

Firefighters' Pension Schemes

Annual conference – Day two

Wednesday 26 October 2022
18 Smith Square, London

 [#LGAFirepensions](https://twitter.com/LGAFirepensions)

Agenda

- Chair's welcome and introduction
- The Home Office
- Weightmans: Legal update
- Technical workshops
- First Actuarial: Actuarial update
- FBU update
- Pensions Dashboards
- Closing remarks

Chair's welcome and introduction

Joanne Livingstone, Chair, Firefighters' Pensions
(England) Scheme Advisory Board

The Home Office – A view from Government

Frances Clark, Deputy Head, Police Workforce & Professionalism Unit - Reward and Recognition



Weightmans

Weightmans

Fire Pensions Annual Conference

Case Law Update

26 October 2022

Jane Marshall

Partner

jane.marshall@weightmans.com



Agenda

- Mr S (PO-18920) – Modified Pension Scheme
- Mr T (PO-22474) – Pensionable Pay
- Mr E (PO-25374) – Abatement
- Ms G (CAS-29778-J8R1) – Ill Health Retirement

Mr S (PO-18920) Modified Pension Scheme

The facts:

- Scheme – The New Firefighters’ Pension Scheme (Wales) 2007 (modified section for retained firefighters)
- Modified scheme came into effect 31 December 2014
- Information pack was sent to Mr S in January 2015
- Expression of Interest form included in the pack – had to be returned by 31 March 2015
- Mr S said he completed the form on a drill night, which can be verified by his watch manager, and promptly returned the form

Mr S (PO-18920) Modified Pension Scheme

The facts:

- Mr S provided no supporting evidence of this
- The Authority had no record of receiving the form
- The Authority sent out reminders of the deadline
- In June 2015 Mr S realised colleagues had received further paperwork and he had not
- Mr S obtained a second copy of the form and promptly completed and returned it
- On 7 July 2015 the Authority received an undated copy of the form from Mr S
- On 17 July 2015 Authority wrote to Mr S that he had missed the deadline

Mr S (PO-18920) Modified Pension Scheme

Decision:

- There is no value in analysing the disputed events prior to July 2015
- The Authority did not have a copy of the completed expression of interest form before July 2015, and so if the 31 March 2015 was correctly imposed Mr S would have submitted the form too late
- The starting point is the regulations
- The original deadlines set out in the regulations were altered (Schedule 1, Part 11 Chapter 2, rule 6C)

Mr S (PO-18920) Modified Pension Scheme

Decision:

- Rule 6C is determinative of Mr S's complaint
- In applying Rule 6C Mr S was considered to have automatically joined the Modified Scheme as a 'provisionally enrolled member'
- The Authority was then required by the regulations to provide Mr S with a notice setting out the information regarding his period of service, the special pension contributions payable, his pensionable pay and final pensionable pay etc
- Mr S did not receive this notice which, had he done so, he would then have been subject to a deadline of 29 February 2016

Mr S (PO-18920) Modified Pension Scheme

Decision:

- The Authority had failed to apply the regulations correctly and had wrongfully denied Mr S the opportunity to join the Modified Scheme
- The Authority was ordered to pay Mr S £500 for significant distress and inconvenience
- The Authority was given 28 days to provide Mr S with the notice he should of received
- Mr S would then have 3 months from receipt of the notice to elect to join the Modified Scheme if he wishes to do so

Mr T (PO-22474) Pensionable Pay

The facts:

- Scheme – 1992 Firefighters’ Pension Scheme
- October 2009 the Authority and FBU suggested a Day Crewing Plus (DCP) contract
- Agreed firefighters would receive a non-pensionable DCP allowance equivalent to 32% of basic salary
- April 2010 Authority introduced DCP system
- February 2012 Leicestershire FRS obtained Counsel’s opinion on its proposed DCP allowance, which was also equivalent to 32% of basic salary

Mr T (PO-22474) Pensionable Pay

The facts:

- Counsel's opinion stated DCP allowance would be pensionable based on the Norman v Cheshire FRA case
- Counsel's opinion set out a 5 point test:
 - Regular
 - Pay to which the firefighter is entitled (under his employment contract)
 - Paid in the ordinary course of fulfilling his duties
 - Has something of a permanent nature
 - Is payable at the rate applicable to the role

Mr T (PO-22474) Pensionable Pay

The facts:

- 8 April 2013 FBU wrote to Authority advising that Leicestershire FRS had obtained Counsel's opinion that DCP allowance would have to be pensionable
- DCLG circular addressed scheme amendments coming in 1 July 2013 – FRAs have discretion to make some payments pensionable (APBs)
- 18 February 2016 Mr T commenced working DCP system on a temporary basis
- Mr T transferred to permanent Crew Manager role from 1 November 2018
- His appointment letter confirmed the 32% DCP allowance would be non-pensionable

Mr T (PO-22474) Pensionable Pay

The facts:

- There followed a number of exchanges between the Authority and the FBU. The Authority argued the DCP allowance was a locally agreed non-pensionable allowance and that it had been increased because it was non-pensionable, which the FBU acknowledged
- In November 2017 Mr T complained under the IDR
- Stage 1 – the Authority did not uphold Mr T’s complaint arguing the DCP allowance was locally agreed with the FBU and was a voluntary arrangement. Also the allowance was higher because it was non-pensionable

Mr T (PO-22474) Pensionable Pay

The facts:

- The Stage 2 IDRPs was delayed whilst the Authority tried to reach agreement with the FBU on a 30% pensionable DCP allowance. The FBU rejected the offer
- The Authority issued the Stage 2 response on 18 January 2019 explaining the matter had been in abeyance due to ongoing negotiations with the FBU. As negotiations had failed to resolve the issue, the Authority upheld its original decision

Mr T (PO-22474) Pensionable Pay

Decision

- The determination only deals with whether to DCP allowance was pensionable specifically in relation to Mr T's circumstances
- The principle consideration is the application of the regulations
- Collective agreements/what it says in contractual documents are not determinative of whether a payment is pensionable or not
- Counsel's opinion obtained by Leicestershire FRS was persuasive, but could not be cited more widely as legal authority as obtained by a different FRS

Mr T (PO-22474) Pensionable Pay

Decision

- The full 32% uplift to Mr T's basic pay is pensionable
- DCP allowance was fully pensionable from 18 February 2016 – which includes Mr T's temporary period working the DCP system*
- The Authority should have issued an interim reply under the IDRPs whilst consulting with the FBU. The Authority was ordered to pay £500 for distress and inconvenience

* Was this the correct decision given the court's findings in relation to Mr Bradshaw's training allowance in *Booth v Mid and West Wales FRA*

Mr E (PO-25374)

Abatement

The facts:

- Scheme – 1992 Firefighters’ Pension Scheme
- October 2014 Mr E retired from his role as Crew Commander and withdrew his pension
- August 2017 Mr E was re-employed by Warwickshire County Council as a community support officer in its Community Fire and Safety Support Service
- Mr E was approached by the FRS Group Commander to take on the role and the Group Commander stated he would need to ‘clarify things’ with HR

Mr E (PO-25374)

Abatement

The facts:

- At the time of re-appointment Mr E did not have any communication with HR about his pension
- His new terms of employment did not include any reference to the possibility that his fire pension may be abated
- 7 months after his new appointment the FRS's pension section wrote to Mr E that his 1992 Scheme pension was subject to abatement
- He was informed that his pension and salary combined exceeded his pre-retirement salary and he had been overpaid pension of £9,964

Mr E (PO-25374)

Abatement

The facts:

- 22 October 2018 Mr E complained under Stage 1 of the IDR
- In the response the Area Commander acknowledged that Mr E had been approached by the Group Commander to take on the role and he acknowledged that Mr E said that he had not been aware of the abatement rules at the time of his re-employment
- Mr E argued that the FRS had failed in its duty of care to him
- Mr E's complaint was not upheld

