HM Treasury

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

Government response to consultation

CP373

February 2021

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

February 2021

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Foreword

Public service workers provide vital services that all of us count on, and their unwavering commitment is inspiring, particularly, as we face down the coronavirus pandemic.

It is a long-standing practice that the overall reward package for public servants includes a generous pensions element.

The main public service pension schemes were reformed in 2015, to ensure greater fairness between lower and higher earners, future sustainability and affordability. The Coalition Government negotiated with trade unions and other member representative bodies that those closer to retirement age would be fully or partially excluded from the reforms. The courts later found this difference in treatment amounted to unjustified discrimination, particularly against younger members. In July 2020 I published a consultation requesting views on proposals to address this unlawful discrimination.

I am grateful to the many people – from a very wide range of occupations – who have voiced their views on the proposals. I am also grateful to employers and administrators for sharing their responses, and to trade unions and other member representative bodies, who made representations on behalf of more than 3.5 million public service workers.

The significant majority of responses backed the introduction of a 'deferred choice underpin' (DCU) as the way to remedy the identified discrimination. This approach will enable eligible members, when they retire with a pension, to choose whether the legacy or reformed schemes would be better for them for the period between 1 April 2015 to 31 March 2022. Respondents offered strong and convincing arguments to support this view, which are set out within this consultation response.

It is clear to me that the DCU will provide greater certainty for members and is also the right approach for schemes and the government.

It avoids the need for members to make assumptions around things such as their future public service career, and retirement age, which would increase the risk of making an incorrect decision, particularly for younger members. It also results in a more manageable administrative challenge for schemes as the overall task will be spread over decades rather than just a few years.

This consultation response also confirms that the legacy schemes will close on 31 March 2022. Whilst the courts found that the transitional protection arrangements in introducing the reforms were unlawfully discriminatory, the reforms themselves are not. From 1 April 2022 therefore, anyone who remains in service will do so as a member of their respective reformed scheme, meaning everyone is treated in the

same way in this respect. Public service workers will continue to receive some of the best pension scheme benefits available in the UK, but that provision is more sustainable for the long term and more affordable for the taxpayer.

This document provides more information on the policy positions I have outlined above. As I promised in the consultation document – we have listened to you. Your responses to the consultation have been indispensable in refining our proposals and coming to what I believe is a fair and correct decision – thank you.

RT HON STEVE BARCLAY MP

Chief Secretary to the Treasury

Executive summary

Removing discrimination arising from transitional protection

Between 16 July and 11 October 2020, the government consulted on two options (immediate choice or deferred choice underpin) to remedy discrimination that arose when reformed public service pension schemes were introduced in 2015.[1]

This discrimination arose when transitional protection was offered to some members – following negotiations with member representatives – alongside the introduction of the reformed pension schemes in 2015. This was intended to protect and give certainty to people who were close to retirement. In December 2018 the Court of Appeal found that transitional protection arrangements, which allowed certain members of the judicial and firefighters pension schemes to remain in their existing schemes when they were closed to other members, gave rise to unlawful discrimination, as transitional protection was only offered to older scheme members.[2] In July 2019 the government confirmed that it accepted the Court's judgment had implications for the other public service schemes that had similar transitional arrangements.[3]

The government believes it is not fair to simply move all those in scope of the remedy back into the legacy schemes, even though this would remove the unlawful discrimination identified. This is because many scheme members are likely to be better off in the reformed schemes. Instead, as set out in the consultation, eligible members will be given a choice of legacy or reformed pension scheme benefits in respect of their service during the period between 1 April 2015 and 31 March 2022 (the remedy period). The two options included in the consultation (immediate choice or DCU) differed primarily in the point in time at which the decision would be made by the member.

HMT received 3,144 responses to the consultation, expressing a broad range of views from individual members of relevant schemes, trade unions and other member

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1 This covered the following schemes: 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, UK Armed Forces, Civil Service in Great Britain, 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 have been consulted on separately.

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

3 www.questions-statements.parliament.uk/written-statements/detail/2019-07-15/hcws1725

representative bodies, employers, administrators and other organisations. These presented a diverse range of views on both options presented by the government.

The majority of respondents to the consultation supported the DCU option, primarily as members will have greater certainty on their benefit entitlements at the point at which they make a decision. In comparison, respondents expressed concerns about the immediate choice option as it would require members to base their decision on assumptions covering many decades around factors such as their future earnings and career paths, their family circumstances, and when they expect to retire. Most respondents felt that this would place too much risk on members and could create new discrimination.

Having considered the responses to the consultation and views that were expressed at stakeholder events, the government intends to proceed with the deferred choice underpin. This means that members will make their decision between scheme benefits shortly before benefits are paid from the scheme. In the meantime, members will be deemed to have accrued benefits in their legacy schemes, rather than reformed schemes, for the remedy period, until they make that choice.

All individuals who were members or were eligible to be members of a legacy scheme immediately prior to 1 April 2012, and have a period of service after 31 March 2015 during which they were members of a legacy or reformed scheme, will be given such a choice where those periods of service are continuous (including those with a qualifying break in service of less than 5 years). This is irrespective of whether they have submitted a legal claim or not, or whether they are currently an active, deferred or pensioner member.

Those who have already retired and/or received a pension award will be offered a choice as soon as practicable after necessary legislative and process changes can be made. The position they choose will be applied retrospectively back to the date the award was made.

It is important to make clear that all eligible members will ultimately be able to choose to receive benefits from the relevant legacy scheme or to instead receive the benefits that would have been available from the relevant reformed scheme, for any period of service between 1 April 2015 and 31 March 2022. There will be no entitlement to have the benefits of one scheme in some respects, but of 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. Maintaining such an age-based system of tapered protection would perpetuate or even extend the discrimination identified by the courts.

Future pension provision

In addition to the proposals to address the discrimination identified by the courts, the public consultation also set out the proposals for future pension arrangements – and asked whether these proposals ensured equality of treatment.

The government has reviewed the responses to these proposals and has considered the points raised by respondents, and views expressed during stakeholder engagement sessions, when making final policy decisions.

The government remains committed to providing generous pension arrangements for public service workers. This provision must be sustainable and affordable. The 2015 schemes that were introduced following the recommendations of the Independent Public Service Pensions Commission (the reformed schemes) offer generous pension provision, improve affordability and sustainability, and are fairer to lower and middle earners.

The reformed schemes are some of the most generous available in the UK: backed by the taxpayer; index-linked; and offering guaranteed benefits on retirement; comparing very favourably to the typical private sector scheme.

The reforms created a fairer system. The move from (mostly) final salary to career average pension means members accrue their pension at a typically higher annual rate based on their average salary. Although some members are better off in legacy schemes, the reformed schemes are more beneficial for others, particularly many lower paid members.

The reforms reflected the need to control the significant costs of public service pension scheme benefits (now £44.3 billion for Great Britain in 2019-20) and to ensure that pension provision for public service workers remains sustainable. They also reflected the significant changes in life expectancy since the legacy schemes were established, leading to increasing costs to the taxpayer. Normal Pension Age (NPA) in most of the reformed schemes is linked to the State Pension Age (SPA), reflecting that most people can expect to live longer and have longer working lives. Nobody, though, is required to work up until the reformed scheme NPA as pensions can be taken before NPA, as long as minimum pension age (MPA) is reached, but pensions taken before the relevant NPA will be adjusted fairly to reflect the fact they are likely to be paid for longer.

Whilst the transitional protection arrangements were found to give rise to unlawful discrimination – and the government has set out its proposals to address that discrimination – the rationale for the reforms and introducing reformed schemes still stands. The government remains of the view that these schemes – of which most public servants are already members – offer generous pension provision and address the objectives of affordability and sustainability.

The reformed schemes themselves are not discriminatory, and the government wants to ensure that all members are treated equally in respect of the scheme design available to them after the discrimination has been addressed. These plans achieve this, but if some members were able to remain in legacy schemes while others were not, that key objective would not be met.

Therefore, the government remains of the view that all public servants who continue in service from 1 April 2022 onwards will do so as members of their respective reformed scheme. Legacy schemes will be closed in relation to service after 31 March 2022, closing the remedy period, during which members in scope have a choice of benefits.

Legislating to give effect to changes

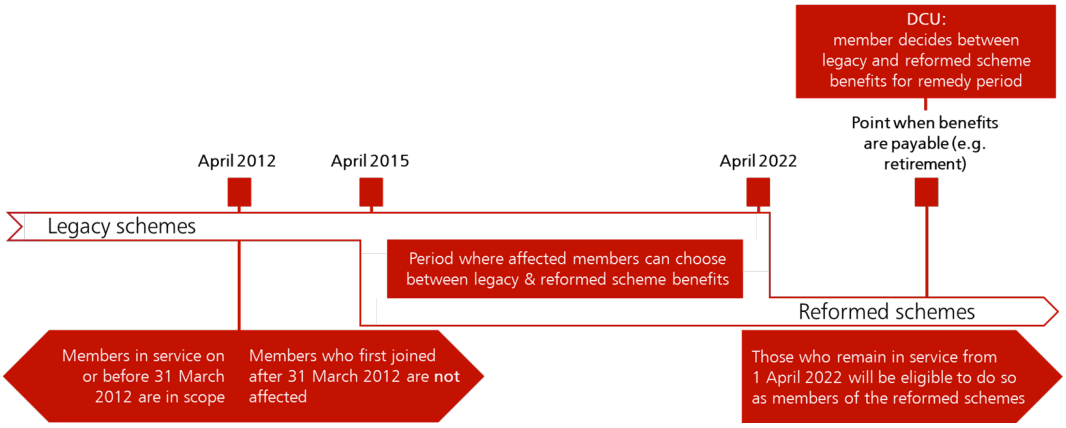
The government will bring forward new primary legislation when parliamentary time allows, in order to ensure that the discriminatory features relating to the remedy

period and the transition to the reformed schemes are removed from the pension scheme rules with effect from 1 April 2022.

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, which could not be used to implement the preferred DCU approach in any case. The government's intention is that the changes implemented to remove the discrimination identified by the courts will apply to all relevant members and regardless of whether they have lodged a claim.

The detail of any necessary amendments required to scheme regulations, in order to implement the policies set out in this document, will, as appropriate, be the subject of further consultation on a scheme by scheme basis.

Figure 1: Diagram of the pension reform process



Chapter 1
Introduction

1.1 In 2010 to 2011 public service pension provision was reviewed by the Independent Public Service Pensions Commission (IPSPC), chaired by Lord Hutton of Furness. The Coalition Government agreed that the Commission's recommendations would form the basis of the reforms put forward for consultation with member representatives and other interested parties.

1.2 The key elements of the reforms involved moving public service scheme members to reformed schemes with benefits calculated on a career average rather than a final salary basis.[1] This allowed scheme designs to provide pensions to low and middle earners working a full career that are at least as good, if not better than under the legacy schemes.

1.3 Additionally, to reflect improvements in life expectancy and the need to rebalance working lives with the average number of years spent in retirement, the Normal Pension Age (NPA) was increased to the State Pension Age (except for the police, firefighters and armed forces schemes). To keep future costs to the taxpayer under control, the Commission also recommended setting a cost ceiling to reduce generosity, should the costs increase significantly. The intention was to increase schemes' resilience and ability to absorb shocks and provide reassurance to taxpayers by imposing firm limits on the taxpayer cost of public service pensions. Following negotiations with member representatives, the government agreed to match the cost ceiling with a cost floor, to increase generosity should the costs fall.

1.4 The government also agreed to exempt older members from the pension scheme changes. In most schemes this meant that members within 10 years of Normal Pension Age (NPA) stayed in their existing schemes (known as "transitional protection"), and members between 10 and 13.5 or 14 years of Normal Pension Age stayed in their existing schemes for a period ranging from a few months to several years after 2015, before moving to the reformed schemes (known as "tapered protection").[2]

1.5 In 2018, following claims made to the Employment Tribunals, the Court of Appeal ruled that the transitional protection given to older members of the

1 The Civil Service Pension Scheme introduced the Nuvos pension scheme in July 2007, which provided benefits on a career average basis.

2 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). 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.

judges and firefighters pension schemes gave rise to unlawful discrimination (known as the *McCloud* and *Sargeant* cases).[3]

1.6 In a Written Ministerial Statement (WMS) on 15 July 2019[4] the government confirmed that it accepted that the Court of Appeal's judgment had implications for all schemes established under Section 1 of the Public Service Pensions Act 2013, as all those schemes had provided some form of 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,[5] that it would do this for all members with relevant service, not just those who had lodged legal claims.

Consultation

1.7 Between 16 July 2020 and 11 October 2020, the government sought views on proposals to address the unlawful discrimination arising from the transitional arrangements. There were two proposed mechanisms for achieving this: an immediate choice (IC) exercise and a deferred choice underpin (DCU). Both would enable all affected members, whether they originally received transitional protection or not, to decide whether to take legacy or reformed scheme benefits for the period 1 April 2015 to 31 March 2022.

1.8 The consultation also set out the government's intention to move all affected public servants to the reformed pension schemes from 1 April 2022.

1.9 This consultation related to the main public service pension schemes which the UK Government is responsible for (the Civil Service Pension Schemes for England, Wales, Scotland and home civil servants in Northern Ireland, the Teachers' Pension Schemes in England and Wales, the National Health Service (NHS) 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).

1.10 Occupational pensions are a reserved matter in Wales and Scotland, which means primary legislation about them, and thus the overall shape of reform, is a matter for the Treasury and for Parliament. However, Welsh and Scottish Ministers do and will continue to have functions within that legislation. The Welsh Government is the responsible authority for the Firefighters Pension Schemes 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. Decisions regarding the details of how the discrimination identified by the courts is addressed in those schemes are matters for Scottish and Welsh ministers.

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

4 www.questions-statements.parliament.uk/written-statements/detail/2019-07-15/HCWS1725

5 www.questions-statements.parliament.uk/written-statements/detail/2020-03-25/HCWS187

1.11 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 Scotland, a separate consultation was published on changes for those schemes. The Ministry of Housing, Communities and Local Government will publish a response to the LGPS (England and Wales) consultation later this year.

1.12 The Ministry of Justice also published separate consultations on changes to the pension schemes for the judiciary, reflecting the unique situation of those schemes. Responses to these consultations will be published shortly.

