









Firefighters Pension Scheme

Annual General Meeting

Day Two

23 September 2020

www.local.gov.uk







Housekeeping

- Please note this session will be recorded
- Please keep microphones muted unless asked to unmute.
- So that we can see presenters, please keep video off, except during the workshop sessions
- Please engage during the day using the chat function
- Slides will be available after the event



Agenda

- Chair's Welcome
- LGA Update
- Administration and Benchmarking Committee Update
- Case Law Update, Eversheds
- GAD Update
- Home Office Update
- Workshops and feedback
- Closing remarks





Workshops: Sargeant Remedy

1. Technical Issues

David Golding, Essex Pension Fund

2. Data

Helen Scargill, West Yorkshire Pension Fund and Chair of Firefighters Pensions Technical Group

3. Communications, Neil Lewins, Local Pension Partnership and Chair of Firefighters Pensions Communications Group



Chair's welcome

Joanne Livingstone Chair of the Firefighters Scheme Advisory Board (England)



A new chair's lot





LGA Update

Clair Alcock



Unprecedented age of three word slogans













What three words would you use

- Complex
- Challenging
- Resilience







Brings together the management, governance and administration of the Firefighters Pension Scheme

Wearer of many hats!

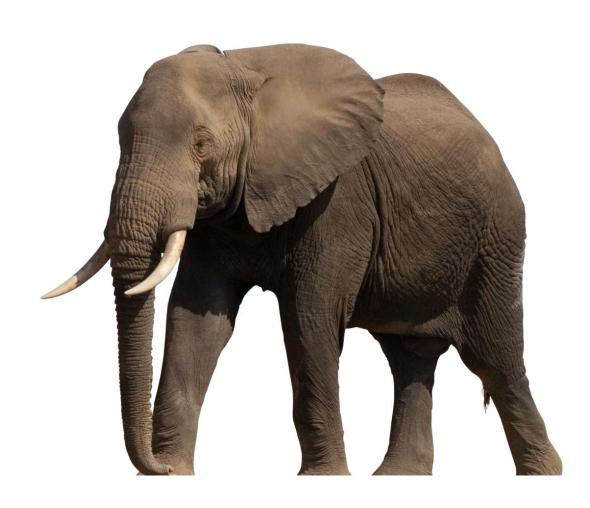
Representatives of the employing authorities

Scheme Advisory Board Secretariat

Provide support and guidance to employers

 Provide support and guidance to administrators







2016 Valuation Results

- The average employer contribution rate was increased to 30.2%, largely as a result of SCAPE rate increases, included 4.5% increase to pay for cost cap increases.
- The employer cost cap target of 16.8% was calculated at 11.6% for 2016, which triggered the mechanism for improvement.
- SAB discussions started on benefit improvements then the process was paused



Age Discrimination

• The case is on the <u>transitional provisions</u> of the 2015 scheme.

• It is these provisions that allowed certain members by virtue of age to remain protected in the final salary scheme or move to the 2015 scheme at a later date.

