

Consultation Responses on Amendments to Firefighters' Pension Schemes in Wales 2021

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Response 1 - Mid and West Wales Fire and Rescue Service

Q1. How far do you believe the draft regulations reflect the need to transfer protected members into the 2015 Scheme on 1 April next year? Do you think there are any errors or omissions in the draft?

The draft regulations appear to reflect the need to transfer protected members into the 2015 Scheme on 01 April 2022 and as such meet the requirements of remedy to the case which is to remove unlawful age discrimination. No errors or omissions have been identified.

Q2. Do you have any views on the proposals regarding double accrual?

The proposals appear to be fair in that they proportion the pension benefit appropriately to recognise the expectation of double accrual when service is over 20 years by basing it on the total pensionable service in both the 1992 and 2015 Scheme.

Q3. Do you have any views on the proposals regarding ill health retirement? In particular, do you agree that we should draft the regulations to make provision for ill health retirements which straddle the transfer date, and which ensure that people in those circumstances are no worse off than if they retired before that date?

Due to the time scales involved with gathering all information relating to the ill-health retirement process, the proposals set out within the consultation are fair and mirror the approach taken in 2015. Therefore, this approach ensures that members who find themselves within this circumstance cannot be worse off because of the transfer into the 2015 scheme and appears to avoid any potential disability discrimination issues.

Q4. Do you envisage any difficulties or obstacles in implementing the transfer which the regulations provide for?

The Service does not envisage any difficulties or obstacles in implementing the transfer which the regulations provide for. The Service can identify those who are protected, and in employment on the 31 March 2022, and transfer them across to the FPS 2015 from 01 April 2022.

Q5. We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected

characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive or negative impacts on people with protected characteristics? If so, which and why/why not?

The proposals to amend the Firefighter Pension Scheme Wales Regulations are considered to be the most fair and consistent manner of rectifying the discrimination. Following due consideration of the consultation document it appears there are no residual equality issues which may impact on people with protected characteristics.

Q6. We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

It is anticipated that the Firefighter Pension Scheme Wales Regulations will also be made available in Welsh and therefore the Welsh language would not be treated less favourably than English.

Q7. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Please see response to question 6.

Q8. Do you have any other views about these proposals (recognising that the underlying policy and law are not devolved, and not matters for the Welsh Government)?

No further views regarding these proposals set out in the consultation.

Response 2 – Anonymous

Q1. How far do you believe the draft regulations reflect the need to transfer protected members into the 2015 Scheme on 1 April next year? Do you think there are any errors or omissions in the draft?

I understand the need to ensure that there is no discrimination

Q2. Do you have any views on the proposals regarding double accrual?

I am not sure I understand what happens to members who are over 55 and not accrued 25 years employment or those who are to retire in the short term after April 2022 and/or how this affects them

Q3. Do you have any views on the proposals regarding ill health retirement? In particular, do you agree that we should draft the regulations to make provision for ill health retirements which straddle the transfer date, and which ensure that people in those circumstances are no worse off than if they retired before that date?

yes I agree

Q4. Do you envisage any difficulties or obstacles in implementing the transfer which the regulations provide for?

the 200 people who are affected by the cross over are now being discriminated against potentially

Q5. We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive or negative impacts on people with protected characteristics? If so, which and why/why not?

Age - where 200 people will be affected due to their age

Q6. We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What

effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

no effects positive or negative.

Q7. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q8. Do you have any other views about these proposals (recognising that the underlying policy and law are not devolved, and not matters for the Welsh Government)?

No

Response 3 – Ade Robinson / Fire Officers’ Association

Q1. How far do you believe the draft regulations reflect the need to transfer protected members into the 2015 Scheme on 1 April next year? Do you think there are any errors or omissions in the draft?

From a lay perspective i.e. not legally qualified, the FOA is not able to identify any scenarios that would allow protected members to remain members of their legacy scheme beyond 31st March 2022.

Q2. Do you have any views on the proposals regarding double accrual?

The Fire Officers’ Association (FOA) is content with the current ‘double accrual guarantee’ as set out in Schedule 3 of the Firefighters’ Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015. This provision delivers the Westminster Government’s undertaking to compensate members of the 1992 FPS for the loss of double accrual after transferring to the 2015 FPS.

