

# BUCKINGHAMSHIRE AND MILTON KEYNES FIRE AUTHORITY

## BUCKINGHAMSHIRE FIRE AND RESCUE SERVICE

Director of Legal & Governance, Graham Britten  
Buckinghamshire Fire & Rescue Service  
Brigade HQ, Stocklake, Aylesbury, Bucks HP20 1BD  
Tel: 01296 744441



---

**Chief Fire Officer and Chief Executive**

Jason Thelwell

---

To: The Members of the Executive Committee

15 March 2021

**MEMBERS OF THE PRESS  
AND PUBLIC**

**Please note the content of  
Page 2 of this Agenda Pack**

Dear Councillor

Your **remote** attendance is requested at a meeting of the **EXECUTIVE COMMITTEE of the BUCKINGHAMSHIRE AND MILTON KEYNES FIRE AUTHORITY** to be held in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 **online** on **WEDNESDAY 24 MARCH 2021 at 10.00 AM** when the business set out overleaf will be transacted.

Yours faithfully

Graham Britten  
Director of Legal and Governance

Chairman: Councillor Lesley Clarke OBE  
Councillors: Hall, Hopkins, Lambert, Marland, McCall, McLean and Walsh



**MAKING YOU SAFER**

**[www.bucksfire.gov.uk](http://www.bucksfire.gov.uk)**



## **To observe the meeting as a member of the Press and Public**

The Authority supports the principles of openness and transparency. To enable members of the press and public to see or hear the meeting this meeting will be livestreamed. Please visit: <https://www.youtube.com/channel/UCWmIXPWAscxpL3vIiv7bh1Q>

The Authority also allows the use of social networking websites and blogging to communicate with people about what is happening, as it happens.

## **Adjournment and Rights to Speak – Public**

The Authority may adjourn a Meeting to hear a member of the public on a particular agenda item. The proposal to adjourn must be moved by a Member, seconded and agreed by a majority of the Members present and voting.

A request to speak on a specified agenda item should be submitted by email to [gbritten@bucksfire.gov.uk](mailto:gbritten@bucksfire.gov.uk) by 4pm on the Monday prior to the meeting. Please state if you would like the Director of Legal and Governance to read out the statement on your behalf, or if you would like to be sent a 'teams' meeting invitation to join the meeting at the specified agenda item.

If the meeting is then adjourned, prior to inviting a member of the public to speak, the Chairman should advise that they:

- (a) speak for no more than four minutes,
- (b) should only speak once unless the Chairman agrees otherwise.

The Chairman should resume the Meeting as soon as possible, with the agreement of the other Members present. Adjournments do not form part of the Meeting.

## **Rights to Speak - Members**

A Member of the constituent Councils who is not a Member of the Authority may attend Meetings of the Authority or its Committees to make a statement on behalf of the Member's constituents in the case of any item under discussion which directly affects the Member's division, with the prior consent of the Chairman of the Meeting which will not be unreasonably withheld. The Member's statement will not last longer than four minutes. Such attendance will be facilitated if requests are made to [enquiries@bucksfire.gov.uk](mailto:enquiries@bucksfire.gov.uk) at least two clear working days before the meeting. Statements can be read out on behalf of the Member by the Director of Legal and Governance, or the Member may request a 'team's meeting invitation to join the meeting at the specified agenda item.

Where the Chairman of a Committee has agreed to extend an invitation to all Members of the Authority to attend when major matters of policy are being considered, a Member who is not a member of the Committee may attend and speak at such Meetings at the invitation of the Chairman of that Committee.

## **Questions**

Members of the Authority, or its constituent councils, District, or Parish Councils may submit written questions prior to the Meeting to allow their full and proper consideration. Such questions shall be received by the Monitoring Officer to the Authority, *in writing*, at least two clear working days before the day of the Meeting of the Authority or the Committee.

## **EXECUTIVE COMMITTEE**

### **TERMS OF REFERENCE**

1. To make all decisions on behalf of the Authority, except in so far as reserved to the full Authority by law or by these Terms of Reference.
2. To assess performance of the Authority against agreed organisational targets.
3. To determine matters relating to pay and remuneration where required by collective agreements or legislation.
4. To select on behalf of the Authority—the Chief Fire Officer and Chief Executive, and deputy to the Chief Fire Officer and Chief Executive, or equivalent , taking advice from suitable advisers and to make recommendations to the Authority as to the terms of appointment or dismissal.
5. To consider and make decisions on behalf of the Authority in respect of the appointment of a statutory finance officer ; a statutory monitoring officer; and any post to be contracted to “Gold Book” terms and conditions in whole or in part taking advice from the Chief Fire Officer and suitable advisers.
6. To act as the Employers’ Side of a negotiating and consultation forum for all matters relating to the employment contracts of the Chief Fire Officer and Chief Executive, deputy to the Chief Fire Officer and Chief Executive, or equivalent; and where relevant, employees contracted to “Gold Book” terms and conditions in whole or in part.
7. To hear appeals if required to do so in accordance with the Authority’s Policies.
8. To determine any human resources issues arising from the Authority’s budget process and improvement programme.
9. To determine policies, codes or guidance:
  - (a) after considering recommendations from the Overview and Audit Committee in respect of:
    - (i) regulating working relationships between members and co-opted members of the Authority and the employees of the Authority; and
    - (ii) governing the conduct of employees of the Authority
  - (b) relating to grievance, disciplinary, conduct, capability, dismissals and appeals relating to employees contracted to “Gold Book” terms and conditions in whole or in part.
10. To form a Human Resources Sub-Committee as it deems appropriate.

## **AGENDA**

### **Item No:**

#### **1. Apologies**

#### **2. Minutes**

To approve, and sign as a correct record, the Minutes of the meeting of the Committee held on 10 February 2021 (Item 2) **(Pages 7 - 18)**

#### **3. Disclosure of Interests**

Members to declare any disclosable pecuniary interests they may have in any matter being considered which are not entered onto the Authority's Register, and officers to disclose any interests they may have in any contract to be considered.

#### **4. Questions**

To receive questions in accordance with Standing Order S0A7.

#### **5. Recommendations from Committees:**

##### **Overview and Audit Committee – 17 March 2021**

##### **Corporate Risk Management Policy**

To consider Item 5 **(Pages 19 - 38)**

#### **6. Gender Pay Gap Report 2020**

To consider Item 6 **(Pages 39 - 68)**

#### **7. Exclusion of Public and Press**

To consider excluding the public and press representatives from the meeting by virtue of Paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972, as appendices C and E contain information in respect of which a claim to legal professional privilege could be maintained in legal proceedings; and on these grounds it is considered the need to keep information exempt outweighs the public interest in disclosing the information:

#### **8. Firefighters' Pension Scheme – Age Discrimination Remedy and Employment Appeal Tribunal Judgment**

To consider Item 8 **(Pages 69 - 96)**

#### **9. Exempt Minutes**

To approve, and sign as a correct record, the Exempt Minutes of the meeting of the Committee held on 10 February 2021 (Item 9)

If you have any enquiries about this agenda please contact: Katie Nellist (Democratic Services Officer) – Tel: (01296) 744633 email: [knellist@bucksfire.gov.uk](mailto:knellist@bucksfire.gov.uk)

This page is intentionally left blank

Minutes of the Meeting of the EXECUTIVE COMMITTEE of the BUCKINGHAMSHIRE AND MILTON KEYNES FIRE AUTHORITY held remotely on WEDNESDAY 10 FEBRUARY 2021 at 10.00 AM.

**Present:** Councillors Hall (part), Hopkins (Chaired the meeting in the absence of the Chairman), Lambert (part), Marland (part), McCall, McLean and Walsh

**Officers:** J Thelwell (Chief Fire Officer), M Osborne (Deputy Chief Fire Officer), G Britten (Director of Legal and Governance), M Hemming (Director of Finance and Assets), A Hussain (Deputy Director of Finance and Assets), L Taylor (Principal Accountant), Anne-Marie Carter (Head of Technology, Transformation and PMO), D Norris (Head of Prevention, Response and Resilience), C Bell (Head of Protection and Assurance), M Crothers (Programme Manager) and K Nellist (Democratic Services Officer)

**Apologies:** Councillor Clarke OBE

Live webcast broadcast:

<https://www.youtube.com/channel/UCWmIXPWAscxpL3vIiv7bh1Q>

The Director of Legal and Governance confirmed the webcast was live.

The Director of Legal and Governance welcomed Members to the February Meeting of the Executive Committee of the Buckinghamshire & Milton Keynes Fire Authority and confirmed that the meeting was being live streamed on the Buckinghamshire Fire & Rescue Service YouTube channel. Following the meeting, a recording would continue to be available on this channel and it was also being recorded, should there be any technical difficulties.

(Councillor Hopkins chairing)

## **EX29 MINUTES**

RESOLVED –

That the Minutes of the meeting of the Executive Committee held on Wednesday 18 November 2020, be approved and signed by the Chairman as a correct record.

## **EX30 DISCLOSURE OF INTERESTS**

Councillor David Hopkins declared he had recently joined the Board of the Milton Keynes Development Partnership.

## **EX31 QUESTIONS**

The Director of Legal and Governance advised that Councillor Hopkins had submitted a written question regarding “the consequences/ramifications for the Authority of a major incident

being declared by the Leader of Buckinghamshire Council in relation to Covid-19.”

The Deputy Chief Fire Officer advised Members that the declaration of a major incident was a collaborative declaration following a multi-agency meeting on 30 December 2020. Major incidents were defined by the Civil Contingencies Act 2004 and the actual definition was “an event or situation with a range of serious consequences which required special arrangements to be implemented by one or more emergency responder agency”. An emergency responder agency could be any one or two category responders as defined in the Act, one of which was a local authority. Back in March 2020, a major incident (Covid-19) was declared by the Local Resilience Forum (LRF), for the whole of the Thames Valley area, this stayed in place until August 2020, when the first Covid wave started to dissipate and the LRF moved to a position of major incident standby.

The declaration of the major incident, declared on 30 December 2020, was reviewed by the Strategic Coordination Group (SCG) on 31 December 2020 and it was agreed by all partners involved that the whole of the Thames Valley had moved into major incident status due to the demand being placed across the region on all responder agencies and in particular the health system.

With regard to what additional support that can bring, it highlighted that resources were very stretched, particularly in health, and mutual aid could be requested through the SCG and Local Resilience Forums (LRF) and a mutual aid cell had been set up. Additionally, any requests for military aid to the civil authority arrangements can then be channelled through the LRF, on behalf of any agency declaring that major incident.

A major incident was defined as one that is “beyond the scope of business-as-usual operations, and is likely to involve serious harm, damage, disruption or risk to human life or welfare, essential services, the environment or national security” in addition “the severity of the consequences associated with a major incident are likely to constrain or complicate the ability of responders to resource and manage the incident”.

(Councillors Lambert and Marland joined the meeting)

## **EX32**

### **CHRISTMAS FLOODS – VERBAL UPDATE**

The Head of Prevention, Response and Resilience gave Members an update on the flooding that had taken place over the Christmas period in North Buckinghamshire and Milton Keynes causing an increase in activity for the Thames Valley Fire Control. The Service dealt with multiple flooding incidents, particularly in the villages north of Milton Keynes. Many of the areas of focus were main roads, where there was a significant number of cars stranded in rising water with occupants unable to safely exit their cars unassisted. At one stage, Thames Valley Fire Control received a call every minute and dealt with approximately 320



incidents during the period. The Service attended over 160 incidents, most of which were flood related and there were a number of rescues carried out from multiple properties.

The Thames Valley Local Resilience Forum arranged partner teleconferences and provided regular updates to partners on forecasts throughout the entire period, with information from the Environmental Agency and the Met Office, including other predictions from a range of sources. The Local Resilience Forum would be carrying out a learning debrief towards the end of February, where local partner agencies would be invited to attend and any learnings from this event would be identify and addressed.

A Member asked for reassurance that when there had been incidents in the past, there had been issues with data sharing between different agencies, and if these now been resolved; and whether the Authority should be asking for example the Environmental Agency to dredge/de-silt the rivers or explain why they don't do it anymore and increase the risk of flooding.

The Head of Prevention, Response and Resilience responded by reiterating that the Authority had a good working relationship with all partner agencies through the Local Resilience Forum, and as mentioned, there would be a debriefing at the end of February and if there were any particular issues arising out of the flooding, these would be identified. Also, within the Service there was an Operational Assurance Team who regularly hold debriefs on a number of incidents and that informs any changes within the Service. Any learnings would also be shared nationally through the National Operational Learning Forum.

A Milton Keynes Member advised that the Water Flood Management Group at Milton Keynes Council had met on the 13 January 2021, along with the Environment Agency, and a Section 19 flood investigation report would be produced under the Milton Keynes flood investigation policy; and provided details of MKC's Head of Environment and Flood Water Management Officer with whom Authority officers could liaise in respect of the debrief. The report would be produced following investigation of the impacts of the floods in December and what caused them.

The Chief Fire Officer advised Members that in terms of identifying the risks, prevention was always better than emergency response and the Service would help in anyway it could with regard to the debrief, and in terms of any issues that need to be raised.

A Member asked if the Buckinghamshire Fire and Rescue Service website was updated regularly with current information in terms of guidance to residents on flooding and was advised that the website was up to date with current information and the public were regularly informed about ongoing incidents, via the website, Twitter and Facebook.

A Member asked about the statutory duty of a fire and rescue service with regard to flooding and was advised they don't have a statutory duty to attend flooding, but this Service was very proactive in its response to flooding. As Members may be aware, there were two boats within the Service, at Newport Pagnell and Beaconsfield and both were registered on the national flood asset register which was held by DEFRA. There was a wide area flooding capability on most fire stations, whereby crews could respond to relatively low levels of moving water to be able to effect rescues to support communities more widely.

A Member asked if the outcomes from the Local Resilience Forum debrief could be brought back to a future meeting and was advised that it could.

### **EX33**

### **BUDGET MONITORING REPORT APRIL – NOVEMBER 2020**

The Principal Accountant advised Members that the report set out the Authority's revenue and capital spending position as at 30 November 2020, together with the projected outturn position for the financial year. The current expenditure forecast of £31.698m against a budget of £31.339m resulted in an overspend of £358k. However, due to the additional funding of £847k received in year in relation to Covid, Protection Grants and Airwave, there was a net overall underspend of £489k.

The summary of variances seen within each Directorate, was as follows:

- Corporate Core was showing a £16k underspend which related to underspend in legal costs and consultations with the public (Public Safety Plan) as well as courses and conference fees postponed due to Covid; offset by unachievable interest income on investments and additional audit fees not budgeted for.
- Finance & Assets was showing an overspend of £48k which predominantly related to West Ashland revenue costs which would be partially covered by charges to South Central Ambulance Service and Thames Valley Police, not currently reflected in the forecast. This was offset by underspend relating to vacant posts within the directorate that have been now filled or recruitment delayed due to Covid.
- People & Organisational Development was showing an underspend of £69k mainly relating to underspend seen within employee costs. In addition, Thames Valley collaboration costs of £13k were not expected during the current financial year.
- Delivery, Corporate Development & Planning was currently projecting a £104k underspend. Covid response costs of

£845k were reported within this directorate (including the £230k that has been transferred to a Covid-19 reserve as approved by this Committee in September) was offset by underspend seen within Wholetime and On-call direct employee costs. This was due to a number of wholetime posts not at the top of pay scales and employees being on the 2015 pension scheme which would see a lower contribution rate than budgeted for in the 1992 scheme.

- Statutory Accounting and Contingency overspend of £500k related to additional revenue contribution to capital as approved by this Committee in September.

The Principal Accountant advised Members that the Capital Programme for 2020/21 of £3.025m, included £1.809m worth of carry forward capital projects from 2019/20. Most of the capital works related to West Ashland. The forecasted year-end variance for Property Review (£2.686m) was expected to be offset by additional capital receipts and contributions which would result in a net variance of around £1m against the forecast expenditure.

A Member asked what was the latest position with regard to Covid-19 costs and the use of funding, given that the forecast was only until the end of November and the position may have changed.

The Deputy Director of Finance and Assets advised that the Authority had been given two allocations, £90k in March 2020 and £606k within this financial year, a total of £696k. The current projection looked like all the funding would be utilised. Following on from that, the Government had made another tranche of funding available, and having collated all the figures, the Authority would be putting in a bid for around £140k. This was predominantly due to the support it had given to South Central Ambulance Service, with some of its operational staff being seconded to drive ambulances and also the support the Authority had given to the mass vaccination programme. None of those costs were covered in the existing allocation of funding so the Authority was looking to access some of the additional funding being made available.

A Member asked about the property portfolio, in particular West Ashland, and recalled there was concern about one of the professional teams involved in the project and there had been discussions about getting some of the fees returned.

The Director of Finance and Assets advised that at present, work was ongoing to finalise the final account. It had taken longer than anticipated, partly due to Covid but also the complexity of finalising the figures. Once there was a final figure on the final account, the Authority would look at the possibility of what could potentially be recovered from the professional teams in terms of delays caused by design costs, design problems etc. It was still

to be investigated over the coming months and Members would be kept up to date with progress.

RESOLVED –

That the latest projected outturn forecast for the Authority as at 30 November 2020 be noted.

**EX34**

**THE PRUDENTIAL CODE, PRUDENTIAL INDICATORS AND MINIMUM REVENUE PROVISION**

The Deputy Director of Finance and Assets advised Members that this was a technical report presented annually and it was in essence the Authority putting money aside in order to pay its long-term debt. The Authority had set aside £47k in order to pay off its debt and had already made sufficient revenue provision to cover the repayment of its gross borrowing. However, due to prohibitive penalties the early repayment of this borrowing was not currently an option. The Authority had no plans for additional borrowing in the foreseeable future, according to the current Medium Term Financial Plan. It was recommended that the Authorised Limit for 2021-22 continued to be set at £2m higher than the Operational Limit to allow for the effective management of cashflow in relation to capital receipts from land sales.

A Member asked what was the benefit of having made this sufficient revenue provision and was advised that the revenue provision was made in accordance with the Authority's Efficiency Plan. Back in 2015/16 the Authority wanted to identify potential savings in the revenue budget, so by setting this amount aside it does not have to allocate around £250k per year for a minimum revenue position.