1.13 Public service pension schemes managed by the Northern Ireland Executive are devolved and so are established under separate legislation to those in Great Britain, they are therefore also subject to separate consultation. This consultation closed on 18 November 2020 and the Department of Finance will publish a response shortly.

Stakeholder engagement

1.14 During the consultation period, the government ran a number of engagement sessions to ensure stakeholders were given the opportunity to directly engage with HM Treasury on the proposals set out in the consultation. A meeting of the Public Services Forum was held with unions representing workforces including the NHS, Local Government, Civil Service and Teachers. Separate meetings were held with Scheme Advisory Boards (SABs)[6] from across the UK relating to each workforce. These included bodies representing scheme members, employers and administrators. These sessions also allowed stakeholders to seek clarification on any of the aspects presented in the proposals. Most stakeholders followed up with formal written responses and the feedback received during the stakeholder sessions and in formal written responses has been considered in deciding the final policy proposals. In addition, the Chief Secretary to the Treasury (CST) met with the General Secretary of the Trades Union Congress (TUC). This allowed the TUC to share their views with the CST on behalf of their member organisations, which stretch across the public sector and are affected by the consultation.

1.15 Stakeholder engagement will remain important as the government continues to develop and then implement the final policy. The government will continue to engage with member representatives, employer representatives and other relevant stakeholders to support the successful implementation of the pension changes set out in this response. HM Treasury will continue to engage with stakeholders directly where necessary and through relevant government departments responsible for the different public service pension schemes.

[6] Statutory bodies, created by the Public Service Pensions Act 2013, that advise responsible secretaries of state on potential changes to public service pension schemes and advise on the administration and management of the relevant schemes. The SABs usually consist of representatives of the relevant employers, employees and administrators.

Responses to the consultation

1.16 Through the consultation, consultees were asked to respond to a total of twenty-four questions. Responses to each question were considered in making final policy decisions, and in the drafting of this response.

1.17 Responses to the consultation were received either in hard copy or email form and presented in different formats. Each answered all, some or none of the questions asked in the consultation document. While some responses did not necessarily address the specific questions posed in the consultation document, all responses have been considered appropriately.

1.18 The government has undertaken quantitative and qualitative analysis of the responses, and the common themes and views are summarised within this document. While trade unions and other representative bodies represent a large portion of public service workers, it should be noted that the government recognises that the number of responses received (particularly from individuals) does not accurately represent all public service pension scheme members. Therefore, any quantitative data has its limitations and has been handled with caution during the decision-making process. Where we have supplied data in this document, it is to simplify and summarise responses and provide the reader with a sense of trends – the government did not treat respondents' answers in a binary way (agree or disagree) when forming its final policy.

1.19 HM Treasury received 3,144 responses from a broad range of respondents. These consisted of 3,016 responses from individuals, and 128 responses from organisations, including trade unions and other member representative bodies, Scheme Advisory Boards (SABs), government agencies, actuarial and pensions specialists and pension scheme administrators. A large range of trade unions and other member representative bodies, including but not limited to the Trade Union Congress (TUC), Prospect, the Public and Commercial Services Union (PCS), the British Medical Association, the National Education Union (NEU), the Scottish Police Federation and the Defence Police Federation, responded to the consultation representing over 3.5 million public service workers.

1.20 The 3,016 individual responses consisted of:

a) 2,257 unique responses. These responses were used to produce the statistics used within this document

b) 250 queries

c) 128 duplicates and follow-on correspondence

d) 381 from member campaigns. Of these, 347 members of the Teachers' Pension Scheme (TPS) submitted duplicate responses. Similarly, 34 members of the Public and Commercial Services (PCS) Union submitted separate duplicate responses. While these are not reflected within the statistics produced for this document, the responses were fully considered, and form part of our qualitative analysis detailed below

1.21 Furthermore, the government received 128 responses from:

a) 47 trade unions & member representative bodies

b) 7 SABs

c) 52 employers

d) 18 pension schemes and administrators

e) 4 financial advisers and consulting actuaries

1.22 A broad range of responses were received, as shown in Chart 1.A and Chart 1.B, which have been used to identify views and issues from members and bodies in relation to all the main pension schemes. The responses have usefully informed our assessment of the equalities impacts of the policy options, and in line with the government's duty to have regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in formulating its response.

1.23 The analysis of the responses received for the overarching policy questions in relation to IC and DCU, as well as impacts on equalities, tapered protected members, and tax (questions 1 to 8, and question 24), have been set out in Chapter 2. The analysis in relation to future pension provisions (question 9) has been detailed in Chapter 3 and the analysis of the answers to the technical questions in the consultation (questions 10 to 23) has been detailed within Annex A.

Chart 1.A: Total responses received from individuals, by scheme

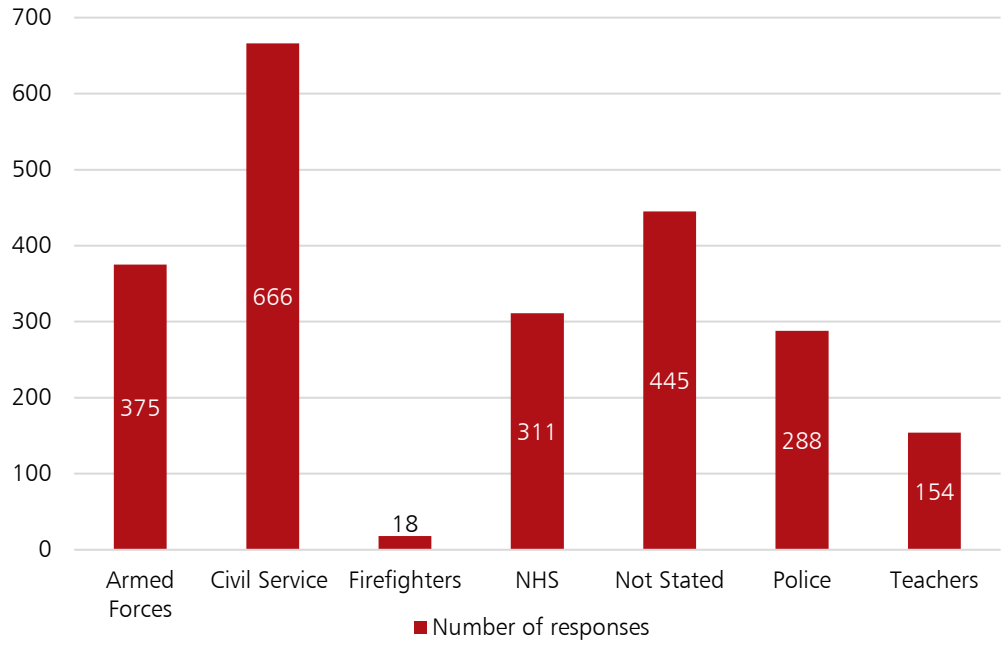
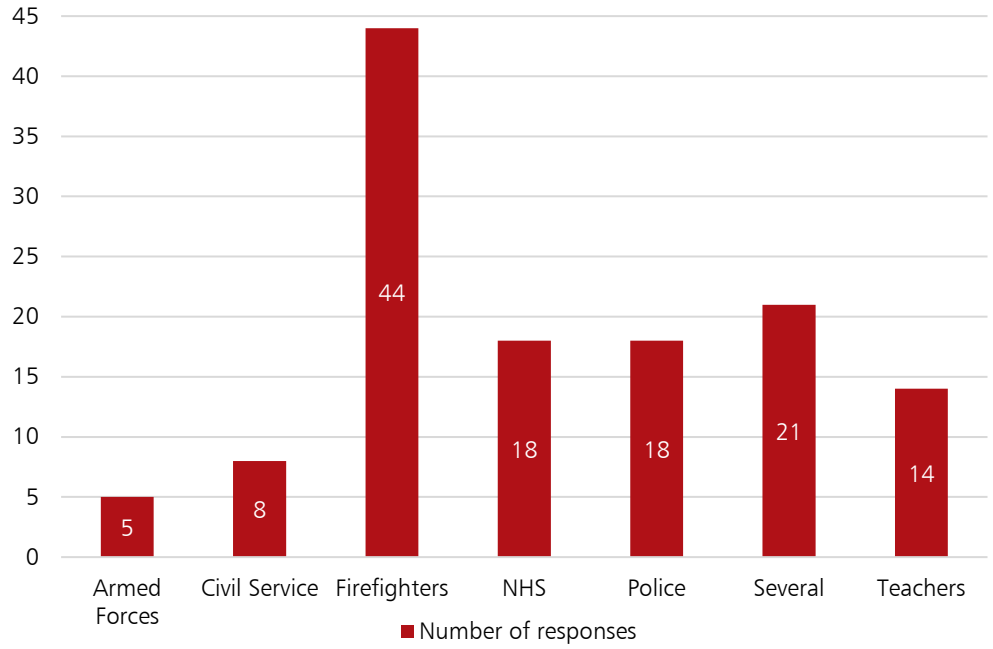


Chart 1.B: Total responses received by organisations, by scheme



Chapter 2

Removing discrimination arising from transitional protection

Members in scope

2.1 The consultation explained that the proposals set out would only apply to those who started their service on or before 31 March 2012 and remained in service on 1 April 2015. 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. The government will now, therefore, equalise treatment between these groups to eliminate the discrimination identified. This applies equally to all those members, whether they are currently active, deferred or pensioner members, or have died.

2.2 Members who first joined any public service pension scheme after 31 March 2012 were ineligible for transitional protection regardless of their age, and therefore were not subject to the discrimination identified by the court. Additionally, they fell outside the rationale for transitional protection of any kind, for the reasons explained in the consultation document, including the fact that, when they joined, they could not reasonably have expected to remain in the legacy schemes. The consultation therefore proposed that they would not be offered the same choice of scheme membership in respect of service between 2015 and 2022 as was offered to those already in service at 31 March 2012.

2.3 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 was less than five years and meets the criteria for continuous service set out in their scheme regulations. This provision for continuity of service enables those who have taken career breaks, for example, to care for young children or elderly relatives, to maintain parity with their colleagues who joined at the same time in respect of the nature of their pension terms.

2.4 Several respondents raised concerns with limiting the scope of the remedy to members who commenced relevant employment prior to 1 April 2012. One reason for this was that respondents felt that the exclusion of members who joined after 31 March 2012 but before 1 April 2015 could lead to indirect sex, race and age discrimination as those joining later are more likely to have been women, from minority ethnic groups and younger.

2.5 It is acknowledged that it is likely that more recent joiners to some relevant workforces will typically be younger, and also that in some relevant workforces more recent joiners are more likely to be women or from ethnic minority groups. However, whilst it is one thing to seek to ensure that transitional protection for those who might originally have expected to remain in legacy schemes throughout their employment is extended to everyone in that position, it would be a different matter to extend such protection to members who would never reasonably have had such an expectation. Changes to pension arrangements or other terms and conditions of employment by their nature impact differently on those who join or leave an employment at different times. The government therefore remains of the view that the limited impacts on these protected groups are justified in the context of its aim of removing earlier discrimination in a manner which is affordable and respects the rationale for having transitional protection at all.

2.6 Some respondents felt that members were not adequately informed in advance of the changes introduced for public service pensions, indicating that the factual premise for the position set out in the consultation was not well founded.

> *"The rationale provided is that those joining after 31st March 2012 would have known that the reformed schemes were coming into force and would not reasonably have expected to have been entitled under the legacy schemes (para 2.17).*
> *We are not aware of any evidence to support this assertion and consider that had it existed, the Government would have explicitly referenced it in this formal consultation. There is no indication from where such members would otherwise have derived this asserted knowledge. We therefore consider it is more probable than not that such evidence simply does not exist."*
>
> - Scottish Police Federation

2.7 The publication of the IPSPC (Hutton) reform proposals,[1] acceptance of those by the Coalition Government[2] and the subsequent proposed introduction of the reformed schemes in the white paper 'Good Pensions That Last'[3] were well publicised at the time and were the subject of widespread media coverage. The government therefore remains of the view that those joining after 31 March 2012, considered as a group, can reasonably be expected to have known that they would not remain in the legacy schemes. Whether or not the precise date of the likely change to a reformed scheme, or the precise terms of a reformed scheme, were widely anticipated is less material.

Equality impacts of proposals

2.8 When formulating policy proposals, the government is required to comply with the Public Sector Equality Duty in the Equality Act 2010.[4] The duty

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1 'Independent Public Service Pensions Commission', Final Report, Independent Public Service Pensions Commission, March 2011.

2 'Budget 2011', HM Treasury, March 2011, paragraph 1.132.

3 'Public service pension schemes, good pensions that last (Cm 8214)', HM Treasury, November 2011.

4 www.gov.uk/guidance/equality-act-2010-guidance

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.

2.9 Question 1 in the consultation asked for views on the implications of the proposals for people with protected characteristics, as defined in section 149 of the Equality Act 2010.[5] This question also asked if respondents had any evidence for these matters and if anything could be done to mitigate any impacts they had identified. Question 2 in the consultation document asked if there was anything else respondents would like to add regarding equalities impacts of the proposals.

Responses

2.10 We received 337 responses from individuals and 84 responses from organisations to question 1, and 231 responses from individuals and 96 responses from organisations to question 2. The government's updated assessment of the equality impacts of these proposals is included in the accompanying updated Equality Impact Assessment (EqIA) published alongside this document; a summary of key points raised by respondents is set out below.

2.11 So far as the remedy period is concerned, the main issue raised concerned the scope of the remedy, as discussed in paragraphs 2.1 to 2.7 above. Some equalities issues were also raised in relation to the choice between the IC and DCU options. Several responses agreed that the DCU would offer a better solution in terms of minimising unequal effects on those with protected characteristics. They argued that IC would have a much greater risk of causing discrimination, specifically to younger members, as they would need to make their decision based on many more assumptions, over a longer time period, rather than known benefits as they would under DCU. They suggested that the further away from retirement a person is, the more difficult it may be to make accurate assumptions.

