

Firefighters' Pension Scheme - Dealing with Immediate Detriment Cases

Report of the Chief Fire Officer

For further information about this report please contact Rod Hammerton Chief Fire Officer, on 01743 260201 or Simon Hardiman, Assistant Chief Fire Officer, on 01743 260196.

1 Executive Summary

This report is presented in relation to the Firefighters Pension Schemes and payments made as part of the Immediate Detriment remedy. The report provides an update and overview of the current position, in relation to Immediate Detriment remedy payments, using the Memorandum of Understanding (MOU) and associated framework.

Despite a willingness to make payments, by the Authority and the Service to ensure compliance with the Court of Appeal determination in 2018, a delay in clarification by Her Majesty's Treasury, makes it impossible to confirm whether the financial impact on the Authority will be minimal or significant.

If the Authority were to recommence making Immediate Detriment payments, there is an elevated level of risk around meeting these commitments prior to the legislation being laid.

This paper is produced to supplement a previous paper submitted to Authority in June 2021. (Appendix A to this report)

2 Recommendations

The Fire Authority is recommended to:

- a) Note the contents of the report; and
- b) Agree to continue to pause immediate detriment payments for claimants under the framework and reconsider the position once a response has been received from Treasury.

3 Background

In 2015 most public service pension schemes, including the Firefighters' pension scheme, were reformed. These reforms included 'transitional protection' for people closest to retirement.

In 2018, the Court of Appeal ruled that the 'transitional protection' element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters' and Judge's pension schemes.

The Government accepted the ruling and confirmed that it will remove the difference in treatment across all public service pension schemes.

The Government consulted on proposals to remove this discrimination in 2020. This was followed by a response to the consultation on 4 February 2021.

The changes proposed in the consultation to remove the discrimination will apply to all the main public service pension schemes and provide members of the Firefighter schemes affected; the Firefighters Pension Scheme 1992 (FPS 1992) or New Firefighters Pension Scheme 2006 (NFPS 2006), with a choice, at the point of retirement, as to which scheme, they would like to be in for the remedy period.

The remedy period is defined as between 1 April 2015 and 31 March 2022. The remedy only applies to members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

4 Immediate Detriment

Whilst the response to the consultation has now concluded, it is apparent that the required changes to regulations will be in place before 1 April 2022. In advance of reaching this date the Fire Brigades' Union (FBU) requested that the Home Office issue guidance to employers on dealing with 'immediate detriment' cases.

The requested guidance was issued on 21 August 2020 (attached to this report in Appendix A). Clarity on the guidance has been sought both via the Local Government Association (LGA) and Scheme Advisory Board (SAB) to assist Scheme Managers (the Fire and Rescue Authorities) to determine what action should be taken. This clarity is required in relation to the legal status of the note, who it applies to, how to make pension calculations and how to manage the consequences of payments being made that ultimately turn out to be incorrect as legislation is put in place and more detailed guidance is provided.

The argument was made in the Employment Tribunal that fire and rescue authorities (FRAs) could not act without legislation, and were required to follow the pension regulations that were in force, even though their lack of action could be seen as discriminatory

The Employment Appeal Tribunal's judgement is that FRAs cannot rely on this defence and that, under section 62 of the Equality Act 2010, FRAs have vested in them the power to pass a resolution making non-discrimination alterations to the scheme of which they are managers.

The ruling gives an expectation that FRAs should deal with immediate detriment cases to the extent that they are able within the terms of the government guidance.

It is understood that the Home Office and Her Majesty's Treasury are relying on section 61 of the Equality Act 2010 to provide legal underpinning to the note for non-claimants.

5 Framework for Managing Immediate Detriment Cases

In October 2021, the LGA and Fire Brigades Union FBU, held discussions to identify a mutually acceptable Framework, setting out a mechanism for handling Immediate Detriment cases, to assist all parties prior to the completion and implementation of the McCloud / Sargeant remedying legislation.

The result of these discussions is a Framework and Joint Memorandum of Understanding (MOU) between the LGA and FBU to deal with Immediate Detriment cases, which is attached at Appendix B to the report.

The aim of this Framework is to resolve the genuine difficulties that have arisen for Authorities in making payments to those affected, and in removing the potential for any further court claims. During the course of the discussions, the Government laid primary legislation before Parliament in the Public Service Pensions and Judicial Officers (PSPJO) Bill.

The Authority made a decision to adopt the Framework to resolve claims that were in line with the guidance and work is underway to provide both sets of figures for claimants that are in scope, as this will enable a timely resolution for members and pay individuals what they are entitled to, following the court ruling.

However, on 29 November 2021, the Home Office withdrew the guidance for processing Immediate Detriment cases ahead of legislation, with immediate effect.

The reasons for this decision indicated that Her Majesty's Treasury state, that although the decision remains that of scheme managers, it does not advise schemes process any cases before legislation is finalised and comes into force in or before October 2023.

The primary cause for concern is due to Her Majesty's Treasury stating that Section 61 of the Equalities Act cannot be relied upon to rectify a member's benefits and may have unintended and adverse tax consequences.

It has also been made clear that Central Government will not fund any costs attributed with settling Immediate Detriment cases in Service and any FRA that proceeds to process cases on this basis, should assume that costs will need to be covered locally. This would ultimately mean the redirection of budgets to cover these costs from what could be critical areas of the Service.

As a result of the Home Office's statement on funding for dealing with Immediate Detriment cases, prior to remedying legislation being in place, there are significant financial risks which should be considered before making or committing to make any compensation payments under the framework, as well as potential tax implications for scheme members.

An overview of financial considerations is provided within section 7 of this report, and these should be considered and balanced against the risk and costs of any future legal action brought by the FBU, as a result of not making progress.

6 Current Service Position

As a result of this position, the Service have taken the decision to pause processing Immediate Detriment cases until a wider national position and the significant financial risks associated with making compensation payments are fully understood.

To support the work required to provide individuals with options figures, it is critical that processes are developed, and the Service are currently undertaking a data accuracy and accessibility exercise with the Pensions Administrator, to ensure all required data to provide both options is accessible through current and historical data systems.

This work is time consuming and administratively burdensome for both the Service and the administrator. Therefore, despite the pause on processing Immediate Detriment cases, work will continue to ensure data and figures are available as and when required.

