

Automatic compensation - Overview



Legislation

- Power to pay compensation covered by [section 23\(1\) of the Public Service Pensions and Judicial Offices Act 2022](#) (PSPJOA 2022)
 - Losses incurred by members because of the discrimination, or
 - As a result of rollback

When would compensation apply?

The PSPJOA 2022 confirms that losses can be compensated if they meet the description set out in the [Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#) and **one** of the following applies:





1. The loss is attributable to the breach of the non-discrimination rule that arose from the application of an exception to Section 18(1) of the Public Service Pensions Act 2014 (i.e. the transitional protections which were found to be unlawfully discriminatory through the [McCloud judgment](#)) [\[\(23\(4\)\)\]](#)
2. The loss is attributable to the application of any provision of, or made under, Chapter 1 of the PSPJOA 2022 (i.e. the application of the remedy as required by the Act) or [Scheme Regulations](#) which implement the remedy set out by the act. [\[\(23\(5\)\)\]](#)
3. A [Part 4 tax loss](#) (a specific tax loss where HMRC's statutory time limits do not allow for correction of the amount of tax paid). [\[\(23\(6\)\)\]](#)

Compensation categories

Automatic

Member
initiated –
with evidence

Automatic claims

-  Routinely awarded
-  No expectation on member to submit a claim
-  No supplementary evidence needed
-  No scheme manager decision

Example cases



Contribution refunds

FPS 2006 transition members
FPS 1992 who elect for FPS 2015 benefits



Added pension

Service bought by transitional members in the remedy period



Transfers without a home

Transitional member who transferred in service during the remedy period



Tax relief for 'non-active' members

The 'active' and 'non-active' status relates to their expected payment method rather than their employment status.

Contribution refunds – Scenario 1

FPS 2006 transition members

- 1 October 2022 rolled back into FPS 2006
- Proportion of contributions paid into FPS 2015
- FPS 2015 rate higher than FPS 2006 so overpayment situation and refund necessary

RSS v Retirement

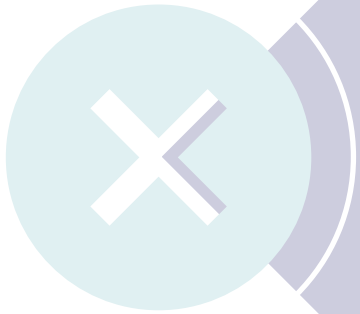
- Choice by member
- Interest at 8% until 28 days after first RSS
- Interest after RSS at NS&I

Contribution refunds – Scenario 2

FPS 1992 legacy member who elect for FPS 2015

- FPS 1992 rate higher than FPS 2015 resulting in an overpayment
- Triggered by [section 6](#) (immediate choice) or [section 10](#) (deferred choice) election

Added pension bought in the remedy period



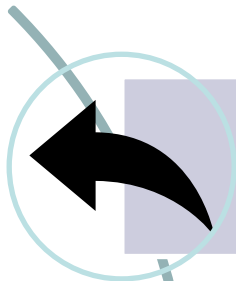
Added Pension does not exist in the legacy schemes. Rights must be fully extinguished to comply with legislation.



Rollback means these contributions have no home:

- Added Pension payments made between 1 April 2015 and 31 March 2022 must be returned to the member.
- Contributions made from 1 April 2022 to the 2015 scheme can be retained

At rollback (1 October 2023)



Added Pension contributions must be returned to the member as soon as practicable after this date with relevant adjustments for tax relief and interest (Regulation 27)



Deferred Choice (DC) members:

- Members to be dealt with **now**.
- Active members may wish to make an Added Pension election for the 2023/24 tax year



Immediate Choice (IC) members:

- Members will be provided with this information at the same time they receive their RSS.

Recommended timings

9 Feb 2024

- Administrator to identify cases

21 Feb
2024

- FRA to calculate the amount of compensation

29 Feb
2024

- Scheme manager to notify member

31 March
2024

- Scheme manager to make payment to member

Key considerations

FRA and administrators will need to work together

Process for DC members to be completed at retirement or before 31 March 2024 (whichever is the sooner)

Active members can make election for 2023/24 year now, no need to wait for payment.

IC members cannot be adjusted until election made following receipt of IC-RSS

Administrators will need to adjust pension record once compensation has been paid

Review [guidance](#) and supplementary information provided by the LGA.

Transfers without a home



The roll back of remediable service at implementation will not apply to transfers-in received into the 2015 scheme.



What happens with the transfer will depend on the members choice and whether they have service in FPS 2015....

Possible outcomes

1. Member has no service post 1 April 2022 and elects for legacy benefits
 - Transfer to be treated as compensation based on a calculation undertaken by GAD
2. Member has no service post 1 April 2022 and elects for reformed benefits
 - Transfer remains as is and no rectification is required
3. Member has FPS 2015 post 1 April 2022 and elects for legacy benefits
 - Transfer becomes associated with service post 1 April 2022, actuarial calculation required to revalue benefits.
4. Member has FPS 2015 post 1 April 2022 and elects for reformed benefits
 - Transfer remains as is and no rectification is required

Key considerations for scenario one

Not a one-off
payment

GAD referral
required

Only effects
individuals with
no FPS 2015
service

Tax relief for ‘non-active’ members

Legislation allows for additional tax relief to be awarded in certain circumstances

- When the member owes contributions
- When the member is treated as a ‘non-active’ member

What defines a ‘non-active’ member?

- Not dependant on employment status
- Defined by payment method
 - A member paying their contributions using salary should be treated as an ‘active’ member and tax relief awarded using PAYE
 - A member paying their contributions by other means i.e. from savings, deduction from retirement lump sum etc. should be treated as a ‘non-active’ member and automatically awarded compensation for additional tax relief.

What else do I need to know?

Funding

- Compensation to be funded centrally by government
- Likely that forecasting will be needed
- In the meantime, any automatic payments to be paid from operating budget

Record keeping and reporting

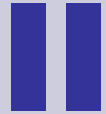
- Robust records are needed so that recharge can happen
- Home Office will expect all compensation payments to be reported to them and will set out finer detail in funding guidance
- Good practice to report to LPBs

Guidance

- Detailed SM guidance in train – Will cover automatic and member initiated with evidence compensation
- Home Office finalising funding guidance
- [Added pension guidance](#) available on FPS Regs and Guidance website

IN OTHER NEWS





Pause on IC-RSS

Timetabling



Data requests

Opt out data
Matthews implementation



Data sharing

Questions or concerns?

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Thank you for listening!

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