



FPS Bulletin 28 – January 2020

Welcome to issue 28 of the Firefighters' Pensions Schemes bulletin and a belated Happy New Year!

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 the contents of this bulletin or suggested items for future issues, please contact [Claire Hey](#).

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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 contact [Claire Hey](#).

Fire Communications Working Group	4 February 2020
North East regional FPOG	12 February 2020
Midlands regional FPOG	18 February 2020
Eastern regional FPOG	25 February 2020
South East regional FPOG	28 February 2020
SAB LPB effectiveness committee	5 March 2020
LGA annual Fire conference and exhibition	10-11 March 2020
SAB	17 March 2020 – amended
SAB	11 June 2020
SAB	17 September 2020
Firefighters' Pensions AGM – save the date!	22-23 September 2020
SAB	10 December 2020

FPS

[Update on transitional protections remedy \(Sargeant\)](#)

We understand that firefighters, administrators, and employers are eager to receive guidance from Government to enable them to implement remedy. We are working with the Home Office, however, implementation is very complex given that some members will be better off in the new schemes and there are a number of issues that need central government direction which are being considered by HMT with the input of Home Office and other Government Departments.

In the meantime the position remains that all entitlements including immediate ones should proceed under the 2015 scheme rules for the time being. This includes those who are due to taper into the 2015 scheme should continue to taper, and those due to retire normally at a later date should continue in the 2015 scheme.

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While we understand that the position is frustrating for members and employers alike all members with relevant service will not lose out. In the meantime, it is important that FRAs are acting consistently, so that when remedy is agreed all members are being remedied from the same original position.

This position may be subject to change and this will be communicated immediately to all administrators via email, so please ensure that the LGA team have an updated lead contact for each administrator.

An update on the legal case was given in [FPS Bulletin 27 - December 2019](#), along with suggested text to provide to members and actions that FRAs can take in the meantime. However, there appears to be some confusion over the treatment of claimants and non-claimants. To clarify, claimants are those firefighters who are part of the legal case [Sargeant] and represented by FBU. Non-claimants are all other Firefighter scheme members who are in the same legal and factual position as claimants.

Government have confirmed their intent to extend the same treatment to all members, whether claimants or not who are in the same legal and factual position as the claimants. It is important to note that no member with relevant service will lose out. Therefore, while we recommend that FRAs and administrators note who is a claimant and who isn't, it shouldn't prevent any action in the meantime.

Fire Authority Immediate Action

1. Members with an immediate event have been recognised as a priority and in order to determine the numbers of members in the Firefighters Pension Scheme immediately affected the board request that you complete the attached information sheet ([Appendix 1](#)) as soon as possible and in any event before 29 February 2020.

Immediate retirements 1 January 2020			
Fire and Rescue Authority (Select from the drop down list)	Type (Add any others to the list)	Claimants	Non-Claimants
FRA drop down			
	Ill-Health		
	No ill-health pension in payment because 2015 scheme lower ill-health criteria not met	1	1
	Tier 1 in payment only (refused higher tier in 2015 scheme)	2	5
	Tier 2 in payment under 2015 scheme	2	1
	Immediate retirements (meet 50+ >25 yrs service between 1 January 2020 and 31 December 2020)	2	6
	Due to taper between 01 January 2020 and 31 December 2020	2	10
Total		9	23

2. To avoid unnecessary delay on processing ill-health retirements once central guidance is provided by Government, FRAs should take immediate action as below; to clarify this pre-work should be undertaken by authorities now while awaiting central guidance, however, members should be aware that further information may be needed at a later date in order to process benefits or make decisions.

Current or New Ill-Health cases

- IQMP assessment
 - Members with transitional 1992 benefits. Ask the IQMP to assess the applicant under both the 1992 and 2015 scheme terms.¹
 - Transitional Special Members of the 2006 scheme. Ask the IQMP to assess the applicant under the terms of the 2006 scheme noting that the normal retirement age of a special member is 55²
 - The terms of the IQMP assessment are the same for standard 2006 members and transitional members of the 2015 scheme, therefore assessment under the 2015 terms should be sufficient.

