



FPS Bulletin 13 – October 2018

Welcome to the thirteenth (unlucky for some) issue of the Firefighters' Pensions Schemes bulletin.

If you are looking for information on a certain topic, don't forget to visit the issue and content indexes which are available on the main bulletin page of the website and are updated following each new issue.

If you have any comments on the contents of this bulletin or suggested items for future issues, please contact [Claire Hey](#).

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Calendar of events

Please see below a calendar of upcoming events relevant to the Firefighters' Pension Schemes. Only those events which are hyperlinked are currently available to book. If you have any events you would like to be included in a future bulletin, please contact [Claire Hey](#).

South East regional FPOG	2 November 2018
Cost-effectiveness committee	12 November 2018
South West regional FPOG	15 November 2018
LGA Leadership Essentials Fire & Rescue (Elected members)	28-29 November 2018
Eastern regional FPOG	29 November 2018
SAB	5 December 2018
Firefighter Pensions Technical Community	12 February 2019
North East regional FPOG	19 February 2019
LGA Leadership Essentials Fire & Rescue (Elected members)	26-27 February 2019
LGA annual fire conference and exhibition	12-13 March 2019

FPS

FPS 2016 valuation - update

On 11 October 2018 the Home Office commissioned the Scheme Advisory Board (SAB) for advice under [Section 7 of the 2013 Act](#) and [regulation 4E](#) of the Firefighters' Pension Scheme (England) Regulations 2014, thereby initiating formal consultation, with a view to reaching agreement, under [regulation 150A](#) of the 2014 Regulations.

The SAB is well placed to engage in this consultation. The Board's [cost effectiveness committee](#), constructed from stakeholders across the sector and supported by the Board's independent actuarial advisor, is due to meet in early November to discuss options for rectifying the breach to the cost cap floor.

The consultation will run until 5 December 2018. If agreement cannot be reached at the end of the consultation, there will be a period of three months during which the Home Office will continue to engage with the SAB to attempt to agree a consensus position. If a consensus position is not reached within that three month period, the default position of an increase to the 2015 accrual rate will be applied.

GAD have advised that the indicative accrual rate will be 1/51.2 and based on this, the indicative employer contribution rate would be 30.2% (which includes the costs of ill-health retirements). HM Treasury have indicated that there will be additional funding available in the first year to cover most of the increase in the employer's cost; after this the additional cost will be considered alongside other funding pressures as part of the comprehensive spending review. However, the final employer contribution and accrual rate will not be known until the end of the formal consultation period between the SAB and the Home Office.

Board consultations and responses will be published [here](#) once they are available, and monthly updates will be provided in the bulletins.

Review of scheme factors

As readers will be aware, the change to the SCAPE discount rate means that certain GAD factors have to be reviewed. The Home Office have provided a letter detailing the changes which can be viewed at [Appendix 1](#).

New commutation factors are expected imminently and will be published on www.fpsregs.org as soon as they are available, with an email notification sent to all FPS stakeholders.



As was the case in 2016, transfer calculations will need to be put on hold until new actuarial factors are issued. All factors once available will be published on the [GAD Guidance](#) section of the website.

[FPS benchmarking exercise - update](#)

As detailed in [FPS Bulletin 12 – September 2018](#), a benchmarking review of administration service and costs within the FPS is being undertaken by Aon to address one of the SAB's key objectives in ensuring the cost-effectiveness and efficiency of the schemes.

The Bluelight team has been working closely with Aon and external stakeholders to finalise the survey questions for employers, administrators, and members. The employer and administrator surveys will be issued in Excel format to allow them to be saved during and after completion if input from various departments is needed. Subject to approval of the SAB's [administration and benchmarking committee](#), these surveys will be available during November.

The member survey will be web-based and follow at a later date. We hope to promote this using our network of contacts at FRAs.

Further updates on the progress of the project will be provided in the bulletins and we intend to set up a dedicated page on the FPS regulations and guidance website to hold notes of all meetings and any other related documentation. Please watch this space and take the opportunity to complete the surveys once they are ready for completion.

