

# **Retained Firefighters' Pension Settlement**

**Relating to those who have had retained service for all or part of the period 1.7.2000 to 5.4.2006 inclusive**

## **Action to be taken**

<b>1. Serving firefighters – special firefighter members</b>	<b>Page 2</b>
<b>2. Deceased firefighters – death during limited period</b>	<b>Page 8</b>
<b>3. Leavers - special deferred members</b>	<b>Page 10</b>
<b>4. Leavers - special pensioner members</b>	<b>Page 16</b>
<b>5. Retrospective award on ill-health retirement</b>	<b>Page 22</b>
<b>6. General publicity</b>	<b>Page 24</b>

## **Serving firefighters – special firefighter members**

### **1. Consider the terms under which a person is eligible to be a special firefighter member.**

(1) A special firefighter member is a person who:

- (a) took up employment as a retained firefighter before 6 April 2006;
- (b) continued in that employment until the date on which he/she elects to have the modified pension scheme provisions applied;
- (c) elects, within 4 months beginning with the date on which the FRA gave the firefighter a Part 11 Rule 5A(13) notice, to pay the mandatory special period pension contributions. (The FRA has discretion to extend this period but any firefighter who wishes to join the modified scheme will have to make the election before 1 April 2015.)

[Part 2 Rule 1A(1)(a); Part 11 Rule 5A(2)(a) and (2)(b)(i); Part 11 Rule 6B(1) and (12)]

(2) A special firefighter member can also be a person who satisfies (a) and (c), above, but who ceased to be a retained firefighter on or after 6 April 2006 and, immediately after, became a regular firefighter and continued as such until the date of his/her election to have the modified pension scheme provisions applied. [Part 2 Rule 1A(1)(b); Part 11 Rule 5A(2)(a) and 2(b)(ii); Part 11 Rule 6B(1) and (12)]

(3) With the agreement of the FRA, a special firefighter member may also be a person who satisfies (a), (b), and (c) who was required by the FRA after 5 April 2006 to remain in employment as a retained firefighter whilst taking up employment as a regular firefighter. [Part 11 Rule 5A(2)(b)(iii)]

### **2. Identify those who must be contacted**

(1) Identify -

- (a) all serving retained firefighters who had retained service between 1 July 2000 and 5 April 2006 inclusive,
- (b) all serving regular firefighters who were retained firefighters between 1 July 2000 and 5 April 2006, who continued in such employment until 6 April 2006 or a later date, and then, upon termination of the retained employment and without any break in continuity, became a regular firefighter, and
- (c) if the FRA so determine, a firefighter who falls within the final paragraph of Point 1 above.

(2) As part of this process identify separately all those who, after the period of special service joined the NFPS.

### **3. Notification of potential eligibility to be issued to firefighter**

Within 2 months of 1 April 2014 (the date the Order comes into force), the FRA is required to “use reasonable endeavours” to contact all potentially eligible firefighters and tell them of their right to elect to be a special member of the modified NFPS. [Part 11 Rule 5A(4)] As the group of individuals being considered here are all serving firefighters, contact details should be readily accessible.

If it is not reasonably practicable to comply with this requirement within the time limit, the FRA can comply “as soon as reasonably practicable”. [Part 11 Rule 5A(14)] (But note that elections to pay the mandatory special period pension contributions must not be made after 31 March 2015. [Part 11 Rule 6B(12)])

The notification could comprise the following.

- A covering letter setting out the key points.
- A leaflet designed to give more detailed information.
- An application form (which, at this stage, is an “expression of interest” form).

### Covering letter

It should be pointed out to the firefighter that:

- if he/she expresses interest on the form, it will be treated as an application under Part 11 Rule 5A(5) for a statement of the service in respect of which he/she may become entitled to pay contributions, and the mandatory special period pension contributions he/she must pay for it to count, but there would be no commitment at this stage.
- if he/she fails to respond within 2 months (or a later date with the agreement of the FRA and as would be permitted under Part 11 Rule 5A(14)) of receiving this notification of potential eligibility from the FRA, the opportunity to join the modified scheme will be lost.
- if there was service as a retained firefighter with some other FRA during the limited period, the firefighter should also approach the other FRA who will deal with the exercise for that employment. The retained firefighter should also confirm in the election form whether he/she would like to aggregate the periods of service as one membership. In this case, the last employing FRA should liaise with the former employing FRA(s) in order to determine the firefighter's pensionable pay records, etc.

### Information leaflet

This should be specially designed for serving firefighters.

It should

- inform the firefighter of the new legislation and how it means that he/she can become a "special firefighter member" of a modified version of the FPS, set out in special rules in the NFPS
- explain the terms of eligibility – including a mention of the fact that the firefighter did not have to have made a claim to employment tribunal for the rules to apply
- explain that membership would be subject to an eligible firefighter making an election to join and paying "historic" contributions
- mention that a transfer of pension rights from some other pension arrangement, or the FPS or the NFPS may be possible
- explain that if the firefighter is currently a "standard" member of the NFPS, the special membership could be converted to standard NFPS membership or could be treated separately as a special deferred pension, or the firefighter could convert standard NFPS service to be added to the special service in the modified scheme
- explain the special rules – accrual rates, benefits, etc
- mention the option to purchase additional special service
- explain that special members, like standard NFPS members and FPS members will be subject to the public service pension requirements for transfer to a CARE scheme in 2015, but that special members would have the same full and tapered protection that applies to FPS and standard NFPS members.

### Application ("expression of interest") form

This should be designed as a "Yes/No" form to be returned to the FRA, whether or not the firefighter is interested in taking up the option.

For those who tick "Yes", the form will be the application as required by Part 11 Rule 5A(5) and the form should seek the information set out in Part 11 Rule 5A(6). For a serving firefighter this is

- the date on which the applicant took up employment as a retained firefighter
- where he/she has left that employment, the date on which they left
- if he/she took up employment as a regular firefighter, the date on which the regular employment commenced

- if he/she joined the NFPS as a standard member, or the FPS, the date on which he/she joined that Scheme and – if relevant – the date on which he/she elected to opt out of that Scheme.