> *"DCU ensures more equitable treatment in terms of allowing all individuals (young and old) to make their decision at the same point in their career. "*
>
> - A member of the Armed Forces Pension Scheme

2.12 Additionally, many individuals raised concerns that IC could be more detrimental than DCU for those likely to take a career break. This was because they felt it was not always possible to predict when a career break would be, and for how long. The DCU would allow individuals who have taken a career break to base their decision on known benefit entitlements, rather than making assumptions about their future career path as under IC. As a result, many felt that the IC could cause indirect sex discrimination as they felt that women would be more likely to take a career break than men.

2.13 There was little from respondents to suggest that DCU would cause unequal effects that would be better avoided by IC. Some points were raised as to

[5] www.legislation.gov.uk/ukpga/2010/15/contents

whether some members with disabilities might have greater difficulty with making an appropriate choice if that choice had to be postponed (that issue is further discussed in the EqIA).

2.14 In relation to membership of the reformed schemes following April 2022, the main issues raised related to increased Normal Pension Ages (NPAs) under the reformed schemes. Many of the individual responses were from those expressing concerns about being members of the reformed schemes from April 2022 as they said that they would have to work longer under the reformed schemes, due to the increased NPAs introduced alongside the 2015 pension reforms.

2.15 Respondents from some workforces, mainly firefighters and police, argued that they believed the reforms also discriminated on the basis of sex for similar reasons. The Fire and Rescue Services Association (FRSA) were concerned generally around the effect of increased NPAs for female employees.

> *"While not directly connected with the remedy, we would like to raise a general concern in relation to female firefighters. We have consistently raised our concerns regarding the structure, interpretation and implementation of the fitness standards. For female firefighters to comply with the current standards until the Normal Pension Age (NPA) they require a level of fitness that very few are able to maintain due to genetics. Therefore, female firefighters are more likely to be forced to retire prior to the NPA and receive a deferred pension compared to their male colleagues. This is an issue yet to be realised and should be addressed at the earliest opportunity."*
>
> - FRSA

2.16 A number of responses from organisations also raised concerns about creating indirect age discrimination towards younger members. This was especially the case from member representatives of the police and firefighters. They argued that as younger members would have to work beyond their legacy schemes' NPAs, before they could access their full reformed scheme benefits, many officers would not at that point be physically and mentally fit enough to meet the demands of their job.

2.17 Member representatives for other schemes, including Ministry of Defence police officers who are members of the civil service schemes, raised similar concerns about being put into schemes with increased NPAs.

> *"We believe that imposing a pension scheme with an NPA equal to SPA [State Pension Age] is not realistic. It sets a test that most officers will be bound to "fail" in the sense that they will never be able to retire from operational duties at their NPA. In the case of the MDP [Ministry of Defence Police], it also discriminates on the grounds of (a) sex, (b) age and (c) in particular, sex and age combined."*
>
> - Defence Police Federation

2.18 Some responses pointed out that particular schemes have a higher proportion of male (e.g. firefighters) or female (e.g. NHS) employees than

the public service schemes considered as a whole. They argued that these proposals would therefore affect a higher proportion of male/female employees within these workforces than identified in the government's EqIA which considered the impacts at public sector level.

Government response

2.19 The government has taken into consideration the unequal effects identified with the IC option, and intends to proceed with the DCU for this and the other reasons set out in this document, meaning these impacts will not materialise.

2.20 There is some evidence that the decision as to who should be in scope of the remedy may have differential impacts on specific groups. This is particularly by age group, but younger members in some workforces are also more likely to be women and from ethnic minority groups because some workforces have actively sought to improve the diversity of their workforce over the years. However, the government's view is that these changes will not have a disproportionate or otherwise unjustified impact on individuals with protected characteristics.

2.21 A number of respondents believed the proposals would continue to cause implications for people with protected characteristics, and these points have been carefully considered. As set out in paragraph 3.27, however, members of the reformed schemes can choose to retire at a younger age than their NPA, as long as there is an appropriate actuarial reduction to allow for the fact that the pension will be in payment for a longer period of time. Any change from one form of pension scheme to another will inevitably involve differences from the previous scheme, and the gender profile of those who are affected by the change, in the sense of being in employment at the point when the change occurs, will naturally reflect the gender profile of the scheme membership. But it is also important to bear in mind that both the legacy and the reformed schemes provide benefits on equal terms to all their members in respect of service accrued for the purposes of that scheme, regardless of gender, race or other characteristics. The discrimination identified in the McCloud litigation related to the arrangements for transition to the reformed schemes, and not to the terms of those schemes themselves.

2.22 These issues are explored further in Chapter 3.

2.23 The full assessment of the impact of the government's final decisions, and further detail on the responses received are set out in the updated Equality Impact Assessment published alongside this document.

2.24 Individual pension schemes will consult on the specific details of the implementation of these changes when they publish their draft regulations. The government will be able to consider any specific impacts of the detailed working-out of the policy for each scheme at that stage.

Taper protected members

2.25 Following the 2015 reforms, in most schemes, members between 10 and 13.5 or 14 years of Normal Pension Age (NPA) on 31 March 2012 could stay in their existing schemes for a period ranging from a few months to several years after April 2015 (known as "tapered protection").[6] 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.

2.26 The effect of the judgment in the McCloud case was that this tapered protection was considered to be discriminatory, and that this discrimination was unlawful. Maintaining an age-based system of tapered protection would therefore be perpetuating or indeed extending such discrimination. As a result, the consultation set out that all eligible members would be able to choose legacy scheme benefits or reformed scheme benefits for the whole remedy period. They would not be able to choose a mixture of the two.

2.27 Question 3 in the consultation sought respondents' views on the government's proposed treatment of members who originally received tapered protection, whether there would be any potential adverse impacts, and finally whether there was anything that could be done to mitigate any such impacts.

Responses from individuals

2.28 In total, 112 individuals responded to this question. Of those 62 individuals who stated a preference, a slight majority supported the government's proposals.

2.29 Many respondents to this question were in receipt of tapered protection and some said that they had expected to benefit from legacy scheme membership beyond 2022. They felt that being moved into the reformed schemes from 2022 would be unfair as it was not in line with their current expectations. This is, however, based on the misapprehension that they would ever have remained in their legacy scheme beyond 2022. All taper protected members were originally due to transfer to reformed schemes before 1 April 2022.

2.30 Individuals requested that information, tools and financial advice are provided to those who received tapered protection, to help them understand the impact on their benefit entitlement.

2.31 Some respondents expressed concerns that they will face a loss of benefits as a result of the removal of tapered protection. For example, a number of taper protected members recognised that they were in a better position as a result of accruing benefits in both the legacy and the reformed schemes during the different parts of the remedy period. These members suggested

6 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). 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.

that they could be provided with two choices; one covering the period up to the end of their protection, and another to the end of the remedy period.

2.32 Similarly, other taper protected members who have partially retired noted that they would like to maximise their benefits by accruing benefits under one scheme during the period of full employment and another during the period of partial retirement. The affected respondents believed they should receive two choices – one to the point of partial retirement, and another from partial retirement onwards.

2.33 A small number of respondents raised a concern regarding taper protected members who chose to leave service under a civil service compensation scheme on voluntary redundancy (VR) terms during the remedy period. They argue that these members may have made different decisions if they had been given the opportunity to compare and choose between legacy and reformed scheme benefits. This issue comes under the category of contingent decisions, on which further detail on the government's response is included in Annex A.

2.34 Additionally, several respondents raised concerns over the treatment of those with tapered protection in response to the conclusions set out in the equality impact assessment. These individuals felt that the proposals in the consultation would negatively affect those with tapered protection. It was argued that the requirement for these members to change pension rights would be indirectly but equally discriminatory as it would only affect those over a certain age.

Responses from organisations

2.35 55 organisations identified additional impacts for members who originally received tapered protection. A broad variety of responses was received from member representatives, employers and administrators from all schemes.

2.36 Several respondents recognised that a small number of members would be better off under a combination of legacy and reformed schemes for the remedy period. However, most of these respondents felt that treating taper protected members differently would lead to further inequality and complexity.

> *"All members whether protected, taper protected or unprotected will be given the same options. Therefore, this equality of treatment should not result in widescale direct, adverse impacts.*
> *While it may be conceivable that for a tiny minority the benefits from the tapered position are better than being in either scheme for the whole remedy period, the FDA recognises the absurd complexity of developing a universal solution. The implication would be giving everyone a choice between 7 years in legacy, 7 years in reformed, and many combinations of X years in legacy and Y years in reformed."*
>
> - FDA

2.37 Other respondents argued that treating taper protected members differently was justified and that there may be legal risks with not doing so, as it may be counter to individuals' expectations and involve a retrospective decrease of benefits that have already been accrued.

2.38 An alternative was also voiced that would see members whose benefits have already crystallised be protected from any changes to their retirement payments.

> *"Whilst the taper has itself been deemed to be discriminatory, the NFCC support the position that allowing members to take different decisions in respect of remedy for pre and post taper date is objectively justifiable to protect members' expectations and avoid future legal challenges..."*
>
> - NFCC

Government response

2.39 As set out in the consultation, the circumstances in which a member would benefit from having a mix of legacy and reformed scheme benefits are very limited, and affect a small number of individuals. Most members who were previously taper protected will be better off taking only legacy or reformed scheme benefits for the whole remedy period. Anyone who would have benefitted from such a mix of benefits under the original transitional proposals would have done so by chance rather than design.

2.40 Maintaining an age-based system of tapered protection would perpetuate or even extend one aspect of the discrimination which made the original proposals unlawful. It would be extremely challenging to develop and extend to the wider membership any form of tapered protection that was not based on age. Even if this were possible, it would be extremely complicated for schemes and members, and by definition would not replicate the original expectations of members. As a result, the government continues to believe that the removal of tapered protection, as set out in the consultation, is certainly the fairest approach, and may well be the only lawful approach.

2.41 The government recognises that the removal of tapered protection changes the expected position for previously tapered members, including to some extent the position in relation to pension for past years of service, and in some cases for members who have already retired. Its view, however, is that it is not right to continue to confer an advantage which represented one facet of what has been decided to be unjustifiably differential treatment on grounds of age. The fact that those with tapered protection will be over a certain age reflects the discriminatory nature of the original provision, and the government does not consider that the removal of that unjustified discrimination can itself be considered a discriminatory act. To the extent that removal has a retrospective effect, the government considers that it is justified for the reasons above, especially bearing in mind that all those who were subject to tapered protection will have the choice of legacy or reformed scheme membership for the remedy period, and that any additional advantage beyond that was always a fortuitous one. As some respondents recognised, moreover, offering *all* relevant members choice to accrue a mix of legacy and reformed scheme benefits, in whatever combination they felt may suit them best, would be entirely unworkable. Where pensions benefits are adjusted for taper protected members who have already retired, the government will ensure that schemes take a proportionate approach to the recoupment of any overpaid benefits, including ensuring any overpayment can be collected over time.

Proposals for removing discrimination: immediate choice and deferred choice underpin

2.42 Questions 4, 5, 6, and 8 in the consultation document asked for views on the two options proposed to remove the discrimination: an immediate choice (IC) exercise and a deferred choice underpin (DCU).

2.43 In addition to the responses detailed below, we received 346 duplicate emails from members of the Teachers' Pension Scheme and 34 separate duplicate emails from members of the Public and Commercial Services Union. Both of these campaigns were strongly in favour of DCU, arguing that it was the fairest of the two proposals set out in the consultation.

Responses from individuals

2.44 We received 1,295 responses from individuals which expressed a preference between the two proposals. 40% stated the IC proposal was the preferable approach, while 60% preferred the DCU.

2.45 The most common argument to support the immediate choice exercise focused on the immediate benefits. For example, many individuals believed that minimising the time it would take to rectify the unlawful discrimination equated to a fairer result for members.

> *"Whilst there are advantages and disadvantages of the "Immediate choice" option, I believe that the advantages outweigh the disadvantages. Members would have certainty about their pensions arrangements for the remedy period much more quickly and, whilst some people might choose the scheme which turns out, in the end, to have been less advantageous for them, I believe that this is outweighed by having matters resolved at a much earlier time.*
> *In addition, I believe that the financial uncertainties and insecurities related to the current Covid-19 pandemic are such that the "immediate choice" option will give some early resolution and certainty in an otherwise very uncertain world."*
>
> - Individual response, unspecified scheme

2.46 They also believed that the IC was simpler to understand than the DCU, which they believed was very complex.

2.47 A large proportion of respondents in support of the IC also stated that they wished to return to their legacy schemes as soon as possible, perceiving the legacy schemes to be more beneficial than the reformed schemes. They believed a DCU would cause uncertainty to members who would retire before 2022 and may already know the scheme they wish to choose.

2.48 The perceived uncertainty created by the DCU was the most commonly expressed concern with the DCU proposal, often from members who were close to retirement and felt that they had already made the decision over which scheme benefits they would choose. They argued that delaying this choice until the point at which they take their pension benefits would create uncertainty for them in the interim period.

2.49 In opposition to this point, many members stated that, unlike the DCU, the IC would discriminate against younger members who have more uncertainty about future earnings or career path, and who would be more reliant on assumptions to inform their decision. These assumptions would span a longer time than for older members closer to retirement and so are more likely to be unfounded or wrong, thereby disadvantaging younger members. Many also cited the additional uncertainty caused by Covid-19 and other factors outside of their influence which may affect the variables associated with future pension awards.

2.50 Responses from those who did not express a preference between the two options were broadly of the view that both IC and DCU address the discrimination and thus it should be an individual choice when the decision between the legacy and the reformed schemes is made. This would mean the individual deciding whether to take a DCU or IC approach rather than selecting one approach for all members.

> *"Should be a decision for whether the member wants IC or DCU as they both address the discrimination"*
>
> - Individual response, unspecified scheme

2.51 A minority of responses believed that neither IC or DCU would remove the discrimination entirely and suggested that everybody should indefinitely remain in the scheme they started in. They believed that neither remedy option would adequately address the losses that individuals would suffer from working beyond their legacy NPA. The government's position on future pension provision, alongside responses received on this, are set out in Chapter 3.

Responses from organisations

2.52 116 responses from organisations (such as member representatives, employers and administrators) stated a preference between IC and DCU. Of those, 80% favoured the DCU proposal and 20% favoured the IC proposal.

2.53 DCU was the preferred remedy option for almost all member representatives and most employers, as they felt it would enable members to make decisions at retirement based on known entitlements, including on tax, rather than on a set of assumptions. This would therefore reduce the risk of members making wrong decisions.