Q3. Do you have any views on the proposals regarding ill health retirement? In particular, do you agree that we should draft the regulations to make provision for ill health retirements which straddle the transfer date, and which ensure that

people in those circumstances are no worse off than if they retired before that date?

Ill-health retirement is certainly an important aspect of the move from legacy schemes to the 2015 FPS (particularly from the 1992 FPS due to differing qualifying criteria). As the consultation document indicates, the ill-health retirement process can be very lengthy. In the FOA's opinion, it would be unfair to disadvantage anyone whose ill-health retirement resulted from an event or condition that developed prior to their transfer to the 2015 Scheme. The suggested 'underpin' appears to safeguard against such disadvantage by enhancing benefits if a calculation of benefits under the legacy scheme produced greater benefits.

In itself the proposal is likely to be satisfactory but it may be difficult to define the point at which the ill-health retirement process begins for the purpose of assessing whether a case is "pending on 31 March next year. In practice, there is no formal application for ill-health retirement and a scheme member is likely to be in a position to never again work as a firefighter from the first day of absence from duty.

The process for dealing with ill-health retirement will vary from service to service and case by case. In many instances, the need for ill-health retirement may be apparent at an early stage but, in others, reaching the point of ill-health retirement could be a year or more.

As the number of cases is likely to be small, a generous approach would be favoured where ill-health retirement process is deemed to be 'pending' or in progress if the person's last day of performing the normal duties of their role pre-dated 1st April 2022. Such an approach would cater for persons not able to work at all and for those undertaking modified duties that differ from their usual role. This arrangement is likely to avoid the inconsistency and argument that might arise if using criteria that involve managerial decision making processes around IQMP referral/opinion receipt or redeployment considerations.

Q4. Do you envisage any difficulties or obstacles in implementing the transfer which the regulations provide for?

The provisions discussed in the consultation document and draft regulations appear to achieve the intended outcomes and the FOA is not able to identify any difficulties that might arise.

Q5. We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any

positive or negative impacts on people with protected characteristics? If so, which and why/why not?

a. Age related Access to Retirement Benefits

A significant number of 1992 Scheme members with transitional protection who transfer to the 2015 Scheme from 1st April 2022 may be under age 55 and, therefore, unable to access any 2015 Scheme benefits accrued pre-transfer until they reach 55 when they could draw actuarially reduced benefits. Alternatively, they could choose to retire and defer 2015 Scheme benefits to state pension age.

In contract, fully protected 1992 Scheme members will be aged 55 or over at the point of transfer and, consequentially, in a position to access benefits from the 2015 at any time from the point of joining the Scheme, although such benefits would be subject to actuarial reduction before age 60.

As the ability to access benefits from 1st April 2022 varies according to age at the time of transfer, members under 55 will be disadvantaged. Whether such disadvantage is discriminatory in relation to the protected characteristic of age will need to be considered or potentially determined through legal challenge.

b. Ability to Work to Normal Retirement Age

Whilst not directly related to the proposed amendment the FOA remains concerned about the ability of firefighters, particularly female firefighters, to work to a normal pension age of 60. During discussions over the introduction of the 2007 FPS (2006 FPS in other administrations), a number of bodies expressed this concern and the UK Government undertook to keep normal retirement age under review in light of experience.

It is still too soon to properly assess whether the aging effects such as reducing upper body strength or menopausal effects are affecting firefighters' ability to perform the duties of the firefighter's role beyond age 55. This matter is raised as fully protected members transferring to the 2015 FPS will be aged 55 or older and transitionally protected members will be approaching that age. As a consequence, the 2015 Scheme's age profile will increase. Whilst this may bring forward the ability to assess the impact of aging on early or ill-health retirement, there may be consequences for Scheme design or scope for legal challenge if it can be shown that a particular protected group suffers detriment.

Q6. We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

The FOA is not in a position to comment on this question.

Q7. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

The FOA is not in a position to comment on this question.

Q8. Do you have any other views about these proposals (recognising that the underlying policy and law are not devolved, and not matters for the Welsh Government)?

