

Decision title

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

Recommendation by

Decision Number

Subject Matter Expert Industrial & Employee Relations, People Services LFC-0419-D

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Summary

LFC-0419 provides the recommended responses from the London Fire Commissioner (LFC) to the HM Treasury consultation on changes to the transitional arrangements of the 2015 public sector pension schemes, which includes the 2015 firefighters pension scheme (see appendix 1 to this report). This consultation, which specifically seeks responses to 24 questions, commenced on 16 July 2020 and concludes on 11 October 2020. A link to the consultation is provided here:

[HMT's consultation on changes to the transitional arrangements of the 2015 pension schemes](#)

The consultation responses have been developed over the course of this governance process, and so the recommended responses submitted to Commissioner's Board have, for example, taken into account the discussion at the Local Pension Board (LPB) on 21 September 2020. The recommended responses at appendix 1 were finalised following a subsequent meeting involving the Chair of the LPB, and the Finance, General Counsel, People Services and Local Pensions Partnership (LPP) advisers to the LPB.

Responses to the consultation from the LPP are attached as appendix 2 to this report (n.b. these responses may be subject to LPP amendment prior to final submission to HM Treasury). In addition the National Fire Chiefs Council (NFCC) have circulated an initial response to the consultation prepared by the Senior Pension Adviser to the Local Government Association and the Scheme Advisory Board (SAB) Remedy Working Group (NFCC are a stakeholder) which will form the basis of SAB's response to the consultation. The NFCC have sought comments on this, and LFB officers will be responding to this.

Decision

That the London Fire Commissioner agrees the consultation responses set out at Appendix 1 of this report.



Andy Roe
London Fire Commissioner

Date **This decision was remotely
signed on Friday 09 October 2020**

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Report title

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

Report to

Corporate Services Board
Local Pension Board
Commissioner's Board

Date

15 September 2020
21 September 2020
7 October 2020

Report by

Subject Matter Expert Industrial & Employee Relations, People
Services

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Summary

This report provides the recommended responses from the London Fire Commissioner (LFC) to the HM Treasury consultation on changes to the transitional arrangements of the 2015 public sector pension schemes, which includes the 2015 firefighters pension scheme (see appendix 1 to this report). This consultation, which specifically seeks responses to 24 questions, commenced on 16 July 2020 and concludes on 11 October 2020. A link to the consultation is provided here:

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The consultation responses have been developed over the course of this governance process, and so the recommended responses submitted to Commissioner's Board have, for example, taken into account the discussion at the Local Pension Board (LPB) on 21 September 2020. The recommended responses at appendix 1 were finalised following a subsequent meeting involving the Chair of the LPB, and the Finance, General Counsel, People Services and Local Pensions Partnership (LPP) advisers to the LPB.

Responses to the consultation from the LPP are attached as appendix 2 to this report (n.b. these responses may be subject to LPP amendment prior to final submission to HM Treasury). In addition the National Fire Chiefs Council (NFCC) have circulated an initial response to the consultation prepared by the Senior Pension Adviser to the Local Government Association and the Scheme Advisory Board (SAB) Remedy Working Group (NFCC are a stakeholder) which will form the basis of SAB's response to the consultation. The NFCC have sought comments on this, and LFB officers will be responding to this.

Recommended decision

That the London Fire Commissioner agrees the consultation responses set out at Appendix 1 of this report.

Background

1. As part of the 2015 public sector pension scheme reforms, which included the Firefighters Pension Scheme, those within 10 years of normal pension age received full protection which allowed them to remain in their legacy pension schemes, whilst those within 10-13.5/14 years of normal pension age could stay in their existing schemes for a period ranging from a few months to several years (known as 'tapered protection'). This transitional protection was intended to protect and give certainty to those who were closest to retirement. With regards to the firefighters pension schemes, for the 1992 scheme those age 45 or over as at 1 April 2012 received full protection, and those aged between 41 and 45 at the same date received tapered protection. For the 2006 scheme, those age 50 or over as at 1 April 2012 received full protection, and those aged between 46 and 50 at the same date received tapered protection. Otherwise 1992 and 2006 ('legacy') scheme members transferred into the new ('reformed') 2015 firefighters pension scheme on 1 April 2015, and all new pension scheme members entered the 2015 scheme. The 1992 and 2006 schemes are final salary pension schemes, the 2015 scheme is a CARE (Career Average Revalued Earnings) pension scheme.
2. Following a legal process, which has become known as the 'McCloud/Sargeant case' (McCloud being a claimant in the Judges legal case, and Sargeant being a claimant in the firefighters legal case) in December 2018 the Court of Appeal found that these transitional protections unlawfully discriminated against younger members of the judicial and firefighters pension schemes as they were only available to older scheme members. The Courts also identified indirect race and sex discrimination. The Courts required that this unlawful discrimination be remedied by the government. The consultation document referred to in the first paragraph of the 'Summary' above sets out the government's proposals for doing so. The consultation covers the unfunded NHS, Teachers, Fire and Police pension schemes in England, Scotland and Wales, and the Civil Service in Great Britain and UK Armed Forces pension schemes. Changes to other schemes, including the Local Government Pension Scheme (which covers LFC FRS and Control staff), and public service pension schemes in Northern Ireland, will be consulted on separately.
3. 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.
 - Accrual in all unfunded final salary schemes for existing and new protected members will therefore cease at the end of the protected period on 31 March 2022.
 - Protection will be backdated for qualifying members even if they have left the scheme since the start of the protected period.

- Protected members will be given the opportunity to elect for benefits accrued during the protected period to be calculated on a CARE (reformed scheme) basis as an alternative to protected final salary (legacy scheme) 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: (i) immediate (within a year or two after the proposals are in force), or (ii) 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 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.
4. Additional detail regarding the consultation proposals is provided in appendix 1 against specific consultation questions.
 5. Following the conclusion of the consultation, the government proposes to introduce legislation to bring into effect the finally determined changes as soon as practicable.

Finance comments

6. This report recommends that the consultations responses as set out in appendix 1 are agreed. The consultation is from HM Treasury and covers changes to the transitional arrangements of the 2015 firefighter pension scheme.
7. The proposals within the consultation are likely to result in material additional costs to the scheme, as well as administration costs both to the LFB as well as the LPP, which the LFB may need to reimburse. It is not currently known if these costs will be met by government or not, and this represents a material risk to the LFC's financial position.

Workforce comments

8. This report concerns the pension provision of the operational workforce, specifically those who are, or have been, members of the 1992 and 2006 firefighter pension scheme.
9. An earlier version of this report was provided to the trade unions which collectively represent operational staff within the Brigade (FBU, Fire Officers Association, Prospect) for their comments, noting that they are entitled to submit their own consultation responses. As noted above, the report was also submitted to the Local Pension Board where representatives from the FBU, FOA and Prospect comprise the Employee Representative side of the LPB. In the course of the staff side consultation on this report, comments were submitted by the Fire Brigades Union which are attached as appendix 3.

Legal comments

10. 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.
11. 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.

12. The HM Treasury consultation on changes to the transitional arrangements of the 2015 public sector pension schemes, which includes the 2015 firefighters pension scheme seeks to remedy the age discrimination found in the McCloud and Sargeant cases. In accordance with Section 5A Fire and Rescue Services Act 2004 (FRSA 2004), the Commissioner has powers to do anything that is either incidental or indirectly incidental to its functional purposes. This includes responding to consultations.

Sustainability implications

13. There are no direct sustainability implications arising from the recommendations within this report.

Equalities implications

14. 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 exercising our functions and taking decisions.
15. 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.
16. 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.
17. The Public Sector Equality Duty requires us, in the exercise of all our functions (i.e. everything we do), 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.
18. 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.
19. 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.

