



## Information

# Age discrimination remedy – Ill-health retirement: Re-assessment

## Introduction

In December 2018, the Court of Appeal ruled in the McCloud and Sargeant cases that the 'transitional protection' offered to some members of the judges' and firefighters' schemes as part of the 2015 public sector pensions reforms gave rise to unlawful discrimination.

The Chief Secretary to the Treasury confirmed the requirement for a legal remedy across all public service pension schemes.

[The Public Service Pensions and Judicial Offices Act \(the 'PSPJOA 2022'\)](#) came into force on 1 April 2022 and includes measures that address the discrimination that arose when legacy schemes were closed to certain members in 2015.

A set of central provision definition documents (PDDs) has been developed across public service pension schemes which together describe the rationale, intent and technical changes to public service pensions intended to achieve government policy to remove discrimination resulting from changes made under the Public Service Pension Schemes Act 2013 (the 'PSPA 2013'). Following this, each responsible authority is developing a scheme-specific version of the documents where necessary, which will inform the drafting of secondary legislation.

All [eligible members](#) are to be offered a choice, at retirement or death, to receive benefit accrual for any remediable service during the remedy period, from 1 April 2015 to 31 March 2022, based on either legacy scheme or new scheme rules.

The PSPJOA 2022 creates two distinct member choice groups:

- Immediate Choice (IC): These are pensioner members who retired during the remedy period, or beneficiaries of deceased members who died before the retrospective legislation is put in place. These members will be asked to make their choice within 18 months of the legislation coming into force on 1 October 2023.
- Deferred Choice (DC): These are active and deferred members who have not yet retired/ accessed their benefits and will be asked to make a choice between legacy and reformed benefits at retirement. If the member dies before retirement, their beneficiary will make the choice on the members behalf.

This factsheet focuses on how IC members who have been ill-health retired will be dealt with. A DC member, who is ill-health retired in the future, will have their choice in the lead-up to their retirement.

## Qualifying criteria for an ill-health retirement

To qualify for a lower-tier ill-health pension a member must be permanently incapable of doing the job they are performing within their role as a firefighter (or would be performing but for the incapacity).

To qualify for an additional higher-tier ill-health pension a member must also be incapable of undertaking any other regular employment.

The provisions of the 1992 (FPS 1992), 2006 (FPS 2006), and 2015 (FPS 2015) Firefighters' Pension Schemes have slight differences as to how entitlement is assessed. These are set out in the following table:

	<a href="#">FPS 1992</a>	<a href="#">FPS 2006 (including FPS 2006 Special Members)</a>	<a href="#">FPS 2015</a>
Permanent disablement	<a href="#">Regulation A10</a> : Being disabled at the time when the question arises for decision and the disablement being at that time likely to be permanent. Have regard to whether the disablement will continue until the person's normal pension age. Disablement means incapacity, occasioned by infirmity of mind or body, for the performance of duty.	<a href="#">Part 1, Rule 3</a> : Being disabled at the time when the question arises for decision and likely to be permanent i.e. continue until normal retirement age.  Disablement in relation to a firefighter member, means such incapacity, occasioned by infirmity of mind or body, as makes him unable to perform any duties of the role in which he was last employed.	<a href="#">Regulation 65</a> : Being incapable of performing any of the duties of the role in which the member was last employed because of incapacity of mind or body and this incapacity will continue until normal pension age.
Lower tier	<a href="#">Rule B3(1)</a> : Where the firefighter is permanently disabled to undertake their role as a firefighter	<a href="#">Part 3, Rule 2</a> : Where the firefighter leaves employment by reason of permanent disablement	<a href="#">Regulation 65</a> : Where the firefighter is incapable of performing duties of the role due to the incapacity.

