

FPS Bulletin 15 – December 2018

Welcome to issue 15 of the Firefighters' Pensions Schemes bulletin.

If you are looking for information on a certain topic, don't forget to visit the issue and content indexes which are available on the main bulletin page of the website and are updated following each new issue.

May we take this opportunity to wish you all a very merry Christmas and happy New Year. Thank you for your help and support during 2018.

If you have any comments on the contents of this bulletin or suggested items for future issues, please contact [Claire Hey](#).

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Calendar of events



Many readers will remember Eunice Heaney and the tales of “Willie Sprinkler”. We are delighted that Eunice has reprised Willie’s starring role for our final bulletin of the year.

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 contact [Claire Hey](#).

LPB effectiveness committee	23 January 2019
Fire Communications Working Group	30 January 2019
Administration & benchmarking committee	7 February 2019
Firefighter Pensions Technical Community	12 February 2019
North East regional FPOG	19 February 2019
LGA Leadership Essentials Fire & Rescue (Elected members)	26-27 February 2019
Eastern regional FPOG	27 February 2019
Midlands regional FPOG	1 March 2019
LGA annual fire conference and exhibition	12-13 March 2019
SAB	14 March 2019
SAB	13 June 2019
Firefighters’ Pensions AGM	24-25 September 2019 (provisional)
SAB	10 October 2019
SAB	12 December 2019

FPS

A message from the chair

"Dear friends & colleagues,

If you're reading this, 'Congratulations!', you have virtually made it to the end of another busy year working in and supporting the Fire Pensions domain; only a few more days and you can officially relax, chill and hopefully enjoy your Festive celebrations with family and friends.

It has undoubtedly been a busy year..."

Read more from Malcolm Eastwood, chair of the Firefighters' Pensions (England) Scheme Advisory Board at [Appendix 1](#), with a summary of the year that has passed and a look the challenges ahead in 2019.

Court of Appeal transitional protections judgement

As you will be aware, yesterday the Court of Appeal handed down the judgment in the Firefighters transitional appeals case. The full judgment is available [here](#).

It is important to note that the case relates only to the transitional protection arrangements in the 2015 firefighters' pension scheme, and whether these are discriminatory. It does not address the introduction of that scheme itself by the primary legislation of the Public Service Pensions Act 2013.

The case itself has rested on two principles:

- Did government have a 'legitimate aim' in introducing the transitional protection as it did, noting a legitimate aim cannot be solely for financial reasons?

and

- Were the means to achieve this appropriate and reasonably necessary?

The earlier employment tribunal and the employment tribunal appeals had reached the answer 'yes' on this first question, however, the court of appeal has overturned the first two judgments, coming to the conclusion in paragraph 233 that 'the manner in which the transitional provisions have been implemented has given rise to unlawful direct age discrimination'.

The court found that, having introduced the protections, the Government should have justified the discriminatory impact but that it had failed to do so, and therefore justification on the grounds of legitimate aims must fail. As a result they dismissed any further deliberation over the question on proportionality of means.

The judgment remits it to the employment tribunal to consider remedy (as per the final sentence of paragraph 164) but, before that step Government can apply for permission to appeal to the Supreme Court, so we cannot speculate on what remedy might involve or what timeframe. **It is important to note that nothing has yet changed in law, and so there is no action for scheme managers or administrators to take with regards to the scheme.**

We understand that Fire and Rescue Authorities and pension administrators will be responding to many queries on this from Firefighters who may believe the judgment from the Court of Appeal automatically amends the scheme rules, and would suggest the following text in reply to such queries.

“Many thanks for your enquiry, we are aware that the Court of Appeal has handed down the judgment in the Firefighters transitional appeals case, finding that the transitional protections introduced with the new Pension scheme in 2015 were unlawfully discriminatory on grounds of age.

It is important to note that the case relates only to the transitional protection arrangements in the 2015 firefighters’ pension scheme, and whether these are discriminatory. It does not address the introduction of that scheme itself by the primary legislation of the Public Service Pensions Act 2013.

What happens next?

We realise that scheme members want to understand what this means for their pension, however, we cannot yet speculate on what remedy might involve. The judgment remits it to the employment tribunal to consider remedy, but before that step Government can apply for permission to appeal to the Supreme Court. So it will most likely be many months before we are able to understand what this means for pension scheme benefits.

In the immediate future, your pension benefits will remain calculated as under the current regulations.

We will endeavour to keep you informed as things progress.”

FPS 2016 valuation – update

On 7 December 2018, the Scheme Advisory Board (SAB) submitted their proposal to the Home Office for rectifying the breach to the cost cap floor by improving member benefits. As advised in previous bulletins, the draft results of the 2016 valuation show that the employer cost cap set at 16.8%¹ has fallen to 11.6%.

