



Department for
Communities and
Local Government

Firefighters' Pension Scheme: transitional arrangements for the Firefighters' Pension Scheme 2015 and the Firefighters' Compensation Scheme 2006, and amendments to the retained section of the New Firefighters' Pension Scheme 2006

Consultation response



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The consultation

- 1.1 This paper sets out the Government's response to the consultation regarding the transitional arrangements for the Firefighters' Pension Scheme 2015 and the Firefighters' Compensation Scheme 2006, and amendments to the retained section of the New Firefighters' Pension Scheme 2006, which ran from 22 January to 19 February 2015. It outlines the main themes raised by respondents under each consultation question and attempts to capture the range of views expressed.
- 1.2 The consultation set out:
- the transitional arrangements for the Firefighters' Pension Scheme 2015 (the "Transitional Arrangements"), which establish how those who move from the 1992 and 2006 schemes will be treated and have their benefits calculated;
 - amendments to update the Firefighters' Compensation Scheme 2006 (the "Compensation Scheme") to ensure that all firefighters, including those in the 2015 scheme, are covered by the compensation arrangements in the event of injury or death in service; and
 - amendments to the retained section of the New Firefighters' Pension Scheme 2006 (the "Modified Scheme") to extend by six months the time available to fire and rescue authorities to complete the enrolment process for eligible retained firefighters who indicate that they wish to join the scheme. The changes also ensure that, where appropriate, interest is charged on the contributions being paid, in line with the original policy intention.

Background to the consultation

- 1.3 In 2010, the Government commissioned Lord Hutton, as chair of the Independent Public Service Pensions Commission, to review public service pension schemes to make them affordable and sustainable in the long-term, and fair to both public service workers and taxpayers. Lord Hutton's final report was published on 10 March 2011. In that report, he made clear that change was needed to "make public service pension schemes simpler and more transparent, fairer to those on low and moderate earnings". The Government accepted Lord Hutton's recommendations as a basis for reforming public service pension schemes.
- 1.4 The Government held a series of meetings with representative bodies, including unions and employers, to discuss the reforms to the firefighters' pension scheme, prior to the publication of the Proposed Final Agreement on 23 May 2012. This set out the scheme design for a new Firefighters' Pension Scheme to be introduced in England from 1 April 2015. The Agreement included the proposed approach for the calculation of certain, specified benefits for firefighters who transferred from the 1992 or 2006 scheme into the 2015 scheme and the protection of all accrued rights.
- 1.5 Starting in December 2013 and subsequently in May 2014, the Department conducted two statutory consultations on new draft regulations covering the principal elements of the 2015 scheme. Once all consultation responses had been fully considered and taken into account, The Firefighters' Pension Scheme (England)

Regulations 2014 were laid in Parliament on 28 October 2014. The Regulations can be found at: <http://www.legislation.gov.uk/ukxi/2014/2848/made>.

1.6 Following on from this, the Government has also undertaken two further consultations: the first on the governance arrangements for the 2015 scheme, and the second on the Transitional Arrangements, and amendments to the Compensation Scheme and to the Modified Scheme. This latter consultation ran from 22 January to 19 February 2015. The consultation documents can be found at <https://www.gov.uk/government/consultations/firefighters-pension-schemes-transitional-arrangements>. This document responds to that consultation, which outlined the last tranche of changes required to ensure that the 2015 scheme becomes fully operational on 1 April 2015.

Summary of proposals

1.7 The consultation, published on 22 January 2015, sought responses from interested parties on three separate issues. First, the draft Transitional Regulations and associated policy, which will cover the detailed transitional arrangements for individuals who transfer from either the Firefighters' Pension Scheme 1992 ("the 1992 scheme") or the New Firefighters' Pension Scheme 2006 ("the 2006 scheme") to the Firefighters Pension Scheme 2015, ("the 2015 scheme"). The Regulations concern those who transfer either on 1 April 2015 or in the subsequent seven years, and are expected to come into force on 1 April 2015. In particular the Regulations cover:

- retirement pension
- ill-health benefits
- survivor benefits
- refunds of contributions
- transfers between different pension schemes

1.8 The second issue on which responses were sought concerns changes to the Compensation Order, which should also come into effect on 1 April 2015. The changes ensure that all firefighters, including those in the 2015 Scheme, are covered by the compensation arrangements in the event of injury or death in service.

1.9 Finally, the consultation sought representations on the proposed amendments to the 2006 Scheme in respect of special members of the modified section of the 2006 scheme. These amendments extend the time available to fire and rescue authorities to enrol eligible firefighters into the scheme by six months. The changes also ensure that, where appropriate, interest is charged on the contributions being paid, in line with the original policy intention. It also corrects a small number of errors in the commutation factors that apply to special members on retirement.