20. 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.
21. HM Treasury have completed their own comprehensive Equality Impact Assessment (EIA) in respect of the consultation proposals (reached via the link on page 1 of this report) and have asked a number of specific questions relating to the equalities implications and/or potential adverse impacts of their proposals (questions 1, 2, 3, 8 and 9). The main conclusions of HM Treasury's EIA is set out in the commentary to question 1 in Appendix 1, which also contains the proposed LFC responses to these questions. Officers have drawn up an EIA in respect of the Brigade's operational workforce, and have ascertained that, broadly speaking, similar equalities considerations apply to the Brigade's workforce as those set out in HM Treasury's EIA.
22. Hence in respect of the scope of the retrospective changes (to apply to those in post prior to 01 April 2012 only), the LFB EIA confirms the expected adverse impact in relation to age (younger staff): the average age of LFC operational staff in post prior to 01/04/2012 is 44; the average age of those who joined on or after 01/04/2012 is 32. There is a small adverse impact in relation to race: the percentage of BAME staff for those with a commencement date prior to 01/04/2012 is 13.49%; this rises to 14.75% for staff who joined on or after 01/04/2012. Amongst women, however, there is a significant adverse impact: the percentage of women amongst operational staff who joined prior to 01/04/2012 is 6.76%; this rises to 13.41% for those who joined on or after 01/04/2012. There is a small adverse impact in relation to staff with disabilities: the before/after 01/04/2012 percentages are 5.75%/6.82%.
23. At the same time, the HM Treasury justification for these adverse impacts is accepted: if the cut-off date for application of remedy was moved, for example, to 01/04/2015, similar impacts would apply. It is accepted that the 01/04/2012 date is justified as transitional protection never applied to those who joined the schemes on or after 01/04/2012, and so they would reasonably be expected to have known that they would join, or be moved into, the reformed schemes. Extending the scope of remedy would also increase the administrative workload and financial cost of the proposals, as set out in the consultation document.
24. In respect of 'immediate choice' or 'deferred choice underpin' (DCU), see paragraph 3, final bullet point above, the LFC EIA finds that 'immediate choice' (which inevitably has an adverse impact in relation to age/younger staff as they would be more likely to choose a scheme that ultimately turns out not to be the most advantageous) would have a small potential adverse impact in terms of race/BAME staff, and a broadly neutral impact in relation to staff with disabilities. However it would have a significant potential adverse impact in relation to women. Women currently constitute 8.52% of all operational staff, but this is age banded as follows: Under 30 – 13.29%; 30-39 – 11.15%; 40-49 – 6.73%; 50 and over – 4.39%. These potential adverse impacts can be removed by selecting the DCU option, and this is an important reason it is recommended that the LFC expresses a preference for this option.

List of Appendices

Appendix	Title	Protective Marking
1	Recommended LFC responses to HM Treasury consultation questions	
2	Local Pensions Partnership responses to HM Treasury consultation questions (which may be subject to amendment)	
3	Comments from the FBU on the report (as submitted to Corporate Services Directorate Board)	

Appendix 1

Recommended LFC consultation responses

Question 1: Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

Commentary: The consultation is seeking views as to whether any of the measures envisaged might have any negative impacts relevant to the Public Sector Equality Duty or cause any other discrimination between different groups which ought to be avoided. The consultation document states there is evidence that some of the proposals may have differential impacts, but the government's current view is that these will not have a disproportionate or otherwise unjustified impact on individuals. These are set out in more detail in the consultation Equalities Impact Assessment (EIA) which is published alongside the main consultation document on the relevant government website.

The HM Treasury EIA addresses two main issues: (i) the proposal that eligible members of relevant pension schemes would be given a choice: whether they wish to receive benefits from their relevant reformed or legacy scheme (and not a mix) for the period 1 April 2015-31 March 2022; and (ii) the proposal to place all active scheme members of relevant pension schemes into a reformed scheme from 1 April 2022.

On (i), the EIA considers the impacts in relation to age and other protected characteristics in relation to:

- The scope of the retrospective changes
- Taper protected members
- Immediate choice and the deferred choice underpin
- Member contributions

On the scope of the retrospective changes, the EIA accepts that the decision not to include those who joined the schemes after 1 April 2012 within the scope of the consultation proposals is likely to have an age-related impact, and that those joining some of the schemes after 1 April 2012 (which would probably include the firefighters pension scheme) are more likely to be women or from ethnic minority groups. However the government believes the impacts on these groups are justified as the transitional protection (which is what has been found to be discriminatory) never applied to those who joined the schemes on or after 1 April 2012, and they would therefore reasonably be expected to have known that they would join, or be moved, into the reformed schemes. Also extending to them the same choice of scheme membership in respect of service between 1 April 2015-31 March 2022 as those already in service at 31 March 2012 would increase the administrative workload and financial cost associated with the proposals.

On taper protected members, the EIA accepts that tapered protection may be more advantageous to some than having to choose between legacy or reformed scheme for the entire 1 April 2015-31 March 2022 period. Nevertheless, the EIA states that to construct an alternative non-age based system of taper protection, even if possible, would be extremely complex, and any advantage has arisen by chance, and as a result of a policy which the Courts have identified as discriminatory. This is not therefore considered to be a viable option.

On immediate choice and the deferred choice underpin, the EIA states that immediate choice could have an adverse impact on younger scheme members as they are further from retirement, and so are more likely than older scheme members to choose a scheme that would ultimately turn out not to be most beneficial to them. Also as younger members may also be more likely to be female or from ethnic minority groups, immediate choice may also disproportionately impact on these groups. The EIA states the government does not currently envisage a differential impact based on protected characteristics arising from the deferred choice underpin.

On member contributions the EIA notes that some reformed pension schemes, including the firefighters scheme, have different contribution rates than the legacy scheme(s). For the firefighters pension scheme, contributions for the 2015 scheme are lower than those for the 1992 scheme, but higher than those for the 2006 scheme. Therefore balancing payments will be required from those who transferred from the 1992 scheme into the 2015 scheme if they elect to receive benefits under the 1992 scheme. Later on (questions 20-21) the consultation seeks views on whether or not interest should be paid on amounts owed by, or owed to, scheme members who opt for benefits in a different scheme to the one they have been contributing to. The EIA states that if interest is not charged to scheme members, it could be argued that they will not end up paying the same level of contributions as those who received transitional protection who will generally be the older members. On a more general point, the EIA states that in order to ensure that all members moving back to legacy schemes are able to afford the back-payment of contributions, schemes will agree repayment plans with affected members where necessary, with the aim of ensuring that members can choose their preferred pension benefits, regardless of their financial circumstances. This should avoid or at least mitigate potential disproportionate and unfair impacts on lower paid members, who, in some workforces, are more likely to be women, ethnic minority groups or those with disabilities.

On (ii), future pension provision, the EIA states that the discrimination identified by the courts was in relation to the transitional arrangements, and not the 2015 reformed schemes themselves. The proposals to address the discrimination set out in the consultation document treat all affected members equally by giving them a choice between schemes for the period between 2015 and 2022 (the remedy period). The government believes that by moving all active scheme members into their 2015 reformed scheme on 1 April 2022, they will all be treated equally in this respect, regardless of any protected characteristic.

The government believes that the reasons for the 2015 pension reforms still stand in terms of providing appropriate pension provision to all public service workers, and ensuring this remains sustainable and fair to the taxpayer. The EIA notes that an Equality Impact Assessment was previously (2012) conducted in relation to the public sector pension reforms in 2015 (<https://www.parliament.uk/documents/impact-assessments/IA12-024.pdf>) and that based on the available evidence, HM Treasury is satisfied that the conclusions still apply. (This stated that "The Government does not consider that the common features of the Public Service Pensions Bill will result in any differential impact to persons with the following protected characteristics: disability, ethnicity, age, religion or belief, gender reassignment, pregnancy and maternity, sexual orientation and marriage/civil partnership").

Response:

The LFC agrees that potential differential impacts based on protected characteristics will be minimised by offering all eligible pension scheme members the choice of whether to receive benefits based on the legacy schemes or reformed schemes for the period 1 April 2015-31 March 2022. The LFC also believes potential differential impacts will be minimised by allowing scheme

members to choose between legacy and reformed scheme at the point they retire (deferred choice underpin), in particular (as the consultation EIA states) immediate choice could have an adverse impact on younger scheme members as they are further from retirement, and so are more likely than older scheme members to choose a scheme that would ultimately turn out not to be most beneficial to them.

The LFC supports the proposal to move all active members into the reformed schemes on 1 April 2022 on the basis that this provides good quality pension provision with a fair balance of contribution between member, employer and the taxpayer, and does not believe that this is discriminatory based on protected characteristics.

The LFC has undertaken its own EIA in respect of the consultation proposals. With regards to the scope of the proposed remedy (to apply only to those in post prior to 01/04/2012), as to be expected we find an adverse impact in relation to age (average age of operational staff in post before/after 01/04/2012 is 44 years/32 years); a small adverse impact in relation to race (BAME staff) and staff with disabilities; but a significant adverse impact in relation to women (women are 6.76% of LFC operational staff with a start date prior to 01/04/2012, but 13.41% for those starting on or after 01/04/2012). Nevertheless LFC does not take issue with HM Treasury's justification for these adverse impacts, and any later cut-off date would have similar impacts.

With regards to immediate choice versus DCU, the LFC's EIA finds that immediate choice has a small potential adverse impact for LFC staff in relation to race (BAME staff), a neutral impact in relation to staff with disabilities, and a significant potential adverse impact in relation to LFC women operational staff. Women constitute 8.52% of all LFC operational staff, but this is age banded as follows: Under 30 – 13.29%; 30-39 – 11.15%; 40-49 – 6.73%; 50 and over – 4.39%. This is a further reason why LFC supports DCU.

Question 2: Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

Response:

No.

Question 3: Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

Response:

The LFC believes that there will be scheme members who would be better off with their existing tapered protection rather than having to choose between reformed scheme and legacy scheme in respect of benefits for the entire period 1 April 2015-31 March 2022, in particular those with tapered protection in the 1992 scheme who reached thirty years service prior to the tapered protection period ending. If these scheme members choose the legacy scheme for the remedy period, they will lose benefits previously built up in the reformed scheme. The LFC understands this scenario will only apply to the fast/double accrual schemes (police and fire).

