

# Matthews Second Options Exercise

## FAQs

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# Matthews Second Options Exercise

## What is the Matthews Second Options Exercise?

Following a European Court of Justice decision [O'Brien v Ministry of Justice](#) concerning fee paid judges in the Judicial Pension Scheme, the judgement ruled that remedy should be extended back before the [Part-time Workers Directive](#) was required to be implemented on 7 April 2000. As a binding judgement, the finding applies across all such claims and therefore the UK Government recognise the right applies to retained firefighters' claims or potential claims.

## What period does this exercise relate to?

7 April 2000 to 30 June 2000.

## Was there a Matthews First Options Exercise?

Yes. The Matthews first options exercise took place between 1 April 2014 and 30 September 2015.

Following a judgement decision [Matthews v Kent and Medway Towns Fire Authority & others](#) which allowed retained firefighters employed between 1 July 2000 and 5 April 2006 to join the Firefighters' Pension Scheme 2006 (FPS 2006) as 'special members', a time limited options exercise took place between 2014 and 2015 to allow those eligible individuals to join the FPS 2006.

## I took part in the Matthews First Options Exercise; do I get the opportunity to purchase more service?

Possibly.

If you have service between both 7 April 2000 and 30 June 2000, and 1 July 2000 to 5 April 2006, you will be eligible for the Matthews Second Exercise.

The second exercise will give you the opportunity to purchase any continuous retained service before and during 7 April 2000 and 5 April 2006.

If in the First Exercise you did not purchase your service from 1 July 2000 to 5 April 2006, but are now eligible for the second exercise you will be given a further opportunity to purchase this service.

## How long does this exercise go on for?

The Pension Regulations state that the exercise should be complete by 31st March 2025. However, a government consultation was launched on 23 December 2024, to extend the deadline in exceptional circumstances. You should liaise with your FRA as to whether you may be affected by this.

## Why can't I join the Firefighters Pension Scheme 1992 (FPS 1992)?

Backdated membership of the FPS 1992 could not be given as that scheme is now closed (from 6 April 2006). The FPS 2006 was 'modified' to have special provisions that generally reflect the rules of the FPS 1992.

## Am I affected by the Second Options Exercise?

Not all individuals are affected.

The second options exercise is available to any individual who was employed as a retained firefighter in England during the following periods:

7 April 2000 to 30 June 2000

7 April 2000 to 30 June **and** 1 July 2000 to 5 April 2006

1 July 2000 to 5 April 2006, who was not given the option to join the Modified FPS 2006 as part of the first options exercise.

Membership will be open to all such eligible individuals, this includes:

- Current firefighters
- Firefighters who have left the service.
- Firefighters who have left the service and are in receipt of a pension: and
- Firefighters who have left the service and are in receipt of ill health retirement benefits.

Further information is available in the [member guidance document](#) which is available on the [www.fpsmember.org](http://www.fpsmember.org) website.

Some example cases are available in [Appendix A](#)

## What is the FPS 2006 Modified Scheme?

A 'modified' version of the FPS 2006, which has special provisions to reflect the rules of the FPS 1992.

## What is a special member?

A special member is one of the following:

- a special firefighter member,
- a special deferred member,
- a special pensioner member,
- a connected special member

Further information defining each category of member is available in the [member guidance document](#) which is available on the [www.fpsmember.org](http://www.fpsmember.org) website.

## What is a standard member?

A standard member is a member of the FPS 2006, who is not a special member.

## I have service before 7 April 2000, can I purchase this as well?

If you were employed as a retained firefighter between 7 April 2000 and 30 June 2000 you will be able to have any continuous retained service before and including 7 April 2000 counted as pensionable service if purchased.

## If I left on or before 6 April 2000, am I eligible?

Your service would not be in scope for the exercise.

## I was employed as a retained firefighter, and then joined in a wholetime role in 1999, am I eligible?

This will depend.

If you were in continuous service, and remained in the retained employment whilst you were a wholetime firefighter beyond 7 April 2000, then yes.

If you ceased your retained employment when you became a wholetime firefighter, then you would not be in scope.

## What is continuous retained service?

This is service that has no breaks/gaps whilst employed as a retained firefighter.

