

TECHNICAL QUERY LOG

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ADMINISTRATION

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
07/08/2018	N/A	Is there a list of providers of Third Party Administration services for the Firefighters' Pension Scheme?	Closed	07/08/2018	The current shareable list of Fire pension administrators is available here

COMPENSATION SCHEME

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
03/09/2018	Compensation Scheme	Is a spouses pension paid on the ill-health pension paid under Part 8, rule 2 for retained firefighters?	Closed	03/09/2018	<p>No spouse's pension is payable on the non-taxable ill-health pension paid under Part 8, rule 2 unless the fire-fighter died from the effects of the qualifying injury they retired with.</p> <p>Part 8, rule 2 of the FCS 2006 confirms the rules on paying an award to a retained firefighter prior to 1st April 2014.</p> <p>Para 4 gives the retained firefighter an entitlement to a pension calculated on the ill-health rules of the pension scheme.</p> <p>Para 5 confirms that a spouses pension paid under para 6 is only payable where the member dies from the effects of a qualifying injury or infirmity of mind and body occasioned by a qualifying injury.</p>

10/09/2018	Compensation Scheme	Has there been a guide published for the Compensation Scheme for members or optants-out of the 2015 Scheme	Closed	13/09/2018	<p>No there have been no guides published, other than those already in existence - http://www.fpsregs.org/index.php/member-area/scheme-guides (you will need your password to login)</p> <p>However, the quick guide is a useful summary of scheme rules - http://www.fpsregs.org/images/admin/lllh_ealth.pdf, published in bulletin 4.</p> <p>The compensation scheme applies equally across the 1992, 2006 & 2015 scheme, the benefits are based on service not which scheme somebody is in.</p>
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CONTRIBUTIONS DURING ABSENCE

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
21/11/2018	2015 Scheme	<p>A member was granted a Career break in the Firefighter Pension Scheme (Wales) 2015 and has now subsequently resigned.</p> <p>Could you please advise if the member is still able to buyback the “lost pension” for the duration of his Career Break up until the point of resignation, even though they are no longer an active member?</p>	Closed	28/11/2018	<p>In the scheme rules a career break would come under the umbrella ‘authorised unpaid absence’. The relevant rules that deal with contributions during absence from work are 120¹ (paragraphs 4&5) & 123² (paragraph 3). Neither rule makes a specific reference to returning to work or still being an active member at the time of making an election to repay contributions.</p> <p>However, I would draw your attention to the following points;</p>

¹ English Regulation - <http://www.legislation.gov.uk/uksi/2014/2848/regulation/111/made>

² English Regulation - <http://www.legislation.gov.uk/uksi/2014/2848/regulation/114/made>

					<ul style="list-style-type: none"> Under paragraph 4 of rule 120, where a member has been on 'authorised unpaid absence' the employer must make a scheme decision on whether the member is required to pay the employer contributions. We have previously suggested that there should be a policy on the scheme discretion in this case <i>(4) If an active member is away from work during a period of authorised unpaid absence, the member may elect to pay contributions at the contribution rate ascertained in accordance with regulation 119 (member contributions) multiplied by the assumed pensionable pay that member is treated as receiving and, if required by the scheme employer, must pay the amount of employer contributions which the scheme employer would otherwise be required to pay by regulation 126(3) (employer contributions).</i> <ul style="list-style-type: none"> There is perhaps a catch 22 in the wording paragraph 5, which suggests that the contribution should be made within 6 months of the authorised unpaid leave starting. This might be relevant depending on the start date of the career break <i>(5) Where paragraph (2), (3) or (4) applies, the contributions must be paid before the end of the period of six months starting with the date on which the member is treated as receiving assumed pensionable pay.</i>
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					<ul style="list-style-type: none"> Finally, the regulation that deals with the actual repayment reg 123, paragraph 3, says that the payment can be made by lump sum or periodical contributions. Clearly a non-active member would only have the option to pay by lump sum. <p><i>(3) Contributions which the member has elected to pay, or is required to pay, under regulations 120 (contributions during absence from work due to illness, injury, trade dispute or authorised absence) and 122 (contributions during child-related leave) may be paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the scheme manager and the member.</i></p> <p>I am unable to provide a definitive reply and it remains the responsibility of the scheme to obtain legal advice if there is doubt over the interpretations of the scheme rules.</p> <p>You can if you wish escalate the query to the technical group for consensus, the technical group may escalate to the scheme advisory board to request legal advice if they feel they cannot provide guidance.</p> <p>Please confirm whether you would like this escalated to the next technical group to be held on 12 February 2018</p>
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DEATH BENEFITS

