



## Equality Impact Assessment [EIA]

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

**Title:** Police Pensions Retrospective Remedy and Police Pensions (Remediable Service) Regulations 2023.

Public consultation on police pension scheme regulation changes to enact the second phase (“retrospective”) of the remedy to the McCloud / Sargeant cases.

The second phase of the remedy is to make changes to the scheme regulations, in line with the Public Service Pensions & Judicial Offices Act (PSPJOA) 2022, to allow public service pension schemes to remedy the impact of unlawful age discrimination. That discrimination arose due to certain transitional arrangements put in place when public service pension schemes (including the police schemes) were reformed between 2014 and 2016. The second phase of the remedy, the retrospective remedy, is to remedy the discrimination that had taken place between 1 April 2015 and 31 March 2022.

HM Treasury has conducted an equality impact assessment, which considers the impact of the overarching policy, powers and requirements associated with the PSPJOA. As set out in that assessment, in particular paragraph 1.8, that assessment “does not cover secondary legislation made using powers in this Bill. Separate analysis to consider the impact of changes to scheme regulations (beyond those covered and/or directed by the measures in the Bill) will be produced when the powers to do so are exercised”

### Introduction

This EIA explains how we have given due consideration and complied with our equality duties under the Equality Act 2010 throughout the development of our policy proposals to make changes to the police pension scheme regulations in line with the PSPJOA. The Home Office is required by the PSPJOA to introduce legislation and policies to implement the retrospective pension remedy in the police pension schemes by the 1 October 2023 deadline.

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

We have considered the report produced by the Government Actuary’s Department (GAD) on “Transitional Protection Remedy: Retrospective Remedy Phase Analysis to Support the Equalities Impact Assessment Police Pension Schemes (England & Wales) – June 2023”. In producing that report, GAD considered evidence including the data provided by (or on behalf of) police forces to GAD for the 2016 actuarial valuation, as detailed in their report ["Police Pension Scheme \(England & Wales\) - Actuarial valuation as at 31 March 2016: Report on membership data"](#) of 28 February 2019, and data from the police workforce statistics<sup>1</sup>.

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<sup>1</sup> [Police workforce, England and Wales, 31 March 2013 - GOV.UK \(www.gov.uk\)](#)  
[Police Workforce, England and Wales, 31 March 2016 \(publishing.service.gov.uk\)](#)  
[Police workforce, England and Wales: 31 March 2022 - GOV.UK \(www.gov.uk\)](#)

### 3. Consideration of the duty:

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

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

This involves having due regard to the need to:

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

This EIA should be read alongside the Public Service Pensions: Police Pensions (Amendment) Regulations 2023 consultation document.

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

Having considered the analysis set out below, we are content that this policy is consistent with the PSED. Its whole purpose is to eliminate unlawful discrimination and foster good relations between younger and older members of the police pension schemes who are eligible for remedy and, by giving all eligible members a choice, advances equality of opportunity for that cohort. The cohort is defined by having to have service in the remedy period and having been in a public service scheme on or before 31 March 2012<sup>2</sup>.

## Age

### Background

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

These changes are being made to satisfy the requirements of the Public Sector Pensions and Judicial Offices Act (PSPJOA) 2022. This is in order to remedy the unlawful age discrimination identified in the McCloud/Sargeant litigation.

### Analysis

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<sup>2</sup> Without a break in service greater than 5 years that means the member's service prior to 1 April 2012 and post 31 March 2015 is disjointed.

Direct and Indirect Discrimination – All members of the police pension schemes who were affected by the McCloud/Sargeant discrimination are eligible for the remedy and can benefit from these provisions. Through membership of the police pension scheme, all members in scope for the remedy will have equal access to the remedy, irrespective of any protected characteristic that may apply to them.

Members eligible to choose between legacy and reformed scheme benefits are slightly older than the overall active member population, and older than those members not eligible for Transitional Protection Remedy. The EIA carried out as part of the Public Service Pensions and Judicial Offices Act recognised this point in section 3.6 (page 22). As expected, the eligible members in the 2006 Scheme are younger than those eligible for Transitional Protection Remedy in the 1987 Scheme. The Protected members are much older than the Unprotected and Tapered members.

Members expected to be most likely to benefit from being offered a choice of benefits in the Remedy Period are younger than the eligible member population. Furthermore, younger members are more likely to be a member of the 2006 Scheme. However, given that this policy decision aims to ensure all eligible members are treated equitably with those members closest to retirement (i.e. Protected members), this was to be expected.

### **Disability**

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

### **Gender Reassignment**

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

### **Marriage and Civil Partnership**

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

### **Pregnancy and Maternity**

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

### **Race**

The following Data shows an increase in the proportion of police officers identifying from an ethnic minority to 8.1% in 2022. This might suggest that members eligible to make a choice of legacy or reformed scheme benefits over the Remedy Period might be less likely to class themselves as from an ethnic minority compared with those not eligible to make a choice.

- Data as at 2013 - [Police workforce, England and Wales, 31 March 2013 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- Data as at 2016 - [Police Workforce, England and Wales, 31 March 2016 \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)
- Data as at 2022 - [Police workforce, England and Wales: 31 March 2022 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

## Religion or Belief

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

## Sex

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

In determining that the transitional protection arrangements discriminated on the grounds of age, the Courts also concluded that if older members in a scheme were more likely to be male, providing older members with preferential terms amounted to indirect sex discrimination.