> *"Under DCU members will not be making decisions based on a set of assumptions concerning the length of their working life, salary progression, career and potential promotion progression, inflation etc. Members will be able to make decisions based on actual figures that are fully reflective of their working history up to that point. Quite simply DCU provides less risk of members making the wrong decision."*
>
> - Unison

2.54 Other responses from organisations that favoured DCU stated that their highest priority was to limit future legal risk and, in that regard, DCU was the preferred approach.

2.55 Under the DCU proposals, prior to the point at which the decision is made, all members would be deemed to have been in their legacy scheme for the remedy period, pending them ultimately making their decision at the point benefits are payable. A number of organisations, specifically some of those representing firefighters, fire employers or firefighters pension schemes suggested that, rather than all members being deemed to have been in their legacy scheme for the remedy period, members who had been in the 2006 firefighters scheme specifically, should remain in the relevant reformed scheme until they made their decision. They felt that because of the scheme design of the 2006 scheme, the reformed scheme is likely to be more beneficial than the 2006 scheme for the majority of members and so most members will ultimately choose reformed scheme benefits. The 2006 firefighters scheme also has lower member contributions than the reformed scheme, so while members would get a refund of overpaid contributions by 2023, respondents argued that they would be more likely to build up a contribution deficit in the scheme they would choose the benefits of.

> *"In simple terms, the Board feels it is the safest option for all concerned, as it would: 1. Reduce any future challenges on the grounds of incorrect choice 2. Mean any choice is made on facts rather than assumptions 3. Remove the potential age discrimination that immediate choice might indirectly cause to younger members."*
>
> - The Firefighters Pension (England) Scheme Advisory Board

2.56 The government recognises that this may be the case for some members of the 2006 firefighters scheme, depending on their individual circumstances. However, the government does not think it is appropriate to effectively operate the DCU in reverse for these members, that is to leave them in their reformed scheme with the choice of taking legacy scheme benefits. While some members may ultimately choose the reformed scheme benefits, particularly if they take early retirement, preventing those who wish to return to their legacy scheme the opportunity to do so at the same time as members of other schemes are, would not be fair. However, the government acknowledges the potential for some of these members to ultimately choose to take reformed scheme benefits. It is therefore considering options for mitigating the potential impact on members of building up a contributions' deficit, while ensuring that those who are entitled to and want such a refund in the short-term can still receive it. More detail on this will be set out in the scheme level consultations on secondary legislation (scheme regulations) in due course.

2.57 A number of respondents representing police officers or schemes made similar representations about members of the 2006 police scheme, though the likelihood that members would choose the reformed scheme over the 2006 police scheme was far less clear. The issue in the firefighters schemes is due to very specific and unique elements of the design of that 2006 scheme, which do not exist in the 2006 police scheme. The government does not therefore intend to operate the DCU in reverse for this scheme either.

2.58 Individuals also highlighted that for the IC proposals members would have the additional pressure of seeking financial advice to understand their position, due to the increased reliance on assumptions about the future. On

this point, respondents doubted whether there would be sufficient market capacity so that all affected members could access financial advice simultaneously. They felt that schemes would need to provide additional tools, information and support for the development of career and income assumptions to support a member's IC decision. While some members thought that IC may be preferable in implementing the remedy as quickly as possible and resolving the issue, they believed more uncertainties and inaccuracies may be introduced if the remedy was rushed.

2.59 An additional challenge with the IC option would be the requirement to have a default choice if members did not respond to an immediate choice exercise. Respondents to this question (4) raised the difficulties of making an irrevocable choice on behalf of members given the various factors they would need to consider and many raised concerns about the administrative challenges of contacting members who did not respond.

2.60 The main reason given for support of IC from organisations (mostly employers of police officers and firefighters) was that they welcomed the certainty provided by IC, as this would allow members to plan for the future. They stated many of their members already knew the choice they would make, and wished to make this decision immediately rather than waiting until the point at which their benefit would be awarded.

> *"This proposal would provide clarity for employers relatively quickly and would be preferable in terms of allowing them to more accurately forecast pensions costs and workforce planning assumptions"*
>
> - Buckinghamshire & Milton Keynes Fire Authority

2.61 A couple of member representatives argued that both IC and DCU would address the discrimination identified by the courts but that a preferable model would be an "Anytime Choice", where members would be entitled to make a choice whenever they wish. These responses pointed out that the additional certainty offered by taking a choice of pension benefits pre-retirement will be advantageous to and desired by some, but that DCU will be advantageous to and desired by others.

Government policy response

2.62 Following consideration of the wide range of views expressed through the consultation, the government now intends to proceed with addressing the discrimination by implementing the DCU.

2.63 The government believes that by deferring the choice between legacy and reformed scheme benefits until the point at which benefits are paid (for many members, the point of retirement), most members will have significantly greater certainty over their benefit entitlements when making this decision, and that this is by some margin the most important consideration here. In most cases, there would be no actual financial advantage to members in being able to make an immediate choice, although the points made above in relation to the firefighters and police schemes in relation to potential contributions' deficits depending on benefits ultimately selected have been noted, and as noted above it is considering whether further mitigating measures may be available in that context.

2.64 Some of the responses from individuals suggested that they are starting from an assumption that the legacy pension arrangements are more generous. However, as the consultation set out, depending on a person's circumstances, many scheme members are likely to be better off in the reformed schemes than the legacy schemes. The government believes it is therefore not fair to simply move everyone back into the legacy schemes for the remedy period without providing a choice. Under the DCU, members will be able to make the decision on known benefit entitlements at the end of a career, in order to choose the scheme that is better for them. Although the government considers that some organisations' concerns about potential legal liability are overstated, it is to the advantage of all concerned if members receive information on their benefits and are in this way assisted to make the right choices.

2.65 Making the choice between legacy and reformed scheme benefits at the point a pension comes into payment means that the majority of members in scope of remedy will not confirm the benefits they will receive until they take those benefits (although they would know the value of the benefits available to them under both options). Respondents raised this uncertainty as a concern with this proposal. To mitigate against this uncertainty, the government will require schemes to provide details annually of the accrued benefits available to members in relation to relevant service for both the legacy and reformed scheme. This will provide members with visibility over their expected benefit entitlements for the remedy period in advance of their decision. Further detail on this is provided in Annex A.

2.66 A small number of respondents raised the potential option of making an individual choice on whether to have an immediate choice or a deferred choice. Similarly, others raised the option of an "Anytime Choice", where members could choose the point at which they made the decision about which benefits to take. However, this would be considerably more complex to administer, but more fundamentally would still incur the substantial risk that members make choices which ultimately turn out to be less beneficial. The government believes that the provision of information to scheme members on their potential benefits through benefit statements should mitigate against uncertainty and ensure members are able to plan for retirement effectively.

Administrative impacts of IC and DCU

2.67 The consultation also asked respondents to set out any comments on the administrative impacts of the IC and DCU options (question 7 of the consultation).

Responses from individuals

2.68 A total of 181 individuals responded to this question. Out of the 88 responses that assumed a clear position, 44% believed the DCU would have a greater administrative impact, 34% believed IC would have a greater administrative impact, and 22% believed both options would have the same administrative impact.

2.69 Individuals who thought the DCU would carry a greater administrative impact generally cited the longer timescales over which members would make their decisions as adding complexity (i.e. needing to operate systems over a longer timeframe with the aim of eventually providing the relevant data/calculations to members). Others highlighted the increased timeframe as an advantage as it would allow more time for schemes to process cases and update their systems.

2.70 A large portion of respondents believed the decision on whether to implement IC or DCU should not depend on the administrative burden or cost of either solution and should instead focus on removing the discrimination as effectively and equitably as possible.

> *"I recognise that both options will present different challenges and difficulties. It is important to flag the difficulties, however, given that the courts have ruled that the pension scheme changes had been unlawful, for me, the most important thing here is the members – all of us who have been discriminated against and who are expecting the wrongs that were made to be remedied as soon as possible…"*
>
> - A member of the Civil Service Pension Scheme (CSPS)

Responses from organisations

2.71 104 organisations responded to this question. Challenges with both options were identified, but a large majority felt that the DCU would have a greater administrative impact in terms of implementation than an immediate choice exercise.

2.72 The responses from these groups echoed the reasoning provided by individuals and underlined the significant administrative burden that DCU would present as, for example, the workload in relation to calculating annual benefit statements would effectively be duplicated. However, many employers and administrators recognised that the longer timescales allowed by DCU would enable schemes to put systems in place and process cases over longer timescales – thereby reducing pressure on schemes and also reducing the risk of errors and rework.

> *"From an administrative perspective an immediate choice option would have a significant impact and immediate cost pressure on our day to day work, whereas the DCU would allow a more phased approach and therefore less of an immediate impact.*
>
> *DCU will provide a better opportunity to focus on the review and implementation of the changes required for immediate detriment cases and those who have already had a pension event, especially sensitive cases like death, ill-health, and divorce."*
>
> - NHS Business Services Authority

2.73 Other respondents argued that the administrative impact of IC and DCU would be the same, as a DCU exercise would also need to process immediate cases where members have already retired or will retire in the near future.

2.74 A smaller number of respondents thought that IC would have a greater administrative impact given that there would be immediate additional resource requirements and that the solution would have to be mobilised in a shorter period of time. An administrator noted the increased risk of errors resulting from the need to rapidly develop new software.

2.75 A large number of employers and administrators highlighted the significant challenge of operationalising either option by April 2022, highlighting other concurrent pressures on schemes' capacity, such as the processing of immediate detriment cases. It was also highlighted that compressed timescales increase the risk of mistakes being made.

> *"Implementing the Remedy from 2022 alongside business as usual will greatly increase the workloads of pension administrators.*
>
> *There will be a major dependency on systems and software providers ability to develop, test and deliver the requirements for the various calculations by April 2022. If this functionality is not available in time then the implementation should not be imposed on the sector and either a standardised contingency is agreed or implementation is deferred."*
>
> - Local Pensions Partnership Administration Ltd

Government response

Working with schemes to implement changes

2.76 Responses to the consultation recognised the scale of the administrative challenge of proceeding with the DCU. Scheme administrators will be required to run two sets of benefit designs alongside one another for over 40 years to deliver this remedy. 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 will be calculating benefit accrual over the period from 2015 to 2022 on the basis of two benefit designs instead of one. In addition, as set out in the consultation, considerable work will be required in the short term to move many members of the reformed schemes back to their legacy schemes for the remedy period, as well as resolving cases of members who have retired or died since April 2015. Set against this is that DCU operates over a longer time period, unlike an Immediate Choice exercise that would require ensuring that millions of members could make an informed choice about their pension provision within a relatively short time period.

2.77 Before schemes and administrators can make progress with introducing new processes and IT systems to deliver the DCU, further technical policy decisions need to be made and the necessary legislation, both primary and secondary, needs to be passed. Further complexity is present for the locally administered schemes.

2.78 The government has taken into consideration the concerns raised by respondents on the administrative challenges posed by the delivery of remedy. If schemes and administrators do not have time to build proper processes and systems to deliver the remedy, the risk of mistakes being made

is considerably greater, which will have a detrimental impact on members. In the meantime, however, the discrimination that the courts have identified is continuing.

2.79 As a result, the government intends to pursue an alternative timetable for the delivery of these changes. As previously set out, the remedy period will end on 31 March 2022 and members will be moved into the reformed schemes from 1 April 2022. This will bring any remaining current discrimination to an end as rapidly as possible, by ensuring all members are treated equally with regard to future accrual. However, schemes and administrators will be given flexibility on the time needed to establish systems to deliver the retrospective changes to the remedy period. The primary legislation will state that retrospective changes must be introduced by 1 October 2023, but will allow schemes that can begin implementation sooner to specify an earlier date for this change in their regulations.

2.80 This means that after 1 April 2022, everyone will be treated the same, but full correction of the discrimination that occurred after 2015 will not happen until later. The impact on members who will retire before the date set out in their scheme regulations is set out in paragraphs 2.99 to 2.105.

2.81 Any additional time will allow for government to provide scheme administrators with answers to complex policy questions, whilst also providing scheme administrators the time needed to establish robust systems to deliver the DCU properly and to communicate the changes to their affected members.

2.82 The government believes this is a fair way to ensure that the discrimination is ended as soon as possible, while giving schemes and administrators flexibility to build the systems they need to ensure the DCU is delivered effectively.

Tax implications of DCU

2.83 The consultation outlined how different aspects of the pensions tax regime operate and how it would interact with both IC and DCU. The tax position of the majority of members will not be affected. Some members may experience a change in their tax liability, mainly due to changes in their member contributions or pensions accrual, or to their pension in payment if they have already retired.

2.84 The general principles set out in the consultation were that where an individual's pension arrangements change, and this affects their tax liability for past years, their tax position would have to be revisited. Where an individual owed tax, this would be collected in line with usual statutory time limits for tax purposes. Where an individual had overpaid tax, they would be compensated without any time limits.

2.85 The consultation also indicated that, under the DCU, if a member faced an increased annual allowance (AA) charge as a result of choosing reformed scheme benefits when they made their remedy decision, the government would compensate them for it. This is because the way the DCU has been designed concentrates the accrual of reformed scheme benefits into a single

year. This could trigger a higher AA liability than that individual might have faced had the discrimination not occurred – that is, had their pension benefits for the remedy period always been the reformed scheme benefits.

2.86 Question 24 of the consultation sought views on how the wider proposals would interact with the tax system.

Consultation responses

2.87 169 respondents provided views on the tax implications of the proposed remedy. Three clear themes emerged. The first theme was that the remedy – and its interaction with the tax system – should place individuals back in the position in which they would have been, had the discrimination not occurred.

2.88 The second theme related to the complexity of the tax position, where respondents noted the need for clear communications and support to enable scheme members and beneficiaries to make informed choices. Linked to this were concerns about the administrative burden that the DCU would place on individuals. The government is continuing to work on these issues and acknowledges that it will be critical for scheme members to be provided with clear information when their pension position changes.

2.89 The third theme related to concerns that individuals might receive large and unanticipated tax demands with no means of meeting them. The government is aware of this issue and is considering how Scheme Pays and repayment plans can be used to accommodate any increases in tax or other charges, respectively, that might arise.

