



City of London Police Pensions Board

Date: FRIDAY, 9 OCTOBER 2020

Time: 1.45 pm

Venue: VIRTUAL PUBLIC MEETING (ACCESSIBLE REMOTELY)

Members: John Todd, Member Representative (Chairman)
Alexander Barr, Employer Representative (Deputy Chairman)
Helen Isaac, Employer Representative

Tim Parsons, Member Representative
Mike Reed, Member Representative
Vacancy, Employer Representative

Enquiries: Alistair MacLellan
alistair.maclellan@cityoflondon.gov.uk

Accessing the virtual public meeting

Members of the public can observe this virtual public meeting at the below link:

<https://youtu.be/NwMV2h-A9y0>

This meeting will be a virtual meeting and therefore will not take place in a physical location following regulations made under Section 78 of the Coronavirus Act 2020. A recording of the public meeting will be available via the above link following the end of the public meeting for up to one municipal year. Please note: Online meeting recordings do not constitute the formal minutes of the meeting; minutes are written and are available on the City of London Corporation's website. Recordings may be edited, at the discretion of the proper officer, to remove any inappropriate material.

John Barradell
Town Clerk and Chief Executive

AGENDA

1. **APOLOGIES**

2. **MEMBERS DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

3. **TERMS OF REFERENCE**

To receive the terms of reference of the City of London Police Pensions Board.

For Information
(Pages 1 - 2)

4. **MINUTES**

To approve the public minutes and non-public summary of the meeting held on 3 February 2020.

For Decision
(Pages 3 - 6)

5. **OUTSTANDING REFERENCES**

Joint report of the Town Clerk and Chamberlain.

For Information
(Pages 7 - 10)

6. **THE CITY OF LONDON: POLICE PENSION SCHEME - UPDATE**

Report of the Chamberlain.

For Information
(Pages 11 - 28)

7. **THE CITY OF LONDON: POLICE PENSION SCHEME - MCCLOUD JUDGEMENT UPDATE**

Report of the Chamberlain.

For Information
(Pages 29 - 118)

8. **THE CITY OF LONDON: POLICE PENSION SCHEME - RISK REGISTER**

Report of the Chamberlain.

For Information
(Pages 119 - 138)

9. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD**

10. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

City of London Police Pensions Board

Composition

- A Chair and Deputy Chair appointed by the Scheme Manager¹
- The Chair and Deputy Chair shall not both be Employer representatives² or Member representatives³
- At least four, and no more than twelve, voting Members appointed by the Chair with Scheme Manager approval
- An equal number of Employer representatives and Member representatives shall be appointed to the Board
- The Chair may appoint, with Scheme Manager approval, up to four independent⁴, non-voting Members to the Board

Terms of Reference

In line with the requirements of the Public Services Pensions Act 2013 and the Police Pensions Regulations 2015 for the management of the City of London Police's Pension Scheme, to be responsible for assisting the Scheme Manager (the City of London Police) in the following matters:

- a) Securing compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme and any statutory pension scheme that it is connected to with
- b) Securing compliance with requirements imposed in relation to the scheme and any connected scheme by the Pensions Regulator in relation to the Scheme, or any statutory pension scheme that is connected with it; and
- c) The performance of the scheme manager's functions under the Police Pensions Regulations 2015

¹ The Scheme Manager for the City of London Police Force (except the Commissioner) is the Commissioner of the City of London Police (Regulation 7 of Police Pension Regulations). The Scheme Manager for the Commissioner of Police is the Court of Common Council. The functions in relation to both to be delegated to the Police Authority Board (Regulation 11(2) of the Police Pension Regulations).

² An Employer representative is a person appointed to the Board for the purpose of representing employer for the scheme.

³ A Scheme Member representative is a person appointed to the Board for the purpose of representing members of the scheme.

⁴ An Independent Member is a person who is neither an employer representative nor a member representative.

- d) Other such matters as the scheme regulations may specify.

Quorum

- Three Members, with at least one Employer Representative and one Scheme Member representative present.

Frequency of Meetings

- Three times per year

Terms

- Board Members are appointed to three 4-year terms (total 12 years).

POLICE PENSIONS BOARD

Monday, 3 February 2020

Minutes of the meeting of the Police Pensions Board held at the Guildhall EC2 at 1.45 pm

Present

Members:

Alderman Ian Luder (Chairman)
John Todd (Deputy Chairman)

Alexander Barr

City of London Police Authority:

Alistair MacLellan	- Town Clerk's Department
Matt Mott	- Pensions Manager, Chamberlain's Department
Graham Newman	- Chamberlain's Department

City of London Police Force:

Carl Tomlinson	- Finance Director
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1. APOLOGIES

Apologies were received from Helen Isaac, Tim Parsons and Mike Reed.

2. MEMBERS DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

3. MINUTES

RESOLVED, that the public minutes and non-public summary of the meeting held on 8 October 2019 be approved as a correct record.

4. OUTSTANDING REFERENCES

Members considered a report of the Town Clerk regarding outstanding references and the following points were made.

2/2019/P – Update on Due Diligence and Market Research

- The Chairman requested that a representative from City Procurement be invited to the June 2020 meeting. Further, the Chairman's opinion is that an extension of the existing contract may be necessary notwithstanding the fact the current pension admin system contract ran up until October 2021.

9/2019/P – Member Completion of Training Modules

- Members noted that this was an ongoing issue and therefore the current reporting metric should be updated to provide greater visibility and oversight of which Members needed to complete which modules. Board

Members will also be contacted by the Pensions Manager if they have any outstanding modules to complete.

10/2019/P – Training Feedback

- The Chairman requested that the offer of bespoke training should be recirculated, and this reference then closed.

12/2019/P – Scheme Member Communication regarding Legal Challenge

- The Chairman noted that Home Office guidance was awaited and that, once this was received, an email communication could be issued to Scheme Members accordingly. The Chairman was mindful that it was not the role of the Pensions Board to offer Scheme Members advice, but that it was important to ensure Scheme Members were appropriately informed.

14/2019/P – Scheme Member Communication regarding Commutation Lump Sums

- The Pensions Manager noted that this reference had been completed as per the update report on the agenda at item 6 and could therefore be closed.

15/2019/P – Revisions to Risk Register

- The Finance Director of City Police noted that the McCloud Judgement would be added to the Force risk register and incorporated into the Medium Term Financial Plan.
- The Chairman suggested that the Force should be alerted to the issue of how to collect back-dated employee and employer contributions.
- The Pensions Manager noted that the other revisions were dealt with as per the report on the agenda at item 5. The Chairman noted that officers should remain alive to the risk of unforeseen staff absence.

RESOLVED, that the report be received.

5. THE CITY OF LONDON: POLICE PENSION SCHEME - REVISION TO THE RISK REGISTER

Members considered a report of the Chamberlain regarding the City of London Police Pension Scheme – Revision to the Risk Register and the following points were made.

- A motion by a Member, which was seconded, was moved to amend the recommendation within the report to say that Members were not aware of any further risks relating to Police Pensions administration, noting that the pension admin system is to be reviewed.

RESOLVED, that Members

- Have reviewed the existing risks and actions present on the Police Pensions Board Risk Register, and confirm that to the best of their knowledge on the information provided that appropriate control measures were in place, and
- they are not aware of any further risks relating to pension administration overseen by the Police Pensions Board, noting that the pension admin system is to be reviewed.

6. THE CITY OF LONDON: POLICE PENSION SCHEME - UPDATE

Members considered an update report of the Chamberlain regarding the City of London Police Pension Scheme and the following points were made.

- In response to a question regarding Legal Challenge 2 (Evans & Ashcroft vs Chief Constable of South Wales), the Pensions Manager noted that the judgement related to injury awards rather than ill health retirement and committed to providing an update outside of the meeting on how many City of London officers were affected by the ruling.

RESOLVED, that the report be received.

7. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD

There were no questions.

8. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT
Thanks to the Chairman

Members were heard regarding the fact that this was the Chairman's last meeting prior to him standing down from the Police Authority Board in April 2020. Members noted that the Chairman had been in post since the Pensions Board was established and thanked him for his advice and support to each of them on joining the Board.

9. EXCLUSION OF THE PUBLIC

RESOLVED, that under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.

10. NON-PUBLIC MINUTES

RESOLVED, that the non-public minutes of the meeting held on 8 October 2019 be approved as a correct record.

11. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD

There were no questions.

12. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT THAT THE BOARD AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

There was no other business.

The meeting closed at 2.31 pm

Chairman

Contact Officer: Alistair MacLellan / alistair.maclellan@cityoflondon.gov.uk

POLICE PENSIONS BOARD

PUBLIC OUTSTANDING REFERENCES

Reference	Date / Detail	Responsible Officer	Update
2/2019/P	25 January 2019 Item 5 – Procurement Presentation Members to be updated on due diligence and market research of current providers.	Matt Mott (Chamberlain's Department)	<i>Update of procurement process is included in the Administrator's Update</i>
9/2019/P	12 June 2019 Item 6 – Presentation Members of the Board should aim to complete all possible modules by April 2020	All	<i>Members to receive an individual update of their training status.</i>
10/2019/P	12 June 2019 Item 6 – Presentation Members to provide Pensions Manager with any training feedback they might have.	All	<i>Training offer to be circulated by email and this reference then closed.</i>

POLICE PENSIONS BOARD

PUBLIC OUTSTANDING REFERENCES

12/2019/P	<p>12 June 2019 Item 6 – Presentation Officers to be prepared to issue a communication to scheme members in the event of the legal challenge reaching a resolution.</p>	<p>Matt Mott (Chamberlain's Department)</p>	<p><i>The issue is still ongoing. Report included to update Board members</i></p>
15/2019/P	<p>8 October 2019 Item 7 – Revision to Risk Register</p> <p>a. Risk PSB01 (Actuarial Data) should incorporate risk that Forces could submit inaccurate data to Home Office</p> <p>b. Risks PSB02 and 03 to be reviewed with a view to reducing likelihood but increasing impact.</p> <p>c. Risk PSB07 should match that of other City of London Police Authority Departments</p>	<p>Matt Mott (Chamberlain's Department)</p> <p>Azeem Bhatti (City of London Police – (d))</p>	<p><i>Force to be alert to the issue of how to collect back-dated employee contributions – Issues regarding 'McCloud' covered in separate report.</i></p> <p>Risks PSB01, 02 & 03 updated</p> <p>Risk PSB07 updated</p>

POLICE PENSIONS BOARD

PUBLIC OUTSTANDING REFERENCES

	d. McCloud Judgement risk should be recorded in City of London Police's financial risk planning.		Risk PSB08 created in respect of McCloud Judgement.
16/2019/P	8 October 2019 Item 8 – Governance Amended terms of reference to be submitted to May 2020 meeting of the Police Authority Board	Alistair MacLellan (Town Clerk's Department)	Completed Terms of reference received by City of London Police Authority Board on 29 July 2020

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Agenda Item 6

Committee: Police Pensions Board	Date: 9 October 2020
Subject: The City of London: Police Pension Scheme - Update	Public
Report of: The Chamberlain	For Information
Report author: Graham Newman – Chamberlain’s Department	

Summary

The Board have agreed that at each meeting that information regarding a range of topics in relation to the City of London Police Pension Scheme (the Scheme) would be provided along with any updates.

Item	Update
Annual schedule of events for the Pensions Scheme	Update provided (Appendix 1).
Documentation of all of the communications which are circulated to Scheme Members	Documents that have been amended / updated since the last review have been provided (Appendices 2.1 & 2.2)
Information of Scheme Record Keeping	No amendments since the last Board meeting.
A record of any complaints or disputes under the Scheme’s complaints procedure	One complaint - resolved.
Any recent Police Pension Scheme breaches of the law	No breaches to report.
Any audit reports relating to the administration of the Scheme	None to report.
Required Training	No regulatory changes to report.
General Data Protection Regulation (GDPR) / Data Protection Act 2018 (DPA18)	General Date Protection Regulations (GDPR) / Data Protection Act 2018 (DPA18) came into effect on 25 May 2018. The Commissioner has confirmed the privacy notice covers the Force’s obligation.
Legal Challenge 1	<u>Lord Chancellor and Secretary of State for Justice v McCloud and others</u> The Court of Appeal has ruled that reforms made to the judges’ and

	<p>firefighters' pension schemes were discriminatory on the grounds of age.</p> <p>The course of action to be taken to remedy the situation is currently under consultation. A separate report provides details of the proposals and the issues that may arise.</p>
Legal Challenge 2	<p><u>Evans & Ashcroft vs Chief Constable of South Wales</u></p> <p>This is a court of appeal case in respect of the Police (Injury Benefit) Regulations 2006.</p> <p>In October 2018 the Court of Appeal handed down its judgement in the case of Evans & Ashcroft v Chief Constable of South Wales Police. The Court held that the Chief Constable was entitled to deduct from a former police officer's police injury pension the full amount of certain social security benefits actually paid to the retired police officer, as increased with index-linking from year to year.</p> <p>However, the Court also held that the deductible levels of those social security benefits from the tax year 2010/11 onwards need to be recalculated as if the increases in the 2010/11 tax year had never been implemented and as if the base levels for subsequent increases had been correspondingly lower.</p> <p>The judgement currently only applies to the two officers involved in the case, but it is likely to be cited in any similar claims brought under those regulations for those officers that have been in receipt of a police injury pension prior to April 2010 and have had an entitlement to certain social security benefits.</p> <p>Guidance from the Home Office / Police Pensions Technical Group is awaited. Once received, a communication that can be sent to officers that make enquiries will be prepared.</p>

Task Statistics	<p>At the 12 June 2019 Board meeting, Members asked for statistics of the administration work carried out by the Pensions Office to be added as a standing item.</p> <p>Update provided (Appendix 3).</p>
Procurement of Pension Administration System	<p>The current contract for the Pension Administration System has been extended for two years ending in October 2021 and the procurement process has commenced.</p> <p>As part of the process consideration is being given as to what is required from a modern pension administration and how services to scheme members should be provided, now and in the future.</p> <p>Initial thoughts were the services must be less reliant on paper, be more flexible with online access to pension information for scheme members and pensions staff in their working environment. There should be better work flows and also improved reporting. This has been brought into focus due to the current working arrangements due to Covid 19.</p> <p>The Procurement Team have been contacted, permission to proceed granted by the Chamberlain. Other Departments have also been notified as their support in this process is necessary, such as IT, HR and Comptrollers.</p> <p>The discussions to date have centred on the best way to procure this IT service, for example a full Open OJEU (Official Journal of the European Union) procurement exercise. However, on 27 April 2020 a pensions systems framework went live. This Public Service framework managed by Norfolk County Council was created for the exact purpose of Local Government/Police/Fire Pension Scheme systems procurement.</p>

	<p>Public service pensions schemes IT provision is a niche market with few providers. However, 3 providers that may meet the needs of the Corporation's pension administration are included in this framework. This has provided the Corporation with an excellent opportunity to procure the best system possible without the need to go through a lengthy and often more expensive route of the full OJEU process.</p> <p>We have joined the framework and have received the tender pack which includes system details and technical data.</p> <p>To be able to go out to tender in October and award the contract by 31 January 2021 requires the approval from both the Digital Services Sub Committee & the Procurement Sub Committee.</p>
Automatic Data Transfer	<p>The Corporation is currently considering introducing software to enable automated transfer of data from the payroll system to the pension scheme administrators they have to provide data to, they are the Teachers Pensions Scheme and London Councils.</p> <p>Currently Payroll also provide data to the Pensions Office by spreadsheets, reports, interfaces and paper forms. This requires a great deal of manual intervention by the Pensions Office and the Payroll Team particularly as part of the Year End process.</p> <p>For the Pensions Office to benefit from this automation, it would require further software that reads the data files, validates the accuracy and automatically updates the Pension system Altair, even creating workflows automatically. This would save time, reduce the risk of data error or data breach and improve data quality.</p> <p>As the automation of data transfer would be monthly, the Year End process would also be greatly reduced.</p>

	<p>For the Pensions Office automation and data accuracy will assist in all aspects of the pension administration and compliment the development of the administration system in line with the procurement exercise.</p> <p>Should the Corporation introduce this automated data migration software and the Pensions Office believe it to be beneficial to their processes to introduce software too, further information will be brought to the Board at the next meeting.</p> <p>.</p>
Year End Data Collection Process	<p>The City of London Police has submitted the necessary scheme member data to the Pensions Office, such as pensionable pay, pension contributions, working hours etc.</p> <p>The Pensions Office has applied this data to scheme member records in the pensions software system, Altair and completed necessary data checks in doing so.</p> <p>The data is necessary to provide scheme members with accurate pension benefit values in their annual benefit statements.</p>
Pension Board Training	<p>Board members have continued to progress the completion of the TPR online training tool. All Members of the Board are asked to check their training and complete outstanding modules if they have any.</p> <p>Training at Board meetings has not continued as anticipated in 2020, largely due to COVID 19. Training at Board meetings is not essential, however, is recommended. McCLoud is a complex issue that will affect all public service pension schemes and may be a suitable topic for training/presentations, depending on available information, at future Board meetings.</p>

Recommendation

Members are requested to review the information and provide any comments.

Appendices:

Appendix 1 – Annual Schedule of events

Appendix 2, 2.1 & 2.2 – Scheme Documentation

Appendix 3 – Statistical information

Contact:

Graham Newman

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Email: graham.newman@cityoflondon.gov.uk

**City of London: Police Pension Scheme
Annual Schedule of Events**

Date Due	Event	Date Completed
Within 2 weeks of June 2020 quarter	Tax Return for June Quarter	None to report
31 st August	Issue of Annual Statements Deadline	25 th August
30 th September (tbc)	Home Office Autumn Finance Return and revised 5 year forecast	
Within 2 weeks of September quarter	Tax Return for September Quarter	None to report.
6 th October	Deadline for the issue of Pension Saving Statements (Annual Allowance letter)	5 October 2020
6 th November	Deadline for Scheme Return to the Pensions Regulator	
Within 2 weeks of December quarter	Tax Return for December Quarter	
January 2021	Police Pensions Return to the Home Office	
March / April	Submit IAS19 data to Scheme Actuary	
1 st April	Employee Contribution band implementation	
1 st April	Employer Contribution implementation	
1 st April	Revaluation of CARE benefits	
1 st Monday in April after 6 th April	Pensions Increase – Annual Inflation Increase	
April	IAS19 month 12 update if necessary	
May	Home Office Year End Finance Return and 5 year forecast	

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List of documents in Appendix 2

Appendix 2.1	Annual Benefit Statement covering notes (fully protected members)
Appendix 2.2	Annual Benefit Statement covering notes (unprotected / tapered protection members)

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The Police Pension Scheme – Annual Statement 2020

You will find enclosed your annual pension benefits statement. Please read the following notes as they explain how the figures have been calculated.

Although every effort has been made to ensure that the data held is correct, should you find any information on your statement that is incorrect, please contact the Pensions Office.

I trust that the position is clear to you, however should you have any questions please do not hesitate to email your query to policeabs@cityoflondon.gov.uk

About your statement

The estimated benefit details are a guide only and do not confer any statutory rights

All calculations have been based on information held by the Pensions Office and are based upon your pensionable pay and pensionable service as at 31 March 2020.

Pensionable pay

The pensionable pay figure is based on your pay over the preceding year, which would include your basic pay, London weighting and any pensionable acting up payments. If you are a part-time officer, your pensionable pay will have been increased to a whole-time equivalent rate. Any payments not relating to the final year would be excluded from any final calculations. This pay figure has been used in all of the following calculations (except the lump sum death grant for part-timers) and has not been inflated to take account of future increases.

Present Value of Benefits

If you have less than 25 years' service, a deferred pension benefit will have been calculated, which means that your pension figure will have been enhanced to take account of your hypothetical pension entitlement at compulsory retirement age. Deferred pensions normally become payable at age 60.

If you have at least 25 or more, but less than 30 years' service, you will have a pension entitlement, although there would be a restriction on the amount of commutation lump sum that could be paid (details available on request). Your pension would be based on actual service, and payable from age 50 onwards.

If you have at least 30 years' service you would have an immediate entitlement to pension benefits upon leaving service.

Death Benefits

A death grant is payable if you die while serving, provided you are a member of the Police Pensions Scheme at the time of death. The grant will be paid either to your spouse/civil partner or, if there is no spouse/civil partner, it will be paid to your Estate.

It is important that you keep the Pensions Office informed of any changes to your partnership status, supplying photocopies of any relevant certificates and documents when necessary.

If you are unsure of the partnership status currently held by the Pensions Office then please contact them for confirmation.

Please note. If you are in receipt of a housing or rent allowance, the weekly value of this allowance should be added to the short term 13 week pension, if shown overleaf.

Widow / Widower's Pensions

You will find that your annual statement shows a potential widow/widower's pension figure. If you are married or in a civil partnership and have not already done so, please forward a photocopy of the relevant certificates (partner's birth certificate or passport and marriage/civil partnership certificate) to the Pensions Office.

Annual Allowance

The Annual Allowance (AA) is the amount by which the value of your pension benefits may increase in any one year without you having to pay a tax charge. The AA is currently £40,000. The AA usually only affects scheme members who are high earners, those who have a significant increase in their pay, those that combine sizeable periods of membership and those that pay large amounts of additional contributions.

It also has an effect on members of the 1987 scheme after 20 years of membership when you attain double accrual for each year that you work.

Most scheme members will not be affected by the AA tax charge however we have included the value of your pension input amount in this year's statement based on the information we hold with regards to your Police Pension Scheme benefit. You should add this value to any other pension benefits you have accrued during the year.

You may be allowed to bring forward any unused allowance from the last 3 years. This means that even if the value of your pension savings increase by more than £40,000 in a year you may not be liable to pay the AA tax charge. If you are at risk of exceeding the AA you should seek advice. Further information can be found at

<http://www.hmrc.gov.uk/pensionschemes/understanding-aa.htm>

If we think that the increase in your Police Pension Scheme benefits has exceeded the limit for 2019/20 then we will write to you separately by 6th October 2020.

Lifetime Allowance

The Lifetime Allowance (LTA) is a limit on the amount of pension benefit that can be drawn from pension schemes – whether lump sums or retirement income – and can be paid without triggering an extra tax charge.

The figure shown is the value of your accrued benefits in the Police Pension Scheme at 31st March 2020 in relation to an LTA figure of £1.055m.

While most people are not affected by the LTA, you should take action if the value of your pension benefits is approaching, or above, the LTA. The test for the LTA is done each time you access a pension benefit.

Age Discrimination

On 20 December 2018, the Court of Appeal ruled that the transitional arrangements introduced as part of the 2015 reforms to the Firefighters' Pension Scheme were discriminatory and, therefore, unlawful.

Following this ruling, the Government accepted that all public service pension schemes were similarly affected and is currently working on removing discrimination from the schemes for all affected members. More information can be found in written statement HWS187, which was released on 25 March 2020.

There is still uncertainty around the final approach to removing discrimination and for this reason it has not been possible to reflect the impact of the ruling in your ABS this year. You will therefore receive an estimate of the benefits built up in your current scheme membership to 31/03/2020 and a projection of benefits based on the current scheme regulations to the normal pension age for the current scheme you are a member of.

Annual Benefit Statement 2020 – Accompanying Notes

Personal Details

Partnership Status: C – civil partnership; D – divorced; M – married; P – nominated partnership; S – single; W – widow(er).

The partnership status shown on your statement reflects the information currently held by the Pensions Office. If this is incorrect please supply copies of the relevant certificates in order that your record can be updated.

PPS 2015 Start Date: This is the date at which you moved (or will move) into the Police Pension Scheme 2015.

Summary of Total Benefits at 31 March 2020

Pension accrued in the Police Pension Scheme 1987 and the Police Pension Scheme 2006 are final salary benefits. Pension accrued in the Police Pension Scheme 2015 are Career Average Revalued Earnings (CARE) benefits.

The section provides a summary of the benefits you have accrued in both parts of the Scheme. Sections 3 and 4 provide a breakdown of the value of the benefits you have accrued in each part of the Scheme.

Death in Service Lump-sum: The value of the death in service lump sum is dependent upon the Scheme you are in at the date of death.

	1987 Scheme	2006 Scheme	2015 Scheme
Death in Service Lump-sum	2 x pensionable pay	3 x pensionable pay	3 x pensionable pay

Annual Survivor Pension: The survivor benefits are based upon the final salary survivor benefits accrued to later of 31st March 2015 or taper date, plus 2015 Scheme survivor benefits, plus any added years.

Nominated Beneficiaries: For members of the 1987 Scheme, the Death in Service Lump-sum must be paid to a spouse or civil partner. If the officer is not married or in a civil partnership the Lump-sum must be paid to the member's representatives to form part of the estate.

For members of the 2006 and 2015 Schemes, the Death in Service Lump-sum must be paid to a spouse, civil partner or nominated co-habiting partner. If none of these are applicable the officer may nominate beneficiaries to receive the Lump-sum. Please note, in these circumstances the administering authority retains absolute discretion as to whom the death grant is paid.

