

Due to the current heightened security level at all our premises, Members are reminded to wear their identity badges whilst attending meetings. Any visitors must produce photographic identification at Reception.

FIRE & RESCUE AUTHORITY SUMMONS

SOUTH WALES FIRE & RESCUE AUTHORITY

You are required to attend a meeting of the Local Pension Board Committee to be held on:

Monday, 16 October 2023 at 1030 hours

**In person at South Wales Fire & Rescue Service Headquarters,
Forest View Business Park, Llantrisant, CF72 8LX**

or

Remotely via MS Teams – <https://bit.ly/LocalPensionBoard-16-10-23>

Please ensure you join the meeting 15 minutes prior to meeting time

**Any issues please contact
01443 232000 and ask for Member Services**

A G E N D A

1. Apologies for Absence
2. Declarations of Interest

Members of the Fire & Rescue Authority are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct.

3. Chairperson's Announcements
4. To receive the minutes of:

- Local Pension Board Committee held on 3 July 2023 5

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12. To consider any items of business that the Chairperson deems urgent 231

Signature of Monitoring Officer:



MEMBERSHIP

Councillors:

J	Morgan	Blaenau Gwent
C	Elsbury	Caerphilly
D	Naughton	Cardiff
P	Drake	Vale of Glamorgan
P	Davies	Fire Brigades' Union
G	Tovey	Fire Brigades' Union
D	King	FRSA

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SOUTH WALES FIRE & RESCUE AUTHORITY

MINUTES OF THE LOCAL PENSION BOARD COMMITTEE HELD ON MONDAY, 3 JULY 2023

1. PRESENT

Councillor

P Drake (Chair)	Vale of Glamorgan
D King	Fire & Rescue Service Association
G Tovey	Fire Brigades' Union
P Jones	Fire Brigades' Union
I Traylor	Pensions Service Director, Pensions, Rhondda Cynon Taff CBC

Apologies:

D Naughton	Cardiff
R Prendergast	Association of Principal Fire Officers

Absent:

J Morgan	Blaenau Gwent
C Elsbury	Caerphilly

OFFICERS PRESENT: - ACO A Reed – Director of People Services, Mr C Barton – Treasurer, ACO Geraint Thomas, Director of Corporate Services & Monitoring Officer, Ms Kim Jeal, Accountant (People Services)

2. DECLARATIONS OF INTEREST

Each Member declared a personal non-prejudicial interest in each agenda item which affected their Authority.

3. CHAIR'S ANNOUNCEMENTS

There were no Chair's announcements.

4. MINUTES OF PREVIOUS MEETINGS

The minutes of the Local Pension Board Committee held on 23 January 2023 were read and accepted as a true record of proceedings.

5. REVIEW OF KEY PERFORMANCE INDICATORS

The Service Director, Pension, RCT advised Members that the Service Level Agreement (SLA) between South Wales Fire & Rescue Service and Rhondda Cynon Taf County Borough Council sets out the manner in which certain duties and responsibilities are expected to be carried out. A key element of the SLA is the reporting on actual performance activity against the agreed key delivery Service Standards. The report presented included an update on key activity undertaken during the reporting period and shares the performance data for the period 01 April 2022 to 31 March 2023.

The Service Director, Pension, RCT will make enquiries into the over target of McCloud cases.

In relation to the Scheme Member complaint at Appendix 2, the Director of People Services advised that the Service is currently working through the background to this which dates back to 6 years' and beyond.

RESOLVED THAT

- 5.1 Members noted the performance data contained within Appendix of the report.
- 5.2 Members noted the relevant pension administrative overview and update included at Appendix 2 attached to the report.

6. INTERNAL DISPUTE RESOLUTION PROCEDURES (IDRP) UPDATE ON CASES OVER LAST 12 MONTHS

The Director of People Services presented the report which shared the procedures for resolving internal disputes in relation to pension matters. They also updated Local Pension Board Members on the cases that were considered under this procedure during 1 April 2022 to 31 March 2023.

Mr Jones, Fire Brigades' Union queried the outcome of the Stage 1 case that progressed to Stage 2. The Director of People Services confirmed the individual requested an aggregated pension which did not reflect current practice within the Service.

RESOLVED THAT

- 6.1 Members noted the procedures for resolving internal disputes.
- 6.2 Members noted the cases considered under the IDRP procedure during the period 1 April 2022 to 31 March 2023.

7. THE PENSIONS REGULATOR RETURNS 2022/2023

The Director of People Services presented the report which shared the completed Public Service Governance and Administration Survey 2022/213, which was submitted to the Pensions Regulator in relation to the 2015 Firefighters' Pension Scheme.

RESOLVED THAT

Members noted the returns which were shared for information and awareness purposes.

8. NEW MEMBER TRAINING SESSION – MEMBER HANDBOOK, TERMS OF REFERENCE & TOOLKIT

The Accountant (People Services) provided a brief update on the Members' Handbook which provides Members with an insight into the work of the Local Pension Board. The Terms of Reference are also included within the handbook. Also included are relevant links to legislation, the constitution of this Board and information on frequency of meetings. A good source of information can be found at Section 4 of the handbook which relates to information on the Pension Regulator. Information on the Governance Board including conflict of interest and other key pieces of information can be found at Section 6. This section also includes information on the resolution process and guides for all pension schemes.

Section 12 includes the Firefighter Pension Scheme Comparisons with key factors including normal pension age, deferred pension and death factors. This is a quick guide and very useful for key differences. Section 13 contains information on conflict resolution. Section 14 provides information on breaches of the law, as Members have an obligation to report any breaches to DPR through the Whistleblowing Process. Section 15 explains the Training Strategy and Framework, training sessions are normally carried out at each Board meeting which is a good opportunity to keep up to date with information from the LGA and to keep Members fully updated on all pension related subjects.

At Section 16 Members will find the training needs and analysis form which Members are required to complete to confirm their knowledge in the areas listed within the handbook.

The TPR toolkit is also included and is a very good toolkit for Members. There is a requirement for Members to complete the online toolkit, to ensure Member understanding of all key areas. The Accountant (People Services) will provide support, if required.

Paul Davies, Fire Brigades' Union wished it be noted that a pre-meeting would have been beneficial as this was his first meeting.

RESOLVED THAT

- 8.1 Members review the handbook prior to the next meeting.
- 8.2 Members to complete the training needs and analysis form prior to the next meeting.
- 8.3 Members to complete the online TPR toolkit prior to the next meeting.
- 8.4 Absent Members to be contacted and asked to complete the above.
- 8.5 The Accountant (People Services) to meet with Mr Paul Davie, Fire Brigades' Union outside of the meeting.

9. PUBLICATIONS, UPDATES, INFORMATION (STANDARD ITEM)

The Director of People Services shared a number of publications, updates and information relating to pensions matters with the Board.

RESOLVED THAT

Members reviewed and noted the publications which were shared for information and awareness purposes, as attached at Appendix 1-5.

10. FIREFIGHTER PENSIONS – UPDATE ON CURRENT NATIONAL EXERCISES: MCCLOUD AND O'BRIEN

McCloud

In July 2021, the Fire & Rescue Authority, as Scheme Manager, agreed to provide pension benefit options for those individuals who were considered to be in scope for Immediate Detriment (ID), ie those who are currently in service but intending to retire and have provided notice of their intention to do so. This policy decision came into effect from October 2021. It also confirms next steps in relation to remedying all cases of age discrimination cases.

O'Brien

A further exercise will commence in October 2023 to re-visit the first options exercise that was undertaken between 2013 and 2015, which offered all On Call staff, with service prior to July 2000 the ability to buy pension scheme membership, based on new legislation that came into effect, based on determined discriminatory practices. The initial exercise took 18 months to implement, and the same timescales have been placed

on this second exercise commencing October 2023. Preparatory work is currently underway.

The Accountant (People Services) advised those identified as non-eligible have all been contacted, 2 of which have now been categorised as eligible. Members of staff to be aware that if they are currently categorised as non-eligible but feel they are eligible based on the criteria provided to make contact with the Service. From records held, the earliest service dates back to 1968.

The Government Actuaries Department (GAD) are introducing a fixed model for services that do not hold information prior to 2021, South Wales is one of the services. There will be a large gap in data for some services due to a number of reasons including change of payroll providers and systems etc. The LGA are currently working with GAD on this.

Mr Tovey, Fire Brigade's Union queried if representatives could be of any assistance in relation to communication. The Accountant (People Services) and Mr Tovey agreed to meet outside of the meeting to discuss further.

Mr Davies , Fire Brigades' Union queried how many McCloud cases are category 2. The Accountant (People Services) confirmed there are 60 plus which have already been identified and will take priority. She also advised there are 10,000 plus lines of data to review in relation to McCloud. She further advised that there are significant differences between the Welsh and English consultations, for example if members owe contributions in England there is no offer of periodic payments from the service. The Welsh consultation aim is to attempted be fair in relation to contributions. The process followed here is that no refunds are provided as, in essence, members made that decision in 2018.

RESOLVED THAT

Members noted the content of the report.

11. FORWARD WORK PROGRAMME FOR LOCAL PENSION BOARD 2023/2024

The Director of People Services presented the Forward Work Programme for 2022/2023.

RESOLVED THAT

Members noted the content of the Forward Work Programme for 2023/2024.

12. TO CONSIDER ANY ITEMS OF BUSINESS THAT THE CHAIRPERSON DEEMS URGENT (PART 1 OR 2)

12.1 GAD Modeller

Mr Tovey, Fire Brigades' Union requested an update on the current position. The Accountant (People Services) confirmed it is on hold at present due to ongoing technical issues. She further advised that she has made direct contact with GAD with an ask to either fix the issue or provide another system. It is hoped that the issues will be resolved quickly.

12.2 Pay Award

Mr Tovey, Fire Brigade's Union raised issues with staff not being awarded payments until the end of the year previously. The Accountant (People Services) advised that all relevant information has been passed to RCT who will pick up all pay adjustments. All queries to be raised directly with RCT. The Pensions Service Director agreed to provide a timeline and gave assurances that this piece of work has commenced.

THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 5
16 OCTOBER 2023

LOCAL PENSION BOARD COMMITTEE

REPORT OF THE REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

REVIEW OF KEY PERFORMANCE INDICATORS**THIS REPORT IS FOR DECISION**REPORT APPROVED BY ACO PEOPLE SERVICES
REPORT PRESENTED BY CATHERINE BLACK, PENSION SERVICE
MANAGER, RHONDDA CYNON TAF CBC (SCHEME ADMINISTRATOR)**SUMMARY**

The Service Level Agreement (SLA) between South Wales Fire & Rescue Service and Rhondda Cynon Taf Country Borough Council sets out the manner in which certain duties and responsibilities are expected to be carried out. A key element of the SLA is the reporting on actual performance activity against the agreed key delivery Service Standards. The following report is intended to provide Members with an update on key activity undertaken during the reporting period and shares the performance data for the periods April 2023 to August 2023

RECOMMENDATIONS

1. That Members of the Local Pension Board note the performance data included at Appendix 1 attached to the report.
2. That Members note the relevant pension administrative overview and update included at Appendix 2 attached to the report.

1. BACKGROUND

- 1.1 The ongoing monitoring of the key performance indicators / service standards and activity, is intended as a measurement to help evaluate the success or otherwise of the service provided to the South Wales Fire & Rescue Authority on behalf of its scheme members, by the RCT Pension Service.

2. ISSUES

- 2.1 There are no issues to report.

3. IMPLICATIONS

3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

3.2 Regulatory, Strategy and Policy

Legal	No	Data Protection / Privacy	Yes
Financial	Yes	Health, Safety and Wellbeing	No
Procurement	No	Governance & Audit	Yes
Corporate Risk	No	Service Policy	Yes
Information Management	Yes	National Policy	No

3.3 Resources, Assets and Delivery

Human Resource and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	Yes
Procurement	No
Budget Revenue/Capital	Yes

4. EVALUATION & CONCLUSIONS

4.1 Members are asked to review the outturns in the Appendices attached to the report with a view of discussing them at the meeting.

5. RECOMMENDATIONS

5.1 That Members of the Local Pension Board note the performance data included at Appendix 1 attached to the report.

5.2 That Members note the relevant pension administrative overview and update included at Appendix 2 attached to the report.

Contact Officers:	ACO Alison Reed Director of People Services Ian Traylor Service Director Pensions, Procurement & Transactional Services, Rhondda Cynon Taf CBC (Scheme Administrator)
Background Papers	Appendix 1 – Current and Previous Year Key Performance Appendix 2 – Overview and Update of Administrative Activity

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MONTHLY SERVICE STANDARDS															Relates to last Month Completed		
Scheme 090 (Protected 92 Scheme and Transitioned members)																	
<u>STANDARD MEASURED</u>		<u>TARGET</u>	<u>INTER' VENTION</u>	<u>APRIL</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN</u>	<u>FEB</u>	<u>MARCH</u>	Comments	<u>2023/2024</u> Year to Date Actual %
% Refund of contributions processed within 10 days	Payment	100%	95%	-	-	-	-	-								No cases completed.	-
% Divorce Estimates processed within 10 days	Statement	100	95%	-	100%	-	100%	-								No cases completed.	100.00%
% Preserved Benefits processed within 10 days	Statement	100	90%	-	-	100%	-	100%								One case completed. On time.	100.00%
% Employer requests for retirement estimates processed within 5 days	Statement	100	95%	-	-	-	-	-								No cases completed.	-

% Retirements from Active membership processed within 5 days	Payment	100	95%	100%	-	100%	100%	80%									5 cases completed. One case over target. Case completed in 6 days.	90.00%
% Preserved Benefits into payment on retirement processed within 5 days	Payment	100	95%	100%	-	-	-	-									No cases completed.	100.00%
% Transfers In processed within 10 days	Statement	100	90%	-	-	-	-	-									No cases completed.	-
% Transfers Out processed within 10 days (Monthly)	Payment	100	95%	100%	-	-	-	-									No cases completed.	100.00%
% death grant for active members within 5 days (Monthly)	Payment	100	95%	-	-	-	-	-									No cases completed.	-

MONTHLY SERVICE STANDARDS															Relates to last Month Completed		
Scheme FIR (2006 Scheme and Transitioned members)																	
STANDARD MEASURED		TARGET	INTER' VENTION	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	Comments	2023/2024 Year to Date Actual %
% Refund of contributions processed within 10 days	Payment	100%	95%	-	-	-	-	-								No cases completed	-
% Divorce Estimates processed within 10 days	Statement	100%	95%	-	100%	100%	-	-								No cases completed	100.00%
% Preserved Benefits processed within 10 days	Statement	100%	90%	100%	88.9%	-	100%	100%								One case completed On time.	92.86%
% Employer requests for retirement estimates processed within 5 days	Statement	100%	95%	-	-	-	-	-								No cases completed	-

% Retirements from Active membership processed within 5 days	Payment	100%	95%	-	-	-	-	100%									One case completed On time.	100.00%
% Preserved Benefits into payment on retirement processed within 5 days	Payment	Payment	100%	50%	-	100%	100%	-									No cases completed	75.00%
% Transfers In processed within 10 days	Statement	Statement	100%	-	-	-	-	-									No cases completed	-
% Transfers Out processed within 10 days (Monthly)	Payment	Payment	100%	-	-	-	-	-									No cases completed	-
% death grant for active members within 5 days (Monthly)	Payment	Payment	100%	-	-	-	-	-									No cases completed	-
% death grant for pensioner members within 5 days (Monthly)	Payment	Payment	100%	-	-	-	-	-									No cases completed	-

Appendix 1

MONTHLY SERVICE STANDARDS																Relates to last Month Completed	
Scheme F15 (2015 Only Members)																	
<u>STANDARD MEASURED</u>		<u>TARGET</u>	<u>INTER' VENTIO N</u>	<u>APRIL</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	Comments	2023/2024 Year to Date Actual %
% Refund of contributions processed within 10 days	Payment	100%	95%	-	-	-	-	-								No cases completed	-
% Divorce Estimates processed within 10 days	Statement	100%	95%	-	-	-	-	100%								2 cases completed Both on time.	100.00%
% Preserved Benefits processed within 10 days	Statement	100%	90%	100%	100%	100%	-	100%								2 cases completed Both on time.	100.00%
% Employer requests for retirement estimates processed within 5 days	Statement	100%	95%	-	-	-	-	-								No cases completed	-
% Retirements from Active membership processed within 5 days	Payment	100%	95%	-	-	-	100%	-								No cases completed	100.00%

% Preserved Benefits into payment on retirement processed within 5 days	Payment	Payment	100%	-	-	-	-	-								No cases completed	-
% Transfers In processed within 10 days	Statement	Statement	100%	-	-	-	100%	100%								One case completed On time.	100.00%
% Transfers Out processed within 10 days (Monthly)	Payment	Payment	100%	-	100%	-	-	-								No cases completed	100.00%
% death grant for active members within 5 days (Monthly)	Payment	Payment	100%	-	-	-	-	-								No cases completed	-
% death grant for pensioner members within 5 days (Monthly)	Payment	Payment	100%	-	-	-	-	-								No cases completed	-

The following information is intended to provide Members of Pensions Board with an overview and update on key administrative activity:

Member Self-Serve Statistics

Member Self-Serve (MSS) take-up as 19th September 2023

	Status 1 (Actives)	Status 2 (Pending leavers)	Status 4 (Deferred)	Status 5 (Pensioners)	Status 6 (Dependants)
92 Scheme	86.10%	0%	70.87%	44.10%	46.39%
Total Membership	296	0	127	1186	194
2006 Scheme	69.93%	0%	43.49%	59.86%	0.00%
Total Membership	296	8	722	152	13
2015 Scheme	35.4%	0	25.46%	0.00%	0.00%
Total Membership	661	2	377	1	0

Scheme Member Complaints

- There have been no formal complaints this period.

Key Administration Activities

- The Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023 were laid before Senedd on 6 September 2023 and come into force 01 October 2023.
- Public Service Pensions and Judicial Offices Act 2022 and Tax Rectification Regulations also been made
- Working closely with SWFRS Pensions Team on McCloud project.
- Members of RCT Pensions Team are attending the Firefighters Pension AGM on 20th September.
- 2023 Annual Benefit Statements for both deferred and active members were issued to statutory deadline of August 2023
- Pension Savings Statements deadline October 2024
- Dashboard - On-boarding schedule has been suspended and revised Regulations to be laid with new timescales. No further update
- 2023 Proof of Life Exercise commenced
- 2023 Pensions Regulator Scheme Return due – notice will be received in October 2023 with deadline of 6 weeks to complete

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THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 6
16 OCTOBER 2023

LOCAL PENSION BOARD COMMITTEE

REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

PUBLICATIONS, UPDATES, INFORMATION (STANDARD ITEM)**THIS REPORT IS FOR INFORMATION**REPORT APPROVED BY THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES
REPORT PRESENTED BY ACO A REED**SUMMARY**

This report shares relevant publications, updates and information relating to pension matters, with Members of the Local Pension Board

RECOMMENDATIONS

That Members review and note the attached publications which are shared for information and awareness purposes. (Attached to the report as Appendix 1-4).

1. BACKGROUND

- 1.1 To support Local Pension Board Members discharge their duties, this report shares recent relevant publications in relation to pension matters. These are not limited to fire pensions.

2. ISSUES

- 2.1 There are no issues to report.

3. IMPLICATIONS**3.1 Community and Environment**

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No

Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

3.1.1 There are no additional financial issues arising as a result of this report.

3.2 Regulatory, Strategy and Policy

Legal	No	Data Protection / Privacy	No
Financial	No	Health, Safety and Wellbeing	No
Procurement	No	Governance & Audit	No
Corporate Risk	No	Service Policy	No
Information Management	No	National Policy	No

3.3 Resources, Assets and Delivery

Human Resource and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	No

4. EVALUATION & CONCLUSIONS

4.1 An Equality Risk Assessment has been undertaken to assess the potential impact of this report. The assessment concluded that there were no immediate or long term adverse impacts on any individual or group of personnel arising from this particular report.

5. RECOMMENDATIONS

5.1 That Members review and note the attached publications which are shared for information and awareness purposes. (Attached to the report as Appendix 1-4).

Contact Officer:	Alison Reed Director of People Services
Background Papers	Appendix 1-4 – Publications



FPS Bulletin 69 – May 2023

Welcome to issue 69 of the Firefighters' Pensions Schemes bulletin.

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, suggested items for future issues, or a job you would like to advertise, please email bluelightpensions@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 bluelightpensions@local.gov.uk.

Table 1: Calendar of events

Event	Date
FPS coffee morning	6 June 2023
SAB	8 June 2023
Northeast Fire Officers' Group	14 June 2023
FPS Technical Working Group	20 June 2023
Midlands Fire Officers' Group	22 June 2023
Eastern Fire Officers' Group	28 June 2023
FPS Communications Working Group	19 July 2023
SAB	14 September 2023
SAB	14 December 2023

Actions arising

[Consultation on the Firefighters' Pension Schemes \(Remediable Service\)](#)

[Regulations 2023](#): FRAs and administrators should familiarise themselves with the response, ahead of the Home Office's response to the consultation.

[The Pension Regulator data requirements – 2023 scheme return](#): FRAs and administrators to review the data scoring guidance for 2023 ahead of the scheme return.

[Ill health re-assessment IQMP template referral letters available](#): FRAs should send these and the relevant accompanying documentation to the IQMP using the relevant IQMP template referral letter.

[Government Actuaries Department \(GAD\) - updated factors](#): FRAs and Administrators to ensure that they are using the correct factors.

[Data Conference Slides](#): FRAs to view the slides and consider data more strategically now and in the future.

[Click here to return to Contents](#)

[Age Discrimination remedy – data sharing](#): Administrators to share pensionable data for members who are subject to age discrimination remedy and have had an inter-brigade transfer during the remedy period with the current FRA's administrator on request.

To review your privacy notice and add some additional wording, where relevant. Any amendments should be approved as per your internal processes.

[Automatic enrolment – Call for evidence](#): FRAs to be aware of this call for evidence.

[The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No. 2\) Regulations 2023](#): Interested parties to review the consultation and establish whether you wish to respond to the consultation by 19 June 2023.

Also, consider whether you wish to be part of the round table sessions.

[SAB response to the Consultation on the Firefighters' Pension Schemes \(Remediable Service\) Regulations 2023](#): FRAs and administrators should familiarise themselves with the response, ahead of the Home Office's response to the consultation.

[SAB Guidance Note on Pensionable Pay Remedies](#): FRAs to refer to the pensionable pay note when dealing with cases where elements of pay need retrospectively adjusting.

[HMRC Remedy Newsletter](#): Administrators and FRAs to consider whether you wish to volunteer to assist HMRC.

FPS

Consultation on the Firefighters' Pension Schemes (Remediable Service) Regulations 2023

In [FPS Bulletin 67 – March 2023](#) we informed you that the above consultation had been launched. The LGA has responded to the consultation and our response is available on the [Consultations section](#) of the Firefighters' Pension Schemes Regulations and Guidance website.

ACTION: FRAs and administrators to familiarise themselves with the response, for information ahead of the Home Office's response to the consultation.

The Pension Regulator (TPR) data requirements – 2023 scheme return

In [FPS Bulletin 25 – October 2019](#) the LGA provided fire authorities with informal data scoring guidance in order to complete The Pension Regulator's scheme return.

[The Data Scoring Guidance](#) has now been updated for the 2023 return to take account of age discrimination remedy and immediate detriment.

The guidance is available under Data Scoring on the [Guides and Sample documents](#) section the Firefighters' Pension Schemes Regulations and Guidance website.

ACTION: FRAs and administrators should ensure that they are aware of what is included when considering the data scores for the 2023 scheme return.

Ill health re-assessment IQMP template referral letters available

In [FPS Bulletin 63 – November 2022](#), we published an [ill-health reassessment factsheet](#) to help FRAs determine which individuals require a reassessment of their ill-health determination as a result of remedy implementation.

IQMP template referral letters for scenarios one and two, seven, and nine as referred to in the [ill-health reassessment factsheet](#) have now been added to the [Retrospective remedy webpage](#).

ACTION for FRAs: Once affected members of the pension scheme have returned the appropriate member consent letter, FRAs should send these and the relevant

accompanying documentation to the IQMP using the relevant IQMP template referral letter.

Government Actuaries Department (GAD) – updated factors

In [FPS Bulletin 68 – April 2023](#) we confirmed that the CETV technical note had been suspended, and therefore all CETVs, Pensioner cash equivalents and non-club transfers-in should be suspended.

On 25 May 2023, Home Office confirmed that the following factors had been updated:

- CETVs (x-201 to x-215),
- Pensioner cash equivalents (x-301 to x-312),
- Pension credits (x-313 to x-317),
- Pension debits (x-318 to x-328)

The following should be noted:

- The updated factors have removed Guaranteed Minimum Pension (GMP) factors for all active members (where they had not already been removed) and for pensioner members aged under 69. GMP factors should no longer be needed for these members.
- The updated factors set all National Insurance Modification (NI Mod) factors to zero. For most members, NI Mod no longer has a material impact on benefits.

These factors should be implemented from 29 March 2023.

The updated factors should be used in conjunction with the relevant existing guidance notes in force for the Firefighters' Pension Schemes.

The factors are published on the relevant [GAD guidance pages](#) of the Firefighters Pension Scheme regulations and guidance website.

ACTION: FRAs and administrators to ensure that they are using the revised factors from 29 March 2023.

Age Discrimination remedy - Data Sharing

As a reminder, in [FPS Bulletin 59 – July 2022](#), we covered that following a detailed discussion at the Fire Technical Working Group (FTWG) on Monday 25 July 2022 it was decided that, to remove any GDPR issues, the information should be shared with the current administrator instead of the current FRA. This is because the administrator has a legitimate reason for needing the data.

Administrators and FRAs may also want to consider adding some additional wording to their privacy notices to cover this.

Example text is as follows:

“From time to time, we will share your personal data with third parties, including our contractors, advisors, government bodies, and dispute resolution and law enforcement agencies. We do this in order to comply with our obligations under law, and to help us provide services and carry out our duties, rights and discretions in relation to the Firefighters’ Pension Scheme(s).

Occasionally, we may request/provide some of your data from/to a previous pension administrator for the purposes of enabling us to understand your pension rights from the scheme.”

ACTION: Administrators to share pensionable data for members who are subject to age discrimination remedy and have had an inter-brigade transfer during the remedy period with the current FRA’s administrator on request.

To review your privacy notice and add some additional wording, where relevant. Any amendments should be approved as per your internal processes.

Technical query log

The [current log of queries and responses](#) can be accessed by practitioners in the member-restricted area of the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log is updated monthly in line with the bulletin release dates.

Queries have been answered this month in the following categories:

- Ill Health retirement – Payable under the Scottish Compensation Regulations page 93
- Cross Border transfers page 144

FPS England SAB updates

SAB response to the Consultation on the Firefighters' Pension Schemes (Remediable Service) Regulations 2023

In [FPS Bulletin 67 – March 2023](#) we informed you that the above consultation had been launched.

The Scheme Advisory Board has responded to the consultation and the response is available on the [Consultations section](#) of the Firefighters' Pensions SAB (England) website.

ACTION: FRAs and administrators to familiarise themselves with the response, for information ahead of the Home Office's response to the consultation.

SAB Guidance Note on Pensionable Pay Remedies

The legal adviser to the SAB, Weightmans, have written a [useful note on pensionable pay remedies](#). There are a number of [pensionable pay resources](#) available relating to the various landmark High Court decisions and Pension Ombudsman determinations about firefighters' pay, and what elements are pensionable under the Firefighters' Pension Scheme. The note provides an implementation plan for remedying cases in which pay has not been treated as pensionable but should have been under the scheme rules. It also highlights some issues that remain unresolved.

ACTION: FRAs to refer to the pensionable pay note when dealing with cases where elements of pay need retrospectively adjusting.

SAB collaboration session on Matthews remedy

In [FPS Bulletin 61 – September 2022](#), we confirmed that the SAB, the LGA, and the Home Office were working together in the form of collaboration sessions on Matthews to discuss Matthews legislation and policy, the interaction between Matthews and McCloud and the proposed timeline for implementation. The first session took place during September 2022 and an additional session took place on 25 May 2023. Additionally, the Matthews Technical Working Group has met regularly since that time and now has SAB representation within the group.

SAB website

You can use the links below to find out about the latest updates on the work of the SAB and its committees on the [SAB website](#):

- [SAB membership](#)
- [SAB meeting and agenda papers](#)
- [Committee meetings and agenda papers](#)

The next SAB meeting is on 8 June 2023.

Other News and Updates

The Scottish Firefighters' Pension Schemes' Consultation on implementing the 2015 Remedy

On 16 May 2023, the Scottish Public Pensions Agency (SPPA) published [Firefighters' Pension Scheme Consultation on the implementing the 2015 remedy](#). These regulations concentrate on the retrospective elements of the 2015 Remedy that are required to fully deliver the remedy.

The consultation closes on 23 July 2023.

The Police Pension Schemes' Consultation response to Retrospective remedy

The National Police Chiefs Council (NPCC) has responded to the consultation and their response is available on the [age discrimination – useful information](#) page on the restricted member area of the Firefighters' Pension Schemes Regulations and

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Guidance website.

Public Service Pensions – cost control mechanism and reformed scheme only design

On 15 May 2023, HM Treasury (HMT) published a [written ministerial statement](#) and [further detail](#), on the cost control mechanism and reformed scheme only design.

The publications confirm only the reformed scheme design will be included in the cost control mechanism. Any cost increases associated with final salary benefits and the impact of the underpin, will be excluded.

Automatic enrolment - call for evidence

On 15 May 2023, the Department for Work and Pensions (DWP) [published a call for evidence](#) on the alternative quality requirement used by defined benefit schemes for automatic enrolment (AE). The call for evidence closes on 19 June 2023.

The existing requirements allow for simpler alternative tests to be used so the scheme can demonstrate it is of sufficient quality to be used by employers to fulfil their AE duty. The call for evidence aims to conclude whether the government's policy in this area continues to be achieved.

ACTION for FRAs: FRAs to be aware of this call for evidence.

Consent and authorisation wording for dashboards

The Pensions Dashboards Programme (PDP) commissioned Ipsos to undertake [research to help develop consents and authorisation wording](#) for dashboards.

A research group covering a range of ages, income levels and pension types was asked to provide feedback on draft versions of consent and authorisation wording that would appear on dashboards. The wording explained what the Money and Pensions Service would and would not do with users' data and asked for consent for these uses. The feedback was positive and will be used to further shape the wording.

Pensions Dashboards Latest news

In May 2023, PDP [published their Progress update report on dashboards](#). There are articles on:

- The Department for Work & Pensions (DWP's) written ministerial statement on pensions dashboards connection times confirming that there will be an update before Parliament's summer recess
- Programme reset following the written ministerial statement – reset got underway on 20 March and more information will be available before parliamentary recess starting in July
- Consent comprehension research - a research into users' understanding of how their data will be used during the dashboards journey
- Preparing for dashboards – connection, data, matching, awareness and understanding legal and regulatory obligations
- Updates from DWP, the Financial Conduct Authority and the Pensions Regulator
- Useful resources
- Subscribing to PDP's newsletter

Pensions Dashboards (Prohibition of Indemnification) Act 2023

On 2 May 2023, the [Pensions Dashboards \(Prohibition of Indemnification\) Act 2023](#) received Royal Assent.

The Act will prohibit trustees and managers of occupational and personal pension schemes from being reimbursed out of scheme assets for any penalties imposed on them under [the dashboard regulations](#).

The Act applies to the United Kingdom and comes into force on a date determined by the Department for Work and Pensions (or, in the case of Northern Ireland, the Department for Communities).

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[‘Where to go for help with your pension complaint’ factsheet](#)

On 27 April 2023, The Pensions Ombudsman (TPO) published a factsheet titled [‘Where to go for help with your pension complaint’](#).

The factsheet assists members when deciding whether to refer their complaint to TPO or the Financial Ombudsman Service.

[Capita cyber security incident](#)

On 12 May 2023, [the Pensions Regulator \(TPR\) updated its website](#) with a page covering the Capita cyber security incident. This follows a security breach where it is now known that some data has been exfiltrated from Capita’s servers.

TPR encourages all administrators who use Capita’s services to check whether their pension scheme data could be affected.

[Club transfers – extending the 12-month time limit](#)

On 26 April 2023, the cabinet office clarified a club transfer may take place outside the 12-month time limit, in exceptional circumstances and providing both the sending and receiving schemes agree. Colin Hennem (Pensions Technical Manager) confirmed:

“[the Club Memorandum](#) requires a transfer to be calculated on Club terms if the member confirms in writing that they wish the transfer to proceed within 12 months of joining the new Club scheme. The Club Memorandum is silent on what should happen if that confirmation is sent outside the 12-month time limit. However, it has long been our policy that the two schemes involved may agree to a Club transfer outside the 12-month time limit (i.e. a belated Club transfer) if there are exceptional circumstances that prevented the member from sending the confirmation within the 12 month time limit - e.g. if there were delays in providing the necessary quotes that were outside the member's control. In the past, when the additional cost of the more generous Club transfer terms was met by the receiving scheme, our view was that it was only necessary for the receiving scheme to agree to a belated Club transfer. However, under the 'inner' Club arrangements, the additional cost of the more generous terms is spread more evenly between the two schemes. Therefore, I think

it is appropriate that a belated Club transfer can only proceed if both the sending and receiving schemes agree to this. The Cabinet Office (as Secretary to the Club) has no authority to compel the schemes in question to agree to a belated Club transfer.”

ACTION: Administrators to incorporate this into their club transfer process

NHS Pension Scheme consultation: changes to contribution thresholds

On 3 May 2023, the Department of Health and Social Care launched a consultation on uplifting the member contribution thresholds in the NHS Pension Scheme 2015 (England and Wales) for 2023/24. The consultation closed on 17 May 2023.

You can access the consultation documents on [the relevant page of gov.uk](#).

HMRC

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023

On 23 May 2023, HMRC published a consultation on [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#) which set out changes to how pensions tax rules will apply as a result of the public service pensions remedy.

The draft regulations supplement [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023](#) ('first set of regulations'), which came into force on 6 April 2023.

As part of the consultation, HMRC will be holding several round tables. This will provide an opportunity to raise any technical points on the draft regulations. If you would like to be involved, email polycypensions@hmrc.gov.uk, putting 'Public service pensions remedy tax regulations round tables' in the subject line.

The LGA will respond to the consultation before the consultation closes on 19 June 2023.

ACTION: Interested parties to review the consultation and establish whether you

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wish to respond to the consultation by 19 June 2023.

Also, consider whether you wish to be part of the round table sessions.