- a. As a UK-wide organisation, the FOA considers that consistency across the UK (so far as possible) is desirable for matters affecting a workforce such as firefighters who may transfer between fire and rescue services and between UK administrations. Additionally, whilst maintaining national responsibilities, there are benefits from the ability to share expertise, support and software systems across UK borders.

- b. Since amendments to Scheme regulations are being made to accommodate the 'Remedy', it may be opportune to consider other amendments that the FOA believes would improve the 2015 Firefighters' Pension Scheme: -
 - i. Review of Ill-Health Award (Regs 77 and 78 (2015 FPS), Rule K1 & K1A (1992 FPS), Sch 1, Part 9 para's 1-2 (2007 FPS))
When an IQMP makes an assessment involving an injury or condition (particularly a mental health condition), it is highly unlikely that they will be able to confidently state that a person will be permanently disabled and unable to undertake regular employment to NRA for people whose NRA is 60. Even with a younger NRA that would be a difficult call to make.

Differentiation between the terms 'likely to' and 'will' does not help materially since it remains very difficult for any medical practitioner to say whether conditions such as depression or work-related stress will improve once a person leaves FRS employment. A person's mental health might improve but whether they would be able to undertake 'regular' employment is an unknown quantity.

There is a problem where, contrary to IQMP opinion, a person does not become able to undertake regular employment before Normal Pension Age. In such cases it will, over time, become evident that the original opinion was flawed and the Scheme member will not have received the level of pension that, in hindsight, was due at the time the original IQMP assessment was made.

For situations where it transpires that a member does not improve to the extent that they are able to undertake regular employment, there should be a provision to increase the level of ill-health pension since the reason that a lower-tier pension was awarded is the IQMPs inaccurate assessment of future recovery inability or their unwillingness to commit to a long-term prognosis.

If such a provision existed, it could be argued that an increased pension should be backdated to the time of retirement since the original assessment was wrong, the ability to increase the tier from the time of the review would be a good starting point.

Contrary to opinion that the issue would be deterioration of ill-health, the FOA considers that the issue is the accuracy of IQMP opinion when even the best medical experts may not be able to accurately forecast the long-term impact of conditions which existed at the time of the original IQMP referral. Some safeguard is required to provide for the correction of opinions that turnout to be inaccurate.

There is a further problem with IQMP opinion in relation to the question of whether a mental illness will continue to NPA as the answer is likely to be “no” for reasons similar to the above scenario. It may be true if the person affected is removed from the FRS environment but if that is not the case a member is left in the difficult or impossible position of not being able to return to the workplace and not being given access to ill-health retirement.

The major concern is the difficulty of predicting a person’s health and capacity for work in the long-term. Where experience shows that an IQMP opinion is not correct, there is no scope to rectify an inaccurate forecast except in cases of people with ‘qualifying injury’ for which the award can be varied both up or down on review.

ii. Flexible Contributions

A number of FPS members (particularly those with young families) find it difficult to afford membership of the Firefighters’ Pension Scheme and such people may be tempted to opt-out of the scheme.

There is anecdotal evidence that other members in senior positions are not inclined to apply for promotion to more senior positions (particularly those at strategic manager level) due to the consequences of breaching Annual Allowance tax thresholds.

To retain lower-paid members and to increase the pool of applicants for senior positions, consideration might be given to the addition of an optional provision to reduce contributions and benefits whilst remaining a member of the Scheme. A provision akin to the Local Government Pension Scheme's 50/50 Scheme should provide an appropriate solution.

Response 4 – Mark Rowe / Fire Brigades Union

Q1. How far do you believe the draft regulations reflect the need to transfer protected members into the 2015 Scheme on 1 April next year? Do you think there are any errors or omissions in the draft?

The Fire Brigades Union (FBU) believe that the proposed amendments achieve what they set out to achieve in transferring protected members of the FPS 1992 and NFPS 2007 into the FPS 2015 scheme from 1 April 2022.

Q2. Do you have any views on the proposals regarding double accrual?

Existing scheme members have protection in place covering double accrual. The FBU is reassured that the draft Regulations make clear that this protection will be preserved.

Q3. Do you have any views on the proposals regarding ill health retirement? In particular, do you agree that we should draft the regulations to make provision for ill health retirements which straddle the transfer date, and which ensure that people in those circumstances are no worse off than if they retired before that date?

