

Retained Firefighters' Pension Settlement Second options exercise (2023)

Relating to those who have had retained service for
all or part of the period 7 April 2000 to 30 June 2000
and/or 1 July 2000 to 5 April 2006¹ inclusive

Actions to be taken by the FRA

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¹ Only certain individuals will be eligible to pay for this period of employment as part of the second options exercise

Background

Stakeholders will be aware of the category of members of the Firefighters' Pension Scheme 2006 (FPS 2006) known as "special members" who were introduced in 2014, following [Matthews v Kent and Medway Towns Fire Authority & others](#), which allowed retained firefighters employed between 1 July 2000 and 5 April 2006 to join the 2006 Scheme with retrospective effect to 1 July 2000.

Following the introduction of the [Part-Time Workers \(Prevention of Less Favourable Treatment\) Regulations 2000](#), a claim was made by several retained firefighters that they should receive equal treatment with full-time regular firefighters and thereby be able to access pension benefits under the Firefighters' Pension Scheme 1992 (FPS 1992). The claim proceeded through the Employment Tribunal and Court of Appeal before judgment was given in the House of Lords in favour of the retained firefighters.

Although, since 6 April 2006, retained firefighters have been eligible to join FPS 2006, the House of Lords judgment allowed those who were serving during the period 1 July 2000 to the date on which they elected to join the FPS 2006, to have special provisions which generally reflect the regulations of FPS 1992. They could not be given backdated membership of FPS 1992 because that scheme is now closed. Consequently, regulations of FPS 2006 were amended to introduce pension benefits for these "special" retained firefighters, known as the RDS modified FPS 2006 Scheme.

A time-limited options exercise took place between 2014 and 2015 to allow eligible individuals to join the FPS. Those who qualified for special membership of FPS 2006 had to make an election to join no later than 30 September 2015 (as extended by [SI 2015/590](#)).

More recently, this judgment was challenged at the European Court of Justice in relation to fee-paid judges ([O'Brien v Ministry of Justice](#)). The Court ruled in that case that service going back to the start of employment could be taken into account. The government accepted that the same principles apply to certain retained firefighters, whether they have made a legal claim or not.

After an extended period of negotiations on the scope and mechanics of the settlement, a [Memorandum of Understanding \(MoU\)](#) was agreed by all parties on 9 March 2022. Remedy for retained firefighters affected by the O'Brien judgment will be provided by way of a second options exercise allowing in-scope individuals the opportunity to purchase pension entitlement as a special member of the RDS modified FPS 2006 Scheme.

The [Regulations](#) needed to enact this are due to come into force from 1 October 2023. At which point, a second options exercise will take place allowing those who have retained service between 7 April 2000 and 30 June 2000 to backdate their membership to 7 April 2000 and before, providing that the retained service is continuous.

Summary

This guide sets out what actions Fire and Rescue Authorities need to take to carry out the second options exercise. It sets out the eligibility criteria and the steps that need to be taken by member type.

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 who is eligible under the second options exercise is a person who:
 - a) took up employment as a retained firefighter on any date between 7 April 2000 and 30 June 2000 (inclusive).
 - b) took up employment as a retained firefighter on any date between 7 April 2000 and 30 June 2000 (inclusive) as well as on any date between 1 July 2000 and 5 April 2006 (inclusive).
 - c) took up employment as a retained firefighter on any date between 1 July 2000 and 5 April 2006 (inclusive), but not on any date between 7 April 2000 and 1 July 2000, who was eligible to take part on the first options exercise but was not given the opportunity to do so.

2. Identify those who must be contacted

- (1) Identify -
 - a) all retained firefighters who had retained service between 7 April 2000 to 30 June 2000 inclusive,
 - b) all retained firefighters who had retained service between 7 April 2000 and 30 June 2000 as well as between 1 July 2000 and 5 April 2006 inclusive,
 - c) all retained firefighters who had retained service between 1 July 2000 and 5 April 2006 who were not given the opportunity to join in the first options exercise.

3. Notification of potential eligibility to be issued to firefighter

To comply with disclosure requirements, within 90 days of 1 October 2023 (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 scheme.

Reasonable endeavours could include the use of tracing services in circumstances whereby there is an old/incorrect address, social media i.e. the FRA Facebook page and/or local area Facebook pages as well as articles in the local newspaper.

Additionally, it may also be beneficial to utilise the services of local union representatives and ask them to spread the word using their communication channels. Similarly, it could be seen as good practice to ask local National Association of Retired Firefighter (NARF) officials to share information on the second options exercise in their member bulletins/magazines. FRAs may also wish to consider using recorded delivery options, where they have had an address verified.

If it is not reasonably practicable to comply with the suggested timetabling the FRA should comply “as soon as reasonably practicable”. (But note that elections to pay the mandatory special period pension contributions must not be made after 31 March 2025.)

An additional flexibility will allow FRAs to give individuals the opportunity to join the modified scheme after the closure of the 2023 Options exercise where they had not been identified prior to the expiration of the 18-month deadline.

This will apply only in exceptional cases where the FRA was not aware of an individual’s entitlement and, as such, had not notified them of their entitlement to join the modified scheme during the 18-month options exercise period. It will not apply to cases where an individual has been notified by the relevant FRA but they did not respond in good time.

The notification sent by the FRA to the individual should comprise the following.

- A covering letter setting out the key points.
- A employee informal guidance document 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 they express an interest on the form, it will be treated as an application for a statement of the service in respect of which they may become entitled to pay contributions, and the mandatory special period pension contributions they must pay for it to count, but there would be no commitment at this stage.
- if they fail to respond within 6 months (or a later date with the agreement of the FRA and as would be permitted within the regulations of receiving this notification of potential eligibility from the FRA), the opportunity to join the modified scheme will be lost.
- if they are a retained firefighter with another FRA(s) during the extended limited period, the retained firefighter should also confirm in the election form whether they 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) to determine the firefighter’s pensionable pay records, etc.

Where FRAs need to share members data, it is considered best practice that a Data Sharing Agreement² is put in place.

Informal information guidance document

This should be specially designed for serving firefighters.

It should

- inform the firefighter of the new legislation and how it means that they can become a “special firefighter member” of a modified version of the FPS, set out in special rules in FPS 2006.
- 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 FPS 1992 or FPS 2006 may be possible.
- explain that if the firefighter is currently a “standard” member of FPS 2006, the special membership could be converted to standard FPS 2006 membership or could be treated separately as a special deferred pension, or the firefighter could convert standard FPS 2006 service to be added to the special service in the modified scheme.
- explain that if the firefighter was part of the first options exercise, they may be able to reverse their conversion option under the second options exercise.
- explain the special rules – accrual rates, benefits, etc
- mention the option to purchase additional special service.
- explain that the maximum permissible (allowed) service in the modified scheme as a special member is 30 years.
- explain that special members, like standard FPS 2006 members and FPS 1992 members may be subject to the public service pension remedy exercise, where applicable once they have made their option under the second options exercise.

Application (“expression of interest”) form

This should be designed as a “Yes/No” form to be returned to the FRA, whether the firefighter is interested in taking up the option.

