



Cabinet Office

# 2015 Remedy (McCloud)

## A draft Statutory Instrument covering the 2015 Remedy (McCloud) - retrospective phase

Consultation Response on a draft Statutory Instrument  
covering the 2015 Remedy (McCloud) retrospective  
phase

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# 2015 Remedy (McCloud)

Consultation response on a draft Statutory Instrument covering the 2015 Remedy (McCloud): retrospective remediable service phase



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# Executive Summary

In 2015 most public service pension schemes were reformed by introducing career average schemes. The reformed schemes included an element of transitional protection which meant those members within 10 years of the normal pension age could remain in their legacy scheme and not be moved to the reformed schemes in 2015.

In 2018 the Court of Appeal held in its judgment on the McCloud case that the transitional protection element of the 2015 reforms to public service pension schemes were unlawfully discriminatory on the grounds of age. Since then, the Government has taken steps to remedy the discrimination for affected public service pension scheme members. It was the transitional protection elements of the reforms that were found to be discriminatory, not the reformed schemes themselves.

The principal legislation facilitating the removal of the discrimination is the Public Service Pensions and Judicial Offices Act 2022<sup>1</sup> ('PSPJOA 2022'), which legislates for how the Government will remove the discrimination identified by the courts in the way that the 2015 pension reforms were introduced for some members.

From 1 April 2022 all protected Civil Service Pension Scheme members were put into the reformed scheme, alpha, as the first stage of the remedy. This means all Civil Service Pension Scheme members are in the same pension scheme from 1 April 2022, providing equal pension provision for all scheme members going forwards.

This consultation was for the proposed changes to the Civil Service Pension Scheme regulations, needed to implement the retrospective element of the 2015 Remedy (also known as 'McCloud') These changes are to put right discrimination that happened in the seven year period from 1 April 2015 to 31 March 2022, when affected members were compulsorily transferred into alpha. This will be done through new scheme regulations using powers provided by the PSPJOA 2022 and the Public Service Pensions Act 2013.<sup>2</sup>

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2022/7/contents/enacted>

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2013/25/contents/enacted>

# Introduction and contact details

This document is the post-consultation report for the consultation on the draft ‘Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023’ which began on 6 March 2023 and closed on 14 May 2023.

It covers:

- the background to the report;
- a summary of the responses received;
- more detailed response to some common themes raised; and
- the next steps following this consultation.

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

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Alternative format versions of this publication can be requested from:  
[cspconsultation@cabinetoffice.gov.uk](mailto:cspconsultation@cabinetoffice.gov.uk).

## Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Cabinet Office at the address shown above.



# 1. Background

1.1 The Public Service Pensions and Judicial Offices Act 2022 (the ‘PSPJOA 2022’) provides the legal framework to remedy the discrimination that happened when public service pension schemes were closed to certain members in 2015. From 1 April 2022 all protected Civil Service Pension Scheme active and deferred members were put into the reformed scheme, alpha, as the first stage of the 2015 Remedy and the legacy schemes (‘PCSPS’) were closed to future accrual.

1.2 Together, the two stages of the 2015 Remedy will enable the Civil Service Pension Scheme to put right the unlawful discrimination, by removing the transitional protections put in place in 2015. This is the second, retrospective stage of the remedy. For Civil Service Pension Scheme members affected by the discrimination, the retrospective remedy regulations will:

- a) return members who were moved to the reformed scheme on or after 1 April 2015 back to the PCSPS classic, classic plus, premium or nuvos (legacy scheme) for their pensionable service (‘remediable service’) for the remedy period, 1 April 2015 to 31 March 2022, referred to as ‘rollback’; and
- b) offer members a choice of legacy scheme (PCSPS) benefits or reformed (alpha) scheme benefits for their remediable service benefits, both to be payable from PCSPS.

1.3 The date set by the PSPJOA 2022 for the regulations to come into force, which brings the retrospective part of the Remedy (also known as McCloud) into effect, is 1 October 2023.

1.4 The first part of the retrospective remedy element, rollback, puts all members with alpha service for the remediable service period back into the PCSPS. For members with new scheme benefits in payment when rollback takes place, section 6(4)(a) of the PSPJOA 2022 means that these members will see no change to their benefits from 1 October 2023. From 1 April 2022 all members were placed in the reformed scheme, alpha, so future benefits are built up on the same basis for all members after the remedy period.

1.5 The PSPJOA 2022 provides powers for schemes to make regulations for technical pension matters and special cases impacted by the discrimination.

1.6 The consultation paper ‘The 2015 Remedy - retrospective phase’ invited comments from Civil Service Pension Scheme members who are affected by the 2015 pension reforms and have remediable service in the remedy period, 1 April 2015 to 31 March 2022. Member representative organisations and any other interested parties were also welcome to comment.

1.7 HM Treasury previously published a policy impact assessment<sup>3</sup> and an equality impact assessment<sup>4</sup> which considered the impact of the PSPJOA 2022 powers and requirements. The scope of the Equality Impact Assessment carried out by the Cabinet Office therefore focused on the impact of the proposed changes to the Civil Service Pension Scheme Regulations necessary to deliver the

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<sup>3</sup> <https://publications.parliament.uk/pa/bills/cbill/58-02/0211/AssessmentofImpactsPublicServicePensionsJudicialOfficeBill.pdf>

<sup>4</sup> <https://publications.parliament.uk/pa/bills/cbill/58-02/0211/EqualityImpactAssessmentPublicServicePensionsJudicialOfficesBill.pdf>

remediable service remedy. These regulations apply to the United Kingdom. The Cabinet Office produced an Equality Impact Assessment which was published with the consultation<sup>5</sup>.

1.8 The consultation closed on 14 May 2023 and this report summarises the responses, including how the consultation process will inform the final Scheme Regulations.

1.9 The Equality Impact Assessment document will be kept under review and updated as necessary.

1.10 A list of respondent organisations is given in table 2 of paragraph 3.9 and Annex A.

1.11 Annex B is a glossary of terms.

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<sup>5</sup> <https://www.gov.uk/Government/consultations/civil-service-pension-scheme-2015-remedy-mccloud-regulations>

## 2. Consultation

2.1 Between 6 March 2023 and 14 May 2023 the Cabinet Office sought views on the new scheme-specific regulations being introduced to remedy the age discrimination identified following the introduction of the 2015 public service pension reforms.

2.2 The first section of the consultation document explained the choices members will have for their remediable service, including details of when and how these choices will be communicated to them or their personal representatives; this is in line with powers given by the PSPJOA 2022.

2.3 The second section is about the provisions made in the proposed regulations to deal with scheme-specific matters. Remedial action may be necessary for members who have benefits relating to the remedy period and either put them into payment or completed another relevant action relating to remedy benefits. These actions include the purchase of added pension, transferring between schemes or pension sharing following a divorce. The scheme administrator will be reviewing these cases after rollback. Scheme members will be notified of how the remedy will work in practice and of any action they may need to take for any member benefits that may be changed after rollback.

2.4 The final section covers technical matters that are largely dealt with through the PSPJOA 2022, Treasury Directions and HMRC Tax Regulations but also require provisions in scheme regulations for completeness.

2.5 The purpose of the consultation was to seek views on the fairness and adequacy of the draft proposed Civil Service Pension Scheme Regulations required to implement the retrospective aspects of the 2015 Remedy.

