

## Information

# Matthews – Statutory Deadlines -factsheet for Scheme Managers

## Contents

Introduction .....	2
Statutory deadlines .....	2
Remedy statutory deadlines .....	2
Warm up communications .....	2
Implementation period ends .....	3
Breaches of statutory deadlines.....	3
What is a breach of law .....	3
Who should report a breach of law .....	3
How to decide what is a material breach .....	4

# Introduction

1. This document is intended to be used as a guidance tool for scheme managers and pension administrators.
2. This document sets out the different statutory deadlines within the Matthews remedy process, and the requirements that are needed to meet such deadlines.
3. Scheme managers and administrators are strongly encouraged to follow this guidance to help ensure consistency both locally and nationally. If there is a departure from this national guidance, the scheme manager should assess any implications of doing so and is encouraged to satisfy both themselves and the Local Pension Board (LPB) that an alternative approach is appropriate. Scheme managers are encouraged to document and report any breaches to the LPB, this is to ensure that an adequate audit trail is available.

## Statutory deadlines

Within the regulations<sup>1</sup> that govern the Matthews remedy, there are several dates which set out when certain elements of the remedy must be implemented by. This is unless there is a discretion for a scheme manager to deviate from this.

There are also other regulations<sup>2</sup> that need to be considered when certain information must be provided to an individual.

These are known as statutory deadlines.

If a scheme manager does not adhere to a statutory deadline this would constitute a breach of law which **must** be reported to the Local Pension Board (LPB). The breach should then be assessed as to whether it is determined to be of material significance. All material breaches are required to be reported to the Pensions Regulator (TPR). Further information can be found in the [Breaches of Statutory Deadline](#) section.

## Remedy statutory deadlines

Set out below are the statutory deadlines which relate to the relevant elements of Matthews remedy which are required to be implemented by a certain date:

**30 December 2023** – [Warm up communications \(Disclosure requirements\)](#)

**31 March 2025** – [Implementation Period Ends](#)

## Warm up communications

In [FPS Bulletin 73 – September 2023](#), we confirmed that all eligible members should be sent a 'expression of interest' letter to meet the requirements under [regulation 8](#) of the [Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013](#). (Disclosure regulations).

To satisfy disclosure requirement, the expression of interest letter should have been sent to [eligible members](#) within three months (**30 December 2023**) of the [Firefighters' Pension Schemes \(England\) \(Amendment\) Order 2023](#) coming into force.

The expression of interest letter is published on the [Second Options Exercise](#) section of the [FPS regulations and guidance](#) website.

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<sup>1</sup> [Firefighters' Pension Schemes \(England\) \(Amendment\) Order 2023](#)

<sup>2</sup> [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013](#)

## Implementation period ends

Within the regulations there are several 'indicative' dates within regulation [\(5B\)](#) i.e. an application must be made within six months of receiving the notification [5B\(10\)\(a\)](#), within three months of receiving an application the authority must give the applicant a notice [5B\(13\)](#).

The indicative dates provide guidance but as they are indicative, they also allow flexibility for an FRA when implementing the remedy.

The hard deadline to have implemented Matthew's remedy is **31 March 2025**.

The regulations provide for flexibility for individuals who have not be identified under [5C \(14\)](#), whereby an election can take place after 31 March 2025, but there is no flexibility for individuals who have been identified and notified under [5C \(13\)](#).

## Breaches of statutory deadlines

It is important for scheme managers and administrators to understand what constitutes a breach and when it is deemed as being materially significant to then require reporting to TPR.

If any of the statutory deadlines are not met, this constitutes a breach of the law, which requires recording and reporting to the LPB. It is good practice for an FRA and administrator to hold a breaches log, so that they have a robust audit trail.

The TPR single code of practice has a section on '[Reporting to TPR](#)' which covers [reporting breaches of law](#) and [who must report](#), [deciding whether to report](#) and [how](#).

Stakeholders must have regard to the single code of practice.

### What is a breach of law

A breach of the law is an act or omission which is in contravention of a statutory provision or regulation or of any court order or of any policy requirement which is in place in accordance with legal and regulatory requirements. It can cover many aspects of the management and administration of the scheme, including failure:

- to do anything required under the Firefighters' Pension Scheme Regulations.
- to do anything required under relevant legislation, statutory guidance or codes of practice.
- to act on evidence of a fraudulent act or omission.
- to make payments to the pension scheme or to any person in accordance with the Pension policies and commitments to members.
- to provide information or maintain records in accordance with Regulations.

### Who should report a breach of law

All stakeholders involved in the management or administration of the Firefighters' pension scheme are required to take a proactive approach to the identification and reporting of all breaches that come to their attention as having occurred, or likely to occur. All stakeholders should ensure that any identified breach is drawn to the attention of the scheme manager.

It is good practice for stakeholders to have a breach of the law policy, which should detail whether there is a set process for reporting a breach.

There should be no delay between the identification of a breach and its reporting. Action should be taken as quickly as is reasonably practicable.

## How to decide what is a material breach

The Scheme Advisory Board (SAB) have published a [breach assessment template](#) which can be found in the [resources](#) section of the [FPS Board](#) website. The document is designed to assist stakeholders on assessing whether a breach is materially significant or not.

To determine whether the breach is materially significant the reporter will consider:

- Cause – what led to the breach e.g. dishonesty, poor governance, incomplete or inaccurate information.
- Effect – what is the effect of the breach e.g. inaccurate records, incorrect payments, potential for further breaches occurring, risk of claim.
- Reaction – e.g. taking prompt, correct and effective action to respond to and resolve a breach or being slow or incomplete in responding.
- Wider implications – e.g. likely that other failings will emerge due to the issue identified or that other transactions or other employers or members may be affected.

When considering whether any of the statutory deadlines for remedy are materially significant our understanding is as follows:

- Failure to use reasonable endeavours to locate eligible members and provide an expression of interest letter by **30 December 2023** should be considered material, and a breach **must** be reported to TPR.
- Failure to have implemented the Matthew's remedy by **31 March 2025** should be considered material and a breach **must** be reported to TPR.

If you miss an indicative date there is not the same requirement with regards to recording or reporting the breach, however it is important to keep members fully informed and manage their expectations.

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand in July 2024; however, they should be used only as an informal view of the interpretation of the firefighters' pension scheme as only a court can provide a definitive interpretation of legislation. This factsheet should not be interpreted as legal advice.

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

July 2024