² The LGA are currently working with Eversheds to create a template Data Sharing Agreement and suggested wording for your privacy notice.

For those who tick “Yes”, the form will be the application as required by the regulations and the form should seek the information set out for a serving firefighter as follows:

- the date on which the applicant took up employment as a retained firefighter.
- where they have left that employment, the date on which they left.
- if they took up employment as a regular firefighter, the date on which the regular employment commenced.
- if they joined FPS 2006 as a standard member, or FPS 1992, the date on which they joined that scheme and – if relevant – the date on which they elected to opt out of that scheme.

Additionally, they should be asked –

- whether they wish to convert any special service to standard FPS 2006 membership
- whether they wish to convert standard FPS 2006 membership to special membership if relevant
- whether they wish to reverse their conversion option from the first options exercise.
- whether they wish to transfer deferred FPS benefits to the modified scheme under the special arrangements provided under the regulations.

If the FRA cannot determine from their records the period of an individual’s service during the limited period (service between 1 July 2000 to 5 April 2006), the individual 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 individual. If these are not available, the FRA can decide on the pay and service based on recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.

Under the regulations, if the FRA cannot determine from their records the period of an individual’s service during the extended limited period (service pre 1 July 2000), the individual can provide documents to assist the authority. If the FRA does not hold pay records for the extended limited period, they can take account of documents provided by the individual. If these are not available, the FRA may assume for any service that the retained firefighter’s retained pensionable pay for the period was equal to 25% of the pensionable pay of a wholetime regular firefighter³ employed in a similar role with equivalent qualifying service.

³ Where there is more than one pay rate, we are currently awaiting a response from Home Office with regards to which should be used.

The regulations do allow for local assumptions to be made, where the FRA holds evidence to form those assumptions. i.e. other retained stations working the same system and percentage of pay.

If the FRA has limited records, the form should request any relevant documents that the individual can provide.

The [Firefighters' Pension Scheme regulations and guidance](#) website holds pay information going back to the 1960's.

The form should request the individuals date of birth as an "identity" feature along with their National Insurance (NI) number and Brigade number. A pension record should have a verified date of birth. If the FRA does not hold data which verifies the individuals date of birth, then they must ask for verification through the form of a birth certificate.

When the FRA gives the individual written notice 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 their service during the extended limited period. (The "extended 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 extended limited period and before 6 April 2006.) To be able to comply with the requirement of quoting the two sets of figures required by the regulations FRAs should also ask the firefighter at this stage to indicate from what date they would wish special service to count.

4. Firefighter fails to return application form

FRAs may wish to consider sending out multiple reminders, perhaps at 6 weekly intervals, after the notification of potential eligibility pack was first issued to any individual who has failed to return the application form. FRAs may also wish to consider the use of recorded delivery methods for any reminder communications. FRAs should 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 31 March 2025.

If it concludes, that despite the use of reasonable endeavours, an eligible firefighter did not receive notification before 31 March 2025, an election can be made as reasonably practicable after they have received a notification.

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

Acknowledge receipt of form by letter/email as soon as received. State that no further action will be taken. Point out that, should they change their mind, the time limit for the expression of interest closes after 6 months from the date the FRA initially wrote to them.

6. Firefighter returns application form indicating “Yes” – does wish to pursue option

Acknowledge receipt of form by letter/email as soon as received. Inform the individual that their personal circumstances are being looked at and the FRA will be in touch again in due course, no later than 3 months after receiving the form (or later if the FRA decide to extend the deadline, but in time to conclude the exercise before 31 March 2025).

The acknowledgements will need to reflect the timescales of the implementation of the Matthews Government Actuary Department (GAD) calculator and whether they will fall into the first or second version.⁴

It is worth noting that there are some cases which will need further guidance from GAD as they will not be compatible with the calculator. These are set out on the [Special members of the FPS 2006 – GAD calculator](#) webpage under the ‘Second options exercise – case type’ tab. These cases will need to be referred to GAD for them to calculate. They will not be able to commence these cases until January 2024, once the 2nd version of the calculator has been launched.

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

$$\frac{\text{actual pensionable pay}}{\text{reference pay}} = \text{special pensionable service}$$

Consequently, the FRA must be able to establish –

- the period during which the individual was serving as a retained firefighter (noting the date, if any, when the firefighter became a regular member of the 2006 Scheme)
- the earnings of the individual 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 individual.

If it is still not possible to arrive at the relevant details, the FRA can make a determination:

⁴ First version – Cohort 1 (can buy mandatory period benefits only), Cohort 3) existing functionality, Cohort 2 who did not purchase in the 1st options exercise and are not eligible to convert 2006 service. Second version – Cohort 2 who did not purchase in the 1st options exercise and are eligible to convert 2006 service, Cohort 2 who did not purchase in the 1st options exercise, Current firefighters who are earning outside of basic rate tax bands at election.

- for service from 1 July 2000 to 5 April 2006 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 – This is consistent with the approach taken in the first options exercise.
- for continuous service pre and during 7 April 2000 to 30 June 2000 an estimated pensionable pay may be assumed equal to 25% of the pensionable pay of a whole-time regular firefighter employed in a similar role with equivalent qualifying service.
- For continuous service pre and during 7 April 2000 to 30 June 2000, an FRA can make a local assumption if they have the evidence to make that determination. i.e. other retained stations rota and percentage of pay.

Next, 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](#). The regulations requires that the individual should be notified of the special pension contributions payable in respect of the mandatory special period (i.e. as selected by the individual) and, where the mandatory period is less than the limited and/or extended limited period, the special contributions that would be payable for the balance of the period. However, at this stage, it may be that the individual has not indicated whether or not they would wish to pay for the full limited or extended limited period.

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

8. **Send details to firefighter**

Within 3 months (or a later date if the FRA so decide but no later than 31 March 2025) of receiving the application form, the FRA must give the applicant notice setting out:

- the period of service during the extended 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 extended limited period
- the pensionable pay (for each year during the extended limited period) used to calculate service and contributions due.
- if relevant, the final pensionable pay.

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

If the individual wishes to proceed:

- they should elect to do so within 6 months of receiving the above information (or a later date with the agreement of the FRA).

The notification could comprise the following.

- A covering letter setting out the relevant details as required by the regulations.
- A statement of calculation.
- A informal information guidance document designed to give more detailed information about payment.
- An informal information guidance document 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 follows:

It should mention that:

- payment can be by payment of periodic contributions or by lump sum (further details in informal information guidance document)
- if the individual wishes to pay contributions for special firefighter membership of FPS 2006 the election form must be returned to the FRA within 6 months of the date of this letter (or a later date with the agreement of the FRA).
- 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.
- there may be options for some individuals to transfer pension rights from a previous pension arrangement, including the 2006 scheme. This would be dealt with after the firefighter has joined and would be subject to complying with [Part 12](#) of the Scheme regulations. (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

GAD will provide an online calculator to help FRAs make these calculations.