1.10 The consultation sought respondents' views on the proposals and, where possible, whether the draft regulations reflected the policy set out. In particular, interested parties were asked to address the following questions:

Q1. Does the draft Transitional Regulations meet the policy commitments for transitional arrangements set out in the Proposed Final Agreement and other published policy documents?

Q2. Does the draft Transitional Regulations correctly calculate the benefits (including on ill-health) for transition members?

Q3. Do the draft amendments to the Compensation Scheme ensure that new and transition members of the 2015 scheme will be eligible for compensatory benefits and that they will be correctly calculated?

Q4. Do you agree that all eligible members of the modified pension scheme who have yet to be enrolled by their employer should be provisionally enrolled into the modified scheme until they have completed their options exercise? Do you agree that a further 6 months provides sufficient time for authorities to conclude the exercise?

Q5. Do the draft amendments to the modified section of the 2006 scheme deliver the policy objectives?

Q6. Do you agree that the pensionable pay bands in the 1992 and 2006 schemes should be updated on the same basis that apply to the 2015 scheme?

Q7. Do you consider that there are any further equality issues concerning these draft regulations, which the Department hasn't considered in the Equality Statement for the published 2015 scheme?¹

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367671/Firefighters_Pension_Scheme_2015_Equality_Statement.pdf

Summary of responses received

2.1 15 responses to the consultation were received in total, with 53% from fire and rescue authorities or their pension administrators. A full list of respondents is reproduced below:

1	London Fire Brigade
2	West Midlands Fire and Rescue Authority
3	County Durham and Darlington Fire and Rescue Authority
4	Tyne and Wear Fire and Rescue Authority
5	West Sussex County Council
6	West Yorkshire Fire and Rescue Authority
7	LGSS Pensions (pensions administrator for Cambridgeshire and Northamptonshire)
8	Essex Pension Fund
9	Chief Fire Officers' Association
10	Fire Officers' Association
11	Retained Firefighters' Union
12	Local Government Association
13	Aquila Heywood
14	Private Individual
15	Private Individual

2.2 On balance, the majority of respondents agreed that the Transitional Regulations met the policy commitments for transitional arrangements set out in previous Government documents and the consultation. There was also broad agreement that the regulations correctly calculated benefits for transition members. There was similar strong agreement from respondents regarding the Compensation Scheme, in that the regulations ensure that new and transitional members of the 2015 scheme will be eligible for compensatory benefits, and that those benefits will be correctly calculated.

2.3 When considering the Modified Scheme, there was general agreement from respondents that the time limit for the options exercise to be completed should be extended, and strong consensus that the draft amendments to the modified section

delivered the policy objectives. There was a similar broad consensus that the pensionable pay bands should be uprated on the same basis as the 2015 scheme.

2.4 Finally, only one equalities issue was raised in respect of the current set of draft regulations. Where respondents did raise concerns they were typically in relation to the need for reform and the introduction of the 2015 scheme. The Government has previously responded to these issues through the consultation response on the 2015 scheme regulations and the accompanying Equalities Statement. No further comment is provided in this document on these topics, which do not pertain to the draft regulations which are currently being consulted upon.

2.5 The most common suggestion relating to the current draft regulations was to propose alternative methods for calculating the uprating of pensionable pay bands. Respondents also discussed the requirement to extend the time available to complete the options exercise for the Modified Scheme, and the extent to which this would affect qualifying members.

The responses in detail, including the Government's response

Q1. Does the draft Transitional Regulations meet the policy commitments for transitional arrangements set out in the Proposed Final Agreement and other published policy documents?

- 3.1 The Department received 10 responses to this question. Eight of these agreed or broadly agreed that the Transitional Regulations meet the original policy commitments.
- 3.2 One respondent disagreed with the overall requirement for reform, but agreed that the Transitional Regulations 'appear to deliver what is required'.
- 3.3 One respondent noted that the draft regulations amended the 2015 scheme to allow members to commute their 1992 scheme benefits under the 2015 scheme when taking an ill-health pension. They questioned whether the 2015 scheme should also be changed to allow members to commute their 1992 scheme benefits for an age-related pension, in order to ensure that accrued rights are protected. However, this is not necessary as the member can access and commute their 1992 scheme age-related pension from 1992 scheme. The change is only required for the ill-health pension because that must be paid from the 2015 scheme.
- 3.4 Only one respondent disagreed, feeling that there was still some debate regarding the evidence used to support the introduction of the 2015 scheme. As such, the respondent believed that it would not be possible to say with absolute certainty that all of the published policy commitment had been met.
- 3.5 Several respondents also took this opportunity to question why the protection afforded by the Transitional Arrangements is based on the member's age (and hence distance from normal pension age), rather than their length of service.
- 3.6 The Transitional Arrangements, which govern the movement of firefighters from their existing 1992 or 2006 schemes into the 2015 scheme, have been consulted upon and the arrangements set out in The Firefighters' Pension Scheme (England) Regulations (2014). The Government has already responded to consultees' views and the consultation documents, including the Government's response, can be found at: <https://www.gov.uk/government/consultations/consultation-on-the-regulations-to-introduce-a-new-firefighters-pension-scheme-from-april-2015>
- 3.7 As no specific issues were raised, the Government believes that the draft Transitional Regulations correctly reflect the published policy.

