

<b>Title:</b> Pensions Bill: judicial pension scheme provisions <b>Lead department or agency:</b> Ministry of Justice (lead on this provision) <b>Other departments or agencies:</b> Department for Work and Pensions (lead on the Bill)	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> MoJ 056
	<b>Date:</b> 16/12/2010
	<b>Stage:</b> Development
	<b>Source intervention:</b> Domestic
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## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

The problem under consideration is how to ensure a fairer distribution of costs between taxpayers and judges, specifically in terms of contributions by the judiciary towards their own pensions. The Government is committed to reform the provision of public service pensions (including judicial pensions) to ensure that they are affordable and that there is a fair distribution of costs between taxpayers and members of such schemes. Government intervention is necessary because judicial pension schemes are constituted in accordance with primary legislation and any change regarding how they are paid for would have to be dealt with via primary legislation.

### What are the policy objectives and the intended effects?

These clauses introduce a provision into judicial pension schemes (JPS) to allow, by 1 April 2012 pension contributions to be taken from judges towards the cost of providing personal pension benefits under such schemes. Contributions will only be taken during the period in which the individual judge accrues full pension benefits. This is part of a coherent policy of reducing the cost of public service pensions generally.

### What policy options have been considered? Please justify preferred option (further details in Evidence Base)

- **Option 0:** Leave judicial pensions unchanged. Judges will continue to accrue pension benefits without having to make any personal contributions.
- **Option 1:** Introduce personal contributions for members of the JPS. The introduction of the contributions will be staggered over a period of three years, so that from year three members will pay the full personal contribution. This is the preferred option because it will allow the implementation of the Government policy that members' pension contributions should be increased for public service pension schemes and therefore lower the cost to the taxpayer of providing judicial pensions.

<b>When will the policy be reviewed to establish the actual cost and benefits and the achievements of the policy objectives?</b>	Reviewed in 2015.
<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	Yes.

**SELECT SIGNATORY Sign-off** For consultation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible SELECT SIGNATORY:..... Date:.....

**Summary: Analysis and Evidence****Policy Option 1****Description:**

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/A	N/A	N/A

**Description and scale of key monetised costs by 'main affected groups'**

None

**Other key non-monetised costs by 'main affected groups'**

- Salaried judiciary will pay contributions towards their pension. Figures for some scenarios for illustrative purposes are contained in the evidence base. For example a contribution rate of 3.6% would be associated with around £10m of total contributions being made by around 2,000 salaried judges.
- Ministry of Justice (MoJ) – Administrative costs associated with implementing the changes including ongoing costs from collecting contributions.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/A	N/A	N/A

**Description and scale of key monetised benefits by 'main affected groups'**

None

**Other key non-monetised benefits by 'main affected groups'**

- Taxpayers will contribute less, mirroring the cost of increased contributions to the salaried judiciary.
- Increased fairness is associated with reducing the taxpayer subsidy required to provide judicial pensions.

**Key assumptions/sensitivities/risks**

Key assumptions are:

- that this measure will result in no behavioural response by the judiciary (e.g. no negative impacts on judicial recruitment, retention or performance).

Key Risks are:

- that the actual impacts of this measure are as yet unknown, as are the cumulative effects of existing and future policy decisions about judges' pay and pensions - such as the current pay freeze for judges.
- that the assumed behavioural response might not apply and the measure may lead to negative impacts on judicial recruitment, retention and performance.

<b>Impact on admin burden (£m):</b>			<b>Impact on policy costs (£m):</b>			<b>In scope</b>
<b>Costs:</b>	<b>Benefit:</b>	<b>Net:</b>	<b>Costs:</b>	<b>Benefits:</b>	<b>Net:</b>	No

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What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			01/04/2012		
Which organisation(s) will enforce the policy?			MoJ		
What is the total annual cost (£m) of enforcement for these organisations?			N/A		
Does enforcement comply with Hampton principles?			N/A		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: N/A	Non-traded: N/A	
Does the proposal have an impact on competition?			No		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro N/Q	< 20 N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?	N/A	N/A	N/A	N/A	N/A

## Specific Impact Tests: Checklist

Set out in the table below where information on any specific impact tests undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, click on the link for the guidance provided by the relevant department. (Double-click to open links in browser.)

