

Fire Pension Team
Police Workforce and Professionalism Unit
Home Office
6th Floor, Fry Building
2 Marsham Street
London
SW1P 4DF

Sent by email to:

Firepensionspublicservicepensionsremedy@homeoffice.gov.uk

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Consultation on firefighters' pensions retrospective remedy: Local Government Association response

The LGA submits its response to the Home Office consultation seeking views on the draft Firefighters' Pensions (Remediable Service) Regulations 2023 designed to deliver the second set of changes to remove the transitional protections seen between 1 April 2015 and 31 March 2022. Thank you for the opportunity to provide this response.

I respond on behalf of the Local Government Association (LGA). The LGA is a politically led, cross-party membership organisation which represents more than 330 councils of all types and 44 fire authorities across England. We work on behalf of our members to support, promote and improve local government.

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

We are pleased to provide our responses to the consultation questions below.

Yours faithfully,



Joanne Donnelly

Head of Pensions

Consultation questions

Question 1. In and out of scope: Do the proposed amendments to scheme regulations clearly define which members of the firefighters' pension schemes meet the criteria to be eligible for the remedy?

1. The LGA notes that, in relation to question one, although the consultation document is entitled Firefighters' Pensions (Amendment) Regulations 2023, the draft regulations do not appear to be amendment regulations and are entitled The Firefighters' Pensions (Remediable Service) Regulations 2023.
2. The draft regulations themselves do not clearly define which members of the firefighters' pension schemes meet the criteria to be eligible for remedy.
3. They state that ““remediable service as a firefighter” means, “in relation to a member, the member’s remediable service in an employment or office that is pensionable service under a firefighters’ pension scheme”.
4. Remediable service itself is defined in the Public Service Pensions and Judicial Offices Act 2022 (PSPJOA) which sets out four conditions in [Section 1](#) which must all be met for service to be considered ‘remediable’.
5. Whilst the draft regulations state that “A term used in these Regulations which—is defined in, or for the purposes of, a provision in Chapter 1 of Part 1 of PSPJOA 2022, and is not defined differently in these Regulations, has the meaning given in, or for the purposes of, that provision”, the LGA feels that reference to the eligibility conditions in the draft regulations would make this clearer for the sector to understand because this is the basis on which all other provisions in the legislation rely. In addition, the nature of the Fire Service with multiple and sometimes simultaneous memberships means that this extra wording could be helpful.

Question 2. DCU timing of Remediable Service Statement (RSS): Do the policy proposals about the timing of when a scheme member can request an RSS in anticipation of retirement strike the right balance between a suitable period to make a decision, proximity to retirement date and any administrative considerations?

6. The LGA believes that the requirement for a deferred choice member to notify the scheme manager of their intention to claim benefits between 12-6 months prior to their intended retirement date under Regulation 12 (2) does not strike the right balance between a suitable period to make a decision and their proximity to their retirement date.
7. We believe that this period is too far in advance of the member’s retirement date and that there is a significant disconnect between this time period and the date by which a member is required to hand their notice in, or when a deferred member would be

written to about their pension benefits coming into payment.

8. It is suggested that the member's deferred choice election is not made any earlier than four months before benefits become payable in line with the [1992 scheme lump sum provisions](#). This is because a member's benefits have the potential to change if such a long period of time lapses between their RSS being issued and their benefits coming into payment.
9. We note that the member must make an election within 12 weeks of the date that the RSS has been issued and that there is provision for the scheme manager to allow an RSS election at such other period that the scheme manager considers reasonable in all the circumstances. Leaving this open to the interpretation of 44 different scheme managers will increase the risk of inconsistency in the Fire sector.
10. Additionally we feel that 12 weeks may not be enough time for some members or dependants to make an election, particularly in cases where a member may require financial advice or in death cases.
11. In relation to making a deferred choice election, the LGA does not feel that there should be a specified timeframe to return a decision. This would relieve an additional burden on administrators who will have to monitor this process.
12. The LGA would like to raise the issue of members retiring soon after the regulations come into force. They will become deferred choice members on that date, but there will not be time for them to make a deferred choice election in line with the proposals in the draft legislation currently. These members will have already given notice, so the deadline for making such a choice will have passed. It would not be right to prevent them from retiring to allow time for such a choice and they should be entitled to retire as expected. It is the LGA's view that a solution for this scenario should be made clear in the regulations.