If you were a retained firefighter, left to become a wholetime firefighter and then returned as a retained firefighter or both a wholetime and retained firefighter, the service as a wholetime firefighter would count as a break in retained service.

## I was employed as a retained firefighter during the eligibility period, but I was not a member of the pension scheme, am I eligible?

There was not a pension scheme available to retained firefighters until 6 April 2006, therefore a retained firefighter would not have been able to join a scheme until the Matthews First Exercise. This exercise is expanding the eligibility criteria to 7 April 2000, and before if you have continuous retained service.

## Your Service and benefits

### What is the limited period?

This is the period of service from 1 July 2000 to the earlier of:

- the date on which the member became a special member or as a standard member before 31st March 2015
- the date on which they ceased to be employed

### What is the extended limited period?

This is the period of service beginning on the date on which the member was first employed as a retained firefighter to the earliest of:

- the date, if applicable, on which that member joined this Scheme as a special member or as a standard member in respect of service which that member could otherwise reckon as special pensionable service;
- the date, if applicable, on which that member ceased to be employed as a retained or a regular firefighter, and
- 31st March 2015;

## What is the mandatory special period?

This is the period that relates to service purchased following an application under the first options exercise to purchase service during the limited period, beginning on the date selected by that member before 6th April 2006 and ending on the earlier of:

- the date on which the member joined the Scheme as a special member or as a standard member in respect of service which the person could otherwise reckon as special pensionable service, and
- the date, if applicable, on which the member was dismissed or retired from employment as a regular or retained firefighter;

This is also the period of service purchased following an application under the second options exercise to purchase service during the extended limited period, beginning on the date selected by that member before 6th April 2006 and ending on the last day of the extended limited period.

## What is special pensionable service?

This is the period that relates to the service a special member accrues following payment of the relevant special pension contributions for the limited period or extended limited period.

## What service can I purchase?

Under this exercise, if you are eligible, you can purchase continuous retained service from the date you commenced employment as a retained firefighter up to, either:

- The date that you left retained service, up to 31 March 2015
- The date you joined the pension scheme (FPS 2006 or Special FPS 2006
- If you had a break in service, up until the date of the break started.
- If you then recommence retained employment before 30 June 2000 then you also purchase this period, as a separate period of service.



## How is my retained service calculated?

The usual method of assessing service for retained firefighters is used to assess potential special service which can be “purchased,” i.e. for each year is:

$\frac{\text{Actual pensionable pay}}{\text{Reference pay}} = \text{special pensionable service}$

Your personal calculation will be made up of the following:

- the period during which you were serving as a retained firefighter (noting the date, if any, when the firefighter became a regular member of FPS 2006)
- the earnings for each year of service during that period which you could count as pensionable if a scheme member.
- the earnings of a whole-time regular firefighter in a similar role and with similar service (i.e. “reference pay”).

## What benefits will I receive?

Details of the benefits payable under the ‘Modified’ FPS 2006 are available on the [FPS member website](#).

## When will I receive payment of my benefits?

If you join as a special Firefighter member, you will be eligible to retire and receive payment of your benefits from age 55, assuming you remain in continuous service until then. If you were to leave service prior to your 55<sup>th</sup> birthday, you would become a Special deferred member.

Special Deferred members are eligible to receive payment of benefits from age 60.

If you join as a Special Pensioner member, your benefits will be payable immediately.

## I am now a Wholetime Firefighter does this affect my benefits for that role?

If you were a retained firefighter and immediately became a wholetime firefighter without any break, and remain a wholetime firefighter now, you would be classed as a special firefighter member.

Further information defining each category of member is available in the [member guidance document](#) which is available on the [www.fpsmember.org](http://www.fpsmember.org) website.

# Your Options

## How will I get my options?

Your Fire and Rescue Authority (FRA) should send you an 'expression of interest' letter with a claim form. You will need to return this to them, to enable them to provide you with your options.

If I complete my expression of interest form am I committing to purchasing service under this exercise? No this form indicates to us who is interested in being provided with their options. It does not commit you to purchasing anything. Once we have received your expression of interest your FRA will provide you with an options pack, which will set out your options.

## This has been described as free money, is it true?

There is no such thing as free money, however this term has been used to describe the scenario where the amount of arrears of pension is more than the pension contributions that are due. This will vary depending on the individual circumstances of each individual member, and therefore it is important that you receive your options pack, before making any decision.