7 Financial Implications

The Immediate Detriment Framework (IDF) refers to Category 1 and Category 2 cases:

- **Category 1 cases** are those who become eligible to retire for any reason (including ill health) and draw their pension and/or lump sum benefits and want to have all their benefits paid from their legacy scheme. This category also includes those who do not qualify for an ill health pension in the 2015 scheme and are therefore left without an immediately payable pension but would be entitled to such a pension under their legacy scheme.
There are 43 category 1 members that fall in scope of an immediate detriment payment, and of these, 2 members have claimed for payment under the Immediate Detriment Framework.

- **Category 2 cases** are those who have already retired for any reason (including ill health) and who are receiving a pension under the 2015 scheme, and who wish to be treated as having retired as a member of the legacy scheme. This category also includes those who did not qualify for an ill health pension in the 2015 scheme, and are therefore left without a pension in payment, but would be entitled to such a pension in their legacy scheme.
There are 11 category 2 members that fall in scope of an immediate detriment payment, and of these, 8 members have claimed for payment under the Immediate Detriment Framework.

Payments of pension and lump sum owing on Category 2 members can be made from the Pensions Account as they are legitimate pension payments in accordance with the pension scheme regulations.

Payments which are deemed to be compensation payments will have to be paid by the Fire Authority.

These include

- Interest on payments in arrears
- Unauthorised payments – repayments of lump sum made more than 12 months in arrears

Repayment of Employee Contributions

As members move from the reformed scheme (FPS2015) back to their legacy scheme (FPS1992 or FPS2006), there will be a payment back to the member of reformed scheme employee contributions, and a payment due for legacy scheme contributions.

It is not yet clear whether the repayment of reformed scheme contributions will be a contribution refund or a compensatory payment for contributions wrongly paid. The Scheme Advisory Board wrote to the Treasury in December 2021 seeking clarification on this matter; to date no response has been received.

- If the repayment of these contributions is found to be a payment of compensation, the Fire Authority would be liable to stand these payments within its revenue account, as they would not be legitimate payments for the pensions account.
- If the repayment was found to be an unauthorised contributions refund, the Authority may be liable for an unauthorised payment charge of 40% of the total, again chargeable to the revenue account.
- If the payment is found to a contributions refund, this would be netted off with the amount owing by the member, and the Authority would be liable for any shortfall, payable from the pensions account.

Given the range of potential outcomes on this issue, it is very difficult to provide an estimate of the cost of immediate detriment to the Authority, as it could range from a very small sum to several hundred thousand pounds.

Despite the Authority's willingness to make these payments to affected members, there is an elevated level of risk around meeting these commitments prior to the legislation being laid.

The Government has stated that there is no guarantee that compensation payments made by Fire Authorities will be refunded. Therefore, the delay in guidance from the Treasury to clarify their position on employer contributions means that there is a high risk of the Authority having to meet these payments from budgets or reserves.

The Pensions Reserve is available to cover one off costs as a result of these cases.

8 Conclusions

The powers already outlined within the Immediate Detriment guidance remain available to FRAs to make payments under the framework should they decide that it is in the best interests of the Service and the scheme members.

It is clear that some costs associated with dealing with Immediate Detriment cases prior to remedying legislation coming into force in or before October 2023 will need to be met locally. Due to delay in clarification of the guidance provided by the Treasury, it is impossible to confirm whether the impact on the Authority will be minimal or significant. Therefore, the Authority is advised to continue to pause immediate detriment payments for claimants under the framework and reconsider the position once a response has been received from Treasury.

These costs should be considered in conjunction with any future legal costs brought about as a result of not progressing cases by the FBU. Due consideration should also be given to the reputational risk of the Authority and also ongoing working relationships with staff who want to be paid what they are entitled to as a result of the court ruling in 2018.

9 Capacity

There are no capacity issues linked directly to this report, however, it is worthy of note that an advert has been placed on the open market for an in-Service Pensions Officer to support this work moving forward and also to assist with the new Pensions Administrator contractor.

The Service recognise the additional burden that the McCloud / Sargeant ruling places upon the organisation and work is underway to establish a team with different skill sets to support delivery of the remedy.

10 Fire Alliance / Collaboration / Partnership Working

This report relates to a national issue and the Service are closely linked with the National Fire Chiefs Council and also part of a collective legal provision.

Discussions continue on a regular basis with colleagues as part of the Fire Alliance and sharing of information is being undertaken.

11 Legal Comment

This report has been produced to provide an update to Authority in relation to dealing with Immediate Detriment cases and as such, the author has considered collective legal advice and also guidance from the LGA and Home Office.

The legal position is set out within the main body of the report.

It should be noted that, although the current indication is that legislation will be introduced in or around October 2023, this is dependent upon there being sufficient parliamentary time for this matter to be considered and debated.

12 Community Safety

There are no community safety impacts arising from this report.

13 Environmental

There are no environmental impacts arising from this report.

14 Equality Impact Assessment

If a decision is reached to proceed with the use of the framework, individuals who meet the eligibility criteria are provided a choice of which scheme they would like to be in for the remedy period regardless of whether they are a claimant or non-claimant, thus removing any discrimination.

An e-EQIA is not, therefore, required.

15 Health and Safety

There are no health and safety impacts arising from this report.

16 Fire Standard Core Code of Ethics and Human Rights (including Data Protection)

There are no impacts on compliance with the Fire Standards Core Code of Ethics or human rights arising from this report.

Any data will be handled in accordance with General Data Protection Regulations.

17 ICT

There are no ICT impacts arising from this report.

18 Insurance

There are no insurance impacts arising from this report.

19 The On-call Service

There are no impacts on the On-call service arising from this report.

20 Public Value / Service Delivery

There are no public value or service delivery impacts arising from this report.

21 Reputation

If a decision is reached to not apply the framework prior to remedying legislation coming into force in or before October 2023, there is potential for reputational damage to the Authority and Service, as it could be viewed that the Authority are withholding payments to affected members.

22 Security

There are no security impacts arising from this report.

23 Training

There are no training impacts arising from this report.

