



Cabinet Office

Civil Service Pension Scheme: 2015 Remedy and civil service member contributions

A draft Statutory Instrument covering the move to
alpha and member contributions from 1 April 2022

This consultation begins on 22 November 2021
This consultation ends on 17 January 2021

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Civil Service Pension Scheme: 2015 Remedy and civil service member contributions

The move to alpha and member contributions from 1 April 2022

A consultation produced by the Cabinet Office.

About this consultation

To:	This consultation is aimed at civil service scheme members who are impacted by being moved to alpha and all active members of the scheme because of the member contributions
Duration:	From 22/11/2021 to 17/01/2022
Enquiries (including requests for the paper in an alternative format) to:	Email (preferred): cspsconsultation@cabinetoffice.gov.uk OR write to: CSPS Consultation Cabinet Office Priestley House Priestley Road Basingstoke RG24 9NW
How to respond:	Email (preferred): cspsconsultation@cabinetoffice.gov.uk OR write to: CSPS Consultation Cabinet Office Priestley House Priestley Road Basingstoke RG24 9NW
Response paper:	A response to this consultation exercise is due to be published by 10 February 2022 at: https://www.gov.uk/search/policy-papers-and-consultations

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Executive summary

1.1 In April 2015 the Coalition Government introduced reformed (defined benefit) public service pension schemes. The changes followed a fundamental structural review of public service pensions by the Independent Public Service Pension Commission, chaired by Lord Hutton of Furness. As part of these changes, protection was afforded to certain members of the existing public service schemes which allowed them to remain in their existing pension schemes and not transfer to the new reformed schemes (referred to as ‘transitional protection’). Members eligible for this protection were either (a) within ten years of their normal pension age as at 31 March 2012 (known as ‘full protection members’) or (b) within ten years and thirteen years and six months of their normal pension age and could elect to remain in their existing scheme for a particular period of time after that scheme closed as a result of the reforms (known as ‘tapered protection members’).

1.2 In December 2018 the Court of Appeal found that transitional protection unlawfully discriminated against younger members of the judicial and firefighters’ pension schemes in particular, as transitional protection was only offered to older scheme members. It also indirectly discrimination against women and ethnic minorities. The Courts required that this unlawful discrimination be remedied by the Government.

1.3 In order to remedy the discrimination, HM Treasury held an open consultation to consider the potential options to remove the discrimination. Following the close of the consultation in October 2020, and the publication of the consultation response in February 2021, the Public Service Pensions and Judicial Offices Bill (“PSPJO”) was published in July 2021. The scheme manager for the civil service (defined benefit) pension schemes will be required to implement the scheme-level changes mandated by the Bill. This consultation will address the changes being made to implement the ‘prospective remedy’, which involves moving all remaining active members (including partially retired members in active service) to the reformed scheme, ‘alpha’, from 1 April 2022.¹ The legacy scheme (i.e. the Principal Civil Service Pension Scheme, “PCSPS”) will be closed to future accrual from 31 March 2022.

1.4 Alongside consulting on the prospective remedy, this consultation addresses the continuation of member contributions for alpha. Member contributions are usually set every four years as part of the cost control mechanism process. However, the cost control element of the 2016 valuations was paused in light of the McCloud and Sargeant judgments, because the uncertainty around member benefits arising from these judgments made it impossible to assess the value of the schemes to members with any certainty.

1.5 HM Treasury announced the resumption of the cost control element of the 2016 valuation process in July 2020. HM Treasury published the Amending Directions on 7 October 2021, which will allow schemes to complete this process. The results of the process are not expected until late 2021 at the earliest. If there is no breach of the margins either side of the employer cost cap, a rollover of 2021/22 contribution rates should be

¹ For clarity, where a tapered protection member is scheduled to transfer to alpha before 1 April 2022, they will continue to be transferred on the planned transfer date.

applied for the coming year. We therefore propose to rollover the 2021/22 member contribution rates in these draft regulations and we will consider whether any changes are required once the final results are determined.

Introduction

This consultation concerns the draft provisions made in The Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2022 – see Annex E.

It is aimed at members currently in the civil service legacy pension scheme (PCSPS) who will be moving to the reformed scheme (alpha) from 1 April 2022 as a result of the prospective remedy. It is also aimed at persons who would have been afforded transitional protection on re-joining the civil service scheme pension arrangements - such as those transferring in from a New Fair Deal employer - but as a result of the prospective remedy, will now join alpha from 1 April 2022.

In addition to provisions relating to the McCloud prospective remedy, the draft regulations covers:

1. the proposed member contributions from 1 April 2022 to 31 March 2023; and
2. miscellaneous technical amendments.

These are discussed in more detail at paragraph [3.0] of this consultation.

These regulations apply to the United Kingdom.

HM Treasury has published a policy impact assessment and an equality impact assessment, which consider the impact of the proposed Bill powers and requirements. The scope of assessments by the Cabinet Office therefore focuses on the impact of the proposed changes to scheme rules necessary to deliver the Bill requirements, as well as an Equality Impact Assessment in Annex B.

Copies of the consultation paper are being sent to:

1. The National Trade Unions Congress; and
2. Non-affiliated unions, federations and member representative groups

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

The proposals

Prospective changes to remove discrimination

2.1 In April 2015, public service (defined benefit) pension schemes were reformed; the cost of the legacy schemes had significantly increased over the previous decades, with most of those costs falling to the taxpayer. To protect against unsustainable increases in costs, new schemes were introduced with career average revalued earnings (“CARE”) design and an increased Normal Pension Age (NPA), alongside the introduction of a cost control mechanism. They were also progressive, providing greater benefits to some lower paid workers. The reformed scheme for employees and office holders in the Civil Service is known as “alpha”.

2.2 As part of the 2015 reforms, those members of the civil service (defined benefit) pension schemes who were within 10 years of their Normal Pension Age (NPA) on 31 March 2012 and who had active status at that point and on 1 April 2015 remained in the appropriate Section of the PCSPS; this was referred to as transitional protection. In December 2018, the Court of Appeal found that this part of the reforms unlawfully discriminated against younger members of the judicial and firefighters’ pension schemes in particular, as transitional protection was only offered to older scheme members. The courts required that this unlawful discrimination be remedied by the Government. It is important to note that the transitional protection element of the 2015 reforms was found to be discriminatory, not the reformed scheme (alpha) itself.

2.3 In July 2019, the Government confirmed that it accepted that the Court of Appeal’s judgment had implications for the other public service schemes that had similar transitional arrangements, including the Civil Service Pension Arrangements (“CSPA”).

2.4 On 16 July 2020, the Government published a Command Paper: Public service pension schemes: changes to the transitional arrangements to the 2015 schemes. The consultation set out two proposed options for retrospectively removing the discrimination suffered by members who were not eligible for transitional protection due to their age and proposed that the legacy schemes would be closed to all members on 31 March 2022.

2.5 It is normal practice in discrimination cases to remedy unequal treatment by reverting to the most beneficial option. However, the reforms that were introduced in 2015 were progressive reforms and were in part intended to even out the value of pensions between some of the highest and lowest earners, resulting in some, particularly lower and middle earners, being better off in the new schemes. Simply extending transitional protection to all affected members would address the discrimination identified by the Court but would also mean that some members would be placed in a worse position.

