



Ministry  
of Defence

**Armed Forces Pension Scheme:  
Future Pension Provision from  
1 April 2022**  
**Consultation Response**

**14 March 2022**



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# Contents

<a href="#"><u>Foreword</u></a>	4
1. <a href="#"><u>Introduction</u></a>	5
2. <b>Consultation</b>	7
2.1 <a href="#"><u>Consultation Purpose</u></a>	7
2.2 <a href="#"><u>The Armed Forces Pensions (Amendment) Regulations 2022</u></a>	7
2.3 <a href="#"><u>Consultation questions</u></a>	8
2.4 <a href="#"><u>Breakdown of respondents</u></a>	10
3. <b>Analysis</b>	11
3.1 <a href="#"><u>Responses from pension stakeholders</u></a>	11
3.2 <a href="#"><u>Responses from individuals</u></a>	12
3.3 <a href="#"><u>Ill-health Underpin</u></a>	13
4. <a href="#"><u>Conclusion</u></a>	17
5. <a href="#"><u>Next Steps</u></a>	18
<a href="#"><u>Stakeholder Consultation</u></a>	Annex A
<a href="#"><u>Consultation themes</u></a>	Annex B
<a href="#"><u>Ill-health Underpin – Pension Benefit Comparison</u></a>	Annex C

## FOREWORD

The Public Service Pensions and Judicial Offices Bill makes provision for amendments to public service pensions to address the impact of unlawful age discrimination in certain transitional arrangements put in place when public service pension schemes were reformed between 2014 and 2016<sup>1</sup>. Once enacted, the Bill will close the main public service legacy pension schemes to further accrual from 1 April 2022 onwards; all active members who continue in service on that date will move into the relevant reformed schemes. In the case of the Armed Forces these are the AFPS 15 and EDP 15 schemes.

Accordingly, between 22 November 2021 and 31 January 2022 the Ministry of Defence carried out a public consultation in relation to draft regulations (The Armed Forces Pensions (Amendment)<sup>2</sup> Regulations 2022), containing amendments to scheme rules which give effect to the provisions of the Bill, and which also make other amendments to scheme rules to ensure that they work smoothly for all members from 1 April 2022. The Ministry of Defence has considered the responses from the consultation, together with feedback received during and after presentations to serving Armed Forces personnel and to third sector organisations representing the interests of Armed Forces personnel and veterans. The conclusions drawn from those responses are addressed in this document.

The Armed Forces Pensions (Amendment) Regulations 2022 will come into effect on 1 April 2022, and all Armed Forces personnel continuing in service beyond that date do so as members of the Armed Forces Pension Scheme 2015. This process will ensure that everyone is treated equally in terms of scheme design from 1 April 2022.

The Government remains confident that the reformed schemes provide excellent pension provision for the Armed Forces, and that the move away from final salary in the reformed scheme design results in a fairer pension system overall.

**Rt. Hon. Ben Wallace MP, Secretary of State for Defence**

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<sup>1</sup> For background reading refer to <https://www.gov.uk/guidance/pensions-and-compensation-for-veterans>.

<sup>2</sup> Since publishing the draft regulations, the word "Amendments" has changed to "Amendment".

# 1. Introduction

In July 2020 the Government held a public consultation regarding the [changes to the transitional arrangements to the 2015 public service pension schemes](#)<sup>3</sup>. In February 2021, the Government published its [response to the consultation](#)<sup>4</sup> and announced it would legislate to remedy the age-related discrimination found by the courts in the *McCloud/Sargeant* cases<sup>5</sup>. It would do this by closing legacy pension schemes to further accrual from 1 April 2022, ensuring all scheme members who remain in service after that date, do so as members of reformed 2015 pension schemes. Further, legislation would also contain provision to remedy the discrimination that had occurred during the period to 1 April 2022 (Deferred Choice underpin). This would enable scheme members who are in scope<sup>6</sup> for the remedy to choose between retaining default legacy pension benefits for the remedy period (1 April 2015 – 31 March 2022) or opting for benefits which are equivalent to those payable by the reformed pension schemes for that period. This choice is generally made at the point that they become entitled to benefits under the relevant scheme.

The legislation to enable the pension remedy across the public service pension schemes is the [Public Services Pensions and Judicial Offices \(PSPJO\) Bill](#)<sup>7</sup> (PSPJO Bill) which is currently passing through Parliament. The MOD, as the responsible authority for the Armed Forces pension schemes, is required to implement the scheme level changes that are necessary when the relevant provisions of the [PSPJO Bill](#) come into force.

The MOD will deliver the pension remedy in two stages:

- Firstly, the MOD will implement a prospective remedy to ensure that all Armed Forces personnel who continue in service on and beyond 1 April 2022, do so as members of AFPS 15. The prospective remedy is the main subject of the first

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/900766/Public\\_Service\\_Pensions\\_Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900766/Public_Service_Pensions_Consultation.pdf)

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/958635/Public\\_Sector\\_Pensions\\_Consultation\\_Response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/958635/Public_Sector_Pensions_Consultation_Response.pdf)

<sup>5</sup> For background reading refer to <https://www.gov.uk/guidance/pensions-and-compensation-for-veterans>.

<sup>6</sup> Broadly, scheme members who were members of a public service pension scheme both on or before 31 March 2012 and on or after 1 April 2015, including those with a break in service of less than 5 years.

<sup>7</sup> <https://bills.parliament.uk/bills/3032>

consultation and will be enabled by the [Armed Forces Pension Scheme \(Amendment\) Regulations 2022](#)<sup>8</sup>;

- Secondly, the MOD will implement a retrospective remedy which will place those who are in scope of the pension remedy in the relevant legacy pension scheme for service which has taken place during the remedy period, and subsequently give all members of the legacy schemes during that period (including those who were entitled to full protection) a choice of which type of scheme benefits they wish to receive for that period. The retrospective remedy will be introduced in separate scheme regulations and must come into force by October 2023. The MOD will hold a public consultation in due course on the draft regulations to enable those changes. Administrative processes will need to be in place by October 2023 to implement the retrospective remedy.

