, the contribution bands themselves have not changed, however the move from a legacy scheme to the FPS 2015 scheme may mean member contribution rate to their pension will change.

2.4 In addition to communicating to members their pension scheme will be transferred to the FPS 2015 scheme, FRA's were encouraged in Bulletin 54 to inform members who are identified to lose their lifetime allowance protection due to the transition on 1 April. The Pensions Project Team received confirmation from XPS Administration that no members would lose their protection.

2.5 Bulletin 54 reminded all FRA's to submit their responses to the administrator self-assessment survey. The survey was emailed directly to administrators on 24 February 2022. The survey aimed to ascertain FRA's preparations made in relation to the implementation of the age discrimination remedy as well as their readiness for Matthews and Pension Dashboards.

2.6 The Bulletin informed readers of an action from the SAB meeting on 30 September 2021, whereby a suite of illustrative members scenarios in relation to McCloud / Sargeant remedy needs to be provided. As a result Barnet Waddingham was appointed to deliver this work. The first part of the work was the creation of a myth busting fact sheet. This was shared with FRA's in February. The Pensions Project Team shared this with its members on 18 February

2022 via the SFRS Newsletter and again as part of the communications to active members on the transition to the FPS 2015 scheme, in the week of 14 March 2022.

2.7 The LGA expressed in Bulletin 54 further concerns it holds on the proposed staging deadline of April 2024 for public service pension schemes including FPS, to be available on the Pensions Dashboard. The LGA will be responding on behalf of the LGA and SAB that the deadline is a concern due to the pressures FRA's face to have the data available, as well as the McCloud remedy regulations only coming into force 6 months before (October 2023). The Matthews second options exercise is also expected to be underway throughout Q3 2023/2024 too. The Pensions Project Teams recognises many members may be disappointed their pensions may not be on the dashboard until a later date if the recommendations expressed by the LGA are taken on board. However it will mean that when the pensions are available, they will reflect McCloud and accurately display their pension, so a greater benefit and confidence in the dashboard will be gained.

2.8 Bulletin 54 confirmed on 9 February 2022, the DWP launched a call for evidence to gather views for the review on pension state age. The review takes place every six years and the DWP asks a variety of parties including members of the public, for their stance on the following areas:

- Intergenerational fairness
- Notice periods for State Pension age changes
- Changes in working patterns
- Predicted future changes to the workplace
- Sustainability and affordability
- Options for taking into account differences in circumstances when setting State Pension age
- What metrics should be considered to determine State Pension age.

These will all help the government on what to consider when setting the state pension age in the future.

2.9 The bulletin highlighted the threshold for employees to be automatically enrolled into a workplace pension scheme has remained at £10,000 for 2022/23.

3.1 Bulletin 55 commenced to confirm the Home Office published its consultation response on prospective remedy and a frequently ask questions document. The consultation confirms the changes to the pension scheme regulations to remove the transitional protections from legacy schemes to FPS 2015, and provide provisions for an ill health (IH) underpin. A further consultation will take place later in the year to work through the retrospective remedy requirements and finalise the deferred choice underpin (DCU). The ill health underpin ensure that members who are in the process of retiring due to IH are not left in a less favourable position should the process have concluded prior to 1 April. The Service can confirm those who are in the process of going through the IH process have been recorded so their pensions are not negatively impacted.

3.2 The bulletin highlighted the MoU was drafted and signed by the required parties and shared to FRA's in March with respect to the Matthews case and the second options exercise. It confirmed the time period the Home Office has until the second options exercise needs to open (September 2023), and the deadline when FRA's need to complete the tasks for all affected members (18 months from the date the legislation comes into force). The next steps for FRA's to complete prior to the second options exercise were reconfirmed in the bulletin and the Service can confirm these are in progress.

3.3 Bulletin 55 informed readers of a further letter to send to protected members following on from the transition to FPS 2015 from 1 April 2022. A template was provided by the LGA which the Service will send out accordingly by the end of April 2022.