Higher tier	<a href="#">Rule B3(4)</a> : Where the firefighter is incapable at the time of assessment of undertaking regular employment outside the fire service.	<a href="#">Part 3, Rule 3</a> : Where the firefighter is permanently incapable of undertaking regular employment.	<a href="#">Regulation 65</a> : In the opinion of an IQMP the member is incapable of undertaking regular employment because of incapacity of mind or body and this incapacity will continue until normal pension age.
Regular employment	<a href="#">Rule B3(7)</a> : Employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the question of his disablement arises for decision.	<a href="#">Part 1, Rule 2</a> : Employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the issue of the person's capacity for employment arises.	<a href="#">Regulation 3</a> : Employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the issue of the person's capacity for employment arises.
Normal Pension Age (NPA)	Age 55	Age 60 (FPS 2006) Age 55 (FPS 2006 Special Member)	Age 60

## What happened when? Timeline of events

This section sets out a timeline of events and should give FRAs a better understanding of what action should have been taken and when.

### 1 April 2015 to 31 March 2022

The introduction of FPS 2015 split FPS membership into three cohorts:

- Protected
- Unprotected
- Taper protected

At the time, FRAs were instructed to process a member's ill-health retirement in line with the regulations which were applicable to the member at the point of their retirement. So, in the case of a protected member, they should have been assessed against their relevant scheme i.e. FPS 1992 or FPS 2006. An unprotected member would be subject to the regulations of the FPS 2015 and therefore should be assessed under the criteria of this scheme. Finally, in the case of a tapered member, it would depend on whether they had tapered into FPS 2015 at the point of retirement. If they had tapered, then they should be assessed using FPS 2015

regulations, if they had not yet tapered, then they should be assessed against their relevant scheme i.e. FPS 1992 or FPS 2006.

On 17 September 2017 [the LGA informed FRAs](#) to postpone the tapering of any individual who was going through an ill-health process at the date of transition. The instruction confirmed that the member should remain in their relevant scheme (either FPS 1992 or FPS 2006) until the ill-health process was concluded. If the ill-health retirement was awarded, then the member should retire as a current member of the final salary scheme. If the ill-health retirement was not awarded, then the member should immediately taper into FPS 2015.

Following the interim order made by the Employment Tribunal on 18 December 2019 FRAs were instructed via [FPS Bulletin 27 – December 2019](#) to ask IQMPs to assess any future ill-health referrals under both the FPS 2015 and FPS 1992 or FPS 2006 (dependant on which scheme the member had an entitlement to). [FPS Bulletin 28 – January 2020](#) confirmed that:

*“all entitlements, including immediate ones, should proceed under the 2015 scheme rules for the time being. This includes those who are due to taper into the 2015 scheme should continue to taper, and those due to retire normally at a later date should continue in the 2015 scheme.”*

The position of processing cases under the member’s current, relevant regulations continued throughout the remedy period, however, following the introduction of the Home Office’s informal immediate detriment guidance on 21 August 2020 some FRAs opted to allow members, who were either classed as unprotected or taper members, to retire and access the same level of benefits they would have been entitled to as a protected member. This position extended to members who were subject to ill-health retirement.

## 1 April 2022 to 1 October 2023

With effect from 1 April 2022 all final salary schemes (FPS 1992 and FPS 2006) were closed and any remaining active members who were previously protected within such schemes were moved into FPS 2015. This means that all active members of the FPS are now in one scheme (FPS 2015).

This development removed the need to ask an IQMP to assess the member under multiple schemes. This is because, for any future ill-health retirements, active members must meet the requirements of FPS 2015 regulations to qualify for an ill-health pension.

However, the Home Office acknowledged that some members could have an ill-health application ‘in train’ on 1 April 2022. They therefore added a provision to the prospective regulations to ensure ~~such~~ [FPS 1992](#) members were not disadvantaged by the higher bar under the FPS 2015.

To avoid any such members being placed in a worse position, changes were made to the reformed scheme rules. [Regulations 65\(2A\) and \(2B\)](#) were inserted into the FPS 2015 regulations with effect from 1 April 2022. This meant that for members where the ill-health assessment process began on or before 31 March 2022, the member is assessed for ill-health retirement against an NPA of 55. This will mean that there should be no cases where an affected member would have qualified for ill-health retirement under the legacy scheme (FPS 1992) but does not qualify under the reformed scheme (FPS 2015). The members benefit entitlement should be calculated in the same manner as set out in the FPS 2015 regulations.