The following table sets out the sex profile of all active members in the Police Pension Schemes (England & Wales) as of 31 March 2016, as well as the sex profile of the active members eligible to choose between legacy and reformed scheme benefits, and those not:

	<b>Active membership as of 31 March 2016</b>	<b>Active members as of 31 March 2016 eligible for Remedy</b>	<b>Active members as of 31 March 2016 not eligible for Remedy</b>
Males	70%	71%	67%
Females	30%	29%	33%
<b>Total</b>	<b>120,673</b>	<b>107,730</b>	<b>12,943</b>

This analysis identifies that:

- The majority of active members are male, and so too are the majority of active members who are eligible/ineligible to choose between reformed and legacy scheme benefits over the Remedy Period.
- The percentage of the eligible members who are male is the broadly the same as the percentage of the overall scheme population who are male (70%).
- The percentage of the members not eligible to choose between reformed and legacy scheme benefits over the Remedy Period who are female is slightly higher than the percentage of female members eligible to make this choice. This follows because more recent joiner are more likely to be female.

The table below sets out the percentage of males in both the overall scheme population and the population eligible to choose benefits in the Remedy Period, at each age range:

<b>Age as of 31 March 2016</b>	<b>Active Membership as of 31 March 2016</b>	<b>Active members as of 31 March 2016 eligible for Remedy</b>	<b>Active members as of 31 March 2016 NOT eligible for Remedy</b>
16-19	41%	0%	41%
20-24	67%	81%	66%
25-29	66%	64%	67%
30-34	63%	62%	70%
35-39	67%	67%	69%
40-44	70%	70%	68%
45-49	74%	74%	66%
50-54	79%	79%	67%
55-59	84%	85%	62%
60-64	85%	85%	-*
65+	86%	86%	-

This analysis identifies that:

- The percentage of the active member population that is male is greater at older ages. Accordingly, the overall percentage of members eligible to make a choice of benefits in the Remedy Period, and who are male, is also greater at older ages.
- The percentage of members who are not eligible to make a choice of benefits in the Remedy period and who are males, is broadly consistent with the overall scheme population at younger ages. However, in general, the percentage of male members who are not eligible for remedy is smaller at older ages than the general male active membership.

The analysis supports that members who are eligible to choose between legacy and reformed scheme benefits in the Remedy Period are more likely to be male, since we have seen that they are more likely to be older.

### **Sexual Orientation**

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

**4. Summary of foreseeable impacts of policy proposal, guidance or operational activity on people who share protected characteristics**

Protected Characteristic Group	Potential for Positive or Negative Impact?	Explanation	Action to address negative impact
<b>Age</b>	Yes	This policy is about giving a choice to members to resolve issues that arose from a case where part of the police pension scheme (along with all other public service pension schemes) was found to be discriminatory on the grounds of age. It has a positive impact for members as it is giving them the choice that remedies the discrimination. It is likely that more younger members will see a financial benefit than older members (compared to not having the choice) as the legacy scheme is typically more valuable. This is a positive impact that arises due to the need to rectify discrimination.	
<b>Disability</b>	Yes	This policy is about giving a choice to members to resolve issues that arose from a case where part of the police pension scheme (along with all other public service pension schemes) was found to be discriminatory on the grounds of age. As part of that, those who were ill-health retired during the remedy period will get a choice as set out above and,	

		where individuals have not previously been assessed against the upper tier, that will happen to ensure that the choice reflects what would have been available had the alternative scheme applied at the point of ill-health retirement. This is a positive impact that arises due to the need to rectify discrimination.	
<b>Gender Reassignment</b>	None		
<b>Marriage and Civil Partnership</b>	None		
<b>Pregnancy and Maternity</b>	None		
<b>Race</b>	Yes	This policy is about giving a choice to members to resolve issues that arose from a case where part of the police pension scheme (along with all other public service pension schemes) was found to be discriminatory on the grounds of age. While the analysis of scheme data shows that younger members are more likely to identify themselves as being from an ethnic minority, it does not show that there is likely to be a difference of treatment compared to someone not identifying as from an ethnic minority but who is the same age and has had the same career.	

<b>Religion or Belief</b>	None		
<b>Sex</b>	Yes	This policy is about giving a choice to members to resolve issues that arose from a case where part of the police pension scheme (along with all other public service pension schemes) was found to be discriminatory on the grounds of age. While the analysis of scheme data shows that younger members are more likely to be female, it does not show that there is likely to be a difference of treatment compared to someone who is male but who is the same age and has had the analogous career.	
<b>Sexual Orientation</b>	None		



**5. In light of the overall policy objective, are there any ways to avoid or mitigate any of the negative impacts that you have identified above?**

As this policy is about remedying a previous age discrimination, the identified impacts are positive. Other than age, we have not been able to identify any differences of treatment between members who are the same but for one of the protected characteristics.

**6. Review date:** Ongoing

**7. Declaration**

I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that due regard has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

**SCS sign off:**

**Name/Title:** Peter Spreadbury

**Directorate/Unit:** Police Workforce and Professionalism Unit

**Lead contact:** Sara Alderman

**Date:** 12 July 2023

For monitoring purposes all completed EIA documents and updated EIAs **must** be sent to the [PSED@homeoffice.gov.uk](mailto:PSED@homeoffice.gov.uk)

**Date sent to PSED Team:** 12 July 2023