



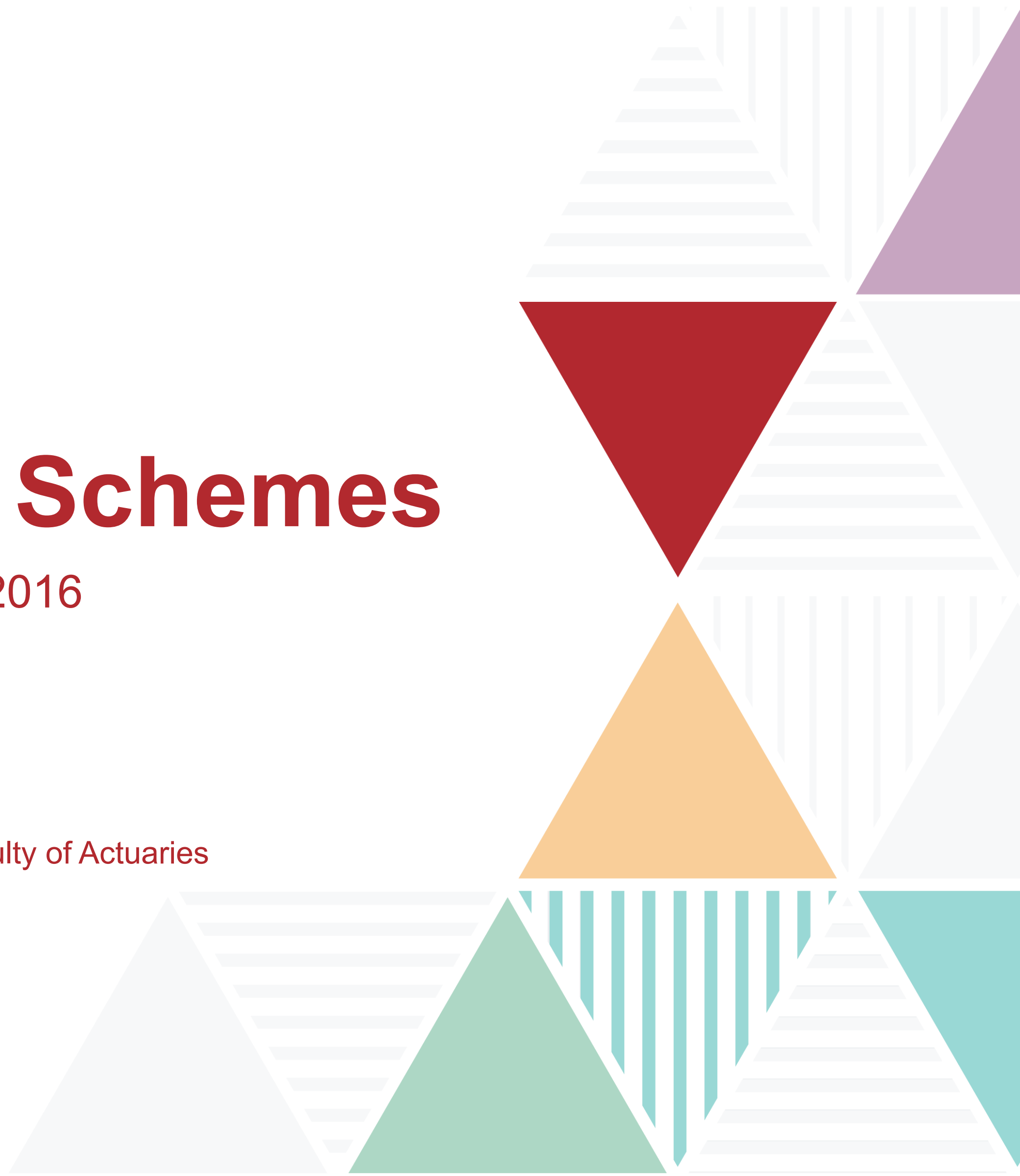
Government  
Actuary's  
Department

# Judicial Pension Schemes

Cost control valuation as at 31 March 2016  
Cost cap valuation report

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31 March 2022

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31 March 2022



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In this report, terms written in ***bold italics*** are defined in the Glossary.

At GAD, we seek to achieve a high standard in all our work. We are accredited under the Institute and Faculty of Actuaries' Quality Assurance Scheme. Our website describes [the standards we apply](#).



# 1. Summary



# Background

## Cost control mechanism introduced

- Established to ensure a fair balance of risks between scheme members and the taxpayer
- Introduced by [section 12 of Public Service Pensions Act 2013](#) and policy details set out in [HM Treasury \(HMT\) paper of March 2014](#)

## Proposed employer cost cap recalculated as 25.6% of pay

- MoJ instructed GAD to recalculate the proposed employer cost cap to include the fee paid judiciary, as set out in the [2016 valuation](#)
- If at subsequent valuations the cost of the scheme is outside a  $\pm 2\%$  corridor above / below the employer cost cap, the 2013 Act requires action to be taken to bring costs back to the target cost

## 2016 valuation: Pause of cost control mechanism

- [HMT announcement 30 January 2019](#): followed the McCloud/Sargeant judgment and was implemented in February 2019 by the **Directions**
- The [2016 valuation dated 5 March 2019](#) set the employer contribution rate to be 51.1% of pay\* with effect from 1 April 2019