2.90 Some consultation responses also highlighted that the proposed approach could put some younger members in a more favourable position than some of their older colleagues, in certain situations. Specifically, if a member returning to their legacy scheme in 2023 would ordinarily have paid more tax on their legacy scheme benefits, this can only be collected for years in scope of the usual statutory time limits. This could result in a younger member, who was not transitionally protected and was moved into the reformed scheme in 2015, paying less tax on legacy benefits than an older member, who had always been in receipt of those benefits.

Government response

2.91 Under the DCU, reformed scheme members will be legally restored to membership of their legacy schemes by 2023 in respect of the remedy period. This will retrospectively alter the pension benefits they have accrued in each of the tax years during the remedy period. For the minority of members with sufficiently high income and/or pension accrual to trigger an AA charge, this could change their liability for that AA charge in a tax year or tax years falling within the remedy period. Most of these individuals will see a reduction in AA charge owed.

2.92 Where an individual paid their original AA charge up front, they will receive a refund. 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 those cases where additional AA

charge is owed, the individual will have the opportunity to utilise Scheme Pays if they do not want to pay the tax charge upfront.

2.93 If a member then faces an increased AA charge as a result of choosing reformed scheme benefits when they take their benefits, the government will ensure they do not bear the cost of any additional AA charge that is directly caused by the member exercising that choice.

2.94 Tax adjustments will also be required in those cases where the amount of pension contributions that a member should have paid changes: either in 2023, at the point they receive their benefits, or both. As set out in the consultation, where an individual owes more contributions, they will receive tax relief on those contributions at their marginal tax rate in the tax year the additional contributions are paid. The government recognises that in some cases this may result in less tax relief than the individual would have received had the individual paid those contributions in the relevant remedy period years. In these cases, it will be possible for members to apply for compensation for the difference in the tax relief received.

2.95 The original consultation suggested that where an individual was owed a return of overpaid contributions, the excess amount would be returned to individuals, and the tax owed in respect of the income used to fund the excess contributions would be collected, but only for those years within the usual statutory time limits. Following the consultation, the government has decided that individuals will receive a payment to cover the value of their contributions, but with an amount deducted to reflect the underpaid tax. This departs from the position set out in the original consultation which set out that that individuals who had overpaid their contributions in remedy period years beyond the usual statutory time limits for tax collection would receive a full refund of contributions and not face any tax charge.

2.96 There are two reasons for this decision. First, the government agrees with those respondents to the consultation who urged that, as far as possible, individuals should be put back in the position in which they would have been, absent the discrimination. Second, as set out above, some consultation responses highlighted how the operation of statutory time limits for the collection of tax could give younger members an advantage over older members, when those younger members move into their legacy schemes in 2023. Repaying an amount reflecting the value of overpaid contributions with tax deducted will help to minimise any potential "windfall" advantage being enjoyed by one group of members over another.

2.97 Tax adjustments will also be required for individuals who have retired during the remedy period and who wish to receive different pension benefits. This is dealt with in more detail in the next section.

2.98 The government acknowledges the points made by consultees on the complexity of correcting members' tax positions historically. Where possible, the government will take proportionate steps to minimise the administrative burden on members, but it will not be possible to completely remove this burden in all cases. A member's tax position is unique to their personal circumstances and they alone may hold some of the data necessary to correct some elements of their tax position, particularly regarding their AA

position. The government acknowledges the need to provide clear and accurate communications and information to members going through this process. However, the necessary tax corrections following the implementation of the DCU will still place an administrative burden on some individuals, particularly those affected by the annual allowance.

Members who retire or receive pension benefits before the DCU is introduced

2.99 The majority of members in scope of this consultation will not retire until after the DCU is implemented and will be given their choice at the point of retirement, as detailed above. However, the government recognises that significant numbers of members have already retired and received pension benefits in respect of relevant periods service or will do so between now and the introduction of the DCU by October 2023.

2.100 As set out in the consultation, the government accepts that members who moved to the reformed pension schemes on or after 1 April 2015 and have subsequently retired, already 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 develop processes to give effect to this entitlement for those who retire before the introduction of the DCU. Where possible, schemes will also seek to offer reformed scheme members in this position who retire before October 2023 a choice of legacy or reformed scheme benefits for the relevant period at retirement. Once the complex issues described in paragraphs A.8 to A.12 have been resolved, schemes will also seek to revisit cases of reformed scheme members who have already retired ahead of the introduction of the DCU, where, and to the extent, this is possible. This process will be administratively complex and individual schemes will set out their plans for beginning to process such cases in due course.

2.101 It is important to note that, where members choose to change schemes, they may in some cases have to repay benefits that they have already received. Where this is so, or payment of additional contributions may be required, this will be made clear to members when making their choice.

2.102 As discussed in more detail in paragraph 2.95, if the benefits a member has received change as a result of the implementation of the DCU, then tax adjustments may be required. This includes where an individual has already retired and received pension benefits in respect of relevant periods of service, or will do so between now and the introduction of the DCU by 2023.

2.103 Where an individual receives a revised pension award, this will be backdated to the date their pension award was originally made. If this results in an increase in pension payments, this will be paid in a lump sum in the year that the individual's pension situation is corrected. It will be taxed in that year, at the individual's marginal tax rate at that time.

2.104 The consultation document set out that where tax is owed on pension income by a member who has retired, it will not be collected for periods beyond the usual statutory time limits. However, because backdated pension

will be paid all at once in a single year, and tax will be due in that year, then all that backdated pension will fall within the usual statutory time limits for tax collection.

2.105 In some cases an individual could pay more tax on their backdated pension than they would have done had they always been in receipt of those pension benefits, for example, if the backdated payment increased their total income so that a higher marginal rate of tax would apply. In this case, individuals can apply to their pension scheme to have the backdated payment allocated to the relevant remedy period years, and then to HMRC to have the remedy period marginal rates applied.

Chapter 3

Future pension provision

Consultation proposals

3.1 In addition to ensuring that the discrimination identified by the courts is addressed, the public consultation also set out the plans for future pension provision, to ensure equal treatment of members in respect of scheme design after the remedy period ends.

3.2 The consultation set out the government's proposals to close legacy schemes to future accrual on 31 March 2022, ending the remedy period, and that all members who remain in service from 1 April 2022 onwards will do so as members of their respective reformed scheme. Whilst the transitional protection arrangements were found by the courts to be discriminatory, the reformed schemes themselves were not.

3.3 As also set out in the consultation, this will require primary legislation to be brought forward to close the legacy schemes and remove the exceptions originally made for transitional protection that were found to be discriminatory on the grounds of age. Legacy schemes will be closed to future service on 31 March 2022. The final salary link, as originally set out in the Public Sector Pensions Act 2013, will be retained. This will ensure that, from 1 April 2022, all active members are treated equally in respect of the pension scheme designs offered for future service after the discrimination has been addressed. It would be unfair for some members, and not others, to remain in the legacy scheme beyond this date.

Responses to the consultation

3.4 Question 9 of the consultation document asked whether the proposals - 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.

Responses from individuals

3.5 438 individuals responded to question 9. 248 gave a direct answer to the question and, of those, 34% broadly agreed that the government's proposals ensure equal treatment from 1 April 2022 onwards. 66% broadly disagreed that the proposals would ensure equal treatment.

3.6 A number of individuals argued that equality will only be achieved by allowing all members to accrue benefits under the terms and conditions they originally signed up for – so to effectively keep the legacy schemes in operation beyond 2022 for some members.

3.7 Several respondents believed that, by proposing that all members will accrue future benefits in the reformed schemes, some members would be discriminated against. However, in many cases no reasons were provided as to why they believe this to be the case.

3.8 Many responses were from members of the police and prison officers' schemes who disagreed with aspects of the government's equalities impact assessment. This point was also made to questions 1 and 2 of the consultation, which focus on the equalities impact of the government's proposals. These individuals expressed concerns that younger members were being discriminated against, as the NPAs in the new CARE schemes for some uniformed services are linked to age rather than length of service.

> *"The problem is that the 2015 CARE scheme will always discriminate on age and is fundamentally unfair to 1987/2006 pension officers. Two officers who join on the same day, one is 18 and one is 30. They both remain as constables for their entire service. When they both reach 30 years' service, they will have both contributed the same into the pension. However, if they both choose to retire on the same day too, at their 30-year mark, the officer who started at 30 years old gets a far better pension than the officer who started when they were 18. That officer's pension will be actuarially reduced until they reach 60-year-old. Admittedly by then that officer's pension will be a lot higher, but they are not treated the same. If when you join, you sign up to the CARE pension then you are aware of these differences, but this is what is going to be imposed on 1987/2006 members."*
>
> - A member of the Police Pension Scheme

3.9 More generally, a very large number of individuals fundamentally disagreed with moving or returning all active members into reformed schemes from April 2022, rather than the impact of the proposals on ensuring equal treatment. Some of these members raised the point that the change provided insufficient notice to members and that clarity was needed for those who partially retired before 2022.

3.10 Some respondents also took the opportunity to raise concerns with the NPAs for some of the workforces. For example, prison officers believed their NPA should align with the NPA of police and firefighters schemes as they believed the types of work they undertake are similar.

> *"Making prison officers work after the age of 60 unlike other demanding emergency services is immoral and I would propose a new separate pension scheme for prison officers like police and firefighters returning prison officers to a pension age of 60. "*
>
> - A member of the Civil Service Pension Scheme (CSPS)

3.11 Several respondents argued that paragraph 3.12 within the consultation document is incorrect: "By 1 April 2022, all members who were offered transitional protection from 2015 will in fact have reached their NPA in their legacy scheme". The respondents state that they were protected, but remain weeks, months or years away from their NPA. Most of these respondents have requested to remain within their legacy schemes until their NPA.

Responses from organisations

3.12 Of the 102 organisations that responded to question 9, 90 addressed the point on whether the government's proposals ensure equality from 1 April 2022 onwards. 63% broadly agreed that they will achieve equality, while 37% broadly disagreed. There was a broad mixture of member representatives, employers and administrators from across schemes that supported both viewpoints. It should be noted that a large portion of respondents who agreed, were not supportive of the reformed schemes more generally.

3.13 Some member representatives interpreted the court's ruling as meaning that members should be allowed to stay in their legacy schemes for the remainder of their careers.

3.14 A number of respondents claimed that members who were given full protection in 2015 have a legitimate expectation to stay in the legacy schemes indefinitely if they wish to work beyond their NPA.

> *"As the proposed date to move all members to the reformed scheme is 1 April 2022, this is the 10th anniversary of the date when protection was assessed. This will mean that all fully protected legacy scheme members will have reached their legacy scheme pension age. Protected members working beyond their legacy scheme normal pension age will have future benefit expectations changed by moving to the reformed scheme rather than previous expectations that they would remain in the legacy scheme until retirement."*
>
> - NHS Pension SAB

3.15 The campaign by members of the PCS agreed with this position – while the proposal to close legacy schemes would ensure equal treatment, they highlighted that it would create a detriment for those under full transitional protection who expected to remain within their legacy schemes past their scheme NPA and until retirement.

3.16 Like responses from individuals, many respondents used the opportunity to comment on the reforms more generally. A key concern is the impact on retention, particularly in relation to the NHS, police and firefighters, by members retiring early or being disincentivised to re-join (due to rules preventing further accrual in the 2015 schemes once a pension is in payment from the legacy scheme).

3.17 Some bodies also reiterated their request for the NPA to be reviewed for certain workers, e.g. NHS, firefighters and prison staff, citing the physically demanding nature of the occupation.

3.18 Concerns were also raised, particularly by administrators and employers, around the timescales of implementation. These respondents generally argued that any processing or IT systems need to be up and running by 1 April 2022 to allow members to make retirement plans and decisions under the reformed schemes immediately.

Government response

The reforms and the 2015 schemes

3.19 Many respondents to the consultation believed that the legacy schemes are inherently more beneficial for all members. This is not the case and whilst it is recognised that there is significant variation across schemes; many members will be better off under reformed scheme arrangements than they would have been in the legacy schemes. 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. This is why members will be offered a choice of benefits for the remedy period.

3.20 It is not correct to assume that the reformed schemes are detrimental to all members. The reformed schemes are more generous for many lower paid members. 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 have such career progression. The move from mostly final salary to career average design has, therefore, allowed for a fairer system. Reversing the reforms for the future would make many members worse off.

3.21 It is also important to clarify that the reformed schemes were not found to be discriminatory, as some respondents to the consultation believe. The judgments of the courts were that the transitional protection arrangements discriminated against some members; not the reforms or the reformed schemes themselves.

3.22 Some respondents believe that it is unfair for pension arrangements to be changed at all, and that all members should be able to retire in line with the arrangements as they were when they entered service. Whilst the government is committed to ensuring that public service workers are rewarded with generous pension provision in their retirement, it is also right that it continues to assess this, and makes appropriate changes – such as those recommended by the Independent Public Service Pensions Commission (the Commission) as part of the 2015 reforms – when it is necessary to do so.

3.23 The Commission was established with the aim of ensuring public service pensions were affordable and sustainable in the long term. For Great Britain, the total annual cost of paying out unfunded public service pension scheme benefits is considerable; £44.3 billion in 2019-20. It is important that these costs are kept under control. Additionally, life expectancy has increased significantly since the introduction of the legacy schemes, which increased the cost to the taxpayer. Outside of public service schemes, individuals need to save more for a longer retirement resulting from increased longevity. The reformed public service schemes are designed on the basis of a longer working life to cover the cost of a longer retirement, as will be the case across the wider workforce.

3.24 The Independent Public Service Pensions Commission made recommendations that led to the reformed schemes being established under the Public Service Pensions Act 2013, in line with the objectives of ensuring affordability and sustainability, and the reformed schemes were accepted by the majority of trade unions and other member representatives.

3.25 Some respondents argued that the changes to pension ages are unfair, and inherently discriminatory against younger members, as they are required to work for longer.

3.26 Most of the reformed schemes have a Normal Pension Age (NPA) linked to the member's State Pension Age (SPA; the age at which a State Pension can be received) which reflect the increases in life expectancy. There are exceptions for the armed forces, the police and firefighters, where the NPA is set at 60 for those retiring from active service.