Nevertheless the LFC also believes it would be too complex, if not unworkable, to seek to derive a scheme which allowed for tapered protection which was not in some way discriminatory, and

therefore believes that scheme members should have to choose between reformed and legacy scheme for the entire remedy period.

The LFC recognises that allowing those previously with tapered protection (and those with no protection) to accrue service in the legacy scheme for the remedy period, will lead to staff accruing 30 years service in the 1992 scheme during the remedy period for the first time, which in turn is likely to lead to a spike in retirements in 2022, or when remedy is implemented. This could lead to a skills shortage which FRAs will need to plan for.

Question 4: Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

Commentary: Under the 'immediate choice' option, scheme members would make an irrevocable decision as to whether to accrue benefits in their legacy or reformed pension scheme for the remedy period (1 April 2015-31 March 2022). The consultation document states that members would be given a reasonable amount of time to make the relevant choice, probably 12 months from the date they are first contacted, and for those who have taken a pension award before 2022, they will have a finite period at an early stage to make this choice.

The consultation document suggests that schemes would make multiple efforts to contact scheme members over the relevant period, say at 3, 6, 9 and 12 months. However any member who did not respond in this timeframe would be deemed to have chosen to accrue benefits in their existing scheme. For those who originally received transitional protection this would be the legacy scheme; for those who did not receive transitional protection this would be the reformed scheme. This 'default' position would avoid the possibility of changing the benefits that members are currently entitled to without their express consent.

The consultation document does however also note that it may be clearer in some schemes that a large proportion of members who did not have transitional protection would be financially better off moving back to the relevant legacy scheme, and this may apply to those in the 1992 firefighters scheme who did not have transitional protection. It is therefore suggested that a different 'default' option could be chosen for the members of those schemes where no response to the choice exercise was received, and that this could be something that relevant scheme could consult on directly with their stakeholders following the government's response to the consultation.

Response:

The LFC does not believe that this will impact on many people as the vast majority of scheme members would be expected to reply to such an exercise. The LFC's Local Pension Board is, for example, developing a communications strategy, and the aim would be to work with the recognised trade unions, in particular the FBU, to reach as many scheme members as possible.

The LFC does not object to the proposed method of dealing with these individuals, and believes there should be a standard approach to apply across all schemes. The LFC is not therefore in favour of there being further consultation on bespoke default options for specific schemes.

Question 5: Please set out any comments on the proposals set out above for an immediate choice exercise.

Commentary: The consultation document sets out the different features of the two remedy options, immediate choice, and deferred choice underpin (DCU). In terms of administration,

immediate choice would be resource intensive and time-pressured in the short-term, with all scheme members having to be contacted, and their decisions processed, within a relatively short period of time after 1 April 2022. The requirement to change IT systems, including developing software quickly, could increase the risk of error and impact delivery.

The DCU proposal presents different issues. The volume of changes would be spread over a much greater time period (noting that those who have retired or died since April 2015 would need to be resolved in the short-term), and therefore schemes would have longer to process the majority of cases, and could build software to minimise the amount of manual work involved. However scheme administrators would probably need to run two sets of benefit designs for over 30 years. Whilst the overall risk of error might be slightly reduced due to the longer timeframe for implementation it could increase in the long term if there were problems in retaining knowledge of the special features of benefit design for the 2015-2022 period in future decades.

The immediate choice option is stated as providing certainty to members as to their pension arrangements for the remedy period, however under the DCU option, there would still be certainty as it would be known that final pension provision could not be worse than the default arrangement for the remedy period, and the final decision would be made when there was complete certainty over the benefits for the two options, and no risk that pension benefits end up worse than they could have been.

The consultation document also sets out the potential tax implications of the two options, but notes that only a small minority of individuals, i.e. those who have sufficient income and/or pension accrual to generate an annual allowance, could be affected. Under the DCU option there are two points at which an individual's scheme benefits could change (first, at the outset, when the remedy period is treated in accordance with the 'default' arrangement, and secondly on retirement if this changes). However the government states that if an individual chooses to receive reformed benefits rather than legacy benefits for the remedy period, and this triggers a tax charge, they will be compensated as this charge is likely to be larger than the annual allowance charges the individual would have faced had they accrued the same reformed benefits for the remedy period throughout their career.

Response:

The LFC agrees that the likely implications of an immediate choice exercise are as set out in the consultation. The LFC believes that the enormous administrative impact of implementing remedy, whether immediate choice or DCU, cannot be overstated.

Question 6: Please set out any comments on the proposals set out above for a deferred choice underpin.

Response:

The LFC agrees that the likely implications of a deferred choice underpin are as set out in the consultation. As stated in the response to question 5, the LFC believes that the enormous administrative impact of implementing remedy, whether immediate choice or DCU, cannot be overstated.

Question 7: Please set out any comments on the administrative impacts of both options

Response:

The LFC endorses the comments made by the Local Pensions Partnership (LPP) who administer the LFC's firefighter pension schemes, i.e., "Both options require significant, upfront input and incur cost as a result of systems development, testing and implementation, as well as increased resources with appropriate skills and knowledge. A very significant communication exercise across a very diverse group of members, deferred members and pensioners with a requirement for them to respond for the immediate choice, whereas the deferred choice will require significant scheme knowledge and data collection/retention for many years to come."

The LFC believes the government should fully compensate FRAs for the increased administrative costs these changes will inevitably bring.

Question 8: Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

Response:

The LFC believes that the DCU is preferable for removing the discrimination identified by the Courts for the reasons set out in its response to question 1, and in the consultation's own Equality Impact Assessment.

Question 9: Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

Response:

The LFC does not disagree with this statement. However with regards to the 1 April 2022 date, the LFC believes that by the date when all active members move into the reformed schemes, all the systems need to be in place to enable scheme members to see their full benefits (and hence for both reformed and legacy scheme for the remedy period), to enable them to make retirement decisions, for example. It would be unfair for those already adversely impacted by the discriminatory transitional provisions to be further impacted by continuing uncertainty in the run-up to, and beyond, that date. The LFC remains to be persuaded that all the required legislative and systems changes can be achieved by 1 April 2022.

Question 10: Please set out any comments on our proposed method of revisiting past cases.

Commentary: For those scheme members who have since retired and are currently in receipt of a pension, they will be given a retrospective choice between the legacy and reformed schemes with respect to the remedy period (1 April 2015-31 March 2022). Hence a member originally eligible for transitional protection could instead choose to receive reformed benefits; a member originally eligible for tapered protection would be required to make a choice between legacy and reformed benefits; and a member originally not eligible for any form of protection could instead choose to receive legacy benefits. If actuarial adjustment was required to a revised pension, the actuarial factors in force at the date of their retirement would be used to ensure the pension was retrospectively corrected to the level it would have been if the member had had access to it at retirement.

A number of issues and options would then apply, for example where benefits retrospectively change, (i) they could be permitted to revisit the lump sum commutation decision they made at

retirement, subject to limits required by scheme rules, and pensions tax regulations; or alternatively (ii) they could be prevented from reducing the cash lump sum already received at retirement. For members in this position, the reformed scheme pension, if chosen, would be adjusted to allow for an amount of commutation, on the usual terms, at least equal to any automatic lump sum given up on account of the change to a previous legacy scheme award.

Any decision would retrospectively apply back to the date of retirement, and the scheme member would forgo the right to the benefits payable from the members original scheme with respect to the remedy period, where relevant. Any back-payments owed to the member would be paid in a single cash payment with interest applied. There may be situations where a member chooses a lower level of benefits (e.g. a lower pension for a higher lump sum or vice versa). Where a member chose a lower level of benefit, then any overpayment would need to be re-paid in order to access the revised benefits, e.g. if a member chose a higher level of pension commencement lump sum, it is proposed this would be reduced by any pension overpayments the member owed. In other cases the member would be given the opportunity to repay any overpayments upfront or over time. This would be made clear to the member when they are making their choice, and interest would apply in all these scenarios.

Response: The LFC believes that where a member's benefits retrospectively change, they should be permitted to revisit the lump sum commutation decision they made at retirement subject to the scheme rules in force at the time, and this choice should not be artificially circumscribed. Those who have retired should be given the full range of choices they would have had at the time of retirement based on the scheme they choose for the remedy period.

It is not envisaged there will be many occasions where those who have retired choose an option which provides for reduced benefits, or where, if they do, that lump sum/pension underpayments do not cover corresponding overpayments which are due, but if there are overpayments payable by the member, they should be given the opportunity to repay these over a reasonable period.

Tax implications may arise where a member's benefits change retrospectively, and scheme members should not be adversely impacted, i.e. taxation should apply on a year-by-year basis as if the member had been in the alternative scheme all along, rather than taxation applying for the single year when benefits are adjusted.

Lastly it is assumed that time limits to respond will be place for those who have retired, and default arrangements for those who do not respond, similar to arrangements that would be in place for those who do not respond to an immediate choice exercise (see question 4).

