

Amar Pannu  
Head of Police and Firefighters' Pensions  
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2 Marsham Street  
London  
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2 April 2020

Dear Amar,

**Addressing unjustified age discrimination in transitional arrangements to the 2015 pension schemes – working proposals: Firefighters' Pensions England Scheme Advisory Board Response**

The Scheme Advisory Board (the Board) welcomes the opportunity to submit its non-binding comments on the proposals shared in the HMT document dated January 2020. In order to fully understand the impact of the proposals on the stakeholders, the Board formed a working group, which consisted of SAB employee and employer representatives, senior officer representatives of FRAs including NFCC, HR and Finance directors, administrators of the scheme<sup>1</sup>, the software suppliers<sup>2</sup> and the Board's advisers<sup>3</sup>. This group met three times and the minutes of these meetings have been supplied along with this response.

The Board recognise that the proposals are informal only and may be subject to change and submit their comments in line with that understanding so that they cannot be held to their response. The response of the Board and its stakeholders may differ in the formal response to the consultation expected in late spring/ early summer 2020

The Board acknowledges that there is currently a legal process for the claimants in the Sargeant case, for which FBU acts on behalf of the claimants, and the Fire and Rescue Authorities (FRAs) are the respondents in that case together with the respective UK governments. This response should not prejudice any decisions made in those on-going legal proceedings.

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<sup>1</sup> West Yorkshire Pension Fund and LPP

<sup>2</sup> Aquila Heywood and CIVICA.

<sup>3</sup> <http://www.fpsboard.org/index.php/about-the-board/board-membership>

At the start it is important to state that we do not believe that the proposal for the default primary scheme to be the substantive final salary scheme will be suitable for all members, particularly former members of FPS 2006, and we have [commented](#) on that in detail within our response. The Fire schemes have different contribution levels<sup>4</sup>, which could result in either arrears or overpayments:

- FPS 1992 contributions are higher than FPS 2015 which means if the member chooses to receive FPS 2015 benefits, they would receive a refund of **overpaid contributions**.
- FPS 2006 scheme contributions are less than FPS 2015, which means if the member chooses to receive FPS 2015 benefits, they would have **underpaid and owe contributions**

The Board's overarching comment on the proposals is that there are advantages and disadvantages to each option. **The lack of clarity over key issues has limited our ability to properly analyse each option**, and we have requested clarity within our response on this [missing information](#), as well as guidance for FRAs on how to process [immediate cases](#).

The Board identified that limiting risk was the boards strongest priority in its approach to considering the two options, and in that regard deferred choice was the only proposal to mitigate risk of further legal challenge. However, the likely administrative and cost implications of such a long-term remedy is challenging and potentially places a burden on employers for a longer period. **Therefore, although the Board was largely in favour of deferred choice, they cannot provide a definitive view at this moment.**

Within the response the Board has [summarised](#) its analysis of both options against five key areas: risk, cost, employer implications, administrative feasibility, and the technical ability to deliver.

Finally, within the paper the Board have given [stakeholder views](#) on the three main areas requested: communications in benefit statements, revisiting past cases, and member contributions.

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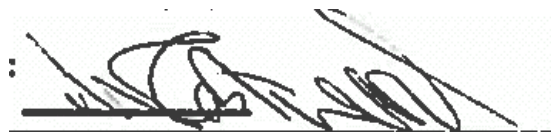
<sup>4</sup> <http://www.fpsboard.org/images/PDF/Bulletin18/Appendix2.pdf>

## Funding the proposals

While the Board understand that the purpose of this informal consultation is to provide high level views of the two proposals in the paper, there are significant [financial burdens](#) that would fall on employers to manage and administrate either proposal, and the Board calls on the Government to meet those FRA costs in full. The FPS is in an almost unique position, together only with the Police Pension Scheme, in that the scheme is locally administered and unfunded and, therefore, we have commented specifically on the [scheme structure](#) within our response.

If you have any questions, please let me know.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Malcolm Eastwood', written over a horizontal line.

Malcolm Eastwood  
Chairman of the Firefighters (England) Pension Scheme Advisory Board

## The Firefighters' Pension Scheme architecture

This section sets out the architecture of the Firefighters' Pension Scheme (FPS) as a locally administered unfunded public service pension scheme.

### Administration and Management

Under the regulations each of the 45 FRAs are responsible for the management and administration of their scheme and are defined in law as the scheme manager. This puts the responsibility to comply with over-riding pension legislation on each of the political bodies charged with governance of the Fire and Rescue Service (FRS), i.e. Combined Fire Authorities, PFCCs, County Councils, Mayoral functions etc.

Each FRA is required to administer the pension scheme either in-house or through appointing a third-party administrator. There are currently 17 different [pension administrators](#), supported by two software suppliers across the 45 FRAs.

### Funding

The unfunded nature of the scheme means that the top up grant from central government covers pension payments only, it does not fund administration and management of the scheme. FRAs must fund pension costs arising from the administration and management of the scheme from their operating accounts. The 2016 valuation outcome saw an average **increase** of 12.8% to employer contributions, which will place a significant pressure on the FRA operating accounts from 2021.

### Stakeholders

The scheme has a number of key stakeholders all playing a role in its effective administration and more information can be found about this in the [management and governance factsheet](#).

### Cost

In 2019 the Board undertook an [in-depth review](#) of how the framework of FPS administration and management, combined with the complexity of the scheme, impacted on its cost and effectiveness. While this was the first time such an attempt had been made and therefore inevitably there were gaps in the data provided, the analysis indicated that the **cost of administering the scheme was £120.33 per annum per member<sup>5</sup>**. Within this response we have commented on the impact these proposals will have on the future cost of managing and administering the schemes.

