

## FPS Bulletin 14 – November 2018

Welcome to the fourteenth 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](#).

## Contents

### [Calendar of events](#)

#### [FPS](#)

- [FPS 2016 valuation - update](#)
- [FPS benchmarking exercise - update](#)
- [Scheme Advisory Board levy](#)
- [Pensionable pay update](#)
- [SI 2018/997 member disclosure](#)
- [A favour to ask...](#)
- [November query log](#)
- [Website resource update – ill health](#)

### [Other News and Updates](#)

- [TPR scheme return 2018](#)
- [TPR Governance and Administration survey 2018](#)
- [Updated TPR resources](#)
- [High Court ruling on GMP equalisation](#)
- [Civil partnerships to be extended to opposite sex couples](#)

#### [HMRC](#)

- [HMRC newsletters/bulletins](#)
- [Contracting-out reconciliation update](#)

### [Events](#)

- [A view from Torquay](#)

### [Legislation](#)

## [Useful links](#)

## [Contact details](#)

## 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](#).

SAB	5 December 2018
LPB effectiveness committee	23 January 2019
Administration & benchmarking committee	7 February 2019
Firefighter Pensions Technical Community	12 February 2019
North East regional FPOG	19 February 2019
<a href="#">LGA Leadership Essentials Fire &amp; Rescue</a> (Elected members)	26-27 February 2019
<a href="#">LGA annual fire conference and exhibition</a>	12-13 March 2019
SAB	14 March 2019
SAB	13 June 2019
Firefighters' Pensions AGM	24-25 September 2019 (provisional)
SAB	10 October 2019
SAB	12 December 2019

## FPS

### [FPS 2016 valuation – update](#)

Following the initiation of formal consultation between the Home Office and the Scheme Advisory Board (SAB) under [regulation 150A](#) on 11 October 2018, the Board and its [cost-effectiveness committee](#) have met to discuss options for rectifying the breach to the cost cap floor. The draft results of the 2016 valuation show that the employer cost cap set at 16.8%<sup>1</sup> has fallen to 11.6%.

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<sup>1</sup> [150A(1) <http://www.legislation.gov.uk/uksi/2015/465/regulation/5/made> ]

The cost committee comprises representatives from FRAs working within finance and HR, the technical group chair representing administrators, and representatives from local pension boards. The Board itself is made up of both scheme employer and scheme member representatives (including all trade union bodies operating as representatives of their wider membership), and is supported by First Actuarial offering independent actuarial advice. The SAB have to provide their response to the Home Office for consideration on 5 December.

The Home Office then have ten days to provide an alternative option if the SAB's proposed option is not accepted. If agreement cannot be reached following this, 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 mechanism is to amend the accrual rate for FPS 2015. GAD have advised that the default accrual rate would be 1/51.2 in order to fully rectify the breach.

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

### FPS benchmarking exercise – update

Following an extended period of stakeholder engagement, we were pleased to issue the final versions of the administrator and employer (scheme manager) surveys by email on 23 November, for completion with a deadline of 31 December.

The surveys were sent by email to our main contacts at administrators and FRAs. If you were expecting to receive a copy and have not, please contact [claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk).

Aon have been commissioned to undertake the review by the Scheme Advisory Board (SAB), to help them establish a measure of the cost and effectiveness of administration and management within the schemes. An update from Aon can be viewed at [Appendix 1](#).

More information about the project can be found [here](#) and further updates will be provided in the bulletin each month.

### Scheme Advisory Board levy

On 31 October we emailed all Fire Authorities with details of the 2018/2019 levy, requesting a valid purchase order for the invoice by 30 November 2018. For English Fire Authorities this was set as £7.69 per firefighter defrayed to scheme managers as per the terms of the 2014 regulations. The letter is available at [Appendix 2](#).

Many thanks to all those who have responded with a valid purchase order. To date we have received **24** responses out of an expected 49, so will be writing to those yet to provide a valid purchase order during the next month.

### Pensionable pay update

As we reported in [FPS bulletin 13 – October 2018](#), TPO have now published decision [PO-14863](#) on pensionable pay in respect of the Welsh Firefighter schemes that will be of interest to English Fire Authorities. We will be asking the SAB legal adviser to consider giving guidance on what this means for all Fire Authorities

The case considers a number of different pensionable pay elements across the pension schemes which can be summarised below:

Pensionable Element	Scheme	TPO decision - Relevant paragraphs	TPO judgment
Training Allowance	1992	45-49	Pensionable
Day Crewing	2007* & 2015	50-69	Not pensionable
Self-Rostered Crewing	2007* & 2015	70-71	Not pensionable
USAR	2007* & 2015	72-78	Pensionable

\*2006 Scheme in England

Please note the issues in pensionable pay cases are finely balanced and often depend on the exact detail and nature of the payments. You should read the judgment with this in mind and obtain legal advice before making any pensionable pay decisions for your Fire Authority. It is possible that TPO decision will be appealed.

### SI 2018/997 member disclosure

Under regulation 8 part 1 of Schedule 2 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, schemes must inform members of any material change to basic scheme information within three months.