3.4 Readers were notified of contingent decisions specific to optant outs. Due to the introduction of FPS 2015 and the changes made to it, some firefighters chose to opt out of the pension scheme rather than transition into FPS 2015. The government has recognised in its Public Service Pensions consultation response that some members may not have opted out if they knew they could continue their legacy scheme during the remedy period. A final policy on this has not yet been finalised, however FRA's are urged to note this matter for when actions need to be taken.

3.5 The bulletin provided a comprehensive breakdown on contingent decisions: "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. This could therefore mean that their 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 during the remedy period.

We understand that some members have indicated that they want to buy back their opted-out service for the remedy period, as they want to retire as an active member. If this is the case, members should speak with their pension/payroll department and arrange to be opted back into the FPS on or before 1 April 2022."

3.6 Bulletin 55 highlighted the final outcome of the [cost control element of the 2016 valuation](#) for the FPS in England was published and confirmed a breach to the cost cap ceiling of 14.6%. The report concludes the 2016 valuation is not used to set the employer contribution rates and any changes from the 2020 valuations will take effect in 2024. The bulletin provided a background on this topic whereby in 2021 the government announced proposed changes to the Cost Control Mechanism (CCM) to be implemented in time for the 2020 valuations. These changes will not affect 2016 valuations as the government found it inappropriate to reduce member benefits if the CCM was not working as intended. If any breaches are reported for the 2016 valuations, the government has confirmed these will be waived.

3.7 The bulletin reminded FRA's to work towards submitting audited 2020/21 and unaudited 2021/22 pensions income/expenditure data as part of this year's top up grant claim via the new DELTA online system. The Service can confirm it is aware of this and the deadlines. The bulletin also noted the comparison checks FRA's should make when submitting to DELTA.

3.8 Bulletin 55 highlighted the Scheme Advisory Board (SAB) has received a [response from HMT](#) which outlined the factors behind the withdrawal of the MoU for the Immediate Detriment framework. The response highlights that "Section 61 of the Equality Act 2010 does not, in HMT's opinion, allow for amendment of a member's tax position. The response details several tax complexities which have been identified and will be dealt with through legislation."

3.9 Readers were informed that the Public Service Pensions and Judicial Offices Bill (PSPJO) received Royal Assent on 10 March 2022, thus becoming an act (PSPJOA 2022). This will come into force on 1 April 2022. The PSPJOA 2022 legislation confirms the means the government will remove the age discrimination as identified by the courts when the 2015

reforms were introduced. The changes to the FPS 2015 were implemented to provide public servers with increased certainty of the entitlements they will receive on a fairer basis, and ensure the pension remains affordable going forward.

3.10 The Bulletin confirmed the LGA and SAB submitted their responses on 11 March 2022 to the Department for Work and Pensions consultation on the pension dashboard. The response confirmed that whilst the LGA and SAB feel the dashboard will be beneficial, the staging date which FRA's are due to meet is very close to the implementation date of McCloud and Matthews legislation. This will cause additional pressure on FRA's to ensure the data is available on time. The LGA and SAB requested a staging date of April 2025.

3.11 It was confirmed the Finance Act 2022 received Royal Assent on 24 February 2022 and comes into force on 6 April 2022. There are two sections which will have an impact on the 2015 remedy:

- "Section 9: Annual allowance deadlines. Deadlines for electing for scheme pays and associated payment and reporting deadlines will be extended for certain members who are informed of a change in pension input amount for a past pension input period.
- Section 11: Powers to change tax rules related to the McCloud remedy. The Act provides HM Treasury (HMT) with wide powers to make regulations to address tax impacts that arise as a result of implementing the McCloud remedy. Different regulations may apply to different public service pension schemes. The regulations will have retrospective effect".

Secondary legislation may be required although this is not anticipated until late 2022.

3.12 It was confirmed the timelines for members to make or amend a mandatory scheme pay to pay for an annual allowance change is changing. The LGA is reviewing the changes and how this will impact members. Further information will be provided in due course.

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### **Annexes**

Annex 1: FPS Bulletin 53

Annex 2: FPS Bulletin 54

Annex 3: FPS Bulletin 55