Mr E (PO-25374)

Abatement

The facts:

- 27 February 2019 Mr E appealed under Stage 2 IDRPs, but the FRS had no record of the appeal
- 31 October 2019 Mr E complained to the TPO
- TPO asked the FRS to provide contemporaneous documents detailing the process in respect of the decision to abate Mr E's pension
- The FRS confirmed the decision was based on the applicable rules

Mr E (PO-25374)

Abatement

Decision

- The complaint raised 3 issues:
 - Whether the FRS had a duty of care
 - Mr E's reliance on that duty of care
 - The reasonableness of the procedure adopted by the FRS
- The FRS did not act negligently in failing to warn Mr E that abatement might apply. There is a duty to make factually correct information available, but the FRS was not required to ensure Mr E received it
- The evidence does raise issues of the handling of Mr E's re-employment

Mr E (PO-25374)

Abatement

Decision

- Whilst it does not change the outcome, it is arguable that the FRS should have put in place appropriate procedures to bring the matter of abatement to Mr E's attention
- A blanket policy was applied to abate Mr E's pensions which was a procedural error
- The FRS was directed to invite Mr E to provide details of any exceptional factors as to why his pension should not be abated
- The FRS required to pay Mr E £500 for distress and inconvenience

Ms G (CAS-29778-J8R1)

Ill Health Retirement

The facts:

- Scheme – The Local Government Pension Scheme (LGPS)
- The College terminated Ms G’s employment with effect from 15 February 2016 on capability grounds due to ill health
- The College did not commence the medical process to determine eligibility for IHRB from active service
- Ms G appealed the decision to dismiss on ill health grounds, but the appeal was unsuccessful
- Ms G’s solicitor submitted a request for IHER benefits under the LGPS in August 2016

Ms G (CAS-29778-J8R1)

Ill Health Retirement

The facts:

- Ms G contacted the College several times for an IRMP appointment
- Ms G was finally assessed by the IRMP on 31 March 2017
- The IRMP concluded that Ms G was likely to qualify for early retirement on the grounds of chronic ill health
- On 25 April 2017 the IRMP completed the certificate of permanent incapacity for active members confirming Ms G satisfied the criteria for Tier 1 IHER benefits

Ms G (CAS-29778-J8R1) Ill Health Retirement

The facts:

- In May the College received confirmation of the capital cost of Ms G's IHER pension – £291,174.47
- From 19 May 2017 Ms G contacted the College regularly to find out when she was likely to receive her IHER benefits
- After seeking legal advice the College sought the advice of a second IRMP on 6 July 2017
- The College informed Ms G in a letter that the first IRMP had incorrectly provided his opinion on incapacity as at the date of her assessment in March 2017 and not when her employment ended in February 2016

Ms G (CAS-29778-J8R1)

Ill Health Retirement

The facts:

- The second IRMP's report dated 20 September 2017 concluded that Ms G was not permanently incapable of performing her previous duties
- The College wrote to Ms G on 26 October 2017 to confirm she was not entitled to IHER benefits from active member status
- Ms G made a complaint in April 2018 under Stage 1 of the IDRPs, which the College did not uphold
- Ms G made a Stage 2 IDRPs complaint to LGPS Fund administering authority (the Council) in November 2017

Ms G (CAS-29778-J8R1)

Ill Health Retirement

The facts:

- The Council was unable to reach a decision within the required 2 months under the procedure
- In April 2019 Ms G made a complaint to TPO against both the College and the Council
- The Council belatedly completed Stage 2 of the IDRP in May 2020, which was over 2 and a half years after Ms G had appealed the College's Stage 1 decision
- The Council recommended that a third IRMP be instructed. The Council pointed out inconsistencies with previous certificates used and completed by the IRMP's

Ms G (CAS-29778-J8R1)

Ill Health Retirement

The facts:

- February 2021 the Council (via TPO) offered Ms G £500 in recognition of significant distress and inconvenience resulting from the delayed Stage 2
- The College offered to reconsider Ms G's application for IHER benefits by instructing a third IRMP
- The College offered £500 as a good will gesture

Ms G (CAS-29778-J8R1)

Ill Health Retirement

Decision

- It is not TPO's role to review the medical evidence and come to its own decision on eligibility
- TPO's primary concern is the decision making process
- The issues considered:
 - Whether the relevant rules have been correctly applied
 - Whether the appropriate evidence had been obtained and considered
 - Whether the decision was supported by the available relevant evidence

Ms G (CAS-29778-J8R1)

Ill Health Retirement

Decision

- It is clear there has been a lack of understanding on the College's part of the LGPS IHER process
- It should have known that it was required to obtain an IRMP certificate in the circumstances under which it had decided to terminate Ms G's employment
- Its failure to do so amounted to maladministration by the College
- If the College had read the medical report carefully it would have noticed the first IRMP had provided his opinion based on the wrong date

Ms G (CAS-29778-J8R1)

Ill Health Retirement

Decision

- Cost considerations should not have been taken into account by the College in its decision
- It would have been better if the second IRMP was not from the same provider that the College had used for OH services
- On receipt of the second IRMP opinion the College needed to understand the IRMP's reasoning and not adopt the IRMP's conclusion without question. In particular;
 - Where there is insufficient information or uncertainty, clarification must be sought from the IRMP

Ms G (CAS-29778-J8R1)

III Health Retirement

Decision

- Where there is conflicting medical evidence the College must be clear that both have been considered and why one has been given more weight than the other
- The question of untried treatments must be addressed properly. The IRMP must give their opinion of the likely effects of untried treatment and the prognosis
- The College had failed to properly consider Ms G's IHER application from active member status. The matter should be remitted back for reconsideration

Ms G (CAS-29778-J8R1)

Ill Health Retirement

Decision

- TPO agreed that the College should instruct a third IRMP, who had no previous involvement
- Any changes in Ms G's health after she left employment were not relevant
- The College was directed to pay £1000 for serious distress and inconvenience
- The Council's offer of £500 for distress and inconvenience was deemed appropriate



Questions?

Workshops

1. Compensation scheme (injury awards) – Bevin Hall

Jane Marshall – Partner, Weightmans LLP

Elena Johnson – Firefighters' Pension Adviser, LGA

2. Pension scheme discretions – Smith Square 3&4

Clair Alcock – Head of Police Pensions, NPCC

Claire Johnson – Firefighters' Pension Adviser, LGA

W1: Compensation Scheme

Jane Marshall, Partner, Weightmans LLP

Elena Johnson, Firefighters' Pension Adviser, LGA



Weightmans

Weightmans

Fire Pensions Annual Conference

Compensation Scheme Workshop

26 October 2022

Jane Marshall

Partner

jane.marshall@weightmans.com



Agenda

- Overview of the Regulations:
 - Eligibility
 - Exclusions from eligibility
 - Injury Awards
 - Permanently Disabled
 - Qualifying Injury
 - Exercise of duties
 - Causation
 - Determinations under the regulations
 - Degree of disablement
 - Review of injury pensions

The Firefighters' Compensation Scheme (England) Order 2006

Eligibility:

- Scheme applies to 'regular' and 'retained' firefighters, and their spouses or civil partners and dependents
- 'Regular' firefighter:

(a) A person who is employed–

(i) by a fire and rescue authority as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter; and

(ii) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary;

The Firefighters' Compensation Scheme (England) Order 2006

Eligibility:

- 'Retained' firefighter –

A person who is employed by an authority–

(a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,

(b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such time as the officer in charge considers necessary, and in accordance with the orders that he receives;

The Firefighters' Compensation Scheme (England) Order 2006

Exclusions from eligibility

- Temporary contracts?

A person who has ceased as a regular firefighter and entered temporary employment is covered by the scheme in very limited circumstances set out in the regulations, e.g. in connection with various training roles

- What about those who join the service at a senior level?
- What about secondary contracts?