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<sup>5</sup> Appendix 1 - <http://www.fpsboard.org/images/PDF/Surveys/Aonreportfinal.pdf>

## Missing information

It became clear to the Board's working group while debating and discussing the proposals that there were several key answers missing to questions posed by the board. The full list of questions can be provided on request, however, the list below summarises those questions.

1. While the paper sets out that the end of remedy period is 'when the age discrimination has ceased for future accrual', there is no timescale for this. We understand that the Government have said that this will not be before 2022. For the purposes of responding to the consultations, we have estimated that the legislative procedures required to undertake the change may take up to three years and therefore have used a working assumption that the end of remedy period would be **April 2023**.
2. It is recognised that how discrimination will be removed from the schemes at a future date is not the purpose of the current HMT paper. Nevertheless, the question of how the schemes may look in the future is a relevant consideration to the analysis on;
  - Risk of member decision making for immediate or deferred choice, particularly with regards to whether final salary links would be retained in a non-discriminatory scheme, and how ill-health and death benefits would be affected.
  - Deliverability, particularly in the event of immediate choice which would occur at the same time as bringing in further reform changes.
3. While the Board accepts the [actuarial](#) cost of deferred choice and immediate choice will be determined by factors not yet known, such as Treasury directions and assumptions, the Board must stress that the lack of ability to assess the actuarial impact for either option is of great concern.

Actuarial costs can be described as:

- Immediate costs which will be passed to the employer.
  - Subsequent costs assessed at future valuations.
  - Cost-cap implications.
  - Impact of future scheme design in post-remedy period.
4. The Board recognises that the purpose of this paper is to cover the long-term aims of remedy, however, the paper also asks for stakeholder views on re-visiting past cases. The Board feel that past cases at the end of remedy (i.e. 2023) could well be current cases in the immediate (2020) term and therefore request that guidance for

FRAs and their administrators on how to process immediate cases is progressed urgently. This should include advice on:

- a. How to calculate contributions that may be required on a final salary basis, and how to handle tax relief that would be due. In the event of a refund of contributions the member would potentially owe tax relief. We understand the HMT proposals suggest that this may be dealt with via pension credit or debit, however, a pension debit could potentially be discriminatory as it is applied for the lifetime of the benefit and may lead to a number of members paying more contributions than they owed.
  - b. How retrospective pension growth should be calculated for the remedy period and the tax consequences of exceeding the annual allowance limits. In particular, whether the liability for tax charges as a direct result of the remedy process which would not otherwise have arisen would be borne by the Government as per the *Milne v Gad* cases and the FPS 1992 contribution holiday.
  - c. How the taper annual allowance limits would apply retrospectively.
5. The HMT paper comments that 'online tools' will be made available, and the Board welcome this statement. However, the paper does not expand on what the aim of these online tools would be, what they would look like, who would provide them, who would be responsible for their accuracy, and keeping them up to date. The Board would like more detail of HMT proposals in this area including the assurance that these will be made available free of charge to the schemes.
6. The HMT proposal does not comment on the impact of communication across the public sector in the event of an immediate choice scenario which would occur at the same time. In the interest of consistency and education has HMT considered a single template statement for all schemes to use to communicate the choice to members?

## Response to the proposal that the default primary scheme will be the final salary scheme

The Board is concerned that the proposed default of treating all members as being in their previous final salary scheme for the remedy period may not be appropriate for the Firefighters' Pension Schemes, in particular for members of FPS 2006.

This is due to the complexities and differences that exist in the Fire schemes that are not necessarily replicated in other public service pension schemes.

### Differences in benefits

It is expected that most members will receive higher benefits from FPS 1992 than they would from FPS 2015. This is primarily due to the lower Normal Pension Age (NPA) and doubling of accrual in FPS 1992. However, the position is not as clear when comparing benefits in FPS 2006 and FPS 2015.

For members retiring early from active service, it is expected that they will receive lower benefits in FPS 2006 compared to FPS 2015 due to less generous Early Retirement Factors (ERFs). For other scenarios, such as retiring at NPA or retiring from deferred status, there is little difference between the expected benefits in FPS 2006 and FPS 2015, other than one scheme is final salary in nature, whereas the other is career average.

The Board's actuarial advisers, First Actuarial, have prepared examples to illustrate this, showing the estimated benefits members could build up during the remedy period (assumed to run to April 2023). While the worked examples are simplified, and depend on a number of assumptions, they do show how the proposed default for members of FPS 2006 needs careful consideration.

The worked examples illustrate three sample career profiles:

- (A) **"No promotion"**: stay as a Firefighter with pay inflation increases only;
- (B) **"Typical"**: some promotion, one or two rises in role; and
- (C) **"High-Flyer"**: several different promotions, progressing through the ranks.

Screenshots from the slides are included below for information. In each of the slides, the estimated pension a member could build up in their final salary scheme (FPS 1992 and FPS 2006) has been compared with that expected from the CARE scheme (FPS 2015).

Figures are shaded **green** where the old final salary benefit is expected to be higher than the FPS 2015 benefit, **red** where the old final salary benefit is expected to be lower than the FPS 2015 benefit, and **orange** where the old final salary benefit could be higher or lower depending on how Average Weekly Earnings (AWE) increases in the future relative to actual salary.

## Retire from active service – age 55

	1992	2006	2015	
			(AWE = 2%)	(AWE = 3%)
(A) No Promotion	£5,620	£2,530	£3,270	£3,990
(B) "Typical"	£6,970	£3,140	£3,610	£4,400
(C) "High-flyer"	£10,750	£4,850	£4,050	£4,940

- Approximate pension built-up in the Remedy Period is shown
- Figures shown in today's money



In the first example above, those retiring at age 55 from active status could expect to receive higher benefits from FPS 1992 compared to FPS 2015 for all three career profiles.