The prospective [draft regulations](#) were published on 22 November 2021, alongside a [consultation document](#)<sup>9</sup> explaining the changes, and an equality impact assessment<sup>10</sup>. This marked the start of a public consultation period that concluded on 31 January 2022. In order to support the consultation process, the MOD provided internal briefings to pension stakeholders, a workshop with third sector pension stakeholders and three virtual presentations attended by about 950 serving Armed Forces personnel. The list of pension stakeholders invited to comment on the consultation is at [Annex A](#).

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<sup>8</sup> <https://www.gov.uk/government/consultations/armed-forces-pension-scheme-future-pension-provision-from-1-april-2022/the-armed-forces-pensions-amendments-regulations-2022>

<sup>9</sup> <https://www.gov.uk/government/consultations/armed-forces-pension-scheme-future-pension-provision-from-1-april-2022/armed-forces-pension-scheme-future-pension-provision-from-1-april-2022>

<sup>10</sup> <https://www.gov.uk/government/consultations/armed-forces-pension-scheme-future-pension-provision-from-1-april-2022/equality-impact-assessment-for-mccloud-pension-remedy-prospective>

## 2. Consultation

### 2.1 Consultation Purpose

The principle that legacy schemes would be closed to future accrual on 31 March 2022 was consulted on by [HMT in July 2020](#). The Government's considered position on this was set out in its [Response](#) to that consultation in February 2021. The [PSPJO Bill](#) will close the main pre-2015 public service pension schemes, including the Armed Forces pension schemes<sup>11</sup>. The draft [Armed Forces Pension \(Amendment\) Regulations 2022](#) do not close the Armed Forces pension schemes, they simply amend the Armed Forces pension scheme rules, so that the scheme rules remain lawful.

The consultation questions specifically sought views on whether the [draft regulations](#) adequately cover the policy changes outlined in this document. Some respondents expressed their views on the settled Government policy of closing the legacy schemes, and concern about other aspects of the wider pension remedy, mainly to do with the retrospective remedy. However, this consultation was focused on the technical changes needed to ensure that the pension scheme rules accord with settled policy, set out in primary legislation. The move of scheme members to reformed schemes in April 2022 had already been addressed in the HMT consultation. Other respondents focussed entirely on issues linked to the retrospective remedy which will be subject to a separate consultation later in the year.

### 2.2 The Armed Forces Pensions (Amendment) Regulations 2022

The [draft regulations](#) make consequential amendments to the rules of the various Armed Forces pension schemes for the following purposes:

- to ensure all active members, who are full protection members<sup>12</sup> in a legacy scheme until 31 March 2022, and who continue in service have access to the AFPS 15 from that date;
- to make other minor changes to ensure the scheme rules are in accordance with the primary legislation; and

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<sup>11</sup> AFPS 75, FTRS 97, AFPS 05, RFPS 05, NRPS 11

<sup>12</sup> As defined in the rules of the AFPS.

- to remedy previous errors and omissions in scheme rules applying to transition members with continuity of service.

## 2.3 Consultation questions

Consultees were invited to respond to the following questions:

### Question 1

- (1) The [Public Service Pensions and Judicial Offices Bill](#) closes legacy pension schemes to further accrual from 1 April 2022 and ensures that all public service workers who continue in service do so as members of reformed 2015 pension schemes. Do you agree that the draft [regulations](#) ensure that from 1 April 2022 all serving personnel who were full protection members on 31 March 2022 will transition to the AFPS 15 and begin to accrue benefits under that scheme?
- (2) If 'no', why?
- (3) Are there any other changes needed to ensure the rules of the various Armed Forces pension schemes achieve this aim?
- (4) Are there any equality impacts as a result of the proposed [regulations](#) to implement the closure of the legacy schemes that the Department has not identified and needs to take account of?
- (5) Are there any additional comments you wish to provide with regard to the proposed changes to the Armed Forces Pension Scheme as set out in this document?

### Question 2

- (1) Do you agree that the draft [regulations](#) retrospectively correct an error in the 2015 Transitional Schedules relating to Full Protection Members and Re-joiners in AFPS 05 and RFPS 05?
- (2) Do you agree that the draft [regulations](#) achieve the purpose of correcting errors retrospectively in respect of the following?
  - Retrospectively amending the AFPS 75, AFPS 05 and RFPS 05 to require that an application for the secondment Additional Voluntary Contribution (AVC) is accompanied by an application for added pension under AFPS 15;
  - Retrospectively inserting the secondment AVC into the AFPS 05;



- Retrospectively amending the AFPS 15 to ensure that a person who had opted out of the legacy scheme remains opted out of the AFPS 15.

If 'no', why?

### **Question 3**

- (1) Government policy in cases where the medical boarding process has commenced before 1 April 2022 is that all active members will transfer to the new scheme on 1 April 2022. However, schemes may amend their rules to provide an 'ill-health underpin' to ensure members are not disadvantaged by moving to the new scheme. MOD has assessed benefits paid in these circumstances and does not consider that members in these circumstances would receive lower benefits, hence, MOD does not consider it necessary to implement an underpin. Do you have any views on this policy?
- (2) Do you believe any changes to scheme rules are required to implement this policy intent?
- (3) If yes, which rules require amendments and why?

### **Question 4**

- (1) Are there any further considerations that you think the Department should take into account when assessing any equality issues arising as a result of the proposed amendments?
- (2) If yes, please give your reasons and supporting statement.
- (3) Is there anything that could be done to mitigate the impacts you have identified?

