Age Discrimination Remedy

Member FAQs

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About Remedy

What is Remedy?

In 2015, the government introduced new laws which resulted in a new pension scheme for firefighters - the Firefighters' Pension Scheme 2015 (FPS 2015). These laws included protections which meant that some members of the existing schemes (FPS 1992 and FPS 2006) didn't join FPS 2015 either straight away or at all, depending on their age. Following a legal challenge known as Sargeant, the courts determined that the protections given to members were age discriminatory.

On 15 July 2019, the government made a written statement [HCWS1725] accepting the court's decision. They confirmed that they would engage with the Employment Tribunal to agree how to fix the discrimination. The written statement confirmed that this fix, or remedy, would apply across all public sector schemes.

'Remedy' is the term used for these pension scheme changes.

It can also be referred to as 'McCloud', which is after the Judges McCloud judgement. Which is commonly used by other Public Sector Schemes, such as NHS, Teachers, and Local Government.

'Sargeant', which is after the Firefighters' Sargeant judgement.

'Age Discrimination Remedy', as both cases related to age discrimination, and how this would be remedied (i.e. put right).

What is the Remedy Period?

'The Remedy period' is the period from 1 April 2015 to 31 March 2022.

What legislation has been produced?

To enable these changes to be made, new legislation and powers were needed.

The Public Service Pensions and Judicial Offices Act 2022 (PSPJOA) came into force on 1 April 2022, which provided overarching legislation. The PSPJOA also provides for HM Treasury (HMT) to make Treasury Directions, which specify how certain powers under the PSPJOA are to be used in Public Service Pension Schemes when making their scheme regulations.

The Police and Firefighters' Pension Scheme (Amendment) regulations 2022, were consulted on between November 2021 to January 2022. Government responded to the consultation in March 2022, when the regulations were laid, and came into force on 1 April 2022.

The Firefighters Pension Scheme (Remediable Service) regulations 2023 were consulted on during February to May 2023 and government responded to the consultation in July 2023, when the regulations were laid and came into force on 1 October 2023.
These regulations address the discrimination in two parts future discrimination (prospective) and past discrimination (retrospective), which is covered further down.

To allow for the tax implications of remedy to be rectified, through the powers in the Finance Act 2022, two sets of regulations have been consulted on and published.

Tax (No 1) The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 (legislation.gov.uk)

Tax (No 2)The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (legislation.gov.uk)

Am I affected by remedy?

Not all members are affected by remedy.

Members that are eligible to make choices for the remedy period must:

- have been in pensionable service on or before 31 March 2012; and
- had pensionable service between 1 April 2015 to 31 March 2022; and
- not have a gap in service of 5 years or more (known as a disqualifying break).

Pensionable service does not have to have been in the firefighters' pension scheme, it could also have been in another relevant public service pension scheme i.e. NHS, Teachers or Local Government.

Full details about eligibility to the remedy can be found in section 1 of the PSPJOA .

What is the Legacy Scheme?

Legacy scheme refers to either of the firefighters' pension schemes in place before 1 April 2015, these are Firefighters' Pension Scheme 1992 (FPS 1992) or Firefighters' Pension Scheme 2006 (FPS 2006).

What is a Reformed Scheme?

A reformed scheme is a Career Average Revalued Earnings (CARE) which were introduced as part of the public sector pensions reforms from 1 April 2015.

The Firefighters' Pension Scheme 2015 (FPS 2015) is a reformed scheme.

Who is not affected by remedy?

Members who joined between 1 April 2012 and 1 April 2015 will have pensionable service in the FPS 2006 for that period only, then transitioned on 1 April 2015 to the FPS 2015 (the reformed scheme).

Member who joined after 2015 will be members of the FPS 2015 for all their service.

Your benefits

What happens to my benefits built up before remedy?

Any benefits built up before 1 April 2015 are not affected.

What happens to my benefits built up during the remedy period?

All benefits accrued during the remedy period are automatically rolled back to the relevant legacy scheme on 1 October 2023 for eligible active and deferred members. You will be able to make a different choice for reformed benefits at your retirement date.

What happens to my benefits built up after remedy?

All active members will build up benefits in the FPS 2015 from 1 April 2022. These benefits are not affected by remedy.

How do I know what pension scheme I am in now?

All active members are now in the FPS 2015.

Where can I find out more information about my current pension?

You pension will be looked after by an administrator. Your administrator will be different depending on which Fire Authority you are/were an employee of. You can find our who your administrator is on the Contacting your Firefighters' Pension Scheme administrator page.

Your administrator may have an online portal where you will be able to access documents about your pension. You may also receive documents in the post from your administrator if you do not have online access.

Every August, you will receive an annual benefit statement from your administrator in respect of membership up to end March of the same year. Because the rollback had not happened, statements issued in August 2023 do not reflect the impact of the remedy or provide information on choices.

I was protected, why do I need to make a choice?

Members who were fully protected and could accrue legacy benefits until 31 March 2022, might think as they were protected, remedy doesn't apply to them. However, every member needs to be given a choice between legacy and reformed benefits for the remedy period, and as each person's circumstances are different, until they receive their remediable service statement, they will not know whether the benefits offered for the alternative scheme may be a better value for them.

