

## Entitlement to two pensions

### Introduction

An entitlement to two pensions after a drop in pay is colloquially known as a “split pension”.

This factsheet has been prepared to give guidance to FRAs on when entitlement to two pensions occurs under the Firefighters’ Pension Scheme 1992 (FPS1992) and the Firefighters’ Pension Scheme 2006 (FPS2006) and how it is calculated.

### Entitlement to the two pension rule

Entitlement to two pensions occurs when there is a drop in pay before a person is moved to the Firefighters’ Pension Scheme 2015 (FPS2015), or where the person is a protected member of either FPS1992 or FPS2006.

Regulations in the FPS1992 [B5A] and FPS2006 [Part 3, Rule 7] came into force from 1 April 2007 to allow for two pensions. See [here](#) for full consolidated regulations.

The entitlement to two pensions occurs when a person suffers a reduction to the amount of pensionable pay on a) taking up a different role, or b) becoming entitled to a different rate of pay in the existing role.

A drop in pay that occurs after a person has moved into FPS2015 is explained [later](#) in this note.

## Calculation of the Two Pension Rule

### FPS1992

#### **Protected Members:**

A formula applies to protect the double accrual at the highest pay. The formula for calculating two pensions is set out in the regulations under paragraph 3 & 4 of rule B5A. [Appendix 1](#) sets out the formula for the calculation, with an example.

## Unprotected members, drop in pay occurs before moving to FPS2015:

Where a member has a drop in pay that occurred before they were moved to FPS2015, the same formula is used. However, the number of sixtieths used in the calculation needs to be adjusted. Please see [Appendix 2](#) for an example of this calculation

## FPS2006

In the case of FPS2006, calculation of two pensions is more straightforward.

Part 3, rule 7, paragraphs 3 & 4 prescribe that the first pension is calculated based on the pensionable pay at the highest level multiplied by the service built up to the date of drop and divided by 60. The second pension is calculated based on pensionable pay at date of retirement, multiplied by service from the date of drop and divided by 60. An example is given at [Appendix 3](#).

## Applying indexation to the first pension

Amendment order [2018/997](#) amends Rule B5A and Part 3, Rule 7 to confirm that indexation on two pensions should apply *as if* it were under the Pensions (Increase) Act 1971 [PIA<sup>1</sup>]. This does not change the position set out in guidance issued in [FSPC 3/2010](#)

It is important to note that the regulation does not apply actual pension increases under the pension increase act, rather it instructs the pension to be indexed by an 'equivalent' to PI. This is important because it means the payment is not subject to the Act's qualifying conditions.

Account is taken of a pension's beginning date when the increases are applied. The beginning date is the first day after the last day of service at the higher rate of pay.

When the pension is calculated at retirement age the first pension based on the higher rate of pay would be increased by the pension increase order. For example, where a firefighter has entitlement to two pensions for which the drop in pay occurred eight years before retirement, the value of the first pension would be increased by reference to all the Pensions Increase Orders that had effect in the previous eight years.

The second pension is calculated based on the pensionable pay on retirement. The two pensions would then be added together in order to compare against the alternative single pension, and the higher pension put into payment.

Please see [Appendix 1](#) for an example of applying indexation.

Please note that whilst the value of Part 1 of the pension at retirement will include the equivalent PI amount, there will be no further increases under the pensions act until age 55 unless retirement is on ill health grounds.

The [archived commentary](#) is a useful reference on applying the indexation.