Question 3. Ill-health Retirement: Do you think the proposed arrangements for members that qualify for ill-health retirement during the remedy period (1 April 2015 – 31 March 2022) may cause any adverse impacts?

13. Yes. The LGA believes that the proposed ill health regulations do not sufficiently legislate for the changes needed for the firefighters' pension schemes to ensure that the age discrimination remedy is enacted accordingly.
14. The LGA believes that the incorrect paragraph has been referred to under Regulation 49(1). We believe this should be "rule 2 of Part 3 of paragraph 2 of Schedule 1 to the 2006 Order" and not paragraph 1.
15. The LGA believes that the incorrect rule and paragraph has been referred to when defining higher tier and lower tier under the 2006 regulations, in regulation 50, and

believes it should read:

“higher tier award” means, in relation to -

(b) the 2006 scheme, an award determined in accordance with rule 2(3) of Part 3 of Paragraph 2 of Schedule 1 of the 2006 Order;

“lower tier award” means in relation to -

(b) the 2006 scheme, an award determined in accordance with rule 2(2) of Part 3 of paragraph 2 of Schedule 1 of the 2006 Order;

16. The LGA has concern over the process which Regulation 51 (3) puts into place concerning whether a 1992 scheme member is entitled to a lower or higher tier ill health award. The regulation states the following:

“The IQMP must—

- a. examine or interview M as the IQMP thinks appropriate,
- b. decide the questions referred to the IQMP under paragraph (2), and
- c. give the authority and M a written opinion containing a decision on those questions.”

17. The LGA’s view is that there should not be a requirement to examine or interview M where it is not necessary. A paper exercise should be sufficient for this exercise. Referring members back for examination where this is not necessary will cause an undue burden on fire authorities as well as IQMPs, and undue distress to members.

18. Regulation 51 (5) states the following:

“For the purpose of deciding the questions in paragraph (2) the IQMP may only have regard to information that was available or could have been produced at the time of the original decision.”

The LGA feels that the word **may** should be changed to **must**. The legislation should be designed to compare the benefits in the alternative scheme based on the same evidence which was used at the time of the original determination. This is highlighted in Regulation 50 (2) of the draft legislation as follows:

“No question relating to M’s entitlement to ill-health benefits that has been decided following referral to an IQMP is to be re-opened by virtue of any provision of PSPJOA 2022 or of these Regulations.”

19. Under reassessment, the consultation document states in paragraph 5.68 that “reassessment is only needed for IC IHR cases. This means a retrospective ill-health

assessment will only be needed for cases where a member (who has remedy period service) has been ill-health retired or dismissed on capability grounds during the remedy period, be that from the legacy scheme or the 2015 reformed pension scheme depending on their circumstances.”

20. The draft legislation does not appear to achieve the policy intent of including those who have been dismissed on capability grounds. The draft legislation under Regulation 49(1) only includes the following scenarios:

“This Chapter applies in relation to an immediate choice member (“M”) who, during the period beginning on 1st April 2015 and ending on 31st March 2022, became entitled to—

a. an ill-health award under regulation B3(a) of the 1992 Order;

b. an ill-health pension under rule 2 of Part 3 of paragraph 1 of Schedule 1 to the 2006 Order;

c. an ill-health pension under regulation 65 of the 2014 Regulations.”

21. It is the LGA’s view that the proposed legislation will need amending in order to ensure that cases where members have been dismissed on capability grounds are included within the reassessment exercise.

22. The LGA is of the view that Regulation 51 (6) does not conclude, or provide what should happen if the IQMP does make this decision, and will therefore need amending in order to ensure it does.