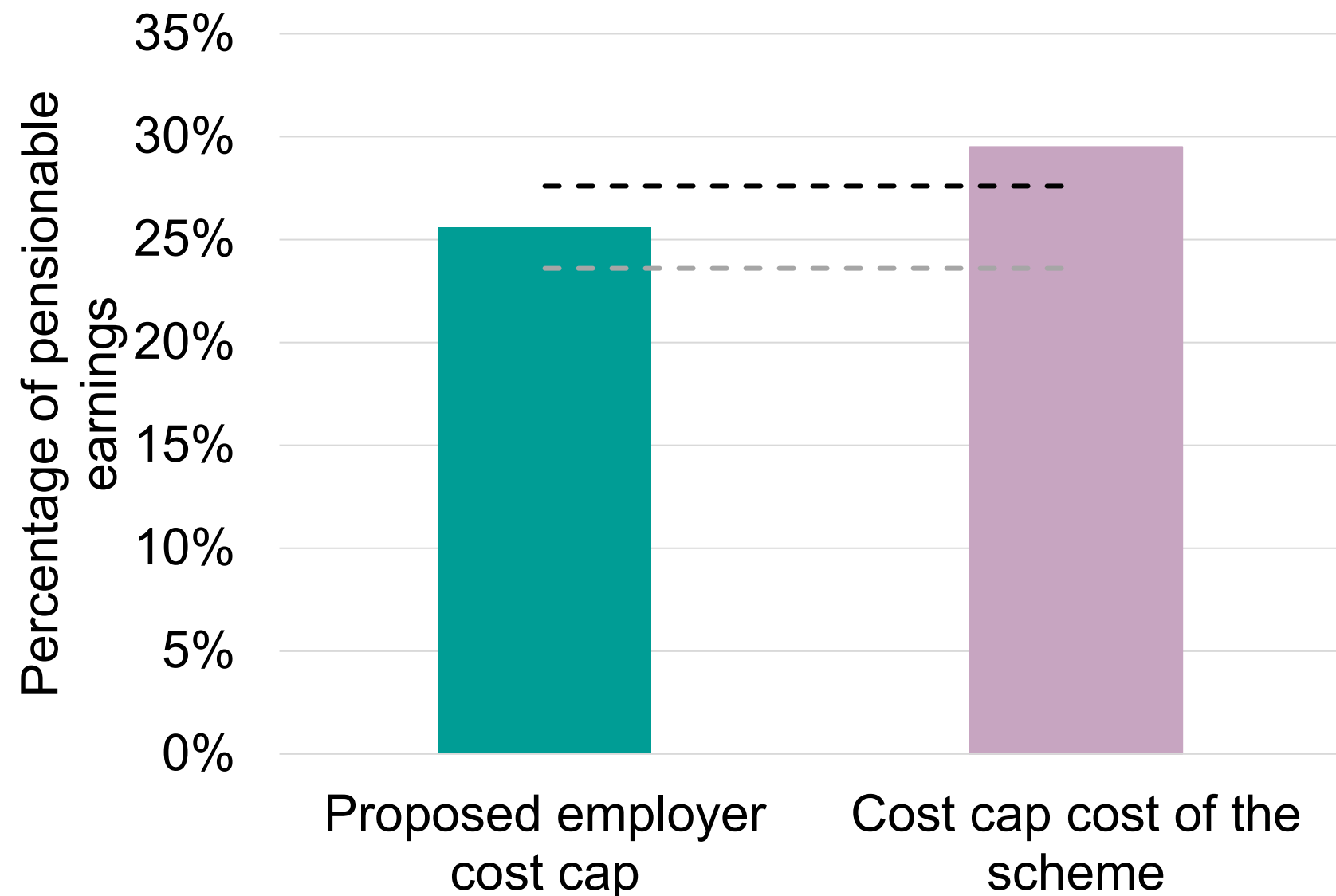
## 2016 valuation: Completion of cost control mechanism

- [HMT announcement 16 July 2020](#): the pause would be lifted and the costs of transitional protection remedy would be taken into account.
- [HMT announcement 4 February 2021](#): breaches of the cost cap ceiling would be waived.
- [HMT Amendment Directions dated 7 October 2021](#) set the detailed requirements, and further information is available in the [Government Actuary's letter of 6 October 2021](#)

\* Before administration expenses of 0.25% of pay

# Summary of results

This report has been commissioned by, and is addressed to, the Lord Chancellor and sets out the **cost control valuation results** of the Judicial Pension Schemes as at 31 March 2016 (see Appendix A: Reliance for further details).



- - - - - Cost control mechanism ceiling  
 - - - - - Cost control mechanism floor

The proposed **employer cost cap** was recalculated at the [2016 valuation](#) to include the fee paid judiciary

The **cost cap cost of the scheme** is

**3.9%**

above the **proposed employer cost cap**.

This result lies above the  $\pm 2\%$  corridor specified in **HMT regulations**. The [2015 regulations](#) require MoJ to consult on the steps required to restore costs to the employer cost cap. However, the Public Service Pensions and Judicial Offices Act 2022 amends the **2013 Act** so that ceiling breaches from the 2016 cost cap valuation have no effect.

The results of this cost cap valuation are not used to set the employer contribution rate. HMT has confirmed that changes to the employer contribution rates resulting from the 2020 valuations will take effect from April 2024.