This therefore means that should an FRA ask an IQMP to consider an 'in train' case, the requirement to send multiple certificates still applies.

As the legislation will not be in place to address retrospective remedy until 1 October 2023 all cases should continue to be processed and paid under current regulations. This is unless an FRA has decided to allow these cases to be processed under immediate detriment, in which case, providing the member meets the criteria for benefits under FPS 2015 from 1 April 2022 to date of leaving, then they could be given a choice on how they would like the remedy period to be calculated at point of retirement.

## 1 October 2023 onwards

All active members remain members of FPS 2015 and therefore should continue to only be assessed under the FPS 2015 regulations; the member must meet the requirements of this scheme to qualify for an ill-health pension.

The requirement for an FRA to consider a case under immediate detriment is no longer required because legislation to allow retrospective calculations for the remedy period is expected to be in place by 1 October 2023.

These cases should be treated as business as usual, and the member will be given a DC option for the remedy period at point of retirement.

## What happens now?

In some cases, follow up action will be required; however, this is dependent on the period in which the member retired. Each period clearly sets out what, if any, action is required.

### Cases from 1 April 2015 to 31 March 2022

Members who have retired, or who have been capability dismissed, within the remedy period (1 April 2015 to 31 March 2022), and who have not had an immediate detriment option will need further consideration by the FRA.

It is possible that an ill-health reassessment will be required before a member can be offered their IC election.

[Annex A](#) sets out twelve scenarios which may arise and states whether a reassessment is or is not required. Additionally, each scenario also confirms what follow up steps the FRA is required to take.

The annex confirms what action is required for both fully protected and unprotected members. There is a third group, taper protected members, who also require consideration. What action is required will depend on whether, at date of retirement/capability dismissal, the member had transferred into the FPS 2015. If the member **had** transferred, then FRAs should follow the instructions set out in the **unprotected** scenarios. If the member **had not** transferred, FRAs should follow the instructions set out in the **protected** scenarios.

### Cases from 1 April 2022 to 1 October 2023

As detailed earlier in the factsheet, members who have retired between these dates will have been assessed under FPS 2015 regulations. This is unless their case was 'in train' on 31 March/1 April 2022, in which case, the member would have been assessed under both their final salary scheme i.e. FPS 1992 and FPS 2015.

In either circumstance, where a pension is in payment, **no ill-health re-assessment is needed.**

### Cases from 1 October 2023 onwards

As detailed earlier in the factsheet, members who retire post-October 2023 do so as members of the FPS 2015 and must meet the criteria of this scheme to be eligible for an ill health pension.

These cases should be given their DC option at retirement.

## Next steps for FRAs

Although the retrospective legislation needed to implement remedy will not be in force until 1 October 2023, there are elements of the ill-health process that an FRA can complete in advance of this legislation. The action which can be and should be taken is as follows:

1. FRAs are to identify any ill-health retirements/capability dismissals which have happened since 1 April 2015. It would be useful for FRAs to understand not only who has retired but what date they retired, what scheme they retired from, under what scheme(s) they were assessed and whether they were subject to Immediate Detriment.
2. Once cases have been identified, FRAs are to use the information within this factsheet to determine whether a reassessment is required.
  - a. If a reassessment is required, continue to step 3
  - b. If no reassessment is required, no further action is needed at this stage. The member will be offered an IC based on the options they qualify for within the 18-month period from 1 October 2023. Noting that, members who retired under immediate detriment are not eligible for an IC as their decision is irrevocable.
3. FRAs should then contact the member (or their representatives in the case of deceased members) informing them that they may have an alternative benefit option under retrospective legislation. This can only be determined by way of reassessment and their permission is required for such reassessment to take place.