24 Appendices

Appendix A

Shropshire and Wrekin Fire and Rescue Authority - 23 June 2021
Paper 16 – Firefighters’ Pension Scheme – Age Discrimination Remedy and Employment Appeal Tribunal Judgement

Appendix B

Memorandum of Understanding and Framework

25 Background Papers

There are no background papers associated with this report.

Shropshire and Wrekin Fire and Rescue Authority
23 June 2021

Firefighters' Pension Scheme- Age Discrimination Remedy and Employment Appeal Tribunal Judgement

Report of the Chief Fire Officer

For further information about this report please contact Rod Hammerton
Chief Fire Officer, on 01743 260201 or Simon Hardiman Assistant Chief Fire Officer
on 01743 260196

1 Purpose of Report

This report details the current position in relation the Firefighters Pension Schemes and to immediate detriment (ID) cases under the McCloud/Sargeant ruling. The report provides an overview of ongoing activity and the current advice in order to enable the Authority to make an informed decision in relation to the application of Home Office Guidance.

2 Recommendations

The Fire Authority is asked to:

- a) Note the report and acknowledge the current position in relation to application of Home Office Guidance for 'immediate detriment' cases; and
- b) Agree in principle, pending confirmatory legal advice, the application of the Home Office guidance to dealing with immediate detriment cases as they arise.

3 Background

In 2015 most public service pension schemes, including the Firefighters' pension scheme, were reformed. These reforms included 'transitional protection' for people closest to retirement.

In 2018, the Court of Appeal ruled that the ‘transitional protection’ element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters’ and Judge’s pension schemes. The Government accepted the ruling and confirmed that it will remove the difference in treatment across all public service pension schemes.

The Government consulted on proposals to remove this discrimination in 2020. This was followed by a response to the consultation on 4 February 2021, indicating the intention to proceed with the deferred choice underpin.

The changes proposed in the consultation to remove the discrimination will apply to all the main public service pension schemes and provide members of the Firefighter schemes affected; the Firefighters Pension Scheme 1992 (FPS 1992) or New Firefighters Pension Scheme 2006 (NFPS 2006), with a choice, at the point of retirement, which scheme they would like to be in for the remedy period.

The remedy period is defined as between 1 April 2015 and 31 March 2022. The remedy only applies to members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

4 Immediate Detriment

Whilst the response to the consultation has now indicated, it is unlikely that the required changes to regulations will be in place before 1 April 2022. In advance of reaching this date the Fire Brigades’ Union (FBU) requested that the Home Office issue guidance to employers on dealing with ‘immediate detriment’ cases.

The requested guidance was issued on 21 August 2020 (attached to this report as Appendix A). Clarity on the guidance has been sought both via the Local Government Association (LGA) and Scheme Advisory Board (SAB) to assist Scheme Managers (the Fire and Rescue Authorities) to determine what action should be taken. This clarity is required in relation to the legal status of the note, who it applies to, how to make pension calculations and how to manage the consequences of payments being made that ultimately turn out to be incorrect as legislation is put in place and more detailed guidance is provided.

The argument was made in the Employment Tribunal that FRAs could not act without legislation, and were required to follow the pension regulations that were in force, even though their lack of action could be seen as discriminatory

The Employment Appeal Tribunal’s judgement is that FRAs cannot rely on this defence and that, under section 62 of the Equality Act 2010, FRAs have vested in them the power to pass a resolution making non-discrimination alterations to the scheme of which they are managers.

The ruling gives an expectation that FRAs should deal with immediate detriment cases to the extent that they are able within the terms of the government guidance.

It is understood that the Home Office and Her Majesty's Treasury (HMT) are relying on section 61 of the Equality Act 2010 to provide legal underpinning to the note for non-claimants.

The Home Office have now updated their "Informal" ID Guidance note on 10th June 2021 which seeks to provide further clarity regarding application.
(Appendix C)

It remains the decision of each FRA as to whether the guidance is adopted, adapted, or rejected.

5 Available Guidance

In order to ensure the Authority is sighted on all aspects, the following guidance notes have been utilised in conjunction with the LGA.

- Home Office published Guidance note 21- August 2020
- LGA published Information Note- October 2020
- Immediate Detriment Matrix for Decision Making
- Legal Advice provided to FRAs on powers under the Equality Act 2010
- Schedule 22 Employment Appeal Tribunal judgement on FRA Powers
- LGA Immediate Detriment Information Note Version 2- June 2021
- Home Office: Police Workforce and Professionalism Unit: Firefighters' Pension Schemes - McCloud/Sergeant ruling – Guidance on treatment of 'Immediate Detriment' cases – 10th June 2021

Further guidance is expected from Her Majesty's Treasury; however, this is currently subject to clearance procedures.

6 Legal Advice

To ensure an Authority decision is legally compliant, several options have been considered through local and national arrangements. The Service has requested advice from Telford & Wrekin Legal Services in relation to application of the guidance, whilst also registering interest in a collective agreement with the West Yorkshire Pension Fund, following extension of an offer outside their existing customer base. This has been superseded with a collective approach to legal advice through the LGA and the Service and Authority await further advice at the time of writing this report.

7 Tapering of members

Although the upcoming HMT guidance will clarify members in and out of scope, it will not include guidance on tapering and advice from the LGA at this time is that the Authorities should continue to taper members until 31 March 2022.

However, this will create increased anxiety amongst employees and only has the potential of creating additional work for administrators. There is also concern that continuing to taper individuals will continue with the discriminatory element of the ruling.

The Government has indicated in its response to the consultation that individuals will be returned to the legacy scheme until they make their choice at retirement as to how they wish the remedy period to be treated. It is therefore an option as a result of the Employment Appeals Tribunal judgement that individuals, now remain in their legacy scheme until further details are known and new regulations are drafted.

A decision is required as to whether the Authority continue to taper individuals until 31 March 2022.

8 Pensions Administration

The LGA has drafted a note (attached to this report as Appendix B) to provide additional information to FRAs on the key consideration of implementing the Home Office guidance note. This includes identifying some of the legal and technical considerations.

There are still technical areas to be resolved and clarified in relation to remedy as pension benefits will need converting from one scheme which is Career Average Revalued Earnings (CARE) scheme to final salary scheme benefits. Guidance is not currently available in relation to matters such as taxation and transfer values for example, calculation of benefits in some immediate detriment cases may be difficult and will present significant challenge for Pensions Administrators.