[ABS survey – deadline extended](#)

We were pleased to launch the [2018 ABS survey](#) in last month's edition of the bulletin.

Thank you to those that have already completed the survey; we have received replies from a good proportion of Authorities. The deadline for responses has been extended to **14 November 2018** to allow for any final submissions to be made.

The survey should be completed by FRAs, administrators, those involved with Local Pension Boards, and any other stakeholders with an interest in the ABS process. We welcome multiple replies from FRAs to enable us to build up a comprehensive picture of the current landscape.

[Ill-Health and Injury Determinations and role of IQMP](#)

We have recently been made aware of a pensions ombudsman adjudicator case, where the adjudicator found the FRA to have 'acted blindly' on their acceptance of an IQMP report. The adjudicator has instructed the Authority to appoint a new IQMP and reconsider the case.

While the rules determine that the opinion of the independent qualified medical practitioner is binding on the Fire Authority, they firstly determine that the Fire Authority is the ultimate decision maker. Therefore the Authority need to ensure processes are in place to question whether the decision has been made properly and the IQMP is in receipt of all the appropriate medical evidence. This is also consistent with employment law, under which it would be unreasonable/unfair to act on a flawed medical report.

Case law further supports the argument that the decision maker must not act blindly in accepting a medical opinion, and should ensure the IQMP reaches their opinion in a proper manner.

- [Court judgment](#) for the police scheme that the Police Authority is the ultimate decision maker not the Selected Medical Practitioner (SMP)
- [PO-9253](#) (para 32) demonstrates that decision makers have a responsibility when seeking and taking medical advice and should not just rely on it at face value.

In order to ensure that Fire Authorities have not ‘acted blindly’, they should ensure they do not simply accept the advice of the IQMP without going through the report, reading it to make sure it makes sense and then asking clarification questions if something is missing or the IQMP does not appear to have considered the right questions as per the requirements of the regulations.

This is not to say that the FRA should go against the IQMP decision, but rather they should satisfy themselves that they have asked pertinent questions and obtained all relevant medical evidence with a view to having a better understanding of the medical evidence and ensuring that the medical evidence addresses the requirements of the regulations.

Local Pension Boards should ensure that scheme managers have the appropriate processes in place.

Relevant Scheme Rules

1992 Scheme	H1
2006 Scheme	Part 8, rule 2
2015 Scheme	Part 12, chapter 1
Compensation Scheme	Part 6, rule 1, paragraph 2

October query log

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

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

Other News and Updates

Budget 2018

On 29 October the [Budget 2018](#) was laid before the House of Commons by the Chancellor of the Exchequer, Philip Hammond, setting out the government’s plans for the economy and public finances.

Announcements relating to public service pensions schemes confirmed as expected the reduction of the SCAPE discount rate to 2.4% plus CPI, indicating an increased cost to employers of providing pensions in the long-term. The government further acknowledged that the provisional valuation results of all public service schemes indicate that an improvement to member benefits is needed from 2019-20.

While there were no major announcements in relation to pensions tax, it has been confirmed that Lifetime Allowance for 2019-20 will increase in line with CPI, to £1,055,000.

The government pledged support for pension savers by committing £5m extra funding for the Pension Dashboard, which will allow individuals to see all of their pension pots, including State Pension, in one place. The Budget report confirms that DWP will consult on the project later in the year.

TPR – Governance and Administration survey 2018

As always, the end of the year seems to be a popular time for gathering data, and TPR are shortly due to send out their annual Governance and Administration survey. The survey is really important to the Regulator as it helps them understand the issues that schemes are facing, in a way that is not possible within their day to day engagement activities. Last year, FPS achieved almost a 100% response rate across the UK, demonstrating the fantastic progress that has been made within the governance and administration of the schemes, and we would like your assistance in achieving a full return this year.

Our colleagues at TPR have confirmed that there have been some changes to the survey for 2018. While the survey continues to ask questions about the presence of key governance features, this year it will also be probing how well they operate. In particular, the Regulator will be looking at how well pension boards are working in practice. A new section on cyber-risks has also been introduced, which should allow parallels to be drawn between public service schemes and organisations in the private sector.