The Home Office are considering the proposal with input from HM Treasury and the Government Actuary’s Department (GAD) before a full response can be made to the SAB. If the proposed option is not accepted, the Home Office will provide an alternative option and there will be a period of three months if agreement cannot be reached, during which the Home Office will continue to engage with the SAB to attempt to agree a consensus position.

If a consensus position is not reached within that three month period, the default mechanism is to amend the accrual rate for FPS 2015. GAD has advised that the default accrual rate would be 1/51.2 in order to fully rectify the breach.

Our colleagues at the Home Office have looked into whether it would be possible to provide indicative scheme specific employer contribution rates from April 2018. GAD has advised that they can’t provide indicative rates and that FRAs will have to wait until the Scheme Valuations are finalised and the final scheme specific rates are published.

As such, the general indicative rate of 30.2% is the only information available at present which FRAs can use for budget planning purposes.

Board consultations and responses will be published [here](#) once they are available, and monthly updates will be provided in the bulletins. GAD’s [Public Service Pension Scheme December newsletter](#) also contains interesting information on the valuation and the SCAPE discount rate.

¹ [150A(1) <http://www.legislation.gov.uk/ukxi/2015/465/regulation/5/made>]

Amendments to Firefighter Pension Schemes (England) - Consultation

On 18 December 2018 the Home Office launched a consultation on changes to survivor benefits in the Firefighters' Pension Scheme 1992 and the Firefighters' Compensation Scheme 2006, plus a minor unrelated correction to the Firefighters' Pension Scheme 1992.

In the event of a member's death, the firefighters' pension schemes provide for the payment of certain benefits and awards to a member's spouse or partner ('survivors' benefits'), but as regards qualification for benefit, there are different regulations according to which particular pension scheme the member belonged.

A recent Supreme Court case relating to the entitlements of a pension scheme member's partner has led the Government to give fresh consideration to this matter for all public service pension schemes, including those for firefighters.

In addition, an unrelated minor amendment is required to ensure that one particular aspect of the 1992 Fire scheme works as originally intended.

This [consultation](#) seeks the views of interested parties on [draft legislation](#) to enact these changes. The consultation closes on 29 January 2019.

Revised Fire (England) factors

Further to the letter issued by the Home Office on 31 October regarding the [review of scheme factors](#) due to the change to the SCAPE discount rate, GAD has provided the following replacement factor tables for use with immediate effect from 6 December 2018.

[Appendix 2](#): Early and Late retirement.

Please note that there are different late retirement factors for mainstream pension and added pension.

[Appendix 3](#): CETV and Pensioner Cash Equivalent (for divorce purposes).

CETV and certain other calculations should have been suspended on 31 October 2018. Such calculations can now recommence using the new factors, including on any stockpiled cases. For all other types of calculation, including early retirement, FRAs should follow the usual practice of changing their methods of calculation from the time when new factors are circulated.

GAD has informed us that they will update the guidance and example calculations to reflect these revised factors at a later date. The updated tables and subsequent guidance will be made available at <http://fpsregs.org/index.php/gad-guidance> in due course.

ACTION: Pension Board Chairs and Scheme Managers, please ensure you liaise with your pension manager to ensure that the factors are applied with immediate effect.

FPS benchmarking exercise – update

The deadline for the administrator and employer (scheme manager) benchmarking surveys is fast approaching. If you have not yet had opportunity to do so, we would encourage you to ensure that a response has been submitted for your organisation. We are relying on the support of our stakeholders to collect as much data as possible to allow for meaningful analysis. We are happy to accept responses up to 14 January 2019.

The surveys were sent by email to our main contacts at administrators and FRAs. If you were expecting to receive a copy and have not, please contact claire.hey@local.gov.uk.

Aon have been commissioned to undertake the review by the Scheme Advisory Board (SAB), to help them establish a measure of the cost and effectiveness of administration and management within the schemes. An update from Aon can be viewed [here](#).

More information about the project is available on our dedicated [benchmarking webpage](#) and further updates will be provided in the bulletin each month.

SAB request for information

During the course of their activities throughout the year, SAB members have been made aware of concern at FRAs around opt out levels, and difficulties surrounding recruitment and retention of talented and experienced personnel due to potential tax consequences of breaching the annual allowance.

To date, the evidence received has been anecdotal. In order to support the Board in presenting a case to the Home Office on how schemes might be better managed to give choice and flexibility to pension members to stay in the scheme, more quantitative data is required.

The SAB needs your help in collecting this information. Please see the request for information at [Appendix 4](#). Completed forms should be submitted to bluelight.pensions@local.gov.uk by 31 January 2019.

December 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 on a monthly basis in line with the bulletin release dates.

Queries from earlier months have been grey-shaded to differentiate from new items added in November.