Q. Have people come across other examples of eligibility issues?

The Firefighters' Compensation Scheme (England) Order 2006

Injury awards

- A firefighter is entitled to (1) a gratuity; and (2) an injury pension if:
 - Retired
 - Permanently disabled; and
 - The infirmity was occasioned by a 'qualifying injury'
- Additional compensation for death or permanent incapacity while on duty i.e. where death is solely caused by a 'qualifying injury' or permanent incapacity for carrying out any occupation is solely caused by a 'qualifying injury'

The Firefighters' Compensation Scheme (England) Order 2006

Permanently disabled

- Incapacity occasioned by infirmity of mind or body for the performance of duty
- “*performance of duty*” is not defined under the Compensation Scheme regulations
- For IHR benefits under the pension scheme regulations a member must be “*incapable of performing any of the duties of the role*”
- “*role*” is defined as the firefighter’s Rolemap role
- *NB: the Marrion case* – includes operational & non-operational duties unless no redeployment opportunities exist

The Firefighters' Compensation Scheme (England) Order 2006

Permanently disabled

- Disablement must continue to the person's normal pension age (age 60 for the 2015 Scheme)
- If as a result of a 'qualifying injury' a person is receiving inpatient treatment at a hospital he shall be treated as being totally disabled
- Where a person has retired before becoming disabled and the date of disablement can not be ascertained, it shall be the date when the claim that he is disabled is first made known to the FRS
- No payment of an injury pension can be made for a period before a firefighter became permanently disabled

The Firefighters' Compensation Scheme (England) Order 2006

'Qualifying Injury'

- An injury received by a person, without his own default, in the exercise of his duties as a regular or retained firefighter
- Injury includes disease
- An injury is treated as having been received by a person without his default unless the injury is wholly or mainly due to his own serious and culpable negligence or misconduct

Q. A very high bar? Are there any examples out there where an injury has been wholly or mainly due to a firefighter's own serious and culpable negligence or misconduct?

The Firefighters' Compensation Scheme (England) Order 2006

Exercise of duties

- To be a 'qualifying injury' it has to be received in the '*exercise of his duties as a regular or retained firefighter*' – again not defined in the regulations
- Not referred to in the IQMP guidance

Q. What does '*exercise of duties*' mean?

- Does the injury have to be sustained whilst on operational duties?
- What about an injury sustained whilst at the fire station during rest periods?
- What about an injury sustained whilst being on call away from the fire station, whilst waiting for a call out?
- What about an injury sustained whilst journeying to and from reporting for duty?

The Firefighters' Compensation Scheme (England) Order 2006

Causation

- The infirmity has to be occasioned by a qualifying injury
- Where a firefighter has become permanently disabled, any infirmity of mind or body shall be taken to have been occasioned by an injury if the injury caused or substantially contributed to the infirmity
- It is not necessary to establish that the work circumstances are the only cause of the injury
- What matters is that work circumstances have a causative role

The Firefighters' Compensation Scheme (England) Order 2006

Causation

- Long established case law on permanent incapacity and whether it was caused by an injury received whilst on duty
- Most of the case law comes from the police injury benefit scheme
- The police and fire injury benefit schemes are fairly similar, so the police case law is relevant to fire and is a good indicator of the direction of travel of the courts in such cases
- The case law is complex, full of pitfalls, is ever changing and can appear contradictory

The Firefighters' Compensation Scheme (England) Order 2006

Causation

- Some of the confusion in police injury on duty cases arises from the fact that injury on duty is not, in practice, considered at the same time as IHR, therefore there can be different SMPs deciding IHR and injury on duty, who come to different conclusions regarding permanent incapacity, and often years apart
- For fire IHR and injury on duty are more often considered alongside each other by the same IQMP, which probably reduces the number of disputes

Q. Do any FRA's not consider injury on duty alongside IHR?

The Firefighters' Compensation Scheme (England) Order 2006

Causation

- Physical injuries tend to be more easily attributable to work duties
- Psychiatric injuries tend to be much more difficult to attribute to work duties
- There has to be a substantial causal connection between the permanent incapacity and the qualifying injury
- It is accepted, particularly with psychiatric illness, that it can arise out of a combination of work and external circumstances

The Firefighters' Compensation Scheme (England) Order 2006

Causation

Q. Has anyone had experience of causation issues, where it was unclear or disputed as to whether permanent incapacity was caused by a qualifying injury?

- Examples from police case law:
 - Depressive illness caused by subjection to disciplinary proceedings
 - Depressive illness caused by a combination of a still birth, wife's treatment by the police force, the officer's perception of how colleagues treated him after his wife won her case against the force and investigation from a neighbours complaint

The Firefighters' Compensation Scheme (England) Order 2006

Determinations under the regulations

- Whether a person is entitled to any and if so what award under the regulations is determined in the first instance by the FRA
- Before making a determination the authority is required to obtain a written opinion of an IQMP as to–
 - Whether any disablement has been occasioned by a qualifying injury
 - The degree to which a person is disabled
 - Any other issue wholly or partly of a medical nature

The Firefighters' Compensation Scheme (England) Order 2006

Determinations under the regulations

- If a person is dissatisfied with a medical opinion he may appeal to a Board of Medical Referees
- A person can ask for a reconsideration by the FRA if the FRA does not admit the claim at all or does not admit the claim for injury benefits to the full extent
- If dissatisfied on a reconsideration an appeal may be made to the Crown Court

Q. There is very little case law on disputes arising from the Compensation Regulations. Has anyone had much experience of appeals to a Board of Medical Referees/Crown Court?

The Firefighters' Compensation Scheme (England) Order 2006

Degree of disablement

- After establishing disablement has been occasioned by a qualifying injury, the next step is to consider the extent to which the qualifying injury has caused or substantially contributed to the permanent disablement
- The injury gratuity and pension is partly based on degree of disablement
- Degree of disablement is determined by reference to the degree to which an individual's earnings capacity has been affected as a result of a qualifying injury

The Firefighters' Compensation Scheme (England) Order 2006

Degree of disablement

- The IQMP guidance provides that:
 - Consideration is given to the type of work an individual might undertake, both in terms of functional capability and skills/experience
 - FRA should provide details of a firefighter's skills, educational qualifications and an indication of the types of alternative employment they think appropriate
 - Any secondary employment or previous employments will be relevant

The Firefighters' Compensation Scheme (England) Order 2006

Degree of disablement

- The medical opinion should consider whether the member could carry out these alternative employments and, if not, what would be within member's capability from a medical viewpoint
- The IQMP may need to confirm with the FRA that the individual has the necessary skills/competence for the employments the IQMP considers is within the individual's medical capabilities

The Firefighters' Compensation Scheme (England) Order 2006

Degree of disablement

- Normally an average of earnings from three employments would be used to calculate the degree of disablement
- To try and ensure consistency national rates of pay from the ASHE tables (Annual Survey of Hours and published by the Official of National Statistics should be used when calculating degree of disablement
- Apportionment should be used to avoid liability for non-occupational factors

The Firefighters' Compensation Scheme (England) Order 2006

Degree of disablement

- Before apportionment can arise each factor must have separately caused some degree of loss of earnings capacity on its own
- It is for the IQMP to consider apportionment on the basis of the evidence and applying his/her medical judgement

Q. Degree of disablement and apportionment can be complex to ascertain. Has anyone had experience of issues arising from this?

The Firefighters' Compensation Scheme (England) Order 2006

Review of injury pensions

- The regulations require the FRA to consider whether the degree of disablement has substantially altered at such intervals as they think fit
- If the degree of disablement has substantially altered, the injury pension shall be reassessed accordingly
- Where, on review, the disability has ceased, the injury pension shall cease with immediate effect

Q. How many FRA's are carrying out a review of injury pensions and at what intervals?



Questions?

