

Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Date: Tuesday 9 November 2021
Time: 2.00 pm
Venue: Microsoft Teams

Membership

Martin Reohorn (Chair)
Barnaby Briggs
Caroline Jones
Sian Marsh
Paul Morley
Tony Morgan

Items on the agenda: -

1. **General**
 - (1) **Apologies**
 - (2) **Board Members' Disclosures of Interest**
(As stipulated by the Public Sector Pensions Act 2013 and set out in Annex A of the Agreed Board Terms of Reference).
 - (3) **Minutes of the Previous Meeting** 5 - 8
2. **Chair's Annual Report to the Board 2020/21** 9 - 14
3. **Forward Plan** 15 - 18
4. **Risk Management** 19 - 28
5. **Pensions Administration Activity and Performance Update** 29 - 48
6. **Any Other Business**

7. Future Meeting Dates

Monday, 14 February 2022

Monday, 6 June 2022

Tuesday, 13 September 2022

Monday, 7 November 2022

Monday, 13 February 2023

All meetings start at 2.00pm, unless specified otherwise and will be scheduled to take place virtually or at Shire Hall, Warwick.

Monica Fogarty

Chief Executive

Warwickshire County Council

Shire Hall, Warwick

To download papers for this meeting scan here with your camera



Disclaimers

Disclosures of Pecuniary and Non-Pecuniary Interests

Members are required to register their disclosable pecuniary interests within 28 days of their election or appointment to the Council. Any changes to matters registered or new matters that require to be registered must be notified to the Monitoring Officer as soon as practicable after they arise.

A member attending a meeting where a matter arises in which they have a disclosable pecuniary interest must (unless they have a dispensation):

- Declare the interest if they have not already registered it
- Not participate in any discussion or vote
- Leave the meeting room until the matter has been dealt with
- Give written notice of any unregistered interest to the Monitoring Officer within 28 days of the meeting

Non-pecuniary interests relevant to the agenda should be declared at the commencement of the meeting.

The public reports referred to are available on the Warwickshire Web
<https://democracy.warwickshire.gov.uk/uuCoverPage.aspx?bcr=1>

Observing the Meeting

Scheme members and scheme employers who wish to observe the meeting should contact Democratic Services by email (democraticservices@warwickshire.gov.uk) to request a joining link.

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Tuesday 14 September 2021

Minutes

Attendance

Committee Members

Martin Reohorn (Chair)
Barnaby Briggs
Caroline Jones
Paul Morley

Officers

Neil Buxton, Technical Specialist - Pension Fund Policy and Governance
Liz Firmstone, Service Manager (Transformation)
Victoria Jenks, Pensions Admin Delivery Lead
Deborah Moseley, Senior Democratic Services Officer

1. General

2. Apologies

Sian Marsh and Tony Morgan

3. Board Members' Disclosures of Interest

None.

(1) Minutes of the Previous Meeting

The minutes of the previous meeting were agreed as a true and accurate record.

Neil Buxton, Technical Specialist - Pension Fund Policy and Governance, advised the Board that, following a review of the governance arrangements for the Firefighter Pension Schemes, the minutes of the Warwickshire Fire and Rescue Service Local Pension Board were now being reviewed by the Staff and Pensions Committee.

4. Forward Plan

Neil Buxton, Technical Specialist - Pension Fund Policy and Governance, presented this report to the Board which set out a rolling forward plan for a one year period. The plan included a number of standard items but was intended to be flexible and accommodate any developing issues at each meeting. It was intended that there would be more policies coming forward including cyber security and fraud. Vicky Jenks, Pensions Admin Delivery Lead, highlighted the upcoming introductory training session on 27 September 2021.

The Board noted the content of the plan.

5. Risk Management

Neil Buxton, Technical Specialist - Pension Fund Policy and Governance, presented this report which provided an update on the risks facing the administration of the pension service and actions taken to manage them. The report also detailed the proposed risk appetite for adoption.

The Board noted that outsourcing of the pension administration service would have some impact on the risk register.

Resolved

1. The Warwickshire Fire and Rescue Local Pension Board noted the report and the risk register attached at Appendix 1.
2. That Warwickshire Fire and Rescue Local Pension Board approved the risk appetite statement at Section 2.3 of the report.

6. Pensions Administration Activity and Performance Update

Vicky Jenks, Pensions Admin Delivery Lead, presented this report which provided an update on key developments affecting Fire pensions administration and the performance of the Pensions Administration Service, including breaches, Internal Disputes, McCloud/Sargeant and immediate detriment cases and outsourcing of the Firefighter Pensions Administration Service and Pensioner Payroll.

The Chair sought clarity on the actions that the successful bidder for the outsourcing of the firefighter pensions administration (West Yorkshire Pension Fund) would be taken with regard to the remedy position and the requirements of scheme managers. Vicky Jenks advised that bidders had been required to address this question in their tender responses but there were still many unknowns with regard to the legislation that was coming through. The Chair sought further clarification that scheme members would be updated and Vicky Jenks advised that members would be contacted to update them on the transfer and advise who the new provider was.

Responding to a question from the Chair regarding breaches, Vicky Jenks advised that there was a breaches log that could be shared. She noted that Annual Benefit Statements had been issued but a very limited number had not gone out on time due to outstanding information and some thought was being given as to whether The Pensions Regulator needed to be informed.

The Board noted the report.

7. Future Meeting Dates

Future meeting dates were noted as follows:

Tuesday, 9 November 2021

Monday, 14 February 2022

Tuesday, 10 May 2022

All meetings were scheduled to start at 2.00pm and would take place virtually or at Shire Hall Warwick.

8. Any Other Business

Liz Firmstone, Service Manager (Transformation), noted that there was an elected Member vacancy on the Board which had been raised with the Legal Team.

Paul Morley agreed to raise the regular attendance of a Fire and Rescue Service Association Representative at the next Service Consultancy meeting.

The meeting rose at 2.24pm

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Chair

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Chair's Annual Report to the board 2020/21

9 November 2021

Recommendation(s)

1. The Warwickshire Fire and Rescue Local Pension Board (the Board) notes and comments on the Chair's annual report at Appendix A

1. Executive Summary

- 1.1. Each year the Board receives an Annual Report from the Independent Chair summarising the activities of the Board for the preceding year. The Annual Report for 2020/21 can be seen at Appendix A.
- 1.2. In March 2021 the Board appointed a new Independent Chair. Consequently, the Annual Report for 2020/21 has been put together with the assistance of fund officers.

2. Financial Implications

None

3. Environmental Implications

None

4. Supporting Information

None

5. Timescales associated with the decision and next steps

None

Appendices

1. Appendix A – Annual report

Background Papers

1. None

	Name	Contact Information
Report Author	Liz Firmstone, Victoria Jenks	lizfirmstone@warwickshire.gov.uk, vickyjenks@warwickshire.gov.uk
Assistant Director	Andrew Felton	andrewfelton@warwickshire.gov.uk
Strategic Director	Strategic Director for Resources	Robpowell@warwickshire.gov.uk
Portfolio Holder	Portfolio Holder for Finance and Property	peterbutlin@warwickshire.gov.uk

The report was circulated to the following members prior to publication:

Local Member(s): n/a

Other members: n/a

Warwickshire Local Fire Pension Board Annual Report 2020/21

Report by The Independent Chair

Purpose of Report:

To report to board members on the activities of the Warwickshire Fire and Rescue Local Pension Board of the Firefighter's Pension Scheme and the Scheme Manager in 2020/21.

