

# CHESHIRE FIRE AUTHORITY

**MEETING OF:** LOCAL PENSION BOARD – FIREFIGHTERS PENSION SCHEME  
**DATE:** 26 APRIL 2024  
**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, and to provide an update on progress for the McCloud and Matthews remedies.

## 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 76 – Contingent Decision Process.** The bulletin advised Fire and Rescue Authorities (FRAs) to liaise with administrators to establish a contingent decision claim process for pension scheme members who have opted out or been unable to purchase added years in the final salary schemes. A meeting took place with XPS pensions on 4 April to discuss this process and agree timescales and responsibilities for these claims.
4. **FPS Bulletin 77 – Added Pension Compensation.** Added pension payments that staff have paid into the 2015 scheme cannot be converted to the equivalent 'added years' in the final salary schemes when they are rolled back to their legacy scheme. As a result, compensation payments should be made to refund any contributions paid. All affected members received their compensation payments and the necessary communications about this on 18 March 2024.

## **McCloud Remedy – Update**

5. An update of progress against the McCloud Remedy project deliverables is provided at Appendix B, along with a summary of the next group of key deliverables which need to be completed between April 2024 and June 2024.
6. In December 2023, the remediable service statement (RSS) template for immediate choice and deferred choice members was finalised. A sample of the RSS is provided at Appendix C. The RSS contains all the information that scheme members will need to make their decision about whether to take reformed or legacy scheme benefits for the remedy period (1 April 2015 to 31 March 2022).
7. In January 2024, an issue was raised with regards to the 8% interest which will be applied to pension arrears and lump sum payments made to immediate choice pensioners. All public sector pension schemes were of the understanding that this interest would not be subject to tax, however, following advice from HMRC, it became clear that any interest paid to a pensioner which was over the commercial rate of interest, would be taxable.
8. As a result of this uncertainty, the Local Government Association (LGA) advised services to pause the rollout of immediate choice RSSs. This issue only impacts immediate choice members.
9. On 23 February, HM Revenue and Customs released a newsletter outlining how tax should be applied to interest payments over the commercial rate of interest, which is defined as 1% above the Bank of England base rate. On 29 February the National Police Chiefs Council along with the LGA briefed the police and fire pensions sectors on how to calculate tax on interest payments.
10. Although clarity on the tax issue has been resolved there is still a remaining query about whether interest should be calculated on the gross or net payments. This policy decision is currently with HM Treasury to resolve. The Government Actuary's Department (GAD) will be producing a calculator to assist services with these complex interest calculations, however, until the outstanding issues are resolved, they will be unable to rollout the calculator.
11. As a result of this, and a number of other delays, it has become clear that the original indicative timescales are no longer feasible. As a result, the dates for ill health pensioners and beneficiaries have been pushed back. The date for taper and unprotected members has not been changed.

<b>Ill Health Pensioners</b>	March 2024	Changed to	June 2024
<b>Beneficiaries</b>	May 2024	Changed to	June 2024
<b>Taper/Unprotected Pensioners</b>	November 2024	No change	

12. Despite the timetables being amended nationally, Cheshire Fire and Rescue Service is proceeding to remedy cases in accordance with the original timetable. Therefore, ill health members received their RSSs in the first week of April.
13. An update on the current position was sent to all other immediate choice pensioners on 5 April. Understandably, pensioners are frustrated at the length of time it is taking to resolve their cases. Unfortunately, a number of delays have been outside of Cheshire Fire and XPS's control. However, a face to face session will be arranged shortly for immediate choice pensioners to allow them to ask any questions they have and to allow the Service to provide them with a more detailed update on progress and the reason for the delays.
14. The LGA have recently advised that the RSS for contingent decisions and beneficiaries are now available and they are currently working on the RSS template for annual benefit statements (ABS) which will be needed by August 2024.
15. The Cheshire Fire and Rescue Service pension team are currently finalising the bulk GAD calculator for all active and deferred members in scope for remedy. The tax, interest and contribution data provided on this calculator details how much members will owe, or how much compensation will be due for contribution adjustments. This information is needed by administrators to allow them to produce a combined annual benefit statement and RSS that members will receive later in August 2024.

### **McCloud Remedy - Contingent Decisions**

16. Contingent decisions are decisions which members would have made differently had it not been for the discrimination. These decisions may relate to opt outs, purchase of added years or transfers. Whilst the regulations allow contingent decisions for transfers, the Home Office have confirmed they don't believe any of these scenarios will apply in the Firefighters' Pension Schemes.
17. The LGA has now published an employee guide for scheme members who may wish to submit a contingent decision claim, along with a claim form. They advised services to liaise with administrators before confirming the process to scheme members.
18. On 4 April, Cheshire Fire and Rescue Service met with XPS pensions to discuss the process and agree timescales and responsibilities for these claims.
19. Scheme members who wish to submit a claim to reinstate opted out service will be able to repay their contributions in instalments over a 14 year period. Interest will also be applied. GAD are developing another calculator which will allow services to calculate how much members owe and the interest to be applied. This calculator should be available at the beginning of May.

