

Pension update report

1.0 Introduction

Due to the high level of scrutiny surrounding public service pensions, Lord Hutton was tasked by the Government to independently review all public service pension schemes and make recommendations. Lord Hutton's Independent Public Service Pension Commission (IPSPC) published its final report on 10 March 2011, in which it concluded that public service pensions should be:

- Affordable and sustainable
- Adequate and fair
- Supporting productivity
- Transparent and simple

Following recommendations within this report all public service pension schemes were reformed.

On 24 April 2013, the Public Service Pension Act received Royal Assent. This Act provided the primary legislative framework for all public service pension schemes.

These reforms included changes to the Normal Pension Age for existing and new members, replacing existing final salary schemes with new schemes operating on a career average basis, whilst ensuring that any pension already built up prior to the introduction of new schemes being honoured in full, with a final salary link to the members ultimate retirement for pension earned in a final salary scheme.

Implementation dates have been phased since the Act was passed. The changes to the Local Government Pension Scheme came into force on 1 April 2014 and the Firefighters' Pension Scheme was one of the last public service pension schemes to change on 1 April 2015.

Due to the changes in the public service pension schemes, the Fire Service has seen continuous pension reform for all staff particularly throughout 2014/15, hence it has been an extremely busy two years on pension matters. The Authority belatedly saw the New Firefighters' Pension Scheme (FPS 2015) Regulations approved, and the background work to these changes was significant. Work with Buckinghamshire County Council (BCC), as our current pension scheme administrators, was extensive to ensure all transitions were completed accurately and on time.

From 1 April 2015 the Authority is now running **five** different pension arrangements:

- 1992 Firefighters Pension Scheme
- 2006 Firefighters Pension Scheme
- 2015 Firefighters Pension Scheme (New)
- Modified Pension Scheme (New)
- Local Government Pension Scheme (Amended)

1.1 Local Government Pension Scheme

For those in the Local Government Pension Scheme (LGPS), all members were automatically transferred into the new Scheme from 1 April 2014, and all pension in payment or built up before April 2014 was protected. The main changes to the Scheme are:

- Change from final salary to career average; CARE scheme
- More flexibility around when an employee can leave and take their pension: From 1 April 2014 an employee over the age of 55 can draw down on their pension
- Normal Pension Age: this is the same as the state pension age, with age 65 as the earliest age
- Pension builds up in a new way: for each year in the new scheme an employee builds up a pension based on their pay in that year, equal to 1/49th of their pay. The previous pension scheme had a lower accrual rate of 1/60th. There are also inflation increases.
- Contributions: whilst the average cost for employees currently remains at 6.5%, the highest paid employees will pay more. For part-time employees it will cost less as the contribution rate is based on actual pay rather than the full time equivalent
- More flexibility with a 50/50 option: employees can choose to pay half contributions and add half pension into their account, however the full value of the life and ill health cover remain

A new Local Government Pensions Scheme (LGPS) was introduced in April 2014 affecting staff on Support Services Terms and Conditions of Employment and Fire Control staff eligible to join the LGPS Scheme. The new Scheme moved the pension arrangements from a defined benefits (final salary) Scheme to a CARE (career average) Scheme. Again this involved significant activity to transfer existing Support Services and Fire Control members to the new Scheme. Although BCC continue to provide core administration for the LGPS Scheme; the Authority has seen an increase in the monthly returns required on LGPS members, especially leavers and those requesting a quote. The burden of this extra administration has been met within existing HR resources to date.