Some members who were protected may have expected to receive a Pension Savings Statement (PSS) for 2022/23 in October 2023. However, the deadline to receive a PSS has been extended until 6 October 2024 for all remedy eligible members.

If a member wishes to retire before 6 October 2024, then they will receive a notional remediable PSS for the remedy period, including 2022/2023 with their retirement pack and will be able to make a scheme pays election at retirement. For more information on when you may make a choice, please refer to the ‘when will I make a choice about remedy’ FAQ.

When will I make a choice about remedy?

When you make a choice will depend on whether you are already receiving benefits from a firefighters’ pension scheme as at 30 September 2023.

Further information about the cohorts is cover in the next two sections.

What is a deferred choice underpin?

Active and deferred members

All members will receive a combined Annual Benefit Statement/Remediable Service Statement (ABS/RSS) by 1 April 2025; however, where possible this will be included by 31 August 2024. The ABS/RSS will provide members with the current value of both their legacy final salary benefits (FPS 1992/FPS 2006) and their reformed CARE benefits (FPS 2015) for the remedy period as well as projected benefits to normal pension age for active members.

All members who retire from 1 October 2023 will be provided with a Remediable Service Statement (RSS) at retirement. The RSS will illustrate their options to choose to receive either their legacy final salary benefits or reformed CARE benefits for the remedy period.

A member remedy video is available to help explain the remedy process.

What is Immediate Choice?

Pensioner and beneficiary members

Pensioner and beneficiary members that have retired before 30 September 2023 and have service within the remedy period, will be provided with an RSS as soon as reasonably practicable from 1 October 2023.

It is important to note that the regulations allow 18 months for pension administrators to complete the remedy exercise (i.e. until March 2025). Administrators will be prioritising certain categories of pensioner members, based upon the level of impact of remedy to their benefits.

Pensioner members should receive a tailored communication from either their Fire and Rescue Authority (FRA) or pensions administrator confirming the timetable that they will fall into.

The indicative timetable for sending out an RSS to pensioner members is set out on the following page:

Pensioner Member	Indicative timetable to receive RSS
Ill Health Pensioner	October 2023 to June 2024
Beneficiaries (ill health, taper protected and unprotected)	October 2023 to June 2024
Taper Protected Pensioner	October 2023 to November 2024
Unprotected Pensioner	October 2023 to November 2024
Protected Pensioner (2006 Scheme)	May 2024 to January 2025
Beneficiaries (Protected members 1992 and 2006 Scheme)	August 2024 to March 2025
Protected Pensioner (1992 Scheme)	October 2024 to March 2025

A pensioner member remedy video is available to help explain the process.

An Understanding your Remediable Service Statement (RSS) video is available to help you understand your RSS.

I am already retired am I affected?

You may be. If you were in pensionable service (usually when you are making contributions to your pension scheme) during the following periods you will be eligible to make a choice.

- have been in pensionable service on or before 31 March 2012; and
- had pensionable service between 1 April 2015 to 31 March 2022; and
- not have a gap in service of 5 years or more (known as a disqualifying break).

When will I get more information?

Your administrator will provide you with all the details you need to decide. This will be in the form of a Remediable Service Statement (RSS) which will be issued between 1 October 2023 and 31 March 2025.

If you are an active or deferred member, you do not need to make a choice immediately, you will receive an RSS for the first time in August 2024 and annually thereafter reminding you of your options for the remedy period until you retire.

I want to retire before August 2024, what do I do?

Each FRA has its own way for processing retirements. In the first instance you should speak with your line manager/HR department who will guide you through the process. Once your retirement process is in place, you will be given information to enable you to make choices about your pension during the remedy period and how these affect your pension options.

How do I make a choice?

Your remediable service statement (RSS) will display your options. When you receive your RSS (an indicative timetable is covered under 'When will I make a choice about remedy?') you will also be given a claim form.

Why might I have to wait until April 2025 to receive my choice?

While the findings of age discrimination are well known and accepted by scheme managers, and scheme managers have been prepared for remedy, the rules which are set by the Home Office and HM Treasury have only been laid recently in July 2023.

Despite this, scheme managers intend to work to an accelerated timescale which will see the most vulnerable and detrimented members prioritised, so that they receive their choice statements as per the indicative timetable set out under 'When will I make a choice about remedy?

What happens to my 2015 pension if I retire from the 1992 legacy scheme before age 55?

This is sometimes known as the 'Retirement Age Issue' or 'Pension Trap'.

In 2010, the government increased the minimum retirement age from age 50 to age 55 and when the government introduced FPS 2015 this meant that it could not have a retirement age of lower than age 55. Protections, such as protecting the lower retirement age of the FPS 1992 were given to those members who had to move into the 2015 scheme from the FPS 1992. This means that someone can retire from FPS 1992 before the age of 55.

