

Firefighters Pension Scheme

Annual General Meeting
Day Two

25 September 2019

www.local.gov.uk



@LGAworkforce #LGAFirepensions

Welcome to London!



Agenda

- Chair's Welcome
- A view from government, Amar Pannu, Head of Police and Firefighters' Pensions, Home Office
- Administration and Benchmarking Review - Key Outcomes, Craig Payne, AON
- Workshops and feedback
- Case Law Update, Eversheds
- LGA Update
- Closing remarks

Workshops

1. National Performance Monitoring – Eaton-Cockell Room (Floor 7)

Helen Scargill, West Yorkshire Pension Fund and **Tara Atkins**, West Sussex County Council

2. Abatement – Smith Square 1 & 2

Alec Bennet, Eversheds Sutherland and **Claire Hey**, LGA

3. Transitional Pension Calculations– Bevin Hall

Clair Alcock, LGA

Chair's welcome

Malcolm Eastwood

**Chair of the Firefighters Scheme
Advisory Board (England)**

Administration and management

Each of the 45 English Fire and Rescue Authorities (FRAs) are responsible for the management and administration of their scheme and are defined in law as the scheme manager - Responsibility to comply with over-riding pension legislation is on each FRA.

At present this responsibility is managed differently within each FRA, this can depend on whether they are a combined authority or whether the FRA function sits within a county council, PFCC or mayoral function.

Each FRA is required to administer the pension scheme either in-house or appoint a third party administrator. There are currently 19 different pension administrators across the 45 FRAs, a list of Authorities and their administrators can be found here.

Firefighter Pension Scheme Members

1992 Scheme	2006 Scheme (Standard Members)	2006 Scheme (Special Members)	2015 Scheme	Compensation Scheme
Protected standard members	Protected standard members	Protected special members	2015 only	Benefits based on service
	Protected retained members		1992 transitional	Protections for retained firefighters with a qualifying injury before 1st April 2014
			2006 standard transitional	
			2006 standard retained transitional	
			2006 special transitional members	

Funding

The top up grant provided from central government covers pension payments only. It does not fund administration and management of the scheme.

Unlike centrally administered schemes, where the employers pay an administration levy, FRAs have to fund pension costs arising from the administration and management of the scheme from their operating accounts.



Supporting pensions since 2015!

2016 Valuation

- **Notified that the cost cap had breached below 2% floor at 11.6%, triggering the mechanism for improvement**
- **SAB consulted on changes to the scheme design to align member costs back within target cost cap of 16.8%**
- **Aware of significant pressure the employer increase put on employers**
- **Written Ministerial Statement on 30 January 2019 paused the cost cap process.....**

SAB Committees

- **Local Pension Board Effectiveness committee continues its work to support Local Pension Boards**
- **Cost Effectiveness committee worked on both valuation recommendations and benchmarking report**
- **Administration and effectiveness committee working hard to carry forward report recommendations.**

Benchmarking report

- **Critical project for the SAB**

- **Commissioned to understand**
 - 1. How much are scheme management costs**
 - 2. How effective is the management and administration of the scheme.**

- **Critical to understand where we are now, with regards to the costs and levels of service provided.**

A View from Government

Amar Pannu

Head of Police and Firefighters' Pensions

25 September 2019





Administration and Benchmarking Review

Firefighters' Pensions (England) Scheme Advisory Board
25 September 2019
Craig Payne

Agenda

- 1** Recap of project's scope and objectives
- 2** A personal reflection and the challenges faced
- 3** Report's recommendations
- 4** Themes
- 5** Next steps (Clair)
- 6** Questions

Firefighters' Pension Scheme - Administration and Benchmarking Review

The Firefighters' Pension Schemes

What we knew

Firefighters' Pension Schemes Regulations and Guidance



Source: www.fprsregs.org/

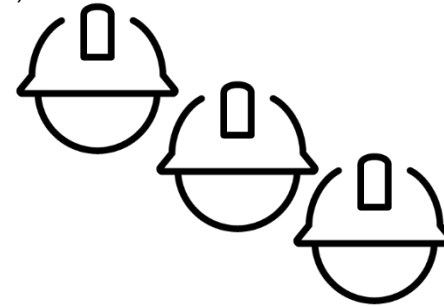
££ Member contributions: 8.5% to 17% of pay
Employer contributions: 27.4% to 37.3% of pay

What we didn't know

How much are scheme management costs?
How effective is scheme administration?

	Total
Number of pensioners	42,732
Total deferred members	13,419
Active regular members	23,853
Active retained members	9,848

Source: Home Office, Fire statistics Table 1304 (Autumn 2018)



45 Fire
authorities

Collating data



Sought views from stakeholders in surveys

- Fire and Rescue Authorities
- Administrators
- Members



Listening meetings

- Originally designed to collect qualitative data
- In reality these helped shaped the surveys
- Resulted in extended consultation period




Are there any themes / patterns?



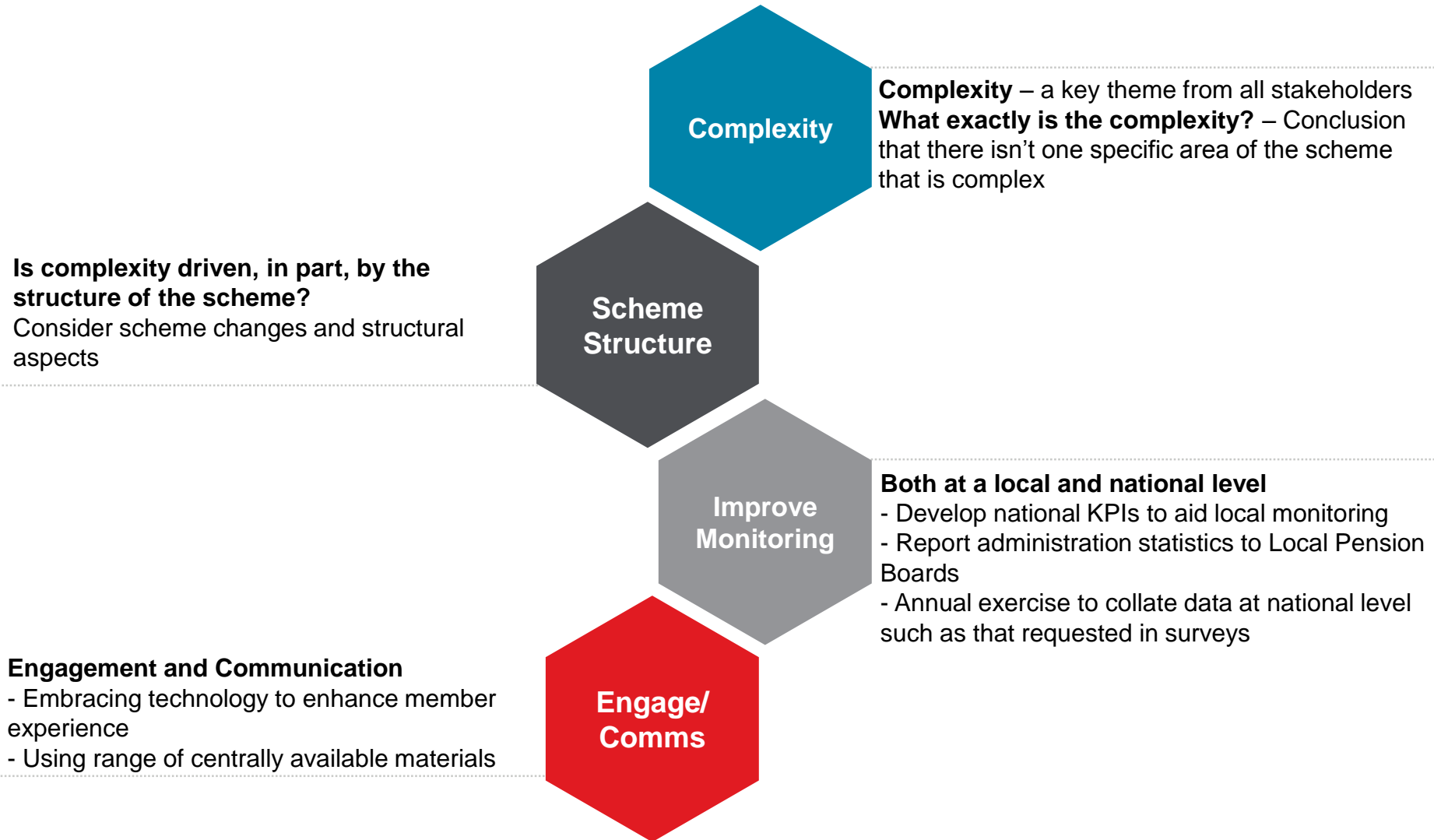
Could anything be done differently/better?