Whilst the LGA will aim to support FRAs to evidence robust decision making on whether a case can proceed under the current guidance, and if not, why not, it is evident that there are still many unknown factors which will need consideration on a case-by-case basis. There is expectation that the LGA will work with Pensions Administrators to provide example calculations to assist with bringing benefits into payment where the guidance is not explicit.

The Service are currently in the process of tendering for a new Pensions Administrator in conjunction with Warwickshire Fire and Rescue Service. This is due to the current contract coming to an end and the current Administrator indicating that they will not be resubmitting a tender for the new contract. Whilst this provides opportunity for the Service to identify new providers, it also places further uncertainty into the process. As a result of this and the additional workload, recruitment of an internal pensions administration post will be created.

Once clarity regarding the provision of benefit calculations is reached, further work will be required to develop, build, or adapt a software system that is capable of dealing with the complexity associated with the remedy actions. Until this system is implemented, all immediate detriment calculations will need to be undertaken manually. This creates a risk in terms of incorrect calculation of pension benefits.

9 Risks

The FBU have indicated that legal action will be taken against the FRA if the decision is made to reject the immediate detriment guidance and give eligible members the choice of benefits. There are currently cases being heard in the High Court nationally, however, these are retrospective cases, which adds further complexity, and the recommendation is to await further guidance.

To mitigate this risk locally, the Service have agreed to share the costs collectively as the current claims are common to all and if the Service were to receive claims, they too would be covered
Calculations will be difficult for complex cases.

Insufficient information being available to the individual to inform their decision or result in the administrator not being able to calculate benefits accurately

Individuals may make decisions based on information available at the time of retirement, to then find themselves liable for unanticipated tax charges.

It is not yet clear whether tapered members have to forfeit any deferred benefits in the Firefighters Pension Scheme 2015 scheme if they choose to revert to the Firefighters Pension Scheme 1992 pension for the remedy period.

The risk to the FRA may be mitigated to some extent by requiring is to require the individual to sign a disclaimer to indicate they understand the request they are making and potential consequences of their decision at retirement. The disclaimer will cover the following areas:

- Paid under powers of section 61 of the Equalities Act 2010.
- Interest may apply to contributions.
- Tax charges may apply.
- Tax relief will be applied at a later date.

Further guidance is expected in relation to disclaimers from HMT and this will support consistency in application across the Sector. It is also worthy of note that a signed disclaimer may not be sufficient to avoid later claims.

The Service may also be required to sign a similar document when instructing the Pensions Administrator, accepting liabilities arising from the instruction.

Due to the current absence of a software system to support the provision of figures to enable individuals to make an informed decision, there is an inherent risk that benefits may be calculated incorrectly, due to complexities associated with contribution rates, taxation, and the period of time available to recalculate benefits for individuals.

10 Current Position

The Authority are currently faced with making a decision as to whether to apply the Home Office Guidance Note or to await further guidance or the advent of change being fully legislated.

The Service is anticipating 9 claimants and 28 non-claimant retirees between now and 31 March 2022. This creates an additional workload and burden on the Service and Pensions Administrator due to the manual interventions required to provide individuals with options figures and the time period required to undertake this work.

To support the work required to provide individuals with options figures, it is critical that processes are developed, and the Service are currently undertaking a data accuracy and accessibility exercise with the Pensions Administrator, to ensure all required data to provide both options is accessible through current and historical data systems.

This work will also identify processes and resources required to manage immediate detriment cases into the future. This work is time consuming and administratively burdensome for both the Service and the administrator. To mitigate further risk, the Service will prioritise claimants followed by non-claimants.

To assist with the process moving forward, the Service are currently undertaking a tendering exercise for a new Pensions Administrator and any savings in contract costs, will be reinvested to create an internal pensions administration role to support immediate detriment work. It is envisaged that this role will work closely with the Pensions Administrator, the LGA and any regional pensions groups, whilst also providing communications to individuals within the Service.

The current work supports the Authority in making an informed decision, in relation to the adoption of the Home Office guidance note.

11 Conclusions

This report is provided to outline the current position in relation to the Firefighters' Pension Scheme- age discrimination remedy and Employment Appeal Tribunal judgement.

The Service has sought a range of information and guidance to ensure the Authority are furnished with appropriate and adequate information to make an informed decision.

Members are requested to approve in principle the application of the Home Office Guidance Note Version 2 - June 2021, to individuals that are eligible as immediate detriment cases. .

Please note that this will not apply to individuals who have already retired from the Service due to added complexity, as per Home Office Guidance Note Version 2.

Members are requested to approve the cessation of transfer of "tapered" pension scheme members onto the 2015 Scheme

The application of the Home Office Guidance Note will be supported by the signed disclaimer by the eligible member of the scheme.

The agreement in principle will not be enacted until collective legal advice is provided. This approach will ensure the Service are in the best position to apply the Home Office Guidance Note in a timely manner, whilst also being cognisant of the national position.

If the perceived legal advice is contrary to current views and recommendations, a further paper will be brought to FRA for further consideration.

The Service will work with the NFCC and LGA in an endeavour to support the sector in taking a consistent approach.

12 Capacity

Given the significant manual processes involved in providing benefit options to individuals, there will be capacity issues with the current Pensions Administrator and in Service. To overcome this issue, the Service are currently undertaking a tendering exercise for a new Pensions Administrator and also recruitment of an internal pension's administration post.

13 Fire Alliance / Collaboration / Partnership Working

The Service has been involved in several areas of collaboration throughout the period since the Employment Appeal Tribunal judgement. This has included national work as part of collective legal advice and legal costs.

When creating tender requirements for a new Pensions Administrator, the Service have worked in partnership with Warwickshire Fire and Rescue Service to create a joint tender as both Services are currently going to market for a new provider.

Pensions, immediate detriment and guidance has formed part of discussions within the Fire Alliance, and this has led to sharing of information between Services and intelligence.

14 Financial Implications

It is not possible at this stage to identify the specific costs associated with the application of the Home Office Guidance Note as these will be identified on a case-by-case basis.