Proposed Public Service Pension Schemes – Rectification of Unlawful Discrimination – Tax Administration Regulations Summary

HMRC have published a summary paper which provides a short introduction to the consultation reference above.

This has been published on the [age discrimination – retrospective remedy](#) pages of the Firefighters’ Pension scheme regulations and guidance website.

Remedy newsletter – May 2023

On 23 May 2023, HMRC published [Remedy newsletter May 2023](#). The newsletter provides information on the following topics:

- Draft regulations: summarises the draft rectification regulations mentioned in the article above.
- HMRC processes: HMRC is currently developing processes it will need to support the McCloud remedy. As part of this, they will provide a single point of contact for each public service organisation.
- Guidance: HMRC is currently drafting McCloud remedy guidance, which they hope to publish in Autumn 2023. In advance of this, they would like to test some of the guidance with users to make sure it is covering what is needed. If you would like to volunteer, email publicservicepensionsremedy@hmrc.gov.uk and put ‘Guidance testing’ in the subject line.

ACTION: Consider whether you wish to volunteer to assist HMRC

Events

Fire and Police Data Conference

We were pleased to welcome 140 delegates (60 in person to Smith Square and 80 virtually) on 17 May 2023, to hear a host of industry experts take part in panel

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sessions to reflect on why data is so important for the Firefighters' and Police Pension Schemes.



Our hosts for the day were Phil Wells, Assistant Chief Officer, Bedfordshire Police and Gavin Chambers, Assistant Chief Officer, Bedfordshire Fire.

The day was split into four interactive panel sessions and a workshop. The sessions were:

- Successful Project Implementation.
- Engaging members after dashboards.
- Cost of the Scheme.
- Owning the narrative to make strategic decisions.

The audience first heard from Clair Alcock, Head of Police Pensions, NPCC, who spoke about successful project implementation on the imminent McCloud exercise.



Jo Darbyshire, Managing Director, LPPA, then held our first panel of the day. Her panellists were Taylor Brightwell-Smith, Pensions Consultant, GAD, Leanne Ferreira, Project Specialist, XPS and Helen Scargill, Client Relationship Manager, West Yorkshire Pension Fund. The panel were asked questions to share their knowledge, experience, and concerns over the McCloud Data exercise.



Delegates both in person and virtually took part in a workshop to discuss: How FRAs were ensuring the quality of data to be provided to their administrators? How had their experience been so far, including any unexpected challenges and how had they overcome them? What their lessons learnt so far had been?

We then welcomed Andrew Lowe, Co-Chair of PASA Dashboard Committee, ITM, who gave a presentation on engaging members after dashboards, before joining our second panel, chaired by Chris Connelly, Chief Strategy Officer, Heywoods Pension

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Technologies, and the other panellists Graeme Hall, Operations Manager, XPS, and Paul Turpin, Pensions Advisor, Police Federation.



The afternoon session was opened by James Allen, First Actuarial and Robert Fornear, GAD, who gave an insightful overview of the valuation process, including calculations, assumptions, and outcomes. Not the easiest of sessions for them following lunch, but I think it would be fair to say that they kept us all engaged and provided a very useful session.



The final session of the day was delivered by John Simmonds, Principle, CEM Benchmarking. John provided a useful session on benchmarking before joining our final panel of the day, chaired by Jo Donnelly, Head of Pensions, LGA, and other panellists Jennifer Atthey, Senior Manager, Isio, Alison Murray, Partner, Aon and Jo Darbyshire, Managing Director LPPA. Jo was able to share LPPA's experience of using CEM Benchmarking's services, and what they use the outcomes for. Alison and Jennifer were able to share the barriers that they had both experienced when

collecting data to provide separately the Fire and Police Scheme Advisory Boards with a report on the Cost of the Scheme



View the presentation [slide decks from the data event held on 17 May 2023](#)

ACTION: For FRAs to view the slides and consider data more strategically now and in the future.

FPS coffee mornings

Our MS Teams coffee mornings are continuing on a regular basis. 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. We are pleased to include the presentations from recent sessions below:

[23 May 2023 – Data Conference – Workshop Feedback](#)

If you do not already receive the meeting invitations and would like to join us, please email bluelightpensions@local.gov.uk. Please note that attendance at the coffee mornings is generally restricted to FPS practitioners and managers.

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Legislation

Acts

[Pensions Dashboards \(Prohibition of Indemnification\) Act 2023](#)

Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [FPS Member](#)
- [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](#)
- [LGPS member site](#)
- [Scottish Public Pensions Agency - Firefighters](#)
- [Welsh Government Fire circulars](#)

Contact details

Elena Johnson (Senior Firefighters' Pensions Adviser (Interim))

Telephone: 07770 763 031

Email: elena.johnson@local.gov.uk

Claire Johnson (Senior Firefighters' Pensions Adviser)

Telephone: 07920 861 552

Email: claire.johnson@local.gov.uk

Tara Atkins (Firefighters' Pensions Adviser – Communications)

Telephone: 07825 731 924

Email: Tara.atkins@local.gov.uk

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While every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring any perceived errors or omissions to the attention of the Bluelight team by emailing bluelightpensions@local.gov.uk.

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FPS Bulletin 70 – June 2023

Welcome to issue 70 of the Firefighters' Pensions Schemes bulletin.

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, suggested items for future issues, or a job you would like to advertise, please email bluelightpensions@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 bluelightpensions@local.gov.uk.

Table 1: Calendar of events

Event	Date
FPS coffee morning	11 July 2023
FPS Communications Working Group	27 July 2023
SAB	14 September 2023

Event	Date
FPS Technical Working Group	19 September 2023
Fire AGM-save the date	19-20 September 2023
SAB	14 December 2023

Actions arising

[Consultation on the retained Firefighters' Pensions: Proposed changes to the Firefighters' Pension Scheme \(England\) 2006](#): FRAs and administrators to familiarise themselves with the LGA's response, for information ahead of the Home Office's response to the consultation.

[Consultation on The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#): FRAs and administrators to familiarise themselves with the LGA's response, for information ahead of the HMRC's response to the consultation.

[Data Collection for 2015 remedy](#): FRAs to ensure that the data collection template is completed and sent to administrators by their set deadlines, so that they are prepared for the implementation of remedy from 1 October 2023.

[Firefighters Pay Scales](#): FRAs to make themselves familiar with the pay scales available ahead of the Special members FPS 2006 (Matthews) remedy exercise to commence in October 2023.

[Home Office collection of FPS forecasts for 2023-24 to 2028-29](#): FRAs should start preparing to collate the necessary information (which is similar to that provided last year) from your records so that FRAs are well prepared, bearing in mind that some staff will be on summer leave.

[Consultation on the retained Firefighters' Pensions: Proposed changes to the Firefighters' Pension Scheme \(England\) 2006](#): FRAs and administrators to familiarise themselves with the SAB's response, for information ahead of the Home Office's response to the consultation.

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[Consultation on The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#): FRAs and administrators to familiarise themselves with the SAB's response, for information ahead of the HMRC's response to the consultation.

[Added Years Factsheet](#): FRAs and Administrators to ensure they are using the updated version on their websites.

[Government Actuary's Department \(GAD\): Data Projects and Long-Term Strategy](#): FRAs are advised to read GAD's write up of the event and their broader focus on data

[Remedy readiness self-assessment tool](#): Scheme managers to complete the self-assessment tool and report back to their senior teams and local pensions boards.

[Data Conference Q and As](#): Pension Dashboards: FRAs and administrators may wish to review the Q and As for information.

[Remedy member examples by GAD](#): FRAs and administrators should read these with reference to slide 15 from the coffee morning of 26 January 2023.

FPS

[Consultation on the retained Firefighters' Pensions: Proposed changes to the Firefighters' Pension Scheme \(England\) 2006](#)

In [FPS Bulletin 68 – April 2023](#) we informed you that the above consultation had been launched. The LGA has responded to the consultation and our response is available on the [Consultations section](#) of the Firefighters' Pension Schemes Regulations and Guidance website.

ACTION: FRAs and administrators to familiarise themselves with the response, for information ahead of the Home Office's response to the consultation.

[Consultation on The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#)

In [FPS Bulletin 69 – May 2023](#) we informed you that the above consultation had been launched. The LGA has responded to the consultation and our response is available on the [Consultations section](#) of the Firefighters' Pension Schemes Regulations and Guidance website.

ACTION: FRAs and administrators to familiarise themselves with the response, for information ahead of HMRC's response to the consultation.

[Data Collection for 2015 remedy](#)

In [FPS Bulletin 44 – April 2021](#) and [FPS Bulletin 66 – February 2023](#) we advised that remedy data collection tools had been developed with the assistance of software suppliers and the Fire Communications Working Group to help FRAs to collect the relevant data needed to prepare for the 2015 remedy exercise.

In [FPS Bulletin 69 – May 2023](#) we covered the Fire and Police data conference event and the workshop feedback coffee morning, which both raised concerns by administrators and software suppliers that not all FRAs had been in a position to provide the relevant data.

There are no assumptions made for missing data within the Police and Firefighters' Pension Schemes (Amendment) Regulations 2023 and FRAs should be near completion of the collection of this data. It is imperative that for administrators to be able to commence the remedy options exercise in October 2023, that they receive this data in good time.

The data collection template and notes are as follows:

[FPS remedy data collection template](#)

[FPS remedy data collection notes for completion](#)

[Age discrimination remedy data collection - Guidance for administrators and FRAs – version 2 clean](#)

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ACTION: FRAs to ensure that the data collection template is completed and sent to administrators by their set deadlines, so that they are prepared for the implementation of remedy from 1 October 2023.

Firefighter Pay Scales

With the help of LGA Workforce colleagues and the Fire Brigade Union, we have been able to locate pay scales going back to 1962. These have been added to [Firefighter Pay Scales](#) page on the member restricted area on the Firefighters' Regulations and Guidance website.

ACTION: FRAs to make themselves familiar with the pay scales available ahead of the Special members FPS 2006 (Matthews) remedy exercise to commence in October 2023.

Home Office collection of FPS forecasts for 2023-24 to 2028-29

On 21 June 2023, the Home Office emailed all FRAs in England to give notice that they will shortly be writing to formally request submission of pension income/expenditure forecasts for the period 2023-24 to 2028-29 via the online DELTA system.

The deadline for submissions is **Friday 25 August 2023**.

The Home Office will set out the centrally prescribed assumptions that FRAs should apply when calculating their forecasts; and what other considerations they will need to factor in.

FRAs are reminded that forecast pension accounting data is being subjected to an ever-increasing scrutiny and, as such, they should ensure that processes are in place to ensure that they have a robust methodology to calculate these. [Best practice forecasting guidance](#) was published by the Pension Forecasting Working Group in July 2019.

ACTION: FRAs should start preparing for collating the necessary information (which is similar to that provided last year) from their records so that they are well prepared, bearing in mind that some staff will be on summer leave.

Added Years Factsheet

In [FPS Bulletin 67 – March 2023](#) we confirmed that all relevant thresholds and rate changes for 2023 were available in the [FPS annual update 2023](#).

We have updated the Added Years Factsheet to include the rate for 2023. You can find this on the [factsheet page](#) of the Firefighters Pensions Regulations and Guidance website.

ACTION: FRAs and Administrators to ensure they are using the updated version on their websites.

Government Actuary's Department (GAD): Data Projects and Long-Term Strategy

In [FPS Bulletin 69 – May 2023](#) we provided an overview of the Fire and Police Data Conference which took place on 17 May 2023.

We reflected on the importance of data for setting long term strategy about the management of pensions and ultimately supporting FRAs. GAD have now published [a news feature](#) reflecting on the event as well as covering a broader focus on data generally.

In the article GAD refers to a blog they have written about Pensions Dashboards, where they compared the matching process to a game of Guess Who. They then referenced pensions administration projects to another board game that I am sure we are all aware of where they urge the bankers (scheme managers) to invest time in the game to prioritise the experience of the players (the members) and provide an exceptional service.

ACTION: FRAs are advised to read GAD's write up of the event and their broader focus on data.

Remedy readiness self-assessment tool

To help scheme managers and pension boards reflect on their own readiness for remedy we have made available (with the help from our NPCC colleagues) a [remedy self-assessment tool](#) which can be found on the Retrospective Remedy page of the

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FPS Regulations and Guidance website. This tool is designed to assist you in assessing whether you have the necessary preparation in place for remedy and whether there are any potential gaps which need addressing.

This is purely for your own use to inform you and your senior team of your readiness for remedy. There is no requirement to return the results of this self-assessment tool to the LGA.

If, after completing the survey, you wish to seek advice or further reassurance, please contact bluelightpensions@local.gov.uk in the first instance.

ACTION: Scheme managers to complete the self-assessment tool and report back to their senior teams and local pensions boards on the results.

Data Conference Q&As – Pensions Dashboards

As mentioned above we provided an overview of the Police and Fire Data Conference event which took place on 17 May 2023 in last month's bulletin.

We have since sought answers to the outstanding questions that were asked on Pensions Dashboards and have put together a Q&A document and you can view this on the [Data conference page](#) on the Firefighters' Regulations and Guidance website.

ACTION: FRAs and administrators may wish to review the Q and As for information.

Remedy member examples by GAD

In [FPS Bulletin 65 – January 2023](#) we covered our Coffee Morning of [26 January 2023 – HMT Remedy Directions](#). Additional resource on interest and member contributions has been created by GAD and has been added to the [Retrospective Remedy page](#) of the Firefighters Pension Regulations and guidance website.

ACTION: FRAs and administrators should read these with reference to slide 15 from the coffee morning of 26 January 2023:

Technical query log

The [current log of queries and responses](#) can be accessed by practitioners in the member-restricted area of the FPS Regulations and Guidance website. The queries

have been anonymised and divided into topics. The log is updated monthly in line with the bulletin release dates.

Queries have been answered this month in the following categories:

- Injury Pension – whether Personal Independence Payment (PIP), which has replaced Disability Living Allowance should be deducted from an Injury Allowance. Page 56.
- Ill Health retirement review – when to cease paying a higher tier benefit. Page 106.

FPS England SAB updates

SAB meeting 8 June 2023

The Scheme Advisory Board (SAB) last met on 8 June 2023 and the meeting covered the following areas:

- First Actuarial SCAPE discount rate update
- Home Office retrospective remedy consultation
- Home Office Matthews second options exercise consultation

You can use the links below to find out about the latest updates on the work of the SAB and its committees:

- [SAB membership](#)
- [SAB meeting and agenda papers](#)
- [Committee meetings and agenda papers](#)

SAB response to the Consultation on retained Firefighters' Pensions:

Proposed changes to the Firefighters' Pension Scheme (England) 2006

In [FPS Bulletin 68 – April 2023](#) we informed you that the above consultation had been launched. The Scheme Advisory Board has responded to the consultation and the response is available on the [Consultations section](#) of the Firefighters' Pensions SAB (England) website.

ACTION: FRAs and administrators to familiarise themselves with the response, for information ahead of the Home Office’s response to the consultation.

[SAB response to HMRC Consultation on The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023.](#)

In [FPS Bulletin 69 – May 2023](#) we informed you that the above consultation had been launched. The Scheme Advisory Board has responded to the consultation and the response is available on the [Consultations section](#) of the Firefighters’ Pensions SAB (England) website.

ACTION: FRAs and administrators to familiarise themselves with the response, for information ahead of HMRC’s response to the consultation.

Other News and Updates

[McCloud – unions granted right to appeal cost cap mechanism](#)

The Court of Appeal has granted unions permission to appeal against the recent High Court judgement over the government’s proposed method of paying for costs incurred by the McCloud ruling in public sector schemes. See [FPS Bulletin 67 – March 2023](#) for more information.

[Pensions Dashboard Programme](#)

On 8 June 2023, a [Ministerial Statement](#) was made to announce that as part of the reset of the Pensions Dashboard Programme, amending legislation will be laid to amend the Pensions Dashboard Regulations 2022.

On 9 June 2023 the Department for Work and Pensions (DWP) laid draft [Pensions Dashboards \(Amendment\) Regulations 2023](#).

The amending regulations remove the phased staging timeline, replacing it with a single connection deadline of 31 October 2026. The regulations will allow the DWP and the Money and Pensions Service (MaPS) to issue guidance setting out a staged connection timeline for individual schemes, to which FRAs must have regard. MaPS aim to collaborate with industry on the guidance later this year.

The Pension Regulator's (TPR) dashboard blog

On 14 June 2023, TPR published [a blog 'Make time to get your data dashboard-ready'](#).

The blog encourages pension schemes to continue working on their data to ensure that it is ready for dashboards. It also sets out what schemes should be considering when doing so.

TPR's response to the delay in the dashboard deadline

Further to the [written ministerial statement](#) on 8 June 2023, giving an update on the dashboard deadline, TPR has amended [its dashboard guidance](#).

TPR expects pension schemes to continue to prepare for dashboards. FRAs should continue engaging with the parties who will support them with their dashboard duties, such as their third-party administrator (if appropriate), software provider, and any other party deemed appropriate, to:

- assess the potential impact of these changes on their scheme and to agree a practical delivery plan
- continue activity on getting to grips with members' data, and
- avoid competing demands on capacity and other resources.

These expectations are reinforced in [TPR's new dashboards content toolkit](#) published on 14 June 2023. The toolkit contains key messages for pension schemes.

Dashboards Values Guidance

The Pensions Administration Association (PASA) has published [guidance](#) designed to provide trustees, managers, sponsors, administrators and providers with “good practice” approaches to providing value data to pensions dashboards.

The guidance is intended for use by both DC and DB schemes and covers 20 topics including possible approaches for dealing with issues such as late retirements, underpins, partial retirements and split normal retirement ages.

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TPO expands network of volunteers

The Pensions Ombudsman ([TPO](#)) [is expanding its network of volunteer advisers](#). It currently has a network of around 200 pension professionals, who in 2022 helped to close 1,390 cases.

If you are interested you can [apply to be a volunteer](#), or email TPO's Network Manager Paul Day at paul.day@pensions-ombudsman.org.uk

Voluntary NI contributions deadline extended

In [a written ministerial statement](#) published on 12 June 2023, the Government announced it was extending the deadline to pay voluntary National Insurance (NI) contributions from 31 July 2023 to 5 April 2025. This applies for tax years 2006/07 to 2017/18.

Paying voluntary NI contributions enables individuals to fill gaps in their NI record to boost their State Pension.

HMRC

Pension Schemes Newsletter 150

On 31 May 2023, [HMRC published pension schemes newsletter 150](#). The newsletter contains articles on relief at source and the Managing Pension Schemes service.

Events

FPS coffee mornings

Our MS Teams coffee mornings are continuing regularly. 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.

We are pleased to include the presentations from recent sessions below:

[Matthews FRA Calculator](#)

If you do not already receive the meeting invitations and would like to join us, please

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email bluelightpensions@local.gov.uk. Please note that attendance at the coffee mornings is generally restricted to FPS practitioners and managers.

Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [FPS Member](#)
- [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](#)
- [LGPS Regulations and Guidance](#)
- [LGPC Bulletins](#)
- [LGPS member site](#)
- [Scottish Public Pensions Agency - Firefighters](#)
- [Welsh Government Fire circulars](#)

Contact details

Elena Johnson (Senior Pensions Adviser (Interim))

Telephone: 07770 763 031

Email: elena.johnson@local.gov.uk

Claire Johnson (Senior Pensions Adviser – (maternity leave))

Telephone: 07920 861 552

Email: claire.johnson@local.gov.uk

Tara Atkins (Firefighters' Pensions Adviser – Communications)

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Telephone: 07825 731 924

Email: Tara.atkins@local.gov.uk

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FPS Bulletin 71 – July 2023

Welcome to issue 71 of the Firefighters' Pensions Schemes bulletin.

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, suggested items for future issues, or a job you would like to advertise, please email bluelightpensions@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 bluelightpensions@local.gov.uk.

Table 1: Calendar of events

Event	Date
FPS coffee morning	3 August 2023
Southwest and Wales Fire Pensions Officer Group	15 August 2023
Northwest Fire Pensions Officer Group	13 September 2023
SAB	14 September 2023
Firefighters' Annual Conference Day one	19 September 2023
FPS Technical Working Group	19 September 2023
Firefighters' Annual Conference Day two	20 September 2023
Northeast Fire Pensions Officer Group	4 October 2023
SAB	14 December 2023

Actions arising

[Home Office collection of FPS forecasts for 2023-24 to 2028-29](#): FRAs should ensure that they are using the correct CPI rates in their forecasts and ensure that they meet the submission deadline.

FRAs should also look out for the Home Office's follow up email, if you are affected and engage with them accordingly, to ensure the data submitted is accurate.

[Age discrimination remedy – retrospective remedy](#): FRAs and administrators to read the response and ensure that they are working to be ready for the regulations' implementation on 1 October 2023.

[Age discrimination remedy – Contributions Calculator inputs](#): FRAs and administrators may wish to familiarise themselves with the draft inputs, so that they can ensure they are holding all the relevant data.

[Age discrimination remedy - Interest and Tax](#): FRAs and administrators should note

this position, to ensure that they act accordingly when carrying out remedy.

[Age discrimination remedy – Pension scams](#): Administrators and/or FRAs to add the suggested wording to the pension webpages.

[Age discrimination remedy – warm up letters](#): FRAs/administrators should use these to communicate with their members ahead of October 2023.

[Age discrimination remedy – Ill-Health re-assessment member outcome letters](#): Once the IQMP has provided their determination and FRAs have considered this and agree with the outcome, FRAs should send these using the relevant member outcome letter.

[Firefighters' Pension Scheme Adjustment in Respect of 2021 and 2022 Revaluation](#): FRAs and administrators to make themselves aware of this issue and start scoping the work involved.

[Government Actuary Department \(GAD\) – updated factors](#): FRAs and administrators to ensure that they are using the revised factors from the relevant implementation dates.

[Member benefit illustrations – FPS Northern Ireland](#): FRAs and administrators to make their members aware of the benefit illustrators, where applicable.

[Pension entitlements for retained Firefighters 2023 – FPS Wales](#): FRAs and administrators to review the consultation and respond accordingly.

[The Pensions Regulator Survey](#): We would encourage you to respond to the survey should you receive this.

[Abolishing the pensions lifetime allowance](#): FRAs and administrators to make themselves aware of the measures involved and consider whether they wish to respond to the consultation.

[Member remedy tax calculator](#): Scheme managers should register on the Secure Exchange Data Service ahead of the remedy exercise and delegate access

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accordingly.

FPS

Home Office collection of FPS forecasts for 2023-24 to 2028-29

In [FPS Bulletin 70 – June 2023](#) we informed you that Home Office had contacted FRAs giving them advance notice of their request for submission of pension income/expenditure forecasts for the period 2023-24 to 2028-29 via the online DELTA system.

On 6 July 2023, Home Office had emailed FRAs their formal commissioning letter requesting the pension forecasts. The letter sets out the centrally prescribed assumptions that must be applied when calculating an FRA's pension income and expenditure forecasts.

FRAs would be able to access the forms on DELTA from Monday 10 July and the deadline for DELTA returns is **cop Friday 25 August**.

Paragraph 3.1 of the letter sets out that the Home Office will shortly be requesting the local assumptions (for example on scheme member numbers, ill-health retirements etc.) that they are including in their forecasts and that this will be a separate return by email to the Home Office.

On 17 July 2023, Home Office emailed FRAs to inform them that the CPI figures in the original commission were incorrect, and to use the following correct rates in their forecasts:

Year	CPI rate
2023-24	10.1%
2024-25	5.4%
2025-26	0.6%

2026-27	0.0%
2027-28	0.7%
2028-29	1.7%

The Home Office have informed us that they are currently progressing the AME Fire top up grant payments based on the accounting data submitted by each FRA on the online DELTA system. These payments are due to be made in late July 2023.

The Home Office are aware that some fire and rescue authorities have not yet completed their audit for the 2021/22 FY accounts. The Home Office will be following up with these FRAs later this year when their audits are completed. This will ensure that any changes between their audited and unaudited 21/22 Financial Year accounts are recorded for the purposes of the AME top up grant, and that any necessary audit adjustments (payments/recoveries) are actioned.

ACTION: FRAs should ensure that they are using the correct CPI rates in their forecasts and ensure that they meet the submission deadline.

ACTION: FRAs should look out for the Home Office's follow up email, if you are affected and engage with them accordingly, to ensure the data submitted is accurate.

Age discrimination remedy – retrospective remedy

Further to [FPS Bulletin 67 – March 2023](#), where we informed you of the launch of [Home Office's consultation on retrospective remedy](#), on 19 July 2023 Home Office published the government's [formal response to the consultation on the draft Firefighters Pensions \(Remediable Service\) Regulations 2023](#) and policy intent to implement the retrospective phase of the McCloud/Sargeant remedy.

[The Firefighters' Pensions \(Remediable Service\) Regulations 2023](#) were subsequently laid in Parliament on 20 July 2023 and will come into effect from 1 October 2023.

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ACTION: FRAs and administrators to read the response and ensure that they are working to ensure they are ready for the implementation of the regulations on 1 October 2023.

Age discrimination remedy – Contributions Calculator inputs

The Government Actuary's Department (GAD) has been working on the McCloud remedy contributions calculator and have shared the draft inputs for the calculator.

Inputs are loaded into the calculator by importing from a CSV template. Imported values can be edited within the calculator before running or after running to make a required changed. Inputs can also be loaded manually.

The fields are detailed in the [Contributions Calculator inputs document](#) which form the columns of the input section of the calculator. A full description of each required field will be made available by GAD in due course.

For members where calculations are required for more than one scheme year, each scheme year is added as a new row. However, the output for each member is grouped together on the output.

If a calculation is being carried out monthly, a new row is required for each month. The output in these cases is similarly grouped.

ACTION: FRAs and administrators may wish to familiarise themselves with the draft inputs, so that they can ensure they are holding all the relevant data. A full data specification will be available in due course.

Age discrimination remedy – Interest and Tax

Following on from a number of queries relating to how interest in terms of tax should be applied, with thanks to HMRC and HM Treasury, please see the confirmed position below:

- Interest paid is taxable or tax free depending on whether the original payment was tax free.
- If the interest on a tax free amount plus the original tax free amount exceeds

statutory limits (for example, total PCLS), the excess becomes taxable as an unauthorised payment.

- Schemes will deduct tax due at the member's marginal rate and pay them the net amount. Arrears of pension are always taxable under PAYE (see the HMRC [Employment Income Manual](#)).
- The application of tax to the amounts of interest paid in excess of commercial rates still applies. Although it is explained in relation to guaranteed minimum pension, [Pension Schemes newsletter 140](#) sets out the tax treatment of interest.
- For compensation, under the [PSPJOA](#) it is adjusted to take account of what the tax/tax relief would have been in cases where it would have been taxable or subject to tax relief.

ACTION: FRAs and administrators should take note of this position, to ensure that they act accordingly when carrying out remedy.

Age discrimination remedy – Pension scams

We have been made aware through our conversations with Cross Whitehall colleagues that 3rd party organisations are contacting members of public service pension schemes, selling their help in claiming the 2015 remedy benefits.

We have therefore put some high-level wording together, which we will also adapt for the Firefighters' members website, that you may wish to put on your website pages:

“We have become aware that third party organisations are contacting members of public service pension schemes, such as the firefighters' pension scheme, selling their help in claiming the 2015 Remedy (McCloud) benefits.

As the administrator for XXXX we *will not request a fee* for providing this information. *You do not need to go through a third party* to claim these benefits and we will contact you in due course to provide you with your remedial service statement to allow you to make your remedy option.

Please remember to stay vigilant. If you are still unsure or have any concerns over a potential scam, please contact us for clarification.”

ACTION: Administrators and/or FRAs to add the suggested wording to the pension webpages.

Age discrimination remedy – warm up letters

In conjunction with the Firefighters’ Communications Working Group, warm up letters have been created to assist FRAs and administrators to manage member expectations on the timetable of when each cohort will be written to as part of the remedy exercise.

These letters include letters to beneficiaries. It was suggested by the group that not all FRAs/administrators will have contacted beneficiaries at this point; therefore, they may not wish to provide a warmup letter to this group.

A member remedy video is being developed in conjunction with Aon and will be available ahead of October 2023. The member video will reference the warmup letters.

These letters have been uploaded to the [Age discrimination remedy – retrospective remedy page](#) on the Firefighters’ Regulations and Guidance website.

ACTION: FRAs/administrators should use these to communicate with their members ahead of October 2023.

Age discrimination remedy – Ill health reassessment member outcome letters

In [FPS Bulletin 63 – November 2022](#), we published an [ill-health reassessment factsheet](#) to help FRAs determine which individuals require a reassessment of their ill-health determination as a result of remedy implementation.

In [FPS Bulletin 69 – May 2023](#), we published the IQMP template referral letters.

The member outcome letters for scenarios one, two, seven and nine as referred to in the ill-health assessment factsheet have now been added to the [Retrospective remedy webpage](#).

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ACTION: Once the IQMP has provided their determination and FRAs have considered this and agree with the outcome, FRAs should send these using the relevant member outcome letter.

Firefighters' Pension Scheme Adjustment in Respect of 2021 and 2022 Revaluation

We sent out an email on 11 July 2023 with a copy of a notification from the Home Office in respect of the Average Weekly Earnings (AWE) growth figures for 2021 and 2022. This will affect the Firefighters' Pension Scheme 2015:

"I'm emailing to make you aware of an issue that the Home Office have been working on with HMT, MoD and devolved administrations over the past few months, and a related WMS that was published on 6 July 2023: [Written statements - Written questions, answers and statements - UK Parliament](#)

During QA work for the Treasury Revaluation Order 2023, it was noted that the Orders for 2021 and 2022 used provisional Average Weekly Earnings (AWE) growth estimates published by the ONS the preceding November respectively rather than revised AWE figures published the preceding December. This deviates from the approach taken from 2015 to 2020 and in 2023, and our best assessment is that it occurred in error. This primarily affects schemes revalued based on AWE, i.e. the 2015 Firefighters' Pension Scheme including devolved schemes and the 2015 Armed Forces Pension Scheme. The overall effect is that revaluation for affected members is up to ~0.6% lower than it would have been if revised ONS figures had been used.

Revaluation order for April	Figure in Order	Statistic as published in latest ONS release
2022	4.1	4.5
2021	2.4	2.6

While primary legislation gives HMT a fairly broad remit on the choice of earnings measures, it is our and Treasury Ministers' view that, given the lack of a policy rationale for the change in methodology, affected members will need to be put back into the position they would have been in had revised AWE figures been used in 2021 and 2022. This is not straightforward legislatively as past Treasury Orders likely cannot be amended through future Treasury Orders or scheme regulations, but we believe that remedy can be provided through additional pension accrual under Section 3 PSPA 2013. MoD, HO and devolved administrations will consult and legislate for these scheme specific changes.

On the limited number of past Club transfers from the affected schemes, where transferred in pensions may have been smaller than should have been the case and/or revaluation provided on the basis of the sending scheme has been lower than it should have been following this correction. We have discussed this issue with CO and affected departments and DAs, and our preferred approach is to also correct the position for these members through a combination of the proposed s3 PSPA 2013 regulations and amendments to the Club Memorandum, and avoid receiving schemes having to make bespoke regulations in respect of a small number of past transfers in. However, there may be some issues to be worked through with this approach as the Club Memorandum cannot override conflicting rules of receiving schemes.

Please do share with SAB and happy for this to be put on the agenda at the next scheduled SAB.

There is no need for administration to take any further action for now, we will be in touch to discuss what implementing this change will mean.”

As indicated above, the Home Office will confirm further details on implementation in due course however FRAs and administrators should start scoping the work which will be involved following this notification.

ACTION: FRAs and administrators to make themselves aware of this issue and start scoping the work involved.

Government Actuary Department (GAD) – updated factors

In [FPS Bulletin 68 – April 2023](#) we confirmed that the CETV technical note had been suspended, and therefore all CETVs, Pensioner cash equivalents and non-club transfers-in should be suspended.

In [FPS Bulletin 69 – May 2023](#), we published that Home Office had confirmed that the first batch of updated factors had been provided by GAD. This updated the following factor tables:

- CETVs (x-201 to x-215),
- Pensioner cash equivalents (x-301 to x-312),
- Pension credits (x-313 to x-317),
- Pension debits (x-318 to x-328)

On 3 July 2023 Home Office confirmed that the second batch of updated factors had been provided by GAD. This updated the following factor tables:

- x-220 to x-221 (CARE TV ins),
- x-401 to x-403 (Early Retirement Factors),
- x-404 to x-407 (Late Retirement Factors)

and the following factor tables were withdrawn:

- x-216 to x-219 (non-Club tv ins for 2006 scheme)

These factors should be implemented as follows:

- x-220 to x-221 factors from **29 March 2023**.
- x-401 to x-403 and x-404 to x-407 factors from **3 July 2023**.

On 28 July 2023, Home Office confirmed that the third and final batch of updated factors had been provided by GAD. This updated the following factor tables:

- x-501 to x-504 (Trivial Commutation),
- x-603 and x-621 (Scheme Pays (Annual Allowance)),
- x-622 to x-627 (Scheme Pays (Lifetime Allowance))

These factors should be implemented with effect from 28 July 2023.

The updated factors should be used in conjunction with the relevant existing guidance notes in force for the Firefighters' Pension Schemes.

The factors are published on the relevant [GAD guidance pages](#) of the Firefighters' Pension Scheme Regulations and Guidance website.

ACTION: FRAs and administrators to ensure that they are using the revised factors from the relevant implementation dates.

Member benefit illustrations – FPS Northern Ireland

In [FPS Bulletin 56 – April 2022](#) we made you aware that the Scheme Advisory Board had worked with Barnett Waddingham to produce a suite of illustrative member scenarios.

Barnett Waddingham have now produced this for members in Northern Ireland and this is available on the [FPS member website](#).

ACTION: FRAs and administrators to make their members aware of the benefit illustrators.

Pension entitlements for retained Firefighters 2023 – FPS Wales

On 14 July 2023, Welsh Government launched their [consultation for retained firefighters](#).

The consultation seeks to make changes to the New Firefighters Pension scheme 2007 about pension rights for Retained Firefighters and Firefighters' 2007 Compensation Scheme in respect of secondary contracts.

The closing date is 6 October 2023.

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ACTION: FRAs and administrators to review the consultation and respond accordingly.

Technical query log

The [current log of queries and responses](#) can be accessed by practitioners in the member-restricted area of the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log is updated monthly in line with the bulletin release dates.

There were no technical queries raised in July.

