

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](mailto:Firepensionspublicservicepensionsremedy@homeoffice.gov.uk)

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### **Consultation: The Firefighters' Pensions (Remediable Service) Regulations 2023**

The [Firefighters Pensions \(England\) Scheme Advisory Board](#) (the Board) submits its response to the Home Office consultation seeking views on the draft Firefighters' Pensions (Remediable Service) Regulations 2023. Thank you for the opportunity to provide this response.

Whilst some Board members have attended a number of engagement sessions over the last months, we recognise that it has not been possible for the SAB to shape the policy, given the reliance on central government policy in a number of areas. This has made it difficult for the Board to have confidence that they have seen sufficient background to all the decisions required. Given our remit we would advise the Responsible Authority to create a full decisions log.

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).

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.

While not directly relevant to the consultation, we would like to provide some background and context to the administration and management of the scheme, which provide unique challenges to the implementation of remedy.

Under the scheme regulations, each of the 44 Fire and Rescue Authorities (FRAs) are responsible for the management and administration of their scheme and are defined in law as the scheme manager. This puts the responsibility to comply with overriding pension legislation on each of the political bodies charged with governance of the Fire

and Rescue Service (FRS), i.e., Combined Fire Authorities, PFCCs, County Councils, Mayoral functions etc.

Each FRA is required to administer the pension scheme either in-house or through appointing a third-party administrator. There are currently 12 different pension administrators in England, ranging from single client sites to the largest administrator with 23 FRA clients. They are mostly not for profit organisations, with one known exception, and are often linked to LGPS administering authorities.

We would highlight that the number of individual parties involved in the administration and management of the scheme means that the introduction of processes to support consistent remedy implementation requires significant time and resource, especially given that we recognise that the regulations have been drafted to give a flexibility which we recognise may be helpful in the future. However, agreement of processes can only commence once the regulations and guidance are finalised and policies agreed. We have made this point consistently through the various engagement sessions and are disappointed that, even at this late stage, it is not clear what further materials will be used, whether in the form of extra Home Office or tax Regulations, guidance and policy documents. Consistency between UK members will be even harder given the considerable variance between the English and Welsh regulations on such important issues as payment of extra member contributions which are likely to be a particular feature of the Fire scheme remedy.

While the scheme manager remains the legally responsible scheme administrator for the purposes of section 270 of the Finance Act 2004, in practice the FRA or delegated scheme manager relies heavily on the expertise of the appointed pension administrator to comply with the tax regulations and will rely on the appointed pension administrator to undertake the 'rollback' provisions under the Public Service Pensions and Judicial Offices Act (PSPJOA) 2022. We note that, as drafted, there will be various new requirements for the managers to take actuarial advice and engage differently with HMRC, as well as dealing with member enquiries and potential challenges to the data, assumptions and decisions that are made and used. The SAB are concerned that this will be extremely heavy of both resources and potential costs.

It is the responsibility of each administrator to contract a software supplier that underpins their solution. There are two software suppliers who supply pension administration software for the FPS: Civica and Heywood Pension Technologies. The SAB will be meeting with the providers at our forthcoming meetings to understand their assessment of their current preparedness.

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. In and out of scope: Do the proposed amendments to scheme regulations clearly define which members of the firefighters' pension schemes meet the criteria to be eligible for the remedy?**

1. The Board notes firstly that, in relation to question one, although the consultation document is entitled Firefighters' Pensions (Amendment) Regulations 2023, the draft regulations do not appear to be amendment regulations and are entitled The Firefighters' Pensions (Remediable Service) Regulations 2023.
2. The draft regulations themselves do not clearly define which members of the firefighters' pension schemes meet the criteria to be eligible for remedy.
3. They state that "remediable service as a firefighter" means, in relation to a member, the member's remediable service in an employment or office that is pensionable service under a firefighters' pension scheme.
4. Remediable service itself is defined in the Public Service Pensions and Judicial Offices Act 2022 (PSPJOA 2022) which sets out four conditions in [Section 1](#) which must all be met for service to be considered 'remediable'.
5. Whilst the draft regulations state that "A term used in these Regulations which—is defined in, or for the purposes of, a provision in Chapter 1 of Part 1 of PSPJOA 2022, and is not defined differently in these Regulations, has the meaning given in, or for the purposes of, that provision", the Board feels that reference to the eligibility conditions in the draft regulations would make this clearer for the sector to understand as this is the basis on which all other provisions in the legislation are based on. In addition, the nature of the Fire Service with multiple and sometimes simultaneous memberships means that this extra wording could be helpful.