## Stakeholder Engagement

2.6 In February 2023 advance notice of the consultation was provided in a number of ways:

- The Civil Service Pensions website posted an article about what the consultation was for and how it may impact pension scheme members
- Email notification was sent to the Civil Service Network Advisory Group
- Email notification was sent to Civil Service employers and Trade Unions
- The Civil Service Pensioners Alliance was informed at a stakeholder meeting

2.7 The consultation was launched on 6 March 2023 on the GOV.UK website and was promoted as widely as possible using the following channels:

- The Civil Service Pensions website
- Employer Pension Notice issued to all Civil Service employers
- Email notification to Civil Service Trade Unions, The Civil Service Pensioners Alliance and Civil Service Network Advisory Group
- Social media (for example LinkedIn)
- Civil Service pensioner newsletter and Civil Service active member newsletter
- Question and Answer material was also provided and available on the Civil Service Pensions website specifically about the consultation to support the consultation launch

2.8 During the consultation period the Cabinet Office ran a number of engagement sessions with members and other stakeholders to provide the opportunity to directly engage with them on the proposals set out in the consultation.

Meetings were held with:

- The National Trades Union Committee (NTUC) unions representing Civil Service Pension Scheme members on 21 March 2023 and 19 April 2023
- Non-affiliated unions and member representative bodies on 4 May 2023
- The Civil Service Pensioners Alliance (CPSA) hosted webinars on 23 April 2023 and 3 May 2023 where Cabinet Office staff spoke about the 2015 Remedy
- Scheme Advisory Board on 18 April 2023

2.9 These sessions allowed stakeholders to seek clarification and ask questions on any of the proposals. A number of stakeholders followed up with formal written responses and the feedback received during the stakeholder sessions and in formal written responses has been considered in deciding the final policy proposals.

2.11 The CSPA represents retired and deferred Civil Service Pension Scheme members, many of whom are affected by the 2015 Remedy. Unions engaged during the consultation process are listed below:

<b>National Trades Union Congress (NTUC) Unions</b>	<b>Non-affiliated unions and member representative bodies</b>
PCS (Public and Commercial Services Union)	DPF (Defence Police Federation)
Prospect	The ISU (The Union for Borders, Immigration and Customs)
FDA	NCOA (National Crime Officers Association)
GMB	Prison Governors’ Association
POA UK (Prison Officers’ Association)	
Unite	

## 3. Summary of responses

3.1 As part of the consultation, participants were asked to respond to a total of three questions across the three consultation sections (detailed in Table 1 below). Responses were considered in deciding how to take the proposals forward and in the drafting of this response. The core elements of the retrospective remedy policy are provided for by the PSPJOA 2022 which HM Treasury previously consulted on and settled. This includes rollback to the legacy schemes, the immediate choice for members with remedy benefits in payment, and the deferred choice for members who have not claimed any remedy period Civil Service Pension Scheme benefits.

3.2 Responses to the consultation were received by email and presented in different ways. The majority of emails did not provide direct answers to one or more of the questions asked in the consultation document. The responses were largely comments that were linked to members' personal circumstances and views on the remedy and the introduction of the reformed scheme ('alpha').

3.3 It has become clear from the consultation responses received there are still differing levels of understanding about the 2015 Remedy. In particular, what it is for, what it will do and how the discrimination will be put right. Further information can be found on the Civil Service Pensions website with new content added regularly: <https://www.civilservicepensionscheme.org.uk/your-pension/2015-remedy/public-consultation-for-2nd-stage-of-the-remedy-faqs/>

3.4 Some respondents sent emails asking for guidance on their specific circumstances and some members emailed in election choices. We were not able to respond individually to members but through an automated message we did signpost members to the relevant 2015 Remedy pages on the Civil Service Pensions website. Hard copies of the consultation were provided on request.

3.5 Some of the points raised by members were about actions and decisions taken for their pension provisions during the remedy period that they perhaps wouldn't have made or may have been different had alpha not been introduced. There will be an opportunity for members to apply to the scheme manager to consider the possibility and the effect of changing these decisions if they were made as a result of the discrimination. Other than provision to reinstate opted-out service, which is specifically covered by the PSPJOA 2022 and included in the new scheme regulations, we have not consulted on this aspect as specific draft regulations are not required to authorise and operate the 'contingent decisions' process described above. Further detail will be available at a later date on the Civil Service Pensions website.

3.6 The Cabinet Office has undertaken quantitative and qualitative analysis of the responses, and the common themes and views are addressed in this document. A breakdown of the responses received are summarised at 3.10 below. The top themes of concern were the treatment of:

- a) mixed service ('tapered') members (17% of respondents)
- b) partially retired members (14%)
- c) immediate choice members (10%)
- d) members with transferred service (10%)

3.7 Whilst trade unions and other representative bodies represent a large proportion of the Civil Service work force and pensioners, the Cabinet Office recognises that the number of responses received (particularly from individuals) does not necessarily represent the views of all Civil Service Pension Scheme members affected by the 2015 Remedy.

3.8 Any quantitative data has its limitations and has been handled with caution during the review process. Where we have supplied data in this document, it is to simplify and summarise responses and provide the reader with a sense of common themes. The Cabinet Office did not treat respondents’ answers in a binary way (agree or disagree) when forming the final scheme regulations.

3.9 The Cabinet Office received 107 responses in total from scheme members, trade unions and other organisations which in some way addressed the consultation questions. These consisted of 102 responses from individuals and five responses from organisations. In addition another ten responses were received from individuals that did not address the questions posed by the consultation; instead, these responses asked what the 2015 Remedy would mean specifically for them.

3.10 The number of responses received in respect of each consultation question is set out in table 1, with table 2 showing the response method used by responders.

**Table 1: summary of number and nature of responses by question**

Question	Number of responses	What was the nature of the responses?
1) Do you agree that these arrangements are fair and will meet the policy intent to end the discrimination identified	30	8 agreed with no comments 2 agreed with comments 8 disagreed 12 were unable to say
2) Are the draft regulations sufficient for the purposes of implementing the remediable service remedy	28	10 agreed with no comments 2 agreed, subject to comments provided 7 disagreed 9 were unable to say
3) Do you have any concerns that the proposals could result in individual groups being disproportionately affected by the proposals?	32	10 yes 14 no 8 unable to say

**Table 2: response method and source**

Response From	Response method	Total Received
Individuals	Email	102

<i>Of which: Queried the effect of the remedy (i.e. didn't answer the consultation questions in all respects)</i>	Email	68
<b>Unions and other representative bodies:</b> Prospect PCS Defence Police Federation	Email	3
<b>Other organisations:</b> Civil Service Pensioners Alliance Pen-gage	Email	2
<b>Total</b>		<b>107</b>

3.11 Further analysis of the consultation responses by question, including where alternative proposals were suggested, is provided in this document. Where common themes have emerged or general points raised that could affect more than one member we have provided a response to these. We understand that the 2015 Remedy will be different for each individual and aim to provide the tools and resources to support all members with remediable service to allow them to make fully informed choices. We are unable to comment on every question raised by members relating to their specific circumstances in this document.

3.12 Many of the responses received sought clarity on future processes and communication and engagement methods and did not challenge the proposed regulations. The analysis and information in this response has in some part been provided outside of the stated purpose of the consultation but is included to help members understand the 2015 Remedy as a whole. This consultation response sets out where the comments are directly related to the regulations. The underlying 2015 Remedy principles are shown below.