It is worth noting that there are some cases which will need further guidance from GAD as they will not be compatible with the calculator. These are set out on the [Special members of the FPS 2006 – GAD calculator](#) webpage under the 'Second options exercise – case type' tab. These cases will need to be referred to GAD for

them to calculate. They will not be able to commence these cases until January 2024, once the 2nd version of the calculator has been launched.

Informal information guidance document – 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.

Informal information guidance document – 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 1992 or FPS 2006 standard membership to special membership, or conversion of special membership to FPS 2006 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 6 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 may wish to consider sending out multiple reminders, perhaps 3 months after the election pack was issued, to any individual who has failed to return the option form. Request its return even if the individual does not wish to pursue the option (marked “No”) and remind the individual that time is nearly up to make a valid election. FRAs may wish to consider the use of recorded delivery methods when sending reminders.

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 individual is clear about their service entitlement. State that no further action will be taken. Point out that the time limit for the expression of interest closes on 6 months from when the FRA sent them the initial letter.

11. Firefighter returns option form indicating “Yes” – does wish to take up option

Acknowledge receipt of form by letter as soon as received. The acknowledgement should confirm that the election has taken effect from the date of receipt of the election form and set out the period of service that will count upon payment.

If the individual has elected to pay by lump sum, make appropriate arrangements for collection.

If the individual 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. Any contributions taken from salary should not be given tax relief through PAYE, as the tax relief is taken into account when using the Matthews GAD calculator.

Instruct administrators to create a special membership pension record.

If an individual is eligible and 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 1992 transfers to special membership and [Part 12 Rule 17](#) for conversion of standard (FPS 2006) membership to special membership. Inform firefighter of effect on special pensionable service. Seek firefighter’s consent before proceeding with any transfer/conversion.

If the individual has elected to transfer special membership into standard FPS 2006 membership, follow procedures set out in scheme regulations. Inform the individual of the effect on standard pensionable service. Seek their consent before proceeding with the transfer.

Note that a retained firefighter who has joined FPS2006, who claims special membership but chooses not to convert it to FPS 2006 membership, would be a FPS 2006 standard member with a special deferred pension and should be notified accordingly.

Deceased firefighters – Death grant for extended limited period and Additional death grant

The main provisions for “Death grant for extended limited period” are set out in [Part 5 rule 1B](#) and “Additional death grant” are set out in [Part 5 1C](#).

Death grants for -

- **Extended limited period:** [The Firefighters' Pension Scheme \(England\) \(Amendment\) Order 2023](#) - Applies where a person:
 - was employed as a retained firefighter on or after 7 April 2000, and
 - continued in such employment until the person died which **must** have happened before 6 April 2006.
- **Additional death grant:** [The Firefighters' Pension Scheme \(England\) \(Amendment\) Order 2023](#) - Applies where a person:
 - first took up employment as a retained firefighter before 1 July 2000;
 - elected to join this Scheme under rule [6A of Part 11](#) (election to purchase service during the limited period or the extended limited period) in respect of the person’s service during the limited period following an application under rule [5A of Part 11](#) (purchase of service during the limited period), **and**
 - dies before 31 March 2025 and without making an election under rule [6A of Part 11](#) in respect of their service during the extended limited period following an application under rule [5A of Part 11](#) (purchase of service during the extended limited period).

1. Who is eligible?

There are 4 scenarios to consider when determining which death grant is payable –

1. Not eligible under the first options exercise for a death grant for limited period as retained service ceased before 1 July 2000 ([Part 5, 1A](#)). However, are now eligible for the extended limited death grant under the second options exercise as was employed as a retained firefighter at some point during the period 7 April 2000 and 30 June 2000.

Entitlement:

Death grant which is an amount equal to 2.5 x pensionable pay which the deceased received in their last year of service.

Plus (where employed as a retained firefighter before 7 April 2000 ([Part 5, 1B \(9\)](#))).

an ‘additional death grant’ of 0.1 of pensionable pay multiplied by the number of complete years the deceased was employed before 7 April 2000 is payable.

2. Eligible under the first options exercise for a death grant for limited period ([Part 5, 1A](#)) but **did not** submit a claim:

- a) Was employed as a retained firefighter on or after 7 April 2000, and
- b) Continued in such employment until the person died before 6 April 2006

Entitlement:

Death grant which is an amount equal to 2.5 x pensionable pay which the deceased received in their last year of service,

Plus (where employed as a retained firefighter before 7 April 2000 ([Part 5, 1B \(9\)](#)).

an 'additional death grant' of 0.1 of pensionable pay multiplied by the number of complete years the deceased was employed before 7 April 2000 is payable.

3. Eligible under the first options exercise for a Death grant for limited period ([Part 5, 1A](#)) and **did** submit a claim which was settled in full at the time:

- a) Was employed as a retained firefighter on or after 7 April 2000, and
- b) Continued in such employment until the person died before 6 April 2006

Entitlement:

As the death grant for limited period was addressed in the first options exercise [Part 5, 1B \(15\)](#) confirms that **no** further basic death grant is payable. However, there could be an entitlement to an additional death grant ([Part 5, 1B \(8\)](#)).

This entitlement would only arise if the deceased first took up employment as a retained firefighter before 7 April 2000 ([Part 5, 1B \(9\)](#)). If this does apply, then an 'additional death grant' of 0.1 of pensionable pay multiplied by the number of complete years the deceased was employed before 7 April 2000 is payable.

4. Member joined the scheme as an FPS 2006 Special member under the first options exercise, was employed as a retained firefighter before 1 July 2000, so would have been eligible under the second options exercise but died before making an election (date of death **must** be before 31 March 2025).

Entitlement:

An 'additional death grant' of 0.1 of pensionable pay multiplied by the number of complete years the deceased was employed before 1 July 2000 is payable.

The four scenarios above apply where the deceased:

- 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.
- 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. This is subject to the child satisfying, at the date of death of the deceased, the terms of eligibility for a child's pension under rule [7 of Part 4](#).

The payment of a time-limited death grant only applies 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 a civil partnership at some time after the death of the firefighter, this will not affect their entitlement to the limited period death grant or additional 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 their death.

A death grant **must not** be paid to a person who is convicted of the murder or manslaughter of the deceased.

All death grants are time-limited, an application **must** be made before **31 March 2025**.

2. **How much is the death grant for the extended limited period?**

This death grant is equal to:

2.5 times the pensionable pay that the deceased **earned in their last year of service**

plus (where applicable)

0.1 times the pensionable pay that the deceased **earned in their last year of service** multiplied by the number of completed years (*which has the meaning in rule [6\(2\) of Part 10](#)*) during which the deceased was employed as a retained firefighter in the period before 1 July 2000, as determined by the authority

The amount of the death grant payable must be calculated in accordance with this formula:

2.5 x **A**

- **A** is the amount of pensionable pay which the authority determines the deceased received in their last year of service

Plus (where applicable)

$0.1 \times A \times B$

- **A** is the amount of pensionable pay which the authority determine the deceased received in their last year of service, and
- **B** is the number of completed years (*which has the meaning in rule 6(2) of Part 10*) during which the deceased was employed as a retained firefighter in the period before 1 July 2000, as determined by the authority.

