



Home Office

PUBLIC SERVICE PENSIONS: POLICE PENSIONS (AMENDMENT) REGULATIONS 2022

**McCloud / Sargeant remedy: phase one
(prospective)**

Response to the consultation

March 2022

This consultation relates to the amendments to the Police Pension Scheme (England and Wales) Regulations 2015 associated with the Police and Firefighters' Pension Schemes (Amendment) Regulations 2022.

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1. Introduction and contact details

1.1. This document is the post-consultation report for the consultation paper ‘Public Service Pensions: Police Pensions (Amendment) Regulations 2022’, which was published on Monday 8 November 2021 and closed to responses on Sunday 2 January 2022.

It will cover:

- the background to the consultation
- a summary of the consultation responses
- the government response to the specific questions raised and matters raised by respondents, and next steps

Further copies of this report and the consultation paper can be obtained by contacting the address below:

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This report is also available at <https://www.gov.uk/government/consultations/amendments-to-police-pension-schemes-in-england-and-wales-2022>.

Alternative format versions of this publication can be requested from:
Policepensionspublicservicepensionsremedy@homeoffice.gov.uk.

Complaints or comments

If you have any questions about the consultation process, please contact the Home Office at Policepensionspublicservicepensionsremedy@homeoffice.gov.uk or the address above.

2. Executive summary

- 2.1. Between 8 November 2021 and 2 January 2022, the Home Office (as the Responsible Authority for the Police Pension Scheme in (England and Wales) consulted on proposed amendments to the Police Pension Scheme (England and Wales) Regulations 2015 ('the 2015 Regulations') as part of the first phase of the McCloud remedy. The consultation sought views on proposed amendments to scheme rules which will move all members (including those formerly protected) to the 2015 scheme ('the reformed scheme') on 1 April 2022 and close the legacy schemes to future accrual from 31 March 2022.
- 2.2. The Home Office received a total of 97 responses to the consultation. A high proportion of respondents were individual members of the police pension scheme, groups that represent police pension scheme members, employers and administrators. Three responses were received after the closing date of the consultation but were still considered. Most of the responses were relevant to the five questions asked, and a wide range of opinions were received. Some respondents did not address the questions raised in the consultation, while expressing concern about the proposals to move all active members to the reformed scheme, a policy which is outside the scope of this consultation. As well as addressing the questions raised in the consultation, respondents expressed views on scheme-related matters which were considered to be outside scope of this consultation. This document sets out the Home Office response to commentaries received on the changes that were subject to this consultation.
- 2.3. Taking into account responses to the consultation, we are confident the amendments to the 2015 Regulations will achieve the policy aim of implementing the first phase of the McCloud remedy. All remaining legacy scheme members will be moved to the reformed scheme from 1 April 2022 and the legacy schemes will be closed to future accrual on 31 March 2022. This will ensure that all members are treated equally in respect of any pensionable service accrued after 31 March 2022. Therefore, the Home Office will remove the transitional protection that the courts found to be discriminatory in the McCloud and Sargeant cases. This is in line with policy made by HM Treasury relating to public service pension schemes. Consequently, the Home Office will have made the changes that will be required once the Public Service Pensions and Judicial Offices Bill ('the PSPJO Bill') receives Royal Assent.

3. Background

- 3.1. In April 2015, the government introduced reformed public service pension schemes. The changes followed a fundamental structural review by the Independent Public Service Pension Commission, chaired by Lord Hutton of Furness. As part of these changes, protection was provided to those members who were close to retirement, meaning that they would be allowed to remain in their legacy scheme or gradually transition to the relevant reformed public service pension scheme. For the police pension scheme this applied to those within fourteen years of their normal pension age¹ (NPA). This policy was referred to as ‘transitional protection’ arrangements.
- 3.2. In December 2018, the Court of Appeal found this transitional protection to be discriminatory against younger members in the judicial and firefighters’ pension schemes in the McCloud and Sargeant cases, as transitional protection was only offered to older scheme members. The courts required that this unlawful discrimination be remedied by the government, and the government accepted that this applied across all of the main public service pension schemes.
- 3.3. On 16 July 2020, HM Treasury (HMT) consulted on 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.
- 3.4. In February 2021² it was announced that affected members and fully protected members will receive at the point they retire a choice of which pension benefits they would prefer to receive in respect of any remediable service accrued from 1 April 2015 to 31 March 2022. This choice is whether the benefits should be modelled on the relevant legacy scheme or reformed scheme provisions. This is known as the Deferred Choice Underpin, or ‘DCU’, and the retrospective remedy. Where members are already receiving pensions, they will be given a choice as soon as practicable. In addition, from 1 April 2022, all those who continue in service will do so as members of the reformed schemes, regardless of age, meaning all members will be treated equally in terms of which pension scheme they can join. This is known as the prospective remedy.
- 3.5. The PSPJO Bill³ was introduced to Parliament in July 2021 to implement changes in public service pension schemes to remedy the discrimination identified by the McCloud judgment. The PSPJO Bill, and the secondary legislation to be made under it, covering both ‘prospective’ and ‘retrospective’ phases of the remedy, remove the transitional protection that the courts found to be discriminatory based on age. All eligible members, irrespective of age and proximity to NPA, will have accrued benefits in the legacy schemes for the remedy period (1 April 2015 - 31 March 2022).
- 3.6. The remedy will be delivered in two phases, prospective (phase one) and retrospective (phase two), delivered through primary and secondary legislation.

¹ To note, the 1987 police pension scheme England and Wales has no Normal Pension Age as such. Individual members can have a pension age based on their length of service and linked to, but not necessarily dependent on, age, or they can have a pension age that depends on their rank. This term NPA is used here as shorthand, and for this police scheme means the different ages as used in the design of the original transitional protection.

² <https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>

³ <https://bills.parliament.uk/bills/3032>

- 3.7. The consultation, which was published on Monday 8 November 2021 and closed on Sunday 2 January 2022, addressed the prospective remedy, namely, moving all members to the reformed scheme from 1 April 2022 and closing the legacy schemes to future accrual on 31 March 2022. This will mean that all members are treated equally in respect of any pensionable service accrued after 31 March 2022.
- 3.8. During the consultation period, the Home Office engaged with the Police Pensions Scheme Advisory Board (England and Wales) ('the SAB'), holding a session in early December 2021. The SAB was established under the 2015 regulations, comprising police employer and member representatives, and part of its role is to provide advice to the Home Secretary on the merits of making changes to the police pensions scheme. The aim of the session was to ensure stakeholders were given the opportunity to directly engage with the Home Office on the scheme level changes, to ensure the draft regulations would achieve the stated policy aim. A further aim was to give stakeholders an opportunity to seek clarification on any aspects of the consultation and the draft regulations.
- 3.9. Implementation of the second part of the remedy will require further changes to scheme regulations. A further set of draft regulations is under development, and there will be an additional consultation in due course covering the retrospective phase. This will address those elements in the remedy that will be retrospective in effect and relate to the remedy period (1 April 2015 to 31 March 2022).

4. Summary of responses

- 4.1. The Home Office received responses to the consultation from 97 respondents. Most of the responses received were from individual scheme members, member and employer representatives of the police pension scheme or other stakeholder groups. 24 respondents addressed at least one of the five questions raised in the consultation. These respondents represented a range of views on the government's policy to address the discrimination identified in the McCloud/Sargeant cases and views on the scheme level changes proposed by the Home Office.
- 4.2. It is important to point out that the summary of findings is based on the relatively small number of responses received and that they are not necessarily representative of the views of all stakeholders affected by the proposed amendments to scheme rules. The Home Office considered the responses and identified the main points of support and challenge raised by respondents. We outline the Home Office's response to these points below in section 5.

