

## Pensions Technical Community – Action Summary / Issues Log

Grey shading indicates completed, other than for any further monitoring or reviews

Magenta shading indicates holding items, to be aware of, but monitoring not required.

10.1.13 4(b)	Annual National Meeting of Firefighter Pension Administrators	<p>A Hall to speak with C Alcock (<i>heywood</i>) re possibility of a joint event. Agreed to set up a task and finish group to investigate Agenda Items and Timings. Staffordshire and Leicestershire have offered to host the meeting. Penny to request volunteers to coordinate.</p> <p>Penny to coordinate with Helen Scargill, Chris Haywood &amp; Vicky Jenks. Feb 2014 date of meeting, probably to be held at Leicestershire CC.</p> <p>Penny to investigate further.</p> <p>On hold until 2015 regulations have been finalised.</p> <p>National Meeting will be hosted by LGA on 20<sup>th</sup> October</p> <p>Meeting hosted and agreed to have been a useful event, action closed.</p>	C Alcock
10.1.13 4(c)	Technical Support/DCLG website/ <i>heywood</i>	<p>CA will obtain details of technical aspects, if other authorities who are not with <i>Heywood</i> could use this and whether it would be possible to include additional information.</p> <p>A Mooney will discuss with A Cornelius to see if DCLG was content to share the consolidated orders.</p> <p><i>heywood</i> happy to host for a cost however, LGA are currently looking to recruit a post to help with this formulation of a website.</p> <p>Chris Haywood to investigate the levels of interest concerning a 'one stop shop' for information and get views on what administrators want/require and whether they would be prepared to pool resources.</p> <p>Chris has provided a wish list to DCLG. Await response from DCLG/LGA LGA post currently being recruited.</p>	Chris Haywood

9.5.13 4(f)	2015 Scheme	<p>T Sawkins agreed to put together an understanding of benefits table from the Proposed Final Agreement as is current understanding, to be agreed with A Cornelius before circulation.</p> <p>Currently in progress due to amendments, Toni Sawkins to contact Philip Perry at DCLG to discuss. Membership flowcharts passed to DCLG for confirmation of accuracy – Action Closed.</p>	T Sawkins
9.5.13 4(h)	GMP Reconciliation	<p>David Golding to look into the equalisation of GMP issue and report any concerns. Action carried forward to next meeting. However, FRA's should start to look at their GMP's now rather than waiting for 2016. Information concerning this can be found on the DCLG website. Clair/Penny to send out a reminder of GMP Reconciliation to FRA's</p> <p>Minutes of 6<sup>th</sup> March 2015 meeting updated with links to the reconciliation service and NISPI countdown bulletins - <a href="https://www.gov.uk/nispi-pension-schemes-reconciliation-services">https://www.gov.uk/nispi-pension-schemes-reconciliation-services</a>  <a href="https://www.gov.uk/government/publications/nispi-countdown-bulletins">https://www.gov.uk/government/publications/nispi-countdown-bulletins</a></p> <p>Actions for funds as per item 5f of the minutes dated 9<sup>th</sup> June 2015</p> <p>Funds should</p> <ul style="list-style-type: none"> <li>i) Decide on approach for performing reconciliation (start as soon as possible)</li> <li>ii) Secure budget and resource as required</li> <li>iii) Consult with trustees/ advisors/ committees</li> <li>iv) Consider tolerance levels (think about pension in payment tolerance as well especially for members who have been on pension for a while)</li> <li>v) Start the reconciliation (consider the scale of the project at the HMRC!)</li> </ul> <p>This item should stay on the agenda both on the technical group and at the regional groups</p> <p><b>Update meeting 16/02/2016</b></p> <p>Guidance issued by treasury working group and noted by Fire technical group – see khub <a href="https://khub.net/group/thefirefighterspensionsdiscussionforum/forum/-/message_boards/message/18500881">https://khub.net/group/thefirefighterspensionsdiscussionforum/forum/-/message_boards/message/18500881</a></p> <p><b>Action to confirm position with pension fund on not collecting overpayments</b></p>	Clair



9.5.13 4(j)	Earnings Cap	<p>D Golding to raise issues with A Mooney direct via email who will then subsequently investigate. Ongoing with DCLG.</p> <p>The 1992 scheme has a non-effective statutory reference, DCLG agreed updates planned in next round of scheme amendments.</p> <p>Still under consideration by DCLG given the potential legal implications. Ongoing</p> <p>For clarity, the non-effective statutory reference is Rule G1, paragraph 2b1, that refers to a treasury order made under s590C of the Income and Corporations Taxes Act. This section was repealed from 6 April 2006, under the Finance Act 2004. <sup>2</sup></p> <p>Following the expiry of the five year window for adopting post 6th April 2006 schemes rules HMRC no longer publish the earning cap. The last Earnings Cap was set by HMRC as £123,600 for the 2010/11 tax year.</p> <p>There is small risk that DCLG could decide to amend regulation G1, paragraph 2b1 to apply a notional earnings cap. At this moment, unlikely to do so.</p> <p>Action, to leave on agenda to note.</p>	D Golding A Mooney C Alcock
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<sup>1</sup> (2) For the purposes of paragraph (1), in the case of a person by whom pension contributions became payable after 31st May 1989 either—

(a) for the first time, or

(b) following any period in respect of which they were not payable, except where regulation 4 of the Retirement Benefit Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990<sup>1</sup> applies his pay shall be taken not to include any excess, in any tax year, over the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988 <sup>1</sup>(that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act).