***[Template member letters to follow in due course.](#)***

[Template member letter – scenarios one and two](#)

[Template member letter – scenarios one and two – FPS 2006 special](#)

[Template member letter – scenario seven](#)

[Template member letter – scenario seven – FPS 2006 special](#)

[Template member letter – scenario nine](#)

[Template member letter – scenario nine – FPS 2006 special](#)

4. Once the member's (or their representative's) permission has been granted the FRA would need to arrange for an IQMP to provide a view on whether the member's condition, at point of retirement or dismissal, would allow them to qualify for an ill-health pension under the alternative scheme rules. Where possible, the reassessment should be conducted by the same IQMP and with the same evidence as the original referral.

***[Template IQMP referral letters to follow in due course.](#)***

5. Once a determination has been reached, the member should be informed of the outcome and advised that an IC election will be required once final legislation is in place i.e. from 1 October 2023 onwards.

***[Template outcome letters to follow in due course.](#)***

# Annex A

This section sets out the twelve scenarios in which an ill-health case arising within the remedy period will have been processed. Each scenario confirms whether a reassessment is required and if so, highlights the rationale as to why a reassessment is needed.

As previously advised, the scenarios only set out the position for protected and unprotected members. Taper protected members also require consideration. What action is required will depend on whether, at date of retirement/capability dismissal, the member had transferred into the FPS 2015. If the member **had** transferred, then you should follow the instructions set out in the **unprotected** scenarios. If the member **had not** transferred, then you should follow the instructions set out in the **protected** scenarios.

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## **Scenario one – Fully protected FPS 1992 or FPS 2006 special member – Awarded lower tier ill health pension**

These members will currently be FPS 1992 or FPS 2006 special pensioner members in receipt of a lower tier ill-health pension.

FRAs **will** need to reassess the member's ill-health entitlement under FPS 2015.

These cases **will** require referral to an IQMP for an opinion on whether they meet the lower tier ill-health qualifying criteria under FPS 2015 (due to NPA being lower in the legacy scheme) – *This is providing that the FRA did not send dual certificates in the original referral. In which case, the reassessment is not necessary as the FRA should already understand whether the member meets the criteria under FPS 2015.*

To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 1992 or FPS 2006 special membership -and their entitlement under FPS 2015.

The PSPSJO Act confirms that members should be presented their options via a remedial service statement (RSS). More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force~~ is included in the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022.

## Scenario two – Fully protected FPS 1992 or FPS 2006 special member – Awarded lower and higher tier ill health pension

These members will currently be FPS 1992 or FPS 2006 special pensioner members in receipt of a lower tier and higher tier ill-health pension.

FRAAs **will** need to reassess the member's ill-health entitlement under FPS 2015.

These cases **will** require referral to an IQMP for an opinion on whether they meet the lower and higher tier ill-health qualifying criteria under FPS 2015 (due to NPA being lower in the legacy scheme) – *–This is providing that the FRA did not send dual certificates in the original referral. In which case, the reassessment is not necessary as the FRA should already understand whether the member meets the criteria under FPS 2015.*

There are three possible outcomes that this could arise from this assessment:

- a) The member may not satisfy the FPS 2015 ill-health retirement criteria (lower and higher tier);
- b) The member could satisfy the FPS 2015 ill-health retirement criteria for a lower tier ill-health pension only under FPS 2015 Scheme rules (and not the higher tier); or
- c) The member could satisfy the FPS 2015 ill-health retirement criteria for a lower and higher ill-health pension under FPS 2015.

If (a) applies, then the individual will have the option to continue receiving their FPS 1992/FPS 2006 special ill-health pension that they are currently receiving or elect to take a deferred pension (mix of FPS 2015/FPS 1992/ 2006 special) and pay back any of the ill-health benefits that they have received to date. The individual may be entitled to receive payment of their deferred pension if they have reached deferred pension age since retiring.

If (b) applies, then the individual will have the option to continue receiving their FPS 1992/FPS 2006 special ill-health pension that they are currently receiving or take a lower tier ill-health pension under the single source arrangement – with the latter being applied retrospectively backdated to the date of their retirement and an adjustment to benefits needed.

