

# **Memorandum of Understanding**

**Dated 9 March 2022**

## **Retained Firefighter pension claims**

### **Introduction**

The parties have discussed the resolution of these claims. Although they are still engaged in without prejudice negotiations, they now wish to record in open correspondence their intentions regarding the scope and operation of the proposed second options exercise. This letter will remain on a without prejudice basis until it is signed by the last signatory identified below. It is not intended to be legally binding. The ultimate scope and operation of the proposed second options exercise will be set out in the legislation referred to in paragraph 8 below, which will be subject to consultation and the secondary legislation making processes.

### **Relevant Background**

The Claimants<sup>1</sup> are retained firefighters in England who brought proceedings under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 [SI 2000/1551] (“**the PTWR**”). One of the claims related to their exclusion from the Firefighters’ Pension Scheme, which was then provided solely to full-time firefighters (see *Matthews v. Kent and Medway Towns Fire Authority* [2006] ICR 365).

Retained firefighters were allowed to join the New Firefighters’ Pension Scheme (“**the NFPS**”) from 6<sup>th</sup> April 2006, pursuant to the Firefighters' Pension Scheme (England) Order 2006 [SI 2006/3432].

Following the *Matthews* case, the Secretary of State amended the NFPS to give eligible retained firefighters, employed between 1<sup>st</sup> July 2000 and 5<sup>th</sup> April 2006 inclusive, retrospective access to the NFPS as “special members” (special firefighter members, special deferred members or special pensioner members). This retrospective access was given

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<sup>1</sup> In this memorandum, “Claimants” means retained firefighters in England who have brought proceedings under the PTWR relating to their exclusion from the Firefighters’ Pension Scheme which was previously only provided to full-time firefighters (see *Matthews v. Kent and Medway Towns Fire Authority* [2006] ICR 365) or retained firefighters who have brought such claims but in addition brought claims relating to their exclusion from the Firefighters’ Pension Scheme under the Equal Pay Act 1970 and *Preston & others v Wolverhampton Healthcare NHS Trust & others* [2006] ICR 365

pursuant to The Firefighters' Pension Scheme (England) (Amendment) Order 2014 [SI 2014/445].

The employing Fire and Rescue Authorities in England (“FRAs”) then carried out an options exercise which opened on 1 April 2014 and closed on 30 September 2015 (“**the first options exercise**”), which was intended to allow existing and former retained firefighters with service between 1<sup>st</sup> July 2000 and 5<sup>th</sup> April 2006 an opportunity to join the NFPS, as special members, subject to the payment of appropriate contributions, in respect of their service during that period.

After the close of the first options exercise, the Court of Justice of the European Union ruled on 7<sup>th</sup> November 2018 in Case C-432/17 *O’Brien v. Ministry of Justice* ECLI:EU:C:2018:879 that a part-time fee-paid judge should have his pension backdated to include his service prior to the introduction of the PTWR on 1<sup>st</sup> July 2000.

### **Outline of the intended scope and operation of proposed second options exercise**

The parties have discussed the resolution of these claims and intend the following principles to apply to the scope and operation of the proposed second options exercise (subject to the consultation and legislation processes):

1. In order to provide a remedy to those retained firefighters affected by the *O’Brien* judgment, the parties intend there to be a second options exercise to provide access to the NFPS as special members to the groups of retained firefighters set out below in paragraphs 2 and 4 (and as further described in paragraphs 3 and 5), subject to the payment of appropriate contributions.
2. The parties intend that the second options exercise will provide access to the NFPS for those retained firefighters who, whether Claimants or non-Claimants, fall within one or both of the following categories:
  - (i) were employed on any date between 7<sup>th</sup> April 2000 and 30<sup>th</sup> June 2000 (inclusive);
  - (ii) were employed on any date between 7<sup>th</sup> April 2000 and 30<sup>th</sup> June 2000 (inclusive) as well as on any date between 1<sup>st</sup> July 2000 and 5<sup>th</sup> April 2006 (inclusive).

