

## FPS Bulletin 54 – February 2022

Welcome to issue 54 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](mailto: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](mailto:bluelightpensions@local.gov.uk).

Table 1: Calendar of events

Event	Date
<a href="#">FPS coffee morning</a>	8 and 22 March 2022
Fire Communications Working Group	1 March 2022
FPS Technical Group	7 March 2022
<a href="#">LGA Annual Fire Conference and Exhibition</a>	15 – 16 March 2022
Eastern Region Fire Pension Group	21 March 2022
SAB	24 March 2022
SAB	23 June 2022
SAB	8 September 2022
SAB	8 December 2022

## Actions arising

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

[Abatement](#): Scheme managers to review abatement policy in light of Pensions Ombudsman determination PO-25374.

[Prospective remedy \(1 April 2022\)](#): All parties to ensure changes needed for 1 April 2022 are in place before that date.

[Administrator remedy self-assessment](#): Administrators to complete self-assessment survey by 18 March 2022.

## FPS

### Immediate Detriment Framework update on current position

We know that FRAs are keen to understand the current position of the Immediate Detriment Framework while they continue to consider adoption. For the time being, the current position as reported in [FPS Bulletin 52 – December 2021](#) remains unchanged and FRAs taking decisions on cases following the withdrawal of the Home Office guidance should speak to their nominated contact.

The LGA is continuing to press the government for further advice, and we are aware that similar issues are now arising across the other public service schemes. We will provide a more substantive update as soon as we are able.

To assist us with these discussions and to identify any necessary solutions we have approached FRAs to clarify their current position on immediate detriment and adoption of the Framework as well as any barriers they are encountering. FRAs were asked to respond no later than 28 February and, at publication, we have received 25 replies.

As we are still waiting for a proportion of FRAs to respond, we are intending to extend the deadline to Friday 4 March. FRAs who are yet to submit a response will be contacted directly and encouraged to do so where possible.

### Abatement update

Subscribers to our Coffee Mornings will recall that the session held on 7 February 2022 was dedicated to abatement. This was in light of the recent [Pension Ombudsman ruling – PO25374](#).

In summary, the FRA identified a re-employed pensioner who should have been abated on reemployment but wasn't and, as a result, an overpayment of pension was identified, which the FRA sought to recover. The member challenged this as they believed that the FRA had a duty of care to alert them at the outset that their pension would be abated.

The complaint was partially upheld. The Ombudsman determined that the FRA didn't have an additional duty of care to the member other than the requirement to provide factually correct information. The complaint was upheld to the extent that the FRA did not follow reasonable process when exercising their discretion under rule K4 of FPS 1992 and making its decision to abate the members pension.

For those wishing to familiarise themselves with the presentation, the [abatement slides](#) are available on the [Coffee Morning section](#) of the [FPS Regs and guidance website](#).

As suggested at the session, we have taken advice from the SAB's legal advisor. They were asked to provide an informal view on the PO determination and, as a result, should FRAs consider changing their policy on blanket abatement.

The response confirmed that the PO determination is correct. The determination is supported by case law on exercising discretions, and the process that should be followed.

The main issue here is that the FRA had a blanket policy which stipulated abatement would apply. This meant that there was no room for 'discussion' in terms of the circumstances in which abatement would not apply.

The Board's legal advisor confirmed that it would have been fine for the policy to state that only in exceptional circumstances would abatement not apply, but even then, the FRA would need to show on a case-by-case basis that consideration was given as to whether any exceptional circumstances existed.

**Action for FRAs** – To review all existing policies on abatement and make necessary changes to ensure that proper consideration is taken when agreeing whether abatement should apply. It is also recommended that FRAs formally document each decision to evidence that they have made an informed decision.

In addition to the above, FRA may now wish to revisit previous decisions and possibly 'correct' any prior procedural deficiencies by now considering whether any 'exceptional circumstances' (as outlined in the FRAs policy) apply. If there are and were 'exceptional circumstances' that existed, then the FRA would need to address those on a case-by-case basis.