1.2 2015 Firefighters' Pension Scheme

For those in the Firefighters' Pension Scheme, the Government protected those members who, as at 1 April 2012, were within 10 years of their current scheme's Normal Pension Age. These members remain in their existing pension scheme until retirement. There is also taper protection for those members who are up to a further 4 years from their scheme's Normal Pension Age. These members remain in their existing pension scheme until their taper protection date, at which point they transfer to the 2015 Scheme. The main changes to the Scheme are:

- Change from final salary to career average
- Pension builds up in a new way: for each year in the new scheme an employee builds up a pension based on their pay in that year
- New accrual rate of 1/59.7th (from 1/60th)
- Normal Pension Age: this is age 60
- Deferred pension age equal to state pension age, with a minimum of age 65
- Partial retirement of 2015 benefits from age 55

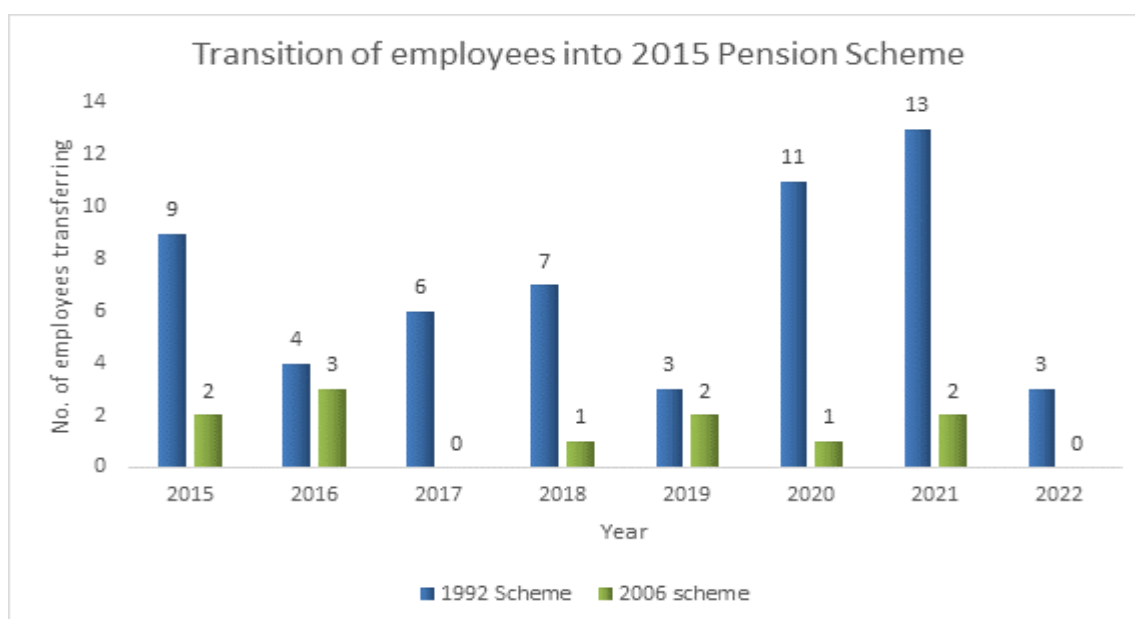
The Authority ran six pensions briefing days, delivering nine sessions, where 98 attendees received a joint update on the new Firefighters' Pension Scheme.

292 firefighters transferred to the 2015 Firefighters' Pension Scheme on 1 April 2015, (149 Wholetime - 48%) (110 on call - 33%) (34 other- day crew/casual - 74%) with a further 73 having taper dates from May 2015 to 2022. The final member of the 2006 Firefighters' Pension Scheme will transfer into the 2015 Firefighters' Pension Scheme on 31 March 2022.

81 active members who, as at 1 April 2012, have 10 years or less to their current Normal Pension Age remain in their existing scheme (1992 or 2006) and will therefore have full protection and not transfer to the 2015 Scheme. The 81 members are split between 64 members in the 1992 Scheme and 17 in the 2006 Scheme. However, this number will reduce for those On-call employees that elect to convert their 2006 Scheme membership to membership under the Modified Pension arrangements.

Figure 1 below demonstrates the transition of employees into the 2015 Firefighters' Pension Scheme.

Figure 1:



1.3 Modified Pension Scheme

In addition, the DCLG introduced a bespoke section to the New Firefighters' Pension Scheme 2006 to provide benefits for firefighters employed as retained firefighters between 1 July 2000 and 5 April 2006 inclusive. This was the final agreed settlement following the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.