23. The LGA also seeks clarification on the reference within the draft legislation to a five year review period quoted under Regulation 51 (7) (b)(i). Although fire authorities do review ill health pensions, a specific five year review period is not a provision of the firefighters’ pension schemes and so it is unclear what the relevance of this part of the regulations is. If this provision is enacted for members affected by the age discrimination remedy, this would mean that they would be treated differently to those members not affected by the age discrimination remedy.

24. Under Chapter 2, Part 7, Regulation 52, the draft regulations state that:

“The scheme manager must, as soon as reasonably practicable after 1st October 2023 and having consulted the scheme actuary, determine the value of M’s remediable ill-health benefits as if they had been secured in M’s alternative scheme.”

No further information is given in relation to the process which happens after that point. It is the LGA’s view that this should then link back to the requirements to issue an RSS

accordingly.

25. Clarity is also sought on the ill health reassessment position of special 2006 members. These members have not been specifically mentioned in the draft legislation however these members, under the pension scheme regulations, are assessed for ill health up to their normal pension age of 55. Therefore a special 2006 member who was awarded an ill health pension would need to be reassessed for entitlement under the FPS 2015 which has a normal pension age of 60.

It is the LGA's view that all cases which require reassessment should be detailed in the proposed regulations.

Question 4. Added pension: Do you think the policy proposals in relation to scheme members with added pension puts all eligible members in the same position?

26. The LGA believes that the policy proposals in relation to scheme members with added pension puts all eligible members in the same position, however this does not reflect the different intentions they may have had when paying for additional benefits. The LGA believes that the Home Office should consider that the intention of the members in question was to buy extra pension to increase their retirement income. Implementing a full refund of contributions as compensation does not achieve this intention, as this may not achieve the level of pension the member was aiming/planning for, even allowing for the roll back of benefits.

27. Although members may choose to buy added pension with their compensation payment, this does not have the effect of purchasing service in the legacy scheme and buying this added pension at this later time may mean that it is more expensive for members to purchase.

28. Although we note that the Home Office believes that the contracts cannot be retained on grounds of equality with those who have not suffered age discrimination, the LGA would like clarity as to why added pension contracts cannot, for some members, be retained in the 2015 scheme until the time when the member makes their retirement choices. Members who have a choice between 2006 and 2015 scheme benefits for the remedy period may be better off under the 2015 scheme and could use that added pension accordingly. Additionally this is inconsistent with the way in which transfers are being treated for remedy, as these remain in the 2015 scheme until the member makes their deferred choice election.

29. It would be useful for the consultation response to document the reasons why an Additional Pension Benefit (APB) has not been chosen as an option for members to have in place of the added pension. APBs can be calculated on an actuarial basis and can apply to all firefighters' pension schemes.

30. We note that the regulations require the scheme manager to consult with the scheme actuary. We assume that processes and factors will be supplied on a general basis rather than the actuary having to be consulted for each and every individual case. We would welcome confirmation of this.
31. The LGA notes that whilst Regulation 5 covers when an amount is owed to the scheme manager, it does not provide for how they would be expected to pay it. We would therefore welcome this being covered in the consultation response.
32. The LGA is of the view that Regulations 26 and 27 should reference the date 1 October 2023 and not 30 September 2023, to ensure consistency with all other date references within the Regulations.

Question 5. Transfers: Do you think that the policy proposals that transfers that came into the 2015 reformed pension scheme will be held in the 2015 reformed pension scheme until the point of decision achieves the policy intention of preserving transfer rights?