If this box is blank the Pensions Office does not hold any nomination details. If you are not married or in a civil partnership and do not have a nominated co-habiting partner and you wish to add a beneficiary or make amendments to those already shown please contact the Pensions Office to request the relevant form.

Career Average Pension Benefits as at 31 March 2020

(Payable from): The date shown is the Normal Pension Age (NPA) in the 2015 Scheme, i.e. age 60, but benefits can be drawn as early as age 55 or as late as age 75. If an officer retires before age 60 their 2015 Scheme benefits would be actuarially reduced; if they retire after age 60 their 2015 Scheme benefits would be actuarially enhanced.

Pensionable Pay for the year ending 31 March 2020: This is the amount of pensionable pay paid to you in the relevant year ending 31 March. In addition, if you had been on reduced contractual pay or no pay due to sickness or injury, or on ordinary or paid additional maternity, paternity or adoption leave or shared parental leave or on reserve forces leave, the pay figure will also include an Assumed Pensionable Pay for those periods.

Increase for the cost of living (added 1 April 2020): Your 2015 scheme pension will be increased by a revaluation order each year on 1st April. The revaluation order for the Police scheme is based on average weekly earnings and for the 2018/19 year will be applied at 3.65%. However, as this statement is at 31st March 2020 it does not include the latest revaluation as it is not applied until 1st April 2020.

1987 / 2006 Pension Benefits as at 31 March 2020 (payable from ...)

This is the current value of the benefits you have accrued in the final salary part of the scheme. If you joined the Police Pension Scheme after 1st April 2015 you will not have any final salary benefits unless you have transferred-in benefits from a previous final salary pension scheme.

Projections if you remain contributing to the Scheme until Normal Retirement Date

The projections have been based upon the Normal Pension Age (NPA) of the 2015 Scheme. Members who also have benefits in either the 1987 or 2006 Scheme have the option to retire and take these benefits at the NPA for that Scheme, however the 2015 Scheme benefits would then be deferred until State Pension Age.

For those officers with tapered protection who have not yet entered the 2015 Scheme a projected estimate of their potential CARE benefits has been calculated with reference to your current pensionable pay.

Value of Pension Debts

If your benefits have been subject to a Pension Sharing Order as a result of a divorce settlement, or you have elected to use 'Scheme Pays' to meet your tax liability as a result of exceeding the Annual Allowance in a previous year, the current value of the debit by which your total benefits will be reduced at retirement is shown here.

Annual Allowance

The Annual Allowance (AA) is the amount by which the value of your pension benefits may increase in any one year without you having to pay a tax charge. The AA is currently £40,000.

The AA usually only affects scheme members who are high earners, those who have a significant increase in their pay, those that combine sizeable periods of membership and those that pay large amounts of additional contributions.

It also has an effect on members of the 1987 scheme after 20 years of membership when you attain double accrual for each year that you work.

Most scheme members will not be affected by the AA tax charge however we have included the value of your pension input amount in this year's statement based on the information we hold with regards to your Police Pension Scheme benefit. You should add this value to any other pension benefits you have accrued during the year.

You may be allowed to bring forward any unused allowance from the last 3 years. This means that even if the value of your pension savings increase by more than £40,000 in a year you may not be liable to pay the AA tax charge. If you are at risk of exceeding the AA you should seek advice. Further information can be found at <http://www.hmrc.gov.uk/pensionschemes/understanding-aa.htm>

If we think that the increase in your Police Pension Scheme benefits has exceeded the limit for 2019/20 then we will write to you separately by 6th October 2020.

Lifetime Allowance

The Lifetime Allowance (LTA) is a limit on the amount of pension benefit that can be drawn from pension schemes – whether lump sums or retirement income – and can be paid without triggering an extra tax charge.

The figure shown is the value of your accrued benefits in the Police Pension Scheme at 31st March 2020 in relation to an LTA figure of £1.055m.

While most people aren't affected by the LTA, you should take action if the value of your pension benefits is approaching, or above, the LTA. The test for the LTA is done each time you access a pension benefit.

Service History Details

This is the information currently held by the Pensions Office. If you believe that this is incorrect or have any other queries please contact the office at [policeabs@cityoflondon.gov.uk](mailto:abs@cityoflondon.gov.uk) remembering to quote your name and warrant number.

Age Discrimination

On 20 December 2018, the Court of Appeal ruled that the transitional arrangements introduced as part of the 2015 reforms to the Firefighters' Pension Scheme were discriminatory and, therefore, unlawful.

Following this ruling, the Government accepted that all public service pension schemes were similarly affected and is currently working on removing discrimination from the schemes for all affected members. More information can be found in written statement HWS187, which was released on 25 March 2020.

There is still uncertainty around the final approach to removing discrimination and for this reason is has not been possible to reflect the impact of the ruling in your ABS this year. You will therefore receive an estimate of the benefits built up in your current scheme membership to 31/03/2020 and a projection of benefits based on the current scheme regulations to the normal pension age for the current scheme you are a member of.

The figures shown are an estimate and confer no statutory right. The City of London Pensions Office is not authorised or regulated to provide financial or other advice. The information provided is not intended to be and does not constitute financial advice or any other advice. You may therefore wish to speak to an independent financial adviser authorised by the Financial Conduct Authority (FCA).

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**City of London: Police Pension Scheme
Task Statistics**

	01/02/2020 – 29/02/2020	01/03/2020 – 31/03/2020	01/04/2020 – 30/04/2020	01/05/2020 – 31/05/2020	01/06/2020 – 30/06/2020	01/07/2020 – 31/07/2020	01/08/2020 – 31/08/2020	Totals
New Starters	6	1	10	33	19	33	10	112
Leaver / Opt-outs	0	0	0	0	0	1	0	0
Estimates Requested	Statistics not available							
Estimates Provided	10	4	4	9	12	7	7	53
Retirements	4	6	0	1	4	4	3	22
Interforce-in	5	0	0	12	17	2	8	44
Interforce-out	2	0	0	0	1	0	0	3
Transfer-in Quote	0	0	0	0	0	2	0	2
Transfer-in Actual	1	0	0	0	0	0	0	1
Divorce Quote	0	0	0	0	1	3	0	4
Divorce Actual	0	0	0	0	0	0	0	0
General Correspondence / Member Maintenance	10	0	0	12	12	5	1	40
Freedom of Information	0	0	0	0	0	0	0	0

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Agenda Item 7

Committee: Police Pensions Board	Date: 9 October 2020
Subject: The City of London: Police Pension Scheme – McCloud Judgement update	Public
Report of: The Chamberlain	For Information
Report author: Graham Newman – Chamberlain’s Department	

Summary

Following the successful legal challenge to the 2015 reforms made to all main public sector pension schemes, known as the McCloud Judgement or McCloud, the Government confirmed that a remedy would be made across all affected schemes and Board Members asked to be kept appraised of the evolving situation.

On 16 July 2020, HM Treasury published a consultation setting out the government's proposals for remedying, in most public service pension schemes, the unlawful discrimination identified by the Court of Appeal in the McCloud case.

The consultation document allows relevant stakeholders, such as employers/administrators, software providers, scheme advisory boards and technical working groups, to comment on the proposals, consider potential issues that may arise and highlight which proposal would be their preferred choice for implementation. The final decision in respect of the remedy proposal to be used by Police Pension Scheme will be made by the Home Office.

The purpose of this report is to appraise Members of the current situation and to make them aware of the potential remedies that have been proposed.

Main Body

In 2015 all main public service pensions, including the Police Pension Scheme, were reformed. These reforms included ‘transitional protection’, for people closer to retirement. In December 2018, the Court of Appeal ruled that this directly discriminated against some younger pension scheme members – this is now referred to as the McCloud Judgement or McCloud.

On 15 July 2019 the government confirmed that, as ‘transitional protection’ was offered to members of all the main public service pension schemes, the difference in treatment would be remedied across all those schemes, including the Police Pension Scheme.

In addition, the government has confirmed that this will apply to all members with relevant service in affected public service schemes, including the Police Pension Scheme, and not just those who have lodged legal claims.

On 16 July 2020 the government published a consultation document that sets out options for how the government will remove the discrimination. The main points of the consultation are:

- Protections will be extended to cover all scheme members who were **in active scheme membership** on or before 31 March 2012 and on or after 1 April 2015,

including those with a qualifying break in service of less than 5 years , providing the right to be a member of a final salary scheme during the proposed Remedy period which runs from 1 April 2015 to 31 March 2022. This means that unprotected and tapered members have the same protection as protected members for that period. The choice will be an ‘all or nothing’ option – all 2015 – 2022 service will be either in the member’s legacy scheme or 2015. It is also proposed that protection will be backdated for qualifying members even if they have left the scheme since the start of the protected period.

- Equally, all fully protected members will be also given the choice to receive pension benefit accrued in the protected period on a CARE (Career Average Revalued Earnings) basis as an alternative to final salary benefits. The choice exercise will therefore also apply to formerly protected members, including retired members.
- There are two proposals being considered by the Home Office as to when the choice is to be made – immediate (officers will be asked to make a choice at the end of the remedy period) or deferred (officers will not need to make a decision until they retire and claim their benefits).
- Scheme members who joined from 1 April 2012 will have an initial period of membership of the 2006 scheme, followed by membership of the 2015 Pension Scheme. There will be no impact or changes for this group, or for post April 2015 entrants.
- Accrual in the final salary scheme for existing and new protected members will cease on 31 March 2022, with all active members placed into the 2015 Pension Scheme.
- The approach to the retrospective adjustments to pension contributions, PAYE and pension tax and the treatment of a number of member situations, including ill health retirement, opt out, pension sharing, death and transfers.

On 21 August 2020 the Home Office provided informal guidance to Police Forces on processing ‘immediate detriment’ cases in advance of a decision on the Government’s final approach to removing the age discrimination as found in the McCloud Judgement.

For the purposes of this informal guidance, ‘immediate detriment’ includes those scheme members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, and who did not benefit from full protection and were moved into the 2015 Scheme on or after 1 April 2015:

- who become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); OR
- who don’t qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do so under the IHR arrangements in their legacy scheme.

Attached at Appendix 1 is the consultation document as produced by HM Treasury and at Appendix 2 is the FAQs that accompanied the consultation document. Appendix 3 is the informal guidance provided by the Home Office in respect of Immediate Detriment cases.

Recommendation

Members are requested to note the Consultation Document at Appendix 1, the FAQs at Appendix 2 and the informal guidance at Appendix 3.

Appendices:

Appendix 1 – Public Services Pension Schemes Consultation

Appendix 2 – Public Services Pension Schemes Consultation FAQs

Appendix 3 – Home Office Guidance on treatment of 'Immediate Detriment' cases

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Public service pension schemes: changes to the transitional arrangements to the 2015 schemes

Consultation



Public service pension schemes: changes to the transitional arrangements to the 2015 schemes Consultation

Presented to Parliament by
the Chief Secretary to the Treasury
by Command of Her Majesty

July 2020



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ISBN 978-1-913635-37-4 PU2973

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Foreword

Public service pensions are some of the most generous pension schemes available in the UK, ensuring those who dedicate their working lives to public service are rewarded appropriately in retirement. When reforms to the main public service schemes were introduced in 2015 they had several objectives, including greater fairness between lower and higher earners, future sustainability and affordability. These objectives are just as important today as they were then.


In negotiations with trade unions and staff associations, the Coalition Government agreed to exclude those closest to their retirement age from the reforms, as they had least time to prepare. This difference in treatment for certain members was later found to unlawfully discriminate, in particular against younger members. Since the Court's judgment, the government has been considering how best to address this discrimination. This consultation is the next phase of that work.

The reforms that were introduced in 2015 were progressive reforms and were in part intended to even out the value of pensions between some of the highest and lowest earners, resulting in some lower and middle earners being better off in the reformed schemes. Rather than just returning all members to the legacy schemes, I want to ensure that people who are better off in the reformed schemes can choose to keep those benefits. I also want to ensure that those who were closest to retirement age, and so were prevented from moving to the reformed schemes, will now have that choice.

The consultation explains how our two proposed options for removing the discrimination between scheme members would work. Under either option, the government would give eligible members a choice of which set of scheme benefits is better for them for the period 1 April 2015 to 31 March 2022.

This consultation also sets out proposals for moving all active members into the reformed schemes after this period. This government is committed to ensuring public service pension schemes reward public servants appropriately and are sustainable and affordable for taxpayers in the long term.

The issues we are facing here are complex and affect large numbers of people in different ways, so final decisions will need to take full and careful account of the views of all stakeholders. I therefore welcome views on the proposals in this document and, in particular, on the approaches outlined to give members a choice.

A handwritten signature in black ink, reading "Steve Barclay". The signature is fluid and cursive, with the first name "Steve" and the last name "Barclay" clearly distinguishable.

RT HON STEVE BARCLAY MP

Chief Secretary to the Treasury

Executive summary

Removing discrimination arising from transitional protection

In April 2015 the public service pension schemes were reformed; the cost of the legacy schemes had significantly increased over the previous decades, with most of those costs falling to the taxpayer. The introduction of new schemes, with career average design and increased Normal Pension Ages and the introduction of a cost control mechanism, were important steps to protect against unsustainable increases in cost. They were also progressive, providing greater benefits to some lower paid workers. Even with these reforms, public service pensions continue to be among the very best available, rewarding those who dedicate their working lives to public service.

As part of the 2015 reforms, those within 10 years of retirement remained in their legacy pension schemes. This transitional protection was provided following negotiations with member representatives and was intended to protect and give certainty to people who were close to retirement. In December 2018 the Court of Appeal found that this part of the reforms unlawfully discriminated against younger members of the judicial and firefighters' pension schemes in particular, as transitional protection was only offered to older scheme members¹. The Courts required that this unlawful discrimination be remedied by the government. This document sets out the government's proposals for doing so.

The proposals set out within this consultation will apply to all members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, across all affected public service schemes². This is irrespective of whether they have submitted a legal claim or not, or whether they are currently an active, deferred or pensioner member.

Depending on a person's circumstances, many scheme members are likely to be better off in the reformed schemes rather than the legacy schemes. The government believes it is therefore not fair to simply move everyone back into the legacy schemes, even though this would be sufficient to remove the unlawful discrimination identified by the Court of Appeal. The government therefore proposes to provide members with the option to choose between receiving legacy or reformed scheme benefits in respect of their service during the period between 1 April 2015 and 31 March 2022. This is referred to as the remedy period. This consultation seeks views on that proposal and especially on which of two possible

¹ The Court also made findings as to equal pay and indirect race discrimination.

² This includes the schemes covering the NHS in England and Wales, NHS Scotland, Teachers in England and Wales, Teachers in Scotland, Fire in England, Fire in Wales, Fire in Scotland, Police in England and Wales, Police in Scotland, Civil Service in Great Britain, UK Armed Forces, and the Civil Service (Others) scheme. Changes to the judicial pension schemes, the Local Government Pension Scheme in England and Wales, and the equivalent scheme in Scotland, as well as the public service pension schemes in Northern Ireland will be consulted on separately.

approaches should be taken to making this choice, and how each of these approaches might work. The two possible approaches are:

1. an immediate choice
2. a deferred choice underpin (DCU)

Both approaches would give members a choice whether to receive benefits from the legacy or reformed pension schemes in respect of their service during the period between 1 April 2015 and 31 March 2022. But they differ in the point in time at which the decision is made by the member.

Under the immediate choice exercise, members would make this decision in the year or two after the point of implementation in 2022. For many members, this will be some years prior to retirement, and at a time when there is still some uncertainty over the precise benefits that would accrue to them in the alternative schemes.

In contrast, under DCU, this decision would be deferred until the point at which a member retires (or when they take their pension benefits). Until that deferred choice is made, all members would be deemed to have accrued benefits in the legacy scheme, rather than the reformed scheme, for the remedy period.

Under either approach, those who have already retired and/or received a pension award will be asked to make their choice as soon as practicable after the changes are implemented. The position they choose would be applied retrospectively back to the date the award was made.

Both of these approaches would remove the discrimination that the court has identified. They have both been proposed in technical discussions that have been conducted with some scheme administrators and employer and member representatives. These have been helpful in identifying the relative advantages and disadvantages of each approach. There are extensive pros and cons to each option, with different impacts on different members. As set out in this consultation, there might in some cases be a need to adjust benefit payments, contributions and tax assessments with retrospective effect.

It is important to emphasise that all members will ultimately be treated as if they had belonged either to the relevant legacy scheme, or to the relevant reformed scheme, throughout the period between 1 April 2015 and 31 March 2022. There will be no obligation or entitlement to have the benefits or pay the contributions associated with one scheme in some respects, but with the other scheme in other respects. Nor will there be any provision for a "tapered" system under which some members might be entitled or required to treat part of that period as service in one scheme, and part of it as service in another.

Through this consultation, the government is seeking to explore and understand those differing impacts, potential mitigations, and other relevant issues, in order to ensure that the final policy solution has taken account of these matters. More details are set out in this consultation, through which the government is seeking stakeholders' views on the viability and desirability of both approaches.

Future pension provision

The options proposed to address the discrimination will enable members to choose between the legacy and reformed scheme benefits for the period between 1 April 2015 and 31 March 2022. The government is also seeking views in this consultation on the provision for public sector pension benefits after 31 March 2022.

The move in 2015 from (mostly) final salary to career average pension scheme design created a fairer system. Under a career average design, those public servants who see considerable increases in earnings over their career – and particularly towards the end of their career – are no longer likely to be relatively favoured compared with their colleagues who did not. Instead, the career average pension schemes ensure members accrue their pension at a typically higher annual rate based on their average salary. Although some members are likely to be better off in their legacy scheme, others, particularly lower paid members, are likely to be better off in the reformed schemes.

Normal Pension Age in most of the reformed schemes is linked to the State Pension age. Increases in life expectancy have led to increases in the cost of pensions of all kinds. Aligning Normal Pension Age with the point at which members receive their State Pension reflects the fact that we are living longer and achieves a fairer balance between time spent in work and in retirement. Nobody is required to work longer if they do not wish to do so, but where pensions are accessed before Normal Pension Age, they are adjusted to reflect the fact that they are likely to be paid for longer.

For Great Britain, the total annual cost of paying out unfunded public service pension scheme benefits stood at £41.8 billion in 2018-19. Most of this cost is met by taxpayers. It is important that these costs are kept under control, to ensure the schemes are affordable and sustainable for the long-term. The introduction of the reformed schemes, with career average design and increased Normal Pension Ages, were important steps to protect against unsustainable increases in costs. The reformed schemes remain amongst the most generous schemes available in the UK.

The government therefore believes that the reformed schemes initially introduced in 2015 provide an appropriate level of public service pension provision. All public servants in scope of this consultation will be placed in these pension schemes in respect of employment from 1 April 2022 onwards. This consultation seeks views on that proposal.

Chapter 1

Introduction

Public service pension reform

- 1.1 In June 2010 the Coalition Government established the Independent Public Service Pensions Commission, chaired by Lord Hutton of Furness. The Commission was asked to undertake a fundamental structural review of public service pension provision.
- 1.2 The cost of providing public service pension schemes had increased significantly over the previous decades, with most of this increase falling to the taxpayer. At the same time, occupational pension provision in the private sector had changed significantly; employers were increasingly moving away from offering defined benefit pension schemes.
- 1.3 The Commission¹ found that the existing structure had been unable to respond flexibly to workforce and demographic changes that had occurred over the previous few decades. The Commission concluded that this had led to:
 - rising value of benefits due to increasing longevity
 - unequal treatment of members within the same profession
 - unfair sharing of costs between members, employers and taxpayers
 - barriers to increasing the range of providers of public services
- 1.4 The final salary design of schemes was criticised for creating unequal treatment of members within the same employment. The Commission argued that final salary schemes unfairly benefitted those receiving very significant career progression, often referred to as “highflyers”, as well as exposing taxpayers to a risk from higher than expected salary rises.
- 1.5 Lord Hutton considered that public service workers should be entitled to good quality, sustainable and fair defined benefit pension schemes. The Commission’s final report in March 2011 recommended moving public service scheme members to reformed schemes with benefits calculated on a CARE (Career Average Revalued Earnings) rather than final salary basis. To control against the risk of rising longevity, the Commission recommended

¹ Final Report:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/207720/hutton_final_100311.pdf

Interim Report: https://webarchive.nationalarchives.gov.uk/20130102175838/http://www.hm-treasury.gov.uk/d/hutton_pensionsinterim_071010.pdf

increasing the Normal Pension Age (NPA) to 60 for the uniformed services and to State Pension age for all other schemes.

- 1.6 As part of the reforms, the Commission recommended setting a cost ceiling. This would keep future costs under control by triggering steps to reduce generosity should the costs increase significantly. The intention was to increase schemes' resilience and ability to absorb shocks, as seen in the past few decades, and provide reassurance to taxpayers by imposing firm limits on the taxpayer cost of public service pensions.
- 1.7 The Coalition Government agreed that the Commission's recommendations would form the basis for consultation with member representatives and other interested parties. In November 2011 the Coalition Government set out its proposals for the scheme design and costs of the four largest public service schemes: the NHS Pension Scheme (England and Wales), the GB Civil Service Pension Scheme, the Teachers' Pension Scheme (England and Wales) and the Local Government Pension Scheme in England and Wales (Cm 8214, *Public service pension schemes: good pensions that last*). During negotiations with unions, the Coalition Government agreed to transitional protection for those closest to retirement, and a symmetrical cost control mechanism: i.e. that as well as protecting taxpayers where costs increased, members would see improvements to their benefits where costs decreased. In April 2015 reformed pension schemes were introduced under the Public Service Pensions Act 2013.
- 1.8 In line with wider changes to the use of price indexation in government, changes had also been made to the measure of inflation used to uprate pensions, from the Retail Prices Index to the Consumer Prices Index. Member contribution rates were also increased across the schemes (other than the armed forces²) by an average of 3.2% of pay.
- 1.9 The combined effect of all these changes was to reduce the forecast cost of public service pensions to the taxpayer by approximately £400 billion over 50 years. The change from final salary to career average design made schemes fairer for most workers on low and middle incomes. The change to NPA reflected improvements in life expectancy and the need to rebalance working lives with the average number of years spent in retirement. Higher NPAs act as an incentive to retire later than before, though the reformed schemes allow members to choose to retire earlier than their NPA. If they do, a fair adjustment is made to the benefits they receive to reflect the fact that they will be paid for longer.
- 1.10 The schemes were designed to ensure that members would have good pensions, which, at a minimum, met the target levels identified by Lord Turner's Pension Commission³ on the levels of income needed in retirement. Although some employee representatives campaigned against the reforms, the changes were beneficial to many members. Moving away from final salary-based pensions removed an inherent unfairness in scheme design where those receiving very considerable increases in pay could receive twice

² The Armed Forces Pension Schemes are non-contributory for members. If the pensionable pay of members of armed forces pension schemes is included, the average increase across all the main schemes was approximately 3% of overall pensionable pay.

³ Pensions: Challenges and Choices – The First Report of the Pensions Commission, 2004

as much from the schemes for each £1 they contributed than those with flatter careers. The reformed designs should provide many low and middle earners working a full career with pension benefits at least as good, if not better than under the previous arrangements.

- 1.11 The reformed schemes remain among the most generous available in the UK, and an important part of the remuneration of public service workers. Public service pension provision compares favourably with pension provision in the private sector, with typical employer pension contributions rates significantly higher in public service schemes than in private sector schemes.

Transitional arrangements litigation

- 1.12 Following negotiations with member representatives, the government agreed to exempt older members from the pension scheme changes. In most schemes this meant that members within 10 years of Normal Pension Age stayed in their existing schemes (known as “transitional protection”) and members between 10 and 13.5 or 14 years of Normal Pension Age could stay in their existing schemes for a period ranging from a few months to several years after 2015 (known as “tapered protection”⁴).
- 1.13 Several judges and firefighters made claims (known as the McCloud and Sargeant cases⁵) in the Employment Tribunals on the grounds that the transitional protection offered to older members constituted unjustified direct age discrimination and indirect race and sex discrimination. In particular, they argued that younger members were treated less favourably than older members who were given transitional protection. The Court of Appeal ruled in December 2018 that transitional protection in the judges’ and firefighters’ pension schemes gave rise to unlawful discrimination.
- 1.14 The government sought permission to appeal to the Supreme Court. This application was refused on 27 June 2019. In a written ministerial statement on 15 July 2019, the government confirmed that it accepted that the Court of Appeal’s judgment had implications for all schemes established under the Public Service Pensions Act 2013, as all those schemes had provided transitional protection arrangements for older members. The government confirmed that it would take steps to address the difference in treatment across all those schemes and in a subsequent written ministerial statement on 25 March 2020, that it would do this for all members with relevant service, not just those who had lodged a legal claim.
- 1.15 The judges’ and firefighters’ cases have been remitted to the Employment Tribunals to determine a remedy for claimants. Cases involving other schemes have also been brought. The government has agreed in a number of Employment Tribunal cases that claimants should be entitled to

⁴ All schemes have tapered protection except the Armed Forces Pension Scheme and Local Government Pension Scheme (which is outside of the scope of this consultation, apart from the issue of transfer between the LGPS and the other schemes (see paragraph A.57 below)). Tapered protection was usually for members who were from 10 to 13.5 years of their NPA on 1 April 2012, but for police and firefighters the period was between 10 and 14 years.