Those retained firefighters who have service within (i) or (ii) are eligible to participate in the second options exercise and will be able to purchase pension entitlement in respect of all of their service falling within the period 7th April 2000 to 5th April 2006 (inclusive), as well as any uninterrupted service up to and including 7<sup>th</sup> April 2000 and/or from 5th April 2006 onwards (to the extent not already purchased in the first options exercise). For these purposes, a period of absence with or without pay does not count as an interruption unless the absence is caused by or results in the termination of employment. A retained firefighter who leaves the employment of a fire and rescue authority and, without a break in service, takes up employment with another fire and rescue authority shall be treated as having uninterrupted service with the second fire and rescue authority.

3. The parties intend that the second options exercise will be open to individuals falling within the group described in paragraph 2 above, regardless of whether they declined an offer of membership of the NFPS during the first options exercise.
4. The parties also intend that the second options exercise should include those who commenced service on or after 1st July 2000 but before 6 April 2006 and who were eligible<sup>2</sup> to take part in the first options exercise (and join the NFPS as special members), but who were not given an opportunity to do so. For the purposes of this paragraph, the parties' intentions are that a retained firefighter will have been given "an opportunity" to take part in the first options exercise where the relevant FRA complied with Rules 5A(4), 5A(13), 6C(4), and 6C(5)(a) of Chapter 2, para 1, Schedule 1 of SI 2006/3432.
5. The parties' joint intentions as to the method of identifying retained firefighters falling within paragraph 4 are set out in the following principles:
  - a) The FRAs will have the initial responsibility for identifying those retained firefighters they contend were given an opportunity to take part in the first options exercise and providing the evidence set out in (b) below.

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<sup>2</sup> Eligible means a person satisfying rule 5A(2) of Chapter 2, para 1, Schedule 1 of SI 2006/3432.

- b) For the purposes of paragraph 4, the relevant FRA will be deemed to have complied with rules 5A(4), 5A(13) and 6C(4) of Chapter 2, 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 in Annex A and B to this Memorandum, 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 (and where the FRA can otherwise demonstrate that the mail merge was created before it is claimed the letters were sent which allows the FRAs to adduce other evidence that the letter was sent – for example an HR file note, in addition to having the correct name and address in the mail merge database), together with a template of the letter. Where an individual retained firefighter has consented in writing to communication by email, references in this subparagraph to “letters” include “emails” and references to “most recently notified home address” include “most recently notified email address”.
- c) For the avoidance of doubt, where there is a dispute between the retained firefighter and the relevant FRA in relation to the evidence in paragraph (b) (including whether or when it was received or responded to by the retained firefighter), then the matter is to be dealt with in accordance with the Independent Dispute Resolution Procedure (“IDRP”) provided for in the NFPS. The parties agree that the IDRP will be applicable to such disputes notwithstanding section 50(9)(a) of the Pensions Act 1995.
- d) If the IDRP does not resolve the matter, then the retained firefighter retains the ability to pursue the matter with the Pensions Ombudsman, subject to the provisions of section 146(6) of the Pension Schemes Act 1993.