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
20/06/2018	2006 (transitional)	Is there any provision in the 2006 / 2015 regulations which prevents a DIS death grant payable under both the 2006 scheme and 2015 scheme, or a transitional provision which requires the death grant payable under the 2006 scheme to be offset from the death grant payable under the 2015 scheme (as in the 1992 scheme)?	Closed	26/10/2018	<p>The policy intention is that any active transitional members of the 2015 Scheme member will, on death, be entitled to one death grant made in accordance with the 2015 scheme regulations. There would not be any lump sum death grant payable under the 1992 or 2006 Schemes.</p> <p>Part 2, Para 1B of Schedule 2 of the transitional regs taken with 1C account for the transition from a 'firefighter member' to a 'connected member'.</p> <p>Part 5, Para 1 of the 2006 regs states that the death grant is payable to a person serving as a 'firefighter member', which they would not be at the point of death, rather they are a 'connected member'. Payment of a duplicated award is therefore prevented, as effectively the member would not be a serving firefighter member of the 2006 scheme.</p>

DEFERRED BENEFITS

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
29/08/2018	Transition members	Does a transitional deferred member have to take both parts of their pension at the same time?	Closed	29/08/2018	<p>No, there is no requirement to take both final salary benefit and CARE benefit together.</p> <p>A member can make individual decisions on their final salary benefit on when to take the benefit and whether to commute. The scheme rules on normal pension age apply to each type of benefit.</p> <p>The earliest a deferred pension can be taken in the 1992 or as a special member of the 2006 scheme is age 60.</p> <p>The earliest a deferred pension can be taken in the 2006 scheme is age 55 (with 2006 early retirement factors) or age 65 with no deductions.</p> <p>The earliest a deferred pension can be taken in the 2015 scheme is age 55 (with deferred early retirement factors [para 2.6]) or age 65 with no deductions.</p> <p>So a deferred 1992 transitional member could take early payment of their 2015 pension from age 55 and take their 1992 pension from age 60.</p>

ELIGIBILITY

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
31/07/2018	All	Under the definition of Firefighter for each of the 1992,2006 & 2015 scheme the person must be employed (a) by a fire and rescue authority as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter , and (b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in firefighting) and whose employment is not temporary. Should a fixed term contract be considered as temporary?	Closed	28/08/2018	While the regulations do not define 'temporary' it is not considered that for the purposes of eligibility to the pension scheme a fixed term contract should be considered as being 'temporary' under this definition
03/10/2018	1992	Is a member eligible to remain in the 1992 scheme while seconded to a community interest company? The member is required to maintain competencies for their substantive role while on secondment.	Open	19/11/2018	Membership of the 1992 scheme applies to 'regular firefighters' under rule A3 of the 1992 scheme, a 'regular firefighter' is determined under the rules of the scheme as being employed <i>"on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role</i>

					<p><i>as a firefighter (whether instead of, or in addition to, engaging in firefighting) and whose employment is not temporary.”</i></p> <p>The ability to remain a member of the 1992 scheme whilst on secondment would depend on whether the secondment was appropriate to their role as a firefighter.</p>
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FINAL PAY