Q2. Does the draft Transitional Regulations correctly calculate the benefits (including on ill-health) for transition members?

- 3.8 Of the 11 responses that the Department received to this question, seven confirmed that the Transitional Regulations correctly calculate benefits for transition members. One respondent did not feel qualified to judge, but noted that the regulations appeared to be correct.
- 3.9 One respondent questioned whether the 2006 and 2015 schemes calculated the ill-health retirement benefit differently. This is not the case. The only difference between the ways in which the schemes calculate this benefit is in respect of the Transitional Arrangements. Here, because the ill-health pension is paid from the 2015 scheme, the transitional member's lower tier ill-health pension needs to include an equivalent amount to that which would have been payable under their prior scheme for their prior scheme service, in order to take account of any accrued rights.
- 3.10 While agreeing with the consultation question, one respondent (quoted below) registered a concern that this two-part calculation of a transition member's lower tier ill-health pension might place an unnecessary burden on payroll providers. Since the member will qualify for an ill-health benefit when in the 2015 scheme, the benefit must be paid from that scheme, but with due reference to the benefit accrued in a previous scheme. The Government is committed to safeguarding member's accrued rights and, as such, believes that this calculation is necessary to help ensure that the member's benefits are calculated correctly.

Whilst we understand the wish to pay the ill-health benefits from the 2015 scheme, we believe the need to move a benefit from one scheme's payroll system to another adds unnecessary burden on payroll providers. It would be more efficient to either leave all the benefits payable from the 2015 Scheme or have the benefits accrued from the 1992 or 2006 schemes remain payable from that scheme.

- 3.11 One respondent believed that the draft regulations do not appear to be aligned with a recent announcement restricting the transferring of assets from the scheme. If given royal assent, the Pensions Scheme Bill currently passing through Parliament will mean that from 6 April 2015, it will not be possible to transfer a firefighter pension a defined contribution scheme. As this will be set out in primary legislation, the regulations do not need to specify that transfers out of the pension scheme can only be to another defined benefit scheme.
- 3.12 Finally, two respondents suggested that the consultation document could have been strengthened by including sample calculations of ill-health benefits. As a result of this, one of these respondents' replies to the consultation question indicated that they felt unable to comment as they argued that it is only once administrators start to use the regulations that any potential discrepancies come to light. The same respondent also gave the same response to the third and fifth consultation questions, relating to the Compensation Scheme and the Modified Scheme, respectively. The Government notes those concerns and understands that the Local Government Association is considering

the provision of guidance to fire and rescue authorities on the 2015 scheme to support administrators.

Q3. Do the draft amendments to the Compensation Scheme ensure that new and transition members of the 2015 scheme will be eligible for compensatory benefits and that they will be correctly calculated?

3.13 Of the 10 responses to this question, no-one disagreed, seven were in agreement, and a further respondent indicated that while they felt unable to comment, the calculation of benefits appeared to be correct.

Q4. Do you agree that all eligible members of the modified pension scheme who have yet to be enrolled by their employer should be provisionally enrolled into the modified scheme until they have completed their options exercise? Do you agree that a further 6 months provides sufficient time for authorities to conclude the exercise?

3.14 The Department received 11 responses to this consultation question, of which six were in agreement with the Government's proposals.

3.15 Two respondents, who were not involved in the administration of the Modified Scheme option exercise, did not oppose the Government's proposals, but did not feel qualified to comment on whether an additional six months would be sufficient to complete the exercise.

3.16 An additional respondent agreed with the proposals, but requested that the Government provide an explanation as to why it had become necessary. The Government has elected to provide this extension in response to fire and rescue authorities' concerns that they would not be able to complete the process by the existing deadline of 31 March 2015. Since the Government's intention is to ensure that all qualifying members have the opportunity to join the modified scheme, an extension in these circumstances was deemed appropriate.

