

# CHESHIRE FIRE AUTHORITY

**MEETING OF:** LOCAL PENSION BOARD – FIREFIGHTERS PENSION SCHEME  
**DATE:** 29 MARCH 2023  
**REPORT OF:** PENSION SCHEME MANAGER  
**AUTHOR:** JILL SWIFT

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**SUBJECT:** FIREFIGHTER PENSION SCHEME UPDATE

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## Purpose of Report

1. The purpose of this report is to provide the Local Pension Board with an update on current issues relating to the Firefighters' Pension Scheme and the local governance arrangements in place to ensure effective administration of services.

## Information

### Membership Statistics

2. Current membership statistics are detailed in Appendix A. There are currently no significant changes in membership.

### FPS Bulletin – Actions Arising

3. **FPS Bulletin 63 – Age Discrimination Remedy – Ill Health Reassessment**

In October 2023, service for members between April 2015 and March 2022 will be 'rolled back' into their legacy scheme, which is either the 1992 or 2006 scheme. As the criteria used to assess ill health varies slightly from scheme to scheme, rollback may result in the member qualifying for alternative ill health benefits. Therefore, it will be necessary to re-assess certain ill health cases to ascertain which criteria they meet, or do not meet, in each scheme.

Cheshire Fire and Rescue Service (CFRS) have identified 7 cases that need to be re-assessed. Letters will be sent to these members in the coming months, with a view to having all re-assessments completed before October 2023.

4. **FPS Bulletin 63 – Consultation on The Public Services Pension Scheme (rectification of unlawful discrimination) (Tax) regulations 2023**

In November, HM Revenue and Customs (HMRC) published a technical consultation on draft tax regulations. These regulations are intended to ensure

the pensions tax framework is fit for purpose to allow administrators to implement the McCloud age discrimination remedy from October 2023.

CFRS responded to this consultation on 5 January 2023. A copy is provided at Appendix B.

5. **FPS Bulletin 66 – The Bereavement Benefits (Remedial) Order 2022**

The Local Government Association (LGA) have provided information about an amendment to the regulations which extends eligibility to Widowed Parent's Allowance and the higher rate of Bereavement Support Payment. This has retrospective effect to 30 August 2018.

The LGA have recommended that this is communicated out to pensioners. XPS are currently looking into how this message can be distributed.

**McCloud – Firefighter Pension Scheme Consultation**

6. On 28 February, the Home Office launched a consultation on the amendments to the pension scheme regulations to enact the second phase of the McCloud remedy. This consultation will run for 12 weeks until 23 May.
7. The consultation is seeking views on whether the draft regulations are clear, achieve policy intentions and are non-discriminatory. The topics covered are:
  - Eligibility criteria for remedy
  - How employee contributions will be adjusted
  - Ill health retirements
  - Abatement
  - How added pension, divorce cases and transfers will be remedied
  - Arrangements for survivors/dependents to make decisions
  - Contingent decisions where members would have made different financial decisions had the discrimination not taken place
  - How to deal with cases where a member has a mixture of legacy and reformed service after rollback.
  - How to implement the deferred choice underpin and immediate choice options and the associated timings for provision of statements and member elections
  - Application of interest
8. Several policy areas are still under consideration therefore it is likely that further regulatory amendments will be needed. These areas include taxation and indirect compensation. An example of indirect compensation would be where a member's pension is rolled back and, as a result, they have overpaid annual allowance or lifetime allowance and are owed compensation for the difference.

9. CFRS will be scrutinising the draft regulations in the coming weeks and will respond to the consultation by the deadline in May.