### **Question 5**

Do you have any further comments on either the draft [regulations](#) or the equalities impact of the proposals set out in this consultation?

## 2.4 Breakdown of respondents

A total of 34 responses were received from individual members of the Armed Forces: 5 were Royal Navy (4 Officers, 1 Other Rank); 14 were Army (8 Officers, 6 Other Ranks); 11 were Royal Air Force (7 Officers, 4 Other Ranks); 1 response was received from a veteran but not identified by rank or service and 3 responses were received from individuals who could not be identified by rank, service or whether the individual was serving/not-serving. A breakdown is as follows:

	<b>RN</b> (a)	<b>Army</b> (b)	<b>RAF</b> (c)	<b>Veteran</b> (d)	<b>Unidentified</b> (e)
OF6		1			
OF5		1			
OF4		3	2		
OF3	1	1	3		
OF2	2	2	2		
OR9	1	1	2		
OR7		2	1		
OR6		3			
OR4	1		1		
N/K				1	
N/K					3
<b>Total</b>	<b>5</b>	<b>14</b>	<b>11</b>	<b>1</b>	<b>3</b>

In addition to the above, three responses were received from pension stakeholders: [Forces Pension Society](https://forcespensionsociety.org/)<sup>13</sup>, [Royal British Legion](https://www.britishlegion.org.uk/)<sup>14</sup> and the [British Medical Association](https://www.bma.org.uk/)<sup>15</sup>. The total number of responses were 37.

<sup>13</sup> <https://forcespensionsociety.org/>

<sup>14</sup> <https://www.britishlegion.org.uk/>

<sup>15</sup> <https://www.bma.org.uk/>

### 3. Analysis

#### 3.1 Responses from pensions stakeholders

The [Forces Pension Society](#) is an independent, not-for-profit membership funded organisation that acts as a pension watchdog for the whole military community. The Chief Executive of the [Society](#) is also a member of the Armed Forces Pension Board.

In response to the consultation questions, the [Society](#):

- were content that the [draft regulations](#) ensure that from 1 April 2022 all serving personnel who were full protection members on 31 March 2022 will transition to the AFPS 15 and begin to accrue benefits under that scheme;
- did not identify any equality impacts as a result of the proposed [regulations](#);
- agreed that the [draft regulations](#) retrospectively corrected an error in the 2015 transitional regulations;
- were content that there was no requirement for an ill-health underpin;
- were content that no further changes to the rules of the various AFPS are necessary to achieve the aim above;

The Forces Pension [Society](#) made additional comment regarding the putative ill-health underpin – see paragraph 3.3.

The [Royal British Legion](#) (RBL) is the largest welfare provider in the Armed Forces charity sector, helping veterans young and old transition into civilian life. They help with employment, financial issues, respite and recovery, through to lifelong care and independent living. The [RBL](#) did not make specific comment on the questions posed in the consultation document but took the opportunity to represent the interests of serving personnel, veterans, and dependants. The [RBL](#) made 3 recommendations regarding provision of advice and support to scheme members (see [Annex B](#)). The MOD notes the recommendations and will continue to develop support to scheme members, monitored at the most senior levels through the Pension Board.

The [British Medical Association](#) (BMA) is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. A significant number of [BMA](#) members are members of the Armed Forces pension schemes. The [BMA](#) response was comprehensive, taking the opportunity to state their opposition to many aspects of the 2015 pension reforms and Government's position on the pension remedy, particularly the policy on closing the legacy pension schemes. Most of these issues have been the subject of previous consultations (see [chapter 1](#)) and fall outside the remit of this consultation (see para 2.1). The broader issues raised by the [BMA](#) are at [Annex B](#). In terms of the prospective remedy, the [BMA](#) were content that:

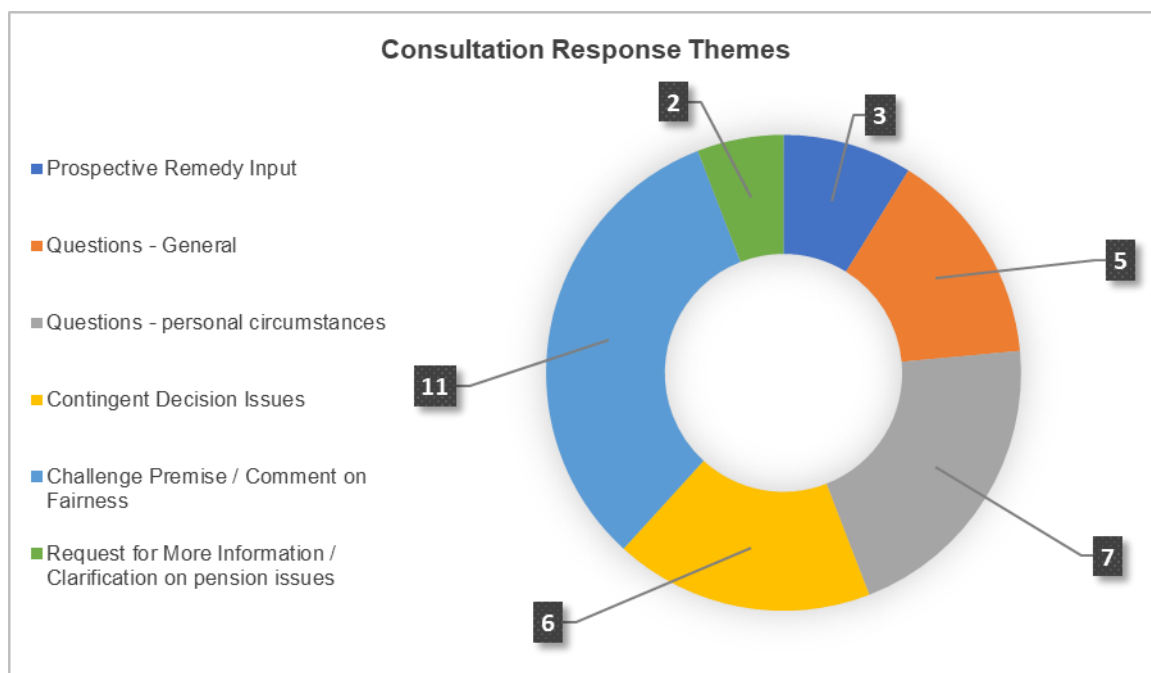
- the [draft regulations](#) appear consistent with the intention to transfer all members to the AFPS 15 scheme;
- the [draft regulations appear](#) to retrospectively correct errors in previous scheme rules.

