



Home Office

RETAINED FIREFIGHTERS' PENSIONS: PROPOSED CHANGES TO THE FIREFIGHTERS' PENSION SCHEME (ENGLAND) 2006

Government consultation 2023

This consultation begins on Friday 31 March 2023

This consultation ends on Friday 9 June 2023

About this consultation

- To:** This consultation is open to the public.
- We are particularly interested to hear from serving and former firefighters and other members of the fire sector in England.
- Duration:** From 31 March 2023 to 9 June 2023
- Enquiries (including requests for the paper in an alternative format) to:**
- Post:
- Retained Firefighters' Pension
Police Workforce and Professionalism Unit
Home Office
6th Floor, Fry Building
2 Marsham Street
London SW1P 4DF
- Email:
Retainedfirefighterspensionsremedy@homeoffice.gov.uk
- How to respond:**
- Please respond by 9 June, 11:59PM using the online survey at:
<https://www.homeofficesurveys.homeoffice.gov.uk/s/3OXJ4Z/>
- If you cannot access or use the online survey, you can send your response to:
- Email:
Retainedfirefighterspensionsremedy@homeoffice.gov.uk
- If you are a user of specialist accessibility software that is not compatible with the above options, you may post your response to
- Retained Firefighters' Pension
Police Workforce and Professionalism Unit
Home Office
6th Floor, Fry Building
2 Marsham Street
London SW1P 4DF
- If you are unable to access an electronic version of the document, please write to the above address and a paper copy will be provided.
- Response paper:** A response to this consultation exercise is due to be published by the Home Office at: [gov.uk](https://www.gov.uk).

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Ministerial Foreword



Our brave firefighters keep us safe every single day, and we owe them a debt of gratitude for the courage and dedication they demonstrate in some of the most difficult situations imaginable. It is not just full-time firefighters who deserve our admiration. Retained firefighters, who have on-call responsibilities based around their availability, perform vital services for their local communities, assisting people in peril at a moment's notice without hesitation.

Following legal proceedings, the government accepts that certain categories of retained firefighters with service before and on or after the 1 July 2000 are entitled to have their pension backdated to include their service prior to that date. The firefighters' pension schemes are among the most valuable pension schemes available in the UK. They are backed by the taxpayer, index-linked, and offer guaranteed benefits on retirement, comparing very favourably to the typical private sector scheme. It is only right that retained firefighters benefit from this generous pension provision in relation to the entirety of their service to their communities.

We are seeking views on whether the correct types of individuals have been identified as being eligible for this remedy. Furthermore, we are seeking views on impacts on those eligible for both the Matthews and McCloud/Sargeant remedies and any aspect of the proposed amendments not included in this consultation document.

I would like to thank respondents in advance for contributing their views on this important matter.

Chris Philp MP
Minister of State for Crime, Policing and Fire

1 Executive summary

1.1 This consultation focuses on the government's commitment to provide further remedy to those individuals who were employed as retained firefighters between 7 April 2000 and 5 April 2006 inclusive by providing access to the modified section of Firefighters' Pension Scheme 2006 (referred to as 'the modified scheme').

1.2 This consultation document contains proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 and the Firemen's Pension Scheme Order 1992 to achieve this outcome. This consultation document seeks views on proposals for achieving this outcome, and whether the proposed amendments achieve this policy intention for all eligible individuals. The proposed changes will apply to any individual who:

- was employed as a retained firefighter at any date during the period 7 April 2000 and 30 June 2000 inclusive (these individuals are 'Cohort 1').
- was employed as a retained firefighter at any date during the period 7 April 2000 and 30 June 2000 inclusive and between 1 July 2000 and 5 April 2006 inclusive (these individuals are 'Cohort 2').
- was employed as a retained firefighter at any date during the period 1 July 2000 and 5 April 2006 inclusive and should have been eligible to join the modified scheme as part of the 2014 Options exercise but was not given an opportunity to do so (these individuals are 'Cohort 3').

This consultation will be open for views from 31 March 2023 to 9 June 2023.

2 Introduction

2.1 The proposed scope of the 2023 Options exercise, as negotiated between the Home Office, Local Government Association (LGA), Fire Brigades Union (FBU), and Fire and Rescue Services Association (FRSA) is set out in a Memorandum of Understanding ('the MOU') which can be found at Annex A (attached separately). The proposed scope of the 2023 Options exercise, as set out in that MOU, is subject to consideration of the views expressed as part of this consultation, as well as parliamentary scrutiny of the proposed legislative changes.

2.2 This consultation invites views on:

- whether the correct categories of individuals have been identified as being eligible to join the modified scheme as part of the 2023 Options exercise
- whether the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 (together with the proposed changes to the Firemen's Pension Scheme Order 1992) achieve the policy intention of ensuring individuals in Cohort 1 can purchase their uninterrupted retained service in the modified scheme and place these members in the position they would have been had they been entitled to purchase their service at the time.
- whether the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 (together with the proposed changes to the Firemen's Pension Scheme Order 1992) achieve the policy intention of ensuring individuals in Cohort 2 can purchase their uninterrupted retained service in the modified scheme and place these members in the position they would have been had they been entitled to purchase their service at the time.
- whether the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 (together with the proposed changes to the Firemen's Pension Scheme Order 1992) achieve the policy intention of ensuring individuals in Cohort 3 can purchase their uninterrupted retained service in the modified scheme and place these members in the position they would have been had they been entitled to purchase their service at the time.
- whether any additional changes are required in respect of those individuals who are entitled to both Matthews remedy and McCloud/Sargeant remedy simultaneously.

- whether there are any additional points not covered in this consultation paper that need to be considered as part of the proposed changes to the Firefighters' Pension Scheme (England) Order 2006 (and/or the Firemen's Pension Scheme Order 1992).

3 Who do we want to hear from?

3.1 This consultation welcomes views from any member of the public but is specifically interested in the views of those serving or who have served in the fire service, and any groups or individuals with an interest in the fire sector in England.

3.2 A link to this consultation has been sent to the following groups:

- I. Association of Principal Fire Officers
- II. Fire Brigades Union
- III. Fire Leaders' Association
- IV. Fire and Rescue Services Association
- V. Firefighters' Pension Scheme Advisory Board of England
- VI. Local Government Association
- VII. National Fire Chiefs' Council
- VIII. The Fire Officers Association
- IX. National Association of Retired Firefighters

This list is not exhaustive or exclusive and responses are welcomed from any member of the public with an interest in or views on the subject covered by this paper.

4 Proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 (together with the proposed changes to the Firemen's Pension Scheme Order 1992) to provide further access to the modified pension scheme

Background

4.1 Apart from when undertaking training sessions and carrying out scheduled duties, retained firefighters are part-time firefighters who only attend a fire station after having received an emergency callout. Retained firefighters may also have other occupations, but, when called upon, they will perform firefighting duties. They provide vital cover from home or their place of work. They undertake an important role, supporting their communities by providing a flexible and effective service.

4.2 Historically, retained firefighters did not have any entitlement to membership of the Firefighters' Pension Scheme 1992 (the '1992 Scheme'). Retained firefighters were first given access to a fire service occupational pension arrangement when the Firefighters' Pension Scheme 2006 (the '2006 Scheme') was introduced on 6 April 2006. The 2006 Scheme was established when the Firefighters' Pension Scheme (England) Order 2006 came into force.