If (c) applies, then the individual will have the option to continue receiving their FPS 1992/FPS 2006 special ill-health pension that they are currently receiving or take a lower and higher tier pension under FPS 2015 - with the latter being applied retrospectively backdated to the date of their retirement and an adjustment to benefits needed.

To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 1992 or FPS 2006 special membership and their entitlement under FPS 2015.

The PSPSJO Act confirms that members should be presented their IC options via an RSS. More information on what must be included on an RSS will be provided in advance of the retrospective legislation coming into force. is included in the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022.

## Scenario three – Fully protected FPS 1992 or FPS 2006 special member – Rejected for ill-health retirement and dismissed on capability grounds

At present these members will not be receiving any pension as they did not satisfy the ill-health qualifying criteria of FPS 1992 or FPS 2006 special membership – they will be deferred FPS 1992/ FPS 2006 special members who will receive payment of their deferred pension at age 60.

These cases **do not** require a re-assessment.

As FPS 2015 has a higher qualifying bar for ill-health retirement than FPS 1992/ FPS 2006 special, these cases will not require further assessment for ill-health entitlement. It is not technically possible to meet FPS 2015 ill-health qualifying criteria if the member has not met the FPS 1992/ FPS 2006 special ill-health criteria.

Following implementation of remedy, these individuals will have the opportunity to make a DC election to take any service accrued on or after 1 April 2015 to 31 March 2022 inclusive under the terms of FPS 2015. This election will be made in accordance with the terms of DC remedy.

The PSPSJO Act confirms that members should be presented their DC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force.~~ is included in the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022.

## Scenario four – Fully protected FPS 2006 member – Awarded lower tier ill health pension

These members will currently be FPS 2006 pensioner members in receipt of a lower tier ill-health pension.

The qualifying criteria for ill-health retirement are equivalent between FPS 2006 and FPS 2015. As such, any fully protected member who qualifies for a lower tier ill-health pension in FPS 2006 will automatically qualify for a lower tier ill-health pension in FPS 2015.

These cases **do not** require a re-assessment.

Following remedy implementation, these members will have the option to continue receiving the FPS 2006 ill-health pension that they are currently receiving or make an IC election to take a lower tier pension under the terms of FPS 2015 – with the latter being applied retrospectively to the date of their retirement and an adjustment to benefits needed.

To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 2006 and their ill-health pension entitlement under FPS 2015.

The PSPSJO Act confirms that members should be presented their IC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force.~~ is included in the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022.

## Scenario five – Fully protected FPS 2006 member – Awarded lower tier and higher tier ill health pension

These members will currently be FPS 2006 pensioner members in receipt of a lower tier and higher ill-health pension.

The qualifying criteria for ill-health retirement are equivalent between FPS 2006 and FPS 2015. As such, any fully protected individual who qualifies for a lower tier and higher tier ill-health pension in FPS 2006 will be entitled to a lower and higher tier ill-health pension in FPS2015.

These cases **do not** require a re-assessment.

Following remedy implementation, the member will have the option to continue receiving the FPS 2006 ill-health pension that they are currently receiving or make an IC election to take a lower tier and higher tier pension under the terms of FPS 2015 – with the latter being applied retrospectively to the date of their retirement and an adjustment to benefits needed.

To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 2006 and their ill-health pension entitlement under FPS 2015.

The PSPSJO Act confirms that members should be presented their IC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force.~~ [is included in the Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022.](#)

## Scenario six – Fully protected FPS 2006 member – Rejected for ill-health retirement and dismissed on capability grounds

At present these individuals are not receiving any pension as they did not satisfy the ill-health qualifying criteria of FPS 2006 – they will be a deferred FPS 2006 member who will receive payment of their pension at age 65.

The qualifying criteria for ill-health retirement are equivalent between the FPS 2006 and FPS 2015. As such, any fully protected individual who did not qualify for an ill-health pension in FPS 2006 will technically not be entitled an ill-health pension in FPS 2015 (as the qualifying bars are the same).