Additionally he/she should be asked –

- whether he/she wishes to convert any special service to standard NFPS membership
- whether he/she wishes to convert standard NFPS membership to special membership if relevant
- whether he/she wishes to transfer deferred FPS benefits to the modified scheme under the special arrangements provided under Part 12 Rule 11A.

Under Part 11 Rule 5A(8), if the FRA can't determine from their records the period of a person's service during the limited period, the person can provide documents to assist the authority. If the FRA does not hold pay records for the limited period, again they can take account of documents provided by the person. If these are not available, the FRA can determine pay and service on the basis of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period. [Part 11 Rule 5A(9), (10), (11)]

Will the FRA hold these records? If not, the form should request any relevant documents that the person can provide.

The form should request the firefighter's date of birth as an "identity" feature along with his/her NI number and Brigade number. A pension record should have a verified date of birth. Will HR have a record of this? If not, the form should require the firefighter to state date of birth and provide a birth certificate.

Also, when the FRA gives the firefighter written notice, under Part 11 Rule 5A(13), of the period of potential special service and the cost, they are required to notify the amount of special pension contributions payable in respect of the "mandatory special period" and the amount of special pension contributions payable in respect of the remainder of his/her service during the limited period. (The "limited period" is the whole period the firefighter can potentially elect to purchase and the "mandatory special period" could be a shorter period during the limited period and before 6 April 2006.) In order to be able to comply with the requirement of quoting the two sets of figures required by Part 11 Rule 5A(13) FRAs should also ask the firefighter at this stage to indicate from what date he/she would wish special service to count.

#### **4. Firefighter fails to return application form**

FRAs may wish to consider sending out a reminder, perhaps 6 weeks after the notification of potential eligibility pack was issued, to any firefighter who has failed to return the application form. Request its return even if the firefighter does not wish to pursue the option (marked "No") and remind the firefighter that time is nearly up to make a valid expression of interest. The FRA will have discretion to extend the deadline, if necessary. However this Options Exercise will need to conclude before 1 April 2015.

#### **5. Firefighter returns application form indicating "No" – does not wish to pursue option**

Acknowledge receipt of form by letter as soon as received. State that no further action will be taken. Point out that the time limit for the expression of interest closes on dd/mm/yy. Give a statement of any existing pension rights which would remain unaffected.

#### **6. Firefighter returns application form indicating "Yes" – does wish to pursue option**

Acknowledge receipt of form by letter as soon as received. Inform the firefighter that his/her personal circumstances are being looked at and the FRA will be in touch again in due course, no later than 4 months after receiving the form (or later if the FRA decide to extend the deadline, but in time to conclude the exercise before 1 April 2015).

## 7. Determine details relevant to firefighter

The usual method of assessing service for retained firefighters is used to assess potential special service which can be “purchased”, i.e. for each year

actual pensionable pay = special pensionable service [Part 11 Rule 5A(11)]  
reference pay

Consequently, the FRA must be able to establish –

- the period during which the firefighter was serving as a retained firefighter (noting the date, if any, when the firefighter became a regular member of the NFPS)
- the earnings of the firefighter for each year of service during that period which could count as pensionable if a Scheme member
- the earnings of a whole-time regular firefighter in a similar role and with similar service (i.e. “reference pay”).

If the FRA has difficulty in establishing the service/pay of a firefighter, they may consider documentation provided by the firefighter. [Part 11 Rule 5A(8)]

If it is still not possible to arrive at the relevant details, the FRA can make a determination on a firefighter’s pensionable pay on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period. [Part 11 Rule 5A(9)]

Next, in accordance with Part 11 Rule 5A(12), the FRA must calculate the amount of the special pension contributions payable in respect of special pensionable service during the limited period, having regard to Part 11 Rule 3(1A). Under this Rule, pension contributions are assessed at the rate of 11% of pensionable pay for the period up to and including 31 March 2012. For any period commencing on or after 1 April 2012, the percentage rate is set out in the Table in Annex AB1. Part 11 Rule 5A(13) requires that the firefighter should be notified of the special pension contributions payable in respect of the mandatory special period (i.e. as selected by the firefighter) and, where the mandatory period is less than the limited period, the special contributions that would be payable for the balance of the period. However, at this stage, it may be that the firefighter has not indicated whether or not he/she would wish to pay for the full limited period.

DCLG have provided an online calculator to help FRAs make these calculations.

## 8. Send details to firefighter

Within 4 months (or a later date if the FRA so decide – see Part 11 Rule 5A(14)) of receiving the application form, in accordance with Part 11 Rule 5A(13) the FRA must give the applicant notice setting out:

- the period of service during the limited period that the person may purchase
- the amount of special pension contributions payable in respect of the mandatory special period, i.e. from the date the firefighter selects for joining the modified scheme
- the amount of special pension contributions payable in respect of the remainder of service during the limited period
- the pensionable pay (for each year during the limited period) used to calculate service and contributions due
- if relevant, the final pensionable pay.

Although not mentioned in the rules for this stage of the exercise, it would also be appropriate to inform the person (or remind them if already mentioned) of the terms and options for payment.

If the firefighter wishes to proceed, he/she should elect to do so within 4 months of receiving the above information (or a later date with the agreement of the FRA). [Part 11 Rule 6B(1) and (12)]

The notification could comprise the following.

- A covering letter setting out the details as required under Part 11 Rule 5A(13).
- A statement of calculation.
- A leaflet designed to give more detailed information about payment.
- A leaflet designed to give more detailed information about transfer/conversion options.
- An election form.
- A scheme guide for special firefighter members

#### Covering letter

The letter should contain the information as required under Part 11 Rule 5A(13).

It should mention that:

- payment can be by the payment of periodic contributions or by lump sum (further details in leaflet)
- if the firefighter wishes to pay contributions for special firefighter membership of NFPS, the election form must be returned to the FRA within 4 months of the date of this letter (or a later date with the agreement of the FRA). [Part 11 Rule 6A(7) and 6B(1)]
- the election takes effect on the day on which the notice of election (on enclosed form) is received by the FRA and is irrevocable once the first contribution, or the lump sum, has been paid. [Part 11 Rule 6B(10)]
- there are options to transfer pension rights from a previous pension arrangement, including the FPS and NFPS. This would be dealt with after the firefighter has joined. (Note that there are associated time limits and so the FRA should act promptly if the firefighter expresses an interest in a transfer of or conversion of pension rights.)