The FBU support the proposal that provision will be made to protect the position of ill-health retirees whose cases are pending on 31 March 2022. However, the union is deeply concerned that only protecting those who have cases pending (those who are already in the process) does not adequately understand or address the issue of ill-health retirement. The example the union gives, to elucidate, is a scheme member suffering mental ill-health in the form of PTSD as a result of an incident attended. The mental ill-health injury occurs on the date of the incident which is sometimes several years prior to the deterioration of mental health to the point the scheme member is faced with the ill-health retirement. There is then in some instances an accumulated effect of repeated exposure to trauma to the point the scheme member is no longer able to work and faces ill-health retirement, the initial incident remains the cause of injury. To address this the FBU propose that if the IQMP decision is that the injury that results in the ill-

health retirement occurred pre-transfer into the 2015 scheme then that retirement should be assessed under the legacy scheme criteria (if that is the scheme members wish) even if the IQMP process did not start before transfer into the 2015 scheme.

Q4. Do you envisage any difficulties or obstacles in implementing the transfer which the regulations provide for?

The FBU have been informed by employer representatives that they are able to identify protected scheme members who would be employed by their respective Fire and Rescue Services on the 31 March 2022 and that they believe they will be able to successfully transfer them to the FPS 2015 from 1 April 2022.

Q5. We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive or negative impacts on people with protected characteristics? If so, which and why/why not?

The FBU retain our concerns about the ability of firefighters' to work to a normal pension age of 60. The FBU believe that an occupational pension scheme should at least reflect the occupation it covers, the current 2015 scheme does not. Firefighters are faced with working until 60 or retire earlier with a huge actuarial reduction. Female firefighters suffer disproportionately under an normal pension age of 60.

Q6. We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

The FBU do not believe there to be either positive or negative impacts.

Q7. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

The FBU agree that the draft Regulations and policy intent as set out above will not have any positive or negative impacts on the Welsh language or Welsh speakers beyond those already considered.

Q8. Do you have any other views about these proposals (recognising that the underlying policy and law are not devolved, and not matters for the Welsh Government)?

No further views

Response 5 – Helen MacArthur / North Wales Fire and Rescue Service

Q1. How far do you believe the draft regulations reflect the need to transfer protected members into the 2015 Scheme on 1 April next year? Do you think there are any errors or omissions in the draft?

The draft regulations achieve their function and have the desired effect of transferring fully protected members of the FPS1992 and NFPS2007 into the FPS 2015 scheme on 1 April 2022. No omissions or issues have been identified which would impact on the proposal.

Q2. Do you have any views on the proposals regarding double accrual?

The regulations are clear that the existing protection of double accrual has been preserved and how this will be treated under the proposals. We have nothing further to add to these proposals.

Q3. Do you have any views on the proposals regarding ill health retirement? In particular, do you agree that we should draft the regulations to make provision for ill health retirements which straddle the transfer date, and which ensure that people in those circumstances are no worse off than if they retired before that date?

The FRA recognises that this is a difficult and sensitive area and concurs with the comments within the consultation that the application of the change to the regulation on 1 April 2022 may place members who are currently in the ill-health process in a detrimental position. However, the proposal contained within the consultation of using the date of referral to an independent qualified medical practitioner addresses this and the FRA fully supports this proposal.

Q4. Do you envisage any difficulties or obstacles in implementing the transfer which the regulations provide for?

No obstacles identified.

Q5. We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive or negative impacts on people with protected characteristics? If so, which and why/why not?

The FRA has not identified any further issues that would negatively impact on members with protected characteristics.

Q6. We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

The FRA does not consider that the proposals contained within the regulations have either a positive or negative impact on the Welsh language.

Q7. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above

Q8. Do you have any other views about these proposals (recognising that the underlying policy and law are not devolved, and not matters for the Welsh Government)?

The FRA does not have any further views or comments that it wishes to raise as part of this consultation.

Response 6 – Michael Prior / Chair of the Firefighters’ Pension Scheme Advisory Board for Wales

Q1. How far do you believe the draft regulations reflect the need to transfer protected members into the 2015 Scheme on 1 April next year? Do you think there are any errors or omissions in the draft?