2.6 Instead, the Government proposed that members should be given a choice of which scheme benefits they wish to receive during the period from when the new schemes were introduced to the date that the legacy schemes are to be closed. The consultation sought views on whether the choice should be made immediately (once the necessary legislative

changes were made) or deferred until the point that a member's pension benefits become payable. In February 2021 the Government published its response, confirming that the legacy schemes would close on 31 March 2022 and that affected members would be given a choice of which pension benefits they wish to receive when those benefits are paid.

2.7 The Government explained that it preferred this approach as it would provide members with greater certainty about their decision and avoid the need for them to make assumptions about matters such as their future career and retirement age, which would increase the risk of making imperfect decisions, particularly for younger members. The response confirmed that affected members who are already in receipt of pension benefits will be given a choice as soon as possible after the necessary changes to the schemes are implemented via legislation.

2.8 In July 2021 the Public Service Pension and Judicial Offices (PSPJO) Bill was introduced into Parliament. The PSPJO Bill calls for all civil servants who continue in service from 1 April 2022 onwards to do so as members of alpha. The legacy scheme (Classic, Classic Plus, Premium and Nuvo Sections, collectively known as the PCSPS) 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. This is known as the prospective remedy. Most members had already moved to alpha in 2015, or subsequently transitioned between 2015 and 2022, so they are not impacted by the planned move.

2.9 The secondary legislation to be consulted on will allow provision for the prospective remedy to be made: the move of all active members to the reformed scheme (alpha) from 1 April 2022, and the closure of the PCSPS to future accrual from 31 March 2022. This ensures that from 1 April 2022, all active members of the alpha (defined benefit) civil service pension scheme will be accruing benefits in the same scheme.

2.10 Whilst it is not required for the regulations, we are setting out how added years and added pension will be treated for members post-1 April 2022. Added years and added pension contracts taken out in the legacy scheme in respect of pensionable service - on or before 31 March 2022 - will continue after 1 April 2022, though members can choose to cancel these once in alpha and purchase alpha added pension instead.

2.11 These draft regulations only cover the implementation of the prospective remedy. The PSPJO Bill also introduces measures to provide a retrospective remedy for those who suffered discrimination between the period 1 April 2015 to 31 March 2022. However, the consultation and regulations to implement those retrospective measures are expected to be brought forward in 2022 and this issue is not covered in this consultation.

Proposals to be consulted on:

Core prospective remedy

2.12 Make the amendments required to implement the prospective remedy, which requires moving all active members of the PCSPS (including partial retirees in active service) to alpha on 1 April 2022 and making consequential changes to the regulations, pursuant to the requirements of the PSPJO Bill.

2.13 The draft regulations amend Schedule 2 (transitional provisions) of the Public Service (Civil Servants and Others) Pensions Regulations 2014 by not allowing any future accrual in PCSPS from 1 April 2022 for all classes of member in respect of service pensionable under civil service pension terms. This means that from 1 April 2022, all members of the civil service pension arrangements will only be able to accrue benefits in alpha and concurrently the PCSPS will close to accrual. The technical wording for this is in Annex E.

Added pension

2.14 Remove the restriction on members purchasing alpha added pension by lump sum in the first 12 months of alpha service for members with service in the PCSPS.

2.15 This is necessary as the remedy will create an oddity where no members being moved to alpha will be able to buy added pension by lump sum as they do not have 12 months of alpha service. Furthermore, all remedy members already in alpha will be rolled back to PCSPS in respect of any pensionable service rendered between 1 April 2015 – 31 March 2022. This will be implemented retrospectively in 2023, meaning that their first year of service in alpha would be 2022-23, invalidating any added pension purchased in this year.

2.16 This was not the policy intent of the original rule, hence the change.

2.17 We are also clarifying in the consultation the position on added pension in light of McCloud. This does not require rule changes, but members who have existing PCSPS added pension or added years contracts to make future contributions will be allowed to continue with them post 1 April 2022.

Ill health retirement

2.18 Provide that members who apply for ill-health retirement under PCSPS before 1 April 2022, where the application is determined in their favour after that date, will not be placed in a less generous position than if their application had been approved on 31 March 2022.

2.19 From 1 April 2022 onwards, active members who will be moved to alpha and subsequently become subject to ill-health retirement, will be assessed, and receive ill-health benefits, in accordance with the ill-health arrangements in alpha – this means that cases will become subject to different qualifying criteria than under the legacy scheme rules.

2.20 There will be cases where the ill-health process will begin on or before 31 March 2022 and will not conclude until 1 April 2022 or later.

2.21 Current transitional provision allows the date a legacy scheme member would otherwise join the new scheme to be delayed until their ill-health pension application has been decided or, where it is not decided in the member's favour, until the member withdraws the application or all appeal routes have been exhausted.

2.22 This provision was permitted by exceptions in the Public Service Pensions Act (PSPA) 2013 that allowed certain members to remain in the legacy scheme after the date they were due to join the new scheme (between 1 April 2015 and 31 March 2022). The powers under which those exceptions were made are removed from the PSPA 2013 by the PSPJO Bill from 1 April 2022. This means that all legacy scheme members, including any members who have submitted an application for a legacy scheme ill-health pension, will join the new scheme on that date.

2.23 Therefore there is a need to deal with legacy scheme ill-health pension applications received before 1 April 2022 which have not been taken to completion by 31 March 2022 are considered and to the benefits that will become payable if an application is agreed.

2.24 For any ill-health cases where this is the case, the intended policy is that there should be an "ill-health retirement underpin". This will mean that such members receive a 2015 Scheme ill-health pension calculated at the date they actually retire; but that if a legacy scheme ill-health pension calculated as at 31 March 2022 would have been more favourable, the 2015 Scheme pension must be increased by the difference between the two.

2.25 The "underpin" will effectively guarantee the member an ill-health pension that is at least as much as the they would have received had they been ill-health retired under the terms of their PCSPS legacy scheme on the 31 March 2022. The proposed ill health underpin will work as follows:

- The member applies for ill health retirement on or before 31 March 2022, but the outcome of the application is still outstanding as of that date.
- The member moves to alpha on 1 April 2022 and remains in the scheme until the date of ill-health retirement.
- An ill health pension is calculated under the rules of alpha.
- A notional ill-health pension is calculated in accordance with the member's legacy scheme provisions if they would have met the criteria for an ill-health pension under the legacy scheme had their case been determined on 31 March 2022.
- Where the ill health pension award is more favourable under the rules of alpha, the award will be paid from alpha based on the standard ill health retirement rules of alpha.
- Where the notional legacy scheme award is more favourable, the difference between both calculations will be paid to the member as a pension enhancement alpha on top of the benefit, if any, that would be paid under the standard alpha ill health retirement provisions.
- In calculating which set of ill health benefit terms would be more favourable, in cases where both approaches would provide an ill health retirement benefit, where the legacy scheme is the PCSPS Classic section the comparison would be done by

assuming that the alpha scheme pension is commuted to provide a lump sum of the same amount as would be provided under the PCSPS Classic terms (before any optional commutation of that PCSPS Classic continuing pension). The remaining alpha continuing pension would then be compared with that PCSPS Classic continuing pension.

