

Update on government changes to public service pension schemes

The Court of Appeal ruling on 'protection', known as the McCloud Judgment

In 2015 the government made changes to reform the majority of public service pension schemes. These reforms did not apply to members within 10 years of their normal pension age on the 31 March 2012, who remained in their legacy schemes with 'transitional protection'.

The Court of Appeal later found this to be discriminatory against younger members in the judicial and firefighters' schemes – the government accepted that this discrimination existed in all schemes where transitional protection was introduced. It is sometimes referred to as the McCloud judgment.

The period this discrimination will apply is between 1 April 2015 and 31 March 2022, and this is called the remedy period.

The government is removing this discrimination from all public service pension schemes.

If you were a member of the scheme on 31 March 2012 and continued in service between 1 April 2015 and the 31 March 2022 (or your retirement date if earlier), or were a member of the scheme on 31 March 2012 then left service but returned within 5 years, you will be asked to decide which pension scheme benefits you would like to receive for that period.

This is because automatically moving all members back into the legacy pension scheme, without giving you a choice, would leave some worse off, so it is important you choose the scheme benefits that are best for you.

The Department of Finance published a consultation in August 2020 to look at how best to do this. The consultation set out two ways of asking affected members to make a choice:

- in the near future – this is called the Immediate Choice Exercise
- when you retire - this is called the Deferred Choice Underpin

The Department of Finance published its response to the consultation response on 25 February 2021 which can be found [here](#). The decision has been taken to implement a 'deferred choice underpin' which was the approach preferred by the majority of the respondents to the consultation.

Only some members are affected

If you joined a public service pension scheme on or before 31 March 2012 and you were still a member of the scheme on 1 April 2015, you will be asked to choose your pension scheme benefits at the point when your benefits become payable, e.g. when you retire.

Members who received tapered protection in 2015 will also be offered a choice of which pension benefits they receive for any service between 1 April 2015 and 1 April 2022.

How you'll make your choice

When your benefits become payable, you'll be asked if you want to receive legacy scheme or reformed scheme pension benefits for your service between 1 April 2015 and 1 April 2022. We'll provide you with information at the time to help inform your decision.

Asking you to make this choice when you retire means you'll know what you're entitled to under each option, making it easier to make the right decision for you.

If you've already retired, or retire before the new legislation is introduced, we'll write to you and ask you to make your choice retrospectively. If needed, we'll backdate all payments to your date of retirement.

Reforming public service pension schemes for all members

To make sure all members are treated equally, from 1 April 2022 all active members, regardless of their age, will be members of the reformed scheme that many of our members are already part of. All legacy pension schemes will be closed, including the 1995/2008 HSC Pension Scheme.

If you are member of the 1995/2008 Scheme, you will keep any service you have earned up until 1 April 2022 in the legacy scheme and you'll be able to access these benefits in the same way and at the same time as you can now. Any pension benefits you earn on or after the 1 April 2022 will be in the reformed pension scheme.

This ensures the government's aims of rewarding hardworking public servants, as well as making sure schemes are sustainable and affordable in the future, are met.

We'll keep HSC Pension Scheme members updated

Following the consultation response, the government will be introducing new legislation and intends for the processes needed to support members to make a choice once they retire to be in place by 1 October 2023, or earlier if schemes are able to do so.

Helping members who are affected to make their choice of pension scheme benefits with confidence is our priority, and we're putting in place processes to help them do this. Once this is complete, we'll share more information with our members on what's next.

For now, all our processes will remain the same and there is nothing you need to do. We'll contact all affected members directly when you need to take action

FAQ's

Why is the government making changes to public service pension schemes following the Court of Appeal ruling on protection?

In 2015 the government made changes to reform the majority of the main public service pension schemes. These reforms did not apply to members within 10 years of their normal pension age on the 31 March 2012, who remained in their legacy schemes with 'transitional protection'.

The Court of Appeal later found this to be discriminatory against younger members in the judicial and firefighters' pension schemes – the government accepted that this discrimination existed in all schemes where transitional protection was introduced. It is sometimes referred to as the 'McCloud judgment'.

Following the ruling the government confirmed that it would take steps to address the discrimination in all affected public service pension schemes.

When did this discrimination take place?

The period this discrimination will apply is between 1 April 2015 and 31 March 2022, and this is called the remedy period.

Do members need to submit a legal claim to receive any pension changes to address the discrimination identified by the courts?

No, members do not need to submit a legal claim to receive any pension changes addressing the discrimination. The government has committed to applying any changes across the main public service pension schemes and so both claimants and non-claimants who are eligible members will receive the pension changes.

What is the government doing to remove this discrimination?

If you were a member of the scheme on 31 March 2012 and continued in service between 1 April 2015 and the 31 March 2022 (or your retirement date if earlier), or were a member of the scheme on 31 March 2012 then left service but returned within 5 years, you will be asked to decide which pension scheme benefits you would like to receive for that period.

This is because automatically moving all members back into the legacy pension scheme, without giving you a choice, would leave some worse off, so it is important you choose the scheme benefits that are best for you.

The Department of Finance set out two proposals in a public consultation in August 2020 to gather views on which proposal would be better to remove the discrimination, asking affected members to make a choice:

- in the near future – this is called the Immediate Choice Exercise
- when you retire - this is called the Deferred Choice Underpin.