Question 11: Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

Commentary: A number of schemes, including the firefighters pension scheme, have differing levels of employee contributions between the legacy and reformed schemes (for the FPS, the 1992 scheme has the highest level of employee contribution, followed by the 2015 scheme, with the 2006 scheme having the lowest level). This means that if members choose to move from one scheme to another for the remedy period in accordance with the proposals, there would need to be balancing payments, or balancing refunds, in respect of contributions to ensure the right level of contributions have been paid for the scheme benefits chosen.

Under the immediate choice option, where a member owed contributions, they would be given the option to pay these upfront or over time. If the member had overpaid contributions, they would receive a taxable cash refund. Interest could be applied in both scenarios (see questions 20-22 which refer to interest).

Under the deferred choice underpin option, the government proposes a two-stage approach, i.e. the first stage occurs shortly after the end of the remedy period involving an adjustment to contributions by reference to their legacy scheme contributions. The second stage would be at the point the member made their deferred choice (e.g. retirement) where if reformed benefits are chosen, the contributions would once again be adjusted. Whilst this approach may result in members contributions being adjusted twice, it ensures the correct level of contributions are ultimately charged for the benefits received, whilst treating members consistently at the earliest opportunity.

For members of the firefighters pension scheme there could be refunds or additional payments at both stages given that contributions in one legacy scheme (1992) are higher than in the reformed (2015) scheme, but contributions in the other legacy scheme (2006) are lower than in the reformed scheme.

At both stages where a member owed contributions, they would be given the opportunity to pay these upfront or over time through an agreed repayment plan. If the member was due a refund, this would be paid as cash. Interest could be applied in both scenarios. Adjustments to contributions at any stage may result in tax adjustments.

Response:

The LFC has no objection to the proposals to ensure that the correct level of member contributions are paid, where these differ between legacy and reformed schemes.

Question 12: Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.

Commentary: All legacy and reformed schemes contain provisions which allow members to make additional contributions to enhance their pension benefits. In older legacy schemes (including the 1992 and 2006 firefighter pension schemes) this was added years (AY); but this gradually changed to added pension (AP), which applies to the 2015 firefighter pensions scheme. The main difference between AY and AP is that the former provides a pension amount that increases in line with the member's salary, whereas AP increases in line with inflation. The government's general approach is that it would be necessary to ensure the value of these additional benefits are reflected in the choice given to the member.

Under both immediate choice and DCU all additional benefits purchased via voluntary member contributions in the remedy period could be converted to an equivalent value of AP in the scheme that the member is not currently in. If a member's original scheme was chosen, they would keep the additional benefit originally purchased, but if they chose to join the alternative scheme, an equivalent value of AP would be added to the member's pension. Some legacy schemes' regulations and administrative processes may need to be updated in order to provide for an AP facility.

There is an overall limit on the total amount of AP that can be purchased per member. The consultation document states that where the relevant limit is exceeded solely as a result of the remedy proposals, then such breaches would be ignored.

Response:

In respect of the firefighters pension schemes, the LFC has no objection to the proposed treatment of voluntary member contributions that individuals have already made. However clarity is sought where conversion of AP in the 2015 scheme takes place in respect of member choosing the 1992 scheme where they now have the maximum 30 years service. Would this result in a refund of the contributions paid? In any event there should be no loss/detriment to the member.

Question 13: Please set out any comments on our proposed treatment of annual benefit statements.

Commentary: There is now a legal requirement for schemes to provide benefit information annually, generally known as 'annual benefit statements' (ABSs), to active members. For those who have moved from legacy schemes to reformed schemes, ABSs currently include details of two sets of benefits to reflect the final salary link for benefits earned under legacy schemes. If the immediate choice option is pursued as a result of this consultation, then no changes to ABS contents would be required until after a member had exercised their choice, to avoid any confusion ahead of the member making their immediate choice.

Under the DCU option, the consultation proposals state that scheme administrators would be required to produce ABSs containing information on remedy period benefits under both reformed and legacy schemes (as well as legacy scheme benefits for years of service before 2015 and reformed scheme benefits after 2022). This may require significant system changes and take some years to implement and test. This would also be complex for scheme members, so careful consideration would be needed to ensure the content was as clear as possible.

Scheme members who are or may be subject to an annual allowance charge would require an accurate pension savings statement setting out the value of their pension growth under the legacy and reformed schemes for the remedy period from an early stage. Schemes, including the LPP for LFB scheme members, currently write each year to members who may be subject to an annual allowance charge based on their accrual in the scheme in question, to prompt them to consider their tax affairs. The consultation document advises that there are complexities related to the DCU option for this group of scheme members which they set out more fully in an annex to the main consultation document.

Response:

The LFC accepts the analysis of the consultation proposals, and therefore that there will be a greater administrative burden in relation to the provision of ABSs under the DCU option. See the response to question 7 in relation to government reimbursement of additional administrative costs falling on FRAs.

The LFC believes that the government should urgently invest in an online system such that scheme members are able to check their benefits themselves, which would mitigate the administrative impact on FRAs, and potentially be able to replace ABSs. This would be particularly important if DCU is chosen: the system would then need to show benefits under both legacy and reformed scheme for the remedy period.

Question 14: Please set out any comments on our proposed treatment of cases involving ill-health retirement.

Commentary: Complications arise for ill-health retirement (IHR) cases processed during the remedy period as there can be differing eligibility rules between the legacy and reformed schemes. In all schemes, the criteria for IHR is for permanent disability, i.e. up to normal pension/retirement age (NPA/NRA). However the NPA/NRA varies across schemes: in the 1992 firefighters pension scheme NPA is 55; in the 2006 scheme NRA is 60, and in the 2015 scheme NPA is also 60. Therefore it is possible that someone could meet the IHR criteria in the 1992 scheme but not the 2015 scheme (e.g. if their permanent disability was considered to only to continue to age 58); and vice versa, or at least they may not have been considered for IHR under the 1992 scheme as they were over age 55, but would meet the IHR criteria in the 2015 scheme. It is possible that IHR benefits under the 2015 scheme would be more valuable than normal retirement benefits under the 1992 scheme.

Under the consultation proposals, scheme members who were refused an IHR pension in one scheme could be considered for IHR in the alternative scheme, and if the IHR criteria were met, could choose IHR benefits in the alternative scheme.

Similarly, all those in scope who had already retired on ill health grounds would be able to retrospectively choose the benefits in the alternative scheme if they wished. However whether the alternative benefit would be an IHR benefit would depend on whether they met the criteria for IHR in the alternative scheme. If the member did not meet the IHR criteria in the alternative scheme, they would need to choose between their existing IHR benefits, and the pension benefit, payable at the date they retired, in the alternative scheme. In all cases where medical advisers need to revisit ill-health assessments, the scheme member may be required to provide consent because of the likely need to share medical records.

There may be tax and/or state benefits implications where there was an adjustment to pension benefits which would be dealt with under normal rules.

Response:

The LFC agrees that those who have been ill-health retired during the remedy period should be given the option of choosing the relevant benefits in the alternative scheme, but must satisfy the IHR criteria in the alternative scheme to be awarded alternative IHR benefits. The LFC also agrees that those who were rejected for IHR in the remedy period, and those in the legacy scheme who were not considered for IHR solely on the basis that they were older than the legacy scheme NPA, should be eligible for an IHR re-assessment under the criteria of the alternative scheme, and to choose the alternative scheme IHR benefits if they meet the alternative scheme criteria.

Question 15: Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.

Commentary: There will be a number of different circumstances in which members within scope of the remedy may have died since 1 April 2015. These will include members in active service, deferred members and pensioners, including those who retired due to ill health. Complications arise because of the differing levels of survivor benefits, and survivor pension rules, across the legacy and reformed schemes. For example, under the 1992 FPS scheme, a surviving spouse/partner pension is only payable where the member and survivor were married, or in a civil

partnership, and living together. Under the 2006 scheme eligibility extends to all spouses/civil partners, plus cohabiting partners. Under the 2015 scheme this extends further to those in a long-term (2 years plus) relationship. In addition, whether or not a surviving spouse/partner is eligible for a survivor's pension may impact on the size of a child's pension. So a switch from legacy to reformed scheme, or vice versa, may benefit one person (e.g. an unmarried partner) at the expense of another (a surviving child).

These cases will of course need to be handled sensitively. Cases will need to be revisited to ensure that any increase to benefits arising from the changes due either to the member before their death, or their survivors, or to the member or their survivor's estates, can be paid. Where possible, these cases would be prioritised given the obvious need for grieving families to resolve financial matters relating to their loved one in as timely a manner as possible.

There are options around how these cases could be dealt with which largely would not differ under DCU or immediate choice (as these cases would be prioritised for resolution). Where any increase in benefits was due, schemes could notify the individual who received a death lump sum payment, or survivors in receipt of ongoing pensions, or a late member's legal representative if applicable, and arrange to make the higher payment(s). Alternatively schemes could present survivors with a choice between two packages of payments: the rationale here is because the reformed scheme may offer benefits not available in the legacy scheme, such as survivor pensions for unmarried partners.