**Question 2. DCU timing of Remediable Service Statement (RSS): Do the policy proposals about the timing of when a scheme member can request an RSS in anticipation of retirement strike the right balance between a suitable period to make a decision, proximity to retirement date and any administrative considerations?**

6. The Board believes that the requirement for a deferred choice member to notify the scheme manager of their intention to claim benefits between 12-6 months prior to their intended retirement date under [Regulation 12 \(2\)](#) does not strike the right balance between a suitable period to make a decision and their proximity to retirement date.
7. We believe that this period is too far in advance of the member's retirement date and that there is a significant disconnect between this time period and the date by which a member is required to hand their notice in. or when a deferred member would be written to about their pension benefits coming into payment.
8. It is suggested that the member's deferred choice election is not made any earlier than

four months before benefits become payable in line with [1992 scheme lump sum provisions](#). This is because a member's benefits have the potential to change if such a long period of time lapses between their RSS being issued and their benefits coming into payment.

9. The Board notes that the member must make an election within 12 weeks of the date that the RSS has been issued and that there is provision for the scheme manager to allow an RSS election at such other period that the scheme manager considers reasonable in all the circumstances. Leaving this open to the interpretation of 44 different scheme managers will increase the risk of inconsistency in the Fire sector. Additionally we feel that 12 weeks may not be enough time for some members or dependants to make an election, particularly in cases where a member may require financial advice or in death cases. The SAB does not feel that there should be a specified timeframe to return a decision. This would relieve an additional burden on administrators who will have to monitor this process.
10. The Board would like to raise the issue of members retiring soon after the regulations come into force. They will become deferred choice members on that date, but there will not be time for them to make a deferred choice election in line with the proposals. These members will have already given notice, so the deadline for making such a choice will have passed. It would not be right to prevent them from retiring to allow time for such a choice and they should be entitled to retire as expected. It is the Board's view that a solution for this scenario should be made clear in the regulations.

**Question 3. Ill-health Retirement: Do you think the proposed arrangements for members that qualify for ill-health retirement during the remedy period (1 April 2015 – 31 March 2022) may cause any adverse impacts?**

11. Yes, the Board believes that the proposed ill health regulations do not sufficiently legislate for the changes needed for the firefighters' pension schemes to ensure that the age discrimination remedy is enacted accordingly.
12. The Board has concern over the process which Regulation 51 (3) puts into place concerning whether a 1992 scheme member is entitled to a lower or higher tier ill health award. The regulation states the following:

"The IQMP must—

- a. examine or interview M as the IQMP thinks appropriate,
- b. decide the questions referred to the IQMP under paragraph (2), and
- c. give the authority and M a written opinion containing a decision on those questions."

13. The Board's view is that there should not be a requirement to examine or interview M where it is not necessary. A paper exercise should be sufficient for this exercise. Referring members back for examination where this is not necessary will cause an undue burden on fire authorities and IQMPs and undue distress to members.
14. Regulation 51 (5) states the following:

"For the purpose of deciding the questions in paragraph (2) the IQMP **may** only have regard to information that was available or could have been produced at the time of the original decision."

The Board feels that the word **may** should be changed to **must**. The legislation should be designed to compare the benefits in the alternative scheme based on the same evidence which was used at the time of the original determination. This is highlighted in Regulation 50 (2) of the draft legislation as follows:

"No question relating to M's entitlement to ill-health benefits that has been decided following referral to an IQMP is to be re-opened by virtue of any provision of PSPJOA 2022 or of these Regulations."

15. Under reassessment, the consultation document states under paragraph 5.68 that "reassessment is only needed for IC IHR cases. This means a retrospective ill-health assessment will only be needed for cases where a member (who has remedy period service) has been ill-health retired or dismissed on capability grounds during the remedy period, be that from the legacy scheme or the 2015 reformed pension scheme depending on their circumstances."
16. The draft legislation does not appear to achieve the policy intent of including those who have been dismissed on capability grounds. The draft legislation under Regulation 49(1) only includes the following scenarios:

"This Chapter applies in relation to an immediate choice member ("M") who, during the period beginning on 1st April 2015 and ending on 31st March 2022, became entitled to—

- a. an ill-health award under regulation B3(a) of the 1992 Order;
- b. an ill-health pension under rule 2 of Part 3 of paragraph 1 of Schedule 1 to the 2006 Order;
- c. an ill-health pension under regulation 65 of the 2014 Regulations."

