



FPS Bulletin 22 – July 2019

Welcome to this very special edition of the Firefighters' Pensions Schemes bulletin. To celebrate our second birthday, we've teamed up with organisations from across the sector to bring you a "take-over" issue of the bulletin with contributions on various topics affecting FPS and other public service schemes.

If you have any comments on the contents of this bulletin or wish to contact any of the contributors directly, please contact [Claire Hey](#) in the first instance. All of our usual features can be found towards the end.

If you are looking for information on a certain topic, issue and content indexes are held on the main [bulletin](#) page of the website and are updated following each new issue.

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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](#).

LPB effectiveness committee	7 August 2019
Administration & Benchmarking/ Cost-effectiveness committee	15 August 2019
South West and Wales regional group	28 August 2019
Eastern regional group	10 September 2019
Firefighter Pensions Technical Community	24 September 2019
Firefighters' Pensions AGM	24-25 September 2019
SAB	3 October 2019
Fire Finance Network conference : Arden - Warwick Conferences	9-10 October 2019
Pensions tax seminar	12 November 2019
SAB	12 December 2019

Take-over issue

Once upon a time...

...some firefighters were covered by their local police force pension arrangements. The Police Act 1890, Section 16 explains the funding requirements. Paragraph (1) begins with the statement –

“There shall be a pension fund of every police force, and there shall be carried to that fund . . .”

followed by a list of the required payments. While some will be familiar to readers of the current Firefighters' Pension Schemes, for example members' contributions, there are also a few more unusual items such as –

“The net sums received in the police area for pedlars and chimney sweepers certificates;”

“The fines, imposed by a court of summary jurisdiction, for assaults on constables in the force;”

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and the returns from this nice little earner –

“The net sums arising from the sale of worn or cast clothing supplied for the use of constables of the force”.

With grateful thanks to Eunice Heaney for this contribution.



Pension tax giving you a headache?

The HMRC pension tax restrictions on pension saving (the Annual Allowance and the Lifetime Allowance) are affecting firefighters causing restrictions to tax efficient pension savings. This is usually those with incomes of £60 - £70,000 but can affect lower earners who get promoted or take on additional duties and we have seen cases from Watch Manager upwards where the Annual Allowance has been breached.

Anyone who has other pension savings or has income from outside the Fire and Rescue Service may also be affected. There is no easy way to confirm that someone is not affected and because the tax rules consider all income and all pension saving the employer and the scheme administrator will not know for sure as they will not know all the information about each member.

In defined benefit pension schemes like the FPS, (1992, 2006 or 2015) the calculations behind each allowance are not intuitive and the combination of further pension accrual combined with pay growth (particularly on promotion) can create growth in pension that is higher than HMRC allow. It's complicated and if members do have other income or other pension savings it gets more complex, particularly if they are "higher earners", with taxable income over £110,000, when further restrictions to their pension savings may apply. Only the member will now this.

Scheme administrators are obliged by legislation to send a Pension Savings Statement to members whose Annual Allowance exceeds the £40,000 level currently available; and Lifetime Allowance breaches are considered at retirement. But there is a lot still for members to do before they can understand if they have a tax charge to settle, and further work to consider how to do so if they do.

There is a lot of information to help firefighters understand but this is still their responsibility to pull the information together and work out whether they owe tax, and if so, to declare that to HMRC and to settle it through the self-assessment process. They may need help and guidance to understand what they need to do and how to do it.

The article at [Appendix 1](#) has more information and you may wish to make this available to your members.

*Contributor **Mark Belchamber** has over 25 years' experience helping people understand their pensions and is Director and founder of "Income for the Third Age Ltd", a company that specialises in guidance and education for employers and employees on pensions, pension tax issues and retirement options).*

Eversheds Sutherland speedbrief

[Supreme Court refuses Government permission to appeal in public sector age discrimination cases](#) –
5 July 2019

A fresh perspective on Perspective

Public Sector Pension Schemes Are Increasingly Relying on Perspective

According to TPR, in 2018 there were 16.5 million PSPS memberships across 24,000 employers. Arguably, pensions staff need the appropriate resources to carry out their roles as efficiently as possible. Perspective, the legal and regulatory information service for the UK pensions industry, is increasingly seen as a key tool for achieving exactly that.