The Modified Scheme was made available to individuals who were employed as On-call firefighters by an English Fire and Rescue Authority during the relevant period, and were not given the opportunity to join the membership of the Firefighters' Pension Scheme 1992 in respect of that employment.

The Modified Pension Scheme introduced on 1 April 2015 brought in benefits equivalent to those available to firefighters employed as a regular firefighter during the same period and as provided for in the Firefighters' Pension Scheme 1992.

Individuals that were employed as On-call firefighters between 1 July 2000 and 5 April 2006 were entitled to purchase pension rights under the terms of the new pension arrangements. Any service before 1 July 2000 is not counted as pensionable service and those joining after the relevant period are not eligible to join the Scheme. Membership was open to all such eligible individuals:

- Current firefighters
- Firefighters who left the service
- Firefighters who left the service and in receipt of a pension: and
- Firefighters who left the service and in receipt of ill health retirement benefits

The normal pension age of the modified Scheme is 55 years. Section 2.4 of this report indicates how many individuals have taken up the offer to join the Modified Pension Scheme to date.

1.4 Membership and Trend Data

Nineteen wholetime staff (7%) and thirty six On-call staff (22%) are currently not in one of the Firefighter Pension Schemes.

Seven employees have opted out of one of the pension schemes in 2015; two On-call staff, one support Services, four wholetime.

This equates to;

- Three in the 2006 Firefighters Pension Scheme (two On-call, one wholetime)
- Three in the 2015 Firefighters Pension Scheme) (one of the wholetime members has only opted out of the scheme within their secondary role as a Co-responder)
- One in the Local Government Pension Scheme (Support Services)

Human Resources continue to closely monitor membership in the different pension schemes and ensure staff are made aware of the scheme benefits to allow them to make informed decisions.

As at October 2015 the numbers of active members are as follows:

<u>Scheme</u>	<u>Number of Active Members</u>
FF 1992	107
FF 2006	18
FF 2015	306
Subtotal	431
This shows over 60% of Authority Firefighters are members of the new 2015 Scheme	
LGPS	96

The Authority has circa 15 members currently buying added years, paying arrears and AVCs.

As at October 2016 the numbers of deferred and pensioner members are as follows:

- 1992 Firefighters' Pension Scheme: Deferred = 57 : Pensioners = 320
- 2006 Firefighters' Pension Scheme: Deferred = 171 : Pensioners = 8
- Local Government Pension Scheme: Deferred = 103 : Pensioners = 103

2.0 Cases –current national rulings

2.1 Review of Pensionable Pay – Norman Case

In December 2011, a judgement was made against Cheshire Fire and Rescue Authority relating to a challenge brought by one of their employees; Firefighter Norman. This employee was successful in his challenge which stated that the application of the existing firefighter pension rules, in which certain aspects of work which warranted an additional payment were being treated as non-pensionable, was unlawful.

The judge found in favour of Firefighter Norman and therefore ordered Cheshire FRA to recalculate his pension on the basis of the additional payments being pensionable. Cheshire FRA was also required to pay employer contributions on the element of pay going back to the period of its inception. The success of this case has an impact on many FRAs and each FRA is required to establish the implications of this case on the payment of allowances within their Service.

An assessment has been undertaken to establish the pensionable status of additional payments within our Service. From this review, in the main the Authority has been applying pensionable pay in line with the Norman case criteria and only the training allowances for substantive Grey Book staff has been identified as likely to be an additional allowance pensionable against the criteria. Contingent liability based upon the training allowances has been identified for any potential settlement. Next steps are to assess impact on the individual employees over the relevant time period. The whole matter will be concluded by financial year end.

A regional seminar has been proposed on the whole topic of pensionable pay to ensure that FRS are applying consistent rulings. This will be coordinated by the LGA pension advisor and anticipated in autumn 2015.

