

FPS Bulletin 3 – November/ December2017

Welcome to the third issue of the Firefighters' Pensions Schemes bimonthly bulletin. If you have any comments on the contents of this bulletin or suggested items for future issues, please contact [Claire Hey](#).

May we take this opportunity to wish you all a very merry Christmas and happy New Year. Thank you for your help and support during 2017.

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FPS

Backdated elections to the modified 2006 scheme (RDS)

As FRAs continue to receive enquiries from retained Firefighters concerning the retained modified exercise of 2014/ 2015 we thought it would be useful to reiterate the following information relating to the acceptance of backdated elections:

Part 11, Rule 6B, paragraph 12 confirms an election to join the scheme may not take effect after 31 March 2015.

[6B(12)] Where it is not reasonably practicable to comply with the requirement in paragraph (1) within the period specified, the election shall be given by written notice as soon as reasonably practicable after the end of that period but in any event may not take effect after 31st March 2015.

This was later extended to 30 September 2015 by Part 11, Rule 6C, paragraph 5b which provisionally enrolled a member in the scheme if they had not made an election up until 30 September 2015. This had the effect of extending the deadline for election to 30 September 2015.

*[6C(5)] Subject to rule 6B(12) of this Part, if a provisionally enrolled member—
(b) does not give the authority written notice on or before 30th September 2015 of their election to pay mandatory special period pension contributions in respect of their service during the mandatory special period under rule 6A of this Part, the person ceases to be a provisionally enrolled member of this Scheme.*

It is the opinion of the Bluelight pensions team (bearing in mind only a court can give a definitive interpretation of regulations) that there is no legal vires to the scheme for elections after 30 September 2015. If the member wanted to pursue a course of action, they would have to appeal under Part 8 rule 5 and require the authority to instigate an Internal Dispute Resolution Procedure, on the grounds that the authority did not use all 'reasonable endeavours' under paragraph 4 of rule 5A to notify all members that they had an entitlement. If the IDRP was unsuccessful, potentially the member could take the case to the Ombudsman.

Part 11 Rule 5A, paragraphs 4, 5 & 14

(4) Within two months of the initial date, the authority shall use reasonable endeavours to notify all those existing employees and former employees who may be entitled to join this Scheme as a special member that they may be so entitled.

(5) Within two months of receiving the notification in paragraph (4), or if no notification has been received, within four months of the initial date, a person may apply to the authority by which he was employed in service falling within paragraph (2) above for a statement of the service in respect of which he may become entitled to pay contributions under this rule and the mandatory special period pension contributions which he would be required to pay in respect of it.

(14) Where it is not reasonably practicable to comply with any requirement set out in this rule within the period specified, the authority or applicant as the case may be shall comply with that requirement as soon as reasonably practicable after the end of that period.

Crucially the point still remains that even if an IDRPs or Ombudsman did rule that reasonable endeavours were not used, as there is not legal vices for entry to the scheme, the only course of action would be for the authority to provide alternate means of redress.

Pension sharing on divorce (transitional members)

The team have recently had a number of queries with regards to the correct calculation of a pension credit where the pension debit member is a 2015 scheme member with transitional entitlement to either the 1992 or 2006 scheme.

Given that eligibility for protection to remain in the final salary scheme applies to members of the scheme only and does not extend to spouses, the CETV should be calculated across the schemes (and the debit calculated from each) but the credit should be applied in the 2015 scheme only.

The pension credit should be based on the value of the whole ESCE (i.e. the shareable value of both the 1992 + 2015 CETV) and the credit should be calculated using the 2015 scheme guidance, using the addendum dated 13th May 2016.

https://www.khub.net/group/thefirefighterspensionsdiscussionforum/group-forum/-/message_boards/message/20115516.

This will be discussed further at the technical group on 28 February 2018, and we will provide further information in due course.

Survivor benefits quick guide

The team have produced a quick guide to survivor benefits, intended to give a snapshot of regulations only. The guide is available at [Appendix 1](#).

The slides are based on a presentation given at day 2 of the annual conference held in London in October 2017.

Voluntary Scheme Pays

A reminder that any election for Voluntary Scheme Pays needs to be paid to HMRC by 31 January 2018 for any tax charge relating to the 2016/2017 tax year.

Fire Authorities should have a policy in place to consider whether they will allow a VSP arrangement – see the [guidance note](#) for FRAs attached to bulletin 1 on further details of VSP.

The Bluelight team are currently considering guidance on how the resulting pension debit should be applied.

Local Pension Board (LPB) survey

[Regulation 4a](#) of The Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 required FRAs to establish local pension boards (LPBs) by 1 April 2015 to assist them in the effective administration and governance of the scheme.

