

# Retrospective remedy- Firefighters' Pensions (Remediable Service) Regulations 2023



# Legislative timeline

1 April 2022 PSPJO Act – Primary legislation  
The Firefighters' Pension Scheme (England) (Amendment) Regulations 2022 – Secondary legislation

6 April 2022 **Finance Act 2022** – Primary legislation  
- Scheme Pays  
- UPCs  
- others?  
Plus enabling secondary legislation

19 December 2022 The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022

6 April 2023 The Public Services Pension Scheme (rectification of unlawful discrimination) (Tax) regulations 2023

1 October 2023 The Firefighters' Pensions (Remediable Service) Regulations 2023

# Remediable Service Regulations

Pre-consultation engagement with SAB – PDDs and other documents held at <https://www.fpsregs.org/index.php/member-area/age-discrimination-remedy-provision-definition-documents>

Consultation sought responses on the regulations needed to enact the second phase of the remedy, as set out in the PSPJOA 2022

- Roll-back
- Deferred and Immediate choice

<https://www.gov.uk/government/consultations/firefighters-pension-scheme-retrospective-remedy> - Consultation document sets out policy positions and draft Statutory Instrument

Consultation closed on 23 May 2023. [Consultation response](#) published 19 July 2023

[The Firefighters' Pensions \(Remediable Service\) Regulations 2023](#) were laid on 20 July 2023 and are effective from 1 October 2023.

# Structure of SI

## Parts

- Part 1 includes the commencement dates and extent, as well as definitions of terms (interpretation)
- Part 2 = Remediable service statements
- Part 3 = Decisions about remediable service
  - Opt-out CDs
  - Immediate choice
  - Deferred choice
- Part 4 = Divorce

## More Parts

- Part 5 = Voluntary contributions
- Part 6 = Transfers
- Part 7 = Special cases
  - Child pensions
  - Ill-health
- Part 8 = Immediate detriment
- Part 9 = Liabilities and payment
  - Interest
  - Compensation
  - Waiving liabilities
  - Contributions

# Immediate choice members

Pensioner/ deceased immediately before 1 October 2023

Choice is irrevocable

Choice cannot be made unless an RSS has been provided

Member to make election within 1 year of receiving choice (31 March 2026).

Can choose to change commutation decision. Reference consultation response 6.133.

Default is legacy but scheme manager can deem election

[Part 3, Chapter 2 \(Regulations 7 to 10\)](#)

# Deferred choice members

Active/ deferred immediately before 1 October 2023

Member must notify scheme manager of intention to retire 3-6 months in advance. Different to consultation which said 6-12 months. Scheme manager can consider other reasonable periods of time.

Regulation 13 (paragraph 2) states: **13.—(1)** This regulation applies where M is the deferred choice decision-maker.

(2) M must notify the scheme manager in a form and manner determined by the scheme manager that M intends to claim benefits in relation to M's remediable service as a firefighter—

(a) during the period between 6 and 3 months before the date M intends such benefits to become payable, or

(b) during such other period that the scheme manager considers reasonable in all the circumstances.

# Deferred choice members

Regulations deal with members retiring shortly after October 2023.

[Regulation 12 \(8\)](#) defines this:

- 8) No benefits are payable under the legacy scheme in respect of M's pensionable service under that scheme unless—
- (a) a deferred choice decision is made in relation to M's remediable service as a firefighter,
  - (b) a section 10 election is deemed to have been made under [regulation 16](#) in relation to that service,
  - (c) M has notified the scheme manager that they intend to claim benefits under a firefighters' pension scheme in respect of their remediable service as a firefighter and it was not reasonably practicable for the scheme manager to provide a remediable service statement in respect of M in accordance with [regulation 4\(2\)\(c\)\(i\)](#) before the date on which such benefits become payable

# Deferred choice members

Choice should be made within 12 weeks of DC-RSS being provided, before benefits payable (if earlier) or by scheme manager discretion.

[Regulation 13 \(3\)](#) defines this:

“(3) A deferred choice decision may only be made during the period—  
(a) beginning on the date a remediable service statement is issued under regulation 4(2)(c)(i), and  
(b) ending—  
(i) at the end of the day 12 weeks after that date,  
(ii) subject to paragraph (5), at the end of such other day as the scheme manager considers reasonable in all the circumstances, or  
(iii) if earlier than the time which applies by virtue of paragraph (i) or (ii), at the end of the day before benefits become payable in relation to M’s remediable service as a firefighter.”



# Deferred choice members

A decision may be revoked up to 10 working days before benefits become payable and lapses if member dies. Consultation response references 3.17 and 3.21.