<a href="#">Please see the guidance at the end of the template.</a>	Impact	Page ref within IA
<b>Statutory equality duties<sup>1</sup> ?</b> <a href="#">Women Equality Unit: Gender Impact Assessment (PDF)</a> <a href="#">Disability Rights Commission: Disability Equality Scheme</a> <a href="#">Commission for Race Equality: Race equality impact assessment: a step-by-step guide</a>	Yes	Annex A
<b>Economic impacts</b>		
Competition? <a href="#">Competition Impact Assessment</a>	No	
Small firms? <a href="#">Small Firms Impact Test</a>	No	
<b>Environmental impacts</b>		
Carbon emissions? <a href="http://www.defra.gov.uk/environment/index.htm">http://www.defra.gov.uk/environment/index.htm</a>	No	
Wider environmental issues? <a href="#">Guidance has been created on the Defra site</a>	No	
<b>Social impacts</b>		
Health and well-being? <a href="#">Health: Health Impact Assessment</a>	No	
Human rights? <a href="#">Ministry of Justice: Human Rights</a>	No	
Justice? <a href="http://www.justice.gov.uk/guidance/justice-impact-test.htm">http://www.justice.gov.uk/guidance/justice-impact-test.htm</a>	No	
Rural proofing? <a href="#">Commission for Rural Communities</a>	No	
<b>Sustainability?</b> <a href="#">Defra: Think sustainable</a>	No	

<sup>1</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2010, once the Equalities Bill comes into force.

## Evidence Base (for summary sheets) – Notes

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains a saving emissions table that you will need to fill in if your measure has an impact on Carbon emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q
<b>Annual recurring cost</b>	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q
<b>Total annual costs</b>	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q
<b>Transition benefits</b>	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q
<b>Annual recurring benefits</b>	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q
<b>Total annual benefits</b>	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q	N/Q

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

### References

No.	Legislation or publication
1	IPSPC interim report [ <a href="http://www.hm-treasury.gov.uk/d/hutton_pensionsinterim_071010.pdf">www.hm-treasury.gov.uk/d/hutton_pensionsinterim_071010.pdf</a> ]

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## Evidence Base (for summary sheets)

### 1. Introduction

1. The Government is committed to reviewing the funding of public service pensions (which includes the provision of judicial pensions), and established the Independent Public Service Pension Commission (IPSPC). The IPSPC's interim report published on 7 October 2010 recommends that the most effective way to make short-term savings on public sector pensions is to increase member contributions. This impacts on the Judicial Pension Schemes (JPS).
2. The proposed legislative clauses introduce a provision into the JPS to allow pension contributions to be taken from judges towards the cost of providing personal pension benefits. The JPS are unfunded schemes and members do not currently pay contributions towards their own pension benefits. However, they do pay contributions towards the provision of a contingent pension for a surviving spouse, civil partner, or dependant children, known as widows/ers pension scheme or WPS.
3. In relation to the WPS, for those in schemes under the Judicial Pensions Act 1981 the contribution rate is either 2.4% (although this now applies to very few judges) or 1.8% of gross salary depending on the particular scheme. Again in relation to the WPS, for those in the scheme under the Judicial Pensions and Retirement Act 1993 scheme the contribution rate is 1.8% of pension capped salary.

### Main affected parties

4. This measure will affect salaried judges, of which there are around 2,200. Of these around 200 are estimated to have already accrued a full pension and they would not be making contributions. There will be a transitional administrative impact on MoJ and MoJ will have an ongoing responsibility in relation to collecting pension contributions and dealing with associated queries.

### Rationale for intervention

5. The conventional economic approach to Government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing Government interventions (e.g. waste generated by misdirected rules.) In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society. There is a clear rationale for increasing member contributions on equity grounds to ensure a fairer distribution of costs if the judicial pension schemes are to be fair to taxpayers and judges, and affordable to the tax payer.
6. In this instance the proposals are founded on distributional and equity reasons. In particular the Government considers that it is fair for judges to contribute to their pensions and for the taxpayer contribution to reduce. In effect this would redistribute wealth from the judiciary to taxpayers.