Example ([Part 5 rule 1B](#))

- Started employment on 1 January 1990
- Died in service on 1 March 2006
- Pensionable pay earned in their last year of service = £8,500 (A)
- No previous claim or payment made to the beneficiary under the first options exercise

Number of completed years employed before 7 April 2000 (additional top up death grant = 10 years (**B**))

$2.5 \times £8,500$ (**A**)

Death grant (extended limited period) = **£21,250**

plus

$0.1 \times £8,500$ (**A**) \times 10 (**B**)

Top up death grant = **£ 8,500**

Total death grant payable = £21,250 + £8,500 = **£29,750**

3. **How much is the additional death grant?**

The additional death grant is $0.1 \times$ pensionable pay which the FRA determine the deceased received in their last year of service multiplied by the number of completed years of continuous retained service that the deceased member had prior to and including 1 July 2000.

Calculations - Additional death grant ([Part 5 1C](#))

This death grant is equal to:

0.1 times the pensionable pay that the deceased **earned in their last year of service**

The amount of the death grant payable must be calculated in accordance with this formula —

$0.1 \times A \times B$

- **A** is the amount of pensionable pay which the authority determines the

- deceased received in their last year of service, and
- **B** is the number of completed years (*which has the meaning in rule [6\(2\) of Part 10](#)*) during which the deceased was employed as a retained firefighter in the period before 1 July 2000, as determined by the authority.

Example – Additional death grant entitlement

- Started employment on 1 January 1980
- Died on 1 March 2022 without making an election under the second options exercise
- Pensionable pay earned in their last year of service = £8,000 (**A**)
- Joined the modified scheme during the limited period

Number of completed years employed before 1 July 2000 = 20 years (**B**)

$$0.1 \times \text{£}8,000 \text{ (A)} \times 20 \text{ (B)}$$

Additional death grant payable = **£16,000**

4. Example calculations for each of the 4 scenarios

Scenario 1

- Started employment on 1 January 1980
- Left the service on 1 May 2000
- Died on 1 October 2005
- Pensionable pay earned in their last year of service was £6,000 (**A**)
- Number of completed years employed before 1 July 2000 is 20 years (**B**)

This members employment in the retained service ceased on 1 May 2000, which is before 1 July 2000 ([Part 5, 1A](#)), therefore they:

- were out of scope for the first options exercise (service must have been between the period 1 July 2000 – 6 April 2006).

However:

- they were employed as a retained firefighter during the period of 7 April 2000 and 30 June 2000 so are therefore eligible for a death grant for the extended limited period under the second options exercise ([Part 5, 1B](#))

Entitlement for scenario 1:

The death grant is an amount equal to 2.5 x pensionable pay which the deceased received in their last year of service.

For this example, the pensionable pay earned in their last year of service was £6,000 (**A**)

£6,000 **(A)** x 2.5 = **£15,000**

Plus - as this retained firefighter was employed in this role before 7 April 2000 ([Part 5, 1B \(9\)](#)).

an 'additional death grant' of 0.1 of pensionable pay multiplied by the number of complete years the deceased was employed before 7 April 2000.

Number of completed years employed before 1 July 2000 is 20 years **(B)**

0.1 x £6,000 **(A)** x 20 **(B)**

Additional death grant payable = **£12,000**

Total death grant payable = £15,000 + £12,000 = **£27,000**

Scenario 2

- Started employment on 10 November 1980
- Left the service on 1 January 2006
- Died on 1 January 2006
- Pensionable pay earned in their last year of service was £8,000 **(A)**
- Number of completed years employed before 7 April 2000 is 19 years **(B)**

This case was eligible under the first options exercise for a death grant for the limited period ([Part 5, 1A](#)) as the person:

- was employed as a retained firefighter on or after 1 July 2000, and
- continued in this employment until they died on 1 January 2006

Unfortunately, no claim was submitted by the eligible beneficiary within the statutory deadline i.e. by 31 March 2015, but this case does remain eligible under the second options exercise (Part 5, 1B – death grant for extended limited period)

Entitlement for scenario 2:

The death grant is an amount equal to 2.5 x pensionable pay which the deceased received in their last year of service.

For this example, the pensionable pay earned in their last year of service was £8,000 **(A)**

£8,000 **(A)** x 2.5 = £20,000

Plus - as this retained firefighter was employed before 7 April 2000 ([Part 5, 1B \(9\)](#)).

an 'additional death grant' of 0.1 of pensionable pay multiplied by the number of complete years the deceased was employed before 7 April 2000

Number of completed years employed before 7 April 2000 is 19 years **(B)**
 $0.1 \times \text{£}8,000 \text{ (A)} \times 20 \text{ (B)}$
Additional death grant payable = **£15,200**

Total death grant payable = £20,000 + £15,200 = **£35,200**

Scenario 3

- Started employment on 23 July 1974
- Left the service on 18 March 2005
- Died on 18 March 2005
- Pensionable pay earned in their last year of service was £7,500 **(A)**
- Number of completed years employed before 7 April 2000 is 25 years **(B)**

This case was eligible for a death grant for the limited period (1 July 2000 – 6 April 2006 [\(Part 5, 1A\)](#)) under the first options exercise, a claim **was** submitted, and payment was settled at that time. This therefore means that there is **no further** basic death grant is payable under [Part 5,1B \(15\)](#).

However, they are entitled to an additional death grant [\(Part 5, 1B \(8\)\)](#) as:

- they were employed as a retained firefighter before 7 April 2000, **and**
- their employment as a retained firefighter continued until they died which was before the 6 April 2006.

Entitlement for scenario 3:

An 'additional death grant' of 0.1 of pensionable pay multiplied by the number of complete years the deceased was employed before 7 April 2000 is payable.

Number of completed years employed before 7 April 2000 is 25 years **(B)**

$0.1 \times \text{£}7,500 \text{ (A)} \times 25 \text{ (B)}$

Additional death grant payable = **£18,750**

Scenario 4

- Started employment on 3 February 1984
- Left the service on 30 November 2018
- Died on 1 August 2024
- Pensionable pay earned in their last year of service was £6,500 **(A)**
- Number of completed years employed before 7 April 2000 is 16 years **(B)**
- Joined the scheme as an FPS 2006 Special member under the first options exercise
- Died before making an election under the second options exercise

Entitlement for scenario 4:

An 'additional death grant' of 0.1 of pensionable pay multiplied by the number of complete years the deceased was employed before 7 April 2000 is payable.

Number of completed years employed before 1 July 2000 was 16 years **(B)**

$0.1 \times \text{£}6,500 \text{ (A)} \times 16 \text{ (B)}$

Additional death grant payable = **£10,400**

5. Tax – who is likely to be affected?

There are certain circumstances where the payment of a death to the beneficiary will be subject to income tax.