Benefits from FPS 2006 for those retiring at age 55 are likely to be lower than FPS 2015 benefit for the "No promotion" and "Typical" career profiles. For the "High-flyer" career profile, the FPS 2006 benefit could be higher or lower depending on how AWE increases in the future relative to actual salary increases.

## Retire from active service – age 60

	1992	2006	2015	
			(AWE = 2%)	(AWE = 3%)
(A) No Promotion	£5,620	£4,220	£4,150	£5,330
(B) "Typical"	£6,970	£5,230	£4,580	£5,880
(C) "High-flyer"	£10,750	£8,060	£5,150	£6,600

- Approximate pension built-up in the Remedy Period is shown
- Figures shown in today's money



In the second example above, while the position is the same when comparing benefits in FPS 1992 to FPS 2015 for those retiring at age 60 as it was for those retiring at age 55, it is less clear when comparing benefits in FPS 2006 and FPS 2015.



## Differences in contribution rates

Unlike most other public service pension schemes, the Fire schemes have different contribution levels<sup>6</sup> for each scheme.

This introduces a further complication when comparing benefits between different schemes. While one scheme may provide a higher pension, the corresponding higher contribution rate may mean that this higher pension does not provide the member with value for money.

A further complication when setting a default under the deferred choice option is that broadly speaking:

- FPS 1992 contributions are higher than FPS 2015 which means if the member chooses to receive FPS 2015 benefits, they would receive a refund of overpaid contributions.
- FPS 2006 scheme contributions are lower than FPS 2015, which means if the member chooses to receive FPS 2015 benefits, they would have underpaid and owe contributions

This causes a particular issue for former members of FPS 2006.

The proposed default would be for these members to be moved back into FPS 2006. This means that they would receive a refund of the contributions they have paid in FPS 2015 since April 2015.

However, the modelling above illustrates that a significant number of FPS 2006 members would be better off in FPS 2015. So, if they chose FPS 2015 at retirement there would then be a debt due from members, which would have to be settled via a pension debit, or a lump sum from the member.

If instead, the default was as follows:

- Members of FPS 1992 are moved into FPS 1992 during the remedy period; and
- Members of FPS 2006 remain in FPS 2015 during the remedy period.

This would avoid a majority of FPS 2006 members building up an unnecessary contribution “debt” that needs to be addressed at retirement. This is beneficial to members and employers (from a cashflow planning point of view) and administrators (as this reduces the need to calculate and administer pension debits once members retire).

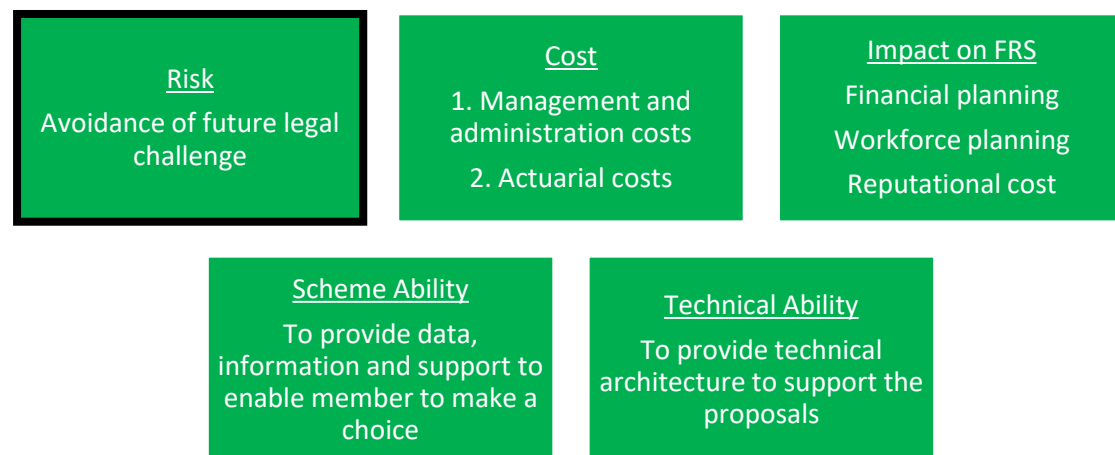
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<sup>6</sup> <http://www.fpsboard.org/images/PDF/Bulletin18/Appendix2.pdf>

## Assessment of options

The Board has assessed each of the two options, immediate choice and deferred choice, within five key areas: risk, cost, employer implications, administrative feasibility, and technical ability to deliver.

The Board identified that limiting risk is the Board's highest priority.



Each of these key areas are expanded on below with regards to the implications of each proposal.

### 1. Risk

Of the two options, the Board consider **immediate choice to offer most risk**, this is highlighted in the below comments

- Higher expectation of further legal challenge, in the event where;
  - A member makes a choice that is later proven by actual events to provide lesser benefits.
  - A member refuses to make a choice and a default decision is made on their behalf.
  - A member makes a choice, but it transpires that the choice was informed by inaccurate information provided by the employer.

- Difficulty of making the decision
  - The complexity of the current schemes combined with the unknown elements of the future of the scheme means that members may find it hard to make decisions about their future and may make a choice that will later prove to be detrimental to them.

This complexity of the scheme was evidenced by the Board's work to determine cost and effectiveness in the [report](#) dated 2019.