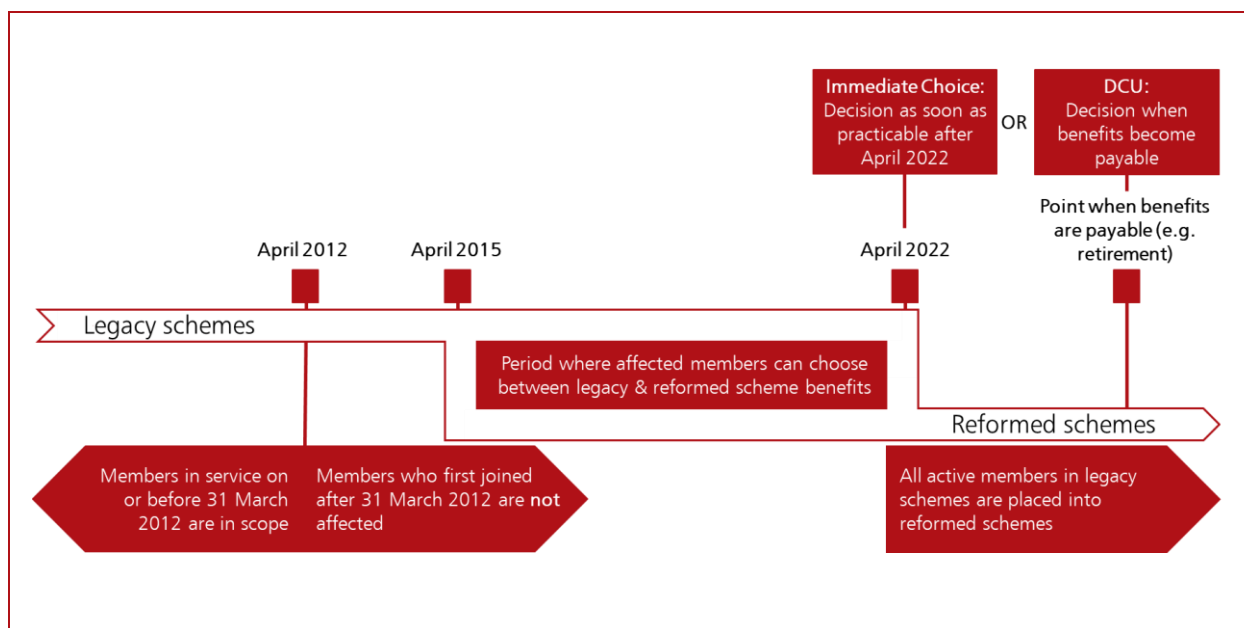
⁵ Lord Chancellor and another v McCloud and others, Secretary of State for the Home Department v Sargeant and others [2018] EWCA Civ 2844

membership of the appropriate legacy scheme. Claimants and non-claimants will be treated equally by having access to the same pension changes. This consultation sets out proposals to remove the discrimination for all affected members across the majority of the affected public service schemes.

Purpose of this consultation

- 1.16 The government proposes to introduce legislation: (a) to make changes to the schemes to remove the discrimination identified by the Courts for the period 1 April 2015 to 31 March 2022 (the remedy period); and, (b) to address future service beyond the remedy period.
- 1.17 In relation to the remedy period, simply extending the transitional arrangements to all eligible members - effectively placing them all back in their legacy schemes - could make many members worse off.
- 1.18 The government is therefore consulting on further changes that would ensure members can keep or choose benefits in the reformed schemes if they wish. This would mean those who did not have transitional protection (and so moved to the reformed schemes in 2015) could choose to keep those benefits they have accrued in the reformed schemes, and those who did have transitional protection (and so did not originally have access to the reformed schemes) can now choose to have such access.
- 1.19 Changes could require retrospective adjustments to individuals' pensions and to their member contributions. Where pension entitlements change this may also have tax consequences – these are outlined in the relevant sections of the consultation document, and explained in more detail in Annex B.
- 1.20 This consultation also sets out proposals for future service beyond the remedy period. The government remains of the view that the schemes established in 2015 currently represent an appropriate level of pension provision. To ensure that schemes remain appropriate and affordable while treating members equally for future service, all active members will be placed in the reformed schemes in respect of employment from 1 April 2022. At that point the transitional protection provisions would be removed, but the final salary link for members with service in the legacy schemes will be retained.

Figure 1: Diagram of the choice and pension reform process:



- 1.21 Earlier this year the government conducted technical discussions with scheme administrators and employer and member representatives to inform its proposals. These discussions were extremely helpful in informing the proposals contained in this document. The constructive engagement of all who participated is appreciated.

Scope

- 1.22 Around 3 million individuals are in scope of the changes relating to the removal of discrimination back to 2015. Of those, approximately 2 million will also be in scope of the changes to pension provision from 1 April 2022 onwards.
- 1.23 Under the proposed approach to removing the discrimination, all individuals in scope will be able to receive the benefits to which they are entitled, whether they have lodged a legal claim or not. It is important that changes are carefully considered, designed and implemented. It will take time to ensure this is done correctly. Most members will not draw benefits for some time and there is therefore time to implement changes before payments are due. The government will also ensure that the discrimination is addressed for those who receive a pension award before the changes are implemented, more details of which are set out in paragraphs 2.23-2.27. All relevant payments will be backdated where necessary.
- 1.24 This consultation relates to the main public service pension schemes the UK Government is responsible for (the Civil Service Pension Scheme for England, Wales, Scotland and home civil servants in Northern Ireland, the Teachers' Pension Schemes in England and Wales, the National Health Service Pension Schemes in England and Wales, the UK Armed Forces Pension Schemes, the Police Pension Schemes in England and Wales, and the Firefighters Pension Schemes in England). The Welsh Government is the responsible authority for the Firefighters Pension Scheme in Wales and the Scottish Government is the

responsible authority for the Teachers' Pension Schemes, the National Health Service Pension Schemes, the Police Pension Schemes and the Firefighters Pension Schemes in Scotland.

- 1.25 This consultation relates to the public service pension schemes in Scotland and Wales listed above in so far as there is a general need to address the discrimination identified by the Courts and in relation to pension provision from 1 April 2022 onwards. However, decisions regarding the details of how the discrimination identified by the Courts is addressed in those schemes are matters for Scottish and Welsh ministers.
- 1.26 Due to differences in the way transitional protection was provided in the Local Government Pension Scheme in England and Wales, and the equivalent scheme in Scotland⁶, there will be a separate consultation on changes for those schemes. The Ministry of Justice will also take forward a separate consultation on changes to the pension schemes for the judiciary, reflecting the unique situation of those schemes.
- 1.27 Public service pension schemes managed by the Northern Ireland Executive are established under separate legislation to those in Great Britain. They will therefore be subject to separate consultation.
- 1.28 It is envisaged that all schemes in scope will adopt broadly the same solution for removing the unlawful discrimination arising from transitional protection. However, it is likely that some elements will need to vary across schemes, reflecting differences in existing scheme design and characteristics. Details of these scheme specific elements will be subject to further public consultation on a scheme by scheme basis.

Legislation, implementation and timeline

- 1.29 It is the government's intention to bring forward new primary legislation as soon as practicable. This will provide for powers to make the necessary changes to schemes, to end the discrimination identified by the Courts, and to do so in a fair and non-discriminatory manner. By legislating in this way, the government's intention is to avoid any uncertainty or other problems which might otherwise result from relying simply upon whatever automatic effect the Equality Act 2010 may have, or from leaving it to courts or tribunals to make orders in particular cases. The new legislation is intended generally to take effect from April 2022, but will make provision for the whole of the period from 31 March 2015 onwards. This consultation explains how members would be treated at different times, in terms of their scheme membership.
- 1.30 The specific elements of future legislation, including the timelines for these, will be developed following the responses to proposals set out in this paper.

⁶ The equivalent local government scheme in Northern Ireland is subject to separate legislation and consideration from the schemes in Great Britain.

- 1.31 As set out above, amendments required to scheme regulations, in order to implement these proposals, will be the subject of further public consultation on a scheme by scheme basis.

Equalities impacts

- 1.32 When formulating policy proposals, the government is required to comply with the Public Sector Equality Duty in the Equality Act 2010⁷. The duty requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people with different protected characteristics when carrying out their activities.
- 1.33 We would like to know your views as to whether any of the measures envisaged by this consultation might have any negative impacts relevant to the Public Sector Equality Duty⁸, or cause any other discrimination between different groups which ought to be avoided. There is evidence that some of the proposals may have differential impacts, but the government's current view is that these will not have a disproportionate or otherwise unjustified impact on individuals. These are set out in more detail in the Equalities Impact Assessment published alongside this document. We welcome your views on this, and on ways to mitigate any such impacts.

Question 1: Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010⁹? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

Question 2: Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

Interaction with Employment Tribunal proceedings

- 1.34 There are ongoing Employment Tribunal proceedings that concern a number of pension schemes and are to determine the remedy for the discrimination suffered by the claimants in these cases. The government's intention is that any action it takes to make changes to public service pension schemes will be consistent with any declaration of claimants' rights made by the Tribunals, although that will be kept under review as those proceedings progress. As set out in paragraph 2.3, the government believes that it is appropriate to allow all affected members to choose to access either legacy

⁷ <https://www.gov.uk/guidance/equality-act-2010-guidance>

⁸ https://www.equalityhumanrights.com/sites/default/files/meeting_the_duty_in_policy_and_decision-making.pdf

⁹ <https://www.legislation.gov.uk/ukpga/2010/15/section/149>

or reformed scheme benefits for the relevant period, and such a choice will go beyond any remedy that the Courts or Tribunals would be able to order.

- 1.35 The government's intention is therefore that the proposals in this consultation will apply both to those who have lodged legal claims and to those who have not, to ensure that they are treated in the same way. Members do not need to submit a legal claim to be covered by the proposals in this consultation. Both claimants and non-claimants will be given the opportunity to receive the pension benefits for the period 1 April 2015 to 31 March 2022 that they consider most valuable.

How to respond

- 1.36 This consultation will run for 12 weeks and will close at midnight on Sunday 11 October. Responses can be submitted by email to:
PensionsRemedyProjectConsultation@hmtreasury.gov.uk
- 1.37 Alternatively, please send responses by post to:
- Pensions Remedy Project Team
HM Treasury
2/Red
1 Horse Guards Road
London
SW1A 2HQ
- 1.38 When you are responding, please make it clear which questions you are responding to. Additionally, please indicate whether you are replying as an individual or submitting an official response on behalf of an organisation.

Processing of personal data and confidentiality

- 1.39 This notice sets out how HM Treasury will use your personal data for the purposes of the consultation on *Public Service Pension Schemes: changes to the transitional arrangements in the 2015 schemes* and explains your rights under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

Your data (Data Subject Categories)

- 1.40 The personal information relates to you as either a member of the public, parliamentarians, and representatives of organisations or companies.

The data we collect

- 1.41 Information may include your name, address, email address, job title, and employer, as well as your opinions. It is possible that you will volunteer additional identifying information about yourself or third parties.

Legal basis of processing

- 1.42 The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in HM Treasury. For the purpose of this consultation the task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good, effective government policies.

Special categories data

- 1.43 Any of the categories of special category data may be processed if such data is volunteered by the respondent.

Legal basis for processing special category data

- 1.44 Where special category data is volunteered by you (the data subject), the legal basis relied upon for processing it is: the processing is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department.
- 1.45 This function is consulting on departmental policies or proposals, or obtaining opinion data, to develop good effective policies.

Purpose

- 1.46 The personal information is processed for the purpose of obtaining the opinions of members of the public and representatives of organisations and companies, about departmental policies, proposals, or generally to obtain public opinion data on an issue of public interest.

Who we share your responses with

- 1.47 Information provided in response to a consultation may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR).
- 1.48 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence.
- 1.49 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.
- 1.50 Where someone submits special category personal data or personal data about third parties, we will endeavour to delete that data before publication takes place.

- 1.51 Where information about respondents is not published, it may be shared with officials within other public bodies involved in this consultation process to assist us in developing the policies to which it relates. Examples of these public bodies appear at: <https://www.gov.uk/government/organisations>.
- 1.52 As the personal information is stored on our IT infrastructure, it will be accessible to our IT contractor, NTT. NTT will only process this data for our purposes and in fulfilment with the contractual obligations they have with us.

How long we will hold your data (Retention)

- 1.53 Personal information in responses to consultations will generally be published and therefore retained indefinitely as a historic record under the Public Records Act 1958.
- 1.54 Personal information in responses that is not published will be retained for three calendar years after the consultation has concluded.

Your Rights

- you have the right to request information about how your personal data are processed and to request a copy of that personal data
- you have the right to request that any inaccuracies in your personal data are rectified without delay
- you have the right to request that your personal data are erased if there is no longer a justification for them to be processed
- you have the right, in certain circumstances (for example, where accuracy is contested), to request that the processing of your personal data is restricted
- you have the right to object to the processing of your personal data where it is processed for direct marketing purposes
- you have the right to data portability, which allows your data to be copied or transferred from one IT environment to another

How to submit a Data Subject Access Request (DSAR)

- 1.55 To request access to personal data that HM Treasury holds about you, contact:

HM Treasury Data Protection Unit
 G11 Orange
 1 Horse Guards Road
 London
 SW1A 2HQ
dsar@hmtreasury.gov.uk

Complaints

- 1.56** If you have any concerns about the use of your personal data, please contact us via this mailbox: privacy@hmtreasury.gov.uk
- 1.57** If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner, the UK's independent regulator for data protection. The Information Commissioner can be contacted at:

Information Commissioner's Office
 Wycliffe House
 Water Lane
 Wilmslow
 Cheshire
 SK9 5AF
 0303 123 1113
casework@ico.org.uk

- 1.58** Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the Courts.

Contact details

- 1.59** The data controller for any personal data collected as part of this consultation is HM Treasury, the contact details for which are:

HM Treasury
 1 Horse Guards Road
 London
 SW1A 2HQ
 London
 020 7270 5000
public.enquiries@hmtreasury.gov.uk

- 1.60** The contact details for HM Treasury's Data Protection Officer (DPO) are:

The Data Protection Officer
 Corporate Governance and Risk Assurance Team
 Area 2/15
 1 Horse Guards Road
 London
 SW1A 2HQ
 London
privacy@hmtreasury.gov.uk

Chapter 2

Removing discrimination arising from transitional protection

Case for change

- 2.1 The legal cases that ruled that transitional protection was unlawful are known as the McCloud and Sargeant cases. Through these cases, the Courts identified unjustified age discrimination, in that entitlement to transitional protection was dependent on age. The Courts also identified indirect race and sex discrimination arising on the particular facts of those cases.
- 2.2 In order to remove this discrimination, the government must ensure equal treatment retrospectively back to 1 April 2015 and prospectively for the period until a fully equalised system takes effect.
- 2.3 The simplest way to achieve this would be to extend transitional protection to all members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years. This would mean retrospectively moving all those who were originally ineligible for transitional protection back to their legacy schemes. While returning protected members to their legacy schemes would be consistent with the declarations issued by the Tribunals to date, it would be detrimental for a significant number of members who are likely to be better off in the reformed schemes. The government has therefore decided instead to ensure equal treatment by offering the relevant members a choice of which scheme benefits they want to have in respect of their service between 2015 and 2022.
- 2.4 While the legacy schemes are mainly based on final salary, and mostly have lower Normal Pension Ages (NPAs), the accrual rates are generally lower than in the equivalent reformed schemes. This means that pensions in the reformed schemes build up quicker than in the legacy schemes, despite being paid on an unreduced basis at later ages. Depending on the specifics of each scheme and individual circumstances, many members can therefore be better off in the reformed schemes, while others may be better off in the legacy schemes.
- 2.5 The government is clear that scheme members will be able to choose between reformed or legacy scheme benefits for the remedy period. Simply moving all unprotected members back to the legacy schemes for this period would not deliver this commitment and would be detrimental to those members who would be better off in the reformed schemes.

- 2.6 Similarly, there will be members who were originally protected and so remained in the legacy schemes, who will in fact be likely to be better off in the reformed schemes. Accordingly, those who were originally protected will also be offered the chance to be treated as if they had been in the reformed schemes in respect of their service between 2015 and 2022.
- 2.7 The below examples illustrate some situations whereby members may be better off in the reformed schemes. This is particularly the case for members without significant earnings growth in their career from 2015 onwards, or who choose to retire after their legacy scheme's NPA. Annex C contains further information on these examples and additional examples of alternative scenarios, including where some members may be better off in the legacy schemes. Ultimately, however, members will need to consider for themselves whether, having regard to their own personal circumstances and priorities, they would prefer to be in their legacy or reformed schemes in respect of their service between 2015 and 2022.

Example 1

A **nurse** who is a member of the **NHS Pension Scheme** (2015 scheme and 2008 section).

In **2012 they were 45**, and so **did not receive transitional protection**. However, they will now be given a **choice of pension for their service over the remedy period**, of either:

Legacy scheme (2008 section)	or	Reformed scheme
1/60 th of final salary each year Optional lump sum Payable unreduced from age 65		1/54 th of revalued salary each year Optional lump sum Payable unreduced from State Pension age (age 67)

If they had a **salary of £30,000 in 2015**, experience future annual **salary increases of 1% above inflation** and **retire at 65**, their choice with respect to the remedy period will be between the following pension amounts at retirement:

Legacy scheme:	or	Reformed scheme:
£5,450 pa		£6,040 pa

Assuming they choose to not give up any pension for a lump sum and allowing for the reformed scheme benefits being reduced for early retirement.

This means they would likely be **better off receiving reformed scheme benefits**.

Example 2

A **teacher** who is a member of the **Teachers' Pension Scheme** (Normal Pension Age 60 section).

In **2012 they were 50**, and so **received transitional protection**. However, they will now be given a **choice of pension for their service over the remedy period**, of either:

Legacy scheme (NPA 60)	or	Reformed scheme
1/80 th of final salary each year Automatic lump sum (3x pension) Payable unreduced from age 60		1/57 th of revalued salary each year Optional lump sum Payable unreduced from State Pension age (age 67)

If they had a **salary of £40,000 in 2015**, experience future annual **salary increases of 2% above inflation** and **retire at their State Pension age (67)**, their choice with respect to the remedy period will be between the following pension amounts at retirement:

Legacy scheme:	or	Reformed scheme:
£5,710 pa (+ £17,130 lump sum)		£6,570 pa (+ £17,130 lump sum)

Assuming, for ease of comparison, that under the reformed scheme benefits, they would choose to give up pension for a lump sum equivalent to that they would have automatically received under the legacy scheme.

This means they would likely be **better off receiving reformed scheme benefits**.

2.8 Aside from the value of the core member pension, there are other differences between the reformed and legacy schemes. These differ between schemes but may, for example, include some of the following:

- whether there is an automatic cash lump sum in addition to regular pension payments
- the age at which members can choose to retire with an unreduced pension (Normal Pension Age)
- member contribution rates
- qualification for ill health retirement
- entitlement to survivor benefits

2.9 Members will place different values on these differences in scheme design, depending on their personal circumstances. Some members are likely to attach greatest importance to the value of the core member pension, but others may favour particular elements of one of the schemes. For example, an individual with dependants may place more weight on survivor benefits than an individual with no immediate family. For some individuals there will also be differences in tax liabilities arising from membership of reformed or legacy schemes, which may impact those individuals' preferences.

2.10 For these reasons, it is not practicable or appropriate for scheme managers to decide on behalf of individual members which scheme they should be treated as having been in between 2015 and 2022. Only individual members

will be able to decide which benefits they value most. Both options set out in this consultation therefore give affected members a choice of which set of scheme benefits they want to receive for the period from 2015 to 2022: the set of benefits they had before 1 April 2015 (the legacy scheme), or the set of benefits as provided since 1 April 2015 by the reformed scheme established under the Public Service Pensions Act 2013.

- 2.11 The government is aware that some stakeholders have reservations about expecting members to make such a decision, rather than schemes making it on members' behalf. However, given the extent to which choices may depend on personal circumstances, future intentions and expectations and personal priorities, the government does not consider it would be right to make this decision for members. However, the government recognises the importance of ensuring that members are given appropriate information about the different options, the ways in which choosing one option rather than another may (at any rate at a general level) make a difference to members' positions, and how further advice might be obtained if required.

Remedy period

- 2.12 The issues being expressed by these proposals have existed since the reformed schemes were introduced on 1 April 2015. Under the proposals in this consultation document, the period for which members would be offered the choice of accruing benefits in the legacy or reformed schemes will start from 1 April 2015 and it is proposed that it will continue until 31 March 2022.
- 2.13 It is separately proposed that from 1 April 2022 all active members will be moved into the relevant reformed schemes, as set out in Chapter 3 below. 1 April is the first day of the new 'scheme year' and is when pensions changes are normally introduced. If, ultimately, the government decides to adopt the proposals set out in this consultation paper, the scheme year starting on 1 April 2022 is the earliest date by which the relevant legislation and administrative arrangements necessary to implement the present proposals (including the proposal that all active members would be moved into their relevant reformed scheme, as set out in Chapter 3) is expected to be in place.

Members in scope

- 2.14 The unlawful discrimination identified by the Courts was between those who were in service on 31 March 2012 and received full transitional protection and those who were in service then but did not receive full transitional protection because they were more than ten years from NPA. It is these groups that the government must now equalise treatment between. This applies equally to all those members, whether they are currently active, deferred or pensioner members.
- 2.15 As members who first joined their scheme after 31 March 2012 were ineligible for transitional protection regardless of their age, they were not subject to the discrimination identified by the court.

- 2.16 The purpose of the original transitional protection was to protect those closest to retirement and already in public service, and so with least time to prepare, from the changes (although the Courts decided that this did not justify the resulting discrimination).
- 2.17 This rationale did not apply to those who joined the schemes in the year commencing 1 April 2012 or in subsequent years after the Coalition Government's proposals had been made known in November 2011 (as set out in paragraph 3.10 below, there are practical reasons why significant changes to pension arrangements are generally made with effect from a date of 1 April). The proposed introduction of the reformed schemes was well publicised at the time and was the subject of widespread media coverage. Anyone joining after 31 March 2012 would, therefore, reasonably be expected to have known that they would join or be moved to the reformed schemes. They could not reasonably have expected to remain in, or join, the legacy schemes, and nor were they subject to the unlawful discrimination identified by the Court of Appeal because transitional protection was not available to anyone who joined after 31 March 2012. Therefore, it is not appropriate to extend to them the same choice of scheme membership in respect of their service between 2015 and 2022 as will apply to those who were already in service at 31 March 2012. To do so would also increase the administrative workload and financial cost of these proposals. Consequently, such persons are not within scope of the proposals set out in this document.
- 2.18 Individuals who were in service on or before 31 March 2012 but subsequently left and re-joined will be in scope of these proposals, provided their break in service meets the criteria for continuous service set out in their scheme regulations and was less than five years.

Taper protected members

- 2.19 In addition to full transitional protection, a number of schemes included tapered protection. In most schemes this applied to those between ten and either thirteen and a half or fourteen years from NPA on 31 March 2012, depending on scheme. These individuals were able to remain in the legacy schemes for longer than those who were completely unprotected, before moving to the reformed schemes. This was on a sliding scale; those taper protected members closest to NPA in 2012 stayed in the legacy schemes longer than those further from NPA.
- 2.20 The effect of the judgment in the McCloud case is that this tapered protection was discriminatory, and that this discrimination was unlawful. Maintaining an age-based system of tapered protection, or extending it to all members in scope of this consultation, would therefore be perpetuating or indeed extending such discrimination. It would also be extremely complex to administer in the context of a choice-based system. As a result, under either of the main options set out here for consultation, all members, whether originally fully protected, taper protected or unprotected, will be able to choose legacy scheme benefits or reformed scheme benefits for the whole remedy period. They will not be given the choice to have legacy benefits for

some of the period and reformed benefits for the rest. The choice now to be made available will be beneficial for the majority of taper protected members. Requiring that choice to be exercised for the entirety of the remedy period is necessary to ensure that the remedy is implemented fairly for all members.

- 2.21 It is possible that for a small number of individuals tapered protection may, have been more advantageous than the choice of receiving either reformed or legacy scheme benefits for the entire remedy period.
- 2.22 However, any such advantage will have arisen by chance, in the sense that it is not something which the system of tapered protection deliberately set out to produce, and it would have been as a result of a policy that has been identified by the Courts as giving rise to unjustified discrimination. Alternative options have been considered to test whether it would be possible to construct a system of tapered protection that was not age based. However, even if this was possible, any such system would be extremely complex both for members and administrators and would likely involve members having to make a much more convoluted choice than that required either by the immediate choice exercise or by the DCU. Further, since it would by definition be a different system, it would not necessarily leave members in the same position as under the original age-based taper in any case.