## 2. Results



# Cost cap cost of the scheme

## Data, assumptions and methodology

We have been instructed by the Lord Chancellor, following consultation with relevant stakeholders, to adopt the best estimate assumptions recommended in our formal advice on the assumptions, methodology and data dated 17 January 2022. A summary of the main assumptions is set out in Appendix F of the [2016 valuation dated 5 March 2019](#).

## Calculation of the cost cap cost of the scheme

The **cost cap cost of the scheme** has been calculated as follows, in accordance with the **Directions**:

<b>Cost cap cost of the scheme</b>	=	<b>Employer contribution correction cost</b>	+	<b>Transitional protection remedy cost</b>
<b>29.5%</b>		<b>20.5%</b>		<b>9.0%</b>

The calculation of the transitional protection remedy cost is set out in Appendix B.

## Comparison with employer cost cap

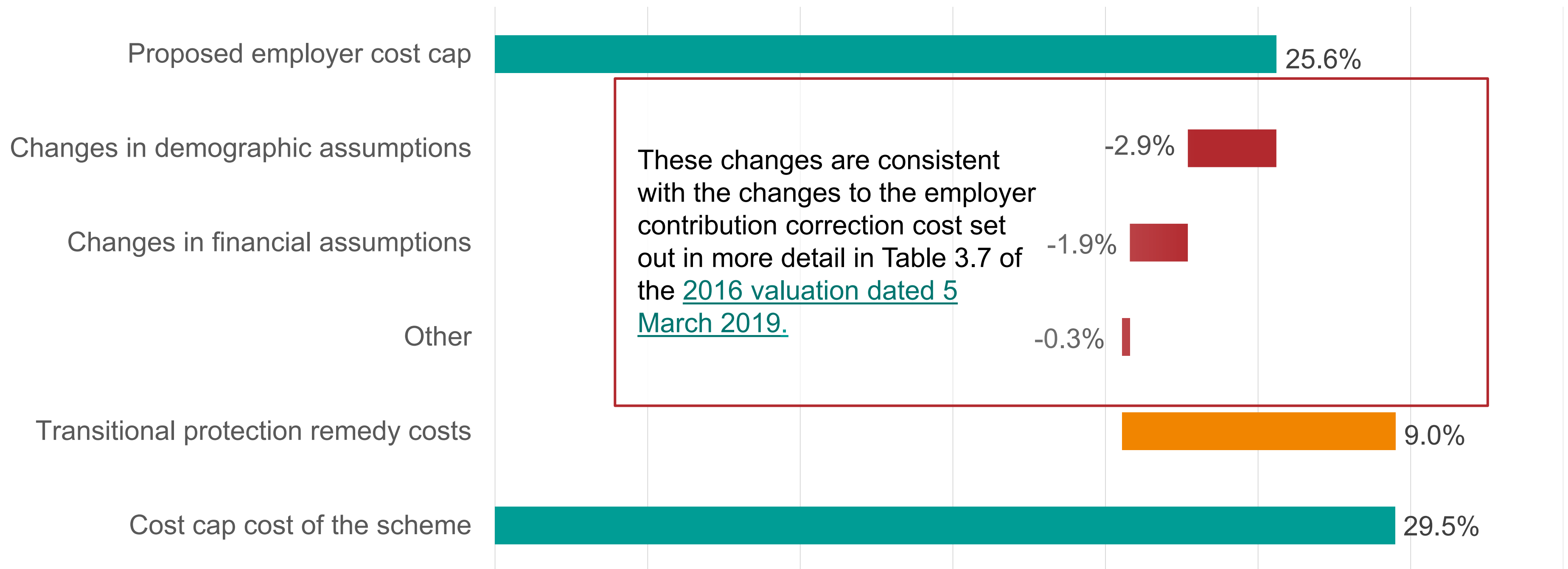
The **cost cap cost of the scheme** is 3.9% above the proposed **employer cost cap**. The **cost cap cost of the scheme** is above the  $\pm 2\%$  corridor. This report provides formal confirmation by the scheme actuary that the cost cap cost of the scheme is outside of the 2% margin, as required under direction 48(g).

<b>Cost cap cost of the scheme</b>	<b>29.5%</b>
<b>Proposed employer cost cap</b>	<b>25.6%</b>
<b>Difference</b>	<b>3.9%</b>