- Survivor benefits would be paid in accordance with alpha scheme regulations.
- However, the underpin will also need to allow for the retrospective remedy provisions for choice set out in the PSPJO Bill and provided for in due course under CSPA scheme regulations for retrospective remedy. The provision and continuation of an underpin ill health pension or death and survivors' benefits related to legacy service for the remedy period would depend on legacy service applying for the remedy period (i.e. for the service between 1 April 2022 and 31 March 2022 taken into account for purposes of determining the alpha ill health retirement "underpin" pension). Therefore, if as a result of a decision by or on behalf of a member, alpha terms were applied for the remedy period, such underpin benefits would either not be payable (if the ill health process begun before 1 April 2022 had still not been completed) or, if already paid, would be removed and replaced by the benefits that would be payable under the standard 2015 scheme terms without an underpin. Excess benefits already paid would then be recoverable.

2.26 The final detailed approach to achieving the policy intent outlined above is still under development, so our draft regulations do not contain any provision on such ill-health retirements. Subject to the outcome of this consultation, we will use powers provided under the PSPJO Bill to make regulations protecting the position of ill health retirees whose cases are pending on 31 March 2022, and in particular to ensure they are no worse off as a result of a decision being made after that date.

Questions for consultation:

2.27 Question 1: please comment on whether the draft regulations are sufficient for the purposes of implementing the prospective remedy?

2.28 Question 2: the ill-health retirement amendment reflects the unique position of the group being moved to alpha and will ensure that a member who applies for ill health retirement before 31 March, and where the application is successful, is treated no less favourably than if the application had been determined on that date. Do you have any views on this proposal, in particular, whether there are any adverse impacts about which you are concerned?

2.29 Question 3: are there any other areas which you think should be addressed in these regulations in order to ensure that all members are successfully moved to alpha from 1 April 2022?

2.30 Question 4: Are there any further considerations and evidence that you think Cabinet Office should take into account when assessing any equality issues arising as a result of the

proposed amendments? Any comments should be made after reading the accompanying Equality Impact Assessment in Annex B.

Member Contributions 2022/23 and other changes:

Introduction:

3.0 Member contribution rates are usually set for a four-year period following a pension scheme valuation and an assessment of scheme costs against the employer cost cap through the cost control mechanism. Following the valuation beginning 31 March 2012, which concluded in July 2014, contribution rates were set from 2015/16 to 2018/19. The next valuation, due as at 31 March 2016, was paused in January 2019 on account of the McCloud judgment. One of the impacts of pausing the cost control element of the 2016 valuations was that member contributions in the Civil Service Pension Scheme for the four years following 2018/19 were not set up front, as member contributions can only be changed through the cost control mechanism.

3.1 Following the pause of the cost control element of the 2016 valuations, member contribution rates and salary thresholds for 2018/19 were extended for a one-year period to 31 March 2020. The rates were then further extended to 31 March 2021, but this time with increased salary thresholds. This process was repeated again to cover 2021/22 member contributions. We are now required to consider member contribution rates for 2022/23 to ensure there is legislation in place to lawfully collect member contributions from April 2022.

3.2 HM Treasury announced that the pause on the cost control element of the 2016 valuations would be lifted in July 2020, and on 7 October 2021 HM Treasury published amending Directions to allow schemes to complete the 2016 valuations. The results of the process are not expected until late 2021 at the earliest. If there is no breach of the margins either side of the employer cost cap, a rollover of 2021/22 contribution rates should be applied for the coming year. We therefore propose to rollover the 2021/22 member contribution rates in these draft regulations and we will consider whether any changes are required once the final results are determined. The proposed member contribution rates are included in Annex C.

3.3 Opportunity is also being taken to make the following corrections and clarifications:

- retrospective amendment to regulation 121 to make clear that payment of the lump sum death benefit is discretionary. This will bring alpha provisions into line with existing practice, the PCSPS and other public service pension schemes, and will

achieve the intended effect in relation to inheritance tax. This amendment is not considered to have an adverse effect on members. The provision would be effective from 1 April 2015;

- This amendment is not considered to have an adverse effect on members. The provision would be effective from 1 April 2015;
- amendment to regulation 142 to correct a cross reference to the wrong subsection of the Pension Schemes Act 1993;
- amendment to regulation 173 to correct the date by which the scheme manager must provide members with information about payment of the annual allowance charge. This brings the date into line with the requirements of regulation 14A(4) of the Registered Pension Schemes (Provision of Information) Regulations 2006;
- amendment to paragraph 7 of schedule 1 to remove the initial 12-month bar on making lump sum payments towards added pension for members transferring into alpha from the legacy scheme; and
- amendment to paragraph 16, 17, 25 and 26 of Schedule 2 to make clear that in circumstances where transitional protection applied to people who returned to the civil Service pension arrangements by virtue of employment with an organisation admitted under the Government's New Fair Deal policy, protection also applied to people who returned by virtue of employment in the civil service.

Proposed Changes for Consultation:

3.4 It is proposed that member contributions rates for 2021/22 are rolled over to 2022/23 (i.e. from 1 April 2022 to 31 March 2023).

3.5 Due to the pay pause for Civil Servants earning above £24,250, as well as tax thresholds being frozen, it is proposed to rollover member contribution rates and salary thresholds from 2021/22 for use in 2022/23.

Questions for consultation:

3.6 Question 5: Given that the results of the cost cap valuation are not yet known and that schemes must set a lawful basis for collecting member contributions at this time so that it is effective from 1 April 2022, do you agree the current proposals meet these policy objectives?

3.7 Question 6: Do you agree that the amendments referenced in [3.3] are correct and are you aware of any adverse impacts on members or the scheme that will result from them?

Questionnaire

We would welcome responses to the following questions set out in this consultation paper.

Question 1: please comment on whether the draft regulations are sufficient for the purposes of implementing the prospective remedy?

Question 2: the ill-health retirement amendment reflects the unique position of the group being moved to alpha and will ensure that a member who applies for ill health retirement before 31 March, and where the application is successful, is treated no less favourably than if the application had been determined on that date. Do you have any views on this proposal, in particular, whether there are any adverse impacts about which you are concerned?

Question 3: are there any other areas which you think should be addressed in these regulations in order to ensure that all members are successfully moved to alpha from 1 April 2022?

Question 4: Are there any further considerations and evidence that you think Cabinet Office should take into account when assessing any equality issues arising as a result of the proposed amendments? Any comments should be made after reading the accompanying Equality Impact Assessment in Annex B.

Question 5: Given that the results of the cost cap valuation are not yet known and that schemes must set a lawful basis for collecting member contributions at this time so that it is effective from 1 April 2022, do you agree the current proposals meet these policy objectives?

Question 6: Do you agree that the amendments referenced in [3.3] are correct and are you aware of any adverse impacts on members or the scheme that will result from them?

Thank you for participating in this consultation exercise.

Contact details and how to respond

For information about how we treat your personal data when you respond to our consultation, please see the **Privacy Notice at Annex A**.

Please send your response by 16 January 2022 to:

Email (preferred): cspcsconsultation@cabinetoffice.gov.uk

OR write to:

CSPS Consultation

Cabinet Office
Priestley House
Priestley Road
Basingstoke
RG24 9NW

Complaints or comments

If you have any complaints or comments about the consultation process you should contact Cabinet Office at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address:

cspcsconsultation@cabinetoffice.gov.uk

Alternative format versions of this publication can be requested from
cspcsconsultation@cabinetoffice.gov.uk

Confidentiality

If you want the information that you provide to be treated as confidential, please explain to us why you regard the information you have provided as confidential. We will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Cabinet Office.

Annex A – Privacy Notice for Cabinet Office consultations

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the General Data Protection Regulation (GDPR).

