Likelihood v Impact scoring

APPENDIX A

			Impact				
			Negligible	**Minor**	**Moderate**	**Major**	**Catastrophic**
			1	**2**	**3**	**4**	**5**
Likelihood	**Rare**	**1**	1	2	3	4	5
	Unlikely	**2**	2	4	6	8	10
	Possible	**3**	3	6	9	12	15
	Likely	**4**	4	8	12	16	20
	Almost certain	**5**	5	10	15	20	25

Risk Register for Fire Pensions

Risk number	Date identified	Risk area	Risk description	Likelihood	Impact	Risk score	Control measure / mitigation	Likelihood after mitigation	Impact after mitigation	Risk score after mitigation	Risk owner
1	12/05/2017	Operations	Failure to administer the pension scheme in a proper and effective manner	2	3	6	• Liaison with employer • End of Year • Employer web (UPM access) • Fire Employer Group & Pensions Admin Group • Fire Pension Board • Management oversight and escalation to Rob Carr • Diversification – we run a Shared Services arrangement • Ability to call in temporary staff for peak workloads • Business continuity plan	1	3	3	Scheme Manager
2	12/05/2017	Financial	Failure to pay the right amounts on time and in line with legislation	3	3	9	Pensions Services: - • Testing software • Internal and External Audits • Standardisation of systems and processes • All processes and calculation have a “doer” and a separate “checker” • Monthly mortality screening for pensions in payment • Declaration of Entitlement forms annually to pensioners and beneficiaries living overseas or upon mail being returned • Participation in National Fraud Initiative reporting	2	3	6	Pension Administrator
3	12/05/2017	Funding	Failure to adequately account for fund pension contributions	2	4	8	• Strong financial plan for HFRA • Planned budget • Aim to complete all Home Office returns on time	1	4	4	Scheme Manager
4	12/05/2017	Regulatory and Compliance	Failure to identify and interpret and implement legislation correctly	3	4	12	• Scheme Advisory Board • Local Government Association (LGA) • Regional Fire Pension Officer Groups • Fire Pension Board • Employer Pension Manager as a dedicated resource liaising between o Fire Employer Group & Pensions Admin Group, pulling together o Key Accountabilities for IBC Pensions Admin Team, HR and Hampshire Pension Services	1	4	4	Scheme Manager

BEFORE MITIGATION			Impact				
			Negligible	Minor	Moderate	Major	Catastrophic
			1	2	3	4	5
Likelihood	Rare	1					
	Unlikely	2			1. Failure to administer the pension scheme in a proper and effective manner	3. Failure to adequately account for fund pension contributions	
	Possible	3			2. Failure to pay the right amounts on time and in line with legislation	4. Failure to identify and interpret and implement legislation correctly	
	Likely	4					
	Almost certain	5					

AFTER MITIGATION			Impact				
			Negligible	Minor	Moderate	Major	Catastrophic
			1	2	3	4	5
Likelihood	Rare	1			1. Failure to administer the pension scheme in a proper and effective manner	3. Failure to adequately account for fund pension contributions 4. Failure to identify and interpret and implement legislation correctly	
	Unlikely	2			2. Failure to pay the right amounts on time and in line with legislation		
	Possible	3					
	Likely	4					
	Almost certain	5					

GOV.UK

Open consultation

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

Published 16 July 2020

From:
HM Treasury (https://www.gov.uk/government/organisations/hm-treasury)

Summary

This consultation seeks views on proposals relating to the 2015 public service pension scheme reforms.

This consultation closes at
11:59pm on 11 October 2020

Consultation description

1.Consultation

- Following the Court of Appeal judgment in December 2018, the government has been working to fix the discrimination identified in the policy of transitional protection that was part of the 2015 reforms to public service pension schemes. This consultation sets out the government's proposals for addressing this discrimination along with the government's plans for the future.
- The government is committed to fixing the discrimination as quickly as possible and welcomes your views on how best to do this.
- The consultation document itself, an accompanying Equality Impact Assessment and a leaflet which sets out a summary of the proposals can be found on this page. The scope of the schemes covered by this consultation can also be found on page 3 of the document itself. The consultation begins on 16 July 2020 and will close on 11 October 2020.