#### Statement of calculation

To issue a statement of calculation would add more detail to the information provided under the requirements of Part 11 Rule 5A(13). DCLG will provide an online calculator to help FRAs make these calculations.

#### Information leaflet – terms of payment

This should be specially designed for serving firefighters.

It should set out the terms of payment in more detail including the effect of default, opting-out, leaving and death, in the event that these should occur before payment has been completed.

#### Information leaflet – transfers

This should be specially designed for serving firefighters.

It should set out the options, terms, and time limits for transfers from other pension arrangements, or conversion of FPS or NFPS standard membership to special membership, or conversion of special membership to NFPS standard membership.

#### Election form

It might be helpful if this form is “YES/NO” to assist in tracking any forms which go astray.

It should set out :

- the full limited period which may count, and the part period if the firefighter has previously indicated a later starting date. (And perhaps the option to indicate a later starting date at this stage.)
- the cost of purchase

It should contain “I understand that” clauses relating to the payments.

It should stress that it must be returned within 4 months of the date on the covering letter (or a later date as agreed with the FRA).

### **9. Firefighter fails to return option form**

FRA's may wish to consider sending out a reminder, perhaps 3 months after the election pack was issued, to any firefighter who has failed to return the option form. Request its return even if the firefighter does not wish to pursue the option (marked "No") and remind the firefighter that time is nearly up to make a valid election.

### **10. Firefighter returns option form indicating "No" – does not wish to pursue option**

Acknowledge receipt of form by letter as soon as received. If relevant, confirm the period of pensionable service that counts as at the date of the acknowledgement so that the firefighter is clear about his/her service entitlement. State that no further action will be taken. Point out that the time limit for the expression of interest closes on dd/mm/yy.

### **11. Firefighter returns option form indicating "Yes" – does wish to take up option**

Acknowledge receipt of form by letter as soon as received. Say that the election has taken effect from the date of receipt of the election form. Confirm the period that will count upon payment.

If the firefighter has elected to pay by lump sum, make appropriate arrangements for collection. Notify payroll of the firefighter's special membership status

If the firefighter has elected to pay by contributions, notify payroll of amount to be collected as well as giving details of special membership status and the ongoing "standard" contributions due.

Create a special membership pension record.

If the firefighter has indicated interest in a transfer of other pension rights into special membership, take steps to assess. Follow relevant standard procedures for non-fire transfer as set out in Part 12 Rules 1 to 11. Follow procedures set out in Part 12 Rule 11A for FPS transfers to special membership and Part 12 Rule 17 for conversion of standard (NFPS) membership to special membership. Inform firefighter of effect on special pensionable service. Seek firefighter's consent before proceeding with any transfer/conversion.

If the firefighter has elected to transfer special membership into standard NFPS membership, follow procedures set out in Scheme rules [Part 12 Rule 16]. Inform firefighter of effect on standard pensionable service. Seek firefighter's consent before proceeding with the transfer.

Note that a retained firefighter who has joined the NFPS, who claims special membership but chooses not to convert it to NFPS membership, would be a NFPS standard member with a special deferred pension and should be notified accordingly.

## **Deceased firefighters – death during limited period and before 6.4.2006**

*The main provisions for “Death grant for limited period” are set out in Part 5 Rule 1A.*

### **1. How much is the death grant and who is eligible?**

The death grant is 2.5 x pensionable pay which the FRA determine he/she received in their last year of service. (Under the FPS a death grant is 2 x pensionable pay. Under the NFPS it is 3 x pensionable pay.)

If a firefighter had retained service on or after 1 July 2000 and had continuous employment in this role until he/she died before 6 April 2006,

- and was married or in a civil partnership at the time of death, the spouse or civil partner may apply to the FRA for a death grant [Part 5 Rule 1A(1) and (2)]
- and if not married or in a civil partnership at the time of death, or the spouse or civil partner has died since the person's death, a child of the deceased may make an application [Part 5 Rule 1A(3)]. This is subject to the child satisfying, at the date of death of the deceased, the terms of eligibility for a child's pension in accordance with Part 4 Rule 7. [Part 5 Rule 1A(4)] Although not mentioned in the legislation, according to the guidance notes on pages 20/21 of the Consultation Document a guardian could act for a minor.

The application must be made before 1 April 2015. [Part 5 Rule 1A(3)]

The payment of this time-limited death grant will only apply to the spouse, civil partner or children of the deceased. The provisions for the FRA to make part or whole payment are made within this context. The FRA does not have a discretion to pay to others, e.g. legal personal representatives.

If the spouse or civil partner has married, remarried or entered into a civil partnership at some time after the death of the firefighter, this will not affect their entitlement to the limited period death grant. The qualification is that the spouse was married to, or a partner was in a civil partnership with, the deceased at the time of his/her death.

### **2. Contacting the person who may make a claim**

No dependants' benefits will be in payment for these firefighters (unless simultaneously a regular firefighter or an award under the Firefighters Compensation Scheme is in payment) and so that route of contact will probably not be open.

The best route will be to write to the last known address. If this does not work, perhaps former colleagues will be able to assist.

Or see if any other organisation can help, e.g. retired members groups.

The unions and professional associations will also use their usual communication channels to publicise the introduction of the modified scheme.

Rather than issuing impersonal notes, the letter should contain all the information relevant to making a claim, and details of why the issue has been raised so many years after the firefighter's death.

It would be helpful if a specially designed application form could be included, containing the various items of information and declarations that will be necessary.

Explain that the application form must be received back by the FRA before 1 April 2015.



### **3. Acknowledging the application and making payment**

The application should be acknowledged and checks made for authenticity. Note that the “murder/manslaughter” provisions apply [Part 5 Rule 1A(9) and (10)] but hopefully are not relevant to any cases! The authority should then make payment as appropriate, within 3 months of receiving the application for the death grant (subject to receiving the application before 1 April 2015).