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/1971/56/contents>

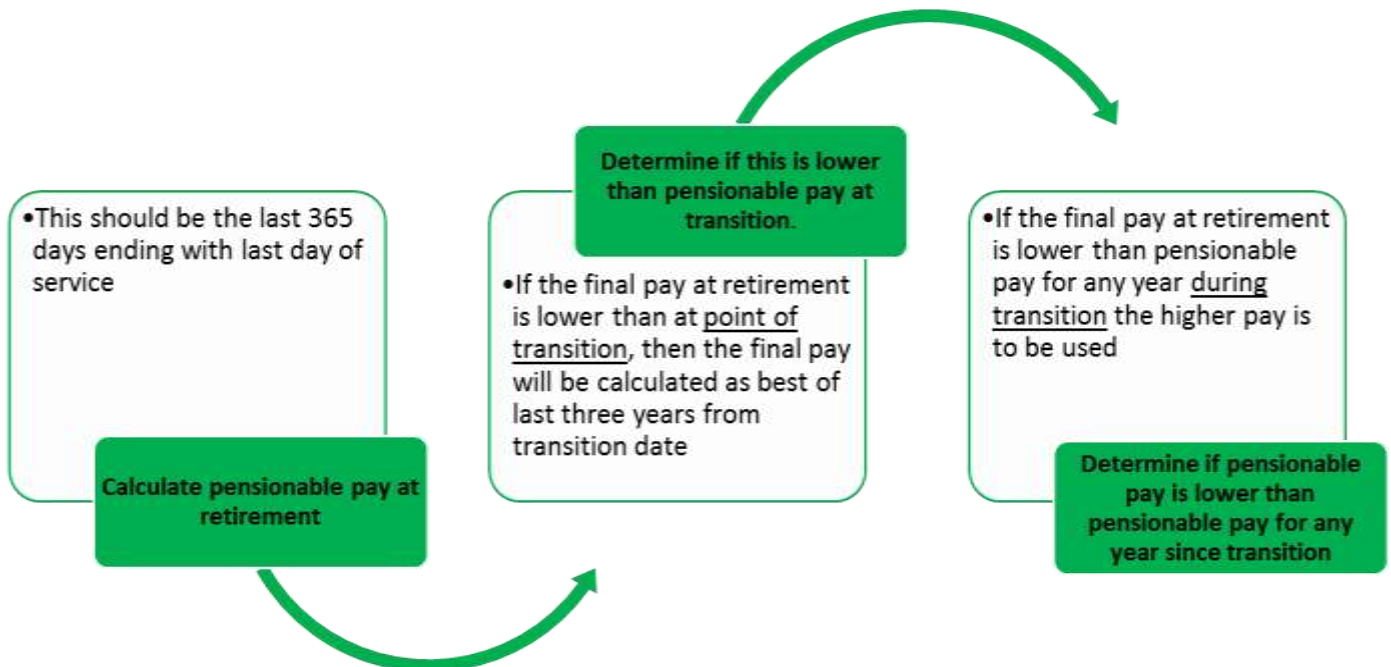
## Where the drop in pay occurs after transition to FPS2015

Where a member has a drop in pay after moving to FPS2015, the transitional provisions [Appendix 4] provide for protection and instruct the highest rate of pay since transition to be used in the calculation of the final salary pension.

At retirement the administrator should compare the pensionable pay for the last 365 days ending with the last day of service at two points:

1. Pensionable pay at the point of transitioning to FPS2015. For tapered members who have tapered into the scheme on any of the dates listed in Part 4 of schedule 2<sup>2</sup>, consideration should be given to how this pay is recorded for later comparison.
2. Pay at retirement should be compared to the pay at any point since transitioning. If the pay at any point is higher the higher pay is to be awarded.

This can be illustrated as follows:



<sup>2</sup> <http://www.legislation.gov.uk/uksi/2014/2848/schedule/2/part/4/made>

# Other considerations

## Supplying information to your administrator

When a drop in pay occurs the employer (FRA) must inform their pension administrator that this has happened as it automatically triggers entitlement to the two pension award. The pension administrator should record the average pensionable pay at the point of the drop, i.e. the last 365 days pay, and note the entitlement.

At retirement, the administrator should perform both the two pension calculation and the single award and award the highest of the two calculations.

## Communicating entitlement to two pensions to members

It is recommended good practice to acknowledge the entitlement of two pensions to the member, along with confirmation that the two calculations will be performed at retirement and the member will be given the highest calculation.

Annual Benefit Statements should note that the entitlement applies and the calculation will be performed at retirement to determine the value of the pension.