Background

The Public Service Pensions Act 2013 introduced a framework for the governance and administration of public service pension schemes, including the establishment of Local Pension Boards.

The Warwickshire Fire and Rescue Local Pension Board of the Firefighter's Pension Scheme ("the Board") was thus established. The Terms of Reference for the Board were last approved by Council on 1st July 2021.

A Scheme Manager must by law be appointed for the Firefighter Pension Schemes. For Warwickshire, the Scheme Manager is the Council's Section 151 Officer. Under the Council's scheme of delegations, the role of Scheme Manager has been delegated onwards to the Assistant Director of Finance.

Report

1. Board Membership

- 1.1. The Board is made up of an equal number of employer and employee representatives, with an additional Independent Chair appointed directly by the Council.
- 1.2. In July 2020 the previously appointed Chair expressed a wish to step down from the role, necessitating the recruitment and appointment of a new Chair. The appointment of Mr Martin Reohorn as the Independent Chair was ratified by Council in December 2020, with the first meeting chaired being in March 2021.
- 1.3. As a consequence, this Report covers the period prior to the current Chair's tenure and the information provided has been supplied by the officers supporting the Board.
- 1.4. There have been two changes of members of the Board in 2020/21 and there are currently no vacancies.

2. Format of meetings

- 2.1.1. Normally a minimum of three meetings are held per year. However, as a result of external circumstances, the meetings of 2020/21 were unusual. The meeting scheduled for 16 March 2020 was cancelled at short notice due to the Covid-19 pandemic. 16 March 2020 was the day that Government guidance came into force requiring that all workers who could work from home should do so. Due to the late cancellation, papers had already been circulated to Pension Board members. The Scheme Manager was available to answer any queries regarding the reports

2.1.2. The meeting held in June 2019 was not quorate. The meeting went ahead with the notes of the meeting being formally approved and ratified by a quorate meeting in October 2019.

Although meetings during the 2019/20 financial year did not follow normal protocol, this is considered to be an anomaly due to unusual circumstances rather than a cause for concern. The situation is being monitored during 2020/21.

2.2. Meetings are held virtually and could during the period of this report be viewed via YouTube. Viewing figures for the two meetings held were:

Date of meeting	number of views
4 th March 2021	15
26 November 2020	29

2.3. The meeting agenda and papers, together with the minutes of the previous meeting, are published on the Authority's website 5 days prior to the meeting date.

2.4. Board members are required to declare any potential conflicts of interest to the Scheme Manager prior to each meeting, in line with the Local Firefighter Pension Board's Conflicts of Interest Policy.

3. Training

3.1. The Pensions Regulator has published a Code of Practice for the governance and administration of public service pension schemes and this code sets out the requirement for Board members to achieve and maintain knowledge and understanding sufficient to enable them to carry out the role of Board member. Board members and supporting officers have been made aware of the Code and its requirements

3.2. There have been several training opportunities for the Board, including:

3.2.1. the opportunity to attend the annual LGA Fire Pensions Conference.

3.2.2. one to one training with the scheme manager; training presented by the Authority's pension administrator and training at Board meetings.

3.2.3. online training available on the Pension Regulator website which members of the Board are encouraged to complete.

3.3. Each Board member has completed a training needs analysis and the Board has a Training Policy. A record of all training is maintained by the Scheme Manager.

4. Board Activity

4.1. Since the Local Firefighter Pension Board was set up in 2015, the work of the Board has been shaped by the Board members and by Officers supporting the Board. In particular the appointment, in July 2020 of a specialist individual as Pension Administration Delivery Lead has significantly improved support to the Board, by providing training and regular communications.

4.2. An overhaul of the governance arrangements for Firefighter Pension Schemes has taken place including a review of policies and training for members of the Board.

4.3. The Board receives regular reports including

4.3.1. a report from the Pension Administration Team.

4.3.2. review of Scheme statistics

4.3.3. updates on data quality measures – in line with the Pensions Regulators requirements

- 4.3.4. updates on current pension issues.
- 4.3.5. the Fire Pension Risk Register.
- 4.3.6. overview of IDRPs cases (but not individual cases).

5. Current Issues

5.1. The judgment of the McCloud/Sargeant and the Treatment of Immediate Detriment Cases.

- 5.1.1. As a result of the Court of Appeal's judgment in the McCloud/Sargeant case, where the Court found that the transitional arrangements relating to the 2015 Firefighters' Pension Scheme amounted to age discrimination, it has changed the way in which the Pension Scheme Administrator should treat those firefighters who have already retired and are in receipt of their pension or are approaching retirement (known as "Immediate Detriment" cases).
- 5.1.2. In a subsequent Employment Appeal Tribunal ("EAT") judgment in February 2021, the EAT rejected the argument that FRA's were bound by the pension legislation to act towards its employees in a way which, as decided by the McCloud/Sargeant case, is discriminatory, i.e. the FRAs in their capacity as scheme manager could have decided not to follow the discriminatory legislation.
- 5.1.3. Whilst the Government has made it clear its intention to legislate to remove any discrimination and are in the process of making the necessary amendments to the relevant Pension Regulations, the Home Office issued informal guidance ("Immediate Detriment Guidance") on how Scheme Managers should treat the Immediate Detriment cases in the interim.
- 5.1.4. The Board has sought assurances that the Scheme Manager has properly considered its approach to the Immediate Detriment cases prior to any changes in legislation. Regard has been given to advice provided from the Local Government Association, The Home Office, legal advice provided both internally and externally and from the approaches of other administrators to the issue.

5.2. Pension Scheme Administration.

- 5.2.1. A process is underway to seek alternative providers for the Pension Administration and pensioner payroll services, and some soft market testing was undertaken. In October 2020, this process was paused to allow cleansing of data in response to the data quality report and the work required to improve data quality. The procurement process has now been completed (September 2021) and a new provider has been selected.

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Forward Plan

9 November 2021

Recommendation(s)

1. That the Warwickshire Fire and Rescue Local Pension Board (the Local Pension Board) notes and comments on the Forward Plan.
2. That the Local Pension Board identifies any areas of interest or activity to add to the Forward Plan.

1. Executive Summary

- 1.1 This report provides an updated rolling Forward Plan for the Local Pension Board looking forward one year.
- 1.2 This is not intended to be rigid or definitive, the intention is that it can be updated and amended on a rolling basis at each meeting and be informed by the latest developments.

2. Financial Implications

- 2.1 None.

3. Environmental Implications

- 3.1 None.

4. Supporting Information

- 4.1 The updated plan is shown at Appendix 1.

5. Timescales associated with the decision and next steps

- 5.1 Following the award of the contract for pension administration officers are undertaking a review of policies.

Appendices

1. Appendix 1 The Forward Plan.

Background Papers

1. None.

	Name	Contact Information
Report Author	Neil Buxton	neilbuxton@warwickshire.gov.uk
Assistant Director	Andrew Felton	andrewfelton@warwickshire.gov.uk
Strategic Director	Strategic Director for Resources	robpowell@warwickshire.gov.uk
Portfolio Holder	Portfolio Holder for Finance and Property	peterbutlin@warwickshire.gov.uk

The report was circulated to the following members prior to publication:

Local Member(s): n/a

Other members: n/a

Warwickshire Fire and Rescue Local Pension Board

Forward Plan items

Appendix 1.