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
03/12/2018	2015	<p>How should paragraph 1 & 2 of ‘Meaning of Final Pay’³ be interpreted for a retained firefighter?</p> <p>Paragraph 2 refers to members whose continuous period of pensionable service is less than 365 days. Does this imply for a member who for a continuous period of 365 days, accrues less than 365 days of service, i.e a retained firefighter or for a member who for their total continuous period of service from when the member actually joined the pension scheme has less than 365 days, i.e a member who was</p>	Closed	03/12/2018	<p>Paragraph 1 should apply for a retained firefighters. This is for two reasons.</p> <p>Firstly the definition of ‘continuous period of pensionable service’ is defined under regulation 3 ‘interpretations’ as being <i>“continuous period of pensionable service” in relation to this scheme, means a period of pensionable service under this scheme disregarding any gap in pensionable service not exceeding 5 years unless otherwise provided”</i></p> <p>I therefore interpret paragraph 2 to mean where the total pensionable service for calculation of pension is less than 365 days.</p>

³ Reg 93 in England and Scotland, 102 in Wales and 101 In Northern Ireland

		<p>only in membership of a scheme for less than 365 days.</p> <p>The proposed solution is that you would apply paragraph 1 and paragraph 2 does not apply unless the actual service in the scheme has been less than 365 days</p>			<p>Secondly pensionable pay⁴ is defined as being 'actual pay received for the performance of duties'; not a FTE pay as per the final salary schemes</p>
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FPS 2006 SPECIAL MEMBERS

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
26/07/2018	2006 (Special)	Where is the latest version of the settlement calculator?	Closed	26/07/2018	The settlement calculator is available on the special 2006 member resources page - http://www.fpsregs.org/index.php/member-area/modified-2006-scheme-resources
03/09/2018	2006 (Special deferred)	Where an active member chose not to convert 2006 scheme membership, they were awarded a special deferred pension under Part 2, 1A, sub para 8 . Can they draw that pension from normal benefit age (60) under Part 3, para 3, sub para 2 of the 2006 regulations, despite continuing the same active employment the special deferred pension is awarded for?	To be considered by technical group at meeting on 17/09/2018		There is nothing under Part 3, para 3 (as amended) to indicate that a special deferred pensioner cannot take their pension from age 60. However it is not standard practice to pay a pension for an on-going employment, as referenced in the original query. The query was referred to the Home Office for comment. The initial informal opinion of HO is to agree there is nothing preventing retirement in this case.

⁴ Reg 17 for Scotland and England and Reg 26 for NI and Wales

					This will be passed to the technical group to comment on. Awaiting issue of technical group minutes.
19/09/2018	2006 (Special)	If a special firefighter protected member of FPS 2006 changes their employment contract without a break in services are they eligible to remain a special member? The change in contract requires that the employees continue with their retained duties but in addition they are contracted to work during the day where the normal hours of work would vary between a minimum of 21 and 42 hours per week.	Open		

ILL HEALTH RETIREMENT

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
26/07/2018	1992	Can a member make different election options on commutation for an ill-health retirement?	Closed	26/07/2018	Yes a member can make different commutation options on the final salary and CARE elements of the ill-health pension
29/08/2018	2006	If on ill-health review the condition has deteriorated and the person is no longer able to perform any employment can you uprate the pension to the higher tier?	Closed	29/08/2018	There is no facility to review an ill-health pension upwards. Page 11 of the ill-health quick guide - http://www.fpsregs.org/images/admin/illhealth.pdf confirms the rules of the scheme. The relevant rule for the consequence of the review is Part 9, rule 2 - http://www.legislation.gov.uk/uksi/2006/3432/schedule/1/part/9/paragraph/2/made