- 73% of administrators reported the scheme to be complex or very complex<sup>7</sup>
  - 66% of FRAs found decision making difficult<sup>8</sup>
  - Of the scheme members who responded to the member survey, 855 members (or 22.5%) indicated they do not understand the benefits the scheme offers with 1,515 members (39.43%) unsure.<sup>9</sup>
- Advice - What advice will be offered to members in order to support decision making? FRAs and their administrators are not financial advisers and cannot provide advice to members.
- Choice has been historically hard to implement and has invariably led to challenge. These Pension Ombudsman decisions illustrate the inevitable challenge that explaining and recording a choice will bring. Although the decisions relate to the Police scheme the same exercises were undertaken in the Firefighters scheme.
  - [PO-16555](#) - options exercise for 2006 Police scheme. The member passed away and an election to join the 2006 scheme had not been received, therefore no pension was due to the unmarried partner. TPO determined that all relevant information had been provided for the member to make an election. However, members do not always understand communications or that they need to act.
  - [PO-23014](#) - uprating of widow's pension in Police scheme. Employer could not find record of election to pay increased contributions for a full half-rate pension as the query was raised 40 years after the event.

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<sup>7</sup> Page 18

<sup>8</sup> Page 40

<sup>9</sup> Page 49

- [PO-22496](#) - election to join as a special member of FPS 2006 not submitted. The authority had exercised due diligence and reasonable endeavours in communications. TPO said the onus was on the individual to chase up.
- Risk of no forward view with the immediate choice option
  - At the point of making the decision the member may not accurately be able to predict their career pattern to know whether a final salary link for the remedy period will be beneficial to them.
  - Without knowing more about what the scheme would look like, post remedy, we do not know how changes to a member's lifestyle, such as marital status and health, will be affected by making a choice at the end of remedy.
  - Members will not know how changes in future valuations, which might impact cost cap and contributions, would affect their decision if it was made at the end of remedy.
  - Currently it is unknown what effect the FBU Judicial Review on the pause on the cost cap will have, and whether that will affect retrospective benefits or be known by the end of remedy.
  - Equally so they will not have a view on the impact of any retrospective action such as a high court decision on pensionable pay, which might increase the value of a final salary link.
- Reputational risk for locally administered schemes
  - Risk of inconsistency
 

The arrangements for responsibility and funding of the scheme mean that some FRAs have less resources and knowledge than others, which will likely lead to inconsistencies of approach with regards to the levels of technology and information members are given to support their decisions
  - Resources
 

Available resources and knowledge to implement a complex choice system are likely to be lower than for a centrally administered and managed scheme.

For these reasons deferred choice would offer much less risk, as this does not require the member to make a complex predictive choice.

## 2. Cost

Cost is measured in two parts both from the management and administration and actuarially. This section deals with both these costs.

### Administration, Management, and Governance Costs

For locally administered, unfunded schemes the costs of the administration, management, and governance of the schemes lies with the scheme manager and is borne out of the FRA operating accounts. For these reasons the Board looked to assess the difference between immediate choice and deferred choice based on the costs.

	Immediate Choice	Deferred Choice
Administration software	<p>There will need to be considerable software changes in order to cater for an underpin based on FPS 2015 benefits.</p> <p>It is not possible at this time to estimate the cost of software changes; however, the software companies have estimated timescales to be in the region of at least twelve months.</p>	<p>Additional software changes to continue supporting deferred choice would not be significant as the bulk of the work is in calculating the benefits during the 'remedy period'.</p> <p>However, there will be on-going maintenance requirements.</p>
Administration processes	<p>Initial costs will be in developing new processes. Revised or new data collection and processing tools will be incurred.</p>	<p>While the bulk of the cost will be in the set-up costs, there will be a requirement to document instructions and decisions made during the remedy period to ensure that those who are charged with administering the scheme in the future have the necessary understanding to process the benefits in accordance with the regulations.</p>

Administration calculations	In the short-term, manual calculations will be required. This will increase the amount of resource that is required.	These can be automated in the long-term.
Administration resource	<p>Immediate choice is likely to be a resource intensive project which could lead to temporary increases in the administrator workforce to deal with the workload.</p> <p>It should also be noted that the administrators of the FPS, are often also the administrators of the Police schemes and LGPS, which will also all be remedied at the same time.</p>	May have advantages of being manageable, efficient, and cost effective to spread the work over a longer period thereby smoothing the costs.
Administration resource: competing priorities	Depending on requirements of post reform and actions required for a second options exercise in the case of Matthews, the resource required to initiate remedy, communicate post-reform arrangements and run an options exercise will create significant pressure	May have advantages of being more manageable and efficient to spread the workload over a longer period
Administration market	There are currently 17 administrators in the Firefighters' Pension Scheme space and there is evidence to suggest that administrators are leaving the market <sup>10</sup> due to the complexity.	Increasing the complexity may decrease the market further and increase the cost of administration.
Management cost of errors	Implementing immediate choice may result in high costs in the short-term as all the qualifying members in the scheme would have to make the choice at the same time, which might be	Fewer errors may be made with more implementation time.

<sup>10</sup> Item 7 - <http://www.fpsboard.org/images/PDF/Meetings/03102019/SAB-minutes-031019.pdf>

	difficult to get right and result in more errors.	
Management communication and support	More resources will be needed immediately with less time to develop and consider.	overextended implementation time may lead to better tools being developed and costs smoothed.
Management payroll data	Additional data necessary to backfill final salary or CARE records for the period from 1 April 2015 to the end of remedy will need to be provided by the employer. FRAs will need to ensure that payroll systems are able to provide the required data.	Deferred choice would extend the possibility for final salary link so the employer salary data would need to be maintained.
Management advice and guidance	Historically the burden of being the scheme manager and interpreting the scheme rules has seen an increase on the costs of managing the scheme. <sup>11</sup>	Further processes and systems will need to be put in place to support those charged with managing the scheme in the future.  This will be resource intensive and will require careful documenting.

