



Department for  
Communities and  
Local Government

# Firefighters' Pension Scheme 2015: Proposals for new governance arrangements

Consultation

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# Contents

1.	The consultation process and how to respond	4
2.	Policy Context	9
3.	Proposals	11
	Local Pension Boards	11
	Scheme Advisory Board	12
4.	Next Steps and Questions	15

# 1. The consultation process and how to respond

## Scope of the Consultation

<b>Topic of this consultation:</b>	<p>The proposals for new governance arrangements for the Firefighters' Pension Scheme 2015.</p> <p>These draft regulations ensure that the Firefighters' Pension Schemes in England comply with the requirements in the Public Service Pensions Act 2013 to establish new arrangements for governance, including a mechanism to control future costs of the Scheme.</p> <p>To make the Scheme more accountable to its members and taxpayers, the first section of the draft regulations relates to the setting up of two new bodies which will be made up of employer and scheme member representatives.</p> <p>The first of these two bodies is a national Scheme Advisory Board. The Board's primary role is to provide the Secretary of State for the Department for Communities and Local Government with advice on desirable changes to the Scheme's regulations, when requested.</p> <p>Secondly, the draft regulations set out that local pension boards should be formed by each fire and rescue authority. These local boards may be advised by the national Scheme Advisory Board and are there to assist the scheme manager in the efficient and effective administration of the pension scheme.</p> <p>The Scheme is also required to publish an employer cost cap. If the cost of providing scheme benefits is more than two percentage points lower or higher than the cost cap, then changes must be made to the Scheme's design to bring the costs back to the correct level. For example, this could be by changing the rate at which scheme member's benefits build up. This is to protect scheme employers and therefore taxpayers from unexpected increases in the cost of the Scheme and to ensure it remains sustainable and affordable.</p> <p>The decision about what changes to make rests with the Secretary of State who must consult with the Scheme Advisory Board. If the Board is unable to unanimously agree what changes should be made, then three months after consulting them, the Secretary of State must begin to change the rate at which members build up their benefits.</p>
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	This consultation document provides more detail on the changes being proposed.
<b>Scope of this consultation:</b>	<p>As outlined above, this document summarises the draft regulations designed to introduce new governance arrangements to the Firefighters' Pension Schemes in England. It sets out the terms for the establishment of a single national Scheme Advisory Board and a local pension board in each fire and rescue authority area on 1 April 2015.</p> <p>In addition, the draft regulations require the Scheme to publish an employer cost cap. If the cost of providing benefits is more than two percentage points lower or higher than the cost cap, then changes must be made to the Scheme's design to bring the costs back to the correct level. The draft regulations, published alongside this consultation, set out how this process will be implemented.</p> <p>Following the consultation, the Government will publish a response and its final position will be implemented by an amendment to the scheme rules.</p>
<b>Geographical scope:</b>	This consultation only applies to England.
<b>Impact Assessment:</b>	These regulations have no impact on business or the voluntary sector.

## Basic Information

<b>To:</b>	The consultation is aimed at all parties with an interest in the Firefighters' Pension Scheme and in particular those listed on the Government's website: <a href="https://www.gov.uk/government/publications/firefighters-pension-scheme-regulations-information-on-who-should-be-consulted">https://www.gov.uk/government/publications/firefighters-pension-scheme-regulations-information-on-who-should-be-consulted</a>
<b>Body/bodies responsible for the consultation:</b>	Secretary of State, Department for Communities and Local Government. The consultation will be administered by the Workforce, Pay and Pensions division.
<b>Duration:</b>	The consultation will last for 6 weeks, opening on 10 October and closing on 21 November 2014.
<b>Enquiries:</b>	Enquires should be sent to Andrew Cornelius. Please email <a href="mailto:firepensions@communities.gsi.gov.uk">firepensions@communities.gsi.gov.uk</a> or call 0303 444 2171.
<b>How to respond:</b>	Responses to this consultation should be submitted to

