LOCAL PENSION BOARD
FIREFIGHTER PENSION SCHEMES

DATE: 20 NOVEMBER 2019

TITLE: COMMUNICATIONS

REPORT OF: SCHEME MANAGER

For Information

1. PURPOSE

1.1 To update the Board on recent pension communications.

2. RECOMMENDATION

2.1 That the Board consider if communications are suitable and sufficient.

3. FIREFIGHTERS PENSIONS SCHEME BULLETINS

Bulletins 16 to 24 have been circulated to the Board since the previous Meeting. Below are a summary of some of the key information/actions:

3.1 FPS Bulletin 17

Scheme pays
Where a tax charge arises which can be settled using a combination of Member Scheme Pays (MSP) and Voluntary Scheme Pays (VSP) the technical group were asked to consider what obstacles there would be to paying the MSP charge within the timescales for VSP.

There is a difference in timings, processes and abilities between using MSP and VSP. A request to use a combination of VSP and MSP potentially means two event reports for a breach over two separate tax years, two payments over two separate financial years for the FRA and other complex administrative processes.
Each administrator is currently following different procedures, based on instruction from their finance teams. Guidance will be issued on best practice.

Annual Pension Benefits (APB's) for temporary promotion
The technical group were asked to consider whether a temporary promotion which began before 1st July 2013 should continue to be treated as pensionable pay where the member has been promoted again after that date with no break in service, and is now substantive in the role.

The technical group agreed that any new period of temporary promotion commencing after the introduction of the FPS Amendment orders 2013 for 1992 and 2006 schemes should be treated as a discretionary APB.

However, FRA's should carefully consider the wording of an individual's contract when determining whether to award an APB, as to whether the job is a new role or a continuation of an existing contract. Where an APB is deemed to apply, this would be based on the difference in pay between the original substantive post and the new temporary promotion.

This is not an issue for CFB as we determined that any new temporary promotions after 1st July 2013 would be non-pensionable.

Contributions on unpaid absence
The group were asked to consider whether a member could be allowed to repay pension contributions on a period of unpaid absence if they do not subsequently return to work.

The relevant scheme rules do not make a specific reference to returning to work or still being an active member.

The consensus of the meeting was that a former employee should be allowed to repay the contributions, as the regulations to not prevent repayment after leaving. Contributions should be paid by lump sum within six months of the last day or employment.

Public Service Pension Indexation and Revaluation 2019
HM Treasury issued a written statement in February 2019 to confirm that public service pensions will be increased from 8th April 2019 by 2.4%, in line with the annual increase in the Consumer Prices Index up to September 2018.

The Public Service Pensions (Valuations and Employer Cost Cap) (Amendment and Savings) Directions 2019

HM Treasury issued a written ministerial statement on 30th January 2019 stating that the cost cap rectification will be paused pending the outcome of appeals in the Sargeant and Mc Cloud cases on transitional protections.

HM Treasury has now issued new directions which remove references to the cost cap mechanism, while confirming that public sector employers should continue to pay the contribution rates set by the interim valuation results from 1st April 2019. The average FPS employer rate from 1st April 2019 is 30.2%. The individual scheme rates are expected to be issued imminently.

There will be no changes to the member contribution rates or the accrual rate at this stage. There will also be no change to the member contribution banding rates, therefore administrators should continue to use the bands that came into effect in April 2018.

3.2 **Bulletin 18**

2019 Amendment order – SI 2019/378
The Police and Firefighters' (Pensions etc.) (Amendment)(England and Wales) Regulations 2019 came into force on 1st April 2019. FRA's and Local Pension Boards were advised to take the following action:

- Ensure they are satisfied that the two pension rule is properly applied
- Identify and recalculate any survivor's pension in payment under these rules
- Identify and make additional payment to the estate of deceased survivor members who would have had a survivor pension in payment under these rules.
- Identify and recalculate any CETV calculations (whether for a transfer or divorce) where the value of the survivor's pension was calculated under these rules.

The technical group recognised that records may not be held in such a way that allows the administrator to identify such cases and therefore a communications exercise will need to take place to all persons or relatives of such persons who may be affected. The communications group will be consulted on the most effective way to communicate this and further advice will be available as soon as possible.