Website resource update – guides and sample documents

We are pleased to add the following documents that have been produced in collaboration with the Fire Communications Working Group to the [guides and sample documents](#) page of www.fpsregs.org:

Retirement from FPS 2015 - member factsheet
Opting out of FPS 1992 – notes
Opting out of FPS 2006 (standard member) – notes
Opting out of FPS 2006 (special member) – notes
Opting out of FPS 2015 – notes
Election to opt out (all schemes)

Other News and Updates

Pensions dashboards

The results of a feasibility study to explore the options for the delivery of online pensions dashboards were released in the form of a government [consultation](#) on 3 December 2018. The consultation is seeking views on how the government can best facilitate an industry-led delivery of a pensions dashboards. The consultation closes at 11pm on 28 January 2019.

The consultation proposals include the following:

- a non-commercial dashboard be hosted by the [Single Financial Guidance Body](#) (SFGB) together with multiple commercial dashboards hosted by different organisations, in order to improve consumer choice and enable them to use the dashboard that most suits their needs.
- the establishment of a delivery group, convened and stewarded by the SFGB, which would work towards the successful implementation of the technology that will allow pensions dashboards to operate.
- a single 'Pension Finder Service' (PFS) will act as a search engine to find pension schemes linked to an individual.
- state pension data will ultimately be part of the service.
- with the consent of the individual, pension schemes will be required in legislation to provide an individual's data via pensions dashboards.
- Public service pension schemes be given longer lead-in times to prepare their data prior to on-boarding. It is expected that the pensions industry will start to supply data to a dashboard, on a voluntary basis, from 2019, the majority of schemes will be on-boarded within 3 to 4 years from the first dashboards being available to the public.

New TPR Chief Executive

On 18 December, the Pensions Regulator (TPR) [announced](#) they have appointed Charles Counsell as their new Chief Executive. Charles Counsell is currently Chief Executive of the Money Advice Service and will join TPR at the start of April following the departure of Lesley Titcomb at the conclusion of her term as Chief Executive at the end of February.

TPO news

On 17 December, DWP [announced](#) that Anthony Arter has been re-appointed as the Pensions Ombudsman for a further two years until 31 July 2021.

On 19 December, the government published a [consultation](#) seeking views on proposals for a new function at TPO for the earlier resolution of disputes prior to a determination; allowing employers to make complaints or refer disputes to TPO on behalf of themselves and associated signposting provisions. The consultation closes at 11pm on 18 January 2019.

TPO have published the fifth edition of their stakeholder newsletter which is attached to this bulletin as [Appendix 5](#).

Earlier communications from TPO and a full history of determinations in relation to FPS can be found [here](#).

Indexation of public service pensions

On 4 December, HMT issued an updated [direction](#) under Section 59A of the Social Security Pensions Act 1975. The direction continues existing indexation provisions and, as a result of HMT's 2017 consultation on [GMP indexation and equalisation](#), extends the arrangements to some additional groups of pensioners.

Our colleagues on the Local Government Pension Committee Secretariat have confirmed that they will review the updated direction and issue guidance which may be adapted for use by the other PSPS in the new year.

HMRC

HMRC newsletters/bulletins

HMRC have published the following newsletters this month:

[Manage and Register Pension Schemes service newsletter](#) – 11 December 2018

[Relief at source pension schemes newsletter](#) – 5 December 2018

Contracting-out reconciliation update

The following bulletin, containing important guidance and information about the end of contracting out and the scheme reconciliation process, was published by HMRC in December.

[Countdown bulletin 40](#)

Updates include:

- Scheme Financial Reconciliation
- Contributions Equivalent Premium guidance
- Shared Workspace
- Clerical Scheme Reconciliation Service (SRS)
- SRS Stalemate Queries

Events

That was the year that was...

Throughout the year we have been privileged to travel the country, attending meetings and providing training to FRAs, LPBs, and administrators. We have held a number of national training seminars at the LGA offices in London, as well as pursuing joint opportunities with our colleagues in police.

Information about our national events can be found on our [Events](#) page.

The year in figures

14 Local Pension Board meetings/ training	1 administrator training
1 scheme manager training	1 software provider training
4 SAB and 8 SAB committee meetings	3 technical group meetings
3 communication group meetings	15 regional FPOGs
1 AGM	2 subject specific workshops
1 joint governance event	10 sector-wide events

The year in pictures



We look forward to offering an exciting and varied programme of events in 2019, and as ever, are happy to tailor bespoke sessions for local and regional groups. For information, please contact us as bluelight.pensions@local.gov.uk.

Legislation

SI	Reference Title
2018/1330	The Financial Guidance and Claims Act 2018 (Commencement No. 5) Regulations 2018

Useful links

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

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