



# Northern Ireland Civil Service Pension Scheme: Retrospective Remedy

Consultation Response on a draft Statutory Rule  
covering the 2015 Remedy ('McCloud'):  
retrospective phase

Response produced by Department of Finance

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# 1. Executive Summary

- 1.1 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.
- 1.2 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. Rulings of the Court of Appeal in England and Wales are not directly binding here. However, the devolved public service schemes in Northern Ireland incorporated the same transitional protection arrangements as the schemes in Great Britain and the implications of the Appeal Court decision are such that all schemes must be treated as affected, and so require to be remedied.
- 1.3 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.
- 1.4 From 1 April 2022 all Northern Ireland Civil Service (NICS) Pension Scheme members who had to that point received transitional protection, (i.e., permitted to remain in the Principal Civil Service Pension Scheme (NI), PCSPS(NI), under the pension reforms in 2015), were put into the reformed scheme, alpha, as the first stage of the remedy. This means all NICS Pension Scheme members are in the same pension scheme from 1 April 2022, providing equal pension provision for all scheme members going forwards.

## Consultation Aim

- 1.5 This consultation sought views on the proposed changes to the NICS Pension Scheme regulations, needed to implement the retrospective element of the 2015 Remedy (also known as 'McCloud'). These changes are required to put right the 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 (Northern Ireland) 2014.<sup>2</sup>

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

<sup>2</sup><https://www.legislation.gov.uk/nia/2014/2/contents>

- 1.6** The consultation document set out how the regulations will work in practice, explain the remedy choices that members will have, and how these will work. The consultation was an opportunity for all affected scheme members, or any other interested individuals and organisations to comment on the draft proposals before they are made final. It is important to note that members do not need to make any remedy choices on their personal circumstances at this stage.

### **Consultation Outcome and Next Steps**

- 1.7** The consultation opened on 3 April 2023 and closed on 02 June 2023. There were 98 responses in total from scheme members, Trade Unions and other organisations. The majority of respondents were broadly in agreement with the proposals for remedy, which the draft regulations give effect to. No concerns were raised which would require a change or amendment of the original policy proposal. It can be noted there were a number of helpful contributions, including around the practicalities of providing members with clear, accurate and timely information to aid decision making on remedy choices. These will be considered further for the practical implementation of the retrospective remedy. However, it should also be noted that the CSP Scheme Manager and CSP staff are neither qualified nor authorised to provide members with what could be interpreted as financial advice about their individual pension benefits. Free independent financial advice will not be automatically made available to members.
- 1.8** After careful consideration, the Department will now proceed with the making of draft regulations to give effect to the retrospective remedy for affected scheme members. The Statutory Rule will be effective from 1 October 2023. This final step removes the discrimination identified in 2018.
- 1.9** A copy of this response document and final scheme regulations will be published on the Department of Finance's website.

# Introduction and contact details

This document is the post-consultation report for the consultation '*Northern Ireland Civil Service Pension Scheme: 2015 Remedy (McCloud): A draft Statutory Rule covering the 2015 Remedy ('McCloud'): retrospective phase*' which began on 3 April 2023 and ended on 2 June 2023.

It covers:

- the background to the report;
- a summary of the responses received;
- a more detailed response to the specific consultation questions and common themes raised;
- further information and clarification around elements of the 2015 Remedy; and
- the next steps following this consultation.

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

Retrospective Remedy Consultation

CSP Policy, Legislation & Communications Branch

Department of Finance

Waterside House

75 Duke Street

Derry/Londonderry

BT47 6FP

Email: [PLCconsultations@finance-ni.gov.uk](mailto:PLCconsultations@finance-ni.gov.uk)

Alternative format versions of this publication can be requested from:

[PLCconsultations@finance-ni.gov.uk](mailto:PLCconsultations@finance-ni.gov.uk).

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<https://www.finance-ni.gov.uk/publications/civil-service-pensions-ni-privacy-notice>

## Complaints or comments

If you have any complaints or comments about the consultation process, you should contact Department of Finance at the above address.

## 2. Background

- 2.1** 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 Northern Ireland Civil Service (NICS) Pension Scheme active and deferred members, who had previously received transitional protection (i.e., permitted to remain in the Principal Civil Service Pension Scheme (NI), PCSPS(NI), under the pension reforms in 2015), were put into the reformed scheme, alpha, as the first stage of the 2015 Remedy. The legacy scheme (‘PCSPS(NI)’) was also closed to future accrual.
- 2.2** Together, the two stages of the 2015 Remedy will enable the NICS 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 NICS Pension Scheme members affected by the discrimination, the retrospective remedy regulations will:
- a)** return members who were moved to the reformed scheme (alpha) on or after 1 April 2015 back to the PCSPS(NI) 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(NI)) benefits or reformed (alpha) scheme benefits for their remediable service benefits, both to be payable from PCSPS(NI).
- 2.3** 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.
- 2.4** The first part of the retrospective remedy element, rollback, puts all members with alpha service for the remediable service period back into the PCSPS(NI) for the remediable service period. 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 active 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.
- 2.5** The PSPJOA 2022 provides powers for schemes to make regulations for technical pension matters and special cases impacted by the discrimination.
- 2.6** The consultation paper ‘A draft Statutory Rule covering the 2015 Remedy (‘McCloud’): retrospective phase’ invited comments from NICS 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 invited to comment.

- 2.7** 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 Section 75 Equality Screening Exercise carried out by the Department of Finance (DoF) therefore focused on the impact of the proposed changes to the NICS Pension Scheme Regulations necessary to deliver the remediable service remedy. These regulations apply to Northern Ireland and specifically the NICS Pension Schemes. The DoF Equality Screening Template is published with the consultation<sup>5</sup>.
- 2.8** The consultation closed on 2 June 2023 and this report summarises the responses, including how the consultation process will inform the final Scheme Regulations.
- 2.9** The Section 75 Equality Screening Exercise will be kept under review and updated as necessary.
- 2.10** A list of respondent organisations is given in Table 2 of paragraph 4.17 and **Annex A**.
- 2.11** **Annex B** is a glossary of pension terms.

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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>

<sup>5</sup> <https://www.finance-ni.gov.uk/consultations/nics-retrospective-remedy>



## 3. Consultation

- 3.1** Between 3 April 2023 and 2 June 2023, the Department of Finance (DoF) 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.
- 3.2** 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.
- 3.3** The second section is about the provisions contained 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, Civil Service Pensions within DoF, 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.
- 3.4** The final section covered technical matters that are largely dealt with through the PSPJOA 2022, DoF Directions and HMRC Tax Regulations but also require provisions in scheme regulations for completeness.
- 3.5** The purpose of the consultation was to seek views on the fairness and adequacy of the draft proposed Northern Ireland Civil Service (NICS) Pension Scheme Regulations required to implement the retrospective aspects of the 2015 Remedy.

## Stakeholder Engagement

- 3.6** The consultation was promoted as widely as possible. Information and notifications about the consultation were provided in a number of ways:
- Employer/Employee Pension Notices:
    - [EPN 07-2023](#) – Advance Notice - Forthcoming Public consultation on Phase Two of the 2015 Remedy (McCloud)
    - [EPN 09-2023](#) – Public Consultation on Phase Two of the 2015 Remedy (McCloud)
    - [EPN 10-2023](#) – Digital Newsletter 2 - Consultation on NICS Pension Scheme Retrospective Remedy
    - [EPN 11-2023](#) – Reminder of Closing Date – Public Consultation on Phase Two of the 2015 Remedy (McCloud)

- Press Releases through the DoF Press Office
- Stakeholder meetings with the NICS Trade Unions, Pension Board and Scheme Advisory Board about the consultation and the associated remedy policies which allowed stakeholders to seek clarification and ask questions on any of the proposals
- Email notifications to NICS employers, Trade Unions, Equality Representatives and other consultee stakeholders
- Social Media Alerts on Facebook, Instagram, LinkedIn and Twitter
- Use of the Citizen Space platform as an additional route to access the consultation and to make responding easier and more user friendly
- Notification in April and May 2023 pensioner payslips
- An animated [Digital Newsletter](#) about the consultation
- Updated the CSP(NI) website to include an [article page about the consultation](#) and FAQs
- The Civil Service Pensioners' Alliance Northern Ireland Branch (CSPA NI) and Northern Ireland Public Service Alliance (NIPSA) also helped promote the consultation through their website and member communications.

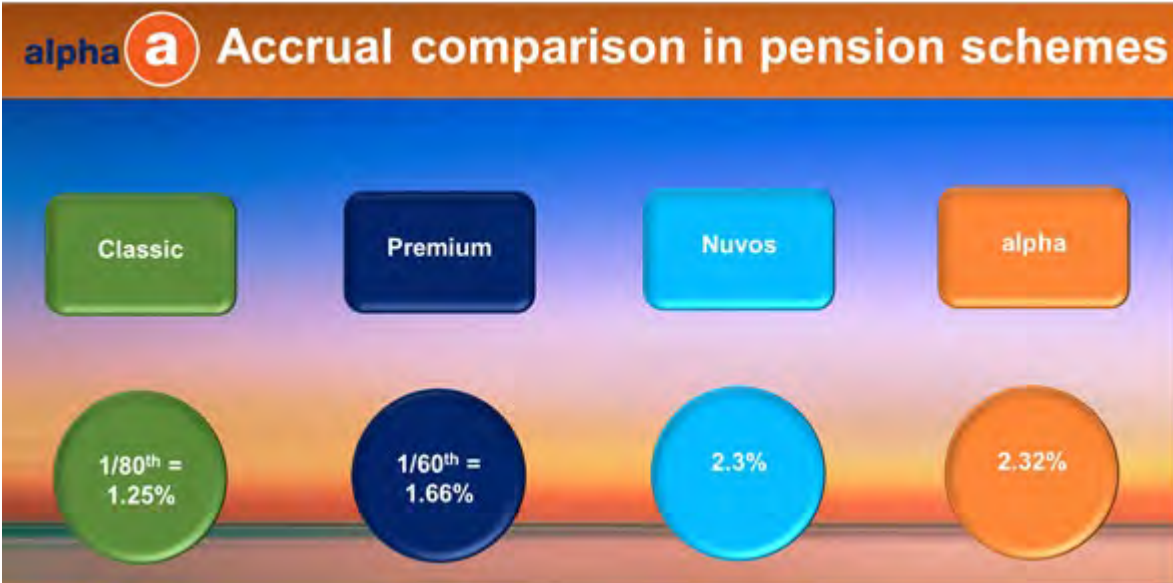
**3.7** The CSPA NI represents almost 5,000 retired Civil Servants and NIPSA has over 40,000 members across civil and public services. Many of these are scheme members affected by the 2015 Remedy. Other Unions engaged during the consultation process include FDA, Prison Officers' Association (POA), GMB and Unite.

**3.8** Stakeholder engagement remains important, and the Department of Finance will continue to engage with member representatives, employer representatives and other relevant stakeholders to support the successful implementation of the pension changes set out in this response document.

## 4. Summary of responses

- 4.1** As part of the consultation, participants were asked to respond to a total of seventeen questions across the three consultation sections (the numbers of and nature of responses to each question are detailed in Table 1 after paragraph 4.17 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 NICS Pension Scheme benefits.
- 4.2** In total 98 responses to the consultation were received, both via the Citizen Space platform and by email and presented in different ways. In many instances, respondents did not provide direct answers to every question asked in the consultation document. Some responses made comments that were linked to the members' personal circumstances and views on the remedy and the introduction of the reformed scheme ('alpha') which were outside the scope of this consultation.
- 4.3** It is clear from the analysis of the consultation responses received that 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 (NI) website, with new content added regularly: <https://www.finance-ni.gov.uk/landing-pages/civil-service-pensions-ni>
- 4.4** The consultation and communications around the 2015 Remedy generated some correspondence from members asking for guidance on their specific circumstances and some emailed in their election choices. These were not considered formal consultation responses and those members received an individual reply. Any requests for information about the 2015 Remedy were signposted to the relevant McCloud Judgment 2015 Remedy pages on the CSP(NI) website.
- 4.5** 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 under the 'contingent decisions' process. 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. Further detail will be available at a later date on the CSP(NI) website.

- 4.6 The Department of Finance has undertaken quantitative and qualitative analysis of the responses, the common themes and views are addressed in this document. A breakdown of the responses received are summarised at paragraph 4.11 below.
- 4.7 Common themes from individual respondents were the desire to remain in the PCSPS(NI) Classic pension arrangement until retirement; lack of understanding or pensions expertise around how the remedy affects members; limited understanding on what the implementation of the remedy will mean for individuals affected; concerns around the remedy timings or that the process is too slow; and unavailability of members' remedy comparison figures. Some elements of the responses, in particular around the closure of legacy schemes, had previously been consulted on by the Department of Finance's Public Service Pensions and these matters have already been agreed.
- 4.8 Although falling outside the remit of this consultation, it is evident from many of the responses received that members continue to view the alpha pension scheme as "inferior" to the PCSPS(NI) scheme, in particular the Classic pension arrangement. The Department previously responded to this perception in the response document to the consultation for the prospective remedy<sup>6</sup>, explaining that in many cases the reformed scheme (alpha) is more generous for members, especially for those with less dynamic salary increases throughout their career. The following illustration provides a comparison of the accrual rates across the NICS Pension Schemes.



- 4.9 Whilst Trade Unions and other representative bodies represent a large proportion of the Civil Service work force and pensioners, the Department recognises that the number of responses received (particularly from individuals) does not necessarily represent the views of all NICS Pension Scheme members affected by the 2015 Remedy.

<sup>6</sup> <https://www.finance-ni.gov.uk/consultations/consultation-nics-pension-scheme-prospective-remedy>

- 4.10** 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 Department did not treat respondents' answers in a binary way (agree or disagree) when forming the final scheme regulations.
- 4.11** Responses came from scheme members, Trade Unions and other organisations which in some way addressed the consultation questions. These consisted of 92 responses from individuals and 6 responses from organisations. Of the responses received, some answered all questions, some a few of the questions and some answered none of the specific questions asked in the consultation document. Whilst some responses did not necessarily address the specific questions posed in the consultation document, all responses have been considered appropriately.
- 4.12** Some of the responses received contained comments and views on matters that fell outside the scope of this consultation on the proposed scheme regulation amendments for the retrospective remedy, such as contribution rates or employment contracts. Some comments were appropriate for a previous consultation by the Department of Finance entitled "Public service pension schemes: changes to the transitional arrangements to the 2015 schemes" which has been concluded. It closed on 18 November 2020 and the Department's response to this consultation<sup>7</sup> published on 25 February 2021.
- 4.13** Other comments received related to the 2016 Scheme Valuation and Cost Control. The relevant consultation in relation to this was the Public Service Pensions (Valuations & Employer Cost Cap) (Amendment) Directions (NI) 2021 consultation which closed on 14 June 2021 and the associated Department of Finance's response to this consultation<sup>8</sup> was published on 22 November 2021. Comments regarding the 2020 Scheme Valuation, whilst noted, fall outside the scope of this specific consultation.
- 4.14** A few responses to the previous consultation on the prospective remedy (moving remaining scheme members to alpha from 1 April 2022 and the closure of the legacy scheme to future accrual) around Effective Pension Age (EPA) and partial retirement were more appropriate to this consultation. This relevant feedback has also been reviewed and clarity has been provided in this response document.
- 4.15** The number of responses received in respect of each consultation question is set out below in Table 1 after paragraph 4.17, with Table 2 showing the response method used by respondents. A breakdown of the category of pension scheme members that responded as individuals is provided at paragraph 4.18.
- 4.16** It should be noted that the responses submitted via the Citizen Space platform were required to choose between "Yes", "No" or "N/A" to each question. Some of the N/A responses made no comment while others commented that they didn't understand, didn't have the relevant expertise, or didn't know or were unable to

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<sup>7</sup> <https://www.finance-ni.gov.uk/publications/response-consultation-proposed-changes-transitional-arrangements-2015-schemes>

<sup>8</sup> <https://www.finance-ni.gov.uk/publications/public-service-pensions-valuations-and-employer-cost-cap-amendment-directions-northern-ireland-2021-0>

say. Those that submitted a general response by e-mail rather than responding to each individual question were also recorded as N/A under each of the questions for analysis purposes. However, the feedback received has been considered and will be addressed in this consultation response. For the forementioned reasons, the N/A responses are not included in the No. of responses column in the analysis Table 1 below.