## Once I have returned my expression of interest form, what happens next?

Your FRA will look at their records to establish what information they hold, and if there are any gaps in pay and/or service. Once they have done this they will then calculate the benefits that you are eligible to purchase.

You will then be sent an options pack, which will include a covering letter explaining what you should do next, a Statement of Details, which will provide you with the information about your benefits, the amount it will cost, how you can pay it, and the interest that will be payable, depending on the option you make. The statement will have an Appendix that illustrates the pay details and service that your benefits have been calculated on and an Options Election Form.

## **I have sent my expression of interest form back but have not heard anything further.**

Each FRA has many cases that will be in scope for the exercise. Some cases will be more complex than others, and therefore may take longer than you expect. We urge you to be patient, but if your individual circumstances require this to be treated as a priority i.e. ill health or financial difficulties, please make your FRA aware and they will do everything they can to prioritise your case.

## **When will I make an option?**

Once you have returned your 'expression of interest' claim form your FRA will acknowledge your request and let you know when you can expect to receive your options to allow you to make a decision.

## **How long do I have to make an option?**

Once you have received your options, you will have six months to make an election to join the Modified FPS 2006.

## **What if you do not hold my pay records?**

Your FRA will be able to confirm how far back their pay records go, and this will vary per FRA, due to GDPR requirements and data retention policies.

The pension regulations that provide for the Matthews exercise allows for an assumed pay to be calculated based upon either a national average of 25% of the equivalent Wholetime Pay or of local pay assumptions, based upon knowledge of similar stations.

## **I was a member of FPS 2006; can I convert my Modified FPS 2006 service to FPS 2006 membership?**

Maybe.

If you joined FPS 2006 from 6 April 2006 and are eligible to join the modified FPS 2006, you may be able to convert any special service accrued before 6 April 2006 to your FPS 2006 membership.

It will depend on the status of your membership, if you are a Special Member or Special Pensioner conversion is possible, whereas it is not for Special Deferred members.

If you are interested in considering this option, you must request the associated service credit quote from the fire authority at the same time as declaring your interest in joining/pay for additional eligible service in the modified scheme.

## **I was a member of the FPS 2006; can I convert my FPS 2006 membership to Modified FPS 2006 service?**

Maybe.

If you were a member of FPS 2006 in respect of service which is linked and continuous to your pre-6 April 2006 retained service, you may have the option to convert your FPS 2006 membership to the modified FPS 2006.

It will depend on the status of your membership, if you are a Special Member or Special Pensioner conversion is possible, whereas it is not for Special Deferred members.

If you are interested in considering this option, you must request the associated service credit quote from the fire authority at the same time as declaring your interest in joining/pay for additional eligible service in the modified scheme.

## **I was part of the First Options Exercise and want to change my conversion choice, can I do this?**

Yes.

If you are interested in considering changing your conversion option, you must request the associated service credit quote from the fire authority at the same time as declaring your interest in paying for additional eligible service in the modified scheme.

## **What do I do if I think the pay used is incorrect?**

As mentioned in the [What if you don't hold my pay records?](#) FAQ, an assumed pay may have been used.

If you hold records of your pay i.e. a payslip, P60, then your FRA will be able to use this in your calculations. You will need to provide a copy of this evidence to them. However, please note that your P60 shows your gross pay and some aspects of this may not be pensionable. This would result in a higher rate of pay being used and contributions would be based on this amount but it would be reflected in the benefits payable to you.

## **Who can advise me of the right choice to make?**

Your decision is individual to your own circumstances, and it is key to understand that.

Your FRA will provide you with all the details you need to make a decision. This will be in the form of an options pack. Once you have received your options pack if you feel you need help deciding, you can contact an independent financial adviser.

## **What happens if I don't make a choice?**

If you do not return the options form within 6 months, you may lose the right to join the modified FPS 2006.

We encourage that you return the form regardless of whether you are confirming or declining to become a member of the modified FPS 2006.

If you indicate a 'no' that you do not wish to pursue an option, then you will be sent an acknowledgement and no further action will be taken.

If you return the options form indicating a "Yes" – you do wish to take up option of joining/transferring service into the modified FPS 2006, you will receive an acknowledgement receipt of form by letter/email. The election will take effect from the date of receipt of the election form. The period that will count upon payment will be detailed in the statement of calculation.