6. The parties intend that the second options exercise will be open to all individuals falling within the groups set out at paragraphs 2 and 4 above (and as further described in paragraphs 3 and 5), regardless (a) of whether they have presented a claim to an Employment Tribunal concerning access to pension benefits for retained firefighters, and (b) regardless of whether they have now left pensionable service. The Respondents will not take any time limit points under the PTWR against these groups which would prevent them from participating in the second options exercise. Save for that situation, the Respondents reserve the right otherwise to rely on time limits, including where claims allege that the second options exercise does not constitute an adequate remedy.
7. The FBU and FRSA will not advertise amongst their members with service between 7<sup>th</sup> April 2000 and 5<sup>th</sup> April 2006 inclusive for further Claimants to present fresh claims to the Employment Tribunal concerning access to the NFPS or support such fresh claims, except in relation to claims which may fall within paragraph 15(b) below.
8. The second options exercise will be implemented via legislation amending the NFPS. The Home Office intends to introduce this legislation as soon as reasonably practicable. FRAs will be expected to commence the second options exercise as soon as reasonably practicable after the legislation comes into force, and it will run for a period of 18 months after it commences.
9. The Home Office will consult with the FRAs, the FBU and the FRSA (as well as any other persons the Secretary of State considers appropriate) prior to the legislation being laid before Parliament, in accordance with section 34(5) of the Fire and Rescue Services Act 2004. The FRAs will be required to carry out the second options exercise pursuant to the legislation.
10. Retained firefighters who decide to join the NFPS as special members under the second options exercise will be required to pay the relevant employee contributions. Those backdated contributions will also have interest<sup>3</sup> applied.

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<sup>3</sup> It is the Home Office's intention that the methodology for calculating interest due will mirror that applied under the first options exercise (as set out in the 2014 Order (SI 2014/445)).

11. Those retained firefighters who decide to join the NFPS as special members and who have already retired will have interest<sup>4</sup> added to their backdated pension arrears.
12. Retained firefighters who decide to join the NFPS as special members as part of the second options exercise, and who are unable to obtain tax relief through self-assessment will have the cost of purchasing past service reduced to reflect the tax relief that should have been received on their pension contributions. This will be calculated by reference to guidance provided by the Government Actuary's Department.
13. Upon commencement of the legislation implementing the second options exercise, the parties will invite all Claimants to withdraw their claims in the Employment Tribunal, with the exception of any claims falling within paragraph 15 below. The agreed process for seeking the withdrawal of these claims is set out in Annex C to this Memorandum.
14. The FBU and FRSA will not provide further legal assistance for Claimants who do not agree to withdraw their claims in response to the invitation at paragraph 13 above. Following commencement of the legislation implementing the second options exercise, the FRAs and the Home Office will be at liberty to apply to have any remaining claims with the exception of any claims falling within paragraph 15 below struck out, in accordance with the process set out in Annex C.
15. To the extent that there are any claims:
  - a) For consequential loss arising out of a Claimant's exclusion from the FPS, the Claimants will themselves, or through the FBU or FRSA (or those unions' legal advisers), give written notification to the GLD (on behalf of Home Office) and FRAs prior to the commencement of the second options exercise:
    - i) The identity of any Claimants who are claiming an award for consequential losses;  
and

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<sup>4</sup> It is the Home Office's intention that the methodology for calculating interest due will mirror that applied under the first options exercise (as set out in the 2014 Order (SI 2014/445)).

ii) For each Claimant, details of the heads of loss and the sum claimed under each head of loss, together with the factual and legal basis on which it is contended the loss arises.

b) concerning any inability to aggregate in the FPS periods of pensionable service as a retained firefighter with periods of service as a full-time firefighter, the Claimants will themselves, or through the FBU or FRSA (or those unions' legal advisers), give written notification to the GLD (on behalf of the Home Office) and FRAs prior to the commencement of the second options exercise of:

- i) the identity of those Claimants; and
- ii) details of the factual and legal basis of the claims.

In respect of potential claims falling within paragraph (b), the parties are committed to continuing discussions regarding these potential claims. However, if agreed resolution of the matters contained within (b) has not been achieved within six months of the date of this MOU, that circumstance will be regarded by the parties as sufficient for the stay to be lifted, on application by any party, to the extent necessary for the Tribunal to determine outstanding issues in relation to those matters.

Whilst the parties cannot fetter Claimants asserting claims under paragraphs (a) and (b) above it is their expectation that Claimants will only do so where they or their representatives have given proper grounds for making such a claim prior to the commencement of the second options exercise, as provided for by this paragraph.

16. After the expiry of six weeks from the Claimants providing that information, the parties shall seek to agree directions to allow the Tribunal to resolve any claims falling within paragraph 15.