### **4. No survivor’s benefits**

There is no provision for survivor’s or children’s benefits, only a time limited death grant. Part 5 Rule 1A(11) makes this clear. But the death grant is a greater sum than would be payable under “standard” FPS provisions, i.e. 2 x pensionable pay

## Leavers - special deferred members

### 1. Consider the terms under which a person is eligible to be a special deferred member.

#### A. A special deferred member is a person who:

- (a) took up employment as a retained firefighter before 6 April 2006;
- (b) was employed as a retained firefighter on or after 1 July 2000;
- (c) resigned or was dismissed or retired from that employment before the date that his/her election (under Part 11 Rule 6A) to pay mandatory special period pension contributions took effect;
- (d) was younger than 55 years on the date of resignation or dismissal;
- (e) is not entitled to an ill-health award under Part 3 Rule 2 or 2A (these cases are considered separately); and
- (f) elects, within 4 months beginning with the date on which the FRA gave the firefighter a Part 11 Rule 5A(13) notice (or later with the agreement of the FRA), to pay the mandatory special period pension contributions.

[Part 2 Rule 1A(7)]

#### B. A special deferred member can also be a person who

- (g) satisfies (a) to (f), above,
- (h) joined the NFPS as a standard member in respect of service which he would otherwise be entitled to treat as special pensionable service, before electing to join the NFPS as a special member, and
- (i) does not elect to convert standard membership to special membership.

[Part 2 Rule 1A(8)]

#### C. And, after this options exercise, a person who was a special firefighter member of the Scheme immediately before Part 3 Rule 3(1) "Deferred pension" applies to him/her on leaving or opting out, will also become a special deferred member. [Part 2 Rule 1A(9)]

"C" is not considered here as it will be a post options exercise case, and "B" will be dealt with under the "Serving firefighter" process elsewhere in these notes. Consequently this part concentrates on special deferred members under "A". However, because special provisions apply to those who would have been entitled to an ill-health award, (e) will be disregarded initially at the "tracing" stage. After contact has been made, they will then be processed under the "ill-health" section of these notes.

### 2. Identify those who must be contacted

Identify all former firefighters who

- had retained service at some time between 1 July 2000 and 5 April 2006 inclusive
- resigned or were dismissed from retained employment before the effective date of the legislation
- were under age 55 at the time of resignation/dismissal.

### 3. Notification of potential eligibility to be issued to former firefighter

Within 2 months of 1 April 2014 (the date the Order comes into force) or a later date with the agreement of the FRA, the FRA is required to "use reasonable endeavours" to contact all potentially eligible persons and tell them of their right to elect to be a special member of the modified NFPS. [Part 11 Rule 5A(4)] As the persons in this group are leavers, the best route will be to write to the last known address. If these details are not available, perhaps former colleagues will be able to assist. Or see if any other organisation can help.

If it is not reasonably practicable to comply with the 2 month time limit for contacting potentially eligible persons, the FRA can comply “as soon as reasonably practicable”. [Part 11 Rule 5A(14)] But note that elections to pay the appropriate contributions must not be made after 31 March 2015. [Part 11 Rule 6B(12)]

The notification could comprise the following.

- A covering letter setting out the key points.
- A leaflet designed to give more detailed information.
- An application form (which, at this stage, is an “expression of interest” form).

#### Covering letter

It should be pointed out to the person that:

- if he/she expresses interest on the form, it will be treated as an application under Part 11 Rule 5A(5) but there would be no commitment at this stage
- if he/she fails to respond within 2 months of receiving this notification of potential eligibility from the FRA (or a later date with the agreement of the FRA), the opportunity to join the modified scheme will be lost.
- if there was service as a retained firefighter with some other FRA(s) during the limited period, the person should also approach the other FRA(s) who will deal with the exercise for that period of employment (per notes in the Consultation Document). The retired firefighter should also confirm in his/her election form whether he/she would like to aggregate the periods of service as one membership. In this case, the last employing FRA should liaise with the former employing FRA(s) in order to determine the firefighter’s pensionable pay records, etc.

#### Information leaflet

This should be specially designed for potential special deferred members.

It should

- inform the person of the new legislation and how it means that he/she can become a “special deferred member” of a modified version of the FPS, set out in special rules in the NFPS
- explain the terms of eligibility – including a mention of the fact that the firefighter did not have to have made a claim to employment tribunal for the rules to apply
- explain that membership would be subject to an eligible person making an election to join and pay “historic” contributions
- explain transfer provisions
- explain the special rules – accrual rates, benefits, ill-health awards, etc

#### Application (“expression of interest”) form

This should be designed as a “Yes/No” form to be returned to the FRA, whether or not the person is interested in taking up the option.

For those who tick “Yes”, the form will be the application as required by Part 11 Rule 5A(5) and should seek the information set out in Part 11 Rule 5A(6). This is –

- the date on which the applicant took up employment as a retained firefighter
- the date on which he/she left the employment
- if he/she took up employment as a regular firefighter, the date on which this employment commenced and ended

- if he/she joined the NFPS as a standard member, or the FPS, the date on which he/she joined that Scheme and – if relevant – the date on which he/she elected to opt out of that Scheme.

Additionally, although not mentioned in the Scheme rules, the person should be asked for date of birth, with certification, and for his/her NI number and Brigade number.

Under Part 11 Rule 5A(8), if the FRA can't determine from their records the period of a person's service during the limited period, the person can provide documents to assist the authority. If the FRA does not hold pay records for the limited period, they can take account of documents provided by the person. If these are not available, the FRA can make a determination on the pay and service on the basis of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period. [Part 11 Rule 5A(9), (10), (11)]

Also, when the FRA gives the firefighter written notice, under Part 11 Rule 5A(13), of the period of potential special service and the cost, they are required to notify the amount of special pension contributions payable in respect of the "mandatory special period" and the amount of special pension contributions payable in respect of the remainder of his/her service during the limited period. (The "limited period" is the whole period the firefighter can potentially elect to purchase and the "mandatory special period" could be a shorter period during the limited period and before 6 April 2006.) In order to be able to comply with the requirement of quoting the two sets of figures required by Part 11 Rule 5A(13), FRAs should also ask the firefighter at this stage to indicate from what date he/she would wish special service to count.