2.Update on the cost control element of the 2016 Valuations

- Alongside the public consultation, the government is making a related announcement on the cost control mechanism, which can also be found on this page. This provides an update on the pause of cost control mechanism, and the next steps government will take.

Documents

Public Service Pensions Consultation (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900766/Public_Service_Pensions_Consultation.pdf)

Ref: ISBN 978-1-913635-37-4, 2973, CP 253 PDF, 851KB, 74 pages

Order a copy (https://www.gov.uk/guidance/how-to-buy-printed-copies-of-official-documents)

Public Service Pensions leaflet (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900859/Public_Service_Pensions_Leaflet.pdf)

PDF, 63.1KB, 3 pages

Public Service Pensions EIA (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900999/Public_Service_Pensions_EIA_.pdf)

Ref: ISBN 978-1-913635-44-2, 2979 PDF, 378KB, 38 pages

Update on the Cost Control Element of the 2016 Valuations (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)

PDF, 139KB, 2 pages

Published 16 July 2020

Related content

- State Pension age review: final report (https://www.gov.uk/government/publications/state-pension-age-review-final-report)
- A Plan for Jobs: documents (https://www.gov.uk/government/publications/a-plan-for-jobs-documents)
- Hong Kong BN(O) Visa: policy statement (https://www.gov.uk/government/publications/hong-kong-bno-visa-policy-statement)
- Our plan to rebuild: The UK Government's COVID-19 recovery strategy (https://www.gov.uk/government/publications/our-plan-to-rebuild-the-uk-governments-covid-19-recovery-strategy)
- UK points-based immigration system: further details statement (https://www.gov.uk/government/publications/uk-points-based-immigration-system-further-details-statement)

Explore the topic

- Public service pensions (https://www.gov.uk/topic/work-careers/public-service-pensions)

July 2020

Home Office

McCloud/Sargeant – Public service pension schemes consultation

Frequently asked questions (FAQs)

Background

In 2015 all main public service pensions, including the Firefighters' 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.

In addition, the government has confirmed that this will apply to all members with relevant service in affected public service schemes 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 Firefighters' Pensions Scheme Advisory Board for England (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

July 2020

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 Firefighters' 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.

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 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 firefighter 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.

Summary of Public Sector Pension Schemes consultation

Proposals included within the consultation are summarised below:

1. What is the remedy period?

The remedy period is 1 April 2015 to 31 March 2022 and will apply to anyone that was 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, regardless of transitional protection status awarded.

a. This means that remedy will apply to Protected members as well as Tapered and Unprotected members
b. Remedy will apply to all relevant members, including those that have left/retired since 1 April 2015

2. What happens from 1 April 2022?

Accrual in all unfunded final salary schemes (legacy schemes[1]) for existing and new Protected members will cease on 31 March 2022

a. All members will move to the reformed schemes[2] from 1 April 2022, ending all transitional protections and removing the age discrimination

3. What are the two main proposals?

This consultation is for all unfunded public sector pension schemes, including Fire, Police, Teachers, NHS, Armed Forces, Civil Service and judicial pension schemes, so all public sector will have the same options and the outcome will be the same for all schemes. The Local Government Pension Scheme has its own consultation and is not included in these proposals.

The consultation provides two ways to achieve remedy, the member will have to make a choice in either scenario, but the issue is when that choice is made. 1) it is made as an “immediate choice” potentially within a couple of years of 2022. Or, 2) it is made as a “Deferred Choice” this would provide an underpin for the remedy period and means that the member will make the choice at the point when their benefits become payable. The choice the member makes will be irrevocable.

Every member with relevant membership will have the option to choose either legacy or reformed benefits for remedy period.

Administratively, both options are exceptionally challenging! Communication is going to be key.

4. Immediate Choice

This option could leave the member disadvantaged later in their career as they won’t know what path their career will take or what the future schemes will look like or what provision they may provide.

There will most likely be time limits (albeit long ones) for members to respond. So a default position would need to be agreed to be able to move members to the relevant scheme for the remedy period for those that do not respond.

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[1] Legacy schemes are e.g. 1992 or 2006 Fire Pension Schemes
[2] Reformed schemes mean the 2015 CARE pension schemes

The immediate choice exercise would take a few years to fully implement and be completed. But does then provide clarity to members about their benefits and how they are accruing.