The feedback from pension stakeholders was extremely useful. A significant proportion of their responses strayed from the remit of the consultation, reflecting their desire to best represent the interests of their respective communities, but, where possible, the issues raised will be taken forward in communications. However, some of the issues raised were previously subject to public consultation and are now settled policy with legislation underway to implement the changes proposed by the Government in 2021 ([see chapter 1](#)).

### **3.2 Responses from individuals**

Thirty-four responses were received from individuals. The main purpose of the consultation document was to gain views on the [draft regulations](#) which will implement the prospective remedy in the Armed Forces pension schemes, but 31 of the 34 responses did not provide the targeted feedback sought. Instead, most responses concentrated on wider pension issues; made comment on or challenged the premise of retrospective remedy; asked more general pension-related questions; or, posed questions about their specific circumstances.

The responses were grouped into themes:



While the majority of responses did not address the specific questions posed in the consultation document, the responses were, nonetheless, useful in highlighting a potential communication gap in relation to Armed Forces pensions. Many of the questions, requests for further information, or comment on retrospective remedy related issues highlight the need to review communications output to ensure the right message is delivered, in the right format, at the right time, to the right audience. The MOD will address these issues through the established Armed Forces Remuneration Communications Working Group, in partnership with the single Service Pay Colonels. A breakdown of consultation themes is at [Annex B](#).

### 3.3 Ill-health Underpin

Government policy in cases where the medical boarding process has commenced before 1 April 2022 is that all active members will transfer to the new scheme on 1 April 2022. The consultation document explains that schemes may amend their rules in relation to this cohort of member, to provide an “ill-health underpin” in the reformed scheme rules if this is considered necessary. The underpin would work by ensuring that the member receives the higher of:

- the benefits they would have received on ill-health retirement as at 31 March 2022, **purely** from the legacy scheme, regardless of any service beyond that date, and

- the benefits to which they are entitled on ill-health retirement after 31 March 2022, calculated in accordance with the existing transitional rules setting out how benefits are calculated for members with accrued rights in a legacy scheme and new service in the AFPS 15.

The MOD specifically invited comment on its intention not to implement an ill-health underpin in these regulations. The [FPS](#) agreed that an ill-health underpin was not necessary but in reaching their position they highlighted that:

*“Based on our modelling of example cases, we agree with the MoD that service personnel will not receive lower benefits as a result of this policy.”*

*“From our correspondence with the MoD, we are encouraged that it will seek to identify service personnel who will be affected by this policy and that, should a case occur whereby somebody is disadvantaged by this rule, their individual circumstances will be reconsidered. It is clearly of paramount importance that serving personnel are not disadvantaged, and that the burden of identifying such cases does not fall to the members being discharged.”*

The [BMA](#) were unequivocal in their view that an ill-health underpin was required.

*“We would contend that it is always best to implement an underpin, to avoid any instances whereby a member can be disadvantaged by moving to a new scheme. Whilst we note that the MOD does not “consider” that there will be any lower benefits for members from the move to the scheme [i.e. the move from legacy pension scheme to AFPS 15], they have not confirmed that this will certainly be the case and there are always anomalies which may not have been considered. For that reason, we propose that an underpin should be implemented.”*

The [BMA](#) pressed further regarding potential unfair treatment, ensuring no-one is disadvantaged by the difference between AFPS 15 and legacy schemes, and proposed that anyone discharged as a member of the AFPS 15, should also be able to choose under which scheme they receive benefits.

One comment was received from a serving Royal Navy Officer:

*“...any personnel who find themselves subject to the considerations of the MoD in this regard [i.e. those who start the ill-health boarding process before 1 Apr 22 but do not conclude the process until after 1 Apr 22] are owed an explanation as to why this is the case. The MoD needs to explain to personnel who find themselves unwell (subject to medical board) exactly why they believe them not to be disadvantaged and therefore not in receipt of an underpin, or else they may be open to challenge on this. The statement above just says “MoD doesn’t think these people will be disadvantaged”. I can’t see that they’ve explained why though. Perhaps show the working, maybe with example hypothetical cases? I may be wrong but it strikes me that without clear explanation, this sets up the potential for a “McCloud v.2” in the future, except this time on the grounds of physical disability or health, as opposed to age.”*

The responses regarding the ill-health underpin are noted and the concerns raised are understood by the MOD. However, the MOD remains of the view that an underpin is not required. The ill-health pension rules in the AFPS 15 and EDP 15 are the same as those in the AFPS 05, EDP 05 and RFPS 05. The threshold for an ill-health pension in the AFPS 75, FTRS 97 and NRPS 11 is that the member meets the threshold for the Tier 1 award under EDP 05 and EDP 15.