#### **Remedy principles underlying the provisions of the PSPJOA 2022:**

- Any future accrual occurs in the reformed scheme ('alpha') from 1 April 2022 and the legacy schemes ('PCSPS') are closed to future accrual from 1 April 2022
- Members moved to alpha on or after 1 April 2015 and before 31 March 2022 are returned to their previous legacy scheme ('PCSPS') for the seven year remedy period
- Eligible members<sup>6</sup> are then offered a choice of pension scheme benefits for the seven year remedy period
- Members are to be treated as if the discrimination had not happened, as far as is possible

3.13 In recognition of the interest generated about communications and engagement, the 2015 Remedy (McCloud) Programme has provided some high level information about future communications and engagement. The Civil Service Pensions website will continue to be the main source of information for members. The existing Civil Service Pensions engagement channels will also provide awareness and information throughout the 2015 Remedy process.

<sup>6</sup> Eligibility defined by the PSPJOA 2022 <https://www.legislation.gov.uk/ukpga/2022/7/section/1S>

3.14 There were a number of concerns around the process for issuing a Remediable Service Statement ('RSS'), which aren't relevant for the regulations, but are addressed below:

- The 2015 Remedy (McCloud) Programme will ensure that members are fully supported up to and following the receipt of their Remediable Service Statement (RSS). The RSS pack will include supporting information and details of useful information on the Civil Service Pensions website. Additionally, there will be query handling support and guidance offered by the MyCSP contact centre
- The immediate choice RSS will be issued to members as soon as is practically possible. The distribution will be staged and in line with the legislative timeline
- The RSS will be issued in paper format
- Address checking and validation is being considered
- Members will have a choice about how they return their option either by paper or using a digital channel
- The inclusion of a reminder or prompt stage in the process for members who are yet to record an immediate choice is under discussion
- The 2015 Remedy (McCloud) Programme will monitor response rates and member choices as part of the RSS distribution process and high level statistics will be available



## 4. Proposals: retrospective changes to remove discrimination

Question 1: Do you agree that these arrangements are fair and will meet the policy intent to end the discrimination identified?

4.1 The draft ‘Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023’ are new regulations needed to implement the retrospective remediable service remedy, using powers provided by the PSPJOA 2022.

4.2 Question 1 asked respondents to comment on whether they agreed that the draft regulations and arrangements are fair and will meet the policy intent to end the discrimination identified. In total there were 30 direct responses to this question of which 10 were wholly positive responses. As noted in paragraph 3.2, the majority of responses did not raise specific issues with the new scheme regulations, but raised questions around policies relating to the 2105 Remedy. We have set out the common themes below.

### Cabinet Office Response to Question 1

#### **(i) Member contributions**

4.3 Responses indicated a belief that the contributions paid towards alpha are higher than for the PCSPS sections. There are no changes in the new regulations to member contribution rates (which are set separately) but we felt it would be helpful to provide a response to this point.

4.4 There is no difference in the rate of member pension scheme contributions that members pay for alpha or the PCSPS sections (classic, classic plus, premium and nuvos). From 1 April 2015 (the start of the Remedy period) all Civil Service Pension Schemes had the same contribution rates applied according to agreed salary bandings.

4.5 The one exception is the partnership pension arrangements. This is because the partnership pension arrangement is a defined contribution scheme that does not offer the same pension benefit structure as alpha and the PCSPS. For more detail on how partnership operates, please see the Civil Service Pensions website<sup>7</sup>.

4.6 Following rollback members will see no change to the rate of employee contributions they are paying, as all members are in alpha from 1 April 2022.

4.7 There will be a limited number of cases where a difference to the contribution rate may have occurred in the remedy period:

- a. where an allowance is pensionable in one scheme but not the other

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<sup>7</sup> <https://www.civilservicepensionscheme.org.uk/knowledge-centre/pension-schemes/partnership-pension-account/>

b. members who have reached a service or salary cap in the PCSPS, when contributions are no longer applicable which does not apply in alpha

4.8 Any differences that need to be adjusted will only apply within the seven year remedy period. Further guidance on how this will work will be published at a later date.

4.9 The basic 1.5% widows and widowers pension scheme (WPS) contribution that was a feature of the PCSPS classic section was accounted for in the equalised contribution rates. This element of member contributions is recorded on the pension administration database. For members rolled back into the classic scheme section, the recording of the WPS contributions will happen automatically following rollback. This will allow for the WPS refund arrangements to operate appropriately.

4.10 Where members are successful in having opted out service reinstated for the remedy period (paragraph 6.1 onwards of the consultation document) they will owe member contributions to the scheme for the reinstated period. Interest will be payable on the contributions owed by the member as they weren't paid at the appropriate time. This policy is designed to prevent any unfairness or perceived favourable terms being introduced between members who opted out and those who didn't. Where interest is to be applied members will receive details of any interest calculations when they come to make their choice.

4.11 Further cases where contribution differences may occur are linked to the choice a member makes for their remediable service. If a member chooses alternative scheme benefits for an immediate choice election, a contribution difference may occur for the same reasons as shown in paragraph 4.7. In such cases interest will be added to the contributions due or owed after any tax relief adjustment.

4.12 All the relevant information will be shown in the RSS the member will receive. It will be made very clear in the RSS what taking alternative scheme benefits will mean for members not just in terms of pension benefits but also if any over or underpayments will occur.

## **(ii) Interest**

4.13 Concerns have been raised about the addition of interest to contributions owed to the scheme. Due to the retrospective nature of the remedy, interest is being applied to amounts that would have been due a number of years ago or over a number of years. The application of interest removes any beneficial treatment of remedy members compared to non-remedy members who paid amounts at the appropriate time. This is set out in a letter from the Government Actuary to HM Treasury<sup>8</sup>.

4.14 Interest will only be payable where a member owes the scheme money or the scheme owes the member money in specific circumstances. Interest will be applied for the period from when the money became due until the amount owed is paid in full. Different interest rates apply for money owed to the scheme by a member to when the scheme owes money to a member.

4.15 Where money is owed to the scheme the rate of interest to be used is set by HM Treasury and detailed in 'The Public Service Pensions (Exercise of Powers, Compensation and Information)

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<sup>8</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/112396/6/McCloud\\_remedy\\_interest\\_rate\\_-\\_GA\\_to\\_HMT.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/112396/6/McCloud_remedy_interest_rate_-_GA_to_HMT.pdf)

Directions 2022'<sup>9</sup>. The rate is calculated in line with the interest available on the National Savings and Investments (NS&I) easy access savings account, 'Direct Saver'. This recognises that members had no option to make any payment when it was originally due. The Government considers that opting for a savings account rate, which has typically been below inflation since 2015, is the most appropriate approach.

4.16 Where the scheme owes money to members, the rate of interest provided in the Directions is that specified in the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. This is in line with the interest awarded to the claimants in the associated employment tribunals. Adopting the same approach for the wider remedy will ensure consistent outcomes with those who were awarded interest payments by the employment tribunal. The employment tribunal rate of interest will be applied for the period up to 28 days after the member is provided with a remediable service statement by the scheme manager, or if later, the date of payment.

4.17 The application of interest may apply due to any choices made by members so it will be a factor for members to take into account when making a choice. The RSS will include all the information members will need to make any choices, including details of any interest due and when it is payable.