It may be helpful if the person could indicate whether or not he/she was employed by any other FRA during the limited period.

#### **4. Person fails to return application form**

FRAs should consider sending out a reminder, perhaps 6 weeks after the notification of potential eligibility pack was issued, to any firefighter who has failed to return the application form. Request its return even if the firefighter does not wish to pursue the option (marked "No") and remind the person that time is nearly up to make a valid expression of interest.

It may be that the potential eligibility pack was sent to an address at which the person no longer lives. If returned "gone away" apart from making enquiries of former colleagues, etc, there is not much more that can be done. Note, however, that if a person has not received the notification of potential eligibility in accordance with Part 11 Rule 5A(5) they have four months from 1 April 2014 in which to make a valid application. However, in accordance with Part 11 Rule 5A(14), the FRA has discretion to accept an application at a later date.

#### **5. Person returns application form indicating "No" – does not wish to pursue option**

Acknowledge receipt of the form as soon as received, in a letter to the person. State that no further action will be taken. Give details of any FPS/NFPS membership as it stands.

#### **6. Person returns application form indicating "Yes" – does wish to pursue option**

Acknowledge receipt of the form as soon as received, in a letter to the person. Inform him/her that his/her personal circumstances are being looked at and the FRA will be in touch again in due course, no later than 4 months after receiving the form (or later if the FRA decide to extend the deadline, but before 1 April 2015).

#### **7. Determine details relevant to person**

The usual method of assessing service for retained firefighters is also used to assess potential special service which can be "purchased", i.e. for each year

actual pensionable pay = special pensionable service [Part 11 Rule 5A(11)]  
reference pay

Consequently, the FRA must be able to –

- establish the period during which the person was serving as a retained firefighter (noting the date, if any, when the person became a regular member of the NFPS)
- the person’s retained firefighter earnings for each year of service during that period which could count as pensionable if a Scheme member
- the earnings of a whole-time regular firefighter in a similar role and with similar service (i.e. “reference pay”).

If the FRA has difficulty in establishing the service/pay of a firefighter, they can consider documentation provided by the person. [Part 11 Rule 5A(8)]

If it is still not possible to arrive at the relevant details, the FRA can make a determination on a firefighter’s pensionable pay on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period. [Part 11 Rule 5A(9)]

Next, in accordance with Part 11 Rule 5A(12), the FRA must calculate the amount of the special pension contributions payable in respect of special pensionable service during the limited period, having regard to Part 11 Rule 3(1A). Under this Rule, pension contributions are assessed at the rate of 11% of pensionable pay for the period up to and including 31 March 2012. For any period commencing on or after 1 April 2012, the percentage rate is set out in the Table in Annex AB1. Part 11 Rule 5A(13) requires that the firefighter should be notified of the special pension contributions payable in respect of the mandatory special period (i.e. as selected by the firefighter) and, where the mandatory period is less than the limited period, the special contributions that would be payable for the balance of the period. However, at this stage, it may be that the firefighter has not indicated whether or not he/she would wish to pay for the full limited period.

DCLG have provided an online calculator to help FRAs make these calculations.

## **8. Send details to person**

In accordance with Part 11 Rule 5A(13), within 4 months of receiving the application form (or a later date if the FRA so decide), in accordance with Part 11 Rule 5A(13) the FRA must give the applicant notice setting out:

- the period of service during the limited period that the person may purchase
- the amount of special pension contributions payable in respect of the mandatory special period, i.e. from the date that the person selects for joining the modified NFPS
- the amount of special pension contributions payable in respect of the remainder of service during the limited period
- the pensionable pay (for each year during the limited period) used to calculate service and contributions due
- final pensionable pay.

Although not mentioned in the rules, it would also be appropriate to inform the person (or remind if already mentioned) of the terms and options for payment.

If the person wishes to proceed, he/she should elect to do so within 4 months of receiving the above information (or a later date with the agreement of the FRA). [Part 11 Rule 6B(1) and (12)]

The notification could comprise the following.

- A covering letter setting out the details as required under Part 11 Rule 5A(13)
- A statement of calculation of contributions and potential deferred benefits.
- A leaflet designed to give more detailed information about payment.

- An election form.
- A guide to special deferred membership terms of the modified NFPS.

### Covering letter

The letter should contain the information as required under Part 11 Rule 5A(13).

It should mention that:

- payment can be by the payment of periodic contributions or by lump sum (further details based on Part 11 Rule 6A in leaflet)
- if the person wishes to pay contributions for special firefighter membership of NFPS, the election form must be returned to the FRA within 4 months of the date of the letter (or a later date with the agreement of the FRA). [Part 11 Rule 6A(3), and Part 11 Rule 6B(1) and (12)]
- the election takes effect on the day on which the notice of election (on enclosed form) is received by the FRA and is irrevocable once the first contribution, or the lump sum, has been paid. [Part 11 Rule 6B(10)]
- where relevant, there may be an option, subject to certain time limits, to transfer pension rights from a previous pension arrangement

### Statement of calculation

To issue a statement of calculation would add more detail to the information requirements of Part 11 Rule 5A(13). Also, to enable the person to see whether payment of contributions would be worthwhile, there should be a statement of the deferred award that would be payable. DCLG will provide an online calculator to help FRAs make these calculations

### Information leaflet – terms of payment

This should be specially designed for special deferred members in accordance with Part 11 Rule 6A. It should set out the terms and effect of payment in more detail.

### Election form

Again it might be helpful if this form was “YES/NO” to assist in tracking any forms which go astray.

It should set out :

- the full limited period which may count, and the part period if the firefighter has previously indicated a later starting date. (And perhaps the option to indicate a later starting date at this stage.)
- the cost of purchase

It should contain “I understand that” clauses relating to the payments.

It should stress that it must be returned within 4 months of the date on the covering letter (or such later date as agreed with the FRA).

## **9. Person fails to return option form**

FRAs may wish to consider sending out a reminder, perhaps 3 months after the election pack was issued, to any person who has failed to return the option form. Request its return even if the person does not wish to pursue the option (marked “No”) and remind the person that time is nearly up to make a valid election.

## **10. Person returns option form indicating “No” – does not wish to pursue option**

Acknowledge receipt of form by letter as soon as received. State that no further action will be taken.