## Increasing costs

Additional costs will be incurred as a result of extra resource needed to undertake the work, and additional charges from software suppliers of administrative and payroll systems to re-programme the necessary software.

It is hard at this stage to accurately quantify the level of additional cost required to implement immediate choice, so for the purposes of illustration we have modelled the additional requirements as being an added quarter, half and third of current costs.

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<sup>11</sup> 'Special projects' are outside of the BAU work of the scheme undertaken by the officers of the FRA rather than the administrator. The [Board's report](#) in 2019 found these to be in the region of £1.09m (appendix 1) indicating that projects of a significant size or those with no clear instructions were difficult and costly to implement.

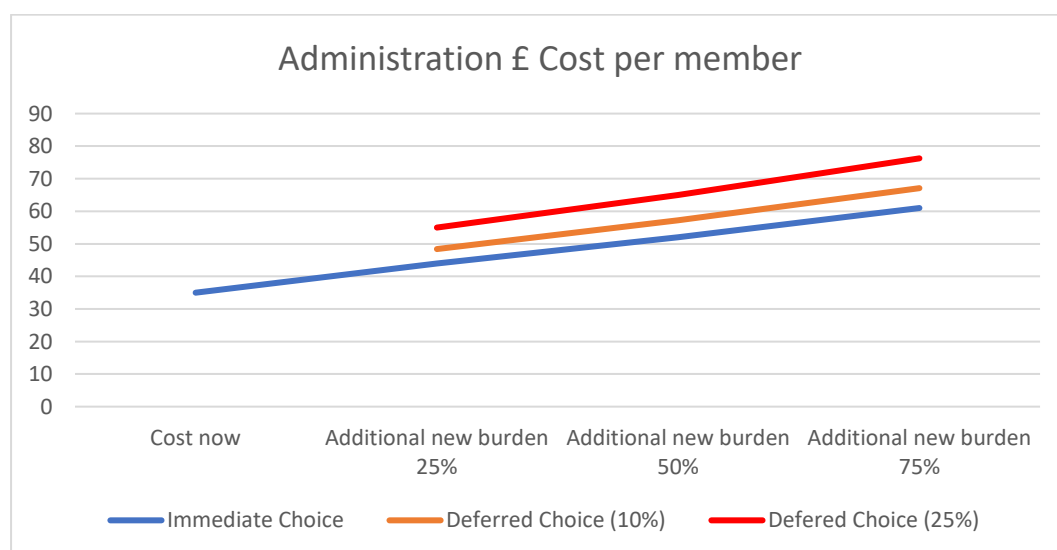
Initial conversations with administrators and FRAs indicate that the additional new burden will be between 50% and 75% of current costs, however, with so many unanswered questions on post-remedy arrangements and future scheme design, **we must stress that it is difficult to know with any degree of accuracy, and the actual cost could be higher or lower.**

The Board wanted to differentiate the cost between immediate choice and deferred choice and had many conversations about how this could be reflected. The analysis of costs shows that the bulk of the expenditure would arise at implementation, and would therefore be incurred irrespective of immediate or deferred choice.