As noted above, given that legacy schemes did not generally include provision for unmarried partner pensions, the choice between legacy and reformed scheme could have significant implications for the pensions of any dependent children, as well as any surviving unmarried partner. Where a child and the adult newly receiving a survivor pension (or an altered pension which could also affect the child's pension) were not part of the same household, the consultation document does not propose to reduce any dependent child's pension, as the child and their parent/guardian would have no control over the decision affecting the child's pension payment. However where they were part of the same household, the usual rules limiting the combined total of survivor and children's pensions would apply.

The consultation document states that there could be an argument to limit the choice between legacy scheme without unmarried partner benefits, and reformed scheme with such benefits, where scheme members were previously given the option to move from a legacy scheme to another pre-2015 scheme which did offer survivor benefits to unmarried partners. In this situation it is suggested that this choice should be respected and retained, particularly where the member had been with the unmarried partner at the time the earlier choice was exercised. It should be noted in this regard that 1992 scheme members had the option of transferring to the 2006 scheme in 2006, where survivor pensions at the time were payable to those married, those in civil partners, and 'nominated partners' who could be unmarried partners (the requirement to nominate was ended in 2018 as a result of the 'Brewster' case, and the category 'cohabiting partner' replaced 'nominated partner'). If this consultation proposal is therefore accepted, this could potentially affect all 1992 scheme members.

It is also proposed that where a deceased member (with no dependent children) was not in receipt of transitional protection, and an unmarried surviving partner pension is in payment, no contact should be made with the parties as the only 'choice' would be between receiving a pension and receiving nothing.

It is acknowledged that there may be tax implications for survivors and/or a scheme member's estate as a result of adjustments to death lump sums and/or survivor pensions. The consultation proposes that any tax charges triggered solely as a result of payments related to the McCloud/Sargeant remedy would not fall to the member or their survivors. Also, any out-of-pocket expenses, e.g. as a result of re-opening a probate application, would be reimbursed where evidence was provided.

Response:

The LFC agrees with the general principle that payments arising from the death of scheme members since 1 April 2015 should be revisited with a view to putting into payment the most beneficial set of benefits and/or to provide beneficiaries with a choice where there are advantages and disadvantages to the different options. The review of benefits will be undertaken in the first instance by scheme administrators who should be empowered to determine the optimum way to approach beneficiaries (or not to approach them, where the existing benefits are clearly the most favourable). It is agreed these cases need to be handled with the utmost sensitivity and with a view to resolving them expeditiously.

The LFC agrees that there should be no reduction in children's pensions where an adult newly receiving a survivor pension, or an altered survivor pension, is not part of the same household, but otherwise the usual rules limiting the combined total of survivor and children's pensions should apply. The LFC also agrees that no survivor-related tax charges should apply where these are triggered solely by a McCloud/Sargeant remedy.

Where unmarried partner pensions are involved, the LFC does not agree that the choice should be circumscribed if legacy scheme members previously had a choice of joining a scheme which provided for such pensions: many factors would have been involved in a scheme member making such a choice, and the issue of survivor pensions was probably the least of these, certainly in respect of the choice whether or not to join the new firefighters pension scheme in 2006.

Question 16: Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

Commentary: Individuals may argue that they would have taken a different course of action had they known that continued membership of their legacy scheme during the remedy period was an option, for example those who opted out of the reformed scheme on or after 1 April 2015.

The consultation document proposes that schemes consider representations on these 'contingent decisions' on a case-by-case basis, and that evidence is likely to be required from the scheme member and possibly also the employer. If, under immediate choice or DCU, individuals are to be treated as accruing benefits in their legacy scheme for service in the remedy period, then payment of the correct employee and employer contributions would be required retrospectively, with appropriate interest, before the individual would be deemed to be eligible for remedy. Tax adjustments may also need to be made.

The consultation document states that where a period of more than 5 years has elapsed since a member opted out of a final salary legacy scheme, they would usually lose their right to the 'Final Salary Link' (FSL) provided for by section 20 of the Public Service Pensions Act 2013. The FSL allows those in the reformed schemes with final salary legacy scheme service to have those benefits calculated in line with their final salary when they retire (or otherwise leave the reformed scheme) rather than when they left the legacy scheme. The consultation document proposes that

where a member, and their employer, paid contributions owed for the relevant period, then any FSL would be restored.

Response:

The LFC believes that these 'contingent decisions' should be considered on a case by case basis by scheme managers, and that scheme managers should therefore have full authority in such cases. However these local decisions should be underpinned by clear, consistent, national guidelines.

It is assumed that where the scheme manager does not agree with a request from an individual, they will have recourse for the decision to be reviewed under the Internal Dispute Resolution Procedure (IDRP). The LFC agrees that where a decision is made to restore scheme membership, and all contributions are paid, any FSL is restored, including where the original break in service has been more than 5 years, as these cases should no longer be treated as a break in service.

Question 17: If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

Commentary: All schemes covered by this consultation are members of the Public Sector Transfer Club (the 'Club'). The Club enables employees to avoid a reduction in the value of their accrued pension that could otherwise occur as a result of changing employment. Final salary pension transferees are awarded a service credit that maintains the member's final salary link for the pension accrued in their previous service, and CARE transferees are awarded a pension credit that continues the rate of in-service revaluation that was provided in the member's legacy scheme. The intention of the Club is that members do not lose out, in terms of pension provision, as a result of changing employment in the public sector.

If a member transfers under the Club before having made a choice between legacy and reformed benefits (as would be the case under DCU, or immediate choice before that was implemented), then one option would be to bring forward that choice to the date of transfer so that only one set of scheme benefits for the remedy period needs to be considered for the transfer. This would simplify Club administration, as the scheme receiving the transfer would avoid having to maintain dual records of two transfer credits, but effectively means that the transferring member, even under DCU, is required to make an immediate choice at the point of transfer. There would still need to be some retrospective application of this approach to cover transfers that had already been made. This would be more complex where a member had moved schemes multiple times.

In addition, if the transfer took place before the end of the remedy period, the member would potentially have a further choice of benefits in their new employment if the scheme to which they had transferred was also covered by remedy. This could increase the complexity of the transfer administration and the choice the member faced. This would be simplified by giving the member a single choice that covered their pension accrued in their old and new employment. A single choice is also closer to the situation of a member who did not change employment.

The consultation document states that in certain situations, a transferring member might be at an advantage if they could make two choices. For example if they received a pay rise on promotion when they changed employment, they might be able to receive a higher pension that if they had not changed employment, by selecting final salary benefits for their old employment and CARE for their new employment.

Response:

In principle the LFC believes that if the DCU is taken forward, the deferred choice should not be brought forward to the date of transfer for Club transfers, otherwise this undermines the principle of DCU. However the LFC appreciates that for future Club transfers, if this is not brought forward to the date of transfer, this will cause a considerable administrative burden, and therefore comments on this from pension administrators should be given full consideration.

Question 18: Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

Response:

The LFC believes that all scheme members, including those involved in Club transfers, should only get a single choice for the remedy period, legacy or reformed scheme, that covers both schemes as this is a key principle of the proposed new arrangements.

Question 19: Please set out any comments on our proposed treatment of divorce cases.

Commentary: The consultation document states that usually schemes calculate a cash equivalent transfer value (CETV) when requested for court proceedings in cases of divorce (marriage) or dissolution (civil partnership). Schemes may then create a pension account for the member's ex-spouse (who becomes a 'pension credit member' of the scheme; the scheme member becomes a 'pension debit member'). Alternatively if a pension attachment order is in place, the ex-spouse or civil partner does not become a member of the scheme but is instead entitled to a proportion of the pension when it comes into payment. In such cases, the ex-spouse or civil partner's pension amount will result from the choice exercised by the scheme member as to which scheme they would prefer for the remedy period.

Any cases where a CETV has already been issued, or which need a CETV before the legislative changes are in place, may be subject to change depending on choices made by the scheme member, although it is acknowledged that this is undesirable.

Any immediate or deferred choice would be exercised by the scheme member, not the ex-spouse or civil partner, as it is the scheme member who was subject to the discrimination identified by the Courts. However where there is a Pension Sharing Order specifying a percentage rather than a cash amount to be awarded to the scheme member's ex-spouse or civil partner (as a 'pension credit member'), the consultation document proposes that the pension credit member will be awarded the percentage of the higher CETV due under remedy, even if the choice exercised by the scheme member results in a lower pension amount.

Response:

The LFC has no objection to the proposed treatment of divorced cases.

Question 20: Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

Commentary: The consultation document states that there is no consistent approach to interest across public service schemes. Some scheme regulations contain provisions relating to interest, some do not (within the 1992 and 2006 firefighter pension schemes, regulations referring to interest mainly relate to transfer payments). Where schemes do not contain these provisions, interest is decided on a case-by-case basis, and across all schemes interest is sometimes provided for in decisions from the Pensions Ombudsman or higher courts.

Given the likely need, under both immediate choice or DCU, for retrospective adjustments to pensions in payment (or formerly in payment), to lump sums, and to employee contributions; and because such adjustments may be made many years after a payment was originally made, the consultation document acknowledges that it would be necessary to pay interest where the scheme was paying amounts of money to a scheme member.