### **(iii) Cessation of mixed benefits: tapered protection**

4.18 A number of respondents felt that it was unfair not to provide an option to retain mixed benefits (see paragraphs 4.16 to 4.18 of the consultation document about mixed benefits). It is not possible to give this option as mixed benefits are based on discriminatory terms that have been found to be unlawful. To allow mixed benefits to continue in payment would be an extension of the discrimination. This policy is determined by the Government and is not in scope of this consultation. The 2015 Remedy is designed to provide equal treatment for pension provision for Civil Service Pension Scheme members from 1 April 2015 onwards. In addition there would be no legal basis for these benefits to continue in payment due to the legislative changes made by:

- a. the primary legislation for the 2015 Remedy, the PSPJOA 2022; and
- b. the new scheme regulations applying the rollback of all alpha members to the PCSPS for the seven year remedy period.

4.19 Paragraph 3.20 of the Equality Impact Assessment explains the background to this policy. Schemes cannot legally pay benefits that are not supported by legislation.

4.20 Further comments about mixed benefits suggested that the consultation does not provide sufficient detail setting out how any overpayments and transition to a lower pension would take effect. Paragraphs 14.1 onwards of the consultation document describes the circumstances of where recovery of overpaid benefits may be waived. This includes that where the operation of the 2015 Remedy results in an overpayment to a member, the scheme manager has discretion to waive recovery of any overpayments.

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<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/112448/0/The\\_Public\\_Service\\_Pensions\\_Exercise\\_of\\_Powers\\_Compensation\\_and\\_Information\\_Directions\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/112448/0/The_Public_Service_Pensions_Exercise_of_Powers_Compensation_and_Information_Directions_2022.pdf)

4.21 Where the scheme manager becomes the eligible decision maker for members with mixed service benefits, Prospect has requested that the basis for the Scheme Actuary's advice for determining the highest value benefits should be disclosed for transparency. The scheme manager is in discussion with the Scheme Actuary about the basis of this valuation.

**(iv) Member voluntary contributions (MVCs)**

4.22 Member Voluntary Contributions (MVCs) is an umbrella term covering contributions that a member chooses to make to buy additional entitlement in the pension scheme. These are made up of: added pension, Effective Pension Age (EPA), Enhanced Effective Pension Age (EEPA), added years and Additional Voluntary Contributions (AVCs).

4.23 Members raised concerns about the treatment of MVC purchases in both the PCSPS and alpha. The main areas of concern were:

- how conversion to the alternative scheme would work, details of the actuarial calculations for conversions between EPA and added pension under alpha to PCSPS
- availability of full information of the value of the added pension rights in each scheme for when decisions are to be made
- scope to top up added pension purchase for past years if limits allow in alternative scheme
- clarity on the Annual Allowance Tax implications
- loss of opportunity to buy added pension by not making additional contributions
- purchase of added years

4.24 Where contributions have been made to the new scheme, adjustment of these benefits or rights will be needed following rollback.

4.25 The policy as set out in the PSPJOA 2022 is that members will be able to:

- a. either apply for a refund of the appropriate voluntary contributions, which will be repaid in the form of a compensation payment (less any tax relief applied plus interest); or
- b. be given benefits of an actuarial equivalent in the PCSPS to the benefits the contributions were paid for in alpha; or
- c. opt for equivalent rights in the alternative scheme if the benefits do not exist in that scheme, as is the case with EPA and EEPA

***Added pension***

4.26 Only added pension contracts started during the remedy period and benefits purchased in the remedy period will be in scope of the 2015 Remedy. This includes both added pension purchased by lump sum and by monthly contributions.

4.27 As soon as possible after rollback the scheme administrator will carry out calculations to convert any added pension purchased in alpha during the remedy period to added pension in the PCSPS. This will involve calculations to determine the added pension that would have been bought in the PCSPS as if the contributions had been paid to the PCSPS at that time.

4.28 The rights realised by the contributions paid will not be the same in each scheme. The Scheme Actuary has advised that the provision of an equivalent added pension between the two

schemes will typically result in a lower level of added pension in the PCSPS, but the overall value will be the same. This is because the PCSPS benefits can be taken earlier than alpha benefits, giving the potential for them to be paid over a longer period of time, meaning each £1 of PCSPS added pension purchased costs more than each £1 of alpha added pension.

4.29 When a member comes to make their 2015 Remedy choice the added pension must follow the member's choice of legacy or new scheme benefits. Full details of the benefits available from both schemes will be provided to members in the RSS at the appropriate time. We will need to make members aware of the effect of opting for a conversion when making their 2015 Remedy benefits choice. Members can alternatively opt for a refund of the added pension contributions at the time they claim their benefits.

4.30 Added pension purchases continuing after 1 April 2022 in either alpha or PCSPS are permitted without any adjustment needed. Before the PCSPS scheme sections were closed on 31 March 2022, it was agreed that existing PCSPS added pension contracts for purchasing added pension by monthly contributions, started before 1 April 2015 could continue. The added pension rights are rights credited to the PCSPS as they have always been PCSPS added pension rights. These contracts are not in scope of the 2015 Remedy as they were not subject to discrimination.

4.31 For any added pension purchases made in the remedy period where a member considers their actions or decisions may have been different, but for the discrimination, they can apply for this to be looked into using the contingent decisions process.

***How Annual Allowance ('AA') affects added pension:***

4.32 The AA position will be revisited following the conversion of added pension from alpha to the PCSPS. When the added pension is reconstructed under the PCSPS it will increase the closing value for the year of conversion and the pension input amount (PIA) for the PCSPS. The new scheme regulations, using powers in the PSPJOA 2022, allow for the added pension to be created under the legacy scheme without retrospection. This means that up to seven years of pension rights from member voluntary contributions can happen in a single year; those added pension rights will already have been tested against the member's AA for each year the contributions were paid to alpha.

4.33 To resolve this tax regulations will be made by HMRC to the effect that the extra pension rights created by the replacement added pension in the PCSPS will be ignored for the purposes of calculating the pension input amount (PIA) for the legacy scheme arrangement. This means that the added pension will only be taken into account once, that is, under the new scheme when the purchase was made.

4.34 The Scheme Actuary has advised that added pension purchased in alpha would typically result in higher AA charges than would have occurred in the PCSPS for the same level of contributions. This is because contributions in alpha buy a higher amount of pension compared to the amount the same contributions would have bought in the PCSPS meaning any resulting AA charge would likely be higher.

4.35 To address this, members will be able to claim compensation for any overpaid AA charges. Compensation will be available through Treasury Directions<sup>10</sup>(see Direction 9) for any members who have overpaid AA compared to what they would have paid under PCSPS.

***Effective Pension Age ('EPA') and Enhanced Effective Pension Age ('EEPA')***

4.36 Voluntary contributions for EPA and EEPA were only available to members of alpha. Following rollback members will be given the choice of how they wish to treat any contributions made during the remedy period for EPA and EEPA. The options as explained in the consultation document (paragraph 9.4) will be to convert this to PCSPS added pension, opt to receive a refund of the contributions made in the form of a compensation payment, or defer that compensation if they plan to opt for alpha and use EPA or EEPA rights at retirement. The appropriate conversion calculation will be determined as added pension that would have been bought if the contributions had been paid to the PCSPS at that time.