Question 3: Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

Members who retire or receive pension benefits before the consultation changes are implemented

- 2.23 Generally speaking, members in scope will not be asked to make their choice between benefits until some point in the period after 1 April 2022 (under the immediate choice option), or at a later date when they come to retire and receive benefits (under the DCU option). Some affected members have already retired with a pension in payment, or will do before the changes in this consultation are implemented. Everyone in this position will ultimately receive a choice of service in their legacy or reformed scheme for the period between 1 April 2015 and the date of their pension award.
- 2.24 Members who have already retired and received a pension award, from either their legacy or reformed scheme, will be given this choice as soon as practicable once the legislative changes are implemented. Any revised award will be backdated to the date their pension award was made. Members of the legacy schemes who retire between now and the implementation of the changes will be treated in the same way.

- 2.25 The government accepts that members of the reformed schemes affected by the unlawful discrimination identified by the Courts, have an entitlement to be treated as a member of their legacy scheme for the remedy period if they wish. In recognition of this, the government will work with schemes to seek to give these members of the reformed schemes who were not originally protected and who retire between now and 2022 that choice at retirement, where this is administratively possible. In particular, the government will work with schemes to seek to offer reformed scheme members undergoing ill health retirement a choice of legacy or reformed scheme benefits at retirement, subject to them meeting the criteria for payment of benefits under each scheme. However, this is administratively complex and will require systems changes. Where it is not possible to offer this choice to members at the point their award is made they will be given this choice as soon as practicable once the legislative changes are implemented and again any revised award will be backdated to the date the member's pension award was made.
- 2.26 As set out in more detail in Annex A, it is important to note that, where members choose to change scheme, they may in some cases have to repay benefits that they have already received. Where this is so, or payment of additional contributions will be required, this will be made clear to members when making their choice.
- 2.27 If the benefits a member has received change, then tax adjustments may be required. The tax rules will apply to the facts of an individual's updated situation.

Options

- 2.28 The government is in particular seeking views on two options through this consultation: an immediate choice exercise and a deferred choice underpin (DCU).
- 2.29 Both options would involve members having the choice between their legacy and reformed scheme benefits for their service in the remedy period, but for the majority of members the choice would be made at different times under the two options.
- 2.30 Under the immediate choice option, most members would decide which benefits to take in the years after the point of implementation (i.e. 2022).
- 2.31 In contrast, under DCU for the majority of members the decision about which benefits to take would be deferred until the point at which they take their pension benefits¹.
- 2.32 As set out in paragraph 2.25, under either option, some members who take pensions benefits before 1 April 2022 may be asked to make their decision sooner.

¹ For Armed Forces Pension Scheme members, a payment under the Early Departure Payments scheme, and entitlement to a redundancy payment under the MOD's armed forces redundancy compensation schemes would trigger the choice.

- 2.33 Under both options, the choice would be between accruing service in the legacy scheme and accruing service in the reformed scheme. Members would therefore have to choose between all the benefits in the legacy scheme or all of the benefits in the reformed scheme; they could not seek to be a member of both schemes, or to have a combination of legacy and reformed scheme benefits with respect to the remedy period.
- 2.34 An immediate choice would satisfy the need to give members the choice between legacy and reformed scheme benefits. It would provide relative certainty for the majority of members at a much earlier stage. However, members would have to make a decision based on assumptions around factors such as their future earnings and career paths, their family circumstances now and in future, and when they expect to retire. For some, this would involve making assumptions over what might happen over a period of many decades. There is therefore a chance that some members would choose to accrue service in a scheme which does not ultimately turn out to be the most beneficial for them. Members already make assumptions about their futures when making decisions about existing elements of their pensions. For example, when deciding when to retire and whether or not to take a lump sum in return for reduced annual pensions, or how much lump sum to take, members may make assumptions around future life expectancy, which may prove incorrect.
- 2.35 The deferred choice underpin would also give members the choice between legacy and reformed scheme benefits. By delaying the decision until the point at which benefits are awarded, the DCU would reduce the reliance on forecasts and assumptions, and therefore the possibility of members making what might turn out to be the wrong choice. Making the decision when benefits are awarded (for most members, the point of retirement) would mean they could be based on known benefit entitlements late in, or at the end of, a career rather than assumptions about their future career. This option does, however, mean the majority of members would have less certainty about the benefits they would ultimately receive until they take those benefits (although they would know their benefits would be at least as good for them personally as they already expect). DCU would also be more challenging than immediate choice to design and administer longer term.
- 2.36 The next two sections set out in more detail how the immediate choice and DCU options might work.

Immediate choice

- 2.37 Under this option members would make an irrevocable decision as to whether to accrue benefits in their legacy or reformed pension scheme for the remedy period. For most members this choice would be made in the period after the end of the remedy period. It may be made earlier for some of those who take a pension award before 2022.
- 2.38 Members would be given a reasonable amount of time to make the relevant choice – probably 12 months from the date they are first contacted. Throughout that period, schemes would make multiple efforts to contact

members who had not yet responded, for example at 3, 6, 9 and 12 months. Any member who did not respond in this timeframe would be deemed to have chosen to accrue benefits in their existing scheme. For members who were originally transitionally protected this would be the legacy scheme. For those who did not receive transitional protection, this would be the reformed scheme. This “default” position would avoid the possibility of changing the benefits that members are currently entitled to without their express consent.

- 2.39 As set out in paragraph 2.20 above, members who originally had tapered protection would be required to choose between their legacy scheme benefits and the reformed scheme benefits. They could not have a combination of the two. There is a question as to what the default option should be for members who originally received tapered protection but did not respond to the immediate choice exercise. An option would be to deem them to have accrued benefits in their reformed scheme for the whole remedy period, as that is the scheme they would currently be in (all having tapered by the point of implementation after 2022). Alternatively, however, they could be deemed to have accrued benefits in their legacy scheme for the remedy period. Under either option, it is possible that some members who do not respond may be placed in the scheme that is not the most beneficial for them for the remedy period. This will be dependent on individual circumstances.
- 2.40 It may be clearer in some schemes that a large proportion of members who did not have transitional protection would be financially better off moving back to the relevant legacy scheme. It is therefore possible that a different “default” option could be chosen for the members of those schemes, including taper protected members, where no response to the choice exercise was received. This is something relevant schemes could consult on directly with their stakeholders following the government’s response to this consultation.

Question 4: Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

- 2.41 While scheme managers could not provide forecasts of exactly what each member would receive in the future from either scheme, and could not advise members on which was the “best” choice for them, they would be able to provide some information on the different benefits available under each scheme and to make available tools such as online calculators and models for members to use. These tools could allow members to input assumptions for variables such as future earnings, prices or earnings indexation, expected retirement age, their longevity and possible survivor benefits, to see what benefits they might expect to receive from the different schemes in each scenario on the basis of those assumptions. Ultimately though, these could only be projections based on particular assumptions.

Members would need to take their own decision as to which scheme best reflects their personal circumstance and priorities.

- 2.42 The examples below show some of the ways in which assumptions an individual makes could affect which scheme is ultimately better for them.

Example 1 revisited

Example 1 considered a **nurse** who is a member of the **NHS Pension Scheme** (2015 scheme and 2008 section), who if they were to retire at age 65 would choose between the following pension amounts with respect to the remedy period at retirement:

Legacy scheme: £5,450 pa	or	Reformed scheme: £6,040 pa
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If the same nurse as set out in example 1, gets promoted twice, receiving **an additional 10% salary increase** at the end of the remedy period **and an additional 5% salary increase** five years later, their choice if retiring at age 65 now becomes, either:

Legacy scheme: £6,270 pa	or	Reformed scheme: £6,040 pa
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This means they would likely be **better off receiving legacy scheme benefits**. Therefore, for this hypothetical member a change in future career progression has changed which scheme is expected to be more beneficial.

Example 2 revisited

Example 2 considered a **teacher** who is a member of the **Teachers' Pension Scheme** (Normal Pension Age 60 section), who if they were to retire at their State Pension age (67) would choose between the following pension amounts with respect to the remedy period at retirement:

Legacy scheme: £5,710 pa (+ £17,130 lump sum)	or	Reformed scheme: £6,570 pa (+ £17,130 lump sum)
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If the same teacher as set out in example 2 **chose to retire aged 60** instead, then their final salary would be lower and the reformed scheme benefits would be reduced for early retirement. Their choice is now:

Legacy scheme: £4,340 pa (+ £13,020 lump sum)	or	Reformed scheme: £3,490 pa (+ £13,020 lump sum)
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This means they would likely be **better off receiving legacy scheme benefits**. Therefore, for this hypothetical member a change in retirement age has changed which scheme is expected to be more beneficial.

- 2.43 Because legacy and reformed schemes have different accrual rates, for a small minority of members their decision to take different benefits for the remedy period than they have accrued hitherto could have tax implications. This is set out in more detail at Annex B. There is a usual 4-year statutory time limit for reassessing tax for previous years. Therefore in cases where a

change in benefits means an individual owes more in tax, they must pay this additional tax to HMRC for any years of the remedy period within the current tax year and the 4 full tax years preceding the point at which the choice is made. But where a change in benefits means an individual is owed money because their tax liability is lower, the government will refund the equivalent of the excess tax paid with respect to all years of the remedy period. Individuals affected will need to reassess their tax positions for each individual year of the remedy period. Any changes that impact an individual's tax position within the statutory time limit will need to be reported to HMRC. Individuals may also need evidence of their tax position for earlier years to help them access the appropriate compensation.

- 2.44 The main advantage of an immediate choice is that it should resolve the issue within a few years and thereby gives all members clarity over scheme membership for the remedy period relatively quickly. Although the choice exercise would take some years to implement, members would be clear about which scheme they were accruing benefits in during the remedy period as soon as their choice was received by the scheme administrator.

Deferred choice underpin (DCU)

- 2.45 Under the DCU, eligible members would, in the first instance, be deemed to have been accruing benefits in their legacy scheme for the remedy period, regardless of whether they originally had transitional protection or not. When those members are entitled to receive pension benefits under either their legacy or reformed scheme design (e.g. on retirement), they would then be offered a choice of which set of benefits they wished to receive for the remedy period². In technical terms, individuals would remain members of the legacy scheme, but if they opted for reformed scheme benefits, they would be paid those benefits within the legacy scheme, by means of a 'statutory underpin'. Because this would be done at the point benefits would be payable, the choice would be based on known benefit entitlements provided by the two schemes, rather than assumptions about what those entitlements might be. This would mean that members should be clearer as to what they would get under each option and so could more easily choose whichever is better for them.
- 2.46 This option would mean that in 2022 eligible members would be returned to their legacy scheme for the remedy period in the first instance. It would also ensure that those who ultimately are better off in the reformed schemes could still access their reformed scheme benefits at the point they are entitled to receive those benefits. Asking members to make their decision knowing what they could receive from each scheme at the point benefits are taken may make their decision easier. However, there would still be some uncertainties. For example, it would not be known how long payments will be made for, which will be relevant where one scheme provides a higher member pension but the other provides a higher survivor pension.

² Although benefits could not be brought into payment under a particular scheme design unless the member had reached the Minimum Pension Age for taking benefits under that particular scheme design.

- 2.47 Delaying the decision until the point benefits are payable or awarded in other ways does mean that some members would not have certainty over which scheme benefits they would receive in relation to service during the remedy period, potentially for a considerable period of time. This could be mitigated to some extent by the fact that their annual benefit statements would reflect both legacy and reformed scheme benefits. However, it would also be more complicated for schemes to administer the DCU. They would need to capture and retain additional data on entitlements under both options and operate this solution over a much longer timeframe, until all members in scope (or their dependants) were receiving pensions. These administrative and practical complexities are set out in the section on “Administration” below and in more detail in Annex A.
- 2.48 For annual allowance tax liabilities, only the small minority of individuals with sufficient income and/or pension accrual to generate an annual allowance charge could be affected. Under the DCU option, there are two points at which an individual’s scheme benefits could change. This may trigger an adjustment in their annual allowance tax charge, if the individual has sufficient pension accrual. More details on this and other potential tax charges are set out in Annex B.
- 2.49 First, at the end of the remedy period, pension accrual may change when members will be deemed to have been members of their legacy scheme for the remedy years. For those individuals who were originally protected in 2015, and consequently have accrued legacy scheme benefits since then, their pension benefits are unchanged and therefore no annual allowance adjustment will be required. But for unprotected members, being deemed to have been members of their legacy scheme will retrospectively alter the pension benefits they have accrued over the remedy period.
- 2.50 In line with the usual 4-year statutory time limit for reassessing tax, where this change in scheme membership means an individual owes more in tax, they must pay it for accrual increases arising in the current tax year and the previous 4 full tax years. So if scheme members are moved back into their legacy schemes on 1 April 2022, they must pay tax owed on accrual increases arising since 6 April 2017. But where a decrease in benefits accrued means an individual is owed money because their tax liability is lower, the government will refund the equivalent of the excess tax paid with respect to all years of the remedy period. Individuals affected will need to reassess their tax positions for each individual year of the remedy period, and any changes within the statutory time limit will need to be reported to HMRC. Individuals may also need evidence of their tax position for earlier years to help them access the appropriate compensation.
- 2.51 Second, at the point when an individual draws their benefits (usually at retirement), if they choose to receive reformed scheme benefits rather than legacy scheme benefits for the remedy period, this could trigger an annual allowance charge. Because of the sudden change in pension accrual at that point, the charge triggered is likely to be greater than the annual allowance charges that individual would have faced had they accrued the same reformed scheme benefits for the remedy period throughout their career. As the higher charge is a direct consequence of the way the DCU option has

been designed, the government considers that it would be unfair to expect individuals to pay the full charge. The government will therefore compensate individuals for the difference in their annual allowance charge liability arising from the decision to take reformed rather than legacy scheme benefits for the remedy period. This will apply to the year in which individuals take their pension benefits.

- 2.52 While members would have more uncertainty over their scheme arrangements for longer, the main advantage of the DCU is that members would be able to make their decision with fuller information about what they would receive under each scheme. They are therefore less likely to choose the scheme that ultimately is not the best one for them.

Administration

- 2.53 Both options represent an administrative challenge given the size of membership and the number of members who could change schemes. The administration of immediate choice would be resource intensive and time pressured in the shorter term. For the DCU, considerable work would be required in the short term to move many members of the reformed schemes back to their legacy schemes; and although the rest of the administrative impact of the DCU would be smoothed over decades, that would also mean maintaining the new systems for much longer. Therefore, a number of issues associated with both options need to be carefully considered.
- 2.54 During the period when these changes would have to be implemented, schemes will also be dealing with a number of other tasks going beyond the more routine but nevertheless important aspects of pensions administration. These include preparing for and completing scheme valuations; implementation of a long-term solution to Guaranteed Minimum Pension equalisation; and the introduction of the pensions dashboard.
- 2.55 To deliver the immediate choice option, schemes would have to develop online resources including benefit calculators for members to use to inform their decision. They would also have to contact around 3 million people and process their decisions in a relatively short period of time after 1 April 2022. That would include a considerable number of deferred members or members who have been awarded pensions in payment since April 2015, most of whom will no longer be employed by scheme employers and some of whom may be difficult to trace. The requirement to change IT systems, including developing software quickly, could increase the risk of error and impact delivery. This option is also likely to incur greater administrative costs in the short term.
- 2.56 The DCU proposal presents slightly different issues; the volume of changes needing to be made would be spread over a much greater time period (although there would be a need under either option to resolve cases of members who have retired or died since April 2015). This means schemes would have longer to process the majority of cases and could build software to do it for them, minimising the amount of manual work required before an automated solution was in place.

2.57 The complexities of the DCU, however, are greater. Scheme administrators would probably need to run two sets of benefit designs alongside one another for over 30 years. Scheme administrators already run several legacy schemes alongside the reformed schemes and most members in reformed schemes at present also have rights in a legacy scheme that are still linked to their current and future earnings. However, under DCU, schemes would be calculating benefit accrual over the period from 2015 to 2022 on the basis of two benefit designs instead of one. While the overall risk of error might be slightly reduced due to the longer timeframe for implementation, it could increase in the long term if there were problems in retaining knowledge of the special features of benefit design for the 2015-2022 period in future decades.

Table 2.A: High level summary of immediate choice & DCU

The following is a high-level summary of the main features of the two remedy options, but which is preferable might also depend on other features as set out in the remainder of the consultation document.

	Immediate choice	Deferred choice underpin
Remedy Period	• 1 April 2015 – 31 March 2022	• 1 April 2015 – 31 March 2022
When would members make their choice?	• Irrevocable choice made as soon as practicable after 31 March 2022.	<ul style="list-style-type: none"> • Irrevocable choice made when a pension award becomes payable (usually when the member retires). • Until then, members would be deemed to have been in their legacy scheme for the remedy period.
What information would be provided?	<ul style="list-style-type: none"> • Decision based on assumptions, for most. • Schemes would provide information and online calculators to assist members in forecasting their pension entitlement under both schemes. 	<ul style="list-style-type: none"> • Decision based on known member entitlements. • Schemes would provide direct comparisons of actual entitlements under both schemes.
Benefits to members	• Addresses the issue relatively promptly, giving certainty to members as to their pension arrangements for the remedy period.	• Ensures members can make their decision based on actual entitlement to benefits rather than having to do it based on assumptions.
Potential downsides for members	• Decision based on assumptions, so some may choose the scheme that does not turn out to be most beneficial for them.	<ul style="list-style-type: none"> • Takes longer to resolve the issue so relative uncertainty over pension arrangements until members retire. • Some technical elements may be more complex to explain

		and resolve – see Annexes A and B.
Tax treatment and compensation, where relevant	<ul style="list-style-type: none"> • A member's tax position would be corrected within the statutory time limit to reflect their choice of benefits. • Where they owe tax, this would be recouped for the 4 tax years before their decision point. Where they have overpaid tax, the government will repay this without a time limit. 	<ul style="list-style-type: none"> • Non-transitionally protected members' tax will be corrected, within the statutory time limits, in 2022 when they are deemed to have been in the legacy scheme. • Where tax is owed, this would be recouped for the 4 tax years before an individual's scheme benefits change. Where members have overpaid tax, the government will repay this without a time limit. • Where a member chooses reformed scheme benefits at the point of retirement, their tax position will be reassessed again. Where an AA tax charge arises from the choice, the scheme will compensate members for the charge.

Question 5: Please set out any comments on the proposals set out above for an immediate choice exercise.

Question 6: Please set out any comments on the proposals set out above for a deferred choice underpin.

Question 7: Please set out any comments on the administrative impacts of both options

Question 8: Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

Costs

2.58 The government currently estimates that removing unlawful discrimination back to 2015 will cost on average around £2.5 billion for each year of the remedy period in additional future pension payments to members of those schemes in scope of this consultation. This equates to approximately £17 billion for the remedy period. This reflects the expected cost of members receiving benefits from whichever scheme provides the highest value to them for the remedy period. These costs are in addition to those already arising from members receiving benefits from the scheme they are currently in. These cost estimates are based on 2016 valuation data and assumptions and

are provided to give a broad indication of the financial impact. Some of the methodology and assumptions needed to estimate the costs have been refined and updated since previous published estimates. When the costs are measured in the valuation and financial accounting processes, they may differ from the costs set out above as they are highly dependent on the approach and assumptions adopted.

- 2.59 The costs of removing the discrimination will feed into future employer contribution rates once the 2020 scheme valuations are completed. This measure of the costs will be based on the data and assumptions used in the 2020 valuations and is therefore likely to differ from the costs above. It is only one of many factors that could impact employer contribution rates in the next valuations.
- 2.60 The cost control mechanism introduced as part of the 2015 reforms was paused in February 2019 given the uncertainty arising from the Court's judgment. The government has also made announcements on the cost control mechanism, and published a separate update.

Chapter 3

Future pension provision

The 2015 schemes

- 3.1 The schemes established under the Public Service Pensions Act 2013 and introduced on 1 April 2015 were based on the recommendations of the Independent Public Service Pensions Commission. They were accepted by the majority of trade unions and other member representatives at the time. Whilst the Courts have found that transitional protection arrangements negotiated as part of their implementation gave rise to unlawful discrimination, the objectives and validity of the reformed schemes themselves have not changed or been affected.
- 3.2 These pension schemes are among the best available in the workplace: backed by the taxpayer; index-linked; and offering guaranteed benefits on retirement. They compare very favourably to the typical scheme in the private sector. The government believes that these schemes represent appropriate pension provision for public service workers.

Scheme design

- 3.3 The move from final salary to career average design – a key recommendation of the Commission – has created a fairer system. Those with very considerable increases in their earnings over their career are no longer likely to be relatively favoured compared with their colleagues who did not enjoy such advantages. Indeed, as has become clear in the Tribunal process, many hundreds of thousands of members are likely to be better off in the reformed schemes than they would have been in the legacy schemes. Reversing the reforms for the future would make these members worse off.

Longer working lives

- 3.4 As life expectancy has increased since the introduction of the legacy schemes, people should expect to have longer working lives. Most of the reformed schemes have a Normal Pension Age (NPA) linked to the member's State Pension age (the age at which a State Pension can be received). There are exceptions for the armed forces, the police and firefighters, where the NPA is set at 60 for those retiring from active service. Scheme members can choose to retire at a younger age than their NPA, as long as they have reached their Minimum Pension Age and their pension is adjusted to allow

for payment before NPA. They can also choose to work beyond their NPA and receive a bigger pension.

Controlling costs

- 3.5 For Great Britain, the total annual cost of paying out unfunded public service pension scheme benefits stood at £41.8 billion in 2018-19. Most of this cost is met by the taxpayer.
- 3.6 It is important that these costs are kept under control, to ensure the schemes are affordable and sustainable for the long-term. The introduction of reformed schemes with career average design, and Normal Pension Ages linked to State Pension age for most schemes, were important steps to protect against unsustainable increases in costs.

Closing the legacy schemes for all members and equalising future treatment

- 3.7 The government believes that the reformed schemes introduced in 2015 provide an appropriate level of pension provision. Public servants who first joined after 31 March 2012 are already members of such schemes. The government proposes to place all active members who joined before 1 April 2012, who are not already members of reformed schemes, into their respective reformed schemes from 1 April 2022, ensuring the equal treatment of all members. This means bringing forward primary legislation to remove the transitional protection provisions and close legacy schemes completely for future service, for all members, from 1 April 2022. This would ensure that all active members are treated equally in respect of the pension scheme designs offered for future service and are all in the reformed schemes from this date. It would be unfair for some members, and not others, to be in the legacy scheme beyond this date.
- 3.8 The final salary link for members with prior service in final salary schemes would be retained; meaning for these members, benefits relating to membership of legacy final salary schemes would be based on pensionable pay on or near their retirement and not at the point they move to a reformed scheme.
- 3.9 The government proposes to close the legacy schemes on 31 March 2022, and from 1 April 2022, all those in service would become members of the reformed schemes. 2022 is the earliest point at which the necessary primary legislation and administrative arrangements to implement these changes are likely to be in place. 1 April is the normal date on which pensions changes are implemented.
- 3.10 Changes to public service pension schemes have been introduced on the first day of the financial year for many decades. Introducing changes at the start of the financial year means that pension benefits are aligned with scheme accounting years and actuarial valuation periods. Taking 1 April 2022 as the date allows sufficient time for government to consult on the proposals and, subject to decisions taken following the consultation, introduce the

necessary legislation. Members of the legacy schemes will have more than 20 months' notice of the government's plans and will be able to participate in the reformed schemes in relation to any eligible employment from 1 April 2022 onwards.

- 3.11 In introducing the reformed schemes in 2015, it was never the intention that the legacy schemes would continue for a long period of time. Parliament passed legislation such that no benefits would be provided under the legacy schemes in relation to employment after 1 April 2015, but allowed for exceptions to be made. The government intended for the exceptions made in scheme regulations to be short term in their nature, because they were applied only to members who were within 10 years of their NPA under the legacy schemes, and the majority of these members are expected to have retired already or to do so in the coming years. The Courts found that these exceptions gave rise to unlawful discrimination and this consultation sets out proposals to address this by allowing all members who were in service on 31 March 2012 and have relevant service after 1 April 2015 (around 3 million individuals), to choose to be members of the legacy schemes for the remedy period. Some of this group could be expected to remain in pensionable employment for decades, long after it was envisaged that the legacy schemes would be closed and at additional cost to the taxpayer.
- 3.12 By 1 April 2022, all members who were offered transitional protection from 2015 will in fact have reached their NPA in their legacy scheme. However, if such members decided to work beyond their legacy scheme NPA, they would then accrue benefits in their respective reformed scheme from 1 April 2022. To the extent that this change has an impact on such a member's pension it may be beneficial, for example due to higher accrual rates in the reformed schemes.