FPS England SAB updates

Government Actuary Department (GAD) – Matthews benefit Calculator

On 4 May 2023, the Scheme Advisory Board (SAB) wrote to Chief Fire Officers to share the scope and cost of the GAD benefit calculator, which is in addition to the scope of the workplan between Home Office and GAD, to ask for comments by 11 May 2023.

As no objections were received to the proposal, the SAB commissioned GAD to take this work forward.

GAD attended the [LGA coffee morning](#) on 6 June 2023 to discuss the scope of the calculator and have been working with stakeholders through the Matthews Working Group to develop the calculator. The calculator will be tested by those FRAs who have volunteered. The final calculator will then be made available for FRAs to use for the Matthews Second Options Exercise.

Cost Effectiveness Committee Meeting

On 25 July 2023, the Cost Effectiveness Committee met to discuss the draft 2020 Scheme valuation assumptions for England.

In this meeting the SAB actuarial advisors, First Actuarial, presented a report setting out advice and assurance to the committee on the data and assumptions advice given by the Government Actuary's Department (GAD) for the valuation of the

Scheme as at 31 March 2020. The report also set out areas where they believe the SAB may wish to make representations to the Home Secretary on alternative assumptions or other issues such as data quality that are identified during the assumptions setting process. A response has now been collated and sent on behalf of the Chair of SAB to the Home Secretary.

Cost Effectiveness Committee Appointment

Following a vacancy on the Cost Effectiveness Committee for an FRA Local Pension Board representative, we are pleased to confirm that Councillor Ben Clayton has been appointed. The main objectives of the Cost Effectiveness Committee are to determine how much it costs to run the Firefighters' Pension Schemes and to respond to Home Office consultations regarding the actuarial cost of the scheme. As detailed above, the Cost Effectiveness Committee met on 25 July 2023 to discuss the draft assumptions for the 2020 valuation.

Other News and Updates

Firefighters Pensions – Pension Advisor Role(s) vacancy

The LGA pensions team works with and on behalf of authorities and other stakeholders across the Firefighters, Police, and Local Government pension schemes in England. To be part of this team is to be a vital element in the legislative and administrative framework of some of the largest pension schemes in the UK.

We are looking for inspirational individuals to work alongside experienced and talented pensions specialists in respect of the Firefighters' pension schemes.

Reporting directly to the Firefighters Senior Pensions Adviser, the successful candidates will assist with priority developments in scheme governance and provide support to employers, as well as to the Firefighters' Pensions Scheme Advisory Board, its committees, and Fire and Rescue Authorities' Local Pension Boards.

We have two roles being advertised within the Firefighters' pensions team. If you are interested in applying, please see the full advert on the [website](#).

The Public Service Pensions and Judicial Offices Act 2022 (Commencement No 2) Regulations 2023

On the 3 July 2023 the [Public Service Pensions and Judicial Offices Act 2022 \(Commencement No 2\) Regulations 2023](#) were laid. These Regulations are the second Commencement Regulations made under the Public Service Pensions and Judicial Offices Act 2022 and bring into force Chapter 2 and sections 109 and 110 of the Act.

Chapter 2 makes retrospective provision to rectify unlawful discrimination in the way in which existing Judicial pension schemes were restricted under the Public Service Pensions Act 2013.

Regulation 2(b) brings into force section 109, to the extent that it is not already in force and to the extent that it applies for the purposes of Chapter 2 of the Act.

Regulation 2(c) brings into force sections 110, to the extent that it is not already in force and to the extent that it applies for the purposes of Chapter 2 of the Act.

The Pensions Regulator (TPR) - survey

Over the coming weeks, you may receive a survey from The Pensions Regulator (TPR) – this is an anonymous, factfinding exercise to understand some of the challenges faced by schemes in getting member data from the employer. For example, what data is collected, when this is provided and what is the process if there are delays.

The scheme selection is mainly focused on schemes who have a large number of employers and will be sent to the Scheme Contact they have on record (but may be forwarded to the most appropriate person to provide the information).

ACTION: We would encourage you to respond to the survey should you receive this.

Staging dates – The Pensions Regulator (TPR) expectations

The Pensions Regulator (TPR) has updated its [‘Failing to comply with dashboards duties’ guidance](#). The purpose of the update is to outline what schemes will need to do to demonstrate that they have had regard to the staging timetable. The staging

timetable will be set out in connection guidance.

TPR expects schemes to do the following to show that they ‘have regard to the connection guidance’:

- Connect to dashboards by the connection deadline of 31 October 2026 that is set out in legislation. Failure to do so could result in regulatory action by TPR.
- A revised staging timetable will be set out in guidance which will indicate when schemes are scheduled to connect. All trustees and scheme managers must have regard to this guidance. Failure to do so will be a breach.
- Although the timelines in guidance will not be mandatory, schemes will be expected to demonstrate how they have had regard to the guidance. Amongst other considerations, this means that scheme managers:
 - should not make decisions about connection until they have engaged with the guidance.
 - must be able to demonstrate that they have adequate governance and processes for making such decisions. The reasoning for the decisions should be clearly considered and documented, as should how relevant risks are identified, evaluated and managed.
 - should make sure that they have access to all the relevant information before making decisions and acting on them. This includes engaging with those who are supporting them to develop a practical delivery plan. Clear and accurate audit trails need to be kept to demonstrate the decisions made, the reasons for them and the actions taken.
- A phased approach to staging enables a controlled and well-planned connection, reduces the risk of provider capacity constraints, and means savers can realise the benefits of pension dashboards as early as

possible.

- Continuing to prepare for dashboards by engaging with those who will support them with their dashboard duties, such as ISP providers and administrators:
 - to assess the potential impact of these changes on their schemes
 - to agree a practical delivery plan, and
 - to continue activity on getting to grips with member data.

[The Pensions Dashboards Programme \(PDP\) video: An introduction to the dashboards available point](#)

The Pensions Dashboards Programme (PDP) has launched a [video introducing the dashboards available point](#). The dashboards available point is the date when pensions dashboards will be made available to the public.

[Pensions Dashboards \(Amendment\) Regulations 2023](#)

In [FPS Bulletin 70 – July 2023](#) we informed that further to the [written ministerial statement](#) made on 8 June 2023, that draft regulations had been laid to amend the Pensions Dashboard Regulations 2022.

On 19 July 2023 [The Pensions Dashboards \(Amendment\) Regulations 2023](#) were made and will come into force on 9 August 2023.

[The Police Pensions \(Remediable Service\) Regulations 2023](#)

On 19 July 2023 the [Police Pensions \(Remediable Service\) Regulations 2023](#), were laid and will come into force on 1 October 2023.

[Teachers' Pension Scheme \(Remediable Service\) Regulations 2023](#)

On the 26 July 2023 the [Teachers' Pension Scheme \(Remediable Service\) Regulations 2023](#), were laid and will come into force on 1 October 2023.

HMRC

Pension Schemes Newsletter 151 – June 2023

HMRC published Pension Schemes [Newsletter 151 - June 2023](#) on 30 June 2023.

The newsletter contained articles on:

- the annual allowance calculator
- the abolition of the Lifetime Allowance – payment of standalone lump sums, and
- the Managing Pension Schemes service

Pension Schemes Newsletter 152 – July 2023

HMRC published Pension Schemes [Newsletter 152 – July 2023](#) on 20 July 2023.

The newsletter contained articles on:

- Legislation Day (L-Day) 2023,
- Relief at source – annual return of information for the tax year 2022 to 2023,
- Pension flexibility statistics
- Qualifying recognised overseas pension schemes transfer statistics, and
- Purpose of registered pension scheme

Abolishing the pensions lifetime allowance

On 18 July 2023 HMRC launched their [consultation](#) to abolish the pensions lifetime allowance (LTA). The LTA consultation is part of a wider consultation on proposed clauses for the next Finance Bill

This is designed to deliver the changes necessary to abolish the pensions lifetime allowance from the tax year 2024 to 2025 onwards, as announced at Spring Budget 2023.

[Click here to return to Contents](#)

The closing date for responses is 12 September 2023.

ACTION: FRAs and administrators to make themselves aware of the measures involved and consider whether they wish to respond to the consultation.

Age discrimination remedy - Member tax calculator

As part of discussions with HMRC regarding the development of the member remedy tax calculator, it has been identified that Scheme Managers will need to register for the Secure Exchange Data Service (SDES), to allow HMRC to provide schemes with member information so that they can make any necessary refund/adjustments in benefits.

Once the Scheme Manager has registered, they will then be able to delegate access to their pension administrators, where applicable.

Guidance slides have been made available to assist Scheme Managers to register for the [Secure Exchange Data Service](#) (SDES).

ACTION: Scheme Managers should register on the Secure Exchange Data Service ahead of the remedy exercise and delegate access accordingly.

Events

FPS coffee mornings

Our MS Teams coffee mornings are continuing on a regular basis. 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.

We are pleased to include the presentations from recent session below, which was held on 11 July 2023:

[LGA update – Retrospective remedy and Mathews Second options exercise](#)

If you do not already receive the meeting invitations and would like to join us, please email bluelightpensions@local.gov.uk. Please note that attendance at the coffee mornings is generally restricted to FPS practitioners and managers.

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Firefighters' Pensions AGM – London – 19 and 20 September 2023

Great news!!! Bookings have opened for the AGM.

The two-day programme allows delegates to network with fellow colleagues and hear the latest news on the Firefighters' Pension Scheme (FPS) from the scheme's key stakeholders.

You will hear important updates, including:

- Chair of the Scheme Advisory Board
- The Home Office
- The Pensions Regulator
- The Government Actuary's Department
- Communications and engagement
- Legal Updates

As well as providing the opportunity to network with other FPS stakeholders, there will be interactive and thought-provoking workshops to take part in during the day on:

- Retrospective remedy - communications, and
- Matthews second exercise

Day 1 – Tuesday 19 September 2023 16:30 – 18:30

Primarily for Scheme Managers and Local Pension Board chairs, day 1 of the conference will provide practical guidance on the role of the scheme manager and will offer the opportunity to network with counterparts in other FRAs.

Following this session there will be a drinks reception on the terrace from 18:45.

Day 2 – Wednesday 20 September 2023 10.00 – 15:30

Day 2 of the conference provides delegates with an annual update on the

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Firefighters' Pension Scheme from key stakeholders.

Bookings are open on the LGA Events page.

[Firefighters' Pensions Annual Conference Day One](#)

[Firefighters' Pensions Annual Conference Day Two](#)

Legislation

Acts

[Finance \(No.2\) Act 2023](#) [2023/30]

Statutory Instruments

[The Firefighters Pensions \(Remediable Service\) Regulations 2023](#) [SI2023/843]

[The Pensions Dashboards \(Amendment\) Regulations 2023](#) [SI2023/858]

Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [FPS Member](#)
- [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](#)
- [LGPS Regulations and Guidance](#)
- [LGPC Bulletins](#)
- [LGPS member site](#)
- [Scottish Public Pensions Agency - Firefighters](#)
- [Welsh Government Fire circulars](#)

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Contact details

Elena Johnson (Senior Pensions Adviser) (Interim)

Telephone: 07770 763 031

Email: elena.johnson@local.gov.uk

Claire Johnson (Senior Pensions Adviser) (Maternity Leave)

Telephone: 07920 861 552

Email: claire.johnson@local.gov.uk

Tara Atkins (Firefighters' Pensions Adviser – Communications)

Telephone: 07825 731 924

Email: Tara.atkins@local.gov.uk

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FPS Bulletin 72 – August 2023

Welcome to issue 72 of the Firefighters' Pensions Schemes bulletin.

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, suggested items for future issues, or a job you would like to advertise, please email bluelightpensions@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 bluelightpensions@local.gov.uk.

Table 1: Calendar of events

Event	Date
Northwest Fire Pensions Officer Group	13 September 2023
SAB	14 September 2023
Firefighters’ Annual Conference Day one	19 September 2023
FPS Technical Working Group	19 September 2023
Firefighters’ Annual Conference Day two	20 September 2023
Northeast Fire Pensions Officer Group	4 October 2023

Event	Date
SAB	14 December 2023

Actions arising

[Age Discrimination Remedy – Warm up letters](#): FRAs/administrators should use these to communicate with their members ahead of October 2023.

[Age Discrimination Remedy – Remediable Service Statements](#): Administrators are recommended to use the template covering letter, where the RSS is not yet available with existing retirement option letters offering the member a choice of legacy and reformed scheme benefits.

FRAs should have regard to the LGA’s proposed approach and understand that any decision to retire a member into the legacy scheme without a choice, is a scheme manager decision, and should be by exception only. FRAs should ensure that they understand the implications of retiring members into the legacy scheme without a choice.

[Age Discrimination Remedy – Remedy tax and contributions: input and output specification](#): FRAs and administrators should familiarise themselves with the draft inputs, so that they can ensure they are holding all the relevant data.

[The Pension Regulator – Scheme Return](#): FRAs to ensure that their scheme return contact details are up to date.

FPS

Age Discrimination Remedy - Warm up letters

Further to [FPS Bulletin 71 – July 2023](#), confirming that we have published warm up letters for FRAs/administrators to use, we have now published a deferred letter on the [Age Discrimination Remedy – retrospective remedy webpages](#).

ACTION: FRAs/administrators should use these to communicate with their members ahead of October 2023.

Age Discrimination Remedy – Remediable Service Statements

Following our Coffee Morning on the [Age Discrimination Remedy Consultation Response and Regulations](#) a question was raised with regards to Deferred Choice Remediable Service Statements (DC-RSS). The issue was whether, if the DC - RSS is not available by 1 October 2023, whether an administrator/FRA can rely upon [Part 3, Chapter 3, Regulation 8 \(c\)](#), of The Firefighters’ Pensions (Remediable Service) Regulations 2023 which states the following:

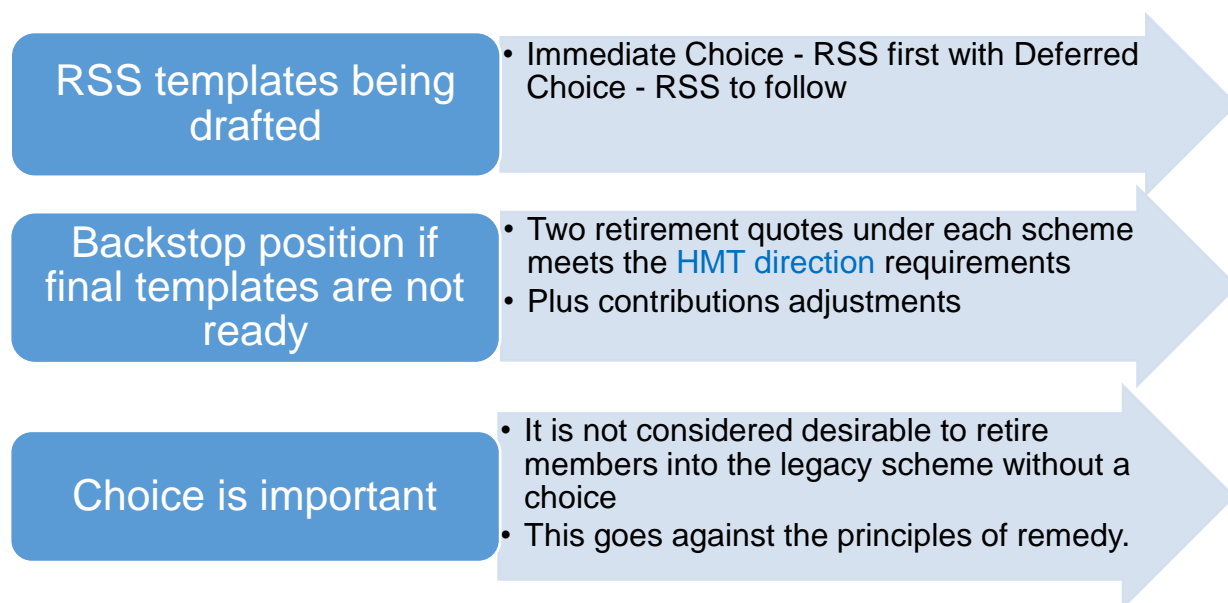
(8) No benefits are payable under the legacy scheme in respect of M’s pensionable service under that scheme unless—

- (a) a deferred choice decision is made in relation to M’s remediable service as a firefighter,
- (b) a section 10 election is deemed to have been made under [regulation 16](#) in relation to that service,
- (c) M has notified the scheme manager that they intend to claim benefits under a firefighters’ pension scheme in respect of their remediable service as a firefighter and it was not reasonably practicable for the scheme manager to provide a remediable service statement in respect of M in accordance with regulation 4(2)(c)(i) before the date on which such benefits become payable, or
- (d) M is deceased.

This implies that if the DC – RSS is not available, the member’s pension benefits can be paid from the legacy scheme, without a DC – RSS having been issued, and the member therefore not having made an informed choice. The Home Office has confirmed that this regulation does allow for that to happen. The LGA’s view is that the member **should** have a choice, and that Regulation 8 should only be relied upon in exceptional circumstances.

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We have set out the current position and our understanding and proposed approach as below:



We have created a template covering letter explaining the purpose of the DC – RSS, to be used with two retirement quotes, one for the legacy scheme and one for the reformed scheme, along with the contribution adjustment information. This template covering letter has been published on the [Age Discrimination Remedy – retrospective remedy webpages](#).

ACTION: Administrators are recommended to use the template covering letter, where the RSS is not yet available with existing retirement option letters offering the member a choice of legacy and reformed scheme benefits.

ACTION: FRAs should have regard to the LGA’s proposed approach and understand that any decision to retire a member into the legacy scheme without a choice, is a scheme manager decision, and should be by exception only. FRAs should ensure that they understand the implications of retiring members into the legacy scheme without a choice.

Age discrimination – Contributions Calculator

In [FPS Bulletin 71 – July 2023](#) we informed you of the Government Actuary's Department (GAD) work on the contribution calculator inputs.

We are now happy to share the [Remedy tax and contributions calculator: input and output specification](#), which is published on the Firefighters' Pensions regulations and guidance website.

ACTION: FRAs and administrators should familiarise themselves with the draft inputs, so that they can ensure they are holding all the relevant data.

Technical query log

The [current log of queries and responses](#) can be accessed by practitioners in the member-restricted area of the FPS Regulations and Guidance website. The queries have been anonymised and divided into topics. The log is updated monthly in line with the bulletin release dates.

This month we have received one technical query which related to:

- Deferred benefits being brought into payment if someone has opted out, page 69.

Whilst this is a query that we have already previously received a similar question on, clarity was sought from the Home Office, and this has been reflected on the technical log.

FPS England SAB updates

SAB website

You can use the links below to find out about the latest updates on the work of the SAB and its committees on the SAB website:

- [SAB membership](#)
- [SAB meeting and agenda papers](#)

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- [Committee meetings and agenda papers](#)

The next SAB meeting will be on 14 September 2023.

Other News and Updates

Firefighters Pensions Team

In respect of the LGA Firefighters' Pensions Team, we say goodbye this month to Elena Johnson. Elena has been acting up as Senior Pensions Adviser in the team whilst Claire Johnson has been on maternity leave and will leave the LGA on 31 August 2023. We wish Elena every success for the future.

From the beginning of September Claire Johnson will return from maternity leave into her new role as Senior Firefighters' Pensions Adviser.

The Pensions Dashboards (Amendment) Regulations 2023

Further to FPS Bulletin [70 – June 2023](#) and [71 – July 2023](#), [The Pensions Dashboards \(Amendment\) Regulations 2023](#) came into force on 9 August 2023. The Pensions Regulator (TPR) has provided [a summary of the regulations](#) on their Pension Dashboard guidance pages.

TPR strongly advise scheme managers to continue preparing for dashboards, by engaging with those that support them with their dashboard duties, such as administrators and ISP providers:

- to assess the potential impact of these changes on their schemes,
- to agree a practical delivery plan and
- to continue activity on getting to grips with members' data.

Pensions Dashboards Programme Newsletter

In August 2023, the Pensions Dashboards Programme (PDP) published its [August newsletter](#). There are articles on:

- The reset update
- Financial Conduct Authority updated rules
- Frequently asked questions on pensions dashboards
- Inviting PDP to an event.

The Pension Regulator (TPR) – Scheme Return

As in previous years the scheme return notice will be sent out from October 2023.

TPR are encouraging FRAs to ensure that their scheme return [contact details are up to date](#).

More information about the scheme return, and how to prepare can be found on TPR's [public service scheme return](#) webpages.

ACTION: FRAs to ensure that their scheme return contact details are up to date.

The Pensions Ombudsman - Incorrect information member factsheet

On 31 July 2023, the Pensions Ombudsman (TPO) published [a member factsheet called 'Incorrect information'](#).

The factsheet outlines what members should do if they have a complaint about receiving incorrect information.

Pensions Administration Standards Association - Data guidance on DB benefit accuracy

On 14 August 2023, the Pensions Administration Standards Association (PASA) published [new data guidance on benefit accuracy for defined benefit \(DB\) schemes](#).

[PASA has previously issued guidance focused on data quality](#) and they are building on this by now focusing on benefit accuracy.

Government Actuary appointed

On 2 August 2023, [HM Treasury announced the appointment of Fiona Dunsire](#) as the new Government Actuary. Fiona joins the Government Actuary's Department on a five-year fixed term appointment.

The Money and Pensions Service publish 2023/24 corporate plan

On 17 August 2023, the Money and Pensions Service (MaPS) [published its 2023/24 corporate plan](#).

The report outlines five priority themes designed to help the delivery of MaPS' main services and to help savers get the guidance and advice they need on money, debt and pensions.

The Money and Pensions Service publish review into pension scams

On 10 August 2023, the Money and Pensions Service (MaPS) [published its evidence review into pension scams in the U K](#).

The key findings are:

- There remain significant challenges to estimate the scale of the problem.
- The types of scams and tactics are very similar to investment scams.
- The financial and emotional cost to individuals is high, going beyond financial loss and impacting on health and relationships.
- Once an individual has been targeted there is a high risk of retargeting.
- Government bodies, administrators and other organisations have at their disposal a range of touchpoints to provide strong protection against scams.

HMRC

Secure Data Exchange Service (SDES)

In [FPS Bulletin 71 – July 2023](#), we let you know about the Secure Data Exchange Service, which is the service that HMRC will use to share member data with Schemes, relating to the HMRC member tax calculator.

HMRC have since confirmed that they will be in contact with each scheme manager contact shortly with the required links so that FRAs can register for SDES. They have asked that schemes register as soon as possible on receipt of the invitation.

We understand therefore that you will receive some additional information from HMRC that will enable you to do this.

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023

In [FPS Bulletin 69 – May 2023](#), we informed you that HMRC had published their consultation on The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (no.2) Regulations 2023.

On 17 August 2023, the Government laid [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#). The Regulations come into force on 14 September 2023.

HMRC Public Service Pensions Remedy Newsletter

On 18 August 2023, HMRC published their August edition of the [Public Service Pensions Remedy Newsletter](#). Within this edition they cover:

- [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#) has been laid and will come into force on 14 September 2023.
- Reporting of annual allowance (AA) tax charge for 2022 to 2023.
- Scheme pays extended to fully retired members.
- Scheme administrators' applications for repayment of overpaid tax.

[Click here to return to Contents](#)

- Lifetime allowance excess lump sum that is no longer a lifetime allowance excess lump sum due to remedy.
- Benefits from member voluntary contributions (MVCs) in payment before the remedy comes into force.
- Changes consequential to Finance (No 2) Act 2023

Events

FPS coffee mornings

Our MS Teams coffee mornings are continuing on a regular basis. 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.

We are pleased to include the presentations from recent sessions below:

[Retrospective remedy consultation response and regulations](#)

If you do not already receive the meeting invitations and would like to join us, please email bluelightpensions@local.gov.uk. Please note that attendance at the coffee mornings is generally restricted to FPS practitioners and managers.

Firefighters' Pensions AGM – London – 19 and 20 September 2023

As cover in [FPS Bulletin 71 – July 2023](#) bookings are now opened for the AGM.

The two-day programme allows delegates to network with fellow colleagues and hear the latest news on the Firefighters' Pension Scheme (FPS) from the scheme's key stakeholders.

You will hear important updates, including from:

- The Chair of the Scheme Advisory Board
- The Home Office
- The Pensions Regulator

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- The Government Actuary's Department
- Communications and engagement
- Legal Updates

As well as providing the opportunity to network with other FPS stakeholders, there will be interactive and thought-provoking workshops to take part in during the day on:

- Retrospective remedy - communications, and
- Matthews second exercise

Day 1 – Tuesday 19 September 2023 16:30 – 18:30

Primarily for Scheme Managers and Local Pension Board chairs, day 1 of the conference will provide practical guidance on the role of the scheme manager and will offer the opportunity to network with counterparts in other FRAs.

Following this session there will be a drinks reception on the terrace from 18:45.

Day 2 – Wednesday 20 September 2023 10.00 – 15:30

Day 2 of the conference provides delegates with an annual update on the Firefighters' Pension Scheme from key stakeholders.

Bookings are open on the LGA Events page.

[Firefighters' Pensions Annual Conference Day One](#)

[Firefighters' Pensions Annual Conference Day Two](#)

Legislation

Statutory Instruments

[The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No. 2\) Regulations 2023](#) [SI 912/2023]

[Click here to return to Contents](#)

Useful links

- [The Firefighters' Pensions \(England\) Scheme Advisory Board](#)
- [FPS Regulations and Guidance](#)
- [FPS Member](#)
- [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](#)
- [LGPS Regulations and Guidance](#)
- [LGPC Bulletins](#)
- [LGPS member site](#)
- [Scottish Public Pensions Agency - Firefighters](#)
- [Welsh Government Fire circulars](#)

Contact details

Claire Johnson (Senior Firefighters' Pensions Adviser)

Telephone: 07920 861 552

Email: claire.johnson@local.gov.uk

Tara Atkins (Firefighters' Pensions Adviser)

Telephone: 07825 731 924

Email: Tara.atkins@local.gov.uk

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THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 7
16 OCTOBER 2023

LOCAL PENSION BOARD COMMITTEE

REPORT OF THE ACO PEOPLE SERVICES

FIREFIGHTER PENSIONS – UPDATE ON CURRENT NATIONAL EXERCISES: MCCLOUD AND O'BRIEN**THIS REPORT IS FOR INFORMATION**

REPORT APPROVED BY THE ACO PEOPLE SERVICES

REPORT PRESENTED BY ACO PEOPLE SERVICES, ALISON REED

SUMMARY**MCCLOUD**

In July 2021, the Fire & Rescue Authority, as Scheme Manager, agreed to provide pension benefit options for those individuals who were considered to be in scope for Immediate Detriment (ID), ie those were in Service but intending to retire and had provided notice of their intention to do so. This policy decision came into effect from October 2021, although those retiring post 1 October, 2023, will be processed under an Immediate Choice principle, as per The Firefighters Pension (Remediable Service Wales) Legislation 2023. This report provides an update on the number of ID cases that have been processed between 19 October 2021 and 30 September 2023. It also confirms next steps in relation to remedying all cases of age discrimination cases.

O'BRIEN

An additional exercise is due to commence in October 2023 which revisits the first options exercise (RDS MOD/Matthews) undertaken between 2013 and 2015, which offered all On Call staff, with Service prior to July 2000, the ability to buy pension scheme membership, based on new legislation that came into effect, based on determined discriminatory practices. The initial exercise took 18 months to implement, and the same timescales have been placed on the second exercise commencing October 2023. Preparatory work is currently underway.

RECOMMENDATIONS

That Members note the content of the report.

1. BACKGROUND - MCCLOUD

- 1.1 Following Lord Hutton's 2011 review of public sector pensions, the Public Service Pensions Act (2013) provided the legal framework to reform public sector pension schemes. Reforms included restricting existing final salary schemes, extending retirement ages, and introducing career average schemes. In 2015 all main public service pension schemes were reformed to provide defined benefits on a career average basis and extend the normal retirement age of members. The pension scheme regulations were amended to introduce these changes. The amended regulations also provided protection for members of existing final salary schemes. This protection was age related and members reaching the normal pension age of 55 by 31 March 2012, were afforded full protection with other members receiving protection on a tapered basis depending on their age. This protection was known as transitional protection and members who did not qualify for protection were moved out of their legacy schemes directly onto the new 2015 Firefighters Pension Scheme on the 1st April 2015.
- 1.2 In 2018 the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters' Pension Schemes. This is referred to as the McCloud/Sargeant case. On the back of this decision the Government confirmed that it would remove the difference in treatment across all main public service pension schemes. Since then, there have been further challenges in the courts in relation to the powers of Fire & Rescue Authorities and their ability to implement the outcome of the McCloud/Sargeant judgement.
- 1.3 In October 2020 the UK Government undertook to consult the public on the way forward in relation to public service pension schemes and in particular how it should respond to the detail outlined in the judgement. The outcomes of the consultation were published on 4 February 2021, with an option called 'the Deferred Choice Underpin' being adopted. This means that members will make their decision between scheme benefit options shortly before their benefits are paid from the scheme, at the point of retirement. In the meantime, members will be deemed to have accrued benefits in their legacy schemes rather than reformed schemes, for the remedy period until they make that choice. The remedy period has been determined as 1 April 2015 to 31 March 2022. The UK Government response to the consultation can be accessed via this link- <https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>

- 1.4 On 12 February 2021, an Employment Appeal Tribunal (EAT) gave its judgement on an appeal by the Fire & Rescue Authorities based on Schedule 22 of the Equality Act. The appeal was based on the argument that the Fire & Rescue Authorities did not make the legislation which was found by the Court of Appeal to be discriminatory on the grounds of age but were bound to follow it because it was the law. Schedule 22 can give a defence where an employer is required by legislation to act towards its employees in a way which is discriminatory. The Employment Appeal Tribunal's judgement was that Fire & Rescue Authorities cannot rely on the Schedule 22 defence. Effectively the Employee Appeal Tribunal held that the Fire & Rescue Authorities in their capacity as the scheme manager could have decided not to follow discriminatory legislation and, in fact, should have done so by refusing to treat firefighters as having transferred into the Firefighters Pension Scheme 2015. This is because it held that Section 61 of the Equality Act 2010 prohibits Fire & Rescue Authorities from acting in a manner which discriminates on the grounds of age, and it prioritises that obligation over the other provisions in the pension scheme which would oblige the Fire & Rescue Authorities to act in that way. In addition, it held that under Section 62 of the Equality Act 2010, as scheme managers the Fire & Rescue Authorities have vested in them the power to pass a resolution making alterations to the scheme, which would have the effect of removing such discrimination.
- 1.5 On 10 June 2021, the Home Office and Local Government Association issued informal guidance on processing Immediate Detriment cases. Whilst this guidance applied to Fire & Rescue Services in England, communication from Welsh Government did confirm that although they do not have the power to issue statutory guidance or directions to scheme managers on such matters, the English and Welsh schemes are substantively identical, as are the issues surrounding the processing of immediate detriment claims, and it was accepted that the Home Office/LGA guidance contains useful information for scheme managers in handling such claims.
- 1.6 Immediate Detriment is the term used to refer to firefighters who will retire from the scheme before the secondary regulations are amended to bring in the age discrimination remedies. There are two main categories of immediate detriment-
1. Those who have retired since April 2015 – Category 2 cases
 2. Those who will retire before the legislation is amended to bring in the Deferred Choice Underpin (DCU) remedy. So those that retire before October 2023 – Category 1 cases

- 1.7 The guidance from Government at this point, was the members who have already retired should not be processed under immediate detriment guidance due to complex issues that have not yet been resolved. Therefore, it was cases described in point 2 above that were the focus of our initial work. The Home Office/LGA guidance was described as providing informal guidance to support Fire & Rescue Authorities to process immediate detriment cases. The wider piece of work, needed to be completed by FRAs, to implement full remedy will need to be concluded by October 2023. Once completed this information is passed to pension scheme administrators who then have 18 months to send out Remediable Service Statements to all affected members. Ahead of that date both primary and secondary legislation is required, as well as administration work to implement the changes. Under the remedy proposals the Deferred Choice Underpin will need to be implemented by October 2023.
- 1.8 On 8 October 2021, the Local Government Association and Fire Brigades Union, published a joint statement, including a Memorandum of Understanding, the principles of which were intended to be consistent with those set out in the Public Service Pensions and Judicial Officers Bill. Fire & Rescue Authorities were encouraged to consider adoption of the MOU Framework, with a view to ensuring a consistent approach to Immediate Detriment cases across Fire & Rescue Services going forward.
- 1.9 The Public Service Pensions and Judicial Offices Act 2022 was given Royal Assent on 10 March 2022 and provides an overarching framework to allow public service pension schemes to remedy the impact of unlawful age discrimination.
- 1.10 On 29 November 2021 HM Treasury issued a statement in relation to the complexities of processing ID cases without formal legislation in place. The issues centred around the complexities of tax and tax relief, in particular. It was HMT's view at this point, based on the analysis that cases could not be smoothly and predictably processed until new legislation is in place and that there are risks and uncertainties for schemes and for individuals if cases are processed ahead of that. The note stated that for cases that have already been dealt with, or are in the process of being dealt with, the new legislation will give powers intended to allow schemes to put these individuals into the correct position, drawing on the provisions of the McCloud Bill. It pointed out that this could entail significant second or third corrections and so HMT would not advise that schemes continue to process cases on the assumption these provisions will mean a smooth and predictable experience for themselves and for members. The note confirms that the Home Office guidance that was issued in June 2021 has been withdrawn. It also confirms that it is

up to schemes to choose to process cases, or not, based on their own assessment of the competing legal risks, but at that stage it was not possible to give any guarantees that the remedy and its tax consequences would work as intended for everyone before the legislation was in place.

- 1.11 In April 2022, the Local Government Association wrote to HM Treasury with the aim of obtaining an understanding of the issues raised by HMT. There is currently no further update to report.
- 1.12 The FBU has also issued a statement confirming that the latest information does not alter the FBU position in relation to immediate detriment cases. It is their firm view that cases must be resolved as previously directed by the courts and if necessary, the union will take legal action if FRAs do not proceed.
- 1.13 The Home Office consultation on Public Service Pensions: Firefighters' Pensions (amendment) Regulations 2023 McCloud/Sargeant remedy: phase two (retrospective) closed on 23 May 2023. The Home Office issued its response to the consultation on 19 July 2023. A copy is attached at Appendix 2.
- 1.14 Welsh Government's consultation response to Remediating Age Discrimination in Firefighters' Pension in Wales 2023 closed on 23 June 2023. The summary of responses to this consultation was published in September 2023 and a copy of the consultation response document from Welsh Government is attached at Appendix 3.
- 1.15 The Firefighters Pensions (Remediable Service Legislation) Wales 2023 came into force on 1 October 2023 and SWFRS Scheme Managers, working alongside our Pensions Administrators, RCT, have 18 months to provide Remediable Service Statements, detailing members Deferred Choice options.