Since the public consultation closed in November 2020, the Department of Finance has been working through all the responses. It has now published its response setting out its final policy decisions and stated that it will address the discrimination through a ‘deferred choice underpin’. This will allow eligible members a choice when they retire, of which pension scheme benefits they would prefer to take for the remedy period.

Will I be affected by these pension changes?

If you joined a public service pension scheme on or before 31 March 2012 and you were still a member of the scheme on 1 April 2015, the changes will apply to you.

Specifically, if you meet the following criteria, you will be in scope of the changes:

- were members, or eligible to be members, of a public service pension scheme on the 31 March 2012
- were members of a public service pension scheme between 1 April 2015 and 31 March 2022
- the two periods above were continuous (or treated as continuous under the scheme regulations, including those with a qualifying break in service of less than 5 years).

Why is the period when members will be receiving a choice of which pension scheme benefits they would prefer only between 2015 and 2022?

Members will receive a choice for the period between 2015 and 2022 because 1 April 2015 is the date when the public service pension reforms were introduced. The 31 March 2022 will be the date when the legacy schemes will be closed to future accrual.

What will I need to do?

When your benefits become payable e.g. when you retire, you’ll be asked if you want to receive legacy scheme or reformed scheme pension benefits for your service between 1 April 2015 and 1 April 2022. We’ll provide you with information at the time to help inform your decision.

Asking you to make this choice when you retire means you’ll know what you’re entitled to under each option, making it easier for you to make the right decision for you.

If you’ve already retired, or retire before the new legislation is introduced, we’ll write to you and ask you to make your choice retrospectively. If needed, we’ll backdate all payments to your date of retirement.

Why isn't the government just returning everyone to their old schemes?

The differences between the legacy and reformed public service pension schemes mean the set of benefits that is best for an individual member depends on their personal circumstances.

Automatically moving all members back into the legacy pension scheme, without giving you a choice, would leave some worse off, so it is important you can choose the scheme benefits that are best for you.

We'll provide you with information at the time to help inform your decision.

I had 'tapered protection' will I also be asked to choose between legacy and reformed scheme benefits?

If you received tapered protection in 2015, you will also be offered a choice of which pension benefits you receive for any continuous service in the remedy period between 1 April 2015 and 1 April 2022 (or your retirement date if earlier).

This will remove the discrimination that arose between older members who were subject to transitional protection and younger members who were not.

What if I have already retired or I'm due to retire soon?

Following the consultation response, the government will be introducing new legislation and intends for the processes needed to support members to make a choice once they retire to be in place by 1 October 2023, or earlier if schemes are able to do so.

If you've already retired, or you will retire before the new legislation is introduced, we'll write to you and ask you to make your choice retrospectively. If needed, we'll backdate all payments to your date of retirement.

In some cases it may be possible for us to offer this choice sooner but the legislation that allows schemes to do this is limited.

We'll share more information once the process for supporting new retirees is confirmed

I am receiving a dependant's pension; will the changes apply to me?

If you're receiving a spouse's or dependant's pension for a late member who joined a public service pension scheme on or before 31 March 2012 and who was still a member on 1 April 2015, you may also be asked to make a choice.

Where an eligible member has died since 1 April 2015, we will review these cases as a priority. We will try to look at these cases ahead of the introduction of the deferred choice underpin, which is expected to be introduced by 1 October 2023.

The choice between benefits will fall to the late member's surviving spouse or partner. If there are children also in receipt of a survivor pension, and the decision maker lives in a separate household to the child, any decision taken will not affect the child's pension. Where the child and decision maker live in the same household, the usual rules around total survivor benefits payable will apply. We'll share more information on this once the process has been confirmed.

Will the changes result in any changes to my tax?

The majority of eligible members will see no change to their tax position over the remedy period

In its public service pensions consultation response, the Department of Finance has stated that for some members, the pension changes will cause their tax position to change, which could result in tax charges for the member, or the member becoming entitled to a reimbursement of tax previously paid.

In some cases, the pension changes may mean that individuals will have to pay new or higher annual allowance charges, but typically only where their projected pension at retirement has increased. Adjustments to lifetime allowance charges may also be required, where retired members' accrual changes.

Some members may also face changes in their contributions in respect of the remedy period, which may also affect their income tax position.

Where a member has already retired, a member's total pension income may also change, and tax will be payable on any increase in pension.

You can find more information at [the GOV.UK website](https://www.gov.uk) and we'll be sharing more information as this is available.

What pension scheme will I be a member of from 1 April 2022?

To make sure all members are treated equally, all active members, regardless of their age, will be members of the reformed scheme that many of our members are already part of. This will happen from 1 April 2022. All legacy pension schemes will be closed, including the 1995/2008 HSC Pension Scheme.

If you are member of the 1995/2008 Scheme, you will keep any service you have earned up until 1 April 2022 and you'll be able to access these benefits in the same way and at the same time as you can now. Any pension benefits you earn after the 1 April 2022 will be in the reformed pension scheme.

This ensures the government's aims of rewarding hardworking public servants, as well as making sure schemes are sustainable and affordable in the future, are met.

What are the next steps after the consultation response?

Following the consultation response, the government will introduce new legislation when parliamentary time allows, expected to be in mid-2021.

The government intends for the processes needed to support members to make a choice once they retire to be in place by 1 October 2023, or earlier where schemes are able to introduce the processes before then.

Do I need to do anything now?

No, for now, there is nothing you need to do. We'll contact all affected members directly when you need to take action.