4.3 A group of retained firefighters brought legal proceedings against the government in the case of "Matthews v. Kent and Medway Towns Fire Authority (2006)" ('the Matthews case') under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 ('the PTWR'). The claims related to the exclusion from the 1992 Scheme, which was then provided solely to full-time regular firefighters.

4.4 The case was heard in the Employment Tribunal (ET), which determined that the denial of access to pension rights for retained firefighters constituted unfavourable treatment which could not be justified.

4.5 Following the ET's determination in the Matthews case, a new pension arrangement was introduced through the creation of a modified section in the 2006 Scheme (the 'modified scheme') on 1 April 2014.

4.6 The modified scheme currently provides preferential pension terms similar to those provided by the 1992 Scheme to retained firefighters who were employed between 1 July 2000 and 5 April 2006 inclusive. It also applies a backstop date, as only service accrued on or after 1 July 2000 can be considered for pension entitlement.

4.7 Fire and Rescue Authorities (FRAs) in England undertook an Options exercise (the '2014 Options exercise') between 1 April 2014 and 30 September 2015. This gave eligible individuals the opportunity to join the modified scheme and purchase their historic service.

4.8 In March 2014, shortly before the modified scheme was introduced, a related legal case, raised the issue of whether part-time workers could include service from before 7 April 2000 for the purposes of calculating their pension entitlement. This legal point was referred to the Court of Justice of the European Union (CJEU) for a decision.

4.9 On 7 November 2018, the CJEU gave its decision that part-time workers who were in service on 7 April 2000 and retired on or after that date should be able to include their full period of earlier service for pension entitlement.

4.10 At present, the modified scheme is restricted to service accrued by affected retained firefighters from 1 July 2000. The effect of the CJEU ruling was that there should not be this backstop date for any retained firefighters employed on or beyond 7 April 2000. The Home Office now intends to provide a further remedy ('the Matthews remedy') to implement the requirements of the Part Time Workers Regulations, as interpreted in line with this CJEU ruling.

4.11 On 9 March 2022, the Home Office, the Local Government Association (LGA), Fire Brigades Union (FBU), and the Fire and Rescue Services Association (FRSA) signed a Memorandum of Understanding (MOU) relating to the delivery of Matthews remedy. This can be accessed on the webpage of this consultation. The MOU set out that the remedy would be implemented through an 18-month long second Options exercise ('the 2023 Options exercise') and that the scope and operation of this exercise would be subject to consultation and the making of secondary legislation.

4.12 Additionally, the Home Office has been made aware that some individuals who were entitled to join the modified scheme under the 2014 Options exercise were not given a reasonable opportunity by their employing FRA to join. The Home Office has agreed that it is only fair for affected individuals to be given an opportunity to join under the 2023 Options exercise.

How will the 2023 Options exercise be implemented?

4.13 The Home Office aims to make the necessary legislative amendments to enable FRAs in England to undertake a 2023 Options exercise. This will give eligible individuals the opportunity to purchase additional service in the modified scheme as set out in the MoU.

4.14 The Home Office intends for the 2023 Options exercise to be implemented via legislation amending the 2006 Scheme and the 1992 Scheme. Drafts of this legislation (which are subject to this consultation) are attached separately. These drafts are intended to be indicative to show how the Home Office proposes to change the scheme rules to implement the Matthews' remedy as outlined in this consultation

document, but they are still subject to further considerations, refinement, and the views expressed in this consultation. Subject to views gathered as part of this consultation, the Home Office intends to introduce this legislation as soon as is reasonably practicable and is expected to come into force in October 2023. FRAs will be expected to commence the 2023 Options exercise as soon as is reasonably practicable after the legislation comes into force. The exercise will run for a period of 18 months.

5 Principal terms of the 2023 Options Exercise

Timetable

5.1 FRAs would be required to undertake a '2023 Options timetable' to give all those eligible an opportunity to join the modified scheme. The Home Office would introduce legislative changes that will provide an indicative timetable to support FRAs to effectively implement the Options exercise within 18 months. The draft Regulations therefore set out a timetable but state that, where it is not reasonably practicable for the FRA or individual to comply with this timetable, the requirement is to do so as soon as reasonably practicable (although this is subject to the general rule that elections to take part in the 2023 Options exercise must be within 18 months of the enabling legislation coming into force).

5.2 The indicative timetable sets out the following:

- FRAs would be required to use reasonable endeavours to notify all persons eligible to join the modified scheme within three months of the enabling legislation coming into force. It would be the FRAs that employed the eligible person between 7 April 2000 and 5 April 2006 inclusive that would be expected to provide the notification.
- Eligible persons would indicate their interest in joining the scheme by applying to the relevant FRA for a statement of service accompanied by certain information. This information would confirm their details of service during the extended limited period (as further explained at 5.16 below), and other relevant details such as any service purchased as part of the 2014 Options exercise (if applicable). This would take place within six months of receiving notification from the FRA.
- Eligible members who were not notified by their FRA will have nine months from the date that the legislation comes into force to declare their initial interest in joining the scheme by applying for a statement of service, accompanied by certain information. As above, this information would set out their details of service during the extended limited period, and other relevant details.
- FRAs would write to each eligible person who indicated an initial interest in joining the modified scheme within three months of the date of receiving their application. FRAs would set out the amount of special service that eligible individuals have entitlement to purchase during the extended limited period and the associated costs of purchasing those past service rights.

- The eligible person would confirm to the appropriate FRA, within six months of receiving this information, that they wish to take up membership of the scheme and pay the required historic contributions. They would also be required to elect the date that they wish their service in the modified scheme to begin (the start date of the 'mandatory special period').

5.3 The 2023 Options Exercise must be completed within 18 months of the enabling legislation coming into force, and the draft regulations provide elections to purchase special service after this date will not have effect. However, provision is made for some flexibility which allows an individual who was not identified prior to the expiration of the 18-month deadline to elect to purchase special service after the closure of the 2023 Options exercise.

5.4 This flexibility will apply only in exceptional cases where, despite the FRA using reasonable endeavours to notify eligible individuals, the FRA did not notify the individual in question of their entitlement to join the modified scheme during the 18-month options exercise period (for example, because the authority was not aware of an individual's entitlement). It will not apply to cases where an individual has been notified by the relevant FRA, but they did not respond in good time.

Eligibility

5.5 We propose that the 2023 Options exercise will relate to three cohorts of eligible individuals.

- Cohort 1 comprises those individuals who were employed as retained firefighters at any date during the period 7 April 2000 and 30 June 2000 inclusive. They may also have uninterrupted service prior to 7 April 2000.
 - i. They will not have any post 30 June 2000 service to purchase, and, as such, will not have fallen within the scope of the 2014 Options exercise.
- Cohort 2 comprises those individuals who were employed as retained firefighters at any date during the period 7 April 2000 and 30 June 2000 inclusive, and between 1 July 2000 and 5 April 2006 inclusive.

They may also have uninterrupted service prior to 7 April 2000 and uninterrupted service after 5 April 2006.

- i. Individuals in cohort 2 will have been given an opportunity by their FRAs to purchase their post 30 June 2000 service as part of the 2014 Options exercise. Where they did elect to join as part of the 2014 Options' exercise, they will only be able to purchase any of their service post 30 June 2000 service to the extent that it was or is not being purchased as part of the 2014 Options exercise.

