

## Information

# Age discrimination remedy – Statutory Deadlines - factsheet for Scheme Managers

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# 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 Sargeant 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 Sargeant 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 that need to be considered when certain information must be provided to an individual. [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013](#) set out the requirement to provide a member with an Annual Benefit Statement (ABS) and detail what information should be included. [The Public Service Pensions Act 2013](#) sets out the requirement of the date by when you are required to provide an ABS.

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 Sargeant remedy which are required to be implemented by a certain date:

**1 October 2023** – [Roll back to legacy scheme](#)

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

**31 August 2024** – [Annual Benefit Statements \(ABS\) - Active members](#)

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<sup>1</sup> [Public Service Pensions and Judicial Offices Act \(PSPJOA\)](#), [The Firefighters' \(Remediable Service\) Regulations 2023](#), [The Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#)

**31 August 2024** – [Annual Benefit Statements \(ABS\) – Deferred members](#)

**6 October 2024** – [Pension Saving Statements \(PSS\)](#)

**31 March 2025** – [Remediable Service Statements \(RSS\)](#)

**31 March 2025** – [Contingent Decision Remediable Service Statements \(CD-RSS\)](#)

**31 August 2025** – [Annual Benefit Statement Remediable Service Statement \(ABS-RSS\)](#)

## Rollback to legacy scheme

A member who is eligible for remedy, must have their service rolled back to their legacy scheme in conjunction with [section 2](#) of the [Public Service Pensions and Judicial Offices Act \(PSPJOA\)](#) which came into force from **1 October 2023**.

## Warm up communications

In [FPS Bulletin 73 – September 2023](#), we confirmed that all eligible members should be sent a warmup communication 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 warmup communications should have been sent to [eligible members](#) within three months (**31 December 2023**) of the [Firefighters' \(Remediable Service\) Regulations 2023](#) coming into force.

The warmup communications are published on the [retrospective remedy](#) section of the [FPS regulations and guidance](#) website.

## Annual Benefit Statements (ABS) – Active members

[Schedule 5](#) of the Disclosure Regulations requires for an ABS to be produced for an active member. The requirement to provide this by **31 August** each year is set out in [Section 14\(1\)](#) of the [Public Service Pensions Act 2013](#) (PSPA 2013). See also [Regulation 183](#) of [The Firefighters' Pension Scheme \(England\) Regulations 2014](#)

For 2024 onwards all ABSs **must** illustrate the members rollback position.

## Annual Benefit Statements (ABS) – Deferred members

[Regulation 183](#) of [The Firefighters' Pension Scheme \(England\) Regulations 2014](#) requires the scheme manager to provide an ABS to each of its FPS 2015 members that are not pensioner members by **31 August** each year.

For 2024 onwards all ABSs **must** illustrate the members rollback position.

## Pension Saving Statements (PSS)

In conjunction with regulations [6ZD](#) of the [Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023](#) a rectified PSS must be produced for an individual who is eligible for remedy by 6 October 2024. These regulations amend regulation [14A, paragraph 6](#) of the [Registered Pension Schemes \(Provision of Information\) Regulations 2011](#).

## Remediable Service Statement (RSS)

[Section 29 \(10\)](#) of the PSPJOA requires for an RSS to be provided to all [eligible members](#) by **31 March 2025**.

[Section 29 \(10b\)](#) of the PSPJOA provides flexibility for a scheme manager apply their discretion to extend beyond this date in the case of a particular member or class of member. As with any discretion this cannot be applied as a blank approach and each case should be considered on its own merits. TPR expect this discretion to be used sparingly and to ensure proper governance all cases **must** be recoded and reported to the LPB.

Template RSS' are published on the [Age Discrimination Remedy – Remediable Service Statement](#) section of the FPS regulations and guidance website. This page also sets out which type of RSS that is required for which member. Along with a [RSS factsheet](#) to help scheme managers and administrators to understand the regulatory requirements and deadlines associated with the production of an RSS.

## Contingent Decision Remediable Service Statement (CD-RSS)

[Scheme manager guidance](#) is available in the [retrospective remedy](#) section of the [FPS regulations and guidance](#) website. This guidance sets out the general position about the process of contingent decisions (CD) including timeframes for each stage, evidence requirements, scheme manager decisions, the Contingent Decision Remediable Service Statement (CD-RSS), and elections, before going into each specific CD areas in more detail.

When a CD claim has been accepted, either automatically or following a scheme manager decision, there is a requirement to provide the member with a CD-RSS. The CD-RSS will give the member all the information that they need to decide about whether to make a CD election.

The timeframes for making a CD are set out in [Section 5 of Chapter 1](#) of PSPJOA and [Chapter 1 of Part 3](#) of the Firefighters' Pension (Remediable Service) Regulations 2023 (Remediable Service Regulations) for opt out CDs and [Section 25](#) of PSPJOA and [Regulation 29 of Part 5](#) of the Remediable Service Regulations for Additional Service CDs and operate from receipt of the first Remedial Service Statement (RSS), however some members will not receive an RSS until **31 March 2025**, at which point the regulations allow them **twelve** months in which to make their election after receipt of the CD-RSS.

## Annual Benefit Statement Remediable Service Statement (ABS-RSS) – Active and Deferred members

[Direction 20\(2\)](#) of the [Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#) (HMT Directions) requires that the RSS must be combined with a benefit information statement (save for the first time). Administrators should provide a combined statement from **August 2025**.

Administrators are encouraged to provide a combined ABS-RSS for 2024 providing that they have all information available to them to do this. If they do not it is important to understand that an ABS must be produced by **31 August 2024** illustrating the members correct roll back position to meet the disclosure requirements. This then to be followed by an RSS no later than **31 March 2025** to meet the requirements of [Section 29](#) of the PSPJOA and [Direction 20](#) of HMT Directions.

## 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 issue a rolled back ABS by **31 August 2024** should be considered material and a breach **must** be reported to TPR.
- Failure to issue an ABS-RSS by **31 August 2024**, will result in the contributions adjustment date being later than **31 August 2024** and **may** need be reported to TPR as a material breach.
- Failure to provide a rolled back PSS by **6 October 2024** should be considered material and a breach **must** be reported to TPR.
- Failure to provide an RSS by **31 March 2025**<sup>2</sup> should be considered material and a breach **must** be reported to TPR.

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 May 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)

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<sup>2</sup> [Section 29 10\(b\)](#) of the PSPJOA allows for a scheme manager to exercise their discretion to extend this date for a particular member or class of member.