### 2. Cost and Benefits

7. This Impact Assessment identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of option 1 are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.

## Base Case / Option 0

### Do Nothing:

8. Choosing this option means the costs of Judicial Pension Schemes (JPS) would fall exclusively on the tax payer. Under the 'do nothing' option the costs of JPS are likely to rise in future, implying an increasing taxpayer contribution over time.
9. Under the 'do nothing' option the WPS would continue to be funded as now, as described earlier.
10. Under the 'do nothing' option the employer's contribution (ASLC) would remain. Currently this is 32.15% of gross salary.
11. As the JPS are unfunded, they have no assets. The schemes' liabilities are currently around £2.4bn.
12. Because the do-nothing option is compared against itself its costs and benefits are necessarily zero, as is its Net Present Value<sup>2</sup>.

## Option 1

13. Under this option salaried judiciary begin, upon appointment, to pay contributions towards their own pensions (as they do now towards the provision of a contingent pension for a surviving spouse, civil partner, or dependant children). Judges cannot opt not to contribute. The additional contributions will be introduced progressively over three years so the full additional contribution level will not apply until the third year. As a purely illustrative example, for a contribution of 3.6%, the contribution could be 40% of this in the first year (1.44%), 80% in the second year (2.88%) and 100% from the third year (3.6%).
14. The driver for this option is to allow the implementation of the Government policy that members' pension contributions should increase for public service pension schemes and, therefore, lower the cost to the taxpayer.
15. The IPSPC's interim report of 7 October concludes that there is a clear rationale for public servants to make a greater contribution towards their pension costs if their pensions are to remain fair to taxpayers and employees, and affordable for the tax payer. The report recommends that the most effective way to make short-term savings on the cost of public service pensions is to increase member contributions, with it being for the Government to decide the manner and level of any increase. The Government accepts the conclusions of the interim report. JPS are within the scope of the report. We are, therefore, seeking to take contributions from members of JPS from April 2012. Contributions will only be taken during the period in which the individual judge accrues full pension benefits (15 or 20 years depending upon the applicable scheme) and in accordance with regulations. However, if the judge retires, resigns or is removed from office during such period contributions will stop being taken and pension benefits will stop accruing from the date they leave office.
16. Under Option 1 there would be no change to the contribution rates to the WPS and no change to the employer's contribution (ASLC).

## Costs of Option 1

### Transition costs

17. We estimate there will be minimal administrative costs to MoJ in introducing the change because the work will be absorbed by the existing judicial pensions team.

### Ongoing costs

18. Judges will have to make personal contributions towards their pension. It is not possible to monetise the cost of these contributions, as the level of the contributions has not yet been decided. However, for illustrative purposes, we have looked at three different scenarios for the contribution rates, namely 3.6%, 5.4% and 7.2%. The scenarios have been costed using 2010/11 salaries and on the basis of

<sup>2</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future

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all salaried judiciary (approximately 2,200) paying the new contributions. In reality we estimate this will not be the case, for example because some judges will already have accrued a full pension and so will not contribute. We expect that around 2,000 of the, approximately, 2,200 salaried judiciary will make contributions.

Table 1: Annual cost of pension contributions

	<b>Scenario 1</b>	<b>Scenario 2</b>	<b>Scenario 3</b>
	<b>3.60%</b>	<b>5.40%</b>	<b>7.20%</b>
<b>E&amp;W</b>	£8.6m	£13.0m	£17.3m
<b>Scot</b>	£0.9m	£1.4m	£1.9m
<b>NI</b>	£0.3m	£0.5m	£0.6m
<b>Total</b>	<b>£9.9m</b>	<b>£14.8m</b>	<b>£19.7m</b>

19. In addition there may be additional ongoing costs from collecting contributions and from dealing with any related queries.