- Estimation of benefits
 - Some members will be better off in the new schemes, for the Firefighters scheme this could be transitional 1992 members who qualify for higher tier ill-health under the 2015 scheme or transitional 2006 scheme members. FRAs should request estimates from their administrators to provide an estimate of benefits to the member under both the terms of their previous final salary scheme or current 2015 scheme terms as a transitional member.

- Annual allowance
 - For some members the impact of treating them as if they had never left their previous final salary scheme might mean that they would have breached the annual allowance limits. Perform a notional annual allowance test on the scheme benefits based on treating them as if they had never left their previous final salary scheme to see if a breach would have occurred.

Retrospective Ill-Health applications

This is where the payment is either already in payment or the member has already been assessed by an IQMP for ill-Health.

The authority should look at all previous ill-health cases from 2015, in order to determine how many members they have in the following categories and take the appropriate action:

1. Assessed for IQMP under 2015 scheme terms and did not meet tier 1, therefore no ill-health pension is in payment.

Action:

- IQMP assessment
 - 1992 transitional member - Request an IQMP assessment under the 1992 terms, if the employer had not already asked the IQMP to assess under both schemes.
 - Special 2006 transitional members – request an IQMP assessment to test tier 1 on the basis of using a normal pension age of 55.

¹ Ill-Health certificates are available here - <http://www.fpsregs.org/index.php/member-area/ill-health-and-injury>.

² Rule 3, Paragraph 3 of FPS 2006 - <http://www.legislation.gov.uk/ukxi/2014/445/schedule/paragraph/2/made>

- Perform a notional annual allowance test on the scheme benefits based on treating as if they had never left their previous final salary scheme.
2. Assessed for IQMP under 2015 terms and met tier 1 requirements but not tier 2, therefore lower tier currently in payment only

Action:

- IQMP assessment
 - 1992 transitional members - Request an IQMP higher tier assessment on ability to perform regular employment under the 1992 terms if the employer had not already asked the IQMP to assess under both schemes
 - Special 2006 transitional member – request an IQMP higher tier assessment on the ability to perform regular employment to a normal pension age of 55.
 - Perform a notional annual allowance test on the scheme benefits based on treating as if they had never left their previous final salary scheme
3. Assessed for IQMP under 2015 terms and awarded higher tier

Action:

- A further IQMP assessment will not be necessary.
- Provide a calculation of the benefits that might be provided under the previous final salary scheme for comparison purposes.
- Perform a notional annual allowance test on the scheme benefits based on treating as if they had never left their previous final salary scheme

Scheme Advisory Board Technical Discussions

In order to remedy age discriminatory treatment across public sector schemes by removing the discriminatory treatment while protecting members who may have been better off in the revised 2015 scheme HMT will be formally launching a consultation later in the year.

Ahead of that formal consultation, Government are informally engaging with public sector pension advisory boards via a series of technical discussions. To respond to this, the Firefighters Pensions (England) Scheme Advisory Board have formed a working group of stakeholders to advise the Home Office, this includes administrators, software providers, NFCC representatives and senior Fire and Rescue officers, issues such as costs and practicality will be considered and these discussions will inform the SAB's response to the HMT consultation expected in spring.

Details of this consultation are currently confidential, however as soon as we are able we will provide an update.

The Civil Partnership (Opposite-sex Couples) Regulations 2019

We reported in [FPS Bulletin 26 – November 2019](#) on the introduction of the Civil Partnership (Opposite-sex Couples) Regulations 2019 [[SI 2019/1458](#)]

As the new legislation simply amends the definition of a civil partnership so that it is not limited to same-sex couples, the FPS regulations can be directly read to interpret that any reference to civil partnerships includes both same-sex and opposite-sex couples. No subsequent amendment of the FPS rules will be required.

Website resources updated

Following the release of the updated Club memorandum and factors, our bite-size training guide to Transfers has been updated <http://fpsregs.org/images/admin/Transfers-Jan-2020.pdf>.

A new page has been added to the member-restricted area of www.fpsregs.org. The [pensionable pay page](#) collates all of our existing resources into one place, including guidance and training materials, along with relevant Pensions Ombudsman determinations.

