



## FPS Bulletin 39 – November 2020

Welcome to issue 39 of the Firefighters' Pensions Schemes bulletin.

We hope that readers remain safe and well.

Face-to-face meetings and training remain suspended for the time being due to restrictions on travel and social distancing. However, the Bluelight team are available at home by mobile, email or video (MS Teams, Skype, or Zoom).

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 or suggested items for future issues, please email [claire.hey@local.gov.uk](mailto:claire.hey@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 [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

Table 1: Calendar of events

Event	Date
<a href="#">FPS coffee and catch up</a>	Every second Tuesday from 1 December 2020
Fire Communications Working Group	7 December 2020
SAB	10 December 2020
CIPFA remedy engagement webinar	15 December 2020
North East regional group	17 February 2021
SAB	11 March 2021
SAB	24 June 2021
SAB	9 September 2021
SAB	9 December 2021

## Actions arising

Readers are asked to note the following actions arising from the bulletin:

[2020-2021 statutory levy](#): FRAs to provide a valid purchase order number for invoicing of the annual levy, based on the number of employees eligible to join one of the Firefighters' Pension Schemes at 1 April 2020.

## FPS

### Medical Appeal Boards service update

Readers may have been aware that Duradiamond, the current contracted provider of Medical Appeal Boards, suspended appeal hearings for three months from the end of March due to COVID-19.

In July, hearings recommenced on a limited basis in London.

Duradiamond provided the following service update by email on 13 November 2020:

"We are writing to advise that following a meeting with the Home Office this week, we are beginning to open up regional venues in response to appeal demand.

- We will initially open up Manchester and Leeds and pending cases which have these locations as their venue of choice will be booked accordingly.
- Edinburgh, Birmingham and Bristol are in the process of being confirmed and opened and we will be in touch as soon as the allocated venues have confirmed that they remain open to take bookings whilst Lockdown 2 is in effect.
- Regional venues are being reviewed monthly whilst any lockdown and/or COVID-19 tier structure is in place and an update will be provided to all stakeholders on a monthly basis.

We would also like to update you with regard to remote appeals. At present remote attendance is not able to be accommodated, whether that be remote attendance by any party or a full remote board. Following submission of a proposal regarding the provision of remote hearings (in any format) to the Home Office earlier in the year, the Home Office agreed at our meeting yesterday to support Duradiamond in exploring this undertaking. Duradiamond is setting up a project team to assess the feasibility and practicality of delivering any form of remote service in a secure and confidential manner. Duradiamond is aware that the HMCTS (HM Courts and Tribunals Service) is already trialling audio and video technology capability. We will keep you updated on a monthly basis as the project progresses."

### **Protected Pension Age – HMT easement ended**

You may recall that earlier in the year the tax rules for [protected pension age](#) were relaxed. That meant that for any FRA re-employing a retired firefighter under age 55 and in receipt of a pension from the FPS 1992, they didn't need a month's gap in employment to keep their protected pension age or face tax charges of potentially up to 70 per cent of their lump sum and pension. This was only where re-employment was in relation to COVID-19.

On 6 October HMRC updated [pension schemes newsletter 124 - September 2020](#) to confirm that the protected pension age easement will not be extended and would expire on 1 November 2020.

HMT have confirmed that the expiration of the exemption remains unchanged and that there are currently no plans to change this approach. Those who have returned to support the government's response to COVID-19 before 1 November will however not lose their protected pension age if they continue working after that date. This pension age is protected irrespective of whether they move jobs or employers.

More information can be found on our [COVID-19 and the FPS webpage](#).

## Compensation Scheme – Qualifying Injury COVID-19

Readers will recall that questions have been previously asked as to whether a firefighter being identified with a positive case of COVID-19 would be treated as a qualifying injury for the purposes of eligibility to benefits under the compensation scheme, and the Home Office were asked to provide clear assurances that any firefighter who dies from COVID-19 will be recognised as having died from a qualifying injury.

The Home Office have confirmed the following statement:

“The Home Office is unable to provide such assurances as this this would interfere with the established legal process for determining an entitlement to awards payable under the FCS and may set unhelpful future precedents. The responsibility for making such decisions rests with employing FRAs, who are best placed to consider the relevant facts in each case.