Marketed via various mediums – Thanks to those who promoted engagement

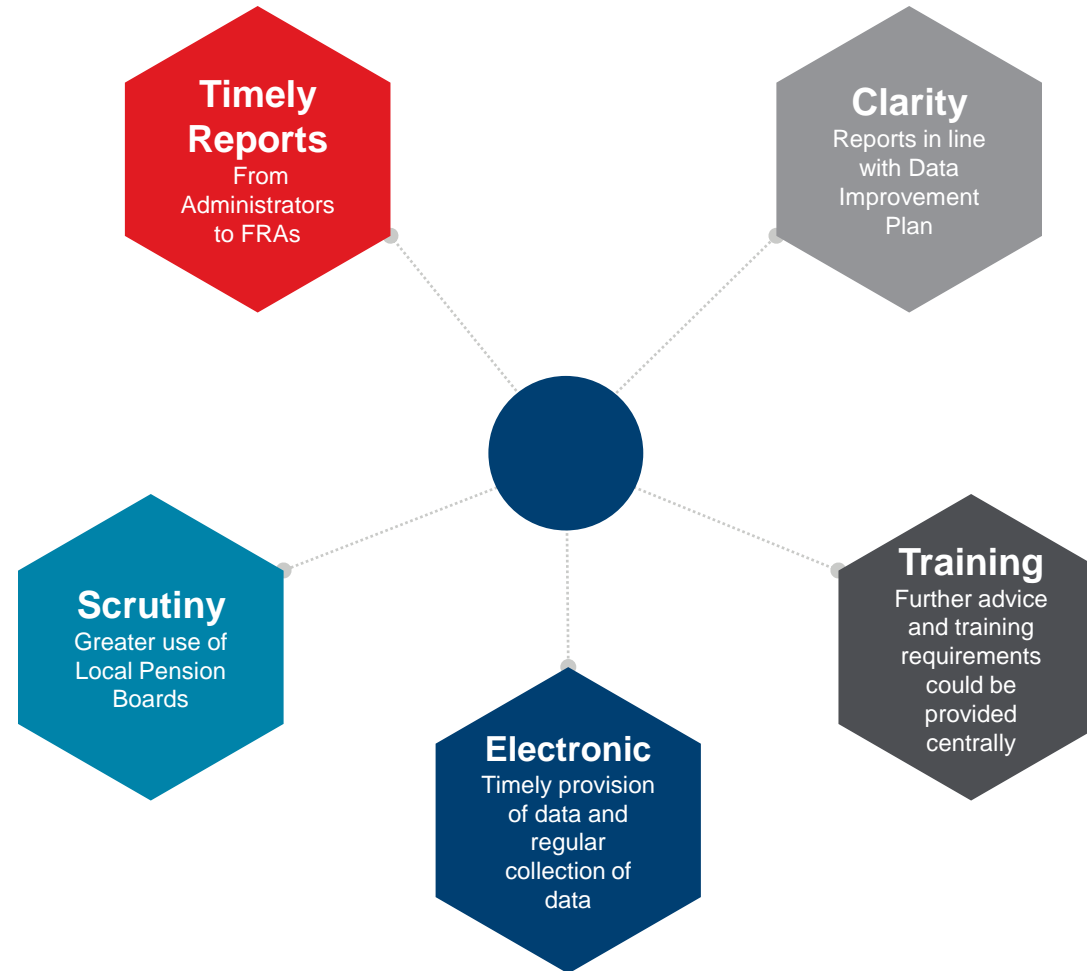
Challenges faced

- 
- We didn't receive a truly consistent response to some questions – in particular to costs questions
 - Clear that some responses didn't receive necessary oversight
▪ Also clear that the relevant personnel were not consulted when providing responses
 - Finding a comparative scheme to assess costs information against

Recommendation 1 – Reduce Complexity



Recommendation 2 – Addressing data issues



Collaborative approach to data issues

Recommendation 3 – Adding clarity to timescales



- Not all **legal timescales** are being measured so lack of clarity on whether these are being met
- Often other turnaround times are being measured
- Suggest that Scheme Advisory Board consider options to **encourage best practice** – e.g. Pensions Administration Strategy



Pensions Administration Strategy

- Locally developed and made public. Demonstrate best practice
- Set out aims and objectives – how would they be achieved
- Measure performance of objectives/plan when not achieved



- Use to **address lack of consistency** across scheme at present

Recommendation 4 – Improve engagement with administrator & FRA

Greater Scrutiny and Complexity

- Public Service Pension Act 2013
- Scheme changes for past 15 years

Requires Greater Engagement

- Greater collaboration and working together required
- **Local Pension Boards** – key role in improving administration and promoting existing range of LGA training material and signposting