Ill-health pension calculations are complicated and comparing benefits between legacy schemes and the AFPS 15 takes into account a number of factors, including but not limited to: length of pensionable service; career averaged re-valued earnings (AFPS 15); age (proximity to age 60); representative pay (AFPS 75); pensionable pay; and rank. An ill-health underpin that might be paid under reformed scheme rules would provide an automatic top-up, to the value of the higher of the benefits payable from an ill-health award under legacy scheme design in relation to service to 31 March 2022, or the transitional benefits after that date under the usual AFPS ill-health award terms (i.e. a combination of legacy benefits to March 2022 and AFPS 15 benefits from 1 April 2022). As part of the work to determine whether an ill-health underpin was required, MOD has identified that the only cohort that could, in theory, benefit from an underpin are those:

- Members of AFPS 75 with Full Protection, **and**;
- Serving as an Other Rank, **and**;
- Who were aged 35 or over on joining the Armed Forces, **and**;
- Who joined the Armed Forces after 1 April 2002, **and**;
- Who are aged 55 by 31 March 2022, **and**;
- Have served **less** than 20 years; **and**
- Only eligible for a Tier 1 award under EDP 15 in relation to their service after 1 April 2022; **and**
- Are declared unfit for service by a Medical Board before 1 April 2022 but not assessed by a final Medical Employability Board and discharged until after that date.

An assessment of the benefits payable to transition members in these circumstances indicates that these would not be lower than those which would have been payable by the relevant legacy scheme had service terminated on 31 March 2022. To illustrate this, examples of the ill-health pension benefit calculations considered by the MOD in its analysis are at [Annex C](#).

Whilst the MOD do not intend to change the [draft regulations](#) to legislate for an ill-health underpin, the comments made by the [FPS](#), [BMA](#) and the Royal Navy Officer are noted and the MOD is committed to ensuring no-one is disadvantaged by the lack of an ill-health underpin for those moving to AFPS 15 on 1 April 2022. Initial analysis showed that there were no serving personnel who would benefit from the ill-health underpin but further workforce analysis will be conducted to ensure this is the case.



## 4. Conclusion

The formal consultation responses, and feedback from various engagement events while the consultation was running, have been very useful to MOD more generally, even though most did not address the specific issues on which we were consulting. The feedback has identified a knowledge gap around Armed Forces pensions in general and the McCloud remedy in particular. There has been a large amount of targeted pension and McCloud related communications published via various methods, including Veterans UK, gov.uk, the Defence intranet (defnet), Defence Connect, Defence Instructions and Notice, single Service periodicals and various notice board type briefs cascaded through single Service Pay Colonels. However, the MOD recognises that the feedback received in response to this consultation highlights the need to maintain a steady drumbeat of pension and McCloud communications output to reinforce the key messages and to signpost Armed Forces personnel, and veterans, to information repositories. The MOD will work with the single Service Pay Colonels in this regard.

Analysis of specific feedback on the questions posed and issues covered in the consultation document shows no evidence to suggest that the policy implemented through the [draft regulations](#) requires any change. The response supporting the need for an ill-health underpin was considered, but the MOD remains of the view that this is not required in the armed forces pension schemes.

Accordingly, the MOD does not intend to make any changes to the policy underlying the draft [Armed Forces Pensions \(Amendment\) Regulations 2022](#). These will now be further reviewed and finalised.

## 5. Next Steps

The regulations will be laid in Parliament in March 2022, after the [Bill](#) receives Royal Assent. From 1 April 2022, all Armed Forces personnel serving at and beyond this point will do so as members of AFPS 15. This marks the implementation of the prospective strand of the remedy for the Armed Forces by ensuring that all members are accruing pension in the same scheme, irrespective of their age.

## Stakeholder Consultation

The following Armed Forces pension stakeholders were invited to a workshop on the scope of the '[Armed Forces Future Pension Provision from 1 April 2022](#)' public consultation and invited to respond:

[The Confederation of British Service Organisations](https://www.cobseo.org.uk/) (https://www.cobseo.org.uk/)

[The Royal British Legion](https://www.britishlegion.org.uk/) (https://www.britishlegion.org.uk/)

[The Soldiers, Sailors, Airmen and Families Association](https://www.ssafa.org.uk/) (https://www.ssafa.org.uk/)

[The Royal Navy and Royal Marines Charity](https://www.rnrmc.org.uk/) (https://www.rnrmc.org.uk/)

[The Soldiers Charity](https://soldierscharity.org/) (https://soldierscharity.org/)

[The RAF Association](https://rafa.org.uk/) (https://rafa.org.uk/)

[The Navy Family Federation](https://nff.org.uk/) (https://nff.org.uk/)

[The Army Family Federation](https://aff.org.uk/) (https://aff.org.uk/)

[The RAF Family Federation](https://www.raf.mod.uk/serving-families/raf-families-federation/) (https://www.raf.mod.uk/serving-families/raf-families-federation/)

[The War Widows' Association](https://www.warwidows.org.uk/) (https://www.warwidows.org.uk/)

[The Forces Pension Society](https://forcespensionsociety.org/) (https://forcespensionsociety.org/)

[The Services Insurance and Investment Advisory Panel](https://siiap.org/) (https://siiap.org/)

[The White Ensign Association](https://www.whiteensign.co.uk/) (https://www.whiteensign.co.uk/)

[The Independent Medical Expert Group](https://www.gov.uk/government/organisations/independent-medical-expert-group) (https://www.gov.uk/government/organisations/independent-medical-expert-group)

[The Armed Forces Pay Review Body](https://www.gov.uk/government/organisations/armed-forces-pay-review-body)

(https://www.gov.uk/government/organisations/armed-forces-pay-review-body)

[The Pension Regulator](https://www.thepensionsregulator.gov.uk/) (https://www.thepensionsregulator.gov.uk/)

[The Veterans Advisory and Pensions Committee](https://www.gov.uk/government/organisations/veterans-advisory-and-pensions-committees-x13)

(https://www.gov.uk/government/organisations/veterans-advisory-and-pensions-committees-x13)

The following organisations were briefed on the scope of the '[Armed Forces Future Pension Provision from 1 April 2022](#)' public consultation and invited to respond:

[Armed Forces Pension Schemes, Pension Board](https://www.gov.uk/government/groups/armed-forces-pension-board) (https://www.gov.uk/government/groups/armed-forces-pension-board)

Armed Forces Pension Schemes, Scheme Advisory Board

## Consultation themes

### Prospective remedy

The [Forces Pension Society](#) and three individual responses agreed, or were non-committal, that:

- the [draft regulations](#) ensure that from 1 April 2022 all serving personnel who were full protection members on 31 March 2022 will transition to the AFPS 15 and begin to accrue benefits under that scheme;
- no further changes to the rules of the various AFPS are necessary to achieve the aim above;
- no equality impacts as a result of the proposed [regulations](#) were identified;
- the [draft regulations](#) retrospectively corrected errors in the 2015 transitional regulations.