Question 9: Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

Annex A

Technical details

Revisiting past cases

- A.1** Many members who were in service for a part of the remedy period will have since retired and currently be in receipt of a pension. Such members would also be given a choice of benefits between the legacy and reformed schemes with respect to the remedy period. The member would make a retrospective choice whether to receive benefits from the legacy or reformed scheme with respect to their service after 1 April 2015. This would mean that:
- a member who was originally eligible for transitional protection could instead choose to receive reformed scheme benefits
 - a member originally eligible for tapered protection would be required to make a choice between legacy scheme and reformed scheme benefits
 - a member who was originally not eligible for any form of protection could instead choose to receive legacy scheme benefits
- A.2** If an actuarial adjustment was required with regards to the pension that a member could alternatively choose, then the actuarial factors in force at the date of their retirement would be used. This would ensure that the pension was retrospectively corrected to the same level it would have been if the member had had access to it at retirement. Such an adjustment might reflect a reduction if the member retired before the relevant Normal Pension Age, or an uplift if they retired after.
- A.3** There are various issues and options that apply to the potential changes to pension commencement lump sums:
- for example, where a member's benefits retrospectively change, they could be permitted to revisit the lump sum commutation decision they made at retirement. This would allow members to commute some of the additional pension they were now receiving; or in the event that they received an increased automatic lump sum under a legacy scheme design, they might wish to reduce the level of any optional commutation. This would be subject to any limits required by schemes' rules and pensions tax law regarding the maximum allowance, and time allowed for payment, for pension commencement lump sum
 - alternatively, where a member's benefits retrospectively changed, they could be prevented from reducing the cash lump sum already received at retirement. For members in this position the reformed scheme

pension, if chosen, would be adjusted to allow for an amount of commutation (on the usual terms) at least equal to any automatic lump sum given up on account of the change to a previous legacy scheme award (plus any previous optional commutation)

- A.4** Any decision made by an existing pensioner would retrospectively apply back to the date of retirement and the member would forego the right to the benefits payable from the member's original scheme with respect to the remedy period, where relevant. Any back-payments now owed to the member would be paid in a single cash payment with interest applied.
- A.5** There might be situations in which a member chose a lower level of benefit than originally received. For example, they might have foregone their reformed scheme benefits for legacy scheme benefits in order to receive a higher lump sum, despite receiving a lower level of ongoing pension. Or, alternatively, the reverse situation might occur, whereby a member opted for a higher level of ongoing pension and a lower lump sum. Where a member made a choice that resulted in a lower level of benefit, then any overpayments would need to be repaid by the member in order to access their revised benefits. If such a member received an increased pension commencement lump sum, then it is proposed that this would be reduced by any pension overpayments owed. In other cases, the member would be given the opportunity to repay any overpayments upfront, or over time. This will be made clear to the member when they are making their choice. Interest would apply in all these scenarios.
- A.6** If the benefits a member has received change, then tax adjustments may be required. In these cases, the tax rules will apply to the facts of an individual's updated situation. In broad terms this means if income goes up, more tax may be owed, but if income goes down, then the individual may be owed a tax refund. Where tax is owed by the member, it would not be collected for periods beyond the usual statutory 4-year time limit.

Question 10: Please set out any comments on our proposed method of revisiting past cases.

Member contributions

- A.7** Some schemes, primarily the police and firefighters' schemes, have different levels of member contributions, or different ways of calculating member contributions, between the legacy and reformed schemes. This means that if members choose to move from one scheme to another in accordance with the proposals set out above, there would need to be a 'balancing payment' (or 'balancing refund') in respect of their contributions to ensure the right level of contributions have been paid for the scheme benefits the member chose.

- A.8** Under the immediate choice option, information in relation to such payments/refunds would be provided to the member when making their decision shortly after 2022. Where a member owed contributions, they would be given the option to pay these upfront or over time. If the member had overpaid for the scheme they chose to be in, they would receive a taxable cash refund. Interest could be applied in both scenarios (see paragraphs A.63– A.65 below for more on interest).
- A.9** Under the DCU option, differences in employee contribution rates across schemes might be more complicated to rectify than under immediate choice, as it may not be known in the short term which set of benefits will ultimately be chosen. To address this, the government would propose to adopt a two-stage approach. The first stage would occur shortly after the end of the remedy period and would involve retrospectively imposing a charge on all members by reference to their legacy scheme contributions. The second stage would then be at the point a member made their deferred choice (e.g. at retirement), where if reformed scheme benefits are chosen, the contributions that would have been due under the reformed scheme in the remedy period would be charged, again retrospectively.
- A.10** Whilst such an approach may result in some members' contributions being amended twice, it ensures the correct level of contributions are ultimately charged for the set of benefits received, while treating members consistently at the earliest opportunity.
- A.11** Due to the nature of the employee contribution rates in the schemes for police and firefighters, either refunds or additional payments might be due at either stage, depending on the relevant legacy scheme. Stage one would only affect members who did not receive full transitional protection. Typically, it would result in refunds where the member joined the legacy scheme after 6 April 2006¹, with additional contributions being due if they joined before this date. Stage two would then impact members who chose reformed scheme benefits, and would generally result in additional contributions being due where the member joined the legacy scheme after 6 April 2006 and refunds if they joined before this date.
- A.12** At both stages, where a member owed contributions, they would be given the opportunity to pay these upfront, or over time through a repayment plan agreed with the scheme. If the member was due a refund this would be provided as cash. Interest could be applied in both scenarios (see paragraphs A.63 – A.65 below for more on interest).
- A.13** Adjustments to contributions, both at the end of the remedy period and at the point at which an individual receives their pension benefits, may result in tax adjustments. Further details are set out in Annex B.

¹ 6 April 2006 being the date on which new police and firefighters' schemes were introduced, replacing the 1987 and 1992 schemes respectively.

Question 11: Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

Voluntary member contributions

- A.14** All legacy and reformed schemes contain provisions, often differing, allowing members to make additional contributions to enhance their pension benefits. In older legacy schemes these had been added years (AY), but from around 2007 onwards this gradually changed to added pension (AP)². The main difference between AY and AP is that the former provides a pension amount that increases in line with the member's salary whilst in active service, whereas AP increases in line with inflation. In the reformed schemes covered by this consultation, AP is a feature of these schemes, as is faster accrual. All of these additional benefits increase a member's pension and the government's general approach means that it would be necessary to ensure the value of these benefits are reflected in the choice given to the member.
- A.15** Under both immediate choice and deferred choice underpin options all additional benefits purchased via voluntary member contributions in the remedy period could be converted to an equivalent value of AP in the scheme that the member is not currently in. This equivalent value of AP would only be added to the member's pension where they chose to join the alternative scheme design for the remedy period. If a member's original scheme design was chosen, then they would keep the additional benefit originally purchased. Some legacy schemes' regulations and administrative processes may need to be updated in order to provide for an AP facility.
- A.16** There is an overall limit on the total amount of AP that can be purchased per member. This varies between schemes and between scheme designs. Where the relevant limit was exceeded (possibly retrospectively) solely as a result of proposals to remedy the discrimination found in *McCloud*, then the government proposes that such breaches would be ignored.
- A.17** Some of the reformed schemes also include an option to buy-out some or all of the reduction to pension if benefits are taken before NPA. This is known as Effective Pension Age (EPA) in the reformed scheme for civil servants (Alpha), Early Retirement Reduction Buy Out (ERRBO) in the reformed NHS pension scheme and Buy Out in the reformed Teachers' pension scheme.
- A.18** Because of the nature of EPA and ERRBO-type arrangements, which are clearly related to the reformed scheme benefit design with a higher NPA, it would not be possible to convert it into an equivalent value of AP in the legacy scheme. Members who are returned to the legacy scheme for the remedy period (under either IC or DCU) would therefore receive a refund of their contributions to such arrangements. A refund would void the EPA or

² The schemes for health service workers and teachers describe added pension as additional pension – the terms are interchangeable.

ERRBO benefit even if reformed scheme benefits were ultimately chosen. Some workforces have agreements in place with employers to share the cost of EPA and ERRBO. In such situations, when receiving a refund, members would only be offered the full value of their own contributions, as they would no longer be providing for the early pension age for which they were specifically intended. Any refund of EPA or ERRBO voluntary member contributions would be taxable in the usual way. A refund would not be available for any other forms of voluntary member contribution. If a member later returns to the reformed scheme, the option to make additional contributions towards ERRBO/EPA will be open to them.

- A.19** It is the government's intention that the tax position in general for voluntary contributions, which will have usually received tax relief, should reflect an individual's updated situation in the usual way.
- A.20** Most public service schemes³ also have separate money purchase (additional voluntary contribution) (MPAVC) schemes alongside the main scheme. MPAVC schemes permit members to pay additional contributions to build up a separate defined contribution pension pot with an external provider. These schemes are outside the scope of this consultation as they are unaffected by the litigation.

Question 12: Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.

Annual benefit statements

- A.21** Section 14 of the Public Service Pensions Act 2013 introduced a requirement for schemes to provide benefit information statements to active scheme members annually from 2015. These are more commonly known as "annual benefit statements" (ABSs). The detail of what an ABS must include are set out in Treasury directions (including information about legacy and reformed scheme benefits). ABSs also include other information provided for in legislation introduced by the Department for Work and Pensions (DWP)⁴ which applies to all pension schemes.
- A.22** ABSs currently include details of two sets of benefits for members who moved from the legacy to the reformed schemes⁵ (covering the periods to 31 March 2015 and from 1 April 2015 respectively). If the government decides, as a result of this consultation, to pursue the immediate choice option then no changes to ABS contents would be required until after a

³ With the exception of schemes for firefighters and armed forces personnel.

⁴ The Occupational and Personal Pensions (Disclosure of Information) Regulations 2013
<http://www.legislation.gov.uk/uksi/2013/2734/contents/made>

⁵ This is to reflect the final salary link for the benefits earned under legacy schemes for those members moved to the reformed schemes in April 2015.

member had exercised their choice. That would avoid any confusion for the member ahead of making their immediate choice.

- A.23** Under the DCU option, scheme administrators would be required to produce ABSs containing information on remedy period benefits under both the reformed and legacy scheme designs (as well as legacy scheme benefits for years of service before 2015; and reformed scheme benefits after 2022). This may require significant system changes and take some years to implement and test. It would also be complex for members, so careful consideration would be needed to ensure the content was as clear as possible.
- A.24** Members who are or may be subject to an annual allowance charge would require an accurate pension savings statement, setting out the value of their pension growth under the legacy and reformed scheme designs for the remedy period from an early stage. Schemes currently write each year to members who may be subject to an annual allowance charge based on their accrual in the scheme in question, to prompt them to consider their tax affairs. There are complexities related to a deferred choice underpin for this group of scheme members; these are set out more fully in Annex B.

Question 13: Please set out any comments on our proposed treatment of annual benefit statements.

III health retirement (IHR)

- A.25** There are several categories of IHR cases, which include:
- members who had transitional protection and were accepted for IHR pension under their legacy scheme during the remedy period
 - members who had transitional protection and were rejected or not considered for IHR pension under their legacy scheme during the remedy period, including because they were over their legacy scheme NPA
 - members who did not have transitional protection and were accepted for IHR pension under their reformed scheme – these cases may need to be reconsidered under legacy scheme IHR rules which are likely to differ
 - members who did not have transitional protection and were rejected for IHR pension under their reformed scheme – these cases may need to be reconsidered under legacy scheme IHR rules which are likely to differ
- A.26** Any member who was refused an IHR pension in one scheme may be eligible for IHR in their alternative scheme. This is a result of differing scheme rules and eligibility requirements. In particular, the later pension age in the reformed schemes may have led to some members being refused IHR

because medical advisers deemed the member able to recover and return to work in the extended time period to the later pension age. Conversely, the later pension age also means that IHR – where granted under the reformed scheme – can be more valuable because the enhancements in respect of potential lost service are calculated to a later age in the reformed schemes. IHR cases involve members, employers, medical assessors and scheme administrators. Therefore, in order to reconsider a case, member consent would be required because of the likely need to share medical records and evidence.

- A.27** A member in scope who had already retired on ill health grounds would be able to retrospectively choose the benefits in the alternative scheme if they wished. However, whether their alternative choice of benefit would also be an IHR benefit would depend on whether they would be accepted for IHR pension in the alternative scheme. For example, a member who was accepted for IHR pension in the legacy scheme would not automatically be accepted under the reformed scheme due to the later NPA, as mentioned above. If such a member was refused retirement on ill health grounds in the alternative scheme, their choice would be between their existing ill health benefit and the other pension benefit that would have been payable (at the age they retired) from the alternative scheme. This could be an actuarially reduced pension, or a deferred pension if the member is below their minimum pension age. Member consent might also be required in this situation, if medical advisers needed to revisit their assessment.
- A.28** As with any cases involving post-award adjustments to benefits, there may be tax implications. In these cases, the tax rules will apply to the facts of an individual's updated situation. In broad terms this means if income goes up, more tax may be owed, but if income goes down, then the individual may be owed a tax refund. Where tax is owed by the member, it would not be collected for periods beyond the usual statutory 4-year time limit.
- A.29** There may also need to be consideration of how state income-related welfare benefits should be treated when these have already been assessed and paid on the basis of the previous pension award already in payment. However, this applies to revised benefit awards of all types, not just those paid in relation to IHR.
- A.30** As set out in paragraph 2.24 above, the government will work with schemes to seek to offer reformed scheme members undergoing IHR a choice of legacy or reformed scheme benefits at retirement, where this is administratively possible.

Question 14: Please set out any comments on our proposed treatment of cases involving ill-health retirement.

Cases where members have died since 1 April 2015

- A.31** There will be a number of different circumstances in which members within scope of the remedy may have died since 1 April 2015. These will include members in active service; deferred members and pensioners, including those who had received payments related to serious ill health conditions (life limiting illnesses) or who retired due to ill health.
- A.32** Such cases will need to be handled sensitively. Cases will need to be revisited to ensure that any increase to benefits arising from these changes due either to the member before their death, or their survivors, or to the member or their survivors' estates, can be paid. Where possible, these cases would be prioritised given the obvious need for grieving families to resolve financial matters relating to their loved one in as timely a manner as possible.
- A.33** There are options around how these cases could be dealt with, which largely would not differ under DCU or immediate choice. Where any increase in benefits was due, schemes could notify the individual who received any death lump sum payment (if that were a nominee, rather than the member's estate), survivors in receipt of ongoing pension payments, or a late member's legal personal representative (where no survivor pensions were in payment), and arrange to make the higher payment(s). These payments could relate to a pension the member was in receipt of before their death, to a death lump sum, or to any survivor pensions in payment. Alternatively, schemes could adopt a more complex approach and present survivors with the choice between two packages of benefits. This would be similar to the choice that the member would have been given had they still been alive; setting out the consequences of such a choice on payments already made to the member and/or their estate/survivors. The rationale behind offering such a choice stems from the fact that the reformed scheme may offer benefits not available in the legacy scheme; such as survivor pensions for unmarried partners.
- A.34** There are potential complications in cases where dependent children are in receipt of survivor pensions, but there is no adult survivor's pension in payment to the person responsible for the child or children. This could include situations in which there was an adult survivor's pension in payment to someone who was not the guardian of the dependent children.
- A.35** Legacy schemes generally include provision for spouses and civil partner's pensions, but some did not provide for unmarried partner's pensions (and even when they did, they might not cover all past service). This means that the choice between a legacy and reformed scheme could have significant implications for the pensions of any dependent children, as well as any surviving unmarried partner. Where a member of a legacy scheme was unmarried but had a partner who would qualify for a survivor pension under the reformed scheme, and that adult survivor pension was put into payment, it could impact the value of the pension or pensions paid to the dependent child or children.

- A.36 In such a situation, where the child and the adult newly receiving a survivor pension (or receiving an altered survivor pension which could also affect the child's pension) were not part of the same household, we would not propose to reduce any dependent child's pension. This is because of the potential financial impact of doing so on the child – and their parent or guardian's lack of control over the decision affecting the child's pension payment.
- A.37 If, however, dependent children were part of the same household as the person receiving the survivor's pension then the usual rules limiting the combined total of survivor and children's pensions would apply.
- A.38 An argument against permitting this kind of choice between a legacy scheme without unmarried partner benefits and a reformed scheme with such benefits could potentially be made in some schemes, where members have previously been given the option to move from a legacy scheme to another pre-2015 scheme which did offer survivor benefits to unmarried partners. Where a member has previously chosen to remain a member of a specific legacy scheme, there may be a question as to whether that choice should be respected and retained, particularly where the member had been with the unmarried partner at the time the earlier option was exercised.
- A.39 In cases where a deceased member (with no dependent children) was not in receipt of transitional protection there may be an unmarried partner pension in payment from the reformed scheme, which would not be payable from the legacy scheme. Presenting the surviving partner with a "choice" would seem pointless, since they may be choosing between continuing to receive a pension and receiving nothing. In such cases, it is therefore proposed that where no higher pension payment would be due to the survivor or to the deceased's estate, no contact should be made with the relevant parties.
- A.40 It is acknowledged that any reopening of a late member's estate once probate has been sought and granted in applicable cases, and any inheritance or other tax charges paid, is likely to be unwelcome and potentially distressing. Also, discretionary death lump sums paid to a nominee generally do not count towards the value of an estate, and discretionary death lump sums paid to an estate generally do not count for inheritance tax purposes. However, if there were arrears of continuing pension payable in respect of the deceased member those would be part of the estate. Any increase to a lump sum paid to a nominee, or to a survivor pension in payment might impact the individual's personal tax position; or their entitlement to any income-related state benefits in payment.
- A.41 Any tax charges triggered solely as a result of payments related to McCloud remedy would not fall to the member or their survivors. Also, any additional out of pocket expenses incurred (for example, as a result of the reopening of a probate application) would be reimbursed where evidence of these was provided to the relevant scheme.
- A.42 The government is working with schemes to consider how to prioritise cases where there is a need to do so.

Question 15: Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.

Contingent decisions

- A.43 These include decisions that individuals took as a result of the (actual or perceived) implications of the introduction of the reformed schemes. These could include members choosing to opt out of the reformed schemes for various reasons, which will differ between individuals.
- A.44 Where members wished to argue that they would have taken a different course of action had they known that continued membership of their legacy scheme during the remedy period was an option, then schemes would consider representations on a case-by-case basis. Unwinding some of these contingent decisions would involve complex calculations, would be likely to require evidence from the member and possibly also their employer, and tax adjustments may also need to be made.
- A.45 If, under either IC or DCU, members wished to be treated as accruing benefits in their legacy scheme in relation to service in the remedy period, then payment of the correct employee and employer contributions would be required retrospectively, with appropriate interest, before the individual would be deemed to be eligible for remedy. Tax adjustments may also need to be made (see Annex B for more detail).
- A.46 Where a period of more than 5 years had elapsed since a member opted out of a final salary legacy scheme, they would usually lose their right to the “final salary link” (FSL) provided for by section 20 of the Public Service Pensions Act 2013. The FSL allows members in the reformed schemes with final salary legacy scheme service to have those benefits calculated in line with their final salary when they retire (or otherwise leave the reformed scheme), rather than when they left the legacy scheme.
- A.47 Where a member, and their employer, paid contributions owed for the relevant period then any FSL would be restored.

Question 16: Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

Voluntary pension transfers (public sector transfer club and non-club)

- A.48** All the schemes covered by this consultation are members of the Public Sector Transfer Club. The Club is an arrangement that facilitates the mobility of employment within the public sector by enabling employees to avoid the reduction in the value of their accrued pension that could otherwise occur as a result of changing employment. Final salary pension transferees are awarded a service credit that maintains the member's final salary link for the pension accrued in their previous service. CARE transferees are awarded a pension credit that continues the rate of in-service revaluation that was provided in the member's legacy scheme.
- A.49** The intention of the Club is that a member should not lose out as a result of changing employment within the public sector. Equally, the member should not receive benefits that are higher in value than if they had not changed employment.
- A.50** If a member transferred under the Club before having made a choice between legacy and reformed benefits (as would be the case under DCU, or under IC where the member transferred before that was implemented), then one option would be to bring forward that choice to the date of transfer so that only one set of scheme benefits for the remedy period needs to be considered for the transfer. This would simplify the Club administration as the scheme receiving the transfer would avoid having to maintain dual records of two transfer credits. However, this effectively means that the transferring member, even under the DCU option, is required to make an immediate choice at the point of transfer.
- A.51** There would, however, still need to be some retrospective application of this approach to cover transfers that had already been made. This would be more complex where a member had moved schemes multiple times.
- A.52** In addition, if the transfer took place before the end of the remedy period, the member would potentially have a further choice of benefits in their new employment if the scheme to which they had transferred was also covered by remedy. This could increase the complexity of the transfer administration and the choice that the member faced.
- A.53** This would be simplified by giving the member a single choice that covered their pension accrued in their old and new employment. A single choice is also closer to the situation of a member who did not change employment.
- A.54** In certain situations, a transferring member might be at an advantage if they could make two choices. For example, if they received a pay rise on promotion when they changed employment, they might be able to receive a higher pension than if they had not changed employment, by selecting final salary benefits for their old employment and CARE for their new employment.
- A.55** When transferring to a scheme within the Club, which is not affected by the McCloud and Sargeant judgment then members would be required to make

their choice at point of transfer in any case. Such schemes do not generally offer CARE benefits⁶, therefore this choice is likely to be between either final salary benefits within the Club or transferring CARE benefits outside of the Club (or retaining them as a deferred benefit if the scheme doesn't accept non-Club transfers).

- A.56** Under the DCU, or before an immediate choice was implemented, if a member opted to transfer their benefits outside of the Public Sector Transfer Club it is not expected that they would by then have made a choice between legacy and reformed scheme benefits for the remedy period. In such a situation the scheme would calculate two Cash Equivalent Transfer Values, one on each set of benefits, and pay across the highest of the two values.

Question 17: If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

Question 18: Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

How should transfers to and from the LGPS be treated?

- A.57** The Local Government Pension Scheme in England and Wales is not in the scope of this consultation document. Its transitional protection takes the form of an underpin⁷. The difference between the LGPS underpin and the choice being considered for other schemes in scope means that options for transfers between the LGPS and other schemes would be administered differently. This could be more complex for transfers taking place during the remedy period if the benefit type awarded in old and new employment were to be linked. This would be exacerbated if members did not make their choice at the point of transfer. The Ministry of Housing, Communities and Local Government will consult on more detailed proposals on the LGPS underpin, and the proposed approach to transfers to/from the LGPS, in due course.

Divorce cases

- A.58** Usually schemes calculate a cash equivalent transfer value (CETV) when requested for court proceedings in cases of divorce (marriage) or dissolution (civil partnership). Depending on the outcome of the divorce proceedings, schemes may create a pension account for the member's ex-spouse (who

⁶ Except for public service schemes based in the Channel Islands.

⁷ The underpin provides for a calculation of better of Final Salary or CARE terms for service before the date the new scheme began (depending on meeting certain criteria).

becomes a “pension credit member” of the scheme; the scheme member becomes a “pension debit member”).

- A.59** Alternatively, if an “earmarking order⁸” or “attachment order” is in place, the ex-spouse or civil partner does not become a member of the scheme but is instead entitled to a proportion of the pension when it comes into payment. In such cases, the ex-spouse or civil partner’s pension amount will result from the choice exercised by the scheme member as to which scheme they would prefer for the remedy period.
- A.60** Any cases where a CETV has already been issued or which need a CETV before government decides which remedy option to implement, and before that remedy is legally effective, might well be subject to change. It is acknowledged that this is undesirable, and that it might affect decisions about the sharing and proportioning of assets in cases not yet settled.
- A.61** However, Pension Sharing Orders specifying a percentage rather than a cash amount⁹ to be awarded to the member’s ex-spouse or civil partner would permit adjustments to the pension credit (and debit) member’s pension amount to reflect remedy, at the relevant point in time.
- A.62** Any immediate or deferred choice would be exercised by the scheme member (pension debit member), not the ex-spouse or civil partner (pension credit member), on the basis that the scheme member has been subjected to the discrimination so far identified by the Court. This is subject to any Order from the courts directing otherwise. The pension credit member will be awarded the percentage (as specified by the courts) of the higher CETV due under remedy; this will not be changed to reflect any choice the scheme member (pension debit member) makes, which would result in a lower pension amount.

Question 19: Please set out any comments on our proposed treatment of divorce cases.

Interest of under- or over-payments and refunds

- A.63** There is no consistent approach to interest across public service schemes. Some scheme regulations contain provisions relating to interest, some do not. In the latter schemes, interest is decided on a case-by-case basis. Across all schemes interest is sometimes provided for in decisions from the Pensions Ombudsman or higher courts. Given the likely need (under both immediate choice or DCU) for retrospective adjustments to pensions in payment (or formerly in payment), to lump sums, to employee contributions and because members might be able to choose refunds of contributions – sometimes many years after a payment was originally made – it is acknowledged that it

⁸ Earmarking orders are now only available in Scotland. In England, Wales and Northern Ireland earmarking orders were replaced by Pension Sharing Orders or pension attachment orders from the late 1990s.

⁹ PSOs in England and Wales usually specify percentages; whereas in Scotland they can either specify a percentage or a cash amount.

would be necessary to pay interest where the scheme was paying amounts of money to the member.