YOUR DATA

Purpose

The purpose for which we are processing your personal data is to obtain the opinions of members of the public, parliamentarians and representatives of organisations and companies about departmental policies, proposals, or generally to obtain public opinion data on an issue of public interest.

The data

We will process the following personal data: name, address, email address, job title (where given), and employer (where given), as well as opinions.

We will also process additional biographical information about respondents or third parties where it is volunteered.

Legal basis of processing

The legal basis for processing your personal data is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller. In this case that is consulting on departmental policies or proposals, or obtaining opinion data, in order to develop good effective policies.

Sensitive personal data is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

The legal basis for processing your sensitive personal data, or data about criminal convictions (where you volunteer it), is that it is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department. The function is consulting on departmental policies or proposals, or obtaining opinion data, in order to develop good effective policies.

Recipients

Where individuals submit responses, we may publish their responses, but we will not publicly identify them. We will endeavour to remove any information that may lead to individuals being identified.

Responses submitted by organisations or representatives of organisations may be published in full.

Where information about responses is not published, it may be shared with officials within other public bodies in order to help develop policy.

As your personal data will be stored on our IT infrastructure it will also be shared with our data processors who provide email, and document management and storage services.

We may share your personal data where required to be law, for example in relation to a request made under the Freedom of Information Act 2000.

Retention

Published information will generally be retained indefinitely on the basis that the information is of historic value. This would include, for example, personal data about representatives of organisations.

Responses from individuals will be retained in identifiable form for three calendar years after the consultation has concluded.

Where personal data have not been obtained from you

Your personal data were obtained by us from a respondent to a consultation.

YOUR RIGHTS

You have the right to request information about how your personal data are processed, and to request a copy of that personal data.

You have the right to request that any inaccuracies in your personal data are rectified without delay.

You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.

You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.

You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

You have the right to object to the processing of your personal data where it is processed for direct marketing purposes.

You have the right to object to the processing of your personal data.

INTERNATIONAL TRANSFERS

As your personal data is stored on our IT infrastructure, and shared with our data processors, it may be transferred and stored securely outside the European Union. Where that is the case it will be subject to equivalent legal protection through the use of Model Contract Clauses.

CONTACT DETAILS

The data controller for your personal data is the Cabinet Office. The contact details for the data controller are: Cabinet Office, 70 Whitehall, London, SW1A 2AS, or 0207 276 1234, or publiccorrespondence@cabinetoffice.gov.uk.

The contact details for the data controller's Data Protection Officer are: Data Protection Officer, Cabinet Office, 70 Whitehall, London, SW1A 2AS, or dpo@cabinetoffice.gov.uk.

The Data Protection Officer provides independent advice and monitoring of Cabinet Office's use of personal information.

COMPLAINTS

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or 0303 123 1113, or casework@ico.org.uk. Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Annex B- Equality Impact Assessment

Introduction

Purpose of Equality Impact Assessment

This document records the equality analysis undertaken by the Cabinet Office (CO) in respect of the secondary legislation that will implement the prospective elements of the McCloud remedy. This follows the introduction of the Public Service Pensions and Judicial Offices Bill (PSP&JO Bill) produced by Her Majesty's (HM Treasury). This equality impact assessment enables the Minister to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

When formulating policy, the Government is required to comply with the PSED. The duty 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. This document includes the assessment of the equality impacts of all the measures outlined in the legislation, by reference to the protected characteristics identified in the Equality Act 2010 of: sex, age, disability, race, religion or belief, gender reassignment, pregnancy and maternity, sexual orientation and marital or civil partnership status.

Scope of Use

This Equality Impact Assessment (EQIA) has been drafted to accompany the secondary legislation that will implement the prospective changes of the McCloud remedy (the Prospective Remedy).

The number of civil servants impacted by the Prospective Remedy is 419,000 (as at June 2021).

Approach / Data

This EQIA assesses the impact of the secondary legislation implementing Prospective Remedy against each of the protected characteristics as outlined in the PSED. The data used in this analysis has been collected from various sources listed in Annex A.

The secondary legislation proposed follows the PSP&JO Bill introduced by HM Treasury, which, once enacted and on coming into force, will require public service (defined benefit) schemes to implement the Prospective Remedy. The EQIA produced to assess the impact of the Bill can be found here under 'Impact Assessments':

<https://bills.parliament.uk/bills/3032/publications>

Background

McCloud Judgment

In April 2015 defined benefit (DB) public service pension schemes were reformed; the cost of the legacy schemes had significantly increased over the previous decades, with most of those costs falling to the taxpayer. To protect against unsustainable increases in costs, new schemes were introduced with career average revalued earnings design and increased Normal Pension Ages, alongside the introduction of a cost control mechanism. They were also progressive, providing greater benefits to some lower paid workers.

As part of the 2015 reforms, those members of the legacy schemes who were within 10 years of their Normal Pension Age (NPA) on 31 March 2012 and had active status both then and on 1 April 2015 remained in the relevant legacy pension schemes. This transitional protection was provided following negotiations with member representatives and was intended to protect and give certainty to people who were close to retirement. In December 2018 the Court of Appeal found that this part of the reforms unlawfully discriminated against younger members of the judicial and firefighters' pension schemes in particular, as transitional protection was only offered to older scheme members. The courts required that this unlawful discrimination be remedied by the Government.

In July 2019 the Government confirmed it accepted that the Court's judgment had implications for the other public service schemes that had similar transitional arrangements.

Between 16 July and 11 October 2020, HM Treasury consulted on two options (an immediate choice exercise or a Deferred Choice Underpin (DCU)) to remedy discrimination that arose when reformed unfunded public service pension schemes were introduced.

Following the HM Treasury consultation on the approach to implementing a remedy for this discrimination, the government is proceeding with the DCU for all unfunded schemes, other than the judicial schemes. The DCU enables eligible members to make a choice as to whether to take legacy or reformed scheme benefits for the remedy period when their pension benefits become payable or, if a pension is already in payment, as soon as practicable once the necessary legal provisions are in force. This was supported by the majority of respondents to HM Treasury's consultation.

The reformed scheme (Alpha) is 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.

Therefore, all civil servants who continue in service from 1 April 2022 onwards will do so as members of Alpha. The legacy schemes (with sections classic, classic plus, premium and nuvos) will be closed in relation to service after 31 March 2022, ending the remedy period, during which members in scope have a choice of benefits.

Move to Reformed Scheme (Alpha) and Closure of the Legacy Schemes

The secondary legislation being assessed in this (EQIA) allows provision for the move of all active and deferred members to the reformed scheme (Alpha) from 1 April 2022. This

ensures that from 1 April 2022 all active and deferred members of the Civil Service Pension Scheme will be accruing benefits in the same scheme. The legislation also allows for the closure of the legacy schemes to future accrual from 1 April 2022.

Table 1: Civil Service Pension Scheme Protection Status at 31st March 2016

Section	Number of Members	Number of Members by %
Protected Members	105,875	22.82%
Tapered Protected Members	54,807	11.81%
Eligible Unprotected Members	222,424	47.93%
Ineligible and joined between 2012 - 2015	52,139	11.23%
Ineligible and joined after April 2015	28,756	6.21%
Total	464,002	100%

Source: Government Actuary's Department - 2016 Valuation Dataset

In comparison, the total active membership by protection type for the Public service pension schemes data is:

- Protected Members - 17%
- Tapered Members - 8%
- Unprotected Members - 75%

Source: Public service pension scheme data

Impact Assessment

Of the 419,000 members within scope of the Prospective Remedy, as at 30 June 2021 there were 39,000 active members of the legacy scheme. This number will reduce further by 1 April 2022 as members leave, retire or transition into Alpha.