RESOLVED –

That the Authority be recommended to approve:

1. The Prudential Indicators for 2021-22;
2. The Minimum Revenue Provision policy statement.

**EX35**

**MEDIUM TERM FINANCIAL PLAN (MTFP) 2021/22 TO 2025/26**

The Deputy Director of Finance and Assets advised Members that the report presented the proposed revenue and capital Medium Term Financial Plan (MTFP) for the financial years 2021/22 to 2025/26. The MTFP was closely linked to the Financial Strategy, approved in December 2020 which was the link between the Authority's long-term service objectives and its financial capacity. The financial settlement by Government had recently been announced and within the settlement it confirmed that authorities without any specific council tax freedoms, could increase council tax by up to 1.99% without the need for a referendum.

The Deputy Director of Finance and Assets advised Members that the Authority had also seen a reduction in its Council Tax base by 0.65%. For comparison, in previous years the Council Tax base had increased in the region of 1.5% to 2%. To counter some of this reduction, the Government had announced an additional £670m unringfenced grant that would be distributed to authorities in recognition of the increased costs of providing local Council Tax support following the Covid-19 pandemic. Indicative figures published on 18 December 2020 show the Authority would receive in the region of £336k which had been reflected in the projections under the heading Council Tax Support Grant.

The Deputy Director of Finance and Assets advised Members that without sufficient time to undertake a full comprehensive spending review due to the Covid-19 Pandemic, the Government had effectively rolled forward amounts within the settlement funding assessment for 2020/21 and increased these by the rate of inflation as at September 2020. The exception was the pension grant funding which was a flat cash settlement and expected to be included in future years' settlement funding assessment and subject to review as part of the anticipated three-year comprehensive spending review. It was anticipated that next year the Government would revert to a three-year comprehensive spending review whereby all funding would be subject to review.

The Deputy Director of Finance and Assets advised Members that in terms of the Authority's budget setting process, this year officers reverted back to the incremental budgeting setting approach when developing the budget proposal for 2021/22. With the projected reductions in council tax base and business rates funding, the budget setting process was scrutinised by Officers and Members to ensure only proposals which added value for money were approved.

The Deputy Director of Finance and Assets advised Members as to the contents of an updated Appendix 1 and updated Appendix 2 from those contained in the Agenda Pack and that the figures within them could not yet be finalised as more data was still being received in respect of National Non-Domestic Rates information from Buckinghamshire Council. As the situation was dynamic further revised Appendices 1 and 2 would be provided to the Authority meeting on 17 February which would be the figures on which the Authority would base its decision to approve the revenue budget, capital programme, and precept.

RESOLVED –

That the Authority be recommended to:

- 1(a) Note and have due regard to the report and Statement of the Chief Finance Officer (see section 8 of Annex A).

- 1(b) Approve a Council Tax precept of £67.16 for a band D equivalent property (a 1.99% increase from 2020/21 - equal to 2.5p per week) and the revenue budget as set out in Appendix 1.
- 1(c) Approve the capital programme as set out in Appendix 2.
- 2 Not hold a referendum to increase Council Tax above the 2% threshold for 2021/22.
- 3 Note that a referendum may need to be considered for 2022/23 depending on the outcome of the Comprehensive Spending Review.

## **EX36**

### **RESPONSE TO THE PROVISIONAL LOCAL GOVERNMENT FINANCE SETTLEMENT 2021-22: CONSULTATION PAPER**

The Director of Finance and Assets advised Members that this report was to update Member on the response to the Consultation published on 17 December 2020, with a deadline for responses of 16 January 2021. In accordance with the Scheme of Delegation to Officers, the response was discussed with the Chairman and Lead Member before submission. This paper detailed the content of the submission for the attention of the Authority.

The response solely focuses on question two, which seeks views on the council tax referendum principles for 2021-22. Despite representations made by this Service and the National Fire Chiefs Council in the lead up to the provisional settlement, no additional precept flexibility had been made available to fire and rescue authorities.

The response to the Consultation also made reference to the Authority's HMICFRS inspection report that notes serious concerns as to whether the Service has the resources it needed to meet its foreseeable risk, despite being highly efficient and having an innovative deployment model which, if better funded, would be a cost-effective way of keeping people safe.

A Member asked if the Authority had received a response to the letter it sent to the Fire Minister and was advised that the Group Leaders had sent a joint letter in December and a response had just been received. It basically advised that there was no opportunity for any flexibility, but they would like to meet with officers to look at other ways of meeting our reduced funding besides increasing flexibility in Council Tax. This was not the response the Authority was looking for, but officers would engage positively with officials from the Home Office.

RESOLVED –

That the response to the Consultation be noted.

## **EX37**

### **MEMBERS' ALLOWANCES**

The Director of Legal and Governance advised Members that this was presented for recommendation by this Committee to the full Authority Meeting on 17 February 2021. As a standalone fire and rescue authority, the Authority had a wide discretion in adopting an Annual Scheme of Allowances. The only proviso was that the Authority must have regard to the recommendations of the Independent Remuneration Panels of its two constituent councils.

The Director of Legal and Governance advised Members that the proposed Scheme of Allowances for the year 2021/22 was based on a 0% increase from the current financial year. The Scheme of Allowances had been linked to the NJC annual pay award for firefighters since 2012/13. The recommendation was that this indexation be suspended for 2021/22 rather than apply the 2% increase. There are no other changes proposed in the Annual Scheme.

RESOLVED –

That the Authority be recommended to adopt a Scheme for Members' Allowances for 2021/22 (Appendix C).

**EX38**

#### **EMERGENCY SERVICES MOBILE COMMUNICATIONS PROGRAMME (ESMCP)**

The Programme Manager advised Members that this was the latest update regarding the Emergency Services Mobile Communications Programme (ESMCP). Updates had tended to concentrate on the publication of the full business case which had been delayed again, so this paper focused on other programme activities that have been taking place.

The Programme Manager advised that there has been some movement regarding the provision of a Direct Network Provider or DNSP link into Buckinghamshire Fire and Rescue Service (BFRS). This was the link that would give direct access into the Emergency Services Network from BFRS Headquarters. The Regional Programme Manager for the East Midlands had collated the issues raised by all regions and passed them onto the Programme Technical Lead for further discussion.

The Programme Manager advised Members that BFRS had now received two ESN devices, a vehicle device that had been passed to Thames Valley Police for installation into their vehicles for road testing and a handheld device which BFRS would retain for walk testing of 'not spots' and buildings.

The Programme Manager advised that one area causing concern was the recruitment of a Regional Programme Manager for the South-Central Region. A recruitment campaign took place in October/November last year and two candidates were offered the role. Unfortunately, neither of them decided to accept and a further campaign was being run, however the remaining candidate had, this week, withdrawn due to family illness. The contract to provide an RPM by MottMacdonald finished on 15

January and the role was currently being shared by the three Project Managers from the SC region. This would continue until the end of March when it would be reviewed.

RESOLVED –

That the ESMCP update be noted.

(Councillor Hall left the meeting)

**EX39**

**LATE URGENT ITEM: PRINCIPAL OFFICERS COVID-19 ARRANGEMENTS BETWEEN THE THAMES VALLEY FIRE AND RESCUE AUTHORITIES**

(The Chairman agreed to the consideration by the Committee of a late urgent item on the grounds that it was necessary to recommend the implementation of contingency arrangements and for these to be agreed by the three Thames Valley fire and rescue authorities' governance bodies within a short timescale).

Director of Legal and Governance advised Members that a unique challenge presented by the ongoing Covid-19 pandemic created risks to the three Thames Valley fire and rescue authorities in being able to ensure that their response functions remain intact and undiminished in the event of the reduced availability of their cadre of Principal Officers due to illness or self-isolation.

The Director of Legal and Governance advised Members that the recommendation the Committee was being asked to endorse was to agree the principles of a Principal Officer sharing agreement in the terms set out in Appendix A. A report and draft agreement in identical terms were presented to Royal Berkshire Fire Authority last Wednesday and agreed unanimously; and a decision by the portfolio holder at Oxfordshire County Council was expected to follow shortly. This would be, to his knowledge, the first such agreement in the country and builds on the successes of the single mobilising function provided by the Thames Valley Fire Control Service for the three Thames Valley fire and rescue services.

RESOLVED –

That the agreement at Annex A, subject to any minor amendments required for completion by the three participating Thames Valley fire and rescue authorities be approved for sealing.

**EX40**

**EXCLUSION OF PRESS AND PUBLIC**

It being moved, it was

RESOLVED –



That the Press and Public be excluded from the meeting by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, as the minutes contain information relating to any individual; and Paragraph 3 of Part 1 of Schedule 12a of the Local Government Act 1972 as the minutes contain information relating to the financial or business affairs of a person (including the Authority); and on these grounds it is considered, at this moment in time, that the need to keep information exempt outweighs the public interest in disclosing the information.

The Chairman advised viewers of the live webcast that the meeting would now go into private session.

**EX41                      EXEMPT MINUTES**

RESOLVED –

That the Exempt Minutes of the meeting of the Executive Committee held on Wednesday 18 November 2021, be approved and signed by the Chairman as a correct record.

**EX42                      DATE OF NEXT MEETING**

The Committee noted that the date of the next Executive Committee meeting would be held on Wednesday 24 March 2021 at 10.00am.

THE CHAIRMAN CLOSED THE MEETING AT 11.24 AM.

This page is intentionally left blank



# Buckinghamshire & Milton Keynes Fire Authority

<b>MEETING</b>	Overview and Audit Committee
<b>DATE OF MEETING</b>	17 March 2021
<b>OFFICER</b>	Graham Britten, Director of Legal & Governance
<b>LEAD MEMBER</b>	Councillor Keith McLean
<b>SUBJECT OF THE REPORT</b>	<b>Corporate Risk Management Policy</b>
<b>EXECUTIVE SUMMARY</b>	<p>The purpose of this paper is to present members with an updated policy and guidance note for Corporate Risk Management.</p> <p>The policy and guidance have been reviewed and updated to reflect:</p> <ul style="list-style-type: none"> <li>• latest (2018) ISO 31000 Risk Management Guidelines to ensure that our approach is aligned with international good practice;</li> <li>• changes to Service internal governance structures (revisions to Management Boards' terms of reference and the introduction of the Portfolio Management Office); and,</li> <li>• current Service Document publication protocols.</li> </ul> <p>No changes to the existing corporate risk management reporting arrangements to the Overview and Audit Committee are proposed at this time.</p>
<b>ACTION</b>	Decision
<b>RECOMMENDATIONS</b>	That the Committee recommend the Corporate Risk Management Policy set out at Annex A and Guidance at Annex B, to the Executive Committee for approval.
<b>RISK MANAGEMENT</b>	The development, implementation and operation of effective corporate risk management structures, processes and procedures are considered critical to assure continuity of service to the public, compliance with relevant statutory and regulatory requirements and the successful delivery of the Authority's strategic objectives and plans.
<b>FINANCIAL IMPLICATIONS</b>	No direct financial implications arising from the presentation of this report. It is envisaged that the further development of the Authority's corporate risk management framework will be undertaken from within agreed budgets.

<b>LEGAL IMPLICATIONS</b>	The Overview & Audit Committee Terms of Reference require it "to monitor the effective development and operation of risk management and corporate governance within the Authority". The Financial Regulations, at Section C, state that the Executive Committee is responsible for approving the Corporate Risk Management Policy after considering recommendations from the Overview & Audit Committee.
<b>CONSISTENCY WITH THE PRINCIPLES OF THE DUTY TO COLLABORATE</b>	Corporate risk management falls outside the scope of current Thames Valley collaboration agreements and priorities. However, officers have had regard to the approaches used by neighbouring authorities in preparing this policy update and associated guidance. In particular, Royal Berkshire Fire Authority whose Organisational Risk Management Policy is already based on the ISO 31000 standard.
<b>HEALTH AND SAFETY</b>	Day to day management of occupational health and safety risks falls outside the scope of this policy and guidance. The Service has established processes and procedures for managing health and safety based on standards set by the Institute of Occupational Safety and Health (IOSH).
<b>EQUALITY AND DIVERSITY</b>	No direct implications from the presentation of this report. However, risks to achieving the Authority's equality, diversity and inclusion objectives and / or compliance with relevant statutes or regulations are identified, assessed and managed via the corporate risk management processes and, where identified, included and monitored within the Human Resources Risk Register.
<b>USE OF RESOURCES</b>	<p><b>Communication with Stakeholders</b></p> <p>The updated Corporate Risk Management Policy has been subject to internal consultation with stakeholders and also to gateway reviews by the following:</p> <ul style="list-style-type: none"> <li>• Performance Monitoring Board at its 4 February 2021 Meeting;</li> <li>• Strategic Management Board at its 16 February 2021 Meeting; and,</li> <li>• The Authority Lead Member for Health and Safety and Corporate Risk.</li> </ul> <p>Following approval of this policy it will be published to the Organisation as a whole and will be available to all Authority Members and Service staff. More detailed guidance and, where necessary, training will be provided to all Service managers and staff to enable them to identify, evaluate, record and report potential</p>

	<p>corporate risks.</p> <p><b>System of internal control</b></p> <p>The development of the Corporate Risk Management Policy and framework complements the governance framework and business processes as a critical cog in the system of internal control and makes better use of our people resources by giving them clearly defined areas of responsibility. Risk registers are maintained at Project, Directorate and Corporate levels. Directorate risks are regularly reviewed within Directorates and formally at their management team meetings. An escalation process is in place to enable risks to be elevated to Corporate level. Corporate risks are monitored by the Performance Management Board and the Strategic Management Board with CFA Member scrutiny exercised at the Overview and Audit Committee meetings and by the Lead Member for Health and Safety and Corporate Risk.</p> <p><b>The Medium-Term Financial Strategy</b></p> <p>Financial risks are captured at Directorate and Corporate levels. Any implications for medium term financial planning are included in the individual risk assessments.</p> <p><b>The balance between spending and resources</b></p> <p>The corporate risk management process is funded from within agreed budgetary resources. Any budgetary impacts associated with risk recorded in the risk registers are identified in the individual risk assessments and dealt with via the budget management and planning processes.</p> <p><b>The management of the asset base</b></p> <p>The asset management implications of recorded corporate and directorate risks are captured in the individual risk assessments together with details of the controls and mitigating actions.</p> <p><b>Environmental</b></p> <p>Any environmental impacts associated with risks captured in the corporate and directorate risk registers are identified in the individual risk assessments together with details of the controls and mitigating actions.</p>
<b>PROVENANCE SECTION &amp; BACKGROUND PAPERS</b>	<p>The preceding Corporate Risk Management Policy was approved at the 18 March 2015 Executive Committee:</p> <p><a href="https://bucksfire.gov.uk/documents/2020/03/180315_exec_committee_papers.pdf/">https://bucksfire.gov.uk/documents/2020/03/180315_exec_committee_papers.pdf/</a></p>
<b>APPENDICES</b>	<p>Annex A: 2021 Corporate Risk Management Policy Statement</p>

	Annex B: Corporate Risk Management Guidance
<b>TIME REQUIRED</b>	15 Minutes
<b>REPORT ORIGINATOR AND CONTACT</b>	Stuart Gowanlock, Corporate Planning Manager <a href="mailto:sgowanlock@bucksfire.gov.uk">sgowanlock@bucksfire.gov.uk</a>



### Policy statement

Buckinghamshire and Milton Keynes Fire Authority (the 'Authority') recognises that risk management is a vital activity that underpins and forms part of our vision, values and strategic objectives. This activity includes operating effectively, efficiently and providing confidence to the communities we serve. Risk is present in everything we do and it is therefore our policy to pro-actively identify, assess and manage key areas of risk. We seek to embed risk management into the culture of the Authority and Buckinghamshire Fire and Rescue Service (the 'Service') and the behaviour of all people involved in the governance, management, operation and development of the Authority and Service. Risk management needs to be embedded throughout all processes, projects and strategic decisions, including procurement and contracting which will ensure that the management of partnerships and third-party relationships are included within the scope of our risk management policy.

In order for risk management to be effective and enabling, we must ensure that we have a robust, consistent, communicated and formalised process across the Service. In turn, this approach enables the Authority to consider what levels of risk are acceptable, its 'risk appetite', and for this to be defined.

This risk management policy and associated guidance forms an integrated framework that supports the Authority and Service in the effective management of risk. We will involve all of our staff in the identification and management of risk, and empower them to take necessary action. Management of risk activity will be regularly supported through discussion and appropriate action by the Senior Management Team. The Senior Management Team will review all significant risks, evaluating their mitigation strategies and establishing supporting actions to be taken to reduce them to an acceptable level. Managing risks will be an integral part of both strategic and operational planning and the day-to-day running, monitoring, development and maintaining of the Authority and the services it provides to the public.

This page is intentionally left blank



# Service Document Guidance: Corporate Risk Management



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

## 1.0 Changes since the last version

## Annex B

Guidance reviewed and updated to reflect:

- latest (2018) [ISO 31000 Risk Management Guidelines](#);
- current Service Document publication protocols;
- changes to Service internal governance structures (revisions to management Boards terms of reference and introduction of Portfolio Management Office);
- new risk impact and scoring matrices.

Additions and changes relative to the [2015 Corporate Risk Management Policy](#) are shaded grey.

## 2.0 Index

- 3.0 Purpose and Scope
- 4.0 Risk Management Definitions
- 5.0 Risk Appetite
- 6.0 Governance Structures
- 7.0 Roles and Responsibilities
- 8.0 Risk Management Processes and Methods

### Appendices

- 1 Risk Evaluation Framework
- 2 Risk Scoring Matrix

## 3.0 Purpose and scope

The purpose of this document is to provide guidance to facilitate the effective identification, analysis, evaluation, treatment, monitoring and reporting on risks that could affect the Authority's ability to deliver services to the public and / or meet its strategic objectives.

## Service Document Guidance: Corporate Risk Management



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

Day to day management of occupational health and safety risks and the management of risk in the community fall outside the scope of this guidance. The Service has established processes and procedures for managing health and safety based on standards set by the Institute of Occupational Safety and Health (IOSH). The identification, evaluation and treatment of risks to the public / communities is addressed via the Service's Integrated Risk Management Planning (IRMP) processes.