33. The LGA agrees that the policy proposals achieve the policy intention of preserving transfer rights.
34. It is our understanding that retention of transfers in the reformed scheme is the default position under the PSPJOA and hence regulations are needed to move the rights. We understand that it is the intention to do this at the point a benefit election is made and agree that this is a sensible policy given that there are limits on what the legacy scheme can provide. We hope that the final regulations will be clear in this regard.
35. Nevertheless the LGA would like to highlight the administratively complex issues that this will cause. Administrators will need to ensure that the value of the transfer is kept up to date on the member's record until they make their choice.
36. There is also concern from stakeholders as to the amounts which need to be shown on the RSS and how to reflect to the member what their benefits in the legacy scheme will be. If a member is expected to end up having to retain part of the transfer in the 2015 scheme or receive a compensation payment in lieu then it is not clear what the RSS should show.
37. The consultation document states that "if the current rules at the time would not allow all the transfer or loses part of the transfer value due to breaching the pensionable service cap in the legacy scheme and has no 2015 reformed pension scheme service, a member will be paid equivalent value in the legacy scheme benefits as an adjustment of contributions accordingly *based on an actuarial calculation*". The LGA would welcome examples from the actuary detailing how this will be calculated. The draft regulations do not provide enough detail for schemes to proceed at the moment.

38. The LGA would also like clarity as to the reason why an Additional Pension Benefit has not been chosen because an APB can be used in all firefighters' pension schemes.

39. The LGA would also like to highlight that in Regulation 30 under the definition of "remediable club transfer value" it references interchange arrangements, under a), and we would welcome clarity on what this relates to, as this is not terminology used within [Part F of the 1992 Order](#).

We would also like to highlight in the same definition under b) that the reference to Part 11 of paragraph 1 of Schedule 1 of the 2006 Order, is incorrect and should be Part 12.

In addition under the definition of "remediable transfer value" the reference under b) to Part 11 of paragraph 1 of Schedule 1 of the 2006 Order, is also incorrect and should also be Part 12.

40. The LGA would like clarity on Regulation 32 (6), as to how it is expected for FRAs/administrators to be able to pay a compensation amount to the ex-scheme member where they have been unsuccessful in paying the remediable amount of transfer value to the scheme that it was originally transferred to, as they would no longer have contact with them. Guidance on the processes to follow is needed from the Home Office.

41. The LGA believes that under Regulation 42, where it references 141(2)(b) of the 2014 Regulations, that it is incorrect where it then states:

"as if for "P's first day of eligible service" there were substituted "1st October 2023"

This is believed to be incorrect because Regulation 141(2)(b) references Normal Pension Age, and not as suggested above, as follows:

"(b) subject to paragraph (3), must be made before the beginning of the period of one year ending with the date on which the member reaches normal pension age."

42. The LGA believe that the reference in Regulation 45 (6) to the PSP Directions for the definition of "relevant pension year" should be to direction 4(14)(f)(i). This is because whilst the definition is the same, the reference to 5(16)(c)(i) is under the Voluntary Contributions section, and may cause confusion when dealing with transfers.

Question 6. Bereavement: Do the proposed amendments to scheme regulations achieve the policy intention of ensuring that the resulting 'member representative' can make an immediate choice or deferred choice in relation to the remedy period service of a deceased member?

43. The LGA agrees that the policy intention ensures that the resulting 'member representative' can make an immediate choice or deferred choice in relation to the

remedy period service of a deceased member.

44. The LGA believes that the amendments achieve the policy intention but note that since there is some flexibility, consistency will be important.

45. The LGA welcomes that children's pensions will not reduce as a result of decisions made.

46. The LGA would welcome in the Schedule "Eligible decision-makers for deceased members":

In "Interpretation", 2(c) an expanded definition of "surviving adult", as we believe that this definition is too vague, and currently this could include an adult "child" who may be eligible for a child's pension, which we do not believe to be the intention.

In "Sole beneficiary: M's estate", Regulation 5, the LGA would welcome that this is amended to include:

- a) M's personal representative, or
- b) where M has no personal representative, the scheme manager.

This is because the LGA's understanding is that "the estate" is usually everything owned by the deceased, rather than a person or body, who can make a decision.

In "Multiple beneficiaries: one or more adults and one or more children", 11 (2)(c), we would welcome that this is amended to include:

- (iii) where no decision about whether to make an election has been received by to the scheme manager by the day four weeks before an election must in accordance with these regulations, be received by - the scheme manager.

This will then allow for any occasions where the children who are 18 or over and the guardian of the relevant children who are under 18, cannot agree to make a decision.

