

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

Sent by email to: Firepensionspublicservicepensionsremedy@homeoffice.gov.uk

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Consultation on amendments to the Firefighters' Pension Scheme (England) Regulations 2014

The [Firefighters Pensions \(England\) Scheme Advisory Board](#) (the Board) submits its response to the Home Office consultation seeking views on the draft Firefighters' Pension Scheme (England) Regulations 2014. Thank you for the opportunity to provide this response.

This response is submitted on behalf of the Board by the Local Government Association (LGA) who act as secretariat to the Board. Neither the Board nor LGA act in the capacity of [scheme manager](#) or Fire and Rescue Authority (FRA). In formulating our response, we have taken advice from our legal partners, Weightmans LLP, as well as First Actuarial and industry practitioners.

The purpose of the Board is to provide advice in response to a request from the Secretary of State on the desirability of making changes to this scheme and any connected scheme and to provide advice to scheme managers and local pension boards in relation to the effective and efficient administration and management of this scheme and any connected scheme.

If you have any questions, please let me know.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Joanne Livingstone".

Joanne Livingstone
Chair of the Firefighters' (England) Pension Scheme Advisory Board

Consultation questions

Question 1. Do the proposed changes to regulation 18(2)(e) provide scheme members with an entitlement to treat any periods of unpaid carer's leave as pensionable where they pay the relevant employee contributions?

1. Yes. We are of the view that the proposed amendment provides scheme members with this entitlement, on the proviso that they pay the relevant employee contributions (which is how the other elements of certain unpaid leave are treated in regulation 18(2)(e)). We note that there is already a discretion under regulation 18(2)(f) which could be used to ensure that the Carer's Act 2023 but that is a discretion only.
2. The Board requests clarity on the proposed implementation date of such regulations. This is so we can assist FRAs with any procedural changes needed to reflect the move away from this being a discretionary provision.

Question 2. Do the proposed changes to regulation ensure that affected scheme members have the correct revaluation rates applied to their pension benefits for 2021 and 2022?

3. Broadly, yes. However, we would like to bring the following points to your attention:
 - a. The definition "index supplement" is added to the Regulations and defined to add on the difference between what was set out in the 2021 and 2022 Revaluation Orders and what it should have been (subject to the comments in b below). The definition of "in-service revaluation index" is then amended to include the index supplement for the purposes of this scheme. There is no express obligation to revisit the past position and therefore this may be open to interpretation. The Board feel that, to ensure the correct process is followed, it would helpful for the Home Office to issue a guidance note stating that this is what the regulations require.
 - b. The Board are concerned that, based on the current drafting, there is potentially scope to argue that the index adjustment means the amount as set out in the Revaluation Order plus the amount set out in the Revaluation Order plus the 0.2 or 0.4% (depending on the year). The Board suggest that, to avoid confusion, the wording should be redrafted to avoid any misinterpretation. In addition, and again to avoid confusion, the Board suggest that the index supplement is explicitly set to zero for years other than 2021 and 2022.

- c. The Board understand that the proposed approach of implementing an 'index supplement' in scheme regulations was the only legislative vehicle available to the Home Office to correct the errors contained in the Public Service Pensions Revaluation Order 2021 and the Public Service Pensions Revaluation Order 2022.

We further understand that the 'supplement' may be achieved by uplifting the existing revaluation rates held within the pension administration system to provide the increase in pension entitlement to those members in scope rather than having the need to create a new, explicate supplement coding in the administration software. Allowing the discrepancies to be addressed in this way minimises the software development necessary, thus ensuring that the solution can be delivered as quickly and as cost-effectively as possible.

However, providing clarity within the explanatory note to the regulations that the supplement forms part of the annual indexation and is not a separate item would give additional assurance to stakeholders and potentially alleviate queries from scheme members.

Question 3. Do the proposed changes ensure any receiving scheme as a club transfer includes the index supplement when relevant?

4. We cannot say definitively that the Draft Regulations "ensure" this – See comments raised under question 2.
5. One additional concern is that any assurance is determined by the Club Transfer receiving scheme knowing about the change in regulations and updating their systems accordingly. The Board are keen to understand how the Home Office intend to publicise the regulation amendment, paying particular regard to how all receiving schemes have the necessary information.
6. Additionally, the Board questions whether additional amendments to accommodate the uplift will need to be made to the regulations of other Public Service Pension Schemes so that the correct revaluation of Club transfer tranches can be applied.

Question 4. Are there any affected members that these proposed changes to the Firefighters' Pension Scheme (England) Regulations 2014 will not provide a remedy to address the error in 2021 and 2022 Orders?

7. The answer to this question follows from our answer to question 2.

The amendment will be contained in the scheme regulations and will be a right of the member (i.e. part of their benefit entitlement). Therefore our view is that any benefits which have been paid (including pension, lump sum or transfer

values paid) in respect of individuals who have retired, transferred out or had a payment made to their estate etc since 1 April 2021 should have their benefit adjustment to reflect the higher revaluation which they should have got whilst in service.

This does mean that the regulations are relying on these individuals need to be correctly identified and dealt with.

8. We are of the view that there are no other affected members that the changes will not provide a remedy to address the error as the changes apply to everyone who received an index adjustment for the relevant years. There appears to be no differentiation between different groups/ types of members within the amendments.

Point to note

9. For the purposes of the valuation, the Directions (i.e. the HMT directed assumptions) seem to refer explicitly to the published revaluation orders. The Board would like to bring this to your attention to prevent any errors in future valuations as the published revaluation orders for 2021 and 2022 are essentially incorrect.