As the 2015 scheme has a minimum retirement age of 55, if a member leaves before age 55, benefits from FPS 2015 become 'deferred'. A deferred pension from FPS 2015 becomes payable without reductions from state pension age. Members can request payment of their FPS 2015 benefits at any point from age 55, however early retirement reductions will apply. These are based on the number of years and months to the members state pension age. Early retirements from active status have different reduction factors as these are based on the number of years and months to age 60.

This position can sometimes be called a 'trap' because if a member leaves before age 55 the benefits from FPS 2015 cannot be accessed on the preferential terms an active member has, however it is caused because of the protections offered on the earlier retirement age of FPS 1992.

Both FPS 2006 and FPS 2015 schemes have a minimum retirement age of 55, whereas FPS 1992 scheme continues to allow access to pension benefits before this age.

Compulsory Retirement Age

Under the legacy schemes, there used to be a Compulsory Retirement Age which meant people had to retire when they met certain criteria, but in 2015 this was removed. This means a member does not have to retire from FPS 1992 because they reach 30 years, they can continue to stay in employment; however, the commutation factor which calculates the lump sum reduces with age.

What is expected of me before I retire?

Although you become entitled to pension benefits including a lump sum payment from the day after your retirement, this does not necessarily mean that this is when the benefits will be paid as there are several things which can affect when the payments are made.

There is no time frame within the regulations for a lump sum to be paid, other than the wider tax regulations which require it to be paid no later than 12 months after retirement.

Your FRA will have a standard timeframe in which to make payments that they have agreed with your Pension Administrator. However, pension benefits cannot be processed or paid until all necessary information is received from your FRA, such as membership, payroll and contribution data. The Pension Administrator also needs information from you such as your final remedy choice and your lump sum commutation choice.

After all the information is received for benefits to be put into payment, it is expected that payment of benefits should be made as soon as practicable after your retirement date, this will also consider any additional factors such as payroll runs.

Lump sum payments

When you retire you can exchange (commute) some of your annual pension to provide a lump sum payment.

If you are already a pensioner member, you will be able to revisit your original commutation decision when you receive your remedy options.

If you have FPS 1992 membership you can choose to exchange some of your annual pension for a lump sum payment; this is also called commutation.

The commutation rates are based on your age in years and months at the date your benefits become payable. The older you are, the lower the commutation rate which means that you receive a lower rate of lump sum. This is because the pension you have given up would be in payment for a shorter period.

The maximum amount of your annual pension that you can commute is 25%, but this may provide a lump sum which is more than the maximum amount of tax-free cash that you can receive under HMRC limits. Any amount paid over the HMRC limit will be subject to an unauthorised payment tax charge. You can therefore choose to take a lower lump sum and remain within the HMRC limits or take the maximum scheme lump sum.

If you have membership under either FPS 2006 or FPS 2015 you can choose to exchange some of your annual pension to provide a lump sum payment; this is also called commutation.

For every £1 of your pension that you exchange you will receive £12 in lump sum.

This lump sum payment is called a pension commencement lump sum (PCLS) and is the amount of tax-free cash that you can receive, usually this is 25% of the total value of the benefits being accessed; this is the permitted maximum and keeps within the HMRC limits.

Your choices

Who can advise me of the right choice to make?

Your decision is individual to your own circumstances, and it is key to understand that.

Your administrator will provide you with all the details you need to decide. This will be in the form of a remediable service statement (RSS) which will be issued between 1 October 2023 and 31 March 2025.

Once you have received your RSS if you feel you need help deciding, you can contact a financial adviser. A list of financial advisers can be found at www.unbiased.co.uk

Do I need a third party to claim my benefits?

Some third-party organisations may contact members, selling their help in claiming their 2015 Remedy benefits.

Your pensions administrator **will not** request a fee for providing this information. You do not need to go through a third party to claim these benefits and you will be contacted by your administrator in due course as explained in section 'when will I make a choice about remedy?' to provide you with your remediable service statement to allow you to make your remedy option.

Please remember to remain vigilant. If you are still unsure or have any concerns over a potential scam, please contact your administrator for clarification.

What happens if I don't make a choice?

It is strongly recommended that you make a choice.

If you don't make a choice, your scheme manager will decide for you based on the figures in your remediable service statement (RSS).

Am I going to pay more in contributions?

With remedy you have the choice about what benefits you want to receive for the period 1 April 2015 – 31 March 2022.

All the information you need to make a choice will be provided in a remedial service statement (RSS) – this includes information about the cost of being a member of each pension scheme. In some cases, you may choose a pension scheme that has a higher contribution rate, but also pays benefits earlier and/or can give you more income in retirement.

The choice is individual, as this will be a key piece to consider when you make your choice as to whether you want to pay more or less to receive a different level of benefit.

The legacy scheme (FPS 1992) has the highest contribution rate. The reformed (FPS 2015) scheme rate is lower, while the legacy scheme (FPS 2006) has the lowest contribution rate.

Will I need to pay any arrears in pension contributions?

If you are making an immediate choice (i.e. you are already receiving benefits from a firefighters' pension scheme and want to change these), you will need to pay any arrears in contributions before you receive the new benefits.