Questions for consultation	Responses received
Question 1: As required by the PSPJO, the draft regulations seek to ensure that the legacy schemes are closed to future accrual from 31 March 2022 and that all members are in the 2015 Scheme in respect of any pensionable service from 1 April 2022. Are the draft regulations sufficient to meet this aim? Do you think there are any changes or additions required to the draft regulations to achieve the stated policy aims?	12
Question 2: The government will consider whether any amendment to the existing 2015 Scheme regulations is required in order to ensure that a protected member who applies for ill health retirement before 31 March 2022, and which is determined in their favour after that date, is treated no less favourably than if the application had been determined on 31 March 2022. Do you have any views on the proposals regarding ill-health retirement? In particular, do you think that any amendment to the 2015 Scheme is required to achieve this intent?	14
Question 3: The regulations will need to ensure that provisions which allow arrangements for purchasing service in the legacy schemes by periodical contributions, entered into before 1 April 2022, can continue on and after that date and that additional benefit purchasing in the legacy schemes ceases on 31 March 2022. In your view, would existing provisions in the relevant reformed scheme regulations achieve these aims? Alternatively, would additional provisions be needed to achieve this outcome?	13
Question 4: We are interested in understanding whether the scheme regulation amendments will have an impact on people with protected characteristics, beyond those equality considerations undertaken and set out in the EQIA undertaken alongside the consultation and PSPJO. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the draft regulations and policy intent as set out above will have any positive or negative impacts on people with protected characteristics, beyond those already considered? If so, which and why/why not?	22
Question 5: Are there any other areas which you think should be addressed in these regulations to ensure all members are moved to the relevant reformed scheme from 1 April 2022, and that the differential treatment, as identified by the Court of Appeal, is ended?	16

Out of the 97 responses, 14 respondents also asked for clarification on their individual pension plans. We will direct those respondents to their pension administrator. The Home Office cannot intervene or advise in individual cases. We will continue to work with the National Police Chiefs' Council (NPCC) to support police forces, as the employer and pensions administrators, in communicating with scheme members on the pension changes.

5. Responses to specific questions

Question 1: As required by the PSPJO, the draft regulations seek to ensure that the legacy schemes are closed to future accrual from 31 March 2022 and that all members are in the 2015 Scheme in respect of any pensionable service from 1 April 2022. Are the draft regulations sufficient to meet this aim? Do you think there are any changes or additions required to the draft regulations to achieve the stated policy aims?

There were 12 responses received to question 1 of the consultation. Of these, seven respondents agreed that the proposed changes would achieve the policy intention set out in the consultation document. Three respondents disagreed with the proposed changes due to matters outside the scope of the consultation and two respondents did not hold a view.

One respondent also asked for amendments to be made in the legacy schemes to include clear definitions of pensionable service. Another respondent suggested that an alternative would be to allow all legacy members to choose to remain in their legacy scheme.

One of these respondents highlighted that there is currently no change to the regulations to ensure that the CARE benefits from 1 April 2022 are not linked to continuing revaluation from the existing CARE account from 1 April 2015. One respondent also requested that it be considered that the date for which the "active member's account is established" under regulation 59 is defined as being 1 April 2022 for those members. Another respondent shared concerns that the closure of the legacy schemes may have adverse implications for some police officers on the grounds of age and gender, in particular on female members of the scheme who are likely to work part-time.

Government response

After considering the responses to the consultation, the government is content that the proposed changes will achieve the policy intention. The legislative amendments will come into effect on 1 April 2022. This meets the aim of removing the discrimination and making sure that public service pensions are reformed appropriately. Police employer representatives are aware of the current proposals and have the opportunity now to make the necessary preparations to internal processes in advance of these changes. On the wider concerns about amending various sets of regulations on matters such as definitions of pensionable service in the legacy schemes and how CARE revaluation is dealt with in the remedy period, we consider these as matters for retrospective remedy, not the prospective matters that have been considered in this consultation.

This consultation did not consider the question of whether to close the legacy schemes. That policy was consulted on via the Public Service Pensions Consultation: "Changes to

the Transitional Arrangements to the 2015 Schemes” detailing proposals regarding public service pensions. The decision to adopt this policy was announced in February 2021 via the [public service pensions consultation response](#). The response with regards to the closure of the legacy schemes and possible impacts on age and gender will be addressed as part of the response to question 4 which deals with equality matters.

Question 2: The government will consider whether any amendment to the existing 2015 Scheme regulations is required in order to ensure that a protected member who applies for ill health retirement before 31 March 2022, and which is determined in their favour after that date, is treated no less favourably than if the application had been determined on 31 March 2022. Do you have any views on the proposals regarding ill-health retirement? In particular, do you think that any amendment to the 2015 Scheme is required to achieve this intent?

There were 14 responses received to question 2 of the consultation.

Six respondents agreed that further amendments are not required on this matter. This is because the draft regulations successfully extend the definition of transition members to include protected members of the legacy schemes, so that protected members are treated in the same way as other transitional members. However, four respondents did reiterate that the reformed scheme needs to ensure that all members who applied for ill-health retirement on or before 31 March 2022 are treated the same, irrespective of when their ill-health retirement is determined.

Two respondents were concerned that this matter had been raised in the consultation at all, but its inclusion was to test our initial assessment that the scheme already achieved the policy intent. We were able to verify that the existing regulations did already achieve the policy intent, and three respondents positively agreed with our analysis of the existing ill-health arrangements for legacy 1987 and 2006 scheme members who transition into the reformed scheme.

Two respondents expressed a view about giving all those who retire on ill-health grounds an Immediate Choice. However, that point relates to the remedy period and the wider amendments that are needed to give effect to the remedy. That is not the subject of this consultation or the amendments in the Police Pensions (Amendment) Regulations 2022.

Government response

For any ill-health cases that straddle 1 April 2022, the government’s policy intention is that, if the application is approved, members will receive an award paid from the reformed 2015 scheme that is no less generous than if the award had been determined on 31 March 2022 under legacy scheme rules.

Our analysis of the existing police pensions regulations and the responses received to our consultation demonstrate that there was no need to amend the regulations to achieve the policy aim. The policy intent will be achieved under the existing scheme regulations. The existing regulations will ensure that a protected member who applies for ill-health retirement on or 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. Members who move to the reformed schemes and subsequently become

subject to ill-health retirement from 1 April 2022 onwards will be assessed, and receive ill-health benefits, in accordance with the ill-health arrangements under the reformed scheme provisions that deal with members who also have legacy scheme membership.

Under the existing regulations, for members who make an application for ill-health retirement before they transition on 1 April 2022 to the reformed scheme, where that application is determined after the date of their transition, they will be in no worse position than if the application had been determined on 31 March 2022. This is because the existing transitional provisions in the 2015 regulations take account of the legacy scheme ill-health pension in the calculation of the one-pot ill-health benefits for transition members under the 2015 regulations. The test for ill-health retirement eligibility for members of the reformed scheme is no more stringent than the test that applied under the legacy schemes.

