

Freedom of Information request reference number: 6303.1

Date of response: 29 March 2022

Request:

The memorandum of understanding between the Local Government Association (LGA) and Fire Brigades Union (FBU), which sought to address "immediate detriment", has not been adopted by the London Fire Brigade (LFB)—despite the LFB being one of the respondents in the High Court claim that led to the agreement.

I would like to request the following information:

- Copies of all minuted meetings where this issue has been discussed. This information should include, but not be limited to, meetings of the Commissioners Board, Senior Management Team and the LGA.
- Copies of any correspondence between the LFC, LFB and Government, specifically, but not limited to the Home Office and Her Majesty's Treasury relating to the McCloud/Sargeant judgements, the processing of immediate detriment cases and the application of the remedy ordered by the Court.
- Details of instructions and correspondence between the LFC and the pension administrator regarding the processing of immediate detriment cases and the application of the remedy ordered by the Court.
- Details of any guidance, advice or equality impact statements that have been made by Counsel or within People Services regarding the continued discrimination against a protected characteristic.

Response 1:

Our Governance team have provided the following information:

Excerpts of minutes that mention "immediate detriment" from Local Pension Board meetings. I have attached these to this response. Please note, personal data has been removed from the minutes under [section 40 of the FOIA – Personal Information](#).

They have also provided copies of the reports noted in the minutes that mention "immediate detriment". These are made up of, 'Firefighters' Pension Scheme' reports and 'Local Pension Board' reports.

I have attached the reports to this response below. These documents are not protectively marked and will likely be published in full on our [website](#) in due course.

The Governance team also hold copies of some bulletins posted on the [Firefighters' Pension Schemes Regulations and Guidance](#) website.

Copies of these bulletins are available of the FPS Regulations website here:

<https://fpsregs.org/index.php/bulletins-and-circulars/bulletins>

The bulletins that the LFB Governance team held copies of which mentioned "*immediate detriment*" are listed as follows:

FPS Bulletin 36 – August 2020
FPS Bulletin 37 – September 2020
FPS Bulletin 38 – October 2020
FPS Bulletin 41 – January 2021
FPS Bulletin 46 – June 2021
FPS Bulletin 50 – October 2021
FPS Bulletin 51 – November 2021
FPS Bulletin 52 – December 2021
FPS Bulletin 53 – January 2022

We also hold a copy of another report which we will be able to release under the FOI act: Report no. LFC-0606 – '*Firefighters' Pension Scheme- LFC Treatment of Immediate Detriment cases*', which includes the '*Standard Equality Impact Assessment Form*'. In addition, our Finance team are collating any correspondence with other agencies.

I will look to provide you with a follow up response with report LFC-0606 and the correspondence as soon as possible.

We have dealt with this part of your request under the Freedom of Information Act 2000. For more information about this process please see the guidance we publish about making a request on our website: <https://www.london-fire.gov.uk/about-us/transparency/request-information-from-us/>

Excerpts from Local Pension Board minutes that relate to "immediate detriment"

13 Dec 2021 LPB agenda pack

MINUTES LOCAL PENSION BOARD

DATE Friday, 11 June 2021 TIME 10.00 am

9. Firefighters' Local Pension Board - Update Report - LPB-0039

The Assistant Commissioner, Finance, presented the report, with an additional update on the recent Immediate detriment guidance issued by the Home Office.

2020 Evaluations have commenced, in comparison to the 2016 evaluation there are a number of challenges expected. Immediate detriment will also feature in regard to the impact it will have on the pension scheme liabilities.

With regards to members training, Assistant Commissioner, Finance reinforced the importance of training current members and making sure new board members/substitutes meet the expected training requirements of the board.

Project Pace - [REDACTED] (LPP), provided an update on the work LPP have implemented in moving over to the new administration scheme. The project updates will be shared with LPB members on a monthly basis.

Employment Law & Litigation Unit Manager provided an update on immediate detriment. Updated informal guidance has been received from the Home office and the LGA. LFB members have not had the chance to discuss this guidance with LPPA or officers to discuss the changes that may need to be implemented, or LFBs position on the guidance.

Employment Law & Litigation Unit Manager advised there is ongoing litigation, although this guidance would not impact members that have already retired. There are currently 3 test cases going through the high court that will be dealt with separately. In regard to other cases, further guidance is still needed to proceed.

The Local Pension Board then noted the report

10. Any Other Business

a) Following guidance from the Home Office Regarding Immediate Detriment, it was agreed to hold an extraordinary meeting to discuss the impact and actions.

MINUTES LOCAL PENSION BOARD

DATE Friday, 16 July 2021 TIME 10.00 am

3. Immediate Detriment

The Chair stated that this meeting was being held to discuss the guidance received from the Home Office regarding the immediate detriment guidance.

The LFC Scheme Manager was asked to respond following the guidance that was received on 10 June 2021. The Assistant Director, Finance, addressed what action the London Fire Brigade had taken since receiving the Home Office Guidance. Officers were currently reviewing the guidance and providing briefing notes to those who support the decision-making process, such as the Director of Corporate Services and Director for People. LFB have also had discussions with the Local Pension Partnership (LPP) to understand what work needed to be done, and timescales for this. In terms of additional costs and challenges to the LFC, LPP would need to recruit and train additional staff. The details were still being discussed.

A report that explained what immediate detriment was and what was involved in preparing the cases

had begun through the Governance process. It was programmed for People Board, Corporate Services Board, Commissioner's Board and then onto Deputy Mayors' Fire and Resilience Board and would require a decision and approval from the Deputy Mayor as there were predicted costs in excess of 150,000.

██████████, LPP Technical Officer, discussed some of the complexities surrounding the cases. Discussions were taking place on surrounding implications and how calculations would be made per case. The LPPA Technical Officer detailed the different Pension schemes and how each one might be affected, noting that members who transferred from the 1992 Pension scheme to the 2015 scheme, would not be dealt with as part of the immediate detriment, their benefits would need to be converted back to the 1992 scheme, although there were not many of these cases. It was noted that some cases would need more accurate guidance provided by the Home Office as they could be outside the scope of immediate detriment.

The Assistant Director, Finance, queried if the complexities of the cases would be flagged on the administration system, or whether this would only be known through analysing the whole case. The Technical Officer stated that LPP can extract and highlight pension details at an early stage and anyone who has an annual allowance tax charge. The members that are most likely to be impacted by this change are those who have had a pay progression since moving into the 2015 scheme and as a result of this, will be calculated differently than the 1992 scheme.

The Chair stated that LPB has a responsibility to communicate more regarding the additional case to the summary hearing announced for October, and there needs to be a push for further communications around the cases and when they will commence.

The Assistant Commissioner, Fire Safety, queried if estimate figures of the number of people affected could be produced to assist in communicating with the affected members of the scheme.

The Deputy Assistant Commissioner, SW area, asked what strategic advice has come from the GLA and what other authorities are doing to solve the challenges the Technical Officer and the Assistant Director, Finance have highlighted.

In response to these queries, the Technical Officer advised that he is working with the LGA on communications. These Communications planned to explain the new scheme for fully protected members and how it would work from April 2022. The LGA also considered producing a series of videos to explain the options for different pension cohorts. Due to sensitivities around immediate detriment, the videos would not mention immediate detriment. LPP have had conversations with LGA around FRAs and advised speaking with all FRAs on a regular basis to come up with communications that would work across the board, but work had still yet to commence.

██████████ said he was aware that other Fire and Rescue services were able to administer the guidance and have commenced work, he also queried the timescales of the commencement of the cases.

The Assistant Director, Finance, stated in regard to communications, that the LFC should be relying on communications from the LGA. However, the issue was when this information is to be provided, further delaying the case process.

The Chair of LPB undertook to write to the Home Office and the GLA offering assistance regarding guidance and communications. Having this advice, would help determine what this means for LFB and the different categories of cases. In response to ██████████, Assistant Director, Finance, expressed that cases being dealt with by other fire services may be straight forward one with the least complexities. LFBs process is looking to treat everyone together instead of as individual cases.

The Deputy Assistant Commissioner, SW area, expressed his concerns around timing and the

decision-making process. He advised that there are different group notification periods that will give priority around groups and this might assist with dealing with the cases. There were also members that needed to be in a position to make decisions by the end of the year that might collide with the governance processes. The Chair expressed that timelines are stretched for LFB and expressed concerns regarding progressing the decision through LFB before the case in October 2021.

The Assistant Director, Finance noted that the Governance timeline and LPP lead times would add to the challenges. The Technical Officer added that where there are complexities within cases, new regulations and further guidance would need to be provided. The Technical Officer stated that LPP had been doing work on the assumption that some FRAs will be under immediate detriment and have been working on some of the documentation to support this. There would be ongoing work with FRAs to communicate this and give them as much notice as possible.

The Assistant Director, Finance suggested that the board list key things that need to be raised, to identify solutions to the challenges that the board face.

Deputy Assistant Commissioner, SW area, queried if there is any risk to LFB if individuals are not paid at this time, bearing in mind that guidance has been issued. The Employment Law & Litigation Unit Manager stated as the guidance is informal, there is no further risk in not paying before receiving the guidance. However, justifying why LFB are not paying becomes difficult with further Guidance.

The Chair then confirmed he will commence work around the letter to LGA encouraging them for further guidance.

Local Pension Board ACTIONS Arising 16 July 2021

Minute Item	Action	Update Position
3	Finance to provide an update on the Immediate Detriment report	Report going through LFC governance process. LPB updated. Completed
3	Finance and the Chair to liaise with LPPA to get clearer numbers of complex cases	Finance and LPPA working together to review number of cases of LFC staff affected by Immediate Detriment. Completed

Local Pension Board - Update Report

Corporate Services Directorate Board 7 December 2021

Local Pension Board 13 December 2021

1. Introduction and background
3. The following items will be considered as part of the report. These have been grouped to try to consider related issues together.

▯ Legal cases/issues

▯ Immediate Detriment

Legal cases/issues

Immediate Detriment

14. It is anticipated that the PSPJO Bill, with secondary legislation (the Remediating Legislation) will be enacted in or around October 2023. However, amendments to the PSPJO Bill have been proposed, which may be accepted. Prior to the Remediating Legislation coming into force, there

will be some individuals who may experience an immediate detriment by not being able to access their legacy scheme pension benefits. Immediate detriment refers to those members who have already retired or will do so before the Remediating Legislation is implemented.

15. In August 2020, and subsequently in June 2021 the Home Office (Police Workforce and Professionalism Unit) issued 'informal guidance' to FRAs (and the Police) on how to deal with 'immediate detriment cases' The details of the Home office Guidance are set out in previous LPB Update reports. The guidance documents had a number of deficiencies in that they did not address issues such as adjustments to employee contributions, tax relief on those contributions or the interest to be applied. The guidance also did not apply to those who had already retired and were in receipt of their pension payments, or to those who had died in service.

16. Owing to the delay in enacting the Remediating Legislation, the Local Government Association (LGA) and the Fire Brigades Union (FBU) developed a Framework and memorandum of understanding (the Framework) which was said to address a number of outstanding issues that needed to be resolved to make immediate detriment payments. The Framework was published on 8 October 2021.

17. It is a matter for each fire and rescue authority (FRA) to decide whether to adopt the Framework, but there is no legal obligation to do so.

18. Prior to taking a decision on whether to adopt the Framework, LFC officers have sought assurances to ensure that provisions are in place to effect payments under the Framework. Enquiries have been made with the Home Office on funding arrangements and discussions continue to take place with the Local Pension Partnership Authority (LPPA) regarding the administration costs and resources available to process immediate detriment cases, with particular regard to the need to undertake manual calculations in light of there being no systems available for automated calculations for immediate detriment. Within the last report to the LPB, the LPPA had estimated administration costs in excess of £150k. The LPPA have also confirmed that they are highly unlikely to be able to meet the timescales set out in the Framework of 62 days for category 1 cases and business as usual for category 2 cases.

19. Since publication of the Framework, HMRC published a policy document in late October 2021 and a Finance (No.2) Bill which both now indicate a move towards making payments of lump sums paid more than 12 months after retirement ('late lump sums') authorised. This change will affect category 2 members under the Framework, which officers estimate could be in the region of 1200 retirees. The secondary legislation required to make this change is anticipated to take effect from 6 April 2022.

20. This position differed to an earlier indication from HMRC that late lump sum payments would be unauthorised and payable by the FRA, to be reclaimed from the government under the new burdens principle. However, it has now been made clear that the risks and costs associated with making unauthorised payments will remain with each FRA and are unlikely to be recoverable.

21. On 19 November 2021, the FBU and LGA published a joint statement on the impact of HMRC's impending changes to the treatment of unauthorised payments. The view outlined within the statement was that category 1 cases can continue to be processed under the Framework, as can those category 2 cases who retired less than 12 months ago. It was however emphasised that further clarity was being sought from Home Office; adoption of the Framework remains a pragmatic resolution to making Immediate Detriment payments, but that the risks of making payments remains with the FRA. It was further confirmed that whilst the FBU accepted that there could be a potential tax issue arising from the Finance (No.2) Bill, they would not be prepared to accept any further delays in their members receiving Immediate Detriment payments.

22. Notification was received via the LGA on 29 November 2021 that the Home Office has withdrawn its informal and non-statutory guidance (see paragraph 14) on processing certain kinds of immediate detriment case ahead of legislation, with immediate effect. One of the reasons given for this withdrawal is the ambiguity surrounding the question of whether in advance of the Remedying Legislation, section 61 Equality Act 2010 provides all of the powers required to make remedy payments without significant uncertainty, risks and administrative burdens to individuals, FRAs and administrators. Within the same communication, the Home Office provided some information on the funding position, in that they do not advise that Immediate Detriment payments should be made in advance of legislation being enacted (anticipated to come into effect in October 2023); that they will not reimburse associated costs and that any Immediate Detriment payments not considered to be legitimate expenditure will need to be funded by the relevant FRA. Officers are currently working through the detail of the recent correspondence and its possible implications and whether further clarity should be sought from the Home Office on both the funding position and their interpretation of the lawfulness of making Immediate Detriment payments under section 61 Equality Act 2010.

Local pensions issues

Communication with members

54. Staff were communicated with on Hotwire in October on the Immediate Detriment Framework and Memorandum of Understanding that were published jointly by the Local Government Association (LGA) and FBU on Friday, 8 October 2021. They were asked for their patience and asked not to give notice at this time to either the LFC or the LPPA seeking remedy payments until a decision had been taken by LFC on whether to adopt the Framework.

55. The Board is reminded again of the LPPA website lppapensions.co.uk for employers and members to get all the information they need when it comes to pensions. The site will also give direct access to My Pension Online, so members can get the key information they need to manage their pension.

56. The LPB Comms working group has been set up with the aim to look at improving internal LFB communications to members. The LPB lead on this is reviewing how best to develop communications on pensions to staff and improving the pensions area on Hotwire.

LOCAL PENSIONS PARTNERSHIP RISK & COMPLIANCE REPORT London Fire 3rd November 2021

COMPLIANCE UPDATES

Industry Consultations:

A joint MoU between the FBU and LGA was issued setting out the Framework for Immediate Detriment which increased the scope to include Category 2 members (those who are already in receipt of benefits). A round table session was held with FRAs to gauge opinion on this and whether the FRAs that LPPA provide administration services for will sign up to the Framework.

Ref:	Risk Description	Owner	Likelihood rating	Impact rating	Priority Actions	Target mitigation deadline
R16	If Immediate Detriment undertaken by LFC - the	Assistant Director Finance	2	3	<ul style="list-style-type: none"> ▯ LPPA project team ▯ LGA Framework 	

	ability of the LPPA to effectively implement and administer the significant complex manual workloads involved and also that the LFC is able to effectively communicate on it to staff.				<ul style="list-style-type: none"> ▫ LPB Comms Working Group 	
R17	If Immediate Detriment undertaken by LFC – the risk on the financial pressure to LFC and LPPA including cashflow, significant additional administration costs and then costs to revisit, and financial consequences of getting it wrong.	Assistant Director Finance	2	3	<ul style="list-style-type: none"> ▫ To monitor and understand financial implications to LFC ▫ Discussions with Home Office on funding for additional costs. ▫ LGA Framework 	

2021-12-13-LPB draft minutes - 13 Dec meeting v4

MINUTES **LOCAL PENSION BOARD**
DATE **Monday, 13 December 2021**
TIME **2.00 pm**

7. Firefighters' Local Pension Board - Provision of Information

██████████ commented that there could be a lack of trust arising from the immediate detriment issue. ██████████ noted that it was hard to measure the impact of the pandemic on the way it had affected people. The Chair considered that the Brigade could learn from the past on how to encourage new recruits to join the scheme. He agreed that austerity was having an impact.

8. Firefighters' Local Pension Board - Update Report

The Finance Administration Manager stated that the Scheme Advisory Board with the Local Government Association (LGA), issued monthly bulletins for Members, which contained much useful information. He highlighted the importance of training and noted that sessions would be arranged. The Pension Regulator website also contained useful information.

The Finance Administration Manager stated that communication with members was a major issue. The Communications Working Group was chaired by ██████████ and the Finance Administration Manager would be working closely with him in the new year. Members would be written to regarding the reformed Firefighters' Pension Scheme 2015. There were many issues arising from the McCloud and Sargeant cases. The Board noted the difficulties arising from the lack of guidance from the LGA concerning immediate detriment. ██████████ commented that the Memorandum of Understanding agreed between the LGA and Fire Brigades Union (FBU) had been impacted following the government's withdrawal of informal guidance to Fire and Rescue Authorities (FRAs) on the processing of immediate detriment cases until legislation had been enacted. He stated that the LPPA was holding some round table meetings to help employers work together to share best practice. The Assistant Director, Finance stated that it was important to recognise that communications were wider than immediate detriment, and were also about the benefits of being in the scheme.

██████████ noted that the Memorandum of Understanding had arisen from the court cases and that members were entitled to benefits under the 1992 Firefighters' Pension Scheme. He was concerned that the London Fire Commissioner had not taken a decision to pay them those benefits. The Chair stated that the Board needed to know when the Commissioner would take a decision on immediate detriment. The Employment Law and Litigation Unit Manager stated that it was not possible to provide a date at this stage. The Commissioner had written to the Home Office on a number of occasions to seek clarity on funding but their responses were not within his control. The Assistant Director, Finance stated that legislation was being enacted to put a remedy in place. The Chair noted that the legislation would be in place in October 2023 but in his view, it was unacceptable to take no action before that time. The Assistant Director, Finance explained that one of the roles of the Board was to advise the Commissioner and all the points needed to be identified and understood in order to properly advise him. The Chair stated that the FBU would write to the Commissioner to state their position. The Assistant Director, Finance stated that all calculations for individuals' pensions would need to be done manually and that was very difficult to do without guidance from the Home Office, systems and legislation.

The Chair asked whether the Scheme Advisory Board had given any guidance on the Memorandum of Understanding. ██████████ stated that the LGA would hold an update session on 14 December 2021, which he hoped would provide some clarity. There would also be a roundtable with all Fire and Rescue

Authorities (FRAs) on 15 December 2021. The Board requested [REDACTED] to keep them updated about any information relating to timescales for immediate detriment.

The Assistant Director, Finance stated that he had much sympathy for individual members. In response to a question about the likely costs, he stated that it was very difficult to calculate. Approximately 550 current members were impacted and also members who had retired since 2015. The likely costs from members retiring earlier than expected would be approximately £80 million and if benefits were calculated under the legacy rules that would be approximately an additional £20 million, totalling approximately £100 million. The risk for the Commissioner was that if the LFC made the immediate detriment payments now it might not be able to recover the costs when the remedy legislation was implemented; the expectation was that once the remedy legislation was implemented, the LFC would be able to recover the costs. The Chair noted that it could take until 2024 to pay the immediate detriment. The Assistant Director, Finance explained that in April 2022 all members would move to the reformed Firefighters' Pension Scheme 2015. In October 2023 it was expected that the new system would be in place and it could then take FRAs another 18 months to issue statements.

The report was noted.

CB Minutes 6 October 2021

MINUTES	COMMISSIONER'S BOARD
DATE	Wednesday, 6 October 2021
TIME	9.00 am

3. Declarations of Interest

Declarations of interest were noted from the Assistant Commissioners, Fire Safety and Fire Stations in respect of item 10, Firefighters' Pension Scheme - LFC Treatment of Immediate Detriment cases.

10. Firefighters' Pension Scheme - LFC Treatment of Immediate Detriment cases LFC-0606

The Assistant Commissioners Fire Safety and Fire Stations and the observer had declared an interest in the decision and left the meeting for this item.

The Assistant Director, Finance introduced the report which outlined the position in relation to Immediate Detriment cases under the McCloud/Sergeant ruling which determined that the transitional arrangements under the 2015 Firefighters Pension Scheme were discriminatory on the grounds of age.

The report considered the case for making payments under Immediate Detriment and the costs and risks in doing so.

The Commissioner asked to be notified of the external Ministerial stakeholders and LGA Officials involved, and whether it would be beneficial for him to have a discussion with them.

The Assistant Director, Finance noted the assumption that the framework would be in place before the possibility of summary judgement of the outstanding legal cases and that these cases may indeed be settled shortly in advance of the court hearing.

Concern was expressed by the Board members regarding the Home Office funding for the 75Million to meet the Immediate Detriment claims and that such delegation to take remedial steps as set out in the recommendations be subject to confirmation by the Home Office of funding being made available, due to LFC budgetary concerns .The Assistant Director, Finance undertook an action to revise the wording of the recommendations.

General Counsel noted that, the report was not subject to legal privilege, and could be published and shared, at the point of decision, if the London Fire Commissioner was minded to take the decision.