### 4.0 Risk Management Definitions

- 4.1 ISO 31000:2018 defines 'risk' as the "effect of uncertainty on objectives" and 'risk management' as "coordinated activities to direct and control an organization with regard to risk". However, in addition, the Authority also recognises the earlier definitions specified by the Office of Government Commerce (OGC) and published in "Management of Risk: Guidance for Practitioners (2011)":

Definition of Risk	Definition of Risk Management
An uncertain event or set of events that will have an effect on the achievement of objectives. A risk is measured by a combination of the probability of a perceived threat or opportunity occurring and the magnitude of its impact.	Systematic application of principles, approach and process to the tasks of identifying and assessing risks, and then planning and implementing risk responses.

### 5.0 Risk Appetite

- 5.1 Risk appetite is the amount of risk that the Authority is willing to tolerate relative to the size, nature and degree of uncertainty associated with identified threats and opportunities. Managing risk effectively does not mean that the Authority / Service is risk averse but rather that it is aware of the risks associated with any decisions that it takes and is willing and able to accept the consequences in the event of a risk crystallising.

As a general principle, risks attracting a combined score of 20 or more on the Risk Scoring Matrix (shown at Appendix 2) will be considered

## Service Document Guidance: Corporate Risk Management

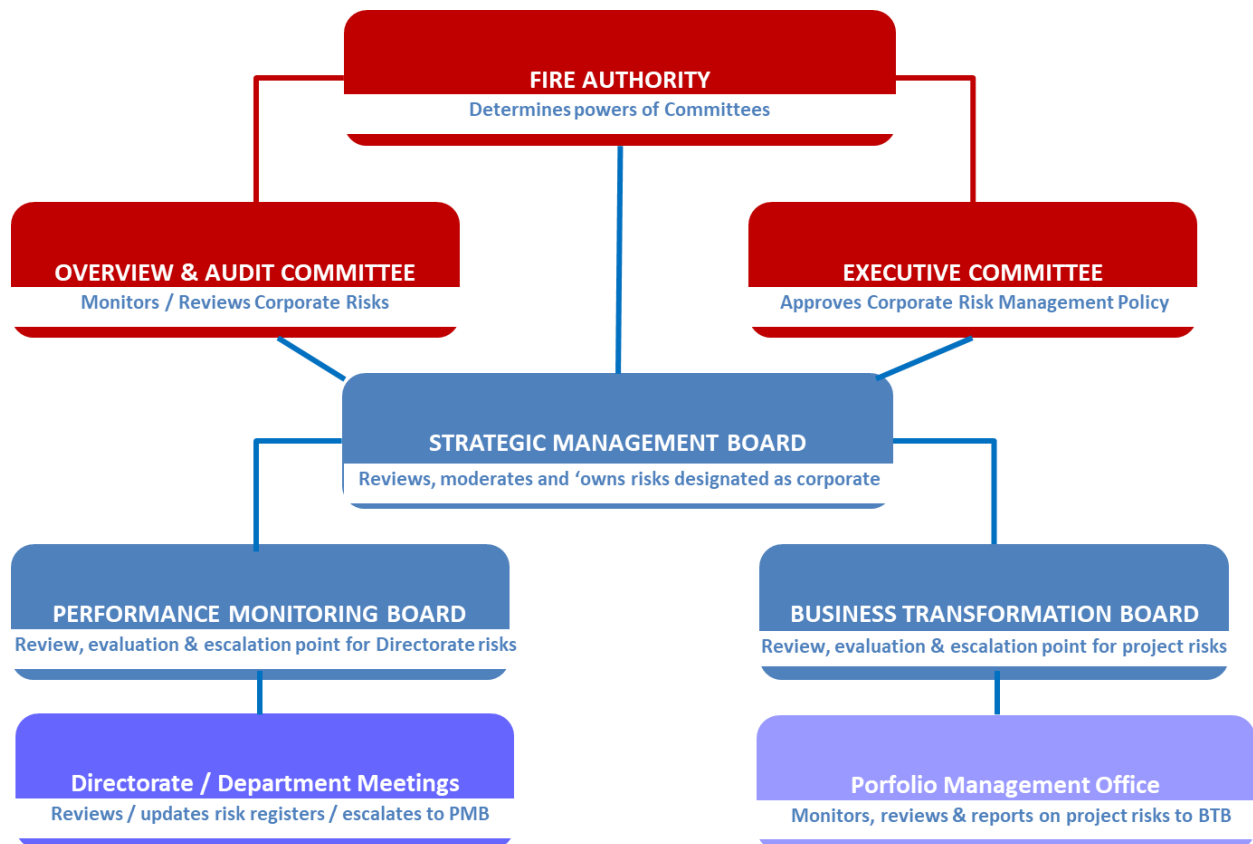


**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

intolerable by the Authority and prioritised for treatment in order to eliminate or reduce the risk to acceptable levels. However, the Authority, at its discretion, may elect to tolerate risks at this level or deem lower levels of risk to be intolerable on a case by case basis depending on their source and nature.

### 6.0 Governance Structures

- 6.1 Governance of Corporate Risks, and the policies and processes by which they are managed, is carried out via the Authority Committee and Service Management Structures:



- 6.2 Monitoring and management of corporate risks is carried out at a level commensurate with the nature and magnitude of the risk.
- 6.3 Risk management is embedded in the Service's core operational, support and project management processes. Risks with the potential to become Corporate Risks are captured and evaluated in Risk Registers maintained

## Service Document Guidance: Corporate Risk Management



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

by all significant business units within the Service (typically at Directorate level). These risks are regularly reviewed in Directorate Management Meetings and may be escalated to the Performance Monitoring Board (PMB) at the discretion of the relevant Director / Head of Service if they meet the escalation criteria set out at pages 10 of this document.

- 6.4 All projects are required to maintain risk registers in a prescribed format. Project risk registers are monitored by the Portfolio Management Office (PMO) who refer significant risks to the Business Transformation Board (BTB) for review and, if necessary, further escalation to the Strategic Management Board (SMB). BTB meets on a regular basis aligned to the dates of Strategic Management Board (SMB) meetings.
- 6.5 PMB meets on a regular basis at a frequency agreed by SMB. It reviews the content of the Corporate Risk Register and evaluates risks escalated from Directorate level and, subject to that evaluation, may recommend them to SMB for inclusion in the Corporate Risk Register.
- 6.6 SMB normally meets on a monthly basis. At every meeting, it reviews the current set of risks designated as 'corporate' to ensure that their status, evaluations and controls remain valid and any project risks escalated by BTB. It also reviews recommendations from PMB for risks to be included in the Corporate Risk Register escalated from Directorate / Department risk registers. If new, urgent, potential corporate risks are identified outside of the normal review cycle these may be escalated directly to SMB by Directors or Heads of Service via the Corporate Planning Manager. SMB is also responsible for reviewing the corporate risk management reports that are submitted to every meeting of the Authority's Overview and Audit Committee (O & A).
- 6.7 The O & A Committee's Terms of Reference require it:
1. To monitor the effective development and operation of risk management and corporate governance within the Authority.
  2. To consider reports dealing with the management of risk across the organisation, identifying the key risks facing the Authority and seeking assurance of appropriate management action.
- 6.8 The Financial Regulations, at Section C, state that the Executive Committee is responsible for approving the Corporate Risk Management Policy after considering recommendations from the Overview and Audit Committee.

## Service Document Guidance: Corporate Risk Management



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

### **7.0 Roles & Responsibilities**

#### **7.1 Authority Members**

Hold the Chief Fire Officer / Chief Executive accountable for the effective management of risk throughout the Service via the Overview and Audit Committee.

Approve, via the Executive Committee, the Authority's Corporate Risk Management Policy.

Review, via the Overview and Audit Committee, the Corporate Risk Register and associated reporting.

Challenge Service Senior Management to satisfy themselves that risks have been correctly identified, evaluated and addressed.

Raise any potential risks that they may identify to the Director of Legal and Governance, or other designated officer, via the Chairman of the Overview and Audit Committee.

#### **7.2 Chief Fire Officer / Chief Executive**

Accountable for the effective management of risk throughout the Service and ensuring that appropriate processes and systems are in place to ensure this.

#### **7.3 Directors and Heads of Service**

Responsible and accountable for the identification, evaluation, recording and effective management of all risks within their Directorate / Department using the approved Authority policy and this guidance, appointing suitable persons to manage their risk registers and reporting arrangements as appropriate.

Responsible and accountable for ensuring that all risks meeting the escalation criteria at page 10 are escalated to the PMB, BTB and / or SMB for scrutiny as appropriate.

## Service Document Guidance: Corporate Risk Management



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

### 7.4 Corporate Planning Manager

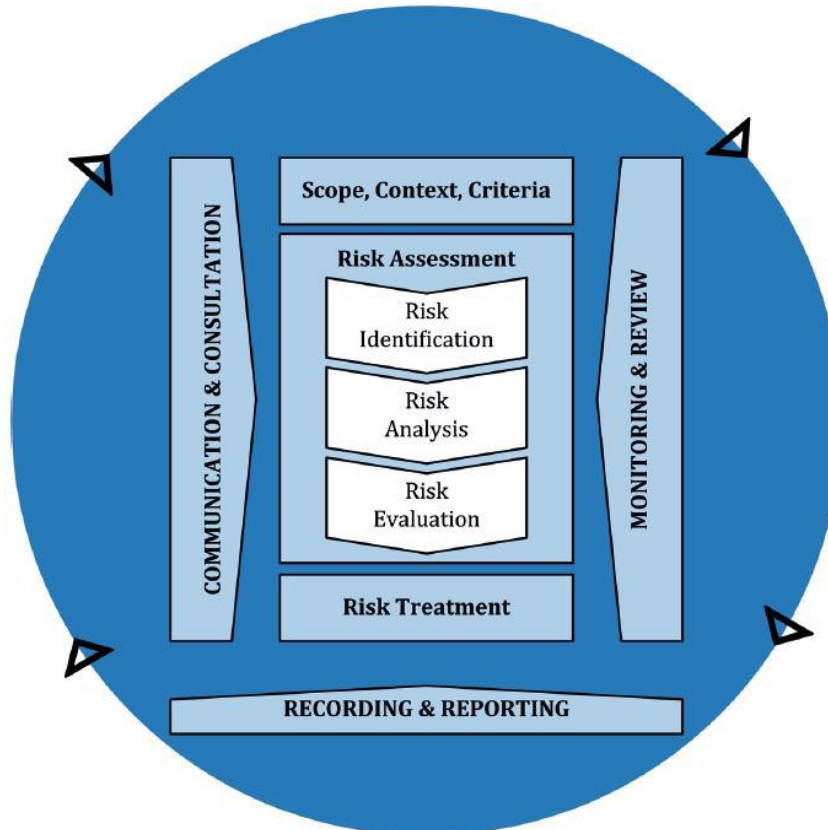
Responsible for developing, maintaining, and implementing the Authority's Corporate Risk Management Policy.

Maintains the Corporate Risk Register and risk identification, recording, evaluation and reporting processes for use across the Authority / Service.

Liaises with the Authority Lead Member to ensure that they are regularly updated on any changes to risks recorded in the corporate risk register and consulted on any proposals for changes to the Authority's Corporate Risk Management Policy and / or guidance.

### 8.0 Risk Management Processes and Methods

ISO 31000:2018 specifies the following risk management process model which has informed the development of this guidance:








# Service Document Guidance: Corporate Risk Management



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

## 8.1 Identification of risks

UK Government provides a comprehensive [framework](#) for the identification of organisational risk:

Type of risk	Features and approaches	Examples
 <p><b>Internal</b></p>	<p>These are risks over which the organisation has some control, for example risks that can be managed through internal controls and, where necessary, additional mitigating actions. This often involves traditional risk management, such as risk registers, controls and assurance.</p>	<ul style="list-style-type: none"> <li>• Fraud</li> <li>• Health &amp; safety</li> <li>• Capacity &amp; capability</li> <li>• Data security</li> <li>• Delivery partners</li> </ul>
 <p><b>External</b></p>	<p>This focuses on big external events/perils and then considers how to make the organisation more resilient to such events, in part because of difficulties on assessing likelihood<sup>2</sup>. A tried and tested approach to managing external risks is through considering the impact those external events could have on infrastructure, finance, people, operations and reputation. A common example of a resilience framework for infrastructure is a business continuity plan.</p>	<ul style="list-style-type: none"> <li>• Economic downturn</li> <li>• Terrorist attack</li> <li>• Extreme weather</li> <li>• Cyber attacks</li> </ul>
 <p><b>Strategic</b></p>	<p>This third element concerns the organisation's raison d'être and key objectives (such as the organisation's enduring purpose and the objectives set out in the Single Departmental Plan), identifying the principal risks to the achievement of those within a set timeframe. For some this could be the lifetime of a parliament. Risks in this area would be accompanied by regularly monitoring and adjusting interventions, as necessary. Forward-looking charts are often helpful here.</p>	<p>Can be:</p> <ul style="list-style-type: none"> <li>• immediate impact risks to the organisation's ability to continue operating, e.g. loss of customer data; or</li> <li>• slow-burning risks that grow and eventually prevent delivery of objectives, e.g. staff turnover or leadership capability.</li> </ul>

## Service Document Guidance: Corporate Risk Management



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

### Major projects

Major projects form such a critical part of the plans for many government bodies. Experience suggests that one or two critical projects for that organisation should be considered at board level in their own right. The key is to only report to board level on the two or three that really matter. This should be via whatever tools, techniques and reporting are appropriate for each.

These risks will be specific to the major project in question, and could involve:

- shifting requirements
- slippage in delivery timeframes
- failure to deliver

Service Managers will use structured methods to assist with the identification of risks emanating from such sources including:

- The analysis of external risk registers such as the National Risk Register and Thames Valley Local Resilience Forum Community Risk Register.
- Application of the PESTEL framework and / or other horizon scanning tools
- The outputs of self-assessments, project risk evaluations, formal audits (internal and external), peer reviews and formal inspections such as those conducted by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS).

## 8.2 Analysis of risks

In line with ISO 31000:2018 guidance, analysis of risks will consider:

- the likelihood of events and consequences;
- the nature and magnitude of consequences;
- complexity and connectivity;
- time-related factors and volatility;
- the effectiveness of existing controls;
- sensitivity and confidence levels.



## Service Document Guidance: Corporate Risk Management



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

### 8.3 Evaluation of Risks

All risks will be evaluated against the criteria shown at Appendix 1 to determine the nature and scale of their potential impact.

Risks will then be prioritised for treatment using the 'Risk Scoring Matrix' shown at Appendix 2.

### 8.4 Recording & Reporting of Risks

Formal review and reporting of Corporate Risks are undertaken to every PMB and SMB meeting, and also to the Authority's Overview and Audit Committee as set out in Section 6 of this document. SMB may also consider new risks requiring urgent consideration outside of the normal reporting cycles at its weekly informal meetings if the situation demands it.

Corporate Planning will provide appropriate templates and systems for analysing, evaluating, recording and reporting risks identified at directorate and corporate levels. The PMO will do the same for project risks.

### 8.5 Treating Risks

Methods appropriate to the nature and scale of the risks should be employed to control and manage them. Typically, these will include one or a combination of the following methods:

Avoid	By not starting an activity or investment that gives rise to the risk.
Terminate	This involves methods such as stopping the activity or process or divesting of the asset giving rise to the risk.
Treat	Implement control measures that reduce the likelihood and / or the impact of the risk to acceptable levels.
Transfer	Transfer the risk to / share with a third party e.g. insurance, contract, outsourcing, partnering.
Tolerate	Accept the risk, by informed decision, as it is and do nothing to further mitigate it.



### 8.5 Risk Escalation Criteria

It is expected that the majority of risks will be managed at Directorate / Department / Project level. However, all risks scored at 12 or above (dark Amber / Red risks), using the Risk Scoring Matrix shown at Appendix 2, must be escalated to PMB for review. PMB **will** escalate these risks to SMB if they meet at least one of the following criteria:

1. The means of **avoiding**, reducing, mitigating, controlling or **eliminating** the risk are considered inadequate and additional interventions or resources beyond those available within the individual Directorate / Department are required;
2. The nature and scale of the risk is such that it cannot be effectively monitored and managed at Directorate level.

Also, other risks falling within the amber zone (8-10) on the Risk Scoring Matrix may, at the discretion of the line Director or Head of Service, be elevated to PMB for review and potential escalation to SMB if they consider that they are of a pan-organisational nature and / or there is insufficient capacity, resources and / or means of treating it at Directorate level with the consequent potential for it to become 'intolerable' (red zone).

SMB will act as the final point of review for potential corporate risks for inclusion in the Corporate Risk Register which will then be subject to scrutiny by the Authority's Overview and Audit Committee.

### Appendix 1: Corporate Risk Management - Impact Criteria

	<b>Low:1</b>	<b>Minor:2</b>	<b>Moderate:3</b>	<b>High:4</b>	<b>Major:5</b>
<b>Health and Safety</b>	Minor incident with no physical effect on workforce	Injury to workforce with only short-term issues	Injury to workforce leading to long term issues	Serious injury/disablement to fire fighter/staff member	Death of a fire fighter/staff member
<b>Political</b>	Brought to the attention of the Fire Authority	Fire Authority formally comments	Internal Fire Authority enquiry	Ombudsman	Central Government inquiry
<b>Strategic</b>	Strategic commitment fully achieved	Strategic commitment partly achieved	Not clear as to how activity addresses strategic commitments	A Major element of the strategic commitment is not met.	Total failure to achieve strategic commitments
<b>Operational</b>	Only slight risk to task with no real effect on activity	Risk to task which may lead to the activity being re-evaluated	Risk to task which may lead to the activity being suspended	Failure of task leading to financial loss and assess	Complete failure of task with loss of life or massive financial loss
<b>Financial</b>	Minor uncertainty of the budgets	Budgetary changes may be required to achieve outcome	Multiple budget lines affected	Financial position compromised	Unable to project financial position of the service
<b>Economic</b>	Low cost that can be easily absorbed	Cost can be easily absorbed with minor impact	Costs that will required re budgeting and a compromise	Costs that will impact quite hard on budgets	Costs that threaten the life of any project or task
<b>Environmental</b>	No environmental impact	Minor environmental impact, easily rectified by existing <i>controls</i>	Environmental impact that ca not be avoided without direct intervention	Repairable environmental damage following significant investment	Irreparable damage caused to the environment leading to prosecution

### Appendix 1: Corporate Risk Management - Impact Criteria

	<b>Low:1</b>	<b>Minor:2</b>	<b>Moderate:3</b>	<b>High:4</b>	<b>Major:5</b>
<b>Regulatory</b>	Fully meets all regulatory requirements	Regulatory requirements met with justifiable deviations	Regulatory requirements met with non-justifiable deviations	Regulations not followed leading to failure to obtain successful prosecutions	Statutory duties not met putting the organisation at risk of repercussion
<b>Reputational</b>	No negative outcome to the reputation of the organisation	Minor damage to the organisations reputation which can be dealt with through internal <i>controls</i> and procedures	Reputational damage resulting in negative publicity locally	Reputational damage resulting in negative publicity nationally	Serious damage to the reputation of the organisation on a national/international basis leading to long term loss of confidence in the service
<b>Information risks</b>	Information not available when required causing delays.	Information not adequate on which to base decisions.	Information overly accessible to too wide a group threatens the integrity of the data.	Information not properly secured enabling unauthorised access causing reputational damage or, if personal data, also causing damage and distress to individuals leading to fines and legal action.	Information breach of a magnitude requiring it to be reported to the Information Commissioner within 72 hours. Causing disruption to service, damage and distress to individuals, reputational damage and financial damage through fines and court costs.