W2: Pension scheme discretions

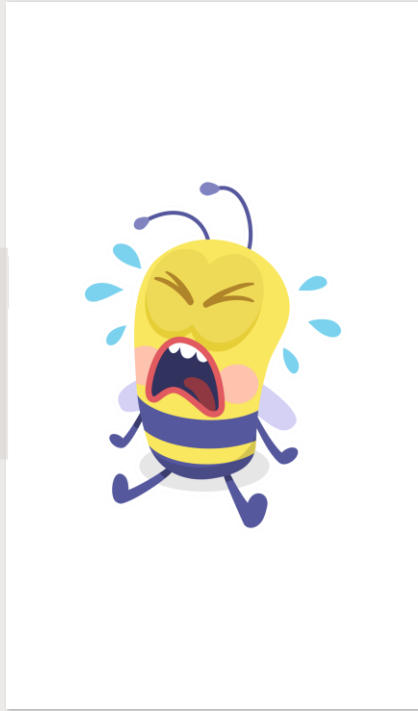
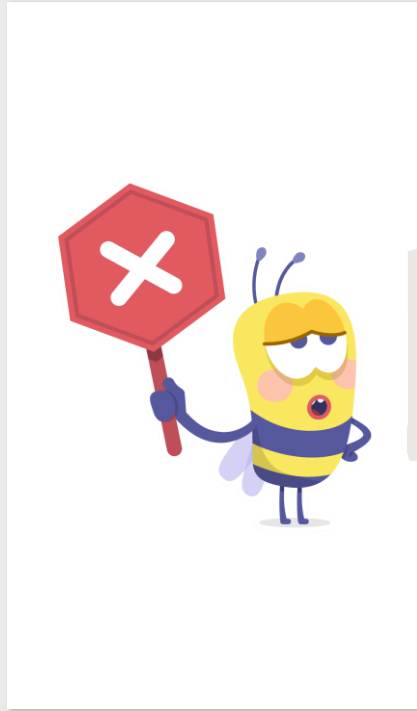
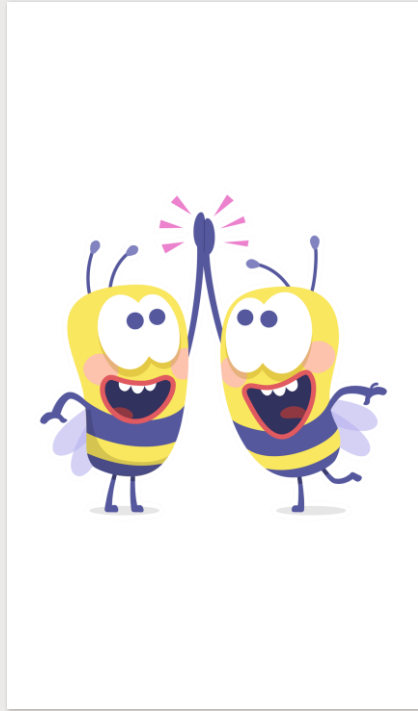
Clair Alcock, Head of Police Pensions, NPCC

Claire Johnson, Firefighters' Pension Adviser, LGA



LGA Fire Pensions Conference
Discretions Workshop
26 October 2022

Clair Alcock
NPCC Head of Police Pensions



How does 'Discretions' make you feel?

What is a discretion

- A decision by the scheme manager in the scheme rules, for example
 - Contingent decisions
 - Abatement
 - Ill-Health
 - Strike Breaks

Discretion process



Who owns it?



Who makes it?



Does the process work well, does everyone in the organisation know how it works.



What should the process consider?

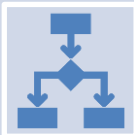
No fettering of discretion

Blind discretion – consider the case not the person



Appeal Route - IDRP

Slido



How confident are you in your discretion making process?



Do you feel you have the right person making decisions?

What might influence a discretion

Costs

Benefits

Case law

Previous
decision

Workforce
benefit

Autonomy

Consistency

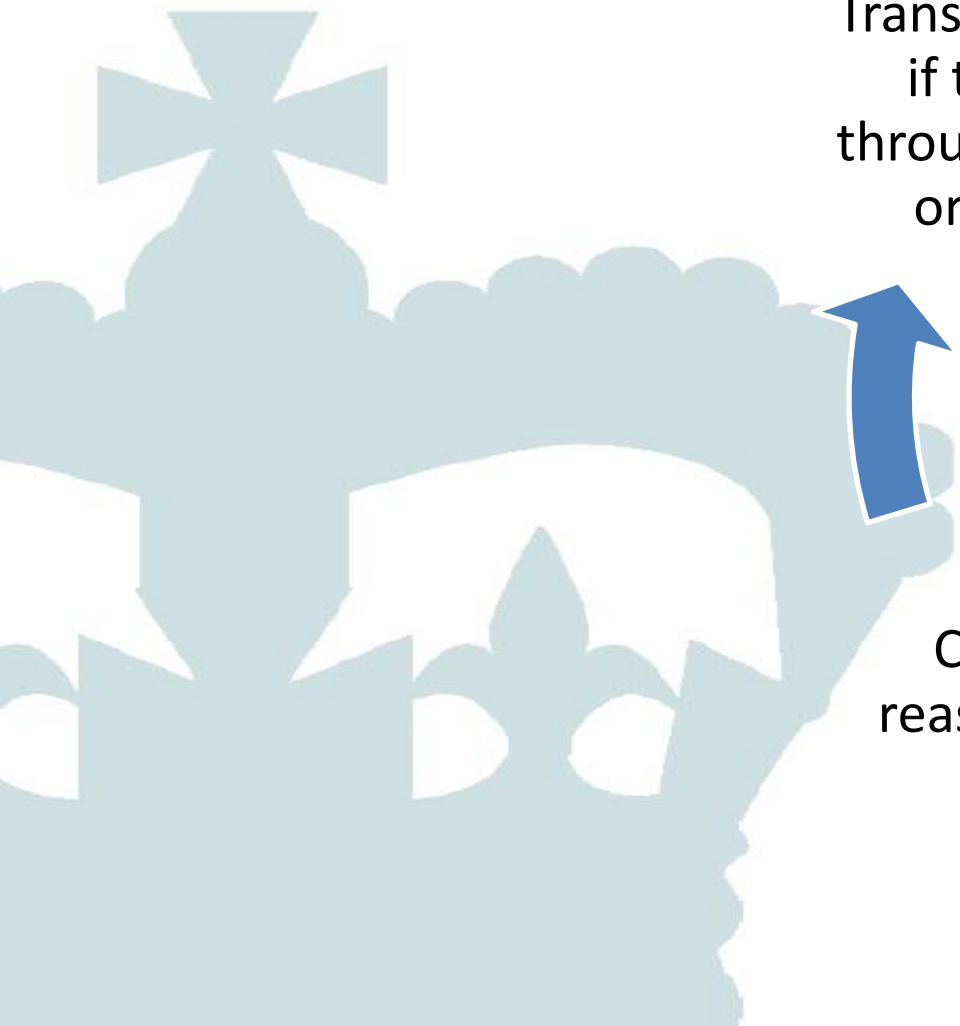
Governance

Transparency
if taken
through IDRPs
or TPOs

Clear audit
trail

Clear
reasoning

Review of
discretion



Slido



What's important to you when making discretions

- Thanks for attending.
- These workshops will be followed up through the LGA coffee mornings.

Actuarial update - Valuation cycle

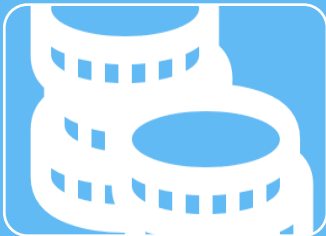
26 October 2022
James Allen FIA

Valuation overview



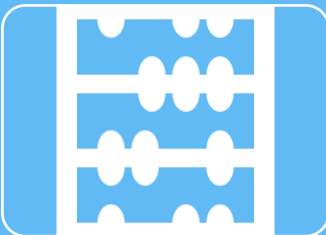
Why do we need a valuation?