***How AA affects EPA and EEPA:***

4.37 If a member opts to convert EPA or EEPA contributions to added pension in the PCSPS this will need to be taken into account for AA purposes. This is because the member is gaining an additional entitlement that should be recognised. EPA and EEPA contributions do not give rise to rights that need to be tested against the AA, as they buy an age reduction rather than additional pension rights.

4.38 The AA test will look at whether a member had always been contributing towards PCSPS added pension in the years they were making the EPA or EEPA contributions.

4.39 Schemes will need to allow for the pension input amount (PIA) increase for the added pension conversion in a single year following rollback. Because this may trigger an AA charge, schemes can compensate members using provisions in HM Treasury Directions. Any compensation due will be worked out by the scheme administrator who will need provide information for any AA adjustment and compare it to what would have been the charge had the contributions for added pension been assessed year on year in the PCSPS. The member will receive a pension saving statement (PSS) if necessary where the AA is breached.

***Employer-funded EPA:***

4.40 If an employer has agreed to fund EPA purchases for members, these are not within scope of refunds or conversion as the regulations only apply to voluntary contributions paid for by the member. A member in this situation will see the employer-funded EPA on their RSS as part of their alpha option. It will be paid if they choose alpha, but won't be converted or refunded if they choose PCSPS.

4.41 If a member also purchased EPA alongside the employer-funded EPA, they will get the same option with this EPA as other members (i.e. refund, conversion or taking it as part of the alpha option).

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1124480/The\\_Public\\_Service\\_Pensions\\_Exercise\\_of\\_Powers\\_Compensation\\_and\\_Information\\_Directions\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1124480/The_Public_Service_Pensions_Exercise_of_Powers_Compensation_and_Information_Directions_2022.pdf)

### ***Added years***

4.42 The option to increase pension benefits by buying extra years of service, added years, was available in the final salary sections of the PCSPS (classic, premium and classic plus). Added years contracts could be started until February 2008. Any added years contracts started before 1 March 2008 were permitted to continue after the introduction of alpha. No retrospective added years purchase will be allowed.

### **(v) Partial retirement**

4.43 There is nothing in the draft scheme regulations specifically about partial retirement. The PSPJOA 2022 defines pensioner as: *'a person is a "pensioner member" of a pension scheme in relation to their service in an employment or office if the person is entitled to the present payment of benefits under the scheme that are calculated by reference to the person's service in that employment or office'*. Therefore the policy for partially retired members and when they receive their remedy choice election is defined by PSPJOA 2022 and the scheme must implement this policy through its regulations.

4.44 The scheme regulations provide the policy definition of a remedy pensioner for the Civil Service Pension arrangements as a member with remediable service benefits in payment before 1 October 2023.

4.45 Concerns were raised about automatic rollback and abatement of pension consequences for partially retired members. Rollback does not alter benefits in payment. Changes to benefits in payment would only be triggered by a member's immediate section 6 election or by default where the election period ends and no election has been made by a tapered member. Full details of the options available and any abatement that may apply will be provided to members in the RSS they will receive.

4.46 Work is currently underway with the scheme administrator to develop some more detailed guidance and tools about how the remedy works for partially retired members. This will be available on the 2015 Remedy (McCloud) section of the Civil Service Pension website at a later date.

### **(vi) Transfers between schemes**

4.47 We received questions about the transfer of benefits. The consultation document explains that, once the new scheme regulations come into force, a review of all transfers that have taken place within the remedy period will be carried out. The paragraphs below set out in more detail how different types of transfers are affected.

#### ***For club transfers between unfunded schemes***

4.48 Following rollback, members in scope of remedy who were entered into alpha before 1 April 2022 will need the following corrective action to be taken in respect of their service:

- a. to be moved to the PCSPS for their post-transfer remedy period service; and
- b. to be given a deferred choice or, if retired or deceased, an immediate choice, for post-transfer service that falls within the remedy period. This will include any remediable

service which was included with the transferred in service. Further details about this will be published at a later date.

4.49 Only club transfers to or from schemes that reformed between 2014 and 2016 will be affected by the retrospective remedy. Where a member transferred remediable service between public service pension schemes under club terms (before the implementation of the remedy), in most cases transfers made into the reformed scheme are to be moved to the legacy scheme following rollback. For Civil Service Pension Scheme members they will then, based on their election, receive either PCSPS or alpha benefits for the transferred in service to follow the scheme election they will make.

4.50 There will be a new process for club transfers that take place after 1 October 2023 and this will be available on the Civil Service Pensions website when finalised.

4.51 Each member will have different circumstances so will need to consider their options carefully on receipt of the appropriate RSS. If a member considers that a decision made during the remedy period may have been different given the retrospective changes now being introduced, they can make a claim through the contingent decisions process. Details of the process which will allow members to make a claim, will be available on the Civil Service Pensions website at a later date.

#### ***For club transfers between Local Government Pension Schemes and unfunded schemes***

4.52 Local Government Pension Schemes (LGPS) are dealing with the remedy in a different way to the unfunded public service schemes, including the Civil Service Pension Scheme. This will result in a different method for schemes to deal with club transfers between the LGPS and unfunded schemes. Further detail will be published at a later date.

#### ***Bulk Transfers***

4.53 Members who were transferred out of the PCSPS Civil Service Pension arrangements before 1 April 2015 under a bulk transfer arrangement and were entered into a broadly comparable (BC) scheme, were, on re-entering the Civil Service Pension arrangements, put into the relevant scheme, in line with the transitional protection policy for future pension accrual. Older members would have gone back into their former PCSPS section and younger members would have been entered into alpha. The rollback provision will remedy any differential treatment of members re-joining under compulsory bulk transfer terms.

4.54 Any member who would have been eligible to aggregate previous PCSPS service if they had been permitted to re-join the PCSPS following a bulk transfer but was entered into alpha, will have the opportunity to aggregate this previous service at some point after rollback. Further details about when and how this option will be available is currently being developed.

#### **(vii) Ill Health retirement**

4.55 Concerns were raised about members retired due to ill health or who were refused ill health retirement in the remedy period. Any member who applied for ill health retirement during the remedy period will have their case reviewed to see if they would have qualified for ill health retirement under the alternative scheme. This will include members who were refused ill health retirement during the remedy period. The scheme manager will ask the Scheme Medical Adviser (SMA) to review the medical information against the criteria that applies in both the PCSPS and alpha. Members who are included in this review process will be contacted by the scheme



administrator. No new information will need to be provided as the retrospective review will be based on the medical evidence used at the time of the original application.

4.56 For members where no formal referral to the SMA was made but who left the scheme for reasons connected to ill health during the remedy period, there is no automatic review. If a member considers that a decision made during the remedy period may have been different given the retrospective changes now being introduced they can make a claim through the contingent decisions process.

4.57 The ill health underpin that was introduced in April 2022 for ill health retirement applications started before 31 March 2022 will be extended under the new scheme regulations. The underpin will effectively guarantee the member an ill health pension that is at least as much as the pension they would have received had they been ill health retired under the terms of the PCSPS on 31 March 2022 (the last day PCSPS was open). The underpin will apply to alpha members who retired due to ill health during the remedy period and who would have been eligible for ill health benefits under the PCSPS had they been in the PCSPS at that time.