## Appendix 2: Corporate Risk Management Guidance – Risk Scoring Matrix

Likelihood Score			Impact Score				
			1	2	3	4	5
		Definition	Low	Minor	Moderate	High	Major
	5	Almost certain to happen within 1 Year	1	10	15	20	25
	4	Likely to happen within 1 – 3 years	4	8	12	16	20
	3	Could happen within 3 – 10 years	3	6	9	12	15
	2	Unlikely to happen. 10 -15 years away.	2	4	6	8	10
	1	Rarely occurs. 15 years plus away.	1	2	3	4	5

R	<ul style="list-style-type: none"> <li>Outside of risk appetite</li> <li>Requires escalation to SMB and inclusion in Corporate Risk Register for monitoring.</li> <li>Requires action at SMB and / or Authority level to mitigate risk.</li> <li>Any additional resources to mitigate risk requires approval by SMB and / or the Authority in accordance with the <a href="#">Scheme of Delegation</a> to Officers and the <a href="#">Financial Regulations</a>.</li> </ul>
A	<ul style="list-style-type: none"> <li>Potentially outside of risk appetite.</li> <li>Requires escalation to PMB for review and consideration for inclusion in Corporate Risk Register if cannot be mitigated at Directorate / Departmental level.</li> <li>If not escalated to Corporate Risk Register requires active mitigation with measures approved by relevant Area Commander / Director / Head of Service</li> </ul>
A	<ul style="list-style-type: none"> <li>Inside risk appetite.</li> <li>Can be escalated to PMB for review at discretion of Area Commander / Director / Head of Service</li> <li>Requires mitigation and can be achieved within the current level of resources with measures approved by relevant Area Commander / Director / Head of Service</li> </ul>
G	<ul style="list-style-type: none"> <li>Inside risk appetite.</li> <li>Monitor and manage at Directorate / Departmental level.</li> <li>Mitigate further only if cost-effective to do so and can be achieved within the current level of resources".</li> </ul>

This page is intentionally left blank



# Buckinghamshire & Milton Keynes Fire Authority

<b>MEETING</b>	Executive Committee
<b>DATE OF MEETING</b>	24 March 2021
<b>OFFICER</b>	Mick Osborne, Chief Operating Officer/DCFO
<b>LEAD MEMBER</b>	Councillor Steven Lambert
<b>SUBJECT OF THE REPORT</b>	<b>Gender Pay Gap Report 2020</b>
<b>EXECUTIVE SUMMARY</b>	<p>The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 that came into effect in 2017 requires public sector organisations employing over 250 staff to carry out gender pay gap reporting. In accordance with the Regulations, the Authority is required to annually publish six pieces of prescribed data about the pay and bonuses of male and female workers within the organisation:</p> <ol style="list-style-type: none"> <li>1. Mean gender pay gap in hourly pay</li> <li>2. Median gender pay gap in hourly pay</li> <li>3. Mean bonus gender pay gap</li> <li>4. Median bonus gender pay gap</li> <li>5. Proportion of males and females receiving a bonus payment</li> <li>6. Proportion of males and females in each pay quartile</li> </ol> <p>This data must be published 'within the period of 12 months beginning with the snapshot date' (Regulation 2(2)). The snapshot date for public sector employers is 31 March each year.</p> <p>The gender pay gap report, as detailed in Annex A, details the Authority's gender pay gap as at 31 March 2020. For 2020, the mean gender pay gap is 18.8 per cent and the median gender pay gap is 15.3 per cent. In comparison to 2019, the mean gender pay gap was 15.1 per cent and the median gender pay gap 10.4 per cent.</p> <p>The gender pay gap is the difference between what males typically earn within the workplace, compared to what females earn, irrespective of their role or seniority. It examines the difference in the average pay gap, expressed as a percentage of male earnings. A gender pay gap is not unlawful and is essentially a reflection of a workforce profile.</p> <p>In comparison, equal pay is a legal obligation and</p>

	<p>about unequal rewards for male and females carrying out the same job, similar job or work of equal value, as set out in the Equality Act 2010.</p> <p>In 2020 an equal pay audit was undertaken which confirmed the Authority is achieving equitable pay between genders. Lots of changes have taken place within the organisation since 2013, when the last equal pay audit was undertaken. The way the Service is resourced is now very different and what has come out of the 2020 equal pay audit endorses what and how we do things now, which is positive. A separate report will be presented at a future Overview and Audit, whereupon Members will be asked to note the content of the equal pay audit action plan.</p>
<b>ACTION</b>	Noting.
<b>RECOMMENDATIONS</b>	It is recommended that the content of the gender pay gap report 2020 be noted and approved for submission to the Government's website (gov.uk) as per reporting requirements
<b>RISK MANAGEMENT</b>	<p><b>Regulations:</b> The Authority will comply with the Regulations requiring public sector employers with over 250 staff to publish their gender pay gap data before 30 March each year.</p> <p>The six pieces of prescribed data within the report will be published on the Government's website (gov.uk) and the full report published on the Authority's external website for a period of three years. Annually publishing the data in line with the Regulations will help the Authority monitor the effectiveness of the actions in reducing the gap over time.</p> <p><b>Transparency:</b> Gender pay gap reporting was introduced to improve levels of transparency on gender pay equality and gender imbalance within organisations. The Government's expectation is that greater transparency and public scrutiny will require employers to take action to close the gender pay gap. In addition to the six pieces of prescribed information, organisations are also encouraged to provide contextual narrative with this data. There are a number of factors influencing the gender pay gap and the narrative as detailed in Annex A helps to explain this, by providing further information and detailing actions to address the gender pay gap. In addition, by detailing gender pay gap data since 2017 within the most recent report, it is a more transparent way of showing progress with the gap year-on-year.</p> <p><b>Consistency:</b> Ordinary pay, expressed as hourly pay, is used to calculate the mean and median gender pay gaps and the pay period informs the calculation for ordinary pay. For those employees who do not work a consistent working pattern, e.g. 37-hour week, the</p>



	<p>calculation has been averaged over a 12-week period as per Local Government Association, ACAS and Government Equalities Office guidance, which is considered best practice.</p> <p>Benchmark data, as published on the Government's website, provides additional useful comparison data across Fire Services (see Appendix 1). The benchmark data demonstrates widely different mean and median gender pay gaps within broadly similar organisations.</p> <p>In order to mitigate the risk associated with publishing improbable data, our data undergoes internal scrutiny and by providing contextual narrative, it supports the information provided within the report and highlights the activities we are engaging in to address gender imbalance.</p> <p><b>Privacy:</b> The report does not include any personally identifiable information.</p>
<b>FINANCIAL IMPLICATIONS</b>	There are no direct financial implications arising from this report.
<b>LEGAL IMPLICATIONS</b>	Whilst the Regulations do not contain any provisions imposing a penalty for non-compliance, failure to disclose this data could result in enforcement action by the Equality and Human Rights Commission or challenge by way of judicial review.
<b>CONSISTENCY WITH THE PRINCIPLES OF THE DUTY TO COLLABORATE</b>	Each Thames Valley Fire and Rescue Service has a requirement to report their gender pay gap data. Collaborative actions to reduce the gender pay gap will be considered as part of existing Thames Valley collaboration work.
<b>HEALTH AND SAFETY</b>	There are no health and safety implications arising from this report.
<b>EQUALITY AND DIVERSITY</b>	<p>Whilst both gender pay and equal pay deal with the disparity of pay within the workplace, it is important to note that gender pay is different from equal pay. The presence of a gender pay gap does not mean the Authority is discriminating against groups of individuals. The Authority is confident this gap does not stem from paying male and female employees differently for the same or equivalent work, i.e. an equal pay issue.</p> <p>The gender pay gap report has identified the Authority continues to have a gender pay gap, however figures are not expected to reduce significantly within the short to medium term, as the issues driving gender pay gaps require a longer-term commitment.</p> <p>The Authority strives to increase gender diversity in all areas of the organisation. A particular continuing priority is attracting and retaining a more diverse</p>

	workforce and having better representation of males and females at all levels across the organisation.
<b>USE OF RESOURCES</b>	<p>Publishing the annual gender pay gap report ensures compliance with The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.</p> <p><b>Communication:</b> Additional to the Fire Authority, other employers, job applicants, trade unions, media and the public will continue to pay close attention to the annually published gender pay gap data. Due to the high-profile nature of gender pay, it is important that employees are made aware of the gender pay gap report for this organisation before 30 March 2021. Following approval for publication, the gender pay gap report will be communicated to employees in accordance with usual practice.</p> <p>Structured groups, such as the Equality, Diversity and Inclusion group, are well established and include managers, employees, trade union and staff representatives. These groups support and promote inclusion and engagement and increase dialogue about topical issues.</p> <p>Engaging with stakeholders is essential to ensure progress is made against the initiatives to lower the gender pay gap. We will increase engagement and buy-in to what we are trying to achieve and will ensure we evaluate the interventions.</p> <p><b>The system of internal control:</b> Annual gender pay gap reports will be presented to the Strategic Management Board and Executive Committee.</p>
<b>PROVENANCE SECTION &amp; BACKGROUND PAPERS</b>	<p><b>Background</b></p> <p>Report to the Fire Authority held 12 February 2020: Pay Policy Principles and Statement (2020/21):  <a href="https://bucksfire.gov.uk/documents/2020/03/120220_item11_pay_policy_principles.pdf/">https://bucksfire.gov.uk/documents/2020/03/120220_item11_pay_policy_principles.pdf/</a></p> <p>Link to Fire Authority approved Gender Pay Gap Reports for 2019, 2018 and 2017:  <a href="https://bucksfire.gov.uk/documents/2020/03/120220_item11_pay_policy_principles.pdf/">You searched for gender pay gap - Buckinghamshire Fire &amp; Rescue Service (bucksfire.gov.uk)</a></p> <p>The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017:  <a href="https://www.legislation.gov.uk/ukdsi/2017/9780111153277/schedule/1">https://www.legislation.gov.uk/ukdsi/2017/9780111153277/schedule/1</a></p> <p>Office of National Statistics. Gender pay gap in the UK 2020:  <a href="https://ons.gov.uk/peopleandwork/employmentandearnings/articles/genderpaygapintheuk2020">Gender pay gap in the UK - Office for National Statistics (ons.gov.uk)</a></p> <p>State of Fire and Rescue: The Annual Assessment of</p>

	<p>Fire and Rescue Services in England 2019:  <a href="https://www.justiceinspectorsates.gov.uk/hmicfrs/publications/state-of-fire-and-rescue-annual-assessment-2019/">https://www.justiceinspectorsates.gov.uk/hmicfrs/publications/state-of-fire-and-rescue-annual-assessment-2019/</a></p> <p>Gender pay gap reporting: Overview. Published February 2017:  <a href="https://www.gov.uk/guidance/gender-pay-gap-reporting-overview">https://www.gov.uk/guidance/gender-pay-gap-reporting-overview</a></p> <p>ACAS and Government Equalities Office Guidance. Managing gender pay reporting:  <a href="http://m.acas.org.uk/media/pdf/m/4/Managing_gender_pay_reporting_04_12_17.pdf">http://m.acas.org.uk/media/pdf/m/4/Managing_gender_pay_reporting_04_12_17.pdf</a></p> <p>Report your gender pay gap data (gov.uk):  <a href="https://www.gov.uk/report-gender-pay-gap-data">https://www.gov.uk/report-gender-pay-gap-data</a></p>
<b>APPENDICES</b>	<p>Annex A – Gender Pay Gap Report 2020</p> <p>Appendix 1 – Employer Comparison Data 2019 (Fire Services)</p>
<b>TIME REQUIRED</b>	10 minutes.
<b>REPORT ORIGINATOR AND CONTACT</b>	<p>Faye Mansfield – HR Advisory and Development Manager</p> <p><a href="mailto:fmansfield@bucksfire.gov.uk">fmansfield@bucksfire.gov.uk</a></p> <p>01296 744623</p>

This page is intentionally left blank



## Introduction

Regulations came into effect in 2017 that requires organisations employing over 250 employees to carry out gender pay gap reporting. The two sets of Regulations introduced mandatory gender pay gap reporting on employers; the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 and the Equality Act 2010 (Gender Pay Gap Reporting) Regulations 2017. Both sets of Regulations are similar, however the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 apply to public sector employers, including fire authorities.

Gender pay gap information must be published within 'the period of 12-months beginning with the snapshot date' (Regulation 2(2)). The snapshot date for public sector employers is 31 March each year.

## What is the gender pay gap?

The gender pay gap shows the difference between the average earnings of males and females, expressed as a percentage of male earnings, e.g. females earn 10 per cent less than males. The gender pay gap should not be confused with equal pay and this is explained in the next section. The gender pay gap is reported on both the mean (average) and median (mid-point) basis.

According to the Office of National Statistics (Source: ONS - Gender pay gap in the UK: 2020), the gender pay gap for all employees, covering all employment sectors, continues to decline and has fallen from 17.4 per cent in April 2019 to 15.5 per cent in April 2020. This means that, in the UK females earn on average 15.5 per cent less than males. In comparison, for April 2020 the gender pay gap among full-time employees was 7.4 per cent, down from 9.0 per cent in April 2019.

Data from the Office of National Statistics (source: ONS - Annual Survey of Hours and Earning (ASHE)), as detailed below, shows the gender pay gap for median gross hourly earnings in the UK, April 2010 to April 2020. When comparing the gap over this decade, it is evident that progress on closing the gender pay gap is really slow and therefore likely to take years to eradicate.

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
All	19.8	20.2	19.6	19.8	19.2	19.3	18.2	18.4	17.8	17.4	15.5
Full-time	10.1	10.5	9.5	10.0	9.6	9.6	9.4	9.1	8.6	9.0	7.4

There are a number of factors contributing to the gender pay gap and these include:

- A higher proportion of males working in senior positions



- A higher proportion of females working in part-time roles (therefore normally earning less than their full-time colleagues)
- Skills gap, lack of training and development opportunities
- Occupational segregation
- Lack of role models
- Family, childcare and caring commitments
- Lack of opportunities for flexible working
- Attitude and culture
- Confidence

This gender pay gap is based on data at the snapshot date of 31 March 2020, which for 2020 has increased by 3.7 percentage points to 18.8 per cent, and whilst not as high as the first year of reporting (19.4 per cent in 2017), it is disappointing. This increase takes the Service 3.3 percentage points above the UK average gap. In comparison, for 2019 the Service was 2.3 percentage points below the UK average gap. For 2020 the Service's median gender pay gap has increased by 4.9 percentage points, from 10.4 per cent in 2019 to 15.3 percent in 2020.

The Service has identified a number of key areas of activity to lower the gender pay gap. The Service's action plan on addressing the gender pay gap is detailed from page 13 of this report. Whilst the foundations for improvement have been laid through these initiatives, it may be several years before there is any significant impact on gender parity within pay.

## **Different to equal pay**

Whilst both gender pay and equal pay deal with the disparity of pay females receive within the workplace, it is important to note that the gender pay gap is different to equal pay.

The principle of equal pay is that males and females who carry out the same job, similar jobs or work of equal value, as set out in the Equality Act 2010, should receive equal pay. Equal pay is a legal obligation. Whereas the gender pay gap examines the difference in the average pay gap between males and females expressed as a percentage of male earnings and is not unlawful.

Organisations which are fully compliant with the Equality Act 2010 can still have a gender pay gap. This is often due to having more males in senior and highly paid positions and females in lower paid and part-time roles. The gender pay gap is a mechanism by which organisations can examine this data and take positive action to reduce the gender pay gap.



## Equal Pay Audit

An equal pay audit is the most effective way of checking the Service is complying with its equal pay obligations, ensuring it delivers a pay system free from bias. An equal pay audit involves comparing pay of employees doing equal work and has three main purposes:

- to identify any differences in pay between those doing equal work
- to investigate the causes of any differences in pay between those doing equal work, and
- to eliminate instances of unequal pay that cannot be justified

In 2020 an equal pay audit was undertaken within the Service. The snapshot date for the equal pay audit was 1 January 2020. The meaningful comparator data included base salary and 12-months' worth of allowance data for protected characteristics of gender, age, disability and ethnicity. For 2020, in addition to gender, analysis was also undertaken for additional protected characteristics of age, disability and ethnicity.

The equal pay audit confirmed the Service is achieving equitable pay between gender, and the other protected characteristics of age and race, however there was insufficient data on disability to be able to analyse effectively.

## The reality of the gender pay gap

A workforce, which better reflects the diversity of the public, that is flexible, diverse and inclusive, will create a stronger, more enriched and well-informed organisation, able to meet the expectations for a modern Fire and Rescue Service. The Service will attract, retain, develop and motivate talented people from all parts of the community.

The current limited gender diversity within the Fire Service is a national challenge. This is partly due to a lack of understanding about the role and skills required to be a firefighter by potential applicants. By embracing the need for change and consciously recognising this is a historically male-dominated organisation, and by actively seeking to dispel these myths, it will help to break some of the barriers for females considering a career within the Fire Service.