We are currently in the process of updating the abatement guidance, however, as the existing factsheet doesn't make any reference to the application of a blanket abatement policy FRAs can be assured that they can still use the document.

### **Preparation for 1 April 2022**

With April only weeks away we thought it would be prudent to provide FRAs and administrators with some guidance as to what **must** happen to ensure a smooth transition for their members.

It should be common knowledge by now that with effect from 1 April 2022 **all** protected members will be treated as members of the FPS 2015. The [Public Service Pensions & Judicial Offices Bill](#) (PSPJO Bill) is clear that no-one can remain in the legacy scheme from 1 April 2022. Payroll and administration systems **must** show the member in the reformed scheme from 1 April 2022, this includes ensuring that the correct contributions are being deducted.

You **must** also ensure that members are clear on which scheme they are in from 1 April 2022. To assist you with this, we have provided a [suite of letters](#) which we recommend are used when communicating with members. In addition, as per our disclosure factsheet, members **must** be informed of any change in their contribution banding. It is recommended that this is communicated immediately, however, the regulations do provide FRAs with three months' grace.

**Failure to comply with the above direction would constitute a legal risk for the FRA which could result in further litigation.**

### **Scheme members with fixed or enhanced lifetime allowance (LTA) protection**

If, as an employer or administrator of the FPS you think that some of your members may hold a form of fixed or enhanced protection from LTA charges, you need to tell them, if you haven't already, to act before 1 April 2022 if they want to avoid losing their protection.

Your members may wish to seek independent financial advice to help them to understand the impacts and decide the best course of action regarding protections from lifetime allowance charges.

The government's remedy proposals mean that individuals who originally lost their enhanced or fixed protection solely due to joining the reformed scheme (and not due to a subsequent action, such as benefit accrual) will not have lost their protection. However, they will lose their protection if they accrue benefits under the reformed scheme from 1 April 2022.

To keep fixed or enhanced protection:

- individuals who have not yet joined the reformed scheme will need to opt out of joining that scheme by 1 April 2022.
- individuals already in the reformed scheme will need to stop accruing benefits from 1 April 2022.

Members will need to speak to their scheme administrator about how to:

- opt out of the reformed scheme
- stop accruing benefits from 1 April 2022

Further guidance on what members need to do to reinstate their protection because of the Sargeant remedy will be provided by HMRC/ HM Treasury at a later date.

### **FPS contribution rates 2022-23**

Banded contribution rates were introduced to the Firefighters' Pension Scheme 1992 and the Firefighters' Pension Scheme (England) 2006 by Statutory Instruments [2012/953](#) and [2012/954](#) respectively.

These rates have subsequently been amended each year by an amendment order to the schemes. The most recent amendments<sup>1</sup>, which came into force on 1 April 2015, listed the rates applicable from 2015-2016 to 2018-2019, including contribution rates for Special Members of the Firefighters' Pension Scheme (England) 2006.

The Firefighters' Pension Scheme 2015 was introduced on 1 April 2015 by SI 2014/2848. [Regulation 110](#) set out details rates applicable from 2015-2016 to 2018-2019.

For 2019-2020, FRAs were instructed that the 2018-2019 rates would continue to apply, due to the pause of the cost-cap mechanism. These rates will continue to apply for 2022-2023. The [contribution rate factsheet](#) reminds FRAs of the contribution rates set out in the above Regulations and Orders which will apply from 1 April 2022.

### **Administrator self-assessment survey launched**

As mentioned in [FPS Bulletin 53 – January 2022](#), we are pleased to confirm the launch of our administrator self-assessment survey. The survey was emailed directly to administrators on 24 February 2022. We are hoping that the survey will give us a better understanding of the preparations which administrators have made in relation to the implementation of the age discrimination remedy as well as their readiness for Matthews and Pension Dashboards.

Once the survey has closed, we will analyse the data and provide a report to the SAB for a forthcoming meeting. Welsh administrators are also invited to complete the survey and the data will be shared with the Welsh Scheme Advisory Board.

We ask that administrators are as open as possible when completing the survey, as it will help us understand the challenges you are facing and consider what additional support and advice is needed.