Statements of information on 1) pension benefits, 2) member contributions owed or due as a refund, 3) tax details relating to Annual Allowance, 4) family benefits would need to be provided to the member as a minimum to enable the member to make their choice.

Where member owes contributions, they will be given the option to pay upfront or over time. Where they have overpaid, a refund will be paid. Both scenarios are likely to have interest added. Members that have been in the reformed scheme for the whole period and choose their legacy 2006 membership will have overpaid contributions and will be owed a refund.

Deferred Choice underpin (DCU)

All members will be deemed to have accrued benefits in the reformed schemes for the remedy period until such time as they make their choice.

On 1 April 2022 all members will be placed back in their legacy schemes for the remedy period, this will trigger a number of immediate actions

- Annual Allowance calculations will need to be revisited for all years from 2015/16 onwards. If there are is any tax to be paid and this falls in the current year or the four preceding years, – the member must pay it, if there is any tax due to be refunded, the Government will pay it back even if the period is more than 4 years prior.
- Contributions will be approached in two stages. Stage one will be to levy a charge on all members with reference to their legacy benefits. Stage two will be to then charge for the contributions at retirement where the members chooses the reformed scheme for the remedy period. E.g. 2006 legacy members will receive a refund at stage one and then have to pay contributions at stage two. Where member owes contributions, they will be given the option to pay upfront, or over time. Where they have overpaid, a refund will be paid. Both scenarios will have interest added.

Annual Benefit Statements would need to show two sets of figures one for legacy benefits, and one for reformed benefits. This means that data will need to be held for the remedy period based on both legacy and reformed scheme rules.

Pensions Savings statements would need to set out both legacy and reformed scheme details and provided to the member.

At the point of retirement, statements of information on 1) pension benefits, 2) member contributions owed or due as a refund, 3) tax details relating to Annual Allowance, 4) family benefits would need to be provided to the member as a minimum to enable the member to make their choice.

Where the member owes contributions for the remedy period as a result of their choice, they will be able to choose to have this deducted from their lump sum payment. Benefits will not be able to be paid until any arrears have been paid.

Protected members

- No change in legacy scheme benefits until 1 April 2022
- Will be put into reformed schemes from 1 April 2022
- If 30 years already achieved in legacy scheme (1992 Fire) then moving to reformed scheme for remedy period could be advantageous as they will be able to accrue more pension
- Could be beneficial for members who have significant earnings growth to move to the reformed scheme for the legacy period to reduce / avoid any Annual Allowance issues

Taper members

- Will continue to be tapered until 31 March 2022
- Will be put back into legacy scheme for entire remedy period
- Will be put into reformed schemes from 1 April 2022
- Will have to choose either all legacy or all reformed benefits for remedy period, may be an issue for some if 30 years achieved in this period

Unprotected members

- Will be put back into legacy scheme for remedy period
- Will be put into reformed schemes from 1 April 2022

High Level summary of Immediate Choice and Deferred Choice Underpin (DCU)

	Immediate Choice	**Deferred Choice Underpin**
Remedy Period	• 1 April 2015 to 31 March 2022	• 1 April 2015 to 31 March 2022
When would members make their choice	• Irrevocable choice made as soon as practicable after 31 March 2022	• 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	• Decision based on assumptions, for most • Schemes would provide information and online calculators to assist members in forecasting their pension entitlement under both schemes	• 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	• 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
Tax treatment and compensation where relevant	• 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	• 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

Some thoughts: What we don't know / issues / concerns (this is not exhaustive at all)

1. Fire 2006 members are going to be adversely affected with regard to their member contributions

2. Consultation mentions final salary link, and we can probably assume that benefits up to 31 March 2022 in final salary would be calculated the same way as now, but we do not know for sure if double accrual guarantee is in place

3. How any additional pension or transfers in whilst in the 2015 scheme and during the remedy period would count in the legacy schemes

4. Unpausing of cost cap, may mean that there are accrual rate / member contribution rate changes from 1 April 2019 and then a review every 4 years is likely, so we could have 2015, 2019, 2023 changes to contend with in the immediate future

5. Costs of removing discrimination will feed into future employer contribution rates once 2020 valuation completed. This is likely to mean an increase in employer contribution rates.