17. All parties will make a joint application to the Employment Tribunal for a stay of 18 months, with liberty to apply.



## Annex A – template “expression of interest” letter

Dear \*

### **Re: The Retained Firefighters’ Pension Settlement**

#### **Introduction of the new modified scheme for individuals who were employed as retained firefighters for all or part of the period 1 July 2000 to 5 April 2006 inclusive**

When you started your employment as a retained firefighter with the Fire and Rescue Service, although you were covered by the same injury and compensation provisions as applied to regular firefighters, you were unable to join the Firefighters’ Pension Scheme 1992 (the “1992 Scheme”).

Following the Court’s decision in the Employment Tribunal case involving retained firefighters who made a claim for equal treatment with whole-time regular firefighters under the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Government has now introduced the terms of the Retained Firefighters’ Pension Settlement. The Settlement will offer new pension arrangements (the “*modified scheme*”) for all employees who were employed as retained firefighters between 1 July 2000 and 5 April 2006 inclusive (the “*relevant period*”).

The pension benefits on offer under the terms of the modified scheme are comparable, albeit different, to those provided under the terms of the 1992 Scheme. Full details on the terms of the modified scheme are set out in the accompanying employee information leaflet.

Please note that those who were employed on a day crewing contract, whereby having retained duties *and* whole-time firefighter duties under the **same contract of employment** are not eligible to join the modified scheme.

#### **Options Exercise**

Fire and rescue authorities are now required to undertake an options exercise to provide those individuals affected with an opportunity to join the modified scheme. Our records show that you were serving as a retained firefighter during the relevant period and may be entitled to join. If you are interested in joining the modified scheme but have previously joined the Firefighters’ Pensions Scheme 2006 (the “2006 Scheme”) from 6 April 2006 in respect of your retained employment, you will have the option of converting your 2006 Scheme service to service in the modified scheme.

If you express an interest in joining the modified scheme on the ‘expression of interest form’ enclosed, the details you provide will be treated at this stage as a request for further information and will not bind you to purchase pension rights. This information will be used to provide you with a personalised statement of the past service in respect of which you may be entitled to purchase, and to provide you with a quote on how much it will cost you to purchase that service. There will be **no commitment** to purchase any service at this stage.

**ACTION REQUIRED** - If you are interested in joining the modified scheme then it is important that you complete the attached form and return it **urgently** to us or, in the case where you are no longer employed as a retained firefighter, to your last employing fire and rescue authority.

**Please note** that if you fail to respond to this notification, your option to join the modified scheme may be lost. Once the options exercise has concluded there will be no further opportunity to join. The enclosed form **must** be completed and returned regardless of whether or not you intend to join.

If you were employed as a retained firefighter by more than one fire authority during the relevant period, you should also approach each authority as they will be responsible for implementing your pension entitlement in respect of that particular period of employment. You will also need to confirm on your expression of interest form whether you would like to combine the periods of retained service as a single membership. In this case, your last employing fire authority will liaise with your former employing authorities in order to determine your entitlement.

The employee contribution rate for purchasing the backdated service will reflect the contribution rate payable in the 1992 Scheme i.e. 11% of pensionable pay before April 2012 and the relevant contribution tariff in the 1992 Scheme for any period on or after April 2012. There will be a number of available options for members to pay back these contributions, please refer to the accompanying employee information leaflet.

#### Time-limited death grant

If you are the surviving spouse or civil partner of someone who was employed as a retained firefighter during the relevant period and who continued in that employment until they died before 6 April 2006, then you may be entitled to receive the payment of a death grant equal to 2.5 times the pensionable pay that the deceased earned in their last year of service, as determined by the fire authority. Your entitlement will be subject to the submission of an application to the deceased member's last employing fire authority before the 1 April 2015.

**Please note** that where there is no surviving spouse or civil partner, an eligible child of the deceased member, to be determined as on the date of the deceased's death, may make the application to the fire authority for the death grant before the 1 April 2015. Where the child is still a minor, the legal guardian of the child can make the application on behalf of the child.

