

FPS Bulletin 5 – February 2018

Welcome to the fifth issue of the Firefighters' Pensions Schemes bulletin. While the bulletins were previously issued bi-monthly, it is now intended to produce them on a monthly basis where there is sufficient content.

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](#).

Firefighters Pensions Technical Committee	28 February 2018
SAB	9 March 2018
LGA annual Fire conference and exhibition	13-14 March 2018
Aquila Heywood CLASS Police and Fire User group, Cresta Court Hotel - Altrincham	14 March 2018
ITM/ Pensions Age Data Seminar	16 March 2018
Fire Communications Working Group	22 March 2018
Meeting GDPR and TPR Data Requirements	29 March 2018
Modified 2006 scheme workshop	2 May 2018
Joint Police and Fire governance event	9 May 2018
LPB wrap up training	19 June 2018
SAB	20 June 2018
Aquila Heywood CLASS AGM, Holiday Inn - Manchester City Centre	11-12 July 2018
Firefighters' Pensions AGM	AMENDED: 17-18 September 2018
SAB	4 October 2018
SAB	5 December 2018

FPS

Abatement

Having recently received several queries about Protected Pension Age (PPA) and abatement, the team thought it would be appropriate to remind FRAs that abatement and loss of PPA are two separate provisions which can apply to a member's benefits, and to provide the following useful information as a source of reference:

- Abatement and PPA workshop slides from the LGA Fire Pensions conference October 2016 – [Appendix 1](#).
- [FPSC 10/2009](#). Please note the Home Office do not issue or endorse previously published circulars, but nonetheless the guidance in circular FPSC 10/2009 may be useful.

The below extracts are from the regulations which confirm a requirement to withdraw the whole or any part of a pension in payment for any period during which the person entitled to it is employed by any fire and rescue authority in whatever capacity, and that where the authority exercise the discretion not to withdraw the payment they are required to transfer into the Firefighters Pension fund an amount equal to the amount of pension that could have been withdrawn or abated.

1992 Scheme

[Rule K4](#)

“Withdrawal of pension whilst employed by a fire and rescue authority

K4. *The fire and rescue authority by whom a pension is payable may, in their discretion, withdraw the whole or any part of the pension, except a pension under Part C (awards on death—spouses and civil partners), for any period during which the person entitled to it is employed by any fire and rescue authority in whatever capacity.”*

[Rule LA\(9\)](#)

“(9) Where an authority exercises its discretion not to withdraw the payment in whole or in part of any pension under rule K4 (withdrawal of pension whilst employed by a fire and rescue authority), the authority shall in the financial year in which payment is not withdrawn, transfer into the FPF an amount equal to the amount of pension paid during that financial year to that person which could have been abated or withdrawn.”

2006 Scheme

[Part 9, Rule 3](#)

“Withdrawal of pension during service as firefighter

3.— *(1) Subject to paragraph (2), the authority by which a pension under Part 3 is payable may withdraw the whole or any part of the pension for any period during which the person entitled to it is again employed as a firefighter by any authority.*

(2) Where a person who is entitled to pensions under this Scheme in respect of both regular and retained or volunteer service (whether from the same authority or from different authorities)—

(a) resumes regular service, but does not resume retained or volunteer service, or

(b) resumes retained or volunteer service, but does not resume regular service,

paragraph (1) applies only as regards the pension referable to his previous retained or volunteer service or, as the case may be, his previous regular service.

(3) An authority may abate a pension to which a person is entitled under Part 3 so long as he is employed (in whatever capacity) by any authority.

(4) A person who—

(a) is entitled to a pension under Part 3, and

(b) accepts an offer of employment with an authority (in whatever capacity),

shall, as soon as reasonably practicable after accepting that offer, give written notice to each authority by which a pension is payable to him under Part 3, specifying the name of his employing authority.