As some time as now elapsed since the establishment of these boards, the LPB Effectiveness Committee of the Scheme Advisory Board considered that it would be appropriate and timely to test the effectiveness and operational efficiency of the new governance arrangements with particular emphasis on the role and function of LPBs and interaction with their scheme manager.

In order to do this, the web based survey at:

<http://fpsboard.org/survey.php>

was launched on 28 November 2017 and is intended to enable the Board to identify any areas of the legislation or related guidance affecting LPBs that may need to be reviewed to ensure that the statutory requirements of the 2015 Regulations and code of practice issued by the Pensions Regulator are being met.

All relevant stakeholders are invited to participate in the survey and, to ensure impartiality, the link to the survey was sent separately to FRA scheme managers, practitioners, and their LPB who are welcome to complete the same survey independently. However, this does not preclude any scheme manager and their board from collaborating on their respective responses where this is agreed locally.

The survey will run for a minimum period of six weeks, and a further email will be sent in due course to confirm the closing date. We would welcome your participation in the survey, as the responses will enable the Scheme Advisory Board to assess whether any changes to regulations or guidance need to be considered, or where further training and resources may be developed.

Local Pension Board (LPB) - Resources

A list of resources has been developed to facilitate the effective running of LPBs. These are published on our [website](#). Content is reviewed and added regularly so please check it out. If your board has any resources you would be willing to share that you feel may benefit others, or there is anything specific you would like to see developed, please email bluelightpensions@local.gov.uk

TPR have also published the following relevant Quick Guides:

- [A quick guide to record keeping](#)
- [A quick guide to measuring your data](#)
- [A quick guide to improving your data](#)

Auto-Enrolment

Transitional delay

We reported in bulletin 2 that:

In addition, FRAs should also be aware that [TPR's guidance](#) (see paragraphs 73 to 78) states that where an individual to whom transitional delay was applied is not an eligible jobholder on 1 October 2017 the employer must keep assessing the worker each pay reference as usual. If at any point after 1 October 2017 the eligible jobholder criteria are met, unless one of the exceptions apply, the individual must be automatically enrolled with effect from 1 October 2017 i.e. active membership must be backdated to start from 1 October 2017 irrespective of the date the employee first meets the eligible jobholder criteria after October 2017. Obviously, this could have serious consequences if employers are required to backdate contributions for several years. The LGA team is seeking clarification from DWP on this and will provide further information as soon as it becomes available

LGA have now received confirmation from DWP that they agree with TPR's guidance which, in their view, is consistent with the requirements of the Pensions Act 2008 (PA2008). In their view, the PA2008 requires this approach because where an eligible jobholder has been subject to transitional delay the start date for active membership is the day after the end of transitional delay (i.e. 1 October 2017).

While this is simple enough if the individual is still an eligible jobholder on 1 October 2017 as they would be brought into the scheme at that point (unless one of the exceptions apply), it becomes more complex if the individual is no longer an eligible jobholder on 1 October 2017. DWP's view is that the start date for active membership remains 1 October 2017, but there is no requirement for them to be brought into the scheme until they become an eligible jobholder again. If and when they do subsequently become an eligible jobholder again, the start date for active membership will remain 1 October 2017 and this will mean that their membership should be backdated to 1 October 2017.

DWP have stated that, in light of the issues that LGA have raised, they will review the treatment of these individuals. However, it is not expected that DWP's review will fundamentally alter the situation outlined here and FRAs are therefore advised to adhere to the content of TPR's guidance, particularly paragraphs 73 to 78, in the event of such a case arising.

It is important to note that the exception that prevents employers automatically enrolling those who opted out of FPS more than 12 months before 2 October 2017 (as discussed further in bulletin 2) will continue to apply meaning that employers will only need to backdate membership of FPS in a minority of cases where:

- a) transitional delay applied to the individual,
- b) the individual was not an eligible jobholder on 1 October 2017,
- c) the individual subsequently became an eligible jobholder, and
- d) the individual had not previously opted out of FPS more than 12 months before their automatic enrolment date.

Other News and Updates

Autumn budget 2017 – GAD technical bulletin

On 22 November, the Chancellor of the Exchequer, Philip Hammond, presented his Autumn Budget 2017 setting out the government's plans for the economy and public finances. This GAD [technical bulletin](#) provides a summary of certain measures announced, including government reviews relating to the public finances and financing innovation.

While there were no major announcements in relation to pensions, it has been confirmed that Lifetime Allowance for 2018/2019 will increase in line with CPI by 3.0%, to £1,030,000.