#### Compensatory Injury Awards

Under the current terms of the Firefighters' Compensation Scheme there is a protected right for retained firefighters appointed before 6 April 2006 to receive a whole-time equivalent injury award and compensatory ill-health pension where they are permanently disabled whilst undertaking their role as a firefighter i.e. a qualifying injury. You will wish to note that this protected right **will be removed** from the 1 April 2014 regardless of whether you elect to join the modified scheme.

Any retained firefighter who suffers a qualifying injury on or after 1 April 2014 will receive a pro-rated injury award to reflect the part-time status of their employment. This is same treatment for retained firefighters appointed on or after 6 April 2006, and for part-time regular firefighters. The removal of these rights **will not affect** those former retained firefighters currently in receipt of an injury award.

#### Next Steps

Once the fire authority has received your completed expression of interest form, they will respond to you in writing setting out the amount of service you are entitled to purchase and the full cost of

purchasing this past service within 6 months of receiving your form. Once you have received the quote you will have 4 months to confirm that you wish to join the modified scheme; it will be at this stage that you will be required to commit to paying the backdated contributions, including interest, if you wish to join the modified scheme. Further details can be found in the employee information leaflet accompanying this letter.

If you have any questions about membership of the new modified scheme or would like additional information about this options exercise please contact [    ].

Yours sincerely

## Annex B – template “detailed offer letter”

Dear xx

### **Re: The Retained Firefighters’ Pension Settlement- Introduction to the new modified scheme**

I am writing to provide you with further information regarding your opportunity to join the modified pension scheme. Our records confirm that you were serving as a Retained Firefighter during the relevant period (2000- 2006). By returning the expression of interest form you have expressed an interest in joining the modified Scheme.

The information you supplied on your ‘expression of interest form’, along with the information we already hold, has been used to provide your individual statement of:-

- past pensionable service which you may be entitled to purchase, and
- a quote on how much it will cost for you to purchase that service.

Fire and Rescue Authorities can only provide a statement of cost and information about your options and cannot offer any financial advice. It is therefore your responsibility to seek independent financial advice as to how you proceed if you wish to do so.

You will find enclosed with this letter a document entitled ‘The Retained Firefighters’ Pension Scheme- modified pension arrangements and terms of payment for eligible individuals’. This is an informal guide which provides more information about the Scheme and your entitlements. It also contains the statement of individual details and the options election form.

As previously outlined, the modified scheme will be subject to the reforms that apply to all public service schemes from 1<sup>st</sup> April 2015. Members of the modified scheme who are not protected will transfer to the 2015 Firefighters’ Pension Scheme on 1 April 2015 or later if they are taper-protected.

If you are considering the option to convert service in the modified scheme to 2006 scheme membership and were between age 45 and age 50 on 1<sup>st</sup> April 2012, please be aware that this may impact your protected status. The Normal Retirement Age is 55 in the Modified Scheme and 60 for the 2006 scheme. Therefore members of the modified scheme as at 1<sup>st</sup> April 2012 who were within 10 years of age 55 will be protected, this changes to 10 years of age 60 for protection criteria of members of the 2006 scheme at 1<sup>st</sup> April 2012.

If you wish to progress the option to join the Modified Pension Scheme, you are now required to return the signed options election form, and a signed copy of this letter, **within four months of the date of this letter**, otherwise your option to join the Modified Scheme may be lost. Once the options exercise has concluded there will be no further opportunity to join.

**NB \* please return the options exercise form as soon as possible to confirm/decline if you wish to join this scheme.**

As detailed in previous correspondence, the employee contribution rate for purchasing the backdated service will reflect the contribution rate payable in the 1992 Scheme i.e. 11%

of pensionable pay before April 2012 and the relevant contribution tariff in the 1992 Scheme for any period on or after April 2012.