### **McCloud – HM Treasury Directions**

10. On 19 December 2022, HM Treasury (HMT) enacted The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022. These directions set out how certain powers in the primary legislation must be exercised.
11. The Directions give Services the ability to reduce or waive certain liabilities related to the correction of benefits or contributions. This includes providing the ability for members to repay contributions due in instalments, discretion on establishing a member's tax rate for tax relief, dispute procedures where a member disagrees with the tax relief given, or whether to recover contributions where it is 'uneconomic' to do so.
12. In some circumstances, members may be better off in the 2015 scheme. If a member has 2006 service, they will be due a refund of contributions when retrospective remedy commences in October 2023. The Directions give the power to delay this refund of contributions until the member makes their deferred choice at retirement. This will avoid the member incurring a liability to repay what has been refunded to them.
13. The Directions also outline the circumstances where compensation can be paid for financial losses. These include where a member has suffered a tax loss. For example, where a member might have to pay a higher Annual Allowance charge than they would have done, if they elect for 2015 scheme benefits, or a member loses a Lifetime Allowance protection because of rollback.
14. Compensation payments will not be subject to any deductions for tax or National Insurance. However, adjustments will be made to the amount, to ensure the member does not receive more in compensation than they would have received. This might be applicable in cases where a payment would have been reduced by tax relief.
15. The Directions also outline interest arrangements. These are extremely complex and different interest rates will be used in different circumstances, at different times and some types of interest will not be applied for a whole period, but for a part period. A brief overview is provided at Appendix C

16. It is anticipated that a calculator will be provided to assist Services with these calculations, and some could be built into pensions software at a later date.
17. The Directions also provide rules on what remediable service statements (RSS) should include and how long schemes have to provide those statements. It outlines that for the first year an RSS can be provided separately to the annual benefit statement, but thereafter, they should be combined.

### **McCloud – Data Collection Exercise**

18. In preparation for the retrospective remedy exercise which commences in October 2023, the pensions team have been continuing to work on the data collection exercise to ensure XPS pensions have the necessary pay data to recalculate member's pensions and produce remedial service statements.
19. In total, 99.5% of data has been collected, with just 3 complex cases remaining.
20. XPS pensions have provided an eligibility report detailing the members they believe are in scope. A comparison has been carried out which has resulted in additional queries. The XPS McCloud project team will be investigating these to determine if any further action is required, or whether these cases can be removed from scope.

<b>Query Identified</b>	<b>Number of Cases</b>
Transfers Out	9
Transfers In	11
Multiple Role Members	18
Mismatches	63
Previous PSP service that XPS may not be aware of	9

### **McCloud – Remedy Timetable**

21. The schedule for ongoing legislative work to implement the McCloud remedy is provided at Appendix D. Although the timelines are tight, it is still expected that all legislation will be laid by September 2023 and will come into force on 1 October 2023.
22. Along with a legislative schedule, the LGA have provided a timeline outlining statutory dates for Services to be aware of (Appendix E). This includes the

dates for annual benefit statements, pension savings statements and remediable service statements to be provided to members. This also includes the latest possible dates that Immediate Choice (IC) members can return election forms if they wish to receive 2015 benefits. IC members are those who have already retired whose pension is still to be remedied.

23. In addition, the LGA have produced a timetable suggesting the order in which IC cases should be handled. A copy is provided at Appendix F. The proposed order ensures that the most sensitive cases are dealt with first including ill health, beneficiary or death in service cases, followed by cases which are most at detriment. This would include members who were unprotected or taper protected. The last cohort will be members who had full protection, as they are less likely to be suffering a detriment.
24. It is clear from this timeline, that the remedy implementation work will be ongoing until 2026. This work will also coincide with the Matthews remedy for on call firefighters which will run from October 2023 to March 2025.

### **McCloud – Immediate Detriment**

25. The immediate detriment (ID) process is currently still paused, pending an update from the LGA on whether any changes to the ID Framework can be agreed with unions to mitigate the tax risks raised by the Home Office and HMT in November 2021.
26. A number of members have recently requested further information about these tax risks. There has also been significant progress on the drafting of secondary legislation since December 2022. In order to ensure members have up to date information, a general update for ID members has been drafted and will be sent out to all those in scope shortly. This will also include details of the recently agreed pay award for any retirees entitled to backpay.
27. The Service has reiterated at recent JCNP meetings that it is committed to assisting any members suffering financial hardship as a result of not being able to access their remedied pension. This will be in exceptional circumstances and reviewed on a case by case basis. The ID update will also reiterate this to members.