6. Will original commutation options still stand, or will these be able to be amended, or a different decision made for the remedy period amendment

7. Annual Benefit Statements will need to show legacy and reformed benefits if DCU option taken forwward

8. Annual Allowance calculations will need to be done for both legacy and reformed benefits. What happens if under DCU a charge occurs post 2022, but would occur under legacy but not under reformed? What happens if there is a tax charge before the member has made their choice?

9. Fire 1992 members, if 30 years achieved before age 50, then contribution holiday applies until age 50. But will this apply as part of choice if this occurs during remedy period and member chooses legacy benefits.

10. Whether any additional lump sums paid more than 12 months after retirement will be classed as unauthorised payments and who will pay that tax.

11. Protected members that are still in employment from 1 April 2022, will be made to move to the reformed scheme, if not communicated / handled carefully, this could potentially mean a number of opt outs / leavers / retirements

12. For Fire will need to know about all temporary promotions in the 2015 scheme as will need to take into account for pension contributions / Additional Pension Benefits / Annual Allowance calculations

13. Those that have opted out of the reformed scheme appear to have the option of re-join, backdate and then be part of remedy, what evidence / representations would we want to consider on a case by case basis?

Public Service Pension Scheme Consultation

Introduction

Hampshire Fire and Rescue Authority (HFRA) welcomes the opportunity to respond to the consultation and this response has been approved by the Firefighter's Pension Board.

Technical queries

There are a number of items which are either partially eluded to within the consultation or there is no mention of some items at all.

The consultation makes reference to online tools being made available to members, to enable them to run projections and different scenarios, this would be welcomed, but it does not expand on what they would look like, who would provide them, who would be responsible for their accuracy and keeping them up to date and where would they be located.

With regard to the Fire Pension Schemes there are a number of specific items which will need to be addressed and the position clarified.

1. Continued Professional Development (CPD) payments are made to firefighters and are pensionable across all schemes, but depending on which scheme the member is in when it is paid, depends on how it is treated. For members of the 1992 or 2006 Fire Pension Schemes, an Additional Pension Benefit (APB) is awarded; for members of the 2015 Fire Pension Scheme, it is added to their CARE pensionable pay. There is no mention in the consultation if a member chooses different benefits about what will happen with the CPD payments as APB's are not permissible in the 2015 Scheme.
2. Contribution holidays for 1992 Fire Pension Scheme members were brought in retrospectively to enable firefighters in this scheme to receive a contribution holiday where they were under the age of 50 and had achieved 30 years pensionable service. The consultation provides no mention about where members are returned to the 1992 scheme and meet this criteria whether the contribution holiday will be applied.
3. Temporary promotions for 1992 or 2006 Fire Pension Scheme members have been made pensionable by HFRA and the member is awarded an Additional Pension Benefit (ABP) in respect of the additional contributions paid on any temporarily increased pay. The consultation makes no mention about a member who in the 2015 Fire Pension Scheme has had a temporary promotion (which is treated as non pensionable) and then chooses legacy scheme benefits for the remedy period, whether the temporary promotion should therefore be treated as pensionable and an APB awarded.
4. Transfers in whilst a member of the 2015 scheme are credited as additional pension. If the member were to then choose legacy benefits specifically in the 1992 Fire Pension Scheme the consultation does not make it clear what would happen, as the 1992 Fire Pension Scheme has been closed for Transfers in since April 2006. In addition to this, if any transfer in is to be calculated there are no current factors for this and if the period credited is to

be as years and days service, there is no mention about what would happen if the member were to exceed 30 years service.

5. Additional pension is possible to be purchased in the 2015 scheme, but where a member has elected for this and then chooses to move to the legacy 1992 Fire Pension Scheme, the consultation does not make it clear how this would work. It is only possible for a Firefighter to purchase additional service within the 1992 Fire Pension Scheme if they cannot achieve 30 years by the time they are 55 and that they are under the age of 53. The consultation does not mention what would happen if the member exceeds these conditions.

Draft responses to questions in consultation

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 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

   No comment.

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

   No comment.

Taper Protected Members (2.19)

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?