### **Benefits of Option 1**

#### Ongoing benefits

20. The benefits to taxpayers will mirror the cost of contributions to the salaried judiciary. In addition, introducing personal contributions will reduce the taxpayer subsidy required to provide judicial pensions. If the Government believes it is fairer for those who benefit from the JPS to contribute towards its cost, then the policy generates 'economic welfare' improvements by making the system fairer.
21. There might be benefits in terms of fairness and wealth distribution as the requirement for judges to make personal contributions makes the pensions system fairer and less reliant on taxpayer funding.

### **Net Impact of Option 1**

22. The salaried judiciary would be worse off as they would be required to make personal contributions towards their pension. Taxpayers would benefit, as the cost of the JPS would reduce. There would also be some administrative costs associated with the collecting the personal contributions. It is considered that the changes in financial transfers would be associated with increased equity and fairness and with distributional benefits.

### **Key Assumptions**

23. We assume the courts system will not be adversely affected by this measure and the level of customer service will remain the same.
24. We assume judicial recruitment, retention and performance will be unaffected by the measure.
25. The illustrative figures for the estimated cost of contributions provided for the three scenarios are based on the current (2010/11) paybill, so assumes that the number of judges will remain stable.
26. We assume no changes to contributions to the WPS, and no change to employer contributions.
27. We assume that 200 of the 2,200 salaried judges would not make contributions.

### **Key Risks**

28. Judges are drawn from a unique group of professionals who may, in general, be regarded as being very well paid. The judicial pension is valued by judges and potential judges as a vital part of the judicial remuneration package. The Judiciary maintains that any serious threat to the value of the pension could lead to legal action, resignations, retirements, and difficulties in recruiting.
29. The independence of the judiciary is at the heart of the United Kingdom's constitutional arrangements. There are a number of ways in which this independence is maintained including through salary protection for judicial office holders (this protection is statutory for most courts-based salaried judiciary), meaning that judges' pay cannot be reduced. This protection of judges'

pay is seen as integral to judicial independence by a number of international agreements and recommendations (UN, CoE, Commonwealth) - with the caveat that it can be reduced if the reduction is not specifically aimed at judges. Judges may argue that the introduction of a need for them to pay pension contributions amounts to a salary reduction. However, any action taken along these lines for them would be in line with that taken for the public sector more widely, except for the armed forces.

### **3. Specific Impact Tests**

#### **Equalities Impact Assessment (EIA)**

30. See Annex A.

#### **Human Rights**

31. This policy is compliant with the Human Rights Act.

#### **Justice Impact Test**

32. The justice impacts flowing from this proposal have been examined in the main evidence base.

#### **Competition Assessment**

33. Following preliminary consideration of this impact test, it is not considered that this policy would have any effects on competition.

#### **Small Firms Impact Test**

34. Following preliminary consideration of this impact test, it is not considered that this policy would have any effects on small firms.

#### **Carbon Assessment**

35. Following preliminary consideration of this impact test, it is not considered that this policy would have any effects on carbon emissions.

#### **Other Environment**

36. Following preliminary consideration of this impact test, it is not considered that this policy would have any effects on carbon emissions

#### **Health Impact Assessment**

37. Following preliminary consideration of this impact test, it is not considered that this policy would have any effects on human health.

#### **Rural proofing**

38. Following preliminary consideration of this impact test, it is not considered that this policy would have any disproportionately rural impacts.

#### **Sustainable Development**

39. Following preliminary consideration of this impact test, it is not considered that this policy would have any effects on sustainable development.



## Annex 1: Post Implementation Review (PIR) Plan

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];                  Reviewing the impact of the policy change of increasing the costs to judges of their pension scheme.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]                  To ensure recruitment, retention and performance are not negatively impacted on by the measure.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]                  We will consider the evidence from a range of data, including that on recruitment and retention. This will help to show if there have been any tangible negative effects flowing from the measure.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]                  Continuation of current situation - members' pension contributions cannot currently be taken from salaried judges.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]                  The policy will have been successful if leads to a fairer distribution of JPS costs between taxpayers and members and has no negative impact on services.</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]                  We will monitor the evidence from a range of data, including that on recruitment and retention, and will monitor the level of income generated from JPS members' pension contributions..</p>
<p><b>Reasons for not planning a PIR:</b> [If there is no plan to do a PIR please provide reasons here]                  N/A</p>

Add annexes here.