# Analysis of change in cost cap cost of the scheme

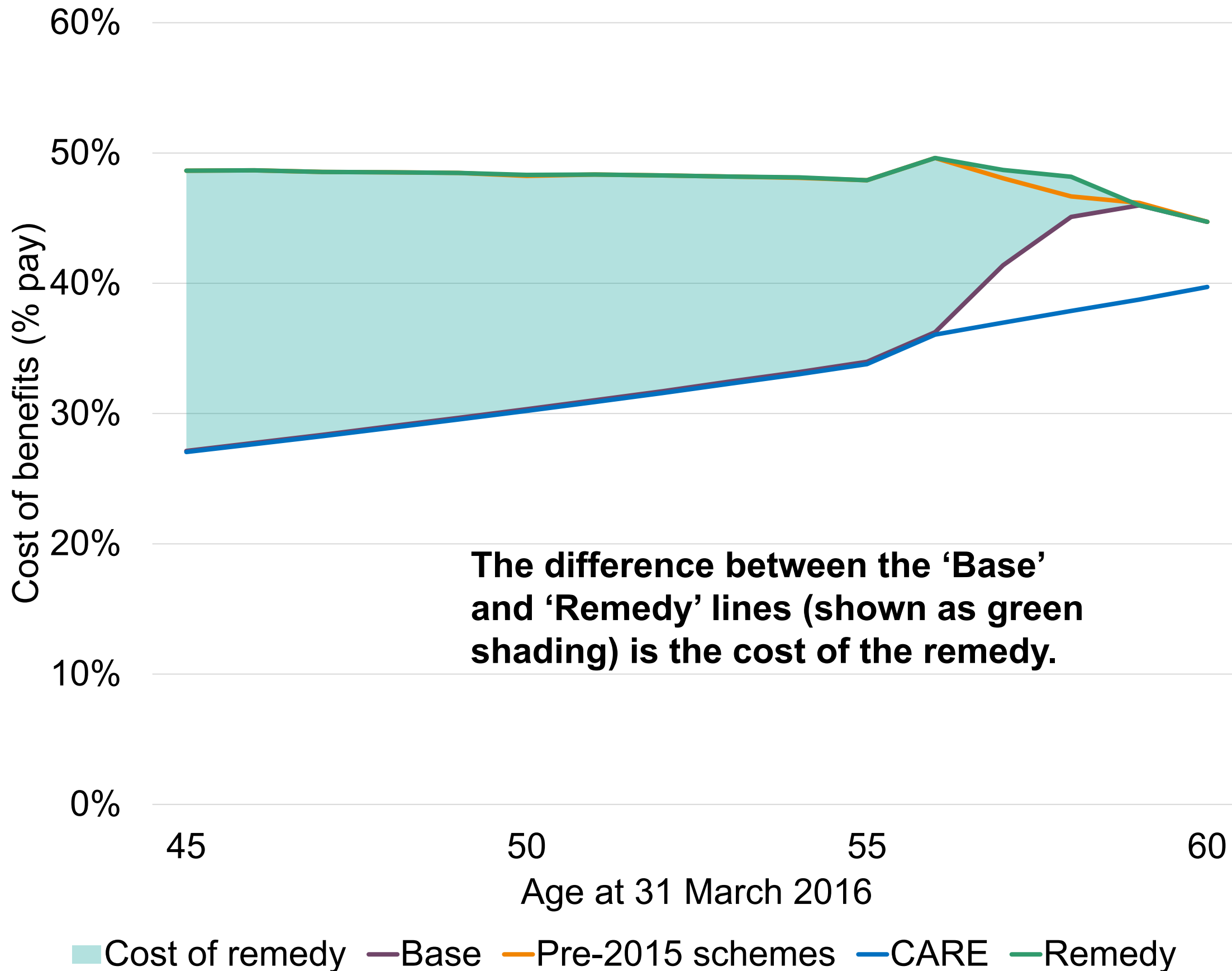
The chart below shows the key reasons for the difference between the **cost cap cost of the scheme** and the **proposed employer cost cap**. Changes in financial and demographic assumptions set by HM Treasury reduce the cost cap cost of the scheme. This is offset by an increase in the cost cap cost of the scheme driven by the transitional protection remedy costs.





# Results – Cost by age

This chart shows the cost (as a percentage of pensionable salary) by age of different benefits:



The 'pre-2015' line shows the weighted average cost of the pre-2015 final salary schemes.

The 'CARE' line shows the cost of the post-2015 scheme.