There are also some members who have taken partial retirement and continue to accrue pension in a legacy scheme.

It is expected that by 1 April 2022 there will be between 30,000 and 40,000 members who will cease to accrue pension in a legacy scheme and instead move to Alpha for future accrual.

General Impact Assessment

These equality impacts have been explored and grouped by each protected characteristic as identified in the Equality Act 2010, in line with the government's duty to have regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations. The protected characteristics explored are as follows:

1. Age
2. Disability
3. Sex, pregnancy and maternity
4. Race
5. Other protected Characteristics (sexual orientation, gender reassignment, religion or belief and marital or civil partnership status)

Conduct prohibited by the Equality Act 2010 addresses both direct and indirect discrimination:

Direct Discrimination refers to discrimination against another because of a protected characteristic, e.g. A treats B less favourably than A treats or would treat others due to B's age. Direct discrimination also includes discrimination by association, meaning A treats B less favourably due to the protected characteristics of a spouse, friend, partner, parent or another person with whom they are associated. As well as discrimination by perception (because of a perceived protected characteristic which an individual may not, in fact, possess).

Indirect Discrimination is set out under Section 19 of the Equality Act 2010 and refers to acts, decisions or policies which are not intended to treat anyone less favourably, but which in practice have the effect of disadvantaging a group of people with a particular protected characteristic. Where such a policy disadvantages an individual with that characteristic, it will amount to indirect discrimination unless it can be objectively justified.

Age: Impact Assessment

This section of the EQIA sets out the impact of the secondary legislation that will implement the Prospective Remedy against the protected characteristic, age, as identified in the Equality Act 2010, in line with the Government's duty to have regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations.

The proposed secondary legislation will see that all active or deferred members are moved into the reformed scheme, Alpha, from 1 April 2022 and will secure the closure of the legacy schemes to future accrual from 1 April 2022. From 1 April 2022 when the legislation

comes into force, it will mean that all active and deferred members are part of a single scheme.

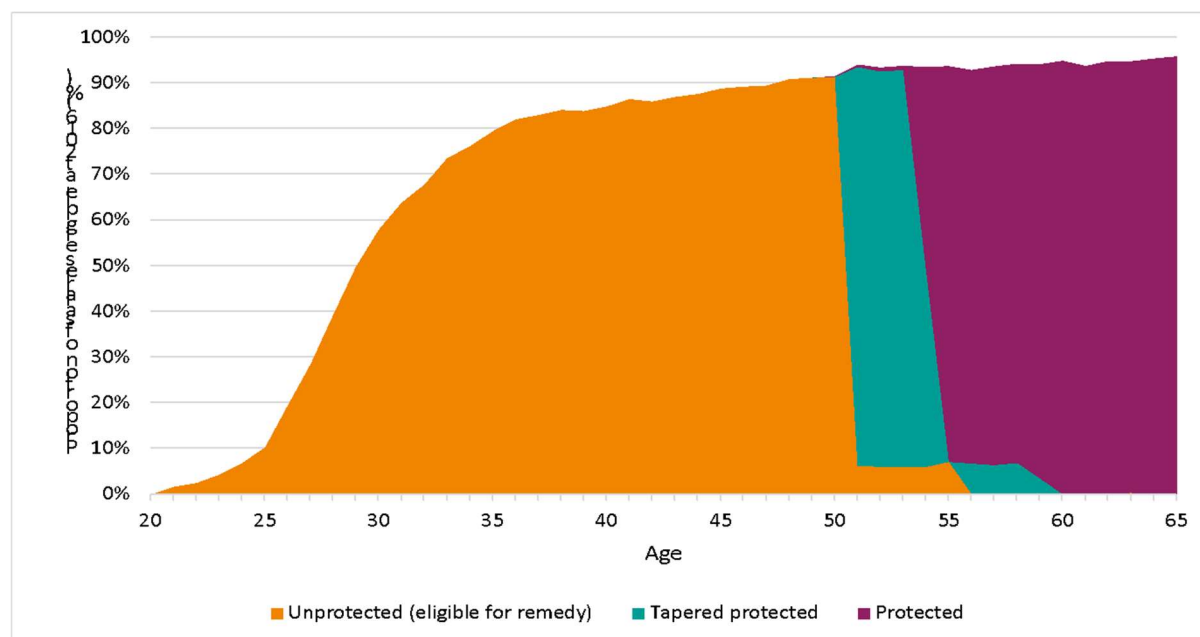
There will be no difference in treatment between those who are in the ‘remedy cohort’ (i.e. those members impacted by the original 2015 pension reforms), those who are not in scope of the retrospective elements of the McCloud remedy (the Retrospective Remedy) and those who are already in Alpha, the reformed scheme. And this will mean that those members who were entitled to transitional protection (typically older members) will not be accruing pension benefits in a different scheme to those members who were unprotected (and typically younger) from 1 April 2022. The breakdown in member age and members who were eligible for protection is demonstrated in Chart 1 and Table 3 below. Therefore, all members will be treated equally in this sense, regardless of age.

As well as ensuring there are no discrepancies between members in scope of the Retrospective Remedy, by moving all active and deferred members to Alpha from 1 April 2022, it means there is no difference in treatment for those members who have joined the scheme since 1 April 2015 and were automatically enrolled to Alpha. Typically, members who have joined since 1 April 2015 are likely to be younger than those members in scope of the Retrospective Remedy.

The fact that those with tapered protection will be over a certain age reflects the discriminatory nature of the tapered protection, and the government does not consider that the removal of that unjustified discrimination itself to be a discriminatory act.

The analysis carried out indicates that there will be no significant negative impact on the protected characteristic of age as a result of the prospective legislation.

Graph 1: Proportion of Civil Service members eligible for the transitional protection remedy by age



Source: Government Actuary's Department - 2016 Valuation Dataset

40% of members in the Civil Service Pension Scheme in 2016 were aged between 35 to 49, over 40% were over the age of 50 and around 20% fell below the age of 34.

Table 2: Total membership by age (public service scheme data compared to population)

Age	Working Population	Public Service Pensions Population
16-17	1%	0%
18-24	11%	5%
25-34	23%	24%
35-49	33%	41%
50-64	28%	30%
65 plus	4%	1%

Source: Labour Force Survey (LFS) Q1 2020 and Public service pension scheme data

Table 3: Total Member by age (scheme data broken down into protected types)

Age	Public Service Pension Scheme			Civil Service Pension Scheme			
	Protected	Tapered	Unprotected	Protected	Tapered	Unprotected	%
16-17	-	-	100%	-	-	100%	0%
18-24	-	-	100%	-	-	100%	3%
25-34	-	-	100%	-	-	100%	16%
35-49	2%	3%	95%	-	-	100%	40%
50-64	51%	23%	25%	53%	30%	17%	40%
65 plus	84%	0%	16%	96%	0%	4%	2%

Source: Public Service pension scheme data 2016

Source: Civil Service (GB) pension scheme data 2016

Sex, Pregnancy and Maternity: Impact Assessment

This section of the EQIA sets out the impact of the legislation implementing the Prospective Remedy on the protected characteristics of sex and/or pregnancy and maternity, as identified in the Equality Act 2010, in line with the Government's duty to have regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations. These characteristics are considered together in this section, due to the similar concerns that may arise under these circumstances.