Question 3: The regulations will need to ensure that provisions which allow arrangements for purchasing service in the legacy schemes by periodical contributions, entered into before 1 April 2022, can continue on and after that date and that additional benefit purchasing in the legacy schemes ceases on 31 March 2022. In your view, would existing provisions in the relevant reformed scheme regulations achieve these aims? Alternatively, would additional provisions be needed to achieve this outcome?

There were 13 responses received to question 3 of the consultation. Five respondents expressed a view that the policy to restrict members from making new elections after 31 March 2022 to purchase additional service under their respective legacy schemes was appropriate. Three respondents stated that they had no response or no view on this particular question.

One response raised concerns about retrospective aspects of the remedy. This relates to transitional members who are returned to their legacy scheme in October 2023. The respondent suggests that they should have had an opportunity to make an election to purchase additional service in their legacy service between the point they transitioned into the reformed scheme and 31 March 2022. This point falls outside the scope of this consultation and can be considered as part of the retrospective remedy.

Four respondents raised a point relating to the interaction of this proposal and the effects it would have on those members with protected characteristics. This concern relates to the case of female members who work part-time or take career breaks. Closing the scheme means that such members are no longer able to work additional months and years in the legacy schemes. The contention is that these members will be worse off than their male comparators, who are more likely to work full-time, so that by the time these female members retire, they will have a greater percentage of their pension in the reformed scheme. The link to question 3 (while not explicitly set out in all the responses) is the desire that such members might have to use the additional service provisions.

Two respondents raised points that also fall outside the scope of this consultation, for example, requests to allow tapered and non-protected members who are currently members of the reformed scheme to be able to make new elections to purchase additional service in their legacy schemes. This specific point falls outside the scope of the current consultation but will be considered as part of the retrospective aspects of remedy.

Government response

After considering the consultation responses, the government is content to proceed with the intended policy to restrict members from making new elections to purchase additional service under their legacy scheme after 31 March 2022. To allow a specific group (for example female officers who had worked part-time) to continue to have access to this provision beyond 31 March 2022 would be discriminatory to all other members. This policy meets the aim of removing the discrimination identified by the courts in the McCloud and Sargeant litigation and making sure that the public service pensions were reformed appropriately.

A member who has made an election to purchase additional service in the legacy scheme on or before 31 March 2022 and has opted to pay the costs by means of periodical contributions will be permitted to continue making these contributions in respect of their election. The question of whether and how a transition member with remediable service will be able to make an election as they might have done in the remedy period, had they been in the legacy scheme, will be dealt with as part of the retrospective remedy.

Question 4: We are interested in understanding whether the scheme regulation amendments will have an impact on people with protected characteristics, beyond those equality considerations undertaken and set out in the EQIA undertaken alongside the consultation and PSPJO. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the draft regulations and policy intent as set out above will have any positive or negative impacts on people with protected characteristics, beyond those already considered? If so, which and why/why not?

There were 22 responses received to question 4 of the consultation. One of the respondents indicated that they could not identify additional equality impacts arising from the proposed changes. 18 respondents answered that they could identify negative impacts on people with protected characteristics arising from the proposed changes beyond those already considered.

Four respondents raised a concern about the interaction of retirement ages in the legacy 1987 scheme and the reformed scheme. This concern relates to the case where a protected legacy scheme member is moved to the reformed scheme from 1 April 2022 and so would not be able access any reformed scheme benefits until they reach age 55 when they can take their actuarially reduced benefits.

Two respondents made reference to the higher NPA in the reformed scheme compared to the age that applies in the legacy 1987 scheme and highlighted concerns about the retirement ages of younger members of the scheme.

Government response

After considering the consultation responses, the government is satisfied that there are no additional equality impacts created by implementing the proposed changes as set out in the consultation document. All legacy scheme members affected by the proposed changes

are expected to be those who had been afforded full protection when the reformed scheme was introduced in 2015.

As such, many of the members affected by the changes will be able to retire and take their benefits accrued under their legacy scheme. The small number that are unable to retire will all be aged 55 or over. Those who remain in service after 31 March 2022 will accrue further pension benefits in the reformed scheme going forward. Whilst the reformed scheme has an NPA of 60, it does have provision to allow members to retire from age 55 with an actuarially reduced pension to reflect the pension being paid early, should the member decide to do so.

With regards to concerns raised around the interactions between the retirement ages of the legacy and reformed police pension schemes, as set out in the [Equality Impact Assessment](#) conducted ahead of the introduction of the PSPJO Bill, the government is aware that concerns have been raised in relation to this. The position is a consequence of the move from a purely service-based pension scheme to one that is also based on age. The “two part” nature of the benefits and the different points at which they are paid was set out in 2013 as part of the long-term reforms. Following such concerns being raised in this consultation, we will continue to consider potential mitigations and will discuss them with police member and employer representatives. Nonetheless, the concerns raised do not arise as a consequence of the changes proposed in the draft regulations.

Question 5: Are there any other areas which you think should be addressed in these regulations to ensure all members are moved to the relevant reformed scheme from 1 April 2022, and that the differential treatment, as identified by the Court of Appeal, is ended?

There were 16 responses received to question 5 of the consultation.

Two responses could not identify any other areas which needed to be addressed in these regulations to ensure all members are moved to the relevant reformed scheme from 1 April 2022 and that the discrimination, as identified by the Court of Appeal, is addressed.

13 respondents provided additional areas that they thought should be addressed in these regulations. However, not all of these fell within the scope of the consultation.

Some responses highlighted concerns for members of the legacy 1987 scheme who transition to the reformed scheme on 1 April 2022 and subsequently become entitled to their legacy 1987 scheme benefits before age 55 whilst having no immediate access to their reformed scheme benefits. The concern is that this would create an unfair choice for the member. Either, the member would have to remain in service until age 55 so that they can take both their legacy 1987 scheme benefits and reformed scheme benefits at the same time, with the reformed scheme benefits being subject to actuarial reductions to reflect that it would be paid earlier than NPA (age 60). Or, the member would have to retire and take their 1987 legacy scheme benefits whilst deferring their reformed scheme benefits until State Pension Age (SPA).

The responses also highlighted that any decision made by the member to take their legacy 1987 scheme benefits would impact the value of their retirement lump sum, as this is based on actuarial commutation factors which decrease as the member’s age at retirement increases.

One respondent also highlighted concerns over the delays in implementing the retrospective aspects of remedy for those members who have already retired i.e., ‘immediate detriment cases’, and those that retire between now and October 2023.

Government response

After considering the consultation responses, the government is content that there are no further areas to be addressed to achieve the policy intention.

The changes that will be implemented on 1 April 2022 are expected to impact those legacy scheme members who were afforded full transitional protections when the reformed scheme was introduced in April 2015. Fully protected members will be transitioned to the reformed scheme on 1 April 2022, whereas all non-protected members and taper protected members will already have transitioned either on the 1 April 2015 or at the end of their taper protection period.

The majority of these fully protected members will be able to retire and take their legacy scheme benefits (without any actuarial reduction) at any time after this date. The small number who are not able to retire immediately will all be aged 55 or over and so be able to take any reformed scheme benefits accrued after 1 April 2022 when they do eventually retire. Where a member retired before age 60, their reformed scheme benefits will be subject to actuarial reduction to reflect that the benefits are being paid before the reformed scheme’s NPA of 60 years.

Many of the concerns raised relate to the change introduced by the PSPJO Bill, which closes legacy schemes to accrual from 1 April 2022, rather than the amendments in the draft regulations. The amendments consulted on are designed to have the effect, amongst others, that fully protected members are not left outside of a pension scheme when the legacy schemes close from 1 April 2022.