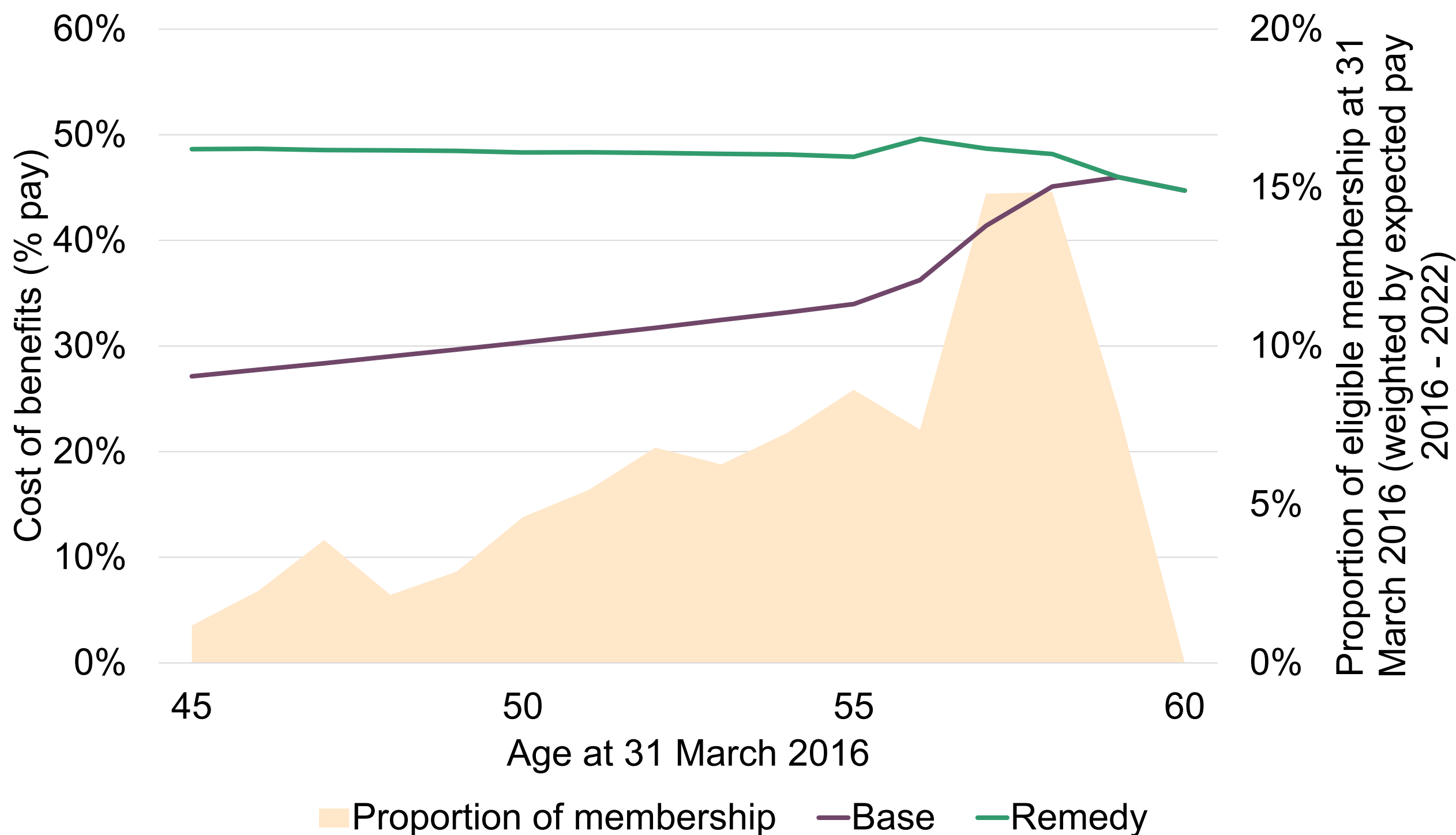
The 'Base' line shows the cost of the benefits under the transitional protection arrangements: CARE for younger unprotected members, transitioning towards pre-2015 for older protected members.

The 'Remedy' line shows the cost of the benefits under McCloud remedy. Generally the pre-2015 scheme benefits are more valuable, but for those with over 20 years' service, the CARE scheme is more valuable. It follows that where some members have more than 20 years' service, the Remedy benefits are more valuable overall than the pre-2015 (ie where the green line is above the yellow line at older ages).



# Results – Cost by age with membership by age

This chart shows the cost of remedy (as a percentage of pensionable salary) by age. Alongside this we can see a summary of the distribution of the eligible membership by age at 31 March 2016.



For unprotected members (ie aged below 55½ at 31 March 2016), the costs of members choosing the pre-2015 final salary schemes (Remedy line) are much higher than the costs of the post-2015 CARE scheme (Base line).

The remedy costs (expressed as a percentage of pay) for the older, taper protected members are lower than for the younger, unprotected members (ie the Remedy line and Base line are closer together).

Protected members (ie aged 59 and above at 31 March 2016) are not eligible for remedy.



# 3. Sensitivities



# Key sensitivities

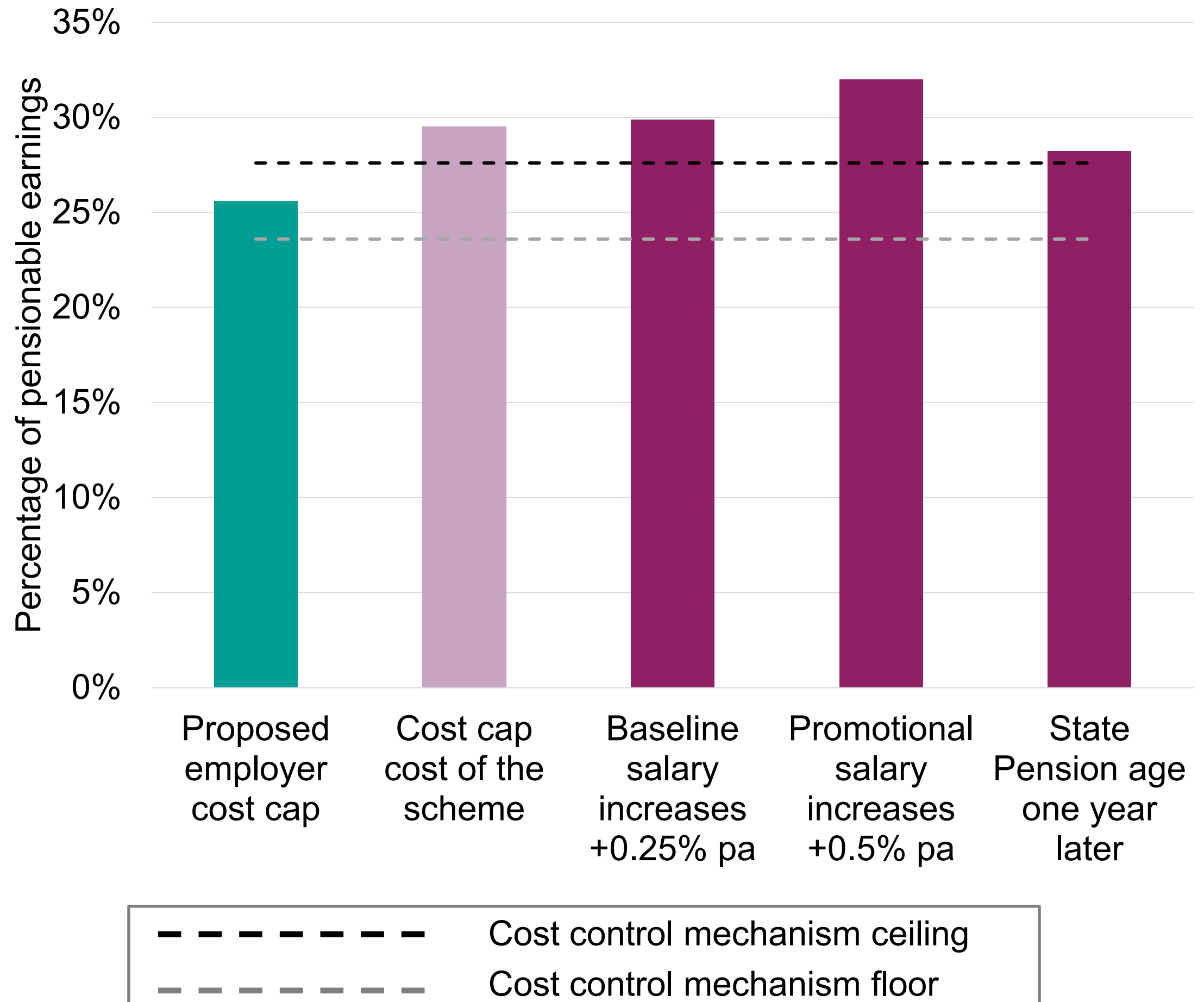
This section illustrates the main sensitivities of the cost control valuation results to the assumptions adopted, to illustrate the range of reasonable outcomes which might have been determined at this valuation had different assumptions been used.