					The regulations only allow the authority to cease the higher tier if the person has become capable of undertaking regular employment, or cease the lower tier if the person has become capable of performing the duties of the role from which they retired.
06/09/2018	2006	<p>Does a decision on paying an after appearing injury for retained employment mean that by default an ill-health pension should be paid?</p> <p>The member has a deferred retained pension with a current lower tier ill-health pension in payment for wholetime employment.</p>	Closed	14/09/2018	<p>You would need to consider the ability to ill-health retire from the deferred retained employment in its own right. So you would need to consider afresh whether the member is capable of undertaking regular employment in order to determine whether you can pay the deferred pension as an ill-health pension.</p> <p>However any decision under the deferred retained employment would not affect the lower tier ill-health pension already in payment for the wholetime employment, because you cannot review an ill-health pension upwards, it is paid on the decision at the time of retirement.</p>
02/10/2018	1992	<p>A firefighter who retired on higher tier ill health over 10 year ago and aged over 60 has become capable of casual variable employment (10-15 hours). Does this affect their entitlement to the pension?</p>	Closed	02/10/2018	<p>As per slide 11 of the Ill health and Injury quick guide, the period for ill-health review under regulation K1 is within 10 years of payment and under age 60, so this pension cannot now be reviewed.</p> <p>For the avoidance of doubt, higher tier ill-health is paid where a firefighter is incapable of undertaking 'regular employment', regular employment is</p>

					defined in the regs B3, para 7 (amended by SI 2013/1392) as being at least 30 hours a week over a consecutive 12 month period. <i>“In paragraphs (3) and (4) “regular employment” means employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the question of his disablement arises for decision”</i>
26/09/2018	2007 (NI)	How should pension entitlement be calculated for a member who was reinstated following an ill health review? Previous Home Office guidance states that the period on ill health pension would be treated as a break in service. Upon retirement, a pension would be calculated from original start date excluding the break. The amount would be reduced by the earlier commutation amount, prior to a new lump sum being calculated.	Escalated	03/12/2018	<p>There are appears to be no guidance on this process within the FPSC circulars, archived commentary or explanatory memo. The Home Office have been asked for a steer on whether any guidance was published.</p> <p>FPSC circulars Archived commentary Explanatory memo SI 2006/1810</p> <p>Nevertheless despite a lack of written guidance, the process you describe to deduct from the lump sum the amount originally paid out seems reasonable.</p>

LEAVING THE SCHEME BEFORE RETIREMENT

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
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30/07/2018	1992 (transitional)	What is the impact on 1992 scheme if a member opts out of the 2015 scheme when transitioning?	Closed	31/07/2018	When a member opts out or leaves employment, they cease to have continuous employment. Therefore the 1992 benefits are deferred. Schedule 2, rule 35 confirms that if a member ceases to have continuous service they are a deferred member of the 1992 scheme. However, rule 33 confirms that a member with 'continuity of service' defined as less than a 5 year break from public service retains the final salary link. This means that if they re-join the person is treated as a deferred member in terms of retirement age, but the final salary link applies to the benefits at retirement. http://www.legislation.gov.uk/uksi/2015/589/schedule/1/paragraph/7/made 118 to 122 – of the training day slides refer- https://www.khub.net/group/thefirefighter-spensionsdiscussionforum/group-forum/-/message_boards/message/14576774
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PARTIAL RETIREMENT

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
06/09/2018	1992 (transitional)	Is a 1992 transition member eligible to partially retire at the age of 55, receive payment of both FPS 1992 and FPS 2015; subject to any actuarial reductions, and continue to work for the Service, without a break, and	Closed	06/09/2018	While partial retirement is an option under the 2015 scheme, in order to draw the 1992 scheme benefits the firefighter would need to retire. It is unlikely that a member with transitional 1992 benefits would have built up a

		potentially build up another pension account in the FPS 2015?			significant amount of 2015 pension that with the reductions that would be applied, make it beneficial for them to withdraw the 2015 pension only and continue working. Decision trees to help illustrate the retirement decisions available on leaving employment or opting out are available here .
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PENSIONS INCREASE (PI)

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
08/08/2018	1992 (Pensioner)	A 1992 pensioner has become entitled to pensions increase on the lump sum at age 55 because best of the last 3 years applied. As the member elected to commute the full 25% and incur a tax charge, does a further tax charge apply when awarding pensions increase?	Open		