- A.64** The government will need to decide whether it is appropriate to charge interest where the member owed a debt to the scheme. In a case where employee contribution rates differ between legacy and reformed schemes, and a choice made under the DCU perhaps 30 years from now means that a member paid employee contributions at the 'wrong' (lower) rate during the remedy period, there is a question as to whether the member should be charged a rate of interest on the contributions owed. Theoretically the member who owed employee contributions could have invested the additional money needed for those contributions over time and earned interest on that investment; or spent it on items that they might otherwise not have been able to afford.
- A.65** In relation to appropriate rates of interest, one option is to set consistent rates across all schemes. These could be contained in scheme regulations to ensure consistency and transparency. As an example, in the Teachers' Pension Scheme (TPS) the regulations set out that interest paid on late payment of benefits is based on the Bank of England base rate at the time the late payment is made. Where the member has been overpaid benefits, and therefore owes the scheme, the TPS charges interest at the discount rate used for the scheme's actuarial valuation plus CPI.

Question 20: Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

Question 21: Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

Question 22: If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

Abatement

- A.66** Abatement is the reduction or suspension of a pension in payment in the event of re-employment. Where abatement applies, and the post-retirement pension plus relevant earnings on re-employment exceed pre-retirement salary, any excess will usually be deducted (abated) from the pension in payment.
- A.67** Provisions providing for abatement of pensions on re-employment exist in some older legacy schemes, but do not always apply to all pensions in payment; and in some legacy schemes usually only to some of those taken before Normal Pension Age. Abatement usually only applies to pensioners re-employed in the same sector (intra-service abatement). However, where

there isn't fair and open competition before a pensioner is re-employed in another area of the public sector (inter-service abatement), pension or pay might be abated.

- A.68** Where the DCU or immediate choice resulted in a retrospective increase to a pension, which might mean that a pensioner's income from pension plus their earnings exceeded their pre-retirement earnings for the first time or by a greater amount, then abatement would not apply or would not be increased retrospectively.
- A.69** Where abatement applies in the legacy scheme, and a pension award already taken had been abated, but the member chose to move to the reformed scheme for the remedy period, the abatement calculation would need to be reviewed and adjusted as necessary from 1 April 2015 or the date the pension was awarded, if later. In some other cases, a reduction in legacy scheme pension (because service during the remedy period was instead treated as earned under the reformed scheme) might mean that a remaining legacy benefit entitlement was no longer abated.
- A.70** Benefits earned in reformed schemes are not subject to abatement.

Question 23: Please set out any comments on our proposed treatment of abatement.

Annex B

Pensions tax relief: implications of the options to remove unlawful discrimination

- B.1** Most active members will not experience any changes to their tax liability as a result of the measures to remove the discrimination outlined in Chapter 2. However, a small minority may experience tax impacts, either as a result of changes to employee pension contribution rates, or changes to pension accrual causing them to exceed limits on pensions tax relief. These impacts could be either positive (individuals will be able to reclaim any overpaid tax) or negative (for example where higher pension accrual means higher tax charges for exceeding pensions tax relief limits).
- B.2** This annex sets out how different aspects of the pensions tax regime operate, and what the implications may be for the small minority of members who are affected. Those implications differ under the immediate choice and deferred choice underpin (DCU) options, so this annex sets out how the tax system will apply to each option separately, after a brief overview of the key elements of pensions tax relief.

Pensions tax relief: tax relief on contributions, the annual allowance and the lifetime allowance

- B.3** Contributions to registered pension schemes receive tax relief at an individual's marginal rate. The majority of public service pension schemes are registered for tax purposes¹. This tax relief is limited in some circumstances, through the annual allowance and the lifetime allowance, so that it is more effectively targeted to encourage pension saving – see paragraphs B.5-B.8 below.
- B.4** For most public service pension schemes, the amounts of member contributions required under the legacy and the reformed schemes do not differ. This means that most members will have received the correct amount of tax relief on their member contributions. However, for some schemes, member contributions owed may differ between legacy and reformed

¹ Exceptions are the legacy judicial schemes including JUPRA, FPJPS and JPS 1981 schemes for judges, which are not tax registered and to which members make contributions after tax. These schemes are outside of the scope of this consultation.

schemes. In the main, this is the case for the police and firefighters' schemes, as highlighted in paragraph A.11 above. In these cases, if a member's pension benefits change for the remedy period, then their contributions will change, along with the tax relief on those contributions.

- B.5** The amount of tax-relieved pension savings that can be accrued in a year is limited by the annual allowance (AA). The standard AA is currently £40,000, but for those on the highest incomes, it tapers down to a minimum level of £10,000 from April 2016 to April 2020 and £4,000 from April 2020 onwards.
- B.6** For defined benefit pension schemes, liability for tax charges above the annual allowance is calculated using the value of pension accrued in a particular year. Where an individual's pension accrual in a single year exceeds the AA, then a tax charge may be due on the amount accrued above the AA². Therefore, for the small minority of individuals who may be liable for AA tax charges, a retrospective change in the value of pension benefits accrued for remedy period years could trigger an AA payment or adjustment.
- B.7** The amount someone can accrue in a registered pension scheme in a tax-efficient manner over their lifetime is limited by the pensions lifetime allowance. The lifetime allowance is £1,073,100 for 2020-21.
- B.8** If the value of an individual's pension accrued for the remedy period changes, then the total value of their pension over their lifetime will also change. This could have lifetime allowance charge implications, where the total value of their pension benefits is greater than the allowance.

Statutory time limit for reassessing tax in previous years

- B.9** There is a usual 4-year statutory time limit for reassessing tax for previous years. This means that where an individual's pension benefits change for past years, altering their tax position, HMRC can only collect tax where it is owed for the current tax year and the 4 full tax years immediately preceding the point at which the individual's benefits change.
- B.10** So, where an individual's benefits change so that additional tax is due for a tax year that ended more than 4 full tax years previously, HMRC cannot collect that additional tax.
- B.11** However, where an individual's change of benefits decreases their tax liabilities, then the government will compensate them for all years of the remedy period, regardless of the tax year the change in benefits relates to.

² Any excess over the annual allowance can be offset against unused allowances from the previous three years, so a tax charge will not always occur.

Tax implications of immediate choice

- B.12** Under immediate choice, an individual will be required to make an irrevocable choice about which pension benefits they have accrued during the remedy period. The government expects that most people will make this choice probably within a year or two of the end of the remedy period. However, some of those retiring sooner may make it earlier.
- B.13** If the individual selects the benefits they have already been accruing during the remedy period, then there will be no tax changes – that member will already have received the right amount of tax relief. This means there would be no tax impacts for transitionally protected members who choose legacy scheme benefits, or for non-protected members who choose reformed scheme benefits.
- B.14** If the individual selects the benefits from the other scheme (so a protected member selects benefits from their reformed scheme or a non-protected member selects benefits from their legacy scheme), their pension benefits will change and there could therefore be changes to their tax position.
- B.15** The usual 4-year statutory time limit for reassessing tax will operate from the point at which an individual communicates their choice of benefits to their pension scheme. So, for example, an individual who elects in June 2023 to accrue legacy scheme benefits during the remedy period would need to pay any additional tax arising from an increase in pension accrual after 6 April 2019. They would not need to pay additional tax related to any increases in pension accrual before that date. However, they would be eligible for compensation for any tax they were owed as a result of lower pension accrual at any point in the remedy period.

Tax relief on contributions

- B.16** For members of schemes where contributions differ between legacy and reformed schemes, an adjustment will be made at the point at which the member makes their immediate choice³. Contributions to these schemes are made tax-free, so this adjustment will have implications for an individual's tax position.
- B.17** Where individuals are owed a refund of contributions, the relevant amount will be returned to them and taxed as income with respect to the relevant past tax year. In line with the usual 4-year statutory time limit, tax will not be collected on returned contributions which relate to any years of the remedy period more than 4 full tax years before the point at which the choice is irrevocably made between pension benefits.
- B.18** Where individuals owe more in contributions, the additional contributions will benefit from tax relief at an individual's marginal rate in the year the contributions are paid, subject to the usual tax relief rules.

³ As set out in Annex A, where a member owes contributions they will be given the option to pay these upfront or over time. If a member has overpaid for the scheme they choose to be in, they will receive a cash refund.

Annual allowance

- B.19** For a small minority of individuals with sufficiently high income and/or pension accrual, choosing different benefits to those already accrued for the remedy period will result in an adjustment in annual allowance charges. This adjustment will be made at the point the individual makes their choice between pension benefits for the remedy period years.
- B.20** This reassessment will examine these individuals' AA positions for specific years of the remedy period. Individuals whose pension accrual has exceeded their AA or risks exceeding it will need to recalculate their annual allowance position for each year of the remedy period based on their new pension benefits for that year, using the relevant tax rate for that year and taking into account their carry forward position from previous years⁴. They will then need to compare this revised charge to any annual allowance charge they have already paid for that year. This will establish whether, for each past year, they are owed a tax refund, or whether they could owe more tax. Individuals affected will need to report any changes within the statutory time limit to HMRC. Individuals may also need evidence of their tax position for earlier years to help them access the appropriate compensation.
- B.21** For some individuals who decide to receive legacy rather than reformed scheme benefits for the remedy period, or vice versa, their annual allowance charge liability might be greater under the benefits they now choose to receive. In these cases, the government will not collect additional tax relating to any years of the remedy period more than 4 full tax years before the point at which the choice is made between benefits. This is in line with the usual 4-year statutory time limit. But for individuals whose choice of different benefits for the remedy period reduces their AA liability, the government will refund the difference in charges due for every year of the remedy period – including the earlier years.
- B.22** Where additional tax is owed by the individual, they will have the opportunity to utilise Scheme Pays if they do not want to pay the tax charge upfront. If the individual is owed a tax refund or its equivalent and originally used Scheme Pays to meet the tax charge, then the associated pension debit will be amended as appropriate, and schemes will receive the refund.
- B.23** For members who may be subject to an annual allowance charge on the basis of their accrual in a particular public service pension scheme, that scheme will provide updated pension input amounts under the two sets of benefits, before members make their immediate choice. Individuals will need to consider this and may wish to consider taking advice on the tax implications, before making their decision.
- B.24** Once the choice of pension benefits for the remedy period has been made, any future changes in the value of those benefits (for example the revaluation of CARE benefits or earnings growth on final salary benefits) will

⁴ Individuals' carry forward positions will alter as a result of choosing different pension benefits for the remedy period. For remedy period years before the 4-year limit, individuals' carry forward positions will be unchanged, as these tax years are closed. However, where an individual would have had more unused carry forward based on the benefits they ultimately choose, the government will compensate them for any higher AA charges resulting from leaving their carry forward unchanged from before the 4-year limit. This also applies under the DCU.

be included in future annual pension accrual for tax calculations in the normal way.

Lifetime allowance

- B.25** Under immediate choice, the scheme benefits which contribute to calculating the lifetime allowance position will be those benefits which the individual has chosen to receive for the remedy period. This calculation will be done in the usual way when the individual receives their pension benefits, for example when they retire. Any tax owed by those with significant amounts of lifetime pensions savings will be paid at that point.

Tax implications of deferred choice underpin (DCU)

- B.26** Under the DCU, members will be deemed in 2022 to have been members of their legacy scheme for the remedy period. When the member takes their benefits, for example when they retire, they will have a choice about which set of benefits to take for the remedy period – either those from their legacy scheme or those from the reformed scheme.
- B.27** Where tax adjustments flow from individuals being deemed to have been members of their legacy scheme for the remedy period, the usual statutory 4-year time limit for reassessing tax will operate from 2022. For the minority of individuals for whom this change in accrual means more tax is owed, they will need to pay the additional tax due on increases to pension accrual arising in the current tax year and previous 4 full tax years. So, if scheme members are moved back into their legacy schemes on 1 April 2022, they must pay tax owed on accrual increases arising since 6 April 2017. They would not need to pay additional tax related to any increases in pension accrual before that date. For individuals for whom this change in pension accrual means lower tax charges, they will be eligible for compensation for any tax they are owed as a result of lower pension accrual at any point in the remedy period.
- B.28** Where tax adjustments are triggered by a member taking their benefits, the statutory 4-year time limit will operate from the point at which they communicate their choice of benefits to their pension scheme.

Tax relief on contributions

- B.29** For schemes where contributions differ between legacy and reformed schemes, the DCU option could result in an adjustment in contributions, and in tax relief owed on them, either at the end of the remedy period and/or at the point an individual receives their pension benefits.
- B.30** Where an individual's remedy period pension contributions change in 2022, as a result of being deemed to have been in their legacy scheme since 2015, then a tax adjustment will be required at this point. This will operate in the same way as under immediate choice. Tax relief will apply at an individual's marginal rate, subject to the usual tax relief rules, when they pay contributions to make up for any amount they owe. However, tax owed on any contributions repaid to the individual will only be collected for the

current tax year and preceding 4 full tax years, in line with the usual statutory limit. It will be collected at the individual's marginal rate with respect to the year in which contributions are being corrected.

- B.31** When an individual retires or otherwise takes their pension benefits, a second adjustment may be required. If the individual opts to receive legacy scheme benefits no further adjustment to contributions will be required, and therefore no tax adjustment. But if the individual chooses reformed scheme benefits then a further adjustment of contributions owed will be necessary, with the corresponding adjustment in tax relief or tax owed. Tax relief will be given at an individual's marginal rate when they pay additional contributions. Where tax is owed due to a reduction in contributions, it will be collected for any remedy period years within the current tax year and the preceding 4 full tax years of an individual receiving their pension benefits, as under the usual statutory time limit.

Annual allowance

- B.32** Under the DCU, changes to pension accrued over the remedy period either in 2022 or at the point an individual receives their pension benefits might trigger an AA charge or adjustment for some individuals.

Adjustments in 2022

- B.33** For a minority of individuals there may be an annual allowance charge adjustment when the remedy period ends. At that point, all eligible members will be deemed to have been members of their legacy scheme for the remedy period, regardless of whether they had originally been transitionally protected or not. For those individuals who were protected in 2015, and consequently have accrued legacy scheme benefits since 2015, their pension benefits will remain unchanged and no annual allowance charge adjustment will be required. But for unprotected members, being deemed to have been members of their legacy scheme will retrospectively alter the pension benefits they have accrued over the remedy period.
- B.34** As under immediate choice, for a small minority with sufficient levels of income and/or pension accrual, this change could trigger an adjustment in liability for the AA charge. Where an individual's AA charge liability for remedy period years is reduced by being deemed to be in their legacy scheme, the government will refund the difference. If the individual originally used Scheme Pays to meet the tax charge, then the associated pension debit will be amended as appropriate, and schemes will receive the refund. In a very small number of cases an individual's AA charge liability may be higher following the change. In this case, their tax position for the current tax year and the previous 4 full tax years will need to be corrected, and they will need to pay the tax owed for those years to HMRC. Such members will have the opportunity to utilise Scheme Pays if they do not want to pay the tax charge upfront.
- B.35** As under immediate choice, in order to establish whether individuals owe tax or are owed a refund or compensation, the small minority paying or at risk of paying AA charges will need to recalculate their annual allowance position for each individual year of the remedy period, taking into account their tax

rate and carry forward position for each year⁵. Any changes within the statutory time limit will need to be reported to HMRC. Individuals may also need evidence of their tax position for earlier years to help them access the appropriate compensation.

- B.36** From 2022 onwards, under the DCU, the member's annual allowance position will be calculated on the basis of their entitlement to legacy scheme benefits for the remedy period, until the member takes their pension benefits.

Adjustments when an individual receives their pension benefits

- B.37** When the member takes their benefits, for example when they retire, if they decide to take legacy scheme benefits for the remedy period years their pension benefits will remain unchanged, and there will be no further adjustment for annual allowance purposes. However, if they choose at that point to receive reformed scheme benefits for the remedy period years, then the value of their pension accrual for the remedy years could change significantly. Any increase resulting from their choice would all occur in the single tax year at the point the member chooses which benefits to take. This could trigger an AA liability in that year. That liability could be significant, and, because it is concentrated in one year, it could be greater than the total AA liability that individual might have faced had their pension benefits for the remedy period always been the reformed scheme benefits. This is because many of these members would either not have faced an AA charge, or their AA liabilities would have been smaller, had they always been considered to accrue benefits in the reformed scheme. In that case, the increase in pension value would have been more evenly spread over the whole remedy period rather than in just one year, and greater use could have been made of the annual allowance itself and the 3 year carry forward rule.
- B.38** As these effects are a direct consequence of the design of the DCU option, the government considers that it would not be fair to expect individuals to pay a potentially significant annual allowance charge that could result. The government will therefore compensate individuals for the difference in their annual allowance charge liability for reformed scheme benefits above legacy scheme benefits for the remedy period years, for the year in which individuals take their pension benefits. The government is developing a process whereby the public service pension scheme can declare and pay the relevant AA charge relating to the choice of reformed scheme benefits in the remedy period on the member's behalf. Therefore, while the member's choice of pension benefits could generate this specific AA charge, they would not need to do anything. However, members would still be liable to report and pay AA charges incurred for any other reason.

⁵ For remedy period years before the 4-year limit, individuals' carry forward positions will be unchanged, as these tax years are closed. However, where an individual would otherwise have had more unused carry forward on the basis of receiving legacy benefits since 2015, the government will compensate them for any higher AA charges which result from leaving their carry forward unchanged from before the 4-year limit

Lifetime allowance

- B.39** An individual's lifetime allowance position is calculated when they receive their pension benefits, for example when they retire. Under the DCU, the lifetime allowance calculation will be based on the benefits the member has selected for the remedy period, either legacy scheme or reformed scheme benefits.

Understanding the likely AA impacts on members

- B.40** An individual's AA position depends on a range of factors that are specific to them. These include, for example, their salary and length of service. Their AA liability also depends on whether they have any other pension besides their public service pension, and their total income including any income separate to their public service salary. Consequently, it is not possible to give firm assessments of which, and how many, scheme members will be affected by AA adjustments resulting from immediate choice or the DCU. Circumstances also differ between workforces, given each workforce's legacy and reformed schemes have their own particular characteristics. In the broadest terms, it might be expected that those with high but fairly steady public service salaries might see lower AA liability in the legacy compared to reformed schemes. But individuals who experience very significant pay rises could pay higher AA charges under legacy schemes, although this requires very particular circumstances around length of service and salary levels to be the case. Workforces whose legacy schemes involve double accrual may also, at higher salary levels, see higher AA liabilities for legacy rather than reformed schemes.
- B.41** Overall, the government does not expect the AA, or adjustments to the AA tax liability, to be a relevant factor for the vast majority of scheme members who are within the scope of this consultation. However, those scheme members who think they may be liable for AA charges given their levels of income or pension accrual may want to take the taxation of immediate choice and DCU into account when responding to this consultation with their preferences between the two options.

Question 24: Please set out any comments on the interaction of the proposals in this consultation with the tax system

Annex C

Member examples

This annex provides further examples, which have been provided by the Government Actuary's Department, to illustrate the choice of benefits available to members. These examples highlight some (but not all) factors which may impact which scheme is better for certain members.

These examples are:

- 1 A nurse in the NHS Pension Scheme (2015 scheme and 2008 section)
- 2 A teacher in the Teachers' Pension Scheme (NPA 60 section)
- 3 A teacher in the Teachers' Pension Scheme (2015 scheme and NPA 65 section)
- 4 A civil servant Administrative Officer in the civil service pension scheme (Alpha and Premium section of PCSPS)
- 5 A police constable in the Police Scheme (2015 scheme and 1987 section)

All examples rely on the following assumptions:

- the pension calculated is the pension accrued over the remedy period (1 April 2015 to 31 March 2022), as payable at retirement. In practice, such members will also have pension relating to pre-2015 and post-2022 periods, which is not considered here
- after the remedy period, the member continues in active service until they retire
- inflation reflects actual experience up to 2020, with 2% per year assumed thereafter
- for simplicity, the salary increase in each of the examples is the same rate for every year since 2015, in practice this will not be the case
- salary increases, promotions and retirements occur on 31 March in the relevant year
- the current State Pension age timetable is followed
- the pension amounts are in nominal terms at retirement
- the amounts are shown rounded to the nearest £10

Please note that these examples are for illustrative purposes only. Generally, they only consider one of the key variables which may impact the choice the member faces, in practice other variables may also be significant. The choice of benefits will depend on individual circumstances and these examples should not be used to

inform that choice. The comparisons are based on the pension payable at retirement, however in practice there are also other differences in benefits, such as survivor's pension, which may influence a members decision.

Example 1

A **nurse** who is a member of the **NHS Pension Scheme** (2015 scheme and 2008 section).

In **2012 they were 45**, and so **did not receive transitional protection**. However, they will now be given a **choice of pension for their service over the remedy period**, of either:

Legacy scheme (2008 section)	or	Reformed scheme
1/60 th of final salary each year Optional lump sum Payable unreduced from age 65		1/54 th of revalued salary each year Optional lump sum Payable unreduced from State Pension age (age 67)

If they had a **salary of £30,000 in 2015**, experience future annual **salary increases of 1% above inflation** and **retire at 65**, their choice with respect to the remedy period will be between the following pension amounts at retirement:

Legacy scheme:	or	Reformed scheme:
£5,450 pa		£6,040 pa

Assuming they choose to not give up any pension for a lump sum and allowing for the reformed scheme benefits being reduced for early retirement.

This means they would likely be **better off receiving reformed scheme benefits**.

Alternatively,

If the member was promoted twice, receiving **an additional 10% salary increase** at the end of the remedy period **and an additional 5% salary increase** five years later, their choice if retiring at age 65 now becomes, either:

Legacy scheme:	or	Reformed scheme:
£6,270 pa		£6,040 pa

This means they would likely be **better off receiving legacy scheme benefits**. Therefore, in this example, a change in future career progression has changed which scheme is expected to be more beneficial.

Example 2

A **teacher** who is a member of the **Teachers' Pension Scheme** (Normal Pension Age 60 section).

In **2012 they were 50**, and so **received transitional protection**. However, they will now be given a **choice of pension for their service over the remedy period**, of either:

Legacy scheme (NPA 60)	or	Reformed scheme
1/80 th of final salary each year Automatic lump sum (3x pension) Payable unreduced from age 60		1/57 th of revalued salary each year Optional lump sum Payable unreduced from State Pension age (age 67)

If they had a **salary of £40,000 in 2015**, experience future annual **salary increases of 2% above inflation** and **retire at their State Pension age (67)**, their choice with respect to the remedy period will be between the following pension amounts at retirement:

Legacy scheme:	or	Reformed scheme:
£5,710 pa (+ £17,130 lump sum)		£6,570 pa (+ £17,130 lump sum)

Assuming, for ease of comparison, that under the reformed scheme benefits, they would choose to give up pension for a lump sum equivalent to that they would have automatically received under the legacy scheme.

This means they would likely be **better off receiving reformed scheme benefits**.

Alternatively,

if the member **chose to retire aged 60**, then their final salary would be lower and the reformed scheme benefits would be reduced for early retirement. Their choice is now:

Legacy scheme:	or	Reformed scheme:
£4,340 pa (+ £13,020 lump sum)		£3,490 pa (+ £13,020 lump sum)

This means they would likely be **better off receiving legacy scheme benefits**. Therefore, in this example, a change in retirement age has changed which scheme is expected to be more beneficial.

Example 3

A **teacher** who is a member of the **Teachers' Pension Scheme** (2015 scheme and Normal Pension Age 65 section).

In **2012 they were 50**, and so **did not receive transitional protection**¹. However, they will now be given a **choice of pension for their service over the remedy period**, of either:

Legacy scheme (NPA 65)	or	Reformed scheme
1/60 th of final salary each year Optional lump sum Payable unreduced from age 65		1/57 th of revalued salary each year Optional lump sum Payable unreduced from State Pension age (age 67)

If they had a **salary of £40,000 in 2015**, experience future annual **salary increases of 2% above inflation** and **retire at their State Pension age (67)**, their choice with respect to the remedy period will be between the following pension amounts at retirement:

Legacy scheme:	or	Reformed scheme:
£8,160 pa		£8,000 pa

Assuming they choose to not give up any pension for a lump sum and allowing for the legacy scheme benefits being increased for late retirement.

This means they would likely be **better off receiving legacy scheme benefits**, although the outcomes are quite similar. This differs from the equivalent member in the NPA 60 section (Example 2), primarily because pensions are increased for late payment in the NPA 65 section but not in the NPA 60 section.

Alternatively,

if the member **chose to retire aged 65**, then their final salary would be lower, reformed scheme benefits would be reduced for the earlier retirement and legacy scheme benefits would not be increased for late payment. Their choice is now:

Legacy scheme:	or	Reformed scheme:
£7,050 pa		£7,010 pa

This means again that they would likely be marginally **better off receiving legacy scheme benefits**. Unlike the NPA 60 section (as set out in Example 2), **expected retirement age** for the NPA 65 section has minimal impact on the relative difference in pension amounts between schemes.

¹ Despite being the same age, this member did not receive transitional protection like the member in Example 2 did, due to their later normal pension age of 65.

Example 4

A **civil servant Administrative Officer** who is a member of the **civil service pension scheme** (Alpha and Premium section of PCSPS).