There is then a decision to be made as to whether it is appropriate to charge interest where a scheme member owed a debt to the scheme, e.g. on pension contributions as a result of a choice made under DCU. This money could in theory have been invested and earned interest.

Response:

The LFC believes that, given interest will be paid on amounts owed to scheme members (according the consultation document, noting question 21 below), it is only fair that interest is charged on amounts owed to schemes by scheme members, at the same rate (and see response to question 22).

Question 21: Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

Response:

The LFC notes that the consultation document states it would be necessary to pay interest where the scheme was paying amounts of money to the member and agrees with that approach. See response to question 22 regarding rates.

Question 22: If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

Commentary: The consultation document states that one option is to set consistent rates across all schemes, which could be contained in scheme regulations to ensure consistency and transparency. As an example, in the Teachers Pension Scheme (TPS) the regulations set out that interest paid on late payment of benefits is based on the Bank of England base rate at the time the late payment is made. Where the member has been overpaid benefits, and therefore owes the scheme, the TPS charges interest at the discount rate used for the scheme's actuarial valuation plus CPI.

Response:

In the interests of fairness, the LFC believes that a consistent rate of interest across schemes should be applied, and that this should be the same for amounts owed by, and for amounts owed to,

schemes. Further that this rate should be linked to the Bank of England base rate (we propose Bank of England base rate plus 1% which would be a reasonable benchmark, consistent with that applied to under/overpayments in the LGPS).

Question 23: Please set out any comments on our proposed treatment of abatement.

Commentary: Abatement is the reduction or suspension of a pension in payment in the event of re-employment. Where abatement applies, and the post-retirement pension plus salary on re-employment exceeds pre-retirement salary, the excess is usually deducted (abated) from the pension in payment.

Benefits earned in reformed schemes are not subject to abatement. Provisions relating to abatement of pensions earned in legacy schemes vary across schemes, but usually abatement will apply to pensioners re-employed in the same sector. Within the 1992 and 2006 firefighter pension schemes for example, prior to 2013 abatement only applied when re-employed in a firefighting/operational role; since 1 July 2013 abatement has applied to re-employment in any capacity within a fire and rescue authority,

The consultation document proposes that where immediate choice or DCU resulted in a retrospective increase to a pension, such that pension plus re-employed salary exceeded pre-retirement salary for the first time, or by a greater amount, abatement would not apply or be increased retrospectively.

However where a pension award already taken had been abated, but the member chose to move to the reformed scheme for the remedy period, the abatement calculation would be reviewed and adjusted as necessary from 1 April 2015 or the date the pension was awarded/abated if later. In other cases, a reduction in legacy scheme pension (because service during the remedy period was instead treated as earned under the reformed scheme) might mean that a remaining legacy benefit entitlement was no longer abated.

Response:

The LFC has no objection to the proposed treatment of abatement cases.

Question 24: Please set out any comments on the interaction of the proposals in this consultation with the tax system.

Commentary: The consultation document has a lengthy section setting out the tax implications of the proposals to remove the unlawful discrimination. It states that most active members will not experience any changes to their tax liability, however a 'small minority' may experience tax impacts, either as a result of changes to employee pension contribution rates, or changes to pension accrual causing them to exceed limits on pensions tax relief. These impacts could either be positive (individuals able to reclaim overpaid tax) or negative (e.g. where higher pension accrual means higher tax charges for exceeding pension tax relief limits). The implications differ under the immediate choice and DCU options.

The document sets out the key elements of pensions tax relief, covering tax relief on pension contributions, the annual allowance, and the lifetime allowance. On pension contributions, as these can vary between legacy and reformed schemes (as is the case with the Firefighters Pension Schemes), then if benefits change, pension contributions will change, along with tax relief on those contributions. So, for example, where individuals are owed a refund of contributions, the refund

would be taxed as income. The amount of tax-relieved pension savings that can be accrued in a year is limited by the annual allowance (standard AA is currently £40,000, although unused allowance from the previous three years can be used to offset any excess over this limit); and the tax-free amount accrued over a person's lifetime is limited by the lifetime allowance (currently £1,073,100). Therefore if the value of an individual's pension accrued during the remedy period changes such that annual and/or lifetime allowances are exceeded, this could have tax implications.

There is a usual 4-year statutory time limit for reassessing tax for previous years. So where pension benefits change such that additional tax is due for a tax year that ended more than 4 full tax years previously, HMRC cannot collect that additional tax. However where a change of benefits decreases an individual's tax liabilities, the government will compensate them for all years of the remedy period regardless of the tax year the change in benefits relates to.

Under immediate choice, the 4-year statutory time limit will operate from the point when an individual communicates their choice of benefits. So if this is in mid-2023, for example, there would be no additional tax payable for tax years prior to 2019/20. However individuals would be eligible for compensation for any tax they were owed as a result of lower pension accrual at any point in the remedy period. Where additional tax is owed by the individual in respect of the annual allowance they will have the opportunity to utilise 'Scheme Pays' if they do not want to pay the tax charge upfront.

Under DCU members will be deemed in 2022 to have been members of their legacy scheme for the remedy period, and so the 4-year statutory time limit will operate from this year. Any addition tax owed on pension accrual increases would then be payable from the 2017/18 tax year. Where tax adjustments are subsequently triggered by a member taking their benefits, the 4-year statutory time limit will operate from the point at which they communicate their choice of benefits to their pension scheme. Under DCU therefore there will potentially be two points at which tax adjustments have to be made, i.e. at the end of the remedy period and when the individual receives their pension benefits.

Under DCU, when the member takes their pension benefits, and chooses reformed rather than legacy benefits for the remedy period years, any increase in annual allowance tax liability would all occur in the single tax year in which they took their benefits. This liability could be significant, and because it is concentrated in one year, it could be greater than the total AA liability the individual might have faced had their pension benefits for the remedy period always been the reformed scheme benefits. This is because the increase in pension value would have been more evenly spread over the whole remedy period, and greater use could have been made of the annual allowance and the 3 year carry forward rule. As these effects are a direct consequence of the design of the DCU option, the government believes it would not be fair to expect individuals to pay a significant AA tax charge that could result, and will therefore compensate individuals for the difference in their AA charge liability for reformed scheme benefits above legacy scheme benefits for the remedy period years, for the year in which individuals take their pension scheme benefits. However members would still be liable to report and pay AA charges incurred for any other reason.

As lifetime allowance tax liability is always calculated when a member receives their pension benefits, less complications arise in respect of this allowance. Under either immediate choice or DCU, the lifetime allowance calculation is calculated at this point, although for DCU there will be two potential outcomes depending on whether the member chooses reformed or legacy benefits for the remedy period. Under immediate choice, this choice will already have been made.

An individual's AA position depends on a range of factors that are specific to them, including whether or not they have any other pension besides their public service pension. It is therefore not possible to give firm assessments of which, and how many, scheme members will be affected by AA adjustments resulting from immediate choice or DCU. There is likely to be more impact for Firefighter Pension Scheme members than for some other schemes, as the 1992 FPS has double accrual for the years 21-30 of scheme membership, and so higher earners with double accrual, especially those who have gained promotion, may well see a higher AA tax liability if they switch from reformed to legacy benefits for the remedy period. Overall, however, the government does not expect AA tax considerations to be a relevant factor for the vast majority of scheme members who are within the scope of this consultation.

Response:

The LFC has no objection to the proposed method of dealing with changes in tax liability arising from the overall proposals to address the discrimination identified by the Courts.

At the same time the LFC notes and endorses the comments made by the LPP on this issue, i.e.:

"Due to the fast accrual in the police and fire schemes there will be more members affected than in the other public sector schemes. Account needs to be made for:

- The Annual Allowance (AA) adjustments for the fast accrual schemes would be a large (much larger than other public sector schemes) portion of scheme members
- Many of these AA tax charges will be significantly higher than if the member had been in the legacy scheme since 2015
- Where double accrual applies, a pension increase of as little as £2,000 will result in the member exceeding AA
- All members with a high-ranking position and those who receive a promotion will be impacted for AA
- Many fast accrual members will attract reoccurring AA tax charges
- Some members who had tapered into the 2015 scheme, but elect to remain in the legacy scheme and had AA tax charges - HMRC will owe the member/FRA an element of the tax charge on the AA previously paid

"It is proposed that the Government/HMT meet taxation on reformed benefits taken under DCU. It is not clear why this is restricted to reformed benefits under DCU. If it is right to meet tax charges in one scenario, why not across all scenarios?

"It is understood that tax relief on contributions can be obtained only by active scheme members. In the light of the Remedy, this needs to be made available to deferred and retired members.

"It is possible that tax relief may be paid on backdated contributions at a different rate to that which would have applied had the contribution been paid at the time it was due. There should be a mechanism to ensure members are neither advantaged nor disadvantaged through this application of tax rates.