HMRCs rules confirm that where:

- The eligible individual was **over** age 75 at date of death [tax on a death grant benefit](#) is payable. Income tax will need to be deducted by the FRA prior to payment of the benefit using an [emergency tax code](#).
- The eligible individual was **under** 75 when they died, **and** the lump sum is paid within two years of:
 - The date the **scheme administrator and/or FRA** first knew of the member's death, **or**
 - If earlier, the date they could first reasonably have been expected to know of it

the lump sum will be tax free **unless** the payment exceeds the deceased member's lump sum and death benefit allowance.⁵

- The eligible individual was under age 75 at date of death **but** the death occurred over 2 years ago [tax on a death grant benefit](#) is payable. Income tax will need to be deducted by the FRA prior to payment of the benefit using an [emergency tax code](#).

6. Contacting the person who may make a claim

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

⁵ It is the responsibility of the beneficiary to pay the tax in relation to the LSDBA (not the FRAs).

The best route will be to write to the last known address, if it is viable that they may still live there or to carry out a tracing exercise. Additionally, there may be merit in utilising the services of using retired members groups such as NARF.

The unions and professional associations will also use their usual communication channels to publicise the second options exercise 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, where relevant, so many years after the firefighter's death.

Explain that the application form must be received back by the FRA before 31 March 2025.

7. Acknowledging the application and making payment

The application should be acknowledged, and verification checks carried out. This should be by having sight of a death certificate and marriage certificate (for spouse) and/or birth certificate (for children).

Note that the "murder/manslaughter" provisions apply 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 31 March 2025).

8. No survivor's benefits

There is no provision for survivor's or children's benefits, only a time limited death grant.

Leavers - special deferred members

1. Consider the terms under which an individual 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 7 April 2000;
- (c) resigned or was dismissed or retired from that employment before the date that they elect 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 6 months beginning with the date on which the FRA gave the firefighter notice (or later with the agreement of the FRA), to pay the mandatory special period pension contributions.

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

(g) satisfies (a) to (f), above,

(h) joined FPS 2006 as a standard member in respect of service which they would otherwise be entitled to treat as special pensionable service, before electing to join FPS 2006 as a special member, and

(i) does not elect to convert standard membership to special membership.

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 them on leaving or opting out, will also become a special deferred member.

“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 7 April 2000 and 30 June 2000
- had retained service at some time between 7 April 2000 and 30 June 2000 and 1 July 2000 and 5 April 2006
- had retained service between 1 July 2000 and 5 April 2006, but was not given the opportunity to join the modified scheme in the first options exercise.
- 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

To comply with disclosure legislation within 90 days of 1 October 2023 (the date the Order comes into force) the FRA is required to “use reasonable endeavours” to contact all potentially eligible individuals and tell them of their right to elect to be a special member of the modified FPS 2006. As the individuals in this group are leavers, the best route will be to write to the last known address if it is viable that they may still be living there or carrying out a tracing exercise.

Reasonable endeavours could include the use of tracing services in circumstances whereby there is an old/incorrect address, social media i.e. the FRA Facebook page

and/or local area Facebook pages as well as articles in the local newspaper. Additionally, it may also be beneficial to utilise the services of local union representatives and ask them to spread the word using their communication channels. Similarly, it could be seen as good practice to ask local NARF officials to share information on the second options exercise in their member bulletins/magazines. FRAs may also wish to consider using recorded delivery options, where they have had an address verified.

If it is not reasonably practicable to comply with the 3-month time limit for contacting potentially eligible individuals, the FRA can comply “as soon as reasonably practicable. But note that elections to pay the appropriate contributions must not be made after 31 March 2025.

The notification could comprise the following.

- A covering letter setting out the key points.
- An informal information guidance document 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 individual that:

- if they express an interest on the form, it will be treated as an application but there would be no commitment at this stage.
- if they fail to respond within 6 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 a retained firefighter with another FRA(s) during the extended limited period, the retained firefighter should also confirm in the election form whether they 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) to determine the firefighter’s pensionable pay records, etc.

Where FRAs need to share members data, it is considered best practice that a Data Sharing Agreement⁶ is put in place.

Informal information guidance document

This should be specially designed for potential special deferred members.

It should

⁶ The LGA are currently working with Eversheds to create a template Data Sharing Agreement and suggested wording for your privacy notice.

- inform the individual of the new legislation and how it means that they can become a “special deferred member” of a modified version of the FPS 1992, set out in special rules in FPS 2006.
- explain the terms of eligibility – including a mention of the fact that the individual 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 individual 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 the individual is interested in taking up the option.

For those who tick “Yes”, the form will be the application as required by the regulations and the form should seek the information set out for the individual as follows:

- the date on which the individual took up employment as a retained firefighter.
- the date on which they left the employment.
- if they took up employment as a regular firefighter, the date on which this employment commenced and ended.
- if they joined FPS 2006 as a standard member, or FPS1992, the date on which they joined that scheme and – if relevant – the date on which they elected to opt out of that scheme.

Additionally, although not mentioned in the scheme regulations, the individual should be asked for date of birth, with verification using birth certificate, and for their National Insurance (NI) number and former Brigade number.

If the FRA cannot determine from their records the period of an individual’s service during the limited period (service between 1 July 2000 to 5 April 2006), the individual 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 individual. If these are not available, the FRA can decide on the pay and service based on recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.

Under the regulations, if the FRA cannot determine from their records the period of an individual’s service during the extended limited period (service pre 1 July 2000), the individual can provide documents to assist the authority. If the FRA does not hold pay records for the extended limited period, they can take account of documents provided by the individual. If these are not available, the FRA may assume for any service that the retained firefighter’s retained pensionable pay for the

period was equal to 25% of the pensionable pay of a wholetime regular firefighter⁷ employed in a similar role with equivalent qualifying service.

The regulations do allow for local assumptions to be made for the extended limited period, where the FRA holds evidence to form those assumptions. i.e. other retained stations working the same system and percentage of pay.

The [Firefighters' Pension Scheme regulations and guidance](#) website holds pay information going back to the 1960's.

When the FRA gives the individual written notice 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 their service during the extended limited period. To be able to comply with the requirement of quoting the two sets of figures required, FRAs should also ask the individual at this stage to indicate from what date they would wish special service to count.

It may be helpful if the individual could indicate whether they were employed by any other FRA during the extended limited period.

4. Individual fails to return application form

FRAs should consider sending out multiple reminders, perhaps at 6 weekly intervals to any individual who has failed to return the application form. It is recommended to request its return even if the individual does not wish to pursue the option (marked "No") and remind the individual that time is nearly up to make a valid expression of interest. FRAs may wish to consider the use of Record Delivery methods when sending reminders.

Whilst it is recommended that a tracing exercise is carried out before any individual details are sent. It may be that the original communication was sent to an address at which the person no longer lives. If it is returned "gone away" and a tracing exercise was not previously carried out it would be recommended that this is now done to meet the criteria of reasonable endeavours. It is worth noting that, if an individual has not received the notification of potential eligibility they must be given this as soon as reasonably practicable after the end of that period but no later than 31 March 2025.

If it concludes, that despite the use of reasonable endeavours, an eligible firefighter did not receive notification before 31 March 2025, an additional flexibility will allow FRAs to give individuals the opportunity to join the modified scheme after the closure of the 2023 Options exercise.