2. BACKGROUND – O'BRIEN

- 2.1 From 6 April 2006, the Firefighters' Pension Scheme 1992 (FPS 1992) was closed to new members, although it remained in force for those regular firefighters who were already in the scheme. The historic exclusion of On-Call firefighters from the FPS 1992 was challenged under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and this resulted in a settlement which allowed certain On-Call firefighters with service between 1 July 2000 and 5 April 2006, the option to become members of a pension scheme. As part of a previous exercise between 2013 and 2015, eligible firefighters were

asked whether they wanted to join this scheme. Exercise. This was the “first options exercise” often referred to as Matthews.

More recently, this judgment was challenged at the European Court of Justice in relation to fee-paid judges. The Court ruled in that case that service going back to the start of employment could be considered. The government accepted that the same principles apply to certain On-Call firefighters, whether they have made a legal claim or not.

A second options exercise (O’Brien) will therefore now take place to allow eligible On-Call firefighters to buy pension service as a special member of the FPS 2006, backdated to the start date of their employment.

The following individuals are eligible for the second options exercise:

1. On-Call firefighters employed on any date between 7 April 2000 and 30 June 2000 (inclusive)
2. On-call firefighters employed on any date between 7 April 2000 and 30 June 2000 (inclusive) as well as on any date between 1 July 2000 and 5 April 2006 (inclusive)
3. On-call firefighters employed on any date between 1 July 2000 and 5 April 2006 (inclusive), but not on any date between 7 April and 1 July 2000, who were eligible to take part in the first options exercise but were not given opportunity to do so.

On-Call firefighters employed on any date between 1 July 2000 and 5 April 2006 (inclusive), but not on any date between 7 April and 1 July 2000, who were given opportunity to take part in the first options exercise but did not choose to do so within the legal time limits are not eligible for the second options exercise.

On 31st March 2023 The Home Office launched a formal consultation on the Firefighters’ Pension Scheme (England) 2006 for Retained Firefighters’ Pension, with a closing date of 9 June, 2023, and Welsh Government launching its consultation, with a deadline for formal responses by 23 June 2023. The FRA submitted its response on this consultation. These again will need to be enacted by the 1st October 2023 in order that they can be implemented as set out in national communications. FRAs will have 18 months to undertake the exercise.

3. IMPLICATIONS

3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	Yes
Impact Assessment	Yes

3.2 Regular dialogue with the Representative Bodies has commenced and will continue going forward.

3.3 Regulatory, Strategy and Policy

Legal	Yes	Data Protection / Privacy	No
Financial	Yes	Health, Safety and Wellbeing	No
Procurement	No	Governance & Audit	Yes
Corporate Risk	Yes	Service Policy	No
Information Management	No	National Policy	Yes

3.4 Implementing Immediate Detriment cases (McCloud) without the relevant legislative processes in place has presented issues and an element of risk to the Service, however, this has been partly mitigated by utilising the technical expertise of Service personnel as well as RCT Pensions and the Local Government Association.

3.5 Resources, Assets and Delivery

Human Resource and People Development	Yes
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	Yes

3.6 Given the scale of the above national exercises and in order to implement both the McCloud and O'Brien changes, within the given timescales, we are currently reviewing our internal resources and are looking to recruit additional support into our Pensions Liaison Team.

3.7 Following audit of the 2021/22 accounts by the Wales Audit Office, no concerns were expressed regarding the legality or accounting methodology adopted by the Service in respect of the Category 1 ID

cases (McCloud) processed to date and accordingly, the Service intends to continue processing cases in the same manner. The Service and Authority has acknowledged the risks involved in processing ID cases prior to the full legislation being put in place however, there are also significant financial risks involved in not progressing the outcome of the various High Court judgements . Officers have maintained close dialogue with all stakeholders involved in the resolution of this matter. The long-term financial liabilities of implementing the remedies have been estimated by the Government Actuary Department (GAD) and included in the Authority's Balance Sheet. It is impossible to accurately assess the final impact until the remedy is implemented and all members have individually made their choice as to which scheme they wish to be part of for the remedy period. As this is a Deferred Choice, it will be made at the point of retirement. As a result, the future revenue implications for the Service cannot easily be determined.

- 3.8 To date the Service has incurred additional administration and software costs which have been passed on to us through our Administrators. Payments schedule shown below:-

	1 off charge	Annual Maintenance charge	Paid date	Anticipated payment date	Comments
Phase 1	£6,998	£1,050	February 2023		Paid £840.75
Phase 2	£5146.50		March 2023		
Phase 2	£5146.50	£1,029			
Phase 3 50%	£5,501		August 2023		
Phase 3 50%	£5,501	£949		TBC – post Sept 2023	Post acceptance testing
Phase 4 50%	£5,784			Dec 2023	
Phase 4 50%	£5,784	£789		TBC – Jan to May 2024	Post acceptance testing

4. EVALUATION & CONCLUSIONS

McCloud

- 4.1 Whilst the document from HM Treasury (November 2021) placed uncertainty on existing powers to correct the tax positions for individuals,

the question in relation to powers has been tested previously at ET. The Authority therefore has the powers to process cases under Section 61 of the Equality Act, albeit these powers do not stretch to decisions needed around taxation implications.

- 4.2 At its February 2022 meeting, the Fire Authority confirmed its approach to processing cases, this was to continue to process category 1 cases and in parallel to continue the work already underway to understand the implications of processing category 2 cases. Only if there are further concerns identified in relation to legal, taxation or funding issues, will a further report be generated to the Fire & Rescue Authority.
- 4.3 It is important to note that all cases processed as Immediate Detriment cases will need to be revisited once the full details of the Government's approach is finalised and legislation is in place. The legislation is expected to be in place by October 2023.

O'Brien

- 4.4 Activity in relation to O'Brien has so far focussed on publishing initial communications to all those that are not in scope for this exercise, based on the published criteria, with 363 individuals identified. A small number of individuals have contacted the Service with regards their entitlement to be part of this exercise and have work regarding those that are in scope for remedy cannot commence until the regulations are amended and published. They are anticipated to be in force from 1 October 2023. 460 individuals have been identified as being in scope at this point.

5. RECOMMENDATIONS

- 5.1 That Members note the content of the report.

Contact Officer:	ACO Alison Reed
Background Papers	Appendix 1 – Number of ID (McCloud) cases processed. Appendix 2 – Response to Home Office consultation on retrospective remedy Appendix 3 – Welsh Government consultation response document

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Appendix 1

McCloud Remedy
Final number of category 1 cases
processed as Immediate Detriment cases

Between October 2021 to March 2022	8
April 2022 to March 2023	32
April 2023 to September 2023	10

From 1st October 2023, cases processed for retirement will follow the Immediate Choice principle

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Home Office

PUBLIC SERVICE PENSIONS: THE FIREFIGHTERS' PENSIONS (REMEDIABLE SERVICE) REGULATIONS 2023

McCloud / Sargeant remedy: phase two (retrospective)

Government response

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Introduction and contact details

This document is the post-consultation report for the consultation which was published on 28 February 2023 and closed to responses on 23 May 2023 in relation to firefighters' pensions. The associated regulations are the Firefighters Pensions (Remediable Service) Regulations 2023', which are free-standing regulations rather than amending regulations.

Further copies of this report and the consultation paper can be obtained by contacting at the address below:

Firefighters' Retrospective Remedy Consultation Response
Police Workforce and Professionalism Unit
Home Office
6th Floor, Fry Building
2 Marsham Street
London SW1P 4DF

Email: Firepensionspublicservicepensionsremedy@homeoffice.gov.uk

This report is also available at <https://www.gov.uk/government/consultations/firefighters-pension-scheme-retrospective-remedy>

Alternative format versions of this publication can be requested from the Home Office, using the above contact details.

Complaints or comments

If you have any complaints or comments about the consultation process, you should contact the Home Office at the above address.

1. Background

- 1.1 The government confirmed in a written ministerial statement on 15 July 2019 that it accepted that the Court of Appeal’s judgment in *Lord Chancellor v. McCloud* [2018] EWCA Civ 2844, [2019] ICR 1489 (“McCloud”) had implications for all schemes established under the Public Service Pensions Act (PSPA) 2013, since all those schemes had provided transitional protection arrangements for older members. The government confirmed that it would take steps to address the difference in treatment across all those schemes.
- 1.2 The Public Service Pensions and Judicial Offices Act 2022 (PSPJOA) provides an overarching framework to allow public service pension schemes to remedy the impact of unlawful age discrimination. That discrimination arose due to certain transitional arrangements put in place when public service pension schemes (including the fire schemes) were reformed between 2014 and 2016. Secondary legislation is also required to amend the rules of each affected public service pension scheme to implement the remedy for their members. The remedy was designed to be delivered in two stages: the first, to bring the discrimination to an end (the prospective remedy) from 1 April 2022, and the second, to be implemented by 1 October 2023, to remedy the discrimination that had taken place between 1 April 2015 and 31 March 2022 (the retrospective remedy).
- 1.3 In the firefighters’ pension schemes, the prospective remedy was implemented through the [Police and Firefighters’ Pension Schemes \(Amendment\) Regulations 2022](#), which came into effect on 1 April 2022. Since that date, all firefighters have been members of the 2015 reformed pension scheme. This second stage is to deliver the retrospective remedy.
- 1.4 The consultation welcomed views from interested parties on the draft regulations and policy intent to implement the retrospective phase of the McCloud/Sargeant remedy. There was specific interest from views of groups that represent firefighters, fire and rescue authorities, and others responsible for implementing the remedy changes.
- 1.5 The consultation asked 10 questions in relation to specific elements of the retrospective remedy: In and Out of Scope Deferred Choice Underpin (DCU) and Immediate Choice (IC), DCU timing of remediable service statement (RSS), Transfers, Added Pension, Ill-Health Retirement, Contingent Decisions, Bereavement and Child Pension and any additional changes that may be required.
- 1.6 This report summarises the responses, including how the consultation process influenced the further development and final shape of the policy/proposal consulted upon.

2. Executive summary

- 2.1. On 28 February, the government launched this consultation on the draft Firefighters' Pensions (Remediable Service) Regulations 2023 to address the changes being made to implement the 'retrospective remedy'. This involves making provisions to remove the effect of the transitional protections in place between 1 April 2015 and 31 March 2022 ('the remedy period') and implement provisions for a DCU. The DCU will give members a deferred choice of pension benefits at their point of retirement in respect of the remedy period, which is the period during which discrimination took place. Eligible members will be able to choose to receive legacy pension scheme benefits or benefits equivalent to those available under the 2015 reformed scheme for service during the remedy period. The regulations to enact the retrospective remedy will come into effect from 1 October 2023. Firefighters' pension administrators will contact those members whom the remedy affects to notify them of the changes and what action will be required of them. A final set of regulations to ensure all eligible members (or their member representative) receive a choice of which pension scheme benefits they would prefer to have for their remedy period service is attached to this consultation response.
- 2.2. The draft regulations also included provisions to correct any overpayment or underpayment of pension benefits or member contributions. This includes benefits or contributions paid to or by a member because of their choice. The regulations will facilitate the payment of appropriate compensation to address monetary loss arising from the discrimination or operation of the remedy.
- 2.3. Consideration has been given to further provisions that may be needed, beyond those in the published draft regulations that accompanied the consultation.
- 2.4. The Equality Impact Assessment accompanying the consultation was updated to take account of comments provided during the consultation period. The updated Equalities Impact Assessment is attached.
- 2.5. A list of respondents is at Annex A.
- 2.6. A Glossary of terms is at Annex B

3. The Retrospective Remedy

3.1. As individual members' circumstances differ, the impact of implementing the remedy will vary. The firefighters' pension scheme managers will provide all eligible member and member representatives with information about the benefits available to them under the remedy and to enable them to make a choice of benefits in an RSS.

Who will be in scope for pension remedy?

3.2. To be eligible for the retrospective pension remedy, an individual must have been in pensionable service under a relevant public service pension scheme both on or before 31 March 2012 and on or after 1 April 2015, without a disqualifying break in service. A disqualifying break in service is a gap of longer than five years. This is further defined in section 1(5)(b) PSPJOA.

3.3. Special eligibility provision has been made for individuals who, on 31 March 2012, were employed as firefighters but were not members of the firefighters' pension scheme but had an entitlement to be a member.

3.4. Since 10 March 2022, those who meet the above criteria are now eligible for the retrospective remedy. These members can be split into cohorts with varying circumstances:

- active members
- deferred members
- pensioner members
- individuals entitled to dependant and/or death lump sum benefits in respect of deceased members with eligible remedy period service.

3.5. These cohorts will also include members who joined the firefighters' pension scheme (the 2006 Firefighters' Pension Scheme) for the first time after 1 April 2012 but had previous pensionable service in another public service pension scheme on or before 31 March 2012.

3.6. It may also be possible for a member who had opted out of their firefighters' pension scheme because of the introduction of the 2015 reformed scheme to retrospectively opt back into the scheme, subject to certain conditions. See the section of this document on Contingent Decisions (paragraphs 4.30 onwards) for further detail.

Who will be out of scope for pension remedy?

3.7. The following members are out of scope for pension remedy:

- members who first joined pensionable public service on or after 1 April 2012; and
- members who have had a break in pensionable public service of more than five years, where that break fell into either or both of the following:
 - Started sometime on or before 31 March 2012 and the last day was sometime on or after 31 March 2012
 - Started sometime on or before 1 April 2015 and the last day was sometime on or after 1 April 2015.

Legislation

3.8. The PSPJOA applies to all the main public service pension schemes and received Royal Assent in March 2022. It provides the necessary powers to make provision in public service pension schemes by 1 October 2023. Chapter 1 of the PSPJOA provides the framework for the remedy, including provision to make changes to public service pension scheme rules. Legislative changes are required to implement the proposed remedy.

3.9. The PSPJOA also provides for HM Treasury to make HM Treasury Directions [Public Service Pensions and Judicial Offices Act 2022: Treasury Directions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/public-service-pensions-and-judicial-offices-act-2022-treasury-directions), which specify how certain powers under the PSPJOA are to be used when making regulations to specific public service pension schemes.

3.10. HM Revenue and Customs (HMRC) are responsible for making regulations¹ which make tax changes to the tax framework because of the public service pensions remedy. Those regulations give pension scheme administrators details of additional tax changes they will need to consider because of the remedy.

Remedy Period and Remediable Service

3.11. The remedy period is the period during which the age discrimination occurred. It began with the implementation of the discriminatory rules on 1 April 2015 and ended when the differential treatment based on age ended on 31 March 2022, with the transfer of all remaining active members in the legacy schemes to the 2015 reformed firefighters pension scheme. The choice of scheme design (the core of the retrospective pension remedy) is only offered in relation to pensionable service accrued during the remedy period.

¹ The Public Services Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 - GOV.UK (www.gov.uk); The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 (legislation.gov.uk); The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 - GOV.UK (www.gov.uk)

- 3.12. Pensionable service accrued by in-scope members under a legacy or 2015 reformed scheme during the period 1 April 2015 to 31 March 2022 inclusive is referred to as 'remedy period service'. It is important to note that remedy period service includes service as a member of a legacy scheme as well as service as a member of the 2015 reformed scheme during the remedy period.

Roll Back

- 3.13. Roll back is the term used to describe the process by which in-scope members are placed back into the relevant legacy pension schemes for remedy period service. Under the retrospective remedy, all in-scope members will roll back to the scheme to which they would have belonged had the 2015 reformed scheme not been introduced on 1 April 2015. It is possible that some members may have remedy period service in more than one legacy scheme because of the roll back. At retirement, in-scope members then get a deferred choice as set out below.

Deferred Choice (DC)

- 3.14. The DC is set out in section 10 of the PSPJOA and applies to members not yet in receipt of benefits relating to remediable service (to include deferred and active members). At retirement they will receive a choice ('make a choice') of either the 2015 reformed scheme benefits, or their relevant legacy scheme benefits for any service accrued during the remedy period. All benefits accrued in the remedy period will be paid from the legacy scheme, regardless of the member's choice, but will be calculated according to the scheme that has been chosen.
- 3.15. Schemes are required to specify a period of time during which the member must make this choice. This must not be earlier than one year before the date it is expected that, if a choice to receive 2015 reformed scheme benefits is made would become payable in relation to the member's remedy period service. The choice is deemed to take effect immediately before the member becomes a pensioner. Where a member dies in service, the choice is deemed to have taken effect immediately before the member's death.
- 3.16. If an active or deferred member does not communicate a choice as to which scheme benefits, they wish to receive by the end of the choice period, schemes may use the powers in section 12 of the PSPJOA to deem a choice of benefits to have been made.
- 3.17. A member will be able to request an RSS, setting out the pension benefits available to them through a DC forecast, providing a suite of information as set out in section 29 of the PSPJOA and section 20 of HM Treasury Directions. Once the scheme manager has provided the RSS, scheme regulations will provide a member must make their choice within twelve weeks of receiving the RSS. A DC will be able to be revoked up to 10 working days before benefits are due to come into payment.
- 3.18. Where a member dies before making a choice then the member representative makes a choice on behalf of the member. The firefighters' pension

scheme must determine who the eligible decision maker is that can make a DC on behalf of a deceased member as defined in regulations.

Immediate Choice (IC)

3.19. IC applies to pensioner members, or member representatives of a deceased member, who are already receiving benefits relating to remediable service (IC cases). IC will also apply to members who left employment during the remedy period with a deferred pension because they did not qualify for ill-health retirement but will qualify for a retrospective ill-health pension under their alternative scheme. They will be given a choice as soon as practicable after 1 October 2023. The PSPJOA requires the choice to be made within 12 months of the member receiving their RSS or such later time that the scheme manager deems reasonable.

Changing a choice

3.20. Section 11(6) of the PSPJOA provides that no DC may be revoked once benefits have been put into payment. Section 7(1)(c) also provides that an IC is irrevocable.

3.21. If a deferred/active member has made a DC and then dies prior to those benefits becoming payable, their choice will lapse. The eligible decision maker (member representative) will then receive a new RSS and will make an IC.

Default position where no choice is made

3.22. In cases where a member fails to make a choice, the default position is that a member's relevant legacy scheme benefits would be payable in respect of the remedy period service. However, the PSPJOA does provide that pension schemes may include in their rules provision which allows the scheme manager to treat a choice as having been made. The Home Office has considered whether and how this power should be used in the context of the firefighters' pension schemes.

4. Consultation

- 4.1. During the consultation period, the Home Office engaged with the Firefighters' Pensions Scheme Advisory Board (England) ('the SAB'), holding sessions between 2021 and 2023.
- 4.2. The SAB was established under section 7 of the Public Service Pensions Act 2013 and the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015. It comprises firefighter's employer and member representatives, and part of its role is to provide advice to the Home Secretary on the merits of making changes to the firefighters' pensions scheme.
- 4.3. The aim of the sessions was to ensure stakeholders were given the opportunity to directly engage with the Home Office on the scheme level changes, to ensure the draft regulations would achieve the stated policy aim. A further aim was to give stakeholders an opportunity to seek clarification on any aspects of the consultation and the draft regulations.

Policies consulted on:

Interest

- 4.4. Interest payments must be calculated and paid on relevant amounts in accordance with the PSPJOA and HM Treasury Directions. It was important that this was included in the consultation to understand if there were any interactions with the firefighters' pension schemes' regulations that would not work without amendments.
- 4.5. There are several specific circumstances in which interest may arise. For example, differences in member contributions and tax relief payable (including missed member contributions), differences in pension amounts received following a choice for other scheme benefits, voluntary member contributions, and differences in lump sum paid to members whose benefits are in payment prior to the DC being introduced.
- 4.6. In line with HM Treasury Directions, interest is applied to individual calculations and is not netted off. Where a payment of interest needs to be made, the scheme manager will individually apply interest to any debit and credit, and these figures will be added together to reach the final interest liability. The approach ensures that members who have been paid the incorrect amounts on any of their pension, including pension contributions or in instances where they have been overpaid pension benefits, are not placed in an advantageous or disadvantageous position because of the retrospective phase of the remedy.

4.7. A 'netting off' approach, where payments in different directions could offset each other before applying interest, was considered but ultimately rejected as to do so would not have been in members' favour.

Annual Benefit Statements (ABS)/Remediable Service Statements (RSS)

4.8. The PSPJOA requires that schemes issue members with an RSS: section 29 of the PSPJOA and Direction 20 of HM Treasury Directions set out what must be included in such statements.

4.9. This legislation also covers who is entitled to an RSS, the time limit within which the first RSS may be sent following the implementation of the remedy and the frequency with which various categories of member receive them after that point.

4.10. The purpose of an RSS is:

- I. to provide a member with the information they require to make a choice between legacy and reformed scheme benefits
- II. to start the process for making various choices for IC members
- III. to provide an opted-out member with information they require to decide whether to opt back into the scheme

4.11. Scheme managers must ensure that eligible retired, active and deferred members or member representatives are issued with information about their pension benefits that includes remedy period service. This will either be through the pre-existing ABS process (active members) or via a dedicated RSS (for example, where a member has retired).

4.12. An ABS provides members with an overview of their current pension accrual. An RSS will do much the same but is a requirement under the PSPJOA and the remedy regulations rather than existing regulations. This type of statement must include the alternatives for pension accrual during the remedy period under both 2015 reformed and legacy schemes.

Transfers

4.13. As a consequence of all remedy period service being rolled back into a member's relevant legacy scheme, the regulations will make provisions to allow the scheme to deal with any transfers into the reformed scheme that took place during the remedy period at the point the member makes a choice.

4.14. The PSPJOA provides powers under section 21 which determine what happens to transferred-in service. These allow transfers-in to move into the legacy scheme (and equivalent benefits provided) but does not require it.

4.15. Section 21 provides powers to alter any transfer-in made in relation to remedy period service in another public service scheme or any transfer made (for the purpose of the fire pensions scheme) between 31 March 2015 and 31 March 2022. The powers include varying a transfer-in to provide equivalent rights under an alternative eligible scheme or extinguishing the transferred in rights and providing equivalent or alternative rights under an eligible scheme or varying the rights dependent on any election under section 6 or section 10 of the PSPJOA.

Additional Pensions (AP)

4.16. As the service in the remedy period must be rolled back in the legacy schemes, any voluntary contributions for such additional benefits must be addressed in implementing the remedy. In the 2015 reformed pension scheme, AP is the only available voluntary additional benefit. It can be purchased either by one-off lump sum payments or by making periodic payments of a particular amount. AP is not available in the firefighters' legacy schemes.

4.17. There are various ways of converting to alternative benefits in the legacy scheme, but all the options either have restrictions on them that mean they cannot be guaranteed to apply in all cases or lead to a difference in treatment between cohorts of members. This means that all such members will be dealt with under the compensation provisions.

Contributions

4.18. Employee contributions paid by a scheme member may need to be adjusted where:

- there is a difference in contributions rates between the legacy schemes and 2015 reformed pension scheme, whether for members in general or for certain categories of member
- a scheme member had tapered transitional protection, and they paid both legacy scheme and 2015 reformed pension scheme contributions during their remedy period service (because taper-protected members are not allowed to retain a mix of legacy scheme and 2015 reformed pension scheme benefits for the remedy period).

4.19. The current contribution rates for the legacy 1992 firefighters' pension scheme are higher than those in the 2015 reformed pension scheme. This means that members who are rolled back to the 1992 firefighters' pension scheme for their remedy period service will owe the scheme the difference in contributions.

4.20. Conversely, the current contribution rates for the 2006 firefighters' pension scheme are lower than those in the 2015 reformed pension scheme. This means that members who are rolled back to the 2006 firefighters' pension scheme for their

remedy period service will immediately be owed by the scheme the difference in contributions paid as compensation.

- 4.21. This means that many eligible members will have a contributions adjustment and a record of contribution adjustments will be needed. This is set out in more detail in this document.

III Health Retirement

- 4.22. The firefighters' pension schemes pay out a range of ill-health retirement (IHR) benefits to members who are unable to continue working as a firefighter due to being permanently disabled.

- 4.23. To qualify for a lower-tier ill-health pension a firefighter must be assessed and determined permanently incapable of performing the ordinary duties of their role. To qualify for an additional higher-tier ill-health pension (in addition to a lower-tier ill-health pension) a member must also be assessed and determined incapable of undertaking any other regular employment averaging not less than 30 hours a week over a minimum period of 12 months.

- 4.24. Any legacy scheme members who transitioned into the 2015 reformed pension scheme before being ill-health retired would have been assessed and determined under the 'single source' IHR arrangement. The 'single source' IHR arrangements provide that a member who has transitioned into the 2015 reformed pension scheme from the legacy 1992 and 2006 schemes becomes entitled to an ill-health pension that is all payable out of the 2015 reformed pension scheme until the member attains their legacy scheme's normal pension age.

- 4.25. An ill-health pensions is made up of a pension in respect of the member's legacy scheme service (this meaning a member receives an equivalent to the legacy scheme, but without any ill-health enhancement for 2015 reformed pension scheme or future service), and the ill-health pension paid from the 2015 reformed pension scheme. The full pension payment is then paid under the 2015 reformed pension scheme regulations. The higher-tier calculation in the member's legacy scheme is turned off (where it applies) under the single source rules, and any entitlement to a higher tier pension is calculated entirely in accordance with the 2015 reformed pension scheme regulations.

Abatement

- 4.26. Abatement applies in the legacy firefighters' pension schemes. It does not apply to benefits accrued under the 2015 reformed firefighters' pension scheme. It is a process which occurs where an employing fire and rescue authority exercises their discretion to reduce or stop paying a pension when a retired member returns to work in any capacity with any fire and rescue authority.

- 4.27. Section 6(4)(a) PSPJOA provides that a member should not see any changes to 2015 reformed pension scheme benefits in payment unless no election has been made by the end of the election period. If a member is in receipt of 2015 reformed pension scheme benefits and makes choice to continue to receive 2015 reformed pension scheme benefits, their pension will not be abated. Only if a member chooses legacy scheme benefits or the default applies would they see a change.
- 4.28. Where an individual who retired and has been re-employed during the remedy period is moved back to their legacy scheme for the remedy period, abatement may then apply. The legacy schemes provide for the abatement of the member's abating pension where a member re-enters employment with any fire and rescue authority.
- 4.29. There should be very few members that will need to consider further abatement applying as part of their remedy choice. This is as a result of the way the protections worked for fire pension scheme members, which meant at the vast majority of those who have been retired at this point will have done so from their legacy scheme.

Contingent Decisions (CD)

- 4.30. A CD is a decision taken by a member, relating to their membership of the firefighters' pension scheme, that would have been different had it not been for the discrimination identified by the courts. The rectification offered by the scheme is time limited by a year from the issue of the RSS or, if later, within such later time as the scheme manager considers reasonable in all the circumstances.
- 4.31. For all CD a key principle is that the member needs to make a claim to the scheme. The fire pension schemes may use a template form or a bespoke form for scheme members to complete. It is the responsibility of each scheme manager to consider what needs to be done to alert members to the claims process. The members must confirm the decision that was made and what they would have done differently had had the discrimination identified by the courts not occurred.
- 4.32. Evidence to support the CD claim should be submitted with the claim form if applicable/available. The member may also, or instead, highlight information provided in the years before or during the remedy period about the member's intentions regarding, for example, their continued membership and retirement intentions. Including at the time of an original request to leave or not to join the scheme, which is held by the scheme administrator or employer. For example, an opt-out form that asks for a reason for opting-out might serve as evidence.
- 4.33. On receipt, the scheme manager considers whether the member qualifies for the CD, for example, for opt-out cases would they be in-scope for remedy if the contingent decision was reversed.

4.34. There are three categories of CD in the fire pension scheme for which specific provisions has been made:

- I. Opt-out: A member would not have opted-out if they had been allowed to remain in the legacy scheme beyond their transition date or if protected members had been allowed to join the reformed scheme from 1 April 2015
- II. Transfers: Members chose to transfer (in or out) and now wish to revisit the decision, or they chose not to transfer and now wish to do so.
- III. Additional Service: Members argue they would have purchased (more) additional service if they were in the alternative (legacy) scheme

Opt-outs - CD

4.35. Members who made an election to opt out relating to the pension reforms prior to their transition date will be able to make a CD claim. If successful a member will need to pay the contributions, they would have made plus interest as set out in the PSPJOA and HM Treasury Directions for the opted-out period of remedy period service. Further details on payment options are in this document in para 6.108.

4.36. Section 5 of the PSPJOA allows remedy period service to be reinstated but does not provide the power to reinstate any service pre or post the remedy period. Where a member can demonstrate to the scheme manager that they had a compelling and reasonable case to do this, schemes managers will need to use provisions in the existing scheme rules, if available, to allow reinstated service in respect of any pre or post-remedy period service.

Additional Service - CD

4.37. The firefighters' legacy schemes allowed members to buy additional service (as sixtieths of average pensionable pay). Remedy-eligible members who would have been able to buy additional service in their legacy scheme during the remedy period will be able to elect to buy additional service under the terms that would have been available at the time. There are limits on the purchase of added years in the legacy schemes which are based on the total pension that a member would accrue if they continued working up to retirement age.

4.38. Any contributions that should have been made will have to be paid with plus interest added in line with payment options available under the adjustment of contributions.

4.39. The closure of the legacy schemes by 1 April 2022 will not qualify members under the additional service rules. A member's circumstances must mean that they would have qualified, had they been in the legacy scheme at the time without anticipating the closure of the scheme by 1 April 2022.

4.40. The additional service contract will apply from the next birthday in the remedy period which falls after the member's transition date, unless the member has evidence for a different date, such as taking out an additional pension contract in the 2015 reformed pension scheme in the remedy period. In such a case it will apply from the nearest birthday in the remedy period to that date.

Transfers - CD

4.41. This is where members chose to transfer (in or out) during the remedy period and now wish to revisit the decision. Members who transferred in can leave the transfer until the point of making a choice in case all or part of the transfer cannot be converted to the legacy scheme and compensation is necessary instead. Those who transferred out during will be entitled to a calculation to see if any further Cash Equivalent Transfer Value (CETV) is necessary.

Divorce

4.42. Pension rights are a valuable asset and, consequently, the value of any pension rights must be considered as part of a divorce settlement or on the dissolution of a civil partnership. Once pension assets have been identified and valued, the parties must agree how to use this value in any financial settlement.

4.43. There are 3 options for using the value of those pension rights in any financial settlement:

- I. Offsetting the value of the pension benefits against other matrimonial assets.
- II. A pension sharing order (PSO).
- III. An earmarking order (EO) in Scotland or a pension attachment order (PAO), formerly known as an EO, in England and Wales.

4.44. The PSPJOA does not make any specific provision in relation to pension offsetting or pension attachment orders.

4.45. PSOs rely on the scheme providing a Cash Equivalent Transfer Value (CETV) that can be considered when deciding how assets should be split. The CETV is very likely to be different under the legacy and 2015 reformed pension scheme rules, so there needs to be a recalculation for PSOs that have been applied in respect of firefighters' pension scheme members since 1 April 2015 up to implementation of the remedy, and there is a continued need for remedy to factor into the calculations for PSOs that occur after 1 October 2023.

4.46. Where there is a pension in payment and the member opts for a lower pension, meaning that in principle there would have been overpayments to the member and/ or ex-spouse, there will be no liability for overpayments from the ex-spouse which arise because of the member's choice of benefits and the ex-spouse's pension benefits will be kept at the same level going forward (unless the

pension debit member had tapered protection in which case there might be a change if both options resulted in a lower CETV than the combination the member previously had).

How will this work for cases that arose before implementation?

4.47. Where a pension is already in payment, or where a member is still active or deferred, it is possible that the CETV which was used to determine the value of the member's pension and how it should be measured against other assets should have been lower or higher, in line with the member's choice of benefits. If it is higher than the CETV originally calculated, a portion of the additional amount in the same proportion as specified in the PSO will be converted to an additional pension credit and awarded to the pension credit member.

How will this work for cases that arise after remedy implementation?

4.48. Where a case arises after implementation but before the member has made a choice of benefits, the CETV will reflect the greater value available to the member. The member's pension could still change depending on their choice at retirement, but their ex-spouse will be unaffected.

4.49. Where a divorce takes place after the member has already retired and decided on the benefits, they wish to receive in respect of their remedy period service, the CETV will reflect the choice the member has made.

Bereavement and Child Pensions

4.50. Sadly, some eligible members may have died before they have made a choice in respect of their remedy period service.

4.51. If the eligible deceased member had not made a choice, then relevant scheme regulations will include a provision about who may make a choice in relation to remedy period service for an eligible deceased member. The member representative will make a choice of either legacy scheme benefits, or 2015 reformed pension scheme benefits for the deceased member's remedy period service. This applies both in cases where benefits were already in payment before 1 October 2023 and to cases where a member died in service or while deferred on or after 1 October 2023.

4.52. Where a pensioner member dies after their choice and their benefits have crystallised (typically where the member's pension is put into payment), the member representative is not entitled to make a second choice or to revoke a choice already made by the deceased eligible member.

4.53. The member representative will be (depending on the circumstances of the specific case) in the following order:

- I. An adult survivor (that is, a surviving spouse/civil partner/life partner)
- II. personal representatives (that is, an executor)
- III. a parent/guardian of surviving children
- IV. an adult surviving 'child'
- V. a person agreed upon by parents/guardians and/or adult surviving "children" and (if applicable) parents/guardians to be the member representative
- VI. a scheme manager

4.54. If the member representative is not the legal parent or guardian of the relevant children, or not the person agreed upon by the legal parent or guardian, their decision might result in reducing the children's pensions in payment. The regulations will ensure that, in such cases, any child pension that is already in payment is not reduced because of the member representative's decision. This is based on the powers in section 22 of the PSPJOA.

Overpayments and Underpayments – Pensions in Payment

4.55. Where a pension is in payment before an election is made, and the member makes a choice which results in a change to benefits payable, the change to the pension benefits is backdated to the point when pension benefits initially became payable. A process of reconciliation will be necessary to ensure that the member has received the correct amount of pension over time, and this may result in one of the following situations:

- underpayments, resulting in payments from the scheme to the member (for example, additional pension or lump sum).
- overpayments that have been made by the scheme to the member and which must be repaid.

4.56. Interests will be both payable on arrears owed to members and charged in relation to overpayments. A detailed explanation of interest policy can be found in the letter from HM Treasury to the Government Actuary, which is published alongside the HM Treasury directions, this sets out the rationale for the interest rates / policy in the directions.