If you are an active or deferred member, you will need to pay your arrears in contributions in one go. Each year, you will have an opportunity to do this within three months of receiving your remediable service statement (RSS), alternatively you can elect to pay them when you retire, either from your own sources or from the lump sum that you might get from the pension scheme. It is worth noting that interest on owed contributions will continue to be applied until they are paid.

More information can be found in the contribution adjustments section below.

When can I expect to receive my remedy pension and lump sum arrears?

If you are an Immediate Choice member, you will receive your Remediable Service Statement by 31 March 2025. You will need to make your final decision and return your completed remedy choice form to your administrator.

Where your remedy choice means that you are owed arrears of pension and or lump sum these will be paid to you as soon as is reasonably practicable.

Your administrator will pay these arrears in line with their usual processes and should communicate this to you when they receive your remedy choice form.

Contribution adjustments

Why do I have to pay contributions?

Most pension schemes require their members to pay contributions.

The Firefighters' Pension Scheme (FPS) is an unfunded scheme, which is the same as most other public sector pension schemes, e.g., NHS, Teachers etc. This means there is no pension fund to pay pension benefits from, therefore active member contributions are used to pay pension payments to retired members. Fire Authorities also pay an employer contribution (37.6% from April 2024) towards funding benefits.

Where there is a shortfall in the contributions to pay retirement benefits, Fire Authorities request a 'top up' from the Home Office.

Your contributions also contribute towards funding other pension benefits, such as early retirement on ill health grounds, death in service and survivor benefits.

How much do I pay?

The Age Discrimination Remedy – Contribution Adjustment member factsheet provides illustrations of contribution adjustments based on the average maximum pay point across roles firefighter to area manager throughout the remedy period.

Members not on the maximum pay point will either owe less (FPS 1992 members) or be owed less (FPS 2006 members) than is shown in the illustrations.

Taper members

Similarly, members who were taper protected moved to their reformed scheme after 1 April 2015, will have paid the correct contributions for the period of service after 2015 in the legacy scheme.

Taper members will owe less in contributions (FPS 1992 members) or be owed less (FPS 2006 members) than is shown in the illustrations, depending on their individual date of transition.

Where can I find more information relating to contribution adjustments?

You can find more information relating to contribution adjustments, including a member factsheet and payment election form on the FPS member website:

What is pensionable pay and what relevance is it to contributions?

Member contributions are paid on pensionable pay.

The Firefighters' pension schemes determine what pensionable pay is, and are defined as follows:

FPS 1992

The Firefighters Pension Scheme 1992 (FPS 1992) requires pay to be determined in relation to the 'performance of the duties of the role'. Under case law there must be an 'element of permanency'.

FPS 2006 and FPS 2015

The Firefighters Pension Scheme 2006 (FPS 2006) and the Firefighters Pension Scheme 2015 (FPS 2015) regulations, which are virtually identical, requires pay to be determined in relation to the performance of the duties of the role but in addition the payment in effect has to be permanent as the regulations specifically exclude any 'allowance or emoluments paid on a temporary basis'.

What is the difference between gross and taxable pay?

Gross pay is the earnings from your employment as a firefighter before any pension contributions have been deducted.

Taxable pay is your gross pay, less any pension contributions.

If an individual is a member of the FPS, their pension contributions receive tax relief, as they are deducted before tax is calculated.

This can mean that, although pensionable pay may be below the threshold for higher rate tax, taxable pay may exceed it, for example by earnings in respect of overtime or other allowances.

If your taxable pay is higher, you may be entitled to higher rate tax relief on your contributions.

Members in this position will either owe less (FPS 1992 members) or be owed less (FPS 2006 members) than is shown in the illustrations.

Why are the contributions for FPS 1992 higher?

This is mainly down to the way in which FPS 1992 benefits accrue (build up) and when the benefits are payable from.

FPS 1992 benefits accrue at a higher rate – 1/60th for every year for the first 20 years' service and then 2/60ths for every year over 20 years', up to a maximum of 30 years' service.

Although FPS 1992 is closed to new members, former members continue to benefit from their membership through the double accrual guarantee.

Active members of FPS 1992 can access their pension at an earlier age than the FPS 2006 and FPS 2015 i.e from age 50 with a minimum of 25 years' service.

Pensions are paid in full with no actuarial reduction, and are generally paid for a longer period of time, with pension increase being paid from age 55, or younger if through ill health in accordance with the Pension Increase Act.

Why does interest continue to accrue until the contributions have been paid?

Protected members paid the full rate of contributions during the remedy period.

If other members were allowed to pay these contributions several years later without applying interest, this would put them in a more favourable position than the protected members.

If that position were to continue, the discrimination would continue. Therefore, interest needs to be applied until the contributions are paid.

Interest on contributions due to a member also continues to accrue interest.

When you choose to settle your contribution adjustment will also be unique to you and your personal circumstances, such as when you plan to retire, the current amount that you owe and current amounts of interest.

Tax

Will the changes affect my annual allowance?

In some cases, changing your pension choice for the remedy period may change the amount of pension you built up each year. This is known as your pension input amount (PIA).