This will apply only in exceptional cases where the FRA was not aware of an individual's entitlement and, as such, had not notified them of their entitlement to join the modified scheme during the 18-month options exercise period. It will not apply to cases where an individual has been notified by the relevant FRA, but they did not respond in good time.

⁷ Where there is more than one pay rate, we are currently awaiting a response from Home Office with regards to which should be used.

5. Individual returns application form indicating “No” – does not wish to pursue option

Acknowledge receipt of the form as soon as received in a letter/email to the individual. State that no further action will be taken. Where appropriate provide details of any FPS 1992 FPS 2006 membership as it stands.

6. Individual returns application form indicating “Yes” – does wish to pursue option

Acknowledge receipt of the form as soon as received in a letter/email to the individual. Inform them that their personal circumstances are being looked at and the FRA will be in touch again in due course, no later than 3 months after receiving the form (or later if the FRA decide to extend the deadline, but before 31 March 2025).

The acknowledgements will need to reflect the timescales of the implementation of the Matthews GAD calculator and whether they will fall into the first or second version.⁸

It is worth noting that there are some cases which will need further guidance from GAD as they will not be compatible with the calculator. These are set out on the [Special members of the FPS 2006 – GAD calculator](#) webpage under the ‘Second options exercise – case type’ tab. These cases will need to be referred to GAD for them to calculate. They will not be able to commence these cases until January 2024, once the 2nd version of the calculator has been launched.

7. Determine details relevant to individual

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

$$\frac{\text{actual pensionable pay}}{\text{reference pay}} = \text{special pensionable service}$$

Consequently, the FRA must be able to –

- establish the period during which the individual was serving as a retained firefighter (noting the date, if any, when the person became a regular member of the 2006 Scheme)
- the individuals retained firefighter earnings for each year of service during that period which could count as pensionable if a Scheme member.

⁸ First version – Cohort 1 (can buy mandatory period benefits only), Cohort 3) existing functionality, Cohort 2 who did not purchase in the 1st options exercise and are not eligible to convert 2006 service. Second version – Cohort 2 who did not purchase in the 1st options exercise and are eligible to convert 2006 service, Cohort 2 who did not purchase in the 1st options exercise, Current firefighters who are earning outside of basic rate tax bands at election.

- 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 or pay of a firefighter, they can consider documentation provided by the individual.

If it is still not possible to arrive at the relevant details, the FRA can decide:

- for service from 1 July 2000 to 5 April 2006 on a firefighter’s pensionable pay based on 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\(9\)](#)] – This is consistent with the action take in the first options exercise.
- for continuous service pre and during 7 April 2000 to 30 June 2000 an estimated pensionable pay may be assumed equal to 25% of the pensionable pay of a whole-time regular firefighter employed in a similar role with equivalent qualifying service.
- For continuous service pre and during 7 April 2000 to 30 June 2000, an FRA can make a local assumption if they have the evidence to make that determination. i.e. other retained stations rota and percentage of pay.

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](#). The regulations requires that the individual should be notified of the special pension contributions payable in respect of the mandatory special period (i.e. as selected by the individual) and, where the mandatory period is less than the limited and/or extended limited period, the special contributions that would be payable for the balance of the period. However, at this stage, it may be that the individual has not indicated whether they would wish to pay for the full limited or extended limited period.

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

8. [Send details to individual](#)

Within 3 months of receiving the application form (or a later date if the FRA so decide, but no later than 31 March 2025), the FRA must give the individual notice setting out:

- the period of service during the extended limited period that the individual 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 FPS 2006

- the amount of special pension contributions payable in respect of the remainder of service during the extended 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 regulations, it would also be appropriate to inform the individual (or remind if already mentioned) of the terms and options for payment.

If the individual wishes to proceed, they should elect to do so within 6 months of receiving the above information (or a later date with the agreement of the FRA).

The notification could comprise the following.

- A covering letter setting out the relevant details.
- A statement of calculation of contributions and potential deferred benefits.
- An informal information guidance document designed to give more detailed information about payment.
- An election form.
- A guide to special deferred membership terms of the modified FPS 2006.

Covering letter

The letter should contain the information as follows:

It should mention that:

- payment can be by the payment of periodic contributions or by lump sum (further details in an informal information guidance document)
- if the individual wishes to pay contributions for special firefighter membership of FPS 2006, the election form must be returned to the FRA within 6 months of the date of the letter (or a later date with the agreement of the FRA).
- 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.
- where relevant, there may be an option, subject to certain time limits, to transfer pension rights from a previous pension arrangement.

Statement of calculation

GAD will provide an online calculator to help FRAs make these calculations.

It is worth noting that there are some cases which will need further guidance from GAD as they will not be compatible with the calculator. These are set out on the [Special members of the FPS 2006 – GAD calculator](#) webpage under the 'Second options exercise – case type' tab. These cases will need to be referred to GAD for them to calculate. They will not be able to commence these cases until January 2024, once the 2nd version of the calculator has been launched.

Informal information guidance document – terms of payment

This should be specially designed for special deferred members.

It should set out the terms and effect of payment in more detail.

Election form

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 individual 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 6 months of the date on the covering letter (or such later date as agreed with the FRA).

9. Individual 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 individual who has failed to return the option form. It is recommended to request its return even if the individual does not wish to pursue the option (marked “No”) and remind the individual that time is nearly up to make a valid election.

Whilst it is recommended that a tracing exercise is carried out before any individual details are sent. It may be that the potential eligibility pack was sent to an address at which the individual no longer lives. If returned “gone away” and a tracing exercise was not carried out it is recommended that this is now carried out to meet the criteria of ‘reasonable endeavours.’ Note, however, that if an individual has not received the notification of potential eligibility, they must be given this as soon as reasonably practicable after the end of that period but no later than 31 March 2025.

If it concludes, that despite the use of reasonable endeavours, an eligible firefighter did not receive notification before 31 March 2025, an election can be made as reasonably practicable after they have received a notification.

10. Individual returns option form indicating “No” – does not wish to pursue option

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

Explain position as a member of the FPS 1992 or FPS 2006 if any service, in respect of other employments, may count.

11. Individual returns option form indicating “Yes” – does wish to take up option

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

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

Create special membership record.

If the individual has indicated an interest in the transfer options, inform them of procedures and time limits.

Leavers - special pensioner members

1. Consider the terms under which an individual is eligible to be a special pensioner member.

A special pensioner member is defined as an individual who:

- (a) took up employment as a retained firefighter before 6 April 2006;
- (b) was employed as a retained firefighter on or after 7 April 2000;
- (c) retired from that employment before the date their 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) they have retired having attained age 55
 - (ii) they were 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) they have attained age 60
- (e) elects, within 6 months beginning with the date on which the FRA gave the individual a 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 31 March 2025.

Any individual 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 FPS 1992 during their time as a retained firefighter.

2. Identify those who must be contacted

Identify all individual who -

- (a) served as retained firefighters between 7 April 2000 and 30 June 2000
- (b) served as retained firefighters between 7 April 2000 and 30 June 2000 and 1 July 2000 and 5 April 2006
- (c) served as retained firefighters between 1 July 2000 and 5 April 2006, and were not given the option to join the 2006 modified scheme in the first options exercise
- (d) 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 an individual

To comply with disclosure legislation within 90 days of 1 October 2023 (the date the Order comes into force) the FRA is required to “use reasonable endeavours” to contact all potentially eligible individuals and tell them of their right to elect to be a special member of the modified FPS 2006.