[Regulation 13 \(5\)](#) defines this:

“(5) A deferred choice decision made by M may be revoked—

(a) up to 10 working days before benefits become payable in relation to M’s remediable service as a firefighter, and

(b) by M communicating to the scheme manager notice of the revocation in a form and manner determined by the scheme manager.

(6) Where the scheme manager receives notice that M has died before any benefits have become payable in relation to M’s remediable service as a firefighter—

(a) any deferred choice decision made by M lapses, and

(b) any period that has begun (whether or not it has also ended) in accordance with [paragraph \(3\)](#) is to be treated as never having begun (or ended).

# Deferred choice members

Regulation 66 confirms that the amount of contributions owed must be paid by lump sum within 3 months of receiving an RSS (either the first one or annually) or at retirement.

If the member has not paid by retirement, “the scheme manager may deduct such sums from benefits payable to P under a firefighters’ pension scheme as seem reasonable to the scheme manager for the purpose of discharging P’s liability.”

# ABS/ RSS

All members must receive a remediable service statement (RSS) in line with:

- [Section 29 PSPJOA](#)
- [Direction 20 HMT Directions](#)

Different statements required for different cohorts with different needs, but all must include information contained in Act/ Directions

All statements provided within 18 months of 1 October 2023 in line with RSS timetable. LGA working with NPCC on RSS to ensure consistency.

[Regulation 4](#)

# Transfers

[Section 21 PSPJOA](#) – rights can be varied or extinguished via scheme rules

Transfers do not roll-back to legacy scheme at implementation

Choice made at retirement/ point of election

If TV cannot be credited to legacy scheme (e.g. FPS 1992 member or exceed service cap), value will be retained in FPS 2015 or actuarially compensated

[Part 6](#) (Regulations 31 to 48)

# Transfers – CETV

Before 1 October 2023

- CETV out – recalculated and difference paid to receiving scheme or compensation made ([Regulation 33](#))
- CETV in – comparison of transfer in legacy/ reformed for RSS. Additional TV payment from PSPS can be accepted ([Regulation 34](#))

On/ after 1 October 2023

- CETV out – calculate on legacy and reformed basis ([Regulation 36](#))
- CETV in (PSPS) - comparison of transfer in legacy/ reformed for RSS ([Regulation 37](#))

# Transfers – Club

## Before 1 October 2023

- Club out – recalculation on legacy and reformed basis, calc provided to receiving scheme. Difference only paid if LGPS ([Regulation 38](#))
- Club in – Adjustment to TV can be accepted. Comparison of transfer in legacy/ reformed for RSS. ([Regulation 39](#))

## On/ after 1 October 2023

- Club out – calculate on legacy and reformed basis, highest value paid ([Regulation 41](#))
- Club in - comparison of transfer in legacy/ reformed for RSS [Regulation 42](#))

# Added Pension (AP)

No facility to convert AP at roll-back to equivalent Added Years in the legacy schemes due to conditions of purchase (e.g. service cap)

All members given a 'refund' of contributions = compensation (less tax relief plus interest). However, note the possibility to request a contingent decision.

[Regulation 27](#)

# Contributions

Adjustment of contributions required at roll-back for all active/ deferred unprotected/ taper members (DC)

Adjustment of employer contributions will be achieved through future valuations. Outstanding ER contributions will create a notional deficit and will be reflected in future ER contribution rates.

Adjustment of contributions required at point of election for IC members – payment within 6 months of notification

Option to pay over 14 years if it is an opt out contingent decision case.

[Regulations 66](#) and [67](#) (Payment of net liabilities)



# GAD contribution calculator



- GAD calculator in development for contributions – will include adjustments for tax relief and interest
- Data input descriptions have been provided in [FPS Bulletin 71-July 2023](#)
- Working group in place. Next meeting will discuss the methodology applied by the calculator.

# Ill-health retirement

## Relates to IC members only

- Member to be treated as meeting equivalent criteria under alternative scheme ([Regulation 50\(2\)](#))
- Original decision should not be reopened ([Regulation 50\(4\)](#))
- As some members may also be entitled to a different benefit under the alternative scheme, reassessment needed in certain circumstances ([Regulation 51](#))
- [Regulations](#) deal with members who were dismissed on capability

## Regulations 49 to 53

# Re-assessments - FRAs

To make the process of remedy implementation more streamlined and cost effective, only the following assessments should need referral to an IQMP for a further opinion on ill-health entitlement under the alternative scheme:

- Fully protected FPS 1992 members who have been ill-health retired on a lower tier ill-health pension and **need to be assessed against FPS 2015 lower tier ill-health criteria**
- Fully protected FPS 1992 members who have been ill-health retired on a lower and higher tier ill-health pension and **need to be assessed against FPS 2015 lower tier and higher tier ill-health criteria**
- Transitional FPS 1992 members who have been rejected for ill-health retirement under FPS 2015 (single source ill-health arrangements) and **need to be assessed under the FPS 1992 lower tier and higher tier ill-health criteria**
- Transitional FPS 1992 members who have been ill-health retired on a lower tier pension under FPS 2015 (single source ill-health arrangements) and **need to be assessed under the FPS 1992 lower tier and higher tier ill-health criteria**

All other assessments should only require a paper exercise to work out whether the scheme member qualifies for ill-health retirement under the alternative scheme. [Age discrimination ill health reassessment factsheet](#) available for guidance.

