

Written Ministerial Statement

Reinstatement of Opted Out Service



Recap: PSPJOA

Section 5 - Election for retrospective provision to apply to opted-out service

- Scheme regulations for a Chapter 1 legacy scheme **must** make provision so that a retrospective election may be made in relation to relevant opted-out service.
- Allows for remedy period service to be reinstated but **does not** provide the power to reinstate any service pre/post remedy period.

Section 4 - Meaning of “the relevant Chapter 1 legacy scheme”

- “the relevant Chapter 1 legacy scheme”, in relation to a person’s remediable service, means the *Chapter 1 legacy scheme for people in that employment, or holders of that office, under which the person most recently accrued pensionable service.
 - *Subject to subsections

The problem with Section 4

Meaning of “the relevant Chapter one legacy scheme”

- [s.4\(1\)](#) most recently accrued pensionable service
 - Subject to subsections 2 to 8
- [s.4\(2\)](#)
 - (a) on or before closing date (1 April 2015) the person opted out, and
 - (b) on the closing date the rules of that scheme **prohibited** a person from becoming an active member, and
 - (c) on that date, the rules of another Chapter one legacy scheme **did not** include such prohibition,
 - The correct Chapter one legacy scheme is the one mentioned in (c)
- [s.4\(3\)](#)
 - (a) any time after the closing date the person opted out, and
 - (b) any time before 1 April 2022 the person opted that their service should become pensionable again, and
 - (c) at that date the rules of that scheme mentioned in subsection (1) **prohibited** a person from becoming an active member, and
 - (d) at that time the rules of another Chapter one legacy scheme **did not** include such prohibition,
 - The correct Chapter one legacy scheme is the one mentioned in (d)

Effect of FPS 2006 on FPS 1992

On the 6 April 2006 the government introduced a new pension scheme for Firefighters in England

[The Firefighters' Pension Scheme \(England\) Order 2006 \(FPS 2006\)](#).

The introduction of FPS 2006 saw the 'closure' of the [Firemen's Pension Scheme Order 1992 \(FPS 1992\)](#)

In general, the FPS 1992 continued to have effect for persons who were already members / entitled to awards, but thereafter **did not** have effect for persons who took up employment with a fire and rescue authority thereafter. This was given effect by the 2006 Regulations at [article 3](#).

FPS 1992 Regulations were also [amended](#)

The FPS 1992 rules themselves provided that it should cease to apply to members who had elected to opt-out of contributions under [rule G3 \(election not to pay pension contributions\)](#) and then also cancelled that election on or after 6 April 2006.

This meaning if that if any individual who made an election under [rule G3](#) chose to withdraw their request and elect to recommence payment of pension contributions, then they would do so under FPS 2006, **not FPS 1992.**

Current Position

Date of Opt out	Rejoined before 31 March 2022?	Treatment of Opted out service in Remedy Period
Before 31 March 2015	Yes	FPS 2006
	No	FPS 2006
On 31 March 2015	Yes	FPS 2006
	No	FPS 2006
After 31 March 2015	Yes	*FPS 1992 to rejoin date and FPS 2006 from rejoin date to 31 March 2022
	No	FPS 1992

*This would result in FPS 1992 becoming deferred.

Purpose of remedy

To put members back into the position they would have been in if the discrimination had not happened.

Considerations by MHCLG



Proposed way forward

26 March 2026: [Written Ministerial Statement](#)



Secondary legislation - Using the [Special Case](#) power within the PSPJOA



Apply to service between 1 April 2015 and 31 March 2022 **only**



Timings - TBC

What happens in the interim?



LGA scheme manager contingent decision guidance remains accurate



SAB taking advice on risk of proceeding ahead of legislation



LGA to work with MHCLG on disqualifying break issue



FRAs to understand optant out data

Any questions



Disclaimer

- The information contained in these slides are the authors interpretation of the current regulations.
- Readers should take their own legal advice on the interpretation of any particular piece of legislation.
- No responsibility whatsoever will be assumed by LGA or their partners for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in these slides.

Thank you for listening!

claire.johnson@local.gov.uk

bluelightpensions@local.gov.uk