The legislation being analysed in this EQIA, sees that all active and deferred members, will collect any future accrual in the reformed alpha pension scheme from 1 April 2022 and ensures that the legacy schemes are closed to future accrual from 31 March 2022. alpha is based on a career average revalued earnings (CARE) scheme structure, as opposed to the legacy schemes, which predominantly follow a final salary structure. A CARE scheme structure is likely to benefit those with lower salary growth more than higher earners. A larger proportion of males currently reach higher salary bands than females across the public service pension schemes, and therefore among those who may be better off under legacy scheme (and final salary) arrangements, a higher proportion will be male. A higher proportion of women (and those of other protected characteristics) are likely to be better off under CARE schemes, which are broadly more beneficial for lower and some middle earners².

Individuals who were in service on or before 31 March 2012 but subsequently left and re-joined are also in scope of the Retrospective Remedy and Prospective Remedy, provided their break in service is less than five years and meets the criteria for continuous service set out in scheme regulations. The government recognises that women are more likely to take a career break and work part time than men. ³The continuity of service provision allows those who have taken career breaks, for example to care for young children or elderly relatives, to maintain parity with their colleagues in respect of their pension rights.

The analysis carried out indicates that there will be no significant negative impact on the protected characteristics of sex, pregnancy and/or maternity as a result of the prospective legislation.

Table 4: Sex proportion for each public service pension scheme

Sex	Civil Service	Armed Forces	Firefighters	Police	Teachers	NHS
Male	47%	90%	95%	70%	29%	22%
Female	53%	10%	5%	30%	71%	78%

²

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/205840/Central_Equalities_Impact_Analysis.pdf

³

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/economicactivityandemploymenttypeformenandwomenbyageoftheyoungestdependentchildlivingwiththembles>

Source: Public Service pension scheme data 2016

The Civil Service Statistics published on 31/03/20 recorded 53.8% of Civil Servants are women.

Race: Impact Assessment

This section assesses the equality impacts of the secondary legislation on the protected characteristic of race as identified in the Equality Act 2010, in line with the Government's duty to have regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations.

The Court of Appeal's findings in 2018 outlined that transitional protection provisions gave rise to indirect discrimination on the grounds of race. The potential differential impacts by race are evidenced in Table 4 below, demonstrating that younger members who were not entitled to transitional protection, had a higher proportion of members from an ethnic minority, than those members who were likely to be older and entitled to protection.

In the Civil Service the proportion of employees from an ethnic minority group has increased between 2012⁴ and 2020⁵ by 3.9 percentage points (9.3% to 13.2%) . This is slightly higher than the public sector average, and indicates that new starters in the Civil Service are more likely to be from an ethnic minority group.

As set out above, overall, a CARE scheme structure may offer relatively fairer outcomes to ethnic minority groups who, like women, in some public sector workforces tend to experience lower salary progression.

The analysis carried out indicates that there will be no significant negative impact on the protected characteristic of race as a result of the proposed legislation.

Table 4: Total and public sector population by ethnicity

Ethnicity	Working population	Public sector population
White (excluding white minorities)	88%	88%

4

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/publicsectorpersonnel/bulletins/civilservicestatistics/2012-10-24>

5

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940284/Statistical_bulletin_Civil_Service_Statistics_2020_V2.pdf

Mixed	1%	1%
Indian	3%	2%
Pakistani	1%	1%
Bangladeshi	1%	1%
Chinese	1%	0%
Black/African/Caribbean	3%	4%
Other ethnic groups	2%	3%
<i>Source: LFS Q1 2021</i>		

Disability: Impact Assessment

This section sets out the equality impacts of the secondary legislation on the protected characteristic of disability as identified in the Equality Act 2010, in line with the Government's duty to have regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations.

The proportion of individuals reporting a disability in the Civil Service is increasing over time. Since 2010 there has been a year-on-year increase in the percentage of civil servants who declare themselves as disabled. This figure now stands at 12.8%, 5.2 percentage points higher than in 2010. The proportion of civil servants with a declared disability has increased across all grades since 2010. The percentage of civil servants declaring themselves as disabled remains below that of the economically active working age population (14.2%)⁶.

It is recognised that individuals who work and have a disability are more likely to work part time than those without a disability⁷. The Government also recognises that people with caring responsibilities may be more likely to work part-time. For example, in the Civil Service, 41% of respondents to the "Civil Service People Survey 2019" who worked part time reported that they also have caring responsibilities, in comparison to 28% of full-time workers who reported caring responsibilities⁸. While the government recognises that this could in turn affect their overall pension accrual, the measures as outlined in the proposed legislation are not expected to have a negative impact on those with a disability or caring responsibilities.

⁶ <https://www.instituteforgovernment.org.uk/explainers/disability-civil-service>

⁷ 'Annual Population Survey (APS) 2019', Disability statistics

⁸ <https://civilservice.blog.gov.uk/wp-content/uploads/sites/86/2020/06/2020-06-02-Carers-Strategy-v0e.pdf>

Table 5: Total and public sector population by disability

Disability	Working population	Public sector population
Equality act disabled	14%	16%
Not equality act disabled	86%	84%
<i>Source: LFS Q1 2021</i>		

Other Protected Characteristics: Impact Assessment

This section sets out the equality impacts of each of the measures set out in the secondary legislation of the other protected characteristics; marital and civil partnership status, religion and belief, gender reassignment and sexual orientation, as identified in the Equality Act 2010, in line with the government's duty to have regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations.

The Government does not foresee any unjustified differential impacts caused by the proposed legislation to these protected characteristics.

The analysis carried out on the data available is outlined below.

Chart 2 shows that most religions are underrepresented in the public sector workforce relative to the UK working population. Reporting rates for religion and belief have increased this year to 63.4%, up from 54.9% in 2019. Of those who have reported, the most commonly reported religion or belief is Christianity at 49.8%. The second most commonly reported is Islam (Muslim) at 4.0%. A further 38.4% of civil servants reported having no religion or belief⁹.

With respect to marital or civil partnership status, the data in Table 6 shows that those who are married, cohabiting or in a civil partnership are overrepresented in the public sector. Conversely, those who are not married are underrepresented in the public sector compared to the working population.

The Government does not envisage any differential impact for the protected characteristics of sexual orientation and gender reassignment. The percentage of Civil Servants identifying as LGBQ has increased by 5%. Of those with a known sexual orientation, 5.0% of civil servants identify as being lesbian, gay, bisexual or recorded their sexual orientation as 'other' (LGBQ). This has increased every year since data on sexual orientation has been captured in these statistics, and is up 1.3 percentage points since 2015. Reporting rates for sexual orientation have increased from 38.1% in 2015 when it was first collected, to 65.5% in 2020¹⁰.

⁹ <https://www.gov.uk/government/statistics/civil-service-statistics-2020>

¹⁰ <https://www.gov.uk/government/statistics/civil-service-statistics-2020>

The Government is unable to conduct in-depth analysis on whether the secondary legislation implementing the Prospective Remedy will have a disproportionate impact on those with these protected characteristics. This is because the scheme is not currently equipped to collect such data, due to the sensitive nature of this data and balancing the need to collect such data against privacy and data protection legislation. Given the nature of the McCloud judgment and the prospective legislation proposed there is no evidence to suggest any differential negative impact in regard to the protected characteristic of sexual orientation and gender reassignment.