It would be greatly appreciated if responses could be submitted by 18 March 2022.

### **Technical 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 is updated monthly in line with the bulletin release dates.

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<sup>1</sup> [SI 2015/579](#), [SI 2015/590](#)

Queries have been answered this month in the following categories: Compensation Scheme (page 41) and Special Member (page 73). Queries from earlier months have been grey shaded to differentiate from new items.

## FPS England SAB updates

### FPS Remedy 2015 – Your questions answered

Following the Scheme Advisory Board (SAB) [meeting of 30 September 2021](#) an action was taken to commission a suite of illustrative member scenarios to provide members with a better understanding of the implications of the McCloud/ Sargeant remedy on their benefits. This is to include a selection of members personas across the schemes, with benefits illustrated at a range of key retirement milestones.

Barnett Waddingham was appointed to deliver this work following a successful procurement exercise and as part of the project, suggested delivery of a warm-up communication to answer some key concerns or recurring questions that members have about the changes that are due to take place on 1 April 2022 and beyond.

Even though there is a lot of information available, we still find that there are many 'myths', 'untruths', 'fake news' etc. circulating and it is clear from activity on various social media platforms that some firefighters do have gaps in their knowledge when it comes to remedy. We find it concerning that employees may be relying on these forums to make life changing decisions and feel that it is appropriate and desirable for individuals to be fully armed with factual information before making such decisions.

We are therefore pleased to present the [FPS 2015 Remedy 'fact checker'](#) which has been developed by Barnett Waddingham, in collaboration with the SAB the Board secretariat, and the Scheme Management & Administration committee. We hope that this document will alleviate some concerns and answer some unknown questions for the FPS membership.

This document is intended to be circulated as widely as possible. We ask that you distribute this within your authorities using your normal communication channels, including uploading to any internal or external member-facing websites as appropriate. The document text has been added as a new page to the [FPS Member 2015 Remedy section](#), with the PDF available as a download.

Please note that the text around Annual Allowance limits has been updated since the original version was circulated on 10 February, to confirm the lower tapering limit as £4,000 and add context around when this might apply.

The illustrative scenarios are currently being finalised and will be provided in early March.

## **Joanne Livingstone responds to letter from South Yorkshire Local Pension Board**

On 25 January 2022, the chair of South Yorkshire FRA's Local Pension Board (LPB) wrote to the chair of the Scheme Advisory Board (SAB) to express concern about the withdrawal of the Home Office informal guidance on immediate detriment.

Joanne Livingstone responded on 18 February outlining action taken by the Board to date and asking for agreement for the letters to be made public. The exchange of letters has been published to a new page on the SAB website called [‘correspondence’](#).

The SAB is currently still awaiting a response to its letter to HM Treasury of 17 December 2021.

## **SAB SMA committee vacancy**

The Board continues to carry a vacancy on the [Scheme Management and Administration \(SMA\) committee](#) for an FRA LPB representative. The main objectives of the committee are to provide guidance to the SAB to understand the value and cost of administration and to consider how scheme managers and administrators can best be supported by identifying best practice.

This is a great opportunity for an LPB member to get more involved with governance at a national level and represent the views of the sector.

The required commitment is usually three to four meetings per year, and these are currently being held virtually. If you are interested in sitting on the committee or would like more information, please email [bluelightpensions@local.gov.uk](mailto:bluelightpensions@local.gov.uk).

## **Other News and Updates**

### **Head of pensions**

As some of you will be aware, Jeff Houston is retiring from the role of Head of Pensions at the LGA and Secretary to the Local Government Pension Scheme Advisory Board (SAB) in England and Wales on 31 March 2022.

We are pleased to confirm that following a competitive recruitment exercise Joanne Donnelly will be taking over the role from 1 April 2022. Jo is currently Senior Pensions Secretary at the LGA and Deputy SAB secretary. She previously worked at HM Treasury.