Assuming this covers only those that have responded within the original time limits to express an interest in taking up the offer, these seem like reasonable steps to enable FRAs that have been unable to complete the exercise within the original timeframe to do so within the extended periods suggested.

- 3.17 While agreeing with the proposals, one of the respondents (quoted above) indirectly sought clarification on which members would be affected by the extension. As set out in the consultation paper, the Government is extending the time to complete the options exercise for all outstanding cases that are being processed, and not concluded, as at 1 April 2015. As such, the provisional enrolment provision will apply only to those cases where the relevant fire and rescue authority has notified the individual about their eligibility to join the 2015 Scheme on or before 31 March 2015. Furthermore, the provision will not apply to those individuals who had an eligibility to join the Modified Scheme and the fire and rescue authority is satisfied that they have declined the offer, or are no longer eligible, to join prior to 1 April 2015. The member will continue to have four months to make a final decision as to whether or not to join the Modified Scheme and, as such, fire and rescue authorities will be required to provide all provisionally enrolled members with a pension quote by the end of May 2015. The Government considers that this extension will provide the necessary time to complete the exercise.
- 3.18 One of the respondents who supported the proposals queried how they would affect those who had already joined the 2006 scheme. The options available to those individuals who are eligible to join the scheme, including those eligible members who joined the 2006 Scheme, will not be affected by the proposal to provide an extension to the options exercise deadline. The extension of the options exercise will simply provide fire and rescue authorities with an additional six months to conclude all those cases that had been identified and are being processed on or before 31 March 2015.
- 3.19 Another of the respondents who supported the proposals sought confirmation that where a member was provisionally enrolled in the Modified Scheme, they would not be required to start making financial contributions until they had formally elected to join. The Government confirms that no financial commitment is necessary until the provisionally enrolled member makes a formal election to join the scheme.
- 3.20 Only one respondent (quoted below) disagreed with the provisional enrolment of members, while agreeing with the six month extension to the options exercise. As indicated in paragraph 3.17 (above), if members are not provisionally enrolled by 1 April 2015, they will lose any entitlement to join the Modified Scheme. Since the Government's intention is to provide qualifying members with the opportunity to join the Modified Scheme, it considers that provisional enrolment is a necessary means to achieve this end.

CFOA are of the opinion that there is NO necessity to auto-elect individuals into the modified scheme, as that individual can make their own determinations at the conclusion of the extended Option Exercise period.

Q5. Do the draft amendments to the modified section of the 2006 scheme deliver the policy objectives?

- 3.21 Of the 11 responses that the Department received to this question, nine were in agreement. One respondent agreed, but also stated that the amendments would not have been required without the imposition of reforms, to which they remained opposed.

Since the draft amendments serve to correct existing legislation which extends benefits to those who should have been able to receive them, the Government believes that the amendments and the corresponding legislation are beneficial to qualifying members.

Q6. Do you agree that the pensionable pay bands in the 1992 and 2006 schemes should be updated on the same basis that apply to the 2015 scheme?

3.22 The Department received 12 responses to this question, of which 9 were in agreement. For example:

There has been much discussion over the pay bands previously and it was clear that while the original pay bands were an issue there was no obviously alternative solution that would cover every eventuality. The reason being the future pay increases (if any) are an unknown. The proposed pay bands are an acceptable alternative to those originally in place.

3.23 An employee's contribution rate depends on their pensionable salary, set out as contribution bands in legislation. To ensure that these bands recognise any potential increase in firefighters' salaries that reflects inflation, the consultation proposed increasing the 1992 and 2006 scheme rates by 1% each year to 2018-19. This is the approach already taken for the 2015 scheme.

3.24 One respondent agreed that the fixed 1% uplift avoided the lack of clarity over bandings, but suggested that it might be more appropriate to link the uplifting to Consumer Price Index over the previous year. A second suggested linking the uplift to an 'appropriate indicator', such as the Consumer Prices Index, and a third commented that the 1% uplift 'would appear to be arbitrary,' proposing uplifting pay bands with reference to national pay awards.

3.25 The Government proposes to uplift the bands by 1%, in keeping with the consultation because:

- Applying 1% each year until 2018-19 provides members with greater certainty about what they will pay for this period. The alternative rates proposed would vary each year.
- The proposed approach is consistent with the 2015 scheme arrangements. Members could also move into a higher contribution rate band if the alternative rate dropped below any inflationary pay award.
- The contribution rates paid will need to be reviewed in 2018-19 as part of the next valuation, so there is a clear opportunity to review the contribution bands again at this time.