- Required by law, in Public Service Pensions Act 2013
- Must be carried out every 4 years



Outcomes

- Set employer contribution rates
- Identify any breach of the cost cap



Who carries out the valuation?

- Government Actuary's Department (GAD)
- Using directions from HM Treasury

Different valuations for different purposes

The 'funding' valuation

Determines the employer costs for both the legacy and reformed schemes

The 'cost cap' valuation

Tracks changes in future costs for reformed scheme members

'Funding' Valuation

'Funding'
valuation

Valuation date
31 March 2020



Is there enough money to pay
the promised benefits?

What contributions are needed
to pay for benefits building up in
the future?

But isn't the scheme unfunded?

'Funding'
valuation

- There are no actual assets, so use a **notional asset value**
 - *FPS notional assets were set in 2007*
 - *At 31 March 2016, they were £17.8bn*
- **Notional assets this valuation:**
 - Notional assets at last valuation
 - + contributions paid in
 - benefits paid out
 - + “notional investment returns”

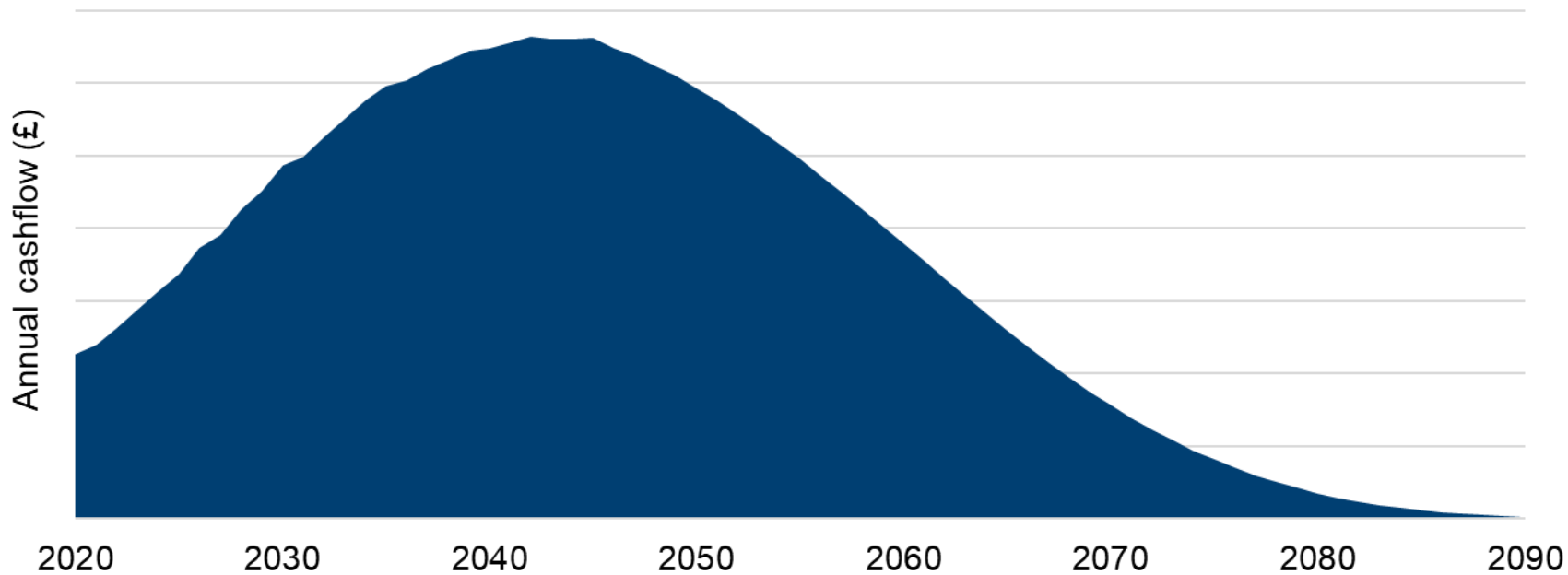


How are pension liabilities valued?

'Funding'
valuation

Inflation, salary
increases, pension
increases

Illustrative cashflows



Life expectancy of
members and their
dependants

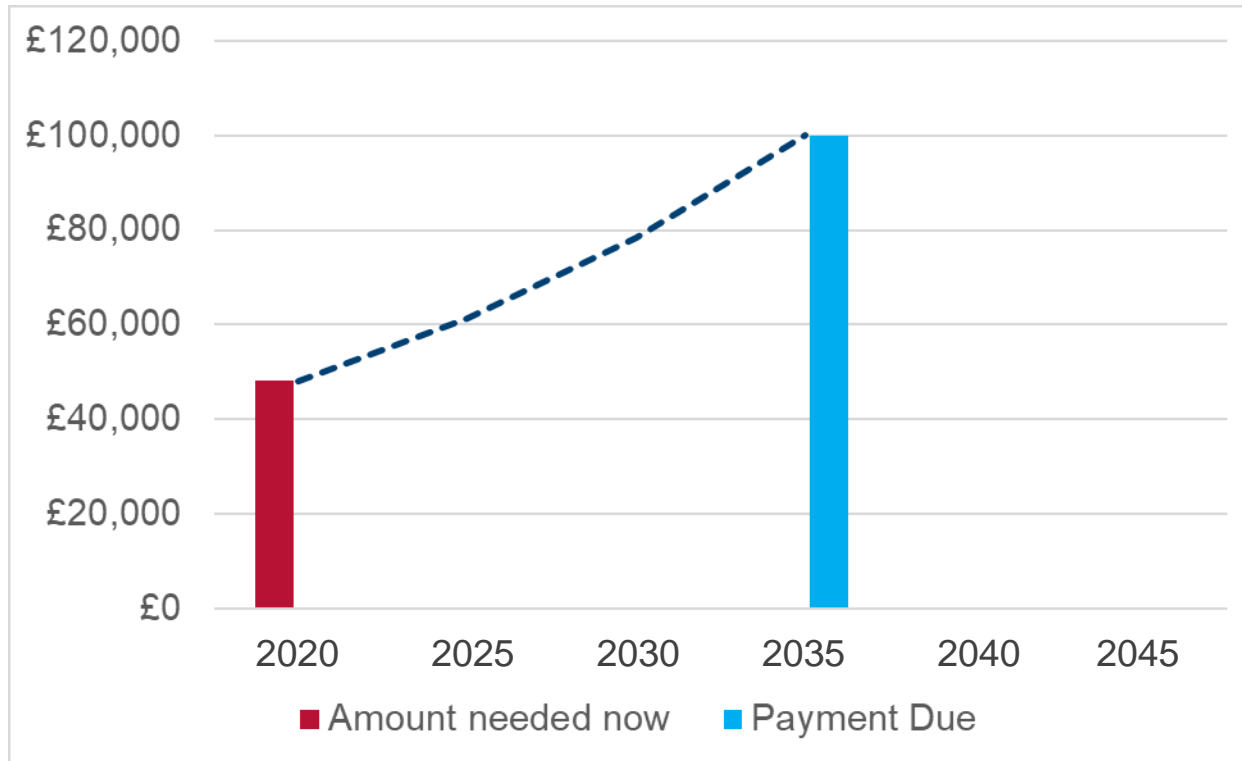
Other key
assumptions include
cash commutation
and **retirement age**

SCAPE* discount rate, used to discount the
value of benefits back to the valuation date

Delivered by First Actuarial at
Fire Pensions Annual
Conference on 26 October 2022

**Superannuation Contributions Adjusted for Past Experience*

Why the discount rate matters



FPS 2016 valuation results suggested that if the SCAPE discount rate was 0.25% pa lower, this would lead to an increase in employer contribution rate of 11.1% of payroll.