### **DWP consultation on pensions dashboards**

As reported in [FPS Bulletin 53 – January 2022](#), on 31 January 2022 the Department for Work and Pensions (DWP) published a [consultation on draft Pensions Dashboards Regulations](#). The consultation will run for six weeks and close on 13 March 2022.



Pensions Dashboards will allow individuals to see information about all their pensions, including the State Pension, in one place. These draft regulations set the requirements to be met to deliver this and will place a legal duty on pension providers to provide information to the dashboards.

The consultation proposes a staging deadline of the end of April 2024 for public service pension schemes, including the FPS. This means that FPS administrators will need to be able to connect to the digital architecture by this date and be ready to provide individuals' data to them via the dashboards.

We will be responding to the consultation on behalf of the LGA and the SAB. Our response will express concern about FPS administrators' ability to meet the staging deadline given the other pressures they face and the data that will be available at that time.

We expect the McCloud remedy regulations to come into force from 1 October 2023. FPS administrators will already be under huge pressure at this time, implementing the retrospective part of remedy. We anticipate that the second options exercise for special members of FPS 2006 (Matthews) may be underway by then too, adding further resource pressure on FRAs and their administrators.

We have significant concern that the information available in April 2024 will not reflect both the legacy and reformed scheme benefits that a member could choose from at retirement. This is because the first set of annual benefit statements that will include remedy benefits will not be issued until August 2024. Providing members will incorrect or incomplete information could undermine the credibility of the dashboard and decrease member engagement.

For these reasons, our response will state that we are doubtful that a staging deadline of April 2024 is achievable.

### **TPO webinars**

As a reminder, the Pensions Ombudsman (TPO) is running a series of short webinars at the end of March. Topics will include:

- A general introduction to TPO
- The work of the Early Resolution Service
- Volunteers
- How to Avoid The Ombudsman

To register your interest in attending any of these events, email [stakeholder@pensions-ombudsman.org.uk](mailto:stakeholder@pensions-ombudsman.org.uk).

The Ombudsman has also added three new factsheets to its website:

- [Death benefits](#)
- [Ill health pensions](#)
- [Pension scams](#)

### **State Pension age review: call for evidence**

Under the Pensions Act 2014, the Government must undertake an independent review of the State Pension age every six years. Baroness Neville-Rolfe will prepare an independent review making recommendations to the Government on what metrics it should consider when setting the State Pension age in future.

On 9 February 2022, DWP launched a call for evidence to gather views on this subject to feed into that review. The [independent report call for evidence](#) will close on 25 April 2022.

The call for evidence seeks views from members of the public and all interested parties on various points including:

- Intergenerational fairness
- Notice periods for State Pension age changes
- Changes in working patterns
- Predicted future changes to the workplace
- Sustainability and affordability
- Options for taking into account differences in circumstances when setting State Pension age
- What metrics should be considered to determine State Pension age.

### **Automatic enrolment trigger remains the same**

DWP has published its review of the automatic enrolment trigger for 2022/23. The earnings trigger will remain at £10,000. This is a real term decrease in the value of the trigger and the Government estimates this will bring a further 17,000 savers into pension savings, when compared to increasing the trigger in line with average wage growth.

## **HMRC**

### **HMRC publishes Pension Schemes Newsletter 137**

On 28 February 2022, HMRC published [Pension Schemes Newsletter 137](#), which contains articles on:

- Public service scheme members with fixed or enhanced protection
- Loss of Lifetime Allowance protection
- Relief at source
- Digitisation of relief at source
- Scheme Pays reporting
- The managing pension schemes service

## **Managing Pension Schemes service – migration of schemes**

[Pension schemes newsletter 137](#) provides an update on the migration of pension schemes from the Pension Schemes Online service to the Managing Pension Schemes service. The feature for migrating pension schemes will be available from 11 April 2022.

Scheme administrators must be [enrolled on the Managing Pension Schemes service](#) to be able to migrate their pension schemes.

To migrate pension schemes to the Managing Pension Schemes service, you'll need to provide some up-to-date information for each scheme. The information can be found in [Appendix A of Pension Schemes Newsletter 136](#). We'd encourage you to start collating this information, so you're prepared to migrate your pension scheme(s).