3.3 **Bulletin 19**

Valuation 2016 : Employer contributions
The following employer pension contributions will apply for four years from 1st April 2019

	FPS 1992 (including special members of FPS 2006)	FPS2006	FPS2015
2012 valuation	21.7%	11.9%	14.3%
2016 valuation	37.3%	27.4%	28.8%

HM Treasury confirmed that they will be supporting FRAs in the first year with additional funding over and above the first £10m of the additional costs. This is equivalent to £1.4m for Cleveland.

3.4 **Bulletin 20**

Restricting exit payments in the public sector
Following a period of consultation, the Government has introduced a cap on exit payments in the public sector. The exit payment cap is set at £95,000. In respect of pension related payments in the Firefighters' Pension Scheme, there are two types of employer payments that could be subject to the cap:-

1. FPS 1992 Enhanced 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.

   The authority is required to pay the difference between the restricted commutation and enhanced commutation from its operating account into the FPS notional pension fund. Unless the exit cap regulations allow for an exemption this payment would be deemed as an employer payment to facilitate early exit and would have had to be measured under the cap.

   The current draft exit cap regulations exempt this payment from the exit cap. However if the exemption were removed FRA's would need to measure any enhanced payment made to the notional pension fund against the £95k cap.

2. FPS 2006 and FPS 2015 Authority Initiated Early Retirement (AIER)

   In the 2006 and 2015 Schemes, FRA's can allow firefighters to retire from age 55 with an unreduced pension.

   The FRA is required to pay the difference between the unreduced and reduced pension into the FPS notional pension fund for each year the pension is in payment. This payment is deemed as an employer payment to facilitate early exit and would have to be measured under the cap.

   The current draft exit cap regulations exempt this payment from the exit cap 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, further guidance will be needed in the following areas:

I. To measure the annual cost to the Fire Authority against the £95k cap

The FPS regulations state that the cost to the FRA to allow early retirement with an unreduced pension is made by an annual payment to the notional pension fund representing the difference between the unreduced and reduced pension that would be paid to the member. The regulations do not specify how to measure this annual cost of early retirement against the cap of £95k. Guidance would be needed from the Home Office on how to measure the annual payment against the cap.

II. An alternative would be for the Home Office to allow the early retirement cost to be paid as a capital cost on exit rather than annually.

Amendment to the pension regulations to allow partial reduction. If, on measurement, the early retirement cost would exceed the £95k cap, then the regulations would need to be changed to consider:

- How the member's benefits would be reduced to such a level that the exit payment cap is not breached.
- Whether the member would have the option of paying extra to buy out some or all of the reduction

The proposed regulation changes do not introduce the option to defer payment of pension benefits in the event of a FPS member who is over age 55 being made redundant or leaving on the grounds of business efficiency. As the regulations currently stand, an FPS member whose exit payment has been capped would be forced to accept a reduced pension.

In order to implement partial reduction in the FPS, guidance from the Government Actuary's Department (GAD) on partial reductions and the cost of buying out those reductions would be required.

It is likely that changes to the FPS regulations and new statutory guidance would be required to effect this change.

3.5 **FPS Bulletin 21**

FPS 2015 transitional protections challenge update.
The Government's application for permission to appeal to the Supreme Court in respect of age discrimination was denied. A further briefing note is being prepared covering the full background and each stage of the challenge. Until the remedy has been determined by the employment tribunal and any regulations changed as a result, any retirement projections, annual benefits statements or pensions advice must be based on the regulations as they currently stand.

3.6 **FPS Bulletin 24**

FPS Board of Medical Referees
The contractor for providing the Board of Medical Referees (BMR) to consider medical appeals under the Firefighter' Pension Schemes is currently held by Health Management Ltd and expired on 30th September 2019.

Following completion of a formal tendering process, the Home Office has confirmed that is has appointed Duradiamond Health Ltd to provide the service from 1st October 2019 onwards.

4. Government Actuary's Department Pensions News – September 2019

A copy of the September News edition is attached at Appendix 1 for the Boards information.

IAN HAYTON
SCHEME MANAGER