

Pensions update report

1.0 Introduction

The Authority continues to run five different pension Schemes:

- 1992 Firefighters Pension Scheme (FPS 1992)
 - Closed to new entrants from 6 April 2006
- 2006 Firefighters Pension Scheme (FPS 2006)
 - Open to regular and On-call firefighters appointed after 6 April 2006
 - Closed to new entrants from 31 March 2015
- 2015 Firefighters Pension Scheme (FPS 2015)
 - Open to new entrants from 1 April 2015
- 2006 Modified Pension Scheme (MPS 2006)
 - 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
- Local Government Pension Scheme (LGPS)
 - Amended from 1 April 2014

Each Scheme is a defined benefit pension scheme; this is a type of pension in which the employer promises a specified monthly benefit on retirement that is pre-determined by a formula based on an employee's earnings history, length of membership in the Scheme and age, rather than depending directly on individual investment return.

Within each Scheme there are different types of members. The LGPS has one type of membership as all Scheme members transitioned into the new Scheme on 1 April 2014, however the Firefighter Pension Schemes has protected, tapered and unprotected members:

- **Protected Scheme member**
 - The individual remains in their current Scheme (FPS 1992, FPS 2006, MPS 2006) until they choose to retire
- **Tapered Scheme member**
 - On a taper date (up to 2022), based on the individual's age, they will move into the FPS 2015
 - Two part pension: Part one benefits (FPS 1992, FPS 2006, MPS 2006) remain fully protected and pension is calculated on final salary at retirement if the Scheme members remains in the FPS 2015
 - The individual will continue to pay on the same contribution basis until they move into the FPS 2015
 - Part two benefits are in the FPS 2015

- **Unprotected Scheme member**

- FPS 2015

- Due to the age of the individual, they move straight into the FPS 2015 on 1 April 2015
 - Part one benefits (FPS 1992, FPS 2006, MPS 2006) remain fully protected and pension is calculated on final salary at retirement if the Scheme members remains in the FPS 2015
 - Part two benefits are in the FPS 2015

- LGPS

- All members moved straight into the amended Scheme on 1 April 2014
 - All pension built up before 1 April 2014 is fully protected and based on final salary on retirement

The pension update report presented to the Executive Committee on 18 November 2015 provides detail on the background to the pension reforms and specific information on each of the five pension Schemes.

2.0 Membership and trend data

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

As at 30 June 2016 the numbers of active, deferred and pensioner members are as follows:

Scheme	Numbers of actives, deferred and pensioner members
FPS 1992	Active = 82 Deferred = 50 Pensioners = 341
FPS 2006	Active = 20 Deferred = 166 Pensioners = 21
MPS 2006	Active = 14 Deferred = 13 Pensioners = 18
FPS 2015	Active = 288 Deferred = 26 Pensioners = 0
LGPS 2014	Active = 103 Deferred = 119 Pensioners = 84

3.0 Cases –current national rulings & challenges

3.1 Government Actuary's Department (GAD) Ombudsman case

Following the Pensions Ombudsman's determination on the complaint brought by Mr W Milne, the government decided that additional payments were 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 was to address the Ombudsman's conclusion that the Scheme's commutation factors should have been reviewed before 2006.

The government acknowledged that it would take time to process the necessary calculations, particularly given that some pension administrators were required to assess hundreds of cases and in light of other demands. The government expected administrators to have completed the majority of calculations by December 2015 with the majority of payments made by April 2016.

In the South East Region there were 753 Scheme members affected, and for Buckinghamshire and Milton Keynes Fire Authority the number of pensioners affected with retirement dates from 1 December 2001 to 21 August 2006 was 43.

As the administrators for the Authority at the time, Buckinghamshire County Council completed this piece of work in December 2015, with payments made to affected individuals well ahead of the schedule set of April 2016.

DCLG made the required funding available to Fire Authority's to enable them to make the necessary payments to affected individuals, and the total cost of the payments for this Authority amounted to £725,567.34.

3.2 Legal challenges

The FBU initiated two legal challenges regarding ***transitional protection*** and the ***contributions holiday***.