On the 11 April HMRC will provide further guidance on the new features being added to the Managing Pension Schemes service.

Please email [migration.mps@hmrc.gov.uk](mailto:migration.mps@hmrc.gov.uk) if you have any questions or feedback on the Managing Pension Schemes service.

## **Events**

### **FPS coffee mornings**

Our MS Teams coffee mornings are continuing every second Tuesday. 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.

The next session is due to take place on 8 March 2022 and will focus on preparations for 1 April 2022.

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

[7 February 2022 – Pension Dashboards – an overview \(The Pensions Regulator\)](#)

[22 February 2022 – Pension Dashboards \(Featuring Heywood Pension Technologies\)](#)

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

## Legislation

SI	Reference title
2022/88	<a href="#">The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling) Order 2022</a>
2022/158	<a href="#">The Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) (Amendment) Regulations 2022</a>

## 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](#)
- [LGPC Bulletins](#)
- [LGPS member site](#)
- [Scottish Public Pensions Agency - Firefighters](#)
- [Welsh Government Fire circulars](#)

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# For those grappling with Firefighters' pensions, Perspective provides the very best tool to find the right answer!

Perspective Table of Documents Recently Opened Title or Abbreviation

SI 1992/129 The Firemen's Pension Scheme Order 1992 (E) ★

**C1 Spouse's ordinary pension**

(1) This rule applies **Subject to paragraph (1A) this rule applies** where a person entitled to reckon at least **3 years'** **2 years'** pensionable service dies, leaving a **surviving spouse or civil partner**—

(a) while serving as a **regular firefighter**, unless an election under **rule G3** not to pay pension contributions had effect at the time of his death, or

(b) while in receipt of an ordinary, short service or ill-health **pension**, or

(c) while in receipt of an **injury pension under the Compensation Scheme**, if he has been but no longer is in receipt both of that **pension** and of an ill-health **pension**, or

(d) in consequence of an **injury** on account of which he **retired** from service as a **regular firefighter** with an ill-health gratuity, if he has not since had any period of such service.

(1A) This rule does not apply to a person who dies leaving a spouse or civil partner while serving as a **regular firefighter** if **paragraph (6) of rule A3** applied to that person.

(2) Where this rule applies the **surviving spouse** is, subject to paragraph (3), entitled to an ordinary **pension** calculated, subject to **Part 1 of Schedule 11** (calculation in certain cases where deceased serving or entitled to **pension** on 1st July 1973), in accordance with **Part 1 of Schedule 3**.

(2) Where this rule applies the **surviving spouse** or surviving civil partner is entitled to an ordinary **pension** calculated in accordance with **Part 1 of Schedule 3**.

(2A) Subject to paragraph (3), the **The surviving civil partner** is entitled to an ordinary **pension** of such amount as bears the same proportion to the ordinary **pension** to which he would have been entitled had he been the deceased's **surviving spouse** (calculated in accordance with **Part 1 of Schedule 3**), the same proportion that the deceased's service after 5th April 1988 bears to the whole of his pensionable service.

(3) Where the deceased died while serving as a **regular firefighter**, the **surviving spouse or civil partner** is entitled to an ordinary **pension** calculated in accordance with **Part 1 of Schedule 3**.

## KEY FEATURES

- Consolidated versions of the 3 main sets of Scheme Regulations (and for each scheme, different jurisdictions: for example, we have separate versions of the 1992 Pension Scheme Order for each of England, Wales and Scotland);
- Ability to see Firefighters' Regulations as in force on any date in the past or at any date in the future (known as Time Travel);
- Help schemes deal with the legislative implications of McCloud;
- News stories, consultations and regulatory updates relating to Firefighters' pensions included in our daily news service;
- Ability to annotate the text of any legislative or other document, enabling your most experienced team members to share their knowledge with their less experienced colleagues;
- Powerful search engine allowing you to search the whole of Perspective (over 30,000 documents) or confine the search to documents relating to firefighters' pensions.

Perspective

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