4.57. Section 14 of the PSPJOA provides that overpayments must be repaid to the scheme. However, the PSPJOA also provides that schemes may decide whether to waive all or part of any such liabilities owed to the scheme. HM Treasury Directions set out factors to be considered by the scheme when considering whether to waive or reduce any such liability by the member and that the principles set out in Managing Public Money should be followed.

4.58. Accordingly, the scheme manager must have regard to the circumstances of the member and (if different) the person by whom the amounts are to be paid. The scheme administrator (or manager) can choose to reduce or waive the liability. In

addition, the scheme manager must consider if it is appropriate to allow the member to pay the liabilities in instalments. In reaching a decision, the following will be considered:

- Whether the liability has arisen because of an immediate choice or a deferred choice election.
- Whether the member is deceased.
- Whether, in the reasonable opinion of the scheme manager, payment of the liability in full or in part would result in unreasonable hardship; and
- Whether, in the reasonable opinion of the scheme manager, there are any other exceptional circumstances which mean the liability should not be paid in full or in part.

4.59. The Home Office's approach is that it will be made clear to members that the default option is legacy benefits and so, in most cases, it will not treat a failure to make a choice, as a choice for 2015 reformed scheme benefits. This is because the wide range of benefits offered by the various firefighters' pension schemes, and the difficulty of assessing the value which individuals might place on them, in particular, the non-financial benefits (for example, whether benefits are payable to cohabitants and children born after service, pension age and differing ill-health pension provision). To do otherwise would, in effect, substitute the scheme manager's assessment of which scheme would be more beneficial for the circumstances of the member, and this is not considered appropriate.

4.60. Exceptionally, there may be some cases where the scheme manager uses their discretion to make the choice on behalf of the member. In all cases, if no communication from a member as to whether a member wished to make an election is received by the scheme administrator, an investigation will always be carried out to determine all the circumstances prior to any decision being made.

Next steps

4.61. Most of the responses received were from individual scheme members, member and employer representatives of the firefighters' pension scheme or other stakeholder groups. These respondents represented a range of views on the government's policy to address the discrimination identified in the McCloud/Sargeant cases and on the scheme level changes proposed by the Home Office.

4.62. It is important to point out that the summary of findings is based on the small number of responses received and that they are not necessarily representative of the views of all stakeholders affected by the proposed remediable service provisions. The Home Office considered the responses and identified the main

points of support and challenge raised by respondents. These points and the Home Office's response to them, are outlined in section 5 below.

5. Summary of responses

- 5.1 A total of 38 responses to the consultation paper were received. Of these, 13 were sent on behalf of fire organisations; we receive one response from a serving MP and 24 were sent by individuals, who were largely serving and retired firefighters.
- 5.2 22 of the responses were submitted through an online survey, while the remaining 17 responses were received via email or letter, which did not necessarily follow the same format as the online survey or indicate which questions were being answered by the comments provided. Where possible, the content of these responses has been distributed across the open response questions, to where they fitted best. These responses may have indicated agreement or disagreement but to avoid error in interpretation, responses to closed questions have not been interpreted from open responses unless they had been formatted to fully replicate the survey.
- 5.3 Each question contained a closed question with respondents invited to indicate one of two responses: Yes or No. Each question was followed by an open question (either 'if yes, please explain why' or 'if no, please explain why'), each accompanied by an open text box. This enabled respondents to respond to the open question but also acted as an opportunity for respondents to add any additional comments. The open responses were analysed for common themes and levels of support for proposed measures.
- 5.4 Respondents were not required to answer all the questions in the consultation. Accordingly, not all 39 responses answered every question and there were no questions that were answered in all 39 responses. This is reflected in the analysis below.
- 5.5 For most questions, respondents were asked to indicate whether they felt various aspects of the policy proposals achieved what they aimed to achieve. In the analysis of these questions, responses for 'yes' have been grouped to be described as those who agreed with the proposals. Similarly, responses for 'no' have been grouped as those who disagreed with the proposals. We have also grouped those who did not answer yes or no as 'zero responses'.
- 5.6 Many of the individual responses focused on a dissatisfaction with the pension reforms that were introduced in 2015 and the age retirement issue, which is where members are not able to have their reformed pension in payment at the earliest point their legacy pension is payable. Both issues arise due to changes made and introduced in 2015 and are therefore not part of this final set of regulations to ensure all eligible members (or their member representative) receive

a choice of which pension scheme benefits they would prefer to have for their remedy period service.

- 5.7 It is understandable that the age retirement issue is important to members. However, this issue is a consequence of the move from an age and service-based pension scheme to one that is based on age. The “two parts” nature of the benefits and the different points at which they are paid was set out in 2013 as part of the long-term reforms that were introduced in 2015.
- 5.8 In addition, there were concerns about the consultation being delayed and/or at a late stage of the process of getting the remedy in place. While it is correct that the need for remedy has been known for some time, it is the complex and interconnected nature of the changes needed that has meant that finalising the policy and regulations any sooner was not achievable.
- 5.9 There were also concerns about issues that are not directly to do with this remedy and some respondents would have liked us to consider other changes as part of these regulations. Given the prescribed powers in the PSPJOA, other policy matters cannot be part of these remedy scheme regulations and were outside the scope of the issues consulted on. For example, a consolidation exercise for the legacy pension schemes, a unified definition of pensionable pay across the pension schemes, and concerns about the pension age of the 2015 scheme leading to more ill-health retirement.
- 5.10 There were concerns that there are too many ‘discretionary powers’ for scheme managers which may lead to inconsistencies across the locally administered schemes, with requests for the Home Office to provide guidance. The nature of the provisions these regulations are making, and the complexity of personal circumstances means that individual decisions will have to be made by scheme managers.
- 5.11 There were concerns about the application of interest. The provisions governing interest are not part of the change being made in this set of regulations – those provisions are set out in the PSPJOA, and the directions made under those provisions.
- 5.12 It was noted on multiple different issues that the remedy will require careful explanation/central guidance to members. It is not the role of regulations to provide guidance or tools – they are there to provide the framework within which the scheme operates. There was also a general concern that the accompanying actuarial guidance is not yet available to go alongside the regulations. The Home Office can confirm that the guidance is being prepared and the Government Actuary’s Department (GAD), as the scheme actuary, are liaising with stakeholders to agree a delivery schedule that best supports implementation.

- 5.13 On Compensation, and other issues, LGA were concerned that the draft regulations gave no guidance to scheme managers. However, it should be noted that it is not the role of regulations to provide guidance or tools – they are there to provide the legislative framework within which the scheme operates.
- 5.14 In response to all questions some responses raised concerns that the regulations were drafted in a way that is difficult for individual members to understand. Pensions are a complex technical subject and while we have made efforts to ensure that the drafting is as straightforward as possible, some aspects of the remedy are necessarily complex. It is key that the regulations use appropriate language and cross-reference with other relevant legislation so that they operate correctly.
- 5.15 The regulations will come into effect on 1 October 2023. Overall, this meets the aim of removing the discrimination and making sure that public service pensions are reformed appropriately. Firefighters' scheme managers and employer representatives are aware of the current proposals and have the opportunity now to make the necessary preparations to internal processes in advance of these changes.

6. Responses to specific questions

1. Question 1 - In and out of scope: Do the proposed amendments to scheme regulations clearly define which members of the firefighters' pension schemes meet the criteria to be eligible for the remedy?

Summary of responses

- 6.1 27 responses were received: 18 responded yes that the provisions clearly define which members met the criteria to be eligible and 8 said no, they did not. Others provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and points made during informal engagement with fire sector stakeholders.
- 6.2 Where open text was given, many focussed on more general issues that did not directly answer the question, such as their dissatisfaction/disagreement with the reforms overall and how they did not find the drafting of the regulations easy to interpret.
- 6.3 Other responses noted that they were concerned about the exclusion of scheme members who joined a legacy scheme between April 2012 and March 2015 and did not feel that adequate justification for this approach had been provided.
- 6.4 Other responses also raised concerns about the absence of references in the remediable service legislation to remedy eligibility criteria, and about ensuring those individuals who had opted out of the legacy schemes on or before 31 March 2012 are eligible for remedy.
- 6.5 Some responses referred to the impending Matthews' remedy and highlighted the need for both McCloud and Matthews remedies to work collectively.

Government response

- 6.6 After considering the responses to the consultation and informal engagement with stakeholders, the government is content that the proposed changes will clearly define which members of the firefighters' pension schemes will be eligible for the remedy as defined in the PSPJOA.
- 6.7 On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.8 The overarching approach to the remedy, including which cohorts would be eligible, was consulted on in *Public service pension schemes: changes to the*

transitional arrangements to the 2015 schemes in 2020. The conditions for eligibility for the remedy were therefore outside the scope of this consultation on retrospective regulations for the firefighters' pension scheme.

- 6.9 The discrimination identified by the courts was between those who were in service on 31 March 2012 and received full transitional protection and those who were in service then but did not receive full transitional protection because they were more than ten years from NPA. Members who first joined any public service pension scheme after 31 March 2012 were ineligible for transitional protection regardless of their age, and therefore were not subject to the discrimination identified by the court and are not within scope of the remedy.
- 6.10 Eligibility to remedy relies entirely on the PSPJOA, though the scheme regulations do cross-reference it. Specific provision has been made at Part 1, Chapter 1, paragraph 1 of the PSPJOA for individuals who were active firefighters on 31 March 2012 but who were not a member of the legacy scheme i.e., opt-outs. This provides such individuals with an entitlement to McCloud remedy for any remedial service.
- 6.11 The importance of the interaction of Matthews and McCloud remedies is recognised. The Matthews remedy will deal with an individual's service up to and including 31 March 2015 whereas the McCloud remedy deals with service accrued between 1 April 2015 and 31 March 2022 inclusive. It is envisaged that the Matthews remedy will be implemented first by scheme administrators to ensure an individual is placed in the correct scheme as on 31 March 2012 which will provide them with eligibility to the McCloud remedy for any remedial service.
- 6.12 Additionally, special provision has been made to allow firefighters who elect to purchase service under the Matthews remedy and who were not members of the 2015 Scheme on 1 April 2015, to have an entitlement to buy back their service in the 2015 Scheme from 1 April 2015 under a CD. This will provide them with the ability to include any service during the remedy period in the modified pension scheme when rollback has been implemented,
- 6.13 We are confident that both the McCloud/Sargeant remedy and the Matthews options exercise 2023 will work together to place individuals subject to both remedies in the correct position. All those who elect to purchase their service under the Matthews remedy which subsequently makes them eligible for the McCloud remedy will, where they had previously opted out of the 2015 scheme, could retrospectively purchase the period of service in the 2015 Scheme. Where this happens the period of remedial service will be rolled back into their legacy modified scheme.

Question 2 - DCU timing of RSS: Do you [think that] the policy proposals about the timing of when a scheme member can request an RSS in anticipation of retirement

strike the right balance between a suitable period to make a decision, proximity to retirement date and any administrative considerations?

Summary of responses

- 6.14 27 responses were received, 6 agreed that the proposed approach is a suitable period to decide, and 20 disagreed. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and points made during informal engagement with fire sector stakeholders.
- 6.15 Where open text was given, many responses focused on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall and how they did not find the drafting of the regulations easy to interpret, but also some more individual concerns around members who are due to retire imminently.
- 6.16 Some responses raised concerns about how member decisions would interact with the timings of RSS, especially with those who are entitled to make an immediate choice and those who retire imminently after 1 October 2023. It was suggested that transitional arrangements should be adopted for those individuals who are due to retire on or shortly after 1 October 2023 to ensure members can retire and receive legacy scheme benefits and have a subsequent option to choose reformed scheme benefits later.
- 6.17 Additionally, some responses suggested that a process that requires a firefighter to make their benefit decisions at least six months prior to their anticipated retirement may be too early and create administration issues, especially as pension benefits can change significantly in the short term due to final salary increases etc and many firefighters are only required to provide their employer with one month's notice of their retirement. It was suggested that the six-month period should be reduced three to four months or left to the discretion of the employer to accept decisions made closer to retirement.
- 6.18 Other responses raised concern about the administration challenge for employers to issue an RSS on request to deferred members. It was suggested that RSSs could be supplied automatically as part of the process of providing annual deferred pension statements which would reflect a similar process as that for active members.
- 6.19 Some respondents suggested that the requirement for an individual to make their deferred choice within 12 weeks of receiving their RSS may not provide sufficient time for an individual to make an informed decision. It was suggested that there should be a more flexible time limit for a member to make their decision or exclude any hard deadline altogether.

6.20 It was also suggested to have a time limit on revocation or a ‘cancellation deadline’ in the regulations to prevent decisions being revoked at the last minute when an administrator may already have processed the final retirement calculations and made the necessary arrangements for payment. It was suggested that ten working days would be reasonable.

Government response

6.21 On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting the regulations are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14. On the issues around individual projections and retirement plans, it is not possible for either the regulations or the consultation to provide personalised pension forecasts – that is an issue that only a member’s scheme administrator can resolve.

6.22 After considering the substantive responses to this element of the consultation and informal engagement, the government is content that the period that a member must request their final RSS in advance of making their choice should be set at 3 to 6 months in advance of retirement. It should be noted that a scheme manager can agree to a shorter period. On the suggestion not to set a time-period, if there is not one (other than “less than 12 months” as set by the PSPJOA) then every decision on timing would become a scheme manager discretion. The government considers that this would not provide sufficient certainty to scheme administrators or to members as to the process for making a choice of benefits.

6.23 The government has also agreed to introduce a deadline by which deferred choice elections can be revoked or changed. Any changes to elections will need to be made at least ten working days before the payment is due to be made. This will help avoid administration problems with last minute changes when payments have already been processed.

6.24 It is also the government’s view that employing fire and rescue authorities already have the flexibility if they want to provide deferred members with an annual RSS as part of the annual deferred pension statements. No specific legislative provision would be needed for this.

Question 3 - Ill-health Retirement: Do you think the proposed arrangements for members that qualify for ill-health retirement during the remedy period (1 April 2015 – 31 March 2022) may cause any adverse impacts?

Summary of responses

6.25 26 responses were received to the closed question: 16 agreed that the proposed approach would not cause any adverse impact for members retired under ill health during the remedy period and 10 did not agree. Others may have provided commentary without a clear ‘yes or no’ response. The summary below covers

explanatory open text responses and points made during informal engagement with fire sector stakeholders.

- 6.26 Where open text was given, many responses focussed on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall. Some were also concerned that ill-health retirements would increase due to the normal pension age of the 2015 scheme being age 60.
- 6.27 Some responses raised concerns that only cases where an individual was eligible to make an immediate choice would be revisited for the purposes of ill-health. However, it was noted that where a member had been assessed for ill-health under their current scheme's regulations, had not met the eligibility criteria, and left employment, would have become a deferred member. These individuals would not be considered immediate choice individuals for the purposes of McCloud remedy, but their cases would need to be revisited for the purposes of reconsidering their ill-health pension entitlement.
- 6.28 Other responses suggested that in cases where it was determined that a member should have been entitled to an ill-health pension at the time of the original assessment, but their condition had improved then the member should be entitled to receive an ill-health pension for the period between the original decision and the decision on review.
- 6.29 Some responses also suggested that ill-health cases that are due to be revisited under the McCloud remedy should be dealt with in accordance with section 61 of the Equality Act 2010. The proposals in the consultation paper indicate that some of these cases may take time to conclude – this will deny them to the correct pension entitlement that they are entitled to receive now.
- 6.30 Some responses also raised concerns about a need for all ill-health cases to be referred to an Independent Qualified Medical Practitioner (IQMP) for an opinion. It was suggested that for many of the cases a simple paper exercise would suffice as it will be clear from the original IQMP's opinion whether the member would qualify for an ill-health pension under their alternative scheme. It was also suggested that the regulations should set out the specific cases that should be referred to an IQMP for a new medical opinion.
- 6.31 It was also highlighted that the reference in the draft regulations to a 5-year review was not applicable to the firefighters' pension schemes.

Government response

- 6.32 On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in

drafting of the regulations are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.

6.33 On the concerns about the normal pension age of the 2015 scheme (age 60) resulting in more members being ill-health retired, that is not directly to do with this remedy and, therefore, this consultation – the normal pension age of the 2015 scheme was set out in 2013 as part of the long-term reforms.

6.34 Suitable provisions have been made and the overall aim of the ill-health aspects of remedy is to ensure that those who have been ill-health retired (or dismissed on capability grounds without an ill-health pension – and become deferred members) during the remedy period (1 April 2015 to 31 March 2022 inclusive) can have the provisions of the alternative scheme applied to their case, particularly where the provisions in the two schemes do not line up neatly.

6.35 The policy position is that:

- Any members of the 1992, 2006 or 2015 firefighters' pension schemes who are eligible for the McCloud remedy and who were ill-health retired during the remedy period should be assessed for ill-health retirement under their alternative scheme. These individuals will have the option to make an IC to continue receiving the IHR benefits that they are currently receiving or to choose to take their ill-health benefits under their alternative scheme (if criteria are met) – this will be applied retrospectively to the member's date of ill-health retirement.
- Any members of the 1992, 2006 or 2015 firefighters' pension schemes who are eligible for the McCloud remedy and who were assessed for ill-health retirement but were dismissed on capability grounds with entitlement to a deferred pension (i.e., they did not satisfy the ill-health qualifying criteria) can be assessed for ill-health retirement under their alternative scheme. These individuals will not have qualified for ill-health retirement and will have the option to make an IC to choose to take their ill-health benefits under their alternative scheme if they satisfy the ill-health qualifying criteria for that scheme – this will be applied retrospectively to the member's date of ill-health retirement, or to retain their current entitlement to a deferred pension.

6.36 Except for the specific scenarios below, these cases will not require referral to an IQMP for a further opinion on whether they satisfy the ill-health qualifying criteria in the member's alternative scheme. Effectively, entitlement to ill-health retirement under the member's alternative scheme will be able to be determined by the relevant employing FRA using existing documentation/evidence.

6.37 The following cases will need to be referred to an IQMP:

- Fully protected 1992 Scheme members who have been ill-health retired on a lower tier ill-health pension and need to be assessed against the 2015 Scheme lower tier ill-health criteria

- Fully protected 1992 Scheme members who have been ill-health retired on a lower and higher tier ill-health pension and need to be assessed against the 2015 Scheme lower tier and higher tier ill-health criteria
- Transitional 1992 Scheme members who have been rejected for ill-health retirement (both lower and higher tier) under the 2015 Scheme (under the only source ill-health arrangements) and need to be assessed under the 1992 Scheme lower tier and higher tier ill-health criteria
- Transitional 1992 Scheme members who have been ill-health retired on a lower tier pension under the 2015 Scheme (under the only source ill-health arrangements) and need to be assessed under the 1992 Scheme lower tier and higher tier ill-health criteria

6.38 Any members of the 1992, 2006 or 2015 Fire Scheme who are eligible for McCloud remedy and who were assessed for ill-health retirement but continued in employment (i.e., they did not satisfy the IHR qualifying criteria) will not be assessed for ill-health retirement under their alternative scheme. These individuals will have been assessed and rejected for ill-health retirement during the remedy period but will have continued in employment as a firefighter after the point where the ill-health decision was made by the employer. By virtue of continuing in their employment as a firefighter they have demonstrated that they are not entitled to ill-health retirement under the alternative scheme. These cases should not be revisited.

6.39 Additionally paragraph 6.39 sets out the position in relation to any transitional 1992 Scheme members who:

- had transitioned into the 2015 Scheme during the remedy period,
- who then became subject to an ill-health retirement assessment prior to 1 April 2022, and whose ill-health assessment did not conclude until on or after 1 April 2022.

6.40 These individuals will have been assessed under the 2015 Scheme regs and will have been assessed against whether their permanent disablement continued to age 60, the Normal Pension Age. They will be given the option under McCloud remedy to have all their remediable service in the legacy 1992 Scheme. If they were to elect this option then they will need to be placed in the same position as those fully protected 1992 Scheme members who transitioned into the 2015 Scheme on 1 April, and who were subject to an ill-health retirement assessment prior to 1 April 2022, and who's ill-health retirement assessment did not conclude until on or after 1 April 2022.

6.41 These individuals will have been subject to the firefighters' ill-health 'underpin' that was introduced on 1 April 2022. These individuals were ill-health retired under the 2015 Scheme regs but will need to be assessed against a normal

pension age of 55 (the same as the 1992 Scheme), rather than age 60 (the 2015 Scheme's normal pension age).

- 6.42 After considering the responses to the consultation and informal engagement, the government is content that these proposed changes will achieve the policy intention.

Question 4 - Added pension: Do you think the policy proposals in relation to scheme members with added pension puts all eligible members in the same position?

Summary of responses

- 6.43 25 responses were received: 15 responded yes that the policy proposals in relation to scheme members with added pension puts all eligible members in the same position and 10 said no, it did not. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and points made during informal engagement with fire sector stakeholders.
- 6.44 Where open text was given, many respondents focussed on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret.
- 6.45 There was also a degree of misunderstanding, as some respondents thought that those with remedy period added pension rights would be barred from making a contingent decision to purchase legacy scheme additional service – this is not the case. There were also some members who confused added pension with transfers.
- 6.46 A few responses suggested that firefighters who choose reformed scheme benefits for their remediable service should be allowed to retain the added pension that they had purchased and that this would be consistent with the approach taken with transfers-in to the reformed scheme. There was also a suggestion that the fact that an eligible member bought added pension in the reformed 2015 scheme should automatically qualify as sufficient evidence for a contingent decision that they would have bought added service in the legacy scheme.
- 6.47 Other responses also raised concerns about a lack of clarity on why the option to purchase 'added years' in the legacy scheme was not available to the beneficiaries of deceased members. There was also a lack of clarity as to why 'added pension' purchased in the reformed scheme could not automatically be converted to 'added years' in the member's legacy scheme. Response's also thought that the policy did not appear to have considered what the member had intended when they made the original election to purchase additional pension benefits in the reformed scheme.

- 6.48 Some responses also raised concern that the use of compensation refunds to make new purchases of ‘added pension’ in the reformed scheme may not provide the desired outcome for the member as the purchase of added years at an older age will be more expensive.
- 6.49 Some responses included the suggestion that the Scheme Actuary should provide general guidance and actuarial factors to avoid having separate consultations with employers for each individual case. Other responses sought clarity on whether the GAD calculator will automatically calculate the relevant tax and interest components of any compensation.
- 6.50 There was also a suggestion that the already established Added Pension Benefit arrangement in the legacy firefighters’ pension schemes could be used to convert contributions paid towards ‘added pension’ in the reformed scheme to legacy scheme benefits.

Government response

- 6.51 On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting of the regulations are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14. On the issues around individual projections and retirement plans, it is not possible for either the regulations or the consultation to provide personalised pension forecasts – that is an issue that only a member’s scheme administrator can resolve.
- 6.52 On the confusion about whether those with remedy period added pension would be allowed to make a contingent decision to purchase legacy scheme additional service, any eligible member who meets the legacy scheme criteria (as they would have applied for purchase of additional service during the remedy period) will be able to make a contingent decision to purchase additional service. It will also be open to eligible members who continue to be pension scheme members to buy added pension now.
- 6.53 Regarding the concerns about a lack of clarity on why the option to purchase ‘added years’ in the legacy scheme was not available to the beneficiaries of deceased members. This is a decision a member would make to plan for retirement and does not apply to any ancillary benefits. Conversion to added service cannot be offered as an automatic route as the criteria a member has to meet to be able to buy added service are stricter than those for added pension.
- 6.54 Conversion to legacy Additional Pension Benefits in the legacy firefighter pension schemes cannot be offered. This option was considered during policy development, but it would require a retrospective change to the policy intention of APBs which could create disparities of treatment with members who are not subject to McCloud remedy. APBs are at the discretion of the employer and can only be used for specific temporary allowances which are not pensionable under final salary

arrangements. Any retrospective change to this policy could raise additional discrimination risks. Additionally, Conversion to added service cannot be offered as an automatic route as the criteria a member has to meet to be able to buy added service are much stricter than those for added pension.

6.55 On allowing added pension contracts taken out during the remedy period to be resolved at retirement, the consequence of the remedy is that all eligible members are put back in their legacy schemes. Added service contracts started during the remedy period (whether at the time or retrospectively through a contingent decision) will still be under the legacy scheme but added pension contracts from that period cannot sit under the legacy scheme. Most members are likely to choose legacy scheme benefits for the remedy period and anyone who is still serving (and a member of the pension scheme) will have the option to purchase added pension in the 2015 scheme.

6.56 On the point about an eligible member who had bought added pension in the 2015 scheme automatically qualifying as having sufficient evidence for a contingent decision that they would have bought added service, that seems reasonable. However, this should be considered part of the administration process and the obligation to do this will not be provided by scheme regulations.

6.57 On offering conversion instead, to do other than offer a refund to all would lead to situations where some members qualify for additional benefits of one sort or another and other members (who would like to have had additional benefits) do not qualify. A key principle behind the remedy is that the aim is to put members back in the position that they would have been in. This, and the need to avoid further difference of treatment when implementing remedy, mean that alternative have had to consider alternative options carefully.

Constructing a new AP section of the legacy scheme for conversion of AP benefits:

6.58 The problem that would arise is that this would be a special arrangement that was not available to (protected) legacy scheme members when they were in the scheme. That would result in a new difference of treatment. The further option of allowing legacy scheme members to access a new AP section would be an improvement (at employer cost) to a very valuable closed scheme. That would be against the principles of reform set out in Hutton and would lead to questions about how the timing of any legacy member's election to purchase AP could be fairly determined (when compared to the 2015 scheme member). Allowing such a facility for retired members and those who can take benefits before age 55 would be likely to lead to unauthorised payment consequences as the facility for AP was not part of the scheme on the necessary dates in 2003, 2004 and 2006 for the purposes of the Finance Act 2004 and might well result in the scheme becoming non-tax compliant.

Conversion of AP to Additional Service (AY):

6.59 The rules governing AY for the legacy schemes limit the amount of service a member can buy and, in many cases, mean that a member cannot buy AY at all. To allow AP (in all cases) to be converted to legacy AY would effectively give unprotected members a way of accessing AY in circumstances where protected members would not have been allowed. Again, that would be a new difference of treatment. To open up AY purchases to any legacy member without limit would be a considerable uncosted improvement to a closed legacy scheme as the factors as they stand are on the basis of the current terms of the facility which, again would be against the Hutton reform principles. Moreover, any change to allow such a purchase would only come into existence from October 2023 it would be a way of allowing accrual in a legacy scheme beyond 1 April 2022, which is not allowed. There is a further complication with conversion as members might not be entitled to be credited with additional service in the legacy scheme for the (full) value of their AP if they are already close to maximum service under the legacy scheme.

Holding the AP ‘on record’ until DCU:

6.60 The comparison was drawn with the proposal for transfers. However, that situation allows for a record to be held in both cases (protected and unprotected members would have all been able to have a transfer in). For AP, it could only happen for unprotected members. Again, it would allow that cohort a way of accessing AP that protected members would not have – another difference of treatment issue.

Allow payments at retirement to re-instate the AP:

6.61 Allowing members who had had compensation (in respect of AP) to pay it back (even though interest would have to apply) would effectively be allowing a group of members with remediable service preferential access to AP. Again, a difference of treatment issue.

Overall conclusion on conversion

6.62 Our conclusion is that none of these alternatives can provide a conversion solution given the issues that arise. This means that the only option under the PSPJOA that is open to the firefighters’ schemes is to offer compensation. The original election by the member to purchase added pension would effectively be made invalid. For members with AP arrangements that commenced during remediable service in the police and firefighters’ schemes (i.e., those that started before April 2022), the “return of contributions” will be achieved in the form of compensation equivalent to the contributions paid less the amount representing the tax relief from which the member benefitted plus any interest due. Protected members without any reformed scheme service in the remedy period will not be entitled to this form of compensation (since they could not have made reformed scheme AP purchases in the remedy period). The original election by the member to purchase added pension would effectively be made invalid.

6.63 After considering the responses to the consultation, the government is content that the proposed changes will achieve the policy intention.

Question 5 - Transfers: Do you think that the policy proposals that transfers that came into the 2015 reformed pension scheme will be held in the 2015 reformed pension scheme until the point of decision achieves the policy intention of preserving transfer rights?

Summary of responses

- 6.64 26 responses were received: 18 responded yes that the proposed approach on transfers that came into the 2015 reformed pension scheme will be held in the 2015 reformed pension scheme until the point of decision achieves the policy intention of preserving transfer rights and 8 said no, it did not. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and points made during informal engagement with fire sector stakeholders.
- 6.65 Where open text was given, many responses focussed on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret.
- 6.66 Some responses raised concerns about individuals who choose the 1992 scheme for the remedy period and a lack of clarity on how a transfer that is in the 2015 scheme to the 1992 scheme would be enabled.
- 6.67 One response questioned whether the proposal to pay an equivalent value to compensate members who would otherwise exceed a pensionable service cap, by adjusting their contributions, is compatible with s.91 of the Pensions Act 1995 or s.21 of the PSPJOA. It was suggested that excess should be converted to legacy scheme benefits (and the service cap disapplied) or, alternatively, retained as a 2015 Scheme entitlement.
- 6.68 Some responses also raised concerns that the draft regulations did not explain how compensation will be achieved and suggested that it would be helpful if the regulations referred to this and set out the general principles. Some responses referred to regulation 30(2)(b)(ii) and asked for clarity on how compensation will be achieved.
- 6.69 A few responses questioned the policy decision to exclude transfers into the reform scheme during the remedy period from the 'roll-back' stage. The policy will generate administrative complexities as administrators will need to ensure the value of the transfer is updated on the member's record until they make their choice.

- 6.70 Other responses also raised concerns about the lack of clarity on the process employers need to follow in cases where a member's transfer cannot be converted to legacy scheme service, particularly in relation to adjustment of contributions based on an actuarial calculation.
- 6.71 Other responses asked for an assurance that by delaying the adjustment until the members crystallisation date this will still be processed as a transfer from the 2015 scheme to the legacy scheme, meaning the member's service credit will not count towards the pension input amount in the legacy scheme in the year of retirement.
- 6.72 There were also concerns raised about the administrative complexities of this system, how interest will factor into the calculation, and were keen to have the actuarial guidance on how these calculations will work. They also asked about changes to the Public Sector Club Memorandum.
- 6.73 A few respondents asked when GAD guidance will be available to do any conversions for compensation. They also asked how transfers that were 'converted' and paid under immediate detriment.

Government response

- 6.74 On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.75 Also, the PSPJOA treats a transfer differently to pension built up because of service in the remedy period. This, and the existing transfer rules in the pension schemes which can limit transfers in, are why it is preferable to wait until the point of making a decision on remedy to move the transfer rights.
- 6.76 The conversion to compensation provision does not mean that transfers are not preserved. The majority should be able convert their transfers into the alternative scheme. Conversion to compensation only arises for members who choose legacy scheme benefits, whose transfer cannot (in full or part) be converted to legacy scheme benefits and are also unable to have the transfer associated with post-April 2022 service as they left service before April 2022.
- 6.77 Converting the transfer to an added pension would introduce new difference of treatment (those who had transfers getting access to a facility that others could not have had access to at the time)
- 6.78 On the question about breaching existing HMRC regulations on transfers, an unauthorised charge may occur. If any unauthorised payments do arise as a result of this, they would be able to be compensated. HMRC confirmed that a transfer would not materially impact the outcome of the pension input amount calculation as

a transfer would be included in the opening and closing values of the calculations, just as it was when transferred initially.

- 6.79 On the administration and guidance issues, as noted in the summary above actuarial guidance will be available and it will cross-refer to the interest directions, so that element will be considered. On detail of how it will be administered (e.g., how the scheme manager will contact the member and when), that is a matter for scheme managers.
- 6.80 The policy on the Public Sector Club Memorandum is owned by Cabinet Office and does not form part of this consultation.
- 6.81 On the question about Immediate Detriment (ID) cases, the processing of these was always contingent on the whole ID case being able to be resolved. Therefore, ID cases with unresolved transfer issues are not expected.
- 6.82 After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention.

Question 6 - Bereavement: Do the proposed amendments to scheme regulations achieve the policy intention of ensuring that the resulting 'member representative' can make an immediate choice or deferred choice in relation to the remedy period service of a deceased member?

Summary of responses

- 6.83 39 responses were received, 24 responded yes that the approach to scheme regulations achieve the policy intention of ensuring that the resulting 'member representative' can make an immediate choice or deferred choice in relation to the remedy period service of a deceased member and 3 said no, it did not. Others provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and points made during informal engagement with fire sector stakeholders.
- 6.84 Some respondents raised concerns about the ability of unmarried partners to have an entitlement to make decisions as the position of a 'life partner' (the term used in the consultation paper) has not been included in the draft regulations. They thought there is a potential ambiguity as to the precise definition of who will be a relevant 'member representative' in circumstances in which a firefighter died leaving a life partner with whom they were neither married nor in a civil partnership.
- 6.85 One respondent referred to eligible decision makers for deceased members, there is reference to M's personal representative, yet this term does not appear to be included within the regulations.

- 6.86 Some respondents raised concerns about any uncertainty about the lawfulness of payments creates a financial risk to employers since eligible pension costs are reimbursed by government, and that there is a risk that reimbursement will fail if the government subsequently determines that payments have not been properly or lawfully made.
- 6.87 It was suggested that the provision that allows a scheme manager to put a survivor benefit into payment in advance of making an election (paragraph 9 of regulation 11), should be mandatory not permissive. It was also suggested that allowing a members deferred choice decision to lapse if they die before benefits are paid did not seem justified.
- 6.88 Respondents welcomed the policy of protecting children's pensions, and the waiving of liabilities for death cases where an overpayment has taken place.

Government response

- 6.89 The regulations provide protection against a child's pension being reduced in the case where a surviving adult who does not have parental responsibility for them is making the election.
- 6.90 On the member's choice lapsing if they die before it comes into payment, a member can revoke their election until close to the benefits coming into payment, so it would seem unfair not to allow a survivor the same option. What is also relevant here is that this situation would have to be a death in service close to retirement, so it will only happen in a minority of cases and therefore will not be such an administrative burden.
- 6.91 Making it mandatory for a survivor benefit to be put into payment where a member has died in service does not allow the beneficiary to decide that they would rather make their choice before the benefits are put into payment, with all the consequent unpicking that that might entail. This scenario will only arise in cases of deaths in service or (for deferred members) deaths before benefit crystallisation. It also gives the scheme manager discretion to be able to choose not to pay in complicated situations, for example where there is more than one adult with an interest in the benefits that could be payable.
- 6.92 On the point raised about unmarried partners having the ability to make decisions, where a member has died the person who can make an opted-out service elections, an immediate choice decision or a deferred choice decision is determined in accordance with the Schedule to the regulations. This provides for co-habiting, unmarried partners.
- 6.93 After considering the responses to the consultation, the government is content that the proposed changes will achieve the policy intention.