- Cohort 3 comprises those individuals who were employed as retained firefighters at any date during the period 1 July 2000 and 5 April 2006 inclusive and should have been eligible to join as part of the 2014 Options exercise but were not given the opportunity to.
 - i. These will be individuals who have exclusively all post 30 June 2000 service and should have been offered the opportunity to join the modified scheme as part of 2014 Options exercise.

Determining those who are eligible to join as Cohort 3

5.6 An individual who does not have any service before 1 July 2000 will not be eligible to join (as part of cohort 3) where the FRA had notified the person of their entitlement to join this Scheme as a special member during the 2014 Options Exercise (that is, they had complied with rule 5A(4) of Part 11, and rule 5A(13) or rule 6C(4) of Part 11, para 1, Schedule 1 of the Firefighters' Pension Scheme (England) Order 2006/3432).

5.7 FRAs would have the initial responsibility for identifying those retained firefighters they believe were given an opportunity to take part in the 2014 Options exercise, and therefore whether a person is excluded by virtue of the above.

5.8 The FRA must determine whether this exclusion applies in accordance with guidance issued by the Secretary of State. The Home Office's intention is that this guidance will provide that the relevant FRA would be deemed to have complied with rules 5A (4), 5A (13) and 6C (4) of Part 11, para 1, Schedule 1 of SI 2006/3432 either:

- I. Where they can produce file copy of the letters, substantially in the form of the letters set out in the memorandum agreed between the FBU/FRSA/LGA and Home Office, which were individually addressed to the individual concerned, at their correct most recently notified home address; or
- II. Where the FRA can establish that:
 - the correct name and most recently notified home address was included at the time of sending the letters on a relevant mail merge database.
 - the mail merge was created before it is claimed the letters were sent, allowing the FRA to cite other evidence that the letter was sent.
 - where an individual retained firefighter had consented in writing to communication by email, references to 'letters' include emails and references to 'most recently notified home address' include most recently notified email address.

The individual would be able to dispute the FRA's determination that they were informed as part of the 2014 Options Exercise by means of the Scheme's dispute resolution procedures.

Purchase of historic retained service

5.9 Those individuals who are eligible to join the modified scheme under the 2023 Options exercise will have the opportunity to purchase their past service during the extended limited period as follows:

5.10 Cohort 1 individuals will be able to purchase:

- all their retained service between 7 April 2000 and 30 June 2000 inclusive.
- all uninterrupted retained service prior to 7 April 2000.

5.11 Cohort 2 individuals will be able to purchase:

- all their retained service between 7 April 2000 and 5 April 2006 inclusive.
- all uninterrupted retained service prior to 7 April 2000.
- all uninterrupted retained service after 5 April 2006 (up to 31 March 2022).

5.12 All these individuals will have been given an opportunity by their FRAs to purchase their post 30 June 2000 retained service as part of the 2014 Options exercise. Where they did elect to join as part of the 2014 Options' exercise, they will only be able to purchase any of their retained service post 30 June 2000 service to the extent that it was not or is not being purchased as part of the 2014 Options exercise.

5.13 Cohort 3 individuals will be able to purchase:

- all their retained service between 1 July 2000 and 5 April 2006 inclusive.
- all uninterrupted retained service after 5 April 2006 (up to 31 March 2022).

5.14 Although our current proposal is for individuals to be able to buy service up to 31 March 2022 as set out above, we are considering further how to make provision for this in legislation, as this may be complex. We are also considering whether it is necessary and proportionate to allow accrual up to 31 March 2022, or whether accrual up to only 31 March 2015 is appropriate, given that members could have joined the 2015 Scheme from this date, and given the interaction with the McCloud remedy which will "roll back" service from 2015-2022 into the relevant legacy Scheme (2006 Scheme or 1992 Scheme), as set out at 5.16 below.

5.15 We would be interested in views on this from those who would be eligible for the Matthews remedy and who do not currently have service in any of the Firefighters Pension Schemes (for example, because they opted out of the 2015 Scheme), and whether they would wish to purchase service from 2015-2022 as special service.

Extended limited period

5.16 The 'extended limited period', which represents the full period that an individual is entitled to purchase in the modified scheme, as set out above, applies to all three cohorts, and is described as follows:

5.17 "The period beginning on the date on which that person was first employed as a retained firefighter and ending on the earlier of—

- (a) the date, if applicable, on which that person joined this Scheme as a special member or as a standard member in respect of service which that person could otherwise reckon as special pensionable service,
- (b) the date, if applicable, on which that person joined the 2015 Scheme in respect of service which that person could otherwise reckon as special pensionable service,
- (c) the date, if applicable, on which that person ceased to be employed as a retained or a regular firefighter, and
- (d) [31st March 2022]"

(Although a "backstop" date of 31 March 2015 is also under consideration, as explained at 5.14 above).

The intended effect of this for each cohort is set out below.

5.18 For Cohort 1 – The extended limited period will be from the start of an individual's retained employment and the date they left their retained employment (this will be between 7 April 2000 and 30 June 2000 inclusive for Cohort 1 members).

5.19 For Cohort 2 – The extended limited period will be from the start of an individual's retained employment (which, for Cohort 2 members, would be before 1 July 2000) and the earliest of:

- I. the date they joined the 2006 Scheme as a special firefighter member or as a standard member, or the 2015 Scheme, in respect of service that could otherwise be treated as special pensionable service.

- II. the date, if applicable, on which they ceased to be employed as a retained firefighter or regular firefighter.
- III. 31 March 2022 (although a “backstop” date of 31 March 2015 is also under consideration, as explained at 5.16 above).

5.20 For Cohort 3 – The extended limited period will be from the start of an individual’s retained employment (which would have to be between 1 July 2000 and 5 April 2006 inclusive) and the earliest of:

- I. the date that they joined the 2006 Scheme as a standard member or the 2015 Scheme in respect of service that could otherwise be treated as special pensionable service.
- II. the date, if applicable, they ceased to be employed as a retained or regular firefighter.
- III. 31 March 2022 (although a “backstop” date of 31 March 2015 is also under consideration, as explained at 5.16 above).

Mandatory special service period

5.21 The mandatory special period, is the period during the extended limited period, defined in section 5 above, that an individual elects to purchase in the modified scheme. It starts on the day selected by the member and ends on the last day of the extended limited period.

Historic pay and service data

5.22 The 2014 Options exercise provided individuals with the opportunity to purchase their historic retained service back to 1 July 2000. Some FRAs raised concerns about the accessibility/availability of historic data that would allow a fire and rescue authority to determine the service that an individual would be able to purchase. To mitigate the risks of this, where there was a lack of reliable historic data available FRAs could determine pay based on:

- the relevant employee and pay records that it holds.
- any relevant documentation provided by the employee where the fire and rescue authority does not hold historic pay records; OR
- recent pay data and/or turnout rates for retained firefighters at the specific fire stations that each of eligible members was located in order to determine average pay rates.

