



Home Office

Home Office (HO) Firefighters' Pensions (McCloud/ Sargeant) Remedy Prospective Changes Consultation Response Comms Key Messages & Frequently Asked Questions

Key messages

- In April 2015, the government introduced reformed public service pension schemes and agreed to allow those within 10 years of retirement in the main unfunded schemes to remain in their existing pension schemes. These were termed transitional protections.
- The Court of Appeal found these protections to be discriminatory against younger members of the judicial and firefighters' pension schemes. The government has taken steps to remove the discrimination across all the impacted public service schemes.
- Following a public consultation on the approach to address the discrimination, it was announced in February 2021 that affected members would receive a 'deferred choice' of which pension schemes benefits they would prefer to take at the point they retire.
- The deferred choice will apply across the majority of the main public service pension schemes. Where members are already receiving pensions, they will be given a choice as soon as practicable. This means members will be able to choose to receive legacy final salary pension scheme benefits or benefits equivalent to those available under the reformed career average pension scheme for service between 2015 and 2022. Not all members are better off in the legacy final salary schemes, so it is important that individual members can choose which scheme benefits they want to receive.
- It was also announced that, from 1 April 2022, all those who continue in service will do so as members of the reformed career average schemes,

regardless of age. All members will be treated equally in terms of which pension scheme they are a member of. For clarity, there is no 'new' scheme from 2022; everyone will become entitled to membership of the existing 2015 scheme.

- The remedy will be delivered in two phases, prospective and retrospective, delivered through Public Service & Judicial Offices Bill (PSPJO) and secondary legislation.
- The HO consultation published on Monday 8 November 2021 addressed the first phase, prospective remedy, namely, moving all members to the reformed career average scheme from 1 April 2022 and closing the legacy final salary schemes on 31 March 2022. This will mean that all members are treated equally in respect of any pensionable service accrued after 31 March 2022.
- The consultation closed in January 2022 and the HO is now announcing the final approach to the first phase of remedy.

Primary legislation

- The government introduced primary legislation - the PSPJO Bill - on 19 July 2021 to provide a prospective remedy as set out above.

Secondary legislation

- In addition to primary legislation, two phases of secondary legislation are needed to amend the scheme regulations. This consultation response only covers the amendments for the first phase, prospective, i.e. closing the legacy final salary scheme and ensuring that all members are treated as members of the reformed career average scheme from 1 April 2022.
- The second phase is the retrospective remedy, which will move all members service back into the legacy final salary scheme for the remedy period (1 April 2015 - 31 March 2022) and allow a choice of benefits for this period.
- Remedying the retrospective discrimination is particularly complex and further technical issues will be addressed in the consultation on scheme changes to enact this, in 2022.

Frequently asked questions (FAQs):

The questions below are useful to include on pension scheme websites to provide more information to individuals should they wish to find out more about the HO consultation response.

General

1. What has the Home Office announced?

- The government has today published a response to the consultation on amendments to the Firefighters' Pension Scheme regulations needed to enact the first set of changes to remove the discrimination identified in the transitional protections introduced in 2015. This is in line with policy made by HM Treasury (HMT) relating to public service pension schemes. These changes are consequential to those in the PSPJO Bill currently in Parliament.
- This includes how the HO will ensure that all members of the Firefighters' Pension Schemes who continue in service will be members of the reformed career average scheme from 1 April 2022. This means closing the legacy final salary schemes to future accrual from 31 March 2022, so that all members are treated equally from this point on. This involves moving any remaining members of the legacy final salary scheme - i.e. those who had received transitional protections - into the reformed career average scheme from 1 April 2022.
- The details of the consultation response can be found [here](#).

Details about the consultation response

2. Who will be in scope of these scheme regulation changes?

- All those who are not currently members of the 2015 scheme are impacted by the changes, as they will move to the reformed career average scheme for all future service on 1 April 2022. The policy was announced on 4 February 2021, following a public consultation, and this consultation response announces how the HO will achieve that policy intention.
- Those affected/in scope of the regulatory changes are scheme members who were serving on or before 31 March 2012 and still serving on or after 1 April 2015. This includes those members who are currently active, deferred or retired, and those with a qualifying break in service of less than 5 years.

3. Who will be unaffected by the scheme regulation changes?

- The announcements in the consultation response will have no effect on those who opted out of the pension scheme, pension credit members, retired members, or survivors (including widows/widowers) of members of any Firefighters' Pension Scheme in England.

What is the main purpose of this consultation response?