These cases **do not** require a re-assessment.

Following implementation of remedy, these individuals will have the opportunity to make an DC election to take any service accrued on or after 1 April 2015 to 31 March 2022 inclusive under the terms of FPS 2015.

The PSPSJO Act confirms that members should be presented their DC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force.~~ [is included in the Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022.](#)

## Scenario seven – Unprotected FPS 1992 or FPS 2006 special member – Awarded lower tier ill health pension

These members will currently be FPS 2015 pensioner members in receipt of a lower tier ill-health pension.

The qualifying criteria ([NPA](#)) for ill-health retirement in FPS 1992/ [FPS 2006 special](#) is lower than that of FPS 2015. As such, any transitional FPS 1992/ [FPS 2006 special](#) members who qualified for a lower tier ill-health pension in FPS 2015 do not need to be re-assessed for a lower tier FPS 1992 [or FPS 2006 special](#) pension.

However, it is possible that the member could have met the criteria for a higher tier pension under FPS [1992/ FPS 2006 special membership](#) and because of this a reassessment **will** be required - *This is providing that the FRA didn't send dual certificates in the original referral. In which case, the reassessment is not necessary as the FRA should already understand what criteria the member meets under FPS 1992/ [FPS 2006 special](#).*

To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 1992/ [FPS 2006 special membership](#) and their ill-health pension entitlement under FPS 2015 (which the member is currently receiving).

The PSPSJO Act confirms that members should be presented their IC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force.~~ [is included in the Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022.](#)

## Scenario eight – Unprotected FPS 1992 or FPS 2006 special member – Awarded lower and higher tier ill health pension

These members will currently be FPS 2015 pensioner members in receipt of a lower and higher tier ill-health pension.

Because FPS 1992 [and FPS 2006 special membership](#) has a lower qualifying bar ([NPA](#)) for ill-health retirement than FPS 2015, these members will meet the qualifying criteria for both lower and higher tier ill-health pensions in FPS 1992/ [FPS 2006 special](#). As such, these cases **do not** need a re-assessment.

To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 1992/ [FPS 2006 special membership](#) and their ill-health pension entitlement under FPS 2015 (which the member is currently receiving).

The PSPSJO Act confirms that members should be presented their IC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force.~~ [is included in the Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022.](#)

## Scenario nine – Unprotected FPS 1992 or FPS 2006 special member – Rejected for ill-health and dismissed on capability grounds

These individuals will have been assessed against the ill-health qualifying criteria in FPS 2015 and have been determined not to be entitled to an ill-health pension. They will currently be deferred members of both FPS 1992/ [FPS 2006 special](#) and FPS 2015.

Following remedy implementation, these individuals will be entitled to have remained in FPS 1992/ [FPS 2006](#) up to the point of leaving employment. On this basis, the employing FRA **will** have to assess these individuals under the ill-health qualifying criteria of FPS 1992/ [FPS 2006 special membership](#) - *This is providing that the FRA didn't send dual certificates in the original referral. In which case, the reassessment is not necessary as you should already understand what criteria the member meets under FPS 1992/ [FPS 2006 special](#).*

As FPS 1992 [and FPS 2006 special membership](#) sets a lower qualifying bar ([NPA](#)) for ill-health retirement there is a possibility that some of these individuals will be entitled to a retrospective FPS 1992 [or FPS 2006 special](#) ill-health pension (either a lower tier or a lower and higher tier ill-health pension).

If, after assessment, the employing FRA determines that an individual should have been entitled to ill-health retirement under FPS 1992/ [FPS 2006 special membership](#) then they will need to set out the options, these are as follows:

- a) Continue to accept their current position of having a deferred FPS 1992/ [FPS 2006 special](#)/ FPS 2015 pension, or
- b) To receive retrospective payments of their FPS 1992/ [FPS 2006 special](#) ill-health pension back to the point they left employment

While the decision may be obvious, the member is still required to make an IC election. To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 1992/ [FPS special membership](#) and their entitlement under FPS 2015.