Reasonable endeavours could include the use of tracing services in circumstances whereby there is an old/incorrect address, social media i.e. the FRA Facebook page and/or local area Facebook pages as well as articles in the local newspaper.

Additionally, it may also be beneficial to utilise the services of local union representatives and ask them to spread the word using their communication channels. Similarly, it could be seen as good practice to ask local National Association of Retired Firefighter (NARF) officials to share information on the second options exercise in their member bulletins/magazines. FRAs may also wish to consider using recorded delivery options, where they have had an address verified.

If it is not reasonably practicable to comply with the requirements within the time limit, the FRA can comply “as soon as reasonably practicable”. But note that the

election to pay the mandatory special period pension contributions must not be made after 31 March 2025.

As the individuals in this group are leavers, the best route will be to write to the last known address if it is viable that they may still be living there. If these details are not available, it is recommended to carry out a tracing exercise.

There may be those who are already “standard” pensioners with ordinary or ill-health pensions under FPS 2006 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.
- An informal information guidance document 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 individual that:

- if they express an interest on the form, it will be treated as an application but there would be no commitment at this stage.
- if they fail to respond within 6 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 a retained firefighter with another FRA(s) during the extended limited period, the retained firefighter should also confirm in the election form whether they 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) to determine the firefighter’s pensionable pay records, etc.

Where FRAs need to share members data, it is considered best practice that a Data Sharing Agreement⁹ is put in place.

Informal information guidance document

This should be specially designed for potential special pensioner members.
It should

- inform the individual of the new legislation and how it means that they can become a “special pensioner member” of a modified version of the 1992 Scheme, set out in special rules in the 2006 Scheme,

⁹ The LGA are currently working with Eversheds to create a template Data Sharing Agreement and suggested wording for your privacy notice.

- explain the terms of eligibility – including a mention of the fact that the individual 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, 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 the individual is interested in taking up the option.

For those who tick “Yes”, the form will be the application as required and should seek the information set out as follows:

- the date on which the individual took up employment as a retained firefighter.
- where they have left that employment, the date of leaving.
- if they took up employment as a regular firefighter, the date on which this employment commenced and ended if relevant.
- if they joined the 2006 Scheme as a standard member, or FPS 1992, the date on which they joined that scheme and – if relevant – the date on which they elected to opt out of that scheme.

Not mentioned in the regulations but also required would be the individuals date of birth (with certification), National Insurance number and Brigade number (for identification) and email address (for ease of contact).

If the FRA cannot determine from their records the period of an individual’s service during the limited period (service between 1 July 2000 to 5 April 2006), the individual 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 individual. If these are not available, the FRA can decide on the pay and service based on recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.

Under the regulations, if the FRA cannot determine from their records the period of an individual’s service during the extended limited period (service pre 1 July 2000),

the individual can provide documents to assist the authority. If the FRA does not hold pay records for the extended limited period, they can take account of documents provided by the individual. If these are not available, the FRA may assume for any service that the retained firefighter's retained pensionable pay for the period was equal to 25% of the pensionable pay of a wholetime regular firefighter¹⁰ employed in a similar role with equivalent qualifying service.

The regulations do allow for local assumptions to be made, where the FRA holds evidence to form those assumptions. i.e. other retained stations working the same system and percentage of pay.

The [Firefighters' Pension Scheme regulations and guidance](#) website holds pay information going back to the 1960's.

When the FRA gives the individual written notice 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 the service during the extended limited period. To be able to comply with the requirement of quoting the two sets of figures required, FRAs should also ask the individual at this stage to indicate from what date they would wish special service to count.

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

4. individual fails to return application form

The FRA may wish to consider sending out a reminder, perhaps at 6 weekly intervals after the notification of potential eligibility pack was issued, to any individual who has failed to return the application form. It is recommended to request its return even if the individual does not wish to pursue the option (marked "No") and remind the individual 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 31 March 2025.

Whilst it is recommended that a tracing exercise is carried out before any individual details are sent. It may be that the potential eligibility pack was sent to an address at which the individual no longer lives. If returned "gone away" and a tracing exercise was not carried out it would be recommended that this is now carried out to meet the criteria of 'reasonable endeavours.' Note, however, that if an individual has not received the notification of potential eligibility they must be given this as soon as reasonably practicable after the end of that period but no later than 31 March 2025. If it concludes, that despite the use of reasonable endeavours, an eligible firefighter did not receive notification before 31 March 2025, an additional flexibility will allow FRAs to give individuals the opportunity to join the modified scheme after the closure of the 2023 Options exercise.

This will apply only in exceptional cases where the FRA was not aware of an individual's entitlement and, as such, had not notified them of their entitlement to join

¹⁰ Where there is more than one pay rate, we are currently awaiting a response from Home Office with regards to which should be used.

the modified scheme during the 18-month options exercise period. It will not apply to cases where an individual has been notified by the relevant FRA, but they did not respond in good time.

5. Individual returns application form indicating “No” – does not wish to pursue option

Acknowledge receipt of the form as soon as received in a letter/email to the individual. State that no further action will be taken. Where appropriate provide details of any FPS 1992 FPS 2006 membership as it stands.

6. Individual returns application form indicating “Yes” – does wish to pursue option

Acknowledge receipt of the form as soon as received in a letter/email to the individual. Inform them that their personal circumstances are being looked at and the FRA will be in touch again in due course, no later than 3 months after receiving the form (or later if the FRA decide to extend the deadline, but before 31 March 2025).

The acknowledgements will need to reflect the timescales of the implementation of the Matthews GAD calculator and whether they will fall into the first or second version.¹¹

It is worth noting that there are some cases which will need further guidance from GAD as they will not be compatible with the calculator. These are set out on the [Special members of the FPS 2006 – GAD calculator](#) webpage under the ‘Second options exercise – case type’ tab. These cases will need to be referred to GAD for them to calculate. They will not be able to commence these cases until January 2024, once the 2nd version of the calculator has been launched.

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
reference pay

Consequently, the FRA must be able to –

- establish the period during which the individual was serving as a retained firefighter (noting the date, if any, when the person became a regular member of the 2006 Scheme)
- the individuals retained firefighter earnings for each year during that period which could count as pensionable.

¹¹ First version – Cohort 1 (can buy mandatory period benefits only), Cohort 3) existing functionality, Cohort 2 who did not purchase in the 1st options exercise and are not eligible to convert 2006 service. Second version – Cohort 2 who did not purchase in the 1st options exercise and are eligible to convert 2006 service, Cohort 2 who did not purchase in the 1st options exercise, Current firefighters who are earning outside of basic rate tax bands at election.

- 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 an individual, they can consider documentation provided by the individual.