What is Perspective all about?

Essentially, a public sector pension scheme is able to have its own scheme rules (the Regulations) in one place on Perspective (much to the envy of pension scheme managers working in the private sector!). Perspective has an ever growing public sector collection of these Regulations, for example: Local Government (1986), Firefighters (1992), Police (1987), NHS (1980), Civil Service (2002) and Teachers (1994). Those working in Fire pensions are responsible for 3 active schemes (the 1992, 2006 and 2015 Schemes) all of which are available in full text on Perspective. Additionally, Perspective covers some public sector documents in Northern Ireland as well as providing access to relevant GAD, LGA and many other materials.

So, Perspective is all about content?

Yes, but also no! There is impressive functionality as well – for example the ability to look at any document on Perspective and see how it stood at any date in the past is of enormous and proven value. The way that this feature (known on Perspective as “Time Travel”) has been implemented is widely recognised as being the most powerful and flexible way of showing how text has changed over time. It is the envy of other publishers. And, of course, all the content on Perspective is fully up-to-date. All documents on Perspective are updated, usually within a day or so of amendments being published, by a dedicated editorial team of 9 full-time legal editors with Law, English and other degrees. They perform a specialist role in identifying core documents to be added to the system and ensuring these documents have the levels of added value and functionality that users of Perspective have come to expect.

Public sector pensions, a narrow specialised field?

Over the last 20 years it has become increasingly important for those working in public sector pensions to have a good understanding of general pensions legislation (such as the Finance Act 2004) as well as public sector regulations. The volume of legislation they are expected to have mastered is huge! As Yunus Gajra of WYPF says, *“I have used Perspective for a number of years and I find it a fantastic tool which enables me to do my job quickly and efficiently. It has all the key reference materials that I need or may be interested in which means it’s a one stop shop and I don’t need to look elsewhere or subscribe to other publications!”*

Is there a brain drain?

Potentially yes, many of the most experienced public sector staff have retired in recent years. This means that the knowledge that has been built up within the industry over many years is being lost at an alarming rate.

How do some schemes mitigate this problem?

Perspective provides the regulations and explanatory documents which allow staff to learn how and why things happened in the past. If you provide the best resources to the brightest individuals they will, in time, be able to fill the vacuum that has been left by this loss.

Can technology help?

The younger workforce certainly does not expect to find dusty incomplete A4 ring binders filled with regulations that they don't know how to navigate and about which they have little knowledge. Perspective has a powerful, cutting edge search tool which allows them to search across thousands of documents and find accurate results in seconds. Documents on Perspective contain extensive hypertext linking, including links from defined words or phrases to the relevant definitions, all of which helps to further their understanding of the materials they need to consider and speed up their research significantly. Furthermore, Perspective works in all major browsers and is available on the move through most smartphones and tablets.

Are there alternatives?

Yes, there are several free websites available and even some subscription sites produced by the largest publishers in the UK, but none with the functionality and comprehensiveness of Perspective. Individuals don't just metaphorically scream when they need to find something on a government website. More often than not they won't find what they need or won't have the confidence that what they have found is accurate or up-to-date.

Future

It's a complex job administering public sector schemes and, in this day, and age there's no reason for those working in this sector to be grappling with inferior tools compared to their counterparts in the private sector.



What to expect when a complaint is referred to The Pensions Ombudsman

In this article, we briefly explain what to expect if a complaint about your scheme is referred to The Pensions Ombudsman.



An overview of our process

A complaint to us will follow one of two distinct workstreams.

‘Early resolutions’

For complaints which usually have not been through a scheme’s internal dispute resolution procedure (IDRP) but are otherwise thought to be within our jurisdiction.