Recommendation 5 – Ensure resource plans in place

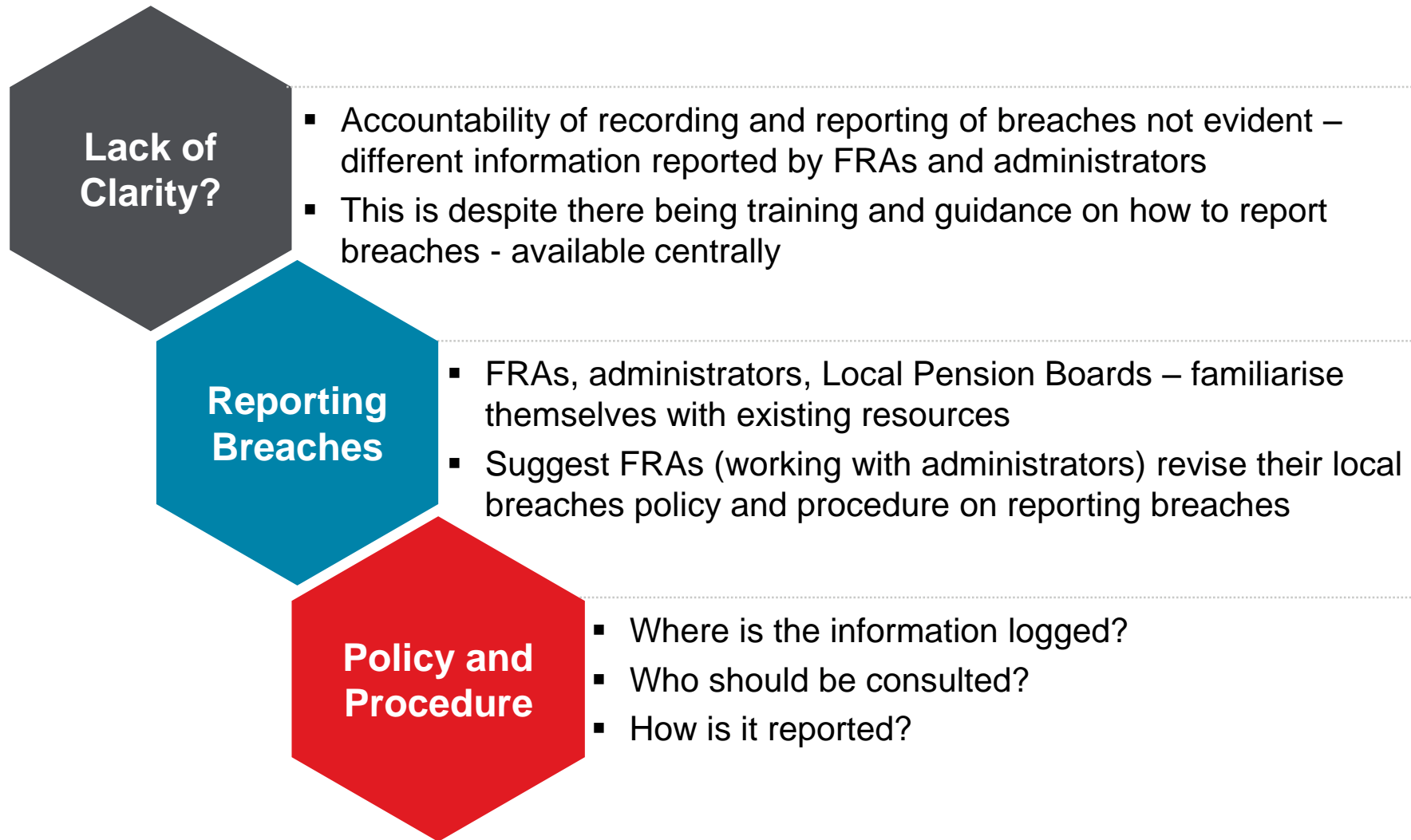
Resource challenges

- Clear resourcing difference across the Scheme
- Recommend continued use of national groups and collaboration across the Scheme to help with those resource challenges

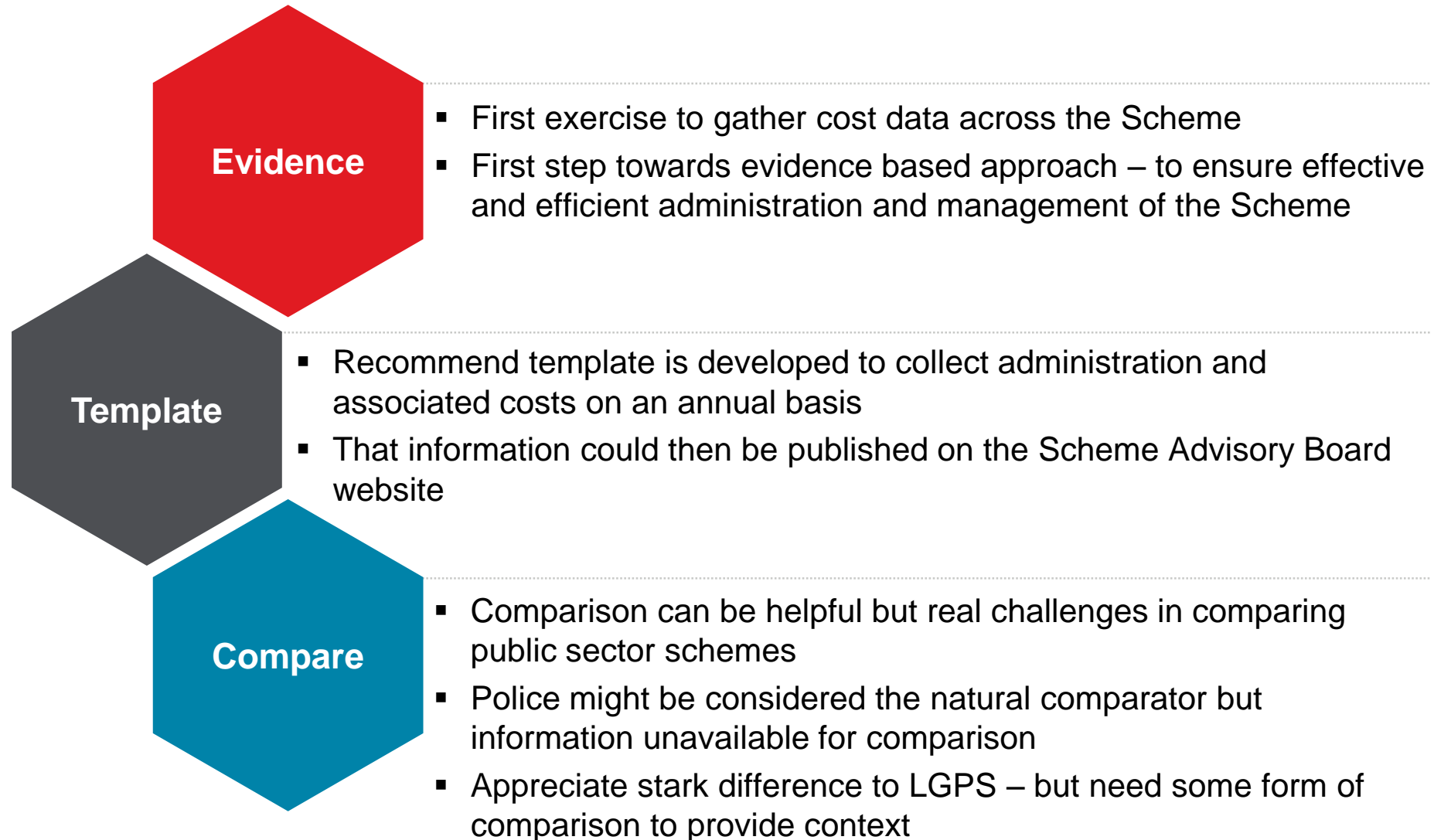
Special projects

- Lack of clarity around resources needed for recent **special projects**
- Recommend FRAs, working with administrators, have clear **business plans** that are regularly reviewed and monitored – this should help highlight resource requirements