The proposed secondary legislation will apply equally to all scheme members, irrespective of their religion or belief, sexual orientation, marital or civil partnership status and gender reassignment. The government does not, therefore, envisage a differential impact from moving all members into 2015 reformed schemes in April 2022 on individuals with these protected characteristics.

The analysis carried out indicates that there will be no significant negative impacts on the protected characteristics, marital and civil partnership status, religion and belief, gender reassignment and sexual orientation as a result of the proposed legislation.

Chart 2: Total and public sector population by religion

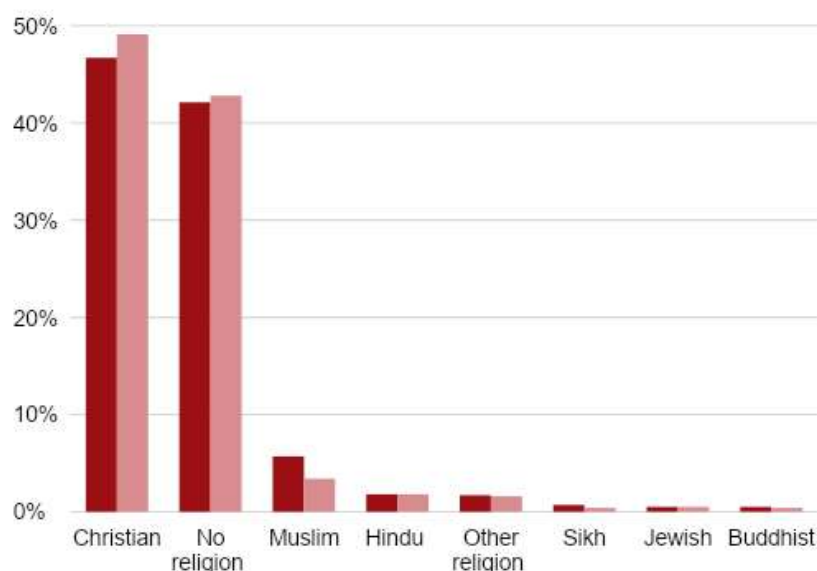


Table 6: Total and public sector population by marital status

Marital status	Working population	Public sector population
Married, cohabiting or in a civil partnership	56%	64%
Not married	44%	36%
<i>Source: LFS Q1 2021¹¹</i>		

Specific Equality Act Legislation

Harassment and victimisation

Harassment – this is unwanted conduct related to a relevant protected characteristic which has the purpose or effect of either violating a person’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Victimisation - this occurs where a person subjects another person to a detriment because either they have done a protected act or it is believed they may do a protected act.

The Government does not consider there would be a risk of harassment or victimisation as a result of any of the measures in the proposed legislation.

Advancing of equality of opportunity

The Government has considered how all the measures in the prospective legislation might impact on the advancement of equality of opportunity. The measures in the proposed legislation affect all eligible members, irrespective of their protected characteristics. The Government does not consider any of these measures would negatively affect equality of opportunity.

Eliminating unlawful discrimination in relation to disability and duty to make reasonable adjustments

The Government has very limited evidence to assess whether any of the measures in the proposed legislation are likely to indirectly discriminate against people with disabilities. However, given analysis of the available data, it is reasonable to assume that the measures in the proposed legislation will not unlawfully discriminate in relation to disability. This is explored further in the ‘Disability: Impact Assessment’ section.

Fostering good relations

The Government does not consider that the measures in the proposed legislation will actively foster good relations between those who share a protected characteristic and those who do not. However, the Government has acknowledged the need to foster good relations when formulating the proposals for these measures so that they are not incompatible with this aim.

The Government believes that all the measures in the proposed legislation, irrespective of their protected characteristics, would respect the fostering good relations principle, as it will not create differences in treatment.

The Government will continue to update this equality statement in the light of any new evidence of these impacts in accordance with the ongoing nature of responsibilities under the PSED.

Limitations

It should be acknowledged that all the data used in this EQIA is collected at a specific point in time that will not be the same as when the legislation comes into effect. For the purposes of this analysis, assumptions are that the percentages calculated here will be the same for the basis of this equality analysis.

Footnotes

1. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/205840/Central_Equalities_Impact_Analysis.pdf
2. <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/economicactivityandemploymenttypeformenandwomenbyageoftheyoungestdependentchildlivingwiththentables>
3. <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/publicsectorpersonnel/bulletins/civilservicestatistics/2012-10-24>
4. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940284/Statistical_bulletin_Civil_Service_Statistics_2020_V2.pdf
5. <https://www.instituteforgovernment.org.uk/explainers/disability-civil-service>
6. 'Annual Population Survey (APS) 2019', Disability statistics

7. <https://civilservice.blog.gov.uk/wp-content/uploads/sites/86/2020/06/2020-06-02-Carers-Strategy-v0e.pdf>
8. <https://www.gov.uk/government/statistics/civil-service-statistics-2020>
9. <https://www.gov.uk/government/statistics/civil-service-statistics-2020>

Annex C: Table 1: Contribution Rates and Salary Thresholds for 2022/23

Annualised rate of pensionable earnings (£)		Member contribution rate
From	To	
£0	£23,100	4.60%
£23,101	£56,000	5.45%
£56,001	£150,000	7.35%
£150,001	-	8.05%

Annex D: Glossary of terms

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 rate, the more valuable it 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. Alpha is $1/43$, or 2.32%.

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.

Added or additional pension (AP) - Available in 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.

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. The Civil Service version is alpha.

Defined Benefit (DB) pension scheme - A pension scheme where the pension is related to the members’ salary or some other value fixed in advance.

Effective pension age (EPA) - 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.

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.

Legacy scheme - The public service pension schemes members were in prior to 1 April 2015.

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.

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.

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.

Reformed scheme(s) - The reformed public service pension schemes introduced under the Public Service Pensions Act 2013.

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.

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.

Annex E: Draft The Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2022

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - *1st April 2022*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(a), 2(1) and 3(1), (2) and (3) of the Public Service Pensions Act 2013⁽¹²⁾ (“the 2013 Act”).

In accordance with section 3(5) of the 2013 Act, the Treasury consents to the making of these Regulations.

In accordance with section 21(1) of the 2013 Act, the Secretary of State has consulted the representatives of such persons as appear to the Secretary of State to be likely to be affected by these Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2022.

(2) These Regulations come into force on 1st April 2022 but regulation 3 has effect from 1st April 2015.

(3) These Regulations extend to England and Wales, Northern Ireland and Scotland.

Amendment of the Public Service (Civil Servants and Others) Pensions Regulations 2014

2. The Public Service (Civil Servants and Others) Pensions Regulations 2014⁽¹³⁾ are amended in accordance with regulations 3 to 8.

Amendment of regulation 121 (payment of lump sum death benefit)

3. In regulation 121(4), omit “if it is impractical to pay it”.

Amendment of regulation 134 (rate of member contributions)

4. In regulation 134(8), after the table headed “Scheme Year 1st April 2021 to 31st March 2022” insert—
“Scheme Year 1st April 2022 to 31st March 2023

<i>Annualised rate of pensionable earnings</i>	<i>Member contribution rates</i>
Up to but not including £23,101	4.6%
£23,101 up to but not including £56,001	5.45%
£56,001 up to but not including £150,001	7.35%
£150,001 and above	8.05%

⁽¹²⁾ 2013 c. 25. Section 3(2)(c) was inserted by section [79(2)] of the Public Service Pensions and Judicial Offices Act [2022 (c. x)].