[Part 13, 2 \(11\)](#)

“(11) Where an authority exercises its discretion not to withdraw or abate the whole or any part of a pension under rule 3 (withdrawal of pension during service as a firefighter) of Part 9 (review, withdrawal and forfeiture of awards), the authority shall in the financial year in which payment is not withdrawn or abated, transfer into the FPF an amount equal to the amount of pension paid during that financial year to that person which might have been abated or withdrawn.”

The following factsheets have been developed by the LGA Bluelight team in collaboration with the Fire Communications Working Group and the Scheme Advisory Board to be provided to members:

[Abatement](#)

[Protected Pension Age](#)

FPS Regulations and Guidance website – NEW!

We are delighted to inform readers that the FPS Regulations and Guidance website is now live and can be accessed at www.fpsregs.org.

The site has been developed to hold all resources relating to the administration of the Firefighters' Pension Schemes and provide Fire & Rescue Authorities and administrators with tools and guidance to provide an efficient and effective service to their members. The main framework of the site is now in place and content will be added on a regular basis, so check back frequently to see what's new.

Existing content on the Knowledge Hub will be deleted once it has been migrated to the new site, though the forum groups will remain in place to promote peer support and sharing of knowledge.

If you have any feedback please contact [Claire Hey](#) by email or via the link on the homepage.

Public sector age discrimination appeals – EAT update

Eversheds Sutherland have produced a UK Pensions Speedbrief containing a helpful summary of the outcome of the Employment Appeal Tribunal relating to the public sector age discrimination appeals which were heard in December 2017. The summary can be viewed at [Appendix 2](#).

Other News and Updates

GDPR

As we reported in [FPS bulletin 1](#), the General Data Protection Regulation (GDPR) comes into force on 25 May 2018 bringing significant changes to data protection legislation. Each Fire Authority is considered to be a Data Controller for pension scheme data and as such determines how, and for what purposes, data is to be processed.

We have been liaising with ITM on what this means for Fire Authorities and their pension scheme data, and ITM have produced guidance specific to FRAs encompassing the following six practical steps. The full guidance is available at [Appendix 3](#).

1. Map your data flows and identify the risks

Identify what data you hold, where it comes from and who you are sharing it with. Do you really need all the data? How long are you keeping it for?

Document the personal data you hold and keep an up-to-date record of processing activities.

2. Identify your lawful basis for processing data

Identify your legal basis for processing data, determine whether consent is required and communicate to members.

3. Update policies and procedures

Check your (or your administrator's) procedures for responding to subject access requests, requests to be forgotten and other requests from individuals. You need to have standard procedures in place and be able to comply with new requirements on timescales and charges.

4. Issue privacy notices

Review the information that you currently provide. It is likely that you will need to issue new GDPR compliant privacy notices to all pension scheme members prior to 25 May 2018. You may want to combine this with another member communication so plan ahead.

5. Review third party contracts

Update current agreements with any data processors processing data on your behalf (e.g. administrator) to ensure that new mandatory provisions required under GDPR are included. Data processors now have direct liability for breaches so may seek indemnities from controllers where the breach is considered to be caused by the controller.

6. Data Breaches

Ensure you have a breach notification procedure in place. Agree how the administrator and any other parties processing data on the Fire Authorities' behalf will fit into the plan.

On 20 November 2017, the LGPC Secretariat circulated a [legal opinion](#) from the legal firm Squire Patton Boggs on a number of questions regarding the implications of the EU's General Data Protection Regulation (GDPR) for the LGPS. Squire Patton Boggs have also produced a flyer on the main provisions of GDPR, which is specific to LGPS Administering Authorities, but linked [here](#) for reference.

Public Service Pension Indexation and Revaluation 2018

HM Treasury have issued a [written statement](#) confirming the Public Service Pension Indexation and Revaluation for 2018.

Public service pensions will be increased from 9 April 2018 by 3%, in line with the annual increase in the Consumer Prices Index up to September 2017. FPS 2015 will use the figure of 3% for the earnings element of revaluation for active members.