**4.17** Common comments, suggestions or concerns received in response to this consultation are detailed and responded to in the next section (Further analysis of consultation responses and Department of Finance responses).

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

<b>Question</b>	<b>No. of responses</b>	<b>What was the nature of the responses?</b>
<p><b>Question 1: Rollback</b> Do you agree that the consequences of the ‘rollback’ provisions of the Public Service Pensions and Judicial Offices Act 2022, (treating in-scope alpha pension scheme members as if they had never left the PCSPS(NI) legacy schemes for the remedy period 1 April 2015 to 31 March 2022) are being effectively managed as set out in the consultation document and associated regulations?</p>	<b>83</b>	<p><b>63</b> – Yes <b>20</b> – No (<b>15</b> – N/A) <b>35</b> commented</p>
<p><b>Question 2: Immediate Choice (IC) decision for alpha or PCSPS(NI) benefits</b> Are there any other areas which you think should be addressed in these regulations in order to ensure that from 1 October 2023, all eligible members whose benefit entitlement has already arisen, including members who have received benefits or died within the remedy period, receive a choice of pension benefits for the period for which the discrimination existed (1 April 2015 to 31 March 2022)?</p>	<b>77</b>	<p><b>39</b> – Yes <b>38</b> – No (<b>21</b> – N/A) <b>36</b> commented</p>
<p><b>Question 3: Deferred Choice Underpin (DCU)</b> Do you agree that the draft regulations will put in place deferred choice provisions to allow members to make an informed choice of the benefits they wish to receive at retirement or when benefits are brought into payment?</p>	<b>84</b>	<p><b>70</b> – Yes <b>14</b> – No (<b>14</b> – N/A) <b>32</b> commented</p>
<p><b>Question 4: Opted Out Service Elections</b> Do you agree that the treatment of a person's opted-out service in the remedy period and provisions to reinstate the opted-out service so it can be treated as remediable service are fair?</p>	<b>71</b>	<p><b>54</b> – Yes <b>17</b> – No (<b>27</b> – N/A) <b>28</b> commented</p>
<p><b>Question 5: Remediable Service Statements (RSS)</b> Do you think the policy proposals in relation to scheme members receiving an RSS achieves what is in Section</p>	<b>55</b>	<p><b>46</b> – Yes <b>9</b> – No</p>

Question	No. of responses	What was the nature of the responses?
29 of the Public Service Pensions and Judicial Offices Act 2022 and Direction 20 of the Department of Finance Directions?		(43 – N/A) 20 commented
<b>Question 6: Election Timings</b> Do you think the policy proposals around the timings of when a scheme member can request a Remedial Service Statement (RSS) and/or make their Immediate or Deferred Choice election are fair and reasonable?	79	51 – Yes 28 – No (19 – N/A) 38 commented
<b>Question 7: Eligible Decision-maker</b> Do you think that the amendments to scheme regulations achieve the policy intention of ensuring that the appropriate member representative can make an immediate choice or proposed deferred choice in relation to the remediable service of a deceased member?	67	54 – Yes 13 – No (31 – N/A) 21 commented
<b>Question 8: Other Special Cases</b> The policy proposals and draft regulations make provisions for special arrangements around death benefit nominations, the protection of pensions payable to an eligible child and aggregation of previous service. Can you think of any other “special cases” that should be provided for?	75	10 – Yes 65 – No (23 – N/A) 16 commented
<b>Question 9: Divorce and Dissolution Arrangements</b> Do you think the policy proposals in relation to the calculation/recalculation of CETV figures to be used with pension sharing orders members achieve an outcome that recognises the impact of remedy on such calculations?	52	37 – Yes 15 – No (46 – N/A) 22 commented
<b>Question 10: Added Pension/Added Years/ Effective Pension Age</b> Do you think the policy proposals in relation to scheme members who purchased added pension, added years or effective pension age allows for the adjustment of these purchased benefits as if the discrimination had not happened?	58	38 – Yes 20 – No (40 – N/A) 25 commented
<b>Question 11: Transfers</b> Do you believe the proposals around transfers achieves the policy intention of preserving transfer rights?	58	43 – Yes 15 – No (40 – N/A) 17 commented
<b>Question 12: Ill-Health Retirement</b> Do you think the proposed arrangements for members that qualified or did not qualify for ill-health retirement	53	30 – Yes 23 – No

<b>Question</b>	<b>No. of responses</b>	<b>What was the nature of the responses?</b>
during the remedy period (1 April 2015 to 31 March 2022) may cause any adverse impacts?		(45 – N/A) 17 commented
<b>Question 13: Interest</b> Do you consider that the policy and draft regulations are in line with the calculation of interest and interest rates to use as set in Chapter 4 of the Department of Finance Directions and in accordance with section 26 of the Public Service Pensions and Judicial Offices Act 2022?	<b>53</b>	36 – Yes 17 – No (45 – N/A) 20 commented
<b>Question 14: General – Policies</b> Do you agree that these policy arrangements are fair and will meet the policy intent to end the discrimination identified?	<b>80</b>	54 – Yes 26 – No (18 – N/A) 33 commented
<b>Question 15: General: Regulations</b> Are the draft regulations sufficient for the purposes of implementing the remediable service remedy?	<b>70</b>	54 – Yes 16 – No (28 – N/A) 20 commented
<b>Question 16: General: Equality</b> Do you have any concerns that the proposals could result in individual groups being disproportionately affected by the proposals? Any comments should be made after reading the accompanying Section 75 policy screening document?	<b>73</b>	29 – Yes 44 – No (25 – N/A) 20 commented
<b>Question 17: Additional Comments</b> Are there any additional points not covered in this consultation paper that need to be considered as part of the McCloud Remedy policies or associated scheme regulations?	<b>98</b>	39 – Yes 59 – No (0 – N/A) 40 commented

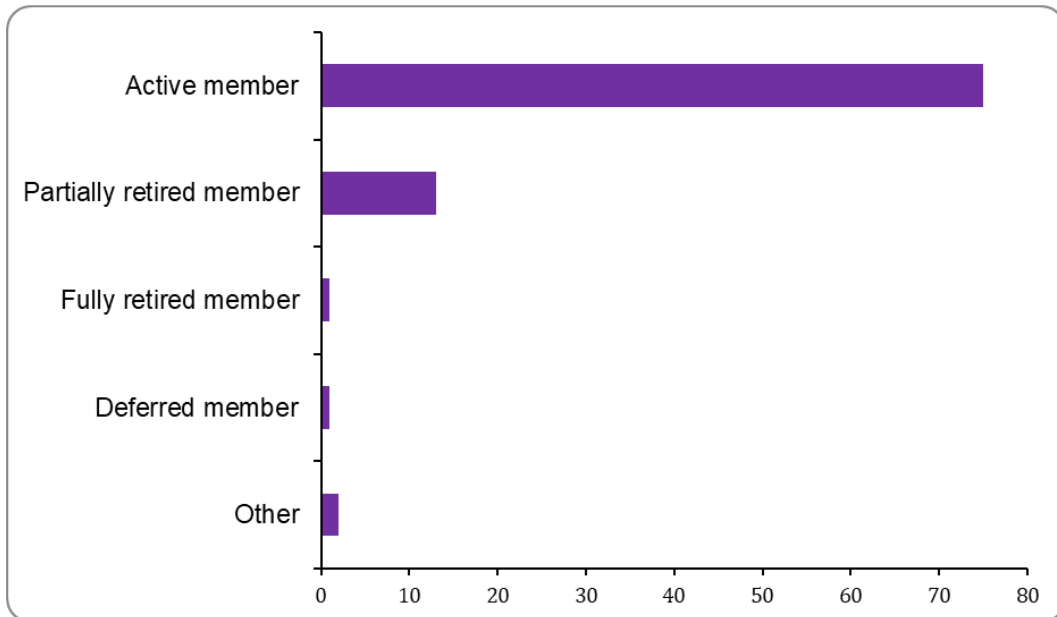
**Table 2: source and response method**

<b>Response From</b>	<b>Response Method</b>	<b>Total Received</b>
Individuals	Citizen Space	80
Individuals	Email	12
<b>Unions and other representative bodies:</b> NIPSA POA	All by email	6



Response From	Response Method	Total Received
FDA CSPA NI Community Trade Union Scheme Advisory Board		
<b>Total</b>		<b>98</b>

**4.18** In responding to the consultation, individuals were asked to categorise their interest and the results are given below.



NICS Pension Scheme Respondent Category	Number	Percent
Active member	75	81.52%
Partially retired member	13	14.13%
Fully retired member	1	1.09%
Opted out member	0	0.00%
Survivor/beneficiary	0	0.00%
Deferred member	1	1.09%
Member of another public service pension scheme	0	0.00%
Other	2	2.17%
<b>Total</b>	<b>92</b>	<b>100%</b>

**4.19** 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.

**4.20** Many of the responses received demonstrated a lack of understanding or sought clarity on future processes, 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(NI)') 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(NI)') for the seven-year remedy period
- Eligible members<sup>9</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.

**4.21** In recognition of the interest generated about communications and engagement, Civil Service Pensions has provided some high-level information about future communications and engagement. The CSP(NI) website will continue to be the main source of information for members. The existing engagement channels, such as Employee Pension Notices and Newsletters, will also provide awareness and information throughout the 2015 Remedy process.

**4.22** There were concerns around the process for issuing a Remediable Service Statement ('RSS'), which aren't relevant for inclusion in the regulations, but are addressed below:

- Civil Service Pensions 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 CSP(NI) website
- Immediate choice RSS will be issued to members as soon as is reasonably practicable. The distribution will be staged and in line with the legislative timelines
- RSS for active members will be issued via the online portal, alternative formats may be requested.
- Members will have a choice about how they return their option either by post or email.

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<sup>9</sup> Eligibility defined by the PSPJOA 2022 <https://www.legislation.gov.uk/ukpga/2022/7/section/1>

- Inclusion of a reminder or prompt stage in the process for members who delay in submitting their immediate choice decision is under consideration.

# 5. Further analysis of responses received and Department of Finance responses

Proposal: retrospective changes to remove discrimination (questions 1-17)

## Question 1 (Rollback):

Do you agree that the consequences of the 'rollback' provisions of the Public Service Pensions and Judicial Offices Act 2022, (treating in-scope alpha pension scheme members as if they had never left the PCSPS(NI) legacy schemes for the remedy period 1 April 2015 to 31 March 2022) are being effectively managed as set out in the consultation document and associated regulations?

- 5.1 In total 83 responded directly to this question of which 63 were wholly positive (yes) responses with 17 comments received from individuals such as “believe a wrong may be righted by this proposal”, “it is clearly outlined in both the Consultation Document and in the draft Regulations”, “Yes fairer in the circumstances that new pension system in place for everyone from April 2022” and “I would like to think that all persons will be put back financially in the position they would have been before the change over to the new scheme”.
- 5.2 NIPSA, FDA and POA Trade Unions all submitted similar and positive feedback on the effective management of the consequences of the rollback provisions. NIPSA responded to the question posed as follows:

### NIPSA response to Question 1:

**Question 1: Rollback**  
NIPSA welcomes the decision to move all DCU and IC cases to legacy as a means of easier administration and also meaning that where a scheme member chooses legacy for the period from April 2015 to March 2022, there will be no change needed. This will also be the default position if a scheme member fails to reply and so will again, help with administration.

- 5.3 20 respondents answered no to this question and of these, 13 made comment. The main common themes from these comments were that the remedy implementation is “too slow”, that there are no comparison statements or quotes available yet, and “the changes in the benefits / disadvantages have not been clearly set out or explained in simple terms”. Some other comments received from individuals such as “in scope members will only get the remedy for seven years” or around NICS pay increases all fall outside the scope of this question and the wider consultation exercise.
- 5.4 Community Trade Union comments that “the process and detail for members who have to make a decision are still vague and unclear” and “this could lead to inconsistencies and challenges during implementation” have been noted.

## Department of Finance Response to Feedback on Question 1

- 5.5** The Public Service Pensions and Judicial Offices Act 2022 ('PSPJOA 2022') sets out the framework for how schemes must carry out the remedy for their members. This consultation is part of the process to put in place the scheme regulations to give the scheme manager the power to put right the discrimination identified. The scheme regulations will allow Civil Service Pensions, as scheme administrator, to start offering 'remedy' options for all in-scope members, as soon as is reasonably practicable after 1 October 2023.
- 5.6** This is a sizeable task for all Public Service Pension Schemes who introduced reformed schemes on or after 1 April 2015. For Northern Ireland Civil Service Pensions, there are approximately 40,000 members in scope of the remedy.
- 5.7** Therefore, it has taken many months of planning and work to develop the policy proposals and associated draft regulations as well as the systems needed to carry out this remedy work. Time was needed to ensure the remedy covers all identified aspects of members' pension benefits and rights that may be affected by the discrimination and remedy process.
- 5.8** It is acknowledged, through the feedback received, that further communications and information around timings for the implementation and delivery of the 2015 Remedy, what members can expect to receive and when, is required. Civil Service Pensions are committed to supporting members through this remedy process and are working hard to make further information and resources available on the CSP(NI) website as well as continuing to develop further bitesize videos, newsletters and employee pension notices as the retrospective remedy moves into implementation phase. Affected members can be assured they will receive correspondence from CSP when it is time for any action to be taken along with information and calculations specifically tailored to take account of their circumstances. We have provided more information about Remediable Service Statements (RSS) in paragraph 4.22 above.

**Question 2 (Immediate Choice (IC) decision for alpha or PCSPS(NI) benefits):**

Are there any other areas which you think should be addressed in these regulations in order to ensure that from 1 October 2023, all eligible members whose benefit entitlement has already arisen, including members who have received benefits or died within the remedy period, receive a choice of pension benefits for the period for which the discrimination existed (1 April 2015 to 31 March 2022)?

**5.9** In total 77 responded directly to this question of which 39 answered yes that other areas needed addressing and of those, 28 provided comments as to why. Several individuals repeated views such as “alpha pension is a lesser benefit based pension”, “No-one should be forced to move to the new Alpha Scheme.”, “I should have continued in a classic scheme” and “Put everyone back into Classic” and “The remedy period should be extended to the members retirement date”; all of which fall outside the specified scope of this consultation and relate to a policy position that has already been agreed. Some respondents reiterated that they felt the whole process is too slow which we have commented on under Question 1 above. Other individuals commented or raised queries on the following topics so further clarity will be provided on these areas in the next section of this response document:

- Abatement
- Partial Retirement
- Partnership
- Taper members
- Belief that alpha contributions are higher than PCSPS(NI) contributions.

**5.10** NIPSA, FDA and POA Trade Unions submitted uniform feedback to question 2 on the Immediate Choice. FDA responded to the question posed as follows:

**FDA response to Question 2:**

**Question 2: Immediate Choice decision (IC)**  
FDA remains concerned that the volume of work required to action IC will still mean significant delays for scheme members and that the final date of 31 March 2025 may be too close to ensure all IC cases, and future applications for benefits can be administered. We agree that priorities need to be decided upon and that ill-health retirements should be a priority. We believe a timeline should be produced and shared with scheme members setting out indicative dates showing when the various groups of IC members will be administered.

**5.11** Of the 38 respondents who answered “no” to this question and therefore did not identify any other areas that needed to be addressed under the Immediate Choice, 4 comments received included “I think it’s being addressed” and “the remedy proposed is acceptable, provided it takes account of all intervening pay rises, scale progression etc. in calculating the balance owed to most members.”

- 5.12** The 4 respondents that did not provide a direct “yes” or “no” answer all commented along the lines that they didn’t have sufficient pertinent information or expert knowledge in order to offer an informed opinion or they didn’t know enough about the remedy.