3.2.1 2015 Firefighters' Pension Scheme transitional protection

The FBU is challenging government in relation to the transitional protection it introduced as part of the 2015 Firefighters' Pension Scheme, i.e. those firefighters who were moved into the 2015 Scheme either automatically or via taper protection. The first stage of the challenge required a test case being lodged in each Fire Authority using test cases of FBU members relating to age discrimination, however it also incorporated further claims around race, gender and equal pay.

An early conciliation process with ACAS was also undertaken to determine if there was any room for movement on the issue before the legal process moved to the next stage.

A preliminary Employment Tribunal hearing took place on 31 May to 1 June 2016 to consider the arguments made on behalf of the fire and rescue authorities that:

1. The fire and rescue authorities' actions in regard to the pension arrangements of the firefighters employed by them have been dictated by the terms of the legislation, both under the Public Service Pensions Act 2013 and the Transitional Provisions Regulations, to which they are obliged to adhere; and
2. The effective date of the introduction of the new pensions was 1 April 2015 and therefore the claims were not lodged with the Employment Tribunal within the time limit for such claims

The judgment of the Tribunal on 21 June 2016 found in favour of the claimants on both points and ruled that the case can proceed to a full hearing. A further case management hearing was scheduled for 31 August 2016.

The main part of the fire and rescue authorities' defence is that the transitional arrangements are objectively justified, and the outcome of the preliminary hearing does not impact on the ability to pursue those arguments at the substantive hearing in January 2017.

3.2.2 Contributions holiday

The FBU challenged the government in relation to age discrimination relating to Scheme members who joined the 1992 Firefighters' Pension Scheme aged 18 to 20. Firefighters who joined the 1992 Scheme aged 18 to 20 had to contribute for up to 32 years to receive a 30 year pension at the earliest age of 50 (the 1992 Scheme has an accrual cap of 30 years' reckonable service).

Following the challenge the Secretary of State will now allow 1992 Scheme members under the age of 50 who have accrued 30 years' service to take a contributions holiday from the time they attain 30 years' reckonable service until they reach age 50. This is, however, only for those protected members of the 1992 Firefighters Pension Scheme on reaching age 50.

Draft amendments have been made to legislation and these are being checked to ensure they provide the necessary amendments to the 1992 Firefighters' Pension Scheme to allow the agreed remedy to be enacted. Included within the remedy is Scheme members who transferred in service from another Scheme, such as armed forces pension, which contribute to the individual achieving the 30 years maximum pensionable service prior to age 50.

The effective date of this is 1 September 2006, this will mean that affected Scheme members since this date will require a refund of contributions. A process will need to be carried out to provide this via a GAD calculator which is expected early autumn.

Within the Authority there are four active employees who joined aged 18 or 19 and reaching 30 years' service before aged 50, thirty-four pensioner members who meet the criteria prior to their retirement and one deceased Scheme member.

West Yorkshire Pension Fund will handle this on behalf of the Authority once further detail is provided from government. A further update will be provided once arrangements have been agreed.

3.3 Protected Pension Age

Protected pension age only applies to 1992 Scheme members who are under the age of 55.

In 2010 changes to the Finance Act 2004 changed the normal minimum pension age from 50 to 55. Firefighters were given a protected pension age. The protected pension age applies to those employees that are Scheme members of the Firefighters Pension Scheme and able to retire from the Authority under the age of 55. Any Scheme member retiring before the age of 55 and returning to employment without an adequate break in service risks incurring additional tax liability on their pension due to losing their protected pension age status.

There was an Ombudsman's determination in December 2015 following a complaint against the Police and Crime Commissioner in South Wales and Capita.

Link to Ombudsman's determination; <https://www.pensions-ombudsman.org.uk/wp-content/uploads/PO-7096.pdf>

This complaint related to their failure to inform the claimant (Mr Cherry) of the tax penalties on his retirement benefits when taking up subsequent re-employment. This determination has an impact on employers, such as the Authority, with Scheme members with a protected pension age. These individuals must be provided with information about the possible adverse tax consequences of becoming re-employed after they have started to receive their pension. A Guidance Note has been published on pension abatement and protected pension age which provides the reader with information on these two subject matters and potential implications on both the Authority and individual. Documentation has also been amended for new employees to incorporate notification on this subject matter and to advise the individual they may need to seek independent financial advice before taking up the post.