# Abatement

Affects members who've retired in the remedy period (IC)

No changes to policy or scheme regulations

Members may be subject to new or increased abatement at roll-back

Overpayments should be recovered and underpayments made good

RSS to detail how abatement applies in each scheme

# Contingent decisions – opt outs

Claims for opt outs during remedy period. Those who opted out up to 6 months prior to remedy period should be automatically accepted

Optant outs before the 6 month period need to provide evidence that decision was due to reforms

Claim can be made by the “eligible decision-maker” determined in accordance with [the Schedule](#).

An election must be made within 12 months of the RSS being provided.

[Regulation 6](#)

# Contingent decisions – opt outs

[Regulation 66](#) confirms that the contributions owed by a contingent decision opted out member may be spread over maximum period of 14 years. Consultation response reference 6.110

Or if earlier, “the day before it is reasonably expected that, if a section 10 election were made in relation to the remediable *fire* service to which the net liability relates, reformed scheme benefits would become payable to or in respect of that member.”

Amount of each contribution is to be decided by the scheme actuary. GAD contribution calculator currently in development and can deal with opt out cases.

Annual Allowance-HMRC have confirmed that the Pension Input Amounts will fall into the relevant past tax years that they apply to.

# Contingent decisions – Matthews

Consultation response confirms that Matthews service up to 31 March 2015 will be dealt with under Matthews. Remedy regulations will deal with service from 1 April 2015-31 March 2022.

Matthews to be done first so that a firefighter is in the correct scheme at 31 March 2012.

Consultation confirms that non-members of the scheme on 1 April 2015 can buy their service back under a contingent decision. Will be able to count remedy service in their special 2006 benefits as a result. Process maps to be provided by Home Office.

Consultation reference [6.11](#)

# Contingent decisions – others

## Voluntary contributions

- Scheme manager discretion to allow retrospective AY contract. AY contract will apply from member's next birthday in the remedy period which falls after the member's transition date unless member has evidence for a different date. It will then apply from the nearest birthday in the remedy period to that date.
- [Regulation 29](#) Reference 4.37 of the consultation response

## Transfers

- Allows member to revisit transfer decision during remedy period
- Window for new decision
- Reversal will require agreement from sending/ receiving scheme

## General

- Template or bespoke form?
- How to alert members to the claim process?
- Evidence and consistency?



# Divorce

[Section 19 PSPJOA](#) makes provision for pension credit members (PSO) only

- Credit can be adjusted based on assumed election
- Credit cannot be based on taper-protection position

Pre-implementation – CETV recalculated against alternative scheme and additional credit paid to PC member in line with original share (no recovery of overpayments)

Post-implementation

- Active/ deferred – CETV based on the greater of legacy or reformed scheme (not affected by DCU)
- Pensioner – CETV will reflect member choice

[Part 4](#) (Regulations 17 to 26)

# Bereavement

If member dies before making an election, a representative may make a choice

Where benefits have already crystallised, decision cannot be revoked

Eligible decision makers set out in [the Schedule](#) to the remediable regulations

Child pensions will not be reduced if representative is not the legal parent/ guardian ([Regulation 54](#))

# Member communications

Remedy videos for members are being developed by Aon and scripts have been reviewed by the Communications Working Group. Due to be ready by October 2023.

[Remedy warm up letters](#) have been produced for each cohort of member.  
Includes letters for dependents if required.

Please note that the remedy videos will refer to the warm up letters.

RSS being developed jointly with NPCC colleagues to ensure consistency.

# Scheme Manager-communications

RSS- [Regulation 4 \(4\)](#) –dealt with through RSS provision

Opt outs – [Regulation 6 \(3b\)](#)- contingent decision communications and evidence criteria

IC decision- [Regulation 8 \(3a\)](#) –dealt with through RSS provision

DC decision – [Regulation 12 \(3a\)](#) – dealt with through RSS provision

Intention to retire – [Regulation 13 \(2\)](#)

Revocation of election – [Regulation 13 \(5b\)](#)

Added years- [Regulation 29 \(4a\)](#) – contingent decisions communications

# Booking now open!

Firefighters' AGM 19 September and 20 September 2023

18 Smith Square, London



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**Thank you for listening!**

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