<http://www.legislation.gov.uk/ukxi/1992/129/schedule/2/made>

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/2004/12/schedule/42/part/3>



		<p>Examples still required for Home Office. Catherine Carruthers to provide copy of 2015 reg amendments for Police to Clair.</p> <p><b>Update 10/04/2018</b></p> <p>Catherine Carruthers will forward regulation amendment to Clair which negates issue of unauthorised payments.</p> <p><b>Received 11/04/2018 – item closed.</b></p> <p>Here is the relevant <a href="#">PTM</a> reference that confirms that a reduction in the pension as a result of applying scheme pays is not treated as an unauthorised payment.</p>	<p>David Golding, Catherine Carruthers</p> <p>Catherine Carruthers</p>
25.4.14 (h)	Transferring pension rights into NFPS	<p>Can a retained firefighter transfer concurrent membership of a personal pensions plan into the NFPS? Helen Scargill to look into issue as she thinks she may have an instruction on this.</p> <p>If anyone has guidance on this please can you share with the group. DCLG's view is that if the legislation provide for it there is no issue, overall view of the groups is that it is the Brigade's discretion – Action closed</p>	David Golding
25.4.14 (i)	DWP contracting out regulation and lump sums	<p>David Golding raised an issue where DWP have stated that contracting out rights should not be used to give unauthorised payments. David to provide a summary table of tax issue to the group for further discussion</p> <p>Anthony Mooney is aware of this and is currently investigating – Ongoing, Clair to take up with Terry Edwards.</p> <p>Terry agrees that there is a potential case, DCLG &amp; LGA to investigate</p> <p><b>Update meeting 16/02/2016</b></p> <p>The relevant regulation is regulation 18 of <a href="#">SI 2015/1677</a> -</p> <p><b>18.—(1)</b> A relevant scheme<sup>(1)</sup> may not provide for the payment of a lump sum instead of a pension that is attributable to <b>section 9(2B) rights</b>, unless the payment to be made is authorised under section 164 of the Finance Act<sup>(2)</sup> (authorised member payments) and the payment is—</p>	Closed

		<p>The issue that this causes is that Section 9(2B) rights are post 97 contracted out rights, which is all service built up between 1st April 1997 and 31st March 2016. So any service of a firefighter that is all post 1997 would be considered section 9(2B) rights, and a strict interpretation is you cannot pay an unauthorised lump sum on any pension arising from service built up from 1997.</p> <p>For age retirements there would always be a proportion of pre 97 service that is contracted in to enable payments, minimal amount of contracted in service needed for ill-health retirements with post 1997 service only, which would be possible from 6th April 2016</p> <p>DCLG are of the view that the risk is with the relevant authority (ie DCLG) and the risk is the contracted out status of the scheme would be removed! Having considered these two issues with DCLG we are now therefore satisfied that making these payments does not constitute a risk to the authority, and that lump sums should continue to be quoted at the maximums.</p> <p><b>Action Closed (meeting date 16/02/2016)</b></p>	
25.4.14 (8 AOB)	EE/ER Contributions for APB's	<p>What is the correct employee/er contributions for APB's? Anthony Mooney to update group on GAD guidance.</p> <p>Helen to send APB/CPD calculation guidance to Anthony. – Ongoing</p> <p>2.2 of the amended FSPC circular 2/2008 says</p> <p style="padding-left: 40px;">2.2 Under these APB arrangements, contributions paid on the allowance by firefighter members under Rule G2(1) of the FPS, or Part 11, rule 3 of the NFPS; and authority contributions paid under Rule G2(3) and (4) or Part 13, rule 2(3), which relate to these payments, will be used to purchase an increased pension, including increased benefits for dependants.</p> <p><a href="http://www.legislation.gov.uk/ukxi/2006/1810/schedule/1/paragraph/38/made">http://www.legislation.gov.uk/ukxi/2006/1810/schedule/1/paragraph/38/made</a></p> <p>This would therefore indicate that CPD should be paid on the contributions paid by the member and authority as determined by the appropriate regulations at the time, and not be restricted to a total of 37.5% and 22.7%.</p> <p>However, please note that it is the responsibility of each FRA to apply the rules of the pension scheme in accordance with their interpretation of the scheme and to obtain legal advice where they consider this is necessary as only a Court can provide a definitive interpretation of legislation.</p> <p>This item continues to attract discussion, on whether or not the notional ill health percentage should be included. When the original guidance was issued, example's used 37.5% for a FPS 1992 member, which was</p>	C Alcock