2.2 Potential discrimination claim regarding transitional protections

The Fire Brigades Union (FBU) has started the process of a legal challenge on the transitional protections in the 2015 Pension Scheme Regulations, in respect of potential discrimination. The FBU has contacted the Advisory, Conciliation and Arbitration Service (ACAS) as the first part of the process and Solicitors, on

behalf of the FBU has written to all FRA's directly. The Authority responded directly to the FBU Legal advisors letter. This issue has again created further administrative burden on the Authority as significant comparative information is required to be submitted. One Employment Tribunal Claim (ET1) has been received.

2.3 GAD Ombudsman case

Following the Pensions Ombudsman's recent determination on the complaint brought by Mr W Milne, the Government has decided that additional payments are to be made to scheme members whose pension commenced between 1 December 2001 and 21 August 2006 and who chose to commute pension for lump sum at retirement. This is to address the Ombudsman's conclusion that the scheme's commutation factors should have been reviewed before 2006. The additional payments include interest at the Bank of England's base rate since the date the pension commenced, in accordance with the Ombudsman's determination in the case of Mr Milne.

In the South East Region there are 753 members affected, and for Buckinghamshire and Milton Keynes Fire Authority the number of pensioners affected is 47 with retirement dates from 1 December 2001 to 21 August 2006.

Government Actuary's Department (GAD) have prepared to assist scheme administrators in calculating additional payments to be made in respect of certain fire pension scheme members, following consideration of the Ombudsman's determination. The guidance includes the table of revised factors to be used in calculating redress, as prepared by GAD. In addition to this guidance, GAD have provided an excel calculator to facilitate the processing of cases, including the production of calculations for multiple members on a bulk basis.

The Government appreciates that it will take time to process the necessary calculations, particularly given that some administrators will need to assess hundreds of cases and in the light of other demands. Clearly, however, there is a need to ensure that those individuals affected by the principles of this case, receive redress as soon as possible. The Government therefore expects that administrators will have completed the majority of calculations by December 2015 and will have made the majority of payments by April 2016. The Government has requested information on the additional money FRA's are expected to pay affected individuals; this information is being provided by the Pension Administrator by 2 November 2015.

BCC have confirmed they can achieve the timescales

HM Treasury have confirmed that DCLG will be making the required funding available to FRA's to enable them to make the necessary payments to affected individuals.

All affected pensioners have been written to setting out the Government's expectations on timescales.

2.4 RDS Settlement – Modified Pension Scheme update

A test case in two authorities, Kent and Berkshire was identified under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and subject to an Employment Tribunal, Employment Appeal Tribunal, Court of Appeal and House of Lords processes. The judgement of the Tribunal determined that the On-call workforce had been treated less favourably in breach of the above Regulations

Subsequent amendments were made to the Scheme of Conditions of Service (Grey Book) and eligible employees (current and ex-employee on the On-call duty system for all or part of the period 1 July 2000 and 30 June 2010) received compensation payments under the terms of the agreement.

The offer was for compensation which related to terms and conditions of employment taking account of role, length of service and percentage of cover provided.

The Retained Firefighters' Pension Settlement introduced the new Modified Pension Scheme for individuals who were employed as retained firefighters for all or part of the period 1 July 2000 to 5 April 2006 inclusive. A significant amount of time has been spent progressing this project, with extra resource employed to assist with an options exercise to provide those individuals affected with an opportunity to join the Modified Scheme. This has involved great efforts to contact the 290 eligible staff and ex-employees and consequentially complex calculations have had to be undertaken. Calculations for cases can take up to half a day to complete and little support is being provided by BCC. The project met the deadline date of 30 September 2015 and all information has been confirmed with BCC, who are now creating the historic pension records.

18% (51 individuals) expressed an interest to buy back pensionable service, seven of whom decided not to join at the cut-off date on 30 September 2015. Affected staff are categorised into three areas; active members, deferred members and pensioner members:

- Deferred category: 15 cases. Eleven individuals have opted to buy back five opting to pay by instalments over the ten year period and four by lump sum.