## **Department of Finance Response to Feedback on Question 2**

- 5.13** The Department of Finance appreciates that pensions can be complex and that the 2015 Remedy could add an additional layer of complexity around the decisions and choices affected members need to consider to ensure they attain the best level of pension benefits for them. We recognise the importance of providing clear information around the available benefits so that members can make an informed decision when the time comes.
- 5.14** We will continue to engage with Trade Unions, through the Pensions Forum, about their concerns around the volume of work required and timely delivery of Immediate Choices. Updates on progress will be provided as and when required. We agree that a timeline setting out indicative dates showing when the various groups of IC members will be administered would be beneficial for members. We will take steps to develop and publish more detailed information and timelines on when we expect to be in a position to undertake the various remedy actions.
- 5.15** The topics raised and listed under paragraph 5.9 are covered either under the Department’s response to the relevant consultation question or in the next section (Further information and clarification around the retrospective changes to remove discrimination).

### Question 3 (Deferred Choice Underpin (DCU)):

Do you agree that the draft regulations will put in place deferred choice provisions to allow members to make an informed choice of the benefits they wish to receive at retirement or when benefits are brought into payment?

- 5.16** In total 84 responded directly to this question, of which 70 were wholly positive (yes) responses, and 17 of these also commented why. The comments provided were along the lines that they considered the DCU proposals were “fair”, “clear and transparent” and “seem to address the issues”.
- 5.17** NIPSA, FDA and POA Trade Unions submitted almost identical feedback to question 3 on the Deferred Choice Underpin (DCU). POA responded to the question posed as follows:

#### POA response to Question 3:

##### **Question 3: Deferred Choice Underpin**

We welcome the DCU and had argued for this previously. We remain concerned that scheme members who have not accessed their benefits – active or deferred – have sufficient information in the RSS to keep them informed about their entitlements. We will cover this below but RSSs must be sufficient detailed and easily understood so as to ensure that active and deferred members are informed about the remedy period and its impact on them.

- 5.18** While Community Trade Union commented:

#### Community Trade Union response to Question 3:

The proposed time period for a member to make a decision following receipt of an RSS seems sensible and allows enough time for a member to seek any advice necessary before making their election. However, there are caveats to the union support of this proposal, which are outlined below:

Allowing only one request in a 12-month period does not fairly allow for changes in circumstance.

The process of a time period should begin on receipt of acknowledgement of the correspondence. When none is gained every effort should be made before a final warning issued about beginning a time limit.

In 5.7 of the consultation document, it says that a member has to make a deferred choice within 3 months of getting their Remediable Service Statement and choice package. But, in 5.12 (“Changing a choice”), it talks about “at any time before the benefits for their remediable service are due,” which seems to go against the time limits given in 5.7.

The union are very worried about the suggestion in to let scheme managers decide for members in some situations. There is a clear case that such a decision could be, or maybe is likely to be, potentially harmful to the member, without the scheme manager being able to consider the member’s personal financial situation. Therefore, reassurance is needed that this process will be done consistently and fairly.

The union wonder if too much risk is added by asking the scheme manager to take on a fiduciary duty to act in the best interests of the member, and face the



possible legal outcomes related to that duty. Also, is there a possibility that the policy position as suggested could maybe amount to the scheme manager giving financial advice to the member or their representative.

Based on the comments above, the union again propose that an independent group (such as a third-party trustee group) are involved to give suggestions to scheme managers on cases needing a discretionary decision. Recognising that such decisions will have to be made on a case by case basis, still this approach would also benefit from centralised guidance.

In cases where a member does not reply, there is also a question about how thorough the process should be in getting in touch with the member, and what the process should be in order to decide for sure that a member has been given every chance to reply. Also, it is not clear what advantage there is for a scheme manager to decide for the member representative of a dead member, as the benefits cannot be paid without the scheme manager getting the relevant bank details.

- 5.19** Of the 14 respondents that disagreed, 11 supported their views by commenting why. 4 of the 11 comments received were around lack of understanding or need to use plain English, while a further 2 commented that they would like sight of their options or pension entitlements earlier. One individual commented “if people paid more into their pensions as a result, they should be refunded all that extra money as a matter of urgency”. The remaining 4 comments (of the 11 comments) were outside the scope of this consultation exercise which included; want to remain in Classic, want alpha pension age changed to 60, raised issues around lack of meaningful salary increases and that similar should be applied to the Ministerial scheme.
- 5.20** 4 of the 14 respondents who did not answer “yes” or “no” to this question made comments such as they “neither agree or disagree”, “were unaware”, “haven’t yet seen (or been notified) how NI Civil Service Pensions intends to present this” or “who can tell?”.

### Department of Finance Response to Feedback on Question 3

- 5.21** The Department is pleased that the vast majority of respondents agree that the draft regulations will put in place deferred choice provisions to allow members to make an informed choice of the benefits they wish to receive at retirement or when benefits are brought into payment.
- 5.22** Some further guidance and detail are provided in the next section and additional information will be produced and made available over the coming months around the processes and timelines that should allay most, if not all, of the concerns raised.

## Question 4 (Opted-Out Service Elections):

Do you agree that the treatment of a person's opted-out service in the remedy period and provisions to reinstate the opted-out service so it can be treated as remediable service are fair?

**5.23** In total 71 responded directly to this question, of which the majority (54) were wholly positive (yes) responses, 9 of whom submitted comments such as “this is clearly outlined in the provisions of the draft regulations”, “On the whole, yes. However, it does not adequately cover how backdating membership of the Partnership scheme would work.” and “Yes fairer as people may have made decision due to the pension changes made at that time.”

**5.24** NIPSA, FDA and POA Trade Unions submitted almost identical feedback to question 4 on the treatment of opted-out service. POA responded to the question posed as follows:

### POA response to Question 4:

#### **Question 4: Opted Out Service Elections**

We welcome the option for members to opt in where they had previously opted out as a result of the 2015 changes. We understand that contributions must be paid to cover this period but remain concerned that some members may find this unaffordable due to the amount of money needed to cover up to a 7-year period. Repayment of contributions needed must be as flexible as possible and members must be given all opportunities to pay additional contributions. As they have suffered discrimination and been adversely impacted, they should not now miss out because a repayment plan was unaffordable for them. Some prison officers were opted out of the scheme because the department refused to take their contribution because they had reached maximum pension.

**5.25** While Community Trade Union was among the 17 who answered “No” to this question commenting:

### Community Trade Union response to Question 4:

No. Considering the likely very small number of people this pertains to and that they likely left the scheme because of fears of reforms they should be allowed to return if they so wish. Furthermore adding a burden of proof on a member to prove their decision from several years ago is entirely unfair and unreasonable. Additionally the decision maker being the scheme manager creates inherent bias in the decision making process.

**5.26** Of the other 16, (excluding Community Trade Union above), respondents who answered “no” to this question, the majority of the 11 comments as to why indicate that there is misunderstanding around what constitutes opting out of the pension scheme. Most took the view that members were “opted out” of the PCSPS(NI) when they moved to the alpha pension scheme or were forced to opt out while others highlighted that the language was too technical.

**5.27** Of the 27 respondents that did not submit a direct yes or no answer, 7 added the following comments:

I don't know what some of these statements actually mean
how would I be able to tell?
not enough personal knowledge to comment
I am unsure of what effect this has
I cannot comment on opted-out service, I chose not to opt-out so therefore can only speak for myself.
Don't know

## Department of Finance Response to Feedback on Question 4

**5.28** The Department notes the majority of respondents agree that the treatment of a person's opted-out service in the remedy period and provisions to reinstate the opted-out service so it can be treated as remediable service are fair. However, it recognises, from the feedback provided, that it needs to work harder to ensure members have a better understanding of this and other pension-related information and terminology.

**5.29** For clarification, a member of the NICS Pension Schemes may choose to opt out of their pension scheme (leave) for one or more of a variety of reasons such as;

- I don't want to pay a percentage of my pay towards a pension;
- It's too early or late in my career to think about a pension;
- I'm too young to think about a pension;
- I'm not planning to stay long in employment covered by the NICS pension schemes;
- I have other financial priorities and/or can't afford to contribute to a pension right now;
- I am concerned that there may be tax and annual allowance or lifetime allowance limit implications.

**5.30** An employer or Civil Service Pensions cannot ask or force a member to opt out of a pension scheme. On the contrary, members are reminded that if they choose to opt out of their NICS Pension Scheme, they will miss out on a range of valuable benefits for themselves and their family. An NICS pension is an important part of the total reward package (employers pay a significant pension contribution on behalf of members) and it also gives members' peace of mind knowing that they are planning for retirement.

**5.31** Provisions to reinstate opted-out service are specifically covered by the PSPJOA 2022 and will therefore, also be included in the new scheme regulations. These will follow an individual application process and allow for consideration on a case-by-case basis.

- 5.32** The provision to allow members the opportunity to have remedy period opted-out service reinstated generated some interest. Therefore, we have anticipated some further 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.
- 5.33** 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 Civil Service Pensions 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.
- 5.34** 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.
- 5.35** As highlighted below in the conclusion and next steps section of this response, Civil Service Pensions 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.
- 5.36** The application of interest has been covered later 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.

- 5.37** 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.
- 5.38** 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 CSP(NI) 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.

## Question 5 (Remediable Service Statements (RSS)):

Do you think the policy proposals in relation to scheme members receiving an RSS achieves what is in Section 29 of the Public Service Pensions and Judicial Offices Act 2022 and Direction 20 of the Department of Finance Directions?

- 5.39** In total 55 responded directly to this question of which 46 considered that the RSS policy proposals achieve the requirements set out in the PSPJOA 2022 and DoF Directions. 7 of the 46 provided comments with one individual requesting that the RSS contains details of impact on W&D calculations.
- 5.40** NIPSA, FDA and POA Trade Unions submitted identical feedback to question 5 around the provision of RSSs. NIPSA responded to the question posed as follows:

### NIPSA response to Question 5:

#### **Question 5: Remediable Service Statements**

The provision of clear and comprehensible information contained in the Remediable Service Statements, on which members can then make decisions without further need for clarification, is of particular importance. We appreciate that this is a complex process and will impact on members in different ways. However, the RSS, whether for IC or DCU, must provide all the necessary information but be easily enough understood that scheme members can understand their own circumstances and options and make informed decisions on those options. Jargon must be avoided at all costs and we would suggest that once RSSs have been drafted, they are tested on groups outside of Pensions to ensure they can be understood before being issued to scheme members. We believe that members should have the option for online or postal RSSs also.

- 5.41** 9 respondents answered “No”, while 43 felt unable to answer yes or no to this question with 13 providing comments. The majority of these comments (11) indicated that they didn’t understand, or the language was too technical.
- 5.42** The Community Trade Union commented:

### Community Trade Union response to Question 5:

The union are unhappy that despite talks about the RSS between stakeholders and Home Office officials, there has been little clearness as to the exact content of the RSS itself. While the union thought that the Public Sector Pensions and Judicial Offices Act 2022 (PSPJOA) gave powers to individual public sector pension schemes to design the requirements of their RSS specially, this has not been true in reality. It is a matter of worry that even though the Position Definition Document (PDD) and His Majesty’s Treasury (HMT) directions say what should be in the RSS, the detail has not been made into regulations. Therefore, the position is not set and could be changed at any time without more legislative process. In addressing the requirements for Immediate Choice (IC) members receiving their RSS, the consultation advises

that calculations requiring the use of factors should refer to the factors in place at the original date of retirement. The union consider this a sensible and fair approach, however the consultation goes on to state that the RSS will need to include information about when a benefit would become payable. It would be useful to receive a response from government which clarifies exactly what cohort of IC members this approach is intended to apply to. As the benefit is already in payment, does this approach refer solely to members who were previously given full transitional protection and will be given the choice to elect for reformed scheme benefits? If this is the case, the RSS will need to clearly explain the impact and effect of the reformed scheme benefits becoming deferred, should the member make an election to that effect.

## Department of Finance Response to Feedback on Question 5

- 5.43** The Department appreciates that the PSPJO Act and DoF Directions are technical in nature so acknowledges that some respondents may have felt unable to answer the question posed.
- 5.44** Further information about the RSS can be found in paragraph 4.22 above and the CSP(NI) website will also be further developed to include more information about an RSS and what it will contain.
- 5.45** The proposed scheme regulations set out that the scheme will, by the relevant date, provide an RSS to members with remediable service in accordance with section 29 of the PSPJOA 2022 and the DoF Directions made under section 29(6) of that Act and that all active members will receive an RSS a least once each year. The Department does not share the view that scheme regulations need to carry the detail of the content of RSS as this is already legislated for under the PSPJO Act and DoF Directions which are subject to legislative process.
- 5.46** The RSS will contain all the relevant information about the benefits available for the remediable service in both the PCSPS(NI) and alpha so that members can compare and note the differences between the two schemes. The RSS will be designed to enable members to make an informed choice of which set of scheme benefits are best for them or, if still in scheme employment, to help plan for future retirement.
- 5.47** The content of an RSS will vary depending on each member's specific circumstances and will take into account aspects such as contributions to the Widow(er)s' Pension Scheme (WPS) and any associated applicable refunds due under the Classic arrangement. It will be made 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.
- 5.48** When RSS prototypes are available, Civil Service Pensions will seek feedback from sources outside of Pensions. Also, as indicated in the consultation document, RSSs will be made available electronically via the on-line portal or email. Alternative formats may be requested.

## Question 6 (Election Timings):

Do you think the policy proposals around the timings of when a scheme member can request a Remedial Service Statement (RSS) and/or make their Immediate or Deferred Choice election are fair and reasonable?

- 5.49** In total 79 responded directly to this question of which the majority, 51, considered the proposed RSS and choice timings were fair and reasonable. 10 of these respondents commented along the lines that yes, the proposals were fair and reasonable with one individual commenting that the sooner that these provisions are put in place the better for affected members.
- 5.50** NIPSA, FDA and POA Trade Unions submitted identical feedback to question 6 FDA responded to the question posed as follows:

### FDA response to Question 6:

#### **Question 6: Election Timing**

FDA welcomes the 12-month window for decisions once the RSS is issued and also agrees that all efforts should be made to encourage scheme members to take the necessary time but try and get responses back within 3 months. We believe that communications to IC members 2-weeks before RSSs issue could also help prepare the way and encourage members to decide on their Choice within the 3-month preferred timeframe. We also believe that regular reminders will be needed and that CSP should make efforts to chase up those IC members that do not reply within the first 4 months.

We do remain concerned about the 3-month limit for DCU members when making applications for their benefits. While this has extended from the current two months, three months will challenge members when they need figures, will be seeking advice, engaging family, speaking with their employer, etc before making their decision. We accept the need for as up-to-date information as possible to inform decision-making but believe this period should be extended to 4 months.

- 5.51** 28 respondents answered “No”, with 22 comments received as to why, while 19 did not answer yes or no to this question, with 6 providing comments.
- 5.52** Of the 28 comments received to the “No” or not answered (N/A) categories, 5 commented that the timescales were too short, while 3 considered more time would be required. 9 respondents commented that they didn’t know, couldn’t understand or the proposals were unclear. Of the remaining 11 comments, 6 related to matters outside the remit of this consultation such as the closure of the PCSPS(NI) and pay offers, while others suggested that RSS should be made available at any stage on request or included with the annual pension statement. 2 individuals had opposing opinions on when a partially retired member should be able to make their remedy choice, one considered it should be an immediate choice while the other considered they should be able to defer their remedy choice until final retirement.



**5.53** Community Trade Union answered “No” to the question posed and commented:

**Community Trade Union response to Question 6:**

No. As stated previously allowing only one request in a 12-month period does not fairly allow for changes in circumstance. The process of a time period should begin on receipt of acknowledgement of the correspondence. When none is gained every effort should be made before a final warning issued about beginning a time limit. We have received multiple queries about election timings and the consultation is clearly not adequately explaining to members what timings are going to be implemented. This needs to be set out in plain language and relayed to members as a matter of urgency.

**Department of Finance Response to Feedback on Question 6**

**5.54** The Department of Finance acknowledges that further clarity around the process and timing of remedy activity is very important to members. The election period, deadline for making an election and how the election is to be made, will be clearly set out in the documentation provided to members. A Remedy Illustrator will also be made available on the CSP(NI) website so that affected members can receive an indication of the remediable service benefits they may receive. Active members will also receive details of their remedy benefits annually in line with the current Annual Benefit Statement exercise. When RSS documentation is issued for those members who are required to make their remedy choice (election), CSP will support members through the process and issue reminders or prompts when necessary to ensure members do not miss any legislative deadlines.

