



Home Office

McCloud/Sargeant – Public service pension schemes consultation

Frequently asked questions (FAQs)

Background

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

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

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

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

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

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

What is being announced today?

HMT Public Consultation

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

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

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

Cost Control mechanism

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

The full announcement can be found here:

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

FAQs

ABOUT THE CONSULTATION

Q1: What is the purpose of this consultation?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q5: Does the consultation document address future pension provision?

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

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

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

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

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

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

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

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

This would include:

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

POST-CONSULTATION

Q8: What are the next steps following the consultation?

A: Following the end of the public consultation period, the government will publish its response and announce the final policy decision. HM Treasury will then lay legislation in Parliament to amend the Public Service Pensions Act to enable government to enact these changes. The Home Office will simultaneously begin drafting and consulting on amendments to scheme regulations.

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

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

COST CONTROL MECHANISM**Q10: How will the unpausing of the cost control mechanism affect the 2016 valuations?**

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

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