   The treatment of members who originally received tapered protection seems logical and fair and consistent with treatment of other members. It is only right that all members are given the same option of either all legacy benefits or all reformed benefits for the whole of the remedy period.

Default position for immediate choice – tapered (2.37)

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.

   Under Immediate choice, where a member does not reply to correspondence it would seem fair to set a default position that appears to be most beneficial for the member.

   Members with full transitional protection should be deemed to be members of their legacy scheme as this is what they have had anyway.

For members with no transitional protection the default position is less clear and may be more dependent on which legacy scheme the member was part of. For 1992 Fire Pension Scheme members this is most likely to be their legacy scheme, but for 2006 Fire Pension Scheme members the member may be better off in the 2015 Fire Pension Scheme.

For tapered members the position may well be mixed for all legacy schemes and choosing a default position based on the most beneficial for the member is relying on either the Pension Administrator or the FRA to make a decision about the members benefits. The decision maker will not know what is important to the member or what their personal situation is and there is potential for the wrong decision to be made.

There could be some potential issues if as a result of moving the member to the default position there are member contribution arrears and or tax charges that arise. The member would need to agree to these before this could be actioned. In these cases, surely to ensure the status quo, the member should be left in the scheme that they are in, this would work for members that have no transitional protection, but a default position would still need to be reached for members with taper protection. This may well depend on what the member's legacy scheme is and how much transitional protection they were granted.

It is a sensible approach to have a standard default position as inevitably there will be some members that do not respond. However, the default position should depend on the legacy Fire Pension Scheme; a different default position should apply to each legacy scheme.

Immediate Choice (2.37)

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

In an immediate choice option, the member is going to have to make a choice based on partial information, i.e. where they are still many years from retirement, they will not know what path their career will take, or indeed what their personal, financial or family situation will be. What is important to a member at the immediate choice decision point, could very well be different at the point of retirement.

The proposals that have been laid out with regard to how the exercise would be carried out mean that it will be very labour intensive and will require a lot of resources, not only in actually dealing with the remedy calculations, but also in the communication of this to members. There will be a lot of complex information which will need to be carefully and thoroughly explained to members to enable them to make the right choice; and all in a relatively short space of time.

Some members may need access to an independent financial adviser to help advise them on the best option. This could prove problematic as there are very few financial advisers that have in depth knowledge of the Fire Pension Schemes.

Even with an immediate choice option, the timescales for implementing and completing the remedy will still be a period of years and it will be an exceptionally challenging time for members, FRAs and administrators to ensure that all members are contacted and remedied correctly, but it would also mean that after this, everyone would be remedied and everyone would know the exact position for the remedy period.

With an immediate choice option, the member will at least have made a decision and know exactly what his current pension entitlement is. It would mean that everything will be dealt with and the final position will be known.

Deferred Choice Underpin (DCU) (2.45)

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

In a deferred choice option, the member will be able to make their decision at the end of their career when benefit entitlements are known. This does mean that members would know be able to determine their precise pension benefits until they are near to retirement, this could cause some uncertainty.

There would be a considerable amount of work required in April 2022 to move everyone back to the legacy scheme for the duration of the remedy period. This would involve the recalculating of both employee and employer contributions, which for Fire schemes is not that easy as there are a number of issues around pensionable pay and allowances that differ not only between the schemes, but also will need to take into account items such as temporary promotions, Continued Professional Development payments and contribution holidays that may apply specifically to the 1992 Fire Pension Scheme.

There will be a requirement for the employer contributions to be corrected back to legacy schemes which is going to have a big impact on the required budget for the 2022/23 year.

The calculation of revised pension input amounts and annual allowance tax issues will be required for each of the seven years so that the position for each year can be understood. The member will be required to pay the difference in member contributions and any tax that occurred in the previous 4 years (since 6 April 2017).

The work required would then be ongoing until the member is entitled to receive the payment of their benefits and at this point, the member can choose whether they want legacy or reformed benefits. If the member chooses reformed benefits, then there will be additional work required to undo the position of them being put into the legacy scheme for the remedy period.

The DCU option leaves the member in an unknown position until retirement. Depending on their choice, there may well be items to be paid which could then impact the amount that they are expecting to receive.