[Indexation of GMP in public service pension schemes – consultation outcome](#)

Readers may be aware that the UK government consulted between 28 November 2016 and 20 February 2017 on how GMP indexation and equalisation should be applied to public service schemes from 6 December 2018. An interim solution was introduced for the period 6 April 2016 to 5 December 2018 whereby public service schemes will pay the full indexation for members reaching state pension age between these dates.

The three options under consideration for implementation from 6 December 2018 were:

- i. Case by case – an annual comparison of what a member would receive under the old and new system, which would also include a further comparator to ensure equalisation.
- ii. Full indexation – a continuation of the interim solution
- iii. Conversion – Convert the accrued GMP into a scheme benefit

A [briefing paper](#) was provided to the Scheme Advisory Board on the consultation and the [consultation response](#), which recommended the conversion option.

The UK government has now considered the replies it received and has issued a [formal response](#) to the consultation.

In brief, the case by case option has now been ruled out. It has been decided to extend the interim solution from 6 December 2018 to 5 April 2021 to allow further consideration of implementing GMP conversion as a longer-term solution. The UK government will continue to consult with departments and schemes to decide whether a suitable methodology and legislation can be developed to enable GMP conversion to take place in the future. The UK government will also continue to take account of alternative solutions that may also address this issue.

Please see at [Appendix 4](#) a note from GAD setting out the impact of the extended interim arrangement for GMP indexation on the application of some of the Schemes' actuarial factors. Essentially this is an extension of the instructions that were issued in 2016 when the initial interim GMP indexation solution was announced.

[McDonald \(Respondent\) v Newton or McDonald \(Appellant\) \(Scotland\) - Supreme Court Ruling – Pensioner on Divorce](#)

A recent [supreme court ruling](#) in the case of McDonald (Respondent) v Newton or McDonald (Appellant) (Scotland) may have implications for future divorce cases in Scotland, having changed the interpretation of [Regulation 4](#) of The Divorce etc. (Pensions) (Scotland) Regulations 2000 [SSI 2000/112] .

A full summary and interpretation of the case can be found in [LGPC bulletin 166 – January 2018](#).

[TPAS dispute function moves to TPO](#)

LGA have been notified that the Pensions Advisory Service's (TPAS) dispute resolution function is moving to The Pensions Ombudsman (TPO). The move includes the transfer of the TPAS dispute resolution team and volunteer network of over 350 advisers. The transfer is expected to be completed by 1 March 2018.

At present customers can approach both TPO and TPAS for help when dealing with a pension complaint. TPAS usually focus on complaints before the pension scheme's internal dispute resolution procedure (IDRP) had been completed, while TPO typically deals with complaints that have been through IDRP.

We have been advised that this transfer of functions will simplify the customer journey. Customers will be able to access all pension dispute resolution, previously handled by two services, whether pre or post IDRP, in one place, leading to a smoother customer journey and improved complaint handling. TPAS will continue to focus on providing pension information and guidance, and will become an integral part of the new Single Financial Guidance Body.

TPO have requested that all signposting for customers be changed to the following:

- If you have a complaint or dispute with your pension provider concerning your workplace or personal pension arrangements you should contact The Pensions Ombudsman

Telephone: 0800 917 4487

Website: www.pensions-ombudsman.org.uk/

- If you need information and guidance concerning your pension arrangements contact The Pensions Advisory Service

Telephone: 0300 123 1047

Website: www.pensionsadvisoryservice.org.uk

HMRC

HMRC newsletters/ bulletins

HMRC have published pension schemes newsletter 95 containing important updates and guidance on pension schemes. The following issues are covered:

[Newsletter 95 – January 2018](#): pension flexibility statistics, relief at source for Scottish Income Tax, updates to form APSS146E, new pensions online service, information powers and schedule 36 of the Finance Act 2008, reporting of non-taxable death benefits, changes to postal address, feedback on pension schemes newsletters.