Tested in Court by the McCloud and Sargeant



Remedy

1. How should the transitional provisions be made lawful going forward?

2. How do you compensate members who have been subject to those provisions since 1st April 2015



Written Statement – HCWS187

- The government is developing proposals to address the unlawful age discrimination identified by the Court of Appeal in the 2015 reforms to the Judicial and Firefighters' pension schemes.
- On 15 July 2019, the government announced it would take steps to remove this discrimination retrospectively (HCWS1725). It confirmed that this would apply to pension scheme members with relevant service across all those public service pension schemes that were introduced in 2014 and 2015, regardless of whether individuals had made a claim. This is a complex undertaking, and it is important to get it right.
- Since February 2020 relevant pension schemes have been conducting technical discussions with member and employer representatives to seek initial views on the government's high-level proposals for removing the discrimination.
- I am grateful for the constructive engagement of trade unions, staff associations, public service employers and other stakeholders in these discussions. The government is considering the initial views of stakeholders and continuing to work through the details of the technical design elements of the proposals. Detailed proposals will be published later in the year and will be subject to public consultation. The government will welcome views on these proposals.
- For the avoidance of doubt, members of public service pension schemes with relevant service will not need to make a claim in order for the eventual changes to apply to them.
- I would like to reassure members that their pension entitlements are safe. The proposals the government is considering would allow relevant members to make a choice as to whether they accrued service in the legacy or reformed schemes for periods of relevant service, depending on what is better for them. The government will provide more detail later in the year, but if an individual's pension circumstances change as a result, the government may also need to consider whether previous tax years back to 2015-16 should be reopened in relation to their pension.
- The government will also set out its proposal to remove the discrimination for future service in the forthcoming consultation.
- In January 2019, the government announced a pause to the cost control mechanism in public service pension schemes, due to uncertainty about benefit entitlements arising from the McCloud judgment. Alongside its proposals for addressing discrimination, the government will also provide an update on the cost control mechanism.



Consultation proposals in brief

- On 1 April 2022, all members (including fully protected) will move into FPS 2015.
- For the retrospective "remedy period" 1 April 2015 to 31 March 2022, all eligible members will be given a choice of final salary or CARE benefits.
- **Either**: within 12-18 months of 2022 (immediate choice).
- Or: at the date they leave the scheme (DCU).



High level observations

Immediate Choice	Deferred Choice Underpin
Immediate choice leaves everyone where they are, but a choice will need to be made within 1 or 2 years from 2022	Defaults everyone back to legacy (final salary) schemes at 1 April 2022
Risk of making 'wrong' decision	FPS 2015 'might' be better for some former members of FPS 2006
FPS 1992 will require additional contributions to be paid	
FPS 2006 would trigger a refund of contributions to be paid	
Tax Relief on pension contributions to be calculated in year of payment, no retrospective tax relief	
Annual Allowance to be calculated at date of choice if different benefits are chosen	Annual Allowance to be calculated at 1 April 2022 on final salary basis back to 1 April 2017
	Second annual allowance calculation at retirement, either tax refund owed or tax will be due



- Technical Queries
- Abatement Guidance
- Protected Pension Age
- Combining pension scheme service guide
- Unauthorised payments timing of payment
- Contributions holiday
- COVID-19 FAQs
- SAB <u>Board meetings</u>
- Virtual <u>LPB training</u>
- Spending review
- Pensionable Pay
- Compensation Scheme
- III-Health





Covid 19 and the FPS

- Adapted to virtual meetings very quickly
- Have enabled all meetings as usual
- Operational and Governance resilience surveys undertaken – see <u>bulletin 36</u>
- Year End was not expected to be significantly affected
- SAB Report <u>here</u>

Page added to website - http://www.fpsregs.org/index.php/covid-19-and-the-fps



Delivering virtually

- Technologically enabled
- All meetings continued online
- Fortnightly engagement coffee mornings
- Training sessions
- Local Pension Boards
- Regional Groups

LGA Update



2020 and beyond....

- Sargeant
- Matthews
- Dashboards



Administration and Benchmarking Committee update

Des Prichard Chair of the Committee



Role of the committee:

- Provide guidance to SAB on cost and value of administration.
- Provide central support to administrators by identifying and promoting best practice.
- Drive standards and consistency.
- Ensure FRAs receive value for money.



Actions delivered:

- > Advice on TPR data scoring.
- Review of administration and management standards and costs in collaboration with Aon.
- Template pension administration strategy.



Spotlight on...

Template administration strategy.

- Recommended by Aon review.
- Formalise expectations between FRAs and administrators.
- Improve standards and consistency.
- Stakeholders consulted.
- Next steps: final review and issue.





Planned future actions:

Immediate:

Remedy!

Medium term:

Review of admin and management structure.