3.4 Tax changes

3.4.1 Lifetime Allowance

The Lifetime Allowance was reduced from £1.25million to £1million from 6 April 2016. There is a protection against this reduction available for relevant Scheme members and from 6 April 2016 there are two new types of 'transitional protection':

- Fixed protection – any Scheme member can apply for this protection, whether the benefit exceeds £1million or not, provided there is no 'relevant benefit accrual'
- Individual protection – a Scheme member can apply for this protection if the value of benefits in registered pension schemes from all sources is between £1million and £1.25million as at 5 April 2016

HMRC produced a communication on lifetime allowances and information has been cascaded to employees and communicated on the intranet on this subject matter.

3.4.2 Annual Allowance

There were some significant changes to the Annual Allowance during 2015/16 tax year which include:

- Tapering of the Annual Allowance between £40,000 and £10,000 for people with 'adjusted income' more than £150,000 for the 2016/17 tax year onwards
 - Reducing the individual's Annual Allowance by £1 for every £2 that the individual's adjusted income exceeds £150,000 to a maximum of a £30,000 reduction
 - Individuals with a threshold income of less than £110,000 will be exempt from the changes
- Changes to the period over which the growth in pension is assessed for Annual Allowance purposes, known as 'Pension Input Period'
 - The Pension Input Period is the period used to assess a Scheme member's pension accrual in a given tax year against the Annual Allowance
 - From 6 April 2016 all Pension Input Periods are required to be aligned with the tax year, e.g. the Pension Input Period for 2015/16 will run from 1 April 2015 to 5 April 2016 (an extra 5 days)

3.5 Introduction of the new state pension in April 2016

In April 2016 the government reformed the state pension system by:

- Introducing a simple, single-tier pension to help individuals understand what they need to save for their retirement

- Removed outdated and complex elements of the current state pension system

From April 2016 the government introduced a new state pension which replaced the previous multi-tier arrangement for new pensioners. The change to the state pension affected individuals who reached state pension age from 6 April 2016 onwards.

From 6 April 2016 the end of the defined benefits contracting-out also came into effect. Before this date the basic state pension was supplemented by an occupational 'contracted out' pension scheme for all employers with employees with members of a 'contracted out' occupational pension scheme, of which the Local Government Pension Scheme and the Firefighters' Pension Schemes are included.

The main implication of the reform for Scheme members was that from 6 April 2016 employers and employees no longer received the National Insurance rebate. This resulted in an increase in employee National Insurance contributions as employees in the pension scheme are now required to pay the standard rate of National Insurance, based on the National Insurance threshold set each year by HM Treasury and Earnings. All affected employees were advised of the implications of this reform via a letter to home addresses and communication on the intranet with links to websites for additional information.

4.0 Local issues

4.1 Injury Awards:

An independent 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

A follow up report was submitted to Overview and Audit on 9 March 2016 which confirmed that in response to:

- Recommendation 1: A new Firefighters' pension administrator had been appointed
- Recommendation 5: Appropriate documentation had been produced in Human Resources which sets out the process of ill-health retirements, including injury awards as defined by the Firefighters' Compensation Scheme (England) Order 2006

The recommendations as detailed above have been actioned and this is now closed.

4.2 Transfer of Firefighters' Pension administration service:

Buckinghamshire County Council provided the pensions administration service for the Authority for the Local Government Pension Scheme (LGPS) and the Firefighters' Pension Schemes (FPS 1992, FPS 2006, MPS 2006, FPS 2015) until 31 March 2016, when the pension administration service for the Firefighters' Pension Schemes ceased to be provided by them.

In collaboration with Royal Berkshire Fire Authority, and following a joint tender process, a new pension administrator was awarded in December 2015; West Yorkshire Pension Fund. The Authority entered into a shared service arrangement with West Yorkshire Pension Fund from 1 April 2016. This meant that instead of the agreement being on a contractual basis, West Yorkshire Pension Fund charge the Fire Authority based on cost per Scheme member and any decrease or increases in cost is shared across the whole service provided by West Yorkshire Pension Fund including LGPS.