### The Royal British Legion

The [Royal British Legion](#) made the following recommendations:

- Veterans UK should offer a specialist advisory service designed specifically to support AFPS members through their transition to AFPS15 following the end of the remedy period. This service should provide advisers who are trained to forecast member's pensions on a personal basis, taking into account existing or potential interactions with welfare benefits and military compensation.
- Personalised financial advice and support should be offered to survivors and dependents by Veterans UK, by advisers who are trained to support those facing grief, extreme stress, and hardship.
- Veterans UK should maintain a sustainable support and advisory service for AFPS members, to ensure that they can always make the most well-informed

decisions on their financial future, no matter when, or under what circumstances, they come to do so.

The MOD notes the recommendations and will continue to develop support to scheme members, monitored at the most senior levels through the Pension Board.

### **The British Medical Association**

The [BMA](#) submitted a detailed response to the consultation, addressing the key aspects of the consultation questions and taking the opportunity to reiterate their position on the key principles of the 2015 pension reforms and to comment on pension issues that will be the subject of the retrospective remedy consultation, to be held in due course. In sum, the [BMA](#):

- Do not agree with the closure of legacy pension schemes, taking the view that all members should be allowed to remain in their legacy schemes if they wish to do so.
- Stated that in seeking to address discrimination caused to younger members, the MOD will now be subjecting older members to a detriment and disadvantage.
- Believe that the changes have the potential to discriminate those who have flexible service or have had career breaks, because they could be at a disadvantage as a result of the changes.
- Note that the remit of the consultation is “*...restricted and limited to the logistics of closing the legacy schemes and then transferring members to AFPS 15 with effect from 1 April 2022*”.

The MOD notes the [BMA](#) comments but decisions around closing legacy pension schemes were subject to public consultation and are settled Government policy ([see chapter 2](#)). The MOD will seek to improve stakeholder engagement with the [BMA](#) to ensure their views are considered, within the boundaries of the [Public Service Pensions](#)

[and Judicial Offices Bill 2022](#), when developing policies for the retrospective remedy.

There will be a second consultation on this, and the [BMA](#) will be invited to make comment.

### **The ill-health Underpin**

Based on their modelling of MOD examples, the [Forces Pension Society](#) accepted MOD assurances and agreed that the ill-health underpin was not required. One individual made comment in support of the putative underpin and the [British Medical Association](#) was unequivocally in favour of legislating for an underpin, but did not provide any modelling to support this. This issue affects a very small cohort of people moving to AFPS 15, for the first time, on 1 April 2022. The MOD remain of the view that the ill-health underpin is not required. See examples at [Annex C](#).

### **Other responses**

The following summarises the feedback on the responses that were not specifically related to the draft regulations:

- **General Questions**

Some individuals used the opportunity to ask questions rather than answer the consultation questions or provide comment on the prospective remedy.

Subjects ranged from requesting information on when the Armed Forces pension calculator would be updated to include Deferred Choice options; questions about how promotion might affect pensions under the retrospective remedy; how the remedy would work for veterans; and comment on Medical and Dental Officers' bonuses under the retrospective remedy. These issues are not relevant to the prospective remedy, but the MOD will address these themes through communications.

- **Questions/Comment relating to personal circumstances**

Some individuals used the opportunity to ask questions about their specific pension arrangements. These included questions around: how additional voluntary contributions would work when personnel roll back to legacy pension schemes; taxation issues when pension schemes roll back; how would individuals be compensated for the loss of opportunity to purchase additional voluntary contributions in their legacy scheme; when can Deferred Choice options be taken; comment about pension forecasts not allowing financial

planning as they did not include Deferred Choice options; comment and suggestions about Medical and Dental Officers' bonuses. These issues are not part of the prospective remedy but will be addressed in MOD communications.

- **Contingent Decisions**

The Government's McCloud [consultation response](#)<sup>16</sup> published in 2021 referenced 'contingent decisions', which are decisions that individuals took as a result of the (actual or perceived) implications of the introduction of reformed pension schemes. The concept of the contingent decision has generated interest among both serving Armed Forces personnel and veterans, who claim to have left the Armed Forces because of the introduction of AFPS 15. Four responses specifically outlined a personal claim for a contingent decision, while others asked questions that would essentially fall within contingent decision policy. This policy is not part of the prospective remedy but will be addressed in MOD communications and will be covered in the development of the retrospective remedy.

- **Challenge premise / comment on fairness / erroneous understanding**

The [Forces Pension Society](#) and the [BMA](#) also expressed their concern about the Government's policy in relation to the Cost Control Mechanism and the cost of the pension remedy. This issue was not part of the consultation, but the response was noted.