Administration (2.53)

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

   Under immediate choice, there will be an enormous amount of resources required, specialists from payroll, pensions and finance will be required. Resources will be required in the form of additional staff, online tools, communication packs. Not to mention the need for adequate pensions software to be able to deal with the changes. There is the potential for members to make the incorrect choice or indeed not understand what the choice means. There will be members that cannot be reached for whatever reason, or those that simply do not respond to the need to make an election. In these cases, it will be necessary to have default positions and while for some it will be clear, for others that will not be the case. Therefore, we risk making the wrong decision for a member. Whilst members that make a choice do so with an irrevocable choice, where a default choice is made for a member, will they have the right to recourse later on?

   Under the DCU option, there will be an enormous amount of resources required, but not only upfront to move all members back to their legacy schemes, but also ongoing for the next approx. 20 to 30 years. The challenges that will be required to restore all the records from 1 April 2015 should not be underestimated. Every year from end of remedy until the member retires, details of both sets of benefits will need to be presented on annual benefit statements; which means that every year, this will need to be explained in addition to what is already a very complex scheme.

   The challenge required for adequate software to be developed and maintained to have the ability for it to record two sets of data and know what applies to each type should not be underestimated.

   In either choice, the member will need to be provided with a lot of information in a clear way and communication will be key. Regardless of how well each option is explained, members are still going to have difficulty comprehending all of the factors that will need to be taken into account. A number of members may require independent financial advice to enable them to make a decision, but while the Fire Authority and the pension administrator can provide information to the member and answer some questions, they will not be able to provide advice. It is also unlikely that IFAs more generally are going to have the detailed knowledge and experience of Fire Pension Schemes to provide accurate and comprehensive advice.

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

   Both options have issues and both options will involve a great deal of work. But overall, taking into account as much as possible, it would seem that immediate choice would be preferable. It means that cases would only have to be looked at once, rather than each year and then again at retirement under the DCU option. It would mean that the member and the administrator would be clear about what option and benefits the member has for the remedy period. There would be no need to provide and maintain complex software solutions for the next approx. 20

to 30 years that would be able to calculate remedy accurately. It would mean for any events (divorce, estimates, transfers etc) that occur after the member has made their choice would be able to be dealt with in a straightforward manner as the benefits for the remedy period would be known.

Firefighter's have been having this fight for a long time and many of them just want to get it resolved. For many, it will be a very clear choice and they just want to make it and move on.

If immediate choice is taken forward, then although there will be a lot of work to actually remedy all members, the final cost of the resources and the cost to the scheme will be known. Members and administrators will be able to understand the final position and pension estimates and annual benefit statements can accurately reflect the entitlements with no added complexity.

Closing the legacy schemes for all members and equalising future treatment (3.7)

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?

   Yes

Revisiting past cases (A.1)

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

    Where members have previously retired and are subject to remedy, then it would be only be fair to allow them to change their original commutation decision. Although this would be more work administratively, it would seem the fair option for the member. It's possible, but not probable, that they would have made a different commutation decision and therefore allowing them to revisit that decision would seem logical.

    One point which is not made clear is with regard to any Pension Commencement Lump Sum (PCLS) that is paid where the member retired more than 12 months prior to date of payment and that any additional payment of a PCLS would therefore be classed as an unauthorised payment and be subject to tax. This is an important point to clarify as this may largely affect any retrospective decisions that the member makes.

    Where contributions are owed, these could be deducted from any additional lump sum that is paid to a member, but if the member choose to pay over time, what time period will be permitted for this? How will the member be granted tax relief on the member contributions?

Member Contributions (A.7)

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.

Under immediate choice, the member will know the position with regard to employee contributions and be able to factor it into any decision, but where contributions are owed they are almost definitely going to be in a position to pay over time rather than up front. If over time, then if deductions are made from pay then tax relief can be awarded at source, but the member could have the option of paying by DD outside of payroll. This would mean that tax relief would need to be claimed from HMRC on an annual basis. The balance of any outstanding contributions should be paid, either from the lump sum commutation or up front before any pension entitlement can be put into payment.

Under DCU, the member will be moved back to the legacy scheme and contributions owed can be paid up front or by instalments, so as above, either from pay or DD. There are similar questions around tax relief and how this will be obtained.