By signing the options form you are committing to paying the backdated contributions, including interest as outlined in the statement of calculations. The interest amount will increase once an actual election to proceed is received.

If you have any questions about the process, please contact me on the number above. Payment can be made by periodic contributions or by lump sum as outlined in the document. The election to join takes effect on the day on which the notice of election (on the options election form) is received by the FRA **and is irrevocable once the first contribution, or the lump sum, has been paid.**

There may be options to transfer pension rights from a previous pension arrangement, including the FPS and NFPS. This would be dealt with after you have joined the Modified Scheme, although there will be associated time limits and so this will need to be dealt with promptly if you express an interest in a transfer of, or conversion of, pension rights.

Please sign the declaration below, and return this letter with the signed options election form.

If you have changed your mind, or wish to obtain further information please contact me on the number above.

Yours sincerely,  
xxx

## **Annex C – Agreed process for the withdrawal of claims**

### **Claims withdrawal process prior to commencement of the proposed legislation**

1. Within 6 weeks of this Memorandum being signed by all parties, the FBU and FRSA will notify their members who may be affected by this Memorandum, using any usual written means for communicating such matters, that:

- a) it has been agreed with the Home Office and FRAs that their claims will be resolved via a second options exercise, pursuant to legislation;
- b) a detailed explanation of the terms of the second options exercise will be provided once the required legislation has been produced by the Home Office in draft.

2. Within six months of this Memorandum being signed by all parties, the Claimants' legal representatives (or their union) will write to the Claimants notifying them of the same information as set out in sub paragraphs 1 a) and b) above.

3. Once a draft of the legislation implementing the second options exercise is available, (and in any event no later than 3 weeks prior to the second options exercising commencing), and provided that the draft is consistent with the intended scope and operation of the second options exercise set out in this Memorandum:

- a) the FRAs will write to all those with service as a Retained Firefighter between 7 April 2000 and 5 April 2006 at their last known address notified to the FRA,
- b) the Claimants' representatives will write to the Claimants; and
- c) the FBU and the FRSA will write to their Retained Firefighter members;

in each case notifying them that:

- i) The parties agree that the terms of that draft legislation, if approved by Parliament and made in terms that are consistent with the intended scope and operation of the proposed second options exercise set out in this Memorandum, provide an effective remedy in respect of claims or

potential claims (relating to the matters set out in the footnote on page 1 of this Memorandum) with the exception of any claims falling within paragraph 15 of this Memorandum and subject to compliance with that paragraph 15;

- ii) It is intended that eligibility to participate in the second options exercise will be as set out in the draft legislation<sup>5</sup>;
- iii) Retained Firefighters identified by an FRA as ineligible to participate in the second options exercise will be entitled to challenge that decision via the usual IDR process, and, if necessary, the Pensions Ombudsman subject to the provisions of section 146(6) of the Pensions Schemes Act 1993;
- iv) There will be specific timeframes (set out in the legislation) for FRAs to notify eligible retained firefighters of their options under the second options exercise, and for eligible retained firefighters to respond. Eligible retained firefighters are advised to look out for correspondence from their FRA, and to respond promptly to it;
- v) The FBU and FRSA will, except in respect of any claims falling within paragraph 15 of this Memorandum, withdraw union funded legal representation in respect of the Employment Tribunal proceedings from any Union Member where she or he does not give consent to the withdrawal of their claim in the Employment Tribunal following the commencement of the legislation;
- vi) Shortly after the commencement of the legislation, Claimants will be sent a further letter inviting them to withdraw their claims in the Employment Tribunal. Failure by a Claimant to either withdraw their claim or consent to their claim being withdrawn by their legal

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<sup>5</sup> The parties expect the provisions of the draft legislation will be in accordance with paragraphs 2-5 of this Memorandum.

representative (or their union) will ultimately result in an application to the Employment Tribunal by the relevant FRA and/or Home Office to dismiss their claim or for an application for the claim to be struck out.