**Question 7 (Eligible Decision-maker):**

Do you think that the amendments to scheme regulations achieve the policy intention of ensuring that the appropriate member representative can make an immediate choice or proposed deferred choice in relation to the remediable service of a deceased member?

**5.55** In total 67 responded directly to this question of which the majority, 54, responded positively that they considered the proposals would ensure that the appropriate member representative would be able to make a choice in relation to the remediable service of a deceased member. 8 of the 54 commented recommending that allowance should be made for representatives needing to seek financial advice on this, that plain language is used and noting that everyone’s circumstances are different.

**5.56** NIPSA, FDA and POA Trade Unions all welcomed the options available and provided similar commentary in response to question 7. The POA response was as follows:

**POA response to Question 7:**

**Question 7: Eligible Decision-Maker**  
POA welcomes the options available and believe the proposals strike the right balance between the scheme member, their representative and the need for the scheme manager to make decisions where a choice has not been made. However, we would expect that the decision by the scheme manager would only be after extensive efforts to engage the decision-maker had been taken.

**5.57** 13 respondents answered “No” with 8 comments received as to why, while 31 did not answer yes or no to this question with 5 of these providing comments. Of the total of 13 comments received from the “No” or “N/A” responses, 7 replied along the lines of that they “can’t tell”, “unsure of what the above means” or “not sure”. 2 disagreed with the remedy policy in its entirety with comments around loss of “original employment conditions” and “the whole scheme is to minimise cost at staff expense”. One individual commented, “it will be a lot more stressful for our next of kin to resolve”.

**5.58** Community Trade Union raised their concern and commented as follows:

**Community Trade Union response to Question 7:**

The union is worried about the power given to the scheme manager to make decisions and believe that it could result in many Internal Dispute Resolution Procedures. We are not clear on what benefit there is for a scheme manager to make a decision on behalf of a member representative of a deceased member without the relevant details.

## Department of Finance Response to Feedback on Question 7

- 5.59** The Department is pleased that the majority of respondents are content that the amendments to scheme regulations achieve the policy intention of ensuring that the appropriate member representative can make an immediate choice or proposed deferred choice in relation to the remediable service of a deceased member.
- 5.60** As outlined in the consultation document, the member, or the person making an immediate choice election on behalf of a deceased member, must make their immediate choice within a year (12 months) of an RSS being provided to them. Where no election is made, and the scheme has not deemed an election to be made the default position is to continue to pay the benefits that are already in payment. Therefore, for non-tapered protection members, the benefits drawn at retirement will remain in payment in the event of sustained non-response to the immediate choice exercise. In the event of sustained non-response to the immediate choice exercise, tapered-protection members will receive the benefits which represent the highest objective value, which will be calculated in accordance with the guidance provided by the Government Actuaries Department (GAD).
- 5.61** Furthermore, the consultation document gave details about the circumstances when the scheme manager may be considered as the eligible decision-maker in certain beneficiary cases.
- 5.62** 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.
- 5.63** 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.
- 5.64** 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 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.
- 5.65** 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. 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.

- 5.66** Should matters arise, such as a beneficiary claiming they have been unfairly disadvantaged as a result of the decision of another beneficiary, the existing scheme complaints process can be used. Full details of the complaints procedures can be found on say the CSP(NI) website<sup>10</sup>.

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<sup>10</sup> <https://www.finance-ni.gov.uk/articles/civil-service-pension-ni-complaints-and-appeals-procedures>

## Question 8 (Other Special Cases):

The policy proposals and draft regulations make provisions for special arrangements around death benefit nominations, the protection of pensions payable to an eligible child and aggregation of previous service. Can you think of any other “special cases” that should be provided for?

**5.67** In total 75 responded directly to this question of which only 10 responded yes, that they considered there were other “special cases” that should be provided for, while only 6 of the 10 provided comments to support this view. 2 of the 6 comments received related to the move from Classic to alpha and treatment of casual service which are both outside the scope of this consultation. The remaining 4 comments suggested inclusion in the remedy for:

- Refunds of Widow(er)s' Pension Scheme (WPS) contributions to those who remained unmarried when leaving and on election of Classic for the remedy period;
- Ability to nominate a child to receive death benefits;
- Consideration of legal power of attorney/Office of Care and Protection for a living member, to be an eligible decision maker; and
- Widows should receive any additional benefits for the period of discrimination.

**5.68** The majority, 65, responded that they could not think of any other “special cases” that needed to be provided for and a further 23 respondents did not answer this question directly. 10 additional comments were received from these groups of respondents to reaffirm that they could not think of any other cases while one individual suggested, “The proposed special arrangement should be able to have the scope to make specific individual special arrangements as they arise on a case by case basis.”

**5.69** NIPSA, FDA and POA Trade Unions each commented that “We cannot add to the Special Cases already listed and so note this position.”, while Community Trade Union commented “None have been raised to us.”

## Department of Finance Response to Feedback on Question 8

**5.70** The Department is content that the proposals and draft regulations have identified and cover cases that require special arrangements and agree that any future special circumstances that arise may be considered on a case-by-case-basis as suggested. The four suggestions listed at paragraph 5.67 are either already included in existing scheme rules and/or regulations or have already been included as part of the 2015 Remedy proposals.

## Question 9 (Divorce and Dissolution Arrangements):

Do you think the policy proposals in relation to the calculation/recalculation of CETV figures to be used with pension sharing orders members achieve an outcome that recognises the impact of remedy on such calculations?

**5.71** In total 52 respondents gave a direct answer to this question with 37 responding yes, 15 responding no and the remaining 46 did not submit a yes or no answer. Of the 37 that considered the policy proposals around divorce and dissolution arrangements achieve the desired outcome, 8 commented to affirm their view with one individual commenting that “members should know all the facts and information and calculations should be completed in such a way that it is easy to understand”.

**5.72** NIPSA, FDA and POA Trade Unions all agreed with the Department’s proposals around divorce and dissolution, and each responded with the same comments. The NIPSA response was as follows:

### NIPSA response to Question 9:

#### **Question 9: Divorce & Dissolution Arrangements**

NIPSA agrees with the proposals set out especially that a child should not be detrimented by the decisions of a parent who does have caring responsibilities. However, given the sensitives and bad blood that sometimes has been associated with divorce, we believe that any RSS or correspondence setting out the possible impact of the remedy decision must be clear and sufficiently sympathetic to everyone’s circumstances.

**5.73** Of the 15 “No” replies and 46 that didn’t provide a direct answer to the question posed, 14 respondents commented. 10 of the 14 submitted comments indicating that they did not understand the proposals or couldn’t tell if they would achieve the desired outcome. The remaining 4 comments suggested that what was agreed at the time of a divorce shouldn’t be revisited or that members may have to return to court to review any sharing orders, while one of the individuals suggested that there should be compensation paid instead.

**5.74** Community Trade Union responded to question 9 as follows:

### Community Trade Union response to Question 9:

Communications will need to be clear and well written. This particular group of members need special attention and it will be important to explain the effect (or absence of it) to both the member and the pension credit member to avoid any confusion or misunderstanding.

## Department of Finance Response to Feedback on Question 9

- 5.75** The Department is satisfied from the responses received, that the policy proposals in relation to the calculation/ recalculation of CETV figures to be used with pension sharing orders members achieve an outcome that recognises the impact of remedy on such calculations.
- 5.76** A pension, particularly a public service pension, is one of the most valuable assets that members have, consequently the value of any pension rights must be considered as part of a divorce settlement or on the dissolution of a civil partnership and should be reconsidered under any remedy actions that would impact on the original CETV values provided.
- 5.77** Clarification is provided below 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 8.33 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, Civil Service Pensions, must produce two cash equivalent transfer value amounts for remedy purposes and follow this process:
- using the member's remediable service period calculate the cash equivalent value using the scheme rules applicable to the PCSPS(NI);
  - using the member's remediable service period calculate the cash equivalent value using the scheme rules applicable to alpha; and
  - 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.
- 5.78** 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.
- 5.79** Where a debit member was a member of the PCSPS(NI) 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(NI) or alpha benefits, the credit member's pension benefits will not be affected by the member's election and will remain unchanged.
- 5.80** Where the debit member had mixed service and the Pension Sharing Order was determined using benefits from alpha and the PCSPS(NI), a pension credit member may have two pension credit accounts, one in the PCSPS(NI) 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 2022 to make section 6 or 10 elections.

## Question 10 (Added Pension/Added Years/Effective Pension Age):

Do you think the policy proposals in relation to scheme members who purchased added pension, added years or effective pension age allows for the adjustment of these purchased benefits as if the discrimination had not happened?

- 5.81** In total 58 responded directly to this question of which 38 responded yes, that the policy proposals in relation to scheme members who purchased added pension, added years or effective pension age allows for the adjustment of these purchased benefits as if the discrimination had not happened. 4 of the individuals who responded positively to this question also provided comments such as “It appears to”, “Seems fair” and “Having purchased added years over the period it is important these contributions are included within RSS”
- 5.82** NIPSA, FDA and POA Trade Unions all welcomed the proposals around Added Pension, Added Years and Effective Pension Age. The POA response was identical to that of both NIPSA and FDA where they commented as follows:

### POA response to Question 10:

#### **Question 10: MVCs**

POA welcomes the proposals that will allow for Member Voluntary Contributions to be adjusted on the basis as if the discrimination had not happened.

- 5.83** 20 responded “No” and the remaining 40 did not submit a yes or no answer. Of the 20 that answered no to this question, 11 submitted comments including Community Trade Union (see response below). 4 of the other 10 who commented along the lines of “Can’t tell but probably not” or “not enough information yet”. 2 individuals suggested that anyone purchasing MVCs during the remedy period should have the option to choose which scheme they should be applied to or have their original MVC contract honoured, both of which are already included in the 2015 Remedy proposals. Another individual misunderstood “Added Years” to mean the difference between scheme’s normal pension ages, while the others (3) repeated comments around loss of contract or related the purchase of MVCs to poor pensions and poor pay.
- 5.84** Community Trade Union responded to question 10 as follows:

### Community Trade Union response to Question 10:

The union disagree with the policy proposal to compensate members who have purchased Added Pension, without any option for at least some of the additional pension to be converted into legacy scheme service. Whilst members may be able to apply via the contingent decisions route, this will need to be made clear to them from the outset and in our view still does not resolve some of the problems created by the proposed policy.

The government knows that people in the United Kingdom are struggling to afford their living expenses and should consider that some members might use a one-time cash payment to cover their current needs, instead of saving it for extra retirement benefits as originally planned. Even though the remedy is



about giving members a choice, the government should not ignore the situation they are creating for members.

- 5.85** All those who didn't provide a direct answer to this question and commented (13) said they didn't know or didn't have enough personal knowledge.

## Department of Finance Response to Feedback on Question 10

- 5.86** Section 20 of the PSPJOA 2022 provides that scheme regulations may make provision about any additional pension benefits or entitlement to earlier payment of benefits that members have obtained by making additional voluntary contributions during the remediable period. It permits schemes to adjust any rights gained from voluntary contributions in a legacy scheme where a member elects to receive new scheme benefits under section 6 (immediate choice) or section 10 (deferred choice). In particular, the rights can be varied so that they are of an equivalent value to rights the member would have secured under the new scheme if the voluntary contributions had been paid to that scheme.

- 5.87** The Department remains of the opinion that the policy proposals in relation to scheme members who purchased added pension, added years or effective pension age allows for the adjustment of these purchased benefits as if the discrimination had not happened.

- 5.88** 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), added years and Additional Voluntary Contributions (AVCs).

- 5.89** Individuals raised concerns about the treatment of MVC purchases in both the PCSPS(NI) and alpha. Clarity is provided below on the following areas around MVCs:

- how conversion to the alternative scheme would work, details of the actuarial calculations for conversions between EPA and added pension under alpha to PCSPS(NI)
- 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.

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

- 5.91** The policy as set out in the PSPJOA 2022 is that members will be able to:
- 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
  - be given benefits of an actuarial equivalent in the PCSPS(NI) to the benefits the contributions were paid for in alpha; or
  - opt for equivalent rights in the alternative scheme if the benefits do not exist in that scheme, as is the case with EPA.

### ***Added pension***

- 5.92** 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.
- 5.93** As soon as possible after rollback the scheme administrator, Civil Service Pensions (CSP), will carry out calculations to convert any added pension purchased in alpha during the remedy period to added pension in the PCSPS(NI). This will involve calculations to determine the added pension that would have been bought in the PCSPS(NI) as if the contributions had been paid to the PCSPS(NI) at that time.
- 5.94** The rights realised by the contributions paid will not be the same in each scheme. The Scheme Actuary, GAD, 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(NI), but the overall value will be the same. This is because the PCSPS(NI) 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(NI) added pension purchased costs more than each £1 of alpha added pension.
- 5.95** 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.
- 5.96** Added pension purchases continuing after 1 April 2022 in either alpha or PCSPS(NI) are permitted without any adjustment needed. Before the PCSPS(NI) scheme sections were closed on 31 March 2022, it was agreed that existing PCSPS(NI) 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(NI) as they have always been PCSPS(NI) added pension rights. These contracts are not in scope of the 2015 Remedy as they were not subject to discrimination.

**5.97** 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:***

**5.98** The AA position will be revisited following the conversion of added pension from alpha to the PCSPS(NI). When added pension is reconstructed under the PCSPS(NI) it will increase the closing value for the year of conversion and the pension input amount (PIA) for the PCSPS(NI). The new scheme regulations, using powers in the PSPJOA 2022, allow for 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.

**5.99** 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(NI) 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.

**5.100** 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(NI) 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(NI), meaning any resulting AA charge would likely be higher.

**5.101** To address this, members will be able to claim compensation for any overpaid AA charges. Compensation will be available through DoF Directions<sup>11</sup> (see Direction 9) for any members who have overpaid AA compared to what they would have paid under PCSPS(NI).

#### ***Effective Pension Age ('EPA')***

**5.102** Voluntary contributions for EPA 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. The options as explained in the consultation document (paragraph 9.4) will be to convert this to PCSPS(NI) 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 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(NI) at that time.

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<sup>11</sup> <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/The-Public-Service-Pensions-Exercise-of-Powers-Compensation-and-Information-Directions-Northern-Ireland-2023.PDF>

### ***How AA affects EPA***

- 5.103** If a member opts to convert EPA contributions to added pension in the PCSPS(NI) 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 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.
- 5.104** The AA test will look at whether a member had always been contributing towards PCSPS(NI) added pension in the years they were making the EPA contributions.
- 5.105** 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 DoF Directions. Any compensation due will be worked out by Civil Service Pensions who will need to 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(NI). The member will receive a pension saving statement (PSS) if necessary, where the AA is breached.

### ***Added years***

- 5.106** The option to increase pension benefits by buying extra years of service, added years, was available in the final salary sections of the PCSPS(NI) (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 and after the introduction of alpha. No retrospective added years purchase will be allowed.

## Question 11 (Transfers):

Do you believe the proposals around transfers achieves the policy intention of preserving transfer rights?

**5.107** In total 58 responded directly to this question of which the majority, 43, responded yes, that the proposals around transfers achieve the policy intention of preserving transfer rights. Of those, 2 individuals commented; “seems fair” and “Yes, although it is missing out on details of the compensation that would be payable should the new scheme not be able to accept additional cash from the NICS scheme”.

**5.108** NIPSA, FDA and POA Trade Unions all responded positively and commented, “We believe that the proposals achieve the intent to preserve transfer rights for scheme members”. NIPSA and POA added a request for clarification on numbers and what areas any bulk transfers took place between April 2015 and March 2022. Civil Service Pensions will update the Trade Unions on this separately through the Pensions Forum.

**5.109** 15 respondents did not agree that the proposals around transfers would achieve the policy intention of preserving transfer rights and 40 did not answer yes or no to this question. Of those, 4 provided comments such as they do not believe it preserves transfer rights, one compared it to loss of rights to remain in Classic and the others answered, “shouldn’t have changed” and “probably not”.

**5.110** Community Trade Union responded to question 11 as follows:

### Community Trade Union response to Question 11:

The union doubts that the proposed changes to the pension regulations will protect the transfer rights of members. The main problem is for members who cannot get their transfer (fully or partially) converted to old scheme benefits.