		<p>made up from 11% employee contribution and 21.3% employer's plus an additional 5.2% for notional ill health. The NFPS was based on 8.5% employee's and 11% employer's and a notional ill health % of 3.2%.</p> <p>Examples provided for a random FPS 1992 member, one based on continuing to use the notional Ill Health %, giving a CPD APB of £65.35, and one that does not use the notional Ill Health % from the very beginning of the calculation, giving a CPD APB of £56.61.</p> <p>Authorities to confirm how they are doing the calculations.</p> <p><b>At the meeting 16/02/2016 this item was agreed to close on the basis that the original guidance had been quite clear that notional ill health contributions should be included.</b></p> <p><b>The amount being paid by employers should be current employer conts, including ill health and employee contributions.</b></p> <p><b>The following Khub links, collates all the guidance and regulations issued on APBs</b></p> <p><a href="https://khub.net/group/thefirefighterspensionsdiscussionforum/-/message_boards/category/18501709">https://khub.net/group/thefirefighterspensionsdiscussionforum/-/message_boards/category/18501709</a></p> <p><b>Action closed at meeting dated 16th February 2016</b></p>	Group
25.4.14 (8 AOB)	Up to date email list	Claire Hey has volunteered to collate an up to date list of contact details. Actioned and sent to Clair Alcock. – Action closed	C Hey
25.4.14 (8 AOB)	Pensionable Pay	London Fire has asked authorities to specify what they deem to be pensionable pay. A list will be circulated for attendees to complete and return to LFB. Item closed no further action required.	All
12.9.14 DCLG Update	RDS Informal Tax Guide	<p>Vicky Jenks volunteered to collate queries for DCLG. This has now been done and queries answered, however, more questions have arisen which are being collated by David Golding. Await response from DCLG.</p> <p>Helen Scargill to share calculator for Reference Pay. One set of Q&amp;A issued, another ongoing and due out soon. Tax guidance to be distributed in the New Year.</p> <p>DCLG requested that this document be circulated by LGA, this was published on 24<sup>th</sup> March 2015</p> <p>Action Closed</p>	DCLG LGA



12.9.14 Technical Items	Payroll Software requirements	<p>It was discussed at the meeting that it would be necessary for a payroll working group to be set up for the 2015 scheme. J Wood and C Alcock will pick this up with the representatives from AGM.</p> <p>Payroll Software suppliers group meeting in Feb, mid month transitional dates will apply. Payroll guidance and HR guide to be issued hopefully in January. Payroll and HR Guides are in draft Webinar information is on the Website</p> <p>Action Closed</p>	C Alcock
12.9.14	Consistent Terminology and communication	Eunice to share her scheme guides and M Griffiths will pick up the communications aspects with the Fire people through the LGPS communications group. Comms group set up – action closed.	E Heaney/M Griffiths
12.9.14 Loss of PPA	Loss of PPA	<p>David Golding to send Alan Piper his papers on the issue for review. A Piper to circulate the current situation on loss of PPA – Still under review</p> <p>Both David Golding and Alan Piper took this up with HMRC whose reply confirms that HMRC are insistent that the wording of the Finance Act 2004 results in an unauthorised payment where a Regular Firefighter retires under age 55 after 5 April 2010 and does not cease concurrent employment as a Retained Firefighter.</p> <p>Is there an action for a legal challenge?</p> <p><b>Update 16/02/2016</b></p> <p>There has been no appetite from Fire authorities to fund a joint legal challenge, the points raised previously by Alan Piper and David Golding have been based on the definition of sponsoring employer, but it is felt the HMRC policy intention is clear.</p> <p>However a Welsh Fire authority engaged both a QC and the services of PWC to seek clarity. They have been contacted to ask if they will share the outcome.</p> <p>It is for individual authorities to pursue</p> <p><b>Action agreed to close at meeting 16<sup>th</sup> February 2016</b></p>	LGA
16.12.14 (6.b)	2015 Scheme Communication	GMFRA have written to their members confirming 2015 Status. PW to send out copies of letters to Clair for distribution to other FRA's.	P Wright

		Letter's on knowledge hub – action closed	
16.12.14 (7a)	FOG Groups	Do we want regional FOG groups, all to discuss and report back at the next meeting. Clair to send requests to the FRA's in the regions. Regional FPOGs now all in place – action closed	All/C Alcock
16.12.14 (7.g)	Pensionable Pay	Issue raised on how to treat members with continuous pensionable temporary promotion (pre 2013) where the member has transferred to the 2015 scheme. Transitional regulations confirm temporary promotion paid before July 2013 will continue for the purposes of the final salary link – action closed	DCLG
16.12.14 (7.h)	Format of next meeting	Discussion on revolving chair and minutes dependant on venue. Management team in place, nominations for a new chair for one year tenacy sought. Action closed	
16.12.14 (8)	Payment holiday	Payment holiday for those with more than 30 years' service and under age 55.  DCLG is seeking a part 8 declaration to consider whether the requirement for a 1992 Scheme member to continue paying contributions beyond the point of accruing maximum service and prior to having the option to retire is unlawfully discriminatory. The application to the courts was made in March and DCLG is currently preparing final documentation for the court's deliberations.  DCLG have settled the case and are now considering the relevant framework.  <b>Update 10/10/2016</b>  Regulations and guidance have been issued. Administrators to apply holiday from 30 <sup>th</sup> September 2016 and refund qualifying contributions made between 1 <sup>st</sup> December 2006 and 29 <sup>th</sup> September 2016. Refunds expected to be made by 31st March 2017.  <b>Update 01/03/2017</b>  Agreed item can be removed from actions summary. Exercise largely completed	FRAs
06.09.15 (9)	Annual Benefit Statements	Issue raised on what administrators are sending out for the statements as at 31 <sup>st</sup> March 2015. Majority agreed sending out current value statements only with no projections for tapered / unprotected group and current format statements for protected group.  Communications group looking to provide guidance on consistent format for statements issued at 31 <sup>st</sup> March 2016  First meeting has been conducted, a template will be produced, projections will be to age 60.	Communications group