Subject to amendment to the recommendations and the approval of the Deputy Mayor The Commissioner's Board agreed to recommend that the London Fire Commissioner noted the content of the report and approved that upon the Framework being published, delegated authority is given to Assistant Director, Finance to:

1. After consultation with General Counsel, to decide whether to accept the Framework, detailing how Immediate Detriment payments should be made, including to those members with forthcoming FPS retirements and those who have already retired.
2. To implement the Framework as necessary and to review, at intervals, its arrangements in consultation with the LGA and LPPA.
3. Upon the Framework being agreed, to instruct the LFC pensions administrators, Local Pensions Partnership Administration (LPPA), to start processing Immediate Detriment cases and to authorise expenditure of up to £2,500,000 to cover the resulting likely additional administration costs.
4. To manage the cashflow consequences to LFC under the Framework, in advance of the FPS remedying legislation intended to be implemented by October 2023, to remedy the McCloud/Sargeant case, estimated at £75,000,000.

Local Pension Board - 27 September 21

LOCAL PENSION PARTNERSHIP

RISK & COMPLIANCE REPORT

London Fire

5th July 2021

COMPLIANCE UPDATES

McCloud – Immediate Detriment:

A round table meeting was held with FRAs to discuss the Home Office guidance on Immediate Detriment. LPPA is working with FRAs to introduce an appropriate process.

LOCAL PENSION PARTNERSHIP

RISK & COMPLIANCE REPORT

London Fire

4th August 2021

COMPLIANCE UPDATES

McCloud – Immediate Detriment:

LPPA has provided a copy of it's Agreement (Disclaimer) to all FRA's and Police for handling Immediate Detriment cases. LPPA would like to have one standard Agreement for all FRA's therefore, the sooner acceptance of the Agreement can be reached, the sooner we can commence the process. LPPA require the following documentation to enable the I.D. process to commence:

- Immediate Detriment Work Order
- LPPA Immediate Detriment T&Cs
- Immediate Detriment PID
- Immediate Detriment Disclaimer
- Immediate Detriment instruction to LPPA

Local Pension Board 14 March 2022 Agenda Pack

LOCAL PENSION PARTNERSHIP

RISK & COMPLIANCE REPORT

London Fire

3rd December 2021

COMPLIANCE UPDATES

Immediate Detriment:

The Home Office guidance on Immediate Detriment, which had been released in June 2021, and based on section 61 of the Equality Act 2010 has been withdrawn.

The Home Office said:

Whilst section 61 permits individuals affected to be treated as members of their legacy scheme, given the uncertainty around how it operates on some of the detailed elements of the McCloud remedy, HMT no longer views the current version of the Home Office guidance as accurately representing the situation. Unfortunately, that uncertainty also means the guidance cannot be revised to give schemes a clear way forward on how to process these cases that is certain to be correct. Home Office have therefore taken the difficult decision to withdraw this guidance.

It is also important to note that if schemes process cases and run up against tax issues which it is not straightforward to resolve – because the situation is either ambiguous under current rules due to uncertainty about how section 61 acts on some elements, or the current rules generate unwelcome tax outcomes – they will have to operate within the existing tax legislation and HMRC will not be able to help resolve those issues. This may mean that individuals could face unwanted tax bills and/or corrections to their tax affairs, which may then need to be corrected again once the legislation is in place.

For cases that have already been dealt with, or are in the process of being dealt with, the new legislation will give powers intended to allow schemes to put these individuals into the correct position, drawing on the provisions of the McCloud Bill. However, this could entail significant second or third corrections and so HMT would not advise that schemes continue to process cases on the assumption these provisions will mean a smooth and predictable experience for themselves and for members.

Local Pension Board agenda pack - 09 March 2021

MINUTES LOCAL PENSION BOARD

DATE Wednesday, 13 January 2021 TIME 2.00 pm

8. Firefighters' Local Pension Board - Update report - LPB-0033

The Assistant Director Finance introduced the report and provided an update on information since the report was despatched for the postponed December LPB meeting. A meeting is being held by the NFCC after LPB to discuss concerns about the immediate detriment cases. The guidance the Home Office provided is inconsistent with the current scheme regulations. It was noted that additional funding from the Home Office has increased significantly. The Home Office has advised that we will receive an additional one-off funding for increased employer costs following the scheme valuation 2016 and this will be built into the base budget for future years. It was also noted that the relationship work with the Pensions Regulator has been put on hold due to Covid-19 but an update on this is expected in due course.

██████████ notified the board that the FBU have instructed their legal teams as of December 2020, to prepare legal proceedings to force fire services to allow members to retire under the 1992 pension scheme. Further information on this will be sent to officers.

The Chair asked if the documents needed for the Pensions Regulator annual scheme return had been prepared and returned before the deadline, ██████████ confirmed this action had been completed.



Report title

Firefighters' Pension Scheme Risk Plan

Report to

Local Pension Board

Date

27 September 2021

Report by

Assistant Director, Finance

Report number

LPB-0042

Protective marking: **NOT PROTECTIVELY MARKED**

Publication status: Published in full

If redacting, give reason:

Executive Summary

This report provides an update to the Risk Plan for the London Fire Commissioner (LFC) Firefighter's Pension Scheme. The plan addresses the significant risks which are likely to have a material impact on the scheme and a summary of the controls in place to mitigate those risks.

Recommended decision(s)

That the Local Pension Board considers the Firefighter's Pension Scheme Risk Plan and agrees any changes.

Introduction and Background

1. A separate full report on the Firefighter's Pension Risk Plan is produced twice a year for review by the Board, once in the summer and once for the LPB Annual Report. For the rest of the year the risk plan is included within the regular LPB Update Report.

LPB Risk Requirements

2. The Public Service Pensions Act 2013 requires that the Scheme Manager of a public service pension scheme must establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed
 - (a) in accordance with the scheme rules, and
 - (b) in accordance with the requirements of the law.
3. The Pensions Regulator has issued a Code of Practice (CoP) on Internal Controls in order to provide practical guidelines on the requirements of the Public Service Pensions Act 2013 set out above. The CoP explains that the implementation and application of internal controls will help trustees monitor the management and administration of their schemes. Internal controls will also improve the safe custody of assets and help protect the scheme from adverse risks which could be detrimental to the scheme.

4. The CoP explains that all schemes are required to have internal controls and that risks to the scheme will need to be reviewed to assess which risks the scheme can absorb without the need to take further action, and which risks require adequate internal controls to reduce their incidence and impact.
5. In addition to this risk register being prepared, there should also be similar registers on the scheme overall for the Scheme Advisory Board, and by the LFC's pensions administrators LPFA (subcontracted by LPFA to LPP).

Risk Register

6. A risk review has been carried out for the Firefighters' Pension Schemes and a range of both internal and external risks have been identified. These risks are set out in the risk register that is provided at Appendix 1 to this report.
7. The risk register also sets out how internal controls will help to mitigate those risks. Internal controls are reviewed as part of regular audits by the LFC's internal audit function, managed by MOPAC. The risk register provides a starting point for MOPAC in its preparation of the annual audit plan. The assessment of risk, and the controls to mitigate this, should be viewed as a continuous cycle and must take account of any changes in environment. The risk register has been entered onto the LFB's Performance Management Framework (PMF) system, to support ease of access and monitoring. The LFB is currently replacing PMF and is changing the way that risk registers are presented. The LPB's Risk register will be changed in line with these going forward when the LFC's Risk Team's work plan allows to provide support and training to the Board.
8. The Board is asked to consider the risk register and review the existing items and their risk rating. The LPB is also asked to consider if additional risks should be added.

The summary corporate risk profile

9. The LFC risk profile can be plotted on the standard risk threshold, set out in Table 1 below, and is used to score risks on their likelihood and impact.

Table 1: FPS Summary Risk Profile

Likelihood	Very Likely 4				
	Likely 3				
	Unlikely 2	R10	R11	R1 R4 R7 R15 R16 R17 R18	
	Very Unlikely 1			R3 R5 R9 R6 R12 R13	R8 R14
		Minor 1	Significant 2	Major 3	Catastrophic 4
		Impact			

10. Risk appetite is the amount of risk that the LFC is prepared to tolerate in order to meet its objectives and reflects its attitude towards risk taking as an organisation.
11. The LFC's risk appetite is set out in its risk management strategy and can be described as low to low-medium. As mentioned above, the LFC is updating its risk management approach and the LPB Risk Plan will be updated to reflect this at a later stage.
12. The LFC's risk appetite supports informed risk taking but risks that are rated as very likely and catastrophic (4x4), very likely and major (4x3), likely and catastrophic (3x4) or unlikely and catastrophic (2x4) will still be deemed to be above the LFC appetite. These risks will be subject to extra scrutiny to check that the rating is correct, whether the activity can be pursued and what immediate management action can be taken to bring the risk to within more acceptable limits.
13. The LFC risk profile is used to define the risk appetite threshold for the organisation as a whole. and this is represented by a thick black line. This then demonstrates that all green risks, and amber level risks that are unlikely (2x3) and/or significant (3x2), are within acceptable limits.
14. There are two risks exceed the LFC risk appetite as follows:

- R8 Computer system and database failures although this is mitigated by system recovery plans and data back-up procedures.
 - R14 LPPA project PACE changing software suppliers so all LFC pension data will be transferred with risk of loss or corruption
15. There is also one risk, R1 on the valuation, where the risk rating was reduced with the likelihood falling from 4 very likely to 2 unlikely. This is following further updates from the Home Office that the one-off additional pension funding to meet the increased costs from the Valuation 2016 will be repeated in 2021/22 and is expected to be built in to base funding from 2022/23.
16. Three new risks have been added to the risk register as follows:
- R16 If Immediate Detriment is undertaken by LFC - the ability of the LPPA to effectively implement and administer the significant complex manual workloads involved and also that the LFC is able to effectively communicate on it to staff.
 - R17 If Immediate Detriment undertaken by LFC – the risk on the financial pressure to LFC and LPPA including cashflow, significant additional administration costs and then costs to revisit, and financial consequences of getting it wrong.
 - R18 Valuation 2020 of Firefighter's Pension Scheme impact on scheme costs - this has the risk of increased contributions following the implementation of the McCloud/Sargeant remedy.

Objectives and Expected Outcomes

17. That the LPB review the Firefighter's Pension Scheme Risk Plan and note this report.

Impacts

Equality Impact

18. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
19. The Public Sector Equality Duty requires us, in the exercise of all our functions, to have due regard to the need to:
- a. Eliminate discrimination, harassment and victimisation and other prohibited conduct.
 - b. Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
 - c. Foster good relations between people who share a relevant protected characteristic and persons who do not share it.
20. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (;

- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

21. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) tackle prejudice, and
(b) promote understanding.

The protected characteristics are:

- Age,
- Disability,
- Gender reassignment,
- Pregnancy and maternity,
- Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination),
- Race (ethnic or national origins, colour or nationality),
- Religion or belief (including lack of belief),
- Sex (Gender),
- Sexual orientation.

22. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.

23. The Equality Impact Assessment (EIA) for this regular report was reviewed on 06/09/21. The impact assessment found neutral impacts identified and steps taken to mitigate these.

Procurement and Sustainability

24. This report does not introduce any new sustainability impacts. Where new policies and/or corporate projects arise, they are subject to the Brigade's sustainable development impact assessment process.

Strategic Drivers

25. There is a statutory requirement for the LFC to have a Local Pension Board.

Workforce Impact

26. Staff side are represented on the Local Pension Board and so will have an opportunity to comment on this report at the LPB meeting on 13 September 2021.

Finance comments

27. This report is by the Assistant Director, Finance and there are no additional comments.

Legal comments

28. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of

that office. Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.

29. The Local Pension Board was established under the Firefighters Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator. The Pension Regulator's Code of Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

List of Appendices

Appendix	Title	Protective Marking
1.	Risk Register	Not Protectively Marked

Consultation

Name/role	Method consulted
Hameera Darr – General Counsel's Department	Draft report
Tiffany Oarton - Equality Manager	Draft report
Nicole Fletcher – Sustainable Development	Draft report

Appendix 1 – LPB FPS Risk Plan

Summary

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R1	Valuation 2016 of Firefighter's Pension Scheme impact on scheme costs, including impact of transitional arrangements legal claim	Assistant Director Finance	2	3	<ul style="list-style-type: none"> To monitor and understand implications for staff and employer Continue conversations with the Home Office on funding of the scheme To communicate clearly with stakeholders to prevent any unnecessary negative impact 	<ul style="list-style-type: none"> The next valuation is due to be implemented from April 2024
R3	Auto enrolment 2022 – Statutory requirements not met	Assistant Director People Services	1	3	<ul style="list-style-type: none"> Ensure planning and communication with staff is in place 	
R4	Risk that existing controls are not operating effectively	Assistant Director Finance	2	3	<ul style="list-style-type: none"> Periodic control reviews by LPP and MOPAC 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R5	Risk of fraud (misappropriation of assets and fraudulent financial reporting including member related fraud)	Assistant Director Finance	1	3	<ul style="list-style-type: none"> Segregation of duties; frequent reconciliation procedures for cash and investment balances Undertaking National Fraud Initiative (NFI) exercise Life certificate exercise Regular reviews of member benefits 	
R6	Compliance/regulatory risk (failure to comply with scheme rules and legislation)	Assistant Director Finance	1	3	<ul style="list-style-type: none"> Compliance audits by MOPAC; 	
R7	Non-compliance or maladministration by administration team or third party advisers, e.g. outsourced administrators (poor record keeping)	Assistant Director Finance	2	3	<ul style="list-style-type: none"> Peer review of key controls by administration team; authorisation procedures; periodic meetings between LPB and LPPA; service level agreement reviews. Training following Ombudsman ruling 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R8	LPPA Computer system and database failures	Assistant Director Finance	1	4	<ul style="list-style-type: none"> System recovery plans; data back-up procedures; password controls Implementation of new pension administration system – Project PACE 	
R9	Poor scheme management (ineffective stewardship by those with delegated responsibility)	Assistant Director Finance	1	3	<ul style="list-style-type: none"> Regular LPB meetings; decisions taken within the formal structure of LPB meetings; minutes prepared for all meetings; Training 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R10	Scheme Membership numbers – Possible industrial action and members opting out	Assistant Director People Services	2	1	<ul style="list-style-type: none"> • Communication with existing staff and new joiners is maintained on important issues • LPB Comms working group set up with the aim of improving internal LFB communications to members on benefits of FPS • LPB Equalities working group set up to help the Board better understand some of the underlying reasons as to why higher numbers of women and BAME staff don't enrol and /or opt out of the scheme and improve pension take up 	
R11	Risk of pension administrators withdrawing from the market	Assistant Director Finance	2	2	<ul style="list-style-type: none"> • Regular meetings with administrators • Communication with other FRAs and SAB 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R12	LPPA commitment to 3 rd party administration including LFB FPS administration	Assistant Director Finance	1	3	<ul style="list-style-type: none"> • Regular meetings with administrators • Formation of the LPPA and their increased investment in staff, systems and processes 	
R13	Pension administrator's business continuity arrangements failing to deal with Covid19 pandemic leading to members not getting pensions	Assistant Director Finance	1	3	<ul style="list-style-type: none"> • LPPA Business Continuity Plan including staff remote working, ability to move work to other teams in the country, previous investment in electronic systems 	
R14	LPPA project PACE changing software suppliers so all LFC pension data will be transferred with risk of loss or corruption	Assistant Director Finance	1	4	<ul style="list-style-type: none"> • LPPA project plan, dedicated team and regular updates to LFC and the LPB. • New software company's experience of data transfers 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R15	The implementation of the remedy from the McCloud case will require new regulations and significant additional work, and therefore has risks in its implementation	Assistant Director Finance	2	3	<ul style="list-style-type: none"> • LPPA project team • LGA pension advisors 	
R16	If Immediate Detriment undertaken by LFC - the ability of the LPPA to effectively implement and administer the significant complex manual workloads involved and also that the LFC is able to effectively communicate on it to staff.	Assistant Director Finance	2	3	<ul style="list-style-type: none"> • LPPA project team • LGA Framework • LPB Comms Working Group 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R17	If Immediate Detriment undertaken by LFC – the risk on the financial pressure to LFC and LPPA including cashflow, significant additional administration costs and then costs to revisit, and financial consequences of getting it wrong.	Assistant Director Finance	2	3	<ul style="list-style-type: none"> To monitor and understand financial implications to LFC Discussions with Home Office on funding for additional costs. LGA Framework 	
R18	Valuation 2020 of Firefighter's Pension Scheme impact on scheme costs - this has the risk of increased contributions following the implementation of the McCloud/Sargeant remedy.	Assistant Director Finance	2	3	<ul style="list-style-type: none"> To monitor and understand implications for staff and employer Continue conversations with the Home Office on funding of the scheme To communicate clearly with stakeholders to prevent any unnecessary negative impact 	<ul style="list-style-type: none"> The next valuation is due to be implemented from April 2024



LONDON FIRE BRIGADE

Report title

Local Pension Board - Update Report

Report to	Date
Local Pension Board	27 September 2021
Report by	Report number
Assistant Director of Finance	LPB-0041

Protective marking: **NOT PROTECTIVELY MARKED**

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Executive Summary

This report provides members of the Local Pension Board (LPB) with an overview and update on the position relating to a number of current issues affecting firefighter pensions.

Recommended decision(s)

That the LPB note the content of the report.

Introduction and Background

1. The purpose of the LPB is to assist the London Fire Commissioner (LFC) as the Scheme Manager:
 - (a) To secure compliance with legislation relating to the governance and administration of the firefighters' pension schemes, and any requirements imposed by The Pensions Regulator in relation to the firefighters' pension schemes (FPS); and
 - (b) To ensure the effective and efficient governance and administration of the FPS.
2. This report provides an update on a number of issues considered to be relevant to the LPB's role. The issues, whilst all relating in some way to the firefighters' pension scheme, are quite disparate in nature. They vary quite significantly in their complexity, the stage they are at, and their impact on LFC.
3. The following items will be considered as part of the report. These have been grouped to try to consider related issues together.
 - Legal cases/issues
 - Transitional arrangements for the 2015 FPS - McCloud and Sargeant cases
 - Immediate Detriment
 - Immediate Detriment - High Court Claims
 - Public Service Pensions & Judicial Offices Bill (PSP&JO)

- Pensions issues
 - Member Self Service (MSS)/My Pension Online
 - Guaranteed Minimum Pensions (GMP) Reconciliation
 - Pension Tax – Accounting For Tax (AFT) and Event Reporting
- Firefighter pensions
 - Valuations
 - Scheme Advisory Board (SAB)
 - Actions arising from the SAB Bulletins
- Local pensions issues
 - LPB Member Training
 - LPFA/LPPA arrangements
 - LPPA Project PACE (Pension Administration Core Evolution)
 - Covid19
 - Communication with members
 - The Pensions Regulator (TPR) – Relationship Supervision
- Consultations, Surveys and Returns
- Firefighters' Pension Scheme Risk Plan

Legal cases/issues

1. It is a requirement of the Public Service Pensions Act 2013 and subsequent 2015 regulations, for members of a Local Pension Board to have a knowledge and understanding of the law relating to pensions and such other matters.
2. This section provides an update on the latest relevant legislative cases/changes that impact on the pension scheme.

Transitional arrangements for the 2015 FPS

3. LPB members will be aware from previous LPB reports, of the ongoing legal proceedings relating to the transitional provisions (protection arrangements) for the Firefighters Pension Scheme (FPS) 2015. By way of summary, in 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters' and Judges' Pension Schemes (Sargeant and McCloud cases). The government then confirmed that it would remove the difference in treatment across all main public service pension schemes, including the FPS.

Immediate Detriment

4. In August 2020, the Home Office (Police Workforce and Professionalism Unit) issued 'informal guidance' to FRAs (and the Police) on how to deal with 'immediate detriment cases' The details of the Home office Guidance is set out in previous LPB Update reports

5. Due to a number of deficiencies within the Home Office Guidance, which have also been outlined in previous reports, the decision was taken not to progress the Immediate Detriment cases until further clarification was received.
6. Following a Government consultation over the period July to October 2020, the Government announced in February 2021, the implementation of a deferred choice underpin (DPU), which allowed eligible members a choice when they retire of taking their benefits under the FPS 2015 scheme (the Reformed Scheme), or the FPS 1992, (the Legacy Scheme) for the remedy period identified in the McCloud and Sargeant cases of 1 April 2015 to 31 March 2022.
7. On 10 June 2021, the Home office published updated informal guidance to FRAs on Immediate Detriment payments for the Firefighters' Pension Scheme (FPS). The updated guidance was issued pending legislation which will address the discrimination identified by the Court of Appeal in the McCloud and Sargeant cases. The guidance only applies to;

individuals who were members or eligible to be members of a legacy scheme (in the FPS 1992), immediately prior to 1 April 2012 and have a record of service after 31 March 2015, during which they were members of a legacy or reformed scheme, where those periods of service are continuous including those with a qualifying break in service of less than 5 years – (this is irrespective of whether they have submitted a legal claim or not and who

- i. become eligible to retire (for any reason, including ill health) and draw their pensions and want to have all their benefits paid from their legacy scheme (ie they do not accept the 2015 Scheme benefits) **or**,
- ii. do not qualify for lower tier (and therefore higher tier) ill health pension under the single pot Ill Health Retirement (IHR) arrangements, and are therefore left without a pension in payment, but would be eligible under the IHR arrangements in their legacy scheme

will be able to opt to receive an Immediate Detriment payment

8. The updated Home Office guidance does not apply to those who have already retired and are in receipt of their pension payments, or to those who have died in service. The guidelines do not deal with several outstanding issues such as adjustments to employee contributions, the tax relief to those contributions, how those contributions will be collected and what interest should be applied. These matters are unlikely to be resolved before the legislation is implemented, which is likely to be in or around October 2023.
9. To reduce the risk of further legal claims being brought prior to the legislation being enacted, discussions are ongoing between the LGA and the Fire Brigades Union (FBU) to develop a framework for processing Immediate Detriment cases, which FRA's will be able to sign up to. The framework may also set out the arrangements for making Immediate Detriment payments to retirees.
10. With the further guidance from the Home Office, recent legal advice, the potential framework, and the Local Pension Board's views, officers are preparing a report to the Commissioner's Board and also the Fire Resilience Board in October, following publication of the Framework, to seek a Commissioner's Decision on the treatment of Immediate Detriment for LFC staff.

