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17 February 2025

Consultation on Retained Firefighters' Pensions: Matthews Remedy – proposed changes to the Firefighters' Pension Scheme (England) 2006

Thank you for your consultation on Retained Firefighters' Pensions: Matthews Remedy – proposed changes to the Firefighters' Pension Scheme (England) 2006.

I respond on behalf of the Local Government Association (LGA). 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.

Please do not hesitate to contact me if you have any questions about this response.

Yours faithfully

A handwritten signature in blue ink, appearing to be 'Tara Atkins', written on a light-colored rectangular background.

Tara Atkins

Senior Firefighters' Pension Advisor (interim)

Comments on the consultation

We fully support the Home Office in its consultation to make amendments to the regulations, following feedback from the fire sector, where gaps have been identified as FRAs implement the second options exercise.

Our responses to the questions raised by the consultation are contained in the attachment, however we would like to raise some specific areas which fall outside of those questions.

Our response to the questions, particularly where we agree, are based upon the sector being provided the areas of clarity needed before the draft amendments are finalised.

Incorrect references

Within the **consultation questions** there are references to the specific areas of the consultation that question relates to. It would appear however that an error has occurred, whereby the references do not match the correct paragraphs of the consultation. These are demonstrated as examples below; however, this applies through the questions:

- Paragraph 4.4, should be 4.2 – Missed Pension Lump Sum
- Paragraph 4.5 should be 4.44 – Survivor Missed pension payment

Our response has been based upon the topic area of the consultation, rather than the incorrect reference points.

There are three areas within the **Explanatory notes**, where we believe that there are typing/drafting errors, which need to be addressed. These areas are set out below:

1) Within the draft amendments for Survivor's missed pension lump sum the draft regulations 4 (12) should reference (10) and not (11), so should read as follows (highlighting the proposed amendment):

(12) Where a person did not receive a notification from the authority under paragraph (10), despite the authority using reasonable endeavours to notify eligible persons as required by that paragraph, an application under paragraph (3) may be made after 31 March 2026

2) Within the draft amendments for special deferred members, at amendment 5, it is missing 5(5) as it jumps from 5(4) to 5(6).

3) The proposed amendment in paragraph 6 for opted out service does not agree with the Explanatory note, as the amendment states “*Part 15 (miscellaneous provisions) is amended as follows*” whereas the explanatory note states “*Where former scheme members have already elected to purchase or convert service or receive a payment or award based on the extended limited period definition, prior to [effective date], these new Part 16 will allow them to make a further application to claim the difference between what they were entitled to prior to and after [effective date].*”

In addition, within the explanatory note for this amendment we also believe that the word ‘these’ should be ‘this’.

Recommendations

Following review of the existing regulations for the Matthews exercise, and the consultation we would like to highlight certain areas where we do not agree with elements of the draft regulations. These have been set out below for your consideration:

Timings

Within the existing regulations for the Matthews exercise, under Part 11, Chapter 2, paragraph 5B (8) it allows three months for the authority to use reasonable endeavours to notify the individual that they may be eligible under the Matthews exercise.

Whilst it is acknowledged that the timescales were confirmed to be indicative, with an overall end date of 31 March 2025, we believe that the two-month time limit reference within the amendments set out below, should reflect that which is already within the regulations of three months.

- Missed pension lump sums
- Survivor’s missed pension lump sum
- Special deferred members conversion options
- Opted out service
- Special pensioner members in receipt of a MIER given opportunity to convert standard service to special service

This is justified by the fact that Home Office have acknowledged within this consultation in their proposed amendment to extend the overall deadline to 31 March 2026 to ensure that

all eligible individuals receive their options, following feedback from the sector.

If, like the ongoing options exercise this deadline is only indicative, Home Office should acknowledge this within their response.

Service and Pay information

Within the existing regulations, at different parts, but as illustrated within Part 11, Chapter 2, Paragraph 5(C) (5) – (10), as extracted below, it allows for the circumstance where an FRA is unable to determine the individuals service or pensionable pay. This is also included as a proposed amendment, in draft regulation 4 (5-9), within the Survivor missed pension lump sum, however, it is not included within the missed pension payment lump sum, whereas we believe that it should be.

“ (5) Where an authority are not able to determine the period of the person's service or pensionable pay during the extended limited period from their records, the person may provide the authority with documents to assist them to determine the person's period of service and pensionable pay during the extended limited period and the authority may determine the period of the person's service and pensionable pay from those documents.

(6) The authority must determine the person's period of pensionable service during the extended limited period and, in particular, may determine that the person has no service during the extended limited period if the authority does not hold records of that person's service for that period, and the person cannot provide the authority with the necessary documents.