		<p>Communication group to issue guidance on 2015/2016 statements.</p> <p><b>Update 10/10/2016</b></p> <p>Annual Benefits statement template published on 15th March 2016 with the notes in draft form.</p> <p>Full plain English edited Annual Benefit Statements and notes were issued on 9<sup>th</sup> August 2016, with crystal mark for funds to use.</p> <p>Few queries received by administrators</p> <p>Pension savings to be added to the statement for next year</p> <p><b>Item Closed</b></p>	
06.09.15 (9)	Lump Sum Payment Date	<p>No date has been specified in the 2015 regulations for the date of payment of lump sum.</p> <p>Lump Sum commutation payments in the 1992 and in the 2006 regulations there is a specified date these payments need to be made by. In the 2015 regulations doesn't seem to have anything determining a date when payment via commutation must be made.</p> <p><b>1992 regs – [B7(9b)]</b> <i>(b) within three months of the date of his retirement, pay him the lump sum; but where payment of the pension had commenced before commutation, that sum shall be reduced by the difference between the aggregate payments made in respect of the pension and the aggregate payments that would have been made in respect of it if it had been reduced from the date of retirement.</i></p> <p><b>2006 regs – [Part 3, 9 (7b)]</b> - <a href="http://www.legislation.gov.uk/ukxi/2006/3432/schedule/1/part/3/paragraph/9/made">http://www.legislation.gov.uk/ukxi/2006/3432/schedule/1/part/3/paragraph/9/made</a> <i>(b) as soon as reasonably practicable after the effective date, pay the lump sum.</i></p> <p><b>2014 regs – [71]</b> - <a href="http://www.legislation.gov.uk/ukxi/2014/2848/regulation/71/made">http://www.legislation.gov.uk/ukxi/2014/2848/regulation/71/made</a> Does not make any mention of when the lump sum should be paid? regs</p> <p>This item can be closed, overarching legislation means a lump sum paid outside of 12 months is an unauthorised lump sum and subject to a tax charge.</p>	DCLG
06.09.15 (9)	Transfer restrictions	<p>Further guidance required on transfer restrictions.</p> <p>Two issues raised around transfers,</p> <p>The first – there is only a restriction on transfer in of non-occupational pension schemes, Reg 141 makes no mention of restrictions on timing of either occupational pensions or club schemes.</p>	LG A / DCLG

The second, is whether the joining date of the 2015 scheme, opens up a new window for those in the 1992 or 2006 scheme who did not transfer within 12 months of joining.

**1992 scheme [F7(2)] - (2)** *The person must have made a written request to the authority , not later than 12 months after the date on which he takes up employment with them, for the transfer value to be accepted.*

**2006 scheme [Part 12, 9 (cii)]**

<http://www.legislation.gov.uk/ukxi/2006/3432/schedule/1/part/12/chapter/3/paragraph/9/made> in the case of a transfer value payment from a non-occupational pension scheme, during the period of one year beginning with the day on which the member becomes eligible to be a firefighter member, or such longer period as the authority may allow.

*[Part 12, 9(2)] In the case of a transfer value payment to be made under public sector transfer arrangements, the application under rule 8—*

*(a) must be made during the period of one year beginning with the day on which the member becomes eligible to be a firefighter member, or such longer period as the authority may allow, and*

**2015 regs [141(3)]** <http://www.legislation.gov.uk/ukxi/2014/2848/part/10/chapter/3/made> *A request that a transfer payment be accepted from a non-occupational pension scheme must be made during the period of one year beginning with the day on which the member becomes an active member or such longer period as the scheme manager may allow.*

**Meeting notes 16<sup>th</sup> February 2016**

- Club transfers

There is no restrictions given to club transfers under [reg 141(3)] . The restriction for club schemes is given in the club memorandum - <http://www.civilservicepensionscheme.org.uk/media/95419/club-memorandum-december-2015.pdf>

Paragraphs 4.1 (iii) and 2.6 confirm that an application for a club transfer has to made within 12 months of joining the scheme and that **compulsory transfers of pension scheme are not included**

Elections to proceed should not be accepted where either:

		<p>(iii) an individual has joined the Club scheme from another Club scheme as a consequence of a compulsory transfer of employment, or of pension scheme (see 2.6).</p> <p>It is therefore quite clear that club transfers are within 12 months of the original joining date and moving into the 2015 scheme has no effect.</p> <ul style="list-style-type: none"> <li>Occupational scheme transfers (ie non club)</li> </ul> <p>The regulations <a href="#">[reg 141(3)]</a> make no restriction for a non club transfer, so it is my opinion, it is the scheme managers discretion on when to accept these</p> <ul style="list-style-type: none"> <li>Non occupational scheme transfers (ie non club)</li> </ul> <p>The regulations <a href="#">[reg 141(3)]</a> restrict transfers from non-occupational schemes to a period of 12 months on becoming an active member, however it allows <u>scheme manager discretion</u> to allow a longer period.</p> <p><i>(3) A request that a transfer payment be accepted from a non-occupational pension scheme must be made during the period of one year beginning with the day on which the member <u>becomes an active member</u> or such longer period as the scheme manager may allow.</i></p> <p><b>Agreed to close, on the basis that club transfers are within 12 months of joining, and non club transfers are scheme managers discretion.</b></p>	
17.06.16 7a. ii	Retained Injury Pensions – Ill health pension not taxable	<p>Retained Injury – Non-taxable ill-health pensions</p> <p>In the circumstances as described below, the ill-health pension payable is not subject to income tax as it is exempt under section 644 ITEPA 2003.</p> <p>This has been clarified with HMRC and is as per the guidance given in EIM74310 - <a href="http://www.hmrc.gov.uk/manuals/eimanual/eim74310.htm">http://www.hmrc.gov.uk/manuals/eimanual/eim74310.htm</a></p> <p><i>The position with regard to the fire service is virtually identical. Ordinary, short service and ill health pensions are taxable; ‘injury’ pensions are not. Pensions awarded to fire service personnel solely on the grounds of injury whilst on duty, even if called ill health pensions, are regarded as exempt under section 644 ITEPA. These individuals will either not be regular firefighters or will not have served two (previously five) years.</i></p>	

		<p><b>The circumstances</b></p> <p>This applies to a</p> <ul style="list-style-type: none"> <li>• A retained firefighter who didn't join the scheme and prior to 1<sup>st</sup> April 2014 was awarded an injury and ill health pension for his retained service under the compensation scheme</li> <li>• A retained firefighter who didn't join the scheme and is been retrospectively awarded an injury and ill health pension for his retained service under the compensation scheme, under the protected right granted in SI 2014/447 paragraph 2 of rule 3 - <a href="http://www.legislation.gov.uk/uksi/2014/447/article/3/made">http://www.legislation.gov.uk/uksi/2014/447/article/3/made</a> which gives transitional protection for a retained firefighter who had been <u>continuously employed</u> as a retained firefighter since 5th April 2006, where it has been determined that the injury is a qualifying injury and was sustained <u>before</u> the 1st April 2014 to have their pension entitlement under the compensation scheme enacted under SI 2006/1811 - <a href="http://www.legislation.gov.uk/uksi/2006/1811/contents/made">http://www.legislation.gov.uk/uksi/2006/1811/contents/made</a></li> </ul> <p>It is accepted that if an ill-health pension in these circumstances is currently being taxed, it should be stopped and put on a non-taxable basis, however guidance is requested on how to correct past payments.</p> <p><b>Update 01/03/2017</b></p> <p>There is guidance on the HMRC website regarding payroll errors, and this includes a link to the HMRC's employer helpline 0300 200 3200</p> <p>The first stage is to adjust the pension to a non-taxable code, and either make adjustments via their PAYE/RTI returns or invite the member to do so.</p> <p>Once the member had received all the refund possible via HMRC, it would be for the authority to consider further assess the case to see if there is entitlement to a compensation payment.</p> <p><b>Item closed meeting 9<sup>th</sup> October 2017 further to Clair's <a href="#">Technical note</a> to FRAs.</b></p>	
17.06.16 9b	Split pension PI	<p>Application of PI on split pension</p> <p>Firefighters' Pension Scheme Circular FPSC 3/2010 contains guidance to apply indexation to part 1 of the split pension by reference to applying notional PI. However the regulations were not amended to reflect this guidance, and therefore can be interpreted to mean that the split pension is subject to real PI.</p> <p>How are administrators applying PI?</p>	

		<p>There are two possible options</p> <p>A) You immediately apply indexation to part 1 'notional PI' and don't wait til 55 in line with guidance (but not regs). Which means there is no requirement to apply commutation with a gap guidance, because an indexation in line with PI has already been applied.</p> <p>Or</p> <p>B) You apply the regulations as they are actually written. And the rules as written mean the first part of the 'split' pension is subject to real PI, and therefore you have to apply commutation with a gap.</p> <p><b>Update meeting 9<sup>th</sup> October 2017</b> Regulation amendment needed to mirror guidance. Potentially to be included to be laid in next round of legislative updates. Continue to apply in line with guidance until amending SI laid.</p> <p><b>Update 10/04/2018</b></p> <p>All agreed that guidance is being applied. Confirmed by PP that amendment will be included in the next SI. <b>Item closed.</b></p>	<p>Home Office</p> <p>Home Office</p>
16.02.16 9e	Ill-health – 2015 Scheme Transition member with APBs	<p>i) Ill health pensions are paid under the 'one-pot' system where the direction for the calculation is all under the 2015 scheme regulations, and the pension at retirement is all is paid from the 2015 scheme. At normal pension age of the 1992/2006 scheme the 'equivalent amount' is then moved back to the 1992/2006 scheme.</p> <p>ii) However, there is no direction from the 2015 scheme under <a href="#">[65(4b)]</a> to pay APB benefits as an equivalent amount under B5B or B5C of the 1992 regs.</p> <p>iii) Therefore B5B and B5C are still payable under the 1992 regs, which seems at odds with the policy intention of the one pot ill-health directions.</p> <p>iv) DCLG have considered whether an amendment to the regulations is needed. They are content for administrators to follow the regulations as currently drafted and are not looking to make a change.</p>	LGA and Home Office