Q4. 14 th February 2022	Q1. 6 th June 2022	Q2. 13 th September 2022	Q3. 7 th November 2022
Standing items			
Administration Activity and Performance update	Administration Activity and Performance update	Administration Activity and Performance update	Administration Activity and Performance update
Risk monitoring	Risk monitoring	Risk monitoring	Risk monitoring
Forward Plan	Forward Plan	Forward Plan	Forward Plan
Administration Service Outsource	Administration Service Outsource	Administration Service Outsource	Administration Service Outsource
Breaches log	Breaches log	Breaches log	Breaches log
Bespoke items			
			Chair's annual report
Policies			
Breaches policy Terms of Reference and Conflicts of Interest Risk Register	Cyber Security Knowledge and Skills Assessment		Administration Strategy
Training			

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Risk Management

9 November 2021

Recommendation(s)

1. That the Warwickshire Fire and Rescue Local Pension Board note and comment on the report and the attached risk register (Appendix 2).

1. Executive Summary

- 1.1 The Pension Service maintains a risk register in order to manage the risks facing the administration of the pension service.
- 1.2 Risk monitoring will be reported quarterly to the Warwickshire Fire and Rescue Local Pension Board (the Board) to improve the governance of the service.
- 1.3 A number of risks have been identified, including the impact of Covid presenting challenges to business operations and business continuity and challenging governmental developments for example in respect of the Sergeant / McCloud remedy together with the review of the administration service with the move to an alternative provider.
- 1.4 When monitoring risk, the service will continue to look out for emerging and changing risks.

2. Risk Appetite

- 2.1 The table below sets out a risk appetite classification based upon a widely used form of assessment.

Risk Appetite	Risk Appetite Description
Averse	Avoidance of risk and uncertainty is a key organisational objective.
Minimalist	Uncertainty is to be avoided unless essential; only prepared to accept the possibility of very limited financial loss
Cautious	Tolerance for risk taking is limited to events where there is little chance of significant downside impact
Open	Tolerance for decisions with potential for significant risk, but with appropriate steps to minimise exposure.

Hungry	Eager to pursue options offering potential higher rewards despite greater inherent risk.
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2.2 The table below sets out a risk appetite at a high level. This is intended to illustrate risk appetite and promote discussion; it is not a definitive or an approved statement of risk appetite for the service

Risk Category	Description	Risk Appetite
Administration – member services	Risk of failure to pay benefits or failure to maintain complete and correct data	Averse
Administration – employer services	Risk of failure to collect appropriate data or contributions from the employer	Averse

2.3 The service will only choose to take risks that are expected to be appropriately rewarded, and to mitigate or avoid risks where this is not the case.

2.4 This sets out certain categories within which to consider risk appetite (risk appetite should be categorised in relation to appetite for risk, not in relation to risk experience), therefore, the headings should not necessarily align with the risk register.

2.5 The service is to do with paying pensions accurately and on time when they are due and correctly following legislation and regulations. It is a service where there are no necessary opportunities to be gained from risk taking, hence a low appetite for risk is recommended above.

3. Risk Register

3.1 Risk is assessed on a five point scale across likelihood and impact, with impact weighted as follows:

$$\text{Total Risk} = (\text{Likelihood} \times \text{Impact}) + \text{Impact}$$

3.2 Risks with a high impact / low probability should be prioritised because over a long time span low probability events are more likely to occur eventually.

3.3 The most important issue is that the risk register broadly captures the most significant strategic risks, it is less important that each score is completely accurate. There is an element of subjectivity to scoring because risk is, by its nature, to do with uncertainty. Likelihood definitions are set out below.

Score	Description		Likelihood of occurrence
1	Highly unlikely	The event may occur in only rare circumstances (remote chance)	1 in 8+ years
2	Unlikely	The event may occur in certain circumstances	1 in 4 – 7 years

		(unlikely chance)	
3	Possible	The event may occur (realistic chance)	1 in 2 – 3 years
4	Probable	The event will probably occur (significant chance)	1 in 1 – 2 years
5	Very Likely	The event is expected to occur or occurs regularly	Up to 1 in every year

- 3.4 Appendix 1 sets out definitions for impact scores, including examples. These result in a scoring matrix as follows, which illustrates the increased emphasis on impact compared to likelihood:

Risk Identification		Inherent Risk Scoring			Residual Risk Scoring		
Risk No.	Risk Description	Likelihood	Impact	Risk Score	Likelihood	Impact	Risk Score
1	Covid Pandemic	5.00	5.00	30.00	3.00	3.00	12.00
2	Inability to meet demand for activity	5.00	3.00	18.00	4.00	3.00	15.00
3	Business Interruption	3.00	4.00	16.00	2.00	3.00	9.00
4	Cyber Security	4.00	5.00	25.00	3.00	4.00	16.00
5	Data Quality	3.00	3.00	12.00	2.00	2.00	6.00
6	Fraud	4.00	3.00	15.00	3.00	3.00	12.00
7	Governance failure	3.00	4.00	16.00	2.00	3.00	9.00

- 3.5 Appendix 2 sets out the risk register
- 3.6 Although the risk register is intended to be strategic, it still contains a lot of information. It is important for the service to ensure a focus on the most important risks, and the Board are invited to comment on key risks which should receive particular attention over the next year.
- 3.7 Officers have reduced the mitigated risk score for the Covid Pandemic to reflect the experience of the administration team and the ability to provide a full service.

4. Financial Implications

- 4.1 A number of risks include financial risks and implications, where this is the case these are addressed and reported on in specific reports as appropriate.

5. Environmental Implications

- 5.1 None.

6. Supporting Information

- 7.1 None

7. Timescales associated with the decision and next steps

- 8.1 As part of the transition to the new administrator officers are reviewing the Risk Register.

Appendices

1. Appendix 1 Impact scores
2. Appendix 2 Risk Register

Background Papers

1. None

	Name	Contact Information
Report Author	Neil Buxton	neilbuxton@warwickshire.gov.uk
Assistant Director	Andrew Felton	andrewfelton@warwickshire.gov.uk
Strategic Director	Rob Powell	robpowell@warwickshire.gov.uk
Portfolio Holder	Portfolio Holder for Finance and Property	peterbutlin@warwickshire.gov.uk

The report was circulated to the following members prior to publication:

Local Member(s): n/a

Other members: n/a

Risk Impact

Appendix 1

Score	Description	Members and Employer	Administration
1	Insignificant	<p>Negligible impact - not noticeable by members or employer, no complaints, or issues likely to be raised by members or employers.</p> <p>Example Member or employer communication newsletter issued a few days later than planned.</p>	<p>Negligible impact - low level administrative issues resolved internally with no impact on key performance indicators</p> <p>Example A manageable backlog of data to be uploaded to the administration system that has no impact on actual member payments.</p>
2	Minor	<p>Minor impact on members and/or employer which may cause correspondence about issues that can be resolved at source.</p> <p>Example A member not being given the correct information first time when corresponding with the administration service and this having to be corrected, but having no impact on benefits paid</p>	<p>Minor impact on administration performance requiring action within business-as-usual parameters.</p> <p>Example the employer experiencing persistent difficulty in providing correct data resulting in the need for extra training/support/correspondence to resolve</p>
3	Moderate	<p>Material adverse impact on members or employer that is of cause for concern to them and the administration service and requires escalation for non-business as usual resolutions</p> <p>More likely to be isolated issues but could have some scale.</p> <p>Example non collection of employee contributions from members due to administration error</p>	<p>Material impact on administration performance, but manageable within approved policies and procedures.</p> <p>Examples disappointing data quality scores resulting in a need for an improvement plan.</p>
4	Major	<p>Significant adverse impact on members or employer that result in a direct impact on benefits paid or contributions due or member or employer satisfaction with administration performance. Likely to result in complaints.</p> <p>More likely to be systemic issues.</p>	<p>Major failure of administration function, likely to be systematic in nature, of a high-profile nature to members and employers.</p> <p>Example persistent failure to meet key</p>