20. Details of the contingent decision process will be communicated to scheme members in the coming weeks. An overview of the process is provided at Appendix D.
21. There are some areas of potential challenge with regards to opt outs. The regulations only cover the remedy period. Therefore, if the member opted out before the remedy period, this may have implications for how much service they can purchase, and which scheme they will be eligible to rejoin. Further legal advice is being sought on this by the LGA.

### **Matthews Remedy – On Call Firefighters**

22. Following the Matthews v Kent and Medway Town case in 2006, Fire services undertook a time-limited options exercise in 2014 to give all retained firefighters with service between 1 July 2000 and 5 April 2006 access to a modified version of the Firefighters' Pension Scheme 2006. The exercise only allowed members to backdate their membership to 1 July 2000.
23. Following another court case brought by judges in 2018 (O'Brien v MoD) a further options exercise will now be undertaken to allow those members to backdate their modified scheme service to their start date, where this is before 1 July 2000, and to capture any members who didn't get the opportunity to join the scheme in 2014.
24. The legislation to implement these changes came into force on 1 October 2023. Between October and December 2023, the Service wrote to last known addresses of all 259 members in scope to advise them about the opportunity to join the modified scheme, or purchase additional service.
25. According to disclosure regulations, when there is a material change to a scheme, scheme members should receive communication about this within 3 months. However, due to the fact that some members left the Service in the early 2000s, it wasn't possible to trace all members by 31 December 2024. Other communication channels have been used such as posts on the staff intranet and external website, posters for fire stations and also promotion through Cheshire's retired firefighters' association. In addition the FBU have been contacting any employees on their databases.
26. An external company called Heywoods was engaged in February to locate current addresses for 67 members that the service could not contact at their last known address. To date, all but 12 people have been traced and have received information about the scheme.
27. This breach has been assessed against the Pension Regulators (TPR) code of practice and has been deemed not to be a material breach. Therefore, it will be logged but will not need to be reported to TPR.
28. Cheshire Fire and Rescue Service's pensions team are currently working to produce quotes for members who have expressed an interest in joining the

scheme or purchasing additional service. These calculations are very complex and there are still a number of outstanding technical issues which the Home Office are considering. These may require amendments to regulations to resolve.

29. The following statistics outline progress so far:

Active Members	17
Deferred Members	147
Pensioner Members	84
Deceased Members	11
<b>Total Members in scope</b>	<b>259</b>

<b>Members notified about opportunity to join scheme</b>	238 out of 259 (12 members could not be traced and the remainder are death cases as we are waiting on HO to confirm eligibility)
<b>Expressions of Interest Received</b>	137 out of 238
<b>Calculations completed</b>	130 out of 137
<b>Statements compiled and sent to members within 3 months of the member expressing an interest</b>	37 out of 130
<b>Members who have elected to join the scheme</b>	14 out of 37
<b>Members who have elected not to join the scheme</b>	1 out of 37
<b>Pensioners who have joined and are awaiting payment</b>	9 are with XPS for payment

30. The GAD calculator that has been provided to calculate service and contributions still has a number of outstanding bugs, which is holding up the production of statements for certain cases. The most complex cases will be referred to GAD as the calculator does not cover all scenarios. The referral process for these cases has not yet been confirmed.

## **Pension Tax Updates**

31. In the Chancellor's budget statement in March 2023, the Government announced that they would be abolishing the Lifetime Allowance (LTA) from 6 April 2024. The Finance Act 2024 received royal assent on 22 February 2024, removing the lifetime allowance from the 2024/25 tax year.
32. Although this now means that there is no limit on the amount of pension savings that people can take without a tax charge, there are still limits in place for schemes where members can take more than the HMRC limit in a pension lump sum. This affects the Firefighters' Pension Scheme 1992. Going forwards, members will still be able to take the maximum lump sum but anything over £268,275 will be subject to income tax at the member's marginal tax rate. For some this may equate to 40% or 45% tax.

## **Pension Dashboards Programme**

33. Following the Department for Work and Pension's announcement that the Pension Dashboards Programme connection deadlines would be delayed, it has now been confirmed in legislation that the latest connection deadline for will be October 2026. However, public sector schemes will be expected to stage by 1 October 2025.
34. The original connection deadline was September 2024. Due to the ongoing work on the McCloud and Matthews remedies during 2024, this delay is welcome news to the public sector pensions sector. However, administrators will continue to plan and prepare for the implementation and support will be required from fire services to ensure data is fit for purpose.
35. Whilst the majority of actions will be automated by pensions software, preparation work will involve data cleansing, testing software and dealing with enquiries, as well as ongoing requirements to update and maintain software.
36. XPS pensions will be preparing a Dashboards Connection Readiness Report in the coming months. Schemes may have to consider matching criteria, data protection and privacy statements and additional costs for pension administration services. Whilst the majority of work will be carried out by the administrator, the Pensions Regulator have made it clear that it is scheme managers and Local Pension Boards who are responsible for overseeing that dashboards are implemented accurately and on time.

## **General Updates**

37. From April 2024 the employer's contribution rate for the Firefighters' Pension Scheme 2015 has increased from 28.8% to 37.6%. Employee contribution rates and bandings will remain the same.

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