5.23 The 2023 Options exercise will provide eligible individuals with the opportunity to purchase historic service from before 1 July 2000. This raises further complications with regards to the availability of employee records. To resolve this, the following assumptions will be applied:

- For service from 1 July 2000 onwards, this will continue to apply as it did during the 2014 Options exercise.
- For service prior to 1 July 2000, where there is no robust historic data FRAs will apply the following assumptions/principles:

Service

- The FRA must determine service based on the records that it holds (e.g., payroll or HR records).
- Where the FRA is not able to determine the period of the person's service from their records, the person may provide the authority with relevant documentation (e.g., pay slip, P60 or contract of employment).
- If the FRA does not hold records of that person's service for that period, and the person cannot provide the necessary documents, the FRA may determine the person does not have service during that period, meaning there is no entitlement to join the modified scheme/purchase service in respect of that period.

Pay

- FRAs are to use the same data as per the 2014 Options exercise for pay on or after 1 July 2000.
- For cases with service pre-July 2000, FRAs are to use the data that they have on record.
- Where the FRA is not able to determine the pay from their records, the person may provide the authority with relevant documentation (e.g., pay slip, P60 or contract of employment).
- In the absence of pay data for pre-July 2000 membership FRAs can assume that the retained firefighter earns 25% of the pay of a whole-time firefighter. This proportion has been informed by data collected by Fire and Rescue Authorities covering around one sixth of the group expected to be eligible. The data shows latest retained and whole-time equivalent pay at the end of the individuals' retained service from 2000 to present.

Rank

- In the absence of evidence/data, FRAs are to assume that the individual was a firefighter for the purposes of estimating pensionable pay.

Application of Interest

5.24 Interest is applicable on contributions owed by a member to the scheme and pension owed by the scheme to a member. The interest rates will apply to the 2023 Options exercise in the same way as they applied to members who joined the modified scheme during the 2014 Options exercise.

Adjustments for loss of tax relief on employee contributions

5.25 Individuals who join the modified scheme as part of the 2023 Options exercise will also be entitled to tax relief on their historic employee contributions. It is expected many of those individuals will not be able to seek this from HMRC via established processes (PAYE or self-assessment).

5.26 To avoid any tax relief complications from implementing the 2023 Options exercise, eligible individuals will be compensated by means of reducing the costs of purchasing their past service in the modified scheme to reflect an assumed tax relief entitlement for each member. For these purposes, it will be assumed that all members who join the modified scheme as part of the 2023 Options exercise will be standard 20% marginal taxpayers.

5.27 Where an individual provides robust evidence to show that they were a higher marginal rate taxpayer during the period that they were employed as a retained firefighter then this will be factored into the calculation accordingly.

5.28 To be eligible for this deduction, a member must provide a statement to the FRA that they will not claim tax relief in respect of the mandatory special period pension contributions. This is to ensure that a person does not receive tax relief twice.

Retrospective ill-health awards

5.29 The policy on retrospective ill-health awards is the same as it was during the 2014 Options exercise. That is, any former retained firefighters who are eligible to join the modified scheme and who were medically retired (with no pension entitlement as they were excluded from the 1992 Scheme) before 6 April 2006 will be entitled to receive the retrospective pension payments associated with a higher tier ill-health retirement (to include both lower tier and higher tier elements). This will be calculated in accordance with the standard 2006 scheme provisions and based on their special pensionable service up to the point of medical retirement.

5.30 This entitlement would be subject to the certification by an Independent Qualified Medical Practitioner that a person was permanently incapable of performing the duties of a firefighter at the date of their dismissal and that the permanent disablement had continued to the date of the medical assessment. Where entitlement has been confirmed, the payment of the ill-health pension would take effect from the date of a member's dismissal or retirement and would be conditional on the payment of all historic contributions and interest by a member. The FRA will also pay a member a lump sum for any backdated ill-health pension payments. This would include interest.

5.31 There are individuals who will have joined as part of the 2014 Options exercise and will have received a retrospective ill-health pension based on their pensionable service from 1 July 2000 (as this was the backstop date). For these cases, the 2023 Options exercise will provide further opportunity to purchase pre-July 2000 service which will now need to be reflected in their retrospective ill-health award and recalculated from the point that they left employment.

5.32 The recalculation of this award will be complex as it will require some intricate interest calculations. We intend to provide that these cases must be referred to the Scheme Actuary so that they can calculate the adjusted ill-health pension, and the rectification payment for any ill-health pension paid to the member to date.

Special Death Grant

5.33 As part of the 2014 Options exercise, any individuals who would have had an option to join the modified scheme but had died during the period 1 July 2000 to 5 April 2006 were given a special death grant of 2.5 times their pensionable pay at the time of death – payable to the surviving spouse.

5.34 As part of the 2023 Options exercise, the special death grant provision will be extended to include those who would have been entitled to join during the 2014 Options exercise but died during the period 7 April 2000 to 30 June 2000 inclusive.

5.35 As part of further remedy, the scheme will also provide an additional top up to the special death grant in respect of an individual's pre-7 April 2000 service. The Special death grant will provide eligible survivors with a single lump sum payment equal to 0.1 times the deceased member's pensionable pay for each full qualifying year of service that the deceased member had prior to 7 April 2000.

5.36 GAD provided Home Office with analysis which evidenced the need to extend the special death grant provision as explained above. This means as part of further remedy, the scheme will also provide an additional top up to the special death grant in respect of an individual's pre-7 April 2000 service. The Special death grant will provide eligible survivors with a single lump sum payment equal to 0.1 times the

deceased member's pensionable pay for each full qualifying year of service that the deceased member had prior to 7 April 2000¹.

5.37 In summary, the policy is:

- anyone who died between the 7 April 2000 and 5 April 2006 with no pre-7 April 2000 service will receive a special death grant of 2.5 times their pensionable pay at the time of the death;
- anyone who died between the 7 April 2000 and 5 April 2006 with pre-7 April 2000 service will receive a special death grant of 2.5 times their pensionable pay at the time of the death; and
- anyone in receipt of a special death grant will receive an additional top up to the special death grant in relation to their pre-7 April 2000 service.

Additional death grant

5.38 It is expected that there will be individuals who will have joined the modified scheme as part of the 2014 Options exercise and purchased their past service to 1 July 2000 and have died prior to the implementation of the 2023 option exercise.

5.39 Members who joined the modified scheme as part of the 2014 Options exercise and who have pre-July 2000 service but have subsequently died would have been able to purchase pre-July 2000 service under this 2023 Options exercise. We intend to provide that eligible survivor will receive an additional death grant in relation to such members' pre-July 2000 service.

5.40 The additional death grant will provide eligible survivors with a single lump sum payment equal to 0.1 times the deceased member's pensionable pay for each full qualifying year of service that the deceased member had prior to 1 July 2000².

¹ In setting the level of these payments, Home Office has had regard to the range and net capital value of benefits that survivors could have received had the deceased individuals had access to modified scheme benefits. That is the broad range and capital value of survivor pensions net of member contributions eligible survivors would have received had the deceased individuals been members of the modified scheme and had pensionable service in that scheme to the extent allowed under the 2023 Options exercise

² In setting the level of these payments, Home Office has had regard to the range and net capital value of benefits that survivors could have received had the deceased individuals had access to modified scheme benefits under the terms of the 2023 Options exercise rather than the 2014 Options exercise. That is the broad range and capital value of survivor pensions net of member contributions eligible survivors would have received had the deceased individuals been members of the modified scheme and had pensionable service in the scheme to the extent allowed under the 2023 Options exercise in addition to those received due to their election under the 2014 Options exercise

Employee contribution rates

5.41 The contributions payable during the 2023 Options exercise for purchasing historic service in the modified scheme would be the same rate as those that were paid by members who joined as part of the 2014 Options exercise.