Changes in SCAPE discount rate

'Funding'
valuation

- Since 2011, SCAPE discount rate has been set with reference to long-term GDP growth
- HMT issued consultation on methodology in June 2021
- Impact is unknown until consultation outcome is published

Year	Methodology	SCAPE discount rate (above CPI inflation)
Pre 2011	STPR*	3.5% (above RPI)
2011	GDP	3.0%
2016	GDP	2.8%
2018	GDP	2.4%

Who sets the assumptions?

'Funding'
valuation

HM Treasury Central

Discount rate

Mortality improvements

Rates of pension increases

Rates of CARE revaluation

Rates of salary increases

Commutation

State Pension Age

Deficit spreading periods

Home Secretary Scheme Specific

Mortality rates

Retirement ages

Promotional pay increases

Family statistics

Rates of withdrawal

Rates of ill-health retirement

Past service deficit/surplus

- If the notional assets are greater than the amount needed to pay promised benefits, then the scheme is in **surplus**.
- If the notional assets are less than the amount needed to pay promised benefits, then the scheme is in **deficit**.
- Any surplus or deficit is then spread over an agreed period and included in the employer contribution rate calculation.

2016 valuation – Past service results

**‘Funding’
valuation**

- The employer contribution rate is increased to “pay off” this deficit. More on this later...
- Valuation directions specified that this deficit would be spread over 15 years of contributions
- The previous valuation in 2012 showed a surplus of £0.4bn. The main reason for the worsened position is fall in the SCAPE discount rate.

Liabilities

Notional assets

Cost cap valuation

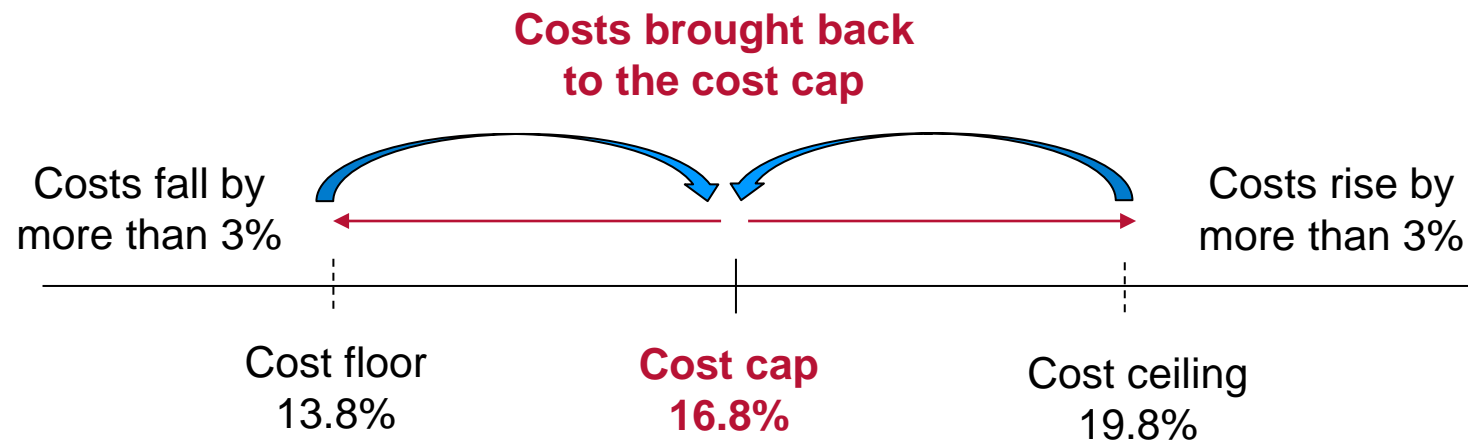
Cost cap valuation

Employer cost cap
(target employer cost)

is compared with

Tracked employer costs of the reformed scheme

If the difference is more than 3%, then reformed scheme benefits and/or member contributions are changed.

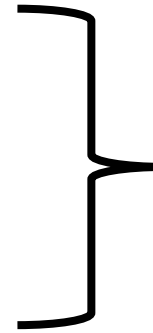
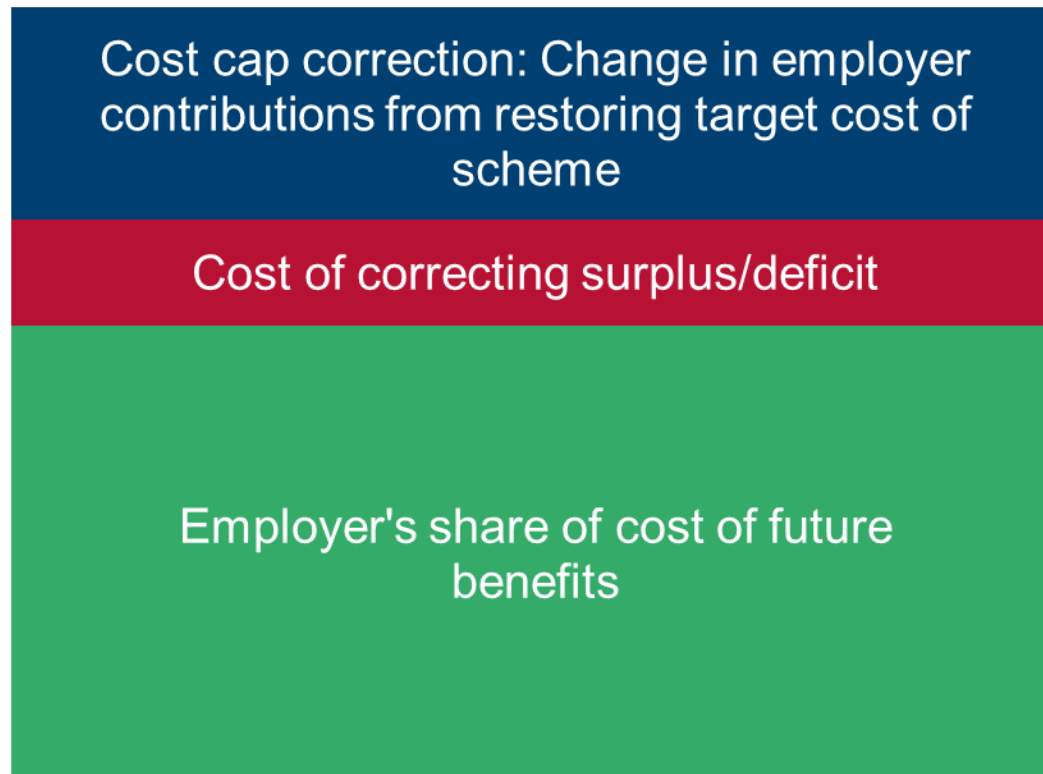