Long-term:

- Data improvement template.
- Monitor trends arising from TPR scheme return data scores.
- > FPS qualification.



Remedy – next steps

- Provide robust response via SAB on administrative challenges of remedy.
- Work with communications group to develop remedy data collection template following outcomes from the AGM data workshop.



Review of admin and Pensions England Scheme Advisory Board management structure

- Currently 18 admin for 45 FRAs.
- > SAB have recorded concern over shrinking FPS admin marketplace set against increasing complexity.
- > Routes to procurement are limited.
- > SAB to investigate whether changes to admin and/ or scheme management would be welcomed.
- Look out for our survey coming soon!



Refreshments



EVERSHEDS SUTHERLAND

LGA Fire Pensions Annual Conference 2020

Case Law Update

23 September 2020

Jennifer Miles

Partner



Agenda

- McCloud Age Discrimination
- Mr S (PO-15170) Protected Pension Age
- Mrs N (PO-27692) Ill Health Early Retirement
- Mr Y (PO-21875) Repayment of Overpayments

McCloud - Update

Age Discrimination

McCloud & Others v Ministry of Justice & Others

- All public sector schemes moved from final salary to CARE in 2014/2015
- Transitional protections were put in place for those within 10 years of National Pension Age ("NPA") in 2012
- Clear case of direct age discrimination
- Younger member brought ET challenges
- Government argues objective justification
- Court of Appeal (Dec 2018) held the justification defence was not made out
- Government accepted that remedial action was needed across all schemes
- July 2020 consultations were issued on proposed remedies

McCloud

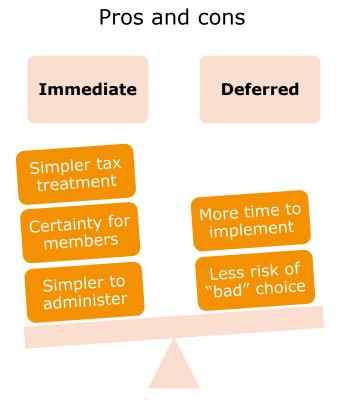
Age Discrimination

Proposed remedy

- Older members stayed in old final salary scheme for most / all of period to NPA
- Could move all affected members back into final salary scheme to March 2022
- BUT, for some members, CARE scheme benefits are better than final salary:
 - better accrual rate
 - generous in-service revaluation
- Proposal is that members choose for themselves
- Consultation on when choice is to be made "immediate" or "deferred"?

McCloud

Age Discrimination



Mr S (PO-15170)

Protected Pension Age

Protected Pension Age – a reminder

- Historic Government policy of having a minimum age people can take their pension from (known as the normal minimum pension age – "NMPA")
- NMPA was 50 until HMRC announced change to raise NMPA to 55 from 6
 April 2010
- BUT change of NMPA might be unfair to those planning retirement so Government gave transitional protection for those with the lower NMPA of 50
- This protection is what we call "Protected Pension Age" ("PPA")
- The Government has announced it plans to increase NMPA to 57 from 2028

Mr S (PO-15170)

Protected Pension Age

The facts

- Mr S was employed as a wholetime duty firefighter ("WDF") and a retained duty firefighter ("RDF") at the same time
- He later resigned as WDF and continued RDF employment until he retired
- He subsequently found out as a result of his continuation of employment, he had forfeited his PPA
- Consequently, all pension payments up to age 55 were subject to unauthorised payment tax charges

Mr S (PO-15170)

Protected Pension Age

Decision

- PO found the scheme manager, in its capacity as scheme administrator, should have known about Mr S' contractual situation at the time his pension came into payment
- Scheme managers have an obligation to know relevant legislation in relation to PPA and in turn understand the tax consequences arising from breaches of the PPA rules
- The provision of a pre-retirement pension estimate to the member, which referred to a tax-free lump sum whilst Mr S was still under the RDF contract amounted to a negligent misstatement. The scheme manager was liable for financial loss
- PO ordered the scheme manager to reimburse Mr S the sum equivalent to the tax liability he paid to HMRC and £2,000 for severe distress and inconvenience caused