Q7. Do you consider that there are any further equality issues concerning these draft regulations, which the Department hasn't considered in the Equality Statement for the published 2015 scheme?²

- 3.26 The majority of respondents to this question (seven out of the 11 received) did not consider there to be any further equality issues. One respondent did not feel able to comment.
- 3.27 Several respondents raised issues already covered by the Equality Statement for the 2015 scheme regulations, such as the determination of tapered and full protection. The Government believe that these issues were adequately addressed in that Equality Statement.
- 3.28 Two respondents noted that the Department does not hold data on certain groups with protected characteristics, meaning that it is difficult to fully assess any potential equality issues relating to these groups. The Government believes that a full equalities assessment has been carried out, using the best information available from fire and rescue authorities.

Temporary Allowances

- 3.29 Some temporary allowances are pensionable in the 1992 scheme. So long as they were in payment on 1 July 2013, the authority treats them as pensionable and the firefighter continues to receive them. However, they are not pensionable once a member moves into the 2015 scheme. One respondent argued that this would lead to members being treated differently on the basis of age, as the allowances would only remain pensionable for fully protected members. They suggested the existing arrangements continue into the 2015 scheme.
- 3.30 The difference in treatment arises because of the Government's policy to offer full protection based on proximity to normal pension age. This policy was assessed in the 2015 scheme Equality Statement, which concluded that the protections could be objectively justified as proportionate, in order to deliver the legitimate aims of the reforms. The Government does not therefore intend to allow temporary allowances to be pensionable once the member moves into the 2015 scheme.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367671/Firefighters_Pension_Scheme_2015_Equality_Statement.pdf

Other responses relating to the Transitional Regulations but not covered by the consultation questions

General drafting comments

3.31 The consultation responses highlighted a few very minor drafting changes which will be reflected in the final regulations. However, one respondent also suggested that the treatment of someone who has full or tapered protection and opts out of the 1992 or 2006 scheme was unclear. The Government believes this position is set out in Paragraphs 9, 10, 15 and 16 of Schedule 2 of the regulations for the Firefighters' Pension Scheme 2015. If these members want to re-join a pension scheme and are still protected, they should be able to join the 2006 scheme and reactivate their pension if they return within five years. They cannot re-join the 1992 scheme as it is already closed.

Authority initiated retirement

3.32 Where an authority initiates early retirement in the 2006 scheme, they must consider paying the member an unreduced pension. The 2015 scheme includes a similar provision, but also requires that they consider paying an unreduced pension in respect of a transition member's 2006 scheme benefits at the same time. It would for the authority to determine whether to pay an unreduced pension under the 2006 scheme, as well as the 2015 scheme.

3.33 One respondent questioned whether this should be the case as the cost of paying an unreduced pension in the 2006 scheme is higher than that of the 2015 scheme. Since authorities are already required to consider paying an unreduced pension under the 2006 scheme, this does not introduce a new requirement and the Government does not believe it is necessary to amend the draft regulations.

Re-joiners policy

3.34 The consultation sets out the terms under which someone who has moved into the 2015 scheme can leave and reactivate, or link, their earlier pensionable service when re-joining. Paragraph 3.4 of the consultation paper initially outlines the transitional arrangements, stating that members of the 2015 scheme who leave and re-join within five years, may link their past and new pensionable service. However, in paragraph 4.2 when describing the policy specifically for 2006 scheme members who have moved into the 2015 scheme, the paper added another possibility: if the member leaves and returns after five years, but having been in another public service pension scheme, they too can re-activate their earlier pensionable service.

3.35 The Government notes that the second statement should have made clear that this is only true in relation to one particular aspect of their benefits: "the final salary link". For reactivating membership from either the 1992 or 2006 scheme, the correct position was set out earlier in the consultation paper and the 2015 Scheme Equality Statement.

3.36 The correct position, as set now set out in the Regulations, is as follows:

- Members re-joining within five years can reactivate and link their new service with any previous linked service.
- If they are not a member of the pension scheme for more than five years, their benefits remain deferred.
- If a member leaves and re-joins after more than five years, but has been in another public service pension scheme, their prior service will remain deferred, but they will be able to reactivate the final salary link.

Protection after retirement

3.37 A further change is being made to the 2015 scheme to make clear the original policy intention for members with full and tapered protection. When a protected member retires and takes their 1992 or 2006 scheme benefits, they have accessed the benefits covered by the protection. As such, should that member then decide to return to work and join a pension scheme, they would no longer be protected and would be eligible to join the 2015 scheme only. This is in keeping with the policy of protecting those closest to retirement as they have less time to adapt their retirement plans. Since the individual will have retired, the protection is no longer required.