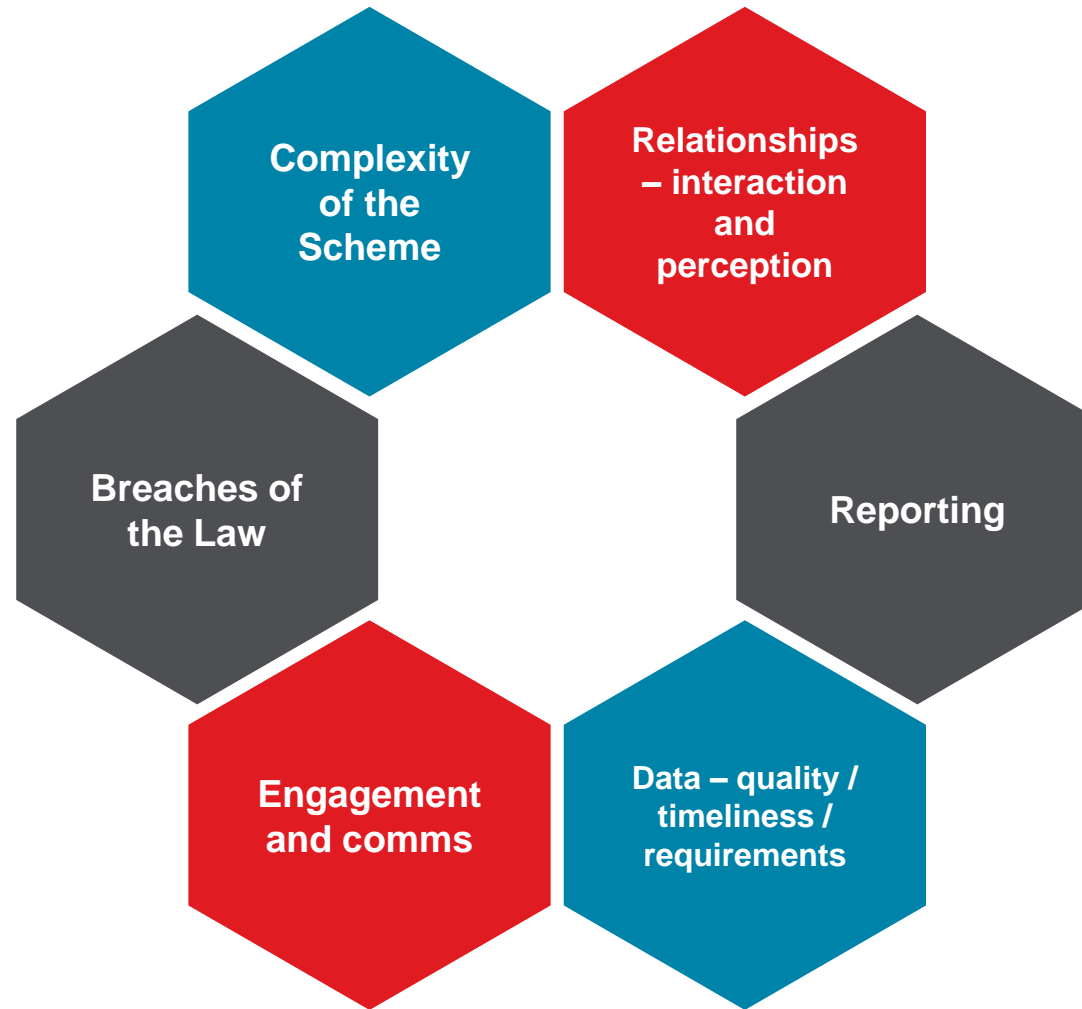
Recommendation 6 – Breaches



Recommendation 7 – Develop template for collecting costs



Themes that emerged from evidence



Questions?



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Costs: Lessons learnt

- Never been attempted before
 - More difficult for some FRAs than others, County Councils for example who use shared services
 - Indications that there was no senior management sign off in some cases
 - Complexity appears to add to costs
 - Difficult to find realistic comparators to the Fire Scheme
 - Costs of special projects appear to be proportionately higher than day to day management
-

Costs: Next Steps

- The committee recommended to SAB that costs should continue to be collected on an annual basis, in order to establish a discipline in FRAs to understand and recognise costs.
 - The secretariat will work with the Fire Finance Network to discuss how the sector can identify and recognise these costs themselves
-

Effectiveness: Lessons Learnt

- Complexity a feature of all surveys
 - 73% of administrators scored the scheme as complex or very complex
 - 66% of employers reported finding decision making difficult, with the reasons mainly stemming from complexity of benefits (64%)
 - Less than half of responding members reported to understand their benefits.
 - Some uncertainty around what was considered to be specifically complex outside of local decision making and discretions
-

Effectiveness: Lessons Learnt

- Reporting and relationships
 - Reporting
 - 59% of administrators do not report on the FRAs performance
 - 11% of administrators do not report on their own performance
 - 43% administrators do not report back to LPB
 - There is a variance in frequency of reports from the administrator to the FRA
 - There is a variance in meeting key legal timeframes for information to scheme members
-

Effectiveness: Lessons learnt

- Engagement and Communication
 - Perceived complexity appeared to be evident in survey questions about engagement
 - 61% of members responded said they don't or only partly understand their benefits
 - 22 administrators said they were unsure that members understood their benefits
 - However take-up on presentations and surgeries on pension benefits is low
 - 18% of administrators do not run a Fire pensions website and 64% do not offer on-line capabilities
-

Effectiveness: Next Steps

- Establish a working group to look at how discretions can be simplified
 - Establish a qualification in FPS administration and introduce CPD accredited training courses
 - Continue to support senior leaders in understanding the role of the scheme manager
 - Establish national performance measures for reporting performance
-

Effectiveness: Next Steps

- Continue to support Local Pension Boards in their scrutiny role
 - LGA working on a project to implement www.fpsmember.org in order to complete the trilogy of websites
 - Build glossary of terms to be held centrally
 - Explore greater use of technology through a software suppliers working group
 - Continue to highlight importance of data improvement, SAB to promote monthly postings
-

Effectiveness: Next Steps

- Admin and benchmarking committee to develop a template administration strategy
 - To continue to promote use of [breach assessment template](#)
-

Workshops

1. National Performance Monitoring – Eaton-Cockell Room (Floor 7)

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2. Abatement – Smith Square 1 & 2

Alec Bennet, Eversheds Sutherland and **Claire Hey**, LGA

3. Transitional Pension Calculations– Bevin Hall

Clair Alcock, LGA

Refreshments



Workshop Feedback

- 1. Transitional Pension Calculations**
 - 2. National Performance Monitoring**
 - 3. Abatement**
-

Lunch



Welcome back

LGA Fire Pensions Annual Conference 2019

Case Law Update

25 September 2019

Alec Bennett

Principal Associate



Agenda

Agenda

- McCloud and Sargeant – Age Discrimination - Update
- Corsham & Others v PCC for Essex & Others – Loss of Protected Pension Age
- The Estate of Mrs N (PO-19673) – Failure to action IHER
- Mr N (PO-27369) – Mistaken Identity (or Nice Try!)