		<p>v) This creates a problem because the software has been written to include the APB in the 'equivalent amount' and this is the practice that administrators are using, however it is ultra vires, so without a change to the regulations, this will require an amendment to the processes, systems and software.</p> <p><b>Update 01/03/2017</b></p> <p>As this does not affect the amount of pension received by the member it is largely considered to be a process issue that arrives at the same result.</p> <p>David Golding to provide examples regarding his concerns on the calculation of tax in these cases.</p> <p><b>Update meeting 9<sup>th</sup> October 2017. Agreed to move to holding area.</b></p>	
	<p>Pension Credit - Trivial Commutation</p>	<p>IA2 - <a href="http://www.legislation.gov.uk/uksi/2001/3691/schedule/paragraph/13/made">http://www.legislation.gov.uk/uksi/2001/3691/schedule/paragraph/13/made</a> allows commutation on the grounds of triviality only.</p> <p><i>1A2 Commutation of the pension credit benefits</i></p> <p>(1) <i>In the circumstances described in <a href="#">regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000</a> (commutation of pension credit benefit: small pensions), the <a href="#">relevant fire and rescue authority</a> may commute for a lump sum the whole of the <a href="#">pension</a> to which a <a href="#">pension credit member</a> is entitled under rule IA1.</i></p> <p>However the reference to regulation 3(2)(b) in IA2 is now ineffective, as it has been removed from the Pension Sharing regulations. Does that now permit commutation on all the grounds? We would expect it not to, however in order to clarify this we would request that Home Office amend in the next round of amendments.</p> <p><b>Update 01/03/2017</b></p> <p>This issue will be further considered in the next round of scheme amendments.</p> <p><b>Update meeting 9<sup>th</sup> October 2017</b></p>	<p>Home Office</p>



		<p>Clair to revisit case to establish whether overriding legislation amends intention of scheme regulations. Police scheme allows 5 x commutation for severe ill health of PC members, as does LGPS Scotland.</p> <p><b>Update 10/04/2018</b></p> <p>Confirmed by PP that amendment will be included in the next SI. <b>Item closed.</b></p>	<p>LGA</p> <p>Home Office</p>
<p>10.10.16 9c</p>	<p>Retained lump sum – mixed 45ths and 60ths</p>	<p>Retained lump sum - mixed 45ths and 60ths.</p> <p>Clair discussed a query that had been raised and asked if anyone had any particular views on how the LTA should be calculated for a modified member at retirement who had both standard 60ths and special 45ths, because they have not opted to pay the balance by lump sum.</p> <p>Should the calculation of the LTA (required to restrict the commutation of the 45ths benefits to HMRC maximum) be calculated across both the 45ths and 60ths or calculated separately.</p> <p>Example</p> <p>£4000 pension per annum @60ths with a commutation factor of 12 £6000 pension per annum @45ths with a commutation factor of 21.5</p> <ul style="list-style-type: none"> <li>• Option A – Calculate the LTA across the two parts</li> </ul> <p><math>(£3000 + £4500) * 20 + £44,250 = £194,250 * 0.25 = £48,562.50</math> – Therefore can take full 45ths lump sum (£32,250 tax free)</p> <ul style="list-style-type: none"> <li>• Option B – Calculate the LTA of 45ths and 60ths separately</li> </ul> <p>45ths LTA = <math>(£4500 * 20) + £32,250 = £122,250 * 0.25 = £30,562.50</math>. Lump sum of £32,250 needs to be restricted to HMRC maximum</p>	

60ths LTA =  $(£3000 * 20) + £12000 = £72,000 * 0.25 = £18,000$ . 60ths lump sum within limits.

**Post meeting update**

Home Office and LGA have considered this case in depth. The circumstances would be very rare if ever, where a special firefighter member would be in a position where they had active benefits calculated on part 45ths and part 60ths, because they had not chosen to pay the balance of contributions at retirement.

Therefore the position taken is that advice can only be given as and when a situation occurs and we believe the rules of the scheme have been applied correctly. It is understood we would need specific advice from HMRC.

Item to remain in actions for discussion at next meeting.

**Update 01/03/2017**

This is a theoretical case only and considered to be an extremely unlikely situation. If an actual case does occur advice will be taken from HMRC on how to treat the calculation. Left as an action to monitor.