The government sets limits on the amount of pension you can build up each year, known as the annual allowance. During the remedy period this has been £40,000 (historic rates can be seen on the Gov website). Your PIA is tested against this amount by multiplying the amount by which the value of your pension has increased by 16, if this exceeds the annual allowance for any of the years between 2019 and 2022, you may be liable for a tax charge. This is known as an annual allowance charge.

You may have already paid a tax charge during the remedy period, or you may owe tax for the first time.

If you are an immediate choice member when you are making your choice of benefits, you will be told whether you have exceeded the annual allowance, and information about this will be provided in a statement alongside your remediable service statement (RSS), to help you decide.

If you are a deferred choice member this will may be included alongside your annual benefit statement remediable service statement (ABS RSS).

Will I get a Pension Saving Statement for 2022/2023?

Ordinarily, if your annual allowance has exceeded the limit, it is a requirement of the scheme to have to send you a Pensions Savings Statement (PSS) by 6 October 2023.

However, for members affected by remedy, this deadline has been delayed until 6 October 2024. This is to ensure your pension figure on 1 April 2022 reflects the corrections to your pension made by remedy. HMRC have confirmed that this delay means you will not need to report any annual allowance charge for 2022/23 on your self-assessment tax return by the standard 31 January 2024 deadline. You will still need to submit a self-assessment form to report and pay any other tax charge you are liable for by 31 January 2024.

Members who are not affected by remedy, either because they did not meet the criteria, explained in the section Am I affected by remedy?, or because they remained in their legacy scheme during the remedy period, should receive a 2022/23 PSS if they have a pension growth (annual value of pension increase x16), by 6 October 2023. If an annual allowance tax charge is due for 2022/23, it must be included on your self-assessment tax return.

What is a remediable service pension saving statement?

If because of remedy you exceed the annual allowance, you will be sent a revised Remediable Pensions Savings Statement (R-PSS). The deadline for sending this statement will be:

- **For active and deferred members – by 6 October 2024**
- **For pensioner members – within 6 months of making your election.**

From 1 October 2023, HMRC is introducing a new service that enables affected members who have new, increased, or decreased annual allowance charges, as well as other tax charges such as lifetime allowance charges and unauthorised payments charges to:

- **correct these for tax years 2019/20, 2020/21, 2021/22 and 2022/23**
- **apply for compensation for any tax charge overpayments for tax years 2015/16, 2016/17, 2017/18 and 2018/19**

You will need your revised R-PSS to use this service. This service will be available on gov.uk website from 5 October 2023.

Further information is available in our Remediable Pension Saving Statement member factsheet.

Are Scheme Pays deadlines changing?

'Scheme pays' is a mechanism by which the annual allowance charge can be paid out of a pension scheme, rather than by the member personally.

Active members affected by remedy will not receive a 2022/23 Pension Savings Statements (PSS) until after their Remediable Service Statements (RSS) has been issued. Because of this, HMRC has extended the mandatory scheme pays deadline for 2022/23, and for any annual allowance tax charge you may have in tax years 2019/20, 2020/21 and 2021/22 because of remedy.

The amended mandatory scheme pays deadlines are:

- **For active and deferred members – deadline extended from 31 July 2024 to 6 July 2025**
- **For pensioner members – deadline extended to 6 July 2027.**

For members not affected by remedy, the normal tax deadlines apply.

Are all tax years in the remedy period affected by the annual allowance and/or lifetime allowance?

In the latest set of tax regulations, HMRC have frozen 'in scope' tax years for remedy. These are known as 'relevant tax years'. This means that HMRC cannot collect tax owed from out-of-scope years, however they will still pay compensation for any tax owed back to members for these years.

- **In scope years – 2019/20, 2020/21, 2021/22 and 2022/23**
- **Out of scope years – 2015/2016, 2016/2017, 2017/2018 and 2018/2019**

How do I calculate my pensions tax charge?

To assess whether you will be entitled to receive any compensation payments for tax owed back to you, or whether you have any new or increased tax charges due because of your remedy choice, you will need to use the HMRC calculator to calculate your public service pension adjustment.

It is advisable to check that you have all the necessary data before you start the process. HMRC have provided a list of data so that you can check what information you will need. More information is also available in the newsletter on the public service pensions remedy that was published on the GOV.UK webpages in October 2023.

If you retired between 1 April 2015 and 30 September 2023

When your pension administrator issues your Remediable Service Statement (RSS), they will also provide you with a notional Remediable Pensions Savings Statement (R-PSS). This will show the pension input amount for each of the relevant tax years based on both your legacy scheme and reformed scheme benefits. You will need this information to input into the HMRC calculator to help make your choice of remedy benefits.

Once you have made your choice, you will need to use the calculator again to make your actual submission to HMRC as this is how you will either receive compensation payment or notify your pension administrator that you have an additional tax charge to pay.

If you retire between 1 October 2023 and 6 October 2024

You will not have received a revised Pensions Savings Statement (PSS) for the remedy years or made an election to pay those tax charges before you retire.