The chart shows the proposed employer cost cap and the cost cap valuation result from this report, then shows what the cost cap valuation result would have been if the following changes were made to the assumptions:

- Baseline salary increases +0.25%
- Promotional salary increases +0.5%
- State Pension age one year later

They are not intended to show the possible range of variation in assumptions which might be considered at future valuations and in light of future experience.

Additional information on sensitivities can be found in Appendix C.



# 4. Future valuations



# Future valuations

## Reform of cost control mechanism

- Following a [review by the Government Actuary](#) and a [HMT consultation](#), the Government intends to reform the cost control mechanism as follows:
- Move to reformed scheme only
- Widen the cost control 'corridor' from  $\pm 2\%$  to  $\pm 3\%$  of pensionable pay
- Introduce an economic check

## 2020 valuation

- The Government is aiming to implement all three proposals above in time for the 2020 valuations
- Legislation to implement these proposals will be taken forward when parliamentary time allows

## Possible outcomes

- The full impact of the review can only be assessed once the proposals are confirmed, and detailed implementation instructions provided in the **Directions**
- The following page sets out our high-level view of the key factors which may affect future cost control valuations

## Future impact of these results

- The remedy cost calculations are subject to a number of uncertainties, including in relation to eligibility data, future salary increases, and future retirement ages
- These calculations are suitable to determine whether there has been a floor breach at the 2016 valuation, but should not be used for other purposes



# Future valuations - outcomes

The table below sets out our high-level view of the key factors which may affect the core cost control mechanism (ie excluding the economic check) at future valuations in the medium term. The table includes an assessment of the size of the impact of these factors, as well as the potential direction of the impact (ie whether it will increase or decrease costs) – further details are provided overleaf. Each item is considered separately; a combination of these items could have a larger impact than is considered likely for any of those items individually.

	Factors potentially affecting results of future valuations	Potential impact on cost cap cost of the scheme, compared with employer cost cap	Direction of impact on costs to the scheme
Expected to occur	Changes allowed for in this 2016 valuation	✓	Nil or ↓
	Further anticipated changes to mortality assumptions	✓	↓
Likely to occur	Legislative and policy changes	✓✓	↕
	Financial and demographic experience	✓	↕
Possible but less likely to occur	Unanticipated change in average age of the membership	✓	↕
	Assumption changes:		
	- long term experience effects	✓	↕
	- directed assumptions (including any further emerging change to mortality assumptions)	✓	↕

✓ = impact may be more than 0.5% of pay but, although possible, is quite unlikely to be more than 3% of pay  
 ✓✓ = impact may be more than 3% of pay  
 ↑ = increase in costs ↓ = decrease in costs ↕ = costs could increase or decrease



# Future valuations - outcomes

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Factors potentially affecting results of future valuations	Explanation of impact
Changes allowed for in this 2016 valuation	The impact will depend on the treatment of the new 2022 scheme in HMT Directions.
Further anticipated changes to mortality assumptions	The latest 2018-based ONS population projections anticipate further slow downs in improvements to mortality rates, which will result in further downward cost pressures.
Legislative and policy changes	Impacts can vary based on legal challenges and legislative/policy changes.
Financial and demographic experience	If experience is not in line with the assumptions made, a gain or loss will emerge over an inter-valuation period.
Unanticipated change in average age of the membership	The future scheme membership may differ from that projected at this valuation.
Assumption changes: <ul style="list-style-type: none"><li>- long term experience effects</li><li>- directed assumptions (including any further emerging change to mortality assumptions)</li></ul>	<p>Assumption changes at future valuations, in light of scheme experience, may have substantial effects on the results.</p> <p>Some of the assumptions set in the <b>Directions</b> are likely to change for each valuation.</p>

There is further detail on these factors at section 5 of the [2016 valuation dated 5 March 2019](#).