11. Officers are also working with the LPPA on a proposal from them on the costs, resourcing and practicalities of processing Immediate Detriment cases if the LFC decision is to progress with them. This will require additional resources at the LPPA and therefore the report will then proceed through the City Hall process to allow the LFC to then take a formal decision to incur additional costs with the LPPA that will be in excess of £150k.

Immediate Detriment - High Court Claims

12. As stated in the last LPB report, proceedings have recently been issued in the High Court by three claimants, two of which were formerly employed by Nottinghamshire and City of Nottingham Fire and Rescue Authority (Notts) and one formerly employed by LFC.
13. The claimants assert that they have suffered an immediate detriment because they were moved to the 2015 Scheme and have since retired and they are claiming a declaration from the High Court that they are entitled to have their pension benefits calculated and paid under the FPS 1992; damages; interest; and costs.
14. The LFC submitted a joint Defence with Notts to the High Court claims. The current position is that the Claimants have submitted an application for Summary Judgment which has been listed for hearing on either 20 or 21 October 2021. It is hoped that the Framework Agreements will be finalised in advance of the above hearing date.

The Public Service Pensions and Judicial Offices Bill (PSP&JOB).

15. The PSP&JOB was introduced to Parliament on 19 July 2021. The legislation will set out how the government will remove the discrimination identified by the Court of Appeal in the Sargeant and McCloud case. It will implement changes across all main public service pension schemes. In summary,
- Eligible members will have a choice of the benefits they wish to take for the remedy period of April 2015 to 31 March 2022
 - From 1 April 2022, when the remedy period ends, members in service will transfer to the reformed scheme, thereby ensuring equal treatment from that point on.
16. The Home Office has also introduced an updated [Home Office Q & A document](#) which will be kept under review and updated as appropriate.

Pensions issues

17. This section provides an update on general pensions issues.

Member Self Service (MSS)/My Pension Online

18. As previously reported, the new LPPA website was recently launched that should make it easier for staff to access the LPPA on-line members self-service, My Pensions On-line. The website is lppapensions.co.uk
19. The LPPA sent out the Active Members Newsletter in July 2021 which was uploaded to My Pensions Online (MPO). For members without an MPO account who the LPPA hold an email address for, they will receive a direct link to the newsletter.

20. The LPPA also sent out the Annual Benefit Statements (ABS) for Deferred members in June and Active members in August 2021. These were uploaded to MPO.

Guaranteed Minimum Pensions (GMP) reconciliation

21. The Board may recall that the GMP reconciliation project was started back in 2015 as a 3-stage process to ensure that pension scheme records agree with those of the National Insurance Contribution Office (NICO, part of HMRC). This enables a pension scheme to consider its data as clean and entirely reliable.
22. There is long-running litigation concerning equalisation for the effects of GMPs. A Judgment from the High Court (Lloyds) has clarified what pension schemes must do in relation to previous transfers out after 17 May 1990 (the date of the *Barber* decision) where the transferring member had a right to a GMP.
23. As previously reported to the Board, the LPPA through the LPFA was contracted to do the necessary work for LFB and has completed stages 1 and 2.
24. Stage 3 was the final data cut provided by HMRC (all member statuses) for reconciliation and then rectification. The rectification work requires LPPA updating Altair pension system records, conducting full pension reviews and calculating under/overpayments plus accrued interest and contacting those affected pension members in writing. The final remedial work for phase 3 is being carried out by a LPPA dedicated specialist team and commenced on 6th April 2021 and the updates to Altair to upload the GMP figure for active and deferred members (545 cases) were expected to be completed by end of June 2021.
25. The LPPA have confirmed that 25 of the 27 manual pension reviews have been completed (92.6%) which have resulted in the following:
- Payment arrears of £2,563
 - Overpayments of £22,330
 - Net annual payroll reduction of £186
26. The Board will be kept informed of progress.

Pension Tax – Accounting For Tax (AFT) and Event Reporting

27. Officers confirm that they have met the statutory deadlines of 14 August 2021 for completing the AFT returns and making any necessary payments to HMRC.
28. LPPA currently process the Annual Allowance (AA) correspondence as part of the administration service to Clients, issuing communications and receiving requests from members who are impacted on an annual basis. These members have historically been offered appointments, usually on a 1-1 basis, to discuss the information contained within their AA correspondence.
29. LPPA's Risk & Compliance Team have assessed the current AA process as extremely high risk and therefore LPPA is unable to continue to facilitate this process in its current form. The rationale for this decision is that LPPA is not authorised by the Financial Conduct Authority (FCA) to provide financial advice. The 1-1 appointments are intended to provide factual information and guidance only to members, however, there is a fine line between guidance and advice. The risk of a member perceiving their conversation with LPPA as advice or a recommendation to take any action is concluded to be too high and places LPPA in a position where the FCA could impose

sanctions and/or a fine for LPPA providing unauthorised advice. The impact of any such action by the FCA is outside of LPPA's risk tolerance and has led to some complaints.

30. For this reason, the LPPA have informed LFC and other clients that they will no longer provide AA related appointments with members who will now need to make their own provision, with regards to seeking independent financial and/or tax advice.
31. The LPPA will continue to issue the standard AA letters (these are usually sent out between September and October), which informs members to take specific actions, and notifies them of relevant deadlines (depending on their circumstances). Similarly, they will continue to process scheme pays requests. Requests for guidance / support from Members are usually received following the issue of these letters.

Firefighter pensions

32. This section provides an update on firefighter pensions issues.

Valuations

33. As previously reported to the Board, there was a material increase in the cost of employer contributions for the existing firefighter pension schemes, following the scheme valuation 2016. That increase was assessed at £25m and is largely as a result of changes, by Government, to the discount rate used in valuing future liabilities. A grant of £22m was provided to offset this pressure in both 2019/20 and 2020/21, with the grant also confirmed to be repeated in 2021/22.
34. It is also now expected that additional funding at this level will be built into base funding from 2022/23. The risk on the risk register has been updated to reflect this.
35. Officers are providing the Government Actuary's Department (GAD) with the 2020 valuation data.
36. In July 2020 the government announced a review to the mechanism to control the cost of public service pensions for future valuations. While this review will not affect the process of the 2016 cost cap valuation which will continue on the current mechanism, the 2020 valuation will be subject to any recommendations as a result of this review.
37. The Government announced that due to interactions with wider pension policies, in particular the implementation of the McCloud remedy reforms, completion of the 2016 valuation process and the review of the cost control mechanism, any changes to employer contribution rates resulting from the 2020 valuations will be delayed from April 2023 to April 2024. This means that employer contributions will remain at the same rate as set in the 2016 valuation until 2024.
38. The Board will be kept informed of any further developments.

Scheme Advisory Board (SAB)

39. Members are reminded of the SAB website – www.fpsboard.org which provides a reference site for knowledge, procedures, policies and examples of best practice across the Fire Sector.
40. The SAB monthly Firefighters' Pensions Schemes bulletin is regularly circulated to LPB members and as requested by the Board is added as appendices for information. Bulletins for May, June

and July are attached to this report as Appendices 1,2 and 3 respectively. This update report should cover most of the relevant areas included in the Bulletins.

41. There are a number of actions outlined in the bulletins, and details are provided below:

Bulletin Date	Action to be taken	Comment
<u>May2021</u>	Remedy self-assessment survey: FRAs to complete SAB remedy self-assessment survey by 30 June 2021. Survey link has been emailed to authorities.	Completed
<u>June 2021</u>	None	N/A
<u>July 2021</u>	None	N/A

42. The Board should be aware that Clair Alcock will be leaving the LGA as Fire Pension Advisor and SAB Board Secretary to take up a new role as Head of Police Pensions with the National Police Chiefs' Council (NPCC) and will be replaced by Clare Hey, who is currently Clair's deputy.

Local pensions issues

43. This section provides an update on local firefighter pensions issues.

LPB Member Training

44. As previously reported, The Pension Regulator 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.

45. Board members are reminded again of The Pension Regulator's online training tool and encouraged to utilise it. The link to it is: www.thepensionsregulator.gov.uk/en/public-service-pension-schemes. Once the modules are successfully completed Board members are asked to notify the LPB Clerk to record the training.

46. A record of members' training is attached as Appendix 4 showing the position on the Pensions Regulator's Public Service Toolkit for all LPB members, as well as detailing other relevant training that Board members have attended. Officers will arrange for LPB member training to be provided to the Board by the LGA's fire pensions adviser. Officers will also ask the LPPA to continue with a short training session at each LPB meeting if it is considered useful.

LPFA/LPPA arrangements

47. Some key areas of LPPA work for the Board to be aware of are included below.

48. LPPA Quarterly Client Report - The LPPA have provided the quarterly client report for LFC covering Q1 of 2021/22 (April – June) that is attached as Appendix 5.

49. LPPA monthly Risk and Compliance Report - these provide an overview of complaints, breaches, incidents and risks & issues (May - July 2021) and are attached as Appendices 6, 7 and 8 respectively.

50. Life Exercise - The LPPA have been undertaking life existence checks for our members who are based overseas. The purpose of this exercise is to ensure that payments are only issued to those members who are still entitled to a pension.
51. For those that the LPPA hold an email addresses for, two emails have been sent requesting the completion of our online pension certificate and for those members they were unable to email, there was a handover to the LPPA's contact tracing partner (Target Professional Services), who issued letter correspondence on two occasions, to the member's postal address. The communication requested verification via an app, an email or by completing and returning a completed paper certificate with accompanying address verification (bank statement/utility bill).
52. The exercise meant that 27 pensions were suspended in June 2021 for those who failed to respond and hadn't completed the verification exercise. If the member contacted the LPPA and completed the verification certificate the pension was reinstated and payment made at the earliest opportunity.
53. LPPA's Annual Internal Controls Assurance Report, Appendix 9 – This is the assurance report covering the last financial year 2020/21 up to the 31st March 2021. The introduction of compliance monitoring has enabled the LPPA to assess the efficiency and effectiveness of the activities LPPA perform and drive continuous improvements in the services provided and ultimately to enhance the member experience.
54. From the evidence provided by the LPPA Risk and Compliance Team, Deloitte, client auditors the LPPA can provide full assurance to all clients who have used the pensions administration services that those services are being delivered by LPPA in compliance with the Pension Regulator's Code of Practice 14 and local government and public sector pensions legislation. In addition, they can confirm that those services are being delivered in compliance with the UK data protection and information security requirements.

LPP Project PACE

55. As previously reported, the LPPA will be changing their pension administration system software suppliers to Civica's Universal Pensions Management (UPM) system. The implementation of UPM will sit at the heart of the LPPA's business and digital transformation to improve the member and employer experience. The new platform allows members and employers to self-serve 24/7, introducing automation and self-service capabilities that significantly improve the user experience. UPM will consolidate five existing systems into one integrated workflow platform, freeing up administrators to focus more on value-add activities for members.
56. This will mean that all the LFB pension data will be transferred as part of this LPPA Project PACE exercise with the timescale for moving LFB data planned for January 2022. The LPPA Project PACE is being delivered by a dedicated team of project managers and ringfenced project roles to ensure no impact to the day to day performance of the business.
57. A Project PACE update report from the LPPA is attached as Appendix 10 and includes the projects risk plan. The Board will be kept informed of progress as the project develops.

Covid19 Issues affecting the FPS

58. Officers continue to have regular communications with the LPPA and no service issues have been reported that affect the LFB.

Communication with members

59. The LPPA sent out the Active Members Newsletter in July which is attached for information as Appendix 11 and also the ABS for Deferred members in June and Active members in August 2021. These were uploaded to My Pensions Online.
60. The Board is reminded again of the LPPA website lppapensions.co.uk for employers and members to get all the information they need when it comes to pensions. The site will also give direct access to My Pension Online, so members can get the key information they need to manage their pension.
61. The LPB Comms working group has been set up with the aim to look at improving internal LFB communications to members. The LPB lead on this is reviewing how best to develop communications on pensions to staff and improving the pensions area on Hotwire.

The Pensions Regulator (TPR) – Relationship Supervision

62. As previously reported to the Board, TPR informed LFC that due to the pandemic TPR would continue to limit the evaluation activities for the Firefighters' Pension Scheme until further notice.

Consultations, Surveys and Returns

63. This section provides an update on consultations, surveys and returns of relevance to pensions.

FPS Remedy Self-assessment Survey

64. As part of their statutory role to provide advice to scheme managers and Local Pension Boards in relation to the efficient and effective administration and management of the Firefighters' Pension Scheme, the Scheme Advisory Board are looking to understand more about arrangements for managing the pension scheme and specifically for implementing the age discrimination remedy. As such they prepared a self-assessment survey to be completed by each FRA. Officers completed the return for LFC with the LPB Chair.

65. The LPPA responded to 3 pension consultations and copies of their returns can be provided:

Consultation on Special Severance Payments

66. It is expected that this will not directly impact on the Fire scheme.

Consultation on the discount rate methodology (SCAPE rate)

67. The SCAPE discount rate methodology is used for the formal valuations of all unfunded public sector pension schemes e.g. Police and Firefighters, NHS, Teachers, Civil Service etc. The timing of the consultation is in line with a pre-agreed frequency – it is to be reviewed every 10 years, with the last review occurring in 2011.
68. It should be noted that the last change in the SCAPE discount rate resulted in an increase in the employer contribution rate. This increase coincided with an increase in the Fire employer contribution rates as shown below. This level of increase caused significant financial challenges for Fire Authorities, which have been largely addressed by additional grant funding:

	1992	2006	2015
2015-2019	21.7%	11.9%	14.3%
2019-2023	37.3%	27.4%	28.8%

Consultation on Public Service Pensions: Cost Control Mechanism

69. At the request of HM Treasury, the Government Actuary has carried out a review of the cost control mechanism in the public service pension schemes. His final report sets out his assessment of the current mechanism and recommendations on possible changes.
70. The Government has considered the recommendations and is now consulting to seek views on three changes to the mechanism, all of which are recommendations by the Government Actuary.

Firefighters' Pension Scheme Risk Plan

71. As the Board should be aware it was agreed that a separate full report on the FPS Risk Plan is produced twice a year for review by the Board, once in the summer and once for the LPB Annual Report. For the rest of the year it is included within the regular LPB Update Report.
72. The current LPB FPS Risk Plan is a separate report on the agenda.

Objectives and Expected Outcomes

73. That the Director of Corporate Services and LPB note this report.

Impacts

Equality Impact

74. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
75. The Public Sector Equality Duty requires us, in the exercise of all our functions, to have due regard to the need to:
- a. Eliminate discrimination, harassment and victimisation and other prohibited conduct.
 - b. Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
 - c. Foster good relations between people who share a relevant protected characteristic and persons who do not share it.
76. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

77. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) tackle prejudice, and
- (b) promote understanding.

The protected characteristics are:

- Age,
- Disability,
- Gender reassignment,
- Pregnancy and maternity,
- Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination),
- Race (ethnic or national origins, colour or nationality),
- Religion or belief (including lack of belief),
- Sex (Gender),
- Sexual orientation.

78. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.

79. The Equality Impact Assessment (EIA) for this regular report was reviewed on 06/09/21. The impact assessment found neutral impacts identified and steps taken to mitigate these. It is worth noting that although the impact assessment found outline neutral impacts identified, areas such as pension opt outs rates varied by staff groups. The LPB set up a LPB Communications working group to improve understanding and encourage take up of pensions for our staff. They also established an Equality working group to help the Board better understand some of the underlying reasons as to why higher numbers of women and BAME staff don't enrol and /or opt out of the scheme. This is with the aim to obtain an improved understanding to assist messaging to better communicate the benefits of the pension scheme to these groups.

Procurement and Sustainability

80. The Mayor has worked with the LPFA (London Pension Fund Authority) on a climate change policy to no longer consider new active investments in fossil fuel companies by 2020, including all necessary divestment. The FPS is an unfunded scheme and therefore does not have any funds to invest.

Strategic Drivers

81. There is a statutory requirement for the LFC to have a Local Pension Board.

Workforce Impact

82. Staff side are represented on the Local Pension Board and so will have an opportunity to comment on this report at the LPB meeting on 11 June 2021.

Finance comments

83. The report is by the Assistant Director of Finance so there are no further comments.

Legal comments

84. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.
85. The Local Pension Board was established under the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator.
86. The Pension Regulator's Code of Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

List of Appendices

Appendix	Title	Protective Marking
1.	SAB Bulletin – May 2021	
2.	SAB Bulletin – June 2021	
3.	SAB Bulletin – July 2021	
4.	LPB Member Training Record	
5.	LPPA Quarterly Administration Report Q1	
6.	LPPA Risk and Compliance Report – May 2021	
7.	LPPA Risk and Compliance Report – June 2021	
8.	LPPA Risk and Compliance Report – July 2021	
9.	LPPA Annual Internal Control Assurance Report	
10.	LPPA Project PACE Update	
11.	LPPA Active Members Newsletter	

Consultation

Name/role	Method consulted
Yvette McEntee – General Counsel's Department	Draft report
Tiffany Oarton - Equality Manager	Draft report
Jennifer Porter – Sustainable Development	Draft report



Report title

Local Pension Board - Update Report

Report to	Date
Corporate Services DB Local Pension Board	8 December 2020 13 January 2021

Report by	Report number
People Services Subject Matter Expert	LPB-0033

Protective marking: **NOT PROTECTIVELY MARKED**

Publication status: Published in full

If redacting, give reason:

Executive Summary

This report provides members of the Local Pension Board (LPB) with an overview and update on the position relating to a number of current issues affecting firefighter pensions.

Recommended decision

That the LPB notes the content of the report.

Introduction and Background

1. The purpose of the LPB is to assist the London Fire Commissioner (LFC) as the Scheme Manager:
 - (a) To secure compliance with legislation relating to the governance and administration of the firefighters' pension schemes, and any requirements imposed by The Pensions Regulator in relation to the firefighters' pension schemes (FPS); and
 - (b) To ensure the effective and efficient governance and administration of the firefighters' pension schemes (FPS).
2. This report provides an update on a number of issues considered to be relevant to the LPB's role. The issues, whilst all relating in some way to the firefighters' pension scheme, are quite disparate in nature. They vary quite significantly in their complexity, the stage they are at, and their impact on LFC.
3. The following items will be considered as part of the report. These have been grouped to try to consider related issues together.
 - Legal cases/issues
 - Transitional arrangements for the 2015 FPS

- £95k costs cap
 - Special Members of FPS 2006 - Second options exercise
- Pensions issues
 - Member Self Service (MSS)/My Pension Online
 - Guaranteed Minimum Pensions (GMP) Reconciliation
 - Annual Allowance
 - Firefighter pensions
 - Valuation 2016
 - Scheme Advisory Board (SAB)
 - Actions arising from the SAB Bulletins
 - Local pensions issues
 - LPB Member Training
 - LPFA/LPP arrangements
 - Covid19
 - Communication with members
 - The Pensions Regulator (TPR) – Relationship Supervision
 - Review of Ill Health Retirements
 - Scheme Manager Delegations
 - Consultations, Surveys and Returns
 - Firefighters' Pension Scheme Risk Plan

Legal cases/issues

4. It is a requirement of the Public Service Pensions Act 2013 and subsequent 2015 regulations, for members of a Local Pension Board to have a knowledge and understanding of the law relating to pensions and such other matters.
5. This section provides an update on the latest relevant legislative cases/changes that impact on the pension scheme.

Transitional arrangements for the 2015 FPS

6. LPB members will be aware from previous LPB reports, of the ongoing legal proceedings relating to the transitional provisions (protection arrangements) for the Firefighters Pension Scheme (FPS) 2015. By way of summary, in 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters' and Judges' Pension Schemes (Sargeant and McCloud cases). The government then confirmed that it would remove the difference in treatment across all main public service pension schemes, including the FPS.

McCloud and Sargeant cases

7. On 16 July 2020, HM Treasury (HMT) published their consultation on proposals to remove age discrimination from the unfunded public service pension schemes in line with the result of the McCloud/Sargeant cases, together with an update on the employer cost cap process.

8. The consultation relates to members of the unfunded public service schemes including Fire, Teachers and Police. A separate consultation on remedying age discrimination within the Local Government Pension Scheme (LGPS) was issued on the same date by the Ministry of Housing, Communities & Local Government (MHCLG).
9. The government's proposals to remove the discrimination will apply to all pension scheme members who were in service on or before 31 March 2012 and in service on or after 1 April 2015, including those with a qualifying break in service of less than 5 years. The government will provide affected members with the option to choose between their old legacy (mostly final salary) and new (career average) pension scheme benefits for service between 1 April 2015 and 31 March 2022.
10. The main proposals in the consultation were set out in the previous LPB Update Report. The consultation which ran for 12 weeks, closed on 11 October 2020. A decision on the Government's approach with regard to remedying the age discrimination found in the McCloud Judgment is expected to be finalised in April 2022.
11. In light of the urgent need for guidance on processing immediate retirement cases, the Home Office (Police Workforce and Professionalism Unit) issued 'informal guidance' to FRAs (and the Police) on 21 August 2020 on how to deal with 'immediate detriment cases'. The details of the guidance note were set out in the previous LPB Update Report. It is understood that FRAs should seek their own advice before implementing it, and FRAs are currently considering how to adopt a consistent approach to the guidance.
12. It should be noted that the arrangements set out in the Home Office Guidance will have to be reviewed once the Government has made a decision with regard to its approach to remedying the age discrimination found in the McCloud Judgment.