The union thinks that the fair way to treat the affected members is to give them added pension if their transfer cannot be changed to old scheme benefits. This might be an issue if the member has already reached the maximum amount in the old scheme and they have no pension in the new scheme. The member should only get compensation instead of the transfer benefits if the transfer cannot be added to existing benefits, and a partial compensation should be given if only part of the transfer can be changed to old scheme benefits because of maximum amount limits.

The compensation that members get for their transfer affects their finances, and the RSS will have to explain the (especially) tax effects of getting such compensation.

Lastly, this response is based on the assumption that the government have checked with HMRC that compensation instead of transferred-in pension rights does not break or put members in danger of breaking existing HMRC rules that control pension transfers.

The union are not happy that members should get compensation for transferred benefits. Transferred pension benefits give important extra benefits for members, and taking them away affects their finances both now and when they retire. Also, it will reduce any possible benefits for survivors and members will need to know all of these effects. In our opinion, this approach does not follow

the principle of putting members back to the position they would have been in without the discrimination.

**5.111** Of the 40 that did not provide a direct answer to this question, 8 commented as follows:

I think so but unsure
Not sure of what this means
but I hope so
I cannot comment on this.
People should automatically be put on their old pension scheme which was better.
don't know
No idea.
Don't know.

## Department of Finance Response to Feedback on Question 11

**5.112** The Department appreciates the complexity around the different categories of transfers and the importance of protecting these transfer rights. Section 21 of the PSPJOA 2022 provides that scheme regulations may make provisions about transfers in and out of the scheme. The draft regulations therefore make provisions around transfers in and out of the NICS Pension Scheme and about the calculation (and, where appropriate, the recalculation) of transfer values. Once the new scheme regulations come into operation, a review of all transfers that have taken place within the remedy period will be carried out.

**5.113** The paragraphs below set out in more detail how different types of transfers are affected.

### *For club transfers between unfunded schemes*

**5.114** 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:

- to be moved to the PCSPS(NI) for their post-transfer remedy period service; and
- 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.

**5.115** 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

NICS Pension Scheme members they will then, based on their election, receive either PCSPS(NI) or alpha benefits for the transferred in service to follow the scheme election they will make.

**5.116** There will be a new process for club transfers that take place after 1 October 2023, and this will be available on the CSP(NI) website when finalised.

**5.117** 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 CSP(NI) website at a later date.

***For club transfers between Local Government Pension Scheme (Northern Ireland) and unfunded schemes***

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

***Bulk Transfers***

**5.119** Members who were transferred out of the PCSPS(NI) before 1 April 2015 under a bulk transfer arrangement and were entered into a broadly comparable (BC) scheme were, on re-entering the NICS, 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(NI) arrangement 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.

**5.120** Any member who would have been eligible to aggregate previous PCSPS(NI) service if they had been permitted to re-join the PCSPS(NI) 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.

## Question 12 (Ill-Health Retirement):

Do you think the proposed arrangements for members that qualified or did not qualify for ill-health retirement during the remedy period (1 April 2015 to 31 March 2022) may cause any adverse impacts?

**5.121** In total 53 responded directly to this question of which 30 responded yes, that the ill-health retirement proposals may cause adverse impacts while NIPSA, FDA and POA Trade Unions welcomed the proposals but raised issues of concern. 23 respondents did not think the ill-health proposals would cause any adverse impacts, while 45 respondents did not provide a direct answer to this question.

**5.122** There were a total 17 comments received across all respondents in relation to this question and these ranged from; stating “I hope not” or “none known” or repeating previous comments around provisions not being as generous or in relation to pay awards; to more comprehensive feedback, concerns or suggestions. One individual commented, “For those that qualified I feel the fix is fair. For those that did not qualify, I understand that many departments were routinely asking whether staff met criteria for IHR, even early into short-term absences. The vast majority of these staff have since returned to work (proving that they would not have met criteria for either alpha or their legacy scheme). Would it be possible to restrict this to just the staff who did not return to work, as those who have returned prior to 60 have demonstrated that they would not have been eligible for IHR. For those over 60, they would not have been eligible for consideration of IHR under their old scheme rules and have therefore not been impacted.

**5.123** NIPSA, FDA and POA Trade Unions all submitted almost identical responses, and each raised the following same two issues:

### FDA response to Question 12:

#### **Question 12: Ill-Health Retirements**

FDA welcomes the proposals for ill-health retirements (IHR) but would raise two issues. The first is the capacity of Occupational Health Service (OHS) to deal with the approximately 3000 additional medical assessments. Additional resources need to be allocated to OHS and this must be provided from Westminster. Secondly, one of the reasons that many of the applications for ill-health retirement are rejected is that doctors cannot reasonably foresee future medical improvements or assess possible deterioration in health up to retirement age. This is especially the case for younger scheme members. FDA considers that the decision to re-assess IHR based upon the medical information available at the time, in some cases medical reports from eight years ago, as flawed. While we do not believe that scheme members should be able to enter a new retrospective application for IHR, those falling within this process should be allowed to provide new, additional medical evidence, if they consider that appropriate that would be considered in tandem with their previous medical reports as this would allow OHS to provide a more informed decision.



**5.124** Community Trade Union responded to question 12 as follows:

**Community Trade Union response to Question 12:**

Like other proposals in the consultation, the way to reassess IHR cases is another area that needs detailed guidance – both for scheme managers and Selected Medical Practitioners (SMPs) to make sure they apply it consistently across the different administrators. Giving proper guidance is essential in making sure that no member loses money because of remedy.

**Department of Finance Response to Feedback on Question 12**

- 5.125** The Department has considered the feedback received and does not anticipate any adverse impacts arising from the review of ill-health retirement cases. The exercise will be carried out without intrusion in that there will be no medical examination or face-to-face assessment involved. The re-assessment by the Scheme Medical Adviser, OHS, will be based on the medical circumstances as at the original date of assessment and the information or paperwork held at that time. This means the existing medical evidence will be reviewed to determine what the outcome would have been under the alternative pension scheme's criteria at that time.
- 5.126** Consideration was given to the Trade Unions' suggestion that additional medical evidence should be able to be submitted as part of the re-assessment process. However, it was decided that, as the re-assessment is to be conducted as if it was an original assessment as at the original assessment date (had the discrimination not occurred) then it needs to be based on the information held at that time. Should the member disagree with the outcome of the re-assessment, they will have the opportunity to submit additional medical evidence at appeal stage, but only if that evidence is contemporaneous, meaning it existed at the same period of time of the original assessment.
- 5.127** The Department is obligated under the 2015 Remedy to provide members with remediable service a choice of scheme benefits for the remedy period. It is important that eligibility is tested under the alternative scheme criteria to ensure members can be offered the best level of scheme benefits available to them. By way of clarity, in considering ill-health retirement cases with regard to application of the 2015 Remedy, the current ill-health retirement scheme features, criteria, rules and regulations including any tiering of benefits will remain as is, for example, aspects such as eligibility in relation to pension age or that no upper tier ill-health benefits can be awarded following partial retirement.
- 5.128** Furthermore, not all ill-health retirement cases will require a referral to OHS for a re-assessment as the scheme manager can make informed working assumptions that the criteria has or has not been met or correlate the level of ill-health retirement award to an equivalent in the alternative scheme. These working assumptions are set out in the draft regulations.

- 5.129** The Department appreciates the concerns Trade Unions raised around the capacity of Occupational Health Service (OHS) to deal with the additional medical assessments. Civil Service Pensions have been actively engaging with OHS from the earliest opportunity in order to enable their organisation to effectively plan and secure any necessary additional resources that may be required to undertake this exercise.
- 5.130** The Department would also thank Community Trade Union for their feedback and agree that guidance around the ill-health re-assessments is necessary and will be provided through a dedicated Remedy Ill-Health Retirement article page on the CSP(NI) website. Regular engagement with the Occupational Health Medical Officers and Admin staff has also been key to ensuring the re-assessment exercise will be undertaken in a timely, measured and consistent fashion. Civil Service Pensions or employers will also be writing out to those individuals who were either granted or refused medical retirement during the remedy period and will now require a re-assessment to explain the process.
- 5.131** The Department of Finance confirms that, as set out in the consultation, the scheme administrator or employer will write to members who are in scope for re-assessment to seek the necessary relevant consents. As the scheme will not be relying on the original consent given by the member at the time of the original ill-health retirement application, fresh consents will be requested from the member at the point an alternative scheme IHR medical re-assessment is required. Members will have the option to withhold their consent, with the implications of withholding consent clearly explained to members.
- 5.132** 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. In some instances where eligibility cannot be correlated between schemes, Civil Service Pensions will ask OHS, our Scheme Medical Adviser (SMA), to review the medical information against the alternative criteria that applies to each individual. Members who are included in this review process will be contacted by Civil Service Pensioners or their employer. 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.
- 5.133** For members where no formal referral to the OHS 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.
- 5.134** 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(NI) on 31 March 2022 (the last day PCSPS(NI) was open).

### Question 13 (Interest):

Do you consider that the policy and draft regulations are in line with the calculation of interest and interest rates to use as set in Chapter 4 of the Department of Finance Directions and in accordance with section 26 of the Public Service Pensions and Judicial Offices Act 2022?

**5.135** In total 53 responded directly to this question of which 36 responded yes, they considered the policy and draft regulations on interest to be in line with that set out in the DoF Directions and PSPJOA 2022. 17 responded no and the remaining 45 did not submit a yes or no answer. Of the 36 that responded positively, one comment was received stating it seems to be accurate.

**5.136** Of the 17 that answered no to the question posed on interest and interest rates and the 45 that didn't answer the question directly, 19 respondents provided comments as to why; 7 didn't know or were unsure; 2 individuals thought the interest rates should be higher; 2 submitted comments in relation to poor pay; 2 repeated comments that they should not have changed pension schemes; 1 suggested that an impartial accountant be employed to check; 1 stated that in normal circumstances, the interest rate approach is a reasonable one to take but gave an example of the difference in contribution rates if switching to Partnership from the NICS Pension Schemes in that the member should expect a full refund and not just the difference in contribution rates; and extracts from the comments from the (4) Trade Unions are provided below.

**5.137** NIPSA, FDA and POA Trade Unions all submitted identical responses to this question. The NIPSA response was as follows:

#### NIPSA response to Question 13:

##### **Question 13: Interest**

NIPSA rejects the use of a daily compound interest rate to calculate monies owed to the scheme. Government was found guilty of discrimination and therefore any overpayments raised should be written off but if they were to be recovered, then the factual amount only should be used. Interest of any kind should not be used.

However, where an underpayment is identified, given the Government was found guilty of discrimination, a simple interest rate should be used to calculate the monies owed to scheme members by the scheme.

What should not happen is that a compound interest rate is used that will benefit the scheme but disadvantage scheme members while using a simple interest rate to again disadvantage scheme members while benefiting the scheme. If an interest rate is to be used for overpayments, and we believe it should not be used, then it must be the same rate for both and we believe that must be a simple interest rate.

**5.138** Community Trade Union responded to question 13 as follows:

**Community Trade Union response to Question 13:**

In thinking about the use of interest and its link to the date that the RSS is given, the union thinks that the proposals as they are introduced a chance approach as to individual effects for members. In recognising that the huge administrative work caused by putting in remedy means that it is not possible to send every RSS at the same time, it is, in our view, completely unfair and wrong that the amount of interest used to overpaid and underpaid contributions, pensions and commutation amounts depends on where each individual member is in the order of RSS priority.

Also, it is obvious that the implementation of the past phase of the remedy is very difficult not only technically, but also in telling members their options. The use of interest highlights this difficulty, as it will be important for the information with and/or in the RSS to show members the effect of how they decide to handle their overpaid or underpaid contributions.

## **Department of Finance Response to Feedback on Question 13**

**5.139** Interest payments in relation to the 2015 Remedy have already been determined. This consultation question was as to whether the policy and draft regulations are in line with the calculation of interest and interest rates to use as set in Chapter 4 of the Department of Finance Directions and in accordance with section 26 of the Public Service Pensions and Judicial Offices Act 2022, rather than an open question about the policy and use of interest. Therefore, although the Department has noted the feedback provided, it is not in its remit to vary this predetermined position.

**5.140** Concerns were raised about the addition of interest to monies 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>12</sup>. The NICS schemes are maintaining parity to the GB schemes on this matter.

**5.141** 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.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1123966/McCloud\\_remedy\\_interest\\_rate\\_-\\_GA\\_to\\_HMT.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1123966/McCloud_remedy_interest_rate_-_GA_to_HMT.pdf)

- 5.142** Where money is owed to the scheme the rate of interest to be used is set by the Department of Finance and detailed in ‘The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions (Northern Ireland) 2023’<sup>13</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 UK Government considers that opting for a savings account rate, which has typically been below inflation since 2015, is the most appropriate approach.
- 5.143** Where the scheme owes money to members, the rate of interest is provided in the DoF Directions, i.e., the rate fixed, for the time being, by that specified in Order 42, rule 9(2) of the Rules of the Court of Judicature (Northern Ireland) 1980. 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.
- 5.144** 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.
- 5.145** The application of interest to money owed ensures fair and equal treatment of members. Where interest is due members can be given the opportunity to repay any sums owed in a variety of ways, either in a single payment, by instalments over time, or by deduction from any pension lump sum received.
- 5.146** The rate of interest is subject to periodic review (at least once every five years) in consultation with the Government Actuary and will only apply prospectively. Where an interest rate change occurs between an RSS being sent out and the member making their pension election, the member or scheme will pay the latest revised interest payment.

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<sup>13</sup> <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/The-Public-Service-Pensions-Exercise-of-Powers-Compensation-and-Information-Directions-Northern-Ireland-2023.PDF>

## Question 14 (General – Policies):

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

**5.147** In total 80 responded directly to this question of which the majority, 54, responded yes, they agreed that the policy arrangements were fair and would end the discrimination identified. 7 of the individuals who responded positively to this question also provided comments such as “I believe having a deferred choice is a very fair outcome, allowing members to pick the better choice for them.” and “Everyone now on same scheme and applicants allowed at the time they chose to retire to make their decision on what is financially better for them.”

**5.148** 26 respondents answered “no” to this question, with 20 providing commentary on why. 12 of these were in relation to extending Classic membership or the remedy through to retirement; that alpha should only be applied to new staff; or a perception that members of alpha would have to work longer; that it was less generous; that there is a difference in contribution rates between the PCSPS(NI) and alpha; or disagreed with the treatment of MVCs. These are mainly in relation to matters that have been previously concluded and are therefore out of scope of this consultation or have been addressed elsewhere in this response document. An individual mentioned women and childcare but didn’t elaborate of the significance or relevance of this to the policies being consulted on so we are unable to consider or comment further on this. Others (7) who commented repeated or referred to their earlier narrative.

**5.149** Community Trade Union commented as follows:

### Community Trade Union response to Question 14:

As mentioned in this consultation response, the union have found many cases where the scheme manager keeps discretion over the member choice and/or other remedy related benefit decisions. While agreeing there are some, very few situations where this might be needed, we are not sure about the consistency of decision making for all affected members because of the lack of clearness on how the process will be handled, or the limits or needs for a scheme manager to make such a decision.

The union again propose the use of a third-party independent advisory group who can give suggestions to the scheme manager and therefore keep a level of consistency and independence over discretionary decisions.

Also, the union repeat their worries that the discretionary powers create fiduciary duties for scheme managers, and the legal meanings and risks that such powers involve.

The union see the policy proposal for a member’s choice to be final (except where a member makes a choice but dies before the benefits start to be paid). While this seems like a practical and logical policy proposal in theory, it looks like they have ignored the fact that errors and mistakes will likely happen on some member’s RSS.

So, the union propose that the Statutory Instrument is changed to allow for an exception to the finality clause which lets the member or member

representative change their choice if any of the information in the RSS is later found to be significantly wrong.

**5.150** Of the 18 respondents who did not provide a direct yes or no answer to this question, 6, including NIPSA, FDA and POA commented. Excluding comments from the Trade Unions (see next paragraph), these comments were “I’m unsure”, “I would like to believe they will” and “I think a second opinion is required by an outside body to ensure there is fair play as this was brought in by the Government who is our employer and to ensure honesty and integrity for all concerned”.