The PPSJO Act confirms that members should be presented their IC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force.~~ is included in the [Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#).

## Scenario ten – Unprotected FPS 2006 member – Awarded lower tier ill health pension

These individuals will have been assessed for ill-health retirement under the terms of FPS 2015 and will have been deemed entitled to a lower tier ill-health pension only

The qualifying criteria for ill-health retirement are equivalent between FPS 2006 and FPS 2015. As such, any transitional FPS 2006 members who qualifies for a lower tier ill-health pension in FPS 2015 will also be entitled to a lower tier ill-health pension in FPS 2006. Also, as they did not qualify for the higher tier ill-health pension in FPS 2015 then technically, they will not qualify for the higher tier ill-health pension under FPS 2006. On this basis, the member **does not** need to be re-assessed.

Following implementation of remedy, these individuals will have the opportunity to make an IC election to take any service accrued on or after 1 April 2015 to 31 March 2022 inclusive under the ill-health terms of FPS 2006.

To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 2006 and FPS 2015 (which they are currently receiving).

The PSPSJO Act confirms that members should be presented their IC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force~~ is included in the [Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#).

## Scenario eleven – Unprotected FPS 2006 member – Awarded lower and higher tier ill health pension

These individuals will have been assessed for ill-health retirement under the terms of FPS 2015 and will have been deemed entitled to a lower tier and higher tier ill-health pension.

The qualifying criteria for ill-health retirement are equivalent between FPS 2006 and FPS 2015. As such, any transitional FPS 2006 member who qualifies for a lower tier and higher tier ill-health pension in FPS 2015 will technically be entitled to a lower tier and higher tier ill-health pension in FPS 2006. On this basis, the member **does not** be a need to be re-assessed.

Following implementation of remedy, these individuals will have the opportunity to make an IC election to take any service accrued on or after 1 April 2015 to 31 March 2022 inclusive under the ill-health terms of FPS 2006.

To enable members to make an informed IC decision, the employing FRA will be required to set out the difference in the member's ill-health pension entitlement under FPS 2006 and FPS 2015 (which they are currently receiving).

The PSPSJO Act confirms that members should be presented their IC options via an RSS. More information on what must be included on an RSS ~~will be provided in advance of the retrospective legislation coming into force~~ is included in the [Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#).

## Scenario twelve – Unprotected FPS 2006 member – Rejected for ill-health and dismissed on capability grounds

At present these individuals are not receiving any pension as they did not satisfy the ill-health qualifying criteria of FPS 2015 – they will be a deferred scheme member who will receive payment of their FPS 2006 pension at age 65, and their deferred FPS 2015 pension at State Pension age.

The qualifying criteria for ill-health retirement are equivalent between FPS 2006 and FPS 2015. As such, any transitional FPS 2006 members who did not qualify for an ill-health pension in FPS 2015 will not technically be entitled an ill-health pension in FPS 2006. On this basis, the member **does not** be a need re-assessment.

Following implementation of remedy, these individuals will have the opportunity to make a DC election to take any service accrued on or after 1 April 2015 to 31 March 2022 inclusive under the terms of FPS 2006.

The PSPSJO Act confirms that members should be presented their DC options via an RSS. More information on what must be included on an RSS [will be provided in advance of the retrospective legislation coming into force](#) is included in the [Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#).

### Summary

Cases that need IH re-assessment	Fully Protected		Unprotected	
	1992	2006	1992	2006
<del>Awarded Lower Tier IH pension</del>	<del>Yes</del>	<del>No</del>	<del>Yes</del>	<del>No</del>
Awarded Lower Tier and Higher Tier IH pension	Yes	No	No	No
Rejected for IH and dismissed on capability	No	No	Yes	No

Cases needing IQMP reassessment	Fully protected			Unprotected		
	1992	2006 special	2006 standard	1992	2006 special	2006 standard
<u>Awarded LT IHR</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>Awarded LT and HT IHR</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>
<u>Rejected for IHR and dismissed on capability</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>