**It is not normally necessary to provide estimates unless the member is significantly close to retirement.**

## Frequently Asked Questions

- Q1 Does the reason for the drop in pay affect entitlement?
- A1 The regulations do not cite reasons for a reduction in pay, only that when it occurs the entitlement to two pensions arises. You can therefore draw from that, that a drop in pay for any reasons, such as temporary employment ceasing, disciplinary measures, voluntary change of circumstances are all valid reductions.
- Q2 Can you split the pension more than once?
- A2 No. The legislation refers to 'entitlement to two pensions', this allows the pension to be split once only, if the pay subsequently rises and then falls again, the pension is split at the highest point of pay.
- Q3 What happens if the reduction in pay occurred before 1 April 2007?
- A3 Under FPS1992, only a drop in pay since 1 April 2007 can qualify a member for entitlement to two pensions. As FPS2006 was introduced from 6 April 2006, any reduction in pay for a member of FPS2006 would trigger an entitlement to two pensions.
- Q4 How are temporary promotions affected?
- A4 A drop in pay that occurs due to the cessation of a temporary promotion that had been in place before 1 July 2013 would be eligible for the two pension rule.
- From 1 July 2013 temporary promotion has not been pensionable, therefore the cessation of any temporary promotion that started after 1 July 2013 would not be eligible.
- Q5 Does the member have to elect for a two pension entitlement?
- A5 Please note the regulations do not require a member to 'opt' for the two pension entitlement; it automatically applies on a drop in pay.
- Q6 If at retirement the pensionable pay is higher than at the point of entitlement plus indexation, does the member have to elect in writing for a single pension to apply<sup>3</sup>?
- A6 While the regulations do request a written election, we would expect a pragmatic approach to calculate both the single pension and the two pension amount and award the higher of the two calculations.
- Q7 Does the two pension still apply on opt-outs?
- A7 Entitlement to two pensions is lost if a member opts out of the pension scheme<sup>4</sup>.

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<sup>3</sup> Paragraph 6 of rule [B5A](#) or [Part 3, Rule 7](#)

<sup>4</sup> Paragraph 7 of rule [B5A](#) or Paragraph 8 of [Part 3, Rule 7](#)

## Other references to two pensions

The archived [commentary](#) on rule B5A is a useful source of reference with regards to calculating the two pension entitlement. Albeit as an archived document, it is no longer endorsed by Home Office or LGA

[FPSC 3 / 2010](#) gave guidance on applying indexation to the two pensions.

As confirmed in [PO-2573](#) a drop in pay before 1 April 2007 does not entitle a person to a two pension entitlement under rule B5A

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at March 2019, 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)

April 2019

## Calculation Examples

### Protected Member FPS1992

In the case of FPS1992 a formula applies to protect the double accrual at the highest pay. The formula for calculating two pensions is set out in the regulations under paragraph 3 & 4 of rule B5A.

(3) The amount of the first pension is that found by applying the formula—

$$A \times \frac{B}{C} \times \frac{D}{60}$$

where—

- A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay;
- B is the firefighter's pensionable service up to that day;
- C is the firefighter's total pensionable service; and
- D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6).

(4) The amount of the second pension is that found by applying the formula—

$$E \times \frac{F}{C} \times \frac{D}{60}$$

where—

- C and D have the same meanings as in paragraph (3);
- E is the firefighter's average pensionable pay for the year ending with his last day of service; and
- F is—
  - (a) where the aggregate of—
    - (i) the pensionable service used to ascertain the value of B in his case for the purpose of the formula in paragraph (3); and
    - (ii) his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service,
 exceeds 30, the difference between B and 30;
  - (b) in any other case, his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service.

## Example

Sarah joined the scheme on 2 March 1989 with a transfer in awarded of 1 year 47 days and is retiring on 30 April 2018 with 30 years' service.

At retirement Sarah's pay is £29,934, and the average pensionable pay for the year ending with the last day of service (1 May 2017 to 30 April 2018) is £29,884.53

Sarah had a drop in pay when her temporary promotion which began on 13 May 2009 ended on 30 November 2009. Sarah's pay at 30 November 2009 was £29,971 and dropped to £28,199.13 on 1 December 2009. The average pensionable pay for the year 1 December 2008 to 30 November 2009 is £28,974.59

Sarah qualifies for a two pension award calculation because of her drop in pay on 1 December 2009.