If you require a log-in for the site, please contact bluelight.pensions@local.gov.uk.

Assistance required – national member website

One of our long-term objectives is the launch of a national website to provide information and guidance for members on the benefits of the FPS. We are working in collaboration with an external organisation to deliver this project, but we need your help!

Specifically, we are looking for images of firefighters which can be used on the homepage. Ideally these will be the property of the FRA in question, royalty-free and not subject to copyright. The image specifications are as follows:

- File format: Jpeg
- Resolution: Minimum of 150 PPI (pixels per inch)
- Essential copyright is owned by the contributor

In terms of timescales for launching the site, much will depend on the determination of remedy and our ability to meet the new accessibility requirements for public body websites. The structure and planned content is largely in place, so please watch this space.

Images can be sent to claire.hey@local.gov.uk. With thanks in anticipation.

Recent TPO determinations

The following determinations have been made recently by the Pensions Ombudsman (TPO) in relation to the FPS. A full history of relevant determinations can be found via our legal landscape webpage <http://fpsregs.org/index.php/legal-landscape/the-pensions-ombudsman>.

[PO – 19150](#) September 2019

In this ill-health case, which was not upheld, the member complained that although he was retired on the grounds of ill-health, his pension from the FPS 1992 was paid as an ordinary pension (Regulation B1) rather than an ill-health pension (Regulation B3). The member claims that he therefore did not receive the level of enhanced pension that he was entitled to and this has also impacted the benefits payable under Regulation B4 (injury award).

In the member's opinion, the Authority's interpretation of the B3 ill-health calculation was partially flawed.

TPO concluded that the Authority had applied the provisions of the scheme correctly, and that while the amounts of the B1 and B3 pensions were equivalent, the pension entitlement was calculated correctly under the ill-health rule.

[PO – 21552](#) November 2019

This case relates to the calculation of final pensionable pay. The member was in receipt of an additional pensionable allowance, which was removed (as specified in the terms of his contract) following 13 weeks of sickness absence. The member later commenced modified duties, which did not attract the allowance.

On retirement two years later, a previous period of pay including the allowance was used to calculate pension benefits. The member complained that as an earlier year was used, he did not benefit from pay increases received in his final two years of service. He asserted that he should have been treated as receiving notional pay inclusive of the allowance, up to his date of leaving.

The Ombudsman determined that the Authority had applied the regulations correctly, and the complaint was not upheld.

[January query log](#)

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

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

[FPS \(England\) SAB Updates](#)

[Vacancy for Chair of the FPS \(England\) SAB](#)

Recruitment is now underway for the next Chair of the Firefighters' Pensions (England) Scheme Advisory Board. The vacancy is advertised on the following link, with a closing date of 16 February 2020:

<https://publicappointments.cabinetoffice.gov.uk/appointment/chair-of-the-firefighters-pension-scheme-advisory-board/>

If you have any queries about this role, please contact Philip Perry on 0207 035 3447 or email philip.perry@homeoffice.gov.uk.

IDRP data collection

For some time, the SAB have considered the issue of Internal Dispute Resolution Procedures (IDRP) and how FRAs can be best supported in the management and resolution of complaints. At their meeting on 9 January 2020³, the Board agreed that data on IDRPs should be collected on an annual basis, in line with the scheme year, to collect numbers of cases and any emerging themes.

One of the key risks identified by the Pensions Regulator (TPR) in their recent report into governance and administration risks in public service pension schemes⁴ was that procedures for recording and learning from complaints and disputes, including trend analysis, do not exist for every scheme. The Regulator is therefore broadly supportive that this data could be collected at SAB level, to identify where further advice and support may be needed.

We have created a spreadsheet to gather the relevant data and this will be issued in the March edition of the bulletin.

Additionally, revised guidance on IDRPs has been drafted and will be circulated to the Board for agreement at their meeting in March, prior to publication.

ABS 2019 survey – now closed

Many thanks to colleagues who were able to submit a response to this year's survey of the ABS process, developed in collaboration with the SAB Local Pension Board effectiveness committee.

The survey is now closed and the data will be analysed to present a draft report to the Committee at their next meeting on 5 March 2020.