Authorities will be aware of the recent changes to the FPS following the introduction of The Police and Firefighters' Pension (Amendment) Regulations 2018 which were made on 13 September 2018 and came into force on 8 October 2018 ([SI 2018/997](#)).

To assist FRAs in communicating these changes to scheme members, Shropshire Pension Fund on behalf of the Fire Communications Working Group (FCWG) have produced a [leaflet](#) containing sample text which can be copied and used as required. **Please ensure that this information is provided to members by 8 January 2019.**

### A favour to ask...

As you will be aware published Pension Ombudsman (TPO) [decisions](#) are available on our [website](#) ordered by scheme. However, informal adjudicator decisions are not published by TPO. We would like to ask whether schemes would be prepared to share informal adjudicator decisions so that we can publish anonymised case studies, similar to the 'Ill-Health and Injury Determinations and role of IQMP' case study given in [FPS bulletin 13 - October 2018](#).

Within the bulletin, we commented on a recent case where an FRA had been found to be 'acting blindly' in the case of accepting an IQMP opinion, and provided some examples of case-law where this had been determined. This is further confirmed by the following TPO determinations: [PO-13645](#), [PO-19182](#) and [PO-19842](#). In all these cases it is the decision making process itself which has been found to be flawed, not the actual medical decision. Appeals on medical issues should be directed to Health Management Ltd (HML).

## November query log

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

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

## Website resource update – ill health

While the FCWG continue to undertake a review of ill health and injury award certificates and guidance, we have collated all existing resources into a new page in the member-restricted area of [www.fpsregs.org](http://www.fpsregs.org). If you require a log-in for the site, please contact [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk).

The [ill health and injury page](#) contains contains guidance and training materials along with forms for each scheme that were prepared in 2015 and circulated as drafts for authorities to use if they wished. Note, however, that these forms have not been endorsed by the LGA or the Home Office. Authorities should satisfy themselves that the certificates meet all of their requirements and do not leave the opinion open to challenge.

## Other News and Updates

### TPR scheme return 2018

We have been made aware that some FRAs may not yet have completed their annual scheme return to TPR. While we are aware that some delay may have been caused by the new requirement to provide common and scheme specific data scores, we would like to remind scheme managers that submission of the return is mandatory and any schemes that have not yet submitted will now have been moved to the first stage of enforcement – chasers and reminders.

In 2017 a £1,000 fine was issued against the London Borough of Barnet scheme manager for failing to submit its 2016 scheme return:

- TPR issued a scheme return notice to the scheme manager on 9 July 2016, requesting the scheme return be submitted by 12 August.
- The return was not received and further communications from TPR not replied to.
- The matter was referred to TPR's Determinations Panel on 24 February 2017.
- The penalty notice was issued to the scheme manager on 13 April and paid on 9 June.

The £1,000 fine took into account both the size of scheme (23,000 members) and governance and administration being a priority for TPR.

Find out more about the scheme return process [here](#).

### TPR Governance and Administration survey 2018

On behalf of Malcolm Eastwood, chair of the Scheme Advisory Board, we would encourage any FRA who has not yet completed or submitted the TPR governance and administration survey to do so as soon as possible. The survey has been sent by email to each FRA's registered Scheme Manager contact with a closing date of 30 November 2018.

If you are experiencing any difficulty in locating the survey, please contact [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) for clarification of the email address it has been sent to. We can arrange for the link to be resent if necessary.

TPR have reported that completed responses have been received from 17 Fire schemes up to 23 November, with 15 schemes yet to open the survey.

### Updated TPR resources

TPR, in conjunction with the FCA, have launched a new ScamSmart TV advertising campaign to raise awareness of pension fraud and the most common tactics used by scammers.

As part of the ScamSmart campaign a [new customer leaflet](#) and other communication materials have been introduced. The new leaflet replaces the scorpion leaflet with immediate effect and, as before, should be included with transfer packs and is suitable to accompany annual benefit statements.

TPR have also recently issued [updated guidance on Annual Benefit Statements](#). The new guidance includes some examples of good and bad practice from the 2017 ABS run on a no-names basis and should be of interest and use to scheme managers and pension boards. Some of the points made have application beyond their specific reference to ABS too, reflecting more general issues within scheme operations.

These and other resources can be found on TPR's [new website](#) which was launched on 12 November to give more than three million yearly visitors a clearer and simpler experience. The new site is a key part of TPR's redesigned branding which highlights how the organisation is changing its approach to become clearer, quicker and tougher.

Authorities may wish to check their communications to make sure that any links to the old TPR website still work, or update where necessary.

### High Court ruling on GMP equalisation

On 26 October 2018, Mr Justice Morgan handed down [judgment](#) in Lloyds Banking Group Pensions Trustees Limited v Lloyds Bank PLC, HBOS PLC, Angela Sharp, Judith Cain, Susan Dixon, Secretary of State for Work and Pensions and HMT. The High Court has held that schemes must equalise the discriminatory effects of GMPs and that this can be achieved using several methods.