(7) Where the authority do not hold records of that person's pay for that period, and the person cannot provide the authority with the necessary documents, the authority must—

(a) determine the person's pensionable pay for that period from the records which they hold and their local experience, or

(b) apply the default assumption if a determination under sub-paragraph (a)—

(i) is not possible, or

(ii) is a determination that the person's retained pensionable pay for the period was less

than 25% of the pensionable pay of a whole-time regular firefighter employed in a similar role with equivalent qualifying service.

(8) In paragraph (7), the default assumption is that the person's retained pensionable pay for the period was equal to 25% of the pensionable pay of a whole-time regular firefighter employed in a similar role with equivalent qualifying service.

(9) Where the authority estimate the person's pensionable pay under paragraph (7) and do not hold records of that person's rank, and the person cannot provide the authority with documents to assist them to determine the person's rank, the authority may assume that the person held the rank of firefighter for the purposes of estimating pensionable pay.

(10) The authority must calculate the amount of the special pension contributions payable in respect of special pensionable service during the extended limited period by applying a rate determined by the Scheme Actuary having regard to the rate required by **paragraph (1A) of rule 3** (pension contributions) for the appropriate period for the person's pensionable pay.”

Request for clarifications

Within the consultation there are several areas that we would like the Home Office to provide clarity on, where we believe that either the consultation document, or the draft regulations do not make it clear.

The areas where we would like clarification are set out in the table below, under the relevant consultation document topic area:

Consultation Document reference	Area of clarification needed
Payment of missed pension lump sum	<ul style="list-style-type: none"> • Does this payment also cover those who opted out? As this consultation is consulting on proposals to extend provisions to allow eligible individuals with periods of 'opted out' service in the standard 2006 scheme to count towards their special service. • The payments include interest, but the regulations do not cover whether pension increases should be included, as these would have been payable in any arrears to a member over 55, had they have not died. • The sector will require clarity on whether the lump sum payment is subject to tax, and if so at what rate?

	<ul style="list-style-type: none"> • Should the lump sum be rightly paid to the member's estate rather than the survivor, as the lump sum relates to missed instalments of a member's pension rather than missed instalments of a survivor's pension? • How is tax relief considered when determining the deduction required to reflect member contributions.
Survivor's missed pension payment	<ul style="list-style-type: none"> • The proposed calculation of this payment is the same as the "additional death grant" under paragraphs 1B and 1C of Part 5 (Awards on Death) of the 2006 Regulations. • Under the current provisions the payment of the "additional death grant", together with a basic death grant of 2.5 x pensionable pay, extinguishes the right to a survivor's pension, a bereavement pension or a child's pension under Part 4 of the 2006 Regulations. However, this does not seem to have been followed through in the draft regulations. Is the intention that payment of this survivor's missed pension payment will extinguish the right to a survivor's pension etc?
Extending eligibility for 'additional death grant'	<ul style="list-style-type: none"> • We note in the draft regulations the proposed amendment to Paragraph 1C of the current 2006 Regulations to extend the 'additional death grant' in respect of the retained firefighters, and to extend the application deadline to 31 March 2026. However, as there is no obligation on the authority to notify the member's spouse, civil partner etc how are individuals going to know to make such as application?
Special deferred members – option to convert relevant standard service in 2006 scheme to special service	<ul style="list-style-type: none"> • What happens if the retained firefighter has already reached age 55 (i.e. the normal pension age for the modified scheme)? • Will they be entitled to immediate payment of their pension and backed payments? • And if so, on what basis?
Allowing opted out service in the standard 2006 Scheme to count as special service	<ul style="list-style-type: none"> • If the retained firefighter did not join the 2006 standard scheme at their earliest opportunity i.e. on and from 6 April 2006, will they be able to purchase this as special service even though technically it is not 'opted-out' service? i.e. they did not 'cease' to be a member as per the draft regulations • If this applies to a 'special pensioner member' what will the process be for making the additional payments of pension? • Should this also include those who would be eligible for missed pension payment lump sums. Noting that it covers for other awards upon death when referencing spouse, civil partners and children of the deceased.
Providing for the closure deadline of the 2023 Options Exercise to be extended to 31 March 2026	<ul style="list-style-type: none"> • Given the feedback from the sector that the 31 March 2025 will not be met in many cases, an extension to this is welcomed. The difficulty is that the 2006 Regulations currently provide that an election to purchase special membership must not take effect after 31 March 2025. This deadline in the 2006 Regulations is unlikely to be amended until after the 31 March 2025. Therefore, the sector will require some ministerial comfort that applications received after the 31 March 2025 deadline can still be processed pending amendments to the 2006 Regulations. • What if the extended deadline is missed? How is the member protected?