By demonstrating an understanding of the factors contributing to the gender pay gap and committing activity to address the gap, it will ensure over time the gap is reduced and eventually eliminated. In addition, the workforce will better reflect the diversity of the community. Meaningful embedded change takes time and we recognise this. The Service's ultimate aim is to achieve gender pay parity.



Many of the issues driving pay gaps requires a longer-term view. It has been recognised nationally that the gender pay gap is not going to be fully eliminated within the short to medium term.

## **Importance of recruitment and development**

Job applicants may look at an organisation's gender pay gap as part of their pre-selection process before choosing to work for an employer. To improve the Service's gender pay gap we need to address the attraction and retention of females within the Service and the career progression routes to the higher paid senior Operational and Support Service roles.

The Service has taken positive action to attract and recruit more females into Operational roles. In the longer term, this will assist with lowering the gender pay gap. As the Service nurtures these individuals and supports them through their development and for some, promotions through the ranks to more senior roles, the Service will start to see the impact of this positive action and further reduce and eventually eliminate the gender pay gap.

## **Terms and conditions**

The Service's Pay Policy statement is reviewed and updated annually. Its purpose is to provide transparency to the pay policy adopted. The 2020/21 Pay Policy (approved by the Fire Authority at its meeting on 12 February 2020) sets out levels of and elements of remuneration for 2020/21 to which this report relates.

The majority of employees are employed under contracts with either the terms and conditions of the NJC for Local Authority Fire and Rescue Services Scheme of Conditions of Service, 2004 "the Grey Book" incorporated; or with the provisions of the local terms and conditions of Buckinghamshire & Milton Keynes Fire Authority Scheme of Conditions of Service for Support Services employees. The national terms and conditions for "Grey Book", and the often national bargaining required to bring about change under these terms and conditions, limits the Authority's ability to address some of the areas identified within the State of the Fire and Rescue Service Report 2019. In the State of the Fire and Rescue Service Report 2019, Her Majesty's Chief Inspector of Fire and Rescue Services (HMICFRS), provided an assessment of the effectiveness and efficiency of all 45 Fire and Rescue Services in England based on inspections carried out between June 2018 and August 2019.

Pay and allowances differ under each set of terms and conditions. A number of allowances and additional payments are available for Operational employees, for example with the different duty systems, specialist roles, temporary promotions, opportunity to undertake additional hours through the bank system. Whilst some





allowances are paid to Support Services employees, the majority are paid to Operational employees, which is the largest group of employees, with the majority being males. This directly influences the gender pay gap.

## Benchmarking

With organisations being required to publish their gender pay gap data in the public domain (gov.uk website), this allows greater comparison with other organisations and the Office of National Statistics (ONS) figures. Greater transparency in pay will help to attract and retain talent and will provide the information to allow organisations to improve workplace practices, policies and procedures that will promote gender equality and ensure any remedial action is prioritised.

As detailed in Appendix 1, employer comparison data is provided covering 32 Fire Services for 2019, as detailed on the gov.uk website.

When compared to the 32 Fire Services, Buckinghamshire Fire & Rescue Service is ranked 24<sup>th</sup> with a mean gender pay gap of 15.1 per cent for 2019. The range is (-) 8.4 per cent to 37.2 per cent. A negative pay gap indicates that females earn more on average than males, and a positive pay gap indicates that males earn more on average than females. Of the 32 Fire Services, only six have reported bonus gender pay gap data. This indicates that bonus arrangements were not in operation within the majority of Fire Services in 2019.

## What information must be reported

The gender pay gap calculations are drawn from specific data each year and based on full-pay relevant employees. To be included as a full-pay relevant employee, the employee must be:

- Employed on the snapshot date; 31 March each year
- Paid their usual full-pay in the pay period ending on the snapshot date

The table below details the total number of employees in scope for 2020, compared to 2019, 2018 and 2017:

Year	Total number of employees in scope	Males	Females	Total
2020	Full-pay relevant employees	340	82	422
	Relevant employees	384	93	477
2019	Full-pay relevant employees	353	87	440
	Relevant employees	365	90	455
2018	Full-pay relevant employees	377	78	455
	Relevant employees	392	81	473
2017	Full-pay relevant employees	392	80	472
	Relevant employees	407	81	488



**Full-Pay Relevant Employees** - This is the number of employees who received their normal full-pay within the snapshot date. This informs the mean and median hourly pay gap calculations and the proportion of employees within the Quartile Pay Bands.

For 2020, the number of full-pay employees reduced by 13 fewer males and five fewer females. In comparison, for 2019, the number of full-time employees reduced by 24 fewer males and increased by nine more females.

**Relevant Employees** - This is the number of employees employed by the Service on the snapshot date. This informs the mean and median bonus pay gap calculations. The difference in numbers between relevant and full-pay relevant employees is due to 55 employees not receiving their usual full-pay within the pay period (for 2019 this was 15 employees).

For 2020, the number has increased by 19 males and increased by three females. In comparison to 2019, the number was reduced by 27 males and increased by nine females.

Whilst the Service continues to increase the percentage of females employed, the gender split for employees shows that overall females continue to be under-represented within the Service. This is due to the under-representation of females in Operational roles rather than in Support Service roles.

Below details the standard information to be disclosed by organisations as part of the gender pay gap reporting as detailed in Schedule 1 of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

**Pay:** This refers to the ordinary pay received by each full-pay relevant employee in the pay period at the snapshot date. Ordinary pay includes basic pay, allowances, paid leave and shift premium pay and calculated before deductions are made at source. This data examines:

- The difference in the mean hourly pay between male and female relevant employees as a percentage of male pay
- The difference in the median hourly pay between male and female relevant employees as a percentage of male pay
- The proportion of male and female full-pay relevant employees in the lower, lower middle, upper middle and upper quartile pay bands
- Ordinary pay does not include overtime, expenses, benefits in kind, arrears of pay, salary sacrifice schemes (such as childcare), tax credits or redundancy pay.

Ordinary pay, expressed as hourly pay, is used to calculate the mean and median gender pay gaps and the pay period informs the calculation for ordinary pay. For those employees who do not work a consistent working pattern, e.g. 37-hour week, our calculation has been averaged over a 12-week period as per Local Government Association, ACAS and Government Equalities Office guidance.



**Bonus:** Bonuses paid to full-pay relevant employees in the 12-month period ending on the snapshot date (31 March). Year on year bonuses will vary and a small movement could have a big impact on the data. This data examines:

- The difference in the mean bonus pay paid to male relevant employees and that paid to female relevant employees in the 12-months before the snapshot date
- The difference in the median bonus pay paid to male relevant employees and that paid to female relevant employees in the 12-months before the snapshot date
- The proportion of male relevant employees who were paid bonus pay and that paid to female relevant employees in the 12-months before the snapshot date



## Reportable data

In accordance with the Regulations, the Service is required to annually publish six pieces of prescribed data about the pay and bonuses of males and females employed by the Service:

### 1. Mean hourly gender pay gap

The difference between the mean hourly rate of pay for male and female full-pay relevant employees, as a percentage.

The mean gap provides an overall indication of the size of the gap. A high mean indicates that the remuneration structure disadvantages female.

The mean (average) gender pay gap for 2020 is 18.8 per cent. Both male and female hourly pay increased in the period ending on the snapshot date of 31 March 2020, however males saw a bigger increase with 6.8 per cent when compared to 2.2 per cent for females. This resulted in an overall increase of 3.7 percentage points for the mean gender pay gap for 2020.

Year	Male hourly pay £	Female hourly pay £	Pay gap £	Pay gap %
2020	19.41	15.77	3.64	18.8
2019	18.18	15.43	2.75	15.1
2018	17.36	14.47	2.89	16.6
2017	18.10	14.59	3.51	19.4

In comparison, for 2019 the mean (average) gender pay gap was 15.1 per cent. This meant that male employees earned £2.75 per hour more than females and therefore, on average, females earned approximately 85 per cent when compared to male earnings.

### 2. Median hourly gender pay gap

The difference between the median hourly rate of pay for male and female full-pay relevant employees.

The median gender pay gap for 2020 is 15.3 per cent or £2.73 per hour. As with the mean gender pay gap, both male and female median hourly pay increased in the same period, however male hourly pay increased by 7.7 per cent compared to 1.8 per cent for females. This resulted in an overall increase of 4.9 percentage points for the median gender pay gap for 2020.



Year	Male hourly pay £	Female hourly pay £	Pay gap £	Pay gap %
2020	17.83	15.10	2.73	15.3
2019	16.55	14.83	1.72	10.4
2018	16.16	14.26	1.90	11.8
2017	15.74	14.07	1.67	10.6

In comparison, for 2019 the median gender pay gap was 10.4 per cent. This meant that male employees earned £1.72 per hour more than females and therefore, on average, females earned approximately 90 per cent when compared to male earnings.

### 3. Mean bonus gap

The difference between the mean bonus paid to male relevant employees and that paid to female relevant employees.

For 2020, the mean bonus gap is 90.2 per cent. This has meant that on average, males earn £12.00 more than females on bonus payments.

Year	Male bonus pay £	Female bonus pay £	Pay gap £	Pay gap % *
2020	13.29	1.29	12.00	90.2
2019	83.81	167.89	-84.08	-100.3
2018	235.71	327.16	-91.45	-38.8
2017	230.04	354.01	-123.97	-53.9

*\* Negative pay gaps occur when females earn more on average, positive pay gaps are used when males earn more on average*

In comparison, for 2019 the mean bonus gap was -100.3 per cent. This meant that female employees received on average a bonus of £84.08 more than males.

### 4. Median bonus gap

The difference between the median bonus paid to male relevant employees and that paid to female relevant employees.

For 2020 the median bonus gap has been reduced to 4 per cent, which equates to £5.00. This translates as males earning on average £5.00 more in bonus payments than females.



Year	Male bonus pay £	Female bonus pay £	Pay gap £	Pay gap %
2020	125	120	5	4
2019	750	675	75	10
2018	1000	750	250	25
2017	500	1000	-500	-100

In comparison, for 2019 the median bonus gap was 10 per cent or £75.00. This meant that male employees received a bonus equating to £75.00 more than female employees.

## 5. Bonus Proportions

The proportion of male and female employees who were paid a bonus during the relevant 12-month pay period:

Year	Gender	Number of employees	%
2020	Males	7	1.82
	Females	1	1.08
2019	Males	32	8.8
	Females	18	20.0
2018	Males	38	9.7
	Female	22	27.2
2017	Male	44	10.8
	Female	20	24.7

In the 2020 reporting period no bonus/merit award payments were made to employees, however Long Service Awards and Honorarium payments are included in the bonus payment calculations and were paid to seven males and one female within this reporting period.

## 6. Quartile Pay Bands

The proportions of male and female full-pay relevant employees in the lower (L), lower middle (LM), upper middle (UM) and upper (U) quartiles and the equally distributed pay bands.

To determine quartiles, employees are ranked in order of their hourly rate of pay; from lowest to highest, and divided into four equal groups, according to the guidelines.

For the fourth consecutive year, the highest proportion of females are within in the lower quartile, representing 48.8 per cent of the total female workforce,

# Gender Pay Gap Report 2020



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

which is the highest percentage over the last four years. In comparison, the percentage of the total male workforce is 19.4 per cent, which is the lowest percentage over the last four years.

The highest proportion of males continues to be within in the upper quartile, representing 89 per cent of the total workforce. For the first year since reporting, there has been a decrease of females within the upper quartile. In order to improve the gender pay gap there needs to be an increased representation of females in senior roles across the Service.

For 2020:

Quartile	Male	% of total gender	% of total quartile	Female	% of total gender	% of total quartile	Total quartile
Upper (U)	94	27.6	88.7	12	14.6	11.3	106
Upper Middle (UM)	90	26.5	85.7	15	18.3	14.3	105
Lower Middle (LM)	90	26.5	85.7	15	18.3	14.3	105
Lower (L)	66	19.4	62.3	40	48.8	37.7	106
Total	340	-	-	82	-	-	422

For 2019:

Quartile	Male	% of total gender	% of total quartile	Female	% of total gender	% of total quartile	Total quartile
Upper (U)	92	27.1	86.0	15	17.6	14.0	107
Upper Middle (UM)	92	27.1	86.8	14	16.5	13.2	106
Lower Middle (LM)	85	25.0	80.2	21	24.7	19.8	106
Lower (L)	71	20.8	67.0	35	41.2	33.0	106
Total	340	-	-	85	-	-	425

# Gender Pay Gap Report 2020



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

For 2018:

Quartile	Male	% of total gender	% of total quartile	Female	% of total gender	% of total quartile	Total quartile
Upper (U)	99	26.3	87.6	14	17.9	12.4	113
Upper Middle (UM)	104	27.6	91.2	10	12.8	8.8	114
Lower Middle (LM)	95	25.2	83.3	19	24.4	16.7	114
Lower (L)	79	21.0	69.3	35	44.9	30.7	114
Total	377	-	-	78	-	-	455

In comparison, for 2017:

Quartile	Male	% of total gender	% of total quartile	Female	% of total gender	% of total quartile	Total quartile
Upper (U)	107	27.3	90.7	11	13.8	9.3	118
Upper Middle (UM)	105	26.8	89.0	13	16.3	11.0	118
Lower Middle (LM)	100	25.5	84.7	18	22.5	15.3	118
Lower (L)	80	20.4	67.8	38	47.5	32.2	118
Total	392	-	-	80	-	-	472





## Action plan: Addressing our gender pay gap

This is the fourth year of reporting the Service's gender pay gap. As already detailed within this report, many of the issues driving pay gaps requires a longer-term commitment and will be dependent upon the Service working together to drive change. The Service is committed to addressing the gender pay gap. Through the three key areas, the Service will strive to achieve a more representative workforce:

### Leading transformation

The Service will ensure that all employees are aware of the vision, values and behaviours expected within the workplace, improve the Service's performance through building a diverse workforce and ensuring employees understand how the Service operates, in order to be as effective as possible within their role

- The Service has a transparent approach to pay. On an annual basis the Pay policy is updated and following consideration and approval by the Fire Authority, published on the intranet and external website. This policy sets out the Service's approach to pay for all roles, including the approach to senior pay and bonus payments
- The Service's Equality, Diversity and Inclusion (EDI) policy demonstrates the Service's commitment to EDI, by ensuring that EDI is embedded in its culture and reflected in its people and behaviours, all of which will help to better serve the public
  - By embracing equality, we promote the policy in both employment opportunities and in the delivery of its services
  - By embracing diversity, we acknowledge the full breadth of people within the community and seeks to reflect that variety within the workforce
  - By embracing inclusion, we recognise that everyone that works for the Service has a valuable contribution to make
- The Service's Code of Conduct provides individuals with an understanding of the standards expected of employee and guides behaviour, placing an obligation on all to take responsibility for their own conduct. The Code states the Service will:
  - Ensure all employees are aware of the vision, values and behaviours expected within the workplace
  - Improve the Service's performance through building a diverse workforce
  - Ensure employees understand how the Service operates, in order to be as effective as possible within their role
- The Service strives to be a family friendly workplace, which recognises and supports employees in balancing their responsibilities of work and home. The Service's Maternity, Adoption and Parental Entitlements procedure helps to demonstrate



our commitment and support to employees and being an attractive, family friendly employer. The Service offers enhanced benefits, by going over and above statutory entitlements, and includes offering the same enhanced pay for shared parental leave, therefore encouraging individuals to share childcare more equally

- We recognise family friendly and flexible working practices are good for the Service as they help to attract and retain valuable talent and skills from a wider and more diverse pool. We are continuing to develop and update a suite of procedures within this area to help increase gender equality within the workplace
- Whilst just outside of the 2020 Gender Pay Gap reporting period, from Spring 2020 the Covid-19 global pandemic resulted in a significant amount of change within the Service. Many employees worked more flexibly in terms of hours or days they worked and where they worked. This was often as a result of balancing work with other caring responsibilities. Following the pandemic, some employees may wish to continue to undertake a degree of flexible working and by promoting flexibility the Service can support inclusion, help to reduce its gender pay gap, attract and retain talented individuals, increase productivity and support wellbeing
- We actively encourage employees to consider using flexible working arrangements where appropriate
- Structured groups have been created to drive forward equality initiatives, such as the EDI group, which includes managers, employees, trade union and staff representatives. The group supports and promotes inclusion and engagement and increases dialogue about topical issues. The group review progress against the Service's EDI objectives which are reported to the Fire Authority. In 2020 the EDI objectives were reviewed and refreshed and a report was presented at the June 2020 Fire Authority
- An equal pay audit is the most effective way of checking the Service is complying with its statutory equal pay obligations and ensuring we deliver a pay system free from gender bias. During 2020 an audit was undertaken which confirmed the Service is achieving equitable pay between genders
- We continue to strive for an inclusive culture, helping to ensure employees will want to remain with us and progress through the Service:
  - The 2017 Culture Survey results formed an action plan that managers and employees were tasked with addressing
  - In January/February 2020, the Service invited employees to complete a follow up Culture Survey, the results of which will continue to help the Service in achieving its objectives
  - The results of the 2019 HMICFRS Staff Survey are being compared against the 2017 and 2020 Culture Survey results. This will be an additional data source to help the Service develop a more inclusive culture



- We continue to make greater and more targeted use of social media to effectively promote the positive work of the Service and of our recruitment campaigns
- We continue to focus on positive action for female and BAME recruitment, with investment in social media and digital streaming marketing as part of our recruitment campaigns to target this demographic
- The Service's People Strategy 2020 to 2025 was updated and published following approval by the Fire Authority on 14 October 2020. The People Strategy provides the framework for engaging and developing employees to enable the cultural changes which will help the Service better deliver its vision and strategic priorities, whilst ensuring behaviours, values and standards are adhered to
- During 2020 we launched the new corporate website which incorporates the Service's new People Strategy 2020 to 2025
- We will continue to collaborate with other Fire Services and will increasingly collaborate with organisations who are in a position to help us reach and influence our target audience. In addition, we will collaborate more widely and with those organisations who have developed inspiring initiatives and best practice that we may learn from
- The Service has signed the National Armed Forces Covenant to promise to actively support the armed forces community. It acknowledges that we recognise the value serving personnel, reservists, veterans and military families can bring to our Service



## Attracting talent

The Service is committed to ensuring its resourcing attracts, selects, and recruits the right calibre of people to deliver its corporate priorities, aligned to workforce planning requirements. The Service will ensure it retains the skills and capability needed and employs them productively to support its corporate objectives. It is committed to establishing the right working arrangements and conditions of employment for all its employees.