**Update 05/07/2017**

Group agreed to close, as extremely unlikely case

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LGA

01.03.17 10a	Pensionable Pay – application of paragraph 4, schedule 2, rule 33	<p>How do you compare highest salary if you don't inflate?</p> <p><a href="http://www.legislation.gov.uk/uksi/2015/589/schedule/1/paragraph/7/made">http://www.legislation.gov.uk/uksi/2015/589/schedule/1/paragraph/7/made</a></p> <p><i>3) Where T's pensionable pay derived from service under this scheme at the time when T's average pensionable pay is determined for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link) is lower than T's pensionable pay derived from service under the 1992 scheme on the day before the transition date—</i></p> <p><i>(a) paragraph (2) does not apply, and</i></p> <p><i>(b) T's average pensionable pay is determined in accordance with rule G1 (pensionable pay and average pensionable pay) of the 1992 Scheme.</i></p> <p><i>(4) Where T's pensionable pay derived from service under this scheme at the time when T's average pensionable pay is determined for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link) <u>is lower than the pensionable pay for any year after the transition date</u>, the pensionable pay for the year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the 1992 Scheme.</i></p> <p>A hypothetical case has been raised with me, on how this could apply in practice.</p> <p>Reduction in pay 01/09/16 Protected pay at 31/08/16 = £32500 Member retires 10 years later on a salary of £32250</p> <p>In a straightforward comparison of pay at retirement (£32,250) it is lower than a previous pay (£32,500) so regulation 4 is applied final salary becomes pay at 31/08/16 and the pension increase date becomes 01/09/2016 (e.g. if 10 years of inflation was 10% then their final salary effectively becomes £32500 x 1.1 = £35750 to then be used to calculate their pension/lump sum).</p> <p>However if the member stayed on another year, and the salary at retirement was then £32,600, pay at retirement is now not less than a previous pay (£32,500), and the salary of £32,600 is used to calculate benefits.</p> <p>However, as normal retirement from the 2015 scheme will not occur until after 1st April 2022, this issue would only immediately affect anyone retiring on ill-health retirement and there would only be two years of pension increase to worry about anyway.</p> <p>Home Office to consider</p>	Home Office / LGA
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		<p><b>Update meeting 9<sup>th</sup> October 2017</b></p> <p>Policy decision to be made by Home Office on whether PI should be applied to protected pay for transitional members.</p>	Home Office
01.03.17 10b	Border Transfers 1992 Scheme	<p>Query on whether the regulations should be read that a border country transfer of 1992 scheme membership should transfer into reciprocating 2006 scheme post 31<sup>st</sup> March 2015.</p> <p>Agreed this was against the intention of the reforms and regulations.</p> <p>Home Office to consider effect of regulations, informal opinion to treat as 1992 scheme transfer.</p> <p><b>Update 09/10/2017</b> Regulatory amendment to follow, to reflect policy intention for Border Transfers to be treated as continuous 1992 scheme service. Potentially to be included to be laid in next round of SIs.</p> <p><b>Update 10/04/2018</b> Confirmed by PP that amendment will be included in the next SI. <b>Item closed.</b></p>	Home Office
10.04.20 18 5a	Survivor benefits for a member in receipt of a pension paid from the 1992 scheme and deferred benefits in the 2015 scheme	<p>The group agreed that if a member were to die whilst a retired member of the 1992 scheme and a deferred member of the 2015 scheme, then a pension would only be paid to a spouse or civil partner from the 1992 pension, and a <a href="#">surviving partner</a> from the 2015 scheme.</p> <p><b>Item Closed</b></p>	
10.04.20 18 5b	Orphaned childrens pension	<p>The query was on the application of the orphaned children's pension rules of the 2006 &amp; 2015 schemes. The wording of regulation <a href="#">90</a> in FPS 2015 appears to be clear that the pension is paid in <u>addition</u> to the child's</p>	

		<p>standard pension. However, there is some ambiguity in the wording of the 2006 regulations, as to whether the pension paid under <a href="#">Part 4, Rule 10</a> is in <b>addition or instead</b> of the pension they are entitled to in <a href="#">Rule 8</a>.</p> <p><b>The group agreed that Part 4, Rule 10 pension should be paid in addition.</b></p> <p><b>Item closed</b></p>	
10.04.20 18 5c	Spouses Pension where the member took early retirement	<p>A question was received on the correct calculation of a spouses' pension where the member had a reduction on the pension due to early retirement.</p> <p>The group agreed the correct calculation was to deduct the original commutation portion from the unreduced pension and divide by half</p> <p><b>Item closed</b></p>	
10.04.20 18 5d	Pension sharing for transition members	<p>The group discussed the informal opinion conveyed in <a href="#">Bulletin 3</a> that a Pension Credit member does not receive transitional protections, therefore the credit is applied in the 2015 scheme despite the debit being calculated across both schemes.</p> <p>The group could not agree a consensus and there were a variety of opinions.</p> <p>It was agreed this would be taken forward and discussed at the next Public Sector Forum Group</p> <p><b>Update 02/07/2018</b> Issue raised at PSPF 22/06/2018 with no subsequent agreement of position. Query to be escalated to SAB to consider obtaining legal advice from Weightmans.</p> <p><b>Update 12/02/2019</b> The Home Office have advised that the regulations do not allow for the pension credit to be applied solely in the 2015 scheme and there is no intention to change them, although this was original policy intent. Therefore each FRA to make an individual determination. Legal advice will not be considered and position to be confirmed via monthly bulletin.</p> <p><b>Item closed.</b></p>	<p>LGA</p> <p>LGA/ SAB.</p>