McCloud and Sargeant – Update

Age Discrimination

– Sargeant & Others v London Fire and Emergency Planning Authority & Others

- ET - transitional protections were age discriminatory but could be objectively justified
- EAT - found that the ET was correct in its conclusion that the Government had a margin of discretion in pursuing and implementing social policy, and that therefore it had sufficiently established that it had a legitimate aim in implementing the transitional arrangements. However, the ET had erred by taking the wrong approach to the question of proportionality, in light of previous case law

– McCloud & Others v Ministry of Justice & Others

–

- ET - transitional protections were age discriminatory but could not be objectively justified
- EAT - agreed with the ET that the Government had failed to justify the discriminatory effect of the transitional arrangements as a proportionate means of achieving its social policy aims

McCloud and Sargeant – Update

Age Discrimination

Court of Appeal – December 2018

- the manner in which the transitional provisions in the judges' and firefighters' pension schemes were implemented, and under which judges' and firefighters' entitlement to remain active members of their respective schemes were defined by reference to their age, gave rise in both cases to unlawful direct age discrimination which could not be justified
- upheld the decisions of the ET and EAT in the *McCloud* judges' case, but overturned the decisions of those tribunals in the *Sargeant* firefighters' case
- no error in the reasoning of the ET either in its assessment of aims or means in *McCloud*
- no legitimate aims for the transitional provisions in *Sargeant* (contrary to the ET and EAT decisions)

McCloud and Sargeant – Update

Age Discrimination

Current Position

- Cost cap mechanism on public sector pension schemes paused in January 2019 following Court of Appeal ruling
- Supreme Court refused Government permission to appeal in June 2019
- Ministerial Statement in July 2019 on impact across all public sector pension schemes
- Still some way to go in relation to these cases:
 - Further Employment Tribunal Hearings required in relation to remedy
 - Implementation of remedy and changes to public sector pension schemes
 - Cost cap process would then be re-run to take into account any amended benefit structure
- Continued pressure from Trade Unions

Corsham & Others v PCC for Essex & Others

Loss of Protected Pension Age

Protected Pension Age – A Reminder

- Historic Government policy of having a minimum age people can take their pension from (known as the normal minimum pension age - “NMPA”)
- NMPA was set at **50** until HMRC announced changes on **10 December 2003** to raise NMPA
- New NMPA was decided to be **55** from **6 April 2010**
- **BUT**: change of NMPA might be unfair to those planning retirement
- **SO**: the Government gave **transitional protection** for those with the lower NMPA of 50
- This transitional protection is what we call “**Protected Pension Age**”

Corsham & Others v PCC for Essex & Others

Loss of Protected Pension Age

Protected Pension Age – A Reminder

- If a pension scheme allows a member to draw their benefits when a member has not reached their NMPA:
 - it is an unauthorised payment
 - the scheme administrator and the member may be subject to a tax charge (of up to 55%) depending on the circumstances
 - at the extreme (but unlikely) it could affect the status of a scheme as a registered pension scheme
 - potential member complaints via IDRPs and possible referral to Pensions Ombudsman
 - potential public complaints and audit reviews
- Members can lose their PPA in certain circumstances (and the above with then apply)
 - transfers out of the scheme (not in a bulk transfer)
 - retire and re-join the employer

Corsham & Others v PCC for Essex & Others

Loss of Protected Pension Age

Protected Pension Age – A Reminder

- Retirement and re-joining
 - since 6 April 2006 no qualification on retirees being employed / re-employed
 - Government policy is to prevent sham retirement to exploit PPA and take advantage of the various tax advantages (e.g. 25% tax-free lump sum) while working

- Finance Act 2004 reflected in HMRC guidance makes it clear employees can only retain their PPA if, when they re-join their employer:
 - there has been at least a six-month break in employment; or
 - there has been at least a one-month break in employment; and either
 - the new employment is materially different from the previous employment; or
 - the scheme rules provide for abatement (a reduction of the member's pension to reflect his earnings)

Corsham & Others v PCC for Essex & Others

Loss of Protected Pension Age

Previous Pensions Ombudsman Decisions

- Ramsey – employer, trustee and scheme administrator not under any legal obligation to inform a member of the adverse tax consequences of exercising a particular option under the scheme rules
- Cherry and Dodge – PCC should have provided member with information already in its possession regarding the tax implications of re-employment within one month of retirement, and that it owed a duty of care towards the member
- Mr R & Others – A&SPCC and the Chief Constables were not under a duty to inform the member prior to their re-employment in police civilian staff roles, of the tax consequence for the members pension of re-employment with the A&SPCC within one month of retirement as a police officer.

Corsham & Others v PCC for Essex & Others

Loss of Protected Pension Age

High Court – Corsham & Others

- found that a police authority was liable for negligent misstatement where it told members their retirement lump sums would be tax free in circumstances where they actually knew that scheme members were being re-employed shortly after retirement with the result that they would lose their protected pension age and hence be subject to punitive tax charges
- overturned the decision of the Pensions Ombudsman in Mr R & Others
- although not finding it necessary to decide the point, the High Court did not rule out a finding that, even where there is no specific knowledge that particular members would be re-employed within one month, the police authority ought to have included some precautionary words about re-employment within one month of retirement when sending out its standard form letters to every retiring police officer

The Estate of Mrs N (PO-19673)

Failure to action IHER

The facts

- 12 January 2016 - Tier 1 IHER approved - retirement date set for 1 February 2016
- Consequently, the member died in service on 30 January 2016 - complainant was entitled to a lower level of death grant
- The DPO held the scheme employer should have set the member's retirement date to the same day it approved the member's ill-health early retirement application
- By delaying the member's last day of employment, the employer risked jeopardising the member's benefits unnecessarily
- The member did everything she could to get her ill-health application approved as soon as possible
- No justification for the employer's decision to delay the retirement date

The Estate of Mrs N (PO-19673)

Failure to action IHER

The decision

- difference between the IHER benefits and pensioner death grant that would have been received had member retired on 12 January and the death in service grant received

TFC £83,500 + pro rata pension + pensioner death grant £117,900

vs.

DIS lump sum £ 85,700 + income received after 12 January

- interest on award
- tax liabilities on special lump-sum death benefit payment the complainant would incur (after 2 years)

Mr N (PO-27369)

Mistaken Identity (or Nice Try!)

The facts

- May 2001 - Prudential sent a benefit illustration to Mr N's address
- Further benefits statements were sent to Mr N's address in 2003 and 2018
- August 2018 – Mr N's financial adviser requested policy information from Prudential (enclosing Mr N's letter of authority)
- Prudential said the letter could not be accepted as the d.o.b. did not match its records
- Financial adviser submitted further i.d. regarding the d.o.b. and said Prudential's records were wrong
- October 2018 – Prudential responds to say Mr N has never had policy
- November 2018 – Mr N raises a complaint with Prudential

Mr N (PO-27369)

Mistaken Identity (or Nice Try!)