Mrs N (PO-27692)

Ill Health Early Retirement (IHER)

The facts

- In June 2016, the administrator informed Mrs N she was entitled to tier 1 IHER benefits, but she was subsequently notified that she qualified for tier 2 benefits
- Tier 2 benefits comprised of lower annual pension and lump sum due to being based on her CARE-scheme membership
- Mrs N argued the scheme administrator had a duty of care to advise her about the effect of transferring to the CARE scheme on her IHER benefits
- Mrs N claimed by relying on the initial benefit statements, she had a significantly lower retirement pension and lump sum
- She claimed the administrator had provided insufficient and misleading information which amounted to a negligent misstatement

Mrs N (PO-27692)

Ill Health Early Retirement

Decision

- PO held that while there was sufficient proximity between the scheme administrator and the member for a duty of care to exist, the administrator could not have know that the member was not going to retire on the date it provided the initial benefits statement
- The benefit statement was provided under the member's membership under the 1995 scheme so it was accurate at the time. The administrator was not authorised to give financial advice in relation to the exercise of a member's right
- PO added the member should have known, or ought to have know that the 2015 scheme was to come into effect in April 2015 meaning she would have been offered different benefits under the CARE scheme.
- The member should have been aware the statement was time-limited in nature

Mr Y (PO-21875)

Repayment of Overpayments

The facts

- Mr Y retired in October 2011, in May 2013 Mr Y's divorce was finalised and PSO was issued in favour of Mr Y's ex wife (a 41.28% share of Mr Y's pension benefits)
- In 2014, Mr Y contacted Capita to express concerns in relation to overpayments. Mr Y's ex wife has not paid her half of the administration fee to implement the order
- In 2017, Mr Y complained his pensions had been reduced. In 2018, Capita found the implementation order was on his record on 12 June 2013 and Mr Y's benefits should have been reduced by 41.28%. As this was never implemented, to avoid any further overpayments, his pension was reduced to the correct amount immediately
- The overpayment of his pension amounted to £36,297.96

Mr Y (PO-21875)

Repayment of Overpayments

Decision

- PO partially upheld the complaint relating to a demand for repayment of an overpaid pension
- As Mr Y knew that his pension was to be reduced, he lacked the necessary good faith required for a successful change of position defence
- Devon & Cornwall Police were entitled to seek recovery of the overpayment but Mr Y could rely on the limitation defence
- PO added lack of good faith does not equate to dishonesty but Mr Y should have known that the pension order would be backdated
- Mr Y was ordered to pay back the overpayment on an appropriate repayment plan. He was paid £2,000 for severe distress and inconvenience.



EVERSHEDS SUTHERLAND

Jennifer Miles

Partner jennifermiles@eversheds-sutherland.com

1 Wood Street London EC2V 7WS

LDS_002-#8183209

eversheds-sutherland.com

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Government Actuary's Department

Firefighters' Pension Scheme Valuation

Rob Fornear 23 September 2020



Contents

- 1. 2020 valuation
- 2. Impact of McCloud on the valuation
- 3. 2016 Cost cap unpause
- 4. Salary information request





1. 2020 Valuation



Background

Valuations are a regular assessment of cost of scheme

- Required by Public Service Pensions Act 2013
- Carried out every 4 years

Purpose of valuations:

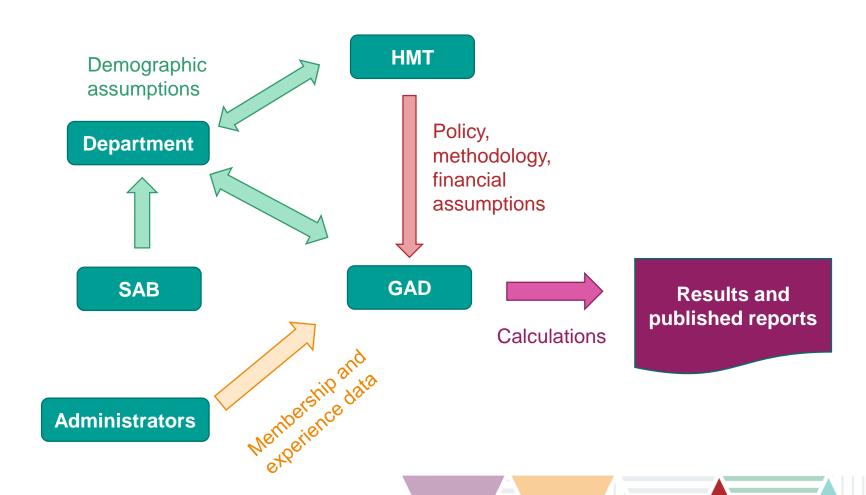
- Assess the cost of the scheme
- Assess the cost cap

Key results:

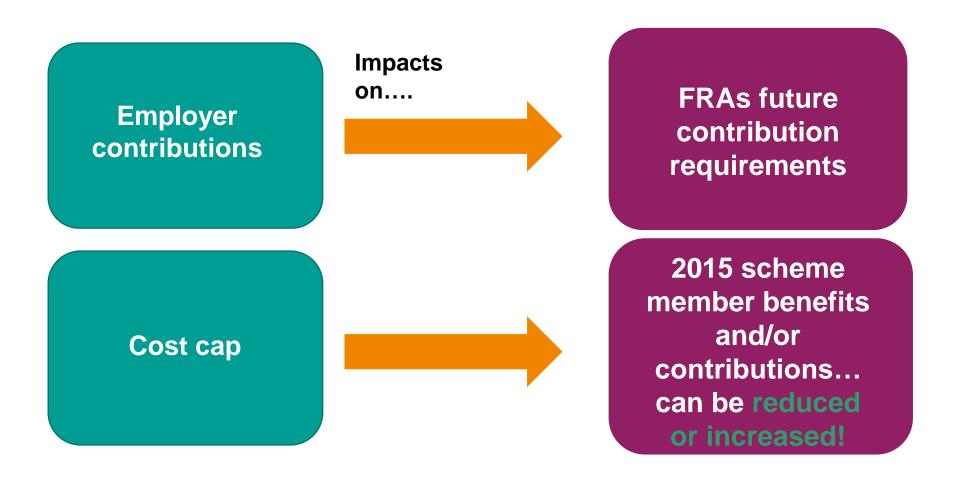
- Employer contribution rate
- Cost cap cost to determine whether the cost of the scheme remains within acceptable boundaries



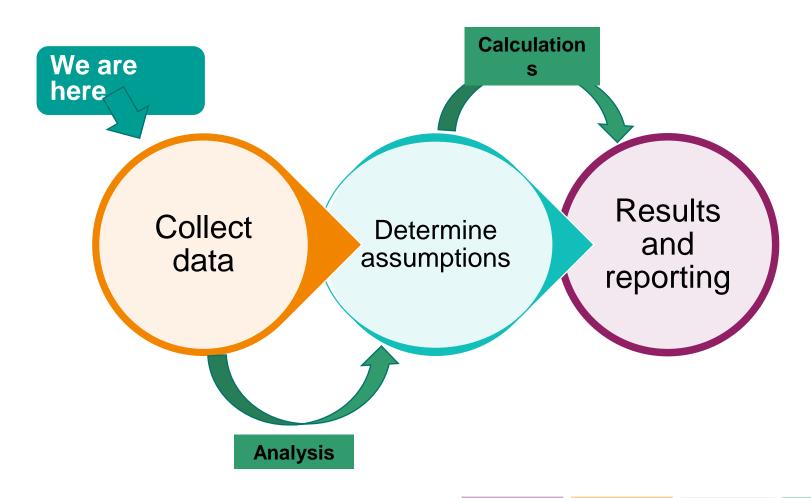
Stakeholders and roles



Why are key results important?