3.27 Members of all reformed schemes can, however, choose to retire at a younger age than their NPA, as long as they have reached their Minimum Pension Age (MPA) and an actuarial adjustment is made to their pension to allow for the fact that it will likely be paid for a longer period of time. Members can also choose to work beyond their NPA and receive a bigger pension.

3.28 The reformed 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 generous pension provision for public service workers; and that the changes made as part of the reforms were necessary to ensure that this provision remains sustainable. This is why the government intends that all those in service from 1 April 2022 will be members of these schemes.

Ensuring equality of treatment

3.29 It is also important that the arrangements for future provision ensure equal treatment in terms of the scheme design available to members after the remedy period ends. If some members remain in different schemes, that objective would not be achieved.

3.30 Some respondents noted that some of those who are offered the choice of benefits as part of the remedy proposals will reach retirement before they are required to accrue any benefits in the reformed schemes, whereas others will need to continue in service after 31 March 2022 to reach retirement age, and will do so as members of their respective reformed schemes. They argued that this would discriminate against them based on their age.

3.31 The proposals to address the discrimination will mean that more people will have access to legacy benefits up to 31 March 2022 than would have otherwise been the case. Some of these members will retire before this date and before any accrual in the reformed schemes; whereas others will continue in service after 31 March 2022 as members of the reformed schemes, like those who joined after 2012 who will remain in the reformed schemes. The government does not believe, however, that this leads to

further discrimination because all members are treated equally in respect of any period of service from 1 April 2022.

3.32 The proposals to address the discrimination mean that all those who were denied transitional protection and continued access to legacy scheme benefits as a result of their age will be treated equally to those who were originally offered such protection, for the period in question. The proposals for future arrangements will treat all members equally after that period, in terms of the scheme design available to them – anyone in service will accrue in the reformed schemes for any service from 1 April 2022.

3.33 By 1 April 2022, those who were offered full transitional protection by virtue of being within 10 years of their NPA in the legacy schemes will have reached that NPA. Where these members choose to remain in employment from 1 April 2022, they will do so with an entitlement to be members of reformed schemes, like all other members. They will of course still be afforded a choice of scheme benefits for the period between 2015 and 2022, as a result of the remedy proposals.

3.34 Whilst there will be differences in the specifics of overall pension provision for different members across the course of their career, depending on the point at which they began their service, this will always be the case when changes to pension schemes are introduced. This is the case with past cohorts of members, as a result of previous changes.

3.35 It is right that the government has the ability to make changes when it judges it necessary to do so. The original objectives and recommendations of the Commission leading to the 2015 reforms and the reformed schemes still hold. The government believes that these schemes are the correct basis for future arrangements and remains committed to them. The plans also ensure equality of treatment in respect of scheme membership. From 1 April 2022, anyone who remains in service will do so with an entitlement to be a member of their respective reformed scheme, regardless of their age or any other factor. All members will therefore be treated equally in that respect.

3.36 Some respondents also believed that members in scope of remedy who choose to accrue legacy benefits during the remedy period (or those who already had access to such benefits, as a result of transitional protection arrangements) have a legitimate expectation of being able to remain in the legacy schemes beyond this date, until they choose to retire. In introducing the reformed schemes, however, it was never the government's intention that the legacy schemes would continue indefinitely. Members in scope will have had 20 months' notice (since consultation) of these plans, which are necessary to implement the reforms, for which the rationale still stands, and to do so in a way that treats all members equally in terms of their scheme eligibility and scheme design available to them, after the discrimination has been addressed.

3.37 The Public Services Pensions Act established that no new benefits related to future service would be provided under the legacy schemes in relation to employment after 1 April 2015. Exceptions to this were made in scheme regulations, but these were intended to be limited 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.

3.38 Whilst the courts found that these exceptions gave rise to unlawful discrimination, and government has now set out its proposals that those in service on 31 March 2012 and who have relevant service after 1 April 2015 will be offered a choice of legacy schemes for the remedy period, this does not mean that disparity of treatment should continue indefinitely. Many of this group could be expected to remain in pensionable employment for many years, long after it was envisaged that the legacy schemes would be closed. If one group should be afforded different provision to other members, this would not meet the objective of ensuring equality of treatment, and this would also increase taxpayer costs by many billions of pounds, by indefinitely extending the period during which members could choose between scheme designs for service from April 2015 onwards.

3.39 Members of the legacy schemes will have had more than 20 months' notice of the government's plans by 1 April 2022. The judgment of the Court of Appeal also set out why the transitional protection arrangements and the original aim to protect those who were eligible, was in fact not justified. These members will also, of course, be able to participate in the reformed schemes in relation to any eligible employment from 1 April 2022 onwards. Bringing the remedy period to an end as soon as reasonably practicable will also minimise the extent to which those whose employment started during the remedy period are differently treated.

3.40 Under these plans, those who were denied transitional protection because of their age will be offered the same benefits as those who were fully protected, for the remedy period; thereby addressing the discrimination identified by the courts. Thereafter, all those who remain in service will be treated equally in respect of scheme design provided to them.

Accrued rights

3.41 Some respondents were worried that if they are 'moved' from legacy to reformed schemes from 1 April 2022, for the remainder of their service, that their pension will be less valuable. It is important to note that the proposals will only affect future service from that date, and will not (subject to some issues around taper protection, that affect a very small minority of people, as discussed above) impact on pension already accrued.

3.42 Whilst accrual in legacy schemes will end when those schemes are closed on 31 March 2022, any accrual that has been built up in the legacy schemes up to that date, and the NPA at which the benefits accrued in those schemes can be taken in full, is protected.

3.43 Whilst the reformed schemes are career average schemes, the 'final salary link' is also protected. This means that all the accrual in a final salary legacy scheme will be calculated in relation to a member's final salary when they retire or otherwise leave the scheme, regardless of how many years' service was spent in the reformed schemes, and not their salary at the point when they left the legacy scheme.

3.44 Other accrued rights, such as the improved accrual rate linked to length of service for some schemes (namely older police and firefighters schemes) are also protected in relation to service in those legacy schemes.

3.45 Additionally, as set out in paragraph 3.27, since the legacy schemes have a lower NPA than the reformed schemes, members who have accrued service in both types of scheme may choose to retire when they reach that NPA, and the relevant MPA has been reached, and access the relevant pension benefits from both schemes. They will not have to wait until the NPA in the reformed scheme, which in most schemes is linked to SPA.

Scheme specific issues

3.46 Some respondents have pointed out that, due to the service length-based specifics of some schemes (namely older police and firefighters schemes), they expected to retire at a particular point in time, when their legacy scheme benefits would be most valuable to them. If this point is after 31 March 2022, they will now be required to accrue benefits for a period in the reformed schemes; as with all other members. If the point at which they were expecting, and want, to access their legacy benefits – because they have reached their expected service length - is a point at which they have yet to reach the MPA of the reformed schemes, accessing their legacy benefits will mean that they will become a deferred member of the reformed schemes. Whilst this does not preclude them from retiring and accessing benefits in both schemes, the reformed scheme benefit payments will then be actuarially reduced not from the NPA (which would be the case if they had reached MPA) - which in the schemes in question is lower than SPA - but from SPA.

3.47 Some respondents contended that this means the proposals for future service do not equalise treatment from 1 April 2022, after the remedy period has ended. This is because two members who joined on the same day, and thus reach their expected maximum service in the legacy schemes at the same point in time, will be treated differently because of their age – depending on the age when they joined, they may or may not have reached the MPA in the reformed schemes at this point.

3.48 Whilst the government acknowledges this point, it does not believe that the proposals for future arrangements constitute discrimination on the grounds of age. Those who begin service at the same point in time, but who are of different ages, will often likely retire at different points in time. If changes to pension arrangements are made – when the government judges that it is necessary to make such changes – this might mean individuals finish their career under different pension arrangements, that the precise nature of the benefits accrued across the course of their careers is different, and that they retire at a later age.

3.49 Under the proposals, the service and benefits accrued under the legacy arrangements is protected, and treated equally; any service from 1 April 2022 will be under reformed scheme arrangements, for everyone, regardless of age or any other factor.

3.50 The government acknowledges that many respondents have a desire to maintain their current arrangements until the point at which they retire, even if this is after 1 April 2022; but the government does not believe it would be fair to allow some members, and not others, to continue under different arrangements and as members of different schemes, after the discrimination has been addressed and the remedy period ends.

3.51 The government also appreciates that some members had intended to retire at a particular age or point in time, and that may not now be possible for some. Members will, however, have been given 20 months' notice of the proposals for arrangements after the discrimination is addressed. The government must have the ability to make changes so that public service pension provision is affordable and sustainable in the long term. The proposals do this in a way that treats all members equally in terms of the scheme design available to them for service from 1 April 2022 onwards.

3.52 The government does, however, understand these scheme specific complications as a result of the service-based conditions of some legacy schemes. Whilst this does not change the overall proposal for future arrangements across all public service pension schemes set out here, relevant departments will consider specific issues highlighted by some respondents in due course.

Final position on future arrangements

3.53 The government has carefully considered the responses to the consultation and the issues raised on its proposals for future arrangements after the discrimination identified by the courts has been addressed.

3.54 The government believes that the proposal that anyone who remains in service from 1 April 2022 will do so as a member of their respective reformed scheme is right and ensures equal treatment in terms of scheme membership.

3.55 The government believes that the reformed schemes, of which most public service workers are already members, offer generous pension provision to public service workers, whilst also offering protection for the taxpayer against unsustainable costs. The rationale for the reforms still stands. It is also right that anyone who remains in service will be eligible to do so as a member of these schemes, and is not treated differently by being able to remain in legacy arrangements.

3.56 The government will therefore proceed to develop the primary legislation necessary to close the legacy schemes to further accrual on 31 March 2022, remove the transitional protection arrangements that were found to be discriminatory, and ensure that all future service is under reformed scheme arrangements.

Annex A

Response to technical questions

Revisiting past cases

A.1 Question 10 of the consultation asked for views on the government's proposed method of revisiting cases where retrospective changes may arise in respect of pension benefits already paid. This will affect members who were in service for a part of the remedy period but who have since retired and are currently in receipt of a pension. The proposed approach would mean that affected members would make a retrospective choice whether to receive benefits from the legacy or reformed scheme with respect to their service after 31 March 2015 and before 1 April 2022. 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 Only a small number of individuals expressed views on the approach set out in the consultation document, of which the majority supported the government's proposed approach. The main reason given for this was that, through the revisiting of past cases, any potential age discrimination created by not offering the choice of scheme benefits for the remedy period to those who have already retired would be addressed.

A.3 Individuals also suggested that to ensure that members were able to revisit past decisions in an informed way, members should be provided with a detailed individual assessment, including key information, access to relevant calculations or independent professional advice.

A.4 Those individuals who disagreed with the proposals did so citing the additional administrative burden for pension schemes.

A.5 The response from bodies was mixed, but mostly in favour of the proposals set out in the consultation. Those that supported the proposals tended to include a caveat that there remains a need for additional clarification and guidance, particularly around the tax position and the administrative process.

A.6 The responses from employers and administrators that expressed negative views on the proposals cited the administrative complexities of reaching out

to this cohort of individuals who are now in retirement. Some employers suggested that a default option could be provided in instances where data is not available.

A.7 Some employers and member representatives, particularly from the Fire Services, disagreed with the proposed approach, suggesting that those affected should be given the choice as soon as possible rather than waiting until 2022 (at the earliest) as set out in the consultation.

Approach

A.8 Following analysis of consultation responses, and further policy analysis, the government confirms that all members with service during the remedy period will be given a choice as to whether they wish to receive legacy or reformed scheme benefits in respect of that period, including pensioner members.

A.9 For pensioner members who choose to receive alternative benefits to those already in payment, entitlements will be backdated to the date that pension commenced. Any additional amounts due will be paid from the scheme and subject to tax and any overpayments that arise will need to be repaid by the member. Overpayments will only arise where a member chooses to elect to receive alternative benefits to those already in payment or, in some cases, where the removal of taper protection (as set out in paragraphs 2.39 – 2.41) leads to a change in entitlement.

A.10 Correcting payments retrospectively will be complex in some cases. We will continue to work on the details to ensure that members are placed in the position that they would have been in had the DCU been in place at the time that their benefits, relating to their service since 1 April 2015, began to be paid.

A.11 As set out in the consultation, where an actuarial adjustment is required with regards to the pension in payment that a member could alternatively choose, then the actuarial factors in force at the date they retired with benefits earned during the remedy period will be used in determining the benefits payable to the member. This will ensure that the pension is retrospectively corrected to the same level it would have been if the member had had access to it at that retirement and that pensioner members are treated in the same way as other members in implementing the DCU.

A.12 Further detail on the treatment of cases for members who retire or receive pension benefits before the DCU is introduced can be found in Chapter 2, paragraph 2.99 to 2.105.

Member contributions and interest

A.13 Question 11 sought views on the government's proposals to ensure that correct member contributions are paid in schemes where they differ between legacy and reformed schemes. The consultation set out that under the DCU, the government would propose to adopt a two-stage approach. The first stage would occur shortly after the implementation of the DCU and would

involve retrospectively applying (as appropriate) a charge upon, or a refund to all members by reference to their legacy scheme contributions. The second stage would then be at the point a member made their deferred choice where, if reformed scheme benefits are chosen, the balance of contributions that would have been due under the reformed scheme in the remedy period would be charged or refunded as appropriate, again retrospectively.

A.14 We received 111 responses from individuals on the question, and there were mixed views on the proposals. While some were supportive of members repaying contributions, several respondents argued that, given the revision of contributions is a result of a government mistake, underpayments should not be collected. A number of individuals supported the government's position that members would be given sufficient time to repay any amounts that are due, for example in instalments.

A.15 There were concerns that any refunds by the government will push members into the higher tax band in the year the refund is paid (see details on tax treatment in Chapter 2). Alternatively, several respondents proposed giving members the option to treat any excess contributions as voluntary contributions rather than a refund, to improve members' benefits.

A.16 A small number of individuals voiced a concern that the prospect of a one-off refund may unduly influence a member's decision between the legacy and reformed schemes (i.e. a member may choose a particular scheme based on receiving a one-off payment rather than considering the overall package of benefits).