Note: Cost control 'corridor' was previously 2%

Dealing with a breach

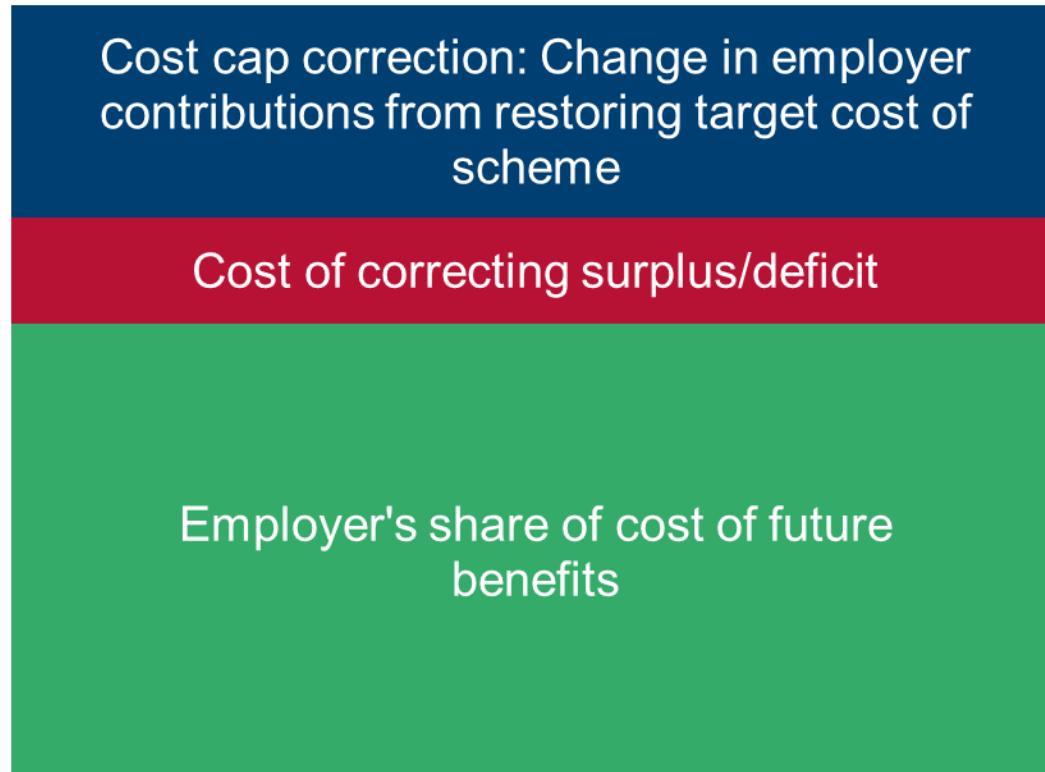
- If there is a breach, there needs to be a change to member benefits or contribution rates
- The default position is to change the ‘accrual rate’, or the rate at which future pension builds up (currently 1/59.7th in FPS 2015) until the cost is brought back equal to the target cost.
- Other options for fixing a breach are available, and consulted on with Scheme Advisory Boards

Employer contribution rate



These items could be positive or negative

2016 valuation - Employer contribution rate



Compared to an average rate of 17.6% following 2012 valuation

The impact of improving the 2015 scheme to correct the original cost cap breach, before McCloud/Sargeant costs were included

Spreading the deficit of £0.6bn over a 15 year period

Disclaimers and warnings

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First Actuarial LLP is a limited liability partnership registered in England & Wales. Number OC348086.

Registered address: First Actuarial LLP, Mayesbrook House, Lawnswood Business Park, Leeds, LS16 6QY

Contact details

James Allen FIA

Actuary

First Actuarial LLP

Trafford House, Chester Road
Manchester, M32 0RS

D: 0161 348 7432

E: james.allen@firstactuarial.co.uk

W: www.firstactuarial.co.uk

The logo for the Fire Brigades Union is a circular emblem. At the top, a red fire helmet is shown with flames rising from it. Below the helmet, a red fire hose nozzle is depicted. The central part of the emblem is a white circle containing the text "FIRE BRIGADES UNION" in a bold, dark blue, sans-serif font. The entire emblem is set against a white background that is partially obscured by a dark grey circular shape on the right side of the image.

**FIRE
BRIGADES
UNION**

Mark Rowe

FBU National Officer

Pensions Dashboards

Richard James, Programme Director, Pensions Dashboards Programme.

Lucy Stone, Business Lead, Pensions Dashboards, Regulatory Policy, Analysis and Advice, The Pension Regulator

Pensions Dashboards Programme update

Richard James- Programme Director



October 2022

PDP progress

- the PDP standards consultation closed on 30 August
- The standards will be published in within the coming months
- Call for input on the design standards
- we have successfully tested the dashboards ecosystem
- all early participants have initially connected endpoint builds to the PDP Central Digital Architecture (CDA)

Phases timeline



Data cleanse video



What's coming up?

Progress update report - to be published October 26, webinar 2 November

Consumer protection- update on Consumer Protection to be published

Standards consultation – documents to be published alongside response to the consultation

Design standards consultation- will be launched in November with supporting webinar



Stay in touch



@pensions-dashboards-programme



@PensionsDboards

Money and Pensions Service,
120 Holborn, London EC1N 2TD

infopdp@maps.org.uk
datapdp@maps.org.uk

pensionsdashboardsprogramme.org.uk



**Pensions
Dashboards**
Programme



**The
Pensions
Regulator**

Making workplace pensions work

Preparing for pensions dashboards

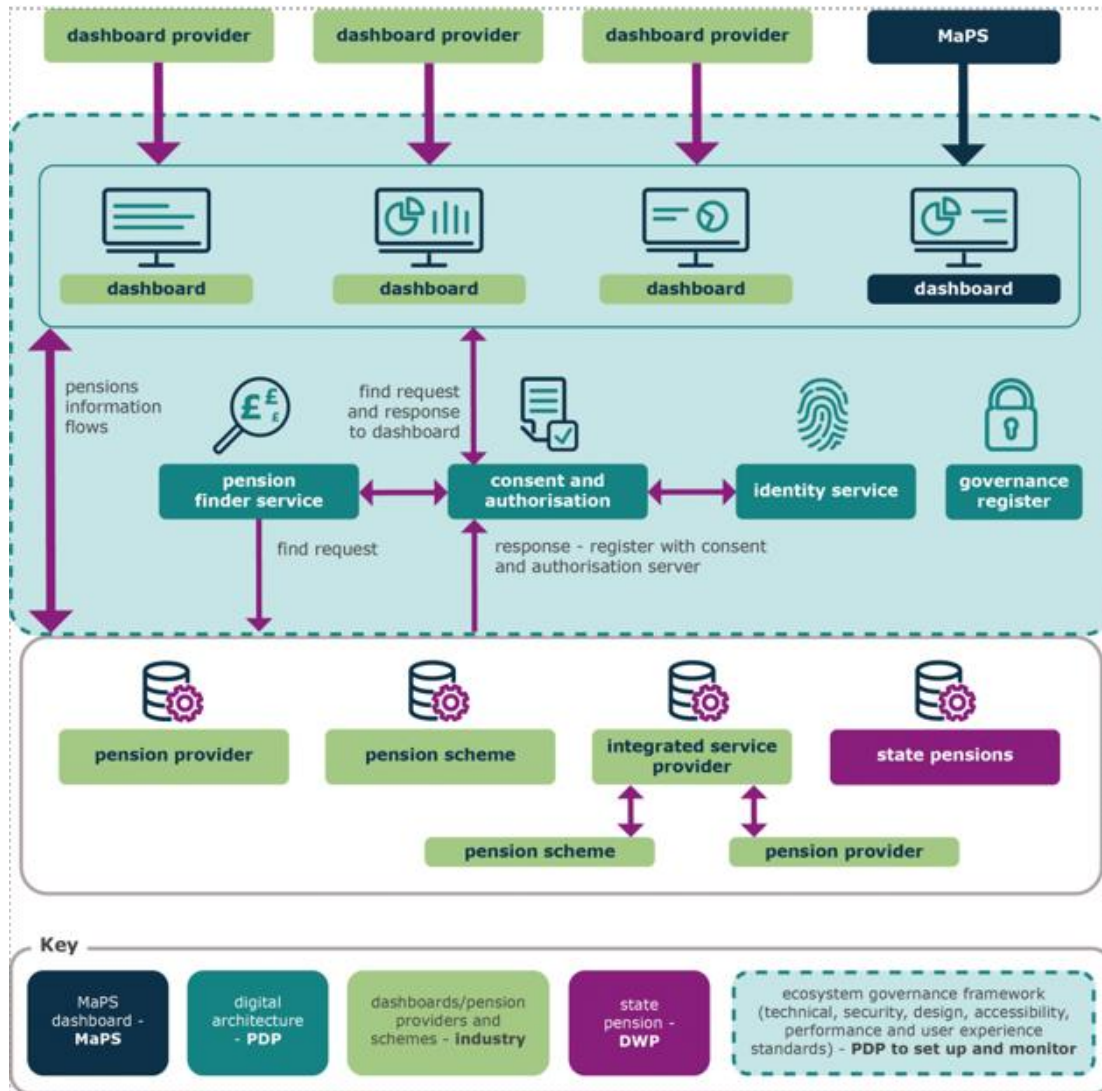
FPS AGM – 26 October 2022

Pensions dashboards – why they are important?

