

Meeting of the Board 11 June 2020

COVID-19 Update

Purpose

1. The purpose of this paper is to update members on pension scheme matters that have been considered as a result of the Coronavirus crisis.

Communications

2. In order to provide guidance and respond quickly to pension queries arising from COVID-19 we developed the [COVID-19](#) page on the [website](#), and used this website as the primary source to communicate with Fire and Rescue Authorities (FRAs).
3. The bulletins, which are published on the last working day of the month, have also been kept up to date with any matters relating to the crisis, and these can be found in the [subject index](#) under the heading 'COVID-19'.
4. We have established virtual coffee mornings in which to informally keep up to date with administrators and practitioners.
5. Regional meetings are starting to commence using Zoom or MS Teams as appropriate.
6. We intend to start pension board training via Zoom or MS Teams shortly, and will be running the annual local pension board wrap up training via Zoom on 10 June and 8 July.

Operational Resilience

7. An [email](#) was sent to all scheme managers and administrators on 25 March requesting completion of an [online survey](#) in order to understand the impact of COVID-19 on the operational resilience of the scheme to ensure pensioners could still receive payments and retirements, and death benefits processed without delay.
8. We were pleased to receive a good response to the survey with over 85% of services responding and confirming that overall there is very good resilience in place, demonstrating that the scheme is well placed to maintain payments and calculations.

9. We have now issued a further [survey](#) to understand how the current situation is impacting on the governance of the scheme. This survey remains open until 30 June 2020.

Year End

10. The scheme year runs from 1 April to 31 March. At the end of the scheme year administrators request the employers to complete end of year returns, to enable the annual calculation of CARE pension, update pensionable pay on the member record, run annual benefit and pension savings statements, and for this year complete the 31 March 2020 valuation.
11. We have been discussing with administrators what effect the Coronavirus crisis as a result of working remotely might have on completing the year end, and in turn whether that would delay meeting the statutory deadlines for the annual processes.
12. We have been very encouraged that in the main administrators are not reporting too many concerns on their ability to comply with the statutory deadlines, this appears to be the result of improvements to the year end processes, which was reflected in the [survey results](#) from the Annual Benefit Statement 2019 survey which shows that the production of ABS by administrators and scheme managers improves significantly year on year.

Statutory Annual Processes

13. The statutory responsibilities that have to be complied with and might be delayed by either a delay to the year end process or as a result of remote working are listed here:

14. Annual Benefit Statements (ABS)¹

There is a statutory responsibility to issue (ABS) by 31 August, where this deadline is not met it is considered a Breach of Law and if deemed a material breach² should be reported to TPR.

TPR have confirmed that they “recognise that producing ABS this year could be challenging, and we’ll take a pragmatic view about schemes that don’t manage it by 31 August” and will be “proportionate and fair when assessing whether to take any action”.

It is our understanding that it is unlikely that there will be any change to the statutory deadline for ABS and we will continue to work with TPR to understand what reporting requirements should look like for schemes who do not manage to issue their statements by 31 August 2020 as a direct result of the COVID-19 pandemic.

¹ Quick Guide to [Annual Benefit Statements](#)

² [Guidance for assessing breaches of law](#)

15. Pension Savings Statements

There is a statutory deadline of 6 July for employers to provide data to the administrator 6 October 2020 to issue Pension Saving Statements by 6 October 2020. The deadline for pension savings statements is directly related to the requirement to pay any tax charge payable under voluntary scheme pays (VSP) by 31 January 2021.

This has been raised with the relevant departments and we will provide an update as soon as we are able.

16.31 March 2020 Valuation

Valuations are run every four years. In order for the Government Actuary's Department (GAD) to complete the valuation, the first step is to request the data from the administrators. Ordinarily administrators are provided with a six month timeline to provide the data after it has been requested, which for this year would have seen this data required by 30 September 2020

GAD have confirmed that an extension on this data request has been made, which will give administrators 7 months to prepare and return the data from an expected request date of end of May.

This means that the expected delivery of data to GAD will now be 31 December 2020.

The final 2020 valuation data specifications were emailed to administrators and software providers on 3 June 2020. GAD are still working on the data collection spreadsheet and instructions, which should be issued in the next couple of weeks.

Compensation Scheme – Death of a Firefighter from COVID-19

17. The Firefighters' Compensation Scheme 2006 provides additional benefits for those who are eligible in the event of death or injury in the exercise of duties as a firefighter, known as a qualifying injury.
18. If eligible for a survivor's pension these are only paid to a spouse or civil partner; unmarried partners are not eligible for a survivor's pension.
19. The Firefighters' Pension Schemes (FPS 1992, FPS 2006 and FPS 2015) provide a death in service lump sum for members of the scheme.
20. The compensation scheme is not funded by HMT, this scheme is funded directly from the FRAs operating accounts. This is different to the pension schemes for which authorities receive a pension grant from government.