**5.151** NIPSA, FDA and POA Trade Unions all noted the position and referred to their comments provided elsewhere.

## Department of Finance Response to Feedback on Question 14

**5.152** At this point the Department considers it is worth repeating and clarifying that the Court of Appeal found that the transitional protections provided when reformed public service pension schemes were introduced in 2015 were discriminatory. The reformed schemes themselves, (alpha for the NICS scheme) were not found to be discriminatory. Permitting members to remain in ‘Classic’ or any of the other legacy scheme arrangements would extend the period of discrimination as identified by the Court of Appeal. The Department of Finance does not agree that moving previously protected members to the alpha scheme introduced any new unlawful difference in treatment of a type identified in the transitional protections by the courts. It is acknowledged that some respondents have a desire to maintain their current arrangements until the point at which they retire, however as stated in the Prospective Remedy Response Document, in introducing reformed schemes it was never the intention that legacy schemes would continue indefinitely. The transitional protections represented a targeted exception to the core policy rationale on the basis of the intended aim of protecting those within 10 years of retirement from the reforms. However, as a consequence of the court ruling, that exception can no longer be justified as legitimate for future service. Also, the Department of Finance does not believe it would be fair to allow some members, and not others, to continue under different arrangements and as members of different schemes, after the discrimination has been addressed and the remedy period has ended.

**5.153** Any decisions taken by the scheme manager under discretionary powers will be transparent and in the members’ interest and discretionary power will be invoked in exceptional circumstances only.

**5.154** In response to the Community Trade Union concerns around a change in position after a member has made their remedy choice, if there is a substantial change in circumstances or an error is identified in the calculations provided in an RSS, then a revised RSS will be issued, and that member may revisit their decision. The Department considers that as this principle is already in practice for non-remedy pension benefit choices, there is no requirement to include specific provisions around these eventualities in the regulations.

## Question 15 (General: Regulations):

Are the draft regulations sufficient for the purposes of implementing the remediable service remedy?

- 5.155** In total 70 responded directly to this question of which the majority, 54, of these agreeing that the draft regulations are sufficient for the purposes of implementing the remedy. The 6 comments received from those who responded positively were “I think so” and “Appear to be” and “Please look at women who have to work to age 66+”.
- 5.156** NIPSA, FDA and POA Trade Unions all submitted almost identical responses to this question. The FDA response was as follows:

### FDA response to Question 15:

#### **Question 15: General: Regulations**

We believe that the draft regulations are sufficient to facilitate implementation of the remedy but remain concerned that timescales are unlikely to be met given the volumes of work, the need to educate scheme members, deals with queries while continuing to provide a service to those seeking their benefits over the next two years. The matter of appropriate recruitment/resources for Civil Service Pensions in the current economic climate remains a matter of concern.

- 5.157** Of the 16 respondents who did not think the draft regulations were sufficient, 7 provided comments. 5 of these either repeated or referred to their previous comments, one commented “In themselves, no, but only because they require agreement with HMRC to avoid significant tax penalties for the members.”, while Community Trade Union duplicated and reiterated the concerns, they had raised in their response to question 14.
- 5.158** Of those 28 respondents who did not commit to a yes or no answer, 7 commented along the lines that they were unsure; did not know or hoped so; while one individual stated “All questions from members should be addressed so that all areas are covered to ensure we are put back in the position financially we were in before the change taking into account that the tapered group are also back financially in the same position they were in before the change over and compensation should be made to members due to injury of feeling especially the tapered group who were 13 years from the retirement age and all interest due to them including the cost of paying more for this Alpha pension should be reimbursed.”

## Department of Finance Response to Feedback on Question 15

- 5.159** The Department is pleased that the majority of respondents are of the view that the draft regulations are sufficient for the purposes of implementing the remediable service remedy.



- 5.160** The remedy is made up of two parts, with the first part completed in 2022 when all remaining active members of the NICS Pension Scheme moved to alpha. This first part officially marked the ending of the age discrimination identified in the 2018 court judgement (the McCloud case) via the introduction of a single, NICS Pension Scheme for all active members from 1 April 2022. This second part of the remedy, the retrospective phase, aims through combined legislation being introduced, to put members back into the position they would have been in, were it not for the identified age discrimination, for the remedy period.
- 5.161** With regard to the request that we look at women who have to work to age 66+, we are unable to comment on this, as it does not form part of the consultation on the regulations needed to implement phase two 'retrospective aspects' of the McCloud remedy and to put right the discrimination identified following the introduction of the 2015 reformed public service pension schemes, alpha for the NICS.
- 5.162** The Department appreciates and notes concerns raised around meeting timescales and having sufficient resources in Civil Service Pensions to carry out this volume of additional work. While not underestimating the challenges faced, the Department remains committed to delivering the 2015 Remedy within the legislative timeframes.
- 5.163** All eligible scheme members will be entitled to a remedy choice of benefits. As injury to feelings compensation is based on individual circumstances and decided on by the Courts, we are unable to comment on this and again does not form part of the Retrospective Regulations the consultation was in relation to.
- 5.164** It may be helpful to explain why the scheme regulations are set out and structured as they are. The new scheme regulations are a statutory rule, a form of legislation that can be made where the provisions of an Act of Parliament or the NI Assembly (in this case, the PSPJOA 2022 and the Public Service Pensions Act (Northern Ireland) 2014 together) provides the powers to do so. It is necessary for the scheme rules to be based in a statutory rule in this way, as defined by the primary legislation of the Public Service Pensions Act (Northern Ireland) 2014. 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.
- 5.165** The comments received were not specific to any aspect of the draft scheme regulations and mostly referred to policy aspects that were previously consulted on and agreed. The Department of Finance does however acknowledge that further clarity around the process and timing of remedy activity is very important to members.

**5.166** There have been several amendments to the previously published draft regulations as a result of further internal discussions and engagement with the Cabinet Office who are responsible for the Home Civil Service Pension Scheme, which the NICS Pension Scheme is analogous to. Analogous means we base our rules and regulations on theirs. These amendments are:

- to include 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;
- provision to allow members who left PCSPS(NI) Classic or Premium and re-joined alpha in the remedy period to have the option to retrospectively aggregate previous PCSPS(NI) service (where the PCSPS(NI) provides for such an aggregation option). Further detail on this will be published at a later date;
- amending the draft regulations to clarify some wording, without changing the meaning or what was consulted on.

**5.167** Based on the feedback received, the Department of Finance does not propose any further amendments or additions to the retrospective remedy regulations.

## Question 16 (General: Equality):

Do you have any concerns that the proposals could result in individual groups being disproportionately affected by the proposals? Any comments should be made after reading the accompanying Section 75 policy screening document.

- 5.168** In total 73 responded directly to this question of which 29 responded, yes, they had concerns about individual groups being disproportionately affected by the proposals. The majority, 44, indicated they had no such concerns, while 25 respondents did not provide a yes or no answer.
- 5.169** A total of 20 respondents provided feedback. Comments to this question broken down as follows:- yes: 15 comments (see next paragraph); no: 4 comments (“none”, “none identified”, “seems accurate” and “If all areas and members issues taken on board and everyone put back financially in the same position they were in before the changeover then that should be acceptable”) and others: 1 comment (“I am unsure”).
- 5.170** The comments received in support of respondent concerns covered a range of groups or situations but did not explain why they considered these groups would be disproportionately affected. Those mentioned were, those with a disability, older and middle-aged females and part time workers, those who are within sight of retirement, everyone in the scheme, women, taper members, women in service born 1950 to 1960, younger civil servants, Civil Servants who were members of Classic when they started working; and any and all members.
- 5.171** NIPSA, FDA and POA Trade Unions all submitted identical responses to this question. The POA response was as follows:

### POA response to Question 16:

#### **Question 16: Equality**

We note and agree with the findings of the Equality Screening and Rural Needs Assessment but would raise some concerns.

POA is concerned that members will not be provided with the clarity and information they require to make an informed decision and this will especially impact on pensioner immediate choice members who will not have access to either work colleagues or trade unions for support in this decision. While independent financial advice is available, this comes at considerable cost and we believe this group in particular will be disadvantaged. We believe that Government must fund free independent financial advice for this group to ensure that they are properly supported in making decisions that have arose due to Government discrimination.

We also believe that younger ill-health retirees may suffer unequal treatment given the decision not to use up-to-date medical information when considering ill-health retirements will place them at a considerable disadvantage when set against older applicants.

**5.172** Community Trade Union commented as follows:

**Community Trade Union response to Question 16:**

It is seen that the equality effects from the implementation of the past phase of remedy depend on the Equality Impact Assessment (EIA) done as part of the making of the PSPJOA. The union are unhappy that again government do not think that it is right to do an EIA when making policy plans, rather than when the policy is finished. The union think that the correct way to do it is an initial EIA which is checked again when the policy choices are done, especially in cases like this where the initial EIA relates to a very broad scope (all of public sector schemes affected by remedy) whereas this consultation ignores having prison officers in the scheme.

The absence of a scheme specific EIA also makes the union worried that government are not serious about making sure the remedy follows the needs of the McCloud / Sargeant judgment. It is the government who brought in the discriminatory transitional protections and are therefore needed to fix their effect. It should not be up to respondents to the consultation to do the Public Sector Equality Duty which is only for public authorities.

In making sure the remedy improves relations between people who have a protected characteristic and those who do not, the union again bring up the issue of the normal pensions age changes. It is obvious that government has no interest in solving this problem, which makes us wonder how much the consideration of good relations is being included in policy plans and decision making. In short, the union doubt the validity of the use of pension scheme provisions to effectively make officers who are both young joiners and long in service to stay in service longer than they wanted or planned to. So, the union propose that the Statutory Instrument is changed to allow for an exception to the finality clause which lets the member or member representative change their choice if any of the information in the RSS is later found to be significantly wrong.

**Department of Finance Response to Feedback on Question 16**

**5.173** The proposed regulations aim to address the discrimination caused by the transitional protection element of the 2015 pension reforms, by allowing members to choose PCSPS(NI) (Classic, Classic Plus, Premium or Nuvos), or alpha-like benefits for any remediable service. The Public Service Pensions and Judicial Offices Act 2022 (the ‘PSPJOA 2022’) provides the framework to address the discrimination that arose when legacy public service pension schemes were closed to certain members in 2015.

**5.174** Therefore, the Department considers the proposals and associated regulations will address the inequality identified by the Court of Appeal in 2018 which held in its judgment that the transitional protections introduced as part of the 2015 reforms to public service pension schemes were unlawfully discriminatory on the grounds of age. Careful consideration has been given to all aspects of the remedy to arrive at solutions that are as fair as possible to all members.

- 5.175** As noted in the equality screening exercise, which accompanied the consultation, some members may potentially benefit from the remedy proposals being implemented. Some older members who qualified for transitional protection and retained membership of the PCSPS(NI) for service after 1 April 2015 may benefit from being offered a choice of benefits for remediable service as they are being offered a choice that was not previously available for the remedy period (1 April 2015 and 31 March 2022). This could be of particular benefit to those who have already accrued maximum service in the PCSPS(NI) and intend to continue in service for the foreseeable future.
- 5.176** Any indirect effects would be incidental to the policy imperative to remove unlawful discrimination identified by the Courts and could depend on a variety of external factors and choices, which can affect any individual's pension outcomes, including length of employment; salary levels; career choice; and personal financial decisions. All members will also benefit from the protection of pension rights already accrued during the period discrimination has occurred, regardless of their age or other protected characteristic.
- 5.177** Consideration was given to the impact on members with tapered protection and whether it could be indirectly discriminatory by affecting those over a certain age. The Department considers that the fact that those with tapered protection will be over a certain age reflects the discriminatory nature of the taper protections, the removal of which in response to the court's findings cannot itself be a discriminatory act. This rationale also applies in respect of the removal of full transitional protection where it could unlawfully discriminate against previously protected members. In both cases, a continued difference in treatment for these groups would perpetuate rather than remove the original age discrimination identified by the courts.
- 5.178** Conversely, by accruing all service in the reformed schemes from 1 April 2022 all members will be now treated equally without reference to age or any other protected characteristic.
- 5.179** The 2015 Remedy policy does not include any provisions that would be applied differently to members of any of the protected characteristic groups. The scheme manager is aware that the remedy measures could impact differently on certain members who may share a protected characteristic, however, where this is the case, it is considered that this can be justified in achieving the overall remedy objective as set by the core principles of the PSPJOA 2022.
- 5.180** The Department is satisfied with the findings in the Equality Quality Screening exercise completed in respect of this consultation and associated proposals. Prison Officers are not identified as a protected characteristic group in this regard and furthermore all Civil Servants are now being treated equally in their access to the pension scheme and eligibility for the 2015 Remedy. It is also noteworthy that the Section 75 Equality Consultee Group had sight of the findings and did not raise any issues. The Department is content that the findings did not merit the completion of a full Equality Impact Assessment.
- 5.181** The comment relating to younger ill-health retirees who may suffer unequal treatment given the decision not to use up-to-date medical information when considering ill-health retirements has been addressed under question 12 above.

- 5.182** The concern raised around letting the member or member representative change their choice if any of the information in the RSS is later found to be significantly wrong has been answered under question 14 above.
- 5.183** Free independent financial advice will not be automatically made available to members. The CSP Scheme Manager nor the CSP staff are qualified to provide members with what could be interpreted as financial advice about their individual pension benefits. However, CSP will support members through the process and members may seek independent financial advice themselves, if required.

**Question 17 (Additional Comments):**

Are there any additional points not covered in this consultation paper that need to be considered as part of the McCloud Remedy policies or associated scheme regulations?

**5.184** Of the total of 98 respondents to this consultation, 39 indicated there were additional points that needed to be considered while 59 answered no to this question.

**5.185** Those respondents who submitted general feedback in relation to the consultation rather than answering the set questions posed, along with those who supplemented their consultation answers with general comments or issues, are included under this question for analysis and response purposes.

**5.186** The Civil Service Pensioners’ Alliance Northern Ireland Branch (CSPA NI) submitted a letter in response to this consultation, as did the NICS Scheme Advisory Board and these along with other additional comments from NIPSA, FDA, POA and Community Trade Union are considered and noted below.

**5.187** Of the 40 instances of comments recorded under this part, 34 originated from individuals and 6 from stakeholder organisations.

**5.188** The majority of individual and Trade Union comments received repeated or expanded on views that had been provided already under preceding questions so only new feedback has been included. Duplicate, similar or repeated comments were dealt with under the question that they were first mentioned. Additional comments covered a range of issues as summarised in the table below:

<p><b><u>Summary of Additional Comments Received:</u></b></p> <p style="text-align: center;"><b><i>New Fair Deal</i></b></p> <ul style="list-style-type: none"> <li>● Fairer options for "NEW FAIR DEAL" participants who were forced to opt into a pension scheme during their service.</li> </ul> <p style="text-align: center;"><b><i>Tax</i></b></p> <ul style="list-style-type: none"> <li>● On tax, if implemented without HMRC agreement, there needs to be a concrete statement of understanding from HMRC before payouts start as potentially looking at making seven years’ worth of contributions in a single tax year. Also, the matter of members living abroad, particularly regarding their tax affairs. Given the large sums involved, members may seek financial advice, who is going to pay for that?</li> <li>● While the current assumption is that the McCloud Remedy will likely have little impact on tax, concerns remain that, as set out at Para 16.1 of the consultation, some elements of taxation policy remain under development and guidance will be provided by HMRC. Simply put, this means that the consultation is not complete and a significant matter of interest, Tax, remains unresolved. Some process must be provided that will allow scheme members to be engaged on Taxation policy as required by this Retrospective Remedy.</li> </ul>
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- For some Members there may be Tax Implications. On the information given to make a decision as well as the bald numbers, Tax Implications need to be clearly set out and advice signposted before Members commit to any one course of action. This also applies to detail on 'interest' payable both to and from the Scheme Member.