The other points raised in respect of immediate detriment cases and the interaction of the different scheme retirement ages do not fall within the scope of this consultation. These will be considered under the retrospective aspects of remedy.

6. Conclusion and next steps

- 6.1. The Home Office will amend the 2015 Regulations as part of the first phase of the remedy, ensuring that the legacy schemes are closed to future accrual on 31 March 2022 and that all members are transitioned into the reformed scheme in any respect of any pensionable service from 1 April 2022. This is necessary to comply with the PSPJO Bill.
- 6.2. Implementation is subject to the passage of the PSPJO Bill. Subject to this Bill being approved by Parliament and receiving Royal Assent, the Home Office will take steps to lay finalised regulations to move members to the reformed schemes to come into force on 1 April 2022. All scheme members still accruing benefits in a legacy pension scheme will be automatically transitioned to the reformed scheme on 1 April 2022. We will continue to work with the National Police Chiefs' Council (NPCC) to support police forces, as the employers and pension scheme managers, in communicating with scheme members on the pension changes. There is no action that members need to take in advance.
- 6.3. The Home Office will also continue work on phase two of the remedy, the retrospective remedy, including making preparations to implement the DCU, ahead of consulting formally on the relevant amendments to scheme regulations.

Thank you to those who responded to the consultation.

7. Consultation principles

- 7.1. The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the [Cabinet Office Consultation Principles 2018](#).

Annex A



Home Office

Police Pension Scheme Regulations Prospective Amendments 2022

Equality Impact Assessment (EIA)

This EIA relates to the amendments to the Police Pension Scheme (England and Wales) Regulations 2015 associated with the Police and Firefighters' Pension Schemes (Amendment) Regulations 2022.

Chapter One: Introduction

1. Name and outline of policy proposal, guidance or operational activity

This Equality Impact Assessment (EIA) relates to the amendments to the Police Pension Scheme (England and Wales) Regulations 2015 ('the 2015 Regulations') associated with the Police Pensions (England and Wales) (Amendment) Regulations 2022. The Home Office on 8 November 2021 consulted on police pension scheme regulation changes to enact the first phase ('prospective') of the remedy for the discrimination identified in the McCloud/Sargeant cases. The first phase of the remedy is to make changes to the scheme regulations, in line with the Public Service Pensions and Judicial Offices (PSPJO) Bill, which will close the legacy pension schemes to future accrual from 31 March 2022 and ensure all members who remain in service from 1 April 2022 do so as members of the 2015 scheme ('the reformed scheme'). This will ensure future equal treatment going forwards.

HM Treasury (HMT) published a [policy impact assessment](#) and an [equality impact assessment](#) which consider the impact of the proposed PSPJO Bill powers and requirements. These are available on <https://bills.parliament.uk/publications/42336/documents/588> and should be considered alongside the [HM Treasury Public service pension schemes: changes to the transitional arrangement to the 2015 schemes consultation](#). As set out in the HMT EIA, in particular paragraph 1.8, that assessment "does not cover secondary legislation made using powers in this Bill". This assessment therefore focusses on the impact of the proposed changes to scheme rules necessary to deliver the Bill's requirements, specifically in relation to the first phase of remedy ('prospective'). The equality duty is an ongoing duty and we have considered and amended this assessment as final regulations enacting the prospective remedy are made.

A separate assessment will be carried out in due course that focusses on the second phase of remedy ('retrospective'). This second phase will ensure that eligible members have a choice of the benefits they wish to take for the 'remedy period' of 1 April 2015 to 31 March 2022. To note, data used in this assessment is predominantly from the actuarial valuation as at 31 March 2016. This is most recent data available to us to consider the impact of the government's policy decision to close legacy schemes to future accrual with effect from 1 April 2022.

Introduction

This EIA explains how we have given due consideration and complied with our equality duties under the Equality Act 2010 throughout the development of our policy proposals to make changes to the police pension scheme regulations in line with the PSPJO Bill. This Bill will close the legacy pension schemes to future accrual from 31 March 2022 and ensure all members who remain in service from 1 April 2022 do so as members of the reformed scheme. The EIA has been updated following the consultation on the draft scheme regulations.

2. Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.

We have used statistical data on the police pension scheme membership collected by the Government Actuary's Department (GAD) for the purposes of the 31 March 2016 actuarial valuation as detailed in the report ["Police Pension Schemes \(England & Wales\) – Actuarial valuation as at 31 March 2016: Report on membership data"](#) of 28 February 2019.

Whilst data was collected for the purposes of the 31 March 2016 actuarial valuation, some aspects of the data were incomplete and/or unreliable for certain elements of the calculations. It was not possible to fully resolve those data issues in the timescale required for the valuation, and therefore, assumptions were required in respect of incomplete and/or unreliable individual member records. Further information on the steps taken to address data issues can be found in the above report.

We also used statistical data on the police workforce, published here:

<https://www.gov.uk/government/statistics/police-workforce-open-data-tables>

<https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2021/police-workforce-england-and-wales-31-march-2021>

The data to be used for the next actuarial valuation, as of 31 March 2020, has not yet been finalised but we can update our assessment to reflect this more recent data when it becomes available.

3. Purpose

The Public Sector Equality Duty (PSED) is set out in section 149 of the Equality Act 2010 and requires public authorities, in the exercise of their functions, to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not.

This involves having due regard to the need to:

- a) remove or minimise disadvantages suffered by people due to their protected characteristics, and
- b) take steps to meet the needs of people from protected groups where these are different from the needs of other people.

This EIA should be read alongside the Public Service Pensions: Police Pensions (Amendment) Regulations 2022 consultation document.

The equality duty covers the nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) and sexual orientation.

4. Consideration of the duty

Assessment

This EIA covers one policy area: the closure of the police final salary pensions legacy schemes in England and Wales, with all future accrual to be in the career average scheme.

Background

When public service pension reforms were introduced in 2015, the government agreed to allow those closest to their retirement age to stay in their legacy schemes. These arrangements were referred to as transitional protection arrangements.

For the police pension schemes in England and Wales, this meant:

- A. All active legacy 1987 scheme members who, as of 1 April 2012, had 10 years or less to age 55, or had 10 years or less to age 48 and were 10 years or less from a maximum unreduced pension, would remain in their current scheme.
- B. All active legacy 2006 scheme members who, as of 1 April 2012, had 10 years or less to their current Normal Pension Age (NPA) at age 55, would remain in their current scheme.
- C. There would be a further period of tapered protection for up to 4 years for scheme members. Members who were within 4 years of qualifying for transitional protection, as of 1 April 2012, would have limited protection so that, on average, for every month closer to qualifying for transitional protection, they gain about 53 days of protection. The period of protected service for any member under these tapering arrangements will have finished by 31 March 2022. At the end of their protected period, they will be transferred into the 2015 scheme.

These members fall into four categories:

- a) Legacy 1987 or legacy 2006 scheme members who on 1 April 2012 were aged 41 – 45 years with less than 20 years' service.
- b) Legacy 1987 scheme members who on 1 April 2012 were aged 34 – 38 years with more than 20 years' service.
- c) Legacy 1987 scheme members who on 1 April 2012 were aged over 38 years with 16 – 20 years' service.
- d) Legacy 1987 scheme members who on 1 April 2012 were aged 34 – 38 years with 16 – 20 years' service whose age plus service is at least 54 years.