- The Service's Recruitment and Selection procedure places emphasis on ensuring the right skills, attitudes and behaviours are available to deliver the Service's priorities throughout its recruitment and selection and promotion processes and includes the Service's pledge to all candidates:
  - Recruitment and selection will be fair, transparent and consistent
  - Commitment to providing processes that offer equal opportunity and avoids unlawful discrimination
  - Equal and reasonable access to information about the role, its requirements and the selection processes to be used
  - Support will be provided throughout the process, which can be tailored to individual requirements
  - Selection will be based on relevant and consistently applied criteria, using methods which are reliable, objective and guard against bias. All those involved in the recruitment and selection process will be appropriately trained
  - Selection will be based on merit and focus on candidates meeting the essential criteria and required behaviours
  - Individuals will be encouraged to develop their skills and have the opportunity to learn and develop
- We continue to support the Networking Women in the Fire Service programme, hosted by the Fire Service College. In 2019 four places were funded and a further four places were approved for 2020, however due to the Covid-19 global pandemic the event did not go ahead
- Apprentice recruitment is structured with the aim of attracting a diverse pool of applicants, reflective of the community
- A review of apprentice recruitment has been commissioned in order to understand what went well and establish any learns, with the aim of improving future processes
- To ensure recruitment could continue during the Covid-19 global pandemic, whilst adhering to the strict guidelines, the Service optimised virtual recruitment awareness evenings and introduced online psychometric testing to remove the need for physical attendance. This has increased the number of applicants due to its accessibility and flexibility



- A structured interview process is used in all recruitment and promotion activity. Structuring interviews so the same questions are asked to all candidates, in the same order, format and responses assessed using a standardised criterion in order to reduce unconscious bias in processes
- We continually review and update our recruitment processes, using fair and transparent processes, ensuring any learns are fed into future recruitment activity
- In July 2020 a number of senior management level assessment and development centres were held. These were opened up to internal and external applicants to enable the Service to sufficiently replenish its development pools and implement its established succession plans
- We ensure through the applicant sifting processes that information on protected characteristics is removed to eliminate the possibility of unconscious bias
- To reduce potential prejudice and bias in recruitment and selection, unconscious bias training is delivered to those who undertake interviewing
- The three Thames Valley Fire Services are progressing common approaches to operational On-call firefighter recruitment. This joint working initiative is an opportunity to promote careers within the Fire Service and raise awareness across community groups with the aim of improving employee diversity
- Collaboration with Thames Valley Police on apprenticeships and promoting careers for young people is well established
- The Service has pledged to support the Armed Forces Covenant within its recruitment strategy, including Career Transition Partnership's, establishing a tailored employment pathway for veterans, service leavers and supporting the employment of armed forces spouses and partners. Advertising job opportunities through armed forces friendly recruitment agencies and charities and recognising relevant military qualifications in our recruitment/application processes



## Supporting development

The Service strives to create a sustainable workforce through medium to long term strategic planning, treating employees as assets enabling the Service to plan for the future with regards to the workforce requirements. By creating and maintaining a sustainable workforce requires the Service to take appropriate action to:

- Recruit and retain the right workforce
- Address key future and occupational skill shortages
- Promote jobs, careers and the concept of employability
- Identify, develop and motivate talent
- Address diversity and inclusion issues

- Workforce diversity data is collated, reviewed and reported, which ensure the Service is focused and able to make decisions to improve results, the data details:
  - The numbers of males and females within the Service
  - The numbers of males and females at each level of the Service
  - The proportion of males and females applying for roles and being recruited
  - The proportion of males and females applying for assessment processes and being promoted
- There is a commitment to improve the breadth of diversity-related data available about the workforce. Submitting sensitive personal information is optional, however it is encouraged, as this data is an important component to identifying inequality, initiating activity and evaluating progress to meet legislation under the Equality Act (2010)
- Our aim is to continue to improve diversity data and the utilisation of the data across all parts of the existing workforce. For example, at various stages of the employee lifecycle and during recruitment processes to see why females and BAME's are de-selected from the process. This data will be used to inform decisions
- We will extend our evidence gathering to include data on the following additional areas:
  - Analysis of fall-out rates during recruitment processes and exploration of alternate recruitment practices, which will include direct entry recruitment
  - The proportion of males and females leaving the Service and the reasons why
  - Analysis on training spend broken down by males and females



- Determine any structural barriers to promotion opportunities
- First time/newly promoted managers are supported through a structured induction programme; developing skills and self-confidence through core management modules and individual coaching
- Leadership training and opportunities for development are available to all employees, such as job shadowing and acting up/temporary promotion, so that individuals can experience the variety of roles within the Service, providing wider organisational awareness and benefiting both the individual and the Service
- We support the Service and its employees, promoting high performance and continuous improvement. Working collaboratively and inclusively, we ensure employees perform the best they can by supporting them to acquire, maintain and continuously develop the appropriate technical and professional skills and underpinning knowledge specific to their role
- In September 2020 a report detailing the outcomes from the most recent 2020 Business Continuity and Resilience Workforce and Succession Planning review provided reassurance to the Executive Committee that the necessary safeguards and contingency plans are in place to future proof the Service, mitigating risk and optimising opportunities during a period of significant change and increasing demands
- In 2020 we launched a renewed and refreshed appraisal system. The revised process is electronic, promoting accessibility and ease of completion. This system enables managers and employees to have more meaningful and productive conversations about their performance and development, incorporating the Services core values and behaviours

This page is intentionally left blank



Employer	% Difference in hourly rate (Mean)	% Difference in hourly rate (Median)	% Women in lower pay quartile	% Women in lower middle pay quartile	% Women in upper middle pay quartile	% Women in top pay quartile	% Who received bonus pay (Women)	% Who received bonus pay (Men)	% Difference in bonus pay (Mean)	% Difference in bonus pay (Median)
London Fire Brigade	-8.4	-2.8	18.3	5.8	8.7	26.1	0	0	0	0
Kent Fire & Rescue Service	-3.9	2.7	26.2	11	7.7	21.5	0	0	0	0
Greater Manchester Combined Authority	-2.7	0.1	37.9	6	15.2	28.1	0	0	0	0
Lancashire Fire & Rescue Service	-2.6	16.1	6.7	35	15.5	10.2	0	0	0	0
Shropshire & Wrekin Fire Authority	6	0	29	6	14	12	0	0	0	0
Staffordshire Fire & Rescue Services	6.6	14.1	36	16	7	19	0	0	0	0
North Wales Fire & Rescue Service	6.7	9.8	18	19.7	22	13.7	0	0	0	0
Royal Berkshire Fire & Rescue Service	6.7	4.1	36	10	20	20	0	0	0	0
Essex County Fire & Rescue Service	7.3	10.6	31.3	11.6	10.9	12.1	0	0	0	0
County Durham & Darlington Fire & Rescue Service	9.8	4.8	33.3	4.2	9.2	14.8	0	0	0	0

Employer	% Difference in hourly rate (Mean)	% Difference in hourly rate (Median)	% Women in lower pay quartile	% Women in lower middle pay quartile	% Women in upper middle pay quartile	% Women in top pay quartile	% Who received bonus pay (Women)	% Who received bonus pay (Men)	% Difference in bonus pay (Mean)	% Difference in bonus pay (Median)
Dorset & Wiltshire Fire & Rescue Service	10.8	12.5	39	10	11.8	13.7	0	0	0	0
West Midlands Fire Service	11.3	6.3	50.4	6.2	14	17.8	0	0	0	0
Nottinghamshire Fire & Rescue Service	11.4	2.9	28.6	8.3	24.4	10.2	0	0	0	0
Devon & Somerset Fire & Rescue Service	11.6	11.8	30	8	6	11	0	0	0	0
Merseyside Fire & Rescue Service	11.7	3.9	50.2	22.6	16	17	0	0	0	0
Northamptonshire Fire & Rescue Service	12	6	25	17.4	14.5	6.1	0	0	0	0
Hampshire Fire & Rescue Service	12	8.3	13.7	24.9	6.1	13.4	0	0	0	0
South Yorkshire Fire & Rescue	12.4	12	44.7	9.8	12.9	13.3	22	68.6	7.3	0
Bedfordshire Fire & Rescue Service	12.7	8.3	53	12	17	22	11.8	88.2	2.6	0

Employer	% Difference in hourly rate (Mean)	% Difference in hourly rate (Median)	% Women in lower pay quartile	% Women in lower middle pay quartile	% Women in upper middle pay quartile	% Women in top pay quartile	% Who received bonus pay (Women)	% Who received bonus pay (Men)	% Difference in bonus pay (Mean)	% Difference in bonus pay (Median)
Mid & West Wales Fire & Rescue Service	12.8	14.1	32	8	10	9	0	0	0	0
South Wales Fire & Rescue Service	14	17.3	33	8	5	10	0	0	0	0
West Yorkshire Fire & Rescue Service	14.7	7.3	38.7	8.3	13.6	11.1	0	0	0	0
Tyne & Wear Fire & Rescue Service	15	10	48	13	17	13	0	0	0	0
Buckinghamshire & Milton Keynes Fire Authority	15.1	10.4	33	20	13	14	20	8.8	-100.3	10
Humberside Fire & Rescue Service	15.1	23.5	42	12	11	12	0	0	0	0
Cambridgeshire Fire & Rescue Service	15.7	12.2	32.7	24.7	11.3	13.4	26.6	55.2	9.9	0
East Sussex Fire & Rescue Service	15.9	12.2	44.3	8	20.9	10	0	0	0	0
Leicestershire Fire & Rescue Service	21.3	23.7	54.5	9.8	9	13.1	0	0	0	0
Cheshire Fire Authority	24.6	20.1	42.3	14	5.8	5.8	13.3	56.8	-14.3	0

Employer	% Difference in hourly rate (Mean)	% Difference in hourly rate (Median)	% Women in lower pay quartile	% Women in lower middle pay quartile	% Women in upper middle pay quartile	% Women in top pay quartile	% Who received bonus pay (Women)	% Who received bonus pay (Men)	% Difference in bonus pay (Mean)	% Difference in bonus pay (Median)
Hereford & Worcester Fire & Rescue Service	28.4	26.3	31.8	17.5	5.8	4.7	0	0	0	0
Chubb Fire & Security Ltd	36.4	40.5	63	29	8	10	38.1	65.8	46.2	26.2
Hall & Kay Fire Service Ltd	37.2	37.2	38	23.9	8.1	0	0	8.9	0	0



# Buckinghamshire & Milton Keynes Fire Authority

<b>MEETING</b>	Executive Committee
<b>DATE OF MEETING</b>	24 March 2021
<b>OFFICER</b>	Mark Hemming, Director of Finance and Assets
<b>LEAD MEMBER</b>	Councillor David Hopkins
<b>SUBJECT OF THE REPORT</b>	<b>Firefighters' Pension Scheme – Age Discrimination Remedy and Employment Appeal Tribunal Judgment</b>
<b>EXECUTIVE SUMMARY</b>	<p>This report outlines the position in relation to immediate detriment cases under the McCloud/Sargeant ruling. The Government has considered the consultation responses on proposals to remedy the discrimination found in this case and issued its response.</p> <p>Informal guidance has been issued by the Home Office in relation to 'immediate detriment' cases as changes to legislation is not likely to be in place for some time. Legal advice has been sought on whether it was lawful and appropriate, for the Authority to apply this guidance in the circumstances indicated.</p> <p>The Committee is invited to consider the report and resolve that all firefighters who were members of the Firefighters' Pension Scheme (FPS) 1992 or New Firefighters' Pension Scheme (NFPS) 2006 ("their old schemes"), subject to the criteria detailed in this report, are treated as if in their old scheme. This resolution applies to immediate detriment cases and those due to taper from the date of this resolution, where the calculation of benefits under legacy scheme for the remedy period is possible.</p>
<b>ACTION</b>	Noting and Decision.
<b>RECOMMENDATIONS</b>	<p>That the Executive Committee, on behalf of the Authority (the Scheme Manager of the Authority's firefighter pension schemes):</p> <ol style="list-style-type: none"> <li>1) Note the contents of the report;</li> <li>2) Resolve that all firefighters who were members of the FPS 1992 or NFPS 2006 ("their old schemes") who: <ol style="list-style-type: none"> <li>a) belonged to those schemes at 1 April 2012; and</li> <li>b) continued to do so on 31 March/1 April 2015;</li> </ol> </li> </ol>

	<p>and</p> <p>c) who did not qualify for full protection from being transferred into the new 2015 Pension Scheme under the Public Service Pensions Act 2013 and the transitional regulations made thereunder; and</p> <p>d) who have been transferred, or are liable to be transferred at the end of their tapered protection, into the new 2015 Scheme;</p> <p>are now deemed to be members of their old schemes and if still on tapered protection are no longer liable to be transferred; and</p> <p>3) Resolve, in regard to those who were transferred into the 2015 Scheme and are not still on time limited tapered protection from such a transfer, they are deemed not to have left their old schemes as a result of any compulsory transfer; and</p> <p>4) Resolve those members now deemed to be restored into their old schemes as set out above, or no longer liable to be transferred out of their old schemes as identified above, are to receive pension benefits under, and are to be treated as being subject to, the terms of their old schemes.</p>
<p><b>RISK MANAGEMENT</b></p>	<p>There are significant changes to firefighter pension schemes and the outcomes of the consultation will result in wide ranging impacts for the administration of firefighter pension schemes for many years to come.</p> <p>There are likely to be challenges in undertaking calculations for some immediate detriment cases because guidance on some technical aspects do not exist. This may result, in some cases, in insufficient information being available to the member concerned to inform their decision or result in the pension administrator being unable to calculate benefits.</p> <p>There is a risk that individuals may make decisions based on information at the time but later find themselves responsible for a tax charge linked to that decision. It is also not clear whether tapered members have to forfeit any deferred benefits in the FPS 2015 scheme if they choose FPS 1992 pension for the remedy period when making immediate detriment choices. To try and mitigate the risk, all individuals will be required to sign a declaration to indicate they understand the request they are making and potential consequences of their decisions, albeit this may not be sufficient to avoid later claims.</p> <p>Whilst every effort will be made to ensure the correct calculation and payment of benefits is put in place,</p>

	<p>there is a risk that benefits may be calculated incorrectly due to the complexities associated with contributions rates, taxation and the period of time over which recalculation of benefits need to be undertaken. There has been an indication from the FBU nationally that legal action will be taken against those FRAs who do not seek to apply the immediate detriment guidance and give eligible members the choice. Affording individuals the choice will therefore limit the potential for further challenge.</p>
<b>FINANCIAL IMPLICATIONS</b>	<p>It is not possible at this stage to identify the specific costs associated with the recommendations of this report as these will be identified on a case by case basis. Using the immediate detriment guidance note now will not increase any direct amounts payable, it will simply bring some of those costs forward. However, if interest is applied as part of the final solution it may actually result in lower overall costs on the basis that using the guidance now would close the period that interest is calculated over, instead of extending it to 2022 for the 16 cases identified.</p> <p>It is expected that the 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 circumstances individuals may also incur additional costs as a result of a change in pension schemes e.g. annual allowance costs.</p> <p>In not applying the guidance, further legal action could be taken by the Fire Brigades' Union and result in further litigation costs.</p> <p>Given the absence of some technical information to support calculations there is potential for error. Whilst the pension administrator will use best efforts in any calculation and payment of benefits, the Authority may be required to meet any financial liabilities arising in these circumstances.</p>
<b>LEGAL IMPLICATIONS</b>	<p>Under the current Scheme of Delegation to Officers (June 2013) the Chief Fire Officer has discretion from the Authority "within the approved budgets and policies, [to] exercise all matters of day-to-day administration and operational management of the services and functions".</p> <p>Unless expressly reserved to the Authority or taken to the Authority for timetabling reasons, the Executive exercised statutory discretion under the 1992 FPS and 2006 FPS, and under the Local Government Pension Scheme.</p> <p>Reliance on the guidance note does not provide the Authority with any legal protection or indemnify it against any claim or costs arising from acting on the guidance. However, the Authority, as the Scheme</p>

	<p>Manager, can rely on the Employment Appeal Tribunal's Judgment and Section 61 and 62 of the Equality Act in making its decision regarding Immediate Detriment cases and those due to taper to the 2015 scheme.</p> <p>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 resolve the matter, the issue can be taken to The Pension Regulator.</p> <p>The legal advice provided to support this paper is legally privileged.</p>
<b>CONSISTENCY WITH THE PRINCIPLES OF THE DUTY TO COLLABORATE</b>	<p>BFRS and Royal Berkshire Fire and Rescue Service (RBFRS) share the same pension administrator and have sought to understand the position jointly, seeking advice and considering additional pension support that can be shared between the two services.</p>
<b>HEALTH AND SAFETY</b>	<p>No direct impact.</p>
<b>EQUALITY AND DIVERSITY</b>	<p>To reduce the risk of discrimination, this report proposes that in applying the immediate detriment 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.</p> <p>The public sector equality duty requires public bodies to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010. The resolutions in this report aim to meet this duty.</p>
<b>USE OF RESOURCES</b>	<p>See Financial Implications.</p>
<b>PROVENANCE SECTION &amp; BACKGROUND PAPERS</b>	<p>Interim Order made by the Employment Tribunal</p> <p>Public service pension schemes: changes to the transitional arrangements to the 2015 schemes consultation document  <a href="https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes">https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes</a></p> <p>Fire Authority. 14 October 2020. Public Service Pension Scheme Consultations.  <a href="https://bucksfire.gov.uk/documents/2020/10/item-9-public-service-pension-scheme-consultations.pdf/">https://bucksfire.gov.uk/documents/2020/10/item-9-public-service-pension-scheme-consultations.pdf/</a></p> <p>FPS Bulletin 37 – September 2020  <a href="https://www.fpsregs.org/images/Bulletins/Bulletin-37-September-2020/Bulletin-37.pdf">https://www.fpsregs.org/images/Bulletins/Bulletin-37-September-2020/Bulletin-37.pdf</a></p> <p>Public service pension schemes: changes to the</p>



	transitional arrangements to the 2015 schemes – Government response to consultation HM Treasury CP373 February 2021 <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/958635/Public_Sector_Pensions_Consultation_Response.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/958635/Public_Sector_Pensions_Consultation_Response.pdf</a>
<b>APPENDICES</b>	Appendix A – Report Summary Appendix B – Home Office Immediate Detriment Guidance Note Appendix C – ( <b>EXEMPT FROM PUBLICATION</b> ) Legal Advice (Legally Privileged) Appendix D – LGA information guidance note – October 2020 Appendix E - ( <b>EXEMPT FROM PUBLICATION</b> ) Legal advice received from the LGA. 23 October 2020
<b>TIME REQUIRED</b>	30 Minutes
<b>REPORT ORIGINATOR AND CONTACT</b>	Mark Hemming <a href="mailto:mhemming@bucksfire.gov.uk">mhemming@bucksfire.gov.uk</a>

This page is intentionally left blank

## **Appendix A – Report Summary**

### **1. Background**

- 1.1. In 2015 most public service pension schemes, including the Firefighters' Pension Scheme, were reformed. These reforms included 'transitional protection' for people closest to retirement.
- 1.2. 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' Pension Schemes. The government stated that it respects the decision and has confirmed that it will remove the difference in treatment across all main public service pension schemes.
- 1.3. The government consulted on proposals to remove this discrimination in 2020 and a response to the consultation was presented to the Fire Authority on 14 October 2020. On 4 February 2021, the government issued its response to the consultation indicating its intention to proceed with the deferred choice underpin.
- 1.4. The changes proposed in the consultation to remove the discrimination will apply across 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 of 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 five years.