Explain position as a member of the FPS or NFPS if any service, in respect of other employments, may count.

## **11. Person returns option form indicating “Yes” – does wish to take up option**

Acknowledge receipt of form by letter as soon as received. Say that the election will have effect from receipt of the election. Confirm the period that will count upon payment.

Whether person has elected to pay by lump sum or periodic contributions, make appropriate arrangements for collection.

Create special membership record.

If the person has indicated an interest in the transfer options, inform him/her of procedures and time limits.

## **Leavers - special pensioner members**

### **1. Consider the terms under which a person is eligible to be a special pensioner member.**

A special pensioner member is defined in Part 2 Rule 1A(10) to (14) as a person who:

- (a) took up employment as a retained firefighter before 6 April 2006;
- (b) was employed as a retained firefighter on or after 1 July 2000;
- (c) retired from that employment before the date his/her election under Part 11 Rule 6A to pay the mandatory special period pension contributions took effect;
- (d) satisfies at least one of the following conditions (i) to (iii) –
  - (i) he/she has retired having attained age 55
  - (ii) he /she was dismissed or retired by reason of permanent disability and the conditions of Part 3 Rule 2A (retrospective award on ill-health retirement) are capable of being satisfied, or
  - (iii) he/she has attained age 60
- (e) elects, within 4 months beginning with the date on which the FRA gave the person a Part 11 Rule 5A(13) notice, to pay the mandatory special period pension contributions. Under Part 11 Rule 6B(12), the FRA will have discretion to extend this period but any firefighter who wishes to join the modified scheme will have to make the election before 1 April 2015.

Any person eligible to immediately join the modified scheme as a special pensioner member will be eligible to receive the backdated payment of their pension (plus interest) from the date they would first have been entitled to receive it had they been allowed to join the FPS during their time as a retained firefighter.

### **2. Identify those who must be contacted**

Identify all persons who -

- (a) served as retained firefighters between 1 July 2000 and 5 April 2006 inclusive
- (b) left before the options exercise having attained age 55, or having been dismissed or retired on ill-health grounds, or having attained age 60.

### **3. Notification of potential eligibility to be issued to person**

Within 2 months of 1 April 2014 (the date the Order comes into force) the FRA is required to “use reasonable endeavours” to contact all potentially eligible persons and tell them of their right to elect to be a special member of the modified NFPS. [Part 11 Rule 5A(4)]

If it is not reasonably practicable to comply with the requirements within the time limit, the FRA can comply “as soon as reasonably practicable”. [Part 11 Rule 5A(14)] But note that the election to pay the mandatory special period pension contributions must not be made after 31 March 2015. [Part 11 Rule 6B(12)]

As the persons in this group are leavers, the best route will be to write to the last known address. If these details are not available, perhaps former colleagues will be able to assist. Or see if any other organisation can help.

There may be those who are already “standard” pensioners with ordinary or ill-health pensions under the NFPS because they chose to join that Scheme after 5 April 2006.

The notification could comprise the following.

- A covering letter setting out the key points.
- A leaflet designed to give more detailed information.
- An application form (which, at this stage, is an “expression of interest” form).



### Covering letter

It should be pointed out to the person that:

- if he/she expresses interest on the form, it will be treated as an application under Part 11 Rule 5A(5) but there would be no commitment at this stage
- if he/she fails to respond within 2 months (or later with the agreement of the FRA) of receiving this notification of potential eligibility from the FRA, the opportunity to join the modified scheme will be lost.
- if there was service as a retained firefighter with some other FRA(s) during the limited period, the firefighter should also approach the other FRA(s) who will deal with the exercise for that employment (as per notes in the Consultation Document). The former firefighter should also confirm in the election form whether he/she would like to aggregate the periods of service as one membership. In this case, the last employing FRA should liaise with the former employing FRA(s) in order to determine the firefighter's pensionable pay records, etc.

### Information leaflet

This should be specially designed for potential special pensioner members.

It should

- inform the person of the new legislation and how it means that he/she can become a "special pensioner member" of a modified version of the FPS, set out in special rules in the NFPS,
- explain the terms of eligibility – including a mention of the fact that the person did not have to have made a claim to employment tribunal for the rules to apply
- explain that membership would be subject to an eligible person making an election to join and paying "historic" contributions
- explain the special rules – accrual rates, benefits, method of collection of contributions, etc
- mention entitlement to payment of benefits including special provisions for those who may qualify for an ill-health pension (or may already have qualified).

Note that there is no option for a special pensioner member to transfer other pension rights into their special membership, nor can they convert the special membership to standard membership. However, under Part 12 Rule 18, they can convert standard membership into special membership for pension purposes. If relevant, this should be mentioned.

### Application ("expression of interest") form

This should be designed as a "Yes/No" form to be returned to the FRA, whether or not the person is interested in taking up the option.

For those who tick "Yes", the form will be the application as required by Part 11 Rule 5A(5) and should seek the information set out in Part 11 Rule 5A(6). This is

- the date on which the applicant took up employment as a retained firefighter
- where he/she has left that employment, the date of leaving
- if he/she took up employment as a regular firefighter, the date on which this employment commenced and ended if relevant
- if he/she joined the NFPS as a standard member, or the FPS, the date on which he/she joined that Scheme and – if relevant – the date on which he/she elected to opt out of that Scheme.

Not mentioned in the rules but also required would be the person's date of birth (with certification), NI number and Brigade number (for identification).

Under Part 11 Rule 5A(8), if the FRA can't determine from their records the period of a person's service during the limited period, the person can provide documents to assist the authority. If the authority does not hold pay records for the limited period, again they can take account of documents provided by the person. If these are not available, the FRA can determine pay and service on the basis of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period. [Part 11 Rule 5A(9), (10), (11)]

Also, when the FRA gives the firefighter written notice, under Part 11 Rule 5A(13), of the period of potential special service and the cost, they are required to notify the amount of special pension contributions payable in respect of the "mandatory special period" and the amount of special pension contributions payable in respect of the remainder of his/her service during the limited period. (The "limited period" is the whole period the firefighter can potentially elect to purchase and the "mandatory special period" could be a shorter period during the limited period and before 6 April 2006.) In order to be able to comply with the requirement of quoting the two sets of figures required by Part 11 Rule 5A(13) FRAs should also ask the firefighter at this stage to indicate from what date he/she would wish special service to count.