In this EIA, members in categories A and B above are referred to as 'protected' members, and members in category C are referred to as 'tapered protected' members.

Members affected by these changes

The members affected by the changes being made from 1 April 2022 are expected to be the protected members. These will be all those members who received full transitional protection because they were ten years or less from reaching a particular age at which they could retire⁴ under the legacy 1987 scheme or the NPA of the legacy 2006 scheme on 1 April 2012. The changes are not expected to impact on members who were not protected and those who were afforded taper protection.

⁴ This relates to individuals from age 48 with 30 years' pensionable service or the member's voluntary retirement age (as the 1987 scheme has no Normal Pension Age as such). Individual members can have a pension age based on their length of service and linked to, but not necessarily dependent on, age, or they can have a pension age that depends on their rank.

Chapter Two: Equality Impact Analysis: Closure of the Final Salary Schemes

The police pension final salary schemes will be closed to future accrual on 31 March 2022. All members of police pension schemes in England and Wales who remain in service from 1 April 2022 onwards will do so as members of the reformed scheme. This will ensure that future pension provision provides equal treatment in terms of the scheme design available to members of the police pension schemes.

The final salary link, as originally set out in the Public Service Pensions Act 2013, will be retained. This means that all the accrual in a final salary legacy scheme will be calculated in relation to a member's final salary when they retire or otherwise leave the scheme, regardless of how many years' service was spent in the reformed schemes, and not their salary at the point when they left the legacy scheme. This will ensure that, from 1 April 2022, all active members are treated equally in respect of the pension scheme designs offered for future service after the discrimination has been addressed. It would be unfair for some members, and not others, to remain in the legacy scheme beyond this date.

Approach and Data

Drawing on available data, this EIA focuses on the closure of the legacy schemes. The level of analysis is proportionate to the availability of data and to the Department's considered view about the relative risk of impact of each of the protected groups. With that in mind, analysis is provided under the main provisions of scheme design with regard to age, sex and, where data is available, ethnicity.

The Department's position in respect of other protected groups is detailed separately. The analysis in the following paragraphs in respect of "age" and "sex" has been carried out using membership relating to the police pension schemes provided to GAD for the purposes of the 31 March 2016 actuarial valuation and covers the entirety of membership across England and Wales. For the other protected characteristics under the Equality Act 2010, the Home Office does not hold complete or up-to-date data. However, data for the whole of the Police (England and Wales) workforce is available and has been used. We understand that the participation rate in the police pension schemes is high, so this represents a reasonable approximation to the membership of the scheme.

The table below sets out the number of protected members in the legacy 1987 and 2006 schemes.

Table 1: Number of protected members in the legacy 1987 and 2006 schemes (Source: 31 March 2016 actuarial valuation data)

Number of members as at 31 March 2016	1987 Scheme	2006 Scheme	% of total PPS members
Fully protected Members	29,299	1, 134	25.22%
Taper protected members	14,048	1,258	12.68%

Table 2: Number of protected members as at 31 March 2016 (Source: 31 March 2016 actuarial valuation data)

	1987 Scheme	2006 Scheme	Total
Protected members in service as at 31 March 2016	29,299	1,134	30,433
Proportion of total number of protected members	96%	4%	

We also show below the total number of active members in the police pension schemes as at 31 March 2016.

Table 3: Number of active members in the police pension schemes in England and Wales as at 31 March 2016 (Source: 31 March 2016 actuarial valuation data)

		Number of members	Proportion of the membership (based on number of members)
Eligible for Transitional Protection remedy	<i>Protected members</i>	30,433	25%
	<i>Tapered Protected members</i>	15,306	13%
	<i>Unprotected members</i>	61,991	58%
	Total	107,730	89%
Not eligible for Transitional Protection remedy			11%
		12,943	
Total		120,673	100%

The table above shows that 25% of the active membership of the scheme as at 31 March 2016 were protected members.

We acknowledge that this data is from a date which does not reflect the specific point in time at which the measure will come into place. We expect that most of the protected members identified as at 31 March 2016 will have retired by 1 April 2022, such that much less than 25% of the active scheme members at that date are, in reality, impacted. However, since we cannot be sure which protected members will remain in active service at 1 April 2022, we consider it is appropriate to use this data for this equality analysis, particularly as there is currently no alternative. The data to be used for the next actuarial valuation, as at 31 March 2020, has not yet been finalised, but we can update our

assessment to reflect this more recent data once it becomes available.

Equality Impact Analysis: Age

This section sets out our analysis of the equality impacts of the policy decision to close the legacy schemes to future accrual with effect from 1 April 2022 on the protected characteristic of age as identified in the Equality Act 2010.

Introduction

As previously outlined, the courts determined that the transitional protection element of the 2015 public service pension scheme reforms treated those members who were closest to retirement more favourably than younger members, and this amounted to direct age discrimination.

The government's policy decision to no longer permit any members to accrue benefits in the legacy schemes after 31 March 2022 is one aspect of the approach that is to be taken to address the age discrimination identified. All tapered protected and unprotected members would have been accruing benefits in the reformed scheme by this point, so this decision only impacts protected members. Given that the policy decision only impacts protected members, it is to be expected that those affected will be older than the general scheme population. However, this is deemed necessary to remove the age discrimination that had previously been identified by the courts, and to ensure that all members are treated equitably from 31 March 2022.

Analysis

The transitional protection implemented as part of the reforms to public service pension schemes was found by the Court of Appeal to be directly age discriminatory as eligibility for such protection was based on age criteria.

Table 4: Age profile of all active members in the police pension schemes in England and Wales, as well as the age profile of the protected members only, as at 31 March 2016. (Source: 31 March 2016 actuarial valuation data)

Age as at 31 March 2016	Active membership as at 31 March 2016	Membership with full protection as at 31 March 2016
16-19	-	-
20-24	2%	-
25-29	8%	-
30-34	16%	-
35-39	20%	-
40-44	18%	2%
45-49	21%	41%
50-54	12%	48%
55-59	2%	8%
60 and above	0%	1%
Total	120,673	30,433

The following table sets out which scheme the 30,433 protected members as at 31 March 2016, within each age group, are accruing benefits in.

Table 5: Data on which scheme the 30,433 protected members as at 31 March 2016 within each age group, are accruing benefits in. (Source: 31 March 2016 actuarial valuation data)

Age as at 31 March 2016	Percentage in 1987 scheme	Percentage in 2006 scheme	Total
30-34	20%	80%	-
35-39	16%	84%	-
40-44	100%	-	2%
45-49	99%	1%	41%
50-54	95%	5%	48%
55-59	94%	6%	8%
60 and above	91%	9%	1%

The total percentage shown represents the percentage of the 30,433 fully protected members as at 31 March 2016 who fall within that age range. The percentages shown under the 1987 and 2006 scheme columns represent the percentage of fully protected members in that age group within the respective schemes.

This analysis identifies that protected members are older than the general scheme population and most protected members are between ages 45 to 54 as at 31 March 2016. From age 40 onwards, the vast majority of protected members are accruing benefits in the legacy 1987 scheme. This is expected as it is consistent with the opening date of the legacy 2006 scheme.

Interaction of retirement ages (members reaching the service cap in the legacy 1987 scheme before age 55)

Benefits in the legacy 1987 scheme can be accessed at any age provided the member has completed 30 years of service (where combined legacy and reformed scheme service) is considered for those who have service in both schemes). However, benefits in the reformed scheme cannot be accessed before the Minimum Pension Age of 55.