- Active category: 24 cases. Most will be joined to the 2015 Scheme in August 2015, with some being backdated depending on when the original instruction was received. Twenty one individuals have opted to buy back, eight paying in instalments over the ten years and thirteen paying the lump sum
- Pensioner category: 12 cases. All twelve have opted to buy into the Scheme, eight to whom are owed a pension lump sum and arrears to based on estimated figures gathered during the calculation process and four have contribution arrears being paid by lump sum in order to secure their pension

Special Pensioner Members are entitled to receive a lump sum payment for the historic pension payments they would have ordinarily received if they had retired at the pension age of 55 as a member under the Scheme. Arrears of pension after taking account of contributions due have been estimated at circa £22,353

When this matter was originally raised the Authority transferred £650k into reserves. The current understanding is the costs may be reflected in future contribution levels although this has not yet been confirmed. The reserve will be kept until this is clear.

2.5 Injury Awards:

A report to the Fire Authority on 18 February 2015 detailed the results of an investigation into the circumstances in which the Authority had been making compensation payments to former employees for "service related injury" from its Firefighters' Pension Fund, rather than from its operating account.

Recommendations that arose from the final report that specifically related to pensions were:

- Recommendation 1: Buckinghamshire and Milton Keynes Fire Authority (BMKFA) should review its arrangements for the administration of its pension fund. Specifically, BMKFA should consider: (a) whether to bring the function in-house; or (b) whether a new administrator of the Firefighters' pension fund should be appointed
- Recommendation 5: BMKFA should develop a policy within human resources for dealing with injury awards under the 2006 Compensation Scheme to complement the policies addressing ill-health retirements

2.5.1 Recommendation 1 - Pensions Administration (FFPS review)

Buckinghamshire County Council provides the pensions administration service for the Authority. Notice to terminate this contractual arrangement has been served by BCC and the pension administration service for the Firefighters' Pension Schemes will cease with effect from the end of the financial year 2015/16.

The Authority is looking to collaborate with RBFRS on the new provision. Several meetings have taken place with procurement and RBFRS to determine the specification and procurement process. The pension specification has been finalised between the two authorities, tender requirements are being advertised, with a new pension provider anticipated to be awarded by December 2015, ready for a go live date of 1 April 2016.

Based on the current costs paid by RBFRS to an external provider there is likely to be an additional cost for the Authority; however there are now five Firefighters Pension Schemes to administer as opposed to three

2.5.2 Recommendation 5 - Policy

The Authority accepted that a policy within Human Resources for dealing with injury awards under the 2006 Compensation Scheme to complement the policies addressing ill-health retirements should be developed. This is at a developed draft stage.

2.6 Guaranteed Minimum Pension - Reconciliation

As part of the introduction and delivery of the New State Pension (a regular payment from the Government that can be claimed if an individual reaches State Pension Age on or after 6 April 2016), HMRC are changing the way they report Guaranteed Minimum Pension (GMP) data to pension schemes. In particular, HMRC will cease active tracking of members with a GMP post April 2016. Current legislation requires the uprate of the GMP element of a member's pension until such time as:

- (i) the member reaches State Pension Age, and
- (ii) is in receipt of their State Pension, and
- (iii) the GMP is greater than the Additional Pension entitlement, and
- (iv) DWP is index-linking the State Pension

As HMRC will also cease to provide notifications to schemes when a member is in receipt of State Pension and DWP is indexing it, schemes will not know when to cease indexing the GMP.

Without any changes to the current legislation, the impact of this would be that, unless the member tells the scheme that he or she is receiving a State Pension and that DWP are providing increases on that State Pension, the full uprating may be required on the whole occupational pension, including the GMP, in line with the Ministerial Direction allowed for under s 59A of the Social Security Pensions Act 1975.