A.17 There was also a concern that lower-paid members may need to take out loans (and pay financial charges) to cover any contribution payments so there may be unfair or uneven financial strain across the membership. However, as set out in the consultation, the government will ensure that members are able to make any payments over time to ensure that repayments are affordable for members.

A.18 Organisations voiced mixed views on the proposals, and a number of respondents particularly voiced concerns around tax due on refunds. Further information on tax is provided in Chapter 2.

A.19 Several respondents believed the proposal of amending some members' contributions twice under DCU – once when transitionally protected members are returned to their legacy schemes for the duration of the

remedy period, and again when members retire – is more complicated and presents a higher administrative burden, when compared to IC.

> *"This will exacerbate the administrative burden and increase the potential for error. Consideration would also need to be given to how to record the adjustments and who would be responsible for doing this. FRAs frequently outsource their payroll services and concern has already been raised about change of providers during the remedy period; this is far more likely to occur during the 20-30 years that records will need to be retained for DCU purposes. This is also an issue for the TPS where an increasing number of maintained schools are outsourcing their payroll services from their local authority. Whilst the TPS is administered centrally with central records, it could be difficult to resolve historic queries."*
>
> - Local Government Association

A.20 To mitigate this additional administrative burden as well as the significant adjustment charges members may face, some schemes and member representatives have suggested various solutions, including leaving members within their current schemes or allowing members to make an indicative decision as to whether they want to accrue benefits in the legacy or reformed schemes during the remedy period.

> *"A resolution to this would be to choose the DCU option, but allow an indicative choice for initially dealing with remedy membership. This would significantly remove the requirement for a second balancing for 1992 legacy scheme members and also mitigate the impact of 2006 scheme members."*
>
> - FBU

A.21 Concerns were also raised around the logistics of the proposals on how exactly contributions due would be collected and how long members would have to pay any contributions.

A.22 Specific questions were posed on interest within the consultation document. Question 20 asked whether interest should be charged on amounts owed to schemes (such as member contributions) by members, and, if so, at what rate. Question 21 on the other hand asked whether interest should be paid on amounts owed to members by schemes, and, if so, at what rate. 154 individuals answered question 20 and 147 individuals answered question 21. 81 bodies responded to these questions.

A.23 A strong majority of respondents believe that interest should not be charged to members, while a strong majority also believe that schemes should pay interest on amounts owed by schemes. The key reason for this was that the respondents believed the remedy is a result of errors made by the government, and it should therefore bear any costs and compensate members for missing out on interest from savings or investments.

A.24 Where respondents have agreed with charging interest to either party, they have answered with a range of interest rates, such as the Bank of England rate, RPI, or the average rate for savings accounts.

A.25 Question 22 within the consultation document asked whether, if interest is applied, existing scheme interest rates be used (where they exist), or whether a single, consistent rate across schemes would be more appropriate.

A.26 107 individuals responded and the majority preferred the implementation of a single consistent rate across all schemes, as they believe it would be fairer, easier to understand, and simpler to implement.

A.27 Fundamentally, most respondents thought that the system and rate to be used should be the one that gives the most benefits to members as they have already been discriminated against.

A.28 The 69 responses from bodies were far more definitively in favour of a single consistent rate across all schemes than the responses from individuals.

> *"It would seem open to challenge to apply different rates across public sector for the same purpose...*
>
> *The SCAPE discount rate would be consistent with scheme financing but has been questioned by other services for use in scheme pays roll ups."*
>
> - Firefighters Pension England SAB

Approach

A.29 The government has noted the concerns raised with the approach set out in the consultation, however, the government considers that it is necessary to charge members the appropriate contributions for the benefits they accrue and to do so in a way that ensures members are treated equally. In removing the discrimination identified by the courts, the government is taking steps to place individuals back into the position that they would have been in but for the discrimination and ensuring that all members with relevant periods of service are treated equally in respect of that service. If members who are moved to the legacy arrangements were not charged contributions at the rate payable in respect of other members for the same period of service, there would be a difference in treatment and the government does not consider this would be appropriate or justified.

A.30 For this reason, member contributions will be adjusted under the DCU, as set out in the consultation document at paragraph A.9. This will involve a first stage when members are moved to the legacy scheme in respect of any relevant service between 1 April 2015 and 31 March 2022. Where a member has paid higher contributions in respect of any period than are due under the legacy scheme, the difference will be paid to the member. Where a member has paid lower contributions than those due, they will owe the difference to the scheme. The second stage will apply where a member in scope of the DCU elects to receive benefits equivalent to those that would have been paid had they instead been a member of the reformed scheme in respect of the relevant period. In such cases, any difference in contributions paid to the legacy scheme compared to those that would have been paid to the reformed scheme will be corrected, with the member paying a shortfall to the scheme or the scheme paying any overpayment to the member. The two stages will ensure that members have paid the correct contributions for the benefits that they choose to receive.

A.31 Respondents to the consultation tended to support charging interest on sums owed to members, however many respondents argued that interest should not be charged on sums owed to schemes.

A.32 The government considers that it is right to add a reasonable rate of interest to sums owed to schemes and sums owed to members. This is because a member who underpaid 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. Their comparators in the scheme will have been paying the correct level of contributions throughout, so would not have had the benefit of the additional money over time. The government consider that interest should be applied to money owed to ensure fair and equal treatment of members.

A.33 As set out in the consultation, members will be given the opportunity to repay any sums owed upfront or over time.

A.34 The government considers that it will be desirable for it to prescribe appropriate rates of interest centrally to ensure consistency, and to recognise the fact that the issue of owed contributions – and refunds – will remain for decades. The majority of respondents to the questions on interest in the consultation supported this position. The government will consult the Government Actuary on the appropriate rate of interest to add to sums owed to and by members.

Voluntary member contributions (VMCs)

A.35 Question 12 asked for comments on the proposed treatment of voluntary member contributions that individuals have already made. The consultation set out that additional benefits purchased via VMCs in the remedy period could be converted to an equivalent value of Added Pension (AP) in the scheme that the member is not currently in. This equivalent value of AP would only come into payment 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. However, the value of the AP in the alternative scheme will be shown on the member's benefit statement.

A.36 The consultation also set out that some of the reformed schemes include an option for members 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.37 Because of the nature of such EPA and ERRBO-type arrangements, which are clearly related to the reformed scheme benefit design with a higher NPA, the consultation suggested that it would not be possible to convert it into an equivalent value of AP in the legacy scheme. It was therefore suggested that members who are returned to the legacy scheme for the remedy period (under either IC or DCU) would receive a refund of their contributions to such arrangements. A refund would void the EPA or 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, it was suggested that 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.

A.38 We received 86 responses from individuals to this question, with only a small number expressing a preference in relation to the government's proposed approach.

A.39 Of the small number who expressed an opinion on the government's proposals, the majority strongly felt that any Effective Pension Age (EPA) or Early Retirement Reduction Buy Out (ERRBO) benefits should not be lost if a member chooses to move to the legacy schemes as members are likely to have made retirement plans based on these additional pension arrangements. It is also relevant that many members will return to the reformed schemes from 1 April 2022, so would still wish to benefit from the EPA/ERRBO contributions already made in that scheme.

A.40 Some individuals suggested that instead of a refund, EPA/ERRBO should be converted to AP or Added Years (AY). Where a refund is paid, members expressed that interest should be included to cover both the opportunity cost and the cost of inflation.

A.41 Given the change in circumstances was unforeseen, several respondents also argued that members should be allowed to retrospectively purchase VMCs during the remedy period. Some members believed that those under tapered protection should be offered this option as a minimum.

A.42 Both member representatives and employers expressed similar views to members. Those that supported the approach in the consultation document did so on the basis that they believed members should retain the value of any additional contributions, specifically AP.

> *"We agree that the value of additional pension contracts should be retained by members.*
> *Where a member ends up in the alternative scheme during the remedy period, we agree that the additional pension should be converted into a cost-neutral benefit payable under the alternative scheme. We welcome that any retrospective breaches of the relevant limits would be ignored."*
>
> - NHS SAB

A.43 Bodies that disagreed with the approach set out in the consultation document did so citing potential discrimination against members who would not receive the benefits they had paid for, particularly on the approach set out for EPA or ERRBO.

A.44 Many suggested alternatives that would allow members to retain the benefits offered to them when they originally chose to make additional contributions. These included receiving interest on refunded contributions (as suggested by the POA) or by allowing members to retain access to equivalent benefits in whichever scheme they opt for.

> *"We do not agree with the proposal for the treatment of members who have paid AVCs for the purchase of an effective pension age (EPA) or early retirement reduction buy-out (ERRBO). If a member has paid AVCs, they should receive a proper return on the investment they have made, and not simply a return of their contributions."*
>
> - POA

Approach

A.45 After reviewing responses, and through further engagement with schemes, the government is considering ways to ensure that members may retain rights in the schemes in which they made voluntary member contributions, specifically in respect to EPA and ERRBO.

A.46 The technical detail of how this will be implemented in each scheme will be decided through scheme level discussions, and subsequent consultations on secondary legislation (scheme regulations).

Annual benefit information statements

A.47 Question 13 asked for comments on the government's proposed treatment of annual benefit statements, which are provided to active members. The consultation set out that, under the DCU option, scheme administrators would be required to produce statements 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).

A.48 We received 138 individual responses to this question. Responses to the proposed approach were mixed.

A.49 Respondents that expressed support for the government's proposed approach welcomed the information that would be provided by receiving a statement which sets out the reformed and legacy scheme benefits annually.

A.50 Many acknowledged that the proposed approach under the DCU would complicate these statements for members. They emphasised the need for statements to clearly explain both sets of benefits to ensure members understand the choice offered to them.

A.51 Individuals expressing negative views in response to the approach set out in the consultation did so citing perceived previous errors in annual benefit information statements, and the potential for inaccuracies. Others flagged that under DCU the complexity of receiving information on multiple potential awards could introduce confusion unless accompanied by financial advice.

A.52 Responses from organisations (such as member representatives, employers and administrators) similarly expressed mixed views on the proposals.

A.53 As with responses from members, many employers, particularly in the Fire Services, expressed concerns that providing members with two sets of

benefits could create confusion, and stated that receiving two sets of information would not be meaningful until a member neared retirement. Alternatives suggested included pointing members to online calculators.

A.54 The LGA also cited the additional time it would take to implement and explain the different benefits to members in a way that would be clear to them.

A.55 Those who supported the inclusion of both legacy and reformed scheme benefits on the statements for the remedy period suggested that the provision of full and detailed information would be vital for members in providing them with the necessary information to make an informed decision at the point of receiving their pension award.

Approach

A.56 The government consider that it is important that members receive information about the alternative benefits available to them under the DCU. The government considered that extending annual benefit information statements to include this information is the best approach for active members, whilst recognising the need for this information to be clearly communicated.

A.57 Some respondents raised concerns that the provision of two sets of information may not be meaningful until a member nears retirement. The government continues to believe that this information should be provided to all those in scope of the remedy, as members will want to be informed about the current value of their pension rights to help with their retirement planning, which they may start to do many years from retirement.

A.58 Information will also need to be provided to affected members who are already in receipt of their pension, to enable them to take decisions about the benefits they wish to receive in respect of any period of relevant service. Deferred members will also need to be provided with information prior to the commencement of their pension and on request, in the same way that information is being included for active members of the schemes.

A.59 To address implementation challenges, the government has worked with schemes to provide flexibility on administration timelines and has agreed to provide additional time for implementation of the DCU, set out in more detail in Chapter 2. This is intended to reduce the pressure on scheme administrators, and in addition will reduce the risk of error in these statements.

Ill health retirement (IHR)

A.60 Question 14 in the consultation document asked for views on the government's proposed treatment of cases involving IHR.

A.61 The proposal set out in the consultation suggested that members 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. 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 awarded (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.

A.62 We received 61 responses from individuals, expressing mixed views on the government's proposed approach.

A.63 Respondents who supported the approach set out in the consultation were grateful that members in scope who have retired on ill health grounds will be given the same choice between reformed and legacy scheme benefits.

A.64 Individuals also expressed that the choice would need to be clearly explained as individual circumstances will differ. Many suggested that allowances should be made for a relative to be involved in the process, who can provide support and help with clarification. In addition, several responses expressed concerns that, as those who have taken IHR may be more likely to be older, calculations should be accessible and there should not be a reliance on online tools.

A.65 Some respondents argued that members should be entitled to the IHR arrangements they signed up to when they joined the pension scheme, and that those who have retired on ill health grounds should not have this decision revisited.

A.66 Responses from bodies (such as member representatives, employers and administrators) also expressed mixed views on the proposals.

A.67 Several responses from member representatives, including the ISU, the FBU and the Defence Police Federation voiced concerns about the need to prioritise IHR cases where members have been awarded benefits during the remedy period, and said that these members should not have to wait until 2022 to have their benefits revisited.

A.68 Both unions and employers (including the NHS Scheme Advisory Board, the Royal College of Nursing and Royal College of Midwives) also expressed the view that members should not be worse off as a result of having their cases revisited as a result of these proposals.

A.69 Many responses also expressed a desire to see further scheme-specific guidance on how IHR cases would be handled in order to make a more informed judgement on the proposals.

Approach

A.70 Members in receipt of IHR benefits will be treated in the same way as other members of the schemes and, consistent with the approach taken for other members already in receipt of pension benefits (including in relation to taper protection members), will have a choice as to which benefits they wish to receive for the relevant period. In practice, this will require schemes to consider whether the member would have been entitled to IHR benefits

under the alternative scheme, which will normally require a medical practitioner to advise whether they met the criteria for the payment of IHR benefits in the alternative scheme at the relevant date (the criteria for which may also vary, depending on the extent of ill health and its implications for a member's ability to undertake work in future). Where the requirements of the alternative scheme are satisfied, the scheme will provide the member with information about the alternative benefits available to them and the member may elect to receive those instead of the benefits already in payment. Where the member would not have satisfied the criteria for IHR benefits to be paid, the scheme will advise on the alternative benefits, if any, that would have been payable under the alternative scheme from the date their current benefits commenced and the member may elect to receive these instead of the benefits already in payment.

