

Briefing



Branch briefing

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To: Branch Secretaries

21 February 2022

Pension changes

This briefing contains important information about the Civil Service Pension Scheme and the further changes which are being made this year as rule changes required by the Court of Appeal are enacted. The information directly affects all members of the Scheme who joined it on or before 31st March 2012 and have legacy (pre-2015) service in the scheme. Please bring this circular to the attention of these members in your branch.

The McCloud judgement

In 2015 the government made changes to public sector pensions. Whilst the majority of civil servants were moved onto a new scheme called Alpha on 1st April 2015 the decision on whether someone was moved onto the new Alpha scheme or could stay in their current scheme was taken based on the age of each scheme member on 1st April 2012.

Those who were within ten years of their Normal Pension Age (i.e those over 50 in Classic, Classic Plus and Premium, and those over 55 in Nuvos) were able to stay in their old scheme and not move onto Alpha. This was called "Transitional Protection". Those aged 40 or over would be moved onto the Alpha scheme at a later date but not straight away. This was called "Tapered Transitional Protection".

The 2018 Court of Appeal found that these protections were discriminatory on grounds of age and had to be remedied. The ruling, known as the McCloud judgement, did not find that the Alpha scheme itself was discriminatory or illegal.

The Remedy Group

The McCloud Remedy does not apply to everyone. The Remedy Group are those members who were in a legacy scheme on 31st March 2012 and either switched to Alpha or did not switch because they had transitional protection. If you joined the scheme after 31st March 2012 the remedy does not apply and your pension is unchanged.

Those in the Remedy Group will have a choice, at the point of retirement, over which scheme rules they wish their pensionable service and benefits for the period 1st April 2015 to 31st March 2022 to be calculated under. The choice will be between their legacy scheme or the Alpha scheme. Civil Service Pensions are committed to providing members with two different sets of calculations so that they can decide which one is most beneficial to them but this will not be available before October 2023.

Most scheme members will not need to take any action now as the remedy will be applied according to their choice at the point they retire.

Immediate Detriment

Immediate detriment is where members are already out of pocket due to having already retired with a pension and retirement sum calculated before the remedy is applied and therefore not in compliance with the judgement. These cases have arisen where members who are in the Remedy Group have retired early on ill-health or other grounds. PCS is concerned that members retiring between now and October 2023 will also face a possible detriment.

PCS has been clear that members should not have to endure a lengthy wait to get their correct pension amount in compliance with a Court of Appeal ruling made more than three years ago and we are exploring with our lawyers in what circumstances the Court can order the Scheme to make the correct pension payments without further delay. There is a small number of members who have already retired early because of health or other reasons and know that they are receiving pension benefits that will qualify for the remedy. If this applies to you please contact PCS via responseteam@pcs.org.uk and include full details of the finalisation of your pension.

PCS will always apply a test of reasonable prospects of success before supporting individual legal cases.

Are you making an application for Ill Health Retirement?

The remedy requires a review and recalculation of the pensions of retired members if they are in the Remedy Group. This includes members who are awarded pension under the Ill Health Retirement rules (IHR) where the award of pension is either entirely legacy or entirely Alpha. From 1st April this year the rules will only provide for IHR under Alpha rules. To protect any remedy options that may exist it is important that those members who are currently preparing applications for IHR make their application on or before 31st March 2022 if they have past service in Classic, Classic Plus, Premium or Nuvos. This is because remedy options will be protected as long as applications are made prior to 1st April.

Further information

Updates are regularly published on the [PCS website](#). You can also get information about the changes on 1st April from [Civil Service Pensions](#).

Mark Serwotka
General Secretary

Fran Heathcote
President