Contracting-out reconciliation update

The following bulletin containing importance guidance and information about the end of contracting-out and the scheme reconciliation process was published by HMRC in January. There have been no subsequent updates as yet.

[Countdown bulletin 31](#)

The Pensions Administration Standards Association (PASA) has produced a GMP trustee checklist, available at [Appendix 5](#), which may be useful for FRAs considering what steps they need to take after reconciliation has taken place.

New Pensions Online service – User Research

In [pension schemes newsletter 89](#), HMRC explained how, from April 2018, pension scheme registration and administration is being moved onto a new digital platform – Pensions Online Digital Service – in order to improve the service for pension scheme administrators. They also explained how user researcher, Cay Green, is looking to speak with different pension scheme administrators and pension practitioners as part of the ongoing user research.

If possible, HMRC would like more public service schemes to be involved in this research. If you are interested in participating in such user research, please contact [Cay Green](#) for further information.

Lifetime Allowance 2018-19

The Standard Lifetime Allowance for 2018-19 has been confirmed as £1,030,000 by [The Finance Act 2004 \(Standard Lifetime Allowance\) Regulations 2018](#) [SI 2018/206].

Relief at source for Scottish Income Tax

On 14 December 2017 the Scottish Government announced new Scottish Income Tax rates and allowances to apply for 2018 to 2019 tax year.

HMRC have issued [Pension schemes relief at source for Scottish Income Tax newsletter - February 2018](#) to update stakeholders on the implications of the Scottish Budget 2017 for pension schemes and their members in relation to the Relief at Source mechanism.

A message for pension scheme members to explain the rates and what this means for their pension tax relief is attached at [Appendix 6](#).

Training

GDPR and TPR data requirements

A half-day training session is being held at the LGA offices at [18 Smith Square](#), London on 29 March 2018.

The conference aims to look from a pensions perspective at the requirements of becoming both GDPR compliant and meeting TPR expectations and is intended for data controllers (scheme managers), Data Protection Officers, data processors (administrators), Local Pension Boards, and industry experts.

There will be sessions by LGA, ITM and TPR, along with practical tips from Local Authority colleagues, and a chance to view some of the solutions on offer from software suppliers.

Book your place [here](#).

Legislation

SI	Reference Title
2018/5	The Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2018
2018/39	The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order 2018
2018/62	The Pension Schemes Act 2017 (Commencement No. 1) Regulations 2018
2018/63	The Pensions Act 2008 (Commencement No. 16) Order
2018/95	The Pension Protection Fund (Compensation) (Amendment) Regulations 2018
2018/150	The Registered Pension Schemes (Relief at Source) (Amendment) Regulations 2018
2018/186	The Public Service Pensions Act 2013 (Judicial Offices) (Amendment) Order 2018
2018/206	The Finance Act 2004 (Standard Lifetime Allowance) Regulations 2018

Useful links

- The Firefighters' Pensions (England) Scheme Advisory Board www.fpsboard.org
- FPS Regulations and Guidance www.fpsregs.org
- Knowledge Hub Firefighters Pensions Discussion Forum

Knowledge Hub home page - <https://khub.net/group/thefirefighterspensionsdiscussionforum>

Technical Group minutes - https://khub.net/group/thefirefighterspensionsdiscussionforum/group-forum/-/message_boards/category/5611524

Training - https://khub.net/group/thefirefighterspensionsdiscussionforum/group-forum/-/message_boards/category/25859256

- FPS1992 guidance and commentary
<http://webarchive.nationalarchives.gov.uk/20120919152859tf/http://www.communities.gov.uk/fire/firerescueservice/firefighterpensions/firefighterspensionscheme/>
- The Pensions Regulator <http://www.thepensionsregulator.gov.uk/>
- The Pensions Ombudsman <https://www.pensions-ombudsman.org.uk/>
- HMRC Pensions Tax Manual - <https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual>

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