17. It is the Board's view that the proposed legislation will need amending in order to ensure that cases where members have been dismissed on capability grounds are

included within the reassessment exercise.

18. The Board also seeks clarification on the reference within the draft legislation to a five year review period quoted under Regulation 51 (7) (b)(i). Although fire authorities do review ill health pensions, a specific five year review period is not a provision of the firefighters' pension schemes and so it is unclear what the relevance of this part of the regulations is. If this provision is enacted for members affected by the age discrimination remedy, this would mean that they would be treated differently to those members not affected by the age discrimination remedy.
19. Under Chapter 2 Part 7, Regulation 52, the draft regulations state that "the scheme manager must, as soon as reasonably practicable after 1st October 2023 and having consulted the scheme actuary, determine the value of M's remediable ill-health benefits as if they had been secured in M's alternative scheme." No further information is given in relation to the process which happens after that point. It is the Board's view that this should then link back to the requirements to issue an RSS accordingly.
20. Clarity is also sought on the ill health reassessment position of special 2006 members. These members have not been specifically mentioned in the draft legislation however these members, under the pension scheme regulations, are assessed for ill health up to their normal pension age of 55. Therefore a special 2006 member who was awarded an ill health pension would need to be reassessed for entitlement under the FPS 2015 which has a normal pension age of 60.
21. It is the Board's view that all cases which require reassessment should be detailed in the proposed regulations.

**Question 4. Added pension: Do you think the policy proposals in relation to scheme members with added pension puts all eligible members in the same position?**

22. The Board believes that the policy proposals in relation to scheme members with added pension puts all eligible members in the same position, however this does not reflect the different intentions they may have had when paying for additional benefits. As discussed during our engagement sessions, the Board believes that the Home Office should consider that the intention of the members in question was to buy extra pension to increase their retirement income. Implementing a full refund of contributions as compensation does not achieve this intention, as this may not achieve the level of pension the member was aiming for, even allowing for the roll back of benefits.
23. Although members may choose to buy added pension with their compensation payment, this does not have the effect of purchasing service in the legacy scheme and

buying this added pension at this later time may mean that it is more expensive for members to purchase.

24. Although we note that the Home Office believes that the contracts cannot be retained on grounds of equality with those who have not suffered age discrimination, the Board would like clarity as to why added pension contracts cannot, for some members, be retained in the 2015 scheme until the time when the member makes their retirement choices. Members who have a choice between 2006 and 2015 scheme benefits for the remedy period may be better off under the 2015 scheme and could use that added pension accordingly. Additionally this is inconsistent with the way in which transfers are being treated for remedy, as these remain in the 2015 scheme until the member makes their deferred choice election.
25. It would be useful for the consultation response to document the reasons why an additional pension benefit (APB) has not been chosen as an option for members to have in place of the added pension. APBs can be calculated on an actuarial basis and can apply to all firefighters' pension schemes.
26. We note that the regulations requires the scheme manager to consult with the scheme actuary. We assume that processes and factors will be supplied on a general basis rather than the actuary having to be consulted for each and every individual case.

**Question 5. Transfers: Do you think that the policy proposals that transfers that came into the 2015 reformed pension scheme will be held in the 2015 reformed pension scheme until the point of decision achieves the policy intention of preserving transfer rights?**

It is our understanding that retention of transfers in the reformed scheme is the default position under the PSPJOA 2022 and hence regulations are needed to move the rights. We understand that it is the intention to do this at the point a benefit election is made and agree that this is a sensible policy given that there are limits on what the legacy scheme can provide. We hope that the final regulations will be clear in this regard. There are a number of questions that we have regarding to operation of this policy:

27. The Board would like to highlight the administratively complex issues that this will cause. Administrators will need to ensure that the value of the transfer is kept up to date on the member's record until they make their choice.
28. There is also concern from stakeholders as to the amounts which need to be shown on the RSS and how to reflect to the member what their benefits in the legacy scheme will be. If a member is expected to end up having to retain part of the transfer in the 2015 scheme or receive a compensation payment in lieu then it is not clear what the



RSS should show.