The Pensions Ombudsman Service (TPOS) newsletter

TPOS have published the second of their stakeholder newsletters which is attached to this bulletin as [Appendix 2](#).

TPR Governance and Administration survey

A very big thank you to all FRAs who have participated in the Regulator's annual Governance and Administration survey. Our colleagues at TPR inform us that the completion rate for FPS has again been high, though there may be just one or two outstanding to date.

On behalf of Malcolm Eastwood, chair of the Scheme Advisory Board, we would urge any FRA who has not yet completed or submitted the survey to do so as soon as possible. The survey has been sent by email to each FRA's registered Scheme Manager contact.

If you are experiencing any difficulty in locating the survey, please contact bluelight.pensions@local.gov.uk for clarification of the email address it has been sent to. We can arrange for the link to be resent if necessary. Please note that surveys submitted up to 22 December 2017 will be accepted.

We have moved!

On 30 October 2017 the LGA moved back to their previous offices in Westminster. The newly refurbished building has been renamed as 18 Smith Square.

Our new postal address is now [18 Smith Square, Westminster, London SW1P 3HZ](#). All other contact details remain the same. We look forward to welcoming you to our 'new' building in the future.

HMRC

HMRC newsletters/ bulletins

HMRC have published pension schemes newsletters 92 and 93 containing important updates and guidance on pension schemes. The following issues are covered:

[Newsletter 92 – October 2017](#): pension flexibility statistics, registration statistics, relief at source for Scottish Income Tax, drawdown pension tables, the new Pensions Online service, paying tax to HMRC and the lifetime allowance service

[Newsletter 93 – November 2017](#): Autumn Budget 2017, reporting of non-taxable death benefits, relief at source for Scottish Income Tax, the new Pensions Online service, pension payments to trustees in bankruptcy or third parties, the Lifetime Allowance service and Annual Allowance.

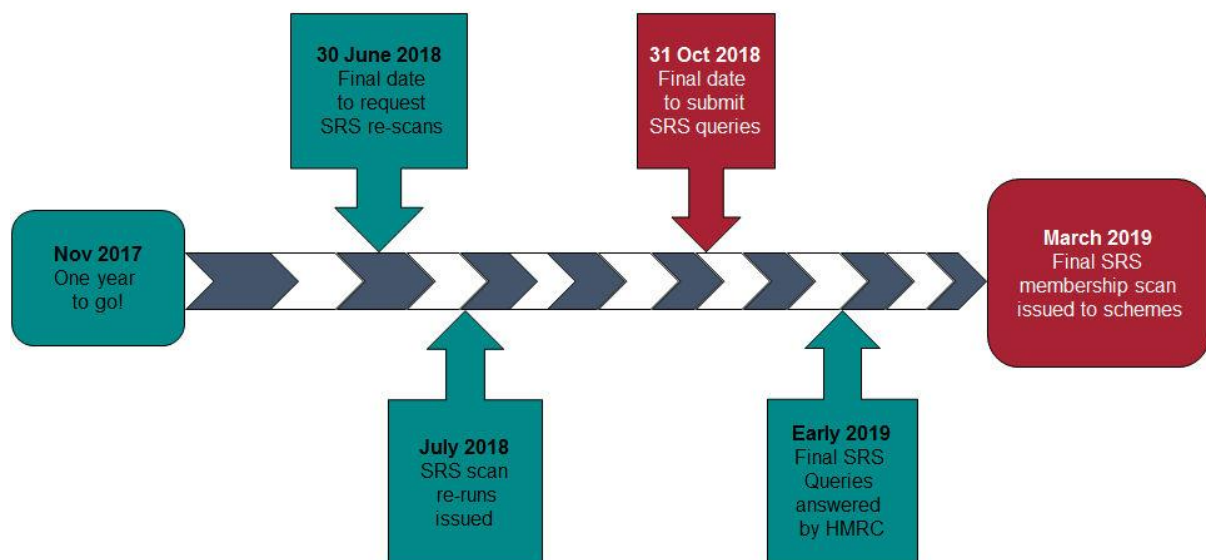
Contracting-out reconciliation update

The following bulletins containing importance guidance and information about the end of contracting-out and the scheme reconciliation process have been published by HMRC in November.

[Countdown bulletin 29](#)

[Countdown bulletin 30](#)

With only one year left in which to submit queries to HMRC using the Scheme Reconciliation Service (SRS), we would encourage all FRAs and scheme administrators to note the timeline of important dates and events detailed in Countdown bulletin 30.



Contribution holiday Unauthorised Payments to HMRC - England Fire Authorities only

We reported in [bulletin 1](#) that a bulk procedure is now available to report and pay tax due on Unauthorised Payments relating to the 18-20 contributions holiday. At this stage there are a number of Fire Authorities who have not yet done this.