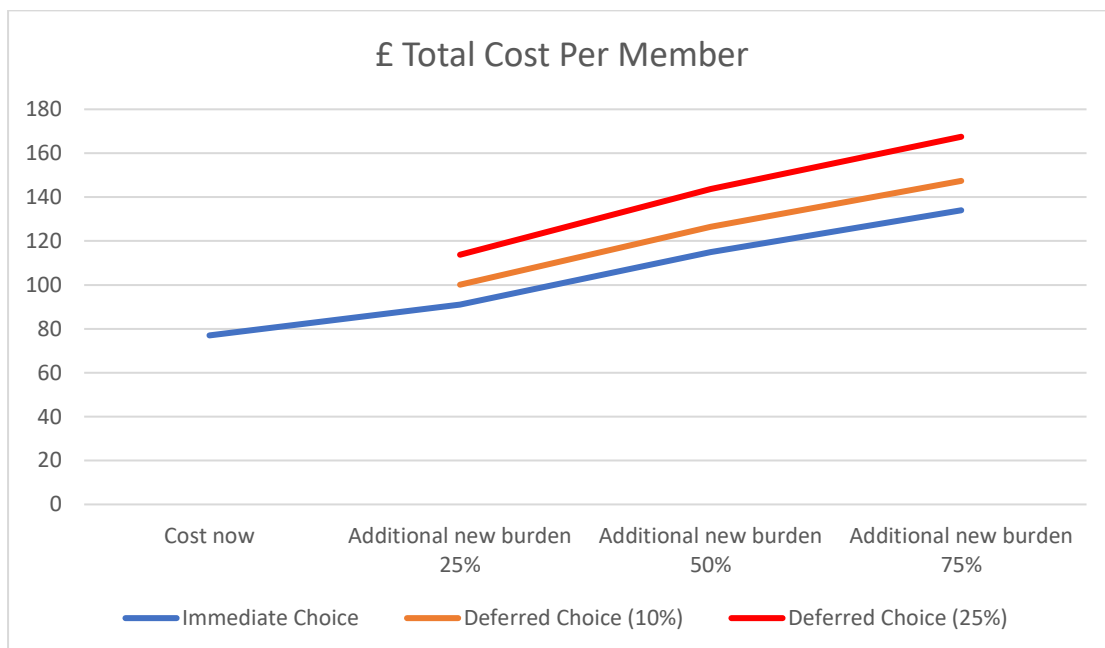
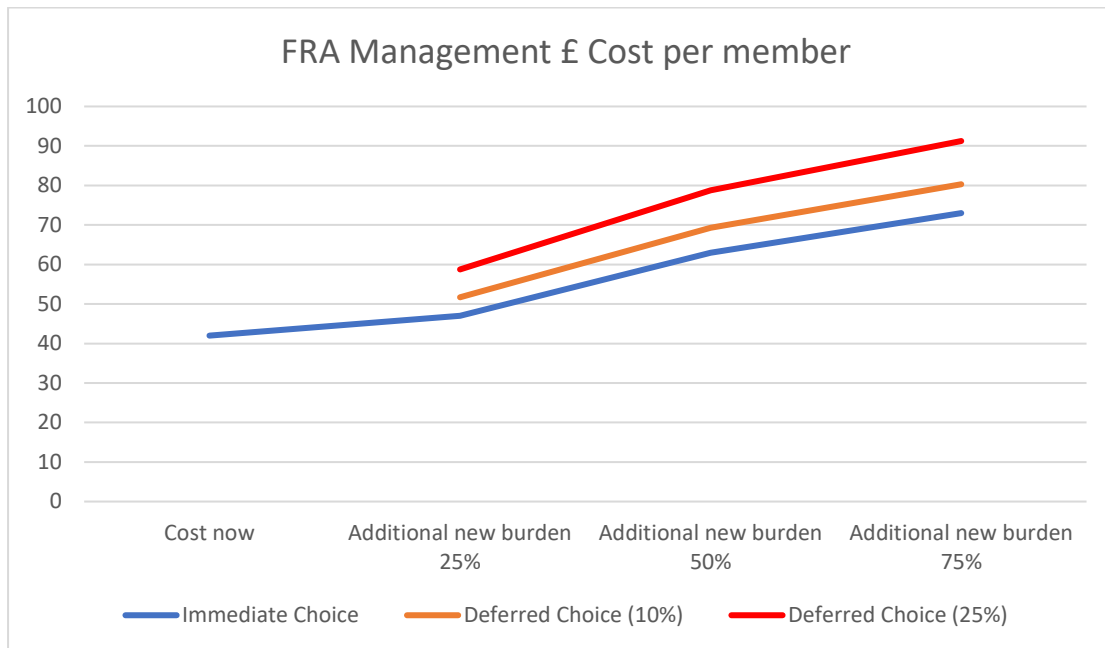
To analyse the additional cost of deferred choice, the Board considered that there are more opportunities to improve efficiency by managing the workload over a longer period and that the risk of assumptions and errors is significantly reduced, all of which contribute to lowering the cost. However, the Board equally recognise the practical difficulties of a long term remedy and the cost associated with changing processes and retaining knowledge and skills over an extended period of time. Therefore, the Board concluded that any additional cost incurred by deferred choice would reflect ongoing maintenance of solutions and processes.

The Board accept that deferred choice may generate higher costs and acknowledge that it is difficult to predict the quantum with any degree of accuracy. Therefore, **for the purposes of illustration only** we have modelled what the cost difference of deferred choice could be using an increase of additional cost between 10 to 25 percent to facilitate deferred choice.

The starting costs have been taken from appendix 1 of the [2019 Board report](#).







These different assumptions are shown in the table below, **for illustration only** to show the potential new burdens of either option.

It is difficult to accurately benchmark these costs against other public sector schemes, as the Firefighters' Pension Scheme is a small scheme. However, this increase in costs will have a significant effect on budgeting for FRAs. The [2019 Board report](#) comments specifically on benchmarking on page 4.

Option	Lowest	Highest
Current	£77 per member	
Immediate Choice	£91 per member	£134 per member
Deferred Choice (10%)	£100 per member	£147 per member
Deferred Choice (25%)	£114 per member	£168 per member

### Actuarial Costs

Actuarial costs can be described as

- Immediate costs which will be passed to the employer.
- Subsequent costs assessed at future valuations.
- Cost-cap implications.
- Impact of future scheme design in post-remedy period.

The impact that immediate or deferred choice might have on future valuations and the potential consequences for employer contributions cannot currently be assessed.

Deferred choice would require several assumptions, both options would have to be valued and we imagine that the highest cost would be used for each valuation period. Although uncertainty would reduce over time and with each valuation, there is a clear risk that deferred choice will add volatility to the valuation process and have consequent implications for contribution rates and member benefits.

Whereas under immediate choice we assume GAD's valuations would be undertaken in a similar way to the current approach with only one set of assumptions required.

The Board request that this impact is assessed immediately to allow knowledge of any difference between immediate choice and deferred choice.

### 3. Impact on FRS

As this report has already indicated the sizable increase to risk and costs as a result of remedying the scheme, it is perhaps inevitable that the impact to the FRS of either option will be significant. However, the impact on the FRS is not just in cost and risk alone; there is also significant impact on workforce planning and financial planning, as well as potential for reputational risk.