#### **Claims withdrawal process following commencement of the proposed legislation**

4. With the exception of any named Claimants already identified pursuant to paragraph 15 of this Memorandum, and provided that the terms of the legislation are consistent with the scope and operation of the second options exercise set out in this Memorandum, the Claimants' representatives will, within eight weeks of the commencement of the legislation, write to the Claimants they represent:
  - a) notifying them that the FBU or FRSA (as appropriate) considers that the legislation constitutes an effective remedy to their claims;
  - b) notifying them that, now that the legislation has come into force, the FBU or FRSA will not provide further legal representation in respect of their claims. This will not, however, prevent the FBU or the FRSA from providing Claimants or members with legal assistance for the purpose of enforcing entitlements under the legislation, including by way of reference to the IDRP and subsequently the Pensions Ombudsman;
  - c) inviting the individual to indicate their consent to the withdrawal of their claim in the Employment Tribunal by return slip or other suitable means.
  
5. Following confirmation by the Claimants of their instructions under paragraph 4 of this Annex, the Claimant's legal representatives will then write to the Employment Tribunal, copied to the legal representatives of the FRAs and the Home Office, in respect of any Claimant they are representing either:
  - a) withdrawing the claim; or



- b) notifying the Employment Tribunal that they will no longer represent the Claimant.
6. If a Claimant does not give instructions within three months of the letter referred to in paragraph 4(c) of this Annex, the Claimants' legal representative (or their union) will, within one month (of the expiry of that three month period), write to the Employment Tribunal, copied to the legal representatives of the FRAs and the Home Office, informing them that they no longer act for that Claimant.
7. Within two weeks of the commencement of the legislation, each FRA will write a letter to any unrepresented Claimants that they employ or formerly employed during the period set out in paragraph 3(a) of this Annex:
- a) notifying them that the FRAs and the Secretary of State consider that the legislation constitutes an effective remedy in respect of their claims;
  - b) reminding them of the time window in which to take part in the second options exercise and the method for doing so;
  - c) inviting them to withdraw their claims before the Employment Tribunal;
  - d) advising them of the steps they need to take to withdraw their claims before the Employment Tribunal;
  - e) notifying them that, in light of a) above, if their claims are not withdrawn, the FRA is at liberty to:
    - i) apply to the Employment Tribunal, asking it to send the unrepresented Claimants a "show cause" letter, in which the Tribunal will invite them to show the Tribunal why their claim should be allowed to proceed and what remedy they seek, given the commencement of the legislation; and/or

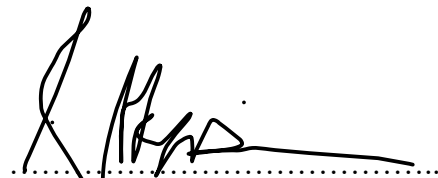
ii) apply to the Employment Tribunal for an order that their claims be dismissed and/or struck out.

8. Upon the expiry of eight months from the commencement of the legislation, and except in relation to claims notified under paragraph 15 of the MOU, the FRAs and/or the Home Office or their representatives will be at liberty to write to the Employment Tribunal applying for the Claimants' claims to be either:

a) formally dismissed upon withdrawal; or

b) in respect of any claims which have not been withdrawn, dismissed on the basis that the legislation constitutes an effective remedy in respect of their claim, and that to continue with the claim amounts to unreasonable conduct.

Signed by Rachel Atkinson/Sarah Gawley  
For and on behalf of the Home Office



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Director of Fire, Events and  
Central Management

.....  
Date 3 March 2022

Signed by Jeff Houston

For and on behalf of  
the Local Government Association



Head of Pensions

.....7<sup>th</sup> March 2022.....  
Date

Signed by  
For and on behalf of the FBU



.....  
General Secretary

.....9 March 2022.....  
Date

Signed by Tristan Ashby  
For and on behalf of the FRSA



.....  
Chief Executive Officer

07 March 2022  
.....  
Date