### Part One

The first pension is calculated as  $A \times (B \div C) \times (D \div 60)$

Where

- A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay; **£28,974.59**
- B is the firefighter's pensionable service up to that day; **21 years 321 days [2 March 1989 to 30 November 2009 plus 1 year 47 days transferred service]**
- C is the firefighter's total pensionable service; **30 years**, and
- D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6); **40 years**

$$£28,974.59 \times (21/321 \div 30) \times (40 \div 60) = £14,087.74$$

PI Date = 1 December 2009

PI Rate = 1.1985<sup>5</sup>

$$£14,087.74 * 1.1985 = \mathbf{£16,884.15}$$

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<sup>5</sup> PI multiplier table (2018) - <http://www.fpsregs.org/images/Legal/PI/PI2018.xlsm>



## Part Two

The second pension is calculated as  $E \times (F \div C) \times (D \div 60)$

Where

- E is the firefighter's average pensionable pay for the year ending with his last day of service; **£29,884.53** and
- F is his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service, restricted to 30 years minus B. **8 years 44 days**

$$£29,884.53 \times (8/44 \div 30) \times (40 \div 60) = \mathbf{£5,392.86}$$

## Total Pension

Part One + Part Two = Total Pension Award

$$£16,884.15 + £5,392.86 = \mathbf{£22,277.01}$$

## Compare two pensions to a single pension

$$£29,884.53 \times 40 \div 60 = £19,923.02$$

As £22,277.01 is greater than £19,923.02 the two pension calculation is awarded.

### Tapered or Unprotected FPS2015 member with transitional FPS1992 benefits

Where the member has been moved into FPS2015 and the drop in pay occurred before the transition, the formula as set out in paragraphs [3 & 4](#) applies, but with an adjustment to the value of D to reflect the adjusted 60ths that would be used for the final salary pension at retirement.

#### Example

Rob joined the scheme on 17 April 1990 and would retire on 16 April 2020 with 30 years' service.

Rob was entitled to tapered protection and joined FPS2015 on 30 September 2018

Rob had a drop in pay on 15 October 2011 from £25,000 to £20,000.

#### Adjusted value of D

The value of D is adjusted to reflect the number of 60ths that would be used to calculate Rob's pension at retirement. This is adjusted using the formula in Part 2A<sup>6</sup> of the 1992 scheme, which adjusts the expected accrual under FPS1992 to FPS2015.

$$A \div 60 * (B \div C)$$

Where

- B is the period in years of the person's pensionable service until the day before his transition date; **28 years 166 days [17 April 1990 to 29 September 2018 (day before transfer to FPS 2015)]**
- C is the period in years of his pensionable service and of his 2015 pensionable service (subject to a maximum of pensionable service of 30 years); **30 years [17 April 1990 to 16 April 2020]**
- A is the sum of E + (F x 2) and must not exceed 40 years  
Where—
  - E is the period in years of his pensionable service and of his 2015 pensionable service up to 20 years,
  - F is the period in years by which his pensionable service and his 2015 pensionable service exceeds 20 years; **40 years**

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<sup>6</sup> [http://www.legislation.gov.uk/ukxi/2015/589/schedule/3/paragraph/9/made as amended by Paragraph 2, sub paragraph 5 of SI 2017/892](http://www.legislation.gov.uk/ukxi/2015/589/schedule/3/paragraph/9/made%20as%20amended%20by%20Paragraph%20sub%20paragraph%205%20of%20SI%202017%2F892)

In this case as we are not calculating the proportion of 60ths we can adjust the formula to calculate D as

$$D = A * (B \div C)$$

$$D = 40 * (28/166 \div 30) = \mathbf{37 \text{ years } 343 \text{ days}}$$

## Part One

The first pension is calculated as  $A \times (B \div C) \times (D \div 60)$

Where

- A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay; **£25,000**
- B is the firefighter's pensionable service up to that day; **21 years 181 days [17 April 1990 to 14 October 2011]**
- C is the firefighter's total pensionable service; and **28 years 166 days [17 April 1990 to 29 September 2018 (day before transfer to FPS 2015)]**
- D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6). **37 years 343 days calculated as above**

$$£25000 \times (21/181 \div 28/166) \times (37/343 \div 60) = \mathbf{£11,942.16}$$

PI Date = 15 October 2011

PI Rate = 1.1337<sup>7</sup>

$$£11,942.16 * 1.1337 = \mathbf{£13,538.83}$$

## Part Two

The second pension is calculated as  $E \times (F \div C) \times (D \div 60)$

Where

- E is the firefighter's average pensionable pay for the year ending with his last day of service; **£20,000.00** and
- F is his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service, restricted to 30 years minus B. **6 years 350 days [15 October 2011 to 29 September 2018]**

$$£20000 \times (6/350 \div 28/166) \times (37/343 \div 60) = \mathbf{£3,092.85}$$

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<sup>7</sup> PI multiplier table (2018) - <http://www.fpsregs.org/images/Legal/PI/PI2018.xlsm>

## **Total Pension**

Part One + Part Two = Total Pension Award

$$£13,538.83 + £3,092.85 = \mathbf{£16,631.68}$$

## **Compare two pensions to a single pension**

Calculated using the formula in Part 2A<sup>8</sup> of FPS 1992

$$A \div 60 * (B \div C)$$

$$\mathbf{40 \div 60 * (28/166 \div 30) * £20,000 = £12,646.58}$$

As £16,631.68 is greater than £12,646.58 the two pension calculation is awarded.