As in previous years, the survey is being run for TPR by OMB market research throughout November. We expect that initial contact emails will be sent to scheme managers, pension board chairs and scheme contacts during week commencing 29 October. This will allow schemes a little time to update any out of date details before the survey is sent. If you haven't already, please update any relevant details through the TPR Scheme Return which is currently out for completion.

The survey itself is due to be sent out to scheme managers in the week of 5 November. While the survey is web based, it can be printed off for discussion, and the closing date is the end of November. TPR expect to receive results early in February 2019 and will aim to publish these shortly thereafter.

A summary of last year's results can be found [here](#).

TPO update

Our colleagues at the Pensions Ombudsman (TPO) have provided an interesting and informative update on their FPS casework: currently 11 cases have been accepted for investigation by TPO, and eight are being investigated by the early resolution team.

The outstanding cases include three cases about protected pension ages. These are being delayed by a similar [determination](#) in the Police Pension Scheme which is subject to appeal.

Two other cases relate to individuals who missed the deadline to elect to become special members of the FPS 2006.

The options exercise for eligible individuals joining the Modified Scheme was set out in the 'special section' regulations of the 2006 Scheme. This sets out that the exercise closed on 30 September 2015 and, as such, no elections could be accepted after this date. The rules are definitive about this particular point and there is no intention for them to be amended. An update on this matter was provided in [FPS Bulletin 3 – November/ December 2017](#).

It was the responsibility of each FRA to ensure that they completed the options exercise by the closing date; informing all affected individuals of their entitlement to join and providing them with the opportunity to make an election to join, therefore neither the LGA, Home Office or the SAB intend to comment on what the position should be on rectifying the situation where an Authority have not used reasonable endeavours to satisfy their responsibilities.

The second awaited TPO determination on pensionable pay was published earlier this month under reference [PO-14863](#). This will allow the SAB to progress guidance with the Board's legal adviser. Any guidance issued will be a general set of principles that are based on case law and scheme rules; it will still be the responsibility of each Authority to determine locally which elements of pay are pensionable.

We would remind Authorities of the position taken by the Home Office that it is not for the regulations to determine whether pay for different duty systems is pensionable; the regulations and case law set out the criteria and it is for each FRA to consider whether their duty systems fit this criteria and make the judgment as to whether pay is pensionable. If having considered all the information available to them, they feel they are unable to make a decision, then they should consider taking legal advice.

The following [presentation](#) given by the SAB's legal adviser at the AGM in September gives an update on case law, general principles, and the practical implications to consider.

[LGA website revamped](#)

The LGA Pensions team has been collaborating on a new suite of pages to promote our work across public service schemes, including the Local Government Pension Scheme (LGPS) and Teachers Pension Scheme, as well as the FPS. Information about the Police Pension Scheme will be added at a later date.

Many of the pages are publicly accessible and have been redesigned to be as user friendly and engaging as possible.

The pages can be accessed from the following central link <https://www.local.gov.uk/our-support/workforce-and-hr-support/local-government-pensions>. If you have any feedback about the website or would like to find out more information about any of the schemes within our remit at the LGA, please email bluelight.pensions@local.gov.uk in the first instance.

HMRC

[HMRC newsletters/bulletins](#)

HMRC have published pension schemes newsletter 104 containing important updates and guidance on pension schemes. The following issues are covered:-

[Pension schemes newsletter 104 – 31 October 2018](#): Autumn Budget 2018 | Pension flexibility statistics | Registration statistics | Manage and Register Pension Schemes service | Reporting of non-taxable death benefits | Relief at source | Non-statutory clearances | Applications to register a pension scheme | Transfers between registered pension schemes | Reporting overseas transfer charges | Master trusts | Operating PAYE on pension payments |

Contracting-out reconciliation update

Thank you for your ongoing work with HMRC to reconcile the Guaranteed Minimum Pension (GMP) data that you hold on your scheme members that have reached State Pension Age since 2009.

FRA's should now have concluded or be in the final stages of reconciling their GMP data. HMRC has now confirmed a deadline of 31 October 2018 for submitting data after which there will be no further opportunity to raise queries direct with HMRC. If this presents any difficulty for your FRA you should raise this with your HMRC contact as a matter of urgency.