We look to bring the matter to a close as early as possible to shorten the complaint journey for everyone. Early resolution will never result in a final decision being made by an Ombudsman since that can only happen if all the requirements have been met in relation to our jurisdiction, including IDRP being completed, or attempted.

Early resolutions break down into two categories that we have called:

- ‘Quick responses’ where a problem can be solved with minimum intervention. We might contact the pension scheme, but these are generally problems that can be sorted out through a conversation with the complainant.
- ‘Cases’ where some intervention is required including contact with all the parties to the complaint. These are handled by our in-house specialist team, assisted by our 240 highly experienced volunteers drawn from the pensions industry. We are likely to contact the pension scheme to, for example, provide further information or a view on how the matter might be resolved.

‘Investigations’

For complaints which have been through the IDRP, or other internal complaints process, and are deemed to be within our jurisdiction, for example, within our time limits.

These are investigated by our team of adjudicators. Usually, the pension scheme will be invited to provide a formal response to the complaint. The adjudicator will gather additional evidence they consider is necessary to reach a view on the matter. An investigation will usually result in an adjudicator issuing their opinion on the matter to all the parties to the complaint. Many complaints are resolved this way. But all parties have a right to ask for the matter to be determined by an Ombudsman. In some cases, the Ombudsman will issue a preliminary decision, followed by a determination. The Ombudsman’s determinations are binding on all the parties and can be challenged, on a point of law, through the courts.

How you can help us

It can speed up the investigation process if we get some key information early on. If your scheme is asked to provide a formal response to a complaint, it helps if that includes:

- evidence relied on when making decisions under the IDRPs
- details, and sight, of any Regulations or Guidance that are relevant to the complaint
- for complaints involving pensionable pay:
 - the member's contract and any contract specific to the allowance
 - any changes to the member's role over the relevant period
 - confirmation of which scheme(s) apply
 - details of how the allowance was paid.

Want to find out more?

Visit our website: www.pensions-ombudsman.org.uk

Our Annual Report 2018/19 is also a good source of information about what we do, and the volumes of complaints we process. Summaries of interesting cases are included.

Interested in volunteering?

We are always on the lookout for experienced pensions professionals who have the time and dedication to help. If you are interested, please contact paul.day@pensions-ombudsman.org.uk

Cyber resilience – are you ready

Cyber resilience – are you ready?

Cybercrime remains one of the most rapidly evolving, yet poorly understood risk topics. Whilst the consequences of a cyber-attack on a company are well known, for pension schemes cyber risks are a relatively new threat.

In this emerging area, there are many potential actions that scheme managers, administrators and their suppliers can take to ensure that they are prepared for the possibility of a cyber-attack.

Why is this important?

Pension schemes hold an abundance of member data and assets making them very attractive targets for hackers. An attack could lead to identify theft of its members, financial losses, disruption of services and reputational damage to both the scheme and FRA/administrator.



What does this mean for scheme managers?

The initial starting point is asking a lot of questions and establishing an action plan. Scheme managers, with the support of their administrators and advisers, should attempt to understand what risks they could face and consider potential vulnerabilities within their set up before embarking on a plan to minimise those risks, where possible.

In particular, questions should be posed to:

- Data handlers/processors (such as administrators or payroll providers)
- Software suppliers
- The Fire and Rescue Authority (FRA) and any in-house teams.

What should scheme managers do?

Scheme managers should carry out a robust assessment of their FRA in order to take a holistic and structured view of the issue.

Aon's Cyber Solutions combine three critical areas to help our clients to understand and manage the minefield of cyber security.



Seek

- **Assess** – Identifying critical assets that could be at risk – what could go wrong?
- **Quantify** – Understanding the potential impacts of cyber threats were they to materialise is important.
- **Test** – A clear understanding of what controls are in place by all third parties and internal functions to prevent cyber-attacks.