## **Will I get another chance if I don't take this opportunity?**

No, once this exercise is closed, you will not be able to revisit this.

## **Contributions**

### **Am I going to pay more in contributions?**

You have the choice about when you want to join the Modified FPS 2006. This will impact how much you will have to pay in terms of contributions.

All the information you need to make a choice will be provided in an options pack.

The choice is individual, and how much and how you can repay contributions will be a key piece to consider when you make your choice.

### **Will I need to pay any arrears in pension contributions?**

If you choose to join the Modified FPS 2006 or to pay for more service, if you were part of the first options exercise, you will need to pay the arrears in contributions before you receive any benefits.

If you elect to pay by lump sum, then arrangements will be made for collection.

If you elect to pay by periodic contributions, FRAs will notify their payroll of the amount to be collected as well as giving details of special membership status and the ongoing "standard" contributions that are due.

A special membership pension record will be created. You will receive further details from the pension provider as to confirmation of your membership.

Further information relating to how you can pay your contributions is detailed within the [member guidance document](#) on the [www.fpsmember.org](http://www.fpsmember.org) website

## **Will I receive tax relief on the contributions I pay back?**

If you join the modified FPS 2006, you may be entitled to receive certain tax relief on the historic contributions in respect of your eligible past service employee contributions.

This will not be by the usual PAYE or self-assessment route.

Instead, the regulations allow for tax relief to be deducted from the cost of purchasing historic service under the 2023 options exercise. The tax relief which is awarded is based on the basic taxation rates which applied during your historic period of membership.

Additionally, there is a provision in the regulations that allows for additional tax relief to be awarded where robust evidence is supplied which shows that you were a higher rate taxpayer during the historic period of membership.

## **Interest payments**

### **Will I be paid interest?**

Yes

Interest will be applied to any arrears of pension benefits.

You will be given an estimate of the interest that may be due in your options pack.

### **Is there interest due on money I owe to the scheme?**

Yes.

Interest will be applied to the arrears of contributions due.

You will be given an estimate of the interest that may be due in your options pack.

## Pension Arrears

### Will I pay tax on my arrears of pension?

Maybe

You will need to be aware that as your pension arrears will be paid to you in one single year the amount of tax you pay is determined by all your earnings in that year which could therefore result in you paying a higher rate of tax i.e. at 40% rather than your normal tax rate.

The LGA have explored with HMRC on whether there is an appropriate mechanism which would allow you to revisit the tax years in which your original pension payments should have been paid, and HMRC have confirmed that there is not.

The LGA continue their conversations with government on whether there is a willingness for them to explore a compensation mechanism which would allow affected members to be appropriately compensated for higher tax charges incurred due to receiving pension arrears in a single tax year. Further communication will be provided once more information is available.

## Individual circumstances

### My Spouse/partner was a member of the firefighters' pension scheme – why are you contacting me?

Some beneficiaries are eligible to a death grant and/or an additional death grant. The relevant FRA would therefore need to contact you to arrange any payment due.

### I left the scheme due to ill health – how am I affected?

If you join the modified FPS 2006 as a special firefighter member and subsequently become permanently disabled for undertaking your role as a firefighter, you will be eligible to retire on the ill-health terms of the FPS 2006.

### Active firefighter or deferred member elect to pay by periodical contributions. What happens if I am due to receive payment of my benefits but the balance has not been paid in full?

If you are paying by periodical payments and retire you will need to pay the balance is full for the full benefits to be awarded. If you elect to commute a proportion of your pension into a lump sum, the contributions due can be deducted from the amount of lump sum.

Alternatively, you will need to make a lump sum payment to the Fire Authority before your pension can be paid.

### **I am in receipt of an injury pension – how will this affect me?**

The protected right for those firefighters with unbroken retained employment from before 6 April 2006, who suffer a Qualifying Injury, to be treated as whole time regular firefighters **was removed** on 1 April 2014.

The removal of this protected right will not affect those former retained firefighters currently in receipt of injury and ill-health pensions or for those cases where the Qualifying Injury occurred prior to the date that the protected right is removed i.e. 1 April 2014.