- HMT held a public consultation on proposed approaches to remedy the discrimination identified by the Courts in the McCloud/Sargeant cases.
- Following the consultation, HMT announced its approach and introduced the PSPJO Bill which will be delivered in two phases, prospective and retrospective.
- The HO will now introduce the first phase (prospective) on scheme level changes to enact that policy.
- Between 8 November 2021 and 2 January 2022, the HO consulted on proposed amendments to the Firefighters' Pension Scheme ('2014 Regulations') as part of the first phase of the remedy.
- The prospective phase was the focus of the consultation. Prospective remedy means that, from 1 April 2022, all those who continue in service will do so as members of the reformed career average schemes, regardless of age.
- The HO is now publishing a response to how it will amend the scheme rules which will move all members (including those formerly protected) to the reformed career average scheme on 1 April 2022 and close the legacy final salary schemes to future accrual from 31 March 2022.
- This will ensure that from 1 April 2022 all active members of the Firefighters' Pension Scheme will be accruing future benefits in the same scheme, ensuring there is equal treatment from this point on.

Post consultation response

4. What are the next steps following the consultation response?

- Following the consultation response, the HO will take steps to amend the 2014 regulations ensuring that the legacy final salary schemes are closed to future accrual on 31 March 2022 and that all members are transitioned into the reformed career average scheme in any respect of any pensionable service from 1 April 2022.
- Implementation is, however, subject to the passage of the PSPJO Bill and being approved by Parliament and receiving Royal Assent.
- The HO will also continue work on phase two of the remedy (including making preparations to implement the 'deferred and immediate choice'), ahead of consulting formally on those amendments to scheme regulations.

5. When will the prospective changes to schemes be implemented?

- It is intended that legislation to move members to the reformed career average schemes will take effect on 1 April 2022.

6. When will the retrospective changes be implemented?

- It is intended that legislation to implement the deferred and immediate choice will also be needed, to take effect by 1 October 2023 at the latest. Prior to this, the HO will carry out a consultation on more detailed scheme-specific changes to retrospective scheme regulations in due course.

ILL-HEALTH RETIREMENT (IHR)

7. What happens in relation to the assessment of ill-health retirement cases that began before 1 April 2022 but do not include until after 1 April 2022?

- Firefighting can be dangerous and physically demanding profession, and it is not uncommon for firefighters to have to retire on the grounds of ill-health, for instance if they are seriously injured while on duty and no longer able to work. All pension schemes make provision to pay ill-health pensions.
- As set out in the consultation response, the policy intent is to ensure that a protected member who applies for IHR before 31 March 2022, where the application is determined in their favour after that date, is treated no less favourably than if the application had been determined on that date.
- The approach to achieving this is set out in the consultation response.
- The Department has identified one scenario where a member who transitions on 1 April 2022 with an ill-health decision pending could be placed in a worse position. This would be where a legacy 1992 scheme member moves across to the reformed scheme and does not meet the qualifying criteria for ill-health retirement in the reformed scheme but would have met the corresponding criteria under the legacy 1992 scheme.
- This may be possible due to the differences in the Normal Pension Age (NPA) between the schemes which ill-health cases are tested against. In short, under the legacy 1992 scheme the issue is whether incapacity continues until age 55, whereas under the reformed scheme it is whether incapacity continues until age 60. To avoid any such members being placed in a worse position, changes will be made to the reformed scheme rules which means 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.
- There is no need to make any corresponding changes for legacy 2006 scheme members as both schemes have an NPA of 60.

ADDED PENSION BENEFITS

8. Will members be able to make arrangements for purchasing service in the legacy schemes by means of periodical contributions after 31 March 2022?

- In the firefighters' final salary pension schemes, it is possible for members to purchase additional pensionable service, where they meet certain criteria. They do this by agreement with the scheme manager and pay for it either as a lump sum or by way of periodical contributions over a period of years, until a set age typically normal pension age (NPA).
- All such existing agreements will remain in force after 31 March 2022. This is because they do not involve continuing to accrue legacy final salary scheme benefits in relation to service after the closing date; rather, the scheme members concerned are paying in instalments for a previously agreed enhancement to their pre-transfer service. These arrangements are therefore unaffected by the PSPJO Bill or by our regulations.
- It should be noted that members will only be permitted to "complete" existing arrangements entered into before 1 April 2022, subject to meeting any other relevant criteria (such as remaining in active service).
- Members will not be allowed to enter into arrangements to purchase additional service in the legacy final salary schemes on or after 1 April 2022.