Shield

- **Improve** – Improvements may need to be made to security systems.
- **Transfer** – Considering whether the exposed risk can be transferred to someone else.

Solve

- **Respond** – Ensuring that a plan is in place to tackle any incident should the worst happen.

Actions

As cybercrime is an evolving risk, it's critical that the risk is managed and as a minimum, we recommend the following:

- Obtain some training and discuss the issue with relevant parties.
- Undertake a robust assessment to identify specific risks and actions and document these on your risk register.
- Take forward any practical actions.

Risk. Reinsurance. Human Resources.

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The complexities of ill-health pensions

Jane Marshall, partner at Weightmans LLP and legal adviser to the SAB, writes about the complexity of ill-health pensions...

When asked to write a legal piece for the 'take-over issue' there was so much to choose from!

We have had a raft of recent Court and Pensions Ombudsman decisions affecting not just the Firefighters' Pension Scheme, but public service pension schemes as a whole. Following the recent decision of the Supreme Court in which the Government was refused permission to appeal the age discrimination decisions in McCloud and Sargeant¹, to the intense media interest in our current pensions tax relief system and the effect this is purportedly having on NHS waiting lists, one wonders what the future holds in respect of public service pensions?

Unfortunately, as my skills do not extend to predicting the long term future of public service pensions, I thought I would be on safer ground writing about ill-health retirement following the successful '[Ill-health and injury workshop](#)' run by the SAB² in June. **You can read the article at [Appendix 2](#).**

Weightmans legal update

In addition to Jane's piece, the legal update from Weightmans at [Appendix 3](#) provides a summary of two key developments affecting public service pensions, including the recent landmark judgement in Langford v Secretary of State for Defence³ which ruled that survivor benefits could be paid to a long-term partner although they remained legally married to a third party.

TPR Governance and Administration survey 2018 – a view from the Regulator

Nick Gannon, policy lead at TPR, has the following message for Fire schemes...

We believe that all savers should be in well run schemes. The 2018 governance and administration survey shows that significant improvements have been made in several areas but that Fire schemes still have some way to go to meet the standards that we expect them to meet. We are encouraged by the improvements that have been made and expect that they will continue through 2019 to be demonstrated in this year's survey results.

We note that Fire scheme local pension boards meet less frequently than those in other surveyed cohorts, and much less than we believe they should. This infrequent meeting schedule may be one reason that the schemes continue to lag in key governance measures. With little regular oversight it is difficult for pension boards to put the right controls in place and to drive the improvements that are need in both governance and administration. Similarly, regular turn-over of pension board members means that knowledge and experience risk being lost and becomes difficult to replace. This survey also highlighted the prevalence, and risks, of cyber attacks. This is one area in particular that requires strong governance and should be given serious attention.

¹ The Lord Chancellor & Secretary of State for Justice v McCloud & others; and The Secretary of State for the Home Department v R Sargeant & others

² The Firefighters' Pensions (England) Scheme Advisory Board

³ <https://www.matrixlaw.co.uk/wp-content/uploads/2019/07/Approved-Judgment-Langford-C3.2018.0111-and-C3.2018.0111A.pdf>

Scheme data continues to be a concern for all public service schemes, and Fire is no exception. Progress has clearly been made with data cleansing exercises, which should continue. Attention must also be paid to the data coming in. Far too many schemes are still relying on data that is provided annually, and in paper returns. To ease administration, data should be provided wherever possible monthly and in electronic format. This links data provision to payroll and simplifies processing for all involved.

Pension boards and scheme managers should consider the results of this survey, and how they apply to their own scheme. Amidst a number of simple improvements that can be made rapidly are several more issues that will require greater attention and more time. With the consequences of the McCloud and Sargeant cases as yet unknown, now is the time to make urgent improvements to scheme governance and administration. Where these improvements are not, or cannot, be made we may look to use our enforcement powers.

A commentary on the results can be viewed at [Appendix 4](#) and the full version of the [research report](#) is available on the TPR website.