"The amount of work required to administer these proposals needs to be factored into the agreements with pension administrators. There is a major dependency on the development and capability of HMRC systems for reconciling payments and in particular the payment of refunds due

to scheme pays no longer being required and the re-payment or collection of tax following Remedy."

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LPPA Responses to the HMT Public service pension schemes: changes to the transitional arrangements to the 2015 schemes Consultation

Introduction

This response is provided by Local Pensions Partnership Administration Ltd. We are pleased to provide below a response to all questions within the Consultation paper.

LPPA would like to raise a concern regarding the costs associated with the proposed Remedy which has not been catered for in the set Consultation questions:

As the Remedy is a change to legislation, this work will not be covered under a standard Contractual Agreement with a third party pension administrator. The cost of administering the Remedy needs to be factored into the cost benefit analysis. Police & Fire schemes are unfunded. The cost of administration is funded from their operating accounts. The 2016 valuation resulted in an increase of 12.8% on employer contributions, putting pressure on the Authorities.

LPPA would like to know how the cost of the Remedy will be covered – through further increases to contributions or by the Government? The review commissioned by the Government led to Lord Hutton's recommendation of moving public service scheme members to reformed schemes with benefits calculated on a CARE (Career Average Revalued Earnings) rather than a final salary basis. This recommendation was amended by the Government to include the discriminatory terms for older members (within 10 years of NRA) which has created the current need for the Remedy.

As the Government created the discrimination, it is reasonable to expect that the Government will fund the cost of the Remedy rather than pass that cost on to Employers and Members.

Chapter 1

Q1. Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

A1. The following points should be considered:

1. Where a member chooses an option resulting in a pension debit, this could be discriminatory as it is applied for the lifetime of the benefit and some members may pay more contributions than they owe. Other members may die before they have paid the contributions owed. Few will have paid exactly what is owed.
2. Annual Allowance (AA) limit – How will this be dealt with if the member exceeds the allowance due to the Remedy – and wouldn't otherwise have done so?
3. By HMRC going back only four years, a member subject to Remedy may pay a lower level of taxation in relation to Annual Allowance than a fully protected member, in the same position, paid during the whole Remedy Period.

4. If scheme pays was applied, this will impact permanently on the member's pension.
5. The Consultation suggests tax on reformed benefits taken under DCU will be met by Government – doesn't seem to suggest the same for Immediate?
6. Choice of Immediate/DCU not without discrimination. Assumptions v Actual. Also it is easier for older members, closer to pension age, to frame a choice of Remedy Period benefits and how they link to overall pension benefits than it is for younger members with e.g. 10 years' service and a potential of 30 years to normal pension age.
7. Fire & Police advantage over other public services in ability to seek a 'sweet spot' for retirement – i.e. the point at which a member will receive the best level of benefit and the minimum tax charge
8. Members who opted out in 2015 due to being given no choice other than the CARE scheme could claim to be discriminated against unless they are now given the choice to rejoin the legacy scheme. Some may be deemed outside the 5 years.
9. Members in Police & Fire on taper arrangement could argue discrimination if taper is not honoured up to the date offered at outset.
10. Police typically recruit from PCSO's who belong to the LGPS, and then move to the Police Scheme when they become a police officer. For recruits joining the Police scheme during the Remedy period, will they be given a choice? There is no choice in the LGPS Remedy just the application of the underpin.

Q2. Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

A2. None

Chapter 2

Q3. Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

A3. Unlike the 'normal' accrual schemes NHS, Teachers, Civil Service schemes, some Fire scheme members who reach their 30 years whilst on taper protection may wish to retain protection to a set date IE keep legacy benefits until attain 30 years and then move into the CARE scheme, so they benefit from paying into the scheme beyond 30 years service.

For police members they won't attain 30 years' service during this time as the protection was – (with at least 16 years' service and less than 20 years' service or between age 41 and 45 on 1 April 2012). These members may not want to choose between legacy or reform scheme for the whole period.

How does the government propose to calculate taper retrospectively?

Q4. Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

A4. The default to leave non-responders in their 'current' scheme be that legacy or reformed could be challenged at a later date if it could be argued there are extenuating circumstances – e.g. ill-health or disability.

The default will require high administrative workloads and increased costs in attempting to contact all members (active, deferred, pensioner, deceased). A standardised approach and outcome will be required that all scheme administrators apply consistently to avoid future challenge.

Q5. Please set out any comments on the proposals set out above for an immediate choice exercise.

A5. An immediate choice exercise would require huge increases in pension scheme management and administration resource which will impact the pension fund valuations putting additional pressure on the Police & Fire authorities if this is to be funded through increased employer contributions.

Dependency on system providers to develop systems and software to facilitate the calculations required to enable the members to make an informed choice will be key. If this is not available in time for implementation the workloads imposed on administrators will be even higher.

Population and validation of member data going back over a 7-year period and systems / processes to deal with the provision and collection of this data, and also with issues of contributions and tax calculations will add to workloads and would need to be addressed prior to the Remedy being implemented.

If the immediate choice is implemented, a member who has promotions between 2022 and retirement, or who ends up working to a later date than originally planned might wish to alter the decision at retirement (or feel obliged to retire at an earlier date). This could drive more experienced Police & Fire officers to leave the service sooner than they would otherwise have done.

The immediate choice could lead to members making the wrong decision due to the assumptions applied, which could lead to potential challenge or Appeals at a later date.

There will be major communication challenges in providing information to members in a way that is understood and engaging and is consistent across the many fire and police authorities across the country.

Q6. Please set out any comments on the proposals set out above for a deferred choice underpin.

A6. This will extend the period that administrators will require to retain in depth knowledge of all schemes for a further 25 years or more.

Active members will know their exact entitlement at the date benefits are drawn and administrative workloads will be smoothed over a longer term.

DCU still involves a very heavy workload for administrators reverting pensioners, deferred, deceased etc. members to legacy or reformed scheme membership, dealing with issues such as tax and contribution rate changes across a huge number of members over a relatively short period of time.

Q7. Please set out any comments on the administrative impacts of both options

A7. Both options require significant, upfront input and incur cost as a result of systems development, testing and implementation, as well as increased resources with appropriate skills and knowledge. A very significant communication exercise across a very diverse group of members, deferred members and pensioners with a requirement for them to respond for the immediate choice whereas the deferred choice will require significant scheme knowledge and data collection/retention for many years to come.

Implementing the Remedy from 2022 alongside business as usual.

Q8. Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

A8. DCU provides less risk as each active member will make their choice based on actual data at the point benefits are drawn. Asking members to make their choice based on unknown assumptions could be challenged at a future time.

Chapter 3

Q9. Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

A9. Some protected fire members would potentially want to remain in the legacy schemes where they have protection based on age but could only get full 30 years' service by working beyond age 55, as they would have remained in the legacy scheme prior to Remedy.

There is the possibility that the Remedy will not have been completed by 1/4/2022 and therefore there is an argument for members to be allowed to accrue further service in the legacy scheme until the Remedy has been fully delivered to all the affected cohort.

Annex A

Q10. Please set out any comments on our proposed method of revisiting past cases.

A10. Paying arrears of pension as a lump sum could result in members paying more tax than they would have over the years since retirement. There is the potential for lump sums to be classed as unauthorised payments and therefore incur tax charges, that wouldn't have been due if paid at retirement.

Some fire members who had tapered protection into the 2015 scheme would either lose the 2015 benefits, and if they had already built up 30 years in 1992 scheme, receive no added pension and be asked to pay added pension contributions. If we could allow members to retain taper this would avoid this challenge.

Members should not suffer detriment as a result of Remedy, whether directly in terms of benefits or indirectly as a result of taxation.

Q11. Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

A11. With the DCU option, members are being charged twice under the two stage proposal which could be deemed unfair compared to the immediate option. In addition, with the two stage proposal, we could pay

refunds to members at the end of the Remedy period knowing that they were incurring a debt for when they leave.

The application of interest on payments due from members is unfair. The member did not choose the scheme into which they were enrolled and should not now suffer a detriment because they were unable to maintain membership of the more favourable scheme. They should pay no more in contributions than a member who retained membership for the period.

It is understood that tax relief on contributions can be applied only to active members - not to retired or deferred members. It is important that those members are not disadvantaged through the retrospective choice of scheme under Remedy. Hence dispensation should be obtained from HMRC to provide tax relief to deferred and retired members, or to allow such members to make net pay contributions and for the scheme to receive any tax relief via HMRC (as operates with money purchase arrangements).

Q12. Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.

A12. The proposed treatment of voluntary contributions requires more clarification. Where the member has elected to purchase added pension in the 2015 scheme, we would need a way to covert this back as Added Pension in the 2006/old schemes. APB could be a possibility for fire schemes, but not applicable in police. What would happen for members who weren't able to purchase added pension in old schemes, as they could attain 30 years' service at age 55. Would this result in a refund of the contributions paid?

It would seem sensible to provide choice for members whether to retain any added pension in the reformed scheme (since they will have membership of that scheme post 2022) or to apply reformed scheme added pension to legacy scheme added years or added pension arrangements.