Public Sector Exit Payments Regulations 2020

13. The Restriction of Public Sector Exit Payments Regulations 2020 came into force on 4 November 2020.
14. The Regulations introduced a limit on the exit payment that a public sector employee, or office holder can receive in connection with loss of employment/office to a maximum of £95,000.
15. As indicated in the previous LPB Update Report, the Regulations have limited application for the FPS, as exemptions apply to two of the exit payments which would otherwise fall within the scope of the Regulations - (FPS 1992) Enhance commutation, and (FPS 2006 & FPS 2015) Authority Initiated Early Retirement (AIER), provided that the AIER is put into payment on fitness grounds.
16. For FRAs who allow an AIER for reasons other than fitness, the cost cap could apply, although changes to the FPS and related statutory GAD guidance would be necessary in order to comply with the cap
17. Whilst not strictly relevant to the LPB, it may be worth noting that the consultation on necessary changes to the Local Government Pension Scheme (LGPS) rules to accommodate the new cap only recently closed (9 November – after the introduction of the exit payment cap). This disjointed approach may prove problematic for local authorities including FRAs who may face pension payments that exceed the cap and which under the LGPS rules, they are required to pay.

Special Members of FPS 2006 - Second options exercise

18. Although not directly relevant to LFC as it relates to retained firefighters, the Board should be aware of two other legal cases regarding firefighters' pensions. These are *Matthews v Kent and Medway Towns Fire Authority* [2006] and the European Court of Justice's decision in *O'Brien v Ministry of Justice* (fee paid judges' case). In the case of *Mathews -v Kent and Medway Towns Fire Authority*, the Employment Tribunal held that the exclusion of retained fire fighters from the FPS was in breach of the Part time workers (prevention of less favourable treatment) Regulations 2000. However, the judgment only related to those individuals employed as retained fire fighters between 1 July 2000 and 1 April 2006 and any service before 1 July 2000 was not counted as pensionable service. Following the case of *O'Brien -v Ministry of Justice*, where the European Court of Justice held that O'Brien, a part time Judge was entitled to have all of his service as a part time judge counted as pensionable service, the UK Government have recognised the right for retained firefighters employed before 1 July 2000 to elect to become a special member from the start date of their employment. Full details can be found in in the LGA Bulletin 38.

Pensions issues

19. This section provides an update on general pensions issues.

Member Self Service (MSS)/My Pension Online

20. As reported below, a new LPP website that is being launched that should make it easier for staff to access the LPP on-line members self service, My Pensions On-line. The Board's Communication Working Group will also consider actions that can be taken to improve this take up.

Guaranteed Minimum Pensions (GMP) reconciliation

21. The LPP are continuing work on completing the final GMP reconciliations for LFB. As reported in the Consultations, Surveys and Reports section below, there is a consultation out on the Public Service Pensions GMP indexation.

Annual Allowance

22. The LPP have issued pension savings statements in September to all relevant staff informing them of any potential Annual Allowance tax charges and have also offered individual virtual discussions if required.

Firefighter pensions

23. This section provides an update on firefighter pensions issues.

Valuation 2016

24. As reported to previous LPB meetings, there was a material increase in the cost of employer contributions for the existing firefighter pension schemes, following the scheme valuation 2016. That increase was assessed at £25m and is largely as a result of changes, by Government, to the discount rate used in valuing future liabilities. A grant of £22m was provided to offset this pressure in 2019/20 and is being repeated in 2020/21. The ongoing funding was expected to be settled as part of the 2020 Spending Review, which will now just cover one financial year 2021/22.

25. Officers are starting work on the 2020 valuation data collection that will be provided to the Government Actuary's Department (GAD).
26. The Board will be kept informed of any further developments.

Scheme Advisory Board (SAB)

27. Members are reminded of the SAB website – www.fpsboard.org which provides a reference site for knowledge, procedures, policies and examples of best practice across the Fire Sector.
28. The SAB annual levy has now been approved by the Fire minister, and the total levy for the 2020/2021 year will be £8.29 per firefighter, which is calculated at £6.20 for the SAB levy and £2.09 for the employer levy that covers the LGA fire pension advisors.
29. The previous levies have been set as below.
- | | |
|---------|-------|
| 2017/18 | £5.67 |
| 2018/19 | £7.69 |
| 2019/20 | £6.67 |
30. For LFC this new levy of £8.29 works out at a cost of £39.7k based on the establishment of 4,789 operational staff. Full details of how the levy was calculated are attached as Appendix 1
31. Under the SAB budget there is provision for legal advice to the Scheme Advisory Board, however as that advice is provided to the SAB it cannot be shared with the FRAs as employers and the LGA believe there would be advantages to be able to get consistent advice on pension matters. Therefore, the LGA are exploring possibilities with stakeholders about holding an additional central pot to fund legal advice for employers and will provide an update on this as soon as possible. Officers in General Counsel's Department are considering this idea.
32. The SAB monthly Firefighters' Pensions Schemes bulletin is regularly circulated to LPB members and as requested by the Board is added as appendices for information. Bulletins for August, September and October are attached to this report as Appendices 2,3 and 4 respectively. This update report should cover most of the relevant areas included in the Bulletins.
33. There are a number of actions outlined in the bulletins, and details are provided below:

Bulletin Date	Action to be taken	Comment
<u>Aug 20</u>	Home Office collection of FPS forecasts: FRAs in England to submit details of their pension income/expenditure forecasts for the period 2019-20 to 2025-26, by 9 September 2020.	Completed
	FPS England - 2020 valuation: Administrators to check that information from GAD concerning the data collection spreadsheet has been received.	Completed
	PSPS survey – GAD factors: Users of GAD factors and guidance notes to complete survey to inform new website design.	Completed by LPP

	FPS AGM 2020: Book your place now!	LPB reminded to attend
<u>Sept 20</u>	No actions	
<u>Oct 20</u>	Immediate detriment request for information: FRAs in England to submit numbers of members who qualify for immediate detriment.	Completed

Local pensions issues

34. This section provides an update on local firefighter pensions issues.

LPB Member Training

35. As previously reported, The Pension Regulator 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.

36. The SAB held their two day fire pensions annual conference in September this year in a virtual format. The Board and key officers were made aware of the event that they could attend to keep up to date on key issues on the firefighters' pension Schemes.

37. Day 1 had a governance focus and included a brief introduction from the new chair of the SAB, Joanne Livingstone and a session by The Pensions Regulator. This covered breaches of the law and the administrative challenges of implementing remedy and the importance of good data and communication.

38. DAY 2 provided updates on the fire pensions issues

- Senior pension adviser, Clair Alcock, gave an update on the resources available to support FRAs and administrators and provided a brief recap on the background to the age-discrimination case and the HM Treasury consultation proposals for remedy.
- Des Prichard, chair of the SAB administration and benchmarking committee, provided an update on the work of the committee. This session focused on the draft template administration strategy and the future of scheme administration and management.
- Speakers from Eversheds Sutherland and the Government Actuary's Department gave case law update and information about the FPS valuation and cost-cap, respectively.
- The Home Office outlined how the department intended to engage with stakeholders in dealing with remedy.
- There was then workshops looking at themes underpinning the delivery of remedy, including technical issues, data, and communications.

39. Slides of the presentations can be found here:

<http://fpsregs.org/images/Events/AGM-2020/AGM-2020-Day-1-presentations.pdf>

<http://fpsregs.org/images/Events/AGM-2020/AGM-2020-Day-2-presentations.pdf>

40. Board members are reminded again of The Pension Regulator's online training tool and encouraged to utilise it. The link to it is: www.thepensionsregulator.gov.uk/en/public-service-pension-schemes. Once the modules are successfully completed Board members are asked to notify the LPB Clerk to record the training.

41. A record of member's training is attached as Appendix 5 showing the position on the Pensions Regulator's Public Service Toolkit for all LPB members, as well as detailing other relevant training

that Board members have attended. Officers will arrange for LPB member training to be provided to the Board by the LGA's fire pensions adviser.

LPFA/LPP arrangements

42. The LPP have informed officers that they have reviewed the fire pension administration structure and have made some changes to it to improve business resilience but that it should not affect current working arrangements for LFC. This will be covered in the LPP verbal update that is on the agenda.
43. The LPP have provided the new quarterly client report for LFC covering Q2 of 2020/21 (July – September) that is attached as Appendix 6.
44. As previously reported, the LPP also provide a new monthly Risk and Compliance report which provides an overview of complaints, breaches, incidents and risks & issues. The September and October reports are attached as Appendices 7 and 8 respectively.

Covid19 Issues affecting the FPS

45. The LPP and officers continue with regular communication to ensure that their respective business continuity arrangements continue to work with the on-going Covid19 lockdown and ensure that plans are in to continue to provide an effective pension administration service to members. The LPP will cover a restructure of the fire pensions team to increase resilience in their verbal update on the agenda.

Communication with members

46. In September the LPP contacted all scheme members who had provided them with an email address, to notify them that their Annual Benefit Statement were available. Any members who had opted out of electronic communications received a printed copy of their Annual Benefit Statement through the post. The tables below give a breakdown for the active and deferred members.

No. of Active ABS issued online	4192
No. of Active ABS issued by hard copy	37
Total issued as % of membership	100.00
Total no. of errors	0
No. of ABS suppressed (technically not errors)	
Started after 01/04/2020	71
Under wrong scheme (re-run incorrect scheme)	9
Leavers in progress	21

No. of Deferred ABS issued online	1178
No. of Deferred ABS issued by hard copy	19
Total issued as % of membership	98.28
Total no. of errors	21
Breakdown of errors	
Over NPA - awaiting member to claim pension	21
No. of ABS suppressed (technically not errors)	

Deferred after 31/03/2020	1
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47. The LPP are shortly launching their new website for employers and members to get all the information they need when it comes to pensions - whether they want to build their knowledge, get some help and guidance, or solve a query. Offering a modern look and feel, the website has also been designed to be user-friendly and informative and able to be accessed whether using a laptop, tablet or smartphone. It will also give direct access to My Pension Online, so members can get the key information they need to manage their pension.
48. The SAB are also continuing to work on providing a member website but this has been delayed due to the Covid19 pandemic.
49. The LPB Chair asked for a working group of the LPB to be set up to look at improving internal LFB communications to members. The group has met to agree the Terms of Reference and a verbal update is on the agenda.
50. The LPB Chair also requested an Equalities working group be set up to help the LFB Pension Board better understand some of the underlying reasons as to why higher numbers of women and BAME staff don't enrol and /or opt out of the scheme. This is with the aim to obtain an improved understanding to assist messaging to better communicate the benefits of the pension scheme to these groups. A verbal update on the group is on the agenda.

The Pensions Regulator (TPR) – Relationship Supervision

51. As previously reported to the Board, TPR informed officers that following discussions with them on the impact of Covid19 on our scheme and our responses to their business continuity questions, they had decided to limit the evaluation activities for our scheme for now and review this decision in September 2020. TPR contacted officers in September on the areas of:
- Governance and administration (in particular our business continuity arrangements for the operation of the Pension Board, administrator and key advisers at this time)
 - Member communications (including any information being issued to members to cover the current crisis, such as revised operating conditions and any impact on benefits)
52. TPR reviewed our responses and in light of the continuing challenges presented by the pandemic, informed us that they will continue to limit the evaluation activities for our scheme and review this decision again in January 2021.

Review of Ill Health Retirements

53. At the last meeting of the Local Pension Board the HR Adviser to the Board provided initial research into the increased number of ill health retirements in the period 2015/16-2019/20. The detailed research into the average length of time employees have been long-term sick/light duties before their case was progressed to the Independent Qualified Medical Practitioner (IQMP), to see if this time period has reduced over the five year period in question, remains a work in progress. The results of this research will be reported to the next Board.

Scheme Manager Delegations

54. There was a review of the LFC scheme of governance (SoG). This was to include an officer delegation for the Scheme Manager's responsibilities. Officers discussed with Directors and it was agreed that these would now be delegated to the Director of Corporate Services with the discretions within the scheme continuing to be delegated to the Assistant Director of People Services.

Consultations, Surveys and Returns

55. This section provides an update on consultations, surveys and returns of relevance to pensions.

McCloud/Sargeant Immediate detriment return to the SAB

56. In September 2020, the SAB asked for information on the number of members who are likely to become eligible for payment of benefits under the terms of the Home Office immediate detriment note. This included:

- Any member refused ill-health retirement under the FPS 2015 as the lower ill-health criteria was not met.
- 1992 transition members of FPS 2015 who reach age 55 before 31 March 2022.
- 1992 transition members of FPS 2015 who reach 30 years' service before 31 March 2022.
- 1992 transition members of FPS 2015 who will have 25 years+ service and be over 50 by 31 March 2022.

57. The SAB also wanted to understand what percentage of the FPS 2015 membership within the immediate detriment category are likely to be affected by complicating factors, such as divorce or transfers. The relevant information was provided by officers.

The Pensions Regulator Annual Scheme Return

58. The LFC has a legal responsibility to ensure the annual TPR return for the firefighters' pension schemes is completed by 15 December 2020. Managers of public service pension schemes are legally required to provide 'registrable information' to TPR, and to keep this information up to date. This information includes membership data, details of the employers, scheme contacts, pension board members and various service providers such as administrators. It is a legal requirement for scheme managers to provide the scheme return. Failure to submit the return on time may trigger a breach of section 64 of the Pensions Act 2004 which carries a potential maximum penalty of £50,000.

59. Officers will ensure that the return is completed to meet the deadline.

Public Service Pensions GMP indexation consultation

60. The consultation sets out how the government proposes to ensure it continues to meet its past commitments to public service employees regarding the full indexation of public service pensions, including for any GMP element. The consultation closes on 30 December 2020. Officers are not intending to respond to this consultation directly for the LFC. The LGA and the LPP have both indicated that they will be responding in due course.

Fire England: Pensionable salary data

61. GAD asked FRAs for information about whether they had to make any changes to pensionable pay as a result of the High Court ruling on Mid and West Wales FRS. They were informed that no category of payment/allowance within LFB was changed from non-pensionable to pensionable following the ruling in question.

Public service pension schemes: changes to the transitional arrangements to the 2015 schemes - HM Treasury consultation

62. The Board were sent the final report and response from the LFC to the HM Treasury consultation on changes to the transitional arrangements of the 2015 public sector pension schemes.

Firefighters' Pension Scheme Risk Plan

63. As the Board should be aware it was agreed that a separate full report on the FPS Risk Plan is produced twice a year for review by the Board, once in the summer and once for the LPB Annual Report. For the rest of the year it is included within the regular LPB Update Report.

64. The LPB FPS Risk Plan is included as Appendix 9.

Objectives and Expected Outcomes

65. That the LPB note this report.

Impacts

Equality Impact

66. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.

67. The Public Sector Equality Duty requires us, in the exercise of all our functions, to have due regard to the need to:

- a. Eliminate discrimination, harassment and victimisation and other prohibited conduct.
- b. Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
- c. Foster good relations between people who share a relevant protected characteristic and persons who do not share it.

68. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

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70. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.

71. The Equality Impact Assessment (EIA) for this regular report was reviewed on 30/11/20. The impact assessment found neutral impacts identified and steps taken to mitigate these. It is worth noting that although the impact assessment found outline neutral impacts identified, areas such as pension opt outs rates varied by staff groups.

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76. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.

77. The Local Pension Board was established under the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator. The Pension Regulator's Code of

Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

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Consultation

Name/role	Method consulted
Michele Rolfe – General Counsel's Department	Draft report
Tiffany Oarton - Equality Manager	Draft report
Nicole Fletcher – Sustainable Development	Draft report



LONDON FIRE BRIGADE

Report title

Local Pension Board - Update Report

Report to	Date
Corporate Services DB	15 September 2020
Local Pension Board	21 September 2020

Report by	Report number
Assistant Director Finance	LPB-0028

Protective marking: **NOT PROTECTIVELY MARKED**

Publication status: Published in full

Summary

This report provides members of the Local Pension Board (LPB) with an overview and update on the position relating to a number of current issues affecting firefighter pensions.

Recommended decision

That the LPB notes the content of the report.

Background

1. The purpose of the LPB is to assist the London Fire Commissioner (LFC) as the Scheme Manager:

- (a) To secure compliance with legislation relating to the governance and administration of the firefighters' pension schemes, and any requirements imposed by The Pensions Regulator in relation to the firefighters' pension schemes (FPS); and
- (b) To ensure the effective and efficient governance and administration of the firefighters' pension schemes (FPS).

2. This report provides an update on a number of issues considered to be relevant to the LPB's role. The issues, whilst all relating in some way to the firefighters' pension scheme, are quite disparate in nature. They vary quite significantly in their complexity, the stage they are at, and their impact on LFC.

3. The following items will be considered as part of the report. These have been grouped to try to consider related issues together.

- Legal cases/issues
 - Transitional arrangements for the 2015 FPS
 - Goodwin v Department for Education [Employment Tribunal] 2020
 - £95k costs cap
- Pensions issues

- Member Self Service (MSS)/My Pension Online
 - Guaranteed Minimum Pensions (GMP) Reconciliation
 - Procedures to identify, assess and report breaches of the law
 - Annual Allowance
- Firefighter pensions
 - Valuation 2016
 - Scheme Advisory Board (SAB)
 - Actions arising from the SAB Bulletins
- Local pensions issues
 - LPB Member Training
 - LPFA/LPP arrangements
 - Covid19
 - Communication with members
 - The Pensions Regulator (TPR) – Relationship Supervision
 - Review of Ill Health Retirements
- Consultations, Surveys and Returns
 - Firefighters' Pension Scheme Risk Plan

Legal cases/issues

4. It is a requirement of the Public Service Pensions Act 2013 and subsequent 2015 regulations, for members of a Local Pension Board to have a knowledge and understanding of the law relating to pensions and such other matters.
5. This section provides an update on the latest relevant legislative cases/changes that impact on the pension scheme.

Transitional arrangements for the 2015 FPS

6. LPB members will be aware from previous LPB reports, of the ongoing legal proceedings relating to the transitional provisions (protection arrangements) for the Firefighters Pension Scheme (FPS) 2015. By way of summary, in 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters' and Judges' Pension Schemes (Sargeant and McCloud cases). The government then confirmed that it would remove the difference in treatment across all main public service pension schemes, including the FPS.

McCloud and Sargeant cases

7. On 16 July 2020, HM Treasury (HMT) published their consultation on proposals to remove age discrimination from the unfunded public service pension schemes in line with the result of the McCloud/Sargeant cases, together with an update on the employer cost cap process. These were accompanied by a statement from the Chief Secretary to the Treasury.
8. The consultation relates to members of the unfunded public service schemes including Fire, Teachers and Police. A separate consultation on remedying age discrimination within the Local Government Pension Scheme (LGPS) was issued on the same date by the Ministry of Housing, Communities & Local Government (MHCLG).

9. The government's proposals to remove the discrimination will apply to all pension scheme members who were in service on or before 31 March 2012 and in service on or after 1 April 2015, including those with a qualifying break in service of less than 5 years. The government will provide affected members with the option to choose between their old legacy (mostly final salary) and new (career average) pension scheme benefits for service between 1 April 2015 and 31 March 2022.
10. The major proposals by HM Treasury in this consultation are that:
- Protections will be extended to cover all unfunded scheme members who were in active scheme membership on 31 March 2012 and have membership in the reformed schemes (without a 5-year break) regardless of whether or not they have made a claim to a court or employment tribunal on this matter. Scheme members who first joined after 31 March 2012 are not affected.
 - Protection will take the form of the right to membership of the relevant unfunded final salary scheme during the protected (or 'remedy') period which runs from 1 April 2015 to 31 March 2022. From 1 April 2022 all active scheme members will transfer to new CARE-based pension schemes, with Normal Pension Age linked to the State Pension Age, but the final salary link for members with service in the legacy scheme will be retained.
 - Protection will be backdated for qualifying members even if they have left the scheme since the start of the protected period.
 - Accrual in all unfunded final salary schemes for existing and new protected members will cease at the end of the protected period on 31 March 2022.
 - Protected members will be given the opportunity to elect for benefits accrued during the protected period to be calculated on a CARE basis as an alternative to protected final salary benefits. This is because, depending on circumstances, many scheme members are likely to be better off in the reformed schemes rather than the legacy schemes.
 - There are two proposals for when this election is to be made – immediate (within a year or two after the proposals are in force) or deferred (when the member takes their benefits [the 'deferred choice underpin'], and until the choice is made all members will be deemed to have accrued benefits in the legacy scheme for the remedy period). In any event, however, those who have already retired and/or received a pension, will be asked to make their choice as soon as practicable after the changes are implemented.
11. It is apparent that the consultation covers a number of unfunded public service schemes, and that LPB members will need to consider how the proposals will specifically affect the FPS. Further, it is clear that there will be a challenge to administrate the remedy for locally administered unfunded schemes.
12. The LPB is to receive a separate detailed report on the agenda setting out the LFC's proposed responses to the consultation. The consultation runs for 12 weeks and closes on 11 October 2020.
13. However, the urgent need for guidance on processing immediate retirement cases was highlighted at an early stage and in response the Home Office (Police Workforce and

Professionalism Unit) issued 'informal guidance' to FRAs (and the Police) on 21 August 2020 on how to deal with 'immediate detriment cases'. The Home Office guidance note purported to cover those who become eligible to retire with an ordinary pension, who want all of their benefits paid from their legacy scheme, or those who qualify (under the legacy scheme) for a higher tier ill health pension for the single pot ill health retirement arrangement. The Home Office guidance went on to say that scheme members would be given a choice as to whether to take their pension benefits from the legacy or new scheme, but that a number of unresolved issues remained outstanding, such as the recovery of outstanding employee contributions/refunds, tax implications, the treatment of purchased added pension in the new scheme (additional pension) and the potential payment of interest.

