

McCloud Remedy Summary - Employers

Background to the McCloud judgement

In 2015, the government introduced reforms to most public service pension schemes, which included the 2015 HSC Pension Scheme. Members that were closest to retirement at the time were protected from moving to the reformed schemes, and could therefore remain in their legacy schemes. In the HSC, the legacy schemes refer to the 1995 and the 2008 Sections of the scheme.

Members with full protection did not have to move to the 2015 Scheme at all, and members with tapered protection were permitted to remain in their legacy scheme for longer, with their move to the reformed scheme delayed beyond 1 April 2015.

In December 2018, the Court of Appeal found these protections to be discriminatory against younger members. This has become known as the 'McCloud judgment'.

The government will now implement a remedy to remove this discrimination and ensure equal treatment going forward.

Staff affected by the remedy

Employees who joined the HSC Pension Scheme on or before 31 March 2012 and who were still members of the scheme on 1 April 2015 will be eligible for the remedy, regardless of whether they previously received full, tapered or no protection.

This includes current members of staff, those that have already retired or no longer work for the HSC and those that have passed away. Staff that joined the scheme on after 1 April 2012 will not be affected.

Employers should encourage members to visit the dedicated [McCloud Remedy Page](#) and [McCloud Decision Tree](#) to help them understand if they are affected.

Special class status

After 1 April 2022, staff with Special Class or Mental Health Officer status will still be able to take any pension earned in the 1995 Section of the scheme without reduction from age 55, providing that they continue to meet the eligibility criteria.

Access to an unreduced 1995 Section pension at age 55 does not necessarily mean that an individual has to stop working, and many may wish to continue beyond this age. We would encourage employers to be promoting flexible retirement arrangements with these members of staff, to support them to work beyond age 55 in a way that suits their plans and benefits your organisation.

Pension tax considerations

For the majority of scheme members, the remedy will not have an impact on their pension tax position.

However, some members will be required to reassess their pension tax position for the seven year remedy period, particularly in relation to the [Annual Allowance](#) due to a change in the value of their benefits over this period. As a result of this reassessment, a member may have overpaid or underpaid pension tax charges.

If a scheme member has underpaid tax, the individual will need to pay HMRC what is owed, with Scheme Pays being available to do this. Where a scheme member has overpaid tax, HMRC will pay a refund direct to the individual or adjust any scheme pays arrangement, as appropriate.

This will create additional complexity for scheme members and employers, although the specific details for dealing with pension tax are still being considered. We will keep employers updated as further details are published by HM Treasury and HMRC