10.04.20 18 5e	Combining service guide	<p>The communications group had taken forward a draft guide, with some key technical questions for the group to consider.</p> <p>The group could not agree a consensus and there were a variety of opinions.</p> <p>It was agreed this would be taken forward and discussed with the communications group</p> <p><b>Update 02/07/2018</b> Guide and flowchart continue to be developed. ND and HS to arrange a meeting with CA to progress. Sean Starbuck (FBU) has offered to assist. Aim for release and discussion at the AGM in September.</p> <p><b>Update 17/08/2018</b> A meeting of working group took place at WYPF on 23 July and progress was made on the guide. Some queries remain outstanding which have been referred to the Home Office for an opinion. ND and HS to present a workshop to delegates on day 2 of the annual conference.</p> <p><b>Update 12/02/2019</b> <a href="#">Presentation</a> given at AGM. Guide in progress, continuously updated with new scenarios and examples. Technical queries remain outstanding with the Home Office.</p>	<p>LGA</p> <p>CA/ND/HS.</p> <p>Home Office</p> <p>Home Office</p>
10.04.20 18 8d	Tell Us Once	<p>It was agreed that CA would discuss with LGPS colleagues the benefits of Tell us Once and the group would reconsider the benefits for Firefighter Pension Schemes.</p> <p><b>Update 02/07/2018</b> Still to be followed up with the LG team for details on cost and implementation.</p> <p><b>Update 12/02/2019</b> Consensus was reached that Tell Us Once would not offer sufficient benefit for the time and cost involved to implement.</p> <p><b>Item closed.</b></p>	<p>LGA</p> <p>LGA</p>

02.07.20 18 5f	Scheme specific data requirements	<p>Bluelight team looking at feasibility of compiling a standard set of scheme specific data items for 2018 TPR scheme return, based on available information from GAD, LGA colleagues and software suppliers. Also supporting guidance for FRAs and LPBs. Volunteers requested for focus group to determine whether a single list can be produced.</p> <p><b>Update 17/09/2018</b> It has not been possible to provide a list of standard set of scheme specific data items for FPS. However, <a href="#">informal guidance</a> has been published with bulletin 11 on types of data to consider and how to measure accuracy.</p> <p><b>Item closed.</b></p>	LGA
02.07.20 18 6c	Two pension rule	<p>CA drafting factsheet for FRAs, administrators and members on two pension entitlement (Rule B5A FPS 1992 and Part 3, Para 7 FPS 2006). Stakeholders will be invited to comment on the final draft. No views on content or format were received at the meeting.</p> <p><b>Update 17/09/2018</b> The factsheet is being finalised. The factsheet covers expectations of the process and best practice, along with the relevant regulations, indexation, an FAQ section, and example calculations.</p> <p><b>Update 12/02/2019</b> Paused awaiting 2019 amendment order to be laid.</p>	LGA  LGA  LGA
02.07.20 18 6d	IDR Processes	<p>The SAB considered whether the IDR process should be reduced to a one stage procedure. All members agreed that the two stage procedure should be retained, with revised guidance and a review of the decision making process.</p> <p>Bluelight team to progress with input from FRAs on the appropriate body / person to determine each stage.</p> <p><b>Update 12/02/2019</b> Working group to be convened to add to the existing guidance, particularly in relation to timescales and who each stage is heard.</p>	LGA    LGA
02.07.20 18 8g	Review of IHR/ IQMP	Focus group to be formed for full review of ill health retirement and the IQMP process, to include guidance and set of standard forms in conjunction the FCWG.	LGA

		<p><b>Update 12/02/2019</b></p> <p>Existing forms deemed to be suitable for use, following review for completeness. Guidance to be updated in collaboration with FCWG. New resources to be available for ill health conference on 19 June.</p>	LGA/ FCWG
17.09.20 18 3	Benchmarking review of FPS	To note: Aon have been appointed to conduct an Administration and Management Benchmarking review of FPS. While this is not expected to affect the technical group, practitioners are kindly requested to note the exercise and participate openly in the data gathering stage.	
12.02.20 19 4a	MSP/ VSP for transitional members	<p>The technical group were asked to consider what obstacles there would be to treating a whole tax charge as VSP, versus the complications of settling a tax charge using a combination of MSP and VSP. One of the main obstacles was considered to be different deadlines. Administrators have different procedures in place and a process should be put in place that makes scheme pays easy for FRAs to deal with.</p> <p>Notes to be issued, based on the LPP process</p>	LGA
12 02 2019 4b	APB / Temporary Promotion	<p>The query is whether a temporary promotion should be treated as commencing before 1 July 2013, regardless of change of terms after this date. Home Office view is that as the second period of temporary promotion should be treated as an APB, as it occurred after APBs had been introduced.</p> <p>Guidance will be issued based on the Home Office intent of the regulations.</p>	LGA
12 02 2019 4c	Buy back of contributions	<p>The group were asked whether they agree / disagree that a non-active member is eligible to buy back contributions for a period of unpaid leave. All agreed that this should be allowed as the regulations do not prevent it, with a deadline of 6 months from date of leaving.</p> <p>Decision to be communicated in next bulletin.</p>	LGA
12 02 2019 7b	Ill health-injury under protected compensation regulations	<p>In relation to spouses' pensions in respect of retained firefighters who have been awarded an ill-health pension under Part 8, rule 2, paragraph 4 of the compensation scheme, where the member has not died as a result of the qualifying injury. How should cases be treated where there may be an expectation of benefits or they may already have been put into payment.</p> <p>Suggested to write to all affected members now to remove any expectation of payment. A reminder will be issued in a future FPS bulletin.</p>	LGA