Schemes will not know at which point to stop (or in some cases start) to pay increases on the GMP element of the occupational pension. This can result in over and under payment of both the GMP and the occupational pension.

Given schemes will become responsible for calculating the GMP for members after April 2016, HMRC launched a reconciliation exercise to ensure that ahead of then, the data schemes hold is consistent with that held by HMRC and to help protect against future mis-payment of GMP indexation.

Timetable for reconciliation: HMRC have set out the following timetable for the reconciliation:

	Date
Schemes request data from HMRC for deferred and pensioner members	By April 2016
HMRC carry out 'closure scan' and provide data on active members to schemes	December 2016
Completion of reconciliation (deferred, pensioner and active members)	December 2018

3.0 Local issues

3.1 Additional Pension Benefits (APB)

For 1992 Scheme members, the Authority has the discretion to treat payments relating to temporary promotion as pensionable. If the Authority does treat these payments as pensionable, it will be reflected in final pay for any arrangements commencing before 1 July 2013. For any temporary promotions commencing after 1 July 2013 the 'additional' contributions provide pension under the APB arrangements.

For 2006 Scheme members, temporary promotions should be treated as non-pensionable, in accordance with Part 11 Rule 1.

In the 2015 Scheme all temporary allowance and pay is non-pensionable.

BCC had been calculating APB's incorrectly as the Employers contribution had been excluded. This project was completed in October 2015 with the last payments arranged for November 2015.

3.2 Pre-retirement courses

Two pre-retirement courses were run in 2015 and the feedback was excellent. These courses are planned to be run annually, the next courses being 20 January 2016 and 24 February 2016, for staff eligible to retire in the next 1 – 2 years.

The course is run by an external provider who has expertise in all Fire Service and Local Government Pension Schemes, and staff are provided with a variety of information, covering pension, financial and lifestyle advice.

4.0 Governance

4.1 Audit

As part of the internal audit plans there will be an Audit of the pension administration/management arrangements. This is due to take place in Quarter 3 (November 2015). This will be timely in light of the transfer of services.

4.2 Local Pension Board

One of the main elements to governance arrangements for the new Firefighters' Pension Scheme 2015 was the establishment of a Local Pension Boards in each FRA area by 1 April 2015. The Authority was required to establish a new body known as a Local Pension Board to assist the Authority in its role as 'Scheme Manager'. As Scheme Manager the Authority is responsible for delivery of the Firefighters' Pension Scheme.

The Local Pensions Board has been established with three employer representatives and three member representatives (one FBU, one FOA & one pensioner member). The pensioner member was appointed following a successful recruitment campaign utilising information from Narfs to reach retired operational staff.

The first Pension Board meeting was held on 17 July 2015 and subsequent training has been provided by the Local Government Association (LGA) on the role and responsibilities of the Local Pension Board. It is anticipated that further training will be required as the duties and responsibilities of the Local Pension Board become more prevalent.

4.3 Pension Regulator

There is a requirement to register the 2015 Firefighters' Pension Scheme with the Pension Regulator, this has been approved by Director of Legal and Governance and submitted.

4.4 Discretions

As Scheme Manager the Authority is responsible for delivery of the Firefighters' Pension Schemes.

The Authority's governance arrangements for the new Firefighters' Pensions Scheme 2015 were approved by the Executive Committee at the 18 March 2015 meeting.

The 2015 Scheme Regulations set out fifty two discretions available to the Authority to consider, however only three required immediate consideration, and these were agreed by the Authority in May 2015.

The three Scheme Manager discretions within the Firefighters' Pension Scheme (England) Regulations 2014 which the Authority was required to have an immediate position on are:

1. Delegation (Regulation 5)
2. Pensionable pay (Regulation 17)
3. Contributions during absence from work (Regulation 111)

It is proposed to present a follow up report on the remaining forty nine 2015 Scheme discretions in the New Year 2016 when general, legal and procedural matters have been resolved and pensions administrator and governance training completed. A significant number of the remaining discretions have no impact on employees until 2022.