Early adoption of the Home Office guidance note will not increase amounts payable to individuals, it will however, bring some costs forward. When considering the application of interest to payments, early adoption would result in lower overall costs, due to the period being reduced for calculation of interest for the 9 claimants and 28 non-claimants.

It is expected that costs associated with the administration of the remedy will be borne by FRAs, whilst monies owed to members will be met by government. In some cases, individuals may also incur additional costs as a result of a change in schemes such as annual allowance costs.

If a decision is made to reject the guidance, further legal action could be taken by the FBU and result in further costs. The decision to participate in collective costs will mitigate some of these costs.

Given the absence of some technical information and a suitable software system, there is potential for error. Whilst best efforts will be made by the Service and Pensions Administrator, the Authority may be required to meet any financial liabilities arising as a result in these circumstances.

15 Legal Comment- T&W Legal to check

Reliance on the Home Office Guidance Note does not provide the Authority with any legal protection or indemnify it against any claim or costs arising from action on the guidance. However, the Authority can rely on the Employment Appeal Tribunal's judgement and sections 61 and 62 of the Equality Act 2010 in making its decision regarding immediate detriment cases and those due to taper to the 2015 scheme.

Any individual challenge against the decision of the Scheme Manager would be made through the Firefighters' Pension Scheme internal dispute resolution procedure. If this process does not reach a resolution, the issue can be progressed to the Pension Regulator.

16 Community Safety

There are no community safety impacts arising from this report.

17 Environmental

There are no environmental impacts arising from this report.

18 Equality Impact Assessment

If a decision is reached to adopt the guidance, individuals who meet the eligibility criteria are provided a choice of which scheme they would like to be in for the remedy period regardless of whether they are a claimant or non-claimant, thus removing any discrimination.

19 Health and Safety

There are no health and safety impacts arising from this report.

20 Human Rights (including Data Protection)

There are no human rights impacts arising from this report.

21 ICT

There are no ICT impacts arising from this report.

22 Public Value / Service Delivery

There are no public value or service delivery impacts arising from this report.

23 Reputation

There are no reputational impacts arising from this report.

24 Security

There are no security impacts arising from this report.

25 Training

There are no training impacts arising from this report.

26 Appendices

Appendix A

Home Office Immediate Detriment Guidance Note (August 2020)



Home-Office-Immedi
ate-Detriment-Guidan

Appendix B

Local Government Association Information Guidance Note (October 2020)



LGA-immediate-detri
ment-information-not

Appendix C

Local Government Association Information Note (June 2021)

<https://www.fpsregs.org/images/Age-discrimination/Home-Office-informal-immediate-detriment-guidance-10-June-2021.pdf>

27 Background Papers

There are no background papers associated with this report.

**Appendix B to report on
Firefighters' Pension Scheme -
Dealing with Immediate Detriment Cases
Shropshire and Wrekin Fire and Rescue Authority
16 February 2022**

Dated 8 October 2021

MEMORANDUM OF UNDERSTANDING

PARTIES

- (1) Local Government Association of 18 Smith Square, Westminster, London, SW1P 3HZ (the **LGA**); and
- (2) Fire Brigades Union of Bradley House, 68 Coombe Rd, Kingston-upon-Thames, Surrey, KT2 7AE (the **FBU**).

1 BACKGROUND

- 1.1 The LGA represents Fire & Rescue Authorities (**FRAs**) in England, Scotland, Wales and Northern Ireland in connection with the matters covered by this memorandum of understanding (**MoU**).
- 1.2 The FBU is a trade union that represents firefighters and other employees employed by the FRAs (together the '**Members**') who are affected by the matters covered by this MoU.
- 1.3 The LGA (on behalf of the FRAs) and the FBU (on behalf of the Members) wish to record the basis on which they will collaborate with each other to ensure that Members who have (or will) suffer an "**Immediate Detriment**" (as described in para. 4.1 below) by reason of their retirement (or impending retirement), following the decision made by the Court of Appeal on 20 December 2018 and the Employment Appeal Tribunal on 12 February 2021 in the *Sargeant* claims, are provided with a remedy as swiftly as possible.
- 1.4 A framework (the **Framework**) and a timetable for providing a remedy for each affected Member is set out in Annex 1 and Annex 2 to this MoU, which the parties expect the FRAs and Members to adhere to. Nothing in the MoU shall be interpreted to mean that the FBU will not initiate or support legal proceedings on behalf of any Member whose case is not dealt with in accordance with the Framework or that timetable.
- 1.5 The MoU only covers compensation relating to any shortfall in the pension commencement lump sum, pensions benefits and contributions payable to or payable by a Member (including issues relating to tax relief, interest and charges connected to those amounts) as set out in Annex 1. This MoU does not cover any additional remedies currently under consideration in the Employment Tribunal.
- 1.6 In this MoU:
 - 1.6.1 references to a Member's **Legacy Scheme** are references to the pension scheme in which the Member was an active member on 31 March 2012; and
 - 1.6.2 references to the **2015 Scheme** are references to the firefighters' pension schemes in England, Wales and Scotland created under the Public Service Pensions Act 2013.

2 OBJECTIVES

- 2.1 The parties acknowledge the importance of ensuring that Members who have suffered (or will suffer) an Immediate Detriment (as described in para. 4.1 below) receive compensation or are otherwise remedied now. They recognise that the Government has laid primary legislation before Parliament in the Public Service Pensions and Judicial Offices Bill (the **Bill**), and will make secondary legislation pursuant to the Bill (together, the **Remedying Legislation**) to provide the affected Members with a remedy for the discrimination found in the *Sargeant* claims.

The parties believe that the Framework is consistent with the principles currently set out in the Bill. In particular, any compensation or remedy provided to Members under this MoU:

- 2.1.1 amounts to “compensation” of the type anticipated by clause 21¹ of the Bill; and/or
- 2.1.2 is to be taken into account when assessing whether the Member has:
 - (a) “benefited from an immediate detriment remedy” for the purposes of clause 29 of the Bill; and/or
 - (b) been provided with a remedy under any scheme regulations of the type anticipated by clause 28 of the Bill

(to avoid a situation where the Member receives additional recoveries under the Bill which have already been compensated for under this MoU).