HMRC have asked us to remind FRAs that the deadline to pay the unauthorised tax for those refund payments made before 6th April 2017 is **31/01/2018**.

In order to obtain your PSTR and SAFE reference, please email bluelightpensions@local.gov.uk

Rebate of NI for retained modified members

As detailed in [bulletin 2](#), HMRC are now able to process the NI refunds and convert the A rate to D rate contributions without needing the NI contributions paid for the periods.

However, we have since received further clarification that this relates to rebates up to 1 April 2013 only. HMRC will process refunds for years up to 2012/ 2013, but ask that employers submit Earlier Year Updates (EYUs) for 2012/ 2013 onwards using the actual pay records. Payroll departments should be familiar with EYUs on RTI, but if they require any help with EYUs then there is guidance available on www.gov.uk.

It is standard practice across HMRC that employers submit EYUs on RTI and as employers must retain pay records for 6 years, they should still hold the information required.

Training

Tax awareness seminars

Feedback from the tax awareness seminars held so far has been very positive and if you are interested in attending there are still some places available on the following date.

Venue	Fire
Cheltenham	8 th January 2018

There is no cost for attending a session, as the training programme has been secured by the Scheme Advisory Board and is funded by the statutory levy. However, please note that a £70 cancellation charge will apply for non-attendance.

The flyer at [Appendix 3](#) gives more information about the aim and content of the sessions, which are being hosted and run by Barnett Waddingham.

[Please register your attendance here](#). Joining instructions will be sent approximately one week prior to the event.

Ill health discharges and medical appeals

Merseyside FRS are hosting, on behalf of the NFCC Northern Occupational Health Group, a seminar on Ill Health Discharges and Medical Appeals on Thursday 11th January 2018 at their Headquarters on Bridle Road, Bootle, L30 4YD, and are now taking bookings for those wishing to attend this event.

There is no charge for attendance but due to limitation on numbers would respectfully ask that each Service limit the number of nominees to 2 per organisation. A reserve list for other potential attendees will be run and notification made in the New Year of any additional places allocated.

To book places on this Seminar please email occupationalhealthservices@merseyfire.gov.uk

Apologies to all for the late advertising of this event this is as a result of the original date being cancelled due to unforeseen circumstances.

GDPR

The LGA have arranged three regional events entitled *Data protection reform in local government and the new General Data Protection Regulation* which are free of charge for local government organisations and other public sector organisations such as health, fire and police in England to attend. The events will bring together officers and councillors tasked with implementation and oversight of the new regulations with regulators, data experts and support networks to consider all aspects of the preparations needed and the approaches being advised. The day will take the form of morning plenary sessions with briefings and updates and a selection of short afternoon seminars from which you can choose.

Places are still available at the events in [Manchester – 18 January 2018](#) and [Birmingham – 6 February 2018](#). Please click on the links to book.

Legislation

Act	Reference Title
2017/32	Finance (No. 2) Act 2017
SI	Reference Title
2017/1104	The Occupational Pensions (Revaluation) Order 2017
SSI	Reference Title
2017/435	The Firefighters' Pension Scheme (Amendment and Transitional Provision) (Scotland) Regulations 2017

Useful links

- The Firefighters' Pensions (England) Scheme Advisory Board www.fpsboard.org
- Knowledge Hub Firefighters Pensions Discussion Forum

Knowledge Hub home page - <https://khub.net/group/thefirefighterspensionsdiscussionforum>

Technical Group minutes - https://khub.net/group/thefirefighterspensionsdiscussionforum/group-forum/-/message_boards/category/5611524

GAD Guidance - https://khub.net/group/thefirefighterspensionsdiscussionforum/group-forum/-/message_boards/category/19045086

Training - https://khub.net/group/thefirefighterspensionsdiscussionforum/group-forum/-/message_boards/category/25859256

- Knowledge Hub FPS LPB members group forum

Home Page - <https://khub.net/group/firefighters-pension-scheme-local-pension-board-members-group-forum>

SAB minutes - https://khub.net/group/firefighters-pension-scheme-local-pension-board-members-group-forum/group-forum/-/message_boards/category/27800196

- FPS1992 guidance and commentary
http://webarchive.nationalarchives.gov.uk/20120919152859tf_/http://www.communities.gov.uk/fire/firerescueservice/firefighterpensions/firefighterspensionscheme/
- The Pensions Regulator <http://www.thepensionsregulator.gov.uk/>
- The Pensions Ombudsman <https://www.pensions-ombudsman.org.uk/>
- HMRC Pensions Tax Manual - <https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual>

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