FRAs should note that the [IQMP guidance](#) for the firefighters’ pension schemes and compensation scheme clearly sets out the processes that employers should follow when making a decision on scheme members’ ill-health/injury/death entitlements. Paragraph 3.27 of the guidance sets out that when a case is being referred to an IQMP the employing FRA should state whether or not they accept that the injury/death being considered should be treated as a qualifying injury. This process allows employing FRAs to provide their views on whether any firefighter’s death should be treated as a qualifying injury. As explained above, employing FRAs are best placed to consider the detailed facts in each case in order to make these decisions”

In order to make a decision with regards to whether COVID-19, which is widely present in the general population, has been contracted specifically due to conditions in the workplace, the FRA will need to consider each case on a case by case basis in light of the full facts and a blanket approach would not be appropriate.

In considering whether COVID-19 was contracted ‘in the exercise of duties as a firefighter’ FRAs would need to take several matters into account including but not limited to:

- Whether the incident has been taken into account for sick pay purposes.
- The work (and/or leave) pattern for the individual, being mindful of incubation times.
- Known COVID situations in any incident/location attended.
- Colleagues within the same Crew/Watch known to have been infected in the same timeframe.
- Known results whether positive or negative tested at any point over the relevant timeframe for the case in hand
- Any instruction by the FRS not to attend work within the relevant timeframe because of contact with a colleague who had come into work at a point when they would have been infectious
- FRA risk control measures, such as PPE, Distancing, Hygiene, Work Bubbles etc

- Medical reports

The [HSE advice in RIDDOR](#) (the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013) includes information about making a judgement and reasonable evidence for their purposes.

### **FPS England actuarial factors and guidance notes**

HM Treasury reduced the SCAPE discount rate from 2.8% to 2.4%pa above CPI from 29 October 2018. As a result of the change, the Government Actuary's Department (GAD) undertook a [factor review](#) for the Firefighters' Pension Schemes.

Over the following 12 to 18 months, new factors and guidance notes were issued to FRAs. It has recently come to our attention that the guidance notes for transfers-in and pension sharing on divorce in respect of FPS 2015 were not distributed at that time. We are pleased to now include them below.

- [FPS 2015 Individual Cash Equivalent Transfers – factors and guidance](#)
- [FPS 2015 Pension Sharing on Divorce – factor and guidance](#)

In addition, the following updated factors and guidance have been provided in November:

- [FPS 1992 and FPS 2006 CPD Additional Pension Benefit – factors and guidance](#)
- [FPS 1992 and FPS 2006 CPD Pension Factors](#) (Excel spreadsheet download)

CPD factors (Table X-801) have been extended to begin at age 20 in advance of remedy implementation.

- [FPS 2015 Early payment reductions – factors and guidance](#)
- [FPS 2015 Early Retirement Factors – Deferred members](#) (Excel spreadsheet download)

Early retirement factors for deferred members of FPS 2015 (Table x-403) have been extended to 13 years to allow for members with a State Pension age of 68.

The [consolidated factor workbook](#) has been updated to take account of the changes. All factor tables and guidance notes can be found on our dedicated [GAD guidance webpage](#).

### **FPS 2006 special member tax relief requests**

In [FPS Bulletins 10 - July 2018](#) and [11 - August 2018](#) we advised FRAs of a request from HMRC for information to be provided directly to them with regards to tax relief claims for special members of the FPS 2006. HMRC have now completed their investigations directly with the Home Office and there is no further action for FRAs to take.

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Members should not be directly contacted by HMRC with regards to any tax relief claims made due to becoming a special member. If you are aware of any member receiving a request for payment please refer this to us via [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

### **November 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. New queries have been added under the following categories: contribution banding.

## **FPS England SAB updates**

### **SAB levy 2020-21 – Request for Purchase Order numbers**

Following our update in [FPS Bulletin 38 – October 2020](#), we are pleased to confirm that the SAB budget for 2020-21 has received ministerial approval and we can now start the invoicing process.

In 2014, FRAs entered a shared arrangement to fund a technical adviser post to support FRAs with their understanding and management of the Firefighters' Pension Schemes. The employers' voluntary subscription is included in the final levy.

The total levy for the 2020-21 year will be £8.29 per firefighter, which is calculated at £6.20 for the SAB and £2.09 for employers. A letter has been sent out to Chief Fire Officers advising them of this.

Devolved FRAs have also been sent levy requests with regards to the employer advice service provided to them by the LGA.