#### **(viii) Immediate Choice**

4.58 A number of concerns were raised by organisations representing members. The comments and concerns raised were mainly about the communication and engagement with members of this choice group. Whilst communication with members is not something that is within the scope of this consultation we recognise this is generating a lot of interest. Comments received will help inform the communication channels, products and processes. (Paragraph 3.14 about the RSS applies here also).

#### **(ix) Processes within scope**

4.59 One respondent considered the consultation document to be unclear about when the pension changes will apply from once a choice is made. The immediate choice election effective date is set out in section 7 of the PSPJOA 2022 and is treated as having taken effect:

(i) immediately before the member became a pensioner member of the scheme, or (if earlier) became a pensioner member of a Chapter 1 new scheme, in relation to the employment or office; or

(ii) if the member died without having become a pensioner member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, immediately before the member's death,

4.60 This means the benefits will be retrospectively adjusted from the original start date of the benefits in payment. This is conditional on the choice being received by the deadline provided in the RSS, and in the way the RSS describes the option should be made.

4.61 Comments were also received about the provision of two different remedy solutions: an **immediate** choice and a **deferred** choice. Some respondents stated this arrangement was discriminatory. It was argued that it was unfair for those receiving the immediate choice because of having to make a choice sooner, due to future inflation not being known. The policy behind the immediate choice is so that members who already have a pension in payment are returned to the position they would have been in had the discrimination not occurred at the earliest opportunity. The member can then make an informed choice of the benefits they wish to receive based on known

information. The information shown in the immediate choice RSS will be based on current information and not using projections or assumptions.

**(x) Deferred choice: Retirements after 1 October 2023 and bringing deferred benefits into payment.**

4.62 Prospect felt it was not clear how the deferred choice decision would become part of the process for retiring or claiming deferred benefits ahead of 1 October 2023 (for payment after 1 October 2023). For future retirements, members retiring up to 30 September 2023 will be awarded the benefits for the scheme that they are in at that time and offered an immediate choice for alternative scheme benefits in due course.

4.63 Where the retirement date is after 1 October 2023 and the application is made before this date, the deferred choice underpin (DCU) member will be provided with information showing both PCSPS and alpha benefits available for the remedy period. This will allow them to make the deferred remedy choice at the time they bring their benefits into payment after 1 October 2023.

**(xi) Opted out service elections**

4.64 The provision to allow members the opportunity to have remedy period opted out service reinstated generated interest. Questions about the opt-in process and how members' contributions to or withdrawal of funds from the partnership pension arrangements would work, such as:

- will the scheme contact opted out members
- what evidence will members need to provide to support an opt-in application
- what are the implications for deceased members who opted out
- will there be any advice or guidance to support members with this choice
- why will interest be applied to any contributions due
- what is the method for determining how contributions paid to partnership will be transferred and how will the partnership pot be managed where benefits have been taken
- will the partnership pension be automatically closed
- what service is in scope for reinstatement and can service outside of the remedy period be included

4.65 The opt-in process has not yet been finalised but the evidence requirements will not be excessively rigid. The policy intent is to provide members the option to re-join the pension arrangements if they opted out for reasons that were connected to the introduction of alpha in 2015. Members will need to make an application to start the process as the scheme administrator will not be able to identify those members in scope of this option. Details of the process will be made available at a later date.

4.66 In keeping with the remedy policy to allow members the choice of benefits for the remedy period, where a member is unable to make an option in this category a recognised eligible decision maker will be able to make an opt-in application on behalf of the member. Where conditions of the opt-in election have been met any benefits arising from completed opt in applications will be payable as normal.

4.67 As stated earlier in this response, the scheme cannot provide advice to members but the scheme will provide as much information as possible to assist members in understanding the

options available to them.

4.68 Comments on the application of interest have been covered earlier in this response. It is the member's choice if they wish to have the service reinstated; if they do they will need to meet the appropriate conditions. The reason for applying interest in this situation is to put members back into the position they would have been in, including the requirement to pay contributions as if they were paid at the appropriate time. This is to prevent preferential treatment of members who made these choices.

4.69 Section 5 of the PSPJOA 2022 sets the scope in terms of relevant opted out service, which is opted out service within the seven year remedy period. If the relevant opted out service is reinstated it then becomes remediable service. The scheme manager has no discretion over the policy as it is provided for in the PSPJOA 2022.

4.70 As set out in the consultation document (sections 6.14-6.17) there will be a process for transferring any partnership pots built up relating to the remedy period which has not been crystallised. Further detail of this will be available on the Civil Service Pensions website at a later date. Where any excess amounts result from this process the member will receive a refund determined as excess member contributions paid to the re-instated scheme. Partnership amounts built up before or after the remedy period will remain in the partnership pot.

## **(xii) Divorce and Dissolution**

4.71 Clarification was requested on the way remediable service benefits are to be calculated for divorce purposes after 1 October 2023 and the treatment of pension credit members. Paragraph 8.35 of the consultation outlined the basis of the valuation of a member's benefits to be provided to the court in the matter of divorce proceedings. The scheme administrator must produce two cash equivalent transfer value amounts for remedy purposes and follow this process:

- a. using the member's remediable service period calculate the cash equivalent value using the scheme rules applicable to the PCSPS;
- b. using the member's remediable service period calculate the cash equivalent value using the scheme rules applicable to alpha; and
- c. the higher of the two amounts calculated will be the value of the member's benefits for the remedy period that the court will receive.

4.72 Where a Pension Sharing Order was implemented before 1 October 2023 adjustments to pension debits and pension credits may be needed as part of the 2015 Remedy.

4.73 Where a debit member was a member of the PCSPS or alpha the pension credit will have been created in the scheme that the member was in. Where it is determined that a 'top up' is due to the credit member's benefits any top up will be credited to the existing pension credit account. When the debit member makes an election under section 6 or 10 of the PSPJOA 2022 for either PCSPS or alpha benefits, the credit member's pension benefits will not be affected by the member's election and will remain unchanged.

4.74 Where the debit member had mixed service and the Pension Sharing Order was determined using benefits from alpha and the PCSPS, a pension credit member may have two pension credit accounts, one in the PCSPS and one in alpha. Unlike remedy members, pension credit members with pension rights in both schemes can keep the rights in both schemes, as credit members are not subject to the discrimination. Where this is the case and there is a pension credit ‘top up’ due, the credit member will be offered the choice of which pension credit account they would like the top up amount to be added to. This choice must be given within 12 months of 1 October 2023. Pension credit members are not in scope for PSPJOA to make section 6 or 10 elections

### **(xiii) Eligible Decision Makers**

4.75 The consultation document gave details about the circumstances when the scheme manager may be considered as the eligible decision maker in certain beneficiary cases. Pen-gage asked why the scheme manager isn’t always the eligible decision maker and could then determine to pay the highest rate in all cases.

4.76 The policy intention was not for a relevant scheme to automatically pay higher death benefits as this may not always be in the best interests of all beneficiaries. One main factor being that the dependant benefit structure may differ between the schemes, for example provisions for unmarried partners may not be present in both schemes. The provision of offering beneficiaries a choice is consistent with the choice principle of the wider remedy.

4.77 Paragraph 12.3 of the consultation document explains the protection of the amount of child pension in payment before 1 October 2023. A child pension will not be reduced in the event of an election being made by an eligible decision maker who does not live in the same household as the child, even if that would otherwise result in a reduction to that pension.