At your retirement, your pension administrator will re-test your benefits against the annual allowance for the remedy period and for the 2022/23 tax year. You will receive a notional remediable PSS with your Remediable Service Statement (RSS) which will enable you to input this information into the HMRC calculator to help make your choice of remedy benefits.

If you wish to pay the tax charges by scheme pays, you will need to make a scheme pays election at retirement, this can then later be varied once the tax charge has been clarified.

What happens after I have made my choice?

Once you have made your retirement choice and received benefits (known as crystalising), you will receive a final remediable PSS. You will need to use the calculator again to make your actual submission to HMRC as this is how you will either:

a) receive a compensation payment or,

b) notify your administrator that you have an additional tax charge to pay, and then pay it if you do not choose scheme pays.

You will need to ensure that all submissions to HMRC are complete by 31 January 2025, however you are encouraged to do this as soon as possible so any scheme pays can be correctly adjusted on your record.

Any delay may mean you are accruing a scheme pays debt which will need to be adjusted.

If you are an active or deferred member
After you are rolled back to your legacy scheme, your pension administrator will re-test your benefits against the annual allowance for the remedy period and make an assessment for the 2022/23 tax year.

Where your revised pension input amount has altered any existing position for your annual allowance in any of the years 2015/16 to 2022/23, your pension administrator will issue you with a revised or new PSS. This should be issued by 6 October 2024. You will then need to use the HMRC calculator to calculate any new or increased tax charges. All submissions must be complete by the later of 31 January 2025 or within 3 months of receipt of your R-PSS (if this is received after 1 November 2024).

How can I pay my pensions tax charge?

If you have pensions tax to pay because you exceeded the annual allowance in any of the in-scope years, you can choose to have the tax paid by a 'scheme pays debit'.

You won't need to pay anything now, but your pension will be permanently reduced to pay off the debt you owe.

Alternatively, you can pay the tax due from your own resources through a self-assessment tax return process.

How do I find HMRC guidance?

The following links allow you to access the calculator and HMRC guidance quickly: –

HMRC public service pension adjustment calculator

Information required for the calculator

HMRC member guidance

Further HMRC information

Will remedy affect my lifetime allowance?

The lifetime allowance (LTA) limits the total amount of pension benefits an individual can build up over their lifetime before receiving a tax charge. It is only applied when those pension benefits come into payment.

In March 2023, the Chancellor announced that the LTA tax charge would be removed on 6 April 2023 and abolished in a future finance bill. So, it will not apply to future retirements, but will be relevant to any benefits taken up to March 2023.

Members may still be subject to a tax charge at their marginal rate in future, if they decide to take a lump sum at retirement that exceeds 25% of the existing LTA – this is currently £1,073,100 i.e, the lump sum exceeds £268,275. Some members might hold protection against the LTA or may have already been paid a lump sum from another pension – this may alter that limit.

For remedy, the LTA would only impact those members who have an immediate choice (i.e. are already receiving benefits from the firefighters' pension scheme).

If you have already been impacted by the LTA and your decision relating to remedy further increases your LTA value, you may be subject to a further LTA tax charge. If the date you started to receive benefits falls in an in-scope year, this is automatically paid from within the scheme. The test is conducted against the LTA limit that was applicable at the time. Historic LTA rates are available on the Gov website.

For an out-of-scope year, any additional LTA charge is not recovered.

Changes to your Lifetime Allowance

As a result of the Sargeant age discrimination remedy, you can make changes to your lifetime allowance protection if you are eligible:

• Protect your pension lifetime allowance

How to apply for and check protections from the reductions in lifetime allowance.

Protect your pension lifetime allowance – GOV.UK (www.gov.uk)

• Reinstate your pension lifetime allowance

If you lost your lifetime allowance protection because of the public service pension remedy (also known as Sargent), you may be able to reinstate it.

Reinstate your pension lifetime allowance protection – GOV.UK (www.gov.uk)

What is an unauthorised payment?

The tax rules specify the conditions that need to be met for payments to be authorised. Any payment that doesn't meet these conditions is an unauthorised payment. The most common occurrence of an unauthorised payment charge is when members access their FPS 1992 benefits and take a lump sum.

A pension commencement lump sum (PCLS) is the amount of tax-free cash that you can receive, usually this is 25% of the total value of the benefits being accessed; this is the permitted maximum and keeps within the HMRC limits. The FPS 1992 scheme rules allow you to have a maximum scheme lump sum which is more than the PCLS. The difference between the PCLS and the maximum scheme lump sum is classed as an unauthorised payment.

What is an unauthorised payment charge?

There is an automatic tax charge on unauthorised payments, known as an unauthorised payment charge (UPC); the rate for this charge is 40%. The UPC will be calculated on the portion of benefits that are classed as an unauthorised payment. Members are asked to confirm if they wish to have this deducted from their benefits or if they wish to pay the charge directly to HMRC via Self-Assessment; this is also called mandating.

Interest payments

Will I be paid interest back to 1 April 2015?

Depending on what remedy choice you make, you may also receive a payment in relation to the interest that could have been built up on higher value benefits you should have received since the beginning of the remedy period, both in terms of pension payable and any lump sum.

The value of this interest payment will depend on several factors, including when you make your final decision.

