



## Information

# Age discrimination remedy – Beneficiaries: Remediable Service Statements factsheet

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## Introduction

In 2015, the government introduced new laws which resulted in a new pension scheme for firefighters - the Firefighters' Pension Scheme 2015 (FPS 2015). These laws included protections which meant that some members of the existing schemes (FPS 1992 and FPS 2006) didn't join FPS 2015 either straight away or at all, depending on their age. Following a legal challenge known as Sargeant, the courts determined that the protections given to members were age discriminatory.

On 15 July 2019, the government made a written statement [[HCWS1725](#)] accepting the court's decision. They confirmed that they would engage with the Employment Tribunal to agree how to fix the discrimination. The written statement confirmed that this fix, or remedy, would apply across all public sector schemes.

The changes introduced on 1 October 2023 gives all affected members the same choice of benefits for the remedy period (1 April 2015 to 31 March 2022).

Some members who had membership of the Firefighters' Pension Scheme (FPS) during the remedy period, have sadly passed away. These members are still entitled to receive remedy, but these choices will now fall to the [eligible decision maker](#) which may result in additional payments being owed to or from the estate of the deceased member, but also in additional payments being due to or from any beneficiaries. Death benefits that are payable vary not only between the different FPSs but also depend on whether the death occurred in service, as a deferred member or as a pensioner member, and differ based on the number and type of beneficiaries there are.

This factsheet sets out the general position about the process for beneficiaries, and the potential impact any decision made may have on the benefits payable to both the members estate and beneficiaries.

## Eligible Decision Maker

The eligible decision maker is set out in legislation and follows a strict order. In most cases there will be a sole adult beneficiary, such as a spouse, and this will be the eligible decision maker.

For other types of sole beneficiaries or where there are multiple beneficiaries please refer to the [eligible decision makers schedule](#) in the [Firefighters' Pension \(Remediable Service\) Regulations 2023](#).

## Benefits payable to beneficiaries

The choice available to beneficiaries could result in a contribution adjustment needing to be made.

If the deceased died whilst in receipt of their pension, then the beneficiary choice may also affect the benefits that they were paid before they died, as well as any death grant lump sum that may have been payable at the time of their death.

## Eligible partner pensions

An eligible partner may be entitled to a pension in respect of the deceased's pension rights. An eligible partner is defined as a spouse, civil partner, same sex marriage partner or co-habiting partner (FPS 2006/FPS 2015 only).

Each firefighters' pension scheme has its own rules as to how an eligible partner pension is calculated.

To comply with regulations, eligible partner pensions are in scope for remedy. This means that you will receive a Remediable Service Statement (RSS) setting out the beneficiary pension that you are currently in receipt of, as well as a comparison of your alternative option.

Where a member has died in receipt of an ill health pension, the beneficiary pension payable will need to reflect any change in eligibility to the deceased member's ill health tier under their alternative scheme, following any ill health reassessment.

Details of the effect on benefits that are payable to or from the estate of the deceased member will also be shown.

## Children's pensions

A child may be entitled to a child's pension in respect of the deceased member.

The different firefighters' pension schemes have different rules and eligibility criteria as to how a child's pension is calculated and how long it is payable for.

[Regulation 54](#) of the [Firefighters' Pension \(Remediable Service\) Regulations 2023](#) provides protection for a child's pension to ensure that it will not be affected by the remedy choice made by a surviving adult who does not have parental responsibility for the child receiving that pension.

If a child's pension is payable alongside a beneficiary pension to a surviving adult who has parental responsibility for that child, any alternative child's pension will be illustrated on the RSS to the beneficiary.

## Death grant lump sum

If a death grant was payable when the member died and a beneficiary makes a choice to receive alternative benefits, there may be an adjustment to the death grant lump sum paid. This amount will need to be adjusted for tax and interest as applicable.

As the different firefighters' pension schemes have different rules as to how a death grant lump sum is calculated the effect this will have will be illustrated on the RSS.

The table below shows the difference in death grant lump sum eligibility according to scheme and membership status:

Membership status at time of death	Scheme			
	FPS 1992	FPS 2006	Special FPS 2006	FPS 2015
Active	2 x pensionable pay	3 x pensionable pay	2 x pensionable pay	3 x pensionable pay
Deferred	No death grant payable	No death grant payable	No death grant payable	No death grant payable
Pensioner	No death grant payable	5-year pension guarantee	5-year pension guarantee	5-year pension guarantee

## Contribution adjustments

Where a deceased member had membership within the remedy period, there may need to be a contribution adjustment if:

- They transitioned into the FPS 2015 during the remedy period and you, as the beneficiary, choose benefits under their legacy scheme.
- They were protected in their legacy scheme during the remedy period and you, as the beneficiary, choose benefits under FPS 2015.

Any contribution adjustments will have tax relief applied and interest calculated.

Full details of any contribution adjustment will be illustrated on the RSS.

## Pension and lump sum adjustments

Where a member died whilst in receipt of their pension and a beneficiary makes a choice for alternative benefits, there may need to be an adjustment to the pension, and any lump sum payable where they elected for a lump sum upon retirement if:

- They transitioned into the FPS 2015 during the remedy period and you, as the beneficiary, choose benefits under their legacy scheme.
- They were protected in their legacy scheme during the remedy period and you, as the beneficiary, choose benefits under FPS 2015.

Whether the estate of the deceased member owes money or is owed money will depend on which scheme is the legacy scheme and which benefit option is chosen.

Any adjustment to the pension and relevant lump sum will be adjusted for tax and interest where applicable.

Full details of any pension and lump sum adjustment will be illustrated on the RSS.

This factsheet has been prepared by LGA using the regulations as they stand in March 2024.

This factsheet will be reviewed, referencing any changes to the scheme regulations and policies that might be needed.

This factsheet should not be interpreted as legal advice.

Please address any queries on the content of this factsheet to [bluelightpensions@local.gov.uk](mailto:bluelightpensions@local.gov.uk)

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