It is the SABW’s view that the proposed amendments achieve the desired effect of transferring protected members of the FPS1992 and NFPS 2007 into the FPS 2015 scheme from the 1 April 2022. No omissions or issues have been identified which would impact on the proposal.

Q2. Do you have any views on the proposals regarding double accrual?

It is the general consensus of the SABW that the proposals appear to be fair. The draft Regulations are clear that the existing protection of double accrual has been preserved and outlines how this will be treated under the proposed amendments.

Q3. Do you have any views on the proposals regarding ill health retirement? In particular, do you agree that we should draft the regulations to make provision for ill health retirements which straddle the transfer date, and which ensure that people in those circumstances are no worse off than if they retired before that date?

The SABW agrees that there is a risk of unfairness towards legacy scheme members whose need to retire as a result of a disabling injury or illness arose before the 31 March 2022, but for whom the final retirement decision was not made until after that date. Members support the proposal that provision should be made to protect the position of ill health retirees whose cases are pending on 31 March 2022.

The SABW are satisfied that the proposed underpin would ensure that affected pension scheme members would not suffer financial detriment as a result of the proposed changes, which in turn would also prevent future legal challenge on the grounds of disability discrimination. Employee representatives of the SABW raised the issue of the definition of the start point of the ill-health retirement process for the purpose of assessing whether a case is pending on 31 March 2021. The consultation document notes that under the existing arrangement in the 2015 transitional regulations this is taken to be where an FRA refers a member’s case to an IQMP before the transfer into the 2015 Scheme occurs. It was suggested that a more generous approach be adopted. Two suggestions were made:-

- the ill-health retirement process is deemed to be pending or in progress if the individuals last day of performing the normal duties of their role pre-dated 1 April 2022.
- If the IQMP decision is that the injury that results in the ill-health retirement occurred pre-transfer into the 2015 then that retirement should be assessed under the legacy scheme criteria even if the IQMP process did not start before transfer into the 2015 scheme.

Q4. Do you envisage any difficulties or obstacles in implementing the transfer which the regulations provide for?

The SABW do not envisage there being any difficulties or obstacles in implementing the transfer as set out in the draft Regulations. Employer representatives of the SABW have confirmed that they are able to identify protected scheme members who would be employed by the respective Fire and Rescue Services on the 31 March 2022, and successfully transfer them to the FPS 2015 from 01 April 2022.

Q5. We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive or negative impacts on people with protected characteristics? If so, which and why/why not?

Whilst not directly related to the proposed amendments, the employee representatives remain concerned about the ability of firefighters' to work to a normal pension age of 60 given the link in the 2015 scheme to the current rigorous fitness standard. This is particularly the case for female firefighters where there is currently not enough evidence to assess the effect of aging on the ability to perform the duties of the firefighters role beyond 55.

Q6. We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

The SABW does not consider that the proposals contained within the draft Regulations would have either a positive or negative impact on the Welsh language.

Q7. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

The SABW agree that the draft Regulations and policy intent as set out above will not have any positive or negative impacts on the Welsh language or Welsh speakers, beyond those already considered.

Q8. Do you have any other views about these proposals (recognising that the underlying policy and law are not devolved, and not matters for the Welsh Government)?

The SABW agree that consistency across the UK in relation to matters affecting firefighters' who transfer between brigades and UK administrations would be welcomed. In addition, the SABW recognise the benefits of sharing expertise, support and software systems across the devolved nations.

Response 7 – Tristan Ashby / Fire and Rescue Services Association

Q1. How far do you believe the draft regulations reflect the need to transfer protected members into the 2015 Scheme on 1 April next year? Do you think there are any errors or omissions in the draft?

FRSA Response: On the face of the proposal, the draft regulations appear to cover the transfer of protected members in to the 2015 Scheme next year. However, as is often the case with these regulations there could be unintended consequences that at this stage are not obvious. But insofar as what we do currently know, the text seems appropriate.

Q2. Do you have any views on the proposals regarding double accrual?

FRSA Response: The approach to double accrual seems fair in that it considers the individual's length of service irrespective of the Scheme membership. However, there might be a question of fairness when compared with the Modified Pension Scheme for Retained Firefighters which provided an accrual rate of 1/45th irrespective of the length of service of the individual.