We are aware that concern has been raised as to the impact to Public Service Pension Schemes. HMT have confirmed that this judgement "*does not impact on the current method used to achieve equalisation and indexation in public service pension schemes*". For more information concerning the current method of equalisation of Public Service Pension Schemes, please consult the outcome to the Government consultation [on indexation and equalisation of GMP in public service pension schemes](#) published on 22 January 2018.

### Civil partnerships to be extended to opposite sex couples

At the Conservative Party Conference, Prime Minister Theresa May announced that heterosexual couples will be able to enter into civil partnerships. The move follows a [decision](#) of the Supreme Court [UKSC 2017/0060] on 27 June 2018 that the existing law around civil partnerships was incompatible with the European Convention on Human Rights as it only permitted civil partnerships between same-sex couples.

## HMRC

### HMRC newsletters/bulletins

HMRC have published pension schemes newsletter 105 containing important updates and guidance on pension schemes. The following issues are covered:-

[Pension schemes newsletter 105 – 23 November 2018](#): Double taxation – bulk requests for certificates of residence| Relief at source pension schemes newsletter| Overseas transfer charge - draft regulations| Manage and Register Pension Schemes service newsletter | Reporting of non-taxable death benefits | Joint article from HMRC and The Pensions Regulator |

### Contracting-out reconciliation update

As you will be aware the deadline for automated queries with HMRC was 31 October 2018, with the deadline for the full exercise to be completed by the end of the year. HMT are meeting with public sector schemes to understand what if any further steps need to be taken to bring this exercise to a successful conclusion, and have asked us to provide some information with regards to the Firefighters' Pension Scheme.

**Please can administrators provide us with a return for each FRA, setting out the number of cases reconciled and the number outstanding.** It would also be helpful if you could include an estimate of how long you would expect is needed to reconcile the outstanding cases a) with further HMRC support and b) without such help. Reflecting past experience, can schemes also advise how many cases it might not be possible to reconcile under either scenario. If schemes are unable to provide this information, we would welcome an assessment of why it is not possible.

The following bulletins, containing important guidance and information about the end of contracting-out and the scheme reconciliation process, were published by HMRC in November.

#### [Countdown bulletin 38](#)

Updates include:

- Scheme Reconciliation Service (SRS) stalemate queries
- phase 7 automated rerun plan
- scheme financial reconciliation
- contribution adjustment action
- requests for SRS data
- scheme cessation

Of particular interest is the article on stalemate queries. The article sets out three scenarios and confirms that HMRC will accept stalemate queries (based on their three scenarios) up to 31 December 2018. Thereafter, various processes may be followed depending upon the outcome.

#### [Countdown bulletin 39](#)

Updates include:

- Scheme Financial Reconciliation
- scheme cessation
- scheme reconciliation service
- Contributions Equivalent Premiums notified by automated responses

In [FPS bulletin 13 - October 2018](#) we included an addendum to [Countdown Bulletin 37](#) from HMRC regarding contribution adjustment. HMRC have subsequently provided further clarification on this issue:

### **Important Note**

*The recent updates around 'A to D' and 'D to A' cases were only to clarify what is required in terms in Trustee Approval. There is no change to the circumstances in which these cases should be submitted i.e. a scheme must be confident that their records are correct and indicate that one of their employers has deducted the wrong rate of contributions. HMRC will therefore have to have provided employer details and contribution category letters according to their records for schemes to confirm this. Schemes also need to carefully consider the impact on the individual and the employer when requesting contribution adjustment.*

### **Here is a further update**

*The clerical deadline of 31<sup>st</sup> October for A-D D-A cases still stands, however, the business will give the schemes up to 4 weeks after submission of those cases to obtain that trustee approval.*

*If no trustee approval is received within that timeframe, the cases will at that point be rejected.*

*In respect of multi SCOns then we'll accept these on one letter as long as the letter is specific with file names and numbers.*

*On submission the files should be clearly noted by the PSAs as "contribution adjustment cases"*

## **Events**

### **A view from Torquay**

This month saw the popular pensions managers conference for LGPS in Torquay, so what can Fire learn from LGPS?



As you might expect the focus was on many of the same areas affecting Firefighter Pensions: increasing scheme complexity and the challenges facing administrators; what to expect from this year's TPR survey and their focus for next year; measuring and cleansing Data; an engaging session on how TPO are modernising the way they work followed by a topical look at ill-health processes from Eversheds Sutherland; the importance of member communications and ways to engage members in their pensions, and of course a topic facing all public sector schemes, the outcome of the 2016 valuations.

The Bluelight team came away with copious notes and plenty of ideas for next year's seminars and conferences so watch this space!



## Legislation

SI	Reference Title
<a href="#">2018/1217</a>	The State Pension Revaluation for Transitional Pensions Order 2018
<a href="#">2018/1218</a>	The Occupational Pensions (Revaluation) Order 2018
<a href="#">2018/1219</a>	The State Pension Debits and Credits (Revaluation) Order 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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