In 2012 they were 25, and so **did not receive transitional protection**. However, they will now be given a **choice of pension for their service over the remedy period**, of either:

Legacy scheme (Premium section)	or	Reformed scheme (Alpha)
1/60 th of final salary each year Optional lump sum Payable unreduced from age 60		2.32% of revalued salary each year Optional lump sum Payable unreduced from State Pension age (age 68)

If they had a **salary of £20,000 in 2015**, experience future annual **salary increases of 2% above inflation** and **retire at their State Pension age (68)**, their choice with respect to the remedy period will be between the following pension amounts at retirement:

Legacy scheme:	or	Reformed scheme:
£10,560 pa		£7,460 pa

Assuming they choose to not give up any pension for a lump sum.

This means they would likely be **better off receiving legacy scheme benefits**.

Alternatively,

If the member experienced future annual **salary increases of 0.75% above inflation**, then their choice if retiring at age 68 now becomes, either:

Legacy scheme:	or	Reformed scheme:
£6,590 pa		£7,190 pa

This means they would likely be **better off receiving reformed scheme benefits**.

However, if they instead **retire aged 60**, they would likely be **better off instead receiving legacy scheme benefits** as the reformed scheme pension would be reduced for early payment.

This demonstrates that a change in future salary increases and/or retirement age can change which scheme is expected to be more beneficial.

Example 5

A **police constable** who is a member of the **Police scheme** (2015 scheme and 1987 section).

In 2012 they were 35, and so **did not receive transitional protection**. However, they will now be given a **choice of pension for their service over the remedy period**, of either:

Legacy scheme (1987 section)	or	Reformed scheme
1/60 th of final salary each year for first 20 years, then 2/60 th for next 10 years [†] Optional lump sum Payable unreduced from age 55 or earlier depending on service		1/55.3 of revalued salary each year Optional lump sum Payable unreduced from age 60

[†] In practice, a member who has 30 years service (including in the reformed scheme) will have earned 1/45th of final salary for each year under the legacy scheme.

If they had a **salary of £30,000 in 2015**, experience future annual **salary increases of 2% above inflation** and **retire at 55**, their choice with respect to the remedy period will be between the following pension amounts at retirement:

Legacy scheme:	or	Reformed scheme:
£8,570 pa		£5,190 pa

Assuming they choose to not give up any pension for a lump sum and allowing for the reformed scheme benefits being reduced for early retirement.

This means they would likely be **better off receiving legacy scheme benefits**.

Alternatively,

if the member experienced future annual **salary increases of 1% above inflation**. Their choice now becomes, either:

Legacy scheme:	or	Reformed scheme:
£7,340 pa		£5,040 pa

This means again they would likely be **better off receiving legacy scheme benefits**.

Even at lower levels of future salary increases the legacy scheme pension is still comfortably higher than the reformed scheme pension.

Annex D

Glossary of terms

Abatement - The reduction or suspension of a pension in payment. Where abatement applies and post-retirement pension plus relevant earnings exceed pre-retirement salary, any excess will be deducted (abated) from the pension in payment.

Accrual rate – This rate is set out in a pension scheme’s regulations and determines how quickly a member’s pension grows. Most are written in the form of $1/n$ (where n is a figure such as 50 or 60) multiplied by pensionable pay and in those cases the smaller the rate, the more valuable it is. However, some are expressed as percentages of pensionable pay, such as 1.6% or 2.0%, where the higher the percentage the more valuable it is.

Active member - Members who are working (in pensionable service) and accruing additional pension benefits from that work and from contributions paid by their employer on their behalf. In most cases the member is also making contributions.

Actuarial valuation - A report of the financial position of a defined benefit pension scheme carried out by an actuary at regular intervals. The valuation report typically sets out the scheme’s assets and liabilities as at the date of the valuation; the rate at which the sponsoring employer(s) must contribute to meet the liabilities accruing as they become due; and the additional rate at which the employer(s) must contribute to eradicate any deficit (the excess of liabilities over assets) within a stated time period.

Added or additional pension (AP) - Available in some legacy and reformed schemes allowing members to purchase additional amounts of pension (employers can also contribute as well as or on behalf of the member).

Added years (AY) - Contracts available in some legacy schemes allowing members to purchase additional years of service.

Annual allowance - A limit on an individual’s annual tax-relieved pension accrual. The standard allowance is £40,000 for most people but is subject to a tapered reduction for those on the highest incomes. Further information can be found at <https://www.gov.uk/tax-on-your-private-pension/annual-allowance>.

Annual allowance charge - The tax charged at an individual’s marginal rate of income tax on pension accrual above the annual allowance.

Annual Benefit Statements - The statement which members receive each year telling them how much their pension is worth.

Career Average Revalued Earnings (CARE) Scheme - A defined benefit pension scheme that gives individuals a pension based on a percentage of the salary earned

in each year of their working life. The annual “pot” is increased each year by a particular revaluation factor applied in that scheme.

Cash Equivalent Transfer Value (CETV) - A value placed on accrued pension rights in particular circumstances, such as when any worker ceases to be an active member of a scheme before pension is payable and wishes to transfer those pension rights to certain types of other pension scheme such as a private sector defined benefit scheme. Everyone can request a CETV except in the year before retirement, but schemes can refuse to accept them.

(The) Commission - The Independent Public Service Pensions Commission led by Lord Hutton of Furness from 2010 – 2011.

Commutation - Optional conversion of continuing pension into lump sum at a conversion rate offered by the pension scheme for that particular type of commutation of continuing benefit into lump sum. Reverse commutation is where some or all of a separately accruing pension lump sum can be converted into a continuing pension.

Consumer Prices Index (CPI) - An official measure of the cost of inflation, increasingly used for government purposes in recent decades. It examines some of the same things as RPI did, such as the weighted average of prices of a basket of consumer goods and services, such as transportation, food, and medical care. CPI has been regarded as more accurately measuring changes in overall prices than RPI.

Dashboards - Proposed online systems to allow pension scheme members to see all their pensions in one place. The government is legislating to establish pension dashboards in the Pension Schemes Bill, which is currently before Parliament.

Deferred choice underpin (DCU) - One of the options for removing unlawful discrimination identified by the Court. Formerly unprotected members would be returned to their legacy scheme for the remedy period (2015 – 2022). At the point benefits are payable they would be able to choose legacy or reformed scheme benefits for the remedy period.

Deferred member - A member who has stopped accruing extra benefits in their scheme, for example, after leaving employment covered by that scheme, or opting out of the scheme. No pension benefits have yet come into payment for the member from the scheme and the pension previously accrued is called a deferred or preserved pension.

Defined Benefit (DB) pension scheme - A pension scheme where the pension is related to the members’ salary or some other value fixed in advance.

Defined Contribution (DC) pension scheme - A scheme where the individual receives a pension based on the contributions made and the investment return that those contributions have produced. These are sometimes referred to as money purchase schemes.

Early retirement reduction buy out (ERRBO) - In the NHS Pension Scheme 2015, the method of a member and/or their employer paying additional contributions to buy out the actuarial reduction applied when a member retires earlier than their Normal Pension Age.

Effective pension age (EPA) - As per ERRBO above – but this relates to the 2015 pension scheme for civil servants (and others) (“Alpha”).

Employer Contribution Rates - The percentage of the salary of employees that employers pay as a contribution towards the employees’ pension.

Final salary scheme - A type of DB scheme that gives individuals a pension based on the number of years of pensionable service, the accrual rate and final salary as defined by the scheme.

Government Actuary’s Department (GAD) - A government department responsible for providing actuarial advice to public sector clients.

Guaranteed minimum pensions (GMP) - The minimum pension that occupational pension schemes have to provide for those employees who were contracted out of the State Earnings-Related Pension Scheme between 6 April 1978 and 5 April 1997.

Hutton report - The report(s) from The Independent Public Service Pensions Commission, led by Lord Hutton of Furness from 2010–2011.

Ill health retirement - A type of pension available to a member who meets the relevant test in scheme regulations when they are unable to continue working due to ill health.

Immediate choice - One of the options for removing unlawful discrimination identified by the court. Members would be asked which scheme they want to be a member of for the remedy period, shortly after 2022.

Indexation - Indexation is a technique to adjust pension payments by means of an index. It most often refers to the indexation of pensions in payment in line with a prices index in order to maintain the purchasing power of the pension after inflation.

Independent Public Service Pensions Commission - The independent commission undertaking a fundamental structural review of public service pension provision which commenced in 2010 and issued its final report in 2011. It was led by Lord Hutton of Furness.

Legacy scheme - The public service pension schemes members were in prior to 1 April 2015.

Life expectancy - Life expectancy at a given age, x , is the average number of years that a male or female aged x might be expected to live thereafter.

Lifetime allowance - A limit on the total amount of tax-relieved pension accrual an individual can have without incurring a lifetime allowance charge. Further information can be found at <https://www.gov.uk/tax-on-your-private-pension/lifetime-allowance>.

Lifetime allowance charge - The tax charged on an individual’s total pension accrual above the value of the lifetime allowance. An individual can either take this excess as a lump sum, in which case it is subject to a 55% tax charge, or as a regular pension payment, in which case the excess is subject to a 25% tax charge plus marginal rate income tax upon receipt.

Longevity - The length or duration of human life.

Lump sum - A specific payment made in respect of a member's pension rights. It can be an optional or mandatory pension lump sum payable to a member when a continuing retirement pension is brought into payment (often referred to as a pension commencement lump sum (PCLS)). Other lump sums are payable in respect of events such as death.

Member contributions - The percentage of their pensionable pay paid by active scheme members into their pension schemes.

Minimum Pension Age (MPA) - The earliest age at which ordinary retirement benefits can be brought into payment for a member under the rules of that scheme, and subject to tax limits. Ill health and survivor pensions are not subject to MPAs.

Money Purchase Additional Voluntary Contribution (AVC) - These are personal pension (money purchase) contributions made by someone who is also a member of an occupational scheme as a top-up to their occupational entitlement. These are defined contribution pensions.

New fair deal - HMT guidance on pension provision for workers whose employment is compulsorily transferred to the private sector when the services they work on are moved to private sector suppliers.

Normal Pension Age (NPA) - The age at which a pension scheme member can start taking pension benefits on a voluntary basis without any reductions. NPA is set in scheme rules. A member can retire voluntarily before NPA, as long as they are over their MPA, but will then face a reduction to their benefits.

Occupational pension - A pension, which is provided via the employer. It can be an unfunded arrangement in the public sector, where the pension promises are guaranteed under statute and there is no specific pot of assets allocated to meet the pension promises. However, in some of the public sector and in the private sector the pension scheme has to be legally separate from the employer, and backed by a specific pot of assets, and usually takes the form of a trust arrangement.

Pension credit - The main income-related social security benefit for pensioners, which combines the Guarantee Credit and the Savings Credit.

Pension Input Amount - The amount of an individual's annual pension accrual that is tested against the annual allowance to determine whether that individual is required to pay an annual allowance charge.

Pensioner member - Individuals who are drawing a pension and who are mainly former employees. However, they may also include widows, widowers and other dependants of former active members.

Public Sector Transfer Club - A group of some 120 salary related occupational pension schemes. It allows easier movement of staff mainly within the public sector. It does this by making sure that employees receive broadly equivalent credits when they transfer their pensionable service to their new scheme regardless of any increase in salary when they move to their new employment.

Public service pension schemes - Pension schemes authorised by statute where the relevant ministers or officials make the rules of the schemes. The main schemes are those for civil servants, the armed forces, NHS employees, teachers, local

government employees, the police and firefighters. There are over 200 public service pension schemes.

Reformed scheme(s) - The reformed public service pension schemes introduced under the Public Service Pensions Act 2013.

Remedy period - The period covered by the proposals in Chapter 2, that is 1 April 2015 – 31 March 2022.

Remuneration - The combined value of pay, pensions and other benefits that can be given a monetary value.

Retail Prices Index (RPI) - The old measurement of inflation but still published as it continues to be used to calculate price increases and indexation for certain purposes. Like CPI, RPI tracks changes in the cost of a fixed basket of goods over time, but the basket differs from CPI, as has the method of assessing overall inflation.

Scheme Pays - An arrangement that can be used in certain circumstances where an individual's annual allowance charge is paid by their scheme and the individual's pension benefits are reduced appropriately to reflect this.

State Pension age (SPA) - The age at which an individual can begin claiming their state pension. The ages vary between individuals with different birthdays.

Survivor benefits - When an active or pensioner member dies, each scheme has a range of benefits that dependent children, a spouse, civil partner and sometimes an unmarried partner may receive instead. These vary across schemes.

Tapered protection - Offered to members between 10 and 13.5 or 14 years of Normal Pension Age on 31 March 2012, meaning they could stay in their existing schemes for a period ranging from a few months to several years after 2015. As with transitional protection, this was found to be unlawful discrimination by the Courts.

The Pensions Regulator (tPR) – A non-departmental public body and the UK's regulator of workplace pension schemes. It aims to ensure that workplace pension schemes (including public service schemes) are run properly so that people can save safely for their later years.

Transitional protection – Given to members within 10 years of Normal Pension Age on 31 March 2012, it meant they remained in their existing (legacy) scheme. This was found to be unlawful discrimination by the courts.

Unprotected members – All members who were moved to the reformed schemes on 1 April 2015, or anyone who first joined their pension scheme after 1 April 2015 and therefore entered the reformed schemes.

Whole of Government Accounts (WGA) - Consolidates the audited accounts of over 8,000 organisations across the public sector in order to produce a comprehensive, accounts-based picture of the financial position of the UK public sector.

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This document can be downloaded from
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Home Office

McCloud/Sargeant – Public service pension schemes consultation

Frequently asked questions (FAQs)

Background

In 2015 all main public service pensions, including the Police Pension Scheme, were reformed. These reforms included 'transitional protection', for people closer to retirement. In December 2018, the Court of Appeal [ruled](#) that this directly discriminated against some younger pension scheme members.

On 15 July 2019 the government made a written ministerial statement ([HCWS1725](#)) confirming that, as 'transitional protection' was offered to members of all the main public service pension schemes, the difference in treatment would be remedied across all those schemes, including the Police Pension Scheme.

In addition, the government has confirmed that this will apply to all members with relevant service in affected public service schemes, including the Police Pension Scheme, and not just those who have lodged legal claims.

The consultation that the government has now published, sets out options for how the government will remove the discrimination. These options involve providing members with a choice of which set of pension scheme benefits, those under their old scheme or the new scheme, they would like to receive for the remedy period.

Following the implementation of the pension changes to address the discrimination, all those who continue in service will do so as members of their respective 2015 schemes, regardless of their age.

In January 2020 the Home Office held initial technical discussions with the Police Pensions Scheme Advisory Board for England and Wales (SAB) to help with the policy development process. Feedback from these discussions provided the government with helpful comments which has been used to develop detailed proposals in the consultation.

What is being announced today?

HMT Public Consultation

The government has today launched a consultation on proposals to remove the discrimination identified in the McCloud/Sargeant litigation. This is your opportunity to put forward your views. You can find details on how to respond to the consultation here:

<https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>

The consultation will run for 12 weeks and will close on **Sunday 11 October**.

Cost Control mechanism

Separate to the consultation, the government has announced that the pause of the cost control mechanism will be lifted, and the cost control element of the 2016 valuations process will be completed. The costs of addressing the discrimination identified in the McCloud judgment will be included in this process.

The full announcement can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901141/Update_on_the_Cost_Control_Element_of_the_2016_Valuations.pdf

FAQs**ABOUT THE CONSULTATION****Q1: What is the purpose of this consultation?**

A: In 2015 all main public service pension schemes were reformed, including the Police Pension Scheme. These reforms included 'transitional protection', for people closer to retirement. The Courts have ruled that this directly discriminated against some younger pension scheme members.

The government's proposals to remove the discrimination will apply to all pension scheme members who were in service on or before 31 March 2012 and in service on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

The government will provide affected members with the option to choose between their old (mostly final salary) and new (career average) pension scheme benefits for service between 1 April 2015 and 31 March 2022.

The government is seeking views on how this choice might work. There are two different proposals:

1. **An Immediate Choice Exercise:** The choice will be made as soon as practicable.
2. **A Deferred Choice Underpin:** Members would remain in, or be returned to, the old schemes for service between 2015 and 2022. At the point of retirement (or when benefits become payable) or as soon as practicable (for members who have already had a pension award), members would be then able to choose to instead receive new scheme benefits for that period.

The claims against the Police Pension Scheme (known as the Aarons case) have been conceded by the government and remedy hearings are underway. The consultation will progress in parallel with the remedy decided by the Tribunals in the Aarons case.

Changes to the judicial and local government pension schemes are being consulted on separately.

Q2: Who is affected/in scope of the consultation proposals?

A: Scheme members who were serving on or before 31 March 2012 and still serving on or after 1 April 2015 will be in scope of these proposals.

This includes those members who are currently active, deferred or retired, and those with a qualifying break in service of less than 5 years. You do not need to put in a legal claim to be eligible for the changes proposed in the consultation.

Members who originally received transitional protection will also be provided with a choice of which scheme benefits they would prefer to receive for the remedy period.

Q3: Why are members who joined after 31 March 2012 not in scope?

A: The Court of Appeal's ruling identified unlawful discrimination between older and younger members in service on or before 31 March 2012. It is therefore these groups that the government are now equalising treatment between.

Q4: Why is the government asking members to make the choice between the different sets of pension benefits?

The differences between the old and new pension schemes mean the set of benefits that is best for individuals depends on personal circumstances. We cannot simply extend transitional protection to all members and place them into the old schemes, because some members are better off in the new schemes.

The government is unable to make this choice for members as it depends on personal circumstances and preferences and so will instead provide members with information to allow them to make an informed choice whichever option is chosen as the government's final policy.

Q5: Does the consultation document address future pension provision?

A: Yes. All public servants who are building up benefits in the main public service pension schemes, including police scheme members, will be placed into the 2015 reformed pension schemes from 1 April 2022, regardless of when they joined, therefore providing equality of treatment.

The 2015 reforms to public service pensions increased fairness and affordability. The government believes these schemes provide a good pension provision and continue to be more generous than most private sector pensions.

Changes to the judicial and local government pension schemes are being consulted on separately.

Q6: How will this affect those who have retired or will retire before 2022?

A: All affected members will be given a choice between old and new scheme benefits for service between 2015 and their retirement date.

Where possible the choice will be offered at retirement. Where this is not possible the choice will be offered as soon as practicable after legislative changes are implemented. Any change to benefits will be backdated.

Q7: In March 2020, members were told to retain their tax paperwork for 2015/16, is this still the case?

A: Yes. Depending on the eventual policy, the member may need the relevant paperwork to help them access appropriate compensation. Therefore, it would be helpful if members kept their paperwork related to tax from April 2015 onwards.

This would include:

- ***all self-assessment returns***
- ***P60s***
- ***Documents relating to any private pension schemes, and***
- ***the annual statements from your pension scheme administrator and documents relating to any other private pension schemes.***

POST-CONSULTATION**Q8: What are the next steps following the consultation?**

A: Following the end of the public consultation period, the government will publish its response and announce the final policy decision. HM Treasury will then lay legislation in Parliament to amend the

Public Service Pensions Act to enable government to enact these changes. The Home Office will simultaneously begin drafting and consulting on amendments to scheme regulations.

Q9: When will the changes to schemes be implemented from?

A: Removing the discrimination will take time, but the government is committed to ensuring that all eligible members are treated equally and are able to choose to receive benefits under the terms of either their legacy scheme or the reformed scheme. This will not happen before 2022 but any payments will be backdated to 2015 where necessary.

COST CONTROL MECHANISM

Q10: How will the unpausing of the cost control mechanism affect the 2016 valuations?

A: As the pause will be lifted, HM Treasury will set out in Directions the detail of how the cost control process element of the 2016 valuations will be completed.

By taking into account this increased value of public service pensions that will result from members having a choice of scheme benefits for the 'remedy period', the cost control process will show greater costs than if they were not included. The government will consider how best to take forward the cost control mechanism outcomes for each scheme once the details of these are known.

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Firefighters’/Police Pension Schemes

McCloud/Sargeant ruling – Guidance on treatment of ‘Immediate Detriment’ cases

1.0 Purpose of guidance

- 1.1 The purpose of this note is to provide informal guidance to Fire and Rescue Authorities (in England) and Police Forces (in England and Wales) on processing ‘immediate detriment’ cases (see definition in section 3 of this guidance) in advance of a decision on the Government’s final approach to removing the age discrimination as found in the McCloud/Sargeant Employment Tribunal litigation.
- 1.2 The guidance is provided at the request of the Fire Brigades Union and for the purpose of assisting employers with “immediate detriment” cases. For that reason, it is only relevant to members of the Police and Fire Pension Schemes.
- 1.3 Further, it must be noted that the issues raised in this document are the subject of both ongoing litigation and the Government’s consultation. As such this guidance will be kept under review to ensure that it is consistent with any judgment or outcome from the consultation and will be amended to give effect to any such judgement or outcome.
- 1.4 In this guidance a reference to the “2015 scheme” is to the applicable reformed Police or Fire CARE Pension Scheme, and a reference to the “legacy scheme” is to the applicable Police or Fire Pension Scheme that applied to a member before 1 April 2015.
- 1.5 The term ‘pension authority’ refers to the appropriate Fire and Rescue Authority or Police Force.

2.0 Background to McCloud/Sargeant ruling

- 2.1 In 2015 most public service pension schemes, including the Firefighters’ Pension Scheme and Police Pension Scheme, were reformed. These reforms included ‘transitional protection’ for people closest to retirement.
- 2.2 In 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters’ and Judges’ Pension Schemes. The Government respects the Court’s decision and has confirmed that it will remove the difference in treatment across all main public service pension schemes, including the Police Pension Scheme.

- 2.3 The Government is currently consulting on proposals to remove this discrimination. Detail on the current proposals can be accessed here: <https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>. The changes proposed in the consultation to remove the discrimination will apply across all the main public service pension schemes and provide members with a choice of which scheme they would like to be in for the remedy period. The remedy period is defined as between 1 April 2015 and 31 March 2022 in the consultation paper.
- 2.4 The remedy only applies to members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

3.0 What are ‘Immediate Detriment’ cases

- 3.1 For the purposes of this guidance, immediate detriment includes those scheme members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, and who did not benefit from full protection and were moved into the 2015 Scheme on or after 1 April 2015:
- I. who become eligible to retire with an ordinary pension and want to have all their benefits paid from their legacy scheme (i.e. do not accept deferred 2015 scheme benefits); **OR**
 - II. who don’t qualify for lower-tier (and therefore higher-tier) ill-health pension under the single pot Ill-Health Retirement (IHR) arrangement BUT would do so under the IHR arrangements in their legacy scheme.
- 3.2 Any scheme members that fall within either of the two categories above can have their pensions calculated and put into payment according the guidance set out in section 5 below.
- 3.3 This guidance **should not** be applied to scheme members who have already retired and are in receipt of their pension payments. These cases are more complex to address, especially due to complexities in rectifying the member’s tax position.
- 3.4. It is important **to note** that ALL cases processed using this guidance will need to be revisited once the Government’s approach to removing the discrimination has been finalised, due to relevant matters that are currently subject to consultation, to include interest on contributions etc. This is likely to be after April 2022.

4.0 Guidance on treating immediate detriment cases

- 4.1 There are some transitional scheme members who have already been dismissed from work without a pension as they did not qualify for an ill-health pension under the 2015 Scheme. In addition, there are transitional members who are now

approaching retirement and want to take their full pension benefits under their legacy pension scheme. This guidance provides employers with advice on how these cases can now be processed in advance of final remedy implementation.

Transitional members who are already in receipt of a pension

- 4.2 There are cases (in respect of both ill-health/ordinary retirements) where transitional members have already retired and are currently receiving an ill-health/ordinary pension. It is recognised that many of these members' pensions are lower than they would be if they were paid under the member's legacy pension scheme. For example, where a transitional member has retired on ordinary grounds below age 55, their benefits accrued under the 2015 Scheme will currently be deferred until their State Pension Age.
- 4.3 These cases involve complex tax implications, employee/employer contribution adjustments etc. which still need to be resolved – these points are currently being consulted on and a final approach has yet to be confirmed. We will look to process these cases as a priority as soon as these outstanding points have been resolved.

5.0 Giving scheme members a choice

- 5.1 Scheme members falling under the scope of this guidance will effectively be given the opportunity to take all their pension benefits accrued between 1 April 2015 and 31 March 2022 under their legacy pension scheme, rather than take some benefits under the 2015 Scheme.
- 5.2 Pension authorities can now offer this choice to all those scheme members who:
- have transitioned into the 2015 Scheme who are approaching retirement; and
 - have retired due to poor health but who didn't qualify for an ill-health pension under the 2015 Scheme regulations but would qualify under their legacy scheme regulations.
- 5.3 In order to provide this choice, pension authorities will need to present two sets of pension entitlement quotes to each qualifying scheme member. Whilst not an exhaustive list, each quote should set out the main pension benefits that they would receive under each choice, to include: recurring annual pension (before and after commutation), commutation retirement lump sum entitlement, employee contributions owed/refunds due etc. Each scheme member should be required to provide written confirmation of their election.
- 5.4 There remain a number of outstanding issues that will not be resolved until such time that the Government finalises its approach to removing the discrimination identified by the McCloud/Sargeant ruling (see unresolved pensions issues section below). Each scheme member will need to agree to accept the Government's final approach and any future adjustments that this requires.