Question 7 - Contingent decisions: Do you think that the proposals with regards to contingent decisions give members opportunities to revisit pension benefit decisions taken during the remedy period?

Summary of responses

- 6.94 26 responses were received, 17 responded yes that contingent decisions give members opportunities to revisit pension benefit decisions taken during the remedy period and 9 said no, it did not. Others provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and points made during informal engagement with fire sector stakeholders.
- 6.95 Where open text was given many responses focussed on more general issues that did not directly answer the question, such as their dissatisfaction/disagreement with the reforms overall and how they did not find the drafting of the regulations easy to interpret.
- 6.96 A few responses raised concern about the absence of clear guidance on how employers should manage the process of implementing contingent decisions across the fire service. There was also a perceived lack of clarity on what supporting evidence would be acceptable for a successful contingent decision application. This was thought to have the potential to lead to significant inconsistencies within the fire service.
- 6.97 Other responses also noted that the current contingent decisions policy did not cover the full range of pension/non pension/other financial losses that an individual may have suffered because of the discrimination, for example, the portion of annual pension commuted for a lump sum, timing of retirement, and paying contributions for unpaid leave etc. It was also suggested that any decision made that related to the discrimination should be reversible.
- 6.98 There was some concern about a lack of clarity with regards to the process of recovering employee contributions where an individual buys back a period of service which they had previously opted out. There was also concern about how this additional service should be treated for the purposes of pension accrual, interest, and taxation where the member repays the contributions by means of periodical contributions. For some, there was also a perceived lack of clarity on how employer contributions would be recovered.
- 6.99 The issue of auto-enrolment was also raised. Clarity was sought about circumstances where an individual was auto re-enrolled into the 2015 scheme within the remedy period and subsequently opted out and would make them eligible for an opted out contingent decision claim, and if so, whether they would then be able to re-instate all their service in that employment within the remedy period.

- 6.100 One response noted that draft regulation 28(3) appears to provide for employers to implement a screening process for contingent decision applications who wish to purchase added years in their legacy schemes. It was suggested a centrally agreed process would be useful to avoid inconsistent decision being made within the fire service.
- 6.101 Another response also noted that there did not appear to be any provisions that allowed an individual to revisit an earlier decision to transfer pension benefits into or out of the scheme during the remedy period and whether any time limits applied.
- 6.102 One response referred Part 3, regulation 5(5) of the draft provisions and asked for clarity on whether only one or both conditions needed to be satisfied for an application to be refused. There was also concern with regards to some of the date references which will need to be reconsidered.
- 6.103 Some responses were also keen that 2015 scheme members who had purchased added pension should be allowed to convert it to additional service in the relevant legacy scheme.
- 6.104 Some responses questioned how the additional accrual from reinstated service (rectified opt-outs) would be treated under the tax regime. Some responses were keen that it should not be treated as accrual in the current tax year, rather it should be smoothed and treated as accrued across the remedy period.

Government response

- 6.105 On the general issues, as noted in the summary at paragraphs 5.6 to 5.9, concerns about pension reform and related issues, and the language used in drafting are not part of this consultation. Also, we address concerns about the language used in the regulations in paragraph 5.14.
- 6.106 The risk with specifying what information qualifies as evidence for a contingent decision is that scheme managers would not be able to accept legitimate but unanticipated cases. It is not desirable to inadvertently prevent a member from qualifying just because they have very unusual circumstances. On the idea of self-certification, scheme managers must act within the parameters set out in the PSPJOA, HMT directions and the retrospective regulations, therefore it is important that they review the evidence provided by members to ensure that the contingent decision cases they accept – and the solutions proposed – are permitted by legislation.
- 6.107 On the issue of allowing those with added pension to convert it into additional service in the legacy scheme, this is not provided for as the rules governing eligibility for added pension are different from those for additional service. All

members with remediable service who have purchased added pension will be treated equally by being given compensation representing a 'refund.' Those who meet the additional service rules' criteria will have an opportunity to purchase additional service in the legacy scheme, in the same way as any other member with remediable service who meets the additional service rules' criteria. An automatic route for this purchase is not being implemented – this is to ensure that the scheme complies with the anti-recycling rules (essentially that don't permit lump sums to be directly converted into new pension).

- 6.108 How this and other issues will be communicated to members are issues of administration and therefore more appropriate for scheme managers to determine for themselves. The Home Office will continue to support scheme managers, and these points will be passed on to scheme managers and those who work more closely on administration.
- 6.109 On the issue of contingent decisions policy not covering the full range of financial losses relating to the discrimination, the remedy is intended to put scheme members back into the same financial position as if the discrimination had not occurred. This includes provisions to allow schemes to provide compensation for financial losses where members can demonstrate they would previously have taken a different course of action were it not for the discrimination. If members feel they have suffered additional losses over this would need to be taken up through the normal channels.
- 6.110 On the opt-out contingent decision, it is prudent to establish an additional route for eligible members to be able to make the necessary contributions. A periodical contribution arrangement over 14 years has been added, so that such members have another way to make the payments. On whether the period is appropriate, there are good administrative reasons to limit the period during which an application can be made – the PSPJOA 2022 envisages an election having to be made within a year of the first RSS being issued. However, the drafting has been altered so that the period is tied to the issue of the first RSS.
- 6.111 HMRC has confirmed that, for the purposes of Annual Allowance, the purchase by the member of previously opted out service is not dependent on the timing of the payment of employee contributions. The re-purchase of a member's service is retrospective, and the Annual Allowance position follows from this, i.e. Pension Input Amounts will fall into the relevant past tax years.
- 6.112 After considering the responses to the consultation and informal engagement, the government is content that the proposed changes will achieve the policy intention. This meets the aim of removing the discrimination and making sure that public service pensions are reformed appropriately.

Question 8 - Are there any other areas which you think should be addressed in these regulations in order to ensure that all eligible members receive a choice of pension benefits at their point of retirement, for the period for which the discrimination existed (1 April 2015 - 31 March 2022) on 1 October 2023?

Question 9 – Are there any additional points not covered in this consultation paper that need to be considered as part of the proposed amendments to scheme regulations?

Summary of responses to questions 8 & 9.

- 6.113 26 responses were received to question 8, 14 responded yes that there are other areas which should be addressed in these regulations in order to ensure that all eligible members receive a choice of pension benefits at their point of retirement, for the period for which the discrimination existed (1 April 2015 - 31 March 2022) on 1 October 2023 and 12 said no, it did not.
- 6.114 26 responses were received to question 9, 21 responded yes that there are additional points not covered in this consultation paper that need to be considered as part of the remediable service regulations and 5 said no, there are not. Others provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and points made during informal engagement with fire sector stakeholders.
- 6.115 Where open text was given in question 8, many respondents focussed on more general issues that either did not directly answer the question or raised individual personal circumstances. Again, issues raised included their dissatisfaction/disagreement with the reforms overall, dissatisfaction with the timing of the remedy and how they did not find the drafting of the regulations easy to interpret overall.
- 6.116 A few responses raised the issue of the 'contributions holiday' provision in the 1992 Firefighters' Pension Scheme was raised and that the draft regulations did not address how contributions made during this period would be treated for the purpose of McCloud remedy.
- 6.117 Other responses noted that employers can decide which scheme benefits to pay where an individual does not decide within the election period and suggested that central guidance will be required to ensure a consistent approach is adopted within the fire service.
- 6.118 Some responses also raised concern about a lack of clarity as to the circumstances when an employer can decide to waive liabilities owed by the member to the scheme. It was suggested that central guidance will be required to ensure that the decisions are made as intended and to ensure a consistent approach is adopted within the fire service. It was also suggested that the scheme should legislate for members to be required to commute a minimum of their annual

pension for a lump sum where they owe a liability to scheme which should be deducted from pension benefits.

- 6.119 Reference was made by some to the compensation provisions in the draft regulations and the need for central guidance setting out the process that employers need to follow to inform members of their rights and entitlement, especially with regards to contingent decisions and taxation. It was suggested that the regulations did not adequately set any framework for making compensation payments.
- 6.120 Some respondents referred to immediate detriment cases, noting that HM Treasury had indicated that further tax regulations may be introduced, depending on how these cases are addressed in scheme regulations. Whether these consequential tax regulations are required will be determined by HMRC once scheme regulations are confirmed by schemes. Responses noted it was not clear in the draft regulations whether this intention has been realised and no mention of the process by which the scheme manager must follow either and this could lead to further legal challenges.
- 6.121 Additionally, it was also noted that there is no reference in the draft regulations or the consultation document about the treatment contributions made by immediate detriment members with regards to tax and interest. It was suggested that draft regulations should set out how tax relief is to apply if it has not already been provided to the member as part of the immediate detriment remedy.
- 6.122 Other responses also highlighted that the draft legislation does not provide a framework for the creation and maintenance of a contribution adjustment record, or the points as to when a member can settle any liability owed. It was also unclear about how and when any future interest accrual will be calculated and whether this will need to be facilitated within the software system and additional information or guidance should be provided as a priority.
- 6.123 One response also suggested that there is uncertainty about the impact of interest rates changes after members have been issued with an RSS and before a member makes their election.
- 6.124 Some responses also noted that the consultation document was clear on the policy of abatement, but no specific provision was made for abatement in the draft regulations. Responses noted where an employer has an established policy not to abate a member's pension it was unclear whether interest should be applied to the liability owed to the scheme by the employer. Further clarification on this would be welcomed.
- 6.125 It was suggested that detailed guidance should be provided with respect of the numerous employer discretions within the draft regulations to include application of abatement, handling members who have not made elections, reasonable times

for deferred choice elections, contingent decisions, waiving overpayments, dealing with payments made under immediate detriment, and handling interest and indirect compensation.

- 6.126 A few responses also referred to the recovery of employee contributions, suggesting that there was also a role for recovery by means of periodic contributions. It was also highlighted that there was a lack of clarity with regards to recovery/refund of employer contributions following a member's decision.

Government response

- 6.127 On the general issues, as noted in the summary, this consultation is about the remedy rather than the reforms which happened in 2015. On the language in the regulations, pensions are a complex technical subject and while efforts have been made to ensure that the drafting is as straightforward as possible, some aspects of the remedy are necessarily complex. The regulations are not intended to be a member's guide in simple terms.
- 6.128 Employee contributions paid under the reformed scheme which wouldn't have been paid had the member been in the legacy scheme are subject to correction under sections 15 to 17 of the Act, this also covers the period where an individual becomes retrospectively entitled to a contributions holiday after being rolled back into their legacy 1992 Scheme. The same applies to employee contributions which were not paid in the legacy scheme and would have been paid in the reformed scheme (assuming someone in this position actually opts for reformed scheme benefits).
- 6.129 On the point about it being unfair for members to have to pay contributions to make up the difference between their actual remedy period contributions and what they should have paid for the scheme that they choose. It would be more unfair to members who had made the correct contributions at the time if another member were able to choose the same scheme as them but not pay the correct contributions. The adjustment of employer contributions because of implementing McCloud remedy will be achieved through future scheme valuations. Any outstanding employer contributions will create a notional deficit and will be reflect in future employer contribution rates.
- 6.130 We have made certain amendments for the contribution regime to the regulations, in particular linking the window of opportunity to pay by lump sum to the receipt of an RSS and putting in a dedicated pathway to allow members who elect to buy-back opted out service to make the necessary payments over 14 years. We note that the PSPJOA/RSS determinations already set out that scheme managers must hold information about any contribution adjustments.
- 6.131 On the concern about when a member can make payments for owed contributions, members will be able to repay at the point of receiving their first RSS,

at other points while still serving/not yet retired as well as when they retire or crystallise their benefits. This will include payments for contingent decisions to reverse an opt-out and, as noted in 6.128 above, there will be an additional option of periodical contributions for payments in respect of reversing opt-outs.

- 6.132 Scheme Managers have discretion to waive liabilities owed by a member to the scheme in certain circumstances. The application of this discretion will be undertaken in accordance with HM Treasury Directions. Whilst the Home Office does not own this policy, we are willing to work with the fire sector to create informal guidance for employers to consider.
- 6.133 On revisiting commutation decisions, the PSPJOA allows a member to choose alternative benefits to those in payment, so part of that is being able to alter commutation decisions.
- 6.134 Other issues were considered to be out of scope for one or two reasons. Either because they were suggestions for scheme managers, administrative process or guidance, other legislation or because the issue they referred to was not something that fell under the narrow definition of how the powers used in the regulations can be applied. Also, as the consultation was about regulations to deliver the remedy, it wouldn't be right to make wider changes that were not in the remit of this consultation.
- 6.135 With regards to the issue of abatement, the government is content that the policy intention will be achieved through existing powers. There is no need to directly legislate for abatement in the regulations as the PSPJOA already achieves the necessary position.
- 6.136 There are a number of areas where the Home Office is not responsible for the policy or legislation on, such as tax, compensation, data recording and GDPR requirements, and the application of interest, so it would not be appropriate for the Home Office alone to provide formal guidance on those areas. Guidance on HM Treasury directions and the PSPJOA is not something that is typically prescribed in scheme regulations, so is not part of the scope of this consultation.
- 6.137 On other suggestions which were already dealt with by the legislative framework, the compensation/contribution amounts have interest applied to them by HMT's interest directions. The HM Treasury directions set out that the interest rate typically applied by the courts (around 8% simple) would apply to all contribution compensation calculations up until the date 28 days after a remediable service statement is first issued; after that (if they choose to leave it in the scheme) it's NS&I Equivalent Savings Rate compounded. On sums owed by members, it's just NS&I Equivalent Savings Rate compounded. This is all provided for in HM Treasury Directions.

- 6.138 Fire sector employer representatives are aware of the current proposals and have the opportunity now to make the necessary preparations to internal processes in advance of these changes.

Question 10 - Do any of the proposed amendments unlawfully discriminate against a particular protected characteristic, fail to advance equality of opportunity between those who share a protected characteristic and those who do not, or fail to foster good relations between people who share a protected characteristic and those who do not?

Summary of responses

- 6.139 20 responses were received, 7 responded yes that there are additional points in the proposed amendment not covered in this consultation paper that need to be considered as part of the scheme regulations and 13 said no, it did not. The summary below also covers points made during informal engagement with stakeholders. Others may have provided commentary without a clear 'yes or no' response. The summary below covers explanatory open text responses and also points made during informal engagement with fire sector stakeholders.
- 6.140 One response referred to the Public Service Pension Schemes (Rectification of unlawful discrimination) (Tax) Regulations 2023 which covers out of scope years for scheme pays tax charges. Concerns were raised that this will lead to inequalities between members who were protected (and therefore older) and those who moved into the 2015 scheme and who will only pay tax for some of the years. Concerns were also raised about interest application to those not paying a lump sum until retirement, younger scheme members will be more heavily affected.
- 6.141 One response referred to immediate detriment cases and argued that these need to be resolved immediately as they are currently suffering financial detriment. One response expressed concerns that no Equality Impact Assessment (EIA) was published alongside the consultation to consider equalities. There was an expectation that some of the proposals require objective justification to ensure that differences between members are not classed as discrimination and are looking forward to viewing the EIA as soon as possible.
- 6.142 Other responses maintained that the current immediate detriment provisions, as currently drafted, may give rise to claims of inequitable treatment from those who retired with an immediate detriment remedy in so far as that they are prevented from claiming tax relief and so treated less favourably than those who are retiring on and after 1 October 2023 (who are likely to be younger).
- 6.143 Some responses also raised concerns that several fundamental decisions are left to the discretion of the employer. This may lead to very different outcomes for members employed by different fire and rescue authorities. There was also some concern with different policy approaches between England and the devolved administrations. For example, the different approached to recovery of employee

contributions could also lead to different outcomes for members and may cause challenges if an individual transfer's cross-border.

- 6.144 The age retirement issue was also raised, where some members would be able to access their legacy scheme benefits before having access to their reformed scheme benefits.
- 6.145 Some responses indicated that the position of the scheme manager also being the employer has not been properly considered to avoid any conflict in decision making by the fire and rescue authority leading to potential unequal outcomes for members.

Government response

- 6.146 On the general issues, as noted in the summary, this consultation is about the remedy rather than the reforms which happened in 2015, the timing depends on all the provisions for remedy being available, and, whilst it's understandable that the language used in the regulations can be complex, they are not intended to be a member's guide in simple terms.
- 6.147 As noted in the consultation document the Home Office always intended to publish an Equality Impact Assessment (EIA) alongside this response to the consultation. The government can assure respondents that, as the PSED is an ongoing duty, equalities issues have been considered throughout the policy formulation process and will continue to be.
- 6.148 On scheme managers having discretion, this is a consequence of the complexity and variety of individual circumstances. Scheme Managers need to be able to consider individual cases when making certain decisions, rather than a blanket set of rules applying.
- 6.149 On the question of applying interest to any of the payments or compensation, this policy is not in the control of the Home Office, and it therefore cannot be commented on from an equalities point of view in this consultation. However, it may assist to note that an EIA was published alongside Treasury directions, which set out the equalities impact of the policies provided for in Treasury directions including on interest.
- 6.150 On the age retirement issue, while it is acknowledged that this issue is important to many of those who responded, the change that gave rise to it is not part of the changes that is being consulted on here nor does it arise as a result of Remedy. Having considered the issue carefully the conclusion is that changing the terms one or more of the pension schemes is not appropriate as every option leads to a difference of treatment.

- 6.151 On the issue of how AA tax will be applied (and in and out of scope tax years), the tax regime is out of scope of this consultation as it is governed by different legislation. This issue is dealt with by HMRC's tax regulations².
- 6.152 On the scheme manager also being the employer, this is the longstanding position for the firefighters' pension scheme and the powers being used do not allow for wholesale changes to the scheme's governance arrangements.
- 6.153 Firefighters' pensions are devolved and accordingly the McCloud remedy changes made by the Home Office will apply to affected firefighters working for fire and rescue authorities in England. We have made our counterparts in the Devolved Administrations aware of our proposals through normal engagement.
- 6.154 The government acknowledges the effect of the non-discrimination rule at section 61 of the Equality Act 2010. However, Section 61 does not provide any remedy for the consequences that arise out of this, particularly on tax. Schemes do not have the powers to deal with all consequential impacts.
- 6.155 The government acknowledges that section 61 of the Equality Act 2010 permits pension scheme regulations to be read as though discriminatory provisions do not apply, allowing members in this position to be treated as a member of their legacy scheme. However, Section 61 does not provide schemes with the powers to deal with all consequential impacts, particularly as they relate to tax. Instead, these powers will be delivered through a combination of the PSP&JO Act, Treasury Directions, Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 and scheme regulations. This legislation, among other things, provides for any overpayment or underpayment of member contributions to be corrected, including amounts in relation to tax relief; ensures certain payments do not give rise to unauthorised payment charges; and ensures the appropriate level of income tax is charged on pension benefits and lump sum payments. Where necessary these provisions have retrospective effect to ensure that the position is as it should have been had the discriminatory treatment not occurred.
- 6.156 After considering the responses to the consultation and informal engagement, the government is content that the proposed changes do not have discriminate against a particular protected characteristic, fail to advance equality of opportunity between those who share a protected characteristic and those who do not, or fail to foster good relations between people who share a protected characteristic and those who do not. The legislation will come into effect on 1

² The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 (legislation.gov.uk)

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 - GOV.UK (www.gov.uk)

October 2023. This meets the aim of removing the discrimination and making sure that public service pensions are reformed appropriately.

7. Impact Assessment and Equalities

Impact Assessment

Equalities

- 7.1 The Public Sector Equality Duty (PSED) is set out in section 149 of the Equality Act 2010 and requires public authorities, in the exercise of their functions, to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act
 - advance equality of opportunity between people who share a protected characteristic and those who do not, and
 - foster good relations between people who share a protected characteristic and those who do not
- 7.2 This involves having due regard to the need to:
- I. remove or minimise disadvantages suffered by people due to their protected characteristics, and
 - II. Take steps to meet the needs of people from protected groups where these are different from the needs of other people
- 7.3 The equality duty covers the nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) and sexual orientation.
- 7.4 HM Treasury has conducted an [equality impact assessment](#), which considers the impact of the overarching policy, powers and requirements associated with the PSPJOA. As set out in that assessment, in particular paragraph 1.8, that assessment “does not cover secondary legislation made using powers in this Bill. Separate analysis to consider the impact of changes to scheme regulations (beyond those covered and/or directed by the measures in the Bill) will be produced when the powers to do so are exercised.” HM Treasury has also conducted [an equality impact assessment for their directions](#).
- 7.5 Stakeholder engagement and informal consultation have supported the Home Office in identifying any potential risk of adverse impacts in relation to the protected characteristics. Such stakeholder engagement includes engagement with fire sector employer and employee representatives, other government departments and devolved administrations. Through fire pension scheme membership, all members in scope for the remedy will have equal access to the remedy, irrespective of any protected characteristic that may apply to them. The Home Office has produced an Equality Impact Assessment that is published alongside this response.

7.6 More information on the PSED can be found here:

<https://www.gov.uk/government/organisations/home-office/about/equality-and-diversity>

8. Conclusion and next steps

- 8.1 The purpose of the retrospective remedy is to remove past age discrimination for the remedy period and place all fire pension scheme members in the position they would have been in before the discrimination occurred. However, fire pension scheme members may consider that 2015 reformed scheme benefits are more suited to their circumstances and the retrospective remedy allows them to choose which scheme design should apply to them for the remedy period. Information will be provided to each member to allow them to make a choice within a specified timeframe.
- 8.2 This retrospective remedy marks the final phase of removing the discrimination arising as a result of protections provided under the reformed schemes for older fire pension scheme members when introduced in 2015.
- 8.3 Fire sector employer representatives are aware of the current proposals and have the opportunity now to make the necessary preparations to internal processes in advance of these changes.
- 8.4 Fire pension scheme members who have already retired and/or received a pension award will be asked to make their choice as soon as practicable after the changes are implemented. The position they choose would be applied retrospectively back to the date the award was made.

9. Information and Data Handling

9.1 The Home Office will process personal data in accordance with the applicable data protection legislation. More information on what data being collected, why and how it will be looked after can be found here: Privacy notice - GOV.UK (www.gov.uk)

9.2 This published consultation response may include extracts from any submission made by an individual or organisation. Comments made by individuals will normally be non-attributable, but respondents should be aware that information provided during the course of this consultation may be released, on request, in accordance with the provisions of the Freedom of Information Act 2000. Personal data will likely be exempt. Comments submitted by an organisation are likely to be attributed to that organisation.

How long will we retain your data?

9.3 Data protection law requires that personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are collected. The Home Office will retain a record of the statistical analysis of returns, including the number of respondents, but personal information, including names, will not be retained after the Home Office Pension Scheme (Remediable Service) Regulations 2023 are published.

Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf

Annex A – List of respondents

- Administrators of Hampshire Fire Pensions
- Actuaries for lawyers
- Avon Fire & Rescue Service
- Bedfordshire Fire & Rescue Service
- Fire Brigades Union
- Greater Manchester Combined Authority
- Hampshire and Isle of Wight Firefighters
- Hampshire County Council
- Heywood Pension Technologies
- Hertfordshire County Council
- Jane Hunt MP
- Leicester Leicestershire and Rutland
- Local Pension Partnership Administration
- London Fire Brigade
- Local Government Association
- North Yorkshire Fire & Rescue Service
- Police fire and crime commissioners
- Fire Scheme Advisory Board
- South Wales Fire & Rescue Authority
- South Yorkshire Fire & Rescue Service
- Surrey Fire & Rescue Authority
- Tyne and Wear Fire & Rescue Service
- Warwickshire Fire & Rescue Service
- XPS Pension Group
- Others include, retired and serving Firefighters

Annex B: Glossary of terms used in the consultation document

Term	Meaning
Abatement	If you re-join employment with any fire and rescue authority in any capacity after retirement and have a legacy pension in payment, the pension in payment may be withdrawn in full or in part depending on your new salary. The 2015 reformed firefighters' pension scheme is not subject to abatement.
Accrual	The rate at which pension benefits accrue for each scheme year. Each scheme is different in design and accrual rate.
Active Member	A member of the firefighters' pension scheme who is currently serving as a firefighter and accruing benefits under the scheme.
Additional Pension	2015 reformed firefighters' pension scheme only - an amount of extra annual pension that you can buy to increase either your retirement benefits and/or your dependants' benefits.
Additional Service	A way of increasing the benefits you receive (that is, final pension and lump sum) by purchasing extra reckonable service (legacy schemes only).
Annual Allowance (AA)	The AA is how much can be saved towards a pension each tax year without a tax charge applying. For Firefighters' Pension Schemes this is determined by the capitalised value of the increase in the accrued benefits over the tax year (that is, the growth of the pension in the tax year). The standard annual allowance since 6 April 2016 has been £40,000; this rose to £80,000 from April 2023.
Firefighters' Pension Scheme 1992	The Pension Scheme for Firefighters', introduced in 1973 and closed to new entrants on 5 April 2006.

Firefighters' Pension Scheme 2006	The Pension Scheme for Firefighters, introduced in 2006 and closed to new entrants on 31 March 2015.
Firefighters' Pension Scheme 2015	The Pension Scheme for Firefighters who took up employment from 1 April 2012. Since 1 April 2022 it is the only pension scheme available to actively employed firefighters.
Beneficiary	A person who has become entitled to receive any death benefit.
Career Average Revalued Earnings (CARE)	A CARE scheme delivers a defined benefit pension based on a member's salary in each year of employment, not just their final one. Each year's pension accrual is revalued in line with an index.
Cash Equivalent Transfer Value (CETV)	A CETV is the expected cost of providing member's benefits within a scheme. It is used in pension sharing and pension transfers.
Club transfer	The Public Sector Transfer Club, also known as the Club, allows easier movement of employees and their pensions from one employer to another. Club members operate mainly within the public sector and rules are governed by the Cabinet Office.
Commutation	When a member gives up part of their future pension income in return for a lump sum at retirement.
Compound Interest	A method of applying interest in which the interest itself earns further interest.
Contingent decision	A decision related to the pension scheme(s) that a member took or did not take as a result of the (actual or perceived) implications of the introduction of the reformed schemes.
Deferred Choice	The choice (or election) made by active or deferred members at the point when pension benefits, including Early Departure Payments, are due to come into payment. Covered under section 10 of the Act.
Deferred Choice Underpin (DCU)	The provision for members to remain in, or be returned to, the legacy schemes for service between 1 April 2015 and 31 March 2022. At the point of retirement (or when

	benefits become payable) or as soon as practicable (for members who have already had a pension award), members would then be able to choose to instead receive reformed scheme benefits for that period.
Deferred Member	A member of a firefighters' pension scheme who has left employment as a firefighter without immediate access to payment of their pension or has opted to leave the membership of the pension scheme and has a deferred pension not yet in payment.
Deferred Pension	If a member leaves employment or opts out of the scheme's membership before the retirement age for that scheme, they will become a deferred member and are entitled to a deferred pension when they reach the relevant Deferred Benefit Age for the scheme to which they belong.
Dependant	Collective term to describe a member's spouse, civil partner, eligible partner or eligible child.
Election	Collective term used to cover immediate and deferred choice.
Election Period	The period of time within which a member must make a remedy election.
Eligible Child	A child, as defined in the relevant scheme rules, who is eligible for a child pension under the scheme rules.
Eligible Partner	An unmarried partner of the member, who meets certain conditions set out in scheme rules and is therefore entitled to a pension on the same terms as a spouse or civil partner.
Ill Health Benefits	If you are medically unfit to continue in your role due to ill-health, then you may be entitled to ill-health pension benefits. The type of benefits you will receive are dependent upon your individual circumstances, the scheme(s) you belong.
Immediate Choice	Under section 6 of the Act members who already have benefits in payment or who have died by the time the remedy is implemented (as entitlement to the payment of

	benefits in relation to remediable service will have occurred) will be provided with an immediate choice.
In-scope Member / Eligible Member	The remedy applies to pension scheme members who were in pensionable public service both on or before 31 March 2012 and on or after 1 April 2015, including those with a gap in service of no longer than five years. The detailed eligibility conditions are set out in section 1 of the Act. Special eligibility provision has been provided for firefighters who were optants out on 31 March 2012 but who had an entitlement to be an active scheme member.
Internal Dispute Resolution Procedures (IDRP)	An internal dispute process required by the Pensions Act 1995. Under the IDRP process disputes can be considered independently by the Pension Ombudsman if they cannot be resolved internally.
Member	An individual who joined the firefighters' pension scheme and is accruing benefits under the Scheme (active member), has a deferred pension under the Scheme (deferred member), or is receiving a pension from the Scheme (pensioner member). In some cases, this may also include pension credit members of the scheme.
Opting Out	When an individual chooses not to become a member of the firefighters' pension scheme, or chooses to leave the scheme, if already a member.
Pension Sharing Order	An Order made by the Court on divorce or dissolution of a civil partnership. It awards a share of pension benefits to a former spouse or civil partner, and they become a member of the Scheme in their own right.
Pensioner Member	Someone receiving a pension benefit from the Scheme.
Reformed Scheme	Firefighters' Pension Scheme 2015
Remediable Service	Any pensionable service that occurs in the remedy period, between 1 April 2015 and 31 March 2022 inclusive, and which meets the criteria set out in the Act.
Remediable Service Statement (RSS)	A Remediable Service Statement is a document which will clearly show the value of pension scheme benefits available under the election. Among other information, it

	will show the default entitlement as the value of legacy pension benefits up to and including 31 March 22 (or end of service if earlier) and then 2015 Reformed Scheme from that point forward (if there was service on or after 1 April 22). The alternative will show legacy pension benefits up to and including 31 March 2015 and then 2015 Reformed Scheme benefits from that point forward.
Remedy Period	The government proposed that all eligible members of relevant public service pension schemes would be given the opportunity to choose which model of scheme benefits they would wish to receive (legacy scheme or the reformed 2015 scheme) for the period of 1 April 2015 to 31 March 2022 inclusive – known as the remedy period.
Retrospective Remedy	The roll back of members to their respective legacy schemes and a subsequent choice of benefits for the remedy period.
Roll Back	The term used to describe the process by which in- scope members are placed back into a relevant legacy pension scheme(s) for the remedy period.
Scheme Manager	The Scheme Manager is responsible for managing and administering the firefighters' pension schemes. Individual fire and rescue authorities are the Scheme Managers for the firefighters' pension schemes. Whilst authority is delegated to administrators, overall responsibility remains with the Scheme Manager.
Simple Interest	A method of applying interest in which interest is earned on the principal amount only.
Surviving Adult	A surviving spouse, civil partner or eligible partner dependent on the meaning within individual firefighters' pension scheme rules.
Transfer Value	The value of the member's pension benefits, expressed as a sum of money when a member requests to transfer between two pension schemes.
Treasury Directions	Treasury Directions, which are contained in the Public Service Pensions (Exercise of Powers, Compensation and

	Information) Directions 2022, specify how certain powers under the Act are to be used by public service pension schemes in their scheme regulations.
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This publication is available at <https://www.gov.uk/government/consultations/firefighters-pension-scheme-retrospective-remedy>

Any enquiries regarding this publication should be sent to us at Firepensionspublicservicepensionsremedy@homeoffice.gov.uk

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Number: WG48214

Welsh Government
Consultation – Summary of responses

Consultation Response to Remediating Age Discrimination in Firefighters' Pensions in Wales 2023

September 2023

Maeir ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh.

Overview

This document provides a summary of the responses to our consultation 'Remedying Age Discrimination in Firefighters' Pensions in Wales 2023', including the Welsh Government's response to them.

Action Required

This document is for information only.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details:

For further information:

Fire Services Branch
Welsh Government
Rhydycar
Merthyr Tydfil
CF48 1UZ

Email: fire@gov.wales

Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: [Amendments to firefighters' pension schemes in Wales 2023](#)

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INTRODUCTION

1. The Welsh Government's consultation on "Remedying Age Discrimination in Firefighters' Pensions in Wales 2023" was published on 31 March. It dealt with the implementation of retrospective age discrimination remedy in firefighter pension schemes in line with the requirements set out in the Public Service Pensions and Judicial Offices Act 2022 (the 2022 Act). The remedy is being introduced as a result of successful legal challenges in the cases of McCloud and others v Lord Chancellor and another, and Sargeant and others v London Fire Commissioner and others. In these cases, the courts found that age-based transitional protection introduced in public sector pensions schemes in 2015, which allowed only those closest to retirement to stay in their legacy schemes, was discriminatory against younger members.

2. The remedy consists of two key aspects:-

- Eligible members who were moved to the new firefighters' pension scheme in 2015 (or later if they had tapered protection) will be moved back into their legacy pension scheme for the period during which the discrimination occurred – between 1 April 2015 and 31 March 2022. The consultation proposals also dealt with the consequences of that.
- All affected members will be able to choose, at retirement (or immediately, if they have already retired), the pension scheme benefits that they wish to apply for the relevant period (either their legacy or 2015 scheme benefits).

3. The consultation proposals dealt with matters relating to :

- **Scheme Membership** – identifying those entitled to remedy, including the treatment of members with multiple contracts and the option to opt back into the scheme for the remedy period.
- **Contributions** – correcting the amount of contributions for remedy period service, and the amount of tax relief on them resulting from retrospective reversion to legacy schemes, and a deferred or immediate choice for 2015 Scheme remedy period service.
- **Choice Mechanisms** – providing a choice for all affected members between remedy period service in their legacy scheme or the 2015 Scheme.
- **Ill Health Retirement (IHR)** – reconsidering IHR of affected members during the remedy period to assess whether the criteria in the alternative scheme would have been met.
- **Survivors and survivor benefits** – providing entitlement for eligible survivors of deceased scheme members to make deferred or immediate choice elections in the same way as the deceased member would have done.

- **Added pension benefits** – providing compensation for voluntary contributions made, and remedial arrangements to pay voluntary contributions into legacy schemes.
- **Divorce and dissolution** – determining the benefits payable to pension credit and pension debit members.
- **Transfers** – correcting transfers of remediable amounts in and out of the schemes.

CONSULTATION PROCESS

4. A twelve-week consultation began on 31 March 2023 and was open for responses until 23 June 2023. The consultation contained 32 questions, with options to respond to those questions by completion of an online form or by e-mail. The [consultation document](#) was available on the Welsh Government website.

5. The consultation, which included a draft statutory instrument, specifically focussed on:

- placing all members back into their legacy schemes for the period 2015 to 2022;
- offering members a choice of legacy scheme or 2015 scheme benefits for their remedy period service, in line with the 2022 Act.