		<p>Examples A significant delay in the issue of member annual benefit statements</p>	<p>performance indicators within deadlines, and receipt of significant numbers of complaints from members.</p>
<p>5</p>	<p>Catastrophic</p>	<p>Lack of key personnel with relevant knowledge and expertise</p> <p>Significant breaches of the law</p> <p>Serious complaints and reputational harm caused</p> <p>Example Incorrect data received from employer resulting in wrong value of pension benefits being calculated and paid for several individuals.</p>	<p>Catastrophic failure of administration function leading to inability to pay benefits accurately or at all on a large scale.</p> <p>Significant breaches of the law</p> <p>Serious complaints and reputational harm caused</p> <p>Example Wholesale failure of the pension payroll function resulting in no member payments being made.</p>

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Appendix 2

Risk No.	Risk Description	Risk appetite	Risk Identification		Inherent Risk Scoring			Existing Risk Controls	Residual Risk Scoring			Further Risk Controls
			Risk Causes	Risk Consequences (Effect)	Likelihood	Impact	Risk Score		Likelihood	Impact	Risk Score	
1	Covid Pandemic (Administration and People Related)	Averse	<ul style="list-style-type: none"> Covid-19 pandemic (financial pressure on individuals and institutions, and more transactions being made online) Further restrictive lockdowns Staffing capacity impacted by both short and long term health implications of infection 	<ul style="list-style-type: none"> Members do not receive a high quality service Business interruption High costs in order to maintain service resilience Staff health, wellbeing and productivity Impairment of the financial situation of employers Inability to make quick decisions in an emergency 	5.00	5.00	30.00	<ul style="list-style-type: none"> Office presence for processes that require it (e.g. physical post) IT systems supporting remote and flexible working Flexible working policies for staff Health and safety protocols for staff Fund policies that account for the scenario experienced 	3.00	3.00	12.00	<ul style="list-style-type: none"> Use of extraordinary committee or board meetings where necessary Continue to develop flexible and remote working practices Review electronic signatory processes
2	Inability to meet demand for activity	Averse	<ul style="list-style-type: none"> Growth in complexity New and complex regulations (e.g. Sargeant (Age discrimination, Miller retained Modified cases) Erosion of staff capacity/resilience due to long term remote working Inability to recruit / retain appropriately skilled staff Inability of the officers to keep up with demand (capacity or skills) persistently increasing customer expectations Unpopular government decisions impacting on Fire Pension Schemes 	<ul style="list-style-type: none"> Quality of services reduces Governance failures Key administration performance measures not met 	5.00	3.00	18.00	<ul style="list-style-type: none"> Medium term forecasting of demand and planning for the capacity and resources required Investing in quality and productivity of staff through training and development Investing in systems development Use of management information to monitor and manage performance Succession planning Procuring appropriate services through contracts KPI and workload monitoring for administration team staff training Data quality reviewed annually Maintenance of governance arrangements and actions Responding to Government consultations 	4.00	3.00	15.00	<ul style="list-style-type: none"> Outsourcing of Administration service (ITT out 1st June 2021 with transfer date of 1st April 2022)
3	Business interruption	Averse	<ul style="list-style-type: none"> Covid-19 Industrial action Small specialist teams with single person risks Significant changes in adviser and consultant personnel Further high impact Covid events (e.g. infection waves, lockdowns) Lack of systems maintenance Systems failure Covid impact on staff Disaster event - fire, flood, etc Lack of remote working facilities 	<ul style="list-style-type: none"> Delays in decisions or their implementation Failure to meet performance targets Reputational damage Data quality deterioration Workload backlogs Significant restoration costs 	3.00	4.00	16.00	<ul style="list-style-type: none"> Building resilience requirements into service contracts Digital record keeping Storing data back ups offsite Maintaining close links with advisers, consultants, and external organisations. Use of IT systems to work remotely 	2.00	3.00	9.00	<ul style="list-style-type: none"> Implementation of Cyber Security policy Review and update disaster recovery plan
4	Cyber Security	Averse	<ul style="list-style-type: none"> Systemic cybersecurity events (e.g. taking down financial trading institutions globally) Local cyber security events (e.g. targeting the Council) Personal cyber security events (e.g. phishing emails targeting staff) Inadequate system security Inadequate staff training and staff vigilance 	<ul style="list-style-type: none"> Loss of data and/or data disruption Reputational damage Breaches of the law Fines Costs of fixing issues Business interruption 	4.00	5.00	25.00	<ul style="list-style-type: none"> Use of scheme administrator systems and system security Staff training Bespoke Fund cyber security policy 	3.00	4.00	16.00	<ul style="list-style-type: none"> Implementation of Cyber security policy
5	Data Quality	Averse	<ul style="list-style-type: none"> McCloud/Sargeant impact Persistently increasing customer service expectations Covid impact on member health and wellbeing - increasing the adverse impact of any problems with pensions Member benefits paid incorrectly Inadequate data quality Inadequate administration systems and processes Poor data provided by employer 	<ul style="list-style-type: none"> Inadequate payroll services Incorrect benefit payments to scheme members Complaints and disputes from scheme members Negative reputational impact 	3.00	3.00	12.00	<ul style="list-style-type: none"> Administration governance review actions and maintenance of those standards SLA with Council payroll service Maintenance of Fund website and sign posting to the new LGA Fire Pension scheme members website Data quality scores and reviews Staff training Performance monitoring of employer data quality Performance monitoring of administration team KPIs 	2.00	2.00	6.00	<ul style="list-style-type: none"> iConnect project now completed Light review of compliance with Code of Practice 14
6	Fraud	Averse	<ul style="list-style-type: none"> Covid-19 impact on the application of controls in the Service or with employers Increased financial pressure on individuals due to Covid-19 and its impact on the economy and jobs The passing of time since any previous targeted review of Fraud risk Fraud instigated by any Fund stakeholders, 	<ul style="list-style-type: none"> Members lose benefits to fraudsters Reputational risk Time spent unpicking the fraud Fraudulent members gain benefits they are not entitled to 	4.00	3.00	15.00	<ul style="list-style-type: none"> Application of Authority code of conduct of officers, fraud strategy, and whistleblowing policy Application of division of duties and signatory processes for financial transactions and administration Periodic independent internal audit reviews of administration controls and activity Annual external audit reviews 	3.00	3.00	12.00	<ul style="list-style-type: none"> Fraud risk review in 2021/22
7	Governance Failure	Averse	<ul style="list-style-type: none"> Lack of capacity to service governance requirements Lack of training Lack of continuity in staffing, advisers, or committee / board members Inadequate checking/review of standards compared to requirements and best practice Complacency in light of recent governance improvements Out of date policies and contracts Local government elections impact on committee continuity Covid-19 - impact on officer, adviser, and committee/board personnel health and availability Uncertainty around overall governance structure and responsibility for decision making and actions Unpopular government decisions impacting on Fire Pension Schemes 	<ul style="list-style-type: none"> Adverse impact on service reputation Exposure to unplanned risks or poor administration Breaches of the law Poor decisions Decisions that are not appropriately authorised Customer dissatisfaction 	3.00	4.00	16.00	<ul style="list-style-type: none"> Training plans for committees, Board, and staff Quarterly committee and Board meeting cycles Training needs analysis All training provision to be made available to all committee and Board members Management of a Contracts register Management of a policy schedule Use of digital technology - remote working and remote meetings Responding to government consultations 	2.00	3.00	9.00	<ul style="list-style-type: none"> Light review of compliance with Code of Practice 14 Local at best practice to create training plan Review of committee arrangements and Terms of Reference Review capacity to support Fund Governance requirements