The form should also give an option to indicate at this stage whether the person would wish the FRA to explore the possibility of an ill-health award.

#### **4. Person fails to return application form**

The FRA may wish to consider sending out a reminder, perhaps 6 weeks after the notification of potential eligibility pack was issued, to any person who has failed to return the application form. Request its return even if the person does not wish to pursue the option (marked "No") and remind the person that time is nearly up to make a valid expression of interest. The FRA has discretion to extend the deadline if necessary. However, this Options Exercise must be completed before 1 April 2015.

It may be that the potential eligibility pack was sent to an address at which the person no longer lives. If returned "gone away" apart from making enquiries of former colleagues, etc, there is not much more that can be done. Note, however, that if a person has not received the notification of potential eligibility they have four months from 1 April 2014 – [Part 11 Rule 5A(5)] – in which to make a valid application. Again, the FRA has discretion to extend the deadline if necessary [Part 11 Rule 5A(14)] but the Options Exercise must conclude before 1 April 2015.

#### **5. Person returns application form indicating "No" – does not wish to pursue option**

Acknowledge receipt of form by letter as soon as received. State that no further action will be taken. Give a statement of any FPS/NFPS rights held in the absence of the person taking up the option.

#### **6. Person returns application form indicating "Yes" – does wish to pursue option**

Acknowledge receipt of form by letter as soon as received. In a letter to the person, inform him/her that their individual circumstances are being looked at and the FRA will be in touch again in due course, no later than 4 months after receiving the form (or later if the FRA decide to extend the deadline, but before 1 April 2015).

#### **7. Determine details relevant to person**

The usual method of assessing service for retained firefighters is also used to assess potential special service which can be "purchased", i.e. for each year

actual pensionable pay = special pensionable service [Part 11 Rule 5A(11)]  
reference pay

Consequently, the FRA must be able to –

- establish the period during which the person was serving as a retained firefighter (noting the date, if any, when the person became a regular member of the NFPS)
- the person’s retained firefighter earnings for each year during that period which could count as pensionable
- the earnings of a whole-time regular firefighter in a similar role and with similar service (i.e. “reference pay”).

If the FRA has difficulty in establishing the service/pay of a firefighter, they can consider documentation provided by that person. [Part 11 Rule 5A(8)]

If it is still not possible to arrive at the relevant details, the FRA can make a determination on a firefighter’s pensionable pay on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period. [Part 11 Rule 5A(9)]

Next, in accordance with Part 11 Rule 5A(12), the FRA must calculate the amount of the special pension contributions payable in respect of special pensionable service during the limited period, having regard to Part 11 Rule 3(1A). Under this Rule, pension contributions are assessed at the rate of 11% of pensionable pay for the period up to and including 31 March 2012. For any period commencing on or after 1 April 2012, the percentage rate is set out in the Table in Annex AB1. Part 11 Rule 5A(13) requires that the firefighter should be notified of the special pension contributions payable in respect of the mandatory special period (i.e. as selected by the firefighter) and, where the mandatory period is less than the limited period, the special contributions that would be payable for the balance of the period. However, at this stage, it may be that the firefighter has not indicated whether or not he/she would wish to pay for the full limited period.

DCLG have provided an online calculator to help FRAs make these calculations.

Identify if eligibility for an ill-health pension may be a possibility.

## **8. Send details to person**

In accordance with Part 11 Rule 5A(13), within 4 months of receiving the application form (or later if the FRA so decide in accordance with Part 11 Rule 5A(14), the FRA must give the applicant notice setting out:

- the period of service during the limited period that the person may purchase
- the amount of special pension contributions payable in respect of the mandatory special period. i.e. from the date the firefighter selects for joining the modified NFPS
- the amount of special pension contributions payable in respect of the remainder of service during the limited period
- the pensionable pay (for each year during the limited period) used to calculate service and contributions due
- final pensionable pay.

Although not mentioned in the rules, it would also be appropriate to inform the person of the pension that the period of special service would provide and the potential lump sum by commutation, and to remind them of the terms and options for payment.

If the person wishes to proceed, he/she should elect to do so within 4 months of receiving the above information (or a later date with the agreement of the FRA). [Part 11 Rule 6B(1) and (12)]

The notification could comprise the following.

- A covering letter setting out the details as required under Part 11 Rule 5A(13)
- A statement of calculation of contributions and benefits potentially payable.
- A leaflet designed to give more detailed information about payment.
- A leaflet designed to give more detailed information about ill-health awards (including a form requesting and consenting to the process)
- An election form.
- A guide to special pensioner membership terms of the NFPS

#### Covering letter

The letter should contain the information as required under Part 11 Rule 5A(13). It should mention that:

- payment must be by lump sum (further details, based on Part 11 Rule 6A in leaflet)
- if the person wishes to pay contributions for special pensioner membership of NFPS, the election form must be returned to the FRA within 4 months of the date of the letter (or a later date with the agreement of the FRA). [Part 11 Rule 6A(1) and Part 11 Rule 6B(1) and (12)]
- the election takes effect on the day on which the notice of election (on enclosed form) is received by the FRA and is irrevocable once the lump sum has been paid. [Part 11 Rule 6B(10)]
- the person will initially be awarded an ordinary pension but, if they have asked for entitlement to an ill-health award to be explored and a medical opinion supports this, the ordinary pension would be replaced by an ill-health pension
- if relevant, the effect of conversion of standard membership to special membership [Part 12 Rule 18]

#### Statement of calculation

To issue a statement of calculation would comply, in more detail, with the requirements of Part 11 Rule 5A(13). Also, to enable the person to see whether payment of contributions would be worthwhile, there should be a statement of the ordinary award that would be payable. DCLG has provided an online calculator to help FRAs make these calculations.

#### Information leaflet – terms of payment

This should be specially designed for special pensioner members.