6. The Welsh Government received 18 responses to the consultation. Those 18 responses came from the following:

- Three from Fire and Rescue Authorities in Wales (FRAs)
- Three from other trade unions and other organisations representing firefighters
- One from the Firefighters Pension Scheme Advisory Board for Wales¹
- One from Heywood Pension Technologies
- Ten from individuals

7. A full list of respondents is available at Annex A.

8. The Welsh Government welcomes the responses to the consultation and would like to thank those who responded.

9. The Welsh Government published its Integrated Impact Assessment alongside the consultation document. The overall policy position set out in the consultation document remains the same and has formed the basis of the final regulations. Therefore, no changes have been made to the Integrated Impact Assessment as originally published. The document can be found [here](#).

¹ The Firefighters Pension Scheme Advisory Board for Wales has an independent Chair and consists of the three Fire and Rescue Authorities in Wales; the Fire Brigades Union; the Fire Leaders Association; the Fire Officers' Association; and the Fire and Rescue Services Association.

SUMMARY OF CONSULTATION RESPONSES

10. The Welsh Government has considered the responses to the consultation. This document provides a summary of the responses received to each of the specific questions and the Welsh Government's response to them.

SCHEME MEMBERSHIP

Question 1 – How far do you agree with our proposal that, where an entitled member had multiple employment contracts during the remedy period with the same employer, all those contracts should be covered by the remedy, regardless of when they were entered into?

11. 16 out of the 18 respondents agreed the proposed approach to allow entitled members who have multiple employment contracts during the remedy period with the same employer, to be covered by the remedy in respect of all of those contracts.

12. Two respondents did not provide a view.

Welsh Government Response:

13. The Welsh Government acknowledges the general support for the proposal. We will therefore proceed to implement the proposals in the consultation document.

Question 2 – How far do you agree with our proposal that all affected members who opted out of 2015 Scheme membership during the remedy period should be entitled to opt back in to their legacy schemes retrospectively, without having to show why they originally opted out?

14. 16 out of the 18 respondents to this question agreed that all affected members who opted out during the remedy period should be entitled to opt back in to their legacy scheme retrospectively without evidencing their reasons for opting out in the first place.

15. Several respondents raised the issue of members who opted out of the scheme between 1 April 2012 and 31 March 2015, either seeking clarity on whether those members are able to opt back into the scheme for the remedy period or proposing that such members should be able to opt back in to the scheme for service from 1 April 2012 and not just service from 1 April 2015 onwards.

16. One respondent asked for clarity on whether a member who opted out during the remedy period and then later opted back in prior to 1 April 2022 would be eligible under the Welsh Governments proposals. Another respondent asked for clarity on the retirement age that will apply to members who opt back in to their legacy schemes as part of remedy.

Welsh Government Response:

17. Given the overwhelming support for our proposal that all affected members who opted out of the 2015 scheme should be entitled to opt back in to their legacy scheme for the remedy period (from 1 April 2015 to 31 March 2022), we plan to continue with this policy. The 2022 Act does not allow members to opt back in retrospectively for any period outside of the remedy period.

18. To clarify, our intention is that any firefighter who meets the eligibility criteria in section 1 of the 2022 Act will be entitled to opt-in to the relevant legacy scheme for the remedy period (or for such part of the remedy period that they opted out). Our regulations make provision about some of the procedures that must be followed to make an opt-in election, for instance that an election must be made in writing and must be within 12 months of the date of receiving a remedial service statement. However, whilst the 2022 Act provides for scheme regulations to include certain conditions under which an application may be refused, the Welsh Government have not included any such conditions in the scheme regulations.

19. Retrospectively opting back in makes no difference to retirement age (or normal pension age, to be more precise). Members of the 1992 Scheme (including those who opt back into it retrospectively) had a normal pension age of 55 while in that scheme. However, the normal pension age for all serving firefighters is now 60, as required by the 2015 Scheme.

20. We will therefore proceed to implement the proposals in the consultation document.

CONTRIBUTIONS

Question 3 – How far do you agree with our proposal that scheme managers should be required to repay surpluses in contributions as a single lump sum only?

21. 13 respondents agreed that scheme managers should be required to repay surpluses in contributions as a single lump sum. One of these respondents made a specific reference to the impact the proposal may have on fire service budgets. One of these respondents added that the adjustment should be made at the point a member retires from the scheme, due to the possibility of the member choosing reformed scheme benefits which would result in no surplus being owed.

22. One individual disagreed with the approach, but they appeared to have misunderstood the question, believing that it referred to members having to repay contributions.

23. Four respondents did not provide a view.

Welsh Government Response:

24. The Welsh Government notes the concern to the impact the proposal may have on FRA budgets. We do not provide core funding to FRAs (for pension costs or otherwise). Firefighters' pensions are funded by employer and employee contributions, plus a top-up grant from the Treasury. Any adjustments required will be made through pension accounts and shortfalls in annual funding will be met by the Treasury via Annually Managed Expenditure. Resultant adjustments to employer contributions will be included in future valuations.

25. We note the suggestion that the adjustment should be made at the point a member retires but the 2022 Act does not allow for this. The Welsh Government cannot take any action to address the suggestion.

26. We will therefore proceed to implement the proposals in the consultation document.

Question 4 – How far do you agree with our proposals that scheme members with a contributions deficit should be allowed to choose whether to repay it as a lump sum or (if the deficit is at least £100) in instalments over a period of up to 10 years?

27. 15 out of 18 respondents actively agreed with our proposal that scheme members should be allowed to pay a contributions deficit as a lump sum or in instalments over a period of up to 10 years. Several members noted that the proposed approach was consistent with the approach taken for the payment of contributions by special members of the 2007 scheme (the modified scheme), although one respondent commented that periodic payments, particularly by direct debit from deferred members, add an extra layer of complexity to the process.

28. One respondent felt that members should not incur interest on any contributions deficit.

29. Three respondents noted that the proposed approach was different from proposals in England and Northern Ireland. One of these respondents raised concerns that not allowing a full contributions deficit to be paid from a member's lump sum at retirement would put barriers in the way of members electing 1992 scheme benefits. Two sought clarity on how this difference in approach would impact on transfers between scheme, noting that the difference could complicate record-keeping and reporting requirements.

30. One respondent said that operating the same rectification solution across all firefighter schemes was important where possible to reduce further software and calculation complications. The same respondent referred to the importance of FRAs creating a contribution adjustment record for each member, the need for the timely delivery of a Government Actuary's Department (GAD) contributions adjustment calculator that could interface in bulk into administration systems.

31. One respondent asked whether there was scheme manager discretion to require payment via periodic contributions to be made in less than 10 years where for instance the amount owed by the members was very small when spread over this period of time.

Welsh Government Response:

32. The majority of respondents agree with the overall approach set out in our consultation for the repayment of contributions and as such we plan to implement them as proposed. We acknowledge the concern raised that not allowing a full contributions deficit to be paid from a member's lump sum at retirement could put barriers in the way of members electing 1992 scheme benefits; however, we do not believe this is the case. Our approach is consistent with the approach taken in respect of purchase of membership in the modified scheme. It is, we believe, the approach to paying contributions that is the most consistent with the position of unaffected members and protected members, who do not, and never have had, the option of trading lower contributions for a lower lump sum. On balance, therefore, we believe that our original proposals best meet the needs of members reverting to the legacy schemes whilst not introducing further discrimination against other members of the pension schemes.

33. We note respondents' comments about the differences in approach across the UK adding to software complications and the need for clarity on issues such as transfers. One respondent indicated the importance of a contributions adjustment record for each affected members and we agree this is an important administrative tool that can be used consistently by all FRAs. The scheme rules for each country will apply to contributions owed with regard to transfers between firefighter schemes as they will between other public sector schemes and firefighter schemes and a contributions adjustment record will provide important information for transfers between services in Wales, between Welsh services and services elsewhere in the UK, and with other public sector organisations, as well as being used as an internal record. However, this is an administrative approach and we do not believe that it needs to be legislated for. This is one of several areas where we would instead expect, for instance, the Local Government Association to support the production of consistent tools and templates.

34. On the issue of repayment by instalments, scheme regulations provide for the terms of an arrangement to repay in instalments to be agreed between the scheme manager and the individual member. The only stipulation is that agreement should not exceed ten years.

35. HM Treasury has set out how interest must be applied to sums owed to and by scheme members in Directions under the 2022 Act. The Welsh Ministers are obliged to comply with those directions.

36. We will therefore proceed to implement the proposals in the consultation document.

Question 5 – How far do you agree with our proposals that scheme members who are entitled to a refund of remedy period contributions should be entitled to waive it, to avoid having to repay it on retirement?

37. 14 respondents agreed with our proposal to allow scheme members entitled to a refund to waive it, to avoid having to repay it on retirement. One of these respondents reiterated their previous suggestion that any adjustment of contributions should only be made at the point of election of benefits. One of these respondents suggested that it would be helpful to have consistency in approach across all three FRAs to ensure accurate record keeping. One of these respondents highlighted an inconsistency between our consultation document and the draft regulations regarding the timing of such a request.

38. Four respondents did not provide a view.

Welsh Government Response:

39. We note the respondents' views and agree it is sensible that the three FRAs apply a consistent approach when maintaining individuals' employment records. However, we consider this to be an administrative issue and not one that should be reflected in the regulations.

40. We note the error identified in respect of the timeframe for requesting that a refund in contributions be waived until retirement, and will correct that in the final version of the regulations to reflect that a member has up to 12 months to make that request.

41. Subject to the above, we will proceed to implement the proposals in the consultation document.

CHOICE MECHANISMS

Question 6 – How far do you agree with our proposals that immediate choice elections must be made in writing, and will be irrevocable?

42. 15 out of 18 respondents agreed that immediate choice elections should be made in writing. 11 respondents also specified that they agreed that a decision should be irrevocable, although two respondents (both representing firefighters) raised concerns about a member's decision being irrevocable, one commenting that a member should be able to change their decision if that decision was based on incorrect information provided by the FRA, and another commenting that a member should be able to revoke a decision until it is acted upon and benefits come into payment.

Welsh Government Response

43. We note respondents' overall agreement to our proposals. We also note respondents' concerns regarding the irrevocability of a member's immediate choice.

However, this requirement is mandated by the 2022 Act and Welsh Ministers therefore have no powers to change the position.

44. We will therefore proceed to implement the proposals in the consultation document.

Question 7 – How far do you agree with our proposals that deferred choice elections:

- **must be made in writing;**
- **must be made no later than the later of the date one year before benefits become payable, and the date the member gives notice of a claim for pension benefits; and**
- **can be revoked and remade by the member before benefits come into payment?**

45. 12 out of 18 respondents agreed with the proposals. Two disagreed but did not set out their reasons. The remaining four respondents either did not comment at all or did not indicate whether they agreed or not.

46. Some respondents noted that members could only make a deferred choice election if they had received the relevant and accurate information required to make a choice, and one respondent highlighted the importance of templates used by all scheme managers to ensure consistency of information and messaging across all services and to all members.

47. Several respondents felt that there needed to be clearer deadlines for member choices to ensure adequate timeframes for administration and pensions to be put into payment, and also to set a cancellation date for the revocation of member elections to prevent decisions being revoked when the administrative process for putting the pension into payment is already underway.

Welsh Government Response

48. The Welsh Government agrees that consistent information and messaging across services is vital. We agree that it would be useful for FRAs to work collectively to produce appropriate templates that include both data and key messaging to members to support their decision makers processes. Our proposals clearly need to work in practice and therefore we are sympathetic to the issues that have been raised regarding clarity on timeframes for member choices and timescales for administrative processes. We have therefore amended the scheme regulations to include such deadlines and flexibilities for scheme managers. These include that a deferred choice decision is required within 3 months of the issue of a Remediable Service Statement (RSS), or the day before pension would become payable if earlier, or at a date that the scheme manager considers reasonable.

49. The regulations already include a cancellation deadline in respect of a member revoking their deferred choice decision, that is two weeks before the day on which the first payment is made, or such later time before payment day that the scheme manager considers reasonable.

50. Subject to the above, we will proceed to implement the proposals in the consultation document.

Question 8 – How far do you agree with our proposals that deferred choice members who wish to retire shortly after 1 October 2023, and for whom the deadline for making a deferred choice has already passed on that date, should be able to retire on the basis that their remedy period service was in their legacy scheme; and that they should be able to make an immediate choice themselves following retirement?

51. 17 out of the 18 respondents appeared to agree with our proposals, although some offered further comments. One respondent believed that the proposal was reflective of the principle of the 2022 Act, to provide a choice of retirement under both the legacy and reformed schemes.

52. One respondent made reference to the interaction between the regulations and section 61 of the Equality Act 2010 and suggested that the approach to process immediate choice cases, taken by some FRAs, should be adopted by *all* FRAs. One respondent referred to the administrative impact the proposal would have as calculations would need to be revisited. One respondent did not provide a view.

Welsh Government Response:

53. We note respondents' overall agreement to our proposals.

54. We note the respondents' views on the approach taken by FRAs on immediate detriment cases. However, that is a matter for the scheme managers, not for the Welsh Government or these regulations.

55. We note the respondents' views on resource implications, but it is important that FRAs provide accurate information to members so that they can make an informed decision, on receipt of their RSS, about whether to elect for remedy period service in the 2015 Scheme or their legacy scheme.

56. We will therefore proceed to implement the proposals in the consultation document.

Question 9 – How far do you agree with our proposals that members who have multiple contracts with the same employer should make separate immediate or deferred choices in respect of each contract?

57. 15 of the 18 respondents agreed with our proposal. Responses from both employer and employee representatives acknowledged that providing members flexibility to make separate immediate or deferred choices in respect of each contract was reasonable.

58. One respondent disagreed with our proposal but did not provide an explanation. Two respondents did not provide a view.

Welsh Government Response:

59. The Welsh Government acknowledges the general support for the proposal. We will therefore proceed to implement the proposals in the consultation document.

Question 10 – How far do you agree with our proposal that members or their survivors who do not make an immediate or deferred choice by the stipulated deadline should be deemed automatically to have chosen remedy period service in their legacy scheme?

60. 12 of the 18 respondents agreed with our proposal, some pointing out that it was not appropriate for scheme managers to be put in a position of making a choice on a member's behalf. Three further respondents made no comment at all. Two respondents though suggested that a backstop position should be included for scheme managers to make a decision on behalf of a member, or survivor of a deceased member where it was clear that alternative scheme rather than default scheme benefits were more beneficial, and where the lack of a decision could be attributed to the scheme manager not being able to contact the relevant member or eligible decision maker. Examples of where the default scheme might not be the most beneficial scheme were provided.

61. One respondent pointed out that every effort should be made to encourage members and their dependents to make a positive election.

Welsh Government response

62. The Welsh Government firstly acknowledges that the question posed in the consultation is somewhat misleading. The proposed default position for members (but not their survivors : see below) should an election not be made is the legacy scheme. However, to be consistent with our proposals for survivors at Chapter 5 of the consultation, the default position for survivors should an election by the eligible decision maker not be made is the 2015 scheme. That is for the reasons described in Chapter 5 where we use the principle that the 2015 scheme provides for a broader and more inclusive approach to survivor entitlements. This is reflected in the regulations.

63. We appreciate that there may be a limited number of situations where the default position is not, on the face of it, the most beneficial to a member or their survivor. However, choices about the most favourable benefits for an individual may have other implications such as owed contributions, different survivor benefits, and other effects on an individual's personal and financial situation. We therefore firmly believe that it would not be reasonable to expect a scheme manager to take such a decision. Scheme managers should instead make every endeavour to contact the relevant individual, provide them with all of the relevant information that they need to make a decision, including describing the implications of them not doing so, so as to encourage an appropriate response.

64. If, despite such efforts, a member could not be contacted, then the default position would apply. There is no reason to treat these cases any differently from those where a member is contacted but does not make a decision.

65. We will therefore proceed to implement the proposals in the consultation document.

Question 11 – How far do you agree with our proposal that entitled members who were granted IHR during the remedy period should be reassessed against the criteria of their legacy scheme or 2015 Scheme as the case may be, and offered an immediate choice between the entitlements that result; but that they cannot have an automatic right to be re-employed?

66. All respondents who replied to this question supported the proposals in the consultation document, although some made further comments.

67. One respondent queried whether the cost of further referrals to an independent qualified medical practitioner (IQMP) would be met by employers or by the Welsh Government.

68. One respondent queried how the proposals and draft regulations interacted with section 61 of the Equality Act 2010, which incorporates into all public and private-sector pension schemes a “non-discrimination rule”, requiring scheme managers to exercise their functions in ways which do not discriminate on the basis of a protected characteristic. The respondent also highlighted the need for employers to process so-called “immediate detriment” cases (i.e., of people who already have a right to retire as members of their legacy scheme, whether on grounds of ill health or otherwise) in reliance on section 61 and asked that the consultation response clarified the Welsh Government’s position on this.

69. Several respondents highlighted potential errors and omissions in the draft regulations which were attached to the consultation.

Welsh Government Response:

70. Costs of referral to an IQMP are costs of employing the staff who are referred. They fall to be met by employers in all circumstances; the Welsh Government does not provide any funding for the costs of employing firefighters.

71. Section 61 of the Equality Act 2010 affects all pension schemes and, where necessary, overrides scheme rules. While our proposals on IHR (and more generally) aim to correct unlawful discrimination, there is no need for the regulations on IHR to “recognise” or “incorporate” the terms of section 61 expressly; they simply need to be consistent with the principle that scheme managers must not discriminate. We believe that they are.

72. We recognise that the courts have ruled that section 61 does provide a basis for employing FRAs to process “immediate detriment” cases in advance of scheme

rules being changed as those scheme rules should be read as including the “non-discrimination rule”. However, that is a matter for the employers, not for the Welsh Government or these regulations.

73. We are most grateful to respondents who highlighted possible errors and omissions in the draft regulations. We will make appropriate corrections to the final version.

74. Subject to the above, we will proceed to implement the proposals in the consultation document.

Question 12 – How far do you agree with our proposal that scheme managers should not be required to re-examine cases where entitled members were not granted IHR and continued in employment?

75. 14 of the 16 respondents who answered this question supported the proposals in the consultation document, although some made further comments.

76. Two of the respondents did not agree, believing that cases where members were denied IHR and continued in employment should be re-examined, presumably with a view to offering some form of retrospective or prospective IHR now.

77. Two respondents agreed with the proposals but noted that complications could arise for members who remained in employment but on reduced or nil pay (because of extended sickness absence).

Welsh Government Response:

78. In general, we do not believe it is right that scheme members who continued in employment having been denied IHR should now have some right to retire on grounds of ill health if they would have met the less stringent IHR criteria in the 1992 Scheme. Firstly, that cannot be a retrospective right, as the members concerned will probably have continued to earn salary, pay pension contributions, and been subject to all of the other terms and conditions of employment, in the interim. That cannot sensibly be reversed. Secondly, we do not think it makes sense to offer such individuals IHR now, either. They are necessarily fit for work, and it would be perverse (and quite possibly not in their or their employers’ interests) to retire them on grounds of ill health. It would also be inconsistent with the important principle that IHR is driven by medical advice; it is not a matter of choice for employer or employee.

79. We recognise, though, that cases where an individual was denied IHR and continued in employment but received reduced or nil pay because of long-term sickness absence, are more complex. Such individuals could benefit from having their cases re-examined, and IHR could possibly be granted retrospectively without some of the complications noted above.

80. We believe that resolving this depends on how each case was actually concluded. If such an individual was dismissed on grounds of incapacity or poor

attendance, then her or his case would fall to be re-examined under the proposals we set out in the consultation document (see question 13 below).

81. If, on the other hand, s/he remained employed on reduced or nil pay at the end of the remedy period, then any subsequent IHR would fall to be dealt with under the rules of the 2015 Scheme – which, as we noted in the consultation document, are generally less beneficial than the 1992 Scheme. In that case, it could well be appropriate for the employer to compensate the individual for the difference between the 2015 Scheme pension received and the 1992 Scheme pension which would have been received had IHR been granted at the time of the original consideration. Scheme managers already have the power to do this under section 23 of the 2022 Act, and there is no need to provide for it in our draft regulations.

82. Subject to the above, we will proceed to implement the proposals in the consultation document.

Question 13 – How far do you agree with our proposal that scheme managers should be required to:

- re-examine cases where affected members whose legacy scheme is the 1992 Scheme were not granted IHR but were dismissed on related grounds of poor fitness and/or attendance? and;
- offer an immediate choice between a 1992 Scheme ill health pension and a deferred 2015 Scheme pension to any member who is found to have qualified for IHR under the former Scheme?

83. All 15 respondents who answered this question supported the proposals in the consultation document.

84. Two respondents pointed out that our draft regulations do not appear to make provision for cases such as these, as they are limited to members who actually became entitled to IHR during the remedy period, thus excluding those for whom IHR was considered but rejected.

85. One respondent queried whether an immediate choice between a 1992 Scheme ill health pension and a deferred 2015 Scheme pension could be offered, as the former would normally be put into payment automatically.

Welsh Government Response:

86. We agree that our draft regulations did not adequately cover these cases. The final version will do so, and we are most grateful to the respondents who highlighted this omission.

87. The regulations will provide that anyone whose legacy scheme is the 1992 Scheme who was considered for IHR and referred to an IQMP will have their case reconsidered against 1992 Scheme criteria if (a) the IQMP determined that IHR was not justified; and (b) the member was dismissed (or resigned) within three months of that determination. Beyond that point, we believe it is fair to treat them as though they continued in employment (see question 12 above).

88. There is no problem with the choice between a 1992 Scheme ill health pension and a deferred 2015 Scheme pension which the consultation document described. It is important to note that *all* members entitled to remedy (or their survivors) will make an immediate or deferred choice, regardless of when they retire or on what grounds.

89. Subject to the above, we will proceed to implement the proposals in the consultation document.

SURVIVORS AND SURVIVOR BENEFITS

Question 14 – How far do you agree with our proposal that, where an entitled scheme member dies without making an immediate or deferred choice:

- **that choice should instead be made by an “eligible decision-maker” as defined in paragraph 111 above; and**
- **that the 2015 Scheme criteria should be used in all cases to identify the eligible decision-maker**

90. Of the 15 respondents who answered this question, two disagreed with the proposals in the consultation document but did not give any reasons for doing so. The remainder agreed, although some offered further comments.

91. One respondent suggested that scheme members should inform scheme managers of the identity of the eligible decision-maker; one suggested that scheme managers should have discretion to determine the identity of the eligible decision-maker in difficult cases; and one suggested that, for deaths occurring during the remedy period, the eligible decision-maker should be determined in accordance with the rules of the scheme of which the deceased was a member at the time of death.

Welsh Government Response:

92. We set out in the consultation document why we think the 2015 Scheme should be the basis for identifying the eligible decision-maker. This is because it treats cohabiting partners on equal terms with spouses and civil partners and is thus more likely to yield an outcome which fairly reflects the domestic circumstances of the deceased. We are not minded to change that position, for instance to provide that the eligible decision-maker for a member who died during the remedy period and who is now to be retrospectively reverted to the 1992 Scheme should be determined using the 1992 Scheme rules. That could mean denying benefits to the partner of the deceased, which s/he might reasonably have expected to receive.

93. The reason for taking this approach is to identify an eligible decision-maker automatically in each case, and to avoid scheme managers having to make sensitive decisions about the deceased’s preferences and domestic circumstances: matters about which they could have no knowledge. Accordingly, we do not see the case for giving scheme managers powers to become involved in this process.

94. We agree that it would be sensible for scheme members to inform scheme managers of the likely identity of the eligible decision-maker, especially if this is a spouse, civil partner or cohabiting partner of whom the scheme manager might not otherwise be aware. Doing so would save time and the need for intrusive inquiries during the difficult time after the death of the member. However, this cannot be a process of nominating any person that the scheme member chose: the eligible decision-maker would normally be someone likely to receive survivor benefits themselves, and that should not be varied by a scheme member decision. Nor do we think it is necessary to require such notifications, as that could unfairly deny survivors any benefits at all if no notification were made. Rather, we would advise scheme managers to collect this information from scheme members voluntarily. FRAs would normally record details of firefighters' next of kin, to allow for notifications in case of injuries at work and so on, and this process would be similar.

95. Subject to the above, we will proceed to implement the proposals in the consultation document.

Question 15 – How far do you agree with our proposals that:

- **If there is no agreement on the identity of the eligible decision-maker, or if the eligible decision-maker fails to make a decision by the deadline, the scheme manager must deem that an election for remedy period service in the 2015 Scheme has been made; and**
- **If a scheme member makes a valid immediate or deferred choice before s/he dies, that choice will be honoured and that no survivor would be entitled to revisit it.**

96. Of the 16 respondents who answered this question, 14 supported the proposals in the consultation document. Two did not agree, although one of those gave no reasons for doing so.

97. No respondents raised any substantive objections to the proposal that a choice made by a scheme member before death should not be capable of being overturned by a survivor.

98. One respondent believed that, where an eligible decision-maker did not make a decision, the scheme manager should have discretion to determine whether remedy period service was in the 2015 Scheme or legacy scheme, and should choose the option which yielded the higher pension. Another respondent, while supporting the proposal overall, believed that such discretion should exist to deal with circumstances where defaulting to the 2015 Scheme would be “demonstrably detrimental” to beneficiaries.

99. One respondent identified an inconsistency in our draft regulations between whether the default scheme was the 2015 or legacy scheme.

Welsh Government Response:

100. We do not support scheme managers having any power to make discretionary decisions on behalf of members or their survivors. They cannot know what a

deceased member would have preferred, or which choice would be best for them. As with decisions made by scheme members themselves, we believe it is simplistic to reduce choices to a comparison of annual pension entitlements. That is mainly because a higher pension (such as the 1992 Scheme will generally yield) will also usually create a liability for a substantial contributions deficit. A scheme manager cannot reasonably be expected to know whether a member or their survivor might prefer, or be better off with, a higher pension and a contributions liability to repay, or a lower pension with no such liability. Therefore, we believe the default position should be the same in all cases, and that survivors should be told that if they do not make a decision, then the 2015 Scheme will apply.

101. Furthermore, in the case of survivor benefits for members who died during the remedy period, the decision about which scheme applies will (in cases where the deceased had a cohabiting partner) also be a decision about who is to receive survivor benefits. We believe that having to make such a decision would place scheme managers in an impossible position.

102. We are most grateful to the respondent who identified the inconsistency in our draft regulations. The final regulations will indicate that where an eligible decision maker is not agreed, or where a decision for death benefits is not made within the relevant timeframes, the scheme manager becomes the decision maker and the scheme manager will be required to elect 2015 scheme benefits.

103. Subject to the above, we will proceed to implement the proposals in the consultation document.

Question 16 – How far do you agree with our proposals that:

- **Historic overpayments of survivor benefits to survivors who are eligible decision-makers should be recovered from them, but overpayments to other survivors should be written off; and**
- **Only the eligible decision-maker would be eligible to receive a contributions surplus, or liable to repay a contributions deficit, arising from her or his choice.**

104. Of the 15 respondents who responded to this question, 12 supported the proposals in the consultation document. Three did not agree, although two of them gave no reasons for doing so.

105. One respondent believed that overpayments should not be recovered because they arose from age discrimination, and that they should be retained as a form of compensation for that discrimination.

Welsh Government Response:

106. The overall aim of the remedy is to put members (and, in this case, their survivors) in the position that they would have been in if the wrongful transfer in 2015 (or later for taper members) had not happened. In some circumstances, that will create liabilities for members – including historic contributions deficits and overpayments of pension.

107. Simply writing off these deficits would not be fair on members who are not entitled to remedy (such as those who joined the Service after 31 March 2012). It would mean that affected members or their survivors would, in effect, be getting the same pension benefits as unaffected members, but at a lower cost, or better pension benefits at the same cost. That could give rise to fresh claims of age discrimination by those who are not entitled to remedy.

108. However, it has been pointed out to us that section 15(10) of the 2022 Act provides that liability for a contributions deficit in respect of a deceased member rests with the deceased's personal representative (executor or administrator of the deceased's estate), not with any survivor. Effectively, any deficit is a debt that must be charged to the deceased's estate. There is therefore no need for us to provide that the eligible decision-maker or anyone else entitled to survivor benefits should be liable for such a deficit.

109. Furthermore, financial compensation for the injury to feelings arising from age discrimination has of course been sought by the many claimants in the Sargeant case as part of their legal action. It would plainly be wrong to compensate them again by waiving liabilities that they or their survivors owe.

110. This, though, gives rise to a problem in relation to scheme members entitled to remedy who died before these regulations come into force. In such cases, it is quite possible that the deceased's assets have already been distributed to beneficiaries in accordance with her or his will. That would make it impossible to recover a contributions deficit except from the deceased's executor or administrator directly. That would be most unjust, especially if that person was not entitled to any survivor benefits themselves. There is a risk that they could potentially become personally liable for what could be a substantial debt through no fault of their own.

111. Accordingly, we will include in the regulations a discretionary power for scheme managers to waive contributions liabilities that would fall to be recovered from the deceased's personal representative. We would expect that discretion to be used especially where the estate had already been distributed, and the personal representative was not an eligible survivor.

112. Subject to the above, we will therefore proceed to implement the proposals in the consultation document.

Question 17 – How far do you agree with our proposals that:

- **Death lump sums for members who died during the remedy period should be recalculated in line with the eligible decision-maker's choice, and any reduction in a lump sum paid to the eligible decision-maker should be recovered from her or him; but**
- **Surpluses in death lump sums that were paid to persons other than the eligible decision-maker, or to the deceased's estate, should be written off.**
- **Where an affected member died during the remedy period leaving no-one entitled to a survivor's pension, but with a valid nominee for a 2015**

Scheme death lump sum, the scheme manager should simply pay that sum without needing to offer the nominee a choice.

113. Of the 14 respondents who answered this question, 13 agreed with the proposals in the consultation document.

114. One respondent repeated the point made in answer to question 16, namely that overpayments should not be recovered at all.

Welsh Government Response:

115. For the reasons set out in our response to question 16, we do not agree that it would be fair or appropriate to waive liabilities owed by those entitled to remedy.

116. We will therefore proceed to implement the proposals in the consultation document.

ADDED PENSION BENEFITS

Question 18 – How far do you agree with our proposals that:

- **Entitled members who purchased 2015 Scheme additional pension during the remedy period will be able to receive a refund of the cost of that, plus interest; but**
- **Members who are to make an immediate choice will not receive that refund if they make an immediate choice in favour of the 2015 Scheme.**

117. 11 of the 18 respondents agreed with our proposals, one respondent was unsure and four respondents made no comment.

118. Two respondents felt that, instead of a member receiving a refund of added pension in the 2015 scheme, they should be given the option of it remaining in the 2015 scheme. One of those respondents felt that this should be done with an adjustment made so that the contributions were linked to post April 2022 membership rather than added pension during the remedy period, the other respondent believed though that actuarial factors applied should be those applicable at the time when the member chose to start making the additional contributions. This respondent also indicated that as contributions required to purchase added pension are age-related, a member should not have to pay more to purchase added pension in the reformed scheme after the remedy period following receipt of compensation for added pension purchased during the remedy period. It was also noted that the added pension a member is entitled to purchase in the reformed scheme is capped.

119. Other issues raised were :-

- Consideration should be given to whether Additional Pension Benefits (APBs) could be utilised as an alternative to compensation.

- One respondent indicated that it is not possible to pay for added pension after retirement and that refunding contributions and requiring a member to pay back pension already in payment defeats the member's purpose in purchasing the pension in the first place. Another respondent pointed out that the draft regulations did not appear to include provision for our proposal for an immediate choice member to retain their 2015 added pension until they make their immediate choice election, and only receive a refund if they do not choose 2015 scheme benefits.
- It was expected that there would be a GAD calculator given that the policy was for scheme managers to consult the scheme actuary to determine the amount of compensation.

Welsh Government Response:

120. We note the two responses proposing that members should be able to choose to retain their added pension in the 2015 scheme rather than accept a refund of contributions, but that views on how this might work vary with one respondent indicating that this would need to be on post remedy terms and another on pre-remedy terms that applied at the time a member's added pension was originally purchased. On the latter proposal, we do not believe that this approach would be fair or equitable. The basic principle of remedy is that affected members are, as far as possible, put into the position they would have been in had age discrimination not taken place and that is why all members are rolled back into the legacy scheme for the remedy period. Legacy scheme members would never have been able to purchase 2015 added pension during the remedy period and allowing them to carry forward added years purchased on remedy period terms would put them in a more advantageous position than protected members. We would risk age discrimination in a different form if we were to make such provision. We firmly believe that our proposals to allow for the retrospective purchase of legacy scheme added years is the fairest and most equitable approach. In respect of the former proposal, we can see that this may work in administrative terms, but we believe it is important to keep decisions regarding remedy period service and post remedy service completely distinct from each other.

121. The Welsh Government did consider whether APBs in the legacy schemes could be used as an alternative to a contributions refund when developing our policy proposals. We discounted it because again we do not believe that this would be correct or fair. APBs were introduced to deal with aspects of non-regular pensionable pay. Voluntary pension contributions do not fit into this definition, and we are concerned that such an approach, which was not available to protected members who may have missed Additional Voluntary Contributions deadlines or reached the maximum levels of added years allowed for in scheme rules, would introduce inequality between the protected and unprotected groups of members.

122. We accept that members who have already retired and are receiving their pension should be able to keep their added pension benefits. That is why, in our consultation document, we indicated that provision would be made for an immediate choice member to retain their 2015 added pension if they make their immediate choice election for 2015 scheme benefits. We have now made provision for that in our regulations.

123. Subject to the above, we will proceed to implement the proposals in the consultation document.

Question 19 – How far do you agree with our proposals that:

- **Affected members would have a right retrospectively to purchase added pension benefits in their legacy schemes during the remedy period, on the same terms as applied to such purchase and with the cost of doing so adjusted for interest; and**
- **Any such choice must be made within one year of a member receiving her or his initial remediable service statement.**

124. 13 of the 18 respondents agreed with our proposals, three were unsure or made no comments. Three respondents referred to rules in legacy schemes, including for instance age related factors, and eligibility related to “date of joining” that will need to be considered. One of these respondents indicated that the actuarial factors used to calculate added years purchased should be the factors in force when the added years contract would have commenced or been continued. One respondent indicated that survivors should also be able to purchase added years if the deceased member would have been eligible to do so. Clarification was sought on whether the time periods referenced in Regulations 33(3)(c)(i) 33(4)(c)(i) both ran from the date of the initial RSS.