If it is still not possible to arrive at the relevant details, the FRA can decide:

- for service from 1 July 2000 to 5 April 2006 on a firefighter’s pensionable pay based on 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\(9\)\]](#) – This is consistent with the action take in the first options exercise.
- for continuous service pre and during 7 April 2000 to 30 June 2000 an estimated pensionable pay may be assumed equal to 25% of the pensionable pay of a whole-time regular firefighter employed in a similar role with equivalent qualifying service.
- For continuous service pre and during 7 April 2000 to 30 June 2000, an FRA can make a local assumption if they have the evidence to make that determination. i.e. other retained stations rota and percentage of pay.

The FRA must then 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 regulation, 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](#). The regulations requires that the individual should be notified of the special pension contributions payable in respect of the mandatory special period (i.e. as selected by the individual) and, where the mandatory period is less than the limited and/or extended limited period, the special contributions that would be payable for the balance of the period. However, at this stage, it may be that the individual has not indicated whether they would wish to pay for the full limited or extended limited period.

GAD have provided an online calculator to help FRAs make these calculations. FRAs are also expected to identify if eligibility for an ill-health pension may be a possibility.

8. Send details to individual

Within 3 months of receiving the application form (or later if the FRA so decide, but no later than 31 March 2025), the FRA must give the applicant notice setting out:

- the period of service during the limited period that the individual 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 2006 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.
- final pensionable pay.

Although not mentioned in the regulations it would also be appropriate to inform the individual 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 individual wishes to proceed, they should elect to do so within 6 months of receiving the above information (or a later date with the agreement of the FRA).

The notification could comprise the following:

- A covering letter setting out the details.
- A statement of calculation of contributions and benefits potentially payable.
- An informal information guidance document designed to give more detailed information about payment.
- An informal information guidance document 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 modified 2006 Scheme

Covering letter

The letter should contain the information as follows:

It should mention that:

- payment must be by lump sum (further details, in the informal information guidance document)
- if the individual wishes to pay contributions for special pensioner membership of 2006 Scheme, the election form must be returned to the FRA within 6 months of the date of the letter (or a later date with the agreement of the FRA).
- 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.

- the individual 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

Statement of calculation

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

It is worth noting that there are some cases which will need further guidance from GAD as they will not be compatible with the calculator. These are set out on the [Special members of the FPS 2006 – GAD calculator](#) webpage under the ‘Second options exercise – case type’ tab. These cases will need to be referred to GAD for them to calculate. They will not be able to commence these cases until January 2024, once the 2nd version of the calculator has been launched.

Informal information guidance document – 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 individuals 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).

Informal information guidance document– 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

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 individual 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 6 months of the date on the covering letter (or such later date as agreed with the FRA).

9. Individual 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 individual who has failed to return the option form. It is recommended to request its return even if the individual does not wish to pursue the option (marked “No”) and remind the individual that time is nearly up to make a valid election.

Whilst it is recommended that a tracing exercise is carried out before any individual details are sent. It may be that the potential eligibility pack was sent to an address at which the individual no longer lives. If returned “gone away” and a tracing exercise was not carried out it would be recommended that this is now carried out to meet the criteria of ‘reasonable endeavours.’ Note, however, that if an individual has not received the notification of potential eligibility they must be given this as soon as reasonably practicable after the end of that period but no later than 31 March 2025.

If it concludes, that despite the use of reasonable endeavours, an eligible individual did not receive notification before 31 March 2025, an election can be made as reasonably practicable after they have received a notification.

10. Individual returns option form indicating “No” – does not wish to pursue option

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

Explain position as a member of the FPS 1992 or FPS 2006 if any service, in respect of other employments, may count.

11. Individual 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, for example:

- birth certificate - if date of birth still has not been verified.
- marital status declaration. Also, even though this modified Scheme is FPS 1992 based, there is cover for nominated partners as under FPS 2006. And so, a nomination form should be sent out as well.
- bank details for payment of pension.

If the individual has elected to pay contributions by lump sum and **not** deducted from the commuted portion of pension, make appropriate billing arrangements. Inform the

individual in the acknowledgement letter and say that pension details will be finalised upon receipt of the lump sum.

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

If the individual 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, an individual must apply to the FRA that last employed them as a retained firefighter, to be assessed by an Independent Qualified Medical Practitioner (IQMP). This application must be made within 3 months of the date on which the authority served notice (this is the notice issued by the FRA within 3 months of the individual 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 individual was, at the date of dismissal or retirement, permanently incapable of performing the duties of a firefighter and, if so, whether they have become capable of performing those duties since that date.

The IQMP must certify that they have not previously advised, or given their opinion on, or otherwise been involved in, the particular case for which the opinion has been requested, and that they are not acting, and has not at any time acted, as the representative of the individual, the FRA or any other party in relation to the same case.

The FRA will base their determination as to whether the individual 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 individual “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 individual is entitled to a retrospective award for ill-health retirement, the individual

will receive a higher tier ill-health pension calculated on FPS 2006 principles. The FRA must give the individual 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 individual a lump sum for backdated ill-health pension payments, including interest.

This will, however, be subject to the individual paying the relevant pension contributions. The individual 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 the regulations.

If payment is not made, the individual'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 determines that the individual is **not** entitled to a retrospective ill-health award, they must notify the individual within 14 days of their determination, supply a copy of the IQMP's opinion, and inform the individual of the right of review of medical opinion, and right to appeal against the decision.

6. Review of award

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

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 information available on [fps regulations and guidance website](#).

Retained firefighters who received ill-health and injury awards under 1992 Scheme before 1.4.2006, or under protected rights contained in [Part 8 Rule 2](#) of FPS 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.

Retained firefighters' adjustments for loss of tax relief on employee contributions.

The main provision for tax relief on contributions is covered under [Part 11 Rule 6D](#)

Retained firefighters who join the FPS 2006 modified scheme as part of the second options exercise will be entitled to tax relief on their backdated employee contributions and will not be able to seek this from HMRC through the usual PAYE or self-assessment route.

Where a special member:

- a) elects to pay mandatory special period pension contribution in respect of the mandatory special period.
- b) provides supporting evidence, as the FRA may require.

The tax relief shall be applied by way of a compensation deduction.

The compensation deduction must be calculated in accordance with the Government Actuary's Department (GAD) guidance and must equal the amount of tax relief on pension contributions to which the special member would have been entitled to:

- a) had they been entitled to join the modified FPS 2006 on the first date of the mandatory special period.
- b) had paid the mandatory special period, deducted from each instalment of the members pensionable pay and
- c) tax relief on the pension contributions had been applied at the time each instalment for pensionable pay had been paid.

Retained firefighters who are also affected by the age discrimination remedy exercise.

If an individual elects to become a Special Member it may mean that they are now eligible for the age discrimination remedy exercise also.

This remedy will deal with an individual's service up to and including 31 March 2015 whereas the Sargeant remedy deals with service accrued between 1 April 2015 and 31 March 2022 inclusive. It is envisaged that the Matthews remedy will be implemented first by scheme administrators to ensure an individual is placed in the correct legacy firefighters' pension scheme as on 31 March 2012 which will provide them with eligibility to the McCloud remedy for any remedial service.

More information is available on the [members website](#).