The first stage of the process is for FRAs to provide a valid purchase order number, stating the number of employees eligible to join one of the Firefighters' Pension Schemes at 1 April 2020. The form at [Appendix 1](#) should be used to provide this information.

### **TPR 2019 Governance and Administration Survey**

As you may be aware, the results of the [2019 Governance and Administration survey](#) have now been published by The Pensions Regulator (TPR).

The performance of the Firefighters' Schemes is commented on throughout and the Scheme Advisory Board will consider any further actions they may take.

The TPR [six key processes factsheet](#) will be updated to reflect the latest performance and give further guidance to FRAs in order to achieve a higher rate of understanding and compliance ahead of the 2020 survey.

At their meeting on 17 September 2020 the Board considered a report summarising the [results of the COVID-19 governance survey](#) designed to measure the impact of the coronavirus pandemic on pension scheme governance.

## Other News and Updates

### Restriction of exit payments in the public sector

We confirmed last month that [The Restriction of Public Sector Exit Payments Regulations 2020](#) came into force on 4 November 2020.

Following the enactment of the Exit Payment Regulations, HM Treasury (HMT) published the following documents:

- [Guidance on the 2020 Regulations](#)
- [Directions](#)
- [Equalities Impact Assessment](#)

Although the regulations have limited application for the FPS, FRAs will also have employees who are members of the Local Government Pension Scheme (LGPS).

The Local Government Pensions Committee (LGPC) has provided detailed information about the changes for LGPS and any actions for scheme employers in [LGPC Bulletin 203 – November 2020](#).

### TPR pledge to combat pension scams campaign

On 10 November 2020, TPR launched the [pledge to combat pension scams](#) campaign. The initiative asks administrators and employers to commit to the six pledge principles to show their intent to protect scheme members from losing their benefits in transfer scams.

The pledge is supported by the Pension Scams Industry Group (PSIG) and follows the principles of the [PSIG Code of Good Practice](#).

### ICO issue new statutory code of practice on DSARs

At the end of October 2020, the Information Commissioner's Office (ICO) issued its new statutory code of practice on data subject access requests (DSARs). It is aimed at data protection officers (DPOs) and those with specific data protection responsibilities in larger organisations. Along with providing additional guidance and clarity, the new code of practice is particularly relevant for administrators dealing with increased data requests from members, IFAs and claims management companies in respect of past transfers.

To find out more visit the [Right of access page](#) on the ICO website.

## **DB schemes must equalise past GMP transfers**

On 20 November 2020, the High Court ruled that trustees who do not equalise a member's guaranteed minimum pension (GMP) benefits at the time of calculating a cash equivalent transfer value (CETV) have committed a breach of duty. Defined benefit (DB) schemes providing GMPs should revisit historic CETVs made in the past 30 years and top them up where necessary. The judgment does not force organisations to actively correct all pensions transfers, however, employers may look to do so to avoid legal proceedings from members affected.

This [latest judgment on GMP equalisation](#) follows the initial judgment made in October 2018 involving Lloyds banking group.

We are discussing implications for the FPS with the Home Office.

## **Events**

### **Joint Fire and Police CIPFA webinar – Sargeant/ McCloud stakeholder management**

CIPFA is running a joint Fire and Police webinar on Tuesday 15 December at 10am:

“Stakeholder management will be a key component of your plan to deliver the McCloud remedy. In this seminar, we will cover the changes faced by a variety of stakeholders in the Police and Fire Network. The focus will be on member engagement, the member journey and the opportunity that presents, whilst managing the risks.”

As registration is not yet open for this event, we will circulate details by email to the bulletin distribution list as they become available.

### **FPS coffee mornings**

We are continuing to run our MS Teams coffee mornings every second Tuesday while social distancing measures remain in place. These 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.

The next event is scheduled to take place on 1 December 2020.

If you would like to join us, please email [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) and we will add you to the invite list for the sessions.

## **HMRC**

### **HMRC newsletters/bulletins**

HMRC has published the following newsletter containing important updates and guidance on pension schemes:

[Pension schemes newsletter 125 – 30 October 2020](#)

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- Temporary changes to pension processes as a result of coronavirus
- Managing Pension Schemes service – financial information
- Relief at source declaration – APSS590
- Pension flexibility statistics
- Signing in to online services
- Registration statistics

## 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](#)
- [LGPS Regulations and Guidance](#)
- [LGPS member site](#)

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