Valuation overview





Data introduction

Why is data so important?





Membership information

Help us understand the scheme membership and what benefits to put a value on

- Number of members
- · Benefits accrued
- Key data items (such as salaries)

Assumption Setting

Analyse experience to understand demographic patterns in the membership

(Eg Mortality rate, retirement patterns)

This allows us understand how to put a value on the benefits



Data checks

Data provided by administrators

GAD's data collection spreadsheet which carries out initial data checks



GAD collates the data and carries out additional checks



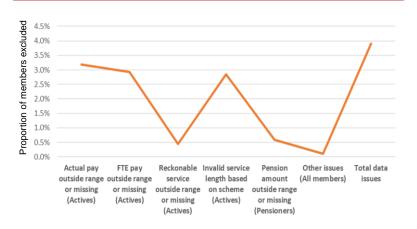


Calculations

Membership data that fails checks is excluded and replaced with average data from the same group **Analysis of Experience**

Data that fails checks is excluded from analysis

Membership exclusion from 2016 data



Exclusions from 2016 AoE





Experience analysis

Some examples of the experience analysis we carry out

Pensioner Mortality The number of deaths in the scheme is compared to the assumption from the previous valuation and national mortality tables Actual vs Expected Pension Ceasing on Death 1000000 900000 (E) 700000 600000 500000 400000 300000 200000 16 19 22 25 28 31 34 37 40 43 46 49





Timeline for assumption setting

Summer 2020

 GAD provides data collection spreadsheets to authorities

Winter 2020

- Fire authorities in England provide GAD with membership and movements data
- Deadline 31 December 2020
- For Wales, Scotland and Northern Ireland the deadline is 31 March 2021

Early 2021

- Membership data validated by GAD
- Analysis of experience and assumptions setting begins

Spring / Summer

- Discussion of scheme specific assumptions
- (GAD / Home Office / SAB)





2. Impact of McCloud on the valuation



Impact of McCloud on the valuation

HMT are currently consulting on the form the McCloud remedy will take. In the meantime GAD is preparing to allow for the impact of McCloud on the 2020 valuation

Data

GAD have asked for more data (for example salaries) for members from the start of the remedy period (2015)

This will allow us to value a member's benefits in both the 2015 Scheme and their pre 2015 Scheme

Calculations

The exact approach for allowing for the McCloud remedy will be set by HMT in their directions

GAD are preparing their calculation tools

Reports

We will be updating our reports to clearly set out the impact of McCloud on the results of the valuation





3. 2016 Cost cap unpause



Cost cap – Purpose

Purpose of the Cost Cap

Ensure a fair balance of risks between members and the taxpayer

Provide backstop protection to the tax payer



Cost cap – Mechanism

Initial employer cost cap set in the 2012 valuation as a percentage of pensionable pay

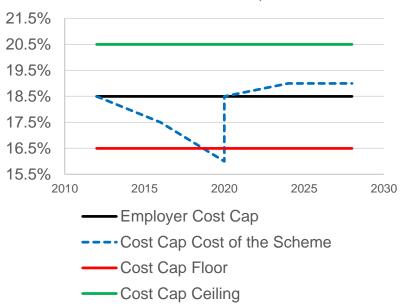


Assessed at each subsequent valuation



If result falls outside of the +/- 2% corridor, rectification is required

Illustration of cost cap mechanism (not actual results!)





Pausing the cost cap mechanism

Jan 2019

• Chief Secretary to the Treasury's written ministerial statement announced a pause to the cost cap mechanism following McCloud / Sargeant judgment.

