



Home Office

# **Amendments to The Firefighters’ Pension Scheme (England) Regulations 2014 (S.I. 2014/2848)**

## **Proposed updates to Member Contribution Structure**

## **Consultation questions**

This consultation begins on 20 November 2024

This consultation ends on 29 January 2025

## About you

Please use this section to tell us about yourself.

These questions are optional.

### **Q1. In what capacity are you responding to this consultation?**

Other

If 'other' please let us know more details

Local Government Association

### **Background**

The LGA is a politically led, cross-party membership organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. 315 of the 317 councils of all types and 44 fire authorities across England are members of the LGA.

The response has been drafted by the Pensions Team at the LGA with particular reference to the Firefighters' Pension Scheme (FPS). The team provide employer and administrator support to various public service pension schemes, including the Local Government Pension Scheme (LGPS) and the FPS.

As you are aware under the scheme regulations, each of the 44 Fire and Rescue Authorities (FRAs) are responsible for the management and administration of their scheme and are defined in law as the scheme manager. This puts the responsibility to comply with overriding pension legislation on each of the political bodies charged with governance of the Fire and Rescue Service (FRS), i.e. Combined Fire Authorities, PFCCs, County Councils, Mayoral functions etc.

### **Q.2 If you are a representative of a group or force, please tell us the name of the group (for example FBU or LGA)**

Please also indicate if you agree for your response to be made public and associated with the group or if you would like to remain anonymous.

Yes, we are happy for our response to be made public.

## Consultation questions

To ensure compliance with data protection legislation, we request that you do not provide any personally identifiable information (for example, names, dates, and locations) in your answers to the following questions:

### **Q1. What is your preferred tiering option to determine a members contribution tier?**

~~**Option 1:** Increase tiers by known pay increases.~~

**Option 2:** Add an additional tier and modify the gap between tiers.

~~**Option 3:** Marginal system.~~

#### **If necessary, please concisely explain your answer.**

The LGA has considered the options given and the areas of priorities listed in the consultation paper, we have also attended both the engagement sessions, where we have considered the areas raised by the Fire and Rescue Authorities (FRAs) in their role as scheme manager, particularly with regards to the concerns over implementation of any such changes.

There does not seem to be an ideal solution in terms of achieving the desired outcome, as each design has winners and losers, however considering the discussions that have been had within the engagement session, it is important to consider opt out rates for lower paid workers, promotion and retention in higher paid roles, and not having cliff edges in the tier system.

It is also important that ease of implementation and ongoing administration is prioritised, particularly since there are 44 FRAs who need to potentially call upon the same payroll consultant(s) resource when implementing the contribution tiering option.

Consideration has also been given to best practice of other public service schemes, such as LGPS and NHS, and how their existing contribution tiering system works well.

We therefore believe that option 2 is the preferred option out of the 3 options provided, however following consideration of the discussion at the recent engagement session, there is also an argument, to change to a 3 tier system, so that the majority of roles are captured by the middle tier on a contribution rate of or around 13.2%, with a marginally lower rate at the bottom tier, to allow for a lower rate for firefighters early in their career and marginally higher rate on the top tier, for

those in higher paid roles. It would also be advantageous if the salary bandings within the tier, reflected when an employee becomes a higher taxpayer – although we note that this may be difficult to maintain over time as tax bands change.

If a 3-tier system is not permissible, then there are areas that we consider to be important to include within option 2 which are as follows:

- Tier 1 has members within it who are on a contribution rate slightly lower than currently to encourage take up.
- The upper salary end of Tier 2 should be increased to ensure that it aligns with both the availability of higher rate tax relief and to avoid any cliff edges which may affect promotions.
- The contribution rates and salary levels should also be set so that moving from Tier 3 to Tier 4 is beneficial to the member despite higher contribution levels, and when considering likely tax relief.
- It is recognised that only a small number of roles that are likely to fall into Tier 5.
- The design of Option 2 also needs to consider how pensionable allowances might affect the bands.

## **Q2. What is your preferred option to determine a member's contribution threshold?**

~~**Option 1:** WTE to determine which contribution rate a member will pay~~

~~**Option 2:** Use the previous year's pay to determine which contribution rate, without any adjustment at the end of each scheme year.~~

~~**Option 3:** Use the previous year's pay to determine which initial contribution rate as in option 2, then adjust for actual pay at the end of the scheme year.~~

**If necessary, please concisely explain your answer.**

We are not in favour of any of the 3 options which have been proposed. We believe that actual pensionable pay in each pay period should be used to determine the employee's contribution banding which is replicated within other public service pension schemes, such as, LGPS, NHS and Teachers. FRAs already administer the LGPS for their support staff, so it will be a process they are already familiar with, and whilst each FRA may have a different payroll solution, their systems should already be able to accommodate this.

Where an employee has two roles i.e. wholetime and retained, the contribution rates should be established separately. This again is something that would align with other public service schemes i.e. LGPS, NHS and Teachers.

Allocating firefighters to an appropriate band is relatively straightforward where the employee is part time or wholetime, as their pay is unlikely to fluctuate. We do not believe however that there is a one size fits all in terms of option 2 and option 3, which we have elaborated on below.

None of the solutions proposed here by the Home Office, consider how a scheme manager would determine a retained firefighter's pay at the date of commencement, as you would not have their pay for the previous year to make this assessment. Whilst this could be an argument as to why the contribution bandings should stay as WTE, we do not consider this to be a deciding factor, particularly if we are to learn from our counterparts in other public service schemes, where they have moved away from this and contributions are now based on actual pay.