Q3. Do you have any views on the proposals regarding ill health retirement? In particular, do you agree that we should draft the regulations to make provision for ill health retirements which straddle the transfer date, and which ensure that people in those circumstances are no worse off than if they retired before that date?

FRSA Response: Again, the proposal appears fair and is very similar to the arrangements for Retained Firefighters under the Compensation Scheme 2006. For a Retained Firefighter with service prior to 06 April 2006 who was injured prior to 01 April 2014 (when the protection ceased) the individual would continue to receive this protection even if the decision to retire in the grounds of ill-health due to a qualifying injury was sometime after the protection had officially ended. Our experience of this arrangement proved to be right and proper with no unintended consequences to either the employee or employer.

As an aside, we note that paragraph 34 in the consultation document states that the FRA can appeal an IQMP decision to the Board of Medical Referees. To be absolutely clear, this is not correct, the IQMP decision is binding on the FRA and it is only the firefighter who can appeal the IQMP decision either on one or a number of appeal points.

Q4. Do you envisage any difficulties or obstacles in implementing the transfer which the regulations provide for?

FRSA Response: This is the key question which nobody can provide a full-proof answer to, what appears to be a set of regulations that provide a solution to a problem can have unintended consequences that nobody can reasonably foresee. However, as matters stand, the regulations appear to be fit for purpose.

Q5. We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive or negative impacts on people with protected characteristics? If so, which and why/why not?

FRSA Response: The pension scheme which is connected to a standard of fitness will continue to have a detrimental impact on female firefighters so long as the standard of fitness remains to be unnecessarily high. The FRSA has argued this point ad nauseam since 2008 but to no avail.

Q6. We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What

effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

FRSA Response: No comment

Q7. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

FRSA Response: No comment.

Q8. Do you have any other views about these proposals (recognising that the underlying policy and law are not devolved, and not matters for the Welsh Government)?

FRSA Response: No comment.

Response 8 – Alison Reed / South Wales Fire and Rescue Service

Q1. How far do you believe the draft regulations reflect the need to transfer protected members into the 2015 Scheme on 1 April next year? Do you think there are any errors or omissions in the draft?

The draft regulations seems sufficient to be able to ensure its aims of the legacy schemes being closed, from the 1st April 2022, to any and all future accrual of benefits and that all benefits that do exist in those schemes will be protected.

Q2. Do you have any views on the proposals regarding double accrual?

Nothing further to add as the draft regulations clearly sets out how instances of double accrual should be treated and existing regulations already have provisions for double accrual protections.

Q3. Do you have any views on the proposals regarding ill health retirement? In particular, do you agree that we should draft the regulations to make provision for ill health retirements which straddle the transfer date, and which ensure that

people in those circumstances are no worse off than if they retired before that date?

Any individuals that find themselves in an ill health retirement situation, which crosses over the 1st April 2022 transitional date, by very virtue of a date, should not be at detriment due to a policy change made by government.

The proposals being suggested seem to ensure that these individuals receive the higher of 2 calculations, the first based as at 31st March 2022 and the service linked to their legacy schemes only and another based on benefits being paid from the 2015 Scheme which would be as at the date that they retire. With the difference between the 2 calculations being paid in addition to the 2015 entitlement.

Q4. Do you envisage any difficulties or obstacles in implementing the transfer which the regulations provide for?

None that we are aware of.

Q5. We are interested in understanding whether the proposals in this consultation document will have an impact on people with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive or negative impacts on people with protected characteristics? If so, which and why/why not?

The Service does not think that the draft regulations and policy intent as set out above will have any positive or negative impacts on people with protected characteristics, beyond those already considered.

Q6. We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

The Service does not think that the draft regulations and policy intent as set out above will have any positive or negative impacts on the Welsh language, beyond those already considered.

Q7. Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh

language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

The Service does not think that the draft regulations and policy intent as set out above will have any positive or negative impacts on the Welsh language or Welsh speakers, beyond those already considered.

Q8. Do you have any other views about these proposals (recognising that the underlying policy and law are not devolved, and not matters for the Welsh Government)?

None