⁽¹³⁾ S.I. 2015/1964. There are no relevant amendments to Schedule 4.

Amendment of regulation 142 (transfer of payments made to other schemes or pension arrangements)

5. In regulation 142(4), for “95(2)” substitute “95(2A)”.

Amendment of regulation 173 (information about payment of annual allowance charge)

6. In regulation 173(2), for “31st July” substitute “6th October”.

Amendment of Schedule 1 (payment for extra pension)

7.—(1) In paragraph 7 (added pension option exercisable by a member) of Schedule 1, for sub-paragraph (6) substitute—

“(6) An option to make a lump sum payment for added pension may only be exercised if the member—

(a) either—

(i) has been an active member of this scheme in relation to a continuous period of pensionable service for at least 12 months; or

(ii) is a transition member within the meaning of paragraph 1(1) of schedule 2; and

(b) has been provided with a statement of the amount of added pension (if paragraph 18 applies).”.

Amendment of Schedule 2 (transitional provisions)

8.—(1) Schedule 2 is amended as follows.

(2) In paragraph 1 (interpretation - general)—

(a) in the definition of “closing date”, before sub-paragraph (a) insert—

“(za) if the member is a full protection member of the PCSPS, 31st March 2022;”;

(b) in the definition of “transition date”, before sub-paragraph (a) insert—

“(za) if the member is a full protection member of the PCSPS, 1st April 2022”.

(3) In sub-paragraph (3) of paragraph 3 (meaning of “tapered protection closing date”), after “is a date” insert “before 1st April 2022”.

(4) For sub-paragraph (2) of paragraph 9 (full protection members of the PCSPS) substitute—

“(2) P ceases to be a full protection member of the PCSPS on whichever of the following days occurs first—

(a) the day on which P ceases to be in pensionable service under the PCSPS unless sub-paragraph (3) or (4) applies; or

(b) 31st March 2022.”.

(5) In paragraph 16 (Fair Deal eligible persons transferred out on or before 31st March 2012)—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

(a) in the case of a person who is a section 1(4A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or

(b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 of the SA 1972, sub-paragraphs (2), (3) and (5) apply.”;

(b) in sub-paragraph (2)—

(i) for paragraph (b) (but not the “and” after it) substitute—

“(b) P begins service which is pensionable under the PCSPS as—

(i) a section 1(4A) eligible person;

(ii) a civil servant; or

(iii) a person serving in an employment or office listed in Schedule 1 of the SA 1972,

on a date (“P’s re-joining date”) after 31st March 2012;”;

(ii) at the end of paragraph (c)(i) (and before the “; or”) insert “due to P being continuously employed to carry out functions or services related to their employment in the PCSPS before P’s transfer date”;

(c) for sub-paragraph (3) substitute—

“(3) This sub-paragraph applies if P is an active member of the PCSPS as—

(a) a section 1(4A) eligible person;

(b) a civil servant; or

(d) a person serving in an employment or office listed in Schedule 1 of the SA 1972, continuously after P’s re-joining date.”;

(d) after sub-paragraph (6) insert—

“(7) In this paragraph, “the transferred services” has the meaning given in regulation 16 (Fair Deal eligible persons).”.

(6) In paragraph 17 (Fair Deal eligible persons transferred out after 31st March 2012)—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

(a) in the case of a person who is a section 1(4A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or

(b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 of the SA 1972, sub-paragraphs (2), (3) and (5) apply.”;

(b) in sub-paragraph (2)—

(i) for paragraph (d) (but not the “and” after it) substitute—

“(d) P begins service which is pensionable under the PCSPS as—

(i) a section 1(4A) eligible person;

(ii) a civil servant; or

(iii) a person serving in an employment or office listed in Schedule 1 of the SA 1972, on a date (P’s re-joining date) after P’s transfer date;”;

(ii) at the end of paragraph (e)(i) (and before the “; or”) insert “due to P being continuously employed to carry out functions or services related to their employment in the PCSPS before P’s transfer date”;

(c) for sub-paragraph (3) substitute—

“(3) This sub-paragraph applies if P is an active member of the PCSPS as—

(a) a section 1(4A) eligible person;

(b) a civil servant; or

(d) a person serving in an employment or office listed in Schedule 1 of the SA 1972, continuously after P’s re-joining date.”;

(d) after sub-paragraph (6) insert—

“(7) In this paragraph, “the transferred services” has the meaning given in regulation 16 (Fair Deal eligible persons).”.

(7) In paragraph 25 (Fair Deal eligible persons transferred out on or before 31st March 2012)—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

(a) in the case of a person who is a section 1(4A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or

(b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 of the SA 1972, sub-paragraphs (2), (3) and (5) apply.”;

- (b) in sub-paragraph (2)—
 - (i) for paragraph (b) (but not the “and” after it) substitute—
 - “(b) P begins service which is pensionable under the PCSPS as—
 - (i) a section 1(4A) eligible person;
 - (ii) a civil servant; or
 - (iii) a person serving in an employment or office listed in Schedule 1 of the SA 1972, on a date (“P’s re-joining date”) after 31st March 2012;”;
 - (ii) at the end of paragraph (c)(i) (and before the “; or”) insert “due to P being continuously employed to carry out functions or services related to their employment in the PCSPS before P’s transfer date”;
 - (c) for sub-paragraph (3) substitute—
 - “(3) This sub-paragraph applies if P is an active member of the PCSPS as—
 - (a) a section 1(4A) eligible person;
 - (b) a civil servant; or
 - (d) a person serving in an employment or office listed in Schedule 1 of the SA 1972, continuously after P’s re-joining date.”;
 - (d) after sub-paragraph (6) insert—
 - “(7) In this paragraph, “the transferred services” has the meaning given in regulation 16 (Fair Deal eligible persons).”.
- (8) In paragraph 26 (Fair Deal eligible persons transferred out after 31st March 2012)—
- (a) for sub-paragraph (1) substitute—
 - “(1) This paragraph applies if—
 - (a) in the case of a person who is a section 1(4A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or
 - (b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 of the SA 1972, sub-paragraphs (2), (3) and (5) apply.”;
 - (b) in sub-paragraph (2)—
 - (i) for paragraph (d) (but not the “and” after it) substitute—
 - “(d) P begins service which is pensionable under the PCSPS as—
 - (i) a section 1(4A) eligible person;
 - (ii) a civil servant; or
 - (iii) a person serving in an employment or office listed in Schedule 1 of the SA 1972, on a date (P’s re-joining date) after P’s transfer date;”;
 - (ii) at the end of paragraph (e)(i) (and before the “; or”) insert “due to P being continuously employed to carry out functions or services related to their employment in the PCSPS before P’s transfer date”;
 - (c) for sub-paragraph (3) substitute—
 - “(3) This sub-paragraph applies if P is an active member of the PCSPS as—
 - (a) a section 1(4A) eligible person;
 - (b) a civil servant; or
 - (d) a person serving in an employment or office listed in Schedule 1 of the SA 1972, continuously after P’s re-joining date.”;
 - (d) after sub-paragraph (6) insert—
 - “(7) In this paragraph, “the transferred services” has the meaning given in regulation 16 (Fair Deal eligible persons).”.

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