The LGA pensions advisor has indicated she will be looking to bring together all pensions discretions in one document for all schemes. No timescales have been given for this work. Discretions across the Firefighter schemes are different, particularly related to pensionability of allowances on temporary promotion. The Authority considers it important that the discretions are clarified and some consistency applied. The position on all discretions will be reviewed early in the New Year to ensure they have been considered and the Authority's position on them recorded.

4.5 Efficiency and Early Commutation Retirements

The Authority considers all efficiency retirements on a case by case basis, taking account of business needs and transformational plans. In all cases a business case is required to be approved. In the last 12 months the Authority has

consented to 4 efficiency retirements; 2 Grey Book (see below), 1 Control and 1 Support Services.

Under the Firefighters' Pension Scheme 1992 Rule B7 affecting commutation on retirements, it allows the Authority to permit Scheme members with less than 30 years' service and under age 55 to retire and commute part of their pension for a lump sum. So far the Authority has approved four staff leaving under the B7 discretions rule; two in August 2015 and two in December 2015. These approvals support the work force planning and transformation plans. Four cases have been declined and a business case is currently being drafted for an early retirement case in 2016.

5.0 On-going / future reform

It is anticipated the high level of pension related work will continue. Although this may not all be specific to the Fire Service Schemes, the general changes will affect the Authority and its staff.

The Government in last parliament brought forward their significant state pensions changes from 2017 to 2016. The Government wants to reform the State Pension System by:

- Introducing a simple, single-tier pension to help people understand what they need to save for their retirement
- Removing outdated and complex elements of the current State Pension system

The Government published 'The single-tier pension: a simple foundation for savings' on 14 January 2013. On 18 March 2013 the Government announced the single-tier pension will be brought in on 6 April 2016 and will affect people who reach State Pension age from that date. Current pensioners and those reaching State Pension age before the introduction date will receive their State Pension based on existing rules.

The single-tier pension: a simple foundation for savings:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181229/single-tier-pension.pdf

Single-tier pension fact sheet:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181237/single-tier-pension-fact-sheet.pdf

On 6 April 2016 the end of defined benefits contracting-out will also come into effect. The effect of the abolition of contracting was discussed at the National Firefighter Pension meeting in October 2015 and Authorities are being advised to wait on national communications on this matter to ensure a joined up approach is taken on this subject matter.

Other future externally driven matters will also affect the Authority and pensions, this includes:

- The proposal to cap public sector exit payments: where the proposal is to include pension strain figures. The Authority has responded to the consultation expressing their concerns on this as it may impact on transformational plans
- Annual pension statements: there is a 17 month deadline date following the introduction of the Firefighters' Pension Scheme 2015 for these to be published. This will need to be completed by August 2016.
- Scheme Valuation 2016: a significant data request will be sent to FRA's from GAD

5.1 Summary

This report highlights the main pension related activities and impacts for the Authority. Pensions is a technical and specialist area and Human Resources has experienced significant and unprecedented volume of work over the last two years. There has been a steep learning curve for HR staff, often on matters where neither the LGA nor our Administrators could offer clear guidance. The volume of work undertaken so far and needed in the future was not fully included within the current People & Organisational Development resources, although it has been managed so far with limited extra resources.

Regional groups have been set up across the FRA's and the Authority is actively participating in these to assist our knowledge and where possible share common policy and resources to reduce the on-going extra administration burden.

Risks will continue to be highlighted in the People & Organisational Development risk register and the Finance risk register where appropriate, and will be reported through SMB in a timely way.

Priorities for the next six month period include:

- Conclusion of the work on the On-call Modified Pension Scheme settlement
- Progression of procurement of a new Firefighter pensions administration service for go live 1 April 2016
- Close management of the existing pension administrators to ensure service levels are maintained
- Fully embed the Local Pension's Board arrangements

- Ensuring the appropriate discretions are in place for all Authority pensions schemes
- Preparing for the 2016 general reforms to pensions related issues