### **Pension Dashboard Programme Update**

28. On 2 March 2023, the Department for Work and Pensions (DWP) announced a reset of the Pension Dashboard Programme (PDP). In their statement they confirmed that they would be unable to meet the connection deadlines that have been laid out in legislation and this timeline would need to be revised. Development of the digital architecture is extremely complex and has proved more challenging than anticipated.
29. The new timescales have not yet been confirmed. Public sector pension schemes were expected to go live by 30 September 2024. However, as

remedy work for McCloud and Matthews will still be ongoing at this time, a reset of the PDP timescales is likely to be welcomed by the sector. It will allow administrators more time to introduce the changes and there will be fewer major change projects running concurrently.

### **Matthews Remedy**

30. The Matthews Technical Working Group are continuing to work through outstanding queries in relation to the Matthews remedy. The group recently produced a pre-work factsheet to help Services identify work which should be done before the Matthews legislation comes into force, which will be in the autumn of 2023.
31. This work involves identifying members who are in scope, gathering pay data and establishing reference pay. CFRS has already identified the members in scope and has access to pay data and reference pay information from the first options exercise.
32. The next steps will be to gather further pay data and reference pay information for the period prior to July 2000 and carry out a tracing exercise to establish up to date addresses for eligible members. It will also be necessary to establish if any cases are also in scope for the McCloud remedy or would be in scope if they joined the Modified Scheme, as additional work will be required for these members.
33. Regulations to implement the second options exercise are currently being drafted by the Home Office and will be consulted on before being laid before Parliament. This consultation period is likely to overlap with the McCloud consultation which runs from 28 Feb 2023 to 23 May 2023.

### **General Updates**

34. Public Sector pensions increase for 2023 has been confirmed at 10.1% with effect from Monday 11 April 2023.
35. On 20 February, HM Treasury confirmed the revaluation rate for the Firefighters' Pension Scheme 2015 will be 7%. This will be applied to all pension accounts on 1 April 2023.
36. The annual event report and quarterly accounting for tax returns for quarter 3 were submitted by statutory deadlines.

The event report details a number of events which give rise to a tax charge, such as unauthorised payments for lump sums which breach the HMRC threshold. These must be reported, and any tax paid over, to HMRC each year by 31 January. Accounting for Tax returns are quarterly reports which detail any scheme pays elections made and lifetime allowance charges which have been incurred in the previous quarter.

37. In the Chancellor's autumn statement in November, it was confirmed that the State Pension triple lock would be maintained, meaning State Pension will increase in line with inflation by 10.1% from April 2023.
38. The spring budget statement on 15 March confirmed that the Government are intending to abolish the Lifetime Allowance (LTA). High earning public sector employees can be impacted by this allowance, which measures the total that someone has saved towards their pension. If a member breaches the threshold, which is currently £1,073,000, large tax charges can be incurred. This has led to some public sector workers, in particular doctors, retiring earlier than they would have done, to avoid breaching the LTA. As a result, highly qualified and experienced workers are being lost from the workforce.
39. The Government also confirmed that the Annual Allowance (AA) would increase from £40,000 and £60,000. The AA measures how much a member's pension grows each tax year. Where pension growth exceeds this allowance, a tax charge will be incurred. This increase will mean less people will breach the allowance and incur a tax charge. Typically, the AA impacts higher paying officers who have long service but can also include those who have large pay increases following a promotion.

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**BACKGROUND PAPERS:**

**ITEM 5 – FIREFIGHTER PENSION SCHEME UPDATE (17 NOVEMBER 2022)**