47. Under Part 1, Regulation 2, the LGA notes that the meaning of eligible child is given as:

- (a) "eligible child" means, in relation to—
- (a) the 1992 scheme, the meaning given in Part 1 of Schedule 2 to the 1992 Order;
- (b) the 2006 scheme, the meaning given in rule 6 of Part 4 of paragraph 1 of Schedule 1 to the 2006 Order;
- (c) the 2015 scheme, the meaning given in regulation 85 of the 2014 Regulations;

In relation to the 1992 Order, the 1992 Schedule refers to Child, not eligible child and therefore the interpretation is incorrect. The term “eligible child” does not exist in the 1992 Schedule.

Question 7. Contingent decisions: Do you think that the proposals with regards to contingent decisions give members opportunities to revisit pension benefit decisions taken during the remedy period?

48. The LGA agrees that the proposals provide members with opportunities to revisit pension benefit decisions in some circumstances however the processes do not exist in the draft legislation and this could lead to inconsistency of processes across the 44 fire authorities. Ultimately this may lead to further legal challenge which is something which needs to be avoided.

Opt outs

49. For opt out cases clarity is needed on the dates under which a scheme manager can refuse a contingent decision application. Under Part 3 Chapter 1 (6)(b) the draft regulations state:

“But the scheme manager must not refuse an application where the decision by virtue of which M’s service became opted-out service was communicated to the scheme manager during the period—

- (a) beginning on the day six months before M would have (but for the opt-out decision) become a member of the reformed scheme, and
- (b) ending at the end of 28th February 2022.”

50. The LGA would like to express concern that the date quoted is 28 February 2022. The LGA believes that this date should be 31 March 2022.

51. Additionally, clarity over the detail of Regulation 5 is needed, which states the following:

“The scheme manager must refuse an application where either of the following conditions are not met—

(a) the decision by virtue of which M’s service became opted-out service was communicated to the scheme manager on or after 12th March 2012;

(b) the decision by virtue of which M’s service became opted-out service was made

pursuant to a relevant breach of a non-discrimination rule(a);”

This regulation appears to state that either of the two conditions should be met when a scheme manager decides if they are able to refuse an application. The LGA seeks clarity as to whether this was the intention of the Home Office policy.

52. The LGA expresses concern that there is no detail about how the contributions owed for the opted out service are to be recouped, whether by lump sum upfront, periodical contributions or payment at the member’s retirement election by lump sum. It therefore follows that there are no details as to whether interest is payable by the member to the scheme and under what terms, or whether tax relief applies. It is also unclear currently whether the Government Actuary’s Department calculator will be able to be used for this purpose to assist in calculations once these details have been clarified. We therefore urge the Home Office to clarify the above points in the consultation response.

53. The LGA would additionally like guidance to be issued to provide further detail on the information which should be provided by the firefighter when a firefighter has to prove that they opted out due to pension reform. Paragraph 5.85 of the consultation document provides examples of evidence which a firefighter can use to assist in the contingent decision process as follows; however these appear to be intended for guidance and are not mentioned in the draft legislation:

- “• the member had explicitly made clear (for example, in correspondence) that they did not believe the 2015 reformed pension scheme was worth the contributions they would have had to pay for membership, for example, because of the higher pension ages and implications for pensions taken before NPA

- a complaint letter confirming opt-out will follow if reform is implemented and opt-out request is received within reasonable timescale

- if a member was a litigant in an ‘injury to feelings’ claim”

In order to avoid future litigation the LGA believes that it should be made clear what evidence will be accepted for these claims and guidance provided. This is imperative to avoiding future legal claims.

54. In seeking this guidance we note that there are other pensions aspects which may be part of a contingent decisions claim as well as those that arise from other financial but non pensions related losses. Examples of the pension related losses might relate to the amount of pension exchanged for a lump sum, and decisions regarding the timing of retirement. The LGA notes that people who did not repay periods of unpaid leave may wish to consider this through a contingent decision. This is not currently listed as a possible contingent decision in the proposed regulations, Such cases will require

further thought and guidance otherwise it will lead to inconsistency in decision making by each scheme manager of the 44 fire authorities affected by remedy.