Right to transfer special service

5.42 Individuals would have a right to request a transfer value in respect of their special service under the modified scheme.

Transferring accrued 1992 Scheme service into the modified scheme

5.43 Any persons who are eligible to join the modified scheme as a connected special member and who currently have accrued uninterrupted service in the 1992 scheme (in the form of a deferred pension) may be eligible to transfer this service into the modified scheme. The transfer would be undertaken under the terms of the Public Sector Transfer Club. Any election by a member to transfer this service would need to be made to the employing FRA within one year of receiving notice of details of the costs of purchasing their past service pension rights.

5.44 The modified scheme's pensionable service cap of 30/45ths of a member's average pensionable pay would still apply even if the total of a member's special pensionable service exceeded 30 years at retirement. The modified scheme does not provide for special deferred or special pensioner members to transfer in accrued service from the 1992 scheme.

Converting special service to standard service – connected special members

5.45 Any persons who joined the standard 2006 Scheme from 6 April 2006, and who are also eligible to join the modified scheme as connected special members, may be able to convert their special membership to their standard membership.

Converting standard service to special service – connected special members

5.46 Any persons who join the modified scheme as part of the 2023 Options exercise as a connected special member will be able to convert standard membership accrued in the 2006 Scheme (which they would be entitled to treat as special service) to special service.

Converting standard service to special service – special pensioner/deferred members

5.47 Any persons who join the modified scheme as special pensioner members or special deferred members as part of the 2023 Options exercise may be able to convert standard membership accrued in the 2006 Scheme (which they would be entitled to treat as special service) to special service.

Conversion decisions made during the 2014 Options exercise

5.48 During the 2014 Options exercise some members who joined the modified scheme had the option to convert any uninterrupted standard 2006 Scheme service (where they joined the standard 2006 Scheme) to special service; or vice versa.

5.49 Those members who elected to join and purchase their service in the modified scheme may now purchase further service from before 1 July 2000. This further option could have a material impact on the 'conversion' decisions that the member made/did not make during the 2014 Options exercise.

5.50 We are proposing that all members who joined the modified scheme during the 2014 Options exercise and who have pre-July 2000 will be able to revisit the conversion decisions that they made. Where the member elected to convert their special service to standard service, they will be able to undo that election. Where they did not elect to convert their special service to standard service, they will now be able to make that decision as part of the 2023 Options exercise.

5.51 Additionally, where the member elected to convert their standard service to special service, they will be able to undo that election. Where they did not elect to convert their standard service to special service, they will be able to make that decision as part of the 2023 Options exercise.

5.52 The Home Office is still considering the detail on how this policy will be achieved in practice. As such, the draft regulations do not cover this policy.

Payment of employee contributions for historic service

Post 30 June 2000 service

5.53 Those individuals who join the modified scheme as a special pensioner member will have the option to pay the cost of historic contributions by means of lump sum only. The lump sum would have to be paid to the employing FRA within six months of electing to join the modified scheme and before the pension comes into payment.

5.54 These individuals would have the option of purchasing their past service rights from any commuted lump sum, or a lump sum payable in relation to the retrospective ill-health award. A commuted lump sum is the lump sum members can choose to receive in exchange for giving up part of one's annual pension payable from retirement. Where this option is made, the employing FRA would deduct the past service costs from the commutation lump sum prior to being paid to a member. If the value of the commuted lump sum is not sufficient to pay the full balance of historic contributions, an individual would be required to pay any outstanding balance within six months and before becoming entitled to receive payment of their pension to which these contributions relate.

5.55 Where a member had elected this option and the lump sum had not been received by the FRA before the expiration of this six-month period, the election to join the modified scheme would be revoked.

5.56 Those individuals who join the modified scheme as a special deferred member would also have the option to pay the historic contributions by means of lump sum. Under this option, any lump sum would need to be paid within six months from the date of electing to pay for service during the extended limited period by lump sum.

5.57 Where a member had elected this option and the lump sum had not been received by the FRA before the expiration of this six-month period, the election to join the modified scheme would be revoked.

5.58 Alternatively, those individuals who join as special deferred members would have the option of purchasing their past service rights (in relation to post-30 June 2000 service) by means of making periodic contributions, which would include interest, over the earlier of 10 years or up to the point where they become entitled to receive payment of their deferred pension. Upon becoming entitled to receive payment of their deferred pension, any outstanding balance could be paid at that time from a member's commuted lump sum, or from another source, if a member so elects.

5.59 As with those persons who join as special pensioner members, if the value of the commuted lump sum is not sufficient to pay the full balance of historic contributions, a member may pay any outstanding balance within three months of the date they become entitled to the deferred pension, and before becoming entitled to receive payment of their pension to which these contributions relate.

5.60 Those persons who join the modified scheme as a connected special member would have the option of paying the historic contributions by means of a lump sum payment or periodic contributions. A member who elects to pay by lump sum would have six months from the date of electing to join the modified scheme to pay the lump sum. Where a member had elected this option and the lump sum had not been received by the FRA before the expiration of this six-month period, the election to join the modified scheme would be revoked.

5.61 Alternatively, connected special members would either have a period of 10 years or until they retire, whichever is shorter, to pay the historic contributions (in relation to post-30 June 2000 service) by means of periodic contributions which would include interest. Upon retiring, any outstanding balance could be paid from a member's commuted lump sum or from another source if a member so elects. The balance should be paid within three months.

5.62 If the connected special member or special deferred member were to opt out, cancel the periodic contributions, or not pay the balance due, then a member would

receive a prorated service credit for the service purchased during the extended limited period. They would become entitled to a deferred pension in the modified scheme. There would be no ability for a member to restart the periodical payment of contributions later.

5.63 If the connected special member died during the spreading period and before becoming entitled to receive payment of the special pension, then their special pensionable service would be credited with the full amount of service that they elected to purchase.

5.64 If a connected special member commenced ill-health retirement during the spreading period, then they would have the option to pay any outstanding amount for the past service they elected to purchase by lump sum. If they were to choose not to pay an outstanding balance, then the past service credit would be prorated to reflect the past service contributions actually paid.

Pre-July 2000 service

5.65 The same rules for purchasing past service in the modified scheme will apply to the 2023 Options exercise as it did for the 2014 Options exercise, except as set out below. As part of the 2014 Options exercise, members who chose to purchase their past service by means of periodical contributions were given 10 years to discharge their liability.

5.66 However, the 2023 Options exercise may involve members paying historic contributions in respect of a longer period – potentially going back to 1960s and 1970s, when compared to the period of service individuals were purchasing during the 2014 Options exercise (which was a maximum of 15 years' service). As such, having a spreading period of only 10 years may act as an impediment to taking up their entitlement to join the modified scheme.

5.67 Individuals who join the modified scheme as part of the 2023 Options exercise and who have the option to pay for their service by periodical contributions will have the option to purchase post 1 July 2000 service by means of spreading over 10 years which is the same arrangement available to those who joined during the 2014 Options exercise. For any historic service from before 1 July 2000, the member's periodical contributions will be spread over 20 years. For both options, if the member retires prior to the expiration of the periodical contributions spreading period they will have the option to pay any outstanding amount from their commutation lump sum payment.