Two members may, therefore, have joined the legacy 1987 scheme on the same date (but at different ages) and achieve the requisite number of years' service at the same time (but at different ages). Where those members have also accrued benefits in a reformed scheme, the older member is more likely to be able to access those (reformed scheme) benefits simultaneously, as they are more likely to have achieved the minimum pension age in the reformed scheme.

Although members can still retire from the legacy 1987 scheme before age 55, to do this they would need to become deferred members in the reformed scheme, and delay accessing the reformed scheme benefits until age 55 or later. The actuarial reductions applied on early retirement from the reformed scheme to deferred members are less favourable than those applied to active members.

In addition, if such members opt to delay receiving their legacy 1987 scheme benefits beyond the age at which they first become payable, there is no actuarial uplift applied to allow for the later commencement date.

It has therefore been suggested by stakeholder groups that members who build up a combination of legacy 1987 scheme and reformed scheme benefits are penalised if they reach 30 years of combined scheme service before age 55. It must be noted however that

this is a feature of overall public service pension reforms rather than being introduced explicitly through the prospective 2015 remedy.

By the construction of the protections, protected members will either:

- have reached age 55 by 1 April 2022, so that if they were to stay in active service beyond 1 April 2022 there will be no delay between eligibility for benefits from the legacy 1987 scheme and the reformed scheme
- have reached 30 years' service by 1 April 2022, and so be able to retire on a maximum 1987 scheme pension before the 1987 scheme closes

Cumulative Impact

Protected members are older than the general active member population. The courts found that continuing to provide protected members with access to the legacy schemes beyond 31 March 2022 would discriminate against younger members who are not offered these terms as shown by the data. Therefore, the Home Office considers that applying the changes that remove the provision of favourable treatment to older members compared to other members of the scheme is justified.

The proposed changes to 2015 regulations will be applied to all members regardless of age. The exceptions that allowed certain members who were closer to retirement age to remain in the legacy scheme after 31 March 2015 under the transitional protection arrangement will apply only in respect of service up to 31 March 2022. From 1 April 2022, all active members will be moved to the reformed scheme from that point will build future pension rights on the same basis irrespective of age.

We are aware of the interaction of the different retirement ages between legacy and reformed schemes. This matter is explored in sections 3.39-3.42 of the EIA undertaken for the PSPJO Bill, and the government is aware that concerns have been raised in relation to this. The position is a consequence of the move from a purely service-based pension scheme to one that is also based on age. The 'two part' nature of the benefits and the different points at which they are paid was set out in 2013 as part of the long-term reforms. If a change were to be introduced, we would need to be confident that it would be fair to all pension scheme members. Further work is necessary, including to understand the full implications of any potential change in approach to help mitigate these concerns. We are still considering this, but remain of the view that no change should be included in this set of regulations, as they are focussed on amendments that are critical to allow the schemes to function given the requirement in the PSPJO Bill for legacy schemes to be closed from 1 April 2022.

In the second phase of the remedy, all eligible members will be offered a choice over the set of benefits (legacy scheme or reformed scheme benefits) they wish to receive for any pensionable service during the period 1 April 2015 to 31 March 2022. This is the remedy period in respect of which similar provisions in other public service pension schemes was found to be discriminatory by the Court of Appeal.

Equality Impact Analysis: Sex

This section sets out our analysis of the equality impacts of the policy decision to close the legacy schemes to future accrual with effect from 1 April 2022 on the protected characteristic of sex as identified in the Equality Act 2010.

Introduction

In determining that the transitional protection arrangements discriminated on the grounds of age, the courts also concluded that if older members in a scheme were more likely to be male, providing older members with preferential terms amounted to indirect sex discrimination. The government's policy decision to no longer permit any members to accrue benefits in the legacy schemes after 1 April 2022 is one aspect of addressing the age discrimination identified, and in turn, the indirect sex discrimination where it too applies.

We have analysed below the split of the protected members by sex.

The Equality Act 2010 lists 'sex' as a protected characteristic. Data for the membership of the police pension schemes in England and Wales is also available by sex. However, it is important to note that sex and gender are two different concepts. A person's gender identity is not always the same as the sex assigned to them at birth, and some people may not identify as having a gender or as non-binary. Gender reassignment is also a protected characteristic under the Equality Act 2010, and this is examined later in this EIA.

Analysis

The following table sets out the sex profile of the members of the police pension schemes in England and Wales as well as the sex profile of the protected members.

Table 6: Sex profiles of the members in the police pension schemes in (England and Wales) and protected members (Source: 31 March 2016 actuarial valuation data)

	Active membership as at 31 March 2016	Protected members as at 31 March 2016
Males	70%	79%
Females	30%	21%
Total	120,673	30,433

This analysis identifies that the percentage of the protected members who are male is greater than the percentage of the overall scheme population who are male. The following table sets out the percentage of male and female protected members in each scheme as at 31 March 2016.

Table 7: Percentage of male and female protected members in each scheme as at 31 March 2016 (Source: 31 March 2016 actuarial valuation data)

	1987 scheme	2006 scheme	All protected members
Males	79%	71%	79%
Females	21%	29%	21%
Total	29,299	1,134	30,433

This analysis identifies that the percentage of protected members who are males and accruing benefits in the legacy 1987 and 2006 scheme broadly mirror the overall percentage of protected members. Protected members are more likely to be male.

Analysis: Sex and Age

The table below shows the percentage of males in both the overall scheme population and the protected members population at each age range.

Table 8: Percentage of males in both the overall scheme population and the protected members population at each age range (Source: 31 March 2016 actuarial valuation data)

Age as at 31 March 2016	Active male membership as at 31 March 2016	Protected male members as at 31 March 2016
16-19	41%	-
20-24	66%	-
25-29	66%	-
30-34	63%	60%
35-39	67%	66%
40-44	70%	71%
45-49	74%	77%
50-54	79%	80%
55-59	85%	85%
60 and above	84%	84%

This analysis identifies that the percentage of the active member population that is male is, generally speaking, greater at older ages. Also, it identifies that the percentage of protected members who are males is broadly consistent with the overall scheme population at those ages. This supports the comment earlier that protected members are more likely to be male.

Analysis: Sex

Moving from a final salary legacy scheme to a career average reformed scheme for future accrual decreases the added benefit of late career pay progression.

This means that the policy decision to no longer permit protected members to accrue benefits in the legacy schemes from 1 April 2022 is likely to have a negative impact on those who, in future years, achieve higher salary progression, rather than those with lower salary progression.

However, it is worth noting that the impact of this is likely to be limited given that:

- for protected members who continue accruing benefits beyond 31 March 2022, their benefits in the legacy scheme will be calculated based on their 'final salary' when they leave the reformed scheme, rather than as at 31 March 2022 .
- it would seem unlikely many protected members would experience significant pay progression after 31 March 2022, given how close they are to their retirement age.

It has been suggested that, across the UK's public service pension schemes, a larger proportion of males reach higher salary bands than females, and therefore, of those who may be negatively impacted by this policy decision, a higher proportion will be male.

We have set out below the split by rank of members in the overall active member population and the protected members' population as at 31 March 2016.