14. The Home Office guidance raised a number of questions such as who the guidance applies to; how the potential changes in 2022 (e.g. the tax implications and refund in pension contributions would be captured); and the authority for deviating from extant legislation governing the calculation of pension benefits. On 25 August, the LGA issued a note to confirm that they had not had prior sight of the Home Office guidance before it was sent to FRAs, and that they were taking immediate steps to retrospectively review the guidance note and consider any implications.

Goodwin case

15. A recent employment tribunal case, *Goodwin v Department for Education* [2020] has concluded that a female member in an opposite sex marriage was treated less favourably than a female in a same sex marriage or civil partnership, and that treatment amounted to direct discrimination on grounds of sexual orientation. It was held that where schemes contain provisions deemed discriminatory, those provisions must be dis-applied as being contrary to the non-discrimination rule set out in section 61 of the Equality Act 2010. The Chief Secretary to the Treasury then made a written statement on public service pensions: survivor benefits for opposite-sex widowers and surviving male civil partners in relation to the Teachers Pension Scheme,
16. The *Goodwin* case follows on from the Supreme Court decision *Walker v Innospec*. In the *Walker* case, Mr Walker's male spouse was entitled to a pension calculated on all the years of his service with Innospec, provided that at the time of Mr Walker's death they remained married. As a result, public service schemes, have been required to amend their regulations to provide equal survivor benefits for same-sex couples (whether married or in civil partnerships) to that provided for widows, based on a member's full length of service. Whilst some schemes have yet to introduce this change into regulations, it is being applied administratively and is backdated to 5 December 2005.
17. It is understood that neither the *Goodwin* case nor the *Walker* case will directly affect the FPS as Part C of the FPS 1992 regulations, Awards on Death – Spouses, does not differentiate between a male or female survivor. The definition of a surviving spouse is given as a widow or widower. Therefore, the benefits from the scheme are already equalised.
18. However, Rule J1(2)(c) in relation to Guaranteed Minimum Pensions (GMP) states:

(c) in the case of a woman who dies at any time and leaves a widower, the widower is entitled to a pension at a weekly rate equal to half of that part of the deceased's guaranteed minimum which is attributable to earnings factors for the tax year 1988—89 and subsequent tax years. This rule is

inserted further to section 17(4) of Pension Schemes Act 1993. An amendment to primary legislation required in order to equalise GMP for male and female widowers.

Public Sector Exit Payments Regulations 2020

19. It was recently announced that the government is to press ahead with implementation of its proposed £95,000 cap on exit payments in the public sector. In July 2020, the government published the draft Restriction of Public Sector Exit Payments Regulations 2020 (draft 2020 Regulations). The Regulations will introduce the long-awaited £95,000 cap on public sector exit payments.
20. The power to introduce a cap through regulations is provided by the Small Business, Enterprise and Employment Act 2015. After draft regulations were published in 2016 but not progressed, in 2019 further draft regulations, guidance and mandatory Treasury directions were published. These were subject to a consultation that closed on 3 July 2019. On 21 July 2020, the government published its response to the consultation which was brief and did not address the detail of either the draft regulations or guidance.
21. The draft 2020 Regulations are similar to those consulted on. They set out payments which will be taken into account for the purposes of applying the cap, those that will be exempt and circumstances in which the cap may be waived with either Treasury consent or in accordance with Treasury directions. It is understood that the Treasury will confirm on a later date when the draft Regulations will be made and that finalised guidance and Treasury directions will be published when the Regulations come into force.
22. In respect of pension related payments in the Firefighters' Pension Scheme (FPS), there are two types of employer payments with regards to exit that could have been subject to the exit pay cap, namely:
 - a. *FPS 1992 Enhance commutation*

The ability for an FRA to enhance the commutation payment to a firefighter with over 25 years' service and over age 50 to the full quarter rate commutation (Rule B7(5) – The FRA would be required to pay the difference between the restricted commutation and enhanced commutation under under [Rule LA2 (10); and
 - b. *FPS 2006 & FPS 2015 Authority Initiated Early Retirement (AIER)*

FRA's can allow firefighters to retire from age 55 with a unreduced pension under Part 3, Paragraph 6 (FPS2006) and Regulation 62 (FPS2015) with the FRA paying the difference between unreduced and reduced pension into the FPS notional pension fund each year.
23. Payment 'a' (enhanced commutation) above is an exempted payment under the Regulations. As such, there are no implication for FRA's choosing to enhance commutation for eligible members. In respect of payment 'b' (AIER), this is exempt under the Regulations where the FRA has agreed to put into payment an AIER retirement pension having regard to above rules for a firefighter who is unable to maintain operational fitness through no fault of their own. For FRA's who allow an AIER for reasons other than fitness, the cost cap could still apply and changes to the FPS and related statutory GAD guidance would be necessary in order to comply with the cap.

Pensions issues

24. This section provides an update on general pensions issues.

Member Self Service (MSS)/My Pension Online

25. As reported below in the communications to members section, an article has been placed on Hotwire to encourage more take up by staff of the LPP on-line members self service, My Pensions On-line. The LPP has informed officers that there are 2,556 active staff not yet registered for this. The Board may wish to consider actions that can be taken to improve this take up.

Guaranteed Minimum Pensions (GMP) reconciliation

26. There is nothing to report to the Board on this area. The LPP are completing the final GMP reconciliations.

Procedures to identify, assess and report breaches of the law

27. TPR advises that LPBs should have a procedure for identifying, assessing and reporting breaches of the law. A separate report on this is on the agenda for the consideration of the LPB.

Annual Allowance

28. In light of feedback from the members on their experience of last year's process, the LPP initiated an independent review of their processes relating to Annual Allowance. This Board was invited to participate in the review, which two Board members did. The LPP have completed the review and will update the Board on the outcomes at the LPB meeting.

Firefighter pensions

29. This section provides an update on firefighter pensions issues.

Valuation 2016

30. As reported to the previous LPB meeting, there was a material increase in the cost of employer contributions for the existing firefighter pension schemes, following the scheme valuation 2016. That increase was assessed at £25m and is largely as a result of changes, by Government, to the discount rate used in valuing future liabilities. A grant of £22m was provided to offset this pressure in 2019/20 and is being repeated in 2020/21. The ongoing funding is expected to be settled as part of the 2020 Spending Review, which will cover the three year period 2021/22 to 2023/24.

31. Officers are starting work on the 2020 valuation data collection that will be provided to the Government Actuary's Department (GAD).

32. The Board will be kept informed of any further developments.

Scheme Advisory Board (SAB)

33. Members are reminded of the SAB website – www.fpsboard.org which provides a reference site for knowledge, procedures, policies and examples of best practice across the Fire Sector.

34. Joanne Livingstone has been appointed as the new Chair of Firefighters' Pension Scheme Advisory Board (SAB) England. She will chair the Firefighters' Pension SAB which advises the Home Secretary on the desirability of making changes to the scheme. It also advises and assists the 45fire and rescue services in England and their local pension boards. The Chair of the Board sent a letter of congratulations and recognition of Ms Livingston's appointment on the Board's behalf, with an invitation to attend a future meeting. Further details on the appointment are available on the SAB website, at the link above.

35. The SAB monthly Firefighters' Pensions Schemes bulletin is regularly circulated to LPB members and as requested by the Board is added as appendices for information. Bulletins for June and July are attached to this report as Appendices 1 and 2 respectively. This update report should cover most of the relevant areas included in the Bulletins.
36. There are a number of action outlined in the bulletins, and details are provided below:

Bulletin Date	Action to be taken	Comment
<u>June 20</u>	ABS 2020 - member communications: scheme managers to ensure members are kept informed of position relating to ABS 2020 and remedy.	Comms message on Hotwire
	Raising tax awareness: FRAs to include relevant wording on job adverts.	People Services are reviewing wording on relevant job adverts.
	COVID-19 governance survey: scheme manager and/ or Local Pension Board chair to complete online survey by 31 July 2020.	Completed
	Template administration strategy consultation: all interested parties to respond to consultation by 31 August 2020.	Being reviewed by officers.
	Transfer arrangements for CARE additional pension: administrators to review Club transfer in/out processes to ensure that CARE added pension is calculated using the non-Club methodology and factors.	LPP confirm that they are aware of the requirement and are following the guidance.
	LPB wrap-up training 2020 – book places for pension board members wishing to attend.	Board members notified of training.
<u>July 20</u>	Raising tax awareness: FRAs to include relevant wording on job adverts.	People Services reviewing wording on relevant job adverts.
	Template administration strategy consultation: all interested parties to respond to consultation by 31 August 2020.	Being reviewed by officers.

Local pensions issues

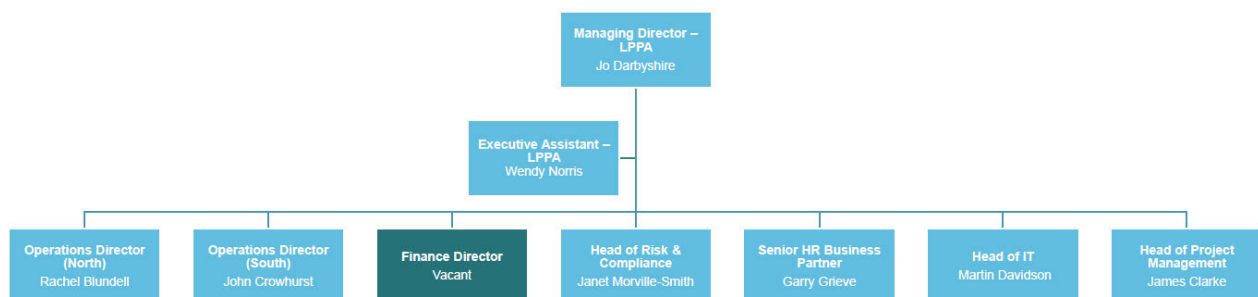
37. This section provides an update on local firefighter pensions issues.

LPB Member Training

38. As previously reported, The Pension Regulator 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.
39. Officers will arrange for LPB member training to be provided by the LGA's fire pensions adviser after the LGA restart such training following the Covid19 lockdown. The LGA ran an on-line annual Wrap Up Training session for all LPB's on 8 July 2020 that the Board were made aware of if they wanted to attend.
40. Board members are reminded again of The Pension Regulator's online training tool and encouraged to utilise it. The link to it is: www.thepensionsregulator.gov.uk/en/public-service-pension-schemes. Once the modules are successfully completed Board members are asked to notify the LPB Clerk to record the training.
41. A training record is attached at Appendix 3 showing the position on the Pensions Regulator's Public Service Toolkit for all LPB members, as well as detailing the other training that Board members have attended.

LPFA/LPP arrangements

42. As previously reported, the LPP has restructured its group management to now establish LPPA Ltd to provide pensions administration services (however for continuity reference will continue to be made to LPP). The key senior management appointments at LPPA include the following



43. The LPP has been working on new management information for their clients including a new quarterly client report. The new quarterly client report for LFC covering Q1 of 2020/21 (April – June) is attached as Appendix 4.
44. In addition to the quarterly client report, the LPP will also provide a new monthly Risk and Compliance report which provides an overview of complaints, breaches, incidents and risks & issues. The July report is attached as Appendix 5.
45. The new Head of Risk & Compliance for LPPA has provided an annual internal control assurance report attached as Appendix 6. This first report covers all LPPA clients and provides an overview of the Internal Audit activity undertaken during 2019/20 and sets out the assurance framework recently implemented in LPPA to provide the assurances that their clients require going forward.

Covid19 Issues affecting the FPS

46. The LPP and officers continue with regular communication to ensure that their respective business continuity arrangements continue to work with the on-going Covid19 lockdown and ensure that plans are in place in case of a 'second wave' to continue to provide an effective pension administration service to members. The LPP have informed officers that they are building resilience and training additional staff in its geographically diverse locations who could take on the work if needed.

The LPP say that they do not envisage any issues with meeting the statutory obligations such as to publish Annual Benefits Statements by 31st August, which have now been completed.

47. In early July the LPP undertook to analyse the potential impact of the COVID-19 coronavirus pandemic, on the number of death notifications (bereavements) they have received, relating to LFB pensioners since the start of this year. Whilst LPPA cannot track the specific number of COVID-19 related deaths, they were able to measure the total number of deaths they were notified of each week and compare these figures to the same period in 2019. This has provided some useful insight on the period when the peak number of notifications were recorded, and how this compares to the overall national picture. This report is attached as Appendix 7.

Communication with members

48. The LPP have sent out the active member's news letter. A copy is attached as Appendix 8.
49. The SAB are continuing to work on providing a member website but this has been delayed due to the Covid19 pandemic. The LPP are also reviewing their member websites with an aim to have a new one by the end of the year.
50. A communications message was placed on Hotwire to update staff on the HM Treasury consultation on McCloud/Sergeant remedy and to encourage more take up by staff of the LPP on-line pensions system for members, My Pensions On-line. The LPP has informed officers that there are 2,556 active LFB staff not registered for this.
51. The LPB Chair is setting up a working group of the LPB to look at improving internal LFB communications to members.

The Pensions Regulator (TPR) – Relationship Supervision

52. As the Board should be aware the LFC's Firefighters' Pension Scheme was selected for Relationship Supervision by TPR. This is intended to help build a stronger, and more open and transparent relationships with pension schemes, to better understand their circumstances and the specific challenges they face.
53. TPR has informed officers that following discussions with them on the impact of Covid19 on our scheme and our responses to their business continuity questions, they have decided to limit the evaluation activities for our scheme for now and review this decision in September 2020.

Review of Ill Health Retirements

54. At the last meeting of the Local Pension Board it was agreed that the HR Adviser to the Board would undertake research into the increased number of ill health retirements in the period 2015/16-2019/20 (see page 11 of Appendix 1 to the Provision of Information report). Initial work has been undertaken as set out below.

Table 1 – Numbers of cases submitted to the IQMP, with outcomes, 2015-2020

Year	Cases submitted to IQMP	IHR agreed	IHR not agreed	Appeals submitted to Medical Appeals Board	Appeals upheld by MAB	Total IHRs*
2015/16	7	7	0	n/a	n/a	7
2016/17	8	6	2	2	2	8
2017/18	8	8	0	n/a	n/a	8
2018/19	11	9	2	2	2	11
2019/20	16	0	16	n/a	n/a	16

*These figures are currently being reconciled with the data in the LPB Information Report as there are some small discrepancies,

55. Table 1 demonstrates that the increase in IHRs over the last 5 years is not as a result of fewer cases being rejected for the IQMP/Medical Appeals Board in the more recent period. In fact all cases submitted for ill-health retirement over this 5 year period were agreed, all bar 4 by the IQMP, and the remaining 4 by the Medical Appeal Board. The increase in ill health retirements over this period is exactly mirrored by an increase in cases submitted to the IQMP for consideration for ill health retirement.
56. An initial consideration of why numbers of cases submitted to the IQMP for ill health retirement over this period should have increased has considered sickness levels.

Table 2 – Operational sickness levels, 2015-2020

Year	Short-term sickness (%)	Long-term sickness (%)	Total sickness (%)
2015/16	1.97	3.32	5.29
2016/17	1.97	3.47	5.44
2017/18	2.02	3.58	5.60
2018/19	1.95	3.66	5.61
2019/20	1.88	3.87	5.75

57. Table 2 shows total operational sickness levels over this period, although the focus should primarily be on long-term sickness, as it is this category of sickness which has most correlation with ill health retirement. The data shows that long-term sickness did increase over this period, but not by a level which would indicate a clear causation for the level of increase in ill health retirements. Hence whilst the numbers of ill health retirements increased by 80% for the two years 2015/17 compared to 2018/20, long-term sickness only increased by 16.6% between 2015/16 and 2019/20.
58. Further analysis has been undertaken of the medical conditions which have led to ill-health retirement, see Table 3 below.

Table 3 – Medical conditions leading to ill health retirement 2015-2020

Condition	2015/16	2016/17	2017/18	2018/19	2019/20
Musculo-skeletal	3		1	1	1
Back Injury		1	2	2	
Other Physical		1		1	1
Degenerative		1	1	2	2
Respiratory			1		1
Cancer		2		1	
Cardio-vascular	1	2		1	2
Neurological	2	1	3		3
Psychiatric /Mental	1			3	6
Total	7	8	8	11	16

59. The one significant trend in Table 3 is the increased number of 'Psychiatric/Mental' cases in the final two years, 2018/19 and 2019/20. These can be broken down as follows:

Table 4 – Breakdown of Psychiatric/Mental cases, 2018/20

Causation	2018/19	2019/20
PTSD – Incident Ground related (not Grenfell)	2	1
PTSD - work related – not incident ground	1	
Stress/anxiety/depression – not work-related		2
PTSD – Grenfell-related		3
Total	3	6

60. Table 4 indicates that at least part of the recent increase in ill-health retirements, certainly for 2019/20, can be linked to the Grenfell incident. However this does not appear to be a full explanation for the increased numbers in the two years 2018/20.

61. Anecdotally, it has been stated that one reason for the increased numbers of ill health retirement cases in the last two years could be that cases are now being progressed more promptly to the IQMP by the Wellbeing team. This is a relatively new team, formed in April 2018 following the 2017/18 People Services review, and has become the central point for the collation and

progression of cases to the IQMP whereas previously this function was dispersed amongst the HR Advisers. This may therefore have led to more efficient undertaking of this function. To test this hypothesis, research will be undertaken looking, for example, at the average length of time employees have been long-term sick/light duties before their case was progressed to the IQMP to see if this time period has reduced over the five year period in question. The results of this research will be reported to a future Board.

Consultations, Surveys and Returns

62. This section provides an update on consultations, surveys and returns of relevance to pensions.

HM Treasury consultation on McCloud/Sargeant remedy

63. There is a separate report on the agenda regarding this.

Fire Pensions Covid19 Governance Survey

64. The Firefighters' Pension Scheme Advisory Board asked for a follow up survey to be completed on the impact on service provision and governance of the pension scheme during the on-going Coronavirus crisis. The survey was completed with the LPB Chair and reported no major problems with either the FPS administration or governance.

LGA FPS Administration, Management and Governance Strategy Survey

65. The LGA has issued a consultation on a draft FPS Administration, Management, and Governance Strategy, attached as Appendices 9 and 10 respectively. This follows from the SAB-commissioned FPS administration and management review. The deadline for stakeholders' views on the document was 31 August 2020. Officers have reviewed and are supportive of the strategy and will implement it when issued.

66. Following the £95,000 exit cap consultation reported above, a further government consultation has just come out on the government's proposals to reform exit payment terms for local government workers, and specifically those who are eligible to be members of the local government pension scheme. The consultation closes on 3 November and officers will report back to the Board on anything that effects the FPS.

Firefighters' Pension Scheme Risk Plan

67. The LPB FPS Risk Plan is included as a separate report on the agenda.

Finance comments

68. The report is by the Assistant Director of Finance so there are no further comments.

Workforce comments

69. Staff side are represented on the Local Pension Board and so will have an opportunity to comment on this report at the LPB meeting on 21 September 2020.

Legal comments

70. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.

71. The Local Pension Board was established under the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator. The Pension Regulator's Code of Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

Sustainability implications

72. The Mayor has worked with the LPFA (London Pension Fund Authority) on a climate change policy to no longer consider new active investments in fossil fuel companies by 2020, including all necessary divestment. The LPP Group created a separate company, LPPI, that looks after the investment fund of the Local Government Pension Scheme. The FPS is an unfunded scheme and therefore does not have any funds to invest.

Equalities implications

73. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.

74. The Public Sector Equality Duty requires us, in the exercise of all our functions, to have due regard to the need to:

- a. Eliminate discrimination, harassment and victimisation and other prohibited conduct.
- b. Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
- c. Foster good relations between people who share a relevant protected characteristic and persons who do not share it.

75. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

76. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) tackle prejudice, and
- (b) promote understanding.

The protected characteristics are:

- Age,
- Disability,
- Gender reassignment,
- Pregnancy and maternity,
- Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination),
- Race (ethnic or national origins, colour or nationality),
- Religion or belief (including lack of belief),
- Sex (Gender),
- Sexual orientation.

77. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.

78. The Equality Impact Assessment (EIA) for this regular report was reviewed on 26/08/20. The impact assessment found neutral impacts identified and steps taken to mitigate these. It is worth noting that although the impact assessment found outline neutral impacts identified, areas such as pension opt outs rates varied by staff groups.