- The broad grouping of responses within this theme consisted of challenges, statements, and commentary on a range of issues, including business as usual pension arrangements and the retrospective remedy. A limited understanding of pensions, the pension remedy, or the consultation process was evident in a number of responses. In particular, responses covered: remaining in legacy schemes for the entirety of their career; suggesting different forms of remedy; linking pension entitlement to their length of engagement/commission, or, disagreeing with aspects of the Government's position on remedy. This grouping of responses did not address the issues raised by the prospective

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16

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/958635/Public\\_Sector\\_Pensions\\_Consultation\\_Response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/958635/Public_Sector_Pensions_Consultation_Response.pdf)

remedy, and indeed would be unlikely to address issues covered by the retrospective remedy consultation (when that is held) as they challenged policy issues which will be determined by the [Bill](#) currently going through Parliament. These queries will be addressed in MOD communications and general pension awareness education.

- **Requests for more information**

Two responses simply asked for further information: one on 'McCloud' in general and one response asked where the detail on correcting errors in the Transitional Schedules relating to Full Protection Members and Re-joiners in AFPS 05 and RFPS 05 could be found. Both individuals were contacted directly and were advised where relevant information could be found.



### Ill-health Underpin - Pension Benefit Comparison

The ill-health underpin is designed to protect those whose medical discharge ‘straddles’ their transition to AFPS 15 membership on 1 April 2022. An ill-health underpin that might be paid under reformed scheme rules would provide an automatic top-up, to the value of the higher of the benefits payable between an ill-health award under legacy scheme design in relation to service to 31 March 2022, or the transitional benefits after that date under the usual AFPS ill-health terms (i.e. a combination of legacy benefits to March 2022 and AFPS 15 benefits from 1 April 2022). The underpin would not be required for members of AFPS 05, EDP 05 and RFPS 05 as the scheme rules are the same, hence the examples below only illustrate members of AFPS 75.

#### 1. **AFPS members, less than 20 years’ pensionable service (don’t qualify for EDP 15):**

##### **Example 1.a**

OR8, AFPS 75 member leaving on ill-health grounds on 31 October 2022, age 58 having joined in 2003. Column (a) shows the combined legacy/AFPS 15 benefits calculated for the length of actual service and shows the awards for each Tier. Column (b) shows the legacy benefits calculated to 31 March 2022 only.

The ill-health underpin provides that the individual will receive the higher of column (a) or column (b)

#### **Scenario 1 Individual leaves, would be entitled to a Tier 1 Award under EDP 15**

<b><u>Transition to AFPS 15 1/4/22 Benefits calculated to 31/10/22</u></b>	<b><u>Legacy Assessment – Benefits calculated to 31/3/22</u></b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £13,678.92 (pension) £41,036.76 (lump sum)  <b>AFPS 15/EDP 15</b> £2,834.07 (Tier 1 lump sum) £580.00 (deferred pension)	<b>AFPS 75</b> £13,718.84 (pension) £41,156.52 (lump sum)	Lump sum payments are tax free.  Deferred AFPS 15 pension paid at State Pension Age (SPA)

**Scenario 2 Individual leaves, would be entitled to a Tier 2 Award under AFPS 15**

<b><u>Transition to AFPS 15 1/4/22</u></b> <b><u>Benefits calculated to 31/10/22</u></b>	<b><u>Legacy Assessment –</u></b> <b><u>Benefits calculated to 31/3/22</u></b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £13,678.92 (pension) £41,036.76 (lump sum)  <b>AFPS 15</b> £592.52 (Tier 2 pension)	<b>AFPS 75</b> £13,718.84 (pension) £41,156.52 (lump sum)	Lump sum payments are tax free.  Tier 2 pension paid from discharge

**Scenario 3 Individual leaves, would be entitled to a Tier 3 Award under AFPS 15**

<b><u>Transition to AFPS 15 1/4/22</u></b> <b><u>Benefits calculated to 31/10/22</u></b>	<b><u>Legacy Assessment –</u></b> <b><u>Benefits calculated to 31/3/22</u></b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £13,678.92 (pension) £41,036.76 (lump sum)  <b>AFPS 15</b> £750.07 (Tier 3 pension)	<b>AFPS 75</b> £13,718.84 (pension) £41,156.52 (lump sum)	Lump sum payments are tax free.  Tier 3 pension paid from discharge

**Example 1.b**

OF4, AFPS 75 member leaving on ill-health grounds on 31 October 2022, age 58 having joined in 2003. Column (a) shows the combined legacy/AFPS 15 benefits calculated for the length of actual service and shows the awards for each Tier. Column (b) shows the legacy benefits calculated to 31 Mar 2022 only.

The ill-health underpin provides that the individual will receive the higher of column (a) or column (b)

**Scenario 1 Individual leaves, would be entitled to a Tier 1 Award under AFPS 15**

<b><u>Transition to AFPS 15 1/4/22</u></b> <b><u>Benefits calculated to 31/10/22</u></b>	<b><u>Legacy Benefit Assessment</u></b> <b><u>Only – Benefits calculated to</u></b> <b><u>31/3/22</u></b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £28,524.37 (pension) £85,573.11 (lump sum)  <b>AFPS 15/EDP 15</b> £5100.07 (Tier 1 lump sum) £1,043.54 (deferred pension)	<b>AFPS 75</b> £28,506.26 (pension) £85,518.78 (lump sum)	Lump sum payments are tax free.  Deferred AFPS 15 pension paid at State Pension Age (SPA)

**Scenario 2 Individual leaves, would be entitled to a Tier 2 Award under AFPS 15**

<b>Transition to AFPS 15 1/4/22 Benefits calculated to 31/10/22</b>	<b>Legacy Benefit Assessment Only – Benefits calculated to 31/3/22</b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £28,524.37 (pension) £85,573.11 (lump sum)  <b>AFPS 15</b> £1,066.07 (Tier 2 pension)	<b>AFPS 75</b> £28,506.26 (pension) £85,518.78 (lump sum)	Lump sum payments are tax free.  Deferred AFPS 15 pension paid at State Pension Age (SPA)