The decision

- No evidence that Mr N ever applied for or had a policy with Prudential
- Mr N should have queried the original statement in 2001
- Not reasonable for Mr N to believe these were his benefits
- Although there were errors by Prudential, these did not cause a loss of expectation to Mr N
- Ombudsman found that Mr N was not a customer of Prudential and has no reason to expect benefits from Prudential

EVERSHEDS
SUTHERLAND

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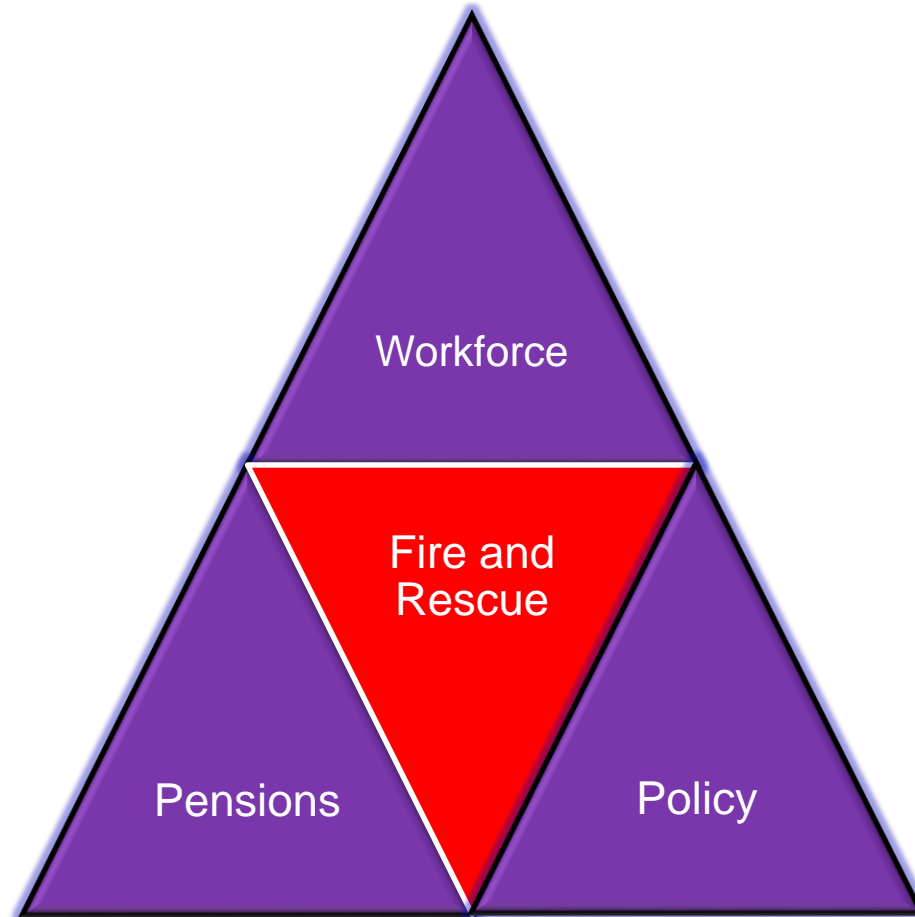
LGA Update

Clair Alcock, Senior Pensions Adviser

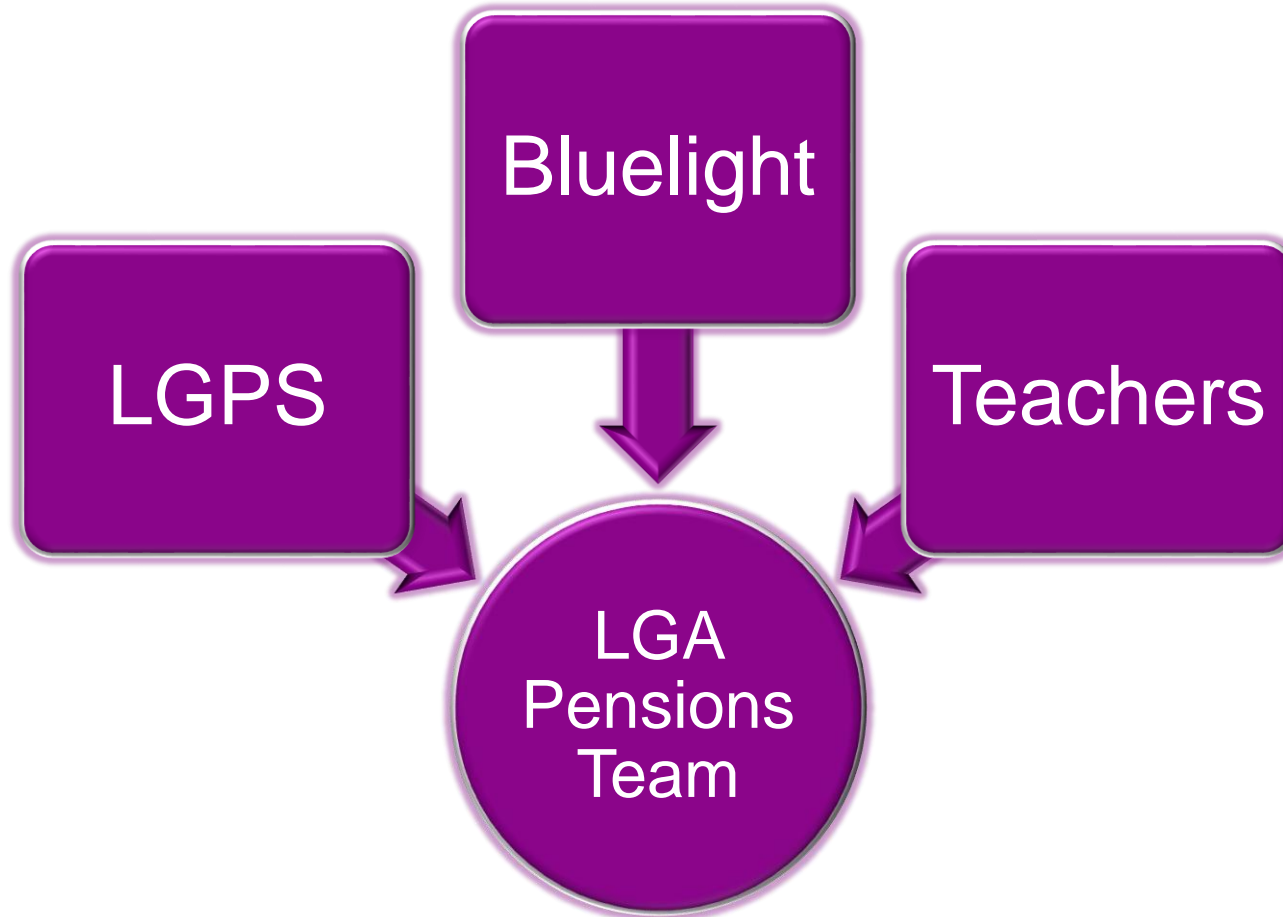
Who are LGA?