Feb 2019

 Director of Public Spending explained that Government's policy is for employer contribution rates to be implemented as if the cost cap process had not been paused

Feb 2019

 Amending directions facilitated valuation results pending McCloud and removed requirements to report on cost cap breach following the pause.

July 2020

• HMT update sets out that the Government has announced that the pause should be lifted and the cost control element of the 2016 valuations should be completed.



Unpausing the cost cap mechanism

HMT are considering how to best take forward the cost cap mechanism

HMT expect to publish directions next year

GAD are considering the data and assumptions from the 2016 valuation





4. Salary information request



Pensionable pay changes

Salary data is one of the key data items when valuing the pension liabilities of the Fire Schemes

We will analyse the Following the ruling against Mid and responses to see Thank you to the how much impact West Wales we LGA for facilitating this request and to this might have on asked each the level of salary authority if they had all of you who across the whole changed replied **Scheme** pensionable pay



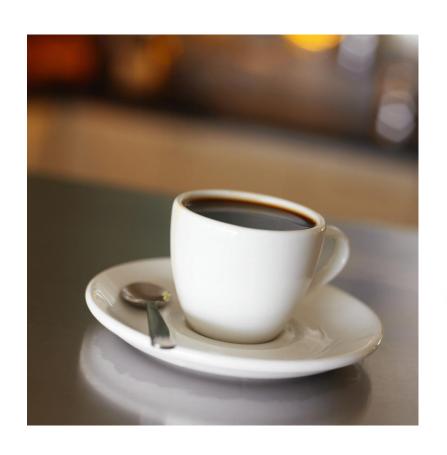


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Lunch













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Welcome back

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Home Office

Peter Spreadbury
Head of Police Workforce and Professionalism
Unit

23 September 2020







Workshops: Sargeant Remedy

1. Technical Issues

David Golding, Essex Pension Fund

2. Data

Helen Scargill, West Yorkshire Pension Fund and Chair of Firefighters Pensions Technical Group

3. Communications

Neil Lewins, Local Pension Partnership and Chair of Firefighters Pensions Communications Group





Sargeant remedy – Technical issues

FPS AGM 2020: Workshop 1



Consultation proposals in brief

- The transitional period ends on 31 March 2022 all taper members would have tapered by then.
- On 1 April 2022, all members (including fully protected) will move into FPS 2015.
- For the retrospective "remedy period" 1 April 2015 to 31 March 2022, all eligible members will be given a choice of final salary or CARE benefits.
- **Either**: within 12-18 months of 2022 (immediate choice).
- Or: at the date they leave the scheme (DCU).



Purpose of workshop

- What types of technical issues might arise out of these proposals.
- Are there areas of the consultation that need to be clearer?
- Is there anything specifically related to the Fire scheme that we think HMT should be made aware of during the consultation.
- How can we improve technical knowledge of the scheme amongst stakeholders?



Thank you for listening

David Golding.





Sargeant remedy – Data

FPS AGM 2020: Workshop 2



Consultation proposals in brief

- The transitional period ends on 31 March 2022 all taper members would have tapered by then.
- On 1 April 2022, all members (including fully protected) will move into FPS 2015.
- For the retrospective "remedy period" 1 April 2015 to 31 March 2022, all eligible members will be given a choice of final salary or CARE benefits.
- **Either**: within 12-18 months of 2022 (immediate choice).
- Or: at the date they leave the scheme (DCU).



Purpose of workshop

- What data issues are known?
- What data issues need to be considered?
- What might be difficult to create?
- What can be collated in advance of software solutions
- What is needed to achieve consistency



- Pay
- Contributions
- Service
- Final salary entitlements
- Opt-outs



Pay Data

 CARE Pay for current protected members in final salary scheme for the remedy period

- Final Salary Pay for Remedy Period
 - Include any temporary promotion not pensionable in FPS 2015
 - For retained this will be actual pay and full time equivalent pay to establish service records



Contributions

- Contribution arrears for FPS 1992 and Special Members of FPS 2006
 - Difference between FPS 2015 and FPS 1992
 - Additional Payments for any Temporary Promotion treated as APB
 - Additional payments on CPD
 - Adjustment (+/-) for contribution holiday (if eligible)
- Contribution refunds for FPS 2006 standard members



Contribution Holiday Adjustments

 + Returned to legacy scheme and would have been entitled to contribution holiday under legacy scheme rules

 Treated as reformed scheme for remedy period, contribution holiday period would need repaying.