Individual FRA submissions have been exported and can be provided on request.

Other News and Updates

Progress of the Pension Schemes Bill

The Bill has been introduced in the House of Lords and the date of the second reading is 28 January 2020. The Parliament website includes the latest versions of [documents related to the Pension Schemes Bill](#), including draft legislation and Explanatory Notes.

HMRC

HMRC newsletters/bulletins

HMRC has published pension schemes newsletter 116 containing important updates and guidance on pension schemes. The following issues are covered:-

- [Pension schemes newsletter 116 – 28 January 2020](#): Pension flexibility statistics | Pension Schemes Online service | Managing Pension Schemes service | Relief at Source - notification of residency status report for 2020 to 2021 | Trust Registration Service |

³ <http://www.fpsboard.org/images/PDF/Meetings/09012020/SAB-draft-minutes-090120.pdf> [Item 11.8]

⁴ <https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/governance-and-administration-risks-in-public-service-pension-schemes-an-engagement-report>

Also published this month:

[Managing Pension Schemes service newsletter](#) – 14 January 2020

Contracting-out reconciliation update

The following bulletins containing important guidance and information about the end of contracting out and the scheme reconciliation process have been published by HMRC in January:

[Countdown bulletin 50 – December 2019](#) with an update on the revised proposed solution for automatically allocating payments.

[Countdown bulletin 51 – January 2020](#) with the proposed solution for allocating payments, including the [part payment breakdown template](#).

If a scheme has made a part payment, HMRC cannot currently identify which members that payment was made for. These bulletins introduce a process that will allow schemes to tell HMRC which members any part payment is in respect of.

Any authorities that have made a part payment, make a part payment in the future, or change a full payment into a part payment must complete the spreadsheet to tell HMRC the individual members that the payment is being made for.

If you have fully paid, and do not intend to change this to a partial payment, then you should still contact HMRC to confirm this position. An early response will enable HMRC to move on to the next stage of allocating the payment you have made to individual members.

The deadline for responses is **13 March 2020**.

Event report and voluntary scheme pays deadline

The deadline for submitting an Event report for reportable events in that occurred in the year ending 5 April 2019 is 31 January 2020. Events that you will commonly need to report are:

- You have made an unauthorised payment
- A member's benefits were tested against the lifetime allowance, their benefits were more than the lifetime allowance and they relied on protection to reduce or eliminate the tax charge. The Event report has not been updated to include Fixed Protection 2016, Individual Protection 2016 or Individual Protection 2014 (if applied for online). You will need to report any cases involving these types of protection by secure email
- You have automatically issued a 'standard' pension savings statement. Note that you may choose to submit this information using a secure email, rather than using the online service.

There are 23 reportable events. [HMRC guidance on sending pension scheme reports](#) provides more information on all events that you must report.

An FRA may have decided to pay a member's annual allowance tax charge on a voluntary basis (voluntary scheme pays) if the conditions for mandatory scheme pays were not met. If you have done so, the deadline for paying that tax for a charge that arose in the year ending 5 April 2019 is 31 January 2020. The member may have to pay interest and late payment charges if this deadline is missed. You can find more information about scheme pays in [FPS Bulletin 4 – January 2018](#).

Training and Events

2020 events

We have put together a topical and varied programme of national events for 2020, based on feedback from the training survey⁵. Details of the dates will be advertised in the [calendar](#) section of the bulletin once finalised.

We will continue to offer bespoke in-house training throughout the year. Each board is entitled to a free annual training session under the statutory levy, however, as the results of our survey indicated a strong preference for regional sessions which allow the opportunity to network and learn from peers, we would encourage FRAs and their boards to consider facilitation of joint sessions with other authorities where possible.

For more information or to book a session, please contact us as at bluelight.pensions@local.gov.uk.

Legislation

SI	Reference title
2020/6	The State Pension Revaluation for Transitional Pensions Order 2020
2020/7	The State Pension Debits and Credits (Revaluation) Order 2020

Useful links

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

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⁵ <http://www.fpsboard.org/images/PDF/Surveys/Training2019.pdf>

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