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. Do you agree that the proposal for missed pension payments for deceased individuals achieves the stated policy objective (see paragraph 4.4)?

Agree	Disagree
X	

If you disagree, please explain your answer:

We do agree, however there are areas of clarity and suggested additions that are needed, as set out in our covering letter.

Q2. Do you agree that the proposal to provide a survivor's missed pension lump sum payment achieves the stated policy objective (see paragraph 4.5)?

Agree	Disagree
X	

If you disagree, please explain your answer:

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Q3. Do you agree that the proposal to extend the eligibility criteria for the 'additional death grant' achieves the stated policy objective (see paragraphs 4.12-4.15)?

Agree	Disagree
X	

If you disagree, please explain your answer:

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Q4. Do you agree that the proposal to extend the conversion options for 'special deferred members' achieves the stated policy objective (see paragraphs 4.16-4.18)?

Agree	Disagree
X	

If you disagree, please explain your answer:

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Q5. Do you agree that the proposal to amend formula at Part 5, Rule 1B(8) to change the reference from 'additional death grant' to 'extended death grant' achieves the stated policy objective (see paragraphs 4.19-4.21)?

Agree	Disagree
X	

If you disagree, please explain your answer:

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Q6. Do you agree that the proposal to allow individuals to purchase any period/s of opted out standard service as special service achieves its stated objective (see paragraphs 4.22-4.23)?

Agree	Disagree
X	

If you disagree, please explain your answer:

We agree the proposal, however there are areas of clarity that are needed, as set out in our covering letter.

Q7. Do you agree the proposal to extend flexibility for payments relating to new provisions achieves its stated policy objective (see paragraph 4.24)?

Agree	Disagree
X	

If you disagree, please explain your answer:

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Q8. Are there any adverse consequences that we might not have considered of extending the closing date of the 2023 Options exercise to 31 March 2026 (see paragraphs 4.26-4.27)?

Yes	No
X	

If "Yes", please explain your answer:

We agree that following the evidence received from the sector, that there is risk that not all members will receive their options by the deadline of 31 March 2025, we therefore support the extension to 31 March 2026.
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We would however highlight, that this creates a group of individuals who will have been sent their options i.e. within January 2025 to March 2025 who will not have been given the same amount of time i.e. six months, to make their decision. Whilst we know the time limits are indicative within the regulations, FRAs will want to provide parity for all members. The suggested amendment will cause disparity between groups of people within the sector, but particularly within the same FRA, as the way in which the consultation is worded suggests that the deadline will be extended for circumstances where the FRA is unable to meet the 31 March 2025 deadline, whereas the regulations only allow for an extension where the member has not yet been sent their options. Therefore, if the member has been sent their options close to the 31 March 2025 deadline, they will not be able to extend the decision date beyond 31 March 2025, whereas someone who is sent their options after the proposed regulations come into effect, will be given a longer period to make their decision.

Q9. Do you agree that the proposal to allow special pensioner members who are in receipt of a 'member initiated early retirement' pension to convert standard service to special service achieves the stated policy objective (see paragraphs 4.28-4.31)?

Agree	Disagree
X	

If you disagree, please explain your answer:

Q10. Do you anticipate any equality issues arising from the implementation of the proposals in this consultation (see section 6)?

Yes	No	Don't Know
X		

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

As referenced in our response to Question 8, we believe that the extension to the deadline as proposed through the draft regulations will create a group of individuals who will have been sent their options i.e. within January 2025 to March 2025 who will not have been given the same amount of time i.e. six months, to make their decision.

The suggested amendment will cause disparity between groups of people within the sector, but particularly within the same FRA, as the way in which the consultation is worded suggests that the deadline will be extended for circumstances where the FRA is unable to meet the 31 March 2025 deadline, whereas the regulations only allow for an extension where the member has not yet been sent their options. Therefore, if the member has been sent their options close to the 31 March 2025 deadline, they will not be able to extend the decision date beyond 31 March 2025, whereas someone who is sent their options after the proposed regulations come into effect, will be given a longer period to make their decision.

The consultation does not make this disparity clear, and therefore does not protect all eligible individuals equally.

We also consider that there maybe some individuals who we have asked for clarity on, who had opted out and have subsequently died, whose dependents maybe disadvantaged if they are not covered under missed pension payment lump sums.

Q11. Do you agree that the proposed changes effectively address the issues that have been identified in this consultation?

Agree	Disagree	Don't know
X		

If you disagree, please explain the issue(s) and cause(s):

We do agree, however there are areas of clarity and suggested additions and amendments that are needed to completely address the policy intentions. These have been set out in our covering letter.

Thank you for participating in this consultation