However, if you were to join the Modified FPS 2006, this may impact your entitlement, and it is recommended that you discuss this with your FRA to understand the impact before making any decision.

### **Why have you not written to me?**

If you are in scope but you have not yet received a letter, this may be for a variety of reasons, but most likely because your FRA has needed to trace you through a tracing company. This does not mean that you cannot be part of the exercise, it would just mean that they will need to verify your address before they can send you your options.

You can find your FRA's contact details through the contact page on the [FPS members website](#).

### **I did have a lump sum when I took my pension but can I make a different election this time?**

You are unable to revisit your original commutation election but you can elect for an alternative election on the 'top up' pension this time.

### **I am aged 60 or over at the date of calculation, does this mean I will immediately receive my benefits?**

If you are aged 60 or over, you will receive payment of your benefits (including arrears if applicable) once you have paid any monies owed to the scheme. You can choose to commute some of your pension to a lump sum and you can use some or all of this towards paying off the amounts owed to the scheme. If the amount of lump sum is not sufficient to pay the monies owed in full, you will need to arrange for the balance to be paid before you can receive payment of your pension.



There is no option to pay the monies owed by periodic contributions, The full amount must be paid in one sum.

## Appendix A

### Scenario one:

Q: Individual was a retained firefighter from June 1991 to February 1995 then in February 1992 transferred to another FRA as a wholetime firefighter.

They were employment as of 7<sup>th</sup> April 2000 but not as a retained firefighter, are they in scope?

A: Individual **is not in** scope as they were not in retained employment on 7 April 2000.

### Scenario two:

Q: Individual was employed as a retained firefighter from 2004 to 2006. They were not written to in the first round – Is this member in scope for the second exercise?

A: As this period wasn't picked up during the first exercise then, yes, the individual **is in scope** to be considered under the second exercise.

### Scenario three:

Q: Individual was originally contacted as part of the first options exercise, however, didn't take up the option as the service they could buy was limited to a couple of months. The member has service dating back to 1990 – Can they be considered under the second option exercise?

A: Providing the individual has continuous service prior to 1 July 2000 then, yes, the individual **is in scope** to be considered under the second exercise and should be given the option to buy back to the start date of any continuous service.

### Scenario four:

Q: Individual was originally contacted as part of the first options exercise, however, didn't take up the option. The individual only has service post 1 July 2000 - Can they be considered under the second option exercise?

A: Providing the FRA can robustly demonstrate that they complied with the regulations of the first options exercise then the individual **is not** in scope and **should not** be considered under the second options exercise.

### Scenario five:

Q: Individual originally elected to join the under the first options exercise, but either didn't pay their lump sum or stopped paying their instalments. Will they be deemed in scope for the second options exercise?

A: The individual will **only** be in scope if they have service pre-1 July 2000. There offer will be to purchase all their eligible service including what they have previously been offered.

### Scenario six:

Q: FRAs have been asked to identify any retained firefighters who have transferred from retained to wholetime employment and are potentially affected by aggregation and notify the LGA of the number of these potentially affected retained firefighters.

Does this mean that they have had to have been employed as Retained on 07/04/2000 to qualify – but they may have left retained and moved to wholetime as consecutive employment or are we talking about concurrent employment?

A: The individual had to be in **retained** employment during the in-scope dates (7 April 2000 to 5 April 2006). Then, without a break or overlap in service, transferred to wholetime.

# Appendix B

## Legislation

### What legislation has been produced?

To enable these changes to be made, new legislation and powers were needed.

[The Firefighters' Pension Scheme \(England\) \(Amendment\) Order 2014](#) regulations were consulted on between July 2013 and September 2013 and came into force on 1 April 2014 to introduce the 'Modified' FPS 2006 for retained firefighters to join as 'special members.'

[The Firefighters' Compensation Scheme and Pension Scheme \(England\) \(Amendment\) Order 2015](#) regulations came into force on 1 April 2015 to amend the FPS 2006 to include an extended deadline, and requirement for all eligible members to be provided their options, without them needing to provide an expression of interest first.

[The Firefighters' Pension Schemes \(England\) \(Amendment\) Order 2023](#) regulations were consulted on between March 2023 and June 2023 and came into force on 1 October 2023 to amend the FPS 2006, to provide further access to the 'Modified' FPS 2006 for retained firefighters.