	<p><a href="mailto:firepensions@communities.gsi.gov.uk">firepensions@communities.gsi.gov.uk</a> by <b>21 November 2014</b>.</p> <p>Electronic responses are preferred. However, you can also write to:</p> <p>Andrew Cornelius  Department for Communities and Local Government  The Firefighters' Pension Team  SE quarter  2nd Floor  Fry Building  2 Marsham Street  London  SW1P 4DF</p> <p>Please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please give a summary of the people and organisations it represents and where relevant, who else you have consulted in reaching your conclusions.</p>
<b>After the consultation:</b>	Following the consultation, the Government's final position will be implemented by an amendment to the regulations establishing the 2015 Scheme.
<b>Agreement with the Consultation Principles:</b>	This consultation has been drafted in accordance with the Consultation Principles.

## Background

<b>Getting to this stage:</b>	<p>The Government commissioned Lord Hutton to chair the Independent Public Service Pensions Commission to review public service pensions and to make recommendations on how they can be made sustainable and affordable in the long term, and fair to both public service workers and the taxpayer.</p> <p>Lord Hutton identified that there is a case for stronger governance of all the public service pension schemes and that there is a legitimate role for representatives of the workforce to be formally involved. He recommended that every public service pension scheme should have a properly constituted, trained and competent Pension Board, with member nominees, responsible for meeting good standards of governance including effective and efficient administration. In the case of the locally administered schemes, these should be local pension boards. Lord Hutton also found that there should also be a pension policy group for each scheme at national level for considering major changes to scheme rules.</p> <p>The recommendations made by Lord Hutton were accepted by the</p>
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<p><b>Previous Engagement:</b></p>	<p>Government and were carried forward into the Public Service Pensions Act 2013. This Act gained Royal Assent on 25 April 2013 and put in place the legislative framework for the new governance arrangements for public service pension schemes. In relation to the Firefighters' Pension Schemes in England, it set the 'responsible authority' to be the Secretary of State for Communities and Local Government.</p> <p>A key objective of the 2013 Act is to ensure a fair balance of risks between scheme members and the taxpayer. To achieve this, the Government has established an employer cost cap mechanism to provide backstop protection to the taxpayer and to ensure that the risks associated with pension provision are shared more fairly between employers and scheme members.</p> <p>The Department has previously consulted on draft regulations in May 2015 to implement the Firefighters' Pension Scheme 2015<sup>1</sup>. This included proposals for the implementation of the cost control mechanism which has been refined in these draft regulations.</p> <p>Those draft regulations for the 2015 Scheme also made provision for the definition of 'scheme manager' as the fire and rescue authority. The scheme manager is responsible for the administration of the scheme.</p>
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## Additional copies

- 1.1 This consultation paper is available on the Government's website at: <https://www.gov.uk/government/consultations/firefighters-pension-scheme-2015-proposals-for-new-governance-arrangements>.

## Confidentiality and data protection

- 1.2 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).
- 1.3 If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we

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<sup>1</sup> *Consultation on the regulations to introduce a new firefighters' pension scheme from April 2015*, published 18 December 2013, <https://www.gov.uk/government/consultations/firefighters-pension-scheme-from-april-2015>, and *Consultation on the regulations to introduce a new firefighters' pension scheme from April 2015*, published 23 May 2014, <https://www.gov.uk/government/consultations/consultation-on-the-regulations-to-introduce-a-new-firefighters-pension-scheme-from-april-2015>.

receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the Department.

- 1.4 The Department will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

## Help with queries

- 1.5 Questions about the policy issues raised in the document can be sent to [firepensions@communities.gsi.gov.uk](mailto:firepensions@communities.gsi.gov.uk).
- 1.6 A copy of the Consultation Principles is at [www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance](http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance). Are you satisfied that this consultation has followed these principles? If not or you have any other observations about how we can improve the process please email: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)
- 1.7 Alternatively, you can write to:

DCLG Consultation Co-ordinator  
Department for Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF



## 2. Policy Context

### Lord Hutton's Independent Report

- 2.1 In 2010, the Chancellor invited Lord Hutton to chair the independent Public Service Pensions Commission to undertake a fundamental structural review of public service pension provision. In his Final Report<sup>2</sup>, Lord Hutton sets out his recommendations to the government on pension arrangements that are sustainable and affordable in the long term, and fair to both the public service workforce and the taxpayer.
- 2.2 Lord Hutton identified that there is a case for stronger governance of all the public service pension schemes and that there is a legitimate role for representatives of the workforce to be formally involved. He recommended that every public service pension scheme should have a properly constituted, trained and competent Pension Board, with member nominees, responsible for meeting good standards of governance including effective and efficient administration. In the case of the locally administered schemes, these should be local pension boards. Lord Hutton also found that there should also be a pension policy group for each scheme at national level for considering major changes to scheme rules.

### Public Service Pensions Act 2013

- 2.3 The Public Service Pensions Act 2013 ("the Act") gained Royal Assent on 25 April 2013 and put in place the legislative framework for the new governance arrangements for public service pension schemes. In relation to the Firefighters' Pension Schemes in England, the Act set the Secretary of State as the responsible authority and the function is discharged by the Secretary of State for Communities and Local Government.

#### **Pension Boards**

- 2.4 The Act requires scheme regulations to provide for the establishment of a pension board to assist the scheme manager:
- secure compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme, and any connected scheme
  - secure compliance with any requirements imposed by the Pensions Regulator, and
  - in relation to any other matter specified in scheme regulations.
- 2.5 Amongst other matters, the Act also requires regulations to require the scheme manager to be satisfied that the pension board members do not have a conflict of

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<sup>2</sup> *Independent Public Service Pensions Commission: final report by Lord Hutton*, published 10 March 2011, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207720/hutton\\_final\\_100311.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207720/hutton_final_100311.pdf).

interest, and that the board must have equal numbers of employer and member representatives.

### **Scheme Advisory Board**

- 2.6 The Act further requires scheme regulations to provide for the establishment of a 'Scheme Advisory Board' with responsibility for providing advice to the responsible authority, at the authority's request, on the desirability of changes to the Scheme. The regulations may also provide where there is more than one scheme manager and pension board in a scheme, for the Scheme Advisory Board to provide advice to the scheme managers or pension boards on the effective and efficient administration of the scheme. The responsible authority must be satisfied that the Scheme Advisory Board members do not have a conflict of interest.

## **Firefighters' Pension Schemes**

- 2.7 The Department has previously consulted on regulations to implement the Firefighters' Pension Scheme 2015 and a Government response will be issued shortly. Those draft regulations already make provision for the definition of 'scheme manager', which is the fire and rescue authority. The scheme manager is responsible for the administration of the scheme.

### **Local Decisions and Accountability**

- 2.8 There are some variances in governance within fire and rescue authorities. Anecdotal information suggests that, in practice, the decisions concerning the administration of the scheme are delegated to an officer of the authority and that officer exercises its discretion within that delegated authority. Other authorities have other structures to make decisions.
- 2.9 The Firefighters' Pension Scheme consumes a large proportion of the budgets of fire and rescue authorities. The Government's view is that there should be greater scrutiny of decisions made by fire and rescue authorities, particularly where these are made by individual officers, to provide more assurance to taxpayers and to scheme members, particularly given that any significant increase in costs that breach the cost cap could fall to members.

### **Current National Arrangements**

- 2.10 There is currently a national policy committee, the Firefighters' Pension Committee, which has an advisory role in considering potential scheme changes. The Committee is chaired by the Department and consists of employer representatives and unions.

## 3. Proposals

### Local Pension Boards

- 3.1 The Department's approach to the framework governing the introduction of Local Pension Boards is to provide a broad regulatory framework, within which fire and rescue authorities can set up their board locally while meeting the core objectives of Government policy as set out in the Act. The intention is for this to be supplemented by guidance issued by the Scheme Advisory Board. There will be some regulatory requirements which are set out below and there is a power for the Secretary of State to issue guidance to Scheme Managers on local pension boards, to which the scheme manager must have regard.