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Warwickshire Fire and Rescue Local Pension Board of the Firefighters' Pension Scheme

Pensions Administration Activity and Performance update

9 November 2021

Recommendation(s)

1. The Local Board is asked to note and comment on this report.

1. Executive Summary

- 1.1 This report updates the Board on key developments affecting Fire Pensions administration and the performance of the Pensions Administration Service (PAS).

2. Financial Implications

- 2.1 Any financial implications are dealt with in the body of the report.

3. Environmental Implications

- 3.1 None

4. Change of service provider

- 4.1 The transfer of the administration of firefighter pensions and pensioner payroll service to West Yorkshire Pension Fund has begun. An implementation project timetable has been agreed and a project team with representatives from the service areas affected has been created.
- 4.2 The service is set to transfer on 1st April 2022, and project meetings have been scheduled fortnightly, up to the transfer date.
- 4.3 A communication plan has also been drawn up to ensure that all stakeholders are informed of the change of provider and where to direct queries to.
- 4.4 The Pensions administration software provider has been notified and the extraction of data has been planned. Following the transfer, data will be held at Warwickshire County Council (WCC) for 6 months to help with any queries.

After 6 months the data will be removed, and the PAS will no longer have access to it. From that point, all queries will be dealt with by the new provider.

5. Breaches

- 5.1 There has been one breach recorded in respect of the late issue of 8 Annual Benefit Statements that were not sent out by 31st August 2021. This was due to an issue with the office printer, as these statements are produced in house. As this was such a small number and the statements were issued by the end of September, this has not been reported to the Pensions Regulator. No complaints have been received from these members.

6. Internal dispute resolution procedure (IDRP)

- 6.1 There have been no IDRPs received since the last board meeting.
- 6.2 There is one case where a preliminary determination has been received from the Pensions Ombudsman. The determination has made suggestions as to where the member has not received a satisfactory service from WCC and that we should re-consider the decision made in this particular case. A response has been put together by legal services and we await the final determination.

7. Pension saving statements

- 7.1 Pension saving statements have been issued by the deadline of 6th October 2021. An information session presented by Pengage Ltd has also been held and attended by members affected by tax charges on their pension benefits.

8. McCloud/Sergeant update

- 8.1 A data request has now been sent to WCC payroll for data required for members affected by the age discrimination remedy. This is to check for any part time hours changes and service breaks that have occurred in the remedy period. This also asks for information regarding the value of contributions for the different schemes. This information will be used to assess whether a member has overpaid or underpaid contributions when they move back to their legacy scheme.
- 8.2 A letter for members in scope for the age discrimination remedy has been put together, this will also incorporate information about whom to contact if a member has a query following the transfer of the service to West Yorkshire. This will be going out shortly.
- 8.3 On 8th October information regarding the Immediate Detriment Framework was received. The Memorandum of Understanding (MoU - Appendix 1) sets

out the agreement between the Local Government Association (LGA) on behalf of Fire & Rescue Authorities (FRA) and the Fire Brigade Union (FBU) on behalf of members, on the treatment of immediate detriment cases as set out in Annex 1 of the Framework.

- 8.4 Annex 2 of the Framework (Appendix 2) details the process that should be followed by pensions administrators for immediate detriment cases. This includes the completion of a 'record of agreed compensation/remedy' that will need to be signed by both the member and the FRA. This will be sent out to the individuals affected by cases that have already been processed.
- 8.5 We have processed 10 cases where the member has elected to take payment of pension benefits under their legacy scheme for the remedy period. We have 5 retirement cases where benefits were paid based on being a member of the 2015 scheme at retirement. These will now have to be revisited and given the option to take benefits based on their legacy scheme only.

9. Matthews/O'Brien case – 2nd modified retained exercise

- 9.1 There is no update at this time, however it is expected that further information will be available early next year. It is anticipated that West Yorkshire will complete the work required in connection with this project.

Appendices

1. Appendix 1 - Immediate Detriment – Memorandum of Understanding
2. Appendix 2 - Annex 2 Framework

Background Papers

1. n/a
- 2.

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The report was not circulated prior to publication:

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**To: Fire and Rescue Authorities and Services
Fire Brigades Union members**

FRAMEWORK FOR MANAGING IMMEDIATE DETRIMENT ISSUES

You will be aware of legal cases brought in the High Court against the London Fire Commissioner (LFC) and Nottinghamshire and City of Nottingham Fire and Rescue Authority (NFRA). The cases concerned Immediate Detriment issues in relation to the McCloud/Sargeant judgment and the claimants were supported by the Fire Brigades Union (FBU).

It was apparent similar issues would arise more widely across the sector. The FBU was clear that matters for affected individuals needed to be resolved sooner rather than later and it would, if necessary, support further legal cases. Many Fire and Rescue Authorities (FRAs) across the UK on an individual basis had indicated that they wished to be able to deal with Immediate Detriment issues as soon as possible. The problem was not an unwillingness to do so but rather the need to identify and develop a suitable mechanism to be able to do so in a way which minimised the risks while the Government is putting in place the McCloud/Sargeant remedying legislation.

With that in mind, the Local Government Association (LGA) and the FBU have been in discussions to identify a mutually acceptable Framework, setting out a mechanism for handling Immediate Detriment cases, to assist all parties prior to completion and implementation of the McCloud/Sargeant remedying legislation. This would help in resolving the genuine difficulties that had arisen for FRAs in making payments to those affected (including for example issues around unauthorised payment charges and contribution holidays) and in removing the potential for further court claims (not just against NFRA and LFC).

During the course of the discussions, the Government laid primary legislation before Parliament in the Public Service Pensions and Judicial Offices Bill and will make secondary legislation pursuant to the Bill (together, the Remedying Legislation) to provide the affected pension scheme members with a remedy for the discrimination found in the McCloud/Sargeant claims.

Following a series of complex discussions including respective legal representatives, which were also able to utilise the longstanding national relationship between the LGA and FBU, we are pleased to advise you that agreement has today been reached on the attached Memorandum of Understanding and Framework.

We believe the Memorandum of Understanding and Framework are consistent with the principles currently set out in the Bill and will mean that appropriate action can be taken. As and when parts of the Remedying Legislation covering the relevant part of the Framework come into effect the MoU and Framework indicate that the relevant Remedying Legislation will then be used instead.

Each FRA is asked to consider adoption of the Framework and we would encourage such adoption in order to provide a consistent approach to Immediate Detriment cases across the fire and rescue service.