Table 9: Split by the rank of members in the overall active member population and the protected members' population as at 31 March 2016 (Source: 31 March 2016 actuarial valuation data)

Rank as at 31 March 2016	Active membership as at 31 March 2016	% of overall active membership	Protected members as at 31 March 2016	% of Protected membership**
Constable	96,435	(80%)	19,131	(63%)
Sergeant	15,834	(13%)	6,843	(22%)
Inspector	4,681	(4%)	2,745	(9%)
Chief Inspector	1,254	(1%)	801	(3%)
Superintendent	644	(1%)	465	(2%)
Chief Superintendent	283	-	208	(1%)
Assistant Chief Constable	79	-	63	-
Deputy Chief Constable	158	-	97	-
Chief Constable	23	-	18	-
Not recorded	1,282		62	-
Total	120,673		30,433	

** Percentages shown are to the nearest 1%. Therefore, percentages which are less than 0.5% have not been shown above, but it is noted that excluding these may mean the percentages do not sum to 100%.

This analysis identifies that the highest proportion of protected members are Constables, and a sizeable proportion are Sergeants.

This table shows the proportion of the membership at each rank that is male in both populations.

Table 10: Proportion of the membership at each group (as described above) that is male in both populations (Source: 31 March 2016 actuarial valuation data)

Rank as at 31 March 2016	Active male membership as at 31 March 2016	Protected male members as at 31 March 2016
Constable	68%	77%
Sergeant	78%	83%
Inspector	79%	82%
Chief Inspector	78%	82%
Superintendent	80%	82%
Chief Superintendent	76%	77%
Assistant Chief Constable	81%	80%
Deputy Chief Constable	65%	68%
Chief Constable	82%	83%
Not recorded	66%	72%

This analysis identifies that overall, in the protected member only population, there appears to be little evidence to suggest that higher earners are more likely to be male. This analysis highlights that higher earning protected members are no more likely to be male compared with lower earning protected members.

Analysis: Sex and Employment Status

In England and Wales, women are more likely to work part-time than men⁵. It is therefore worth considering the equalities impact of those who work part-time within this protected characteristic.

The analysis below provides a split of the scheme membership into those working part-time and those who work full-time.

Table 11: Split of the scheme membership into those working part-time and those who work full-time (Source: 31 March 2016 actuarial valuation data)

	Active membership at 31 March 2016	Protected members as at 31 March 2016
Full-time	93%	96% (29,165)
Part-time	7%	4% (1,268)
Total	120,673	30,433

* Please note that a member has been classed as 'part-time' if the part-time indicator provided in the data for the purposes of the 31 March 2016 actuarial valuation, was recorded as "Y". All other members have been assumed to be full time. Please note that rigorous checks were not carried out on the part-time indicators provided.

⁵ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/>

Of the 1,268 protected members working part-time as at 31 March 2016, 1,118 are female (88%) of which 1,093 are accruing benefits in the legacy 1987 scheme and 25 are accruing benefits in the 2006 scheme.

This analysis identifies that as at 31 March 2016, the percentage of the protected members working part-time was lower than the percentage of the overall scheme population working part-time and of those protected members working part-time, the percentage that are female (88%) is much higher than the percentage of active population that is female (30%) and the percentage of the protected member population that is female (21%).

Based on the above analysis, protected members are less likely to work part-time. This was to be expected since protected members are older and part-time working has become more common in recent years.

Employment Status: Impact on ability to achieve maximum pension

In the legacy 1987 scheme, the maximum pension (of 2/3 of the member's final salary) is achieved after accruing 30 years of pensionable service. As part-timers' service is pro-rated, it will take these members longer than 30 years to accrue 30 years of reckonable pensionable service.

There have been concerns raised by legacy 1987 scheme members who are part-time that they are being unfairly penalised by the policy decision to close the legacy schemes to future accrual with effect from 1 April 2022. These members will not have achieved the legacy 1987 scheme maximum pension by 31 March 2022, despite having worked for 30 years, because their qualifying service will have been ratioed down. They have argued that they had an expectation that they would reach the maximum pension by continuing in service beyond 1 April 2022.

We have set out below the split of the years of pensionable service that had been accrued by protected members as at 31 March 2016.

Table 12: Split of the years of pensionable service that had been accrued by protected members (Source: 31 March 2016 actuarial valuation data).

Years of reckonable pensionable service as at 31 March 2016	Total protected 1987 scheme members	Protected 1987 scheme Members who are part-time	Protected 1987 scheme members who are part-time and female
0-12	730	33	27 (82%)
13-18	2,391	86	67 (78%)
19-24	7,263	364	324 (89%)
More than 25	18,915	750	676 (90%)
Total	29,299	1,232	1,093

From this analysis, it can be seen:

- the vast majority of part-time members (who are protected and in the legacy 1987 scheme) have more than 19 years' pensionable service as at 31 March 2016

- off those part-time members with more than 19 years of pensionable service as at 31 March 2016, the vast majority are female. This was to be expected given the vast majority of all part-time members are female
- the percentage of legacy 1987 protected members working part-time in each pensionable service range is broadly consistent with the overall percentage of protected members working part-time (4%)
- females make up the vast majority of the part-time protected members and the majority of these were within 10 years of reaching 30 years of reckonable pensionable service at 31 March 2016

Cumulative Impact

Closing the legacy scheme to future pension accrual applies to all legacy scheme members regardless of sex. From 1 April 2022, all members of police pension schemes in England who remain in pensionable service will only be eligible to do so as a member of the reformed scheme. Moving from a final salary legacy scheme to a career average reformed scheme for future accrual flattens out the added benefit of late career pay progression for higher earners who are more likely to be male. However, in doing so the aim is to ensure equal treatment of all active members for future service.

Moving from a final salary legacy scheme to a career average reformed scheme for future accrual from 1 April 2022 may also impact members who take career breaks or work part-time, and the data tells us that a higher proportion of women do so than men.

A change to the overall picture of benefits may impact a member's previous assumptions about when and how they would take their pension. However, changes to pension arrangements by their nature impact differently on those who join or leave the police service at different times and the proposed changes will apply to all members regardless of sex. An important point is that when calculating the 'fair proportion' pension under the legacy 1987 scheme for a member who has part-time service, the comparator that is considered is the member that is the same *except* for the part-time service. This means someone whose service started and ended on the same dates as the part-time member. The premise of the concerns about unfair treatment of women compare a part-time member to a member who retires on an earlier date.

Therefore, we remain of the view that the limited impacts on women are justified and are in the context that, from 1 April 2022, all active members will be in the career average reformed scheme and from that point will accrue future pension benefits on the same basis irrespective of sex. To allow a group of members to continue to accrue benefits in their legacy scheme beyond 31 March 2022 would introduce new discrimination.

Equality Impact Analysis: Other Protected Characteristics

This section sets out our analysis of the equality impacts of the policy decision to close the legacy schemes to future accrual with effect from 1 April 2022 on the other protected characteristics as identified in the Equality Act 2010.

The Home Office does not hold complete or up-to-date data on the other protected characteristics under the Equality Act 2010 in relation to members of the police pension schemes in England and Wales.

Although we have considered the potential impact on the remaining equality groups below, the proposed changes will apply to all members regardless of equality category.

Disability

There is no available data on these protected characteristics in relation to the membership of the police pension schemes in England and Wales or Police (England and Wales) workforce.

Race/Ethnicity

Available data on the membership of the police pension schemes in England and Wales only covers members' age and sex. However, police workforce data is available on ethnicity. This is regarded as a reasonable proxy given the high percentage of police officers who are pension scheme members. However, the workforce data on ethnicity of police officers does include those who are not members of the police pension schemes.