5.68 As with the 2014 Options exercise, all members will also have the option to pay the full costs by means of an upfront single lump sum payment.

Financing arrangements – past service employer contributions

5.69 The implementation of the 2023 Options exercise is likely to create a scheme deficit as members purchase past service rights for which no employer contributions have been paid. The extent of this deficit will be established in actuarial valuations of the Firefighters' Pension Schemes. Government policy is that any scheme deficit will be recovered by adjusting the employer contribution rates (assuming repayment of the deficit over a period of 15 years from the implementation date). Employer pensions cost pressures will be considered as part of wider funding agreements.

6 Other Policies

Aggregation issue

6.1 The Home Office remains committed to delivering the legislation needed to implement the second options exercise by October 2023. However, new claims have been received with regards to individuals who have periods of service as a retained firefighter and a regular firefighter seeking an ability to aggregate these periods of service under the individual's membership of the 1992 Firefighters' Pensions Scheme. The Home Office is currently considering its response to these claims.

Guaranteed Minimum Pensions

6.2 The provision of further remedy for those with pre-1 July 2000 service has given rise to a complex technical issue that requires dealing with Guaranteed Minimum Pensions (GMPs) where any eligible retained firefighter elects to purchase past service from between 6 April 1978 and 5 April 1997.

6.3 Occupational pension schemes that contracted out of the State Second Pension (S2P) between 6 April 1978 and 5 April 1997 had to ensure that a GMP was provided by the scheme for members at State Pension Age. Members of 'contracted out' occupational pension schemes pay lower National Insurance Contributions (NICs) than those contracted into the S2P as the GMP liability rests with the individual pension scheme, rather than the S2P.

6.4 The modified scheme is currently contracted out of the S2P back to 1 July 2000 which means that retained firefighters, who joined the scheme as part of the 2014 Options exercise, were able to claim back a refund of the higher NICs that they had originally paid. However, their S2P will then be adjusted to reflect the lower NICs that they actually paid.

6.5 The 2023 Options exercise will mean that there will be some retained firefighters that will elect to purchase past service during the GMP period i.e., between 6 April 1978 and 5 April 1997. However, unwinding GMPs for everyone is no longer possible.

6.6 The Home Office's proposal is to leave the contracted-out status of the modified scheme remains unchanged. Claims from individuals that they have suffered financial detriment as a result of not being contracted out of the S2P for the pre-July 2000 period will be considered on a case-by-case basis.

Tax

6.7 Annual Allowance (AA) tax charges – there will be eligible individuals who join the modified scheme as part of the 2023 Options exercise who will be able to purchase large periods of historic service in the modified scheme by means of a single lump sum. This will require individuals to pay the employee contributions that they would have been required to pay had they been in the scheme during the period that they choose to purchase.

6.8 This may lead individuals to breach their AA for tax-relieved pension accrual. Purchasing all their historic service by means of a single lump sum will mean that the individual will be effectively accruing their full pension entitlement in a single tax year. If this pension growth in the year of purchase exceeds the individual's AA, the individual may become subject to an annual allowance tax charge.

6.9 There is some mitigation whereby individuals can carry forward any unused AA from previous tax years where they are a member of a UK registered pension scheme or a qualifying overseas pension scheme.

6.10 Claims from individuals that they have suffered financial detriment as a result of annual allowance tax charges will be considered on a case-by-case basis.

Individuals entitled to join the modified scheme as part of the 2023 Options exercise and who are or may become eligible for the McCloud/Sargeant remedy

6.11 In December 2018, the Court of Appeal found transitional protection to be discriminatory against younger members in the McCloud/Sargeant cases. The courts required that this unlawful discrimination be remedied by the government, and the government accepted that this applied across all of the main public service pension schemes.

6.12 It was announced in February 2021 eligible members will receive at the point they retire a choice of which pension benefits they would prefer to receive in respect of any remediable service accrued from 1 April 2015 to 31 March 2022. This choice is whether the benefits should be modelled on the relevant legacy scheme or reformed scheme provisions.

6.13 In addition, from 1 April 2022, all those who continue in service will do so as members of the reformed schemes, regardless of age, meaning all members will be treated equally in terms of which pension scheme they are a member of.

6.14 The [Public Service Pensions and Judicial Offices Act \(PSPJOA\) 2022](#), which received Royal Assent in March 2022, provides the legislative framework for implementing changes in public service pension schemes to remedy the discrimination identified by the McCloud/Sargeant judgment. The Home Office consulted on the prospective remedy for firefighters between 8 November 2021 and

2 January 2022. That consultation and the Home Office's response can be found [here](#). The Home Office is currently consulting on the retrospective remedy for firefighters which can be found [here](#).

6.15 There are individuals entitled to join the modified scheme as part of the 2023 Options exercise and retrospectively purchase relevant service that would make them eligible members for the McCloud/Sargeant remedy. These individuals will have post 31 March 2015 special service (remediable service for the purposes of the McCloud/Sargeant remedy – limited to 31 March 2022) and have relevant service prior to 1 April 2012 and can be separated into four groups:

- I. Those who joined as part of the 2014 Options exercise and have already purchased their post 31 March 2015 service as active special firefighter members.
- II. Those who did not join as part of the 2014 Options exercise, did not join the 2006 Scheme (as a standard member) on or after 6 April 2006, and did not join the 2015 Scheme. We are proposing that these members could purchase their post 31 March 2015 service as part of their 2023 Options exercise election, although this is subject to further consideration, as set out at [6.15] above.
- III. Those who did not join as part of the 2014 Options exercise, joined the 2006 Scheme (as a standard member) on or after 6 April 2006, and transitioned into the 2015 Scheme between 1 April 2015 and 31 March 2022 in accordance with the 2015 Scheme's transitional protections.
- IV. Those who did not join as part of the 2014 Options exercise, did not join the 2006 Scheme (as a standard member) on or after 6 April 2006, and joined the 2015 Scheme on or after 1 April 2015.

6.16 For Group I they will, by virtue of their election under the 2014 Options exercise, already have purchased their special service in the modified scheme for the post 31 March 2015 period as active special firefighter members. The post 31 March 2015 period would not have formed part of their 2014 Options exercise election to purchase their past service. These individuals will have been moved to the 2015 Scheme at some stage during the period 1 April 2015 to 31 March 2022, in accordance with the 2015 Scheme transitional protections.

6.17 Any election under the Matthews remedy that these individuals will make under the 2023 Options exercise will, therefore, only comprise of pre-6 April 2006 service. The reason for this is that the start of the mandatory special service period during the 2014 Options exercise for these individuals would have to have been between 1 July 2000 and 5 April 2006 inclusive. Therefore, no special service purchased during the 2023 Options exercise will include remediable service under the McCloud remedy.