A.71 The criteria for IHR pensions vary from workforce to workforce and between schemes, and schemes will provide further detail to relevant members when the DCU is in place.

Cases where a member has died since 1 April 2015

A.72 The consultation sought comments on the government's proposed treatment of cases where members have died since 1 April 2015. This proposed treatment would mean that, where any increase in benefits was due, schemes would 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.

A.73 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.74 There was a consensus among responses to this question that cases where members have died should be handled particularly sensitively, tactfully and constructively.

A.75 Several respondents stated that there should be no decrease to the amount of pension being paid (particularly to dependents), and that schemes should try to maximise any benefits that are due. There were mixed views on whether survivors should be contacted in the first place if they are already receiving the highest available level of benefits, to avoid further distress.

A.76 In cases where there are surviving partners who were not eligible for benefits under the legacy schemes, respondents felt they should automatically be placed into the reformed schemes and receive payments.

> *"It would appear sensible to avoid further distress that where the partner of a deceased member receives a partner's pension in payment from the reformed scheme and there are no dependent children, documentation provided to them should not offer a choice, as the choice would be to receive no pension from the legacy scheme (A.39). Although the consultation proposes that no contact be made, we would suggest that a courtesy letter is sent to reassure the partner, as they may be aware of the remedy exercise from the media or colleagues of the deceased."*
>
> - Local Government Association

A.77 Some organisations also raised concerns about implementing the choices members made when they were alive.

> *"We would reject the argument proposed at para A38 that if a member had selected an option, whilst alive, which favoured a specific legacy scheme (resulting in lower death benefits), that the wish should be "respected". This seems to miss the point that most members would have made their choice on the basis of the legacy scheme that would provide the highest pension benefits assuming (unfortunately incorrectly in their case) that they would survive until retirement. Our view is that the choice is between the new reformed scheme and that which the member held immediately before 01/04/2015. The death benefit implications of change should be made so that an informed choice can be made by the survivors."*
>
> - Forces Pension Society

A.78 Respondents generally welcomed the commitment that additional costs or penalties incurred as a result of such payments being made would not fall to members' estates or survivors, although further detail on implementation was requested.

Approach

A.79 These cases will be reviewed as a priority by schemes. Taking into consideration views expressed by respondents on contact preferences, schemes will check whether a higher pension or lump sum amount would be available under the alternative scheme, and inform relevant family members where this is the case. The beneficiary will then have the option to request that the additional, alternative amount is paid.

A.80 Any unauthorised payment charges or additional expenses incurred (where evidenced – e.g. from reopening a probate application) as a result of remedy would be reimbursed. This though does not extend to inheritance tax payments which may become due or which may increase as a result.

A.81 Where there are separate households containing family members who may be, or are already, entitled to survivor pensions, the choice between benefits will fall to the late member's surviving spouse or partner. The government will honour the commitment made in the consultation to protect child pensions already in payment, which would otherwise be impacted by a

decision taken by someone outside the child's household. This is consistent with the approach set out in the consultation document.

Contingent decisions

A.82 Question 16 in the consultation document asked for views on the government's proposed treatment of individuals who would have acted differently, in terms of decisions made about their scheme pension membership, had it not been for the discrimination identified by the Court of Appeal.

A.83 The proposal in the consultation set out that 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. The consultation noted that 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.84 The consultation explained that where 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. Tax adjustments may also need to be made.

A.85 The consultation also explained that 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. The consultation proposed that, where a member, and their employer, paid contributions owed for the relevant period then any FSL would be restored.

A.86 Many responses to this question from individuals were from members saying that they had made decisions which they now wanted to revisit. Of those that gave views on the government's proposed approach, the sentiment was mixed, with a slight majority expressing negative views on the approach set out in the consultation document.

A.87 Of those that supported the approach set out, the main reason cited was that they agreed that the review of contingent decisions should be done on a case-by-case basis, at a scheme level, as each member's situation is different.

A.88 Of those that disagreed with the proposed approach, several members cited a perceived 5-year limit imposed on cases and stated that decisions should be considered beyond this time limit. A minority of responses believe that this is discriminatory, as they feel it may penalise an individual for decisions

taken over 5 years ago, and as the context behind this decision has now changed.

A.89 Other individuals did not support the proposals included in the consultation, expressing concerns that the ability to revisit contingent decisions may not fully reflect the financial impacts of past decisions.

A.90 Additionally, several respondents raised concerns around the administrative complexity of providing proof to support the rationale behind contingent decisions, often several years in the past. Several mentioned that this complexity was exacerbated under the DCU. A small number also mentioned that they did not feel that interest should be charged on contributions owed to the scheme.

A.91 Responses from organisations (such as member representatives, employers and administrators) were mixed, although broadly in favour of the proposals set out in the consultation document.

A.92 The reasons cited for positive views on the proposals were that employers and unions agreed that the decisions should take place at a scheme level, on a case-by-case basis and where appropriate consideration could be given to the evidence available. There were some caveats associated with this, mostly related to guidance on process and clarification on the types of evidence that would be sufficient to justify consideration of requests.

A.93 Additionally, several employers suggested that members would need to pay the correct contributions to be reinstated to either reformed or legacy schemes, and that options for paying these in instalments, or over a longer period of time should be considered. Some also suggested that there could be financial provisions for employers to fund additional pension contributions for those retrospectively re-joining pension schemes.

> *"We agree that claims or complaints based on change of position or reliance are extremely fact-sensitive and will therefore need to be considered on a case-by-case basis. It may be helpful to members, employers and scheme administrators to provide further guidance as to what level of evidence will be required before considering such requests."*
>
> - Association of Pension Lawyers (APL)

A.94 Those who opposed the proposals, largely member representatives, stated that there should be automatic reconsideration for these cases. Other member representatives argued that to ensure consistency, specifically in locally administered schemes, there would need to be some sort of centralised decision making to avoid the emergence of any inconsistencies.

A.95 The employers who disagreed with the proposals largely did so citing potential abuse.

> *"The proposals are lacking any detail on eligibility and proof that an individual would have acted differently, stating they should be considered on a case by case basis. Unless there are criteria to be met this will lead to inconsistencies and the potential for another discrimination claim."*
>
> - Local Pensions Partnership Administration (LPP)
> - Bedfordshire Fire & Rescue service
> - Cumbria Fire & Rescue service

Approach

A.96 Respondents tended to agree with the position set out in the consultation document, that contingent decision cases would be given the appropriate consideration when made at scheme level. The government notes that some member representatives considered that there should be automatic reconsideration of some cases; however, government takes the view that it will not be possible for schemes to know whether members took a decision, for example to opt out of scheme membership, as a consequence of the discrimination that arose. Members will need to show that they took an action, relating to their membership of a public service pension scheme, that would have been different had it not been for the discrimination identified by the courts. The government considers that any claim will therefore need to be raised by members.

A.97 The government notes that some responses from member representatives and employers considered that there would be a need for central guidance to ensure consistent treatment across and within schemes. The government accepts the need for consistency in the approach and agrees that guidance would be beneficial around member decisions to opt-out of membership of the schemes due to the discrimination identified by the courts. The government will undertake further work with schemes to agree guidance on handling cases where members can show they have taken such contingent decisions about their scheme membership.

A.98 The government recognises that schemes may need to consider cases that are not envisaged in the guidance and may have unique or uncommon aspects. Whilst the guidance will be kept under review, schemes will also need discretion to consider such cases on their merits and on a case by case basis.

Public sector transfers

A.99 Question 17 asked 'If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?'. The response to this was mixed.

A.100 Most of the individual responses that expressed a preference disagreed with bringing forward the deferred choice for Club transfers.

> *"I would strongly object to this being the case. The whole point of DCU should be to allow all members the choice, at or close to retirement, of the scheme (or in the case of Club transfers, combination of schemes) that would be best for their circumstances. Curtailing this for those who had moved between Club members would appear to be discriminatory and not offer them the benefits being offered to other members. I do not see why those who have moved around the wider public sector to gain new skills, experience and knowledge should be penalised by it from a pensions perspective for no other reason than it might be complex to maintain their pension benefit records (the consultation paper offers no other reasons why bringing forward a decision should be considered reasonable). If concerns over complexity were driving the consideration, then DCU should not even be in scope – but if it is, then it should be in scope for everyone."*
>
> - Member of the Civil Service Pension Scheme (CSPS)

A.101 Responses from organisations (such as employers, administrators and some member representative bodies) broadly supported bringing forward the deferred choice for Club transfers.

A.102 However, similarly to the responses from individuals, the responses from member representatives largely said that it wouldn't be fair to force transferees to make a choice at point of transfer when others were able to wait until retirement (under the DCU), as it would amount to less favourable treatment.

> *"It would be administratively easier, and easier for the member, for the DCU date of choice to be brought forward. The argument for offering DCU is to allow a member to understand the value of their benefits at the date they make the choice. They would receive this information on leaving employment."*
>
> - Firefighter's (England) Scheme Advisory Board

A.103 Administrators largely referred to the challenge of maintaining the records relating to the transferred in service for long periods of time. This would be particularly difficult if a member transfers more than once.

A.104 Question 18 in the consultation document asked, '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?'.

A.105 Responses to this question largely mirrored the themes outlined above. The main reason that it should be a single choice was cited as administrative simplicity (administrators, member representatives and employers strongly argued for this), and the reason that there should be choices in both schemes was due to perceived fairness (mainly from individuals).

Approach

A.106 The government notes concerns raised about fairness if members are required to take decisions at the point transfers are made. The government

has confirmed that the DCU will be implemented and agrees that a consistent approach is appropriate in respect of Club transfers. Members undertaking Club transfers will not be required to make their choice at the point of transfer, but at the point they take their benefits relating to the remedy period. Any decision will relate to all service in respect of the period from 1 April 2015 to 31 March 2022, whether that arises from service in employment in the receiving scheme or service arising from a Club transfer. The details of how club transfers will operate will be set out in updates to the Club transfer rules and scheme regulations.

Divorce cases

A.107 Question 19 asked for views on the government's proposed treatment of divorce cases. The consultation set out that a 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 of Appeal. The pension credit member will be awarded the percentage (as specified by the courts) of the higher cash equivalent transfer value (CETV) due under remedy; this will not be changed to reflect any choice the scheme member (here the pension debit member) makes, which would result in a lower pension amount.

A.108 We received 45 responses from individuals to this question and 66 responses from organisations.

A.109 The majority of individual respondents to this question did not express a clear position, with around a third of these stating that the proposals were unclear. Responses highlighted that any changes should be accompanied by guidance and/or advice to mitigate the complexity of the proposals and clarify the rights of Pension Debit Members' and Pension Credit Members'. The view on this was that Pension Debit Members should make the choice between legacy and reformed scheme benefits.

A.110 Individuals also noted the complexity of divorce cases more generally and the corresponding need for decisions to be taken on a case-by-case basis. A potential role of the courts in facilitating this was highlighted.

A.111 Around three-quarters of organisations who responded to question 19 stated their agreement with the government's proposed treatment of divorce cases, as set out in the consultation document. Support from member representatives was most pronounced, with 85% of respondents to question 19 agreeing with the proposals.

Approach

A.112 The government confirms the consultation position, taking into consideration the support for this approach from respondents. The CETV will be calculated as though the pension debit member had become a deferred member and had elected to transfer their pension rights at the relevant date, so the transfer value will be based on whichever scheme, legacy or reformed, produces the higher amount in relation to any period of service during the

period between 1 April 2015 and 31 March 2022. Where the CETV provided to the court would have been higher as a result of the implementation of the DCU, the pension credit member's benefits will be increased in proportion with the increase in CETV to reflect that additional amount. The changes will come into effect when the DCU is implemented in scheme regulations.

Abatement

A.113 Question 23 asked for views on the government's proposed treatment of abatement. 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.114 The proposed approach set out in the consultation stated that where the DCU 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.115 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 consultation proposed that 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. Benefits earned in reformed schemes are not subject to abatement.

A.116 We received 50 responses from individuals to this question, of which only a minority agreed with the proposals as set out in the consultation document. Other respondents either disagreed with the proposals or were unclear as to the implications of them or expressed concerns about abatement more generally.

A.117 A small number of individuals noted that if members changed from legacy to reformed pension schemes for the remedy period, then they may benefit financially in terms of retrospective wiping out of pension abatement.

A.118 A more decisive response to question 23 was provided by members of those pension schemes which typically cover frontline workers or those in physically demanding professions - police, firefighters, NHS and armed forces. Three-quarters of these respondents disagreed with the proposals. They felt that abatement should be suspended for members who are able to

receive their legacy scheme pension at the legacy scheme NPA if it falls before their reformed pension NPA, typically at the SPA.

> *"With the fact we'll have to wait until 67 to get the pension, police officers and staff will naturally go into a similar occupation after retiring from the police. Penalising for going into a natural occupation isn't fair."*
>
> *"The proposed rules on abatement are completely discriminatory. It is completely unjustified that, if a firefighter was to work for the NHS as an Emergency Blood Delivery Driver then that individual could receive a full pension and full salary, but if that individual was to be employed by the same fire and rescue service in a different role inspecting equipment then the pension would be reduced subject to the rules of abatement […] What employees choose to do after employment should be completely irrelevant with regards to the full payment of their pension. After all, are their accrued benefits not 'protected'?"*
>
> \- Member of the Police Pension Scheme

A.119 76 organisations responded to question 23, of which the majority agreed with the proposals as set out in the consultation document. This positive response was consistent across employers, member representatives and pension schemes and administrators.

Approach

A.120 The government has noted the potential for inconsistent treatment in the position that was set out in the consultation, specifically that those who are older and had protection (either full or tapered) will potentially have been abated throughout. Someone who is not protected may choose legacy scheme benefits but have any excess that would have been abated ignored.

A.121 The government will continue to work with schemes to consider this further, given the complexity of the issues involved. Any necessary changes to scheme regulations will be consulted on alongside changes to implement the DCU.

Annex B
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 n, the more valuable the rate 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 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) - The selected remedy to remove the unlawful discrimination identified by the court. Formerly unprotected members will be returned to their legacy scheme for the remedy period (2015 – 2022). At the point benefits are payable they will 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 which was consulted on but not adopted for removing unlawful discrimination identified by the court. Members would have been 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 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 www.gov.uk

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