It should set out the terms of payment in more detail, i.e. that the payment must be by lump sum and that this may, with the person's consent, be deducted from any lump sum to which the person may be entitled under the Scheme. The election form should contain a consent box to this effect. (If there is insufficient commuted pension to pay for this, the balance must be by paid by lump sum).

#### Information leaflet – ill-health awards

This should be specially designed for special pensioner members. It should provide the information set out in Part 3 Rule 2A.

#### Election form

Again it might be helpful if this form was "YES/NO" to assist in tracking any forms which go astray.

It should set out :

- the full limited period which may count, and the part period if the firefighter has previously indicated a later starting date. (And perhaps the option to indicate a later starting date at this stage.)
- the cost of purchase.

It should contain an option box for those who wish to have the contributions deducted from any lump sum to which they may be entitled (any balance to be collected directly from the person).

It should contain "I understand that" clauses relating to the payments.

It should stress that it must be returned within 4 months of the date on the covering letter (or such later date as agreed with the FRA).

#### **9. Person fails to return option form**

FRAAs may wish to consider sending out a reminder, perhaps 3 months after the election pack was issued, to any person who has failed to return the option form. Request its return even if the person does not wish to pursue the option (marked "No") and remind the person that time is nearly up to make a valid election.

#### **10. Person returns option form indicating "No" – does not wish to pursue option**

Acknowledge receipt of form by letter as soon as received. State that no further action will be taken.

Set out any details of FPS/NFPS membership as it stands without the election.

#### **11. Person returns option form indicating "Yes" – does wish to take up option**

Acknowledge receipt of form by letter as soon as received.

Include with the letter the usual pre-retirement request for information and documents, e.g.

- birth certificate if date of birth still has not been verified
- marital status declaration. Also, even though this modified Scheme is FPS based, there is cover for nominated partners as under the NFPS. And so a nomination form should be sent out as well.
- bank details for payment of pension.

If the person has elected to pay contributions by lump sum not deducted from the commuted portion of pension, make appropriate billing arrangements. Inform the person in the acknowledgement letter and say that pension details will be finalised upon receipt of the lump sum.

If the person has elected to pay contributions by lump sum deducted from the commuted portion of pension, in the acknowledgement letter inform the person that pension details are being finalised and they will hear from FRA shortly when calculations have been finalised.

If the person has made a request for consideration for an ill-health award, enclose any papers that are required for this purpose but reassure them that in the meantime an ordinary pension will be put into payment.

Follow up this letter with final calculations, with a covering letter.

Create special pensioner record.

Notify payroll.

## **Retrospective award on ill-health retirement**

*The main provisions for “Retrospective award on ill-health retirement” are set out in Part 3 Rule 2A*

### **1. Who may be eligible?**

This will apply to any former retained firefighter who joins the modified Scheme as a special deferred or special pensioner member who, before 6 April 2006, had been dismissed on grounds of ill-health or had retired from employment as a retained firefighter.

### **2. Application from former retained firefighter**

To be considered for an ill-health award, a person must apply to the FRA that last employed them as a retained firefighter, to be assessed by an IQMP. This application must be made within 3 months of the date on which the authority served notice under Part 11 Rule 5A(13) (this is the notice issued by the FRA within 4 months of the person making an application (“expression of interest”) setting out the details of the period of service that may be purchased and the amount of contributions that may be payable, etc.).

### **3. Role of IQMP**

The IQMP will be selected by the FRA and must give a written opinion on whether the person was, at the date of dismissal or retirement, permanently incapable of performing the duties of a firefighter and, if so, whether he/she has become capable of performing those duties since that date.

The IQMP must certify that he/she has not previously advised, or given his/her opinion on, or otherwise been involved in, the particular case for which the opinion has been requested, and that he/she is not acting, and has not at any time acted, as the representative of the employee, the FRA or any other party in relation to the same case.

The FRA will base their determination as to whether or not the person is entitled to a retrospective award for ill-health on the basis of the written opinion of the IQMP.

The opinion is binding on the authority unless superseded by a response on review under Part 8 Rule 3 or the outcome of an appeal under Part 8 Rule 4 (appeals against decisions based on medical advice).

If the person “wilfully or negligently” fails to submit to the medical examination by the IQMP and the IQMP cannot therefore give an opinion, the FRA can make their decision on such medical evidence as they think fit, or without medical evidence.

### **4. What benefits would be payable?**

If the medical issues are confirmed by the IQMP, and the FRA determine that the person is entitled to a retrospective award for ill-health retirement, the person will receive a higher tier ill-health pension calculated on NFPS principles. The FRA must give the person written notice of the award within 14 days of their determination, together with a copy of the IQMP’s opinion.

The FRA would pay the person a lump sum for backdated ill-health pension payments, including interest.

This will, however, be subject to the person paying the relevant pension contributions. The person can request the authority to deduct the contributions from any lump sum by commutation of pension, or the lump sum which would be paid as arrears of ill-health pension under Part 3 Rule 2A(12). [Part 11 Rule 6A(2)(b)]

If payment is not made, the person’s election shall be treated as not having been made.

## **5. What if the FRA determine that an award is not due?**

If the authority determine that the person is not entitled to a retrospective ill-health award, they must notify the person within 14 days of their determination, supply a copy of the IQMP's opinion, and inform the person of the right of review of medical opinion under Part 8 Rule 3, and right to appeal against the decision under Part 8 Rule 4.

## **6. Review of award**

Once in payment, the award will be subject to review like a standard ill-health award.

## **6. General publicity**

Explain exercise. All those affected will be contacted in person. But if anyone is worried that they may be overlooked they should get in touch.

If employed by another FRA for part or all of the relevant period, they should contact that previous FRA, too.

If currently employed as a regular firefighter but previously a retained firefighter – without a break between retained and regular employments - they can make an election to join the modified scheme.

Make explanatory leaflets available on website.

### **Retained firefighters who received ill-health and injury awards under FPS 1992 before 1.4.2006, or under protected rights contained in Part 8 Rule 2 of NFPS 2006 on or after 1.4.2006**

They may have heard that with the introduction of the modified scheme, retained firefighters will lose their protected right to be covered by the injury award provisions that would apply to whole-time firefighters.

Consider issuing a letter to confirm to them that they are not affected.