- As a result of automatic enrolment, **more people than ever are now saving for their retirement**
- In addition, a change in people's working patterns over the past few decades means **savers can build up multiple pension pots which can be difficult to track**
- Pensions dashboards aim to **reconnect savers with their pension savings**, and ensure they have a comprehensive view of their pensions
- Pensions dashboards support TPR's strategic outcomes that aligned to our long-term strategic outcomes that **savers are able to better interact with their savings, and can access good advice and guidance**



Pensions dashboards – how they will work



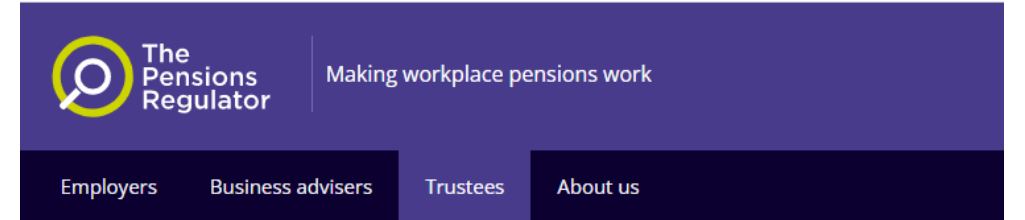
- The dashboard digital architecture will verify the individual's identity and obtain their consent to complete a search
- Individuals will make a request to find their pensions, then once they've received a confirmed match, they can request to view more detailed data about their pension.
- All pensions information for the individual can be seen side by side on the dashboard, including information about expected income in retirement.
- <https://youtu.be/o27-R-EkmR8>

What will you need to do?

- All public service schemes will need to **connect to the infrastructure set up by MaPS by 30 September 2024.**
- As soon as connected, you must be ready to **search your records using the data provided by the user, and confirm if you hold a record for them** ('match')
- If you have a record for the user, you **need to return certain 'administrative' data to them**– name of the scheme, type of benefit, contact details.
- You will also need to **return the value of their benefit but this is only required from when you've issued a remediable service statement to the member or 1 April 25** (whichever comes first)
- You will need to do all this in line with standards and technical requirements set by MaPS.

TPR's approach - communications

- Initial guidance published and updated to reflect DWP consultation response
- Multi-channel approach to raise awareness and understanding:
 - ✓ Industry events
 - ✓ Media
 - ✓ Partners and industry bodies sharing key messages
 - ✓ 121 engagement: schemes in relationship supervision
 - ✓ 121 engagement: key 'enablers' – largest administrators, admin software providers, integrated service providers
 - ✓ Nudge communications to all schemes ahead of duties, starting at least 12 months before their staging date



[Home](#) > [Trustees](#) > [Contributions, dashboards, data and transfers](#) > [Pensions dashboard](#)

Pensions dashboards: initial guidance

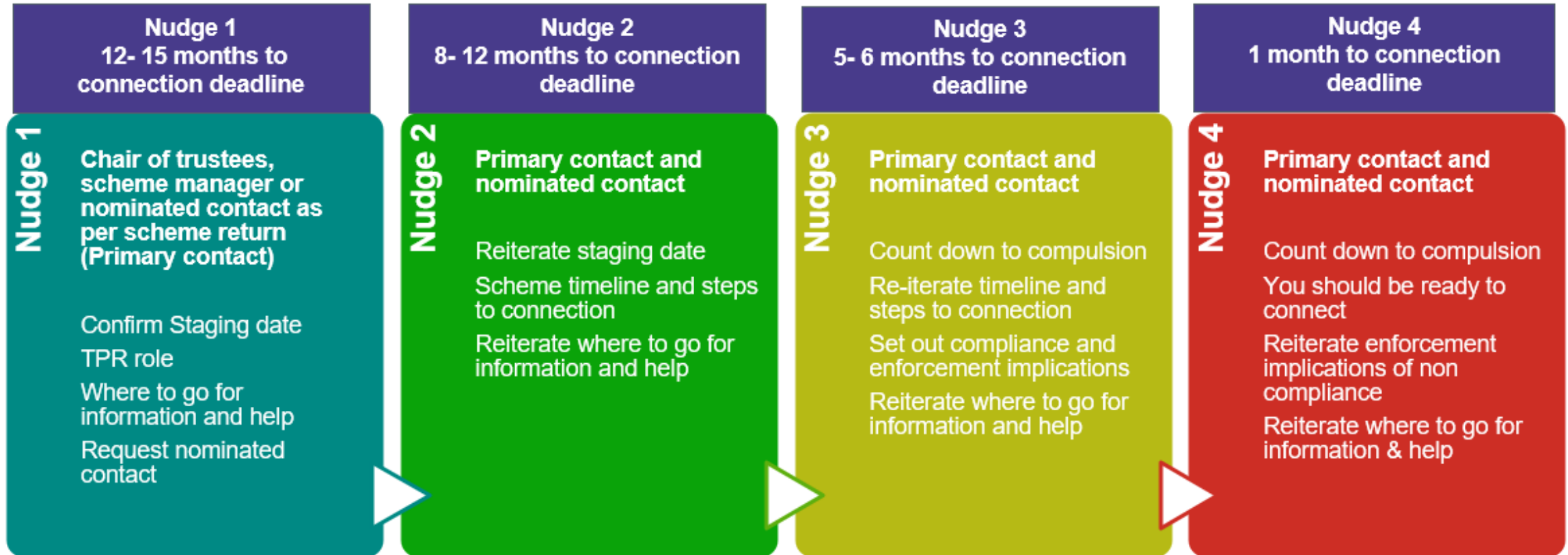
1. [Overview](#)
2. [When your scheme needs to connect with dashboards](#)
3. [Connecting to pensions dashboards](#)
4. [Matching people with their pensions](#)
5. [Information to provide to members](#)
6. [Failing to comply with pensions dashboards duties](#)
7. [Preparing to connect: checklist](#)
8. [Stay in touch with developments](#)

Overview

As a pension trustee or scheme manager, you will need to connect with and supply pensions information to savers through dashboards.

There will be significant work involved in successfully connecting to pensions dashboards.

Nudge journey



Schemes will primarily be contacted via email, where we have been notified that they haven't provided digital consent letters will be sent

TPR's approach - compliance & enforcement

- Data-led: information will flow from PDP architecture to TPR identifying non-compliance, or providing us with data to identify potential risk of non-compliance
- Leveraging a range of powers:
 - New powers in regs designed to operate at scale – compliance notices, third party compliance notices, penalty notices
 - Existing information-gathering powers for investigating issues
 - Existing powers to pursue wider governance issues



TPR's compliance and enforcement policy will be published for consultation in the autumn; pragmatic approach but robust where we see intentional non-compliance

What can you do now?

Read our guidance

- Ensure you understand your dashboards duties

Decide how you will connect to dashboards

- Look at the options available to you – i.e. using your current pensions administrator (in-house or third-party), an integrated service provider, or building your own connection solution

Include pensions dashboards as an agenda item

- Include pensions dashboards as an agenda item at your pension board meetings to raise awareness of the steps you'll need to take to meet your duties

Prepare your data

- Ensure remedy changes and others are delivered accurately, ensure that the data you use to match people with their pensions is accurate; ensure all data is digitised.

Key links

- DWP [regulations](#)
- PDP – [standards](#) (consultation closed – updated standards expected shortly)
- TPR – [pensions dashboards guidance and checklist](#), [webinar](#), and compliance and enforcement policy.

Chair's closing comments

Joanne Livingstone, Chair, Firefighters' Pensions
(England) Scheme Advisory Board

Thank you for coming!

Have a safe journey home

bluelightpensions@local.gov.uk

www.fpsboard.org

www.fpsregs.org

www.fpsmember.org