29. Additionally it is not clear what the process is if a member's transfer cannot be converted to legacy scheme service. The consultation document states that "if the current rules at the time would not allow all the transfer or loses part of the transfer value due to breaching the pensionable service cap in the legacy scheme and has no 2015 reformed pension scheme service, a member will be paid equivalent value in the legacy scheme benefits as an adjustment of contributions accordingly based on an actuarial calculation". The Board would like clarity on what this means in practice.

**Question 6. Bereavement: Do the proposed amendments to scheme regulations achieve the policy intention of ensuring that the resulting 'member representative' can make an immediate choice or deferred choice in relation to the remedy period service of a deceased member?**

30. The Board agrees that the policy intention ensures that the resulting 'member representative' can make an immediate choice or deferred choice in relation to the remedy period service of a deceased member.
31. The Board believes that the amendments achieve the policy intention but note that since there is some flexibility consistency will be important.
32. The Board welcomes that children's pensions will not reduce as a result of decisions made and the Board supports the waiving of liabilities for death cases where an overpayment has taken place due to the rectification of the age discrimination remedy.

**Question 7. Contingent decisions: Do you think that the proposals with regards to contingent decisions give members opportunities to revisit pension benefit decisions taken during the remedy period?**

33. The Board agrees that the proposals provide members with opportunities to revisit pension benefit decisions in some circumstances however the processes do not exist in the draft legislation and this could lead to inconsistency of processes across the 44 fire authorities. Ultimately this may lead to further legal challenge.

#### Opt outs

34. For opt out cases clarity is needed on the dates under which a firefighter can be considered for a contingent decision. Under Part 3 Chapter 1 (6)(b) the draft regulations state:

“But the scheme manager must not refuse an application where the decision by virtue of which M’s service became opted-out service was communicated to the scheme manager during the period—

- a. beginning on the day six months before M would have (but for the opt-out decision) become a member of the reformed scheme, and
- b. ending at the end of 28th February 2022.”

35. The Board expresses concern that the date quoted is 28 February 2022. The Board believes that this date should be 31 March 2022.

36. Additionally clarity over the detail of Regulation 5 is needed, which states the following:

“(5) The scheme manager must refuse an application where **either** of the following conditions are not met—

(a) the decision by virtue of which M’s service became opted-out service was communicated to the scheme manager on or after 12th March 2012;

(b) the decision by virtue of which M’s service became opted-out service was made pursuant to a relevant breach of a non-discrimination rule(a);”

This regulation appears to state that either of the two conditions should be met when a scheme manager decides if they are able to refuse an application. The Board seeks clarity as to whether this was the intention of the Home Office policy.

37. Clarity is needed regarding how the member contributions owed for the opted out service are to be recouped, whether by lump sum upfront, periodical contributions or payment at the member’s retirement election by lump sum. Given the greater sums likely to be involved, and interaction with Matthews, the Board believes that it would be sensible to include periodical contributions even though we understand that the Home Office does not currently think that the latter should be available for immediate and deferred choice members. We would also like to see the Regulations. We understand that it is currently unclear whether the Government Actuary’s Department calculator will be able to be used for this purpose to assist in calculations once these details have been clarified, assuming that the payments are subject to the same interest rates and tax relief mechanisms.

38. Clarity is also sought in respect of employer contributions and how these will be recovered. Will this be on an employer-by-employer basis or rolled up into a scheme-wide adjustment at the next valuation? This clarity is required so that employers can

plan cashflows.

39. The Board would like guidance to be issued to provide further detail on the information which should be provided by the firefighter when a firefighter has to prove that they opted out due to pension reform. Paragraph 5.85 of the consultation document provides examples of evidence which a firefighter can use to assist in the contingent decision process as follows; however these are presumably intended for guidance and are not mentioned in the draft legislation. It would be better for guidance to be labelled as that rather than included in consultation documents:

“• the member had explicitly made clear (for example, in correspondence) that they did not believe the 2015 reformed pension scheme was worth the contributions they would have had to pay for membership, for example, because of the higher pension ages and implications for pensions taken before NPA

• a complaint letter confirming opt-out will follow if reform is implemented and opt-out request is received within reasonable timescale

• if a member was a litigant in an ‘injury to feelings’ claim”

40. In seeking this guidance we note that there are other pensions aspects which may be part of a contingent decisions claim as well as those that arise from other financial but non pensions related losses. Examples of the pension related losses might relate to the amount of pension exchanged for a lump sum, and decisions regarding the timing of retirement. The Board notes that people who did not repay periods of unpaid leave may wish to consider this through a contingent decision. This is not currently listed as a possible contingent decision in the proposed regulations. Such cases will require further thought and guidance otherwise it will lead to inconsistency in decision making by each scheme manager of the 44 fire authorities affected by remedy.