Q13. Please set out any comments on our proposed treatment of annual benefit statements.

A13. Making ABS and pension saving statements more complex than they already are serves no purpose other than to confuse and potentially mislead members. As members will be moved into one scheme for the Remedy period it would seem more appropriate to quote the figures associated with this scheme on the ABS.

The outcome provided for members should be paramount rather than the complexities imposed by the Remedy. Documentation provided to members needs to be clear and not misleading.

Q14. Please set out any comments on our proposed treatment of cases involving ill-health retirement.

A14. The consequence of the Remedy should not disadvantage members who are already in receipt of IHR, benefits should be adjusted going forward, not retrospectively. The proposal does not consider how members on IHR, who also have an injury pension, will be affected.

Q15. Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.

A15. Amendments to death grants or survivor pensions could cause distress. Communication will need to be sensitive and the complexities of those communications of alternate benefits to survivors or executors or representatives should not be underestimated, and will be time-consuming.

Consideration should be given to only contacting families where additional benefits would be payable. However, the pension administrators will not be in a position to advise on tax implications or any impact on state benefits that individuals may be in receipt of, therefore the administrators may deem this work to be outside their remit.

Q16. Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

A16. This is open to abuse. The proposals are lacking any detail on eligibility and proof that an individual would have acted differently, stating they should be considered on a case by case basis. Unless there are criteria to be met this will lead to inconsistencies and the potential for another discrimination claim.

Q17. If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

A17. As the member has made their choice to transfer then this should be the decision point and the Remedy applied.

Q18. Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

A18. A single choice to cover both schemes would be the most equitable solution and would not differ from those members who transfer benefits outside the public sector scheme.

Q19. Please set out any comments on our proposed treatment of divorce cases.

A19. Any reconsideration of divorce settlements could be costly and it is unclear who will bear these costs. The court order as set at the time of the divorce should remain unchanged which could result in a higher or lower pension benefit. Where the benefit reduces, this could result in challenge from the ex-spouse and clarification is required on whether this is enforceable.

Q20. Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

A20. Where the amount owed by members is solely due to the Remedy it does not seem fair to charge them interest for something they had no control over. Who will fund any interest applied? On Immediate method how will members fund any interest due? (They won't have any benefit payments to offset it)

Q21. Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

A21. Since the members will have suffered a loss through not receiving money due to them or by paying more than they should have in contributions or other payments it is only fair that interest should be paid on those amounts.

Interest payments due from the member are inappropriate - the member did not choose the scheme into which they were enrolled and should not now suffer a detriment because they were unable to maintain membership of the more favourable scheme. They should pay no more in contributions than a member who retained membership for the period.

Conversely, where the member has overpaid (as in the case of 2015 membership reverting to 2006 scheme membership), interest payments should be made to the member, reflecting that they were deprived of access to those funds by application of the transitional arrangements and therefore need compensation.

The common calculation of interest used across various sectors is Bank of England base rate +1%, therefore this would be a reasonable benchmark and would be consistent with that applied to over/under payments in other LGPS.

Q22. If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

A22. Interest should be paid as a single consistent rate across all schemes.

Q23. Please set out any comments on our proposed treatment of abatement.

A23. Adjusting abatement to include service now treated as legacy scheme and therefore impacting the pension without giving the member the choice to have reduced their pay or grade would seem likely to attract a legal challenge. Such abatement cases should be recalculated from an agreed date in the future to enable the member to adjust their re-employment as needed.

Annex B

Q24. Please set out any comments on the interaction of the proposals in this consultation with the tax system

A24. The proposed tax treatment of Remedy does not appear to align with the principle of placing members in no more or less favourable position than they would have been in had the transition not occurred:

By going back only four years, a member subject to Remedy may pay a lower level of taxation in relation to Annual Allowance than a fully-protected member in the same position paid during the whole Remedy Period. If scheme pays was applied, this will impact permanently on the member's pension.

Due to the fast accrual in the police and fire schemes there will be more members affected than in the other public sector schemes. Account needs to be made for:

- The Annual Allowance (AA) adjustments for the fast accrual schemes would be a large (much larger than other public sector schemes) portion of scheme members
- Many of these AA tax charges will be significantly higher than if the member had been in the legacy scheme since 2015
- Where double accrual applies, a pension increase of as little as £2,000 will result in the member exceeding AA
- All members with a high ranking position and those who receive a promotion will be impacted for AA
- Many fast accrual members will attract reoccurring AA tax charges
- Some members who had tapered into the 2015 scheme, but elect to remain in the legacy scheme and had AA tax charges - HMRC will owe the member/FRA an element of the tax charge on the AA previously paid

It is proposed that the Government / HMT meet taxation on reformed benefits taken under DCU. It is not clear why this is restricted to reformed benefits under DCU. If it is right to meet tax charges in one scenario, why not across all scenarios?

It is understood that tax relief on contributions can be obtained only by active scheme members. In the light of the Remedy, this needs to be made available to deferred and retired members.

It is possible that tax relief may be paid on backdated contributions at a different rate to that which would have applied had the contribution been paid at the time it was due. There should be a mechanism to ensure members are neither advantaged nor disadvantaged through this application of tax rates.

The amount of work required to administer these proposals needs to be factored into the agreements with pension administrators. There is a major dependency on the development and capability of HMRC systems for reconciling payments and in particular the payment of refunds due to scheme pays no longer being required and the re-payment or collection of tax following Remedy.

END

Appendix 3

From: Jon Lambe <Jon.Lambe@fbu.org.uk>

Sent: 16 September 2020 10:31

To: JOHNSON, DOMINIC <DOMINIC.JOHNSON@london-fire.gov.uk>; SHEK, DAVID <DAVID.SHEK@fbu.org.uk>; ASHMAN, GREG <GREG.ASHMAN@london-fire.gov.uk>; COOK, GARETH <GARETH.COOK@london-fire.gov.uk>; ROBINSON, CLIVE <clive.robinson@london-fire.gov.uk>; FREEMAN, MARTIN <MARTIN.FREEMAN@london-fire.gov.uk>; ELLIS, DOMINIC <dominic.ellis@london-fire.gov.uk>; HEARN, ANDY <ANDY.HEARN@london-fire.gov.uk>

Cc: FENTON, ADRIAN <ADRIAN.FENTON@london-fire.gov.uk>; GIBBS, CATHERINE <CATHERINE.GIBBS@london-fire.gov.uk>

Subject: RE: HM Treasury consultation - public service pension schemes

Dominic

The FBU will be giving a national response which will be the regions position however some concerns we have with the LFC responses to be submitted at the local pension board on the 21st of September are;

Q1

We are pressing for a differed choice underpin as our option

Q2

We won't be supporting putting everyone into a post 2022 scheme we still have problems with the unworkable nature of the 2015 scheme.

We would like to see the EIA mentioned.

Q3

Scheme members should be allowed a combination of the benefits for tapered members.

Q4

Our position is that this may be challenged at a later date and that it is dependent on accurate information being provided

Q5

DCU is safer, based on real information and rules out future challenges and treats all the same.

Immediate option is based on assumptions and projections and could be open to subsequent challenges.

Q9

We oppose this – some firefighters were given full protection until the retired this removes that and places them in an unworkable scheme

Q10

Our main concern is the proposed timescale for dealing with this

Q11

Agree in principal but need more default options to avoid unnecessary underpayments and overpayments especially relating to 2006 scheme members

Q14

Our main concern is timescale for dealing with these

Q16

Agree with looking at these but need to see process for this.

Kind regards

Jon Lambe

Regional Secretary

FBU London



From: JOHNSON, DOMINIC <DOMINIC.JOHNSON@london-fire.gov.uk>

Sent: 10 September 2020 16:44

To: Jon Lambe <Jon.Lambe@fbu.org.uk>; David Shek <David.Shek@fbu.org.uk>; ASHMAN, GREG <GREG.ASHMAN@london-fire.gov.uk>; COOK, GARETH <GARETH.COOK@london-fire.gov.uk>; ROBINSON, CLIVE <clive.robinson@london-fire.gov.uk>; FREEMAN, MARTIN <MARTIN.FREEMAN@london-fire.gov.uk>; ELLIS, DOMINIC <dominic.ellis@london-fire.gov.uk>; HEARN, ANDY <ANDY.HEARN@london-fire.gov.uk>

Cc: FENTON, ADRIAN <ADRIAN.FENTON@london-fire.gov.uk>; GIBBS, CATHERINE <CATHERINE.GIBBS@london-fire.gov.uk>

Subject: HM Treasury consultation - public service pension schemes

To: FBU, FOA, Prospect

I attach a report which has been submitted to Corporate Services Directorate Board next week which includes draft LFC responses to the above consultation.

As the report states, these responses will be developed over the course of the governance process; this report (potentially updated) will also be submitted to the Local Pension Board on 21 September, and then to Commissioner's Board to 7 October.

The report notes that the trade unions are entitled to submit their own responses to this consultation, however either now, or via the LPB, your comments on the report and the proposed LFC responses to the consultation are invited.

Regards.

Dominic Johnson

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