Initially, interest is calculated at 8% a year from the beginning of the remedy period, up to 28 days after you receive a Remediable Service Statement (RSS). If you don't decide within this time, your outstanding benefits will still attract interest, but at a lower rate.

You will be given an estimate of the interest you may receive in your RSS; you should note that if you make a choice outside of 28 days the interest will need to be recalculated along with the arrears of pension.

Is there interest due on money I owe to the scheme?

Yes.

If, once you make your choice, you owe money to the scheme – for example in the form of contribution top ups – interest will be applied to this payment.

The interest on money owed to the scheme is calculated at the NS&I rate for direct saver accounts. As of 23 May 2024, this was increased to 4% from 3.65% but much of what you will owe will be based on the previous rates which were much lower.

You will be given an estimate of the interest that might be due in your remediable service statement.

Who decided the interest rates applicable?

The interest rates were determined by the Government's three objectives, to firstly reflect the position members would have otherwise been in without the discrimination having occurred, secondly to recognise the circumstances of the award and thirdly to not unduly burden the taxpayer.

Further details on the rationale can be found in the letter exchanges between HMT and the Government Actuary.

What is the relevant rate of interest?

The relevant rates are:

• Judgment rate: Currently 8% simple

• National Saver & Interest (NS&I) Rate: The current 'Direct Saver' rate can be found at Interest rates | Current interest rates for our accounts | NS&I (nsandi.com) , historical rates can be found at Historical interest rates | NS&I (nsandi.com)

These rates are set by Chapter 4 of the Government directions – The_Public_Service_Pensions__Exercise_of_Powers_Compensation_and_Information__Directions_2022.pdf (publishing.service.gov.uk)

How is interest applied?

OVERPAYMENTS

Overpaid pension benefits: Relevant historic NS&I rate compounding daily from the date halfway through the pension year they were paid until the date of repayment.

Overpaid lump sum: NS&I rate compounding daily from the date it was originally paid until the date of repayment.

UNDERPAYMENTS

Underpaid pension benefits:

• Up until 28 days after RSS issued: Simple interest, calculated daily at the judgment rate from the midpoint benefits were first underpaid to the date of payment. The interest payment may be subject to tax.

• From 29th day after RSS issued: Relevant NS&I rate compounding daily.

Underpaid lump sum:

• Up until 28 days after RSS issued: Simple interest, calculated daily at the judgment rate from the date benefits were first underpaid to 28 days after RSS issued. The interest on this payment may be subject to tax.

• From 29th day after RSS issued: If the lump sum is not paid by 28 days after RSS issued, the interest rate changes to NS&I rate compounding daily.

Will I have to pay tax on interest payments?

Possibly yes. This will depend upon your circumstances and choices at retirement.

Further information is included within the following questions.

What is the tax on interest payments?

The tax treatment of your interest depends on specific individual circumstances. HMRC have confirmed that interest received in respect to authorised pension arrears should be taxed in the same way that interest is taxed on savings.

HMRC published Appendix A – member guidance for tax on interest with their Public Service Pensions Newsletter in September 2024, which sets out the steps a member needs to take.

Each person has a Personal Savings Allowance which means that you could earn a set amount of interest before there is a requirement to pay tax, the amount you are eligible for is dependent on which Income Tax band you are in. To work out your tax band, add all the interest you have received to your other income and then use the table below to establish your eligible allowance:

Income Tax band	Personal Savings Allowance
Basic rate	£1,000
Higher rate	£500
Additional rate	£0

If you go over your allowance, you are eligible for tax at your usual rate of Income Tax.

Interest that is paid on the arrears of lump sum may be subject to tax and incur an unauthorised payment tax charge. Our understanding of the current tax position for interest on lump sums is set out on the following page:

- If the arrears of lump sum and interest are paid:
    - together with the top-up lump sum as one payment, and

   - together with the original and top-up lump sums and it **does not** exceed the maximum limit for the lump sum to remain an authorised payment.

  The interest paid on the top-up lump sum is deemed authorised and HMRC rules confirm that it can be taxed in the same way as that lump sum i.e. tax free.

- If the top-up lump sum and interest exceed the maximum limit for the lump sum, then the excess is treated as a Scheme Administrator Member Payment (SAMP).

- Interest on unauthorised payments is itself an unauthorised payment. This means that should you elect for a lump sum which is above the HMRC allowance then all interest on your lump sum is deemed unauthorised and an unauthorised tax charge would apply.

Am I affected?

This charge will only apply to Immediate Choice members where your choice of remedy benefits results in a revised lump sum payment that exceeds the pension commencement lump sum (PCLS).

In these cases, the interest payment made on the arrears of lump sum will incur an unauthorised payment tax charge.

What is a Scheme Administrator Member Payment?

Scheme Administration Member Payments (SAMP) are payments made by a registered pension scheme, such as the FPS, to or in respect of a member, or former member, for the purposes of administration or management of the scheme, this includes paying interest where arrears of lump sum and annual pension are due.

The definition of a SAMP is set out in Section 171 of the Finance Act 2004 and the pension tax manual PTM143100.