4.78 The Schedule to the draft regulations sets out who can be determined as the eligible decision maker; this is reproduced in paragraph 5.19 of the consultation. Where it is not possible to identify an eligible decision maker then the scheme manager will be the eligible decision maker. The scheme manager considered there was insufficient justification to remove the choice option for deceased members and to act as the eligible decision maker in all cases. The 2015 Remedy policy position is to allow for members or their personal representatives to make a choice of the pension benefits for the remedy period.

4.79 The provision of arrangements where the member is deceased and unable to make the choice at the appropriate time is necessary; this applies to both the immediate and deferred choice options. A respondent asked if it would be possible for members to record their wishes before retirement in the event that they were unable to do so at the appropriate time. The 2015 Remedy design provides that choices are to be made after members have received the appropriate RSS which will show the benefits available from both schemes for the remedy period. Members could of course make arrangements for their preference to be formally recorded with friends or family or a legal firm, however once deceased the member is no longer regarded as the eligible decision maker.

4.80 Prospect commented that ‘it may be prudent to include a provision for any beneficiary who feels they have unfairly lost out as a result of the decision of another beneficiary, to appeal that decision to the scheme manager’. Where any such matters emerge, the scheme offers a complaints

process which can be used; full details of the complaints procedures can be found on the Civil Service Pensions website<sup>11</sup>.

## Question 2: Are the draft regulations sufficient for the purposes of implementing the remediable service remedy?

4.81 The responses to this question were mixed: there were nine respondents who felt that draft regulations were sufficient and fit for purpose. Seven respondents did not consider the regulations to be sufficient; generally this related to concerns raised under question one and a further nine respondents felt the draft regulations were too complicated for them to understand and comment on. A further 60 respondents did not provide a specific answer to this question.

4.82 It may be helpful to explain why the scheme regulations are set out as they are, as the structure and presentation has generated comments. The new scheme regulations are a statutory instrument, a form of legislation that can be made by Ministers where the provisions of an Act of Parliament (in this case, the PSPJOA 2022 and the Public Service Pensions Act 2013 together) provides Ministers with powers to do so. It is necessary for the scheme rules to be based in a statutory instrument in this way, as defined by the primary legislation of the Public Service Pensions Act 2013. It follows that the scheme regulations are a legal document written by legal experts in a specific way. It is acknowledged that this does not make them easy to read which is why the consultation process is in place to explain the policy behind the scheme regulations. An Explanatory Memorandum will be published alongside the scheme regulations, providing further clarity.

4.83 The comments received were not specific to any aspect of the scheme regulations and mostly referred to policy aspects that the Government, through HM Treasury, had previously consulted on and agreed. The Cabinet Office acknowledges that further clarity around the process and timing of remedy activity is very important to members.

4.84 There have been several amendments to the previously published draft regulations as a result of further internal discussions. These are:

- a. including a clarification that members who took partial retirement putting no remedy benefits into payment are not classified as immediate choice members and will be dealt with as DCU members;
- b. provision to allow members who left PCSPS classic or premium and re-joined alpha in the remedy period to have the option to retrospectively aggregate previous PCSPS service (where the PCSPS provides for such an aggregation option). Further detail on this will be published at a later date;
- c. amending the draft regulations to clarify some wording, without changing the meaning or what was consulted on.

Based on the feedback received, the Cabinet Office does not propose any further amendments or additions to the retrospective remedy regulations.

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<sup>11</sup> <https://www.civilservicepensionscheme.org.uk/about-us/complaints/>

### Question 3: Do you have any concerns that the proposals could result in individual groups being disproportionately affected by the proposals?

4.85 Of those who responded specifically to this question, ten had no concerns; 11 did have concerns that they felt may cause differential treatment to occur. Of these, five raised the need to consider further equality impacts which were not addressed in the Equality Impact Assessment (EQIA), however these points did not relate to discrimination of protected characteristic groups or to carers as provided for in the Equality Act 2010. Careful consideration has been given to all aspects of the remedy to arrive at solutions that are as fair as possible to all members. Any matters not specifically covered by the Equality Act 2010 are not in scope of the EQIA carried out for these scheme regulations.

4.86 The most common concern was that older members would be disproportionately affected by a number of features of the remedy to remove the discrimination caused by the transitional protection, e.g. roll back and immediate choice. These concerns were taken into account in the PSPJOA 2022; the Government considers that any such potential age-related impact is justified and proportionate in the removal of the discrimination. Paragraph 4.61 of this document also covers this point. The full EQIA for the PSPJOA 2022 can be accessed using the link below<sup>12</sup>.

4.87 A further concern raised was about members retired due to ill health that might require more help and support with the remedy due to disability. For implementing the remedy particular consideration has been given to members who have been retired due to ill health and how to engage with them. The EQIA issued with the consultation<sup>13</sup> explains how behavioural scientists have been used in a number of ways to inform member communications, including the RSS. When the 2015 Remedy is implemented the ill health retired immediate choice members will be supported to help them with what they may need to do. Work is already underway to carry out the necessary medical information reassessments for these members in preparation for the implementation date. Dedicated website content to support these members is available and query handling support and guidance will be offered by the MyCSP contact centre.

4.88 Lastly an equality concern was raised about the purchase of added pension. It was stated those most likely to make additional payments to secure added pension are those with career gaps and/or those who work (or have worked) part time. This group are likely to disproportionately include women whose years of service and/or working hours have been reduced due to caring responsibilities and disabled people whose years of service or working hours have been reduced for reasons related directly or indirectly to their condition.

4.89 On the data available this assumption was not substantiated. The member data available for members who purchase added pension indicates that members who have contributed to added pension during the remedy period are evenly split gender wise at 49 % male and 51% female. In addition, the respondent was concerned that members with added pension would not receive enough information on the RSS in respect of the added pension values when it came to making the pension remedy choice and would be at a disadvantage. This is not the case, the RSS will show the value of any added pension contributions made converted to pension in both alpha and PCSPS.

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<sup>12</sup> [https://www.legislation.gov.uk/ukpga/2022/7/pdfs/ukpgaod\\_20220007\\_en\\_001.pdf](https://www.legislation.gov.uk/ukpga/2022/7/pdfs/ukpgaod_20220007_en_001.pdf)

<sup>13</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1140203/Civil-Service-Pensions-2015-Remedy-McCloud-consultation-EQIA.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1140203/Civil-Service-Pensions-2015-Remedy-McCloud-consultation-EQIA.pdf)

## 5. Conclusion and next steps

5.1 The Cabinet Office is pleased that respondents who specifically replied to the direct questions were broadly in agreement with the proposals. Where this wasn't the case this response provides more detail and explanation for the 2015 Remedy design and policies as far as possible. This is the final step to removing the discrimination identified by the Court of Appeal in December 2018. The courts required that this unlawful discrimination be remedied by the Government. The courts ruled the transitional protection afforded to older scheme members unlawfully discriminated against younger members, as transitional protection was only offered to older scheme members. It is important to note that the transitional protection element of the 2015 reforms was found to be discriminatory, not the reformed scheme (alpha) itself.

5.2 The consultation respondents have raised a number of helpful points and the Cabinet Office will use the feedback to inform the practical implementation of the retrospective 2015 Remedy. The consultation responses received have highlighted the importance of providing members with clear, accurate and timely information.