# Appendices



# Appendix A Reliance

This report has been prepared for the use of the Lord Chancellor in accordance with sections 11 and 12 of the Public Service Pensions Act 2013.

The **cost cap valuation results** have been calculated in accordance with the requirements as to data, methodology and assumptions specified by the **Directions**.

GAD has been appointed as scheme actuary by the Lord Chancellor to carry out an actuarial valuation of the Judicial Pension Schemes as at 31 March 2016 (the effective date), as required by [Regulation 144](#) of the **2015 Regulations**.

The cost cap valuation report required by the **Directions** comprises this report, read alongside our advice on assumptions, methodology and data, and the 2016 valuation reporting in the table below.

Area	Document
2013 Act	<a href="#">Sections 11 and 12 of the Public Service Pensions Act 2013</a>
Scheme regulations	<a href="#">Regulations 144 and 145 of the 2015 Regulations</a>
Directions	<a href="#">The Public Service Pensions (Valuations and Employer Cost Cap) Directions 2014</a> , as amended, including in particular amendments made by the <a href="#">Public Service Pensions (Valuations and Employer Cost Cap) (Amendment) Directions 2021</a> See also the <a href="#">Government Actuary's letter dated 6 October 2021</a>
Remedy	<a href="#">MoJ Consultation</a> document of 16 July 2020 and consultation response of 25 February 2021
Assumptions, methodology and data	Formal advice on the assumptions, methodology and data dated 17 January 2022.
2016 valuation	Published 2016 valuation reports dated 5 March 2019: <ul style="list-style-type: none"> <li>• <a href="#">Report on membership data</a></li> <li>• <a href="#">Advice on assumptions</a></li> <li>• <a href="#">Valuation report</a></li> </ul>

# Appendix A Reliance

This work has been carried out in accordance with the applicable Technical Actuarial Standards: TAS 100 and TAS 300 issued by the Financial Reporting Council (FRC). The FRC sets technical standards for actuarial work in the UK.

This report has been prepared for the use of the Lord Chancellor, to report on cost cap valuation results in accordance with sections 11 and 12 of the Public Service Pensions Act 2013. [MoJ's consultation document](#) confirmed that the cost control element of the 2016 valuation will not affect the proposed design of the reformed scheme. The cost control element of the 2016 valuations will therefore only be used to determine whether there has been a floor breach, in which case member benefits would be improved for the period 2019-22. With the agreement of MoJ, we have performed calculations with sufficient accuracy to determine this question, but have adopted calculation simplifications where these do not affect this conclusion. The valuation results are appropriate for this purpose, but the information and advice in this report should not be relied upon, or assumed to be appropriate, for any other purpose or by any other person.

We are content for the Lord Chancellor to release this report to third parties, provided that:

- it is released in full;
- the advice is not quoted selectively or partially;
- GAD is identified as the source of the report, and;
- GAD is notified of such release.

Third parties whose interests may differ from those of the Lord Chancellor should be encouraged to seek their own actuarial advice where appropriate. GAD has no liability to any person or third party for any action taken or for any failure to act, either in whole or in part, on the basis of this report.

GAD is not responsible for any decision taken by the Ministry of Justice, except to the extent that the decision has been made in accordance with specific advice provided by GAD. Advice provided by GAD must be taken in context and is intended to be read and used as a whole, not in parts. GAD does not accept responsibility for advice that is altered or used selectively. No significant action should be taken based on oral advice alone. Clarification should be sought if there is any doubt about the intention or scope of advice provided by GAD.



# Appendix A Reliance

GAD relies on the accuracy of data and information provided by the scheme administrators. GAD does not accept responsibility for advice based on wrong or incomplete data or information provided by the scheme administrators.

Throughout this report the totals given for summed data may not be exactly the same as the sum of the components shown due to rounding effects. As required by the **Directions**, this report is based on data as at 31 March 2016, and the assumptions are the same as those adopted in the 2016 valuation report. No allowance has been made for any events after 31 March 2016, except for any allowance detailed in the 2016 valuation report. In particular, there is no specific allowance for the impact of the following:

- Covid-19 (or any other pandemics)
- Any changes to benefits and member contributions since the 2016 valuation report (save to the extent that those benefits and member contributions are determined in accordance with the **Directions** to have changed as a result of the transitional protection remedy), including in particular any changes as a result of the following:
  - GMP equalisation, further to the Lloyds ruling in October 2018, including the [GMP indexation changes](#) announced in March 2021
  - Survivor benefit equalisation, relating to survivor benefits for opposite–sex widowers and surviving male civil partners as detailed in a [Written Ministerial Statement](#) made by the then Chief Secretary to the Treasury on 20 July 2020
  - Any other legal cases, including [O’Brien 2 and Miller](#)
- Actual [public service pension increases](#) / CARE revaluations awarded in April 2019, April 2020 and April 2021
- Development in mortality expectations after the 2016 valuations were signed, including in particular the [ONS 2018-based population projections](#), which assumed lower life expectancy increases than the 2016-based projections

MoJ instructed GAD to recalculate the proposed employer cost cap to include the fee paid judiciary, as set out in the [2016 valuation](#). The 2016 valuation results and the cost cap valuation results in this report have been calculated on the understanding that the target cost of the scheme will be amended to be 25.6% in the 2015 Scheme Regulations.