Welsh Government Response

125. We agree that members who elect to retrospectively purchase legacy scheme added pension during the remedy period should be able to do so under the terms that would have been available at the time. That is the only way of ensuring that all affected members are treated equally and is reflected in the regulations. We also agree that the costs of purchasing added years should be the costs that would have applied at the time that such a purchase would have been made during the remedial service period. As with the arrangements for all owed contributions more generally, all such contributions will be subject to interest and tax adjustments. This is reflected in the regulations. The regulations do not provide for survivors to retrospectively purchase added years because the 2022 Act specifies that deceased members may not be included in these provisions. We agree that our draft regulations were not clear that both time periods specified in the regulations for applying for, and entering into a remedial agreement to purchase added years, related to the date of the issue of the members first remediable service statement. This has now been clarified in the final regulations. For clarification, if a member purchases retrospective added years in the legacy scheme and subsequently make a deferred choice for 2015 scheme benefits then they will be paid compensation for their legacy scheme contributions.

126. Subject to the above, we will proceed to implement the proposals in the consultation document.

DIVORCE AND DISSOLUTION

Question 20 – How far do you agree with our proposals for pension attachment orders, namely that:

- **Where a pension attachment order is already in force but the pension is not yet in payment, no action is to be taken;**
- **Where a pension attachment order is already in force and the pension is already in payment, the pension payable to the pension credit member may change as a result of the pension debit member's immediate choice, but that any historic overpayment of such pension arising from the choice is written off;**
- **For divorces and dissolutions taking place in the future but before the pension debit member has made a deferred choice, CETVs for remedy period service in the 2015 and legacy schemes should be calculated, and the court should use the higher of the two**

127. 14 of the 18 respondents agreed with our proposal, some pointing out that the pension credit member should not be disadvantaged by a choice made by a pension debit member. One respondent though provided an example of a scenario where a pension credit member may be detrimentally impacted by virtue of them being 'non decision makers' and referred to the provisions regarding 'non eligible decision makers'. The respondent further provided detail on the management process for Cash Equivalent Transfer Value (CETV) requests and highlighted concerns around costs and timings for providing a second CETV to members.

128. Four respondents made no comment at all.

Welsh Government Response:

129. We note respondents' overall agreement to our proposals.

130. We note the concern of one respondent regarding pension attachment orders which are already in force. In most cases where the pension is already in payment, the former spouse or civil partner will not be affected. Where the scheme member opts for a lower pension, meaning that in principle overpayments have been made to the former spouse or civil partner, the overpayments will be written off but future payment may reduce. Alternatively, the former spouse or civil partner may be entitled to a top-up payment if the pension member had been in the alternative scheme at the time. In some rarer cases, the former spouse or civil partner's entitlement may also be reduced, if the pension member had tapered protection, and their remediable service for the whole remedy period in (a) the legacy scheme and (b) the new scheme), would be lower than what it was based on their mixed service. In these circumstances any overpayment will not be written off.

131. We note the respondents concern regarding the costs and timings of CETVs for divorces and dissolutions taking place in the future but before the pension debit member has made a choice. These are however administrative issues and not a matter for the scheme regulations.

Question 21 – How far do you agree with our proposals for pension sharing orders already in place on 1 October 2023, namely that:

- **Remediable service statements for entitled pension debit members include pension debits based on remedy period service in the legacy and 2015 Schemes (and immediate and deferred choices are made accordingly);**
- **Scheme managers should recalculate CETVs at the point of divorce or dissolution based on the scheme of which the debit member was not a member at the time; and**
- **If that CETV is higher than the one used by the court, then the pension credit member should receive a pension credit for the difference between them.**

132. 14 of the 18 respondents agreed that our proposals for pension sharing orders already in place on 1 October 2023 are in line with the general principles of remedy. One of these respondents reiterated their previous concern regarding costs and timings for providing a second CETV to members.

133. Four respondents did not provide a view.

Welsh Government Response:

134. The Welsh Government acknowledges the general support, and we will therefore proceed to implement the proposals in the consultation document.

135. We note the respondents concern regarding the costs and timings of CETVs for divorces and dissolutions taking place in the future but before the pension debit member has made a choice. These are however administrative issues and not a matter for the scheme regulations.

Question 22 – Do you favour such a pension credit being applied automatically to the pension credit member’s benefits in whichever scheme had the higher CETV; or should such members be offered a choice about that?

136. Eight of the 18 respondents believed the pension credit member should be offered a choice, with one respondent pointing out that this option would avoid any unintended consequences of detrimental impact on the pension credit member.

137. Three respondents favoured the automatic application of the higher CETV, with two respondents highlighting that the pension credit member had not been subject to the discrimination identified by the Court and therefore they did not feel it reasonable to provide these members with a choice.

138. Four respondents did not provide a view. Three respondents did not explain which proposal they favoured.

Welsh Government Response:

139. The Welsh Government welcomes respondents’ views on this issue. To clarify the position, under our proposals the higher CETV will automatically be

applied, and pension credit members who have pension credits in both a legacy scheme and 2015 will be able to choose which scheme any resultant additional amount will be credited to. For pension credit members whose corresponding pension debit member was a taper protected member) 2 credits will be calculated for legacy scheme and 2015 scheme benefits covering the entirety of the remedy period and, as for other pension credit members, the higher amount will be applied. In some circumstances the higher of those two calculations might be less than the mixed CETV for the remedy period but will nevertheless need to be applied. This is the same approach that is being taken for all taper protected members.

140. Subject to the above, we will proceed to implement the proposals in the consultation document.

Question 23 – How far do you agree with our proposals for pension sharing orders that are made on or after 1 October 2023, namely that:

- **For active and deferred members, the CETV provided to the court should be based on remedy period service in the legacy scheme.**
- **Where such members then make a deferred choice for remedy period service in the 2015 Scheme, their pension debit is adjusted accordingly (but the pension credit member's benefits do not change); and**
- **For retired members who enter into a divorce or dissolution after making an immediate or deferred choice, the CETV provided to the court reflects that choice.**

141. 14 of the 18 respondents agreed with our proposals for pension sharing orders that are made on or after 1 October 2023. One respondent noted that the approach was fully reflective of the principle of returning the member to the position that they would have been in if they had remained in their legacy scheme until April 2022. One respondent added that the proposals appeared fair and reasonable. One respondent noted though that the proposed approach was different to proposals in England and raised concern about the complication, administrative burden and cost implications this may cause.

142. Four respondents did not provide a view.

Welsh Government Response:

143. We note respondents' comments about the difference in approach across the UK. As a result, we have amended our policy position. For future pension sharing orders the scheme manager will calculate two CETV values based on legacy and 2015 scheme and provide the one with the highest value to the court. This revised position is reflected in the regulations. Depending on the member's choice, for active and deferred members the pension debit may need to be adjusted at retirement.

144. In relation to retired members who enter into a divorce or dissolution after making an immediate or deferred choice we will proceed to implement the proposals in the consultation document.

Question 24 – How far do you agree with our proposals for pension offsetting arrangements, namely that:

- **Where offsetting arrangements are already in place when our regulations come into force, no action is taken; and**
- **For divorces and dissolutions taking place in the future but before the pension debit member has made a deferred choice, CETVs for remedy period service in the 2015 and legacy schemes should be calculated, and the court should use the higher of the two**

145. 14 of the 18 respondents agreed with our proposals for pension offsetting arrangements. One respondent pointed out that it would be difficult to revisit offsetting arrangements previously agreed, particularly as the Service does not hold information on the former spouse or civil partner. A further respondent set out the complications surrounding divorce and dissolution and suggested that these may be cases where compensation is considered. Four respondents did not provide a view.

Welsh Government Response:

146. The Welsh Government notes that views were generally supportive, and we will therefore proceed to implement the proposals in the consultation document.

TRANSFERS BETWEEN SCHEMES

Question 25 – How far do you agree with our proposals for club transfers during the remedy period, namely that:

- **The scheme manager for the sending scheme should calculate the alternative set of benefits for unprotected members based on legacy scheme service during the remedy period, and communicate that to the scheme manager for the receiving scheme, who should convert that into service in the relevant legacy scheme;**
- **The scheme manager for the sending scheme should calculate the alternative CARE scheme benefits for protected members and communicate that to the receiving scheme manager so that an alternative benefit amount can be created in the receiving scheme; but**
- **Other than for transfers to or from the LGPS, there is no need to amend the actual payment from the sending scheme to the receiving scheme.**

147. 13 respondents agreed with our proposals. A further five made no comment or had no particular views on our proposals. One respondent did not fully support the rationale for not requiring payments between schemes to be amended (other than to or from the LGPS). A number of respondents raised issues relating to the practical administration processes for transfers including how details of contributions paid or outstanding should be shared between schemes and on the accounting treatment of transfers where no additional payments in or out were made. Advice was sought on the expected timeframes for amendments to the Club Memorandum.

Question 26 – How far do you agree with our proposals for non-club / CETV transfers during the remedy period and up to 30 September 2023 namely that:

- **The scheme manager for the sending scheme should recalculate the CETV based on service during the remedy period in the scheme other than the one from which the member transferred. Any contributions deficit, net of tax, should be deducted from it, and any contributions surplus, net of tax, should be added to it.**
- **If the result is higher than the CETV that was used at the time of transfer, the scheme manager should make a supplementary transfer payment for the difference, plus interest, to the scheme manager of the receiving scheme.**
- **If the receiving scheme cannot accept such a payment, it should instead be made to the member directly, as compensation.**

148. 13 of the 18 respondents agreed with our proposals for non-club/CETV transfers during the remedy period. A further four respondents did not provide any comments and one respondent was unsure but did not provide any further details.

149. One respondent acknowledged that the methodology should link to the tax changes that HMRC were consulting on, another noted that members may have been given a new opportunity to transfer benefits on a non-Club basis when they transitioned into the 2015 scheme, and such CETVs received during the remedy period would need to be dealt with. A further respondent noted that the consultation paper did not deal with the question of transfers which would have been paid to the member's legacy scheme if they had not been put into the 2015 Scheme.

Question 27 – How far do you agree with our proposals for transfers in the future, namely that:

- **The scheme manager for the sending scheme should calculate two transfer values or CETVs, based on the member's remedy period service being in the 2015 Scheme and her or his legacy scheme.**
- **For CETVs to schemes outside the public sector, if the member has not yet made good any contributions deficit or received any contributions surplus, that should be subtracted from or added to the relevant value.**
- **The higher of the two values should then be used for the purposes of the transfer.**

150. 13 respondents agreed with our proposals. The remaining five respondents either did not provide a response or had no strong views on the question.

Question 28 – How far do you agree with our proposals to allow affected members to revisit and reverse transfer decisions made during the remedy period, provided that both the sending and receiving scheme can permit a transfer to be retrospectively made or reversed?

151. 14 respondents agreed with the proposals. One respondent raised administrative complexities, the need for close engagement between the scheme

manager and scheme administrator, and some concerns regarding GADs ability to resource requests from FRAs across the UK.

152. The remaining respondents did not provide any comments.

Welsh Government Combined Response to Questions 25, 26, 27, and 28 :

153. We note that the majority of respondents supported our overall approach to recalculating and sharing transfer amounts on alternative scheme terms and benefits so that members can be given a choice of transfer benefits at retirement. There was overall support too for our proposals for compensation to be provided where a receiving scheme could not accept a “top up” transfer.

154. We did not ask a specific question about the merits of roll-back of transfers as part of the overall rollback of membership to legacy schemes for the remedy period although our consultation document did suggest that was part of our policy approach. However we have had time to reflect on that position during the consultation period. We note that our proposed approach differed from that proposed by the Home Office, which proposes excluding 2015 scheme transfers from roll back and instead keeping a record of the transfer using section 18(8) of the 2022 Act, as well as a record of alternative scheme benefits from the receiving scheme, until the member makes a choice at retirement. We note that there may be some additional complexities with this method but have also acknowledged when considering our approach that the need for consistency across the firefighter schemes is particularly important in respect of transfers. Our consultation did not include the specific draft regulations for transfer. These have now been included in our regulations and mirror the final regulations for England and the draft regulations for Scotland. Where a transfer that has been accepted into the reformed scheme would not have been accepted by the legacy scheme either partly or in its entirety then the transfer may be allocated to the reformed scheme (if the member has reformed scheme membership from 1 April 2022), or the member may be paid compensation up to the legacy scheme equivalent value.

155. We note the rationale for not requiring payments between schemes (other than LGPS) to be revisited was not fully supported. However this is the overall approach that has been agreed across the public sector schemes and it would not be practical or possible for the firefighter schemes in Wales to sit outside these arrangements.

156. With regard to the question of how CETV “transfers in” will be managed, for transfers from another public service pension scheme, the receiving scheme will calculate benefits under the alternative scheme rules (based on the alternative scheme value provided by the sending scheme) in anticipation of the member choice process. The consultation document sets out that for transfers in from the private sector there will be no change to the CETV as these transfers are not part of remedy.

157. On administration and guidance issues actuarial guidance will be available. Detailed administration issues are matters for scheme managers although we agree that where our regulations prevent the effective management of transfers

particularly between the firefighter scheme across the UK, then we will seek to work with the other administrations to resolve any issues. We hope that our alignment with the firefighter regulations in the other administrations will prevent any such problems.

158. The Public Sector Club Memorandum is owned and managed by Cabinet Office. We are aware that the Club Memorandum is currently being reviewed and a draft version has been shared with scheme managers and administrators. The Club Memorandum is however not part of this consultation.

159. Subject to the above, we will proceed to implement the proposals in the consultation document.

MISCELLANEOUS ISSUES

Question 29 – We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive or negative impacts on people with protected characteristics? If so, which and why/why not?

160. Several respondents agreed that consideration had been given to those with protected characteristics, although some offered further comments.

161. One respondent reiterated their views on the handling of immediate detriment cases. Another respondent referred to cases where an individual who was denied IHR and continued in employment, may feel that their detriment had not been fully assessed. The respondent added that further consideration be given to our proposals for the recovery of money from eligible decision makers to avoid financial detriment on those individuals.

162. One respondent felt that the proposals would have an impact on age. Another respondent felt that the proposals may have an impact on marriage and civil partnerships.

163. One respondent highlighted potential challenges surrounding the difference in approaches between the UK and devolved schemes.

164. The remaining 10 respondents either did not comment at all or were not sure whether the proposals would have any positive or negative impact on people with protected characteristics.

Welsh Government Response:

165. We note respondents' views on the handling of immediate detriment and IHR cases. The Welsh Government believes that resolving cases where an individual

was denied IHR and continued in employment will depend on how each case was concluded. See response to questions 12 and 13 above.

166. On the issue of eligible decision makers, we believe that any overpayment made to the eligible decision-maker her or himself should be recovered, as it is a natural consequence of the eligible decision-maker's own decision. Our proposals provide the eligible decision-maker with a choice to repay any monies owed by them, either as a lump sum or as periodic deductions from pension payments, as the eligible decision-maker prefers.

167. We note the respondent's view on the impact our proposals may have on age. The basic principle of remedy is that affected members are, as far as possible, put into the position they would have been in had age discrimination not taken place. We believe these proposals represent a fair and comprehensive way of redressing the age discrimination which scheme members have experienced, and one which is consistent with the terms of the 2022 Act and with the Treasury directions.

168. We do not believe our proposals have any particular differential impact based on marital status. While they include provisions for divorces and dissolutions, these simply allow existing processes for allocating pension benefits between parties to accommodate the remedy we propose.

169. We acknowledge the respondent's view on the differences in approach across the UK and the challenges this may present. We have reconsidered our position for some cases, such as transfers, to align with the approach taken across the UK. This will be reflected in the final version of the regulations. However, responsibility for certain aspects of firefighters' pensions is devolved to the Welsh Ministers, and consistency with other parts of the UK is not an end in itself. So on issues such as entitlements to opt back in or repayment of contributions, we will proceed to implement the proposals as set out in the consultation document because we believe they are fairer for scheme members.

170. Subject to the above, we will proceed to implement the proposals in the consultation document.

Question 30 – We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

171. No specific comments were made other than recognition that documents will be made available in both English and Welsh, in accordance with Welsh Language Standards.

172. Eight respondents did not provide a view.

Welsh Government Response:

173. The Welsh Government notes that Fire and Rescue Authorities will continue to communicate with their members in both Welsh and English, in line with their Welsh language standards. Our final regulations will also be made available in both Welsh and English.

174. We will therefore proceed to implement the proposals in the consultation document.

Question 31 – Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

175. No specific comments were made in respect of the effect the policy may have on the Welsh Language, other than those already raised under Question 30.

176. Eight respondents did not provide a view.

Welsh Government Response:

177. There are no issues to be addressed. We will therefore proceed to implement the proposals in the consultation document.

Question 32 – Do you have any other comments on our proposals which are not covered by the other questions in this consultation?

178. We received numerous and diverse responses to this question, as follows:

- Several consultees believed that scheme managers would need guidance to implement the remedy as set out in the regulations.
- Two consultees believed the regulations should go into more detail about the circumstances in which affected members should receive compensation, or in which contingent decisions which they made (that is, decisions which reflected the discrimination they had experienced) should be reversed.
- Two consultees believed that changes were needed to the arrangements for remediable service statements (RSSs): that they should be combined with annual benefit statements that all members already receive; that they should be provided to deferred members on the same basis as active ones; and that they should set out the tax consequences for those who choose to abate their pensions on partial retirement.
- One consultee believed that the regulations should replicate the definition of those entitled to remedy in section 1 of the 2022 Act.

- One consultee noted that the work involved in implementing the remedy would be extensive and complex, and sought Welsh Government funding for this.
- One consultee asked how this remedy would interact with that being proposed for retained firefighters with service before June 2000 (who are to be entitled to purchase that as pensionable service, retrospectively in relation to a separate remediation exercise).
- One consultee questioned whether scheme managers could allow members to opt back in to scheme membership for periods before the remedy period; and another noted that there was no provision for members who opt back in to pay the necessary contributions in instalments.
- One consultee noted a lack of progress in HMRC developing a calculator for the tax implications of the remedy.

Welsh Government response

179. Our responses to these issues are as follows:

- We agree that it would be useful for scheme managers to receive guidance and would expect the Local Government Association to have a pivotal role in providing that. The Welsh Ministers have no formal powers to give statutory guidance to scheme managers, but we will continue to work with them to support implementation of the remedy.
- We do not think it would be helpful to stipulate in detail the circumstances in which compensation should be payable, or contingent decisions should be reversed. The provisions in the 2022 Act and HM Treasury Directions are deliberately flexible to deal with the wide range of possible circumstances that individual scheme members encountered. Any attempt to define those circumstances could inadvertently exclude others.
- It is already possible to combine remediable service statements with annual benefit statements, for those members who are entitled to both. But the entitlements of deferred members to RSSs (no more than annually, on request) are set out in section 28(8) and (9) of the 2022 Act and cannot be overridden by scheme rules.
- The definition of those entitled to remedy in section 1 of the 2022 Act applies directly to all public sector pension schemes. There would be no point in repeating it in our scheme rules; indeed, we have no power to make such provision in those rules.
- We agree that implementing the remedy will be complex and resource-intensive and will continue to work with scheme managers in that where we can. But there is no case for additional Welsh Government funding here. As set out earlier in this document we do not provide core funding to FRAs (for pension costs or otherwise). Firefighters' pensions are funded by employer and employee contributions, plus a top-up grant from the Treasury. Any adjustments required will be made through pension accounts and shortfalls in annual funding will be met by the Treasury via Annually Managed

Expenditure. Resultant adjustments to employer contributions will be included in future valuations. FRAs will need to take into account the costs of administering the schemes in their budget discussions with their constituent local authorities.

- We are currently consulting on changes to scheme rules to allow retained firefighters to purchase pensionable service before July 2000. Without prejudicing the outcome of that consultation, it does not affect entitlement to remedy under these proposals. Current or former retained firefighters who decide now to purchase service during the remedy period will be treated as though they were retrospectively opting back in to legacy scheme membership.
- Retrospectively opting back in to legacy scheme membership for periods prior to the remedy period is not permitted by section 5 of the 2022 Act. The regulations already provide for repayment of opted in service contributions over 10 years. This is covered by the broad provisions for contribution repayment.
- Matters relating to taxation and to calculating tax due as a result of remedy are for HM Revenue and Customs, not for the Welsh Government or these regulations.
- Subject to the above, we will proceed to implement the proposals in our consultation document.

NEXT STEPS

180. The Welsh Government would like to thank all those that responded to the consultation. The Welsh Government will now move ahead with making and laying The Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023 to come into force on 1 October 2023. The regulations will include the amendments that are reflected in the Welsh Government's responses in the paragraphs above.

ANNEX 1 – LIST OF RESPONDENTS

- Fire and Rescue Services Association
- Fire Brigades Union
- Fire Brigades Union (North Wales Region)
- Firefighters' Pension Scheme Advisory Board for Wales
- Heywood Pension Technologies
- Mid and West Wales Fire and Rescue Service
- North Wales Fire and Rescue Service
- South Wales Fire and Rescue Service
- 10 Individual Responses

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AGENDA ITEM NO 8

Verbal Update Report from Scheme Advisory Board

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Verbal Update to be presented on the day.

Presenting Officer: ACO People Services – Alison Reed

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AGENDA ITEM NO 9

Update on Pension Consultations

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Verbal Update to be presented on the day.

Presenting Officer: ACO People Services – Alison Reed

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THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 10
16 OCTOBER 2023**LOCAL PENSION BOARD COMMITTEE**

REPORT OF THE ASSISTANT CHIEF OFFICER PEOPLE SERVICES

REPORT APPROVED BY THE ACO PEOPLE SERVICES

LOCAL PENSION BOARD RISK REGISTER**THIS REPORT IS FOR INFORMATION**REPORT APPROVED BY ACO PEOPLE SERVICES
REPORT PRESENTED BY ACO A REED**SUMMARY**

To consider the development of a Risk Register for the South Wales Fire & Rescue Authority Local Pension Board.

RECOMMENDATIONS

That Members consider the contents of the report and determine if a Risk Register should be developed for the South Wales Fire & Rescue Authority Local Pension Board.

1. BACKGROUND

- 1.1 It is good business practice for an organisation or body to consider risk management whilst discharging its duties and take into account the risks making strategic decisions.
- 1.2 Risk is an event that has the potential to help or hinder the achievement of a strategic objective or the delivery of core business. All risks are rates as manageable (low), material (medium) or significant (high).
- 1.3 As a normal business practice within the Service Directors, department heads and team leaders are responsible for identifying risks during the business planning process and taking the appropriate actions to manage or mitigate risk within their areas. Only risks that impact upon the achievement of a strategic objective or delivery of core business are generally monitored via the Services Corporate Risk register.

- 1.4 The Senior Management Team formally reviews the Corporate Risk Register on a regular basis and endorses the inclusion of any new or emerging risks identified.
- 1.5 The Pensions Regulator states that 'Public Service Pension Schemes need to have good internal controls. They are a key characteristic of a well-run scheme and will enable risks to the scheme to be managed effectively. The scheme manager must establish and operate adequate internal controls'.

2. ISSUE / PROPOSAL

- 2.1 It is proposed that the Local Pension Board establishes a Risk Register to identify and manage risks.
- 2.2 To support the development of the Risk Register it is proposed to hold a separate workshop with Members of the Local Pension Board.
- 2.3 It is also proposed that for the convenience of Officers and Members that the proposed Local pension Board Risk Register follow the format and business processes of the Service's Risk Management Process.

3. IMPLICATIONS

3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Wellbeing of Future Generations (Wales) Act 2015	No
Socio Economic Duty	No
Sustainability/Environment/Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

There are no additional financial issues arising as a result of this report.

3.2 Regulatory, Strategy and Policy

Legal	No	Data Protection / Privacy	No
Financial	No	Health, Safety and Wellbeing	No
Procurement	No	Governance & Audit	No
Corporate Risk	No	Service Policy	No
Information Management	No	National Policy	No

3.3 Resources, Assets and Delivery

Human Resource and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	No

4. RECOMMENDATIONS

- 4.1 That Members consider the contents of the report and determine if a Risk Register should be developed for the South Wales Fire & Rescue Authority Local Pension Board.

Contact Officer:	ACO Alison Reed Director of People Services
Background Papers	Appendix 1 – Public Service Example Risk Register

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Public Service toolkit downloadable

Example risk register

Risk area 1 – Operations	Likelihood (1: least likely, 10: most likely)	Impact (1: least likely, 10: most likely)	Score (likelihood x impact)	Control	Owner	Test	Next review	Comment
Operational disaster (fire/flood etc)	1	6	6	Business continuity procedures in place for administrator	Scheme manager	Annual	Q1 Y2	Up-to-date business resiliency programme provided by administrator as at 01/01 Y2, reviewed by scheme manager at meeting in Q1 Y2
				Business continuity plans in place for scheme manager	Scheme manager	Annual	Q2 Y2	Documented programme in place to ensure continuity will be provided by pension finance manager to scheme manager in time for quarterly meeting in Q2 Y2
				Contracts with all advisers and suppliers are recorded on central database	Pension finance manager	Annual	Q1 Y3	Contracts held in hard copy in safe, and electronically in secure area of scheme management intranet. Checked by pension finance manager January Y2
Member data incomplete or inaccurate	5	7	35	Annual report from administrator, used as basis for rectification plan	Scheme manager	Annual	Q3 Y2	Initial rectification plan completed Q3 Y1. New report received from administrator at Q1 Y2 meeting, revised rectification plan agreed with administrator. To review progress at Q3 quarterly meeting
				'Not known at this address' returns from annual statements checked by tracing agency	Pension administrator	Annual	Q2 Y2	Details provided by administrator mid January Y2, passed to tracing agency at end of January. 25% traced by quarterly meeting in Q1, update will be provided to scheme manager for Q2 meeting
Administration process failure/maladministration	4	8	32	Formal agreement in place with administrator, including SLAs	Pension finance manager	Annual	Q1 Y3	Last reviewed Q2 Y1, three year agreement
				Authority levels clearly agreed and kept up-to-date	Scheme manager	Annual	Q2 Y2	Last reviewed Q2 Y1
				Review independent audit reports of administrator's processes	Scheme manager	Annual	Q2 Y2	AAF01/06 held by administrator as at DD/MM/YYYY
				Ongoing dialogue with third party administrator	Pension administration manager	Ongoing	Q2 Y2	Weekly phone calls between pension administrator manager and third party administrator, plus ad hoc calls when necessary
				Written reports and quarterly presentations by administrator to scheme manager	Scheme manager	Quarterly	Q2 Y2	Next report from administrator due two weeks before quarterly meeting

Risk area 2 – Financial	Likelihood (1: least likely, 10: most likely)	Impact (1: least likely, 10: most likely)	Score (likelihood x impact)	Control	Owner	Test	Next review	Comment
Excessive charges by suppliers	3	2	6	Annual review of scheme budget, quarterly review of costs incurred against budget	Scheme manager	Quarterly	Q2 Y2	Annual budget agreed Q1 Y2. Q4 Y1 charges reviewed and agreed Q1 Y2
				Periodic review of suppliers	Scheme manager	Annual	Q1 Y1	Planning underway for review of administrator in Q3 Y2, to include cost and performance benchmarking
Fraud/Fraudulent behaviour	1	10	10	Conduct a monthly fraud monitoring process of incoming contributions payments against the schedule of contributions	Scheme manager	Monthly	Q2 Y2	All contributions have been accounted for and have been paid in accordance with the schedule of contributions
				Check incoming and outgoing scheme funds against schemes forecast – reconciling all funds	Scheme manager	Monthly	Q2 Y2	Accounts forecast against actual checked and balance

Risk area 3 – Funding	Likelihood (1: least likely, 10: most likely)	Impact (1: least likely, 10: most likely)	Score (likelihood x impact)	Control	Owner	Test	Next review	Comment
Employer failure to pay contributions into scheme	1	10	10	Monthly monitoring of contribution payments by pension finance manager and administrators	Scheme manager	Monthly	Q2 Y2	All Q4 Y2 contributions paid in accordance with Schedule of Contributions
				Ongoing dialogue with employer over willingness and ability to pay	Scheme manager	Half yearly	Q3 Y2	Presentation to scheme manager by pension finance manager scheduled for Q2 Y2
				Annual audit	Pension finance manager	Annual	Q3 Y2	Accounts for year ended 31 March Y1 signed off by auditors without qualification. Planning for next audit will start during Q3 Y2
Failure of non-public sector employers	2	10	20	Scheme manager monitoring of employer covenant and business strength	Scheme manager	Half yearly	Q1 Y1	Financial strength of major employers. Presentation to scheme manager by pension finance manager scheduled for Q2 Y2. Confidentiality agreement signed by all relevant persons
				Use of bonds and guarantees	Scheme manager	Ongoing	Q2 Y2	Pension finance manager confirms that all guarantees are still in force and effective

Risk area 4 – Regulatory and compliance	Likelihood (1: least likely, 10: most likely)	Impact (1: least likely, 10: most likely)	Score (likelihood x impact)	Control	Owner	Test	Next review	Comment
Failure to interpret rules or legislation correctly	2	7	14	Up-to-date and documented training log, showing completion of scheme-specific and The Pensions Regulator’s educational material	Scheme manager	Annual	Q1 Y3	All relevant persons have completed educational material
				Technical advice and updates	Scheme manager	Annual	Q4 Y2	Updates received from responsible authority, scheme advisory board and professional advisers; acted on.
Conflicts of interest	2	5	10	Pension board awareness of legal responsibilities	Pension board chair	As required	Q2 Y2	All pension board members have completed educational material
				All pension board members to declare any conflicts and potential conflicts	Scheme manager	Ongoing	Q2 Y2	Conflicts document signed by all pension board members, recorded in conflicts register. Reminder, and any changes or additional conflicts, will be minuted at each pension board meeting.

Note: Public service pension schemes and legislation about the new governance and administration requirements are expected to come into effect in April 2015.

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**FORWARD WORK PROGRAMME FOR
LOCAL PENSION BOARD 2023/24**

Expected Date of Report	Report Name	Purpose of Piece of Work	Information or Decision	Lead Director/ Contact Officer	Progress
3 July 2023	TPR Public Service Governance and Administration Survey 2023	To update Members	I	ACO PS Contact Officer: Kim Jeal	Completed
3 July 2023	New Members Training Session – Members Handbook, Terms of Reference & Toolkit	To update Members	I	ACO PS Contact Officer: Kim Jeal	Completed
3 July 2023	To review Key Performance Indicators and Scheme Data for Firefighters Pensions Scheme	To update Members	D	ACO PS Contact Officer: Ian Traylor, RCT Pensions Officers	Completed
3 July 2023	Internal Dispute Resolution Procedures – Update on cases over last 12 months	To update Members	D	ACO PS Contact Officer: Alison Reed	Completed

Expected Date of Report	Report Name	Purpose of Piece of Work	Information or Decision	Lead Director/ Contact Officer	Progress
3 July 2023	Standard Item – Recent publications, updates, information	To update Members	I	ACO PS Contact Officer: Alison Reed	Completed
3 July 2023	Update on current National exercises: McCloud and O'Brien	To update Members	I	ACO PS Contact Officer: Alison Reed	Completed
3 July 2023	Update on Pension Consultations	To update Members	I	ACO PS Contact Officer: Alison Reed	Completed
16 Oct 2023	Update report on Publication of Annual Benefits Statement	To update Members	I	ACO PS Contact Officer: Ian Traylor, RCT Pensions Officer	On Agenda

Expected Date of Report	Report Name	Purpose of Piece of Work	Information or Decision	Lead Director/ Contact Officer	Progress
16 Oct 2023	To review Key Performance Indicators and Scheme Data for Firefighters Pensions Scheme	To update Members	D	ACO PS Contact Officer: Ian Traylor, RCT Pensions Officer	On Agenda
16 Oct 2023	Standard Item – Recent publications, updates, information	To update Members	I	ACO PS Contact Officer: Alison Reed	On Agenda
16 Oct 2023	Update on current national exercises: McCloud and O'Brien	To update Members	I	ACO PS Contact Officer: Alison Reed	On Agenda
16 Oct 2023	Verbal update report from Scheme Advisory Board	To update Members	I	ACO PS Contact Officer: Alison Reed	On Agenda
16 Oct 2023	Update on Pension Consultations	To update Members	I	ACO PS Contact Officer: Alison Reed	On Agenda

Expected Date of Report	Report Name	Purpose of Piece of Work	Information or Decision	Lead Director/ Contact Officer	Progress
16 Oct 2023	Local Pension Board Risk Register	To update Members	I	ACO PS Contact Officer: Alison Reed	On Agenda
22 Jan 2024	To review Key Performance Indicators and Scheme Data for Firefighters Pension Schemes	To update Members	I	ACO PS Contact Officer: Ian Traylor, RCT Pension Officer	
22 Jan 2024	Verbal update report from Scheme Advisory Board	To update Members	I	ACO PS Contact Officer: Alison Reed	
22 Jan 2024	Update on current National exercises: McCloud and O'Brien	To update Members	I	ACO PS Contact Officer: Alison Reed	
22 Jan 2024	Standard Item – Recent publications, updates, information	To update Members	I	ACO PS Contact Officer: Alison Reed	

Expected Date of Report	Report Name	Purpose of Piece of Work	Information or Decision	Lead Director/ Contact Officer	Progress
22 Jan 2024	The Pension Regulator Returns 2021-2022	To update Members and for awareness and discussion	I	ACO PS Contact Officer: Kim Jeal	
22 Jan 2024	Training Session for Members	To update Members	I	ACO PS Contact Officer: Kim Jeal	
22 Jan 2024	Local Pension Board Risk Register	To update Members	I	ACO PS Contact Officer: Alison Reed	

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AGENDA ITEM NO 12

**To consider any items of business that the Chairperson deems urgent
(Part 1 or 2)**

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1.	Apologies for Absence	
2.	Declarations of Interest	
	Members of the Fire & Rescue Authority are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct.	
3.	Chairperson's Announcements	
4.	To receive the minutes of:	
	<ul style="list-style-type: none"> • Local Pension Board Committee held on 3 July 2023 	5
	REPORT FOR DECISION	
5.	Review of Key Performance Indicators	11
	REPORTS FOR INFORMATION	
6.	Publications, Updates, Information (Standard Item)	23
7.	Firefighter Pensions – Update on current national exercises McCloud and O'Brien	101
8.	Verbal Update report from Scheme Advisory Board – Verbal Update to be presented on the day	213
9.	Update on Pension Consultations – Verbal Update to be presented on the day	215
10.	Local Pension Board Risk Register	217
11.	Forward Work Programme for Local Pension Board Committee 2023/2024	225
12.	To consider any items of business that the Chairperson deems urgent	231