### **2. Immediate Detriment**

- 2.1. Whilst the response to the consultation has now been 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 requested that the Home Office issue guidance to employers on dealing with "immediate detriment" cases.
- 2.2. The requested guidance was issued on 21 August 2020 and is attached at Appendix B. Clarity on the guidance has been sought both via the Local Government Association (LGA) and locally to assist fire and rescue authorities determine what action should be taken. This clarity is required in relation to the legal status of the note, who it applies to i.e. all scheme members or only those who lodged a claim with the Employment Tribunal and to identify any consequences arising from incorrect payment of benefits and any resulting unintended discriminatory treatment.
- 2.3. In defence of the original discrimination claim, the LGA argued on behalf of the fire and rescue authorities (FRAs) who were also listed as respondents along with government, that, as they were required by law to follow the pension regulations in force and so had no choice but to implement the transitional protections, they had a defence to unlawful age discrimination under Schedule 22 of the Equality Act 2010. The outcome of this case was received on 12 February 2020. The Employment Appeal Tribunal's judgment is that the FRAs cannot rely on the Schedule 22 defence where an employer is required by legislation to act towards its employees in a way which is discriminatory. The Tribunal also identified 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.
- 2.4. The ruling provides some expectation that FRAs deal with immediate detriment cases to the extent that they are able within the terms of the government guidance. Furthermore, it is understood that the Home Office and HMT are relying on Section 61 of the Equality Act to provide legal underpinning to the note for non-claimants.

- 2.5. There are currently 15 individuals in BFRS that are deemed to be immediate detriment cases with a number of those being eligible to retire immediately / within the next few months. As amendments to the regulations will not be in place for some time, legal advice was sought on whether it was lawful and appropriate, for the Authority to apply the immediate detriment guidance issued by the Home Office.
- 2.6. Legal advice confirms that the Immediate Detriment Guidance Note issued by the Home Office does not have legal status and reliance on it would not provide the Authority with any legal protection or indemnify it against any claim or costs arising from acting on the guidance.
- 2.7. However, the Authority is able to rely on the judgment from the Employment Appeal Tribunal (EAT), and, in particular, can rely on the ruling that Section 61 of the Equality Act 2010 means that the discriminatory provisions in a pension scheme are automatically, by law, set aside and disapplied. In addition, Section 62 empowers trustees and managers of pension schemes to make non-discrimination alterations to a scheme issued through resolutions effecting those changes.
- 2.8. The Executive Committee, in its position on behalf of the Scheme Manager, is therefore invited to resolve the recommendations set out at 2.1 – 2.4 above.

### **3. Members Due to Taper**

- 3.1. There are a small number of individuals due to taper to the 2015 pension scheme from their legacy scheme, before 31 March 2022. 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 proposed as a result of the EAT judgment that individuals, now remain in their legacy scheme until further details are known and new regulations are drafted.

### **4. Pension Administration**

- 4.1. The LGA has drafted a note (Appendix D) to provide additional information to FRAs on the key consideration of implementing the Home Office informal guidance. This includes identifying some of the legal and technical considerations.
- 4.2. There are still many technical areas to be resolved and clarified in relation to remedy as pension benefits will need converting from one scheme which is a Career Average Revalued Earnings (CARE) scheme to final salary scheme benefits. As 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 challenges for pension administrators.
- 4.3. 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. It is expected that the LGA will work with administrators to provide example calculations to assist with bringing benefits into payment where the guidance is not explicit. Individuals will need to be provided with sufficient information to make informed decisions about their benefits and what action to take.
- 4.4. West Yorkshire Pension Fund, BFRS' administrators is currently in the process of seeking its own legal advice in relation to the provision of benefit calculations and until such time as the detail to support the remedy position is clarified by government and software systems can be built or adapted to deal with the complexity associated with the remedy actions, all immediate detriment calculations will need to be undertaken manually.
- 4.5. Affected individuals will need to sign a disclaimer to acknowledge uncertainties in the position and that any overpayments will be recovered. BFRS may also need sign a similar document as employers when instructing WYPF accepting liabilities

arising from the instruction.

- 4.6. To inform calculations, HR staff are gathering the relevant employment and pay details back to 2015 for each case. The process of preparing for and discharging calculations for each staff member in this position is time- consuming and administratively burdensome for both the Service and the administrator.
- 4.7. RBFRS and BFRS are exploring the provision of a shared resource in recognition of the challenges to keeping up to date with developments in pension's legislation and administration and identifying how FRAs should respond to these changes. A joint Pensions Officer position is to be established to aid governance and management of this complex subject. Working closely with the LGA, regional pension groups and our pension administrator they will work with key officers to maintain oversight, ensure the correct preparation activity is undertaken and effective and tailored communication is issued to individuals and staff groups.

This page is intentionally left blank

## **Firefighters’/Police Pension Schemes**

### **McCloud/Sargeant ruling – Guidance on treatment of ‘Immediate Detriment’ cases**

#### **1.0 Purpose of guidance**

- 1.1 The purpose of this note is to provide informal guidance to Fire and Rescue Authorities (in England) and Police Forces (in England and Wales) on processing ‘immediate detriment’ cases (see definition in section 3 of this guidance) in advance of a decision on the Government’s final approach to removing the age discrimination as found in the McCloud/Sargeant Employment Tribunal litigation.
- 1.2 The guidance is provided at the request of the Fire Brigades Union and for the purpose of assisting employers with “immediate detriment” cases. For that reason, it is only relevant to members of the Police and Fire Pension Schemes.
- 1.3 Further, it must be noted that the issues raised in this document are the subject of both ongoing litigation and the Government’s consultation. As such this guidance will be kept under review to ensure that it is consistent with any judgment or outcome from the consultation and will be amended to give effect to any such judgement or outcome.
- 1.4 In this guidance a reference to the “2015 scheme” is to the applicable reformed Police or Fire CARE Pension Scheme, and a reference to the “legacy scheme” is to the applicable Police or Fire Pension Scheme that applied to a member before 1 April 2015.
- 1.5 The term ‘pension authority’ refers to the appropriate Fire and Rescue Authority or Police Force.

#### **2.0 Background to McCloud/Sargeant ruling**

- 2.1 In 2015 most public service pension schemes, including the Firefighters’ Pension Scheme and Police Pension Scheme, were reformed. These reforms included ‘transitional protection’ for people closest to retirement.
- 2.2 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 Judges’ Pension Schemes. The Government respects the Court’s decision and has confirmed that it will remove the difference in treatment across all main public service pension schemes, including the Police Pension Scheme.

- 2.3 The Government is currently consulting on proposals to remove this discrimination. Detail on the current proposals can be accessed here: <https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>. The changes proposed in the consultation to remove the discrimination will apply across all the main public service pension schemes and provide members with a choice of 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 in the consultation paper.
- 2.4 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.

### 3.0 What are 'Immediate Detriment' cases

- 3.1 For the purposes of this guidance, immediate detriment includes those scheme 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, and who did not benefit from full protection and were moved into the 2015 Scheme on or after 1 April 2015:
- I. who become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); **OR**
  - II. who don't qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do so under the IHR arrangements in their legacy scheme.
- 3.2 Any scheme members that fall within either of the two categories above can have their pensions calculated and put into payment according the guidance set out in section 5 below.
- 3.3 This guidance **should not** be applied to scheme members who have already retired and are in receipt of their pension payments. These cases are more complex to address, especially due to complexities in rectifying the member's tax position.
- 3.4. It is important **to note** that ALL cases processed using this guidance will need to be revisited once the Government's approach to removing the discrimination has been finalised, due to relevant matters that are currently subject to consultation, to include interest on contributions etc. This is likely to be after April 2022.

### 4.0 Guidance on treating immediate detriment cases

- 4.1 There are some transitional scheme members who have already been dismissed from work without a pension as they did not qualify for an ill-health pension under the 2015 Scheme. In addition, there are transitional members who are now



approaching retirement and want to take their full pension benefits under their legacy pension scheme. This guidance provides employers with advice on how these cases can now be processed in advance of final remedy implementation.

*Transitional members who are already in receipt of a pension*

- 4.2 There are cases (in respect of both ill-health/ordinary retirements) where transitional members have already retired and are currently receiving an ill-health/ordinary pension. It is recognised that many of these members' pensions are lower than they would be if they were paid under the member's legacy pension scheme. For example, where a transitional member has retired on ordinary grounds below age 55, their benefits accrued under the 2015 Scheme will currently be deferred until their State Pension Age.
- 4.3 These cases involve complex tax implications, employee/employer contribution adjustments etc. which still need to be resolved – these points are currently being consulted on and a final approach has yet to be confirmed. We will look to process these cases as a priority as soon as these outstanding points have been resolved.

## **5.0 Giving scheme members a choice**

- 5.1 Scheme members falling under the scope of this guidance will effectively be given the opportunity to take all their pension benefits accrued between 1 April 2015 and 31 March 2022 under their legacy pension scheme, rather than take some benefits under the 2015 Scheme.
- 5.2 Pension authorities can now offer this choice to all those scheme members who:
- have transitioned into the 2015 Scheme who are approaching retirement; and
  - have retired due to poor health but who didn't qualify for an ill-health pension under the 2015 Scheme regulations but would qualify under their legacy scheme regulations.
- 5.3 In order to provide this choice, pension authorities will need to present two sets of pension entitlement quotes to each qualifying scheme member. Whilst not an exhaustive list, each quote should set out the main pension benefits that they would receive under each choice, to include: recurring annual pension (before and after commutation), commutation retirement lump sum entitlement, employee contributions owed/refunds due etc. Each scheme member should be required to provide written confirmation of their election.
- 5.4 There remain a number of outstanding issues that will not be resolved until such time that the Government finalises its approach to removing the discrimination identified by the McCloud/Sargeant ruling (see unresolved pensions issues section below). Each scheme member will need to agree to accept the Government's final approach and any future adjustments that this requires.

- 5.5 Once written confirmation has been received from each member, the pension authority can put the pension chosen into payment.

***Unresolved pension issues:***

- 5.6 As explained above, there remain outstanding issues that will not be resolved until the Government finalises its approach to removing the discrimination. The Government is currently consulting on its proposed approach and will finalise its proposals following careful consideration of stakeholder responses.

***Recovery of outstanding employee contributions***

- 5.7 Any scheme members who choose to take their full pension benefits under their legacy scheme will owe employee contributions or be entitled to a refund. Any employee contributions owed will need to be paid before the member's legacy scheme pension can be put into payment.
- 5.8 Any contributions owed will need to be based on the pay that is considered to be pensionable under the legacy scheme, which may vary from that pay which is considered pensionable under the 2015 Scheme. It will be for employing pension authorities to make an assessment for each member and seek payment. The member has a choice to pay any outstanding employee contributions from their retirement lump sum or from any other personal source. Any refunded employee contributions can be repaid to the member from the employer's local pension fund account.
- 5.9 A final decision has yet to be made in respect of whether, and at what rate, interest should be applied to contributions owed by employees should they elect to receive benefits from their legacy scheme during the remedy period (2015 to 2022). As the Government's approach to this issue has yet to be confirmed, this guidance proposes that interest is not applied to employee contributions owed at this time.
- 5.10 Notwithstanding this, any immediate detriment cases where the pension is put into payment now may need to be revisited if the Government's final approach includes the application of interest on owed employee contributions. Pension authorities should ensure that any members making a decision under this guidance are aware of, and accept, this condition.

***Tax relief on employee contributions***

- 5.11 Where possible, pension authorities should ensure that the employee contributions owed are repaid by the member before they leave service to ensure that any tax relief entitlement can be applied. Where this is not possible, for example where an individual has retired previously on ill-health grounds and did not qualify for a pension under the 2015 Scheme but would qualify under their legacy scheme, the

scheme member will have to wait until the Government's final approach to removing the discrimination has been implemented to receive any appropriate reimbursement. This is likely to be after April 2022.

*Recovery of outstanding employer contributions (Firefighters' Pension Schemes only)*

5.12 The Firefighters' Pension Schemes are in a unique position compared to other public sector pension schemes in that they do not have a uniform employer contribution rate across all schemes. As such, any scheme member who elects under this guidance to take their full pension benefits under their legacy scheme will impact on the corresponding employer contributions owed in respect of that member during the period that they were in the 2015 Scheme.

5.13 It will be for each employing Fire and Rescue Authority (FRA) to recalculate the contributions that they, as the employer, should have paid under the legacy scheme for each member and pay any shortfall into their pension fund account. Where this results in an excess of employer contributions having been paid, these can be refunded to the employer from their pension fund account.

*Treatment of Cash Equivalent Transfer Value (CETV) transfers into the 2015 Scheme*

5.14 It is recognised that there will be some transitional scheme members who will have transferred benefits from an external pension arrangement into the 2015 Scheme. Where a scheme member elects to take all their benefits from the legacy scheme, the original transfer-in (the Cash Equivalent Transfer Value) will need to be recalculated to determine the amount of pensionable service that should be purchased in the member's legacy scheme.

5.15 The recalculation of the transfer-in will need to be undertaken by pension authorities as if it had been taken at the time of the original transfer, using the actuarial factors that were applicable at that time.

5.16 Where conversion of transferred benefits from the 2015 Scheme to the legacy scheme results in the pension input amount changing due to actuarial adjustment, then an individual's Annual Allowance position may need to be reassessed.

*Treatment of purchased added pension in the 2015 Scheme*

5.17 Some transitional scheme members will have elected to make voluntary contributions to purchase 'additional pension' in the 2015 Scheme. For those members that elect to take their full benefits under the legacy scheme, any employee contributions paid in respect of the additional pension purchased will need to be converted to the equivalent value of additional pension that could have been purchased in the member's legacy scheme.

- 5.18 The legacy schemes do not currently have ‘additional pension’ provisions. Additional pension purchased in the 2015 Scheme is one of the unresolved issues that the consultation is considering.

*Scheme PAYS– treatment of debits applied to 2015 Scheme pension*

- 5.19 There may be instances where transitional members have previously incurred certain tax charges and have elected for these to be paid under Scheme PAYS with the associated pension debit applying to the 2015 Scheme benefits.
- 5.20 Where this is the case and the member elects for all their pension benefits to be paid from their legacy scheme, there may be subsequent changes to the tax charges retrospectively. If this is the case, pension authorities will need to recalculate the pension debit. The recalculation of the pension debit will need to be undertaken by pension authorities as if it had been taken at the time of the original Scheme PAYS elections, using the actuarial factors that were applicable at that time.

*Revisiting AA tax assessments on previous years*

- 5.21 Under current arrangements, there is a four-year statutory time limit for reassessing tax for previous years. This means that where a scheme member’s pension benefits change for past years, altering their tax position, HMRC can collect and refund tax where it is owed for the current tax year, and the four full tax years immediately preceding the point at which the individual’s benefits change.
- 5.22 Where a scheme member’s benefits change due to an election under this guidance so that additional tax is due for a tax year that sits outside the four previous tax years, HMRC cannot collect that additional tax. As such, the member will not be required to pay this. However, the recalculation will still be necessary to ensure the member’s tax position going forward is correct.
- 5.23 The Government has confirmed that where a scheme member’s benefits change so that they are owed a reimbursement of any tax charges paid since April 2015, they will get a full refund for the full period. The scheme member will initially be able to seek a tax refund from HMRC in respect of any overpaid tax charges in the previous four tax years.
- 5.24 Any further entitlement to a tax refund for years outside the four-year period will be refunded by means of compensation payments, which are expected to be paid after the Government finalises its approach to removing the discrimination, likely to be after April 2022.

**Police Workforce and Professionalism Unit, Home Office**

**21 August 2020**



## Information

# Immediate Detriment

## Purpose

1. The purpose of this information note is to provide Fire and Rescue Authorities (FRAs) with additional information to the immediate detriment guidance note supplied by Home Office on 21 August 2020. It does not give detailed guidance on the process of payment of benefits.
2. This note will be subject to any changes on the note supplied by Home Office.