# Appendix B Remedy cost

The **Directions** require the transitional protection remedy cost to be calculated as follows:

Remedy cost component	Value	
	% of pensionable earnings	£ million
A Change in liabilities in the remedy period	9.0%	110
B Change in liabilities before the remedy period	0.0%	0
C Change in liabilities after the remedy period	0.0%	0
D Change in member contributions in the remedy period	0.0%	0
E Change in member contributions after the remedy period	0.0%	0
Transitional protection remedy cost A + B + C – (D + E)	9.0%	110

The remedy cost will emerge in the form of increased pension payments over the coming decades as eligible members retire and receive their pensions.



# Appendix C Sensitivities

This section illustrates the main sensitivities of the cost control valuation results to the assumptions adopted, including those set out in the *Directions* and those set by the Lord Chancellor.

The table shows the sensitivities relative to the employer contribution correction cost and the transitional protection remedy costs. The **cost cap cost of the scheme** is the sum of these two sensitivities, as shown.

The assumptions determined by the Lord Chancellor are set as best estimate based on available evidence.

The sensitivities shown for the assumptions determined by the Lord Chancellor are intended to illustrate a range of reasonable outcomes which might have been determined at this valuation had different assumptions been used. They are not intended to show the possible range of variation in assumptions which might be considered at future valuations and in light of future experience.

Directed assumptions	Employer contribution correction costs	Increase in Transitional protection remedy costs	Cost cap cost of the scheme
Discount rate in excess of CPI (-0.25% pa)	-0.1%	0.5%	0.4%
Pension increases as applicable to pensions in payment and deferred pensions (+0.25% pa)	-0.1%	0.3%	0.2%
Long term rate of public service earnings growth in excess of CPI (+0.25% pa)	-0.2%	0.6%	0.4%

# Appendix C Sensitivities

Directed assumptions	Employer contribution correction costs	Increase in Transitional protection remedy costs	Cost cap cost of the scheme
Short term rate of public service earnings growth (+0.25% pa to each short term rate)	0.3%	0.2%	0.5%
CARE revaluation rate (+0.25% pa to price measure revaluation rates)	0.0%	-0.6%	-0.6%
Allowance for future mortality improvements (reduction in mortality improvements such that (period) life expectancy lower by around 1.25 years over a period of 75 years)	-1.9%	0.0%	-1.9%
State Pension age (SPa for 2015 scheme one year later than under current Directions)	-2.1%	0.8%	-1.3%
Allowance for commutation as directed (additional 2% of pension assumed to be commuted for cash)	-0.2%	0.1%	-0.1%
Shortfall spreading period (spreading period increased by 5 years)	0.8%	-4.9%	-4.1%



# Appendix C Sensitivities

Assumptions set by the Lord Chancellor	Employer contribution correction costs	Increase in Transitional protection remedy costs	Cost cap cost of the scheme
Membership profile (2 years older on average over implementation period)	1.7%	-2.7%	-1.0%
Mortality rates (5%* heavier rates of pensioner mortality)	-0.9%	0.0%	-0.9%
Age retirement rates (1993 scheme active members retire 1 year later than currently assumed)	-0.6%	0.0%	-0.6%
Proportions partnered (5%* more members assumed to have qualifying partners at death)	0.3%	0.0%	0.3%
Promotional pay increases (0.5% higher promotional pay increases than assumed)	1.0%	1.5%	2.5%

\* All these represent multiplicative increases to rates, ie 5% means rates 1.05 times higher





# Appendix D Glossary

Many of the terms below are defined by regulations and in such cases this glossary is intended to assist in understanding.

**Transitional protection remedy/remedy**, also known as the ‘McCloud / Sargeant remedy’ means benefit changes resulting from the Court of Appeal ruling on 20 December 2018 in relation to the McCloud judgment, as set out in Direction 49(2) of the *Directions*.

The **cost cap cost of the scheme** means the contribution rate which is compared against the **employer cost cap** at the first and each subsequent valuation of a scheme. Apart from the impact of the **transitional protection remedy**, the **cost cap cost of the scheme** is set out in more detail in the completed 2016 valuation reporting.

The **employer cost cap** is the contribution rate, as determined at the 2012 valuation, to cover the cost of benefits accruing over the implementation period as if all active members were in the 2015 scheme and had no pre-2015 scheme service, minus the expected average contribution rate payable by members over the implementation period. This can be thought of as a baseline cost for the scheme under the cost control mechanism. MoJ instructed GAD to recalculate the proposed employer cost cap to include the fee paid judiciary, as set out in the [2016 valuation](#).

**Pensionable earnings** is the part of pay that is included for the purposes of determining contribution requirements and benefit payments.



# Appendix D Glossary

The **2013 Act** means the [Public Service Pensions Act 2013](#).

The **2015 Regulations** means the [The Judicial Pensions Regulations 2015 \(SI 2005 No 182\)](#).

The **Directions** means [The Public Service Pensions \(Valuations and Employer Cost Cap\) Directions 2014](#), as amended, including in particular amendments made by the [Public Service Pensions \(Valuations and Employer Cost Cap\) \(Amendment\) Directions 2021](#).

**HMT regulations** means the [Public Service Pensions \(Employer Cost Cap\) Regulations 2014](#).