**Question 8. Are there any other areas which you think should be addressed in these regulations in order to ensure that all eligible members receive a choice of pension benefits at their point of retirement, for the period for which the discrimination existed (1 April 2015 - 31 March 2022) on 1 October 2023?**

#### Abatement

41. Whilst the Board agrees that abatement is already covered in existing legislation, the exclusion of abatement in the draft legislation makes it unclear how these cases,

which have arisen due to remedy, should be treated.

42. The consultation document states:

“5.73 Where a fire and rescue authority exercised their discretion not to apply abatement, they will need to retrospectively recalculate the amount that they are required to pay into their local pension fund account.

5.74 In all other cases where abatement was applied, the fire and rescue authority will need to retrospectively revisit (back to retirement) the amount of pension that should be abated. Any overpayments of pension will need to be recovered and any underpayments will need to be repaid. Both underpayments and overpayments will have interest applied.

5.75 When presented with their choice, the member will need to consider how their decision will impact each aspect of the abatement calculation. Remediable Service Statements (RSS) will detail how abatement rules would apply under both schemes.”

43. The draft regulations make no mention of the above processes to follow, the requirement for the RSS to reflect this or the requirement to add interest to the calculation. Abatement has been an area where the legacy scheme rules do not fully outline the necessary calculations and it would be beneficial to take the opportunity to include considerably more details such as the treatment of pension increases, timescales for recovering overpayments and treatment of tax and interest in guidance or regulations. The Board feels that without clarity of these points in the regulations, inconsistent processes will prevail across the 44 fire authorities.

**Question 9. Are there any additional points not covered in this consultation paper that need to be considered as part of the proposed amendments to scheme regulations?**

#### Contributions

The PSPJOA 2022 provides the statutory power to adjust contributions. We note that some legal authorities believe that the regulations as drafted do not link adequately to this and we note that the regulations as drafted do not cover the Home Office’s intentions in this regard. Hence we look forward to receiving a revised draft as soon as possible.

We do think that the method of dealing with underpayments should have been a consultation question given the structure of the contribution rates means that this is likely to occur for many of our members.

44. The method by which underpayments of contributions will be met remains an outstanding area from our English informal engagement sessions with the Home Office.
45. Additionally the consultation refers to contribution adjustments on roll back. Roll back is understood to mean from 1 October 2023 however in order for a member to decide if they wish to make good the contribution amount, they will have needed to have received their RSS. The Board believes that the wording needs to be more precise.
46. The Board was pleased to note in the consultation that there will be flexibility to meet these at any time before the member makes a deferred or immediate choice and that they can be deducted from the lump sum at retirement if not paid already.
47. In contrast the Welsh Government is consulting on spreading the contributions over a maximum ten year period. The consultation note opines that allowing members to make up the contribution shortfall from their retirement lump sum could lead to fresh claims of age discrimination from those who were not able to pay less to get less.
48. The Board assumes that the Home Office has taken legal advice with regard to age discrimination claims and has been advised that the different treatment is objectively justifiable.
49. As noted, the English consultation suggests that a contribution schedule will be established but, unlike the Welsh proposals, and indeed unlike the solution for Matthews, does not allow any spreading of the contribution requirements into various instalments. Again, the Board assumes that the Home Office has received advice that this lack of flexibility over payment in instalments could not lead to fresh claims for age discrimination brought by members who cannot afford to meet the cost in full and therefore need to make their own arrangements for saving up for the full amount or suffer reduced pension benefits at retirement.
50. We do think that there is a role for periodic pension contributions alongside the Home Office's intended approach as the Fire Service is used to dealing with these, for example in the case of Matthews and hence could administer them. The wording of the consultation itself suggested that members would be offered contribution schedules and adjustment to pension benefits does suggest that periodic payments might be permitted and we are aware that industry participants have assumed that this is the intention.
51. Contribution holidays are not mentioned in the policy or draft regulations. Given that these came into effect for some 1992 Scheme members in October 2016 depending on age and length of service, it is possible that some members who were in the 2015 scheme may, if they opt for legacy benefits, also be entitled to a contribution holiday for the relevant period. While we note that contribution holidays were always retrospective, it would be helpful to have guidance as to how to implement these for any affected members. For example, can any repayment of contributions be netted off against other contributions required from the member, or should the processes be handled separately? Further, it would be useful to have a specific provision in the

Regulations stating that the same application of interest applies to contribution holidays as to other elements of compensation.