## Background

3. Following the 2018 Court of Appeal judgment in Sargeant, an [interim order was made by the Employment Tribunal](#) on **18 December 2019** which provided that members who had brought claims (claimants) are entitled to be treated as if they remained in the FPS 1992, as long as they were in the scheme at 31 March 2012 **and** 31 March 2015 *ending the final determination of the issues of remedy, all existing Claimants who, by reason of their age would not satisfy paragraphs 12(2)(c), 12(3)(c), 13(e) or 14(e) of Schedule 2 to the 2014 English Regulations or the 2015 Welsh Regulations from 31st March 2015 are entitled to be treated as satisfying those paragraphs from that date.*
4. We communicated the following Government position in [FPS Bulletin 28 - January 2020](#):  
  
*...all entitlements including immediate ones should proceed under the 2015 scheme rules for the time being. This includes those who are due to taper into the 2015 scheme should continue to taper, and those due to retire normally at a later date should continue in the 2015 scheme.*
5. The bulletin asked FRAs to provide numbers of members who were likely to have an immediate event in 2020 and recommended some immediate steps that authorities could take in relation to ill-health assessments.
6. The SAB used the information provided to request guidance on dealing with immediate events as per their [paper submitted to Home Office in March 2020](#).

7. On 21 August 2020, at the request of the Fire Brigades Union (FBU), the Home Office issued a note<sup>1</sup> directly to English FRAs via finance leads titled 'McCloud / Sargeant ruling – Guidance on treatment of 'Immediate Detriment' cases' for both the Firefighters' and Police Pension Schemes.

## Home Office immediate detriment guidance

8. The note headed 'McCloud / Sargeant ruling – Guidance on treatment of 'Immediate Detriment' cases' for both the Firefighters' and Police Pension Schemes is available on the dedicated [Age Discrimination Remedy \(Sargeant\) page](#).
9. The note is labelled as informal guidance only and notes that the issues raised are subject of both ongoing litigation and the UK Government's consultation. It does not confirm on what basis FRAs may rely on the note for the purpose of making pension payments.
10. The scope of the note includes 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, and who did not benefit from full protection and were moved into the 2015 Scheme on or after 1 April 2015:
  - 10.1. who become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); **OR**
  - 10.2. who don't qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do under the IHR arrangements in their legacy scheme.
11. It is unclear whether the note applies to FPS 2006 members, however, based on the scope detailed above:
  - 11.1. For ordinary retirement, it is likely to only apply to special members (who have a normal retirement age of 55) and a very small cohort of standard members who would want to have benefits **paid from their legacy scheme** (i.e. do not accept deferred FPS 2015 benefits).
  - 11.2. For ill-health, it is unlikely that special and standard members of the 2006 scheme will qualify because FPS 2015 has the same criteria for ill-health as FPS 2006, and therefore if they do not qualify for lower tier ill-health in FPS 2015, they would also not qualify under FPS 2006.

---

<sup>1</sup> <http://www.fpsboard.org/images/PDF/Boarddocs/Remedy/Home-Office-immediate-detriment-guidance-21-August-2020.pdf>

12. The note should **not** be applied to scheme members who have already retired and are in receipt of their pension payments. The note refers to these cases being more complex to address, especially due to complexities in rectifying the member's tax position. We believe this to refer to the HMRC timing of payment conditions and the potential for unauthorised payments.
13. Paragraph 5.3 of the note sets out that in order to provide a choice to members, two sets of pension entitlement quotes should be provided. The paragraph includes a "non-exhaustive" list of items to include in the quote. It does not include any mention of the change to the pension input amount for each pension input period of the remedy, or any tax charge as a result of that recalculation.
14. Under the heading '*Unresolved pension issues*', paragraphs 5.6 to 5.24 detail outstanding issues that are being consulted on and will not be resolved until the Government finalises its approach to removing discrimination.

## Current position

15. The note is helpful to explain UK government policy and shows progression from the previous position that all entitlements should proceed under the terms of FPS 2015. However, it does not cover the steps that FRAs and administrators would need to put into place to enact the guidance.

## Matters for the FRA to consider

16. Being mindful of the interim order which entitles claimants to be treated as members of the FPS 1992, FRAs now need to understand practically how they could give effect to the guidance. As the document notes in several places that it is informal guidance only, FRAs may wish to seek individual legal advice, which some authorities have advised they are pursuing.
17. We understand that the Home Office assert the legal position which underpins the application of the guidance in the note for non-claimants (those not covered by the interim order) is Section 61 of the Equality Act. The effect of Section 61 being contested in the FRA's appeal under Schedule 22 of the Equality Act, in which they argue that they were required to follow the pensions regulations and so by law had no choice but to implement the transitional protections for older firefighters.
18. The HO Guidance on the face of it does not make it clear;
  - 18.1. What the position is for FRAs if members make decisions without all the correct information, such as understanding tax relief.
  - 18.2. How auditors might treat such payments under legacy terms and on what basis an FRA can rely on the guidance to satisfy auditors.

18.3. What risk the member accepts by having benefits paid out before the consultation has concluded, although the note states that **all** cases will need to be revisited once remedy is finalised (3.4). It is understood that the Home Office and HM Treasury (HMT) are considering providing a waiver.

19. Nominated contacts at each FRA should be consulted on further matters to consider.

## Employer contributions

20. Contrary to the position as stated in paragraphs 5.12 and 5.13, we understand the Home office expectation is that revised guidance will now be issued to confirm there is no requirement for the FRA to make the employer contributions in order to enable payment of retirement benefits.

21. Any adjustments in employer contributions will be captured in the scheme valuation process and reflected in the future employer contribution rates going forward. This position would be welcomed.

## Employee contributions

22. The position of tax relief on employee contributions as stated in paragraph 5.11 means that if a member chooses to have the contributions deducted from their lump sum, they will not qualify for tax relief under the HMRC PAYE or self-assessment process. Instead this will be claimed through a government process once the consultation has concluded, this should be clearly caveated in member communications.

## Technical issues

23. There are several technical questions which have been raised with Home Office and HMT that mean in some cases the guidance cannot be applied until an answer has been received, which would leave FRAs in the position of being able to remedy some members but not others:

23.1. Paragraph 3.1 refers to 'members who were in service'. It is not clear whether this means 'in service as a firefighter' or pensionable service, and as such it is not clear whether someone who was '[eligible to be an active member](#)' is in scope, albeit as per paragraph 11 above it is noted that FPS 2006 members to whom that definition applies are likely to be out of scope.

23.2. The suggested position in paragraphs 5.14 to 5.16 on Cash Equivalent Transfer Values (CETVs) needs further clarification of how this could work in practice. Under the current rules for CETVs, benefits cannot be transferred into the FPS 1992 as the scheme is closed and there are no current factors available. So, it is unclear how a transfer could be processed under FPS 1992 terms.



23.3. Furthermore, if it was possible to calculate a CETV, the guidance does not comment on what effect this would have if the CETV took the member over the 30 year' service cap.

23.4. Where a member has paid into FPS 2015 and bought added pension, paragraphs 5.17 to 5.18 are not clear on how an equivalent added years pension would be created in the final salary scheme. It also does not comment on the position where the member would not have qualified for added years in the legacy schemes, for example, the requirement in FPS 1992 to be more than two years from retirement when purchasing added years, or what the effect would be if that added years conversion took the member over 30 years' service.

23.5. The guidance only comments under paragraphs 5.21 to 5.24 on the position where there is tax to be paid or refunded, it does not comment on the steps needed to calculate whether there is a tax liability, i.e. by re-calculating the pension input amount over each of the pension input periods in the remedy period.

23.6. It is understood that the informal position from HMT is that the pension input amount should be re-calculated over the periods in the remedy period based on the legacy scheme benefits. An HMRC CLM query form<sup>2</sup> has been submitted for further guidance and HMT and HMRC are understood to be jointly considering further guidance on this.

## Absent from the guidance

24. There are several areas where we would have expected a policy steer to be provided, but this is lacking from the guidance:

24.1. There is no commentary on the treatment of temporary promotion where an FRA has used their discretion to award Additional Pension Benefits (APBs) in the legacy schemes. Temporary promotion is not pensionable under CARE.

24.2. There is no commentary on creating an APB in the legacy scheme for a member who has received CPD during FPS 2015 membership.

24.3. There is no commentary on where a [two-pension entitlement](#) would have occurred if they had been a member of the legacy scheme.

---

<sup>2</sup> <http://www.fpsregs.org/images/HMRC/HMRC-CLM-template-immediate-detriment-implementation-and-annual-allowance.pdf>

24.4. There is no reference to invoking a [contribution holiday](#)<sup>3</sup> by returning to the legacy scheme.

24.5. There is no instruction of how to convert any divorce debits applied in FPS 2015 and the impact on pension credits.

24.6. There is no reference to caveating that the recalculated cost cap may revise the accrual rate of FPS 2015 from 1 April 2019 and whether that would retrospectively affect the calculation of CARE benefits used in the choice calculation.

24.7. There is no commentary on abatement that would apply under the legacy schemes but not reformed schemes.

24.8. The consultation proposals suggest that taper members would only be able to select legacy or reform benefits for the whole remedy period, i.e. 1 April 2015 to 31 March 2022.

- It is not clear how choice should be offered to a taper protected<sup>4</sup> member in the immediate detriment category. Under the current legislation a taper protected member who has already moved into FPS 2015 would have both a pension that could immediately be paid from FPS 1992 which would include service past 1 April 2015, and a deferred entitlement in FPS 2015.
- It is not clear whether a taper member choosing to retire under immediate detriment and accepting payment of an FPS 1992 pension based on service to date of retirement would have to forfeit any existing FPS 2015 deferred pension, and if that should be caveated at the time of retirement, based on the outcome of the consultation.

25. We understand that the Home Office are in discussion with HMT regarding the issues brought to them and are working on reflecting this in revised guidance, however, this is a complex area of work so will take some time.

26. In advance of that guidance being available, we would offer the following commentary:

---

<sup>3</sup> The Government introduced an employee contributions holiday for FPS 1992 members who accrue the maximum 30 years' pensionable service prior to age 50. This applies from the point of accruing maximum pensionable service in the scheme until the member's 50th birthday. This change was applied retrospectively to 1 December 2006.

<sup>4</sup> A taper-protected member is somebody who was not fully protected by virtue of age to stay in the final salary scheme (1992, 2006 or Special Modified 2006 Scheme), but was moved into the FPS 2015 between 24 May 2015 and 31 March 2022, depending on their age, as per the [table in the regulations](#).

## 27. Supplementary commentary

<a href="#"><u>Two Pension Entitlement</u></a>	Where a member would have an entitlement to two pensions due to a drop in pay during the period 1 April 2015 to retirement date or 31 March 2022, the two-pension entitlement must be recalculated in the estimate of benefits under FPS 1992
<b>Contribution holiday</b>	<p>Under the terms of FPS 1992, anyone who accumulates 30 years' service in the 1992 Scheme before reaching age 50 is entitled to a contributions holiday<sup>5</sup> between the date on which they reached 30 years' service and their 50<sup>th</sup> birthday.</p> <p>For those opting to retire under the 1992 Scheme, the value of this holiday must be deducted from the accumulated deficit in contributions. That may have the effect of turning the deficit into a surplus.</p> <p>If as a result of this exercise, there is:</p> <ul style="list-style-type: none"><li>• a net deficit in contributions, the member must pay it, or have it deducted from their lump sum;</li><li>• a net surplus in contributions, the employing FRA must refund it to the member or add it to their lump sum.</li></ul>
<a href="#"><u>Additional Pension Benefits (APBs)</u></a>	<p>Where a member has received a CPD payment pensionable under the FPS 2015, this should be re-calculated as an APB in the estimate of benefits under FPS 1992.</p> <p>If there is a discretion in place to treat temporary promotion as pensionable under the FPS 1992 and a member has had a temporary promotion while a member of FPS 2015, this should be re-calculated as an APB in the estimate of benefits under FPS 1992.</p>

## FRA immediate action

28. The FRAs have always been mindful of the interim order which entitles **claimants** to be treated as members of FPS 1992 and wish to give effect to this where they are able to do so.

29. This note highlights some of the issues with the content of the guidance in terms of FRAs being in a position to do this, for example in terms of;

29.1. What is absent from the guidance; or

---

<sup>5</sup> Further information on [contributions holiday](#) is available on the password protected area of the website.

- 29.2. Unanswered technical questions which would leave FRAs in the position of being able to remedy some members but not others, e.g. a technical issue, such as a CETV or divorce on the record and no guidance on how to convert to final salary benefits.
30. In order to ensure the FRA has all the information needed in order to proceed with an immediate detriment case under the guidance, we have provided FRAs with a [template matrix](#) to complete. This template may also be used in order to evidence where they do not have the information to proceed. Completion of this checklist will no doubt require both employer and administrator input, please ensure this is complete before proceeding with a case.
31. In addition, nominated contacts at each FRA should be consulted before actioning any immediate detriment cases in order to inform decision making.
32. We issued guidance in [FPS Bulletin 28](#) on immediate action that FRAs could take, under the heading *Update on transitional protections remedy (Sargeant)*. If that action was not taken, we recommend that FRAs do so now.
33. We are pleased to provide further commentary on immediate action below.

## Current or new cases

### 34. III-Health: IQMP assessment

- 34.1. Members with transitional 1992 benefits – ask the IQMP to assess the applicant under both the 1992 and 2015 scheme terms.<sup>6</sup>
- 34.2. Under the immediate detriment note members who don't qualify for lower-tier ill-health in FPS 2015 but would do so under FPS 1992 should be allowed to retire under the arrangements of their legacy scheme where possible.
- 34.3. Transitional Special Members of the 2006 scheme – ask the IQMP to assess the applicant under the terms of the 2006 scheme noting that the normal retirement age of a special member is 55<sup>7</sup>.
- 34.4. The criteria for ill-health retirement are the same for standard 2006 members and transitional members of the 2015 scheme, therefore assessment under the 2015 terms should be enough.

---

<sup>6</sup> III-Health certificates are available here - <http://www.fpsregs.org/index.php/member-area/ill-health-and-injury>.

<sup>7</sup> Rule 3, Paragraph 3 of FPS 2006 - <http://www.legislation.gov.uk/ukxi/2014/445/schedule/paragraph/2/made>

### **35. Estimation of benefits**

35.1. The estimate of benefits under both schemes should include:

- The pension payable to the member.
- The lump sum that would be payable, along with details of tax consequences, such as receiving an unauthorised lump sum or limiting the lump sum so it doesn't incur tax.
- Dependant benefits such as a partner's pension and death in retirement five-year guarantee from FPS 2015. This is particularly important where someone is retiring under ill-health terms and is paid their pension under the 'one-pot' arrangements from FPS 2015.
- A clear statement that all calculations are provisional and may be revised depending on decisions still to be made and changes to scheme rules, in particular regarding interest and taxation; and that further payments or refunds, or recalculation of pension benefits, are possible.

### **36. Schedule of contributions owed**

36.1. In order to receive benefits under the terms of FPS 1992, the immediate detriment note confirms that employee contributions must be repaid where they are due.

36.2. Members should be provided with a schedule of contributions owed, to include:

- Difference between FPS 2015 and FPS 1992 contributions for the remedy period.
- This should include any additional contributions that need to be paid in order to count a service break.
- Contributions on FPS 1992 terms of any temporary promotion to be treated as an APB.
- Difference between FPS 2015 and FPS 1992 contributions on any CPD payments in order to calculate the APB that will be payable under the legacy scheme.
- Adjustments for the contribution holiday if the member would be eligible under the legacy scheme.

36.3. Members should be made aware of the effect of claiming tax relief on their pension contributions if they choose to have contributions deducted from their lump sum, rather than paying before retirement.

- Pension Contributions made before retirement will qualify for tax relief under HMRC PAYE or self-assessment.

- Pension Contributions made after retirement, such as deducted from the lump sum will not qualify for tax relief under the HMRC PAYE or self-assessment process. Instead this will be claimed through a government process once the consultation has concluded.

### **37. Annual allowance**

37.1. For some members the impact of treating them as if they had never left their previous final salary scheme might mean that they would have breached the annual allowance limits in former pension input period years.

37.2. We understand that the HMT position on this is that benefits over each pension input period should be re-assessed on final salary scheme terms.

37.3. If benefits are put into payment under the immediate detriment note, the member will need to be aware of the recalculation of their pension input periods and the change on any carry forward, as this may affect other pension entitlements elsewhere.

37.4. Where a member has exceeded the annual allowance limit and there is no carry forward to mitigate the breach, a tax charge will fall due on the excess over the annual allowance. The member should be informed of any annual allowance breach for them to calculate the tax charge.

## **Retrospective Ill-health Cases**

38. Under paragraph 3.1 this applies only to members who did not qualify for lower-tier (and therefore higher-tier) ill-health retirement under FPS 2015 but would have done under their legacy scheme. They may have now left the FRA but are not in receipt of pension benefits.

39. These members should be treated as above as a current ill-health case and the relevant IQMP assessment should be sought and benefits put into payment where possible.

40. For members with a pension in payment and who therefore do not fall within the scope of the immediate detriment note, FRAs may want to ensure they are prepared to offer revised benefits as soon as possible by having valid IQMP assessments in place, as detailed at paragraphs 32.1 to 32. 4 above.

41. Some of these members may be better off in the reformed schemes, for example, members with a higher tier ill-health in payment under the FPS 2015. FRAs may want to ensure members are aware of this by providing a quotation of benefits under the legacy scheme.

## Other pensions in payment

42. Our understanding is that pensions in payment, even if they have come into payment since 21 August 2020 are not in the scope of the immediate detriment note, as there are tax and other consequences that rely on policy decisions yet to be made by the HMT consultation.

## LGA practitioner support

43. We are talking to practitioners about how best to support implementation of the note to promote best practice and aid consistency, that work includes:

43.1. Working with the [Fire Communications Working Group](#) to provide a consistent template on how a member may be provided with a choice and what this should include, using documentation provided to support choice in 2006 as a guide<sup>8</sup>.

43.2. Working with administrators to provide example calculations for:

- APB calculations for members with CPD payments or temporary promotions.
- Pension tax breaches, where high earners might breach tax limits by gaining additional final salary pension growth.
- Members who would qualify for a contribution holiday in FPS 1992 by returning to the legacy scheme.
- Members who would be liable for abatement by choosing legacy benefits.

Please address any queries on the content of this request to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)

October 2020

---

<sup>8</sup><https://webarchive.nationalarchives.gov.uk/20120919193018/http://www.communities.gov.uk/archived/general-content/fire/optionsexerciseddocuments/https://webarchive.nationalarchives.gov.uk/20120919193018/http://www.communities.gov.uk/archived/general-content/fire/optionsexerciseddocuments/>

This page is intentionally left blank