You may also wish to be aware that, separately, we and respective legal representatives have worked with NFRA and LFC in respect of the High Court cases and can also advise that settlement has been reached. Settlement took into account the principles in the Framework, however, as is the norm in such settlements, details will remain confidential. The Summary Judgment hearing due to be heard in the High Court later this month is therefore no longer required.



Jeff Houston
Local Government Association



Matt Wrack
Fire Brigades Union

8 October 2021

Dated 8 October 2021

MEMORANDUM OF UNDERSTANDING

PARTIES

- (1) Local Government Association of 18 Smith Square, Westminster, London, SW1P 3HZ (the **LGA**); and
- (2) Fire Brigades Union of Bradley House, 68 Coombe Rd, Kingston-upon-Thames, Surrey, KT2 7AE (the **FBU**).

1 BACKGROUND

- 1.1 The LGA represents Fire & Rescue Authorities (**FRAs**) in England, Scotland, Wales and Northern Ireland in connection with the matters covered by this memorandum of understanding (**MoU**).
- 1.2 The FBU is a trade union that represents firefighters and other employees employed by the FRAs (together the '**Members**') who are affected by the matters covered by this MoU.
- 1.3 The LGA (on behalf of the FRAs) and the FBU (on behalf of the Members) wish to record the basis on which they will collaborate with each other to ensure that Members who have (or will) suffer an "**Immediate Detriment**" (as described in para. 4.1 below) by reason of their retirement (or impending retirement), following the decision made by the Court of Appeal on 20 December 2018 and the Employment Appeal Tribunal on 12 February 2021 in the *Sargeant* claims, are provided with a remedy as swiftly as possible.
- 1.4 A framework (the **Framework**) and a timetable for providing a remedy for each affected Member is set out in Annex 1 and Annex 2 to this MoU, which the parties expect the FRAs and Members to adhere to. Nothing in the MoU shall be interpreted to mean that the FBU will not initiate or support legal proceedings on behalf of any Member whose case is not dealt with in accordance with the Framework or that timetable.
- 1.5 The MoU only covers compensation relating to any shortfall in the pension commencement lump sum, pensions benefits and contributions payable to or payable by a Member (including issues relating to tax relief, interest and charges connected to those amounts) as set out in Annex 1. This MoU does not cover any additional remedies currently under consideration in the Employment Tribunal.
- 1.6 In this MoU:
 - 1.6.1 references to a Member's **Legacy Scheme** are references to the pension scheme in which the Member was an active member on 31 March 2012; and
 - 1.6.2 references to the **2015 Scheme** are references to the firefighters' pension schemes in England, Wales and Scotland created under the Public Service Pensions Act 2013.

2 OBJECTIVES

- 2.1 The parties acknowledge the importance of ensuring that Members who have suffered (or will suffer) an Immediate Detriment (as described in para. 4.1 below) receive compensation or are otherwise remedied now. They recognise that the Government has laid primary legislation before Parliament in the Public Service Pensions and Judicial Offices Bill (the **Bill**), and will make secondary legislation pursuant to the Bill (together, the **Remedying Legislation**) to provide the affected Members with a remedy for the discrimination found in the *Sargeant* claims.

The parties believe that the Framework is consistent with the principles currently set out in the Bill. In particular, any compensation or remedy provided to Members under this MoU:

2.1.1 amounts to “compensation” of the type anticipated by clause 21¹ of the Bill; and/or

2.1.2 is to be taken into account when assessing whether the Member has:

(a) “benefited from an immediate detriment remedy” for the purposes of clause 29 of the Bill; and/or

(b) been provided with a remedy under any scheme regulations of the type anticipated by clause 28 of the Bill

(to avoid a situation where the Member receives additional recoveries under the Bill which have already been compensated for under this MoU).

2.2 This MOU is separate from, and is not subject to or dependent on, any guidance issued in relation to “Immediate Detriment” before the Remedying Legislation comes into force.

3 PRINCIPLES OF COLLABORATION

3.1 The LGA will request that the FRAs, and the FBU will request that its Members, adopt the following principles:

3.1.1 Collaborate and co-operate. To adhere to the Framework so that activities are delivered and actions taken as required;

3.1.2 Act in a timely manner. Recognise the importance of moving things forward swiftly and responding accordingly to reasonable requests for support; and

3.1.3 Act in good faith to support achievement of the objectives and adherence to these principles.

4 IMMEDIATE DETRIMENT CASES IN SCOPE

4.1 The Framework will apply to Immediate Detriment cases that have already arisen, or arise before the Remedying Legislation comes into force, namely cases for:

4.1.1 Members who, at the date of this MoU, are employed by an FRA and:

(a) become eligible to retire (for any reason, including ill-health) and draw any pension and/or lump sum benefit and want to have all their benefits paid from their Legacy Scheme (not the 2015 Scheme); or

(b) do not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme and are therefore left without an immediately payable pension, but would be entitled to such a pension under their Legacy Scheme

(Category 1 cases);

4.1.2 Members who, at the date of this MoU:

¹ In this MoU, references to clause numbers in the Bill refer to the clauses as numbered on the date when the MoU is signed.

- (a) have already retired (for any reason, including ill-health) and who are receiving a pension under the 2015 Scheme, and who wish to be treated as having retired as a member of their Legacy Scheme; or
- (b) have left the fire and rescue service and did not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme, and are therefore left without a pension in payment but would be entitled to such a pension under their Legacy Scheme

(Category 2 cases).

- 4.2 The Category 2 cases include the claims set out in High Court claim number QB-2021-000636, although the parties acknowledge that the claimants and the defendants in that claim will (subject to agreeing the position on legal costs) need to file a consent order recording any settlement achieved in accordance with the Framework set out in this MoU.

5 FRAMEWORK

- 5.1 The parties intend that the various issues that arise in relation to Category 1 and Category 2 cases will be resolved in accordance with the Framework set out at Annex 1 to this MoU.

- 5.2 The parties anticipate that the Remediating Legislation will provide a mechanism that will allow some matters to be dealt with more conveniently once it comes into force. These matters are:

5.2.1 compensation for any tax relief foregone on the arrears of contributions payable by the Member (except for Category 1 cases where the contribution arrears can be processed through PAYE);

5.2.2 interest payable by the Member on the arrears of contributions;

5.2.3 interest payable to the Member on adjusted employee contributions under the 2006 Scheme; and

5.2.4 CETVs and added pension (for Category 1 cases).

- 5.3 These matters (and only these matters) will be calculated and processed once the Remediating Legislation is in force. Where applicable, the way they will be dealt with until that point is reached is set out in Annex 1. The parties agree that the mechanism provided by the Remediating Legislation will be used to make the calculation and the amounts will be processed in accordance with the Remediating Legislation.

- 5.4 The LGA and the FBU will encourage the relevant FRA and Member to document the agreed compensation or remedy in line with the template set out at Annex 3 to this MoU (the **Compensation Record**). This does not apply to the High Court claim referred to in para. 4.2 above where the terms of any settlement will be recorded in a confidential settlement agreement attached to a consent order.

- 5.5 The FBU agrees that it will not provide any financial or other support to Members who have received compensation or are otherwise remedied under the Framework to bring any court or tribunal proceedings relating to matters which have been (or are being) addressed under the Framework (or, in the case of those matters listed at para. 5.2 above, will be addressed under the Remediating Legislation). The FBU's agreement does not apply, however, to any question or dispute as to whether the Framework has been applied correctly in accordance with this MoU, or to any question or dispute regarding a matter that is not covered by the Framework.