FPS

July 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 June.

Written Ministerial Statement: Public Service Pensions

The Government made a written statement⁴ on 15 July 2019 accepting the court's decision in the Firefighters Transitional Protection Challenge, also known as 'McCloud and Sargeant'. The Government will now engage with the employment tribunal to agree remedy. The written statement goes further to confirm that government believe that remedy will apply across all the public sector schemes, these include schemes for NHS, Civil Service, Local Government, Teachers, Police, Armed Forces, Judiciary and Fire and Rescue workers.

Effect on scheme member benefits

While we appreciate that members may have questions about how their benefits may change in the future, until the remedy has been determined by the employment tribunal, the scheme re-valued and any regulations changed as a result we cannot speculate on this.

Until the regulations are amended, all scheme transactions will be based on the regulations as they currently stand, this includes retirements, applications for ill-health retirements, benefit projections and Annual Benefit Statements as at 31 March 2019.

⁴ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-07-15/HCWS1725/>

Other News and Updates

GAD newsletters

The Government Actuary's Department has issued the [July edition](#) of its Public Service Pension Schemes newsletter. This is intended to be an informal note to provide regular updates on what is happening within the PSPS area of GAD and to highlight some current hot topics that schemes and other department contacts might be interested in.

Readers with a more macabre outlook may be interested in the [second edition of GAD'S Mortality Insights](#), also issued in July.

The Pensions Ombudsman (TPO) Annual Report and Accounts 2018/19

The TPO Annual Report and Accounts 2018/19 were laid in Parliament on 18 July. A message from Anthony Arter, Pensions Ombudsman, with a link to the report on the TPO website is attached to this bulletin as [Appendix 5](#).

Earlier communications from TPO and a full history of determinations in relation to FPS can be found [here](#).

Written Ministerial Statement: Walker v Innospec Supreme Court Judgment and Response to the Survivor Benefits Review

The Minister for Pensions and Financial Inclusion Guy Opperman has confirmed in a written statement⁵ that the Government does not intend to make any further retrospective changes to equalise survivor benefit provision in respect of occupational pension schemes, following the changes implemented in light of the [Walker v Innospec](#) Supreme Court judgement.

See our [technical note](#) on SI [2019/378](#) for how those changes affected the FPS.

While the Minister acknowledged that differences in benefits in respect of past service would remain for some members, he added that these will gradually work their way out of the system.

House of Commons briefing paper – GMP-related overpayments

The House of Commons Library has updated a briefing paper⁶ concerning GMP-related overpayments in public service pension schemes. The paper looks at overpayments which occurred due to the incorrect calculation of GMPs in 2008 and again following the end of contracting-out and subsequent reconciliation exercise in 2018.

⁵ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-07-04/HCWS1690/>

⁶ <https://researchbriefings.files.parliament.uk/documents/SN04919/SN04919.pdf>

TPR secondment opportunity

Please see details below from TPR concerning a secondment opportunity in the role of Specialist - Pension Administration:

TPR has recently opened up an administration [secondment opportunity](#) in our Policy team.

The pensions landscape is undergoing a step change. The rise in the number of people saving into pension schemes and initiatives like the Pensions Dashboards, mean that good standards of administration are more important than ever to ensure that savers can have confidence in the pensions industry. We need to have a clear view of the risks in this sector, and a robust strategy for dealing with them, so that savers' benefits are protected and confidence in pensions is maintained. The secondee will help to ensure we fully understand the functioning of pensions administration sector and design an appropriate response to the risks.

A secondment to the specialist role in this team would suit the skill set of someone with at least five years' experience in the pensions administration market, particularly with experience of client management or a role involving engagement with trustee boards, pension boards or scheme managers.

TPR runs a very successful industry secondment programme, which has been operating for over 10 years. We recruit people who bring essential and relevant commercial skills and the latest insight on pensions issues. You can see our [secondees testimonials](#) for some recent examples.