We understand that considerable progress has been made over the last few months, but that there may be a large amount of data still to submit. As FRA's may be aware, we made a request for information in [FPS Bulletin 9 – June 2018](#) for details on the progress made on the GMP reconciliation in order to inform HMT conversations with HMRC on completion of the reconciliation and deadlines. Unfortunately we only received a disappointing 16 responses from FRA's out of the 50 FRA's including NIFRS, Scotland and Wales.

The Pensions Administration Standards Association (PASA) has this month issued guidance on resolving stalemate cases with HMRC. The guidance is available at [Appendix 2](#).

Please note that the Home Office has now agreed that any confirmed overpayments identified as part of the HMRC reconciliation process should be written off with no attempt to recover the overpayment from the individual scheme members. FRA's are advised to correct these pension payments going forward as soon as is reasonably possible to avoid any possible unauthorised payment tax charges. To ensure that such tax charges are avoided we recommended that FRA's have a robust process in place to correct any affected pensions immediately once they have been identified. It is worth bearing in mind that any additional tax charges incurred cannot be paid from a FRA's pension account and will have to be paid from operational accounts. Please note it is the responsibility of each FRA to inform each affected scheme member accordingly.

The Home Office has also agreed that any confirmed pension underpayments that have been identified as part of the GMP reconciliation process should be corrected going forward as soon as is reasonably possible. FRA's should reimburse affected members for any past underpayments in their GMP entitlement. While it is not expected that interest will be included with any reimbursed pension, should a FRA decide to include interest this will need to be paid from operational accounts. Again, it is the responsibility of each FRA to inform each affected scheme member accordingly.

ACTION: Pension Board Chairs and Scheme Managers, please ensure you liaise with your pension manager to ensure the correct action is taken for your FRA.

The following bulletin, containing important guidance and information about the end of contracting-out and the scheme reconciliation process, was published by HMRC in October.

[Countdown bulletin 37](#)

Updates include:

- financial reconciliation
- import amendment to phase 7 rerun plan
- HMRC banking details
- data quality
- contribution adjustment action as a result of scheme reconciliation

Please see below an addendum to Countdown Bulletin 37, recently received from HMRC:

Subject: *Urgent Amendment to Count Down Bulletin 37 Contribution Adjustment*

In the October Count Down Bulletin 37 we included an article titled ‘Contributions Adjustment Action As A Result of Scheme Reconciliation’. This advised PSAs on the action needed to adjust Contributions from A to D and vice versa.

*As part of the information required in the Trustees Approval letter we incorrectly said that a list of members that the adjustment applies to should be included, this was incorrect all that is required is the **number** of members the adjustment applies to, this number must match the file and the exact file name must be shown.*

Apologies for any confusion this has caused.

Reporting non-taxable death benefits

HMRC have confirmed that the Real Time Information (RTI) online service has been updated to prevent P6 coding notices being incorrectly issued to beneficiaries in receipt of pension lump sum death benefits that are entirely non-taxable, with apologies for the time taken to resolve this.

Reporting of non-taxable pension lump sum death benefit payments can now resume through RTI. For 2018 to 2019 you can find guidance on how to report these payments in part 2.2.7 of the [2018 to 2019: Employer further guide to PAYE and National Insurance contributions](#).

While HMRC appreciate that it may take time for you to amend your processes to report these payments again, but want to encourage you to start reporting these as soon as you’re able to.

Training

Pensions tax support – update

Thank you to those authorities that have completed the pensions tax support pro-forma that was included as an appendix to [FPS Bulletin 12 – September 2018](#). We will consider the responses in our procurement of any additional training and support, and updates will be provided via future bulletins.

We are happy to accept further responses using the [pro-forma](#), which can be completed and returned to bluelight.pensions@local.gov.uk.

Legislation

SI	Reference Title
2018/1102	The Occupational Pension Schemes (Cross-border Activities) (Amendment) Regulations 2018
2018/1103	The Occupational Pension Schemes (Governance) (Amendment) Regulations 2018

Useful links

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

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