6 CONCERNS OR COMPLAINTS

- 6.1 If either party has any issues, concerns or complaints about any matter in this MoU that party shall notify the other party and the parties shall then seek to resolve the issue through discussion (consistent with the objectives and principles set out at paras. 2 and 3 above). Those discussions may involve the relevant FRA and Member where appropriate.
- 6.2 Either party may terminate such discussions at any time. Where it has been agreed that the Framework is being used, the fact that such discussions could be commenced or have been commenced will not act as an impediment to any Member who alleges that the FRA concerned is not dealing with their case in accordance with the Framework and seeks relief from the Court. Nor will it act as an impediment to the FBU providing legal or other support to such a Member.

7 REVIEW, TERM AND TERMINATION

- 7.1 This MoU shall commence on the date of signature by both parties.
- 7.2 The parties will meet periodically on dates to be agreed between them (the first such meeting to take place within five weeks of the date of this MoU) to:
- 7.2.1 review the application of the Framework and the process set out in Annex 2, paying attention, in particular, to the timetable for processing cases in the light of the number of cases being dealt with by FRAs; and
 - 7.2.2 discuss whether any changes to the Framework are needed if the passage of the Bill (and the secondary legislation made pursuant to the Bill) adversely affects the ability of an FRA or a Member to implement the Framework and/or the process set out in Annex 2 and work in a spirit of cooperation to agree those changes.
- 7.3 If, on the date Remediating Legislation applicable to an issue set out in Annex 1 comes into force, a case that includes that issue is still being processed under the Framework, that issue will instead be processed under the Remediating Legislation and that fact will be noted in the Compensation Record (Annex 3). For the avoidance of doubt the rest of the issues in the case will be dealt with in accordance with Annex 1.
- 7.4 If all of the issues relevant to a case are covered by Remediating Legislation which has come into force before a Compensation Record is signed by the Member and the FRA that case will instead be processed under the Remediating Legislation.
- 7.5 This MoU will automatically expire on the last date on which Remediating Legislation applicable to all of the issues set out in Annex 1 comes in to force and will in any event expire on 1 October 2023. However, the parties agree that the timeframes set out in Annex 2 will continue to apply to the issues set out in Annex 1 where those issues are being processed under the Remediating Legislation provided that the timeframes do not put an FRA in breach of its obligations under the Remediating Legislation.
- 7.6 This MoU may be terminated (in whole or in part) by agreement in writing between the parties.
- 7.7 This MoU may be terminated by either party if the other party is in serious or repeated breach of its terms, and does not remedy the breach within 21 days of notice being given requiring it to do so.

8 VARIATION

- 8.1 This MoU, including Annexes 1, 2 and 3, may only be varied by written agreement of the parties.

9 CHARGES AND LIABILITIES

- 9.1 Liability for the legal costs incurred in High Court claim number QB-2021-000636 will be payable in accordance with any agreement reached between the parties to that claim or any order made by the Court in those proceedings.
- 9.2 Subject to para 9.1, and except as otherwise provided, the parties, FRAs and Members shall each bear their own costs and expenses incurred in agreeing to and implementing this MoU and the Framework.
- 9.3 Each party shall remain liable for any losses or liabilities incurred due to their own actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

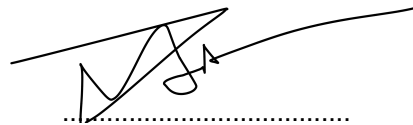
10 STATUS

- 10.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.
- 10.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, or authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

11 GOVERNING LAW AND JURISDICTION

- 11.1 This MoU shall be governed by and construed in accordance with the laws of England and Wales and, without affecting the procedure set out in para. 6, each party agrees to submit to the non-exclusive jurisdiction of the courts of England and Wales.

Signed by **JEFF HOUSTON**
for and on behalf of the **LGA**


.....

HEAD OF PENSIONS

8th October 2021
.....

[Date]

Signed by **MATT WRACK**
for and on behalf of the **FBU**


.....

GENERAL SECRETARY

8 October 2021

CONTACT POINTS

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ANNEX 1 – FRAMEWORK

Issue	Category 1 cases	Category 2 cases
Shortfall in retirement lump sum and past pension payments	Retirement lump sum and benefits paid on retirement through Legacy scheme (so that no shortfall arises).	Pay as lump sums (comprising pension lump sum and arrears lump sum likely made in two payments) through the 1992 scheme (as arrears). Pension arrears will be subject to PAYE, but if any additional income tax is payable by the member that would not have been payable if the member had never been treated as a member of the 2015 Scheme, the FRA will compensate the member for that tax liability.
Interest on shortfall in retirement lump sum and past pension payments	No interest due because correct lump sum and pension benefits will be paid on retirement.	Interest paid at 3% p.a. simple, from the date lump sum / benefits should have been paid.
Employee contributions: 1992 Scheme	Member pays shortfall (since 2015) through payor as a deduction from retirement lump sum.	Member pays any shortfall (since 2015) as a deduction from retirement lump sum. If no lump sum is payable, the member will need to pay any contributions owed from their own resources and to be given a reasonable time to pay based on their individual circumstances.
Employee contributions: 2006 Scheme	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.
Tax relief on employee contributions	<p>Process through PAYE to the extent possible if time/amount allows. If time does not allow, then any tax relief not collected through PAYE will be calculated and paid when the remedying legislation is in force.</p> <p>FBU and FRAs will encourage members to give as much notice of retirement as possible to facilitate payment through PAYE.</p>	Compensation for any tax relief foregone will be paid to the individual when the remedying legislation is in force. So, for now, individuals will pay the gross amount of contributions due.

Interest payable on adjusted employee contributions (1992 Scheme)	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). If tax relief was not processed through PAYE (because time/amount did not allow), where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amounts will be deducted from that payment.	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). Where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amount will be deducted from that payment.
Interest payable on adjusted employee contributions – compensatory amount (2006 Scheme)	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).
Contribution holidays: excess employee contributions	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.
CETVs and added pension	If an issue arises, then look at it at that point. Individual and FRA will work together to agree a holding compromise that the CETV/added pension will stay in the 2015 scheme until the legislative solution arrives.	Deal with as and when arises.
Annual Allowance charges	Recalculate pension input amount for each year of remedy. If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise). If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for the annual allowance	Recalculate pension input amount for each year of remedy. If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise). If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for any annual allowance

	charge that is demanded (or any excess over the lesser charge that would have applied).	charge that is demanded (or any excess over the lesser charge that would have applied).
Scheme pays (MSP/VSP)	Member pays tax through VSP for statutory tax years for which it becomes due.	Member pays tax through VSP for statutory tax years for which it becomes due.
Converting scheme pays debits	FRA to recalculate the pension debit as if taken at time of original scheme pays election using actuarial factors applicable at time.	FRA to recalculate the pension debit as if taken at time of original scheme pays election using actuarial factors applicable at time.
Converting pension sharing debits	Deal with on a case by case basis as issues arise.	Deal with on a case by case basis as issues arise.
Dependents	Deal with on a case by case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).	Deal with on a case by case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).
Taper members	Tapering to stop (because that is the only step that is consistent with the ET decision).	Tapering to stop (because that is the only step that is consistent with the ET decision).
Unauthorised payments	N/A	The FRA will compensate the member for unauthorised payment charges which the member has had to pay and which he or she would not have had to pay if the member had not transferred to the 2015 Scheme.