6.18 On this basis, the expectation is that these individuals will already be included within the scope of McCloud remedy and will, therefore, be subject to any remediable service between 1 April 2015 to 31 March 2022 inclusive being treated as legacy scheme benefits (the 'roll back') following the making of the McCloud remedy legislation in October 2023. As such, these individuals will also have an opportunity to choose under the McCloud deferred choice or immediate choice rules to take any remediable service under the terms of the reformed 2015 Scheme or their relevant legacy modified scheme

6.19 For Group II individuals, they will not currently be special members of the modified scheme. Our proposal is for these members to be entitled to purchase their retained service in the modified scheme, to include any service post 31 March 2015, up to and including 31 March 2022, under the Matthews remedy.

6.20 If this approach was taken, it is expected that the Matthews remedy will place these individuals in the correct position that they would be in had the 'roll back' stage of the McCloud/Sargeant remedy been implemented. They will be placed in their relevant legacy modified scheme for any remediable service under the McCloud/Sargeant remedy (1 April 2015 to 31 March 2022 inclusive) at the point a member would purchase any retrospective service through the 2023 Matthews Options exercise. As such, these individuals would not need the 'roll back' stage of McCloud/Sargeant remedy applied to them, as implementing the Matthews remedy will achieve this.

6.21 However, if as a result of retrospective purchase of service under the 2023 Matthews Options exercise, they become eligible for the McCloud/Sargeant remedy, an individual would at retirement be afforded the choice to take reformed or legacy modified scheme benefits for any service accrued during the remedy period.

6.22 However, as set out at [5.14] above, we are considering further whether service in the period 1 April 2015 to 31 March 2022 should be included as part of the Matthews remedy. We welcome views on this point from individuals falling within Group II in particular.

6.23 For Group III individuals, they would be able to purchase their retained service up to the point that they joined the 2006 Scheme as a standard member. These members would have transitioned into the 2015 Scheme in accordance with the 2015 Scheme transitional protections at some stage between 1 April 2015 and 31 March 2022.

6.24 These individuals would have the option to purchase their special service in the modified scheme up to the date that they joined the standard the 2006 Scheme. They will then have the option to convert their standard 2006 Scheme service to special service or vice versa. If they choose the former their legacy scheme for the purposes of McCloud/Sargeant remedy will be the modified scheme. If they choose

the latter their legacy scheme for the purposes of McCloud/Sargeant remedy will be the standard 2006 Scheme.

6.25 Following this, the 'roll back' stage of McCloud remedy will need to be implemented in accordance with the member's conversion election i.e., the member will either be rolled back to the modified scheme or the standard 2006 Scheme for any service during the period 1 April 2015 to 31 March 2022.

6.26 Under the McCloud/Sargeant remedy, at the point of retirement they will be given the option to have legacy scheme benefits or 2015 Scheme benefits for their service during the remedy period.

6.27 The policy intention is to allow individuals in Group IV to be able to purchase their retained service in the modified scheme up to the point that they joined the 2015 Scheme.

6.28 Following this, the 'roll back' stage of McCloud/Sargeant remedy will need to be implemented i.e. the member will be rolled back to the modified scheme for any service during the period 1 April 2015 to 31 March 2022. For the purposes of McCloud/Sargeant remedy, the modified scheme is the individual's legacy scheme.

6.29 Under the McCloud/Sargeant remedy, at the point of retirement they will be given the option to have modified scheme benefits or 2015 Scheme benefits for their service during the remedy period.

6.30 It is the Home Office view that there are no additional provisions required under the Matthews remedy to deal with those individuals who have service post 31 March 2015.

7 Public Sector Equality Duty (PSED)

7.1 The Public Sector Equality Duty (PSED) is set out in section 149 of the Equality Act 2010 and requires public authorities, in the exercise of their functions, to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act,
- advance equality of opportunity between people who share a protected characteristic and those who do not, and
- foster good relations between people who share a protected characteristic and those who do not.

7.2 This involves having due regard to the need to:

(a) remove or minimise disadvantages suffered by people due to their protected characteristics, and

(b) take steps to meet the needs of people from protected groups where these are different from the needs of other people.

7.3 The equality duty covers the nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) and sexual orientation.

7.4 Stakeholder engagement and informal consultation have supported the Home Office to identifying any potential risk of adverse impacts in relation to the protected characteristics. Such stakeholder engagement includes engagement with fire sector employer and employee representatives, other government departments and devolved administrations. All members in scope for the remedy will have equal access to the remedy, irrespective of any protected characteristic that may apply to them. The Home Office will produce an Equality Impact Assessment that will be published alongside the response to this consultation. The PSED is an ongoing duty, and we will continue to consider this duty until the final regulations enacting the retrospective remedy are made.

8 Matters on which we are seeking views

8.1 We would like to gather views on:

- whether the correct categories of individuals have been identified as being eligible to join the modified scheme as part of the 2023 Options exercise in line with the O'Brien ruling.
- whether the categories of individuals that have been identified as being eligible to join the modified scheme as part of the 2023 Options exercise include everyone who ought to be included.
- whether the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 achieve the policy intention of ensuring individuals in Cohort 1 can purchase any of their uninterrupted retained service in the modified scheme.
- whether the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 achieve the policy intention of ensuring individuals in Cohort 2 can purchase any of their uninterrupted retained service in the modified scheme.
- whether the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 achieve the policy intention of ensuring individuals in Cohort 3 can purchase any of their uninterrupted retained service in the modified scheme.
- Whether the proposed changes place members in the position they would have been had they been entitled to purchase their service at the time.
- Whether the proposed special death grant and additional death grant provisions achieve the policy intention (as set out above).
- whether any changes are required for those individuals who are entitled to both the Matthews remedy and the McCloud/Sargeant remedy simultaneously.
- whether there are any additional points not covered in this consultation paper that need to be considered as part of the proposed changes to the Firefighters' Pension Scheme (England) Order 2006.

8.2 To ensure compliance with data protection legislation, we request that you do not provide any personally identifiable information (for example, names, dates, and locations) in your answers to the following questions.

9 Consultation Questions

We request that you do not provide any personally identifiable information (for example, names, dates, and locations) in your answers to the following questions.

Q1. Are the categories of individuals that have been identified as being eligible to join the modified scheme as part of the 2023 Options exercise appropriate?

Yes	No

Please explain your answer.

Q2. Do the categories of individuals that have been identified as being eligible to join the modified scheme as part of the 2023 Options exercise include everyone who ought to be included?

Yes	No

Please explain your answer.

Q3. Do the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 achieve the policy intention of ensuring all individuals in Cohort 1 can purchase any of their uninterrupted retained service in the modified scheme and place these members in the position they would have been had they been entitled to purchase their service at the time?

Yes	No

Please explain your answer.

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Q4. Do the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 achieve the policy intention of ensuring all individuals in Cohort 2 can purchase any of their uninterrupted retained service in the modified scheme and place these members in the position they would have been had they been entitled to purchase their service at the time?

Yes	No

Please explain your answer

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Q5. Do the proposed amendments to the Firefighters' Pension Scheme (England) Order 2006 achieve the policy intention of ensuring all individuals in Cohort 3 can purchase any of their uninterrupted retained service in the modified scheme and place these members in the position they would have been had they been entitled to purchase their service at the time?

Yes	No

Please explain your answer.

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Q6. Are there any changes to the proposals required for those individuals who are entitled to both the Matthews remedy and McCloud/Sargeant remedy simultaneously?

Yes	No

Please explain your answer.

Q7. Do the proposed changes to the special death grant and additional death grant sufficiently address the scenario where the deceased member had pre-2000 service?