List of Appendices

Appendix	Title	Protective Marking
1.	SAB Bulletin – June 2020	
2.	SAB Bulletin – July 2020	
3.	LPB Training Record – July 2020	
4.	LPP Quarterly Administration Report Q1	
5.	LPP Risk and Compliance Report – July 2020	
6.	LPP Annual internal Control Assurance Report	
7.	LPP Covid19 Client Update	
8.	LPP Active Members Newsletter	
9.	LGA FPS Administration Survey	
10.	LGA FPS Draft Administration Strategy	

Consultation

[Note: this section is for internal reference only – consultation information for public consideration should be included within the body of the report]

Name/role	Method consulted
Tania Legore – General Counsel's Department	Draft report
Tiffany Oarton – Equality Manager	Draft report
Nicole Fletcher – Sustainable Development	Draft report



LONDON FIRE BRIGADE

Report Title:	
Firefighters' Pension Scheme Risk Plan	
Report to:	Date:
Local Pension Board	14 March 2022
Report author:	Name: Adrian Bloomfield Job Title: Assistant Director, Finance
Report classification	
For Information	
The subject matter for this report deals with the following LFB strategic priorities	
The best people and the best place to work	
How does it deliver on this/ these?	
There is a statutory requirement for the LFC to have a Local Pension Board.	
Report number – LPB 0048	
For Publication	
PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DECISION-MAKER	

Executive Summary

This report provides an update to the Risk Plan for the London Fire Commissioner (LFC) Firefighter's Pension Scheme. The plan addresses the significant risks which are likely to have a material impact on the scheme and a summary of the controls in place to mitigate those risks.

Recommended decision(s)

That the Local Pension Board considers the Firefighter's Pension Scheme Risk Plan and agrees any changes.

1 Introduction and Background

- 1.1 A separate full report on the Firefighter's Pension Risk Plan is produced twice a year for review by the Board, once in the summer and once for the LPB Annual Report. For the rest of the year the risk plan is included within the regular LPB Update Report.

LPB Risk Requirements

- 1.2 The Public Service Pensions Act 2013 requires that the Scheme Manager of a public service pension scheme must establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed
- in accordance with the scheme rules, and
 - in accordance with the requirements of the law.
- 1.3 The Pensions Regulator has issued a Code of Practice (CoP) on Internal Controls in order to provide practical guidelines on the requirements of the Public Service Pensions Act 2013 set out above. The CoP explains that the implementation and application of internal controls will help trustees monitor the management and administration of their schemes. Internal controls will also improve the safe custody of assets and help protect the scheme from adverse risks which could be detrimental to the scheme.
- 1.4 The CoP explains that all schemes are required to have internal controls and that risks to the scheme will need to be reviewed to assess which risks the scheme can absorb without the need to take further action, and which risks require adequate internal controls to reduce their incidence and impact.
- 1.5 In addition to this risk register being prepared, there should also be similar registers on the scheme overall for the Scheme Advisory Board, and by the LFC's pensions administrators LPFA (subcontracted by LPFA to LPPA).

Risk Register

- 1.6 A risk review has been carried out for the Firefighters' Pension Schemes and a range of both internal and external risks have been identified. These risks are set out in the risk register that is provided at Appendix 1 to this report.
- 1.7 The risk register also sets out how internal controls will help to mitigate those risks. Internal controls are reviewed as part of regular audits by the LFC's internal audit function, managed by MOPAC. The risk register provides a starting point for MOPAC in its preparation of the annual audit plan. The assessment of risk, and the controls to mitigate this, should be viewed as a continuous cycle and must take account of any changes in environment. The risk register was previously entered onto the LFB's Performance Management Framework (PMF) system, to support ease of access and monitoring. The LFB is currently replacing PMF and is changing the way that risk registers are presented. The LPB's Risk register will be changed in line with these going forward when the LFC's Risk Team's work plan allows to provide support and training to the Board.
- 1.8 The Board is asked to consider the risk register and review the existing items and their risk rating and is also to consider if additional risks should be added.

The Summary Corporate Risk Profile

- 1.9 The LFC risk profile can be plotted on the standard risk threshold, set out in Table 1 below, and is used to score risks on their likelihood and impact.

Table 1: FPS Summary Risk Profile

Likelihood	Very Likely 4				
	Likely 3				
	Unlikely 2	R10	R11	R4 R7 R15 R16 R17 R18 R19	
	Very Unlikely 1			R1 R3 R5 R9 R6 R13	R8 R14
		Minor 1	Significant 2	Major 3	Catastrophic 4
		Impact			

- 1.10 Risk appetite is the amount of risk that the LFC is prepared to tolerate in order to meet its objectives and reflects its attitude towards risk taking as an organisation.
- 1.11 The LFC's risk appetite is set out in its risk management strategy and can be described as low to low-medium. As mentioned above, the LFC is updating its risk management approach and the LPB Risk Plan will be updated to reflect this at a later stage.
- 1.12 The LFC's risk appetite supports informed risk taking but risks that are rated as very likely and catastrophic (4x4), very likely and major (4x3), likely and catastrophic (3x4) or unlikely and catastrophic (2x4) will still be deemed to be above the LFC appetite. These risks will be subject to extra scrutiny to check that the rating is correct, whether the activity can be pursued and

what immediate management action can be taken to bring the risk to within more acceptable limits.

- 1.13 The LFC risk profile is used to define the risk appetite threshold for the organisation as a whole. and this is represented by a thick black line. This then demonstrates that all green risks, and amber level risks that are unlikely (2x3) and/or significant (3x2), are within acceptable limits.
- 1.14 There are two risks exceed the LFC risk appetite as follows:
- R8 Computer system and database failures although this is mitigated by system recovery plans and data back-up procedures.
 - R14 LPPA project PACE changing software suppliers so all LFC pension data will be transferred with risk of loss or corruption
- 1.15 There is also one risk, R1 on the valuation, where the risk rating was reduced with the likelihood falling from 4 very likely to 2 unlikely. This is following further updates from the Home Office that the one-off additional pension funding to meet the increased costs from the Valuation 2016 will be repeated in 2022/23 and is also expected to be received in subsequent financial years.
- 1.16 A new risk, R19 has been added on Failure to adequately resource support needed for increasing pension related workloads. This is following increasing work pressures relating to pensions in some LFC departments, particularly Finance and General Counsel.

2. Objectives and Expected Outcomes

- 2.1 That the LPB review the Firefighter's Pension Scheme Risk Plan and note this report.

3. Equality comments

- 3.1 The LFC and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
- 3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3 The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), race (ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex, and sexual orientation.

- 3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:
- eliminate discrimination, harassment and victimisation and other prohibited conduct
 - advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it
 - foster good relations between people who share a relevant protected characteristic and persons who do not share it.
- 3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- tackle prejudice
 - promote understanding.
- 3.8 The Equality Impact Assessment (EIA) for this regular report was reviewed on 28/02/22. The impact assessment found neutral impacts identified and steps taken to mitigate these.

4. Other Considerations

Workforce comments

- 4.1 Staff side are represented on the Local Pension Board and so will have an opportunity to comment on this report at the LPB meeting on 14 March 2022.

Sustainability comments

- 4.2 This report does not introduce any new sustainability impacts. Where new policies and/or corporate projects arise, they are subject to the Brigade's sustainable development impact assessment process.

Procurement comments

- 4.3 This report does not introduce any new procurement impacts.

5. Financial comments

- 5.1 This report is by the Assistant Director, Finance and there are no additional comments.

6 Legal comments

6.1 Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.

The Local Pension Board was established under the Firefighters Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator. The Pension Regulator's Code of Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

List of Appendices

Appendix	Title	Open or confidential
1.	LPB Risk Register	Open

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

<p>ORIGINATING OFFICER DECLARATION:</p> <p>Drafting officer Rory Murphy has drafted this report and confirms the following:</p> <p>Assistant Director/Head of Service Adrian Bloomfield has reviewed the documentation and is satisfied for it to be referred to Board for consideration.</p> <p>Advice The Finance and Legal teams have commented on this proposal;</p> <p>Hameera Darr Legal Advisor, on behalf of General Counsel (Head of Law and Monitoring Officer)</p> <p>Adrian Bloomfield Financial Advisor, on behalf of the Chief Finance Officer</p>	<p>Drafting officer to confirm the following (ü)</p>
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Appendix 1 – LPB FPS Risk Plan

Summary

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R1	Valuation 2016 of Firefighter's Pension Scheme impact on scheme costs, including impact of transitional arrangements legal claim	Assistant Director Finance	1	3	<ul style="list-style-type: none"> To monitor and understand implications for staff and employer Continue conversations with the Home Office on funding of the scheme To communicate clearly with stakeholders to prevent any unnecessary negative impact 	<ul style="list-style-type: none"> The next valuation is due to be implemented from April 2024
R3	Auto enrolment 2022 – Statutory requirements not met	Assistant Director People Services	1	3	<ul style="list-style-type: none"> Ensure planning and communication with staff is in place 	
R4	Risk that existing controls are not operating effectively	Assistant Director Finance	2	3	<ul style="list-style-type: none"> Periodic control reviews by LPPA and MOPAC Audit review on payroll controls following pensionable pay error leading to Breach of the law 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R5	Risk of fraud (misappropriation of assets and fraudulent financial reporting including member related fraud)	Assistant Director Finance	1	3	<ul style="list-style-type: none"> • Segregation of duties; frequent reconciliation procedures for cash and investment balances • Undertaking National Fraud Initiative (NFI) exercise • Life certificate exercise • Regular reviews of member benefits 	
R6	Compliance/regulatory risk (failure to comply with scheme rules and legislation)	Assistant Director Finance	1	3	<ul style="list-style-type: none"> • Compliance audits by MOPAC; • Audit review on payroll controls following pensionable pay error leading to Breach of the law 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R7	Non-compliance or maladministration by administration team or third party advisers, e.g. outsourced administrators (poor record keeping)	Assistant Director Finance	2	3	<ul style="list-style-type: none"> Peer review of key controls by administration team; authorisation procedures; periodic meetings between LPB and LPPA; service level agreement reviews. Training following Ombudsman ruling 	
R8	LPPA Computer system and database failures	Assistant Director Finance	1	4	<ul style="list-style-type: none"> System recovery plans; data back-up procedures; password controls Implementation of new pension administration system – Project PACE 	
R9	Poor scheme management (ineffective stewardship by those with delegated responsibility)	Assistant Director Finance	1	3	<ul style="list-style-type: none"> Regular LPB meetings; decisions taken within the formal structure of LPB meetings; minutes prepared for all meetings; Training Review Board ToR 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R10	Scheme Membership numbers – Possible industrial action and members opting out	Assistant Director People Services	2	1	<ul style="list-style-type: none"> • Communication with existing staff and new joiners is maintained on important issues • Communications on FPS 2015 benefits following McCloud case and ID concerns • LPB Comms working group set up with the aim of improving internal LFB communications to members on benefits of FPS • LPB Equalities working group set up to help the Board better understand some of the underlying reasons as to why higher numbers of women and BAME staff don't enrol and /or opt out of the scheme and improve pension take up 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R11	Risk of pension administrators withdrawing from the market	Assistant Director Finance	2	2	<ul style="list-style-type: none"> • Regular meetings with administrators • Communication with other FRAs and SAB 	
R13	Pension administrator's business continuity arrangements failing to deal with Covid19 pandemic leading to members not getting pensions	Assistant Director Finance	1	3	<ul style="list-style-type: none"> • LPPA Business Continuity Plan including staff remote working, ability to move work to other teams in the country, previous investment in electronic systems 	
R14	LPPA project PACE changing software suppliers so all LFC pension data will be transferred with risk of loss or corruption	Assistant Director Finance	1	4	<ul style="list-style-type: none"> • LPPA project plan, dedicated team and regular updates to LFC and the LPB. • New software company's experience of data transfers 	
R15	The implementation of the remedy from the McCloud case will require new regulations and significant additional work, and therefore has risks in its implementation	Assistant Director Finance	2	3	<ul style="list-style-type: none"> • LPPA project team • LGA pension advisors 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R16	If Immediate Detriment undertaken by LFC - the ability of the LPPA to effectively implement and administer the significant complex manual workloads involved and also that the LFC is able to effectively communicate on it to staff.	Assistant Director Finance	2	3	<ul style="list-style-type: none"> • LPPA project team • LGA Framework • LPB Comms Working Group 	
R17	If Immediate Detriment undertaken by LFC – the risk on the financial pressure to LFC and LPPA including cashflow, significant additional administration costs and then costs to revisit, and financial consequences of getting it wrong.	Assistant Director Finance	2	3	<ul style="list-style-type: none"> • To monitor and understand financial implications to LFC • Discussions with Home Office on funding for additional costs. • LGA Framework 	

Ref:	Risk description	Owner	Likelihood rating	Impact rating	Priority actions	Target mitigation deadline
R18	Valuation 2020 of Firefighter's Pension Scheme impact on scheme costs - this has the risk of increased contributions following the implementation of the McCloud/Sargeant remedy.	Assistant Director Finance	2	3	<ul style="list-style-type: none"> To monitor and understand implications for staff and employer Continue conversations with the Home Office on funding of the scheme To communicate clearly with stakeholders to prevent any unnecessary negative impact 	<ul style="list-style-type: none"> The next valuation is due to be implemented from April 2024
R19	Failure to adequately resource support needed for increasing pension related workloads	Assistant Director Finance	2	3	<ul style="list-style-type: none"> Review of Finance structure and resourcing Compare resourcing at other FRAs 	

LONDON FIRE BRIGADE

Report title

Firefighters' Local Pension Board - Provision of Information

Report to	Date
Corporate Services DB	2 March 2021
Local Pension Board	9 March 2021
People DB	25 March 2021

Report by	Report number
People Services Subject Matter Expert	[LFC-0000]

Protective marking: **NOT PROTECTIVELY MARKED**

Publication status: Published in full

If redacting, give reason:

Executive Summary

This report provides information to the Local Pension Board (the Board) on the firefighters' pension schemes.

Recommended decision(s)

That the content of this report be noted.

Introduction and Background

1. Appendix 1 to this report contains information regarding the firefighters' pension schemes, to assist the Board in its role of ensuring the effective and efficient governance and administration of these schemes.
2. Appendix 1 contains a selection of data concerning the firefighter pension schemes within the London Fire Commissioner (LFC). It includes similar data to that presented to the previous Board meetings to allow for trend comparisons to be built up. The Board is asked to note that there are ongoing issues with obtaining some of the relevant staff data, so it has been omitted from this report. Officers are working to rectify this.

Objectives and Expected Outcomes

3. That the LPB note this report.

Impacts**Equality Impact (provisional)**

4. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
5. The Public Sector Equality Duty requires us, in the exercise of all our functions, to have due regard to the need to:
 - a. Eliminate discrimination, harassment and victimisation and other prohibited conduct.

- b. Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
 - c. Foster good relations between people who share a relevant protected characteristic and persons who do not share it.

6. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

7. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) tackle prejudice, and
 - (b) promote understanding.

8. The protected characteristics are:
 - Age,
 - Disability,
 - Gender reassignment,
 - Pregnancy and maternity,
 - Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination),
 - Race (ethnic or national origins, colour or nationality),
 - Religion or belief (including lack of belief),
 - Sex (Gender),
 - Sexual orientation.

9. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.

10. A number of the datasets within Appendix 1 of this report are broken down by equalities categories, in particular the membership of the different firefighter pension schemes amongst the LFC operational workforce, which is broken down by sex, race and age.

11. The Equality Impact Assessment (EIA) for this regular report was reviewed on 23/02/21. The impact assessment found outline neutral impacts identified although noting that areas such as pension opt outs rates varied by staff groups.

Procurement and Sustainability

12. There are no direct sustainable development implications arising from this report.

Strategic Drivers

13. There is a statutory requirement for the LFC to have a Local Pension Board.

Workforce Impact

14. Staff side are represented on the Local Pension Board and so will have an opportunity to comment on this report at the LPB meeting on 9 March 2021.

Finance comments

15. There are no Finance comments.

Legal comments

16. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.
17. The Local Pension Board was established under the Firefighters Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator.
18. The Pension Regulator's Code of Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

List of Appendices

Appendix	Title	Protective Marking
1.	Information on the firefighter pension schemes	Not Protectively Marked

Consultation

Name/role	Method consulted
Saminara Rahman – General Counsel's Department	Draft report
Adrian Bloomfield – Assistant Director Finance	Draft report
Tiffany Oarton - Equality Manager	Draft report
Nicole Fletcher – Sustainable Development	Draft report

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Appendix 1 LPB Provision of Information Report

Numbers of non-active members/beneficiaries of the firefighter pension schemes

Scheme	Deferred			Pensioner		
	Male	Female	Total	Male	Female	Total
1992	600	163	763	7,539	114	7,653
2006	330	75	405	17	4	21
2015	441	53	494	32	6	38
Total	1,371	291	1,662	7,588	124	7,712

Scheme	Dependants			Frozen Refunds		
	Male	Female	Total	Male	Female	Total
1992	28	1,258	1,286	15	1	16
2006	2	3	5	1	0	1
2015	2	5	7	0	0	0
Total	32	1,266	1,298	16	1	17

Firefighters: Number of Pensions Paid to Firefighter Pensioners and Spouses/Dependants

	Number
Pensions Paid to FF Pensioners	7,712
Pensions Paid to Spouses/ Dependants	1,298
Total Pensioners Paid	9,010

Firefighters Paying Additional Contributions

Under the 1992 and 2006 Firefighters' Pension Schemes members were able to buy additional years. They were able to carry on doing this even if they transferred into the 2015 Scheme.

Pension Scheme	No. of Employees
FF Scheme 1992	10
FF Scheme 2006	10
FF Scheme 2015	
- Paying additional contributions for 1992 Scheme	17
- Paying additional contributions for 2006 Scheme	6
TOTAL	43

Appendix 1 LPB Provision of Information Report

Auto Enrolment

Pension Scheme	June 2016	June 2019
FF Scheme 2015	31	404
FF Scheme 2006	104	
FF Scheme 1992	71	
TOTAL	206	404

June 2016 was an Auto Re-enrolment exercise that re-enrolled anyone that opted out between 01/04/13 and 31/05/15

June 2019 was a full auto enrolment exercise for LFB. This involved auto enrolling 404 staff into the Firefighters' Pension Scheme 2015.

Appendix 1 LPB Provision of Information Report

Firefighters Opting Out of the Firefighters' Pension Schemes

	FPS 1992	NFPS 2006	2015 FPS	TOTAL
YEAR				
2013/14	22	46	0	68
2014/15	63	74	0	137
2015/16	1	0	71	72
2016/17	1	0	247*	248
2017/18	1	0	56	57
2018/19	0	0	62	62
2019/20	0	0	406*	406
2020/2021 - July 20 Jan 21	1	0	37	38

*This includes opt outs following the June 2016 and June 2019 Auto Re-enrolment Exercises.

Appendix 1 LPB Provision of Information Report

Firefighters Pension Joiners

Month	1992 (transfer in)	Joiners		Gender		Ethnicity		
		2006	2015	M	F	BME	N/K	White
19/20								
April			41	40	1	3		38
May			24	22	2	1	1	22
June			431 *	376	55	101	8	322
July			29	26	3		29	
Aug	2		44	40	4		44	
Sept			38	31	7	7		31
Oct			13	7	6	2		11
Nov			26	20	6	1	16	9
Dec			13	10	3	7		6
Jan			16	13	3	1	1	10
Feb			22	14	8	3		19
Mar			17	13	4	2		15
TOTAL	0	0	714	612	102	132	99	483
20/21								
April			30	26	4	7	2	21
May			23	17	6	7	1	15
June			31	22	9	7	6	18
July			23	18	5	5	3	15
Aug			39	30	9	13	2	24
Sept			33	28	5	11	2	20
Oct			12	11	1	5		7
Nov			20	19	1	7	1	12
Dec			8	7	1	5		3
Jan			13	10	3	1		12
Feb								
Mar								
TOTAL	0	0	232	188	44	68	17	147

*This includes joiners following June 2019 Auto Re-enrolment Exercise.

Appendix 1 LPB Provision of Information Report

Firefighters Pension Opt Outs

Month	Opt Outs			Gender		Ethnicity		
	1992	2006	2015	M	F	BME	N/K	White
19/20								
April			12	11	1		1	11
May			4	4			1	3
June			238*	206	32	57	2	179
July			64	55	9	20	2	42
Aug			30	27	3	4	2	24
Sept			18	16	2	1	3	14
Oct			9	9			1	8
Nov			8	8		3	1	4
Dec			4	4		2		2
Jan			3	3		1		2
Feb			11	10	1	3		8
Mar			5	4	1	1		4
TOTAL	0	0	406	357	49	92	13	301
20/21								
April			1	1		1		
May			3	3		1		2
June			1	1				1
July			9	9		2		7
Aug			2	2				2
Sept			5	4	1	1		4
Oct			1	1				1
Nov								
Dec								
Jan								
Feb								
Mar								
TOTAL	0	0	22	21	1	5	0	17

*This includes opt outs following the June 2019 Auto Re-enrolment Exercise.

