

To: Cambridgeshire and Peterborough Fire Authority

From: Deputy Chief Executive Officer (DCEO) - Matthew Warren

Presenting officer: Deputy Chief Executive Officer - Matthew Warren
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Firefighters Pension Scheme - Update

1. Purpose

- 1.1 The purpose of this report is to provide the Fire Authority with latest the position relating to immediate detriment and the Firefighters Pension Scheme (FPS) now that the enabling legislation has been passed.

2. Recommendation

- 2.1 The Fire Authority is asked to note the latest position regarding immediate detriment claims and the timetable for processing.

3. Risk Assessment

- 3.1 **Economic** – the liability associated with paying pensions is to be underwritten by central government.

4. Background

- 4.1 Following the 2018 Court of Appeal judgment in Sargeant, an interim order was made by the Employment Tribunal on 18 December 2019 which provided members of the FPS (who had brought claims) entitlement to be treated as if they remained in the FPS 1992, as long as they were in the scheme at 31 March 2012 and 31 March 2015.
- 4.2 In January 2020, the Government position regarding the judgment was that all entitlements, including immediate ones, should proceed under the 2015 scheme rules. This included those that were due to taper into the 2015 scheme and those due to retire.
- 4.3 In August 2020, the Home Office issued a note to fire and rescue authorities about immediate detriment. The note was labelled as informal guidance and highlighted that the issues raised within it were still subject to ongoing litigation and a UK government consultation. The note was issued at the request of the Fire Brigades Union (FBU).

4.4 Whilst the note did provide a useful update from the previous government position communicated in January 2020, several questions (below) remained for each fire and rescue authority that were detailed in the Local Government Association (LGA) immediate detriment note issued in October 2020.

- What the position is for fire and rescue authorities if members make decisions without all the correct information, such as pension tax relief.
- How auditors might treat such payments under legacy terms and on what basis a fire and rescue authority can rely on the guidance to satisfy the auditor.
- What risk the member accepts by having benefits paid out before the consultation has concluded, although the note does state that **all** cases will need to be revisited once the remedy is finalised.

4.5 Further to the guidance, legal advice was sought by the LGA. The legal opinion, which was subject to legal privilege, did not provide the necessary reassurance needed for the Authority to proceed with all cases.

4.6 Further to this advice, the LGA and FBU worked to agree a position that would allow fire and rescue authorities to process immediate detriment cases. The memorandum of understanding (MOU) was agreed in October 2021. At this time, based on advice from the Service, the Fire Authority approved a process to begin paying immediate detriment cases.

4.7 Shortly after this decision was taken, the Government withdrew the guidance note that was being relied upon within the MOU. This left the Authority and individuals potentially vulnerable to additional costs and tax charges because of government, through Treasury, not having the appropriate legislative safeguards in place. Given this position the Treasurer, as Scheme Manager, took the decision to suspend all immediate detriment payments, whilst further guidance was sought.

4.8 Subsequently, the Home Office issued clear advice that immediate detriment claims should not be processed until legislation was enacted, which was to be no later than 1 October 2023.

5. Update on Position Post 1 October 2023

5.1 The enabling legislation to process immediate detriment cases with regard to 'Sargent' came into force on 1 October 2023. A clear timetable setting out an order of processing accompanied this legislation. The timetable prioritises the processing of ill health retirees and beneficiaries before it processes ordinary retirees, which will be done based upon the impact of the remedy (those whose pension is likely to have been impacted the most will be processed first). All members impacted by the remedy will receive a remedial service statement (RSS), which will provide detailed options in turn allowing an informed decision to be made.

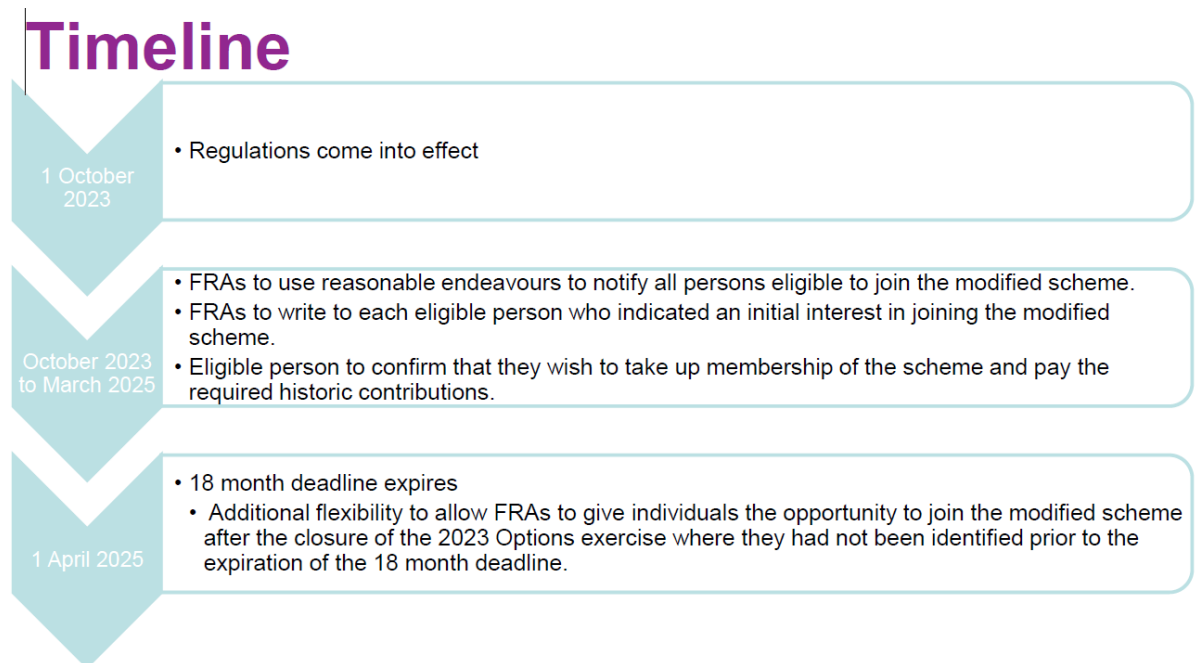
- 5.2 The National Fire Scheme Advisory Board has formally agreed timeframes for fire authorities to deliver the RSS, with all categories to have received this information by 31 March 2025;

Pensioner Member	Indicative timetable to receive RSS
Ill health pensioner	October 2023 to March 2024
Beneficiaries (ill health, taper protected and unprotected)	October 2023 to May 2024
Taper protected pensioner	October 2023 to November 2024
Unprotected pensioner	October 2023 to November 2024
Protected pensioner (2006 Scheme)	May 2024 to January 2025
Beneficiaries (protected members 1992 and 2006 Scheme)	August 2024 to March 2025
Protected pensioner (1992 Scheme)	October 2024 to March 2025

- 5.3 In parallel to 'Sargent', legislation relating to the 'Matthew's' remedy was also enacted on 1 October 2023. This legislation relates to On-Call firefighters employed between 7 April 2000 and 5 April 2006 and their ability to buy back service. The options exercise is split into three parts;



- 5.4 The National Fire Scheme Advisory Board has set a timeline that runs in parallel to that of 'Sargent'. The process will be very intensive for services and will require significant input from our in-house payroll team. The agreed timeline is set out below;



Source Document

The Firefighters Pension Scheme (England) (Amendment) Order 2023

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