Yes	No

Please explain your answer.

Q8. Are there any additional points not covered in this consultation paper that need to be considered as part of the proposed changes to the Firefighters' Pension Scheme (England) Order 2006?

Yes	No

Please explain your answer.

Q9. The scheme will also provide an additional top up to the special death grant in respect of an individual's pre-7 April 2000 service. The Special death grant will provide eligible survivors with a single lump sum payment equal to 0.1 times the deceased member's pensionable pay for each full qualifying year of service that the deceased member had prior to 7 April 2000. Do you agree with this policy?

Yes	No

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Please explain your answer.

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Q10. Members who joined the modified scheme as part of the 2014 Options exercise and who have pre-July 2000 service but have subsequently died will receive an additional death grant in relation to such members' pre-July 2000 service. The additional death grant will provide eligible survivors with a single lump sum payment equal to 0.1 times the deceased member's pensionable pay for each full qualifying year of service that the deceased member had prior to 1 July 2000. Do you agree with this policy?

Yes	No

Please explain your answer.

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Q11. It is proposed that where there is an absence of pay data for pre-July 2000 membership, FRAs can assume that the retained firefighter earns 25% of the pay of a WT firefighter, and that they will be employed at the rank of a firefighter. Do you agree with this policy?

Yes	No

Please explain your answer

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Thank you for participating in this consultation.

10 Conclusion and next steps

10.1 The purpose of the 2023 Options exercise is to provide eligible individuals who were employed as a retained firefighter at any time during the period 7 April 2000 and 5 April 2006 inclusive with an entitlement to purchase their historic service in the modified scheme. This entitlement will be based on the terms set out in this consultation.

10.2 The 2023 Options exercise marks the implementation stage of the Matthews remedy. This consultation explains the policy proposals that are required to implement the 2023 Options exercise and seek comment on specific aspects. The legislation required to amend the rules of the firefighters' pension schemes are intended to come into force on 1 October 2023.

10.3 The 2023 Options exercise would be open for a period of 18 months and would close on 31 March 2025. Any eligible individual who wants to join the modified scheme will need to have made a positive election before the closure of the Options exercise.

10.4 Information will be provided by the relevant employing fire and rescue authority to each eligible individual to allow them to make an informed choice within a specified timeframe.

11 About you

Please use this section to tell us about yourself. Please note you are completing this section **voluntarily**. Please be aware that by responding electronically we will have your email address.

Capacity in which you are responding to this consultation exercise (for example, individual member or employer, employer or member representative)	
If you are a representative of a group or force, please tell us the name of the group (for example FBU or LGA)	
Please also indicate if you agree for your response to be made public and associated with the group or if you would like to remain anonymous.	
Date	

Information and Data Handling

The Home Office will process personal data in accordance with the applicable data protection legislation. More information on what data we are collecting, why and how it will be looked after can be found here: <https://www.gov.uk/government/consultations/retained-firefighters-pensions>

The published consultation response may include extracts from any submission made by an individual or organisation. Comments made by individuals will normally be non-attributable, but respondents should be aware that information provided during the course of this consultation may be released, on request, in accordance with the provisions of the Freedom of Information Act 2000. Personal data will likely be exempt. Comments submitted by an organisation are likely to be attributed to that organisation.

How long will we retain your data?

Data protection law requires that personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are collected. The Home Office will retain a record of the statistical analysis of returns, including the number of respondents, but personal information, including names, will not be retained after the Home Office Pension Scheme (Amendment) Regulations 2023 are published.

12 Contact details and how to respond

Please respond by 9 June 2023 using the online survey at:

<https://www.homeofficesurveys.homeoffice.gov.uk/s/3OXJ4Z/>

If you cannot access or use the online survey, you can send your response to:

Email: Retainedfirefighterspensionsremedy@homeoffice.gov.uk

If you are a user of specialist accessibility software that is not compatible with the above options, you may post your response to:

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

If you are unable to access an electronic version of the document, please write to the above address and a paper copy will be provided.

Complaints or comments

If you have any complaints or comments about the consultation process, you should contact the Home Office at the above address.

Extra copies

Further paper copies of this consultation can be obtained from the above address, and it is also available online at <https://www.gov.uk/government/consultations/retained-firefighters-pensions>.

Alternative format versions of this publication can be requested from:

Email: Retainedfirefighterspensionsremedy@homeoffice.gov.uk

Publication of response

The Home Office will endeavour to provide a response to this consultation by summer 2023. The response paper will be available online on gov.uk.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

The Home Office will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

13 Glossary of terms used in the consultation document

Term	Meaning
Additional Death Grant	Additional lump sum payment made to the survivor of a deceased member who joined the modified scheme during the 2014 Options exercise and would have been entitled to purchase pre-July 2000 service during the 2023 Options exercise but for the fact that they are deceased.
Annual Allowance (AA)	The AA is how much can be saved towards a pension each tax year without a tax charge applying. For Firefighters' Pension Schemes this is determined by the capitalised value of the increase in the accrued benefits over the tax year (that is, the growth of the pension in the tax year). The standard annual allowance since 6 April 2016 has been £40,000 ,and will increase to £60,000 from 6 April 2023.
Connected special member	A connected special member is an individual who, at the point of making an election to join the modified scheme, is an active member of the 2015 Firefighters' Pension Scheme.
Extended Limited period	The historic service period which an individual will have the entitlement to purchase and reckon as special service in the modified pension scheme under the terms of the 2023 Options exercise.
Firefighters' Pension Scheme 1992	The Pension Scheme for Firefighters introduced in 1973 and closed to new entrants on 6 April 2006.
Firefighters' Pension Scheme 2006	The Pension Scheme for Firefighters, introduced in 2006 and closed to new entrants on 31 March 2015.
Firefighters' Pension Scheme 2015	The Pension Scheme for Firefighters who started employment as a firefighter from 1 April 2015, and those members who were already in employment on that date

	and did not qualify for (unlawful) transitional protection. Since 1 April 2022 it is the only pension scheme available to Firefighters.
Ill-health retirement	When a scheme member receives immediate access to their pension due to being permanently disabled for continuing in their role as a firefighter.
McCloud remedy	Changes to the pension scheme to remove the discrimination identified by the courts in McCloud/Sargeant cases. These changes will be implemented from 1 October 2023.
Modified Scheme	The modified section of the Firefighters' Pension Scheme 2006 that provides pension entitlement for individuals who are eligible for Matthew's remedy.
Retained firefighter	A part-time firefighter responding when required during their 'on-call' hours
Reference Pay	The whole-time equivalent pensionable pay earned by a wholetime regular firefighter employed in a similar role and with equivalent service.
Special Death Grant	A lump sum payment made to the survivors of individuals who would have been able to join the modified scheme but had died during the period 7 April 2000 and 5 April 2006 inclusive.
Special Service	The historic retained service that an individual purchases in the modified scheme.
Tax relief on contributions	The tax-free contributions that an employee can pay towards their pension accrual.
2014 Options exercise	The exercise that FRAs undertook to give eligible individuals the opportunity to join the modified scheme and purchase their historic retained service in 2014/15.

2023 Options exercise	The exercise that FRAs will undertake in 2023/24 to give eligible individuals the opportunity to join the modified scheme and purchase their historic retained service in the modified scheme.
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14 Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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