55. The LGA would also like to highlight that in the footnote, linked to Regulation 4(1) it incorrectly references the Police 1987 Scheme, instead of the Firefighters 1992 Scheme.

Question 8. Are there any other areas which you think should be addressed in these regulations in order to ensure that all eligible members receive a choice of pension benefits at their point of retirement, for the period for which the discrimination existed (1 April 2015 - 31 March 2022) on 1 October 2023?

Abatement

56. Whilst the LGA agrees that abatement is already covered in existing legislation, the exclusion of abatement in the draft legislation makes it unclear how these cases, which have arisen due to remedy, should be treated when members receive a choice of pension benefits at the point of retirement.

57. The consultation document states:

“5.73 Where a fire and rescue authority exercised their discretion not to apply abatement, they will need to retrospectively recalculate the amount that they are required to pay into their local pension fund account.

5.74 In all other cases where abatement was applied, the fire and rescue authority will need to retrospectively revisit (back to retirement) the amount of pension that should be abated. Any overpayments of pension will need to be recovered and any underpayments will need to be repaid. Both underpayments and overpayments will have interest applied.

5.75 When presented with their choice, the member will need to consider how their decision will impact each aspect of the abatement calculation. Remediable Service Statements (RSS) will detail how abatement rules would apply under both schemes.”

58. The draft regulations make no mention of the above processes to follow, the requirement for the RSS to reflect this or the requirement to add interest to the calculation. The LGA feels that without clarity of these points in the regulations, inconsistent processes will prevail across the 44 fire authorities.

Question 9. Are there any additional points not covered in this consultation paper that need to be considered as part of the proposed amendments to scheme regulations?

Contributions

59. The PSPJOA provides the statutory power to adjust contributions. We note that some legal authorities believe that the draft regulations do not link adequately to this and we note that the regulations as drafted do not cover the Home Office's intentions in this regard. It would be useful for the regulations to directly link the power to adjust contributions back to the PSPJOA.
60. Additionally the consultation refers to contribution adjustments on roll back. Roll back is understood to mean from 1 October 2023 however in order for a member to decide if they wish to make good the contribution amount, they will have needed to have received their RSS. The LGA believes that the wording needs to be more precise.
61. The LGA notes that there will be flexibility to meet an adjustment of contributions at roll back, any time before the member makes their deferred choice election and that they can be deducted from the lump sum at retirement if not paid already. The LGA understands from the Home Office that if a member wishes to pay the adjustment at a point in-between their deferred choice election and roll back, that this would be done based on the figure due on the yearly RSS. It is the LGA's view that this is not clear from the regulations and that this should be detailed to avoid inconsistency and challenge from members. We look forward to the regulations being amended to reflect this.
62. In contrast, the Welsh Government is consulting on spreading the contributions over a maximum ten year period to try and avoid fresh claims of age discrimination. The LGA assumes that the Home Office has taken legal advice with regard to age discrimination claims and has been advised that the different treatment is objectively justifiable.
63. Contribution holidays are not mentioned in the policy or draft regulations. Given that these came into effect for some 1992 Scheme members in October 2016 depending on age and length of service, it is possible that some members who were in the 2015 scheme may, if they opt for legacy benefits, also be entitled to a contribution holiday for the relevant period. While we note that contribution holidays were always retrospective, it would be helpful to have guidance as to how to implement these for any affected members. For example, can any repayment of contributions be netted off against other contributions required from the member, or should the processes be handled separately? Further, it would be useful to have a specific provision in the Regulations stating that the same application of interest applies to contribution holidays as to other elements of compensation.

Immediate Detriment

The LGA understands that further regulations may need to be issued by either the Home Office or HMRC in relation to immediate detriment. The PSPJOA itself is not sufficient for this purpose and HM Treasury has previously indicated that schemes will need to set out in their scheme regulations which parts of the PSPJOA apply to members who have received an “interim payment”. HM Treasury has indicated that schemes can use the power in Sections 22 and 31 of the PSPJOA to bring immediate detriment cases within the required rectification provision. The tax position will not change unless scheme regulations ensure that full retrospection applies (as per Section 2(1) of the PSPJOA).