21. In order to determine whether the death or disablement should be considered a qualifying injury, the FRA should obtain the written opinion of an independent qualified medical practitioner. This should be done on a case by case basis, and a blanket approach is inappropriate.
22. It is recognised that determining whether a COVID-19 related death or injury would be a qualifying injury might be challenging, and LGA has been in discussion with Home Office pensions team, who have advised that the matter is under Treasury consideration in order to provide central guidance.
23. Our [Frequently Asked Questions](#) have been revised to reflect the current position and will be updated as further information become available. Guides on the [Injury scheme rules](#) and [survivor benefits](#) are available on our [website](#).
24. Members may be aware that a [new life assurance scheme](#) has been introduced for eligible frontline health and social care workers. This is a government funded scheme that will provide a lump sum of £60,000 to the estate of [eligible individuals](#) who die from coronavirus contracted during their frontline essential work.
25. **In summary, the Firefighters' Compensation Scheme is**
- a. **Available for eligible firefighters only, ie not temporary**
 - b. **Paid for by employers**
 - c. **Pays a survivors pension to married or civil partners only**

Re-employment of retired firefighters to provide additional resilience during the coronavirus crisis

26. There are two separate issues for the Firefighters' Pension Scheme when re-employing a retired firefighter.

Protected Pension Age

27. The impact of the Finance Act 2004 on retired firefighters from **FPS 1992 only** with a protected pension age (retired from the FPS 1992 before the age of 55) and who are subsequently re-employed. Further information can be found in the [protected pension age factsheet](#)
28. We can confirm HMT agreed that the temporary relaxation of the tax rules for the period 1 March 2020 to 1 June 2020 as detailed in the written statement [HCWS196](#) and the HMRC guidance in their [April 2020 newsletter](#) applies across the public sector and **does include Fire and Rescue if people are returning to roles as a result of Covid-19.**
29. On 2 June 2020 HMT/HMRC announced an extension to the easement of the tax rules relating to PPA. The deadline has been extended to **1 November 2020** for retired firefighters re-employed in relation to FRAs' response to the coronavirus

pandemic. Please see the announcement in the amended [HMRC pension schemes newsletter 119 - April 2020](#), under heading 1.a.

Abatement

30. Abatement is stopping or reducing a member's pension if that member is re-employed by any FRA in any capacity after retiring, and the value of their pension plus new salary is greater than the member's salary at retirement. More information on abatement can be found in the [abatement factsheet](#).
31. FPS 1992 and FPS 2006 pension scheme rules allow for a Fire Authority to make a discretionary decision not to abate a pension. However, where that decision is taken the rules require the Fire Authority to pay into the notional pension fund an amount that would be equal to the pension that should be abated.
32. No decision has been made by HMT on an ability to waive the requirement for the FRA to pay into the notional pension fund if they exercise their discretion not to abate for a firefighter returning to provide resilience as a result of Coronavirus.

Eligibility to the pension scheme and compensation scheme when using temporary contracts to respond to COVID-19

33. As per [paper 1](#) and the [legal advice](#) received temporary contracts are not eligible for the pension schemes or the compensation scheme.
34. FRAs might use contracts that could be deemed as temporary in situations as below:
 - a. In order to quickly contract firefighters to provide additional resilience during a crisis such as the pandemic that we are currently experiencing.
 - b. In order to reduce the likelihood of abatement applying when re-employing retired firefighters, some FRAs may use contracts that could be deemed as temporary such as zero-hour in order to lower the salary, so that the salary plus pension is not higher than the salary before retirement
35. Contracts or arrangements such as zero-hour, short-term or fixed term contracts could be deemed as temporary.
36. The regulations do not provide guidance on what is meant by temporary within the context of the pension rules.

37. We have approached Home Office on this matter who have said

“With regards to the use of temporary contracts as an approach to re-employing retired firefighters, the Home Office does not have any remit with regards to how the fire sector employ their staff, nor the type of contracts they use. There is no Home Office owned legislation covering FRS workforce policy.

To conclude, it will be for each employing FRS to consider their own workforce strategy and to full consider the potential implications (to include the impact on pensions and compensation cover) and to defend that strategy if challenged.”

38. It is our view that without guidance on what is meant by temporary within the context of pension rules, obtaining further legal advice will not alter the certainty on arrangements for FRAs.

39. Any arrangement that could be considered temporary is not pensionable or eligible for the compensation scheme and FRAs should ensure firefighters are aware of that when contracted.

40. It is therefore for each FRA to satisfy themselves that the contract would not fall into the category of employment that “is not temporary”.

Board action

41. The Board are asked to note the contents of this paper.

Board Secretary
June 2020