- 2.2 This MOU is separate from, and is not subject to or dependent on, any guidance issued in relation to “Immediate Detriment” before the Remedying Legislation comes into force.

3 PRINCIPLES OF COLLABORATION

- 3.1 The LGA will request that the FRAs, and the FBU will request that its Members, adopt the following principles:

- 3.1.1 Collaborate and co-operate. To adhere to the Framework so that activities are delivered and actions taken as required;
- 3.1.2 Act in a timely manner. Recognise the importance of moving things forward swiftly and responding accordingly to reasonable requests for support; and
- 3.1.3 Act in good faith to support achievement of the objectives and adherence to these principles.

4 IMMEDIATE DETERIMENT CASES IN SCOPE

- 4.1 The Framework will apply to Immediate Detriment cases that have already arisen, or arise before the Remedying Legislation comes into force, namely cases for:

- 4.1.1 Members who, at the date of this MoU, are employed by an FRA and:
 - (a) become eligible to retire (for any reason, including ill-health) and draw any pension and/or lump sum benefit and want to have all their benefits paid from their Legacy Scheme (not the 2015 Scheme); or
 - (b) do not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme and are therefore left without an immediately payable pension, but would be entitled to such a pension under their Legacy Scheme

(Category 1 cases);

- 4.1.2 Members who, at the date of this MoU:

¹ In this MoU, references to clause numbers in the Bill refer to the clauses as numbered on the date when the MoU is signed.

- (a) have already retired (for any reason, including ill-health) and who are receiving a pension under the 2015 Scheme, and who wish to be treated as having retired as a member of their Legacy Scheme; or
- (b) have left the fire and rescue service and did not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme, and are therefore left without a pension in payment but would be entitled to such a pension under their Legacy Scheme

(Category 2 cases).

- 4.2 The Category 2 cases include the claims set out in High Court claim number QB-2021-000636, although the parties acknowledge that the claimants and the defendants in that claim will (subject to agreeing the position on legal costs) need to file a consent order recording any settlement achieved in accordance with the Framework set out in this MoU.

5 FRAMEWORK

- 5.1 The parties intend that the various issues that arise in relation to Category 1 and Category 2 cases will be resolved in accordance with the Framework set out at Annex 1 to this MoU.
- 5.2 The parties anticipate that the Remedy Legislation will provide a mechanism that will allow some matters to be dealt with more conveniently once it comes into force. These matters are:
- 5.2.1 compensation for any tax relief foregone on the arrears of contributions payable by the Member (except for Category 1 cases where the contribution arrears can be processed through PAYE);
 - 5.2.2 interest payable by the Member on the arrears of contributions;
 - 5.2.3 interest payable to the Member on adjusted employee contributions under the 2006 Scheme; and
 - 5.2.4 CETVs and added pension (for Category 1 cases).
- 5.3 These matters (and only these matters) will be calculated and processed once the Remedy Legislation is in force. Where applicable, the way they will be dealt with until that point is reached is set out in Annex 1. The parties agree that the mechanism provided by the Remedy Legislation will be used to make the calculation and the amounts will be processed in accordance with the Remedy Legislation.
- 5.4 The LGA and the FBU will encourage the relevant FRA and Member to document the agreed compensation or remedy in line with the template set out at Annex 3 to this MoU (**Compensation Record**). This does not apply to the High Court claim referred to in para. 4.2 above where the terms of any settlement will be recorded in a confidential settlement agreement attached to a consent order.
- 5.5 The FBU agrees that it will not provide any financial or other support to Members who have received compensation or are otherwise remedied under the Framework to bring any court or tribunal proceedings relating to matters which have been (or are being) addressed under the Framework (or, in the case of those matters listed at para. 5.2 above, will be addressed under the Remedy Legislation). The FBU's agreement does not apply, however, to any question or dispute as to whether the Framework has been applied correctly in accordance with this MoU, or to any question or dispute regarding a matter that is not covered by the Framework.

6 CONCERNS OR COMPLAINTS

- 6.1 If either party has any issues, concerns or complaints about any matter in this MoU that party shall notify the other party and the parties shall then seek to resolve the issue through discussion (consistent with the objectives and principles set out at paras. 2 and 3 above). Those discussions may involve the relevant FRA and Member where appropriate.
- 6.2 Either party may terminate such discussions at any time. Where it has been agreed that the Framework is being used, the fact that such discussions could be commenced or have been commenced will not act as an impediment to any Member who alleges that the FRA concerned is not dealing with their case in accordance with the Framework and seeks relief from the Court. Nor will it act as an impediment to the FBU providing legal or other support to such a Member.

7 REVIEW, TERM AND TERMINATION

- 7.1 This MoU shall commence on the date of signature by both parties.
- 7.2 The parties will meet periodically on dates to be agreed between them (the first such meeting to take place within five weeks of the date of this MoU) to:
 - 7.2.1 review the application of the Framework and the process set out in Annex 2, paying attention, in particular, to the timetable for processing cases in the light of the number of cases being dealt with by FRAs; and
 - 7.2.2 discuss whether any changes to the Framework are needed if the passage of the Bill (and the secondary legislation made pursuant to the Bill) adversely affects the ability of an FRA or a Member to implement the Framework and/or the process set out in Annex 2 and work in a spirit of cooperation to agree those changes.
- 7.3 If, on the date Remedy Legislation applicable to an issue set out in Annex 1 comes into force, a case that includes that issue is still being processed under the Framework, that issue will instead be processed under the Remedy Legislation and that fact will be noted in the Compensation Record (Annex 3). For the avoidance of doubt the rest of the issues in the case will be dealt with in accordance with Annex 1.
- 7.4 If all of the issues relevant to a case are covered by Remedy Legislation which has come into force before a Compensation Record is signed by the Member and the FRA that case will instead be processed under the Remedy Legislation.
- 7.5 This MoU will automatically expire on the last date on which Remedy Legislation applicable to all of the issues set out in Annex 1 comes into force and will in any event expire on 1 October 2023. However, the parties agree that the timeframes set out in Annex 2 will continue to apply to the issues set out in Annex 1 where those issues are being processed under the Remedy Legislation provided that the timeframes do not put an FRA in breach of its obligations under the Remedy Legislation.
- 7.6 This MoU may be terminated (in whole or in part) by agreement in writing between the parties.
- 7.7 This MoU may be terminated by either party if the other party is in serious or repeated breach of its terms, and does not remedy the breach within 21 days of notice being given requiring it to do so.