Legacy 2006 Fire Pension Scheme members are going to be adversely affected as initially they will receive a refund of contributions and then at retirement, if they choose reformed scheme benefits then they will have to pay the contributions back. This seems counter intuitive to refund monies and to then ask for them back many years later. Therefore under DCU, it would seem more sensible to enable members with legacy 2006 Fire Pension Scheme benefits to remain in the 2015 scheme for the remedy period.

Voluntary member contributions (A.14)

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

The proposed treatment of either additional years purchased in the legacy Fire Pension Schemes being converted to additional pension in the reformed scheme, or additional pension being purchased in the reformed scheme being converted to additional pension in the legacy schemes seems a fair way to treat any voluntary contributions.

What isn’t clear from the consultation is whether this would be a one off amount to be calculated, or whether the relevant amounts would need to be calculated for each of the remedy scheme years; or how and when this amount would be increased.

Annual Benefit Statements (A.21)

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

Whilst it is important to ensure that members have the correct information with regard to remedy, providing two sets of figures and therefore making ABS’ even more complicated does not seem like the sensible option. ABS’ are widely misunderstood or not read and the Fire Pension Schemes are already very complex.

This is only going to be possible if accurate software can be implemented. This is going to be exceptionally complex to do as not only will the software need to be

able to hold all the relevant different bits of information but also to then use the relevant part for either the legacy or reformed calculations. The potential for errors and wrong information is high.

Under DCU all members are going to be moved to their legacy scheme and they will be deemed to be in the legacy scheme until their benefits are paid and then they will have the choice of legacy or reformed. Would it not make more sense to allow ABS to show only the legacy benefits, to keep them as straightforward as possible and then present the options only at the point of retirement? The ABS are just an illustration and are not guaranteed and if the member wanted more specific information then they would be able to contact the pension administrator to request a reformed scheme estimate.

Ill Health retirement (IHR) (A.25)

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

The treatment of IH retirements seems fair.

Cases where members have died since 1 April 2015 (A.31)

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

The administrator is clearly going to need to assess all death cases carefully before any potential contact is made with survivors or persons dealing with the estate. There will need to be a number of items looked at under both legacy and reformed schemes, any death grant payable, any benefits payable to survivors or children. The current position will also need to be understood as well as any potential impact of changes. Similar situations may also differ depending on whether the member was active deferred or a pensioner at the point of death.

It would seem right that the administrator would need to establish if there is any benefit to the survivors and if not, then the case should be closed and no contact made with the survivors.

In cases where a member has died in the legacy scheme and no survivors pension were paid as the member was not married, but did have a partner and the scheme did not permit the payment to unmarried partners. The consultation does not make it clear about what to do with cases where it’s not possible to make contact with the partner e.g. they have moved from any last known address.

Contingent decisions (A.43)

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.

There are many members who have opted out as they did not wish to be a member in the reformed scheme and as more information about how benefits were linked, a number of them have regretted that decision.

To avoid any discrimination it would seem right that these members are all given the opportunity to have their opt out decision removed if they so wish, but in doing so, they will obviously need to pay the relevant amount of member contributions. If they are prepared to pay this, then they should have continuous membership of the scheme and therefore the option to have remedy applied. They should also be given the option to pay these contributions over a period of time.

Voluntary pension transfers (public sector transfer club and non-club) (A.48)

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

    No, this would not seem fair. As you would be asking the member to make an immediate choice, which would go against the DCU option.

    This is exactly one of the many reasons why remedy should be dealt with as an immediate choice and not DCU.

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?

    Where the member transfers to a different scheme within the Club arrangement, there the member should have a choice for each scheme. Although public sector schemes are broadly the same, there are differences, even the various Fire Pension Schemes differ. There will be different points that the member will want to consider in respect of each scheme and each transfer.

    It would be exceptionally difficult to get two or more schemes to work together to provide one set of information to the member to enable them to make a choice. There could be issues around Data Protection and GDPR.

Divorce cases (A.58)

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

    Where a divorce has occurred within the remedy period, then clearly this may be impacted by any remedy option. Administrators will need to check Pension Sharing Orders to confirm whether the split was by amount or percentage. Where any split is by percentage then it could result in an increase in benefits awarded to the Pension Credit member, based on the option chosen by the scheme member. This would seem fair, and the Pension Credit member will not be penalised if the scheme member chooses a different option which would lower the value of the pension credit.