### ***Partial Retirement***

- Previously in the Classic Pension Scheme, had never wanted to leave Classic, but moved to alpha scheme early 2016. On the basis I could no longer contribute to Classic pension, I decided to partially retire and lift pension benefits available at that time. Pension actuarially reduced as taking it before 60. Would never have lifted my full Classic pension and lump sum if I had remained active in Classic Scheme. Not fully aware of all the McCloud Remedy implications but from information I feel disadvantaged. Will I be contacted directly regarding my options, or do I need to contact scheme about my concerns, or should seek legal advice on the matter?
- Appears straight forward for most members, but not for some of those who partially retired during the remedy period with a legacy pension who would have been better off accumulating alpha benefits from 1 April 2015. Older members who only partially retired during the remedy period, will be forced to make an irrevocable binary IC with 12 months of their RSS and denied a DCU before or at their final retirement, compared with younger members, who are still working and will fully benefit from the DCU decision before or at their partial/final retirement. Denying partially retired legacy members the DCU at the point of their final retirement and forcing them to make an irrevocable binary IC within 12 months of receipt of their RSS would appear to potentially cause/result in unintended and perverse age discrimination.

### ***McCloud Costs and Scheme Valuations***

- Demand that all additional costs, and staff required to develop, implement and maintain the McCloud judgments, are provided additionally by Westminster, as neither scheme members, nor NICS Departments should pay for Government discrimination.
- Acknowledges that McCloud should not adversely impact on future GAD valuations of public sector pension schemes but demand CSP engages GAD to carry out analysis on likely impact of McCloud on future NICS valuations.

### ***Compensation***

- The compensation proposed deals solely with circumstances where implementation of the remedy continues to place a scheme member at a disadvantage and no further information is available as to whether this will be a proper compensatory payment or just a refund of any difference. Further information should be provided on when and how compensation will be considered.



- Proposals outlined provide an adequate procedural redress to the discrimination. However, proposals not without concerns and believe Government could and should have done more to recognise and compensate for the discrimination and protect those impacted.
- While these remedies are to remove the discrimination, scheme members have not been compensated for the discrimination and injury to feeling they have suffered by the act of discrimination itself.

### *Opting Out during Remedy Period*

- Opting Out, temporarily, during the Remedy Period is mentioned in the Draft Regulations but a reference to the Scheme Manager and Future Guidance is noted. More detail, quickly, about the Contributions and Interest (if any is applicable) would be important as it is a frequent question posed to us by CSPA NI members.

### *Resourcing*

- CSP Branch needs to be adequately resourced in order to meet the legislative challenges set out in the consultation.
- Welcome a Clear, Transparent, Open RSS and the information included but also hope that where Members request further support the CSP Staff and DoF/NICS HR Staff are trained to provide clarity and guidance to those that need it.
- Need for continued engagement via the NICS Pensions Board and DoF/Local Trade Union Sides to monitor the capacity to deliver the remedy and ensure that remediation of cases can be done without causing further upset, detriment and confusion to those already suffering detriment from the original discrimination.

### *Communications*

- Communication is key and welcome the work to date and ask the DoF to continue to use all media and communication options available to ensure all scheme members – active, deferred or current – are aware of the outcomes of this consultation and ongoing impact on them.
- Given the implementation of this remedy is to remove discrimination found against the Government, every effort must be made to ensure that scheme members are not liable for any penalty resulting from its application. While there is a responsibility to manage public money, this should not override the fact that a scheme member should not be detrimented by the implementation of a solution to the Government being found guilty of discrimination. Scheme managers must not make decisions to raise an overpayment against scheme members under the Managing Public Money clause as a result of implementing this solution.
- For Deferred Scheme Members where an up-to-date address may not be available, will there, therefore, be an Advertising Campaign to alert Members who may have previous Civil Service employment to contact CSP with up-to-date Contact Address details?

- On the Direct Consultation Questions, the Draft Regulations do seem to be fair and appropriate. They are detailed and clearly refer to the CSP directions. There does not appear to be a disproportionate impact on any one group. Are they sufficient? That depends on the practical process of implementing the Regulations and we appreciate the work done by the Stakeholder Engagement Team and the Communications Team to ensure that the Regulations appear to be sufficient but until the process is rolled out it is hard to tell. Believe that Communications and Engagement are critical to the success of this process.

### ***Remedial Service and RSS***

- From October 2023 Members who are affected will receive a Remedial Service Statement. This should outline what their options are and clearly show the consequences of change so initially there could be a Pension Increase but this may mean making up contributions for example where a lump sum was maximised. Particularly in the Classic Scheme the implications of the WPS Refund and Premium need to be included.
- Practicalities of giving people information in a timely fashion on how to make their decision (on which Scheme they will be taking their Remedy Service from). Particularly important for people who are on “transitional or tapered protection”, anyone with mixed service in more than one Scheme and people who have deferred service. Members in this group have expressed concern about not knowing when to go i.e., in terms of the timing of receiving the Remedial Service Statement and what information it will provide.

### ***Preserved Rights and Tapered Group***

- For members with Preserved Rights and those previously in the Tapered Group, appreciate that implementing McCloud will be complex for everyone but believe these two groups of scheme members should be written to separately to explain generally that they will be treated differently than other scheme members and why. Doing so will reduce the number of queries likely to be generated.
- Scheme Members in the Transitional Group will need the consequences of inaction to be spelt out. The 12 months to make a decision does seem to be an appropriate length of time. Although some may put off a decision therefore reminders issued at 3 monthly intervals offering Telephone Contact Details for those who require more guidance may be useful.

### ***Review of Regulations***

- Anticipate issues and problems with the regulations will be found. Propose a review should be done one year after being introduced to ascertain if amendments required. Stakeholders will have been able to gather evidence of any issues. Should be taken forward through the Scheme Advisory Board so that solutions can be found.

### **General Comments**

- Strongly of the view that LEGALLY, ETHICALLY or MORALLY, DoF has no justification for imposing this proposed remedy on members of the legacy pension schemes.
- Consultation intends to treat those who are in one Scheme for the period (generally those classed as fully protected, for example in the Classic Scheme) and retired on those benefits and who choose after receiving the information not to change then they can do nothing. The Default is to stay in the Old Legacy Scheme. This will be a relief to many members.
- Early Pension Age payments and how they are treated is important. Divorced and Spouse/Family Benefit impacts is mentioned in the Draft Regulations but how, practically, will this be approached? Is there a Minimum Amount difference when the Spouse/Family is approached or will it be universal?
- Overall, Consultation has shown how detailed and far reaching the Draft Regulations are. They will need to be processed clearly, fairly, and equally.

**5.189** NIPSA, FDA and POA all also commented that they welcomed the proposals as a means to rectify the discrimination found in the Hutton plans and these proposals do achieve this broadly. They also appreciated the ongoing engagement by Civil Service Pensions staff on the McCloud remedies and especially the work taken on the Scheme Provision Definition Documents that have been especially helpful in understanding the impact of McCloud.

**5.190** The NICS Scheme Advisory Board (SAB) also reviewed and acknowledged the content of the consultation and duly noted its contents.

## **Department of Finance Response to Feedback on Question 17**

**5.191** The Department acknowledges that legislative changes can be complex and technical in nature and endeavours to explain any implications in clear and concise terms. The CSP(NI) website contains valuable and important information around the remedy work being undertaken along with short videos and a comprehensive list of Frequently Asked Questions, specific to members of the NICS Pension Schemes. The Department acknowledges from the feedback provided that more needs to be done to improve understanding of the remedy impacts and pensions in general. The Civil Service Pensions Communications Team are working hard to ensure the website is continually updated as the remedy work progresses and will develop and publish further, more detailed information about how the remedy impacts specific member cohorts along with what members can expect and when. All members are encouraged to visit the website regularly, as it will contain the most up to date position. Further member, employer and Trade Union engagement will take place as the remedy work progresses.

**5.192** Turning to the matters raised under question 17:

### ***New Fair Deal***

**5.193** There are different types of bulk transfers, with most falling under either: New Fair Deal (NFD) transfers, or Machinery of Government (MoG) transfers. Further information on how transfers will be treated under the 2015 Remedy can be found under the Department's response to Question 11 above.

### ***Tax***

**5.194** Pension's taxation is a reserved matter managed directly by HMRC. When individuals are moved back into their legacy schemes, they will be legally entitled to receive legacy benefits for remedy period years and that needs to be reflected in their tax treatment. In the majority of cases this is likely to result in a refund of overpaid tax and/or compensation (in the form of increased pension benefits, or a cash sum), rather than additional tax being due. If an active or deferred (someone who is no longer building up entitlement) member then chooses new scheme benefits when they retire, those benefits will be adjusted at that point, and tax applied as appropriate. Where the choice of new scheme benefits which arrive all at one point means a higher tax bill that year than if the individual had chosen to keep legacy benefits for remedy period years, there will be an intervention. This is because the design of the remedy could trigger a disproportionately high Annual Allowance charge. HMRC have made amendment tax regulations (The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023) which aim to smooth the implementation of the McCloud remedy and, as far as possible, put individuals in the tax position they would have been in had the discrimination being remedied not happened.

**5.195** HMRC are in the process of developing interactive guidance and support for members impacted by the 2015 Remedy and tax.

**5.196** With regard to redress for the expenses associated with obtaining financial advice, Civil Service Pensions will be able to provide compensation where a member has incurred reasonable additional costs as a result of an agent, i.e., a tax adviser or accountant, having to resubmit information to HMRC as a result of the remedy.

**5.197** Injury to feelings compensation is based on individual circumstances and decided on by the Courts so the Department is unable to comment on this.

### ***Partial Retirement***

**5.198** On the point raised about potentially making a different decision around partial retirement, as outlined in paragraph 4.5 above 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. There is no action to be taken by members at this stage and further information about the contingent decisions application process will be provided in due course.

There is nothing in the draft scheme regulations specifically about partial retirement. The PSPJOA 2022 sets out the deadlines for making an Immediate Choice or Deferred Choice Underpin election decision. Members will be provided

with full details of the options available to them, including over or underpayments and any abatement that may apply, on the RSS they will receive. Further information about the partial retirement remedy is covered under Section 6.

### ***McCloud Costs and Scheme Valuations***

**5.199** HMT issued a Policy Statement on 15 May 2023 entitled “Public Service Pensions – Cost Control Mechanism and the Reformed Scheme Only Design”<sup>14</sup>. This policy statement provides further details on how the ‘reformed scheme only’ design of the public service pensions cost control mechanism will operate from the 2020 valuations onwards, including the interaction with McCloud remedy. Collectively, the approaches to the reformed scheme only design Cost Control Mechanism (CCM) set out in the policy statement, aim to ensure that only costs of the reformed schemes will be assessed by the CCM from the 2020 valuations onwards. As the McCloud remedy relates to the legacy schemes, this impact will be removed, so that the remedy will not materially impact the CCM from the 2020 valuations onwards. Directions made by the Department of Finance<sup>15</sup> set out the detail of how remedy related costs are classified and accounted in the actuarial valuation process for schemes.

**5.200** Civil Service Pensions are working closely with the Government Actuary's Department (GAD) on a range of remedy-related aspects. They have also commissioned GAD to provide a 2015 Remedy illustrator which will be made available to members in the coming weeks. GAD’s ‘retirement calculator’ will help scheme members eligible for the 2015 Remedy understand in general terms which scheme might be better for them. It will provide an illustration of the benefits scheme members could receive under the legacy and reformed schemes, under a range of assumptions. It then allows members to compare these benefits using different retirement options, such as early or late retirement, or exchanging pension for a cash lump sum. In this way scheme members can explore the retirement options most relevant to them in a neat visual illustration based on their own membership data before they need to make a formal decision.

### ***Compensation***

**5.201** Further information on when and how compensation will be considered is provided in Section 6 below.

### ***Opting Out during Remedy Period***

**5.202** Further information around opting out or into the NICS Pension Schemes for service during the remedy period is provided under the Department's response to Question 4 above. Details of the application process will be made available and published as soon as it is available as Civil Service Pensions will not be able to identify those members in scope of this option.

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<sup>14</sup> <https://www.gov.uk/government/publications/public-service-pensions-cost-control-mechanism-and-the-reformed-scheme-only-design>

<sup>15</sup> <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/The-Public-Service-Pensions-Exercise-of-Powers-Compensation-and-Information-Directions-Northern-Ireland-2023.PDF>

## *Resourcing*

- 5.203** The Department appreciates the concerns raised by Unions around Civil Service Pensions resourcing pressures. The situation is under constant review to ensure increased workloads are matched with available resources and this is being given utmost priority. There is no doubt that the 2015 Remedy is one of the biggest challenges faced by public service pension schemes and we need to ensure we get it right.
- 5.204** Civil Service Pensions have developed procedural material to support their staff in the delivery of the 2015 Remedy. Additionally, relevant staff have participated in tailored workshops to cover the range of member cohorts and remedy elements to ensure staff fully understand all aspects of the remedy requirements and processes. Civil Service Pensions will support members through the implementation of the 2015 Remedy and in particular, when it comes to any member choices.
- 5.205** Regular updates and engagement on the 2015 Remedy will continue to be facilitated through the NICS Pensions Board and Pensions Forum.

## *Communications, Remedial Service and RSS*

- 5.206** Civil Service Pensions are committed to ensuring affected members have all the information and tools available to support them through the implementation of the 2015 Remedy and the choice decisions they will have to make. Individuals will also receive bespoke communications detailing their circumstances and the options available to them.
- 5.207** The Department shares the view that all elements and implications of a member's available choices should be clearly set out in the RSS provided and furthermore the CSP(NI) website needs to be further enhanced with additional guidance and tools, as they become available. By way of support and guidance for affected members, Civil Service Pensions are currently delivering sessions to their staff covering each element and aspect of the 2015 Remedy to ensure that they have the knowledge and understanding required. Specialist "McCloud" teams have also been set up to deal with the associated operational, system and delivery components of the remedy as well as a dedicated McCloud Policy and Legislation team.
- 5.208** Civil Service Pensions, as well as other public service pension schemes, have recognised the difficulties that may be encountered in reaching out to Deferred members of the scheme. As of 31 March 2023, Civil Service Pensions had 8,778 Deferred members on record and of these, approximately 2,000 have remediable service. Every effort is being made to ensure that these members also receive relevant and timely communications. Social Media platforms will also be used as a tool to engage this cohort and encourage them to either log into the member on-line portal and check and/or amend their contact details or contact Civil Service Pensions to do so. Last year Civil Service Pensions conducted an exercise to contact all Deferred members at their last known address to encourage them to enrol for the on-line portal.

### ***Preserved Rights and Tapered Group***

**5.209** Further information on the tapered group who have mixed benefits for the remedy period is provided in section 6 below. An analysis of members that had preserved rights, Reserved Rights Prison Officers, showed they would all have reached the maximum service cap of 45 years allowed in Classic before 31 March 2022. This group of members should benefit from moving to alpha by being able to accrue further pension benefits as an alpha member. Pension accrued in the PCSPS(NI) up to 1 April 2022 is protected and this will make up part of the pension benefits on retirement. When members moved from a final salary scheme (i.e., Classic, Classic Plus or Premium) to the alpha scheme, the PCSPS(NI) element of their pension benefits will continue to be linked to the members' final salary until their final retirement date.

### ***Review of Regulations***

**5.210** The Department notes and agrees that should any circumstances arise that are not covered by the regulations, further amendment regulations may become necessary. The NICS Scheme Advisory Board and Pension Board are the governing bodies for the NICS Pension Schemes and will be kept updated and involved as the implementation of the 2015 Remedy progresses and be informed of any emergent issues.

### ***General Comments***

**5.211** The Department is obligated to implement the 2015 Remedy as decided on by the Courts and legislated for under the PSPJOA 2022. It considers that the 2015 Remedy proposals are fair and will meet the policy intent to end the discrimination identified by the Court of Appeal.

**5.212** The Department thanks the Trade Unions for their engagement and valuable feedback to this consultation and notes the Trade Unions' welcoming of the proposals and their appreciation of ongoing engagement by Civil Service Pensions staff. The content of the Trade Union responses has been considered in full and any areas that fall outside the scope of this consultation or the Department's remit have been shared with the relevant bodies.