5.3 After careful consideration of the responses received the Cabinet Office will continue with the proposed new scheme remediable service regulations statutory instrument. This will be laid in Parliament early in September to become effective from 1 October 2023. It is important to make clear that the way the PSPJOA 2022 has been designed is to provide scheme members with the choice of the benefits they wish to receive for the period the discrimination occurred. The Government considered this to be the fairest solution given the individual and personal nature of pension provision, these regulations provide members with the appropriate choice channels.

5.4 The 2015 Remedy (McCloud) section of the Civil Service Pensions website will be regularly updated to assist members and provide tools to help them understand the 2015 Remedy provisions.

5.5 Neither the Cabinet Office as the Civil Service Pension Scheme Manager nor MyCSP Ltd as the Civil Service Pension Scheme Administrator are qualified to provide members with what could be interpreted as financial advice about their individual pension benefits. This is to make sure the scheme is compliant with the Financial Conduct Authority (FCA) rules and regulations.

# Annex A – List of respondent organisations

<b>RESPONSES RECEIVED FROM</b>
Civil Service Pensioners Alliance: Representing over 40,000 pensioner and deferred Civil Service Pension Scheme members.
Pen-gage: Independent Pension Engagement Consultants
Prospect Union: Representing over 155,000 employees and freelancers across the public and private sectors
Public and Communication Services Union (PCS): With a membership of 194,000 who are in almost all cases either active, retired, or deferred members of the Scheme
Defence Police Federation (DPF) Union: (DPF) is the staff association representing the federated ranks of the Ministry of Defence Police (MDP)
Individuals



## Annex B: Glossary of terms

**Accrual rate** - The rate at which pension benefit is built up in a defined benefit scheme this is normally expressed as a fraction of service multiplied by pay. For CARE schemes it is expressed as a percentage of earnings each year.

**Active member** - Members who are working (in pensionable service) and accruing pension benefits from that work and from contributions paid by their employer on their behalf. In most cases the member is also making contributions.

**Added or additional pension (AP)** - Available in legacy and reformed schemes allowing members to purchase additional amounts of pension (employers can also contribute as well as or on behalf of the member).

**Annual Allowance**- the limit on how much money you can contribute to your pension in any one tax year while still benefiting from tax relief.

**Broadly Comparable scheme (BC)** - The provision of a scheme for the protection of transferring employees' future pension rights. More information available at <https://www.gov.uk/guidance/staff-transfers-public-service-pension-schemes>

**Career Average Revalued Earnings (CARE) Scheme** - A defined benefit pension scheme that gives individuals a pension based on a percentage of the salary earned in each year of their working life. The annual “pot” is increased each year by a particular revaluation factor applied in that scheme. In the Civil Service arrangements *nuvos* and *alpha* are CARE schemes.

**Cash Equivalent Transfer Value** - The amount your current pension scheme will offer you if you want to transfer out your defined benefit pension scheme (also used for divorce purposes). Based on actuarial age related factors to determine the cash value of pension benefits at a calculation date.

**Defined Benefit (DB) pension scheme** - A pension scheme where the pension is based on the members' salary and service using a fixed calculation formula.

**Defined Contribution (DC) scheme** - A pension scheme where the member builds up a pot of money, the amount available at retirement will depend on the contributions made and the investment return achieved.

**Deferred Choice underpin (DCU)**- The Government's solution to remedy eligible public service pension scheme members by providing a choice of legacy or reformed scheme benefits for the seven year remedy period when they retire.

**Effective pension age (EPA)** - Is an option offered by some pension schemes which involves paying additional member contributions in return for being able to draw an unreduced pension before the normal pension age.

**Enhanced effective pension age (EEPA)** - An option offered by some pensions schemes which involves members paying additional contributions to reduce their effective pension age to between 65 and 60 years in order to draw their pension unreduced

**Employer Contribution Rates** - The percentage of the salary that employers pay as a contribution towards the employees' pension.

**Fair deal** - Guidance that applied to pension provision for workers whose employment is compulsorily transferred to the private sector when the services they work on are moved to private sector suppliers before October 2013.

**Ill health retirement** - A pension available to a member below normal pension age who meets the relevant test in scheme regulations when they are unable to continue working due to ill health.

**Legacy scheme** - The public service pension schemes members were in prior to 1 April 2015. For the Civil Service this is the PCSPS comprising classic, classic plus, premium and nuvos.

**Lifetime Allowance (LTA)** - The HMRC limit on the amount of pension benefits that can be taken from registered pension arrangements

**Lump sum** - It can be an optional or mandatory pension lump sum payable to a member when a continuing retirement pension is brought into payment (often referred to as a pension commencement lump sum (PCLS)). Other lump sums are payable in respect of events such as death.

**Member contributions** - The percentage of pensionable pay paid by active scheme members into their pension schemes.

**Minimum Pension Age (MPA)** - The earliest age at which ordinary retirement benefits can be brought into payment for a member under the rules of that scheme, and subject to tax limits. Ill health and survivor pensions are not subject to MPAs.

**New fair deal** - HMT guidance introduced in October 2013 on pension provision for workers whose employment is compulsorily transferred to the private sector when the services they work on are moved to private sector suppliers.

**Mixed service benefits** - Refers to benefits that have been awarded in the remedy period using remediable service rights built up in both the PCSPS and alpha.

**Normal Pension Age (NPA)** - The age at which a pension scheme member can start taking pension benefits on a voluntary basis without any reductions. NPA is set in scheme rules. A member can retire voluntarily before NPA, as long as they are over their MPA, but will then face a reduction to their benefits.

**Pension Input Amount (PIA)** – The amount that an individual contributes to all pension arrangements – or, for final salary schemes, the amount of benefits accrued - in one year, which is measured against the Annual Allowance to see whether a tax charge is payable.

**Pension debit**- An amount deducted from a member's pension rights following a Pension Sharing Order

**Pension credit-** Pension rights awarded to the ex-spouse of a member subject to a Pension Sharing Order.

**Pensioner member** - Individuals who are drawing a pension and who are mainly former employees or beneficiaries of former employees (e.g. widows/widowers). Members who took partial retirement after 1 April 2015 taking remediable service benefits at that time are also classed as pensioner members for remedy purposes.

**Pensions Saving Statement (PSS)-** A statement sent to members whose pension benefits have increased by more than the standard annual allowance in a scheme year.

**Reformed scheme(s)** - The reformed public service pension schemes introduced under the Public Service Pensions Act 2013. For the Civil Service this is alpha.

**Remediable service-** Service in the period 1 April 2015 to 31 March 2022 that a member has that is eligible for remedy action.

**State Pension age (SPA)** - The age at which an individual can begin claiming their state pension.

**Survivor benefits** – Benefits payable when an active or pensioner member dies, each scheme has a range of benefits that dependent children, a spouse, civil partner and sometimes an unmarried partner may receive. These vary across schemes.

**Tapered protection** - Offered to members between 10 and 13.5 or 14 years of Normal Pension Age on 31 March 2012, meaning they could stay in their existing schemes for longer ranging from a few months to several years after 2015. As with transitional protection, this was found to be unlawful discrimination by the Courts.

**Transitional protection** – Given to members within 10 years of Normal Pension Age on 31 March 2012, it meant they remained in their existing (legacy) scheme.

**Unprotected members** – Members who were moved to alpha on 1 April 2015.

**Waive-** To not demand something you have a right to.

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