ANNEX 2 – THE PROCESS

- 1 Any Member who believes that he or she is a Category 1 or a Category 2 case, and any person who believes that he or she is a dependant of a Category 1 or a Category 2 case Member ('an **Applicant**'), may give notice to the FRA which last employed the Member concerned requiring the FRA to investigate their case. Any such notice must be given in writing (by post or by email).
- 2 Within 14 days of receipt, the FRA shall acknowledge receipt of any such notice in writing (by post or by email), and inform the Applicant:
 - 2.1 either that the FRA accepts that the Applicant is entitled to a remedy under the Framework; or
 - 2.2 explain why, in the FRA's view, the Applicant is not entitled to a remedy under the Framework.
- 3 If the FRA accepts that the Applicant is entitled to a remedy under the Framework, as soon as reasonably practicable and in any event within 62 days after receiving an application under paragraph 1, the FRA shall send to the Applicant:
 - 3.1 In a Category 1 Case:
 - 3.1.1 a statement of the benefits that the Member would be entitled to receive if he or she retires under the rules of the Member's Legacy Scheme;
 - 3.1.2 a statement of the benefits that the Member would be entitled to receive if he or she retires under the rules of the 2015 Scheme; and,
 - 3.1.3 a form inviting the Applicant to choose to take benefits in accordance with the rules of the 2015 Scheme or the Member's Legacy Scheme.
 - 3.2 In a Category 2 Case:
 - 3.2.1 a statement of the benefits that the Member would have received if he or she had retired under the rules of the Member's Legacy Scheme, calculated as at the date of retirement or, in the case of a Member who left employment without an immediate pension, as at the date of leaving;
 - 3.2.2 a statement of the benefits that the Member received or was prospectively entitled to receive under the rules of the 2015 Scheme, calculated as at the date of retirement or, in the case of a Member who left employment without an immediate pension, as at the date of leaving;
 - 3.2.3 a statement of the arrears of pension and lump sum that the FRA will pay if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme;
 - 3.2.4 a statement of the arrears of contributions that will have to be paid or that will be reimbursed (if any) if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme;
 - 3.2.5 a statement of any tax adjustments that will have to be made if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme (including details of any "scheme pays" election that the Applicant might be able to make); and

3.2.6 a form inviting the Applicant to choose to take benefits in accordance with the rules of the 2015 Scheme or the Member's Legacy Scheme.

4 If the Member's entitlements under their Legacy Scheme cannot be determined without further medical advice, the period between the date of the request for further medical advice and the date when that advice is received shall be ignored for the purposes of the timetable set out in paragraphs 2 and 3 above.

5 Once the FRA receives notice of the Applicant's election, and if the Applicant chooses to receive benefits under the rules of the Member's Legacy Scheme:

5.1 In a Category 1 Case, the Applicant's entitlements shall be progressed as "business as usual".

5.2 In a Category 2 Case, the FRA shall:

5.2.1 adjust the Applicant's pension debit if required to allow for any "scheme pays" election that the Applicant makes on account of any annual allowance charge that would have arisen if the Member had never been treated as a Member of the 2015 Scheme;

5.2.2 begin to pay benefits in accordance with the Legacy Scheme rules with effect from the next pension payroll date which is at least one month after the receipt of the Applicant's election;

5.2.3 as soon as reasonably practicable and in any event within 28 days after receipt of the Applicant's election, pay to the Applicant the arrears of pension and lump sum, calculated under 3.2.3 above and rolled forward to the date of payment, with interest calculated in accordance with the Framework to the date of payment, plus compensation for any excess contributions paid, after deducting:

(a) any arrears of contributions calculated under 3.2.4 above; and

(b) any additional tax required to be paid under PAYE on arrears of pension that would have arisen if the Member had never been treated as a Member of the 2015 Scheme.

If the deductions to be made under paragraph 5.2.3(a) and (b) exceed the arrears to be paid under 5.2.3, the FRA shall not be obliged to begin to pay benefits under the Legacy Scheme rules in accordance with 5.2.2 until a reasonable schedule for payment of the excess has been agreed between the Applicant and the FRA.

6 In a Category 2 case, no further action is required if the Applicant chooses to continue to receive benefits under the Rules of the 2015 Scheme.

7 Until the Applicant makes an election under paragraph 3.1.3 or 3.2.6, no further action is required.

8 Giving effect to the Applicant's election under paragraph 3.1.3 or 3.2.6 to receive benefits calculated in accordance with the Legacy Scheme rules shall be conditional on the Applicant signing and returning a settlement agreement substantially in the form of the record of agreed compensation and remedy set out in Annex 3 to the MoU.

9 The member and an FRA's commitment to adhere to the process and timeframes as set out above is in consideration of the Principles of Collaboration and the ongoing review of the Framework as provided for at clauses 3 and 7.2 of the MoU respectively.

ANNEX 3 – RECORD OF AGREED COMPENSATION / REMEDY

I [NAME OF MEMBER] have agreed with [NAME OF FRA] in its capacity as both an employer and scheme manager to receive compensation and/or a remedy in line with the framework set out in the MoU dated [DATE] between the LGA (on behalf of FRAs) and the FBU (on behalf of its members).

I am a “Category [1/2]” case.

I understand and agree that:

- the Government has proposed to make new legislation that is intended to provide me with the pension benefits that I could have received if the pension changes made in 2015 had not been made, but that new legislation may not come into force until October 2023;
- some of the issues relating to my pension benefits have not been fully resolved and will not be fully resolved until the new legislation comes into force in October 2023, and as a consequence some payments (including tax relief and some interest amounts) might be calculated and processed once the new legislation comes into force. These issues are noted in the table below;
- The compensation I have received will be taken into account for the purposes of the new legislation (to avoid a situation where I receive additional amounts under the new legislation which have already been compensated for under the agreed framework);
- I understand that survivor benefits under the 1992 Firefighters Pension scheme are payable only to a legal spouse or civil partner, meaning a partner with whom I have entered into a formal registered civil partnership. If I choose to receive benefits under the rules of the Firefighters’ Pension Scheme 1992 and I am unmarried and not in a civil partnership at the date of my death then a survivor’s pension will not be payable;
- The decision I make to receive benefits under the rules of the Firefighters’ Pension Scheme 1992/ Firefighters’ Pension Scheme 2006/ Firefighters’ Pension Scheme 2015 [delete as applicable] is irrevocable. Neither I nor my dependants will be given an option to reconsider this decision once the new legislation comes into force;
- The way in which the issues relevant to my case are dealt with under the framework (as noted in the table below) amounts to a full and final settlement of my claim. I will not commence or continue any court or tribunal proceedings against [NAME of FRA] (in its capacity as employer or pension scheme manager) in relation to any matters that are covered by this agreement (other than a failure to abide by the terms of this agreement); and

The issues in my case have or will be addressed as follows:

[PARTIES TO INSERT RELEVANT ROWS FROM THE ANNEX 1 FRAMEWORK TABLE WITH AN ADDITIONAL COLUMN TO DOCUMENT THE ACTUAL PAYMENT, ADJUSTMENT AND/OR RECORD ALTERATION MADE FOR EACH SPECIFIC ISSUE FOR THAT MEMBER.]

Signed by [NAME of MEMBER] on [DATE]

Signed by [NAME] on behalf of [FRA] on [DATE]

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