**5.213** The differences between the PCSPS(NI) and alpha pension schemes mean the set of benefits that is best for members depends on personal circumstances and preferences. This is why the remedy is providing members with a choice, to ensure they can choose which scheme benefits are better for them. Therefore, a choice will be presented to the member or the eligible decision-maker regardless of the monetary difference between the two sets of scheme benefits.

## 6. Further information and clarification around the retrospective changes to remove discrimination

### Member Contributions

- 6.1** Responses indicated a belief that the contributions paid towards alpha are higher than for the PCSPS(NI) 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 further clarity on this point.
- 6.2** There is no difference in the rate of member pension scheme contributions that members pay for alpha or the PCSPS(NI) sections (Classic, Classic Plus, Premium and Nuvos). From 1 April 2015 (the start of the Remedy period) all NICS Pension Schemes had the same contribution rates applied according to agreed salary bandings.
- 6.3** 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(NI). For more detail on how partnership operates, please see the CSP(NI) website<sup>16</sup>.
- 6.4** 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.
- 6.5** There will be a limited number of cases where a difference to the contribution rate may have occurred in the remedy period:
- where an allowance is pensionable in one scheme but not the other
  - members who have reached a service or salary cap in the PCSPS(NI), when contributions are no longer applicable which does not apply in alpha.
- 6.6** 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.
- 6.7** The basic 1.5% widows and widowers pension scheme (WPS) contribution that was a feature of the PCSPS(NI) 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.

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<sup>16</sup> <https://www.finance-ni.gov.uk/articles/partnership-pension-account>



- 6.8** 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.
- 6.9** 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 6.5. In such cases, interest will be added to the contributions due or owed after any tax relief adjustment.
- 6.10** 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.

## Compensation

- 6.11** The circumstances where compensation is payable is set out at by Section 23 of the PSPJOA 2022. The following 3 conditions are required to be met:
- The first condition is that the loss is attributable to, or is reasonably regarded as attributable to, a relevant breach of a non-discrimination rule.
  - The second condition is that the loss is attributable to the application of any provision of, or made under, this Chapter.
  - The third condition is that—
    - (a) the member is a relevant member, and
    - (b) the loss is a Part 4 tax loss that is attributable to the value of rights in respect of remediable service which would, apart from section 2(1), be pensionable service under a Chapter 1 new scheme.
- 6.12** The payment of related interest may arise due to:
- Differences in member contributions and tax relief payable (including missed member contributions), and also contributions to EPA and early retirement buyout purchases in post 2015 schemes.
  - Differences in lump sum paid to members who commenced benefits (i.e., there was a Benefit Crystallisation Event (BCE)) prior to the DCU giving them the choice of benefits at BCE.
  - Differences in pension paid to member who commenced benefits prior to DCU.
  - Difference in exit scheme entitlements, e.g., resulting from tapering of award due to being close to Normal Pension age.

- Difference in entitlement under Efficiency schemes and Injury Benefit schemes (where members leave due to medical issues affecting their performance).
- Contingent decisions, e.g., where member had opted-out and needs to make retrospective contributions.
- CETVs being higher under alternative pension option.

## Cessation of mixed benefits: tapered protection

**6.13** A number of respondents highlighted concerns around the tapered protection group (see paragraphs 4.16 to 4.18 of the consultation document about mixed benefits). It is not possible to give this group the option of retaining mixed benefits as these 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. The 2015 Remedy is designed to provide equal treatment for pension provision for NICS 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:

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

**6.14** Schemes cannot legally pay benefits that are not supported by legislation.

**6.15** Where the scheme manager becomes the eligible decision maker for members with mixed service benefits, the basis for determining the highest value benefits will be subject to the Scheme Actuary's advice. The scheme manager is in discussion with the Scheme Actuary about the basis of this valuation.

**6.16** The effects of rollback and remedy options available to those with mixed benefits will be clearly set out in tailored correspondence with the individuals concerned.

## Partial retirement

**6.17** 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 the PSPJOA 2022 and the scheme must implement this policy through its regulations.

**6.18** The scheme regulations provide the policy definition of a remedy pensioner for the NICS pension schemes as a member with remediable service benefits in payment before 1 October 2023.

**6.19** 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 (of the PSPJOA 2022) 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.

- 6.20** A common theme emerging from the consultation responses was the lack of or need for more detailed information about how the remedy will work in a number of individual scenarios, including partial retirement. Work is currently underway to develop some more detailed guidance and tools about how the remedy works for partially retired members. This will be available on the McCloud Judgment and 2015 Remedy section of the CSP(NI) website at a later date.

## Immediate Choice

- 6.21** A number of concerns were raised by organisations representing members and from individuals relating the Immediate Choice. 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 4.22 about the RSS applies here also).

## Processes within scope

- 6.22** 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.
- 6.23** 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.
- 6.24** Comments were also received about the timings and provision of two different remedy solutions: an **immediate** choice and a **deferred** choice. Some respondents felt this arrangement was discriminatory and that it was unfair for those receiving the immediate choice, including partial retirees, because of having to make a choice sooner, due to future inflation and other factors not being known. One member stated, "Denying partially retired legacy members the DCU at the point of their final retirement and forcing them to make an irrevocable binary IC within 12 months of receipt of their RSS would appear to potentially cause/result in unintended and perverse age discrimination". 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. As mentioned in paragraph 6.17 above, the policy for partially retired members and when they receive their remedy choice election is already defined by the PSPJOA 2022.

### **Deferred choice: Retirements after 1 October 2023 and bringing deferred benefits into payment**

- 6.25** In order to clarify 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.
- 6.26** 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(NI) 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.

### **Other Considerations**

- 6.27** The Department has considered that members retired due to ill-health might require more help and support with the remedy due to disability. Particular consideration will be given to members who have been retired due to ill-health and how to engage with them. When the 2015 Remedy is implemented, the ill-health retired immediate choice members will be provided with the information required to help them with making their choice. Preparation work is already underway to arrange consent from those requiring a re-assessment by OHS. Our website content will be updated to provide relevant information, to support these members.
- 6.28** Lastly an equality concern was raised about women of a certain age group being disadvantaged due to availing of career gaps and/or working part-time or taking partial retirement, likely due to caring responsibilities, and that they would be disproportionately disadvantaged in having to work longer due to the difference in alpha's normal scheme pension age. To introduce different scheme pension ages based on gender would introduce a new element of inequality. Normal scheme pension ages apply to all members, regardless of their gender. The normal pension age in alpha is linked to the member's individual State Pension Age and the Pensions Act 1995 introduced the equalisation of State Pension age for men and women.

## 7. Conclusion and next steps

- 7.1** The Department is pleased that respondents who specifically replied to the direct questions were broadly in agreement with the proposals. Where this was not 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.
- 7.2** The consultation respondents have raised a number of helpful points and the Department 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.
- 7.3** The Department has considered the consultees' responses within the confines of the scope of the consultation as the detail provided in this response document attests. After careful consideration, the Department will now continue with the proposed new scheme remediable service regulations statutory rule. The intention is to make and lay the regulations 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. This was considered the fairest solution given the individual and personal nature of pension provision and these regulations provide members with the appropriate choice channels.
- 7.4** The McCloud Judgment and 2015 Remedy section of the CSP(NI) website will be regularly updated to assist members and provide tools to help them understand the 2015 Remedy provisions.
- 7.5** Finally, it should be noted that the Department, Civil Service Pensions Scheme Manager or Civil Service Pensions staff are not 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 respondents

<b>RESPONSES RECEIVED FROM</b>
The Northern Ireland Public Service Alliance (NIPSA)
The Association of First Division Civil Servants (FDA)
Prison Officers' Association (POA)
Community Trade Union
Civil Service Pensioners' Alliance Northern Ireland Branch (CSPA NI)
Northern Ireland Civil Service Scheme Advisory Board (SAB)
Individuals

# Annex B: Glossary of pension terms

**Accrual** - The rate at which pension benefits accrue for each scheme year. Each scheme is different in design and accrual rate.

**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 pension** - 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).

**Added years** - Contracts available in some legacy schemes allowing members to purchase additional years of service.

**Alpha** - The alpha pension scheme provides a defined benefit worked out on a Career Average Revalued Earnings (CARE) basis. A defined benefit (DB) scheme provides retirement benefits that are based on your earnings and the length of time that you have been a member rather than the amount of money you pay in. A CARE pension scheme means you build up a pension based on a percentage of how much you earned each year. The alpha pension scheme was introduced from 1 April 2015 under the 2015 pension reforms.

**Annual Allowance (AA)** - The AA is how much can be saved towards a pension each tax year without a tax charge applying. For the NICS Pension Schemes, this is determined by the capitalised value of the increase in the accrued benefits over the tax year (that is, the growth of the pension in the tax year). The standard annual allowance since 6 April 2016 has been £40,000 but it is due to increase to £60,000 for the 2023 tax year.

**Annual Benefit Statement (ABS)** - Your Annual Benefit Statement (ABS) is issued annually and shows an estimate of your pension benefits, up to 31 March of the current year.

**Beneficiary** - The person who is or has become entitled to receive any death benefit.

**Benefit Crystallisation Event (BCE)** - HMRC legislation specifies the occasions when a scheme administrator must check whether the pension benefits arising (crystallising) at that point exceed a member's available lifetime allowance. These occasions are known as benefit crystallisation events (BCEs).

**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 NICS arrangements, Nuvos and alpha are CARE schemes.

**Cash Equivalent Transfer Value (CETV)** - A CETV is the expected cost of providing member's benefits within a scheme. It is used in pension sharing and pension transfers.

**Classic** - A final-salary occupational pension scheme which forms part of the Principal Civil Service Pension Scheme (Northern Ireland) [PCSPS(NI)] arrangements. Its terms and conditions are those which applied to the PCSPS(NI) on 30 September 2002.

**Classic Plus** - A final salary occupational pension scheme. The benefits are a combination of Principal Civil Service Pension Scheme (Northern Ireland) [PCSPS(NI)] Classic benefits up to 30 September 2002 and the equivalent of Premium pension benefits from 1 October 2002.

**Club Transfer** - The Public Sector Transfer Club, also known as the Club, allows easier movement of employees and their pensions from one employer to another. Club members operate mainly within the public sector and rules are governed by the Cabinet Office.

**Compound Interest** - Compound interest is calculated on the principal amount and the accumulated interest over the period.

**Contingent Decision** - A decision related to the pension scheme(s) that a member took or did not take as a result of the (actual or perceived) implications of the introduction of the reformed schemes.

**Deferred Choice** - The choice (or election) made by active or deferred members at the point when pension benefits, including Early Departure Payments, are due to come into payment. Covered under section 10 of the Act.

**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.

**Deferred benefits** - If a member leaves pensionable employment before the retirement age for that scheme, they will become a deferred member and are entitled to deferred pension benefits when they reach the relevant Normal Pension Age for the scheme to which they belong.

**Deferred member** - A member of a NICS Pension Scheme who has left scheme employment and has a preserved pension or a deferred pension not yet in payment.

**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.

**Department of Finance Directions** - Department of Finance Directions, which are contained in [The Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions \(Northern Ireland\) 2023](#) and specify how certain powers under the [Public Service Pensions and Judicial Offices Act 2022](#) are to be used by public service pension schemes in Northern Ireland in their scheme regulations.

**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.



**Election** - Collective term used to cover immediate and deferred choice.

**Election period** - The period of time within which a member must make a remedy election.

**Eligible child** - A child, as defined in the relevant scheme rules or regulations, who is eligible for a child pension under the scheme rules or regulations.

**Eligible decision-maker** - The decision-maker, as defined in the relevant scheme, who is eligible to make a decision where the member is deceased.

**Eligible member** - A member who meets the conditions to be eligible for remedy.

**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. Also see New Fair Deal.

**Ill-health benefits** - If you are unfit for duty owing to ill-health or injury, then you may be entitled to ill-health pension benefits. The type of benefits you will receive are dependent upon your individual circumstances, the scheme(s) you belong to and the degree of disability.

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

**Immediate Choice** - Under section 6 of the PSPJOA 2022, members who already have benefits in payment or who have died by the time the remedy is implemented (entitlement to the payment of benefits in relation to remediable service will have occurred) will be provided with an immediate choice.

**In-scope member / eligible member** - The remedy applies to pension scheme members who were in pensionable public service both on or before 31 March 2012 and on or after 1 April 2015, including those with a gap in service of no longer than five years. The detailed eligibility conditions are set out in section 1 of the PSPJOA 2022.

**Internal Dispute Resolution Procedures (IDRP)** - An internal dispute process required by the Pensions Act 1995. Under the IDRP, disputes can be considered independently by the Pensions Ombudsman if they cannot be resolved internally.

**Legacy scheme** - The public service pension schemes members were in prior to 1 April 2015 which is the PCSPS(NI) for the Northern Ireland Civil Service. All legacy schemes closed to future accrual at 31 March 2022.

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

**Lump sum** - A specific payment made in respect of a member's pension rights. 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** - An individual who joined the NICS Pension Scheme and is earning benefits under the Scheme (active member), has a deferred pension under the Scheme (deferred member), or is receiving a pension from the Scheme (pensioner member, including partial retirees). In some cases, this may also include pension credit members of the scheme.

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

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

**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.

**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.

**Nuvos** - This is an occupational defined benefit pension arrangement of the PCSPS(NI). It provides a pension linked to pensionable earnings which is reviewed annually in line with the cost of living.

**Opting out / Opt out** - When an individual chooses not to become a member of the NICS Pension Scheme, or chooses to leave the scheme, if already a member.

**Opting in / Opt in** - When an individual chooses to re-join the NICS Pension Scheme, after having previously left the scheme.

**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.

**Pension Sharing Order** - An Order made by the Court on divorce or dissolution of a civil partnership. It awards a share of pension benefits to a former spouse or civil partner, and they become a member of the scheme in their own right. Such members are known as Pension Credit members.

**Pensioner member** - Individuals who are drawing a pension and who are mainly former employees. However, they may also include widows, widowers and other dependants of former active members.

**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.

**Premium** - A defined benefit ('final salary') pension scheme arrangement under the PCSPS(NI). Staff in post up to 30 September 2002 had the choice of transferring from Classic to Premium.

**Principal Civil Service Pension Scheme (Northern Ireland) [PCSPS(NI)]** - The PCSPS(NI) is a pension scheme designed for Northern Ireland Civil Servants and is made up of three sections or arrangements, Section I is the 2002 Section known as Premium and Classic Plus, Section II is the 1972 Section (Classic), while Section III, the 2007 Section is known as Nuvos. The PCSPS(NI) arrangements are now collectively referred to as the legacy scheme.

**Reformed scheme(s)** - The reformed public service pension schemes introduced under the Public Service Pensions Act (Northern Ireland) 2014. For the NICS, this is the alpha pension scheme.

**Remediable Service** - Any pensionable service that occurs in the remedy period, between 1 April 2015 and 31 March 2022, and which meets the criteria set out in the PSPJOA 2022.

**Remediable Service Statement (RSS)** - A Remediable Service Statement is a document which will clearly show the value of the alternative pension scheme benefits available under the election.

**Remedy Period** - The Government proposed that all eligible members of relevant public service pension schemes would be given the opportunity to choose which model of scheme benefits they would wish to receive (legacy scheme or the reformed 2015 scheme) for the period of 1 April 2015 to 31 March 2022 (known as the remedy period).

**Retrospective Remedy** - The rollback of members to their respective legacy schemes and a subsequent choice of benefits for the remedy period.

**Rollback** - The term used to describe the process by which in-scope members are placed back into a relevant legacy pension scheme(s). The legacy pension schemes for the NICS are Classic, Classic Plus, Premium and Nuvos.

**Scheme manager** - The scheme manager is responsible for managing and administering the NICS Pension Schemes and this role sits within Civil Service Pensions, CSP(NI).

**Simple interest** - Simple interest is calculated on the principal, or original, amount and the time period elapsed.

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

**Taper or Tapered protection** - A protection introduced from April 2015 which was 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 a longer period ranging from a few months to several years after 2015. When tapered protection

ceased, the member moved into the 2015 CARE Scheme, alpha. As with transitional protection, this was found to be unlawful discrimination by the Courts.

**Transfer value** - The value of the member's pension benefits, expressed as a sum of money when a member requests to transfer between two pension schemes.

**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. This was found to be unlawful discrimination by the courts.



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