Appendix 1 LPB Provision of Information Report

Summary of reasons for opting out: 2020/21

1. I Cost of the scheme (contributions)
FPS: 5
2. Other financial commitments
FPS: 18
3. Made alternative arrangements
FPS:
4. Annual/lifetime allowance implications (tax)
FPS:
5. Transfer to FPS 2015
FPS: 2
6. Promotion
FPS:
7. Lack of job security
FPS:
8. Unclear on benefits of scheme
FPS:
9. Other reason (please specify)
FPS: 5
10. More than one reason
FPS :
11. No reason given
FPS: 8

Appendix 1 LPB Provision of Information Report

Retirements and Deferred 2020/21

Month	Retirements and Deferred					
	1992		2006		2015	
	Retirement	Deferred	Retirement	Deferred	Retirement	Deferred
20/21						
Apr	12	1	0	1	0	7
May	21	1	0	2	3	9
June	14	1	1	1	1	6
July	13	0	0	1	0	2
Aug	10	0	0	1	0	12
Sept	17	2	0	2	0	11
Oct	18	2	0	1	1	7
Nov	14	0	0	0	0	7
Dec	19	1	0	2	1	15
Jan	19	0	0	0	0	13
Feb						
March						
TOTAL	158	8	1	11	6	89

Appendix 1 LPB Provision of Information Report

Tapered Protection Ends – 2019/20

Month	Tapered Protection Ends		Gender	
	1992 → 2015	2006 → 2015	M	F
April	15		14	1
May				
June	18	1	19	
July				
Aug	21		19	2
Sept				
Oct	14		14	
Nov	16		15	1
Dec				
Jan	18		17	1
Feb				
Mar	13		13	
TOTAL	115	1	111	5

Tapered Protection Ends – 2020/21

Month	Tapered Protection Ends		Gender	
	1992 → 2015	2006 → 2015	M	F
April				
May	11		11	
June	19		17	2
July				
Aug	16	1	16	1
Sept				
Oct	13		12	1
Nov				
Dec	14	1	15	
Jan	14		13	1
Feb				
Mar	19		18	1
TOTAL	106	2	102	6

Appendix 1 LPB Provision of Information Report

Firefighters Commuted to Maximum Amounts

Year	Number of Retirements	Number commuted to Max	%
2014/15	202	168	83.2%
2015/16	262	211	80.5%
2016/17	198	150	75.8%
2017/18	210	164	78.1%
2018/19	170	142	83.53%
2019/20	254	199	78.35%
2020/2021 - Jan 21	165	132	80.00%

Firefighters Retirement Ages for 2020/21

Age	Total 2014/15	Total 2015/16	Total 2016/17	Total 2017/18	Total 2018 -19	Total 2019-2020	Apr 20-Jan 21
Under 50	*	*	*	17	15	17	7
50	67	77	35	48	28	51	28
51	21	44	24	19	12	25	17
52	23	24	23	16	23	27	11
53	18	22	17	23	13	24	23
54	12	31	16	14	11	21	18
55	26	37	38	49	42	43	29
56	4	14	12	5	7	13	4
57	3	1	3	5	5	9	9
58	0	4	1	5	4	5	2
59	3	1	1	1	0	5	1
60 and over	1	4	19	8	10	14	16
Total	178	259	189	210	170	254	165

* Data for under 50 retirements for 2014/15 – 2016/17 not available

Appendix 1 LPB Provision of Information Report

Costs – Ill Health Retirements – LFB

Firefighters' Pension Scheme Ill Health Statistics		
Year	No of Ill Health retirements	Cost: Ill Health payment £000
2010/11	6	558
2011/12	20	1,035
2012/13	12	1,085
2013/14	14	1,350
2014/15	9	1,143
2015/16	7	946
2016/17	7	665
2017/18	8	617
2018/19	10	682
2019/20	15	958
2020/21	11	1,201
Total	119	10,240

Ill-health retirement occurs when a member becomes entitled to immediate payment of their pension benefits as a consequence of becoming permanently disabled for undertaking their role as a firefighter. The lower tier award entitles any member who becomes permanently disabled for undertaking their role as a firefighter to the immediate payment of the pension benefits that they have accrued; the higher tier award entitles any member who becomes permanently disabled for undertaking their role as a firefighter and any other regular employment (defined as a minimum of 30 hours per week over a period of at least 12 months) to the immediate payment of an additional enhanced higher tier pension.

Ill Health cost

FRAs are required to make a payment into their pension fund of 4x average pensionable pay in respect of all higher tier ill-health retirements and 2x average pensionable pay in respect of all lower tier ill-health retirements. The repayment of ill health charges occurs over a three year period. For example, the ill-health payment for 2020/21 to date also includes the tranche payment for 2018/19 and 2019/20.

Appendix 1 LPB Provision of Information Report

Firefighter Pension schemes – IDRPs cases December 2020-February 2021**(including cases still live at time of report to previous LFC LPB)****No. of cases by scheme and category**

Scheme	Active	Deferred	Pensioner	Total
Cases still live at time of previous report:				
1992	1			1
2006				0
2015				0
New cases since December 2020:				
1992	1 (about to become pensioner)			1
2006				0
2015				0

Detail on cases

Scheme	Stage(s) reached	Outcome	Details
Cases still live at time of previous report:			
1992	Stage 1	Not upheld	<p>X is an active member who is over 60 years of age. After X turned 60 they opted out of the pension scheme, and were awarded deferred benefits as it was thought a member could not receive payment of benefits if they continued working.</p> <p>It was subsequently determined that there is nothing in the 1992 regulations to prevent payment of pension once the member reaches age 60, subject to normal abatement rules.</p> <p>X's pension was recently put into payment but fully abated as X works full-time. The lump sum was paid at the earliest opportunity. X has asked that interest be paid on the lump sum from when they first reached 60 years of age. An initial review declined the request for interest, and X registered a complaint within IDRPs.</p> <p>At the time of the previous LPB meeting a Stage 1 decision had yet to be reached.</p> <p>Since the last LPB meeting a Stage 1 decision has been reached; this does not uphold the complaint on the basis that there is no provision within the FPS to make an additional payment of interest.</p> <p>X has 6 months from the date of the Stage 1 outcome letter to register the complaint at Stage 2 of the IDRPs.</p>

Appendix 1 LPB Provision of Information Report

New IDRPs since December 2020:			
1992	Stage 1, decision to be reached		X is currently under notice of ill-health retirement. X has lodged an IDRPs application on the basis that they should be entitled to an injury award as their medical conditions (PTSD and depression) are qualifying injuries. At the time of writing this report a Stage 1 decision has yet to be reached.
<p><i>The cases below have not so far been within the IDRPs process, but have been reported on for information. In light of the 2018 Court of Appeal decision, and the ongoing remedies process, the individuals have been advised that management is still willing for their IDRPs applications to be kept on hold until the remedies outcome is clearer.</i></p>			
2015 - active	Not yet at Stage 1		<p>There was a Pensions Ombudsman's case (ref. PO-12836), reported to previous LFEPA LPB meeting, where the PO did not uphold a complaint that the 1992 scheme had been mis-sold to an employee who transferred to the 2015 scheme in April 2015.</p> <p>6 other individuals lodged a similar complaint, and following the PO determination, the 6 were asked if they wished to continue with their complaint to the IDRPs. It was subsequently agreed that the 6 could defer a decision on this until the outcome of the FBU legal case.</p> <p>Following the Employment Appeal Tribunal outcome in January 2018 management agreed to allow the 6 to continue deferring making a decision on whether or not they wish to pursue their complaint through IDRPs, until the legal position was clearer. The 6 were advised of this in writing.</p> <p>In light of the 2018 Court of Appeal decision, the individuals have been written to advising that management is still willing for their IDRPs applications to be kept on hold pending the outcome of the remedies process. None have advised they wish to withdraw their complaints; those that responded have confirmed they wish their complaints to remain on file.</p>

Appendix 1 LPB Provision of Information Report

Scheme Discretions – December 2020-February 2021**(Cases where LFC asked to exercise its discretion)**

Note: Under the LFC's Scheme of Governance – Delegations to Officers, the exercise of pension scheme discretions is delegated to the Assistant Director People Services.

Year	Scheme	Details	Outcome	Rationale
<p>There were eight outstanding cases at the time of the previous report. All concerned requests from active members for acceptance of a pension transfer payment from a non-occupational pension scheme. Under regulation 141(3) of the 2015 FPS 'A request that a transfer payment be accepted from a non-occupational pension scheme must be made during the period of one year beginning with the day on which the member becomes an active member or such longer period as the scheme manager may allow.' In all cases the transfer request was made more than one year after the employee became an active member, i.e. joined the LFB. Agreement to the transfer request therefore becomes a discretionary matter for the LFC.</p> <p>At the time of the last report (initial) decisions had been made in two cases, and since then the same decision has been reached in three further cases as set out in the next row. Decisions have yet to be made in the three cases reported in the second row below.</p>				
2020	2015	<p>Details of these 5 cases are as follows:</p> <ol style="list-style-type: none"> 1. Joined LFB 2002; request ca. 18 years later 2. Joined LFB 2006; request ca. 14 years later 3. Joined LFB 2007; request ca. 13 years later 4. Joined LFB 2018; request ca. 2.5 years later 5. Joined LFB 2019; request ca. 15 months later <p>The LPP have advised that there may be cost risks for the LFC in agreeing such requests if the employee reverts to a final salary pension scheme post-2015, in line with HM Treasury's proposals for the Sargeant/McCloud remedy. This would directly affect cases (1)-(3) above.</p> <p>Although cases (4)-(5) will not be affected by the Sargeant/McCloud remedy, the view is that until there is certainty, nothing can be guaranteed, and therefore these cases should be treated similarly to cases (1)-(3) above.</p> <p>Discretion has not therefore been exercised in these cases to date, however the employees have been advised that the request will be reconsidered when the Sargeant/McCloud remedy outcome is clearer.</p>	Discretion not exercised; request not approved, but will be revisited when Sargeant/McCloud remedy clearer.	n/a
2020	2015	<p>Details of these three cases are as follows:</p> <ol style="list-style-type: none"> 6. Joined LFB 1998; request ca. 22 years later 7. Joined LFB 2019; request ca. 20 months later 8. Joined LFB 2019; request ca. 17 months later <p>In all three cases the required transfer information has not yet been provided by the employee to the</p>	Decisions not yet made	

Appendix 1 LPB Provision of Information Report

		Brigade. For this reason no decisions have yet been made in these cases.		
New Discretions cases since December 2020				
2020	2015	<p>Details of the case where a decision has been reached is as follows:</p> <p>9. Joined LFB 2003; request ca. 17.5 years later</p> <p>The rationale for the decision is similar to that for cases (1)-(5) above.</p>	Discretion not exercised; request not approved, but will be revisited when Sergeant/McCloud remedy clearer.	n/a
2021	2015	<p>Details of the case where decision is awaited is as follows:</p> <p>10. Joined LFB 2020; request 1 year 9 days later.</p>	Decision not yet made	n/a

Appendix 1

LONDON FIRE BRIGADE

Report Title:	
Local Pension Board Annual Report 2021/22	
Report to:	Date
Corporate Service Directorate Board	March 2022
Local Pension Board	14 March 2022
Commissioner's Board	6 April 2022
Fire and Resilience Board	26 April 2022
Audit Committee	12 May 2022
Local Pension Board	
Report author:	Name: Adrian Bloomfield. Job Title: Assistant Director Finance.
Report classification	
For Information	
The subject matter for this report deals with the following LFB strategic priorities	
The best people and the best place to work	
Report number – [FP1522] – COMPLETED BY GOVERNANCE TEAM	
For Publication	

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DECISION-MAKER

Executive Summary

This Annual Report covers the activities of the LFC's Firefighters Pension Schemes Local Pension Board (the Board) for the year to 31 March 2022.

Recommended decision(s)

That the Director of Corporate Services and Local Pension Board note the content of the report.

1. Introduction and background

1. The Public Service Pensions Act 2013 (the Act) introduced a framework for the governance and administration of public service pension schemes, including those pension schemes for fire and rescue workers. The Act included the requirement for a Local Pension Board (LPB) to be established by each responsible Authority.
2. Following the abolition of the London Fire and Emergency Planning Authority and the establishment of the new governance structure, the London Fire Commissioner (LFC) approved the creation of a new Local Pension Board in 2018 in respect of the firefighter pension schemes, in accordance with the requirements of the Public Services Pensions Act 2013.
3. The purpose of the Board is to assist the LFC in its role as the Scheme Manager of the Firefighters' Pension Schemes: 1992, 2006 and 2015. Such assistance is to:
 - Secure compliance with the Schemes' regulations, any other legislation relating to the governance and administration of the Schemes, and requirements imposed by the Pensions Regulator in relation to the Schemes; and
 - Ensure the effective and efficient governance and administration of the Schemes.
4. The LFC is the Scheme Manager for the firefighters' pension schemes, which is a role defined by the Act. The management of some specific responsibilities for Stage 1 Internal Dispute Resolution Procedures (IDRP) and scheme discretions are delegated to the Assistant Director Finance and the Assistant Director People Services respectively, as set out in the Scheme of Governance. The management of the day to day responsibilities of the Scheme Manager are now delegated to the Director of Corporate Services. This report serves to communicate to the LFC and the Deputy Mayor for Fire and Resilience the activities of the Board during the financial year 2021/22.

Constitution

5. A constitution for the Local Pension Board was approved by the LFC at the time that the Board was created and was reviewed and updated in 2019.

Format of meetings

6. The Board holds four meetings per year in line with The Pensions Regulator's guidance.
7. Board members are required to declare any potential conflicts of interest to the Scheme Manager on appointment and at any such time as their circumstances change, in line with the Board's Conflicts of Interest Policy.
8. Board members are asked to inform the Scheme Manager of any reported breaches of the law.
9. Minutes are taken at all meetings.

Board membership

10. As set out in the constitution, there is an equal number of employer and employee representatives on the Board (5 of each), with nominated substitute members who are able to act as Board members in the absence of one of the full members. A separate report (FP1458) is being prepared for the LFC to consider [an amendment to the Terms of Reference of the LPB](#), This will propose reducing the employer's and employees' side from 5 to 4 each, making a total of 8 Board Members. The above amendments will mean that the existing quorum provision for meetings will reduce to (at least) 2 on each side rather than 3 on each side as at present. This will significantly reduce the likelihood of meetings being inquorate and will therefore increase the effectiveness of the LPB.
11. The Chair of the Board is rotated on an annual basis between the employer and employee members. The Chair for 2021/22 was provided by the employee side and was Gareth Beeton, Fire Brigades Union.
12. The Vice-Chair of the Board is also rotated on an annual basis between the employer and employee members. The Vice-Chair for 2021/22 was provided by the employer side and was Deputy Assistant Commissioner Charlie Pugsley.

Training

13. The Pensions Regulator has published a Code of Practice for the governance and administration of public service pension schemes. 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.
14. There have been a number of training sessions delivered to the Board, including training/familiarisation presented by the London Fire Commissioner's pension administrator. Topics covered included pension increase and pensionable pay. Board Members were also given the opportunity to attend the annual LGA Fire Pensions Conference. In addition, the LGA organised a number of fire pension events during the year that the Board was invited to attend. There is also online training available on the Pensions Regulator's website which members of the Board are encouraged to complete.

Board activity

15. Since the new Board was set up in 2018, the work of the Board has been shaped by the Board members and by officers supporting the Board and is influenced by any requirements from The Pension Regulator, the Home Office, the Scheme Advisory Board or the LGA Bluelight Pensions Team.
16. Some regular reports to the Board have been developed and these are set out below.
17. The regular Update Report provides the Board with the latest information on areas of significant pension work and includes both local and national issues. As well as enhancing the knowledge and understanding of Board members, this regular report serves to prompt discussion by the Board about the impact of issues for pension scheme members and about how work is being managed. This helps to achieve the Board's purpose of securing effective governance and administration.
18. The Provision of Information report contains details about the firefighters' pension schemes within LFB. This includes statistical data and provides range of scheme membership information and analysis of trends.
19. Other areas which have been discussed at Board meetings include:
 - Employer discretions under the firefighter pension schemes.
 - Ill Health retirements
 - Annual Benefits Statements
 - Annual allowance and lifetime allowances
 - Member self service
 - The Pensions Regulator including Relationship Supervision of the FPS
 - Communications
 - Breaches of the law
 - Pensions data including the transfer of LFC data to a new pension administration system by the LPPA
 - Risk register
 - Transitional arrangements for the 2015 FPS, the McCloud/Sargeant remedy and immediate detriment issues
 - Fire pension administration – both performance and future work plans
20. The Board also continued with two working groups to review and report to the Board, with findings and recommendations, on the following areas:
 - A LPB Communications Working Group was set up with the aim to look at improving internal LFB communications on pensions to members.
 - An Equalities Working Group was set up to help the Board better understand some of the underlying reasons why higher numbers of women and BAME staff don't enrol and /or opt out of the firefighters' pension schemes. This group is working with LFB Equality Support Groups with the aim to obtain an improved understanding to assist messaging to better communicate the benefits of the pension scheme to these groups.
21. The Board has worked well employing a collaborative approach between the employee and employer representatives to understand, consider and address issues raised.

22. The Board continues to be supported by standing advisors from Finance, People Services and General Counsel's Department. The LFC's appointed pensions administrator, the Local Pensions Partnership Administration (LPPA), also attends and presents at all Board meetings.
23. The Board will continue to ensure that good practice is maintained, and ongoing improvements are made in line with advice from the Scheme Advisory Board and The Pension Regulator (TPR).
24. The LFC has been selected by TPR for Relationship Supervision. This is the ongoing supervision of schemes that are of strategic importance to TPR and helps them build strong, open, and transparent relationships with pension schemes to better understand their circumstances and the specific challenges they face. Supervision activities were paused by TPR due to the ongoing pandemic but have recently restarted with the easing of lockdown and the Board and officers will work in collaboration with TPR to seek to improve the LFC's firefighters pension schemes .
25. A work plan has also been prepared for the coming year, and this includes areas identified through regular reporting as well as to address coming changes and significant events.

2. Objectives and expected outcomes

- 2.1 That the Director of Corporate Services and the LPB note this report.

3. Equality comments

- 3.1 The LFC and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
- 3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3 The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), race (ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex, and sexual orientation.
- 3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:
 - eliminate discrimination, harassment and victimisation and other prohibited conduct
 - advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it
 - foster good relations between people who share a relevant protected characteristic and persons who do not share it.

- 3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- tackle prejudice
 - promote understanding.
- 3.8 An Equality Impact Assessment (EIA) was reviewed on 08/03/22. The impact assessment found outline neutral impacts identified and steps taken to mitigate these.

4. Other Considerations

Workforce comments

- 4.1 Staff side are represented on the Local Pension Board and so will have an opportunity to comment on this report at the LPB meeting on 14 March 2022.

Sustainability comments

- 4.2 This report does not produce any environmental or sustainability implications.

Procurement comments

- 4.3 There are no procurement implications for this report.

5. Financial comments

- 5.1 The report is by the Assistant Director of Finance and comments are incorporated in the body of the report. The training of Board members is largely carried out in house at no direct cost, and national events such as the LGA conference have been free of charge so far as part of the LFC's subscription to the LGA. If Board members have to travel to attend training events this cost is contained within existing budgets.

5.2 The LFC continues to pay a levy to the Scheme Advisory Board and this will cover the cost of the national fire pensions technical advisor posts and support the work of the SAB. The aim of the SAB in setting this levy is to help fire authorities to achieve cost savings by producing guidance and communications centrally for authorities to share. The cost to LFC in 2021/22 is £43,876, which is an increase of £4,176 from the previous year and this has been provided for within the revenue budget.

6. Legal comments

- 6.1 This report sets out the Annual Report covering the activities of the LFC's Firefighters Pension Schemes Local Pension Board (the Board) for the year to 31 March 2022 is for information only, therefore no direct legal implications arise.
- 6.2 The Local Pension Board was established under the Firefighters Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator.
- 6.3 The Pension Regulator's Code of Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

List of Appendices

Appendix	Title	Open or confidential

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – ~~YES~~/NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer

Rory Murphy has drafted this report and confirms the following:

Assistant Director/Head of Service

Adrian Bloomfield has reviewed the documentation and is satisfied for it to be referred to Board for consideration.

Advice

The Finance and Legal teams have commented on this proposal;

Hameera Darr, Legal Advisor, on behalf of General Counsel (Head of Law and Monitoring Officer)

Adrian Bloomfield, Financial Advisor, on behalf of the Chief Finance Officer



Report title

Local Pension Board - Update Report

Report to

Date

Local Pension Board

14 March 2022

Report classification:

For Information

The subject matter of this report deals with the following LFB strategic priorities:

The best people and the best place to work

Report number – [FP1345] – COMPLETED BY GOVERNANCE TEAM

For Publication

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DECISION-MAKER

Executive Summary

This report provides members of the Local Pension Board (LPB) with an overview and update on the position relating to a number of current issues affecting firefighter pensions.

Recommended decision(s)

That the Director of Corporate Services and Local Pension Board note the content of the report.

1. Introduction and background

1. The purpose of the LPB is to assist the London Fire Commissioner (LFC) as the Scheme Manager:

- (a) To secure compliance with legislation relating to the governance and administration of the firefighters' pension schemes, and any requirements imposed by The Pensions Regulator in relation to the firefighters' pension schemes (FPS); and
 - (b) To ensure the effective and efficient governance and administration of the FPS.
2. This report provides an update on a number of issues considered to be relevant to the LPB's role. The issues, whilst all relating in some way to the firefighters' pension scheme, are quite disparate in nature. They vary quite significantly in their complexity, the stage they are at, and their impact on LFC.
 3. The following items will be considered as part of the report. These have been grouped to try to consider related issues together.
 - Legal cases/issues
 - Transitional arrangements for the 2015 FPS - McCloud and Sargeant cases and Remedy
 - Immediate Detriment
 - Finance Bill (No.2)
 - Cost control mechanism – Judicial Review challenges
 - New Employment Tribunal claims
 - Pensions issues
 - Guaranteed Minimum Pensions (GMP) Reconciliation
 - Pension Tax – Accounting For Tax (AFT) and Event Reporting
 - Firefighter pensions
 - Scheme Advisory Board (SAB)
 - Actions arising from the SAB Bulletins
 - Local pensions issues
 - Overstated Pensionable Pay Figures 2020/2021
 - LPB Member Training
 - LPFA/LPPA arrangements
 - LPPA Project PACE (Pension Administration Core Evolution)
 - Covid19
 - Communication with members
 - The Pensions Regulator (TPR) – Relationship Supervision
 - Auto Re-Enrolment
 - Consultations, Surveys and Returns
 - Firefighters' Pension Scheme Risk Plan

Legal cases/issues

1. It is a requirement of the Public Service Pensions Act 2013 and subsequent 2015 regulations, for members of a Local Pension Board to have a knowledge and understanding of the law relating to pensions and such other matters.