**Scenario 3 Individual leaves, would be entitled to a Tier 3 Award under AFPS 15**

<b>Transition to AFPS 15 1/4/22 Benefits calculated to 31/10/22</b>	<b>Legacy Benefit Assessment Only – Benefits calculated to 31/3/22</b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £28,524.37 (pension) £85,573.11 (lump sum)  <b>AFPS 15</b> £1,349.53 (Tier 3 pension)	<b>AFPS 75</b> £28,506.26 (pension) £85,518.78 (lump sum)	Lump sum payments are tax free.  Deferred AFPS 15 pension paid at State Pension Age (SPA)

**2. AFPS members, 20 years' pensionable service (qualify for EDP 15):**

**Example 2.a**

OR8, AFPS 75 member leaving on ill-health grounds on 31 October 2022, with 20 years' service. Column (a) shows the combined legacy/AFPS 15 benefits calculated for the length of actual service and shows the awards for each Tier. Column (b) shows the legacy benefits calculated to 31 March 2022 only.

The ill-health underpin provides that the individual will receive the higher of column (a) or column (b)

**Scenario 1 Individual leaves, assessed as Tier 1 under AFPS 15**

<b>Transition to AFPS 15 1/4/22 Benefits calculated to 31/10/22</b>	<b>Legacy Assessment – Benefits calculated to 31/3/22</b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £14,053.10 (pension) £42,159.30 (lump sum)  <b>AFPS 15/EDP 15</b> £197.20 (EDP 15 income) £1,305.00 (EDP lump sum) £580.00 (deferred pension)	<b>AFPS 75</b> £14,089.60 (pension) £42,268.80 (lump sum)	Lump sum payments are tax free.  Deferred AFPS 15 pension paid at State Pension Age (SPA)  EDP income ceases when deferred pension comes into payment

**Scenario 2 Individual leaves, would be entitled to a Tier 2 Award under AFPS 15**

<b><u>Transition to AFPS 15 1/4/22</u></b> <b><u>Benefits calculated to 31/10/22</u></b>	<b><u>Legacy Assessment –</u></b> <b><u>Benefits calculated to 31/3/22</u></b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £14,053.10 (pension) £42,159.30 (lump sum)  <b>AFPS 15</b> £592.10 (Tier 2 pension)	<b>AFPS 75</b> £14,089.60 (pension) £42,268.80 (lump sum)	Lump sum payments are tax free.  Tier 2 pension paid from discharge

**Scenario 3 Individual leaves, would be entitled to a Tier 3 Award under AFPS 15**

<b><u>Transition to AFPS 15 1/4/22</u></b> <b><u>Benefits calculated to 31/10/22</u></b>	<b><u>Legacy Assessment –</u></b> <b><u>Benefits calculated to 31/3/22</u></b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £14,053.10 (pension) £42,159.30 (lump sum)  <b>AFPS 15</b> £725.00 (Tier 3 pension)	<b>AFPS 75</b> £14,089.60 (pension) £42,268.80 (lump sum)	Lump sum payments are tax free.  Tier 3 pension paid from discharge

**Example 2.b**

OF4, AFPS 75 member leaving on ill-health grounds on 31 October 2022, with 20 years' service. Column (a) shows the combined legacy/AFPS 15 benefits calculated for the length of actual service and shows the awards for each Tier. Column (b) shows the legacy benefits calculated to 31 March 2022 only.

The ill-health underpin provides that the individual will receive the higher of column (a) or column (b)

**Scenario 1 Individual leaves, would be entitled to a Tier 1 Award under AFPS 15**

<b><u>Transition to AFPS 15 1/4/22</u></b> <b><u>Benefits calculated to</u></b> <b><u>31/10/22</u></b>	<b><u>Legacy Benefit Assessment</u></b> <b><u>Only – Benefits calculated to</u></b> <b><u>31/3/22</u></b>	<b>Comments</b>
(a)	(b)	(c)
<b>AFPS 75</b> £29,295.51 (pension) £87,886.53 (lump sum)  <b>AFPS 15/EDP 15</b> £354.80 (EDP income) £2,347.97 (EDP lump sum) £1,043.54 (deferred pension)	<b>AFPS 75</b> £29,271.68 (pension) £87,815.04 (lump sum)	Lump sum payments are tax free.  Deferred AFPS 15 pension paid at State Pension Age (SPA)  EDP income ceases when deferred pension comes into payment

**Scenario 2 Individual leaves, would be entitled to a Tier 2 Award under AFPS 15**

<b>Transition to AFPS 15 1/4/22</b> <b><u>Benefits calculated to 31/10/22</u></b>  (a)	<b>Legacy Benefit Assessment</b> <b>Only – <u>Benefits calculated to</u></b> <b><u>31/3/22</u></b>  (b)	<b>Comments</b>  (c)
<b>AFPS 75</b> £29,295.51 (pension) £87,886.53 (lump sum)  <b>AFPS 15</b> £1,065.32 (Tier 2 pension)	<b>AFPS 75</b> £29,271.68 (pension) £87,815.04 (lump sum)	Lump sum payments are tax free.  Deferred AFPS 15 pension paid at State Pension Age (SPA)

**Scenario 3 Individual leaves, would be entitled to a Tier 3 Award under AFPS 15**

<b>Transition to AFPS 15 1/4/22</b> <b><u>Benefits calculated to 31/10/22</u></b>  (a)	<b>Legacy Benefit Assessment</b> <b>Only – <u>Benefits calculated to</u></b> <b><u>31/3/22</u></b>  (b)	<b>Comments</b>  (c)
<b>AFPS 75</b> £29,295.51 (pension) £87,886.53 (lump sum)  <b>AFPS 15</b> £1,304.43 (Tier 3 pension)	<b>AFPS 75</b> £29,271.68 (pension) £87,815.04 (lump sum)	Lump sum payments are tax free.  Deferred AFPS 15 pension paid at State Pension Age (SPA)