When considering how the banding should be assessed, we would suggest that there should also be an annual review process set out in the regulations, additionally, we recommend that the regulations should allow for a scheme manager discretion to review at any other point that they deem appropriate. The timing of the annual review however is more difficult to determine and needs to consider several factors including, but not limited to:

- How it is determined that the contribution tiers should be revalued i.e. in line with pay awards, CPI or AWE etc and the dates these are applied i.e. April or when the pay award has been agreed and implemented.
- That a firefighter's salary is usually increased from July, whilst quite often retrospective arrears are paid

For firefighters' where their actual pay may change, i.e retained firefighters. it will be hard to establish which banding they would be in. We recommend that the scheme manager should make an educated estimate as to what their actual pensionable pay should be. How we suggest the assumption to be made is covered later in this response, however it will be important to establish at what point you would be assessing the contribution banding. i.e. at the commencement of employment, on annual review or at a different point in time. Depending on which point is used for the assessment, the method used may be different.

Our recommendations of how a scheme manager would make an educated estimate of how the actual pensionable pay could be assessed is as follows:

**At commencement of employment:** this could be based upon what static pay information the scheme manager knows i.e. retaining fee, substantive salary, pensionable allowances, or others within a similar role.

Where it is for a retained firefighter who would be claiming fees as a response to incidents and training, which will change, we could learn from LGPS, where there is

a well-established process. Where the scheme manager knows of claims-based people already within the scheme, they could reference information either from those who were previously in the role or similar roles at similar stations. We do not believe however that this would achieve accuracy. We would therefore recommend that the scheme manager may wish to initially assess them to be within the lowest banding, until they can review the bandings on a monthly/quarterly basis, under the discretionary review as recommended below. This should then avoid any arrears of contributions to accumulate.

We would stress however that, learning from the LGPS, whichever solution is chosen, it should be legislated for so that the way in which this should be done is consistent for all claims-based firefighters. Currently, the LGA provide guidance on what options should be available but in practice the LGPS sector choose the option that is the easiest to automate on their payroll systems, therefore they take the monthly pay x 12 and base the contribution rate on that amount. The same system however has its faults as it means that people can lose out when the pay award is delayed - their contribution rate is based on 12 x pay in the month arrears are paid, which may well be higher than the rate they would have paid had they been on the correct rate from when the award should have been made (usually April).

**On annual review:** for a role where the pay is claimed monthly, this could be based upon the average pay received in the 3 months immediately prior to the review, or an alternative period i.e. the previous year should the scheme manager consider that this would be a true reflection of what they would likely earn. Again, learning from the LGPS, we would request that this is legislated for rather than it being a discretion to allow for consistency.

**Discretionary review:** we would also recommend that FRAs have the discretion to then review the banding when there is a material change in pay. This will allow for both wholetime, part time and retained roles, and will consider when firefighters receive promotion, have a change in hours and/or when a retained firefighter's pay fluctuates. This is already in place for the LGPS, and therefore FRAs should be aware of how this process works for their support staff roles.

A scheme manager may wish to review a retained firefighter's actual pensionable pay more frequently, and may consider doing this monthly, or quarterly. Again, this is a practice that is already in place under the LGPS and the Teachers' Pension Scheme (TPS) where for all roles they assess the contribution banding monthly.

### **Q3. What is your preferred futureproofing option to avoid future misalignment?**

~~{delete as applicable}~~

~~Option 1: Manually uplifting thresholds in line with the pay awards.~~

~~Option 2: Automatically increase thresholds in line with the consumer price index (CPI).~~

**If necessary, please concisely explain your answer.**

We are not in favour of either of the options proposed. The LGPS and NHS increase their contribution bandings each April in line with CPI, however this is the same point that any pay increases are awarded, whilst they may be backdated.

As firefighters' pay award is from July each year, whilst again quite often backdated, we believe that a manual uplift will be complex to administer.

We do agree however that the increase to the banding thresholds should be in line with an index for ease of administration. We believe that this should be in line with Average Weekly Earnings (AWE), rather than CPI, as this would be more in keeping with the firefighters' pensions scheme design, as it is already used for CARE revaluation purposes.

**Q4. Do you believe that your preferred contribution structure option, which you indicated in Q1, is administratively sustainable?**

[delete as applicable]

**Yes**

**No**

**Don't know**

**If necessary, please concisely explain your answer.**

It is the process currently in force and one that all 44 FRAs are familiar with. Meaning that implementation could be relatively straightforward and cost efficient.

**Q5. Are there any other proposals for achieving the target yield through contribution structures that you would like to be considered which have not been considered or proposed in this consultation?**

[delete as applicable]

**Yes**

**No**

**Don't know**

**If yes, please outline the proposal(s).**

[Please type your response here]

**Q6. Do you anticipate any equality issues arising from the implementation of these proposals?**

[delete as applicable]

**Yes**

**No**

**Don't know**

**If yes, please explain the issue(s) and cause(s).**

Consideration needs to be taken on those firefighters' who have protected characteristics i.e. females who make up the predominant part time, but not necessarily retained, work force and how they would be discriminated against should the contributions banding remain based on WTE and not actual pay.

We are concerned that if the Home Office options 2 or 3 are used in question 2 you could have a part time member who is paying a lower rate than a fulltime member, who then becomes full time for the next financial year and would then be paying a lower rate than someone doing the same role on the same pay. This could be resolved if a review is factored in for when substantial changes take place, we have covered this in our recommendations of review in our response to Question 2.



## How to respond

Please respond by 29 January 2025.

You can email your response to:

**[firepensionspublicservicepensionsremedy@homeoffice.gov.uk](mailto:firepensionspublicservicepensionsremedy@homeoffice.gov.uk)**

Or you can post your response to:

Fire Member Contribution Consultation Structure

Police Workforce and Professionalism Unit

Home Office

6<sup>th</sup> Floor, Fry Building

2 Marsham Street

London

SW1P 4DF



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