8 VARIATION

- 8.1 This MoU, including Annexes 1, 2 and 3, may only be varied by written agreement of the parties.

9 CHARGES AND LIABILITIES

- 9.1 Liability for the legal costs incurred in High Court claim number QB-2021-000636 will be payable in accordance with any agreement reached between the parties to that claim or any order made by the Court in those proceedings.
- 9.2 Subject to para 9.1, and except as otherwise provided, the parties, FRAs and Members shall each bear their own costs and expenses incurred in agreeing to and implementing this MoU and the Framework.
- 9.3 Each party shall remain liable for any losses or liabilities incurred due to their own actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

10 STATUS

- 10.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.
- 10.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, or authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

11 GOVERNING LAW AND JURISDICTION

- 11.1 This MoU shall be governed by and construed in accordance with the laws of England and Wales and, without affecting the procedure set out in para. 6, each party agrees to submit to the non-exclusive jurisdiction of the courts of England and Wales.



Signed by **JEFF HOUSTON**

for and on behalf of the **LGA**

HEAD OF PENSIONS

8th October 2021

[Date]

Signed by **MATT WRACK**

for and on behalf of the **FBU**



GENERAL SECRETARY

8 October 2021

CONTACT POINTS

LGA

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FBU

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ANNEX 1 – FRAMEWORK

Issue	Category 1 cases	Category 2 cases
Shortfall in retirement lump sum and past pension payments	Retirement lump sum and benefits paid on retirement through Legacy scheme (so that no shortfall arises).	Pay as lump sums (comprising pension lump sum and arrears lump sum likely made in two payments) through the 1992 scheme (as arrears). Pension arrears will be subject to PAYE, but if any additional income tax is payable by the member that would not have been payable if the member had never been treated as a member of the 2015 Scheme, the FRA will compensate the member for that tax liability.
Interest on shortfall in retirement lump sum and past pension payments	No interest due because correct lump sum and pension benefits will be paid on retirement.	Interest paid at 3% p.a. simple, from the date lump sum / benefits should have been paid.
Employee contributions: 1992 Scheme	Member pays shortfall (since 2015) through payor as a deduction from retirement lump sum.	Member pays any shortfall (since 2015) as a deduction from retirement lump sum. If no lump sum is payable, the member will need to pay any contributions owed from their own resources and to be given a reasonable time to pay based on their individual circumstances.
Employee contributions: 2006 Scheme	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.
Tax relief on employee contributions	<p>Process through PAYE to the extent possible if time/amount allows. If time does not allow, then any tax relief not collected through PAYE will be calculated and paid when the remedying legislation is in force.</p> <p>FBU and FRAs will encourage members to give as much notice of retirement as possible to facilitate payment through PAYE.</p>	Compensation for any tax relief foregone will be paid to the individual when the remedying legislation is in force. So, for now, individuals will pay the gross amount of contributions due.

Interest payable on adjusted employee contributions (1992 Scheme)	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). If tax relief was not processed through PAYE (because time/amount did not allow), where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amounts will be deducted from that payment.	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). Where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amount will be deducted from that payment.
Interest payable on adjusted employee contributions – compensatory amount (2006 Scheme)	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).
Contribution holidays: excess employee contributions	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.
CETVs and added pension	If an issue arises, then look at it at that point. Individual and FRA will work together to agree a holding compromise that the CETV/added pension will stay in the 2015 scheme until the legislative solution arrives.	Deal with as and when arises.
Annual Allowance charges	<p>Recalculate pension input amount for each year of remedy.</p> <p>If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise).</p> <p>If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for the annual allowance</p>	<p>Recalculate pension input amount for each year of remedy.</p> <p>If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise).</p> <p>If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for any annual allowance</p>

	charge that is demanded (or any excess over the lesser charge that would have applied).	charge that is demanded (or any excess over the lesser charge that would have applied).
Scheme pays (MSP/VSP)	Member pays tax through VSP for statutory tax years for which it becomes due.	Member pays tax through VSP for statutory tax years for which it becomes due.
Converting scheme pays debits	FRA to recalculate the pension debit as if taken at time of original scheme pays election using actuarial factors applicable at time.	FRA to recalculate the pension debit as if taken at time of original scheme pays election using actuarial factors applicable at time.
Converting pension sharing debits	Deal with on a case by case basis as issues arise.	Deal with on a case by case basis as issues arise.
Dependents	Deal with on a case by case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).	Deal with on a case by case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).
Taper members	Tapering to stop (because that is the only step that is consistent with the ET decision).	Tapering to stop (because that is the only step that is consistent with the ET decision).
Unauthorised payments	N/A	The FRA will compensate the member for unauthorised payment charges which the member has had to pay and which he or she would not have had to pay if the member had not transferred to the 2015 Scheme.

ANNEX 2 – THE PROCESS

- 1 Any Member who believes that he or she is a Category 1 or a Category 2 case, and any person who believes that he or she is a dependant of a Category 1 or a Category 2 case Member ('an **Applicant**'), may give notice to the FRA which last employed the Member concerned requiring the FRA to investigate their case. Any such notice must be given in writing (by post or by email).
- 2 Within 14 days of receipt, the FRA shall acknowledge receipt of any such notice in writing (by post or by email), and inform the Applicant:
 - 2.1 either that the FRA accepts that the Applicant is entitled to a remedy under the Framework; or
 - 2.2 explain why, in the FRA's view, the Applicant is not entitled to a remedy under the Framework.
- 3 If the FRA accepts that the Applicant is entitled to a remedy under the Framework, as soon as reasonably practicable and in any event within 62 days after receiving an application under paragraph 1, the FRA shall send to the Applicant:
 - 3.1 In a Category 1 Case:
 - 3.1.1 a statement of the benefits that the Member would be entitled to receive if he or she retires under the rules of the Member's Legacy Scheme;
 - 3.1.2 a statement of the benefits that the Member would be entitled to receive if he or she retires under the rules of the 2015 Scheme; and,
 - 3.1.3 a form inviting the Applicant to choose to take benefits in accordance with the rules of the 2015 Scheme or the Member's Legacy Scheme.
 - 3.2 In a Category 2 Case:
 - 3.2.1 a statement of the benefits that the Member would have received if he or she had retired under the rules of the Member's Legacy Scheme, calculated as at the date of retirement or, in the case of a Member who left employment without an immediate pension, as at the date of leaving;
 - 3.2.2 a statement of the benefits that the Member received or was prospectively entitled to receive under the rules of the 2015 Scheme, calculated as at the date of retirement or, in the case of a Member who left employment without an immediate pension, as at the date of leaving;
 - 3.2.3 a statement of the arrears of pension and lump sum that the FRA will pay if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme;
 - 3.2.4 a statement of the arrears of contributions that will have to be paid or that will be reimbursed (if any) if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme;
 - 3.2.5 a statement of any tax adjustments that will have to be made if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme (including details of any "scheme pays" election that the Applicant might be able to make); and