2. This section provides an update on the latest relevant legislative cases/changes that impact on the pension scheme.

Transitional arrangements for the 2015 FPS -McCloud and Sargeant cases and Remedy

3. LPB members will be aware from previous LPB reports, of the ongoing legal proceedings relating to the transitional provisions (protection arrangements) for the Firefighters Pension Scheme (FPS) 2015. By way of summary, in 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters' and Judges' Pension Schemes (Sargeant and McCloud cases). The current position with the legal proceedings is that the case has been listed for a preliminary hearing on 13-28 October 2022 to determine the key issues and test cases for the remedy hearing anticipated to take place in 2023.
4. On 4 February 2021 the government published its consultation response on how it intends to remove the discrimination identified by the courts in pension reforms through changes to primary legislation and FPS regulations. The discrimination will be removed in two parts. The first is prospectively for future benefits from 1 April 2022, the second is retrospectively for benefits built up during the period of discrimination 1 April 2015 to 31 March 2022 (the remedy period).
5. On 8 November 2021 the Home Office launched a consultation on the amendments to the pension scheme regulations to deliver the first set of changes to remove the transitional protections from the FPS 2015 (prospective action). The consultation closed on 2 January 2022
6. The proposed amendments to the pension scheme regulations enact the policy announced in February and are consequential to the provisions in the Public Service Pensions & Judicial Offices Bill (PSPJO) currently before Parliament. The changes are intended to come into force on 1 April 2022.
7. From 1 April 2022 all those who continue in service will do so as members of the FPS 2015, regardless of age, meaning all staff will be eligible for membership of the same pension scheme. All currently protected members will be placed in the FPS 2015 for service from 1 April 2022 (the end of the remedy period).
8. All protected members who reach normal retirement date in their legacy scheme by 1 April 2022 will be eligible for immediate retirement, if they wish to do so. For those who wish to continue to accrue benefits they will do so as members of the FPS 2015 (as amended). Officers anticipate that up to 548 active members of the FPS will have become eligible to retire.

Immediate Detriment

9. It is anticipated that the PSPJO Bill, with secondary legislation (the Remedying Legislation), will be enacted in or around October 2023. Prior to the Remedying Legislation coming into force, there may be some individuals who wish to access their legacy scheme pension benefits but are unable to do so as the regulations are not in place, this is referred to as an Immediate Detriment, and can refer to those members who have already retired or will do so before the Remedying Legislation is implemented.
10. In August 2020, and subsequently in June 2021 the Home Office (Police Workforce and Professionalism Unit) issued 'informal guidance' to Fire and Rescue Authorities (FRAs) (and the

Police) on how to deal with 'immediate detriment cases' The details of the Home office Guidance were set out in previous LPB Update reports.

11. Owing to the delay in enacting the Remediating Legislation, the Local Government Association (LGA) and the Fire Brigades Union (FBU) developed a Framework and memorandum of understanding (the Framework) which was said to address a number of outstanding issues that needed to be resolved to make immediate detriment payments. The Framework was published on 08 October 2021. There is no legal obligation on the FRAs to adopt the framework.
12. Notification was received via the LGA on 29 November 2021 that the Home Office had withdrawn its informal and non-statutory guidance on processing certain kinds of immediate detriment cases ahead of legislation, with immediate effect. Within the same communication, the Home Office stated in relation to the funding position, that they do not advise that Immediate Detriment payments should be made in advance of legislation being enacted (anticipated to come into effect in October 2023); that they will not reimburse associated costs and that any Immediate Detriment payments not considered to be "legitimate expenditure" will need to be funded by the relevant FRA.
13. A letter has been sent to the Home office seeking clarity on both the funding position, (i.e. will the Immediate Detriment claims be funded under the existing provisions of the FPS), and their interpretation of the lawfulness of making Immediate Detriment payments under section 61 Equality Act 2010. Discussions continue to take place with the Local Pensions Partnership Administration (LPPA) regarding the resources available to process immediate detriment cases and the costs, pending any Decisions on the same, by the LFC.

Legislation

14. In late October 2021, the HMRC published a policy document and a Finance (No.2) Bill, the details of which are set out in the previous board paper. The secondary legislation required to make this change is anticipated to take effect from 6 April 2022.

Legal cases

Cost control mechanism – Judicial Review challenges

15. As stated in the previous report to the Board, several trade unions, including the FBU have applied to the High Court for a Judicial Review against HMT in relation to the costs control mechanism introduced as part of the 2015 FPS. Further updates will be provided as this case develops.

New Employment Tribunal claims

16. On 3 February 2022 an employment tribunal claim has been brought on behalf of up to 750 Claimants who were not part of the original proceedings that are referred to in paragraph 3 above. It is likely that the claim has been brought to preserve the legal position of the Claimants who were not part of the original claim so as to ensure that they are included in any remedy determination made in relation to the original proceedings. An application has been made to stay the claims pending the determination of the outstanding issues in the Sargeant and McCloud cases.

Pensions issues

17. This section provides an update on general pensions issues.

Guaranteed Minimum Pensions (GMP) reconciliation

18. There is nothing new to report to the Board on the GMP reconciliation.

Pension Tax – Accounting For Tax (AFT) and Event Reporting

19. Officers confirm that they have met the statutory deadlines of 31 January 2022 and 14 February 2022 for completing the Unauthorised Payment Event Reporting and AFT returns respectively and making any necessary payments to HMRC.

Firefighter pensions

20. This section provides an update on firefighter pensions issues.

Scheme Advisory Board (SAB)

21. Members are reminded of the SAB website – www.fpsboard.org which provides a reference site for knowledge, procedures, policies and examples of best practice across the Fire Sector.

22. The SAB monthly Firefighters' Pensions Schemes bulletin is regularly circulated to LPB members and as requested by the Board is added as appendices for information. Bulletins for November, December and January are attached to this report as Appendices 1,2 and 3 respectively. This update report should cover most of the relevant areas included in the Bulletins.

23. There are no actions for FRAs outlined in the bulletins, and details are provided below:

<u>Bulletin Date</u>	Action to be taken	Comment
<u>Nov 2021</u>	None	N/A
<u>Dec 2021</u>	None	N/A
<u>Jan 2022</u>	None	N/A

Firefighters (England) Scheme Advisory Board and LGA Levy 2021/2022

24. The SAB issued the Firefighters' Pension Scheme (FPS) levy to be paid by English Fire and Rescue Authorities (FRAs) for the year 2021/2022.

25. The Fire minister approved the SAB levy at a total of £9.16 per firefighter on English FRAs to pay for both the work of the SAB and the LGA. This includes the SAB levy of £6.88 and the FRA LGA levy of £2.28.

26. The LFC continues to pay the levy to the SAB and this will cover the cost of the national fire pensions technical advisor posts and support the work of the SAB. The aim of the SAB in setting this levy is to help fire authorities to achieve cost savings by producing guidance and communications centrally for authorities to share. The cost to LFC in 2021/22 is £43,876, which is an increase of £4,176 from the previous year and this has been provided for within the revenue budget.

Local pensions issues

27. This section provides an update on local firefighter pensions issues.

Overstated Pensionable Pay Figures 2020/2021

28. As previously reported to the Board, a report was considered at Commissioner's Board on 23 November 2021 identifying an error which had occurred in processing senior officer pay. This error was because an element of pay, and was one specific allowance, was treated as pensionable when in fact it was non-pensionable. The result was that the pensionable pay for 19 senior officers of LFC had been overstated for one year, 2020/21. As a result, the affected staff paid additional pension contributions and employer contributions were also made that need to be corrected and a decision was taken that it would be reported to The Pensions Regulator (TPR) as a breach of the law.
29. At the Commissioner's Board in November 2021, it was noted that the Director of Corporate Services would report the issue to TPR as a breach of the law, as delegated by the LFC, in accordance with section 70 of the Pension Act 2004 and relevant Codes of Practice. It was further noted that authority be delegated to the Director of Corporate Services or their appropriate deputy to deal with issues arising from this report including authorising corrections to staff, HMRC and the Home Office as necessary.
30. Officers reported the breach of the law to TPR and informed them of the action that had been taken to correct the breach.
31. Officers from Payroll worked with the LPPA to ensure that affected members were made aware of the error and that it was resolved. Corrective action included the affected members receiving (where applicable) revised Annual Allowance letters, Pension Saving Statements, Annual Benefit Statements, refund of employee contributions, pensions recalculated and member records updated. The process was reviewed, and a new payment type set up in the LFC payroll system so that pension contributions are not taken when these payments are made to mitigate this happening again with payroll staff being advised and trained accordingly.
32. The final action to be taken is to amend and check adjustments and any contribution tax refund adjustments made in the March 2022 pay run for two retired members of staff.
33. Internal audit will be undertaking an audit to provide assurance on the availability and adequacy of controls within the Payroll team to ensure that changes to system parameters are appropriately completed, known about and checked. This will assess the adequacy of the framework in place for ensuring that changes to parameters within the payroll system are identifiable and undertaken correctly, and will provide assurance that the remedial action taken to correct staff pay was appropriately managed. There is also now a new Payroll Manager (interim) in place and he has therefore been able to provide an independent review of the actions taken by the previous Payroll Manager and confirm the issues identified have been addressed.

LPB Member Training

34. As previously reported, The Pension Regulator 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.

35. Board members are reminded again of The Pension Regulator's online training tool and encouraged to utilise it. The link to it is: www.thepensionsregulator.gov.uk/en/public-service-pension-schemes. Once the modules are successfully completed Board members are asked to notify the LPB Clerk to record the training.
36. A record of members' training is attached as Appendix 4 showing the position on the Pensions Regulator's Public Service Toolkit for all LPB members, as well as detailing other relevant training that Board members have attended. Officers will arrange for LPB member training and also LFC Scheme Manager training to be provided by the LGA's fire pensions adviser when they are able to do so. The LGA paused training due to the pandemic and while it completed a recruitment exercise but it is understood that training has now recommenced. Officers will also ask the LPPA to continue with a short training session at each LPB meeting if it is considered useful.

LPFA/LPPA arrangements

37. Some key areas of LPPA work for the Board to be aware of are included below.
38. LPPA Quarterly Client Report - The LPPA have provided the quarterly client report for LFC covering Q3 of 2021/22 (Oct - Dec) that is attached as Appendix 5.
39. LPPA monthly Risk and Compliance Report - these provide an overview of complaints, breaches, incidents and risks & issues (Nov 2021 – Jan 2022) and are attached as Appendices 6, 7 and 8 respectively.

LPP Project PACE

40. As previously reported, the LPPA are changing their pension administration system software suppliers to Civica's Universal Pensions Management (UPM) system. The implementation of UPM will sit at the heart of the LPPA's business and digital transformation to improve the member and employer experience. The new platform allows members and employers to self-serve 24/7, introducing automation and self-service capabilities that significantly improve the user experience. UPM will consolidate five existing systems into one integrated workflow platform, freeing up administrators to focus more on value-add activities for members.
41. This will mean that all the LFB pension data will be transferred as part of this LPPA Project PACE exercise with the timescale for moving LFB data planned for 24 March 2022. The LPPA Project PACE is being delivered by a dedicated team of project managers and ringfenced project roles to ensure no impact to the day to day performance of the business.
42. Officers in Payroll and People Services have been undertaking training on the new system.
43. As part of the move to the new system the LPPA was looking to propose standardised Service Level Agreements (SLAs) across all clients. Officers have reviewed the proposal and have agreed to accept this as it is beneficial to LFC in that it reduces the time allowed for some processes under the SLA.
44. Attached as Appendix 9 is an update report on Project PACE and covers what's gone well and what hasn't gone well with the roll out so far. It also provides an update on progress for the London Fire Brigade go-live and the go/no-go decision-making process.
45. The Board will be kept informed of progress as the project develops.

LPPA Budget 2022/23

46. LFC has agreed with the LPPA the cost of the pension administration service to us for 2022/23 as per the table below. This is provided on a cost recovery basis under a shared service agreement. The LPPA have focussed on controlling costs and managed to keep the LFC charge in line with the current years. This is due largely to benefiting from reduced system costs as they transition to a new pension administration system which helps to mitigate inflationary increases.

London Fire Brigade	Budget	Cost Per Member	Total Members*
Financial Year 2022/23	£362,163	£23.99	15,099
Financial Year 2021/22	£362,536	£24.20	14,978
Variance of 2022/23 to 2021/22	-£373	-£0.22	+121
% Change 2022/23 from 2021/22	-0.10%	-0.90%	+0.81%

Covid19 Issues affecting the FPS

47. Officers continue to have regular communications with the LPPA, and no service issues have been reported that affect the LFC.

Communication with members

48. Staff were communicated with on Hotwire in March giving an [update on fire pension issues](#). This included information on the Firefighters' Pension Schemes from 1 April 2022 including a SAB Factsheet answering questions on McCloud/ Sargeant - Pensions Remedy. It also gave updates on a Pension Scheme buyback for Strike Action 2013-2015 exercise, the impact of the pension remedy on LFB and the current position on the Immediate Detriment Framework.

Firefighters' Pension Schemes from 1 April 2022

49. LFC has written to all protected staff in the FPS 1992 and FPS 2006 that will be affected from 1 April 2022 when the Public Service Pensions and Judicial Offices Bill comes into force as part of the government's remedy to remove future age discrimination and ensure equal treatment from the FPS. This means that all remaining protected members who are not currently members of FPS 2015 will transfer into this scheme on 1 April 2022 (the end of the remedy period). The FPS 1992 and FPS 2006 (legacy schemes) will be closed to all members.

Pension Scheme buyback for Strike Action 2013-2015

50. The LFC is undertaking an exercise to write to all relevant operational staff about buy back of pensionable service which was lost as a result of the strike action between September 2013 and February 2015. Staff have 6 months from receipt of this letter to buy back pensionable service lost between September 2013 and February 2015. The pensionable service will be bought back in the 1992/2006 schemes, and then managed as part of other legacy scheme pension in the transfer to the 2015 Scheme.
51. The Board is reminded again of the LPPA website lppapensions.co.uk for employers and members to get all the information they need when it comes to pensions. The site will also give direct access to My Pension Online, so members can get the key information they need to manage their pension.

52. The LPB Comms working group has been set up with the aim to look at improving internal LFB communications to members. The LPB lead on this is reviewing how best to develop communications on pensions to staff and improving the pensions area on Hotwire.

The Pensions Regulator (TPR) – Relationship Supervision

53. As previously reported to the Board, TPR had paused the evaluation activities with LFC for the Firefighters' Pension Scheme until further notice due to the pandemic.
54. TPR have now informed LFC that they are resuming their supervision engagement for the London Fire Brigade Firefighters' Pension Scheme.
55. TPR are attending today's Board meeting and will give a brief overview on the process.

Auto Re-enrolment

56. TPR has informed us that we are legally required to carry out a pensions Auto Re-Enrolment exercise for LFC this year.
57. Every three years an employer must put certain staff back into a pension scheme. This is known as 're-enrolment'. This is an employer's legal duty and we must inform TPR when it is complete and submit a re-declaration of compliance.
58. LFC last carried out re-enrolment duties on 1 June 2019 and officers are intending to do this year's exercise on 1 August 2022.
59. The Board will be kept updated.

Consultations, Surveys and Returns

60. This section provides an update on consultations, surveys and returns of relevance to pensions.

Home Office consultation: Amendments to the firefighters' pension schemes in England 2022

61. The Home Office had launched a consultation on the amendments to the pension scheme regulations to deliver the first set of changes to remove the transitional protections from the FPS 2015.
62. These changes enact the policy announced in February of this year, and are consequential to the provisions in the [Public Service Pensions & Judicial Offices Bill \(PSPJO\)](#). The changes are intended to come into force on 1 April 2022.
63. This is part of the package of measures that the government is undertaking to remove the discrimination identified by the courts in the McCloud and Sargeant cases. The second phase will address the issue of giving members a retrospective choice of benefits for the remedy period. The Home Office will consult on this separately next year.
64. Details of the consultation and associated documents can be found through the following provided link here: [Amendments to the firefighters' pension schemes in England 2022 - GOV.UK \(www.gov.uk\)](#)

65. The consultation closed on 2 January 2022 and both LFC and the LPPA have responded to it.
66. The [Home Office consultation response on prospective remedy](#) was published on 8 March and it confirms the amendments which are to be made to the pension scheme regulations which will deliver the first set of changes and remove the transitional protections from the FPS 2015. In addition, it also confirms provisions for an ill health underpin which will ensure that a protected member who applies for ill health retirement before 31 March 2022, and which is determined in their favour after that date, is treated no less favourably than if the application had been determined on that date. The response also makes provisions to allow arrangements for members who are purchasing service in the legacy schemes by way of periodical contributions, entered before 1 April 2022, to continue after that date.
67. The second phase of remedying the McCloud/Sargeant cases will address the issue of giving members a retrospective choice of benefits for the remedy period. It is understood that the Home Office will consult on this separately later this year.

FRA Survey on Immediate Detriment/Framework

68. The LGA issued a survey to know what the current position is in each FRA in respect of how they're processing immediate detriment cases. This information is for them to better understand the current landscape so as to be best placed in discussions with other parties to identify any necessary solutions, and able to provide further support to FRAs where needed.
69. The LGA will not share individual FRA responses with third parties.
70. Officers have completed the survey for LFC.

HM Treasury Survey: Opt-out - Participation rates

71. HMT have begun undertaking analysis on reviewing member participation and engagement across public sector pensions. This is part of HMT's response to the Public Account's Committee's recommendations in its report on public service pensions.
72. HMT is seeking to understand members' views regarding their pensions, including the reasons why people may opt out of a scheme and whether this has a long-term impact on other parts of public services and expenditure. It is their intention to review the take up and retention of public pensions, particularly amongst young professionals; this will help them to help understand the issues employers face when trying to demonstrate the value of pensions. It is hoped that such a review should identify areas where communication is working well and recommend best practice for employers.
73. LFC received this survey as one of the five largest FRAs by number of eligible members reported on our statutory levy return. HMT have been approaching the largest employers to provide a cross-section of types of employers and workforce to give a good indication of current engagement levels/data collected across the sector.
74. Officers have completed the survey for LFC.

Firefighters' Pension Scheme Risk Plan

75. As the Board should be aware it was agreed that a separate full report on the FPS Risk Plan is produced twice a year for review by the Board, once in the summer and once for the LPB Annual Report. For the rest of the year it is included within the regular LPB Update Report.

76. A separate report on the current LPB FPS Risk Plan is on today's agenda.

2. Objectives and expected outcomes

2.1 That the Director of Corporate Services and LPB note this report.

3. Equality comments

3.1 The LFC and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.

3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.

3.3 The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), race (ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex, and sexual orientation.

3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:

- eliminate discrimination, harassment and victimisation and other prohibited conduct
- advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it
- foster good relations between people who share a relevant protected characteristic and persons who do not share it.

3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- 3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- tackle prejudice
 - promote understanding.
- 3.8 The Equality Impact Assessment (EIA) for this regular report was reviewed on 08/03/22. The impact assessment found neutral impacts identified and steps taken to mitigate these. It is worth noting that although the impact assessment found outline neutral impacts identified, areas such as pension opt outs rates varied by staff groups. The LPB set up a LPB Communications working group to improve understanding and encourage take up of pensions for our staff. They also established an Equality working group to help the Board better understand some of the underlying reasons as to why higher numbers of women and BAME staff don't enrol and /or opt out of the scheme. This is with the aim to obtain an improved understanding to assist messaging to better communicate the benefits of the pension scheme to these groups.

4. Other Considerations

Workforce comments

- 4.1 Staff side are represented on the Local Pension Board and so will have an opportunity to comment on this report at the LPB meeting on 14 March 2022.

Sustainability comments

- 4.2 The Mayor has worked with the LPFA (London Pension Fund Authority) on a climate change policy to no longer consider new active investments in fossil fuel companies by 2020, including all necessary divestment. The FPS is an unfunded scheme and therefore does not have any funds to invest.

Procurement comments

- 4.3 There are no procurement implications for this report.

5. Financial comments

- 5.1 The report is by the Assistant Director of Finance so there are no further comments.

6. Legal comments

- 6.1 This is an update report for information only. Legal matters have been highlighted in the body of the report.
- 6.2 Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant

of that office. Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.

- 6.3 The Local Pension Board was established under the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator.
- 6.4 The Pension Regulator's Code of Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

List of Appendices

Appendix	Title	Open or confidential
1	SAB Bulletin – Nov 2021	
2	SAB Bulletin – Dec 2021	
3	SAB Bulletin – Jan 2022	
4	LPB Member Training Record	
5	LPPA Quarterly Administration Report Q3	
6	LPPA Risk and Compliance Report – Nov 2021	
7	LPPA Risk and Compliance Report – Dec 2021	
8	LPPA Risk and Compliance Report – Jan 2022	
9	LPPA Project PACE Update	

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – ~~YES~~/NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer

Rory Murphy has drafted this report and confirms the following:

Assistant Director/Head of Service

Adrian Bloomfield has reviewed the documentation and is satisfied for it to be referred to Board for consideration.

Advice

The Finance and Legal teams have commented on this proposal;

Hameera Darr, Legal Advisor, on behalf of General Counsel (Head of Law and Monitoring Officer)

Adrian Bloomfield, Financial Advisor, on behalf of the Chief Finance Officer