Following the award, work started with West Yorkshire Pension Fund to seamlessly transfer the pension administration from Buckinghamshire County Council to West Yorkshire Pension Fund ready for a go live date of 1 April 2016. Copies of the project highlight reports are attached at Appendix 1 to 4 detailing progress information for January 2016 through to April 2016.

The cost for the new pension administration services to be paid by the Authority is based on the shared service approach and based on a forty-one month contract at a circa cost of £50,000. This is contained within existing budget for pension administration. For financial year 2015/16 the pension administration cost provided by Buckinghamshire County Council was £30,731.

The Finance Director at Buckinghamshire County Council wrote to Cllr Watson in April 2016 providing formal assurance that Buckinghamshire County Council would continue to provide a pension administration service for the Firefighters' Pension Schemes until the successful transition to West Yorkshire Pension Fund and the successful first pensioner payroll run. The context of this was highlighted in internal audit reports.

The project completed to time with no major issues and with no additional expenditure on the project. The Firefighters' Pension Scheme administration is now run as business as usual by West Yorkshire Pension Fund.

Future developments with West Yorkshire Pension Fund will include the introduction of a self-service portal for Scheme members, the possibility of a joint Local Pension Board with Royal Berkshire.

4.3 Audit of the transfer of the Firefighters' Pension Schemes administration

Internal audit was used as a critical friend to support the transition to the new pension administrator, providing an evaluation of the adequacy and effectiveness of the transfer arrangements and governance surrounding the transfer of the administration of the Firefighters' Pension Schemes.

The objectives for the internal audit review was to provide a high level evaluation of the adequacy and effectiveness of the transfer arrangements and governance surrounding the transfer of the administration of the Firefighters' Pension Schemes. As part of the audit work the adequacy of controls for mitigating the following risks were reviewed:

1: Governance: *If the governance arrangements surrounding the transfer of the fund are inadequate there is a risk that responsibilities are not defined or monitored leading to all necessary actions not being undertaken.*

2: Transfer of pension data: *If incomplete or inaccurate data is transferred there may be financial implications for the Fire Authority and Pension Scheme members.*

The audit review found that governance arrangements for the transfer of the pension administration were "robust". The transfer was run as a project with all expected documentation such as risk registers and highlight reports being in place, being regularly reviewed and updated. A contract was signed between the Authority and West Yorkshire Pension Fund which detailed roles and responsibilities and key performance indicators. There was also a separate data sharing agreement in place signed by all relevant parties. Regular meetings were held throughout the project with the project team to discuss and agree actions. Going forwards, regular communication will be maintained with West Yorkshire Pension Fund, with monthly conference calls, quarterly contract meetings and monthly management information being provided.

A sample of the transferred data was tested by internal audit following the extraction of data from Buckinghamshire County Council which happened in May 2016. It was found that at the time of the testing all Scheme members in the sample were recorded on the West Yorkshire Pension Fund system, however, not all of the supporting documentation had been scanned onto their system. At the

time of the sample West Yorkshire Pension Fund had not uploaded all the images onto their system and all the data was not available for the sample.

The action plan from internal audit requests a further spot check of Scheme members' details once all the data has been scanned into the West Yorkshire Pension Fund system to give assurance that the data is correct and complete. The second request was for confirmation sought from Buckinghamshire County Council that additional information would be provided as necessary to meet statutory deadlines, this was captured in a meeting with the Pension team at Buckinghamshire County Council in July 2016.

A letter from Audit which incorporates the details above was included in a report to SMB and Overview & Audit Committee in July 2016.

4.4 Audit of pension administration/management arrangements

As part of the internal audit plans there was an audit of the pension administration/management arrangements in Quarter 3 (November/December 2015). This was timely in light of the transfer of the pension administration service. The final report submitted by the auditors at Buckinghamshire County Council in December 2015 stated the overall audit opinion as;

'In our opinion **reasonable** assurance can be provided that relevant risks are effectively identified, managed and controlled.'

4.5 Annual Benefits Statements

Defined Benefit Schemes are required to provide an Annual Benefit Statement to all active Scheme members no later than 17 months after the Scheme Regulations establishing the Scheme came into force and annually thereafter. The provision within the Public Sector Pension Act 2013 (section 30) applies to new pension Schemes and any connected Schemes, e.g. FPS 1992, FPS 2006, MPS 2006.