- The LGA is the national voice of local government. It is a politically-led, cross party membership organisation, representing councils from England and Wales, fire authorities and other public sector employers
 - The role of the LGA is to support, promote and improve local government, and raise national awareness of the work of public sector employees. In this regard LGA works across the sector in various capacities such as policy, strategy, improvement and workforce.
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How does LGA Support Fire & Rescue



The LGA Pensions Team



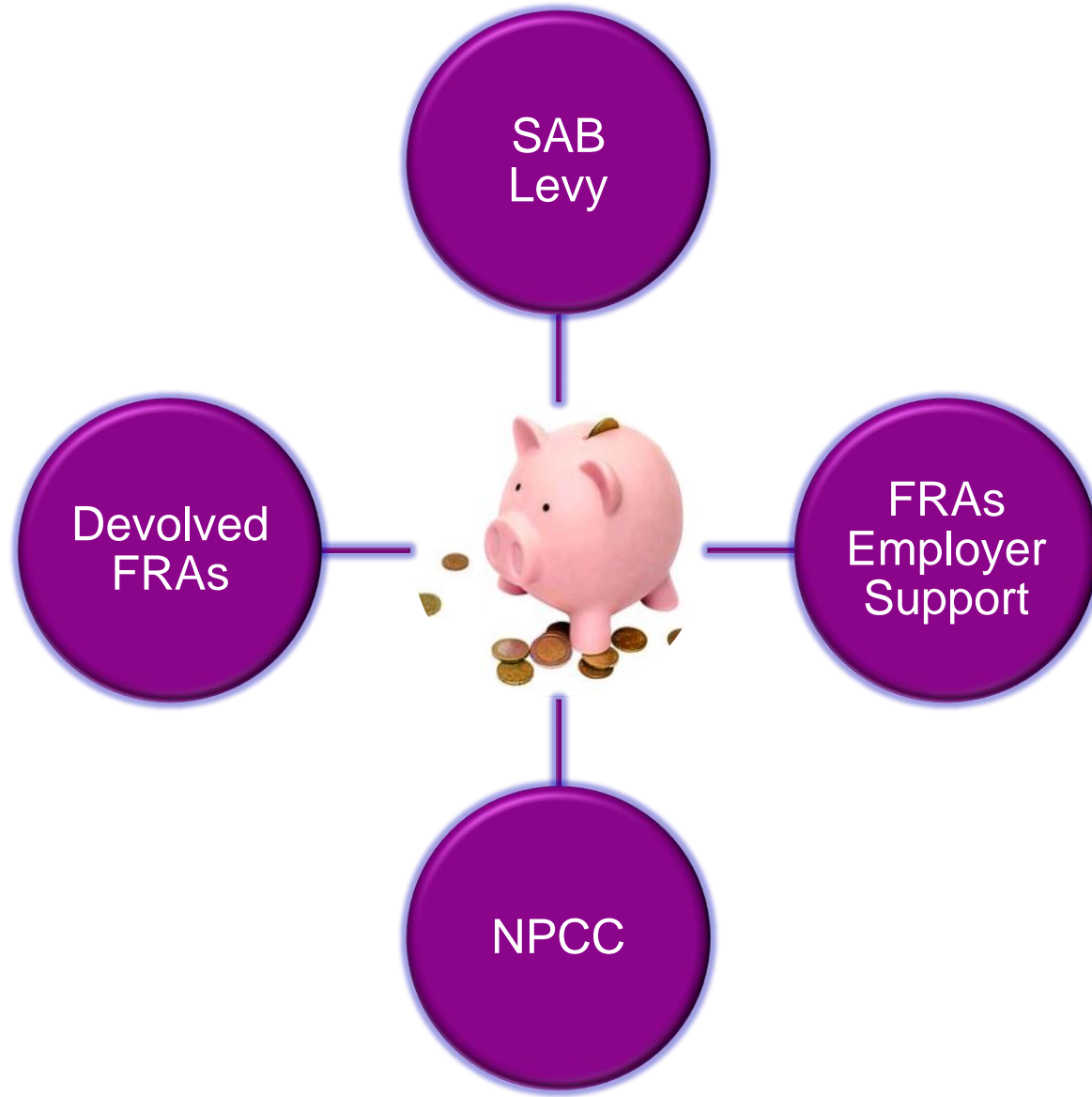
The Bluelight Team



Central Support

- Fire & Rescue services across the UK are supported centrally by the LGA 'Bluelight' pension team, who run a framework of [forums and groups](#), and [events and conferences](#) in order to support the FRAs with their responsibilities.
 - The LGA 'bluelight' pensions team are also the secretariat for the scheme advisory board in England.
-

Funding



WHAT
WE DO

A 3D rendered white humanoid figure stands to the right of the text, holding a large, red, 3D question mark. The figure is positioned between the words 'WHAT' and 'WE DO', with its arms raised to support the question mark. The text 'WHAT' is on the top line and 'WE DO' is on the bottom line, both in large, red, 3D block letters with blue and green outlines. The entire scene is set against a plain white background with a subtle shadow on the ground.

LGA Framework and Support Services

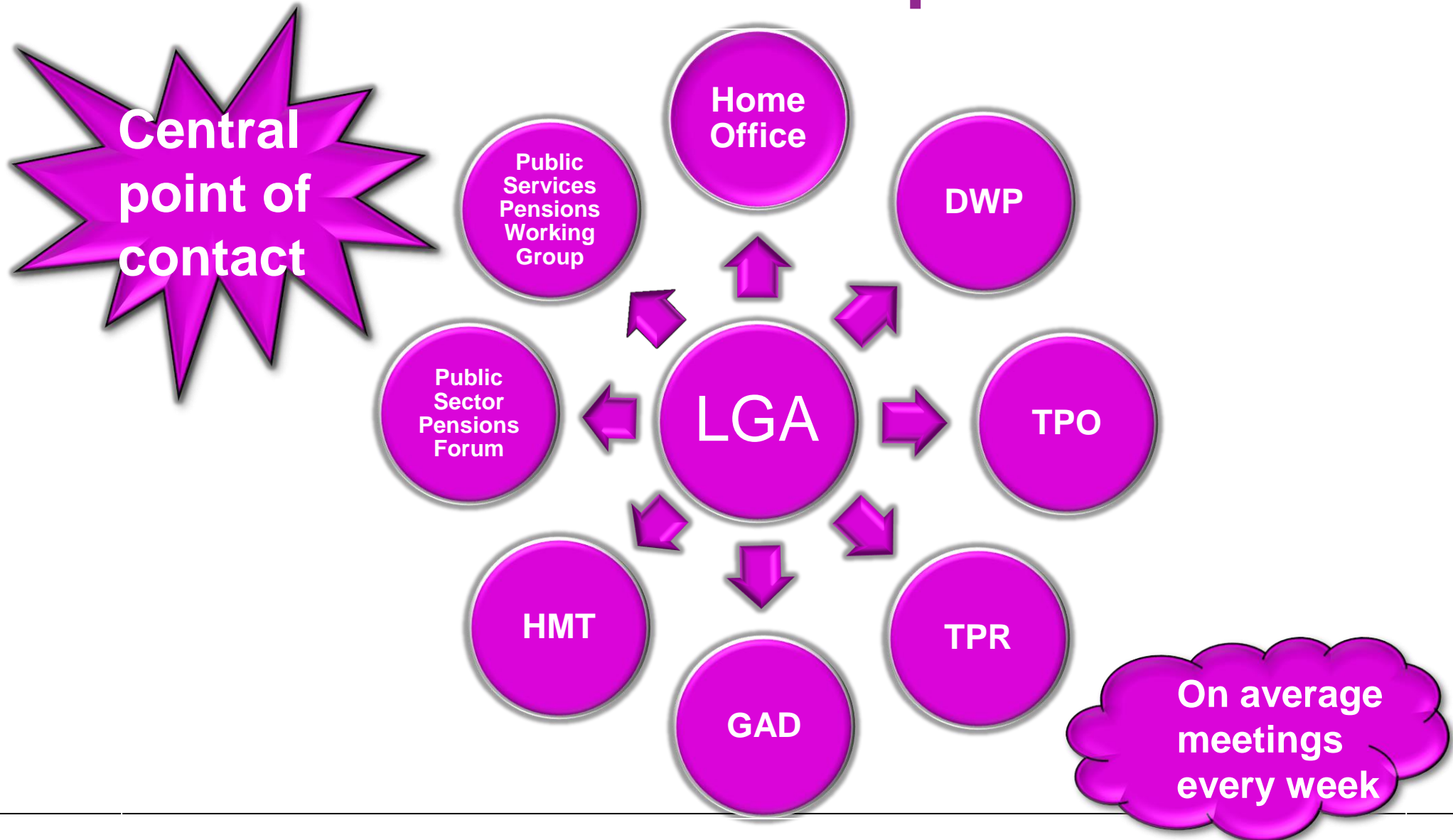
- Forums and Groups
 - Technical group
 - Communications group
 - Regional groups
 - Two Day Annual Conference and events
 - Monthly Bulletins
 - www.fpsregs.org
 - Technical Support
-