### Immediate detriment

52. The Board understands that further regulations may need to be issued by either the Home Office or the tax authorities. This suggests to us that the PSPJOA 2022 itself is not sufficient and HM Treasury has previously indicated that schemes will need to set out in their scheme regulations which parts of PSPJOA apply to members who have received an “interim payment”. HM Treasury has indicated that schemes can use the power in Sections 22 and 31 of the PSPJOA to bring immediate detriment cases within the required rectification provision. The tax position will not change unless scheme regulations ensure that full retrospection applies (as per Section 2(1) of the PSPJOA).
53. HM Treasury have indicated that further tax regulations may be introduced, depending on how these cases are addressed in scheme regulations, although these tax regulations will not be able to make any payments retrospective. Whether these consequential tax regulations are required will be determined by HMRC once scheme regulations are confirmed by schemes.
54. It is not clear in the draft regulations if this intention has been realised. The draft regulations indicate that a new election cannot be made but do not appear to do anymore than treat the payments already made as lump sum or pension payments. Regulation 53 (3) states:
- “Any amount paid by way of benefits or compensation pursuant to the agreement or (as the case may be) determination by virtue of which the relevant condition has been met is to be treated for the purposes of section 14 of PSPJOA as—
- (a) a lump sum benefit, if the amount was paid by way of a lump sum;
- (b) a pension benefit, if the amount was paid otherwise than by way of a lump sum.”
55. There is no mention of the process by which the scheme manager has to follow either and this could lead to further legal challenges. This is an extremely important issue for our sector and we would welcome clarity on immediate detriment without delay.

### Revisiting commutation decisions

56. The Board notes that there are no details in the consultation which explain whether an immediate choice member, who retired under the legislation in place prior to 1 October 2023, can revisit their commutation decision now that they are in receipt of their RSS. As this will affect a large number of immediate choice members, the Board asks that

the Home Office clarifies this position and caters for this in the final legislation.

### Scheme manager discretions

As noted there are a large number of discretions required by the draft regulations and consultation. Successful remedy will depend on the creation of consistent policies and communications and consistent treatment of members in terms of decisions and communications.

We have listed below some of the areas where processes are required and we look to receive clarity on those processes as soon as possible:

- Abatement
- Dealing with members who have not made elections.
- Dealing with timescales for deciding on reasonable timeframes for deferred choice election. Under Regulations 12 and for remediable credit adjustment under 20(5) and for processes such as remediable arrangements for AVCs.
- Contingent decisions- considerations under 5.79 of guidance and Regulations 5 (4). Also under Regulation 28 (3).
- Waiving of overpayments- processes for making decisions to waive liabilities. Similarly for waiving amounts owed by the member (Regulation 60).
- Dealing with payments already made under immediate detriment – principles to be followed given lack of guidance in Regulation 53.
- Processes for dealing with interest and indirect compensation where directions are not sufficient.

Given the complexity of some of these decisions, the SAB believes that some form of published central guidance would be useful for both Scheme Managers and members.

### Definition of roll back

57. Section 5.12 in the consultation document states the following:

“Roll back is the term used to describe the process by which in-scope members are placed back into the relevant legacy scheme (s)”.

The term roll back does not appear to be defined in the draft legislation and the Board feels that this will need defining.

**Question 10. Do any of the proposed amendments unlawfully discriminate against a particular protected characteristic, fail to advance equality of opportunity between those who share a protected characteristic and those who do not, or fail to foster**

**good relations between people who share a protected characteristic and those who do not?**

58. We note that no EIA has been supplied alongside the consultation to consider equalities.

59. We believe that some of the amendments require objective justification in order to ensure that differences between members are not classed as discrimination and we look forward to viewing the EIA as soon as possible.