Individual circumstances

My Spouse/partner was a member of the firefighters' pension scheme – why are you contacting me?

Beneficiaries are eligible to make decisions about the benefits that were built up in the remedy period.

I am due a 'top-up' death in service lump sum in respect of my spouse/partner, will I be paid interest?

Yes, interest is due at a rate of 8% simple, as defined in the judgement ruling. This will be applied to any 'top up' death in service lump sum due.

I am due interest on my 'top-up' death in service lump sum in respect of my spouse/partner, will this be subject to tax?

Maybe

Death in service lump sums are ordinarily treated as being tax free, the same logic should apply to any interest i.e. the interest applied is not subject to tax. There are some limited circumstances however whereby a death in service lump sum is taxable:

- Eligible individual over age 75 at date of death, and
- Death in service lump sum paid over 2 years ago.

This is as per PTM073100.

For cases where the members death was over 2 years ago, Regulation 31 of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 mitigates this and therefore should mean that any interest is paid tax free.

I left the scheme due to ill health – how am I affected?

Like ordinary retirements, your remediable service statement (RSS) will display your choice of benefits between the legacy and reformed schemes. This will reflect the different levels of ill health pensions in the different firefighters' pension schemes and whether you are eligible for them.

If you retired on ill-health as a protected member of FPS 1992, you should have been contacted by your former FRA for a re-assessment to have been carried out by an independent qualified medical practitioner (IQMP). The re-assessment is necessary to see if you are eligible to be offered the choice of alternative ill-health pension in the reformed scheme (FPS 2015).

I opted out of the scheme – why are you contacting me?

If you chose to leave the scheme, but built-up benefits during the remedy period, you will still be able to decide about the benefits that are right for you.

In addition, if your decision on opting out was related to the discrimination in the transitional arrangements, you may be able to rescind your decision to opt out during the remedy period. Please refer to the 'What is a contingent decision?' section for more information on this.

What is a contingent decision?

A contingent decision is a decision that you may have made differently, had age discrimination have not taken place and you were not transitioned into the FPS 2015 during the remedy period.

In the firefighters' pension scheme there are two areas which are covered by contingent decisions, these are:

- Opt-outs, and
- Purchasing of additional service

If you think that you are affected by this, you will need to contact your scheme manager, who should acknowledge your request and then confirm their decision as to whether they accept your application. If your application is accepted your pension administrator will have until April 2025 to provide you with a contingent decision remediable service statement.

Member guidance and a claim form is available on the FPS Member website.

Why am I receiving a refund of my Added Pension contributions?

Added Pension is not a benefit available in the legacy schemes and therefore as part of your rollback to the legacy scheme, any Added Pension contributions that have been paid into FPS 2015 during the remedy period must be returned.

These payments must be returned to comply with the remedy legislation, there is no choice for a member as to whether they receive this or not as it is an automatic compensation payment.

The rules about making Added Pension compensation payments to members is set out in:

– Section 20 of The Public Service Pensions and Judicial Offices Act (PSPJOA 2022) and

– Part 5, Regulation 27 of The Firefighters' Pensions (Remediable Service) Regulations 2023 (Firefighters' Scheme Remediable Regulations)

There is additional information for members about Added Pension on the Added Pension compensation amounts factsheet.

Am I eligible to buy additional service as a Contingent Decision?

A member is only eligible to make a contingent decision to buy additional service if they would have been eligible to do so at the time.

There is no scheme manager discretion that can determine a different outcome if the member is not eligible, therefore contingent decisions claims will be dismissed if the member is not eligible to make one.

There is additional information for members about Contingent decisions on the FPS member website.

Eligibility to buy added years in FPS 1992

A member is only eligible to make a contingent decision to buy additional 60ths in the FPS 1992 legacy scheme if they would have been eligible to do so at the time, with the key criteria being "*you could not achieve 30 years by the normal pension age (55)*".

Further information can be found on the FPS member website.

Eligibility to buy added years in FPS 2006

A member is only eligible to make a contingent decision to buy added years in the FPS 2006 legacy scheme if they would have been eligible to do so at the time, with the key criteria being "*you could not achieve 40 years by the normal pension age (60)".*

Further information can be found on the FPS member website.

How are transfers-in dealt with in the legacy scheme for remedy?

Transfers are dealt with differently depending on whether a member, elected to transfer benefits into the scheme during the remedy period or not.

I transferred in during the remedy period, how is my transfer dealt with in the legacy scheme?

Transfers that took place in the remedy period, do not need a contingent decision, they are dealt with in the remediable regulations to allow a conversion to legacy scheme benefits where possible. Members do not need opt for this; it is automatic.

Conversion of existing transfer-ins are dealt with in the remediable regulations in paragraphs 45 and 46.

– Paragraph 46 (2bi) applies where the legacy scheme would not permit the transfer and there is service after 1 April 2022 in the 2015 scheme. The transfer is treated as 2015 service.

– Paragraph 46 (2bii) applies where the legacy scheme would not permit the transfer and there is no service after 1 April 2022. This treats the transfer as compensation.