- 5.5 Once written confirmation has been received from each member, the pension authority can put the pension chosen into payment.

Unresolved pension issues:

- 5.6 As explained above, there remain outstanding issues that will not be resolved until the Government finalises its approach to removing the discrimination. The Government is currently consulting on its proposed approach and will finalise its proposals following careful consideration of stakeholder responses.

Recovery of outstanding employee contributions

- 5.7 Any scheme members who choose to take their full pension benefits under their legacy scheme will owe employee contributions or be entitled to a refund. Any employee contributions owed will need to be paid before the member's legacy scheme pension can be put into payment.
- 5.8 Any contributions owed will need to be based on the pay that is considered to be pensionable under the legacy scheme, which may vary from that pay which is considered pensionable under the 2015 Scheme. It will be for employing pension authorities to make an assessment for each member and seek payment. The member has a choice to pay any outstanding employee contributions from their retirement lump sum or from any other personal source. Any refunded employee contributions can be repaid to the member from the employer's local pension fund account.
- 5.9 A final decision has yet to be made in respect of whether, and at what rate, interest should be applied to contributions owed by employees should they elect to receive benefits from their legacy scheme during the remedy period (2015 to 2022). As the Government's approach to this issue has yet to be confirmed, this guidance proposes that interest is not applied to employee contributions owed at this time.
- 5.10 Notwithstanding this, any immediate detriment cases where the pension is put into payment now may need to be revisited if the Government's final approach includes the application of interest on owed employee contributions. Pension authorities should ensure that any members making a decision under this guidance are aware of, and accept, this condition.

Tax relief on employee contributions

- 5.11 Where possible, pension authorities should ensure that the employee contributions owed are repaid by the member before they leave service to ensure that any tax relief entitlement can be applied. Where this is not possible, for example where an individual has retired previously on ill-health grounds and did not qualify for a pension under the 2015 Scheme but would qualify under their legacy scheme, the

scheme member will have to wait until the Government's final approach to removing the discrimination has been implemented to receive any appropriate reimbursement. This is likely to be after April 2022.

Recovery of outstanding employer contributions (Firefighters' Pension Schemes only)

5.12 The Firefighters' Pension Schemes are in a unique position compared to other public sector pension schemes in that they do not have a uniform employer contribution rate across all schemes. As such, any scheme member who elects under this guidance to take their full pension benefits under their legacy scheme will impact on the corresponding employer contributions owed in respect of that member during the period that they were in the 2015 Scheme.

5.13 It will be for each employing Fire and Rescue Authority (FRA) to recalculate the contributions that they, as the employer, should have paid under the legacy scheme for each member and pay any shortfall into their pension fund account. Where this results in an excess of employer contributions having been paid, these can be refunded to the employer from their pension fund account.

Treatment of Cash Equivalent Transfer Value (CETV) transfers into the 2015 Scheme

5.14 It is recognised that there will be some transitional scheme members who will have transferred benefits from an external pension arrangement into the 2015 Scheme. Where a scheme member elects to take all their benefits from the legacy scheme, the original transfer-in (the Cash Equivalent Transfer Value) will need to be recalculated to determine the amount of pensionable service that should be purchased in the member's legacy scheme.

5.15 The recalculation of the transfer-in will need to be undertaken by pension authorities as if it had been taken at the time of the original transfer, using the actuarial factors that were applicable at that time.

5.16 Where conversion of transferred benefits from the 2015 Scheme to the legacy scheme results in the pension input amount changing due to actuarial adjustment, then an individual's Annual Allowance position may need to be reassessed.

Treatment of purchased added pension in the 2015 Scheme

5.17 Some transitional scheme members will have elected to make voluntary contributions to purchase 'additional pension' in the 2015 Scheme. For those members that elect to take their full benefits under the legacy scheme, any employee contributions paid in respect of the additional pension purchased will need to be converted to the equivalent value of additional pension that could have been purchased in the member's legacy scheme.

- 5.18 The legacy schemes do not currently have ‘additional pension’ provisions. Additional pension purchased in the 2015 Scheme is one of the unresolved issues that the consultation is considering.

Scheme PAYS– treatment of debits applied to 2015 Scheme pension

- 5.19 There may be instances where transitional members have previously incurred certain tax charges and have elected for these to be paid under Scheme PAYS with the associated pension debit applying to the 2015 Scheme benefits.
- 5.20 Where this is the case and the member elects for all their pension benefits to be paid from their legacy scheme, there may be subsequent changes to the tax charges retrospectively. If this is the case, pension authorities will need to recalculate the pension debit. The recalculation of the pension debit will need to be undertaken by pension authorities as if it had been taken at the time of the original Scheme PAYS elections, using the actuarial factors that were applicable at that time.

Revisiting AA tax assessments on previous years

- 5.21 Under current arrangements, there is a four-year statutory time limit for reassessing tax for previous years. This means that where a scheme member’s pension benefits change for past years, altering their tax position, HMRC can collect and refund tax where it is owed for the current tax year, and the four full tax years immediately preceding the point at which the individual’s benefits change.
- 5.22 Where a scheme member’s benefits change due to an election under this guidance so that additional tax is due for a tax year that sits outside the four previous tax years, HMRC cannot collect that additional tax. As such, the member will not be required to pay this. However, the recalculation will still be necessary to ensure the member’s tax position going forward is correct.
- 5.23 The Government has confirmed that where a scheme member’s benefits change so that they are owed a reimbursement of any tax charges paid since April 2015, they will get a full refund for the full period. The scheme member will initially be able to seek a tax refund from HMRC in respect of any overpaid tax charges in the previous four tax years.
- 5.24 Any further entitlement to a tax refund for years outside the four-year period will be refunded by means of compensation payments, which are expected to be paid after the Government finalises its approach to removing the discrimination, likely to be after April 2022.

Police Workforce and Professionalism Unit, Home Office

21 August 2020

Agenda Item 8

Committee: Police Pensions Board	Date: 9 October 2020
Subject: The City of London: Police Pension Scheme – Risk Register	Public
Report of: The Chamberlain	For Information
Report author: Graham Newman – Chamberlain’s Department	

Summary

At the Board meeting of Wednesday 12 June 2019, Members requested that the current Police Pension Scheme Risk Register be converted to the new corporate format which would then be a standing agenda item to be updated/reviewed on a regular basis.

When reviewing the risks, the Board should be aware that generic risks are also included in the Local Government Pensions Board risk register. The risks are CHB COLP PSB 02 Legislative Compliances, CHB COLP PSB 04 Pension Scheme Administration, CHB COLP PSB 05 Pension Fraud and CHB COLP PSB 07 Cyber security.

Appendix 1 provides the Risk register and Appendix 2 the Risk Matrix.

Recommendation

Members are asked to:

- review the existing risks and actions present on the Police Pension Board’s Risk Register, and confirm that appropriate control measures are in place; and
- confirm that there are no further risks relating to the pension administration overseen by the Police Pension Scheme Board

Main Report

Background

1. The Police Pension Board instituted a Risk Register to help identify and manage the strategic risks facing the Board in discharging its responsibilities to oversee administration of the Police Pension Scheme. The current Risk Register, as agreed by the Board on 3 February 2020, is included as Appendix 1.
2. The Police Pension Board should review the register three times per year. Officers review the register more frequently and report any material changes between reviews on an exceptions basis to the Board. This is in line with standard risk review procedures across the rest of the City of London Corporation.

Review of Risks

3. The method of assessing risk reflects the City of London’s standard approach to risk assessment as set out in its Risk Management Strategy approved by the Audit and Risk Management Committee in May 2014. The City of London Corporation risk matrix, which explains how risks are assessed and scored, is attached at

Appendix 2 of this report. Risk scores range from one, being lowest risk, to the highest risk score of thirty-two. These scores are summarised into 3 broad groups, each with increasing risk, and categorised “green”, “amber” or “red”.

Update on Risks

4. The revised Risk Register is attached at Appendix 1 and the Risk matrix at Appendix 2.

5. At its meeting on the 3 February 2020,
(i) in relation to risk CHB COLP PSB01, the Board asked for this risk to be updated to note that other forces may supply inaccurate actuarial data to the Home Office. This has been included in the Risk Register.

(ii) in relation to CHB COLP PSB02 Legislative Compliance, the Board noted that the likelihood of this risk should be decreased, but the impact increased. This has increased the score from a 3 to a 4.

(iii) in relation to risk CHB COLP PSB03 Pension Scheme Administration (Personnel), Members noted that the likelihood of this risk should be decreased, but the impact increased. This amendment does not affect the overall risk score.

(iv) in relation to risk CHB COLP PSB07 Cyber Security, Members noted that this should be amended to match the same risk rating as is held on the Force’s own risk register for Cyber Security. Upon review, officers determined that the Police’s Cyber Security risk will be very different and designed specifically for their systems and needs. As this risk relates purely to pension administration systems, it is more appropriate to ensure it mirrors the Local Government Pension Scheme Board’s Cyber Security risk. Officers have reviewed this risk and confirm it does match the Local Government Pension Scheme Cyber Security risk.

(v) Members noted that a new risk should be created in respect of the McCloud Judgement. This new risk has been added to the Risk Register as CHB COLP PSB08.

Mitigation of amber and red risks

The risk, CHB COLP PSB08 – McCloud Legal Case, has been given an overall risk score of red 16. The changes to be made to the Police Pension Scheme as a result of the McCloud Judgement are guaranteed which means the likelihood must be recorded at the highest level. The impact of the changes will be potentially very high and is therefore recorded as ‘Major’. It is not possible to reduce the likelihood of this risk, but it may be possible to mitigate the impact.

It is not yet known what specific changes will be made, or the timeframe that will be given for implementation. However, by ensuring awareness of all correspondence and consultation documents that are published and by attending all available seminars/webinars, forums and user groups the Pensions Office will have as much advance knowledge and understanding as possible of the potential changes. This preparedness will mean the impact of the changes may not be as severe as it would have been otherwise.

6. The scores for the other risks have been maintained at their previous levels, although these risks have each been reviewed and updated where necessary in the Register itself. Updates to the Risk Register are underlined throughout with deletions being struck through.
7. Officers have also considered whether any new risks have emerged since the last review. Although the Board's operating environment continually changes officers have determined that the existing Register captures the material risks facing the Board and enables the Board to concentrate on the most prescient risks.
8. Each risk presented in the Risk Register is accompanied by one or more "action(s)" which reflect how the risk is managed and mitigated. A "due date" for required completion is set against each action. Due to the nature of the risks overseen by the Board, in many cases it is impossible to entirely eliminate a risk, and therefore corresponding actions will always remain live. These ongoing actions are necessary in order to maintain the current risk score. Where this is the case the Risk Register includes an annual due date, which will be renewed each year.

Conclusion

9. The risks overseen by the Police Pension Board are primarily of low likelihoods but may represent substantial impact. The Board is requested to confirm that appropriate control measures are in place for these risks and that there are no other risks that should be added to the Risk Register.

Recommendation

Members are requested to review the revised Risk Register at Appendix 1 and provide any comments.

Appendices:

Appendix 1 – Risk Register

Appendix 2 – Risk Matrix

Contact:

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Generated on: 25 September 2020

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Action no	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CHB COLP PSB 01a	The year-end procedures of the Pensions Office remain thorough, accurate and timely.	The actuarial data supplied to the Home Office is based upon information extracted from the payroll system, the pension system and the general ledger. The extracts are reconciled and checked for errors or inconsistencies before submission to the Home Office. The City of London has no jurisdiction or control over data submitted by other Police Authorities.	Matt Mott	03-Feb-2020	31-Mar-2021

Action no	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CHB COLP PSB 02a	Robust recruitment and training processes.	Ensuring that suitable staff are recruited at the correct salary levels and that appropriate training is provided will help to prevent non-compliance with legislative requirements.	Graham Newman Matt Mott	8-Aug-2019	31-Mar-2021

CHB COLP PSB 02b	The governing legislation may change or evolve over time and it is therefore important that staff maintain accurate and up-to-date knowledge of the Regulations.	Regular attendance at seminars, forums, webinars and user groups will ensure that knowledge of the relevant legislation is kept up-to-date and accurate.	Graham Newman Matt Mott	8-Aug-2019	31-Mar-2021
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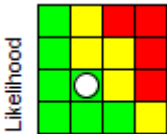

Risk no, title, creation date, owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date	Current Risk score change indicator
CHB COLP PSB 03 Pension Scheme Administration (<p>Cause: (i) Ineffective succession planning. (ii) Inadequately trained staff. (iii) Absences/ Increased Staff turnover. (iv) Data Accuracy.</p> <p>Event: The failure of administrators to accurately calculate and pay the correct levels of benefits.</p> <p>Effect:(i) Inaccurate benefits paid or delayed. (ii) Increased costs of inefficiencies. (iii) Financial penalties/sanctions</p>	 Likelihood Impact	<u>4</u>	<p>The Regulations of the Police Pension Scheme set out how police pensions should be calculated; the procedures to be followed in certain circumstances (i.e. normal retirement and ill health retirement); the timeframes/deadlines to be adhered to; and the notifications to be provided to Scheme members.</p> <p>In addition, other bodies such as the Pensions Regulator, HM Revenue & Customs, the Office of National Statistics and the Financial Conduct Authority impose rules that work alongside the Scheme Regulations or may even supersede them.</p> <p>If the members of the Pensions Office that are responsible for administration of the Police Pension Scheme lack the necessary knowledge and skills payment of benefits may be delayed and may be inaccurate.</p> <p>This may lead to financial penalties and sanctions being imposed by the governing industry bodies such as the Pensions Regulator.</p>	 Likelihood Impact	<u>4</u>	31-Mar-2021	<div style="width: 10px; height: 10px; background-color: blue;"></div>
8-Oct-2019 Chamberlain				8-Oct-2019				Constant

Action no	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CHB COLP PSB 03a	Job descriptions used at recruitment to attract candidates with skills and experience related to police pension administration. The appraisals process to monitor progress and assess training needs.	Ensuring that candidates with the necessary skills and abilities are employed by the City. Once in post, staff continue to receive relevant training and attend courses, seminars and conferences when appropriate.	Matt Mott Kate Limna	8-Oct-2019	31-Mar-2021
CHB COLP PSB 03b	Scheme administrators are trained to use the pensions administration software.	Ensuring that administrators are fully trained to use the pension administration software to enable them to provide accurate and efficient calculations. In addition, administrators should know the correct process to report to the software provider any errors encountered with the system in order that they can be investigated and resolved.	Graham Newman Matt Mott	8-Oct-2019	31-Mar-2021
CHB COLP PSB 03c	Accurate and appropriate checking procedures in place at all areas of administration.	Rigorous and thorough checking procedures are created and implemented to ensure all calculations and letters are checked for accuracy and legislative compliance. <u>All checking procedures reviewed and where necessary amended due to take account of COVID 19 and officers having worked from home since 23 March 2020</u>	Graham Newman Matt Mott	8-Oct-2019	31-Mar-2021
CHB COLP PSB 03d	Practical disaster recovery/succession plans in place to ensure continuity in the event that key staff leave or are unable to work for a prolonged period of time.	Ensuring that skill sets are not restricted to one staff member alone. Priority cases and work types are identified to ensure continuation in the event that staff or other resources become unavailable. <u>Disaster Recovery reviewed in light of COVID 19 and officers having worked from home since 23 March 2020</u>	Graham Newman Matt Mott	8-Oct-2019	31-Mar-2021

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Action no	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CHB COLP PSB 04a	Training on how to use the software and how to recognise and report problems and faults to be provided to all staff.	Any faults with the system should be reported to the software provider as soon as possible and therefore it is important that all staff can recognise any issues and know how to report them.	Matt Mott	8-Oct-2019	31-Mar-2021

CHB COLP PSB 04b	<p>The software provider is contracted to provide regular updates to the system as developments and enhancements are made.</p> <p>In addition, as regulations are amended, or legislation and factors are updated there is a requirement to ensure the software is also updated.</p>	Monitoring the system updates made by the system provider to ensure they are made accurately and on time.	Matt Mott	8-Oct-2019	31-Mar-2021
CHB COLP PSB 04c	Ensuring that the pensions administration software is included in the departmental business continuity plans.	Updating the business impact analysis details used in the departmental continuity plan as required.	Matt Mott	8-Oct-2019	31-Mar-2021

Risk no, title, creation date, owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date	Current Risk score change indicator
CHB COLP PSB 05 Pension Fraud 8-Oct-2019 Chamberlain	Cause: (i) Continued payment of pensions following death. (ii) Staff acting inappropriately Event: Fraudulent claim of pension benefits. Effects: (i) Overpaid pensions.(ii) Financial loss	 Likelihood Impact	4	If the death of a police pension scheme beneficiary is not reported, their pension may continue to be paid when there is no longer an entitlement. This may be a deliberate failure to report the death or may be where there is no fraudulent intention, but in either case it will lead to benefit overpayment and a potential financial loss. 8-Oct-2019	 Likelihood Impact	2	31-Mar-2021	Constant

Action no	Action description	Latest Note			Action owner	Latest Note Date	Due Date
CHB COLP-PSB 05a	Robust fraud protection/detection processes.	Use of Mortality Screening Service and Tell Us Once Service [Government initiative that allows us to be notified of a death when registered]. Participation in the National Fraud Initiative. Annually sending Life Certificates to Overseas Pensioners.			Claire O'Malley Matt Mott	3- Feb-2020	31-Mar-2021

[illegible]

Action no	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CHB COLP PSB 06a	Ensuring that staff within City of London Police HR are aware of the rules regarding re-employment and PPA.	City of London Police HR will ensure that the necessary training in respect of re-employment and PPA is provided to members of the team and that procedures are in place so that this knowledge is maintained and passed on.	Carl Tomlinson <u>Azeem Bhatti</u>	8-Oct-2019	31-Mar-2021
CHB COLP PSB 06b	Monitoring job-applicants to ensure retired officers who are being re-employed are leaving the required break.	City of London Police HR will monitor any new applicant to ensure that any retired officer that is between the ages of 50 and 55 and is looking to be re-employed has taken the required break between retirement and re-employment. If necessary, they will determine whether the new employment is materially similar when assessing the length of the break that is needed.	Carl Tomlinson <u>Azeem Bhatti</u>	8-Oct-2019	31-Mar-2021
CHB COLP PSB 06c	Ensuring that officers that are coming up to retirement are aware of the rules regarding re-employment and PPA.	The City of London Police HR will ensure that all retiring officers are informed of the rules regarding re-employment and PPA. When required to provide input at pre-retirement courses, the Pensions Office will include details in respect of re-employment and PPA as part of their presentation.	Carl Tomlinson <u>Azeem Bhatti</u> Graham Newman	8-Oct-2019	31-Mar-2021

Risk no, title, creation date, owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date	Current Risk score change indicator
CHB COLP PSB 07 Cyber Security <div>Page 134</div> <div>Oct-2019 Chamberlain</div>	Cause: (i) Ineffective procedures. (ii) Inadequately trained staff. (iii) IT system failure (iv) Data Accuracy. (v) Lack of resources. Event: Breach of Corporate IT systems and cyber security Effect: (i) Inaccurate benefits paid or delayed. (ii) Increased costs of inefficiencies. (iii) Financial penalties/sanctions. (iv) Breach of Data Protection regulations. (v) Loss/corruption of data	<div> <div>Likelihood</div> <div>Impact</div> </div>	4	A malicious breach of Corporate IT systems may lead to a failure of the pensions administration system and/or a breach of Data Protection regulations. A failure of the pensions administration system or a breach of the DP regulations may mean a failure or inability to calculate benefits accurately and on time which may lead to financial penalties and sanctions being imposed by the governing industry bodies such as the Pensions Regulator or Information Commissioner's Office.	<div> <div>Likelihood</div> <div>Impact</div> </div>	4	31-Mar-2021	<div> <div>Constant</div> </div>

Action no	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CHB COLP PSB 07a	Pensions administration staff to be aware of the corporate policy regarding cyber security and to follow the guidelines given.	Corporate online training regarding cyber-security to be carried out by all staff and reviewed as required.	Matt Mott	8-Oct-2019	31-Mar-2021
CHB COLP PSB 07b	Corporate and departmental specific software to be updated as required to ensure the latest and most secure version is being used.	To ensure the most up-to-date software is being used, staff should update their computers as and when prompted.	Matt Mott	8-Oct-2019	31-Mar-2021
CHB COLP PSB 07c	Ensuring that the pensions administration software is included in the departmental business continuity plans.	Updating the business impact analysis details used in the departmental continuity plan as required.	Matt Mott	8-Oct-2019	31-Mar-2021
CHB COLP PSB 07d	Pensions administration staff to be aware of Data Protection legislation.	Corporate online training regarding Data Protection to be carried out by all staff and reviewed as required.	Matt Mott	8-Oct-2019	31-Mar-2021

CHB COLP PSB 08a	<u>Keeping up to date with news from the Scheme Advisory Board, the Home Office, the Government Actuary's Department and the Technical Working Group.</u>	<u>Staying aware of all relevant correspondence issued by the Home Office / TWB and regular attendance at seminars, forums, webinars and user groups.</u>	Matt Mott	21-Sept-2020	31-Mar-2021
CHB COLP PSB 08b	<u>Making preparations for managing the additional workloads. This is likely to have an impact on the Pensions Administration budget however until the final remedy has been decided it is not possible to quantify the impact.</u>	<u>Regular contact and discussion between all relevant parties – Force HR / Force Finance / Pensions Administration</u>	Matt Mott	21-Sept-2020	31-Mar-2021
CHB COLP PSB 08c	<u>Making preparations for managing the expectations for those officers affected by the remedy.</u>	<u>Preparing communications and standard responses (FAQs) to be sent to affected officers.</u>	Matt Mott	21-Sept-2020	31-Mar-2021



City of London Corporation Risk Matrix (Black and white version)

Note: A risk score is calculated by assessing the risk in terms of likelihood and impact. By using the likelihood and impact criteria below (top left (A) and bottom left (B) respectively) it is possible to calculate a risk score. For example a risk assessed as Unlikely (2) and with an impact of Serious (2) can be plotted on the risk scoring grid, top right (C) to give an overall risk score of a green (4). Using the risk score definitions bottom right (D) below, a green risk is one that just requires actions to maintain that rating.

(C) Risk scoring grid		Unlikely (2)	Possible (3)	Likely (4)
Criteria	Less than 10%	10 – 40%	40 – 75%	More than 75%
Probability	Has happened rarely/never before	Unlikely to occur	Fairly likely to occur	More likely to occur than not
Time period	Unlikely to occur in a 10 year period	Likely to occur within a 10 year period	Likely to occur once within a one year period	Likely to occur once within three months
Numerical	Less than one chance in a hundred thousand (<10-5)	Less than one chance in ten thousand (<10-4)	Less than one chance in a thousand (<10-3)	Less than one chance in a hundred (<10-2)

Likelihood		Impact			
	X	Minor (1)	Serious (2)	Major (4)	Extreme (8)
	Likely (4)	4 Green	8 Amber	16 Red	32 Red
	Possible (3)	3 Green	6 Amber	12 Amber	24 Red
	Unlikely (2)	2 Green	4 Green	8 Amber	16 Red
	Rare (1)	1 Green	2 Green	4 Green	8 Amber

(B) Impact criteria

Impact title	Definitions
Minor (1)	Service delivery/performance: Minor impact on service, typically up to one day. Financial: financial loss up to 5% of budget. Reputation: Isolated service user/stakeholder complaints contained within business unit/division. Legal/statutory: Litigation claim or find less than £5000. Safety/health: Minor incident including injury to one or more individuals. Objectives: Failure to achieve team plan objectives.
Serious (2)	Service delivery/performance: Service disruption 2 to 5 days. Financial: Financial loss up to 10% of budget. Reputation: Adverse local media coverage/multiple service user/stakeholder complaints. Legal/statutory: Litigation claimable fine between £5000 and £50,000. Safety/health: Significant injury or illness causing short-term disability to one or more persons. Objectives: Failure to achieve one or more service plan objectives.
Major (4)	Service delivery/performance: Service disruption > 1 - 4 weeks. Financial: Financial loss up to 20% of budget. Reputation: Adverse national media coverage 1 to 3 days. Legal/statutory: Litigation claimable fine between £50,000 and £500,000. Safety/health: Major injury or illness/disease causing long-term disability to one or more people objectives: Failure to achieve a strategic plan objective.
Extreme (8)	Service delivery/performance: Service disruption > 4 weeks. Financial: Financial loss up to 35% of budget. Reputation: National publicity more than three days. Possible resignation leading member or chief officer. Legal/statutory: Multiple civil or criminal suits. Litigation claim or find in excess of £500,000. Safety/health: Fatality or life-threatening illness/disease (e.g. mesothelioma) to one or more persons. Objectives: Failure to achieve a major corporate objective.

(D) Risk score definitions

RED	Urgent action required to reduce rating
AMBER	Action required to maintain or reduce rating
GREEN	Action required to maintain rating

This is an extract from the City of London Corporate Risk Management Strategy, published in May 2014.

Contact the Corporate Risk Advisor for further information. Ext 1297

Version date: December 2015

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