PENSION SHARE

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
16/10/2018	1992 (Pensioner)	<p>The solicitor for a potential pension credit member during the pension share process has asked for details in writing as to what would happen if either party died</p> <ol style="list-style-type: none"> 1. before the pension sharing order comes into effect 2. After the order has become effective but before it has been implemented. <p>We have stated that it is the pension credit's solicitor's responsibility to inform the pension credit member as to whether the pension sharing order still</p>	Escalated	28/11/2018	<p>Your response is entirely reasonable. The firefighter pension regulations do not deal with this scenario so you cannot comment. You have signposted but cannot give legal advice.</p> <p>The regulations only deal with what happens if a pension credit member dies before the benefits have become payable.</p> <p>1992: IA3 2006: Part 6, Rule 6 2015: Rule 99</p>

		<p>stands in those circumstances. We have signposted pension credit member to useful online information which answers her questions.</p> <p>Is it a Pension administrator's responsibility to detail legally, who receives death benefits if a pension debit/credit member dies before the pension share is implemented or before the order is effective?</p>			<p>Home Office have confirmed this is the correct approach, commenting; "The answer to this query, in so far as there may be one, lies much more in the arena of the overarching pensions-sharing-on-divorce-regime rather than the fire pensions regime."</p>
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SCHEME PAYS

Date received	Scheme/ Member type	Query	Status	Date replied	LGA response
09/08/2018	2015 (linked 1992 benefits)	Can the apportionment of scheme pays guidance be applied where the member has not breached £40k in either scheme but has breached as a total across the schemes?	Closed	28/08/2018	<p>As per the guidance issued in January 2018, paragraph 24 confirms that having taken legal advice FRAs have a power of general competence which may be exercised reasonably where there are sufficient grounds for doing so.</p> <p>Paragraph 25 considers two circumstances proposed by the Home Office and agreed by the scheme advisory board that would meet the test of being 'exercised reasonably'</p> <p>It is the intention that in these circumstances the tax treatment should as</p>

					<p>near as possible mirror that would apply if MSP applied.</p> <p>Therefore where the total breach is more than £40,000 but the breach in either scheme is not greater than £40,000 then the scheme pays should still be apportioned across each of the two schemes in which the tax liability arose so for example the formula as given in the guidance dated 23 January 2018 would apply as follows: Assumes a 47 year old female) A = Final salary pension savings = £38000 (£2,375 * 16) B = Career Average Pension Savings = £14,500 (£906.25 * 16) C = Total Pension Savings = £52,500 D = Tax charge declared by member = £2,500 (£52,500 - £40,000 * 20%) E = Final salary scheme pays F – Career average scheme pays (A ÷ C) × D ÷ E = (£38000 / £52,500) * £2,500 / 13.70 = £132.08 (B ÷ C) × D ÷ F = (£14,500 / £52,500) * £2,500 / 10.53 = £65.57</p>						
14/09/2018	2015	Should the scheme pays factors in tables A1 & A2 be interpolated when the state pension age is between age 67 and 68? Example DPA – Male, 67 years 7 complete months and 8 days.	Closed	04/10/2018	<p>The proposed solution given is to use interpolation; this is indeed the case and should be conducted as follows:</p> <table border="1"> <thead> <tr> <th>Step</th> <th>Description</th> <th>Step applied to the member in question</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Step	Description	Step applied to the member in question			
Step	Description	Step applied to the member in question									

					1	Round up any part months of the DPA.	67 years, 7 months and 8 days rounded up to 67 years and 8 months.
					2	Using the age last birthday and gender of the member, find the factors from Table A1 or A2 corresponding to the integer DPAs either side of the actual DPA.	<p>The member was born on 29 November 1977 and so his age last birthday is 40.</p> <p>Table A1 will be used which corresponds to males.</p> <p>The integer DPAs either side of his actual DPA are 67 and 68.</p> <p>The relevant factors from Table A1 are therefore 7.24 and 6.80.</p>
					3	Interpolate linearly between the	Factor for NPA $67 + 8/12 \times$ (factor for NPA

						factors according to the number of months found in step 1.	68 – factor for NPA 67). i.e. $7.24 + 8/12 \times (6.8 - 7.24) = 6.9466667$
					4	The result rounded to 2 d.p. is the scheme pays factor for this member.	The scheme pays factor for this member is 6.95

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