#### **Function**

- 3.2 Similar to the requirements of the Act, the regulations require the local pension board to assist the scheme manager to comply with the regulations governing the Firefighters' Pension and Compensation Schemes and any requirements imposed by The Pensions Regulator. The regulations also require the local pension board to assist the scheme manager to ensure the effective and efficient governance and administration of the scheme. This is, potentially, a wide ranging role and allows, for instance, the board to look at the systems underpinning the administration of the scheme or how decisions are taken. However, the local pension board is not a decision making body.

#### **Structure**

- 3.3 The Department's expectation is that there will be one local pension board per scheme manager. There may be scope, in future, for scheme managers to share a pension board where the function of a scheme manager is wholly or mainly shared with another scheme manager. The regulations give broad discretion to the scheme manager to determine the procedures applying to its board, including the voting rights and the establishment of sub-committees.

#### **Membership and appointments**

- 3.4 It will be for the scheme manager to determine its membership, and how the members are appointed and removed from the board. However, the board must have an equal number of member and employer representatives and must consist of at least four members. Member representatives are appointed for the purpose of representing members of the Firefighters' Pension Scheme. These may be, but are not limited to, trade union representatives. However, the member must be in scheme employment and therefore must be a firefighter who is currently employed by a fire and rescue authority. This means that former firefighters (which could include pensioner members if they are no longer employed as a firefighter) cannot be a member representative.
- 3.5 Employer representatives are appointed for the purpose of representing employers. These may be, but are not limited to, councillors or officers of the authority.

However, an officer or member of the authority which is responsible for making decisions on the pension scheme is not permitted to be a member of the board as the board may be scrutinising the decisions of that officer or member.

- 3.6 It is for the scheme manager to determine the terms of appointment to the board but, in doing so, they must be satisfied that the individuals have the capacity and understanding to represent either the employer or scheme members, as appropriate. The scheme manager must also be satisfied that there is no conflict of interest, both before appointment and subsequently from time to time. An individual who is, or is to be, appointed must provide the scheme manager with any information which it reasonably requires to satisfy itself as to whether there is a conflict.

### **Costs**

- 3.7 It is for the scheme manager to determine whether any expenses should be paid in relation to the running of the local pension board. The Department's view is that any costs should be on an exceptions basis and only to recover costs. It is possible that the local pension board will look to obtain specialist professional advice, for instance actuarial, and the scheme manager may wish to provide an annual budget to the board for such instances.

## **Scheme Advisory Board**

- 3.8 Discussions on a new Scheme Advisory Board have taken place between the Local Government Association and the fire service trades unions and draft Terms of Reference have been developed. The draft regulations, published alongside this consultation, are light touch and seek to facilitate the draft Terms that have been developed.

### **Function**

- 3.9 The regulations make the Scheme Advisory Board responsible for providing advice, on request, to the Secretary of State on whether there should be changes made to the terms of the Firefighters' Pension Schemes. This could be in relation to particular technical features of the scheme or broader scheme design issues.
- 3.10 The Board is furthermore responsible for providing advice and guidance to scheme managers and local pension boards in relation to the effective and efficient administration of the schemes. The intention is that the Board will encourage best practice, benchmark performance, and coordinate technical and standards issues. It is also likely to have a liaison role with The Pensions Regulator and other interested parties.
- 3.11 The Scheme Advisory Board also has an important procedural role in relation to the Employer Cost Cap and will monitor progress against the cap. Further details on this role are set out below.

## **Structure and operating procedures**

3.12 It is for the Scheme Advisory Board to determine their own procedures and voting rights and the establishment of any sub-committees or joint committees.

## **Membership and appointments**

3.13 The regulations require the Scheme Advisory Board to have a chairman and to consist of no more than 14, or less than two, additional members. These individuals will be appointed by the Secretary of State and the Secretary of State will be looking, although not bound, to appoint equal numbers of employee and employer representatives. The Secretary of State will also be looking to ensure that there is a wide range of representation on the Board and that all interested parties that represent employees and employers are on the Board. The Chairman may appoint, with the agreement of the Board, no more than three individuals to be non-voting advisory members of the Board and can also appoint individuals who are not Board members, to be members of a sub-committee. All Board and sub-committee members will hold and leave office in accordance with the terms of their appointment.