The table below shows the ethnicity of police officers who declared their ethnicity, using source data as at 31 March 2021 from the Police Workforce, England and Wales statistical release.

Table 13: Breakdown of police officers by ethnicity as at 31 March 2021 (Source: Home Office *Police Workforce, England and Wales* statistical release 31 March 2021).

Ethnicity	
White	92.4%
Asian or Asian British	3.4%
Black or Black British	1.3%
Mixed	2.3%
"Other"	0.6%

To analyse the differential impact between persons of different ethnicity groups of the policy decision to close the legacy schemes to future accrual with effect from 1 April 2022, we have used information from the following sources:

Data as at 2013:

<https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2013/police-workforce-england-and-wales-31-march-2013>

Data as at 2021:

<https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2021/police-workforce-england-and-wales-31-march-2021>

Cumulative Impact

From the data source above, it can be seen that the proportion of police officers who are classified as in an ethnic minority has increased slightly between 2013 and 2021 (5.0% in 2013 to 7.6% in 2021). This might suggest that protected members are perhaps less likely to be in an ethnic minority compared with the general active member population. We have further considered the potential impact on members from different ethnic backgrounds and the proposed phase one amendments will apply to all members equally, regardless of their ethnicity.

Marriage and Civil Partnership

There is no available data on these protected characteristics in relation to the membership of the police pension schemes in England and Wales membership or Police (England and Wales) workforce.

Cumulative Impact

The Department has considered the potential impact of the proposals on members who have this protected characteristic as part of our analysis on sex.

Disability, Religion and Belief, Gender Reassignment, Sexual Orientation, Pregnancy and Maternity

There is no available data on these protected characteristics in relation to the membership of the police pension schemes in England and Wales or Police (England and Wales) workforce. However, consideration has been given individually to each group with these characteristics in terms of the EIA.

Cumulative Impact

The Department has considered the potential equality impacts of the proposed changes for members who share these protected characteristics and those who do not. Taking into consideration the limited evidence available, the Department does not envisage any unjustified differential impacts that the consequential amendments will cause for members by reference to these protected characteristics. In each case, the analysis has not identified any actual or potential direct or indirect impact.

5. Conclusion

The Home Office has not identified additional benefits, costs or wider impacts following from the amendments to the 2015 Regulations associated with the Police and Firefighters' Pension Schemes (Amendment) Regulations 2022, as these are consequential in nature and designed to deliver the PSPJO Bill's requirements, which have been assessed by HM Treasury.

The Home Office considered the impact of the proposals in context of this duty and sought feedback on the EIA associated with the PSPJO Bill. This was done to support policy development and help refine the initial equality analysis by identifying where there might be equality impacts to consider. The Home Office has considered carefully the impact of closing the final salary schemes for future accrual on 1 April 2022 in respect of each of the

following protected characteristics: age, gender, ethnicity, disability, religion or belief, gender reassignment, pregnancy and maternity, sexual orientation, gender reassignment; and marriage/civil partnership. We have concluded that disproportionate adverse impact on current and future members is unlikely. We have therefore concluded that amendments to enact the first phase of the remedy represents a proportionate means of achieving a legitimate aim.

The main equality matter raised by stakeholders emerging during the analysis process and the Department's position on this are below.

There were consultation responses that raised their concerns about the effect of the PSPJO Bill on members in requiring them to become members of the 2015 scheme from 1 April 2022 and the impact on protected groups who may work part-time, including women, younger cohort of members and minority ethnic groups. An equality analysis was undertaken, and this included careful consideration of the impact on women (including part time workers), minority ethnic groups and younger members of the legacy schemes. We are still considering if there is a way of addressing the overarching concern about the disparity between the age at which members can retire in the legacy and reformed schemes without carving out a group based on a particular characteristic (otherwise there would be a risk of reintroducing the discrimination identified in McCloud). This will be informed by discussions with police member and employer representatives.

Annex B: Glossary of terms

Term	Explanation
1987 scheme	The Police Pension Scheme 1987 as established by the Police Pension Act 1976 / the Police Pension Regulations 1987 ⁶ .
2006 scheme	The Police Pension Scheme (England and Wales) 2006 as established by the Police Pensions Regulations 2006 ⁷ .
2015 (reformed) scheme	The Police Pension Scheme (England and Wales) 2015 as established by the Police Pensions Regulations 2015 ⁸ .
Active member	A member of a police pension scheme who is actively employed as a police officer (i.e. they have not retired, resigned or otherwise ended the employment).
Affected member	A scheme member who has suffered age discrimination, i.e. anyone who was employed as a police officer on both 1 April 2012 and 1 April 2015, but did not qualify for full transitional protection, on the former date. It includes taper protected members.
Age discrimination	Treating employees or any other group of people less favourably because of their age. Age discrimination is unlawful unless it can be shown to be a proportionate means of achieving a legitimate aim.
Career average revalued earnings (CARE)	A means of calculating pension entitlement based on a member's average pensionable pay over the course of their employment, adjusted for inflation.
Deferred choice underpin (DCU)	The mechanism by which affected and fully protected members will decide whether their service during the remedy period should be treated as service in their legacy scheme or the 2015 (reformed) scheme. Such a choice will be made when the member retires or when their pension benefits otherwise first fall to be paid (e.g. if they die before they retire). We will establish that in further regulations which we will consult on next year. It is not covered by these draft regulations.
Final salary	A means of calculating pension entitlement based on a member's pensionable pay at the point they retire.
Fully protected member	A scheme member who was granted full transitional protection in 2015.
Legacy scheme	The scheme of which an affected or fully protected member was a member immediately before 1 April 2015 – i.e. the 1987 scheme or the 2006 scheme.

⁶ [The Police Pensions Regulations 1987 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁷ [The Police Pensions Regulations 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁸ [The Police Pensions Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Term	Explanation
McCloud, Sargeant, or McCloud / Sargeant	The court cases of McCloud (in relation to judges) and Sargeant (in relation to firefighters) which established that age-based transitional protection amounted to unlawful age discrimination.
Normal pension age (NPA)	The age at which an active member normally becomes entitled to receive their pension. It is typically stipulated in scheme rules and can vary from one scheme to another. For instance, the legacy 1987 scheme has no NPA, the legacy 2006 scheme has an NPA of 55 and the 2015 (reformed) scheme has an NPA of 60.
Prospective remedy	From 1 April 2022, all those who continue in service will do so as members of the reformed scheme, regardless of age, meaning all members will be treated equally in terms of which pension scheme they are a member.
Remedy period	The period to which the remedy for age discrimination will apply: 1 April 2015 to 31 March 2022, inclusive.
Retired member	A scheme member who has retired and is receiving pension benefits.
Retrospective remedy	Affected members and fully protected members will receive at the point they retire a choice of which pension benefits that they would prefer to receive in respect of any remediable service rendered between 31 March 2015 and 1 April 2022. This choice is whether the benefits should be modelled on the relevant legacy scheme or reformed scheme. This is known as the Deferred Choice Underpin (DCU). Where members are already receiving pensions, they will be given a choice as soon as practicable.
Transitional protection	The right to remain as a member of a legacy scheme in 2015, the criteria for which are as set out in the Reform Design Framework ⁹ . The courts have held that granting this right on the basis of age was unlawful.
Taper protected member	A scheme member who was offered tapered transitional protection in 2015, i.e the right to join the 2015 (reformed) scheme on a phased basis. Taper protected members are also affected members.

⁹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/117692/reform-design-framework.pdf



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