Service Records

- Final Salary Service Record will need recreating
 - Maternity Leave
 - Paternity Leave
 - Parental Leave
 - Authorised Absence
- Have contributions been repaid to establish service?
- Changes to hours are recorded



Final Salary Entitlements

- Would entitlement to two pensions have been established by a drop in pay?
- Temporary Promotion in FPS 2015 would be treated as APB in Final salary if appropriate discretion is in place
- CPD payments in FPS 2015 will need to be treated as APB in final salary scheme



Opt-Outs

- Dependent on consultation decision
- Eligibility Criteria needs to be established
- Data needed
- Collate all opt-outs from 1 April 2014
- Establish reason for opt-out, ie auto-enrolment



Thank you for listening

Helen Scargill, Chair of Technical Group and Technical Adviser to the SAB.





Sargeant remedy - Communications

FPS AGM 2020: Workshop 3



Introduction

- Fire Communications Working Group (FCWG) made up of FRA and administration colleagues.
- Meet quarterly to discuss and develop national communications for scheme members.
- Use shared knowledge and experience to provide central resources to reduce duplication and improve consistency.
- The communications group links in with the technical group and regional pension officer groups.



Consultation proposals in brief

- The transitional period ends on 31 March 2022 all taper members would have tapered by then.
- On 1 April 2022, all members (including fully protected) will move into FPS 2015.
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Purpose of workshop

- Identify different cohorts of members who will need communicating to e.g. fully protected, taper, unprotected, active, deferred, pensioner.
- Consider resources needed and do we expect these to be developed centrally for PS or sector-specific?
- Discuss preferred methods of communication i.e. letter, email, web-based, videos, factsheets.
- Choice exercises have historically been challenging (remember special members?!). What can we do to improve engagement?



What about...

- Members who do not respond to immediate choice exercise – consultation proposes multiple attempts to contact before allocating a default scheme (2.38 to 2.40).
- Online tools would need to be made available at scheme level for immediate choice (2.41 & 2.55).
 How could this be achieved? Software v's GAD spreadsheet?
- Annual Benefit Statements (and PSS) proposal for DCU to include both legacy and reformed benefits every year to retirement (A.21 – A.24).



Consultation questions on comms:

- Question 4: Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.
- Question 13: Please set out any comments on our proposed treatment of annual benefit statements.



FCWG actions

- Work with LGA and sector to develop choice pack for members.
- In process of adapting <u>resources from 2006 options</u> <u>exercise</u> for use in immediate detriment cases.
- National member website in pipeline to provide central point of information – coming in 2021?
- Continue to promote good practice and consistency in communications.



Thank you for listening

Neil Lewins – LPP and Chair of FCWG.

New members always welcome.

<u>We need your support – sign up here!</u>





Workshop Feedback



- 1. Technical Issues
- 2. Data
- 3. Communications



Technical

- What types of technical issues might arise out of these proposals.
- Are there areas of the consultation that need to be clearer?
- Is there anything specifically related to the Fire scheme that we think HMT should be made aware of during the consultation.
- How can we improve technical knowledge of the scheme amongst stakeholders?



Data

- What data issues are known?
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Communications

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- Choice exercises have historically been challenging (remember special members?!). What can we do to improve engagement?









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Closing remarks

<u>bluelight.pensions@local.gov.uk</u> <u>www.fpsboard.org</u> and <u>www.fpsregs.org</u>

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