3.14 The Secretary of State must be satisfied that there is no conflict of interest both before appointment, and then subsequently from time to time. An individual who is, or is to be, appointed must provide the Secretary of State with any information which he reasonably requires to satisfy himself whether there is a conflict.

## **Costs**

3.15 The Scheme Advisory Board will have the power to raise money from scheme managers to fund its activities. To do so, the Scheme Advisory Board must prepare an annual budget for approval by the Secretary of State. The Secretary of State will ensure that the Board is delivering value for money for taxpayers. The Board may determine how to recover the money from scheme managers based on the number of members of the 2015 scheme and connected schemes, and a scheme manager is required to pay that amount.

## **Employer cost cap**

3.16 The recent consultation on the regulations relating to the membership and benefits in the new Firefighters' Pension Scheme 2015<sup>3</sup> included a process (at regulation 152) for reaching agreement where the costs of the Scheme fall above or below the cost cap, so that the costs of the Scheme are returned to the level of the employer cost cap. The draft regulations published alongside this consultation set out a revised, simpler process for the Secretary of State to reach agreement with scheme managers, employers and members (or their representatives) to achieve the target cost. That procedure involves consultation with the Scheme Advisory Board for such a period as the Secretary of State considers appropriate, with a view to reaching a unanimous agreement with members of that Board. However, if agreement is not

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<sup>3</sup> *Consultation on the regulations to introduce a new firefighters' pension scheme from April 2015*, published 23 May 2014, <https://www.gov.uk/government/consultations/consultation-on-the-regulations-to-introduce-a-new-firefighters-pension-scheme-from-april-2015>.

reached within 3 months after the end of that consultation, the Secretary of State must take steps to adjust the accrual rate to achieve the target cost of the scheme.

- 3.17 The employer cost cap will be set by the 2012 valuation of the Firefighters' Pension Schemes in England, which is currently being undertaken by the Government Actuary's Department. Detailed discussions on the assumptions to be adopted for the valuation took place at the Firefighters' Pension Committee. The methodology adopted for the valuation is set out in Treasury Directions<sup>4</sup>, which were also subject to consultation. The cost cap will be announced following the outcome of the valuation, which will be later this year and the figure will be incorporated into the scheme regulations.

## **Equalities**

- 3.18 The Department has considered whether there are any equalities considerations relevant to the policy set out in these regulations and so far considers that there are not any. Equalities issues will be relevant in appointing individuals to the local pension boards and Scheme Advisory Board, and will need to be considered at that point.

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<sup>4</sup> The Treasury Directions can be found at <https://www.gov.uk/government/publications/public-service-pensions-actuarial-valuations-and-the-employer-cost-cap-mechanism>.

## 4. Next Steps and Questions

4.1 The Department invites consultees' views and any evidence relating to all aspects of this statutory consultation by 21 November. In particular, comments are welcomed on the following key questions:

### **Question 1**

Do the draft regulations deliver the policy objective on the introduction of local pension boards and a Scheme Advisory Board as set out in this consultation document?

### **Question 2**

Do you have any comments on the terms of the local pension boards or Scheme Advisory Board as set out in regulations?

### **Question 3**

Are there other powers or requirements that should be put in place for local pension boards or the Scheme Advisory Board?

### **Question 4**

Should the regulations be more, or less prescriptive about potential members of the local pension boards or the Scheme Advisory Board?

### **Question 5**

Is there an alternative funding mechanism for the Scheme Advisory Board which could be put in place rather than raising funds from scheme managers with the Secretary of State ensuring that the Board is delivering value for money?

### **Question 6**

Do you consider that any groups with protected characteristics under equalities legislation are being disproportionately affected? If so, what do you consider to be the nature and scale of that disproportionate effect?