    If DCU is taken forward the consultation does not make it clear whether such cases would be recalculated at this point, or whether it would only be reviewed at the point of retirement, and if so, then any CETV would need to be calculated 20 to 30 years in the future for a date 20 to 30 years in the past. The consultation

also does not make it clear about what would happen for cases where a divorce happens after 1 April 2022. What set of benefits will be used, how will the courts determine any Pension Sharing Order, how will the administrators deal with any potential pension debit or pension credit?

Divorce cases and the surrounding issues are another reason why immediate choice should be taken forward. It would mean that all calculations can be completed at the same time and all benefits rectified at the same time.

Interest of under or over payments and refunds (A.63)

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

    Yes, interest should be charged on amounts owed to the scheme, there is already precedent for this in the Fire Pension Schemes. The recent 2006 Modified Fire Pension exercise allowed for the calculation of interest on the arrears of contributions, as did the 1992 Fire Pension Scheme contribution holidays refunds for those under 50 with 30 years' service and the Additional payments in respect of past commutations in the GAD v Milne case.

    Interest should be set at the Bank of England base rate, but as this has changed a few times since 1 April 2015, it might make sense to fix it for the entire 7 years period, rather than change it each time it is amended. The average would be around 0.4%. If interest is charged at a rate for a specific period, then it will create even more complexity with regard to calculating the exact amount upon which interest is to be charged for any period. Having a fixed rate as either the median or average, would mean that everyone is going to be paying the same. It will also make it slightly easier to explain to members

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

    Yes, interest should be applied to payments to the member from the scheme.

    Interest should be set at the Bank of England base rate, but as this has changed a few times since 1 April 2015, it might make sense to fix it for the entire 7 years period, rather than change it each time it is amended. The average would be around 0.4%. If interest is charged at a rate for a specific period, then it will create even more complexity with regard to calculating the exact amount upon which interest is to be charged for any period. Having a fixed rate as either the median or average, would mean that everyone is going to be paying the same. It will also make it slightly easier to explain to members

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?

    There should be a single consistent rate across all schemes at a fixed rate for the 7 year period.

Abatement (A.66)

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

The proposed treatment of abatement would seem to be advantageous to the member. It also confirms that FRA's and administrators will not need to assess all cases for abatement and only look at those where a member who has an abated pension chooses the reformed scheme in their choice.

Understanding the likely AA impacts on members (B.40)

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

Tax relief on contributions

Where a member is owed a refund of tax for member contributions, surely it would just be easier to deduct a straight 20% tax from the total amount. Rather than try and calculate what is due for the last 4 years and what is due prior to that. The date of the 4 years is surely going to depend on when the member makes their choice and this is going to make it different for members and more complex to administer.

Where members need to pay member contributions, tax relief is only going to be applied at source if the additional payments are deducted from pay, but this may not be possible in all cases. In these cases, it may be necessary to have a DD system in place and in which case contributions will need to be paid gross of tax and tax relief will need to be claimed back directly from HMRC. Will this also apply to members that are no longer active current members of the Fire Pension Schemes?

Annual Allowance

The Pension Input Amount and the Carry Forward for each year of the remedy period will need to be calculated under both legacy and reformed schemes to be able to establish whether there are any tax charges due. But then only those that have occurred within the last 4 years will be required to be paid by the member and only their Carry Forward will be able to be amended if it has differed in the last 4 years. As stated, this could mean that if under immediate choice a decision is made in June 2023, then only tax issues from 6 April 2019 onwards would be payable by the member. This will obviously be advantageous to some members who may have tax issues arise in earlier years.

However it is going to make it complicated in the fact that it depends on when the member makes their choice as to what 4 year period is included, and it also depends on whether the member is going to utilise Scheme Pays as to what their benefits are going to look like.

The relevant 4 year period would be different under the DCU option as all members would be moved back to their legacy scheme on 1 April 2022 and therefore any tax owed would be due from 6 April 2017. The DCU at least provides a clear 4 year period that will be the same for all members.

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 re-calculated 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