



Transitional Protection

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Introduction

In June 2019 the Supreme Court refused the Government permission to appeal the Court of Appeal's December 2018 judgment in the McCloud and Sargeant cases.

The [judgement](#) found that both the judges and firefighters pension schemes were discriminatory to some of their members. This was on the grounds of age discrimination when the career average arrangement was introduced in 2015 and the 'transition protection' which was provided to some members.

Transitional protection allowed some older workers to stay in the old pension schemes, instead of being moved to the new career average schemes with higher pension ages in 2015. Those within ten years of their Normal Pension Age as at 1 April 2012 remained in their pre-2015 scheme, the majority of which were final salary schemes.

On 15 July 2019 the Government announced that they accepted that the judgment applies to all the main public service pension schemes, including the Teachers' Pension Scheme.

What's happening now?

The government has now launched its [consultation](#) on the proposals to address the discrimination and it's published here. They are consulting on two options to remove the discrimination caused by transitional protection arrangements. Both options provide members in scope with a choice of receiving either their old or new scheme benefits.

The Government has confirmed that this will apply to all members with relevant service in the main public service schemes, including the Teachers' Pension Scheme, and not just those who have lodged legal claims.

The consultation will run until 11 October 2020.

What changes will the Government develop for pensions schemes?

As some members will be better off in the old schemes, and some better off in the new schemes it's not as simple as putting everyone back in the old schemes. They are consulting on two options to remove the discrimination caused by transitional protection arrangements

Both options involve members having the choice between the legacy (final salary) and reformed (career average) scheme benefits for the service they have accrued during the remedy period (the period of service affected from 1 April 2015, with the consultation proposing an end date of 31 March 2022).

Under the immediate choice option, most members would make this decision soon after the point of legislative implementation. Under the deferred choice underpin for the majority of members this decision would be deferred until the point at which they take their pension benefits (e.g. retirement).

Will members be affected by the change?

The changes will apply to all members who were in post on the 31 March 2012 and still in post on 1 April 2015.

When will we know specifically what is happening to the Teachers' Pension Scheme?

Following the consultation, the government will consider the feedback and then publish their response and announce the final policy decision. Individual schemes will then draft and consult on their scheme regulations.

How do I find out more information?

We'll continue to provide you with information as and when we're made aware of it. We encourage you to keep checking our website and social media pages for further updates.