Key benefits to your organisation

- An excellent opportunity for staff development
- An opportunity to work in the frontline of a fast-paced and exciting area of regulation
- An opportunity to create a network of lasting relationships
- An opportunity for your staff to apply their skills and knowledge in a related environment
- Expanded outlook and a better understanding of regulation

Terms and conditions are subject to negotiation and agreement between parties, but we will always aim to cover employment costs and reasonable expenses.

Ideally we'd look for this secondment to run for twelve months, from October.

For more information or to discuss this opportunity further, please contact Lucy Stone, Lucy.Stone@thepensionsregulator.gov.uk or Zoe Kyle, HR on 01273 627213 or zoe.kyle@thepensionsregulator.gov.uk. For general enquiries, please contact secondments@tpr.gov.uk

HMRC

Contracting-out reconciliation update

The following bulletin, containing important guidance and information about the end of contracting out and the scheme reconciliation process, has been published by HMRC in July.

[Countdown bulletin 46](#)

Updates include:

- Scheme Financial Reconciliation
- Scheme Financial Allocations
- problems accessing Shared Workspace

Training and Events

Pensionable pay workshop – event summary

We were pleased to welcome over 70 delegates to our sold out event on 18 July 2019, in order to discuss the challenge of interpreting pensionable pay within the legislation and case-law.

The morning session was opened by Clair Alcock who outlined how 45 different decision makers, case-law, and legislation combine to provide complexity in determining pensionable pay. This was followed by an in-depth look at the most recent case Booth vs Mid and West Wales from Jane Marshall, partner at Weightmans LLP and legal adviser to the Fire Scheme Advisory Board. Steven Pope, Head of Human Resources at Devon and Somerset Fire then took to the stage to deliver a practitioner's insight into pensionable pay decision making. Before lunch we welcomed back Jane Marshall to give a case-law round up and a discussion on what steps Fire Authorities now need to take to remedy pensionable pay. The number of questions received during Jane and Steven's sessions demonstrated how valuable it is to hear first-hand issues on pensionable pay.



Following lunch, Clair Alcock shared some thoughts on decision making to ensure that pensionable pay is considered at the heart of any pay structure, we then welcomed James Durrant, Pensions Manager at Essex Fire Authority who shared some thought provoking insight into tax consequences of retrospective action to ensure that where action is taken, tax law is complied with.

The final session of the day was a panel discussion session, which allowed the audience to ask questions of all the speakers of the day.

The complete presentation slide deck from the event is available [here](#). To view the conference in pictures, visit our [@LGAWorkforce](#) twitter feed, #LGAfirepensions

We would encourage all delegates to give feedback using the electronic forms provided after the event so we can continue to improve our training events.

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FPS AGM – London – 24-25 September 2019 SAVE THE DATE

Our popular Fire Pensions Annual Conference is back! The two day programme allows delegates to network with fellow colleagues and hear the latest news on the Firefighters' Pension Scheme (FPS) from the scheme's key stakeholders.

You will hear important updates, including:

- Chairman of the Scheme Advisory Board
- The Home Office
- Legal Updates

As well as providing the opportunity to network with other FPS stakeholders, there will be interactive and thought provoking workshops to take part in during the day, including:

- Abatement
- Transitional Pension Calculations
- Forecasting and Top-Up Grant, GAD

Day 1 – Tuesday 24 September 2019 4:30pm - 6:30pm

Primarily for Scheme Managers and Local Pension Board chairs, day 1 of the conference will provide practical guidance on the role of the [scheme manager](#) and will offer the opportunity to network with counterparts in other Fire Authorities.

Following this session there will be a drinks reception on the terrace from 6:45pm

Day 2 – Wednesday 25 September 2019 9:30am - 3:30pm

Day 2 of the conference provides delegates with an annual update on the Firefighters' Pension Scheme from key stakeholders.

The full programme and booking link will be available shortly.

Legislation

There have been no new items of legislation laid since our April bulletin.

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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