64. HM Treasury have indicated that further tax regulations may be introduced, depending on how these cases are addressed in scheme regulations, although these tax regulations will not be able to make any payments retrospective. Whether these consequential tax regulations are required will be determined by HMRC once scheme regulations are finalised.

65. It is not clear in the draft regulations if this intention has been realised. The draft regulations indicate that a new election cannot be made but do not appear to do any more than treat the payments already made as lump sum or pension payments. Regulation 53 (3) states:

“Any amount paid by way of benefits or compensation pursuant to the agreement or (as the case may be) determination by virtue of which the relevant condition has been met is to be treated for the purposes of section 14 of PSPJOA as—

(a) a lump sum benefit, if the amount was paid by way of a lump sum;

(b) a pension benefit, if the amount was paid otherwise than by way of a lump sum.”

66. There is no mention of the process which the scheme manager has to follow either and this could lead to further legal challenges.

67. This is an extremely important issue for our sector and we would welcome clarity on immediate detriment without delay.

Revisiting commutation decisions

68. The LGA notes that there are no details in the consultation which explain whether an immediate choice member, who retired under the legislation in place prior to 1 October 2023, can revisit their commutation decision now that they are in receipt of their RSS. As this will affect a large number of immediate choice members, the LGA asks that the Home Office clarifies this position and caters for this in the final legislation.

Scheme Manager discretions

69. As noted there are a large number of discretions required by the draft regulations and consultation. Successful remedy will depend on the creation of consistent policies and treatment of members in terms of decisions and communications.

70. We have listed below some of the areas where processes are required and ask that where possible these processes are defined in the regulations:

- Abatement
- Dealing with members who have not made elections
- Dealing with timescales for deciding on reasonable timeframes for deferred choice election. Under Regulations 12 and for remediable credit adjustment under 20(5) and for processes such as remediable arrangements for AVCs
- Contingent decisions - considerations under 5.79 of guidance and Regulation 5 (4). Also under Regulation 28 (3)
- Waiving of overpayments - processes for making decisions to waive liabilities. Similarly for waiving amounts owed by the member (Regulation 60)
- Dealing with payments already made under immediate detriment – principles to be followed given lack of guidance in Regulation 53
- Processes for dealing with interest and indirect compensation where directions are not sufficient.

Definition of roll back

71. Section 5.12 in the consultation document states the following:

“Roll back is the term used to describe the process by which in-scope members are placed back into the relevant legacy scheme(s)”.

The term roll back does not appear to be defined in the draft legislation and the LGA feels that this does need defining.

Immediate Choice Decision

72. Under Regulations 7 and 8, the LGA believe that if the scheme manager is the decision maker then they should have the same information as that which would be provided within the RSS, to allow them to make the choice. This is not however covered within Regulation 7, and Regulation 8 implies that they would not be provided with this.

GAD Guidance

73. There are many references within the draft regulations which state that the scheme

manager must consult with the Scheme Actuary. The LGA would welcome clarity on whether this is what is trying to be achieved, or whether it is that GAD guidance will need to be referred to. If it is the latter, we would suggest that these references are changed to the same as within existing Firefighters' Pension Scheme Regulations as follows:

“in accordance with actuarial guidance”

“Actuarial guidance” means actuarial guidance issued by the Secretary of State after consultation with the scheme actuary;

Question 10. Do any of the proposed amendments unlawfully discriminate against a particular protected characteristic, fail to advance equality of opportunity between those who share a protected characteristic and those who do not, or fail to foster good relations between people who share a protected characteristic and those who do not?

74. We note that no EIA has been supplied alongside the consultation to consider equalities.

75. We believe that some of the amendments require objective justification in order to ensure that differences between members are not classed as discrimination and we look forward to viewing the EIA as soon as possible.