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<sup>8</sup> <http://www.legislation.gov.uk/uksi/2015/589/schedule/3/made>

### FPS2006

In the case of FPS2006, calculation of two pensions is more straightforward.

Part 3, rule 7, paragraph 3 prescribes that the first pension is calculated based on the pensionable pay at the highest level multiplied by the service built up to the date of drop and divided by 60, unless the member is a special member where 60 would be replaced by 45.

*(3) The amount of the first pension is that found by multiplying the member's pensionable service up to (but not including) the day on which paragraph (1) first applies to him by the final pensionable pay to which he would have been entitled had he retired on that day, and dividing the resultant amount by 60.*

Paragraph 4, prescribes that the second pension is calculated based on pensionable pay at date of retirement, multiplied by service from the date of drop and divided by 60, unless the member is a special member where 60 would be replaced by 45

*(4) The amount of the second pension is that found by multiplying the member's pensionable service on and after the day on which paragraph (1) first applies to him by the final pensionable pay to which he is entitled on that day, and dividing the resultant amount by 60.*

### Example

Yousef joined the scheme on 22 November 2007 with a transfer in awarded from army service of 12 years. Yousef will retire on 30 August 2020.

Yousef's current pay is £45,670.

Yousef had a drop in pay after his pensionable allowance for being a trainer stopped on a move from his station. Yousef's pay at 12 January 2013 was £47,530 and dropped to £42,320 on 13 January 2013.

#### Part One

The first pension is calculated by multiplying the Yousef's pensionable service up to (but not including) the day on which the pay dropped and dividing the resultant amount by 60.

22 November 2007 to 12 January 2013 = 5 years 52 days

Transfer in = 12 years

Total service = 17 years 52 days

$£47,530 \times (17/52 \div 60) = £13,579.69$

PI Date = 13 January 2013

PI Rate = 1.0872<sup>9</sup>

$£13,579.69 \times 1.0872 = \mathbf{£14763.84}$

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<sup>9</sup> PI multiplier table (2018) - <http://www.fpsregs.org/images/Legal/PI/PI2018.xlsm>

## **Part Two**

The second pension is calculated based on pensionable pay at date of retirement, multiplied by service from the date of drop and divided by 60

13 January 2013 to 30 August 2020 = 7 years 230 days  
 $\text{£}45,670 \times (7/230 \div 60) = \text{£}5,807.81$

## **Total Pension**

Part One + Part Two = Total Pension Award

$\text{£}14,763.84 + \text{£}5807.81 = \text{£}20,571.65$

## **Compare two pensions to a single pension**

$\text{£}45,670 \times (24/282 \div 60) = \text{£}18,856.08$

As  $\text{£}20,571.65$  is greater than  $\text{£}18,856.08$  the two pension calculation is awarded.

### Protected Pay after moving to FPS2015 – transitional provisions

#### FPS1992

##### **Schedule 2, Rule 33, Paragraph 4<sup>10</sup>**

(4) Where T's pensionable pay derived from service under this scheme at the time when T's average pensionable pay is determined for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link) is lower than the pensionable pay for any year after the transition date, the pensionable pay for the year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the 1992 Scheme.

#### FPS2006

##### **Schedule 2, Rule 32, Paragraph 4<sup>11</sup>**

(4) Where T's pensionable pay derived from service under this scheme at the time when T's final pensionable pay is determined for any purposes of the NFPS under Schedule 7 to the 2013 Act (final salary link) is lower than the pensionable pay for any year after the transition date, the pensionable pay for the year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the NFPS.

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<sup>10</sup> <http://www.legislation.gov.uk/ukxi/2015/589/schedule/1/paragraph/7/made>

<sup>11</sup> <http://www.legislation.gov.uk/ukxi/2015/589/schedule/1/paragraph/7/made>