LGA Internal Representation



Over 40 attendances during 2019 so far..

LGA External Representation

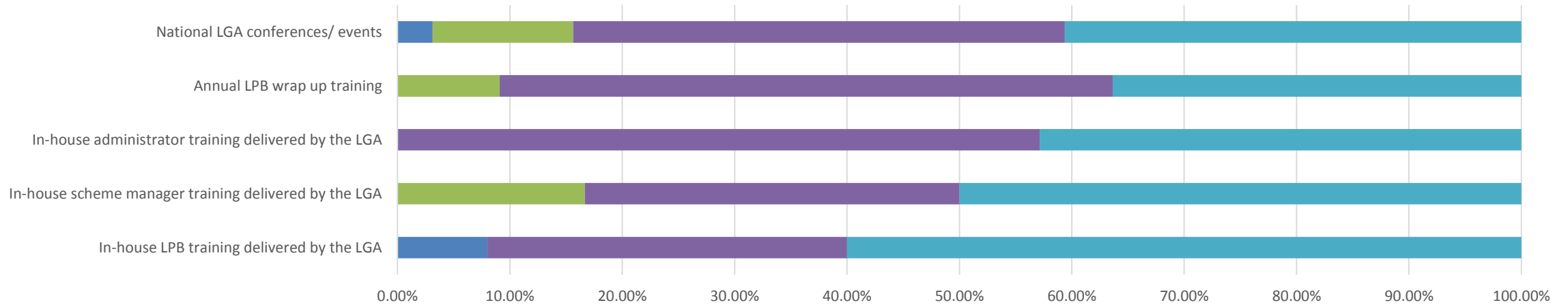


Training and events

- 14 pension board and scheme manager training sessions
 - 3 Software and administrator training
 - 3 conferences; Data, Governance & AGM
 - 3 topical workshops; Ill-Health, Pensionable Pay, Tax
 - Wrap-up Board Training
 - Informal training
 - Training survey [report](#)
-

Satisfaction

Please rate your satisfaction with the above, from 1 to 5 - where 1 is very dissatisfied and 5 is very satisfied



	In-house LPB training delivered by the LGA	In-house scheme manager training delivered by the LGA	In-house administrator training delivered by the LGA	Annual LPB wrap up training	National LGA conferences/ events
■ 1 - very dissatisfied	8.00%	0.00%	0.00%	0.00%	3.13%
■ 2 - dissatisfied	0.00%	0.00%	0.00%	0.00%	0.00%
■ 3 - neither satisfied nor dissatisfied	0.00%	16.67%	0.00%	9.09%	12.50%
■ 4 - satisfied	32.00%	33.33%	57.14%	54.55%	43.75%
■ 5 - very satisfied	60.00%	50.00%	42.86%	36.36%	40.63%

■ 1 - very dissatisfied ■ 2 - dissatisfied ■ 3 - neither satisfied nor dissatisfied ■ 4 - satisfied ■ 5 - very satisfied

Feedback

- Learning
 - Almost 85% of delegates agreed they learnt something new
 - Content
 - Close to 80% agreed the content is pitched at the right level
 - Speakers
 - 9/10ths agreed that speakers are knowledgeable about subject topics
-

Points for learning

- Location
 - Online and assessment learning
 - Case Studies
 - Audience
 - Advance notice
 - CPD accreditation / FPS qualification
 - More regional sessions
-

FRAs - Additional Support Required

- Pensionable Pay
- Abatement
- Protected Status
- Annual Allowance Guidance
- Re-engagement and Protected Pension Age
- Ill-health Retirement, role of HR and occupational health
- Modeller for schemes
- Simplified factsheets
- Reduction in discretions or agreed national approach
- More timely information

Admin - Additional Support Required

- Training on scheme administration
- Scheme specific annual allowance factsheet
- Timeline regulations
- Support with accessing historical, unusual and unique situations
- National workshop days
- Information for transitional benefits for re-joiners
- Updates regarding court rulings
- Compensation scheme
- Added years
- Submitting tax returns to HMRC



How to improve?

“

*We all need people who will
give us feedback.
That's how we improve.*

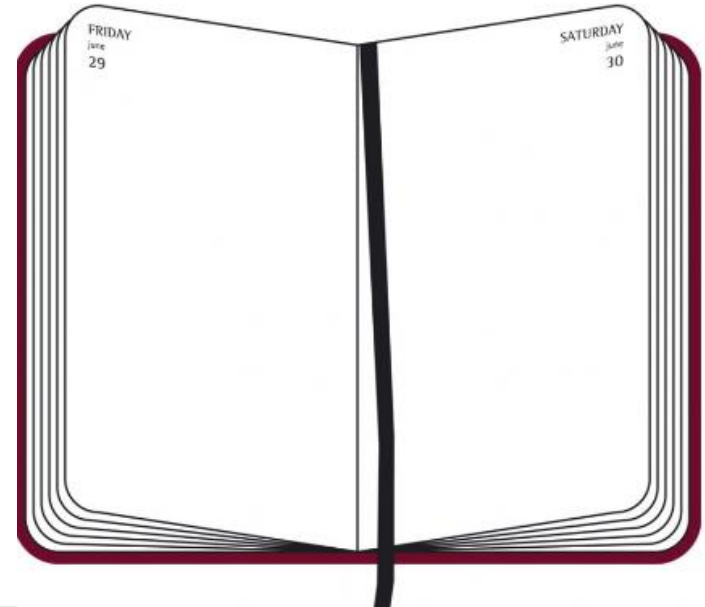
”

- Bill Gates

Closing remarks

Dates for your diaries

- 22 and 23 September 2020 – Fire AGM
- All events advertised [here](#)



Thank you for coming

Have a safe journey home

bluelight.pensions@local.gov.uk
www.fpsboard.org and www.fpsregs.org



www.local.gov.uk



@LGAworkforce #LGAFirepensions