- 3.2.6 a form inviting the Applicant to choose to take benefits in accordance with the rules of the 2015 Scheme or the Member's Legacy Scheme.
- 4 If the Member's entitlements under their Legacy Scheme cannot be determined without further medical advice, the period between the date of the request for further medical advice and the date when that advice is received shall be ignored for the purposes of the timetable set out in paragraphs 2 and 3 above.
- 5 Once the FRA receives notice of the Applicant's election, and if the Applicant chooses to receive benefits under the rules of the Member's Legacy Scheme:
- 5.1 In a Category 1 Case, the Applicant's entitlements shall be progressed as "business as usual".
- 5.2 In a Category 2 Case, the FRA shall:
- 5.2.1 adjust the Applicant's pension debit if required to allow for any "scheme pays" election that the Applicant makes on account of any annual allowance charge that would have arisen if the Member had never been treated as a Member of the 2015 Scheme;
- 5.2.2 begin to pay benefits in accordance with the Legacy Scheme rules with effect from the next pension payroll date which is at least one month after the receipt of the Applicant's election;
- 5.2.3 as soon as reasonably practicable and in any event within 28 days after receipt of the Applicant's election, pay to the Applicant the arrears of pension and lump sum, calculated under 3.2.3 above and rolled forward to the date of payment, with interest calculated in accordance with the Framework to the date of payment, plus compensation for any excess contributions paid, after deducting:
- (a) any arrears of contributions calculated under 3.2.4 above; and
- (b) any additional tax required to be paid under PAYE on arrears of pension that would have arisen if the Member had never been treated as a Member of the 2015 Scheme.
- If the deductions to be made under paragraph 5.2.3(a) and (b) exceed the arrears to be paid under 5.2.3, the FRA shall not be obliged to begin to pay benefits under the Legacy Scheme rules in accordance with 5.2.2 until a reasonable schedule for payment of the excess has been agreed between the Applicant and the FRA.
- 6 In a Category 2 case, no further action is required if the Applicant chooses to continue to receive benefits under the Rules of the 2015 Scheme.
- 7 Until the Applicant makes an election under paragraph 3.1.3 or 3.2.6, no further action is required.
- 8 Giving effect to the Applicant's election under paragraph 3.1.3 or 3.2.6 to receive benefits calculated in accordance with the Legacy Scheme rules shall be conditional on the Applicant signing and returning a settlement agreement substantially in the form of the record of agreed compensation and remedy set out in Annex 3 to the MoU.
- 9 The member and an FRA's commitment to adhere to the process and timeframes as set out above is in consideration of the Principles of Collaboration and the ongoing review of the Framework as provided for at clauses 3 and 7.2 of the MoU respectively.

ANNEX 3 – RECORD OF AGREED COMPENSATION / REMEDY

I [NAME OF MEMBER] have agreed with [NAME OF FRA] in its capacity as both an employer and scheme manager to receive compensation and/or a remedy in line with the framework set out in the MoU dated [DATE] between the LGA (on behalf of FRAs) and the FBU (on behalf of its members).

I am a “Category [1/2]” case.

I understand and agree that:

- the Government has proposed to make new legislation that is intended to provide me with the pension benefits that I could have received if the pension changes made in 2015 had not been made, but that new legislation may not come into force until October 2023;
- some of the issues relating to my pension benefits have not been fully resolved and will not be fully resolved until the new legislation comes into force in October 2023, and as a consequence some payments (including tax relief and some interest amounts) might be calculated and processed once the new legislation comes into force. These issues are noted in the table below;
- The compensation I have received will be taken into account for the purposes of the new legislation (to avoid a situation where I receive additional amounts under the new legislation which have already been compensated for under the agreed framework);
- I understand that survivor benefits under the 1992 Firefighters Pension scheme are payable only to a legal spouse or civil partner, meaning a partner with whom I have entered into a formal registered civil partnership. If I choose to receive benefits under the rules of the Firefighters’ Pension Scheme 1992 and I am unmarried and not in a civil partnership at the date of my death then a survivor’s pension will not be payable;
- The decision I make to receive benefits under the rules of the Firefighters’ Pension Scheme 1992/ Firefighters’ Pension Scheme 2006/ Firefighters’ Pension Scheme 2015 [delete as applicable] is irrevocable. Neither I nor my dependants will be given an option to reconsider this decision once the new legislation comes into force;
- The way in which the issues relevant to my case are dealt with under the framework (as noted in the table below) amounts to a full and final settlement of my claim. I will not commence or continue any court or tribunal proceedings against [NAME of FRA] (in its capacity as employer or pension scheme manager) in relation to any matters that are covered by this agreement (other than a failure to abide by the terms of this agreement); and

The issues in my case have or will be addressed as follows:

[PARTIES TO INSERT RELEVANT ROWS FROM THE ANNEX 1 FRAMEWORK TABLE WITH AN ADDITIONAL COLUMN TO DOCUMENT THE ACTUAL PAYMENT, ADJUSTMENT AND/OR RECORD ALTERATION MADE FOR EACH SPECIFIC ISSUE FOR THAT MEMBER.]

Signed by [NAME of MEMBER] on [DATE]

Signed by [NAME] on behalf of [FRA] on [DATE]