	Immediate Choice	Deferred Choice
Workforce implications	Employers would have certainty over the retirement age of the chosen scheme in order to plan for recruitment.	Employers would not have certainty over when people would choose to retire, due to not knowing which scheme they may retire from.
	Former members of FPS 1992 could leave sooner than expected leaving skill shortages and retention problems in the short-term.	The opportunity to see how their career developments affect the pension due may increase morale and firefighters may stay in service longer.
Financial implications: Top-Up Grant	Offers certainty over the top-up grant process as the contribution rate will be known.	Leaves the uncertainty of a debit or credit due at retirement, which makes the top-up grant very complicated and puts uncertainty on long term budget forecasting.
Employer contributions <sup>12</sup>	Limits liabilities so would have an expected effect to limit costs to minimum.	Extends liabilities so effect on contributions unknown, however, may increase costs.
Employee Contributions	Shorter period of time to recover.	Potentially there would be a longer period to recover the cost through contributions
Audit requirements	Offers more certainty on audit requirements.	Uncertainty on how to assess liabilities for audit purposes.
Reputational risk: Errors	Unlike centralised unfunded schemes where the scheme manager is the	Due to the more factual nature of the decision to be made at retirement, there is less

<sup>12</sup> Difficult to assess accurately without an actuarial assessment

	government department, FRAs cannot build policy teams of pension specialists, they are reliant on the advice of administrators and a few key stakeholders. As such inevitably the chance of errors and mistakes can be higher.	room for errors in the information provided to the member.  However, a longer-term solution adds some element of risk in the possibility of knowledge loss through staff turnover or inaccurate long-term record keeping.
Lack of governance	There are 44 <sup>13</sup> Local Pension Boards in place charged with governance of the FPS.  While there has been marked improvement in TPR assessment of governance the performance still lags behind other public service schemes and the top risk for 61% of FRAs is in securing compliance with changes in scheme regulations <sup>14</sup> .	The longer the implementation period, the more this extends the risk of ineffective governance

This analysis shows that the longer-term nature of the deferred choice option introduces significant challenges for the employer.

<sup>13</sup> Isle of Scilly and Cornwall form one board.

<sup>14</sup> TPR Six Key Processes – Guidance for Fire Authorities - <http://www.fpsregs.org/images/admin/TPR-6-key-processes.v1.pdf>

#### 4. Scheme Ability

	Immediate Choice	Deferred Choice
<p>Provision of Data</p> <p>Data to create final salary and CARE records for the period 1 April 2015 to end of remedy period will be required from payroll</p>	<p>Once the record has been created there will be no need to gather further data in the future</p>	<p>This will create a requirement to hold data for longer</p>
<p>Resource</p>	<p>Across public sector there will be limited knowledgeable resource available as all schemes will run the exercise at the same time. It will also depend on additional requirements of post reform changes and any options exercise as a result of Matthews.</p>	<p>This will smooth the resource requirement.</p>
<p>Data decisions</p>	<p>If the employer no longer holds the data, there will need to be some consistency in rules around assumptions to create the data.</p>	<p>This is the same requirement.</p>
<p>Support member decision making</p>	<p>Resourcing of technical roadshows and workshops to inform members will be difficult</p>	<p>Member apathy over time may make educating members on the choice challenging. However, as the decision will be made without a need for assumptions it can be a factual one, so easier for the member to make.</p>
<p>Follow guidance</p>	<p>Guidance will need to be made available from central government on issues such as pension growth and collecting contributions.</p>	<p>Future government departments would need to own responsibility for guidance.</p>

Consistency of approach	Consistency of approach will be easier to manage in a short time period	Consistency will be difficult to maintain with differing postholders of the responsible stakeholders.
Processes and procedures	Will be easier to maintain in the short term.	Increase the risk of knowledge gaps by responsible officers in the future, due to staff turnover.

## 5. Technical Ability

	Immediate Choice	Deferred Choice
Software system	Will require system to run both schemes to underpin benefits.	No additional change needed due to deferred choice.
Member planning tools	Need tools to allow members to model and project.	Projections not needed.
Online self-service	Currently limited use of online self-service facilities. <sup>15</sup>	Extends timeframe to enable delivery of sophisticated tools.

<sup>15</sup> Page 22 of the board cost and effectiveness report  
<http://www.fpsboard.org/images/PDF/Surveys/Aonreportfinal.pdf>

## **Specific comments on the proposals as requested from HMT**

### **1. Communications to members on proposals to put members in their old schemes for the remedy period – Paragraph 20**

The Board have already given a [view](#) on the proposal to default to the final salary scheme, in particular for members of FPS 2006. Nevertheless, regardless of which scheme is deemed the ‘primary’ scheme, the question here is how this should be communicated to members and illustrated in annual benefit statements to minimise confusion.

The Board agree that it will require a well thought out communication strategy, in order to support member understanding. The Board feel that a public sector wide communication group should be formed in order to ensure messages are consistent and avoid myths and rumours. The [Fire Communications Working Group](#) (FCWG) would be happy to participate in such a group in order to draw together communication resources such as videos, written documents and roadshows. A member website [www.fpsmember.org](http://www.fpsmember.org) is planned and this would be the main designation of communications.

### **2. Revisiting past cases – Paragraph 22**

We have already commented on the complexity of past cases, including recognising that past cases at the end of remedy period (2023) could well be immediate cases now, and request that guidance is issued on the treatment of immediate cases ASAP.

However, the Board agree there will be some complex cases for correcting past cases, particularly in the case of death. Within the FPS, for example, a partner of an FPS 1992 member would not qualify for a partner’s pension if they are unmarried, and the two times pensionable pay would be paid to the estate at the FRA’s discretion. Would a co-habiting partner have a right to remedy and receive a partner’s pension as if they had been moved to FPS 2015? If so, what would happen if a parent or children instead of the partner had already received the two times pensionable pay payment under FPS 1992?