West Yorkshire Pension Fund have factored in this work and all Firefighter Pension Scheme members will receive notification of their benefits.

All LGPS members received an Annual Benefits Statement in July 2016.

4.6 Guaranteed Minimum Pension (GMP) Reconciliation

As Schemes became responsible for calculating the GMP for Scheme members after April 2016, HMRC launched a reconciliation exercise to ensure that 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:

Activity	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

West Yorkshire Pension Fund will complete the reconciliation exercise on behalf of the Authority, undertaking the matching process of data stored on their system and data held by HMRC. This is a lengthy project with a number of key steps, with work having already commenced and all data required to be reconciled by December 2018. It is yet unknown whether this exercise will have any cost implications.

4.7 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 Fire Authority area by 1 April 2015. The Authority was required to establish a 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).

Since the first Pension Board meeting held on 17 July 2015, there have been quarterly Board meetings and Board members have attended training events provided by the Local Government Association (LGA) and events held more regionally.

4.8 Scheme Advisory Board

The Scheme Advisory Board has now been established with fourteen members; seven employer representatives and seven employee representatives, with

Malcolm Eastwood, who retired as Chief Fire Officer from Hampshire Fire & Rescue Service in 2004, being publically declared as Chair of the Board.

The purpose of the Scheme Advisory Board as noted in their Terms of Reference is to:

- Provide advice in response to a request from the Secretary of State on the desirability of making changes to the Firefighters' Pension Schemes
- Provide advice to Scheme managers and Local Pension Boards in relation to the effective and efficient administration and management of the Firefighters' Pension Schemes

In order to discharge its statutory functions, and to resource matters that the Scheme Advisory Board has been asked to take forward by the government, the work plan of the Scheme Advisory Board is to:

- Support and advice Local Pension Boards
- Strategically lead Fire Pension Scheme communications
- Improve Scheme administration
- Ensure cost effectiveness of Scheme administration
- Advise on how to reduce costs of Scheme administration
- Advise on best practice

The support framework for the Local Pension Boards is via one of the six regional pension groups which meet quarterly, with two members of each regional group attending a technical group who meet twice a year. Items are tabled at the regional pension groups and if these are not resolved at the meeting the issue is escalated to the technical group and escalated to the Scheme Advisory Board thereafter if the issue remains unresolved. The Scheme Advisory Board will then consider the issue with advice from their technical advisors and respond appropriately.

4.9 Pensionable pay

The Pension Regulations state the elements of pay which are pensionable and non-pensionable. Following an in depth review of pensionable and non-pensionable pay elements as a result of changes to the Firefighters' Pension Schemes, two anomalies were highlighted as part of the review that required action by the Authority. The Training School and Turntable Ladder allowances that were paid to Grey Book staff were both identified as allowances which should be pensionable; with effect from 1 April 2016 both allowances became pensionable. The Authority is currently progressing the historical impact on this amendment.

5.0 Discretions

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. A significant number of the remaining discretions have no impact on employees until 2022.

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)

The Authority considers it important that discretions are clarified and there is some consistency applied. Working alongside Royal Berkshire Fire Authority, the position on the remaining forty-nine discretions have been reviewed and documentation drafted. A follow up report will be presented to the Executive Committee in due course.

5.1 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.

Under the 1992 Firefighters' Pension Scheme Rule B7 that affects 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 4 employees 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. Five cases have been declined and no further business cases have been submitted.

5.2 Auto-enrolment

Auto-enrolment is a government led initiative to improve the national pension provision. Employees who earn more than £10,000 per annum and between the age of 22 to state pension age will be automatically enrolled into a qualifying pension scheme, e.g. the LGPS or Firefighters Pension Schemes, with effect from the Authority's staging date. In accordance with the Pensions Act 2008, every three years from the first staging date there is a 're-enrolment date' where all employees are assessed again. This process of re-assessment is also triggered

when an individual hits the criteria above from the first time they are auto-enrolled, even if they had previously opted out.

The first staging date for this Authority was November 2013 and the re-assessment will be undertaken in November 2016.