



## THE REMEDY TO THE UNLAWFUL PENSION DISCRIMINATION

### FREQUENTLY ASKED QUESTIONS (FAQS)

Prepared by the Police Federation of England and Wales (PFEW) Policy Support Team, March 2022

This document is designed to answer Frequently Asked Questions (FAQs) about the Government's intended remedy to the unlawful discrimination caused by the transitional protections under the Police Pension Scheme 2015 (the 2015 CARE Scheme) following the Court of Appeal decision in the *McCloud* and *Sargeant* cases. Following a consultation exercise, the Government has set out how it intends to remove the unlawful discrimination caused by the transitional protections, which is hereon referred to as the 'Remedy'.

The Remedy is being implemented in two parts; firstly, rectifying the discrimination regarding future pension provision (prospective) and secondly, rectifying the discrimination already caused (retrospective).

From 1 April 2022 no-one will be able to remain an active member of either the Police Pension Scheme 1987 (PPS 1987) or the New Police Pension Scheme 2006 (NPPS 2006). An 'active' member is an officer who is in police service and is making the required pension contributions in order to build up ('accrue') pension benefits. As of 1 April 2022, police officers will only be able to accrue future pension benefits as active members of the 2015 CARE Scheme. This is known as the prospective part of the Remedy.

In acknowledgement of the complexity and level of work necessary to implement the retrospective Remedy, the Government has given forces and their pension scheme administrators until October 2023 to fully implement the Remedy. As there may be some practical difficulties that arise in the early days of the implementation, PFEW will continue to monitor, and where necessary apply pressure to seek to ensure that all possible steps are taken as swiftly as possible to implement the Remedy accurately for all concerned. If you have any concerns, please [contact us by clicking here](#).

These FAQs are not exhaustive and represent PFEW's best understanding of how the Remedy will work as at the date of issue. PFEW will, with the help of its advisors, continue to engage with Government to represent the interests of its members as the details of the Remedy emerge and develop. However, it should be noted that the Government is not required to negotiate on the Remedy, only to consult, and it is not obliged to accept any recommendations, requests or advisory comments that it may receive during such consultations.

PFEW cannot give members advice about their individual financial circumstances, including pensions. However, the 2015 CARE Scheme delivers a good package of benefits that is better than that provided by other public sector schemes (and the vast majority of schemes in the private sector). It is extremely unlikely that members will be able to attain the same level of benefits provided for by the 2015 CARE Scheme for the same cost to them. Any officer who is considering opting out should carefully consider the fact that they would be losing out on a number of valuable benefits (please refer to section [6.1](#)), and **PFEW very strongly recommend taking appropriate independent financial advice before making a decision to opt out.**

For further information on the 2015 CARE scheme please refer to the [member's guide](#).

Members should not make any decisions on the basis of information contained within this document without first seeking confirmation of the details of the impact of the changes on their personal circumstances from their force pensions administrator and/or their own financial advisor.



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# 1. The Background

## 1.1. What is the issue?

In April 2015, alongside the introduction of the new police pension scheme (Police Pension 2015 CARE Scheme) recommended by the Hutton Report, the Government introduced transitional arrangements. These arrangements were intended to ease the transition from the existing final salary schemes (PPS 1987 and NPPS 2006) to the new Career Average Revalued Earnings scheme (2015 CARE Scheme).

The transitional arrangements covered a number of different areas. Part of the transitional arrangements included transitional protections for a cohort of members of PPS 1987 and NPPS 2006 (the Legacy Schemes). The transitional protections meant that:

1. Members would continue to accrue pension benefits under their existing final salary scheme up until retirement, this is known as ‘full protection’ or;
2. Members would continue to accrue pension benefits under their existing final salary scheme for a limited period only. The member would then transition into the 2015 CARE Scheme at a given point before April 2022, this is known as ‘tapered protection’.

The eligibility criteria for transitional protections are based on age. To qualify for full protection a member had to be aged 45 (PPS 1987), or within 10 years of their Normal Pension Age (NPPS 2006). Members within four years of qualifying for full protection were eligible for tapered protection.

Equivalent CARE schemes and transitional protections were introduced across the public sector. These transitional protections benefitted older members only, which was clearly direct discrimination on the grounds of age. However, such direct age discrimination can be lawful (in a pension scheme) if it represents a proportionate means of achieving a legitimate aim. The general view, supported by legal advice which was obtained by PFEW at the time, was that the Government would be able to evidence that protecting older members through

the transitional protections was a proportionate means to achieve a legitimate aim. Consequently, whilst maintaining its fundamental position that only new officers should join the 2015 CARE Scheme, PFEW chose not to challenge the basis of the transitional protections in accordance with the legal advice received.

## **1.2. What happened after the introduction of the 2015 CARE Scheme?**

Groups of younger members of the various public service schemes (including the police) who were not able to remain in their existing Legacy Schemes chose to challenge the transitional protections, primarily on the basis that the age discrimination caused by the protections was not justifiable as being a proportionate means of achieving a legitimate aim and was therefore unlawful.

Legal challenges were taken against the transitional protections for all the public service pension schemes, but the first two to reach the courts were in respect of the Judges' and Firefighters' schemes (*McCloud* and *Sargeant*), with the other cases (including the one under the police schemes - *Aarons*) stayed (i.e. put on hold) pending the decision in the *McCloud* and *Sargeant* cases.

## **1.3. Why is the Remedy necessary?**

The *McCloud* and *Sargeant* cases progressed through the Employment Tribunal and the Employment Appeals Tribunal until eventually reaching the Court of Appeal, which handed down its ruling on 20 December 2018. The Court of Appeal found that