### 3. Normal Member Contributions - Paragraphs 24 & 57

	Immediate Choice (57)	Deferred Choice (24)
<p><b>Contributions owed to the scheme.</b> This is where the member has <u>underpaid contributions</u>, this was the case for members who chose to join the FPS 2006 as Special Members. For remedy this would be members who;</p> <ul style="list-style-type: none"> <li>• The member is defaulted to FPS 2006 but chooses FPS 2015 benefits.</li> <li>• The member has been a member of FPS 2015 but chooses FPS 1992 benefits</li> </ul>		
Repayment period	<p>What options would members be given to pay the pension contributions? At the immediate date they would not be retiring so there would be no lump sum available to pay from.</p> <p>The special members exercise gave a ten - year period for periodical contributions.</p>	<p>Re-payment of pension contributions would be easier to collect at retirement as they can be collected from lump sum.</p>
Interest	<p>Would there be an expectation for the amount owed to be adjusted for interest, as was the case in the special members exercise?</p>	<p>If interest is applied would this increase the cost to the member of the deferred option? If so, that would appear to be unfair to the member.</p>
Tax relief	<p>Learning from the FPS 2006 special member exercise shows that claiming tax relief is very complicated. HMRC self-assessment only applies for active members. A robust process for members to claim tax relief would need to be in place.</p>	<p>Decisions at retirement would mean the member would not be able to make a self-assessment claim, plus the period of claim will most likely be outside of the four year period allowed by HMRC.</p>
Pension debit	<p>A pension debit would help the tax situation, however, is potentially</p>	<p>This would exacerbate the debt as it would not be paid until retirement.</p>



	discriminatory as the adjustment dies with the member and could outstrip the contributions owed. On the other hand, others may not survive long enough to repay contributions due. Very few are likely to repay the exact amount due.	
Pension debit application	Guidance would be needed on whether the pension debit would apply pre- or post-commutation and how it would interact with annual allowance	

	Immediate Choice (57)	Deferred Choice (24)
<p><b>Contributions owed to the member.</b> This is where the member has paid <u>more contributions</u>, for example;</p> <ul style="list-style-type: none"> <li>The member is defaulted to FPS 1992 but chooses FPS 2015 benefits.</li> </ul>		
Payment of refund	It is assumed this would be paid to the member as a lump sum at the option date.	It is assumed this would be paid to the member as a lump sum at the option date.
Interest	Interest would be expected to be applied to the refund and could increase the cost to the scheme. Who would fund this interest?	Interest would be expected to be applied to the refund and could increase the cost to the scheme. Who would fund this interest?
Tax Relief	In this case the member would have claimed tax relief which HMRC may choose to re-claim. A refund of contributions would have to have the tax relief calculated and debited before payment to the member.	This would be more complicated to calculate the further the period of time from when the tax relief was paid to the date of retirement.
Pension credit	A member could potentially receive more pension than they had paid contributions	The member may pursue a case for interest if the credit is not paid until retirement

	which could increase liabilities.	
Pension credit application	Guidance would be needed on how to apply.	

## Final Comments

The Board identified that limiting risk is the Board's highest priority, and that immediate choice appears to carry the highest risk of future legal challenge which all parties of the SAB wish to avoid, however, the potential administrative and cost implications of a long-term remedy are challenging.

The absence of answers to questions that may impact on the consequence of a choice made either at the end of remedy period or retirement is also a significant factor in the complexity of making a response.

There are clearly advantages and disadvantages to each of the proposals against the five main areas, we have summarised this below;

	Immediate Choice	Deferred Choice
<b>Risk</b>	<b>This would appear to carry the highest risk of future legal challenge, which all parties of the SAB wish to avoid</b>	<b>This avoids all risk of a future legal challenge.</b>
Administrative Cost	The bulk of the additional cost comes from enabling parallel running of the schemes for the duration of the remedy period.	The main cost is expected in the setting up of new systems and processes, however, supporting the systems in place until retirement age will add maintenance costs.
Actuarial cost <sup>16</sup>	Limiting the choice to the end of the remedy period only would on the surface appear to limit costs.	There is clear concern that extending the choice period to retirement will increase actuarial costs. However, the longer term may allow for a smoothing effect.
Employer impact	For employers' immediate choice is the easier option to manage, as it gives more certainty over budgets and workforce behaviour.	The longer-term nature is challenging for employers, both in terms of their long-term financial planning and workforce planning.

<sup>16</sup> It is not possible to comment accurately on actuarial costs because no assessment can currently be done.

	However, it does increase risk of further challenge.	
Scheme ability	<p>There will be short-term resourcing difficulties to enable immediate choice at the same date across public sector, much of the work will need to be done at the same time.</p> <p>The workplan can be controlled and managed by current knowledgeable practitioners.</p>	The impact of longer-term decision making can be smoothed out over a longer period; however, this also delays the inevitable work and makes it difficult to plan and manage.
Technical ability	<p>There is no significant difference between the option dates to enable the technology to run parallel schemes.</p> <p>Fewer projection tools will be needed.</p>	<p>Longer term decision making will need more maintenance of the systems. A change of provider could be challenging.</p> <p>Further investment in projection tools will be required in annual benefit statements and communications to members.</p>

The Board talked at length about ways of managing the difficulties in the long-term proposal of deferred choice, one way would be for a 'default' choice to be operated at the end of remedy period, but with a statutory underpin that applies at retirement. In 90% of cases that may avoid any change in decision at retirement.

A change to the default scheme as detailed earlier may also assist in managing contribution liabilities:

- Members of FPS 1992 are moved into FPS 1992 during the remedy period; and
- Members of FPS 2006 remain in FPS 2015 during the remedy period.

The Board discussed several options for how this default could be put in place. One is for a government default option which avoids member decision making, the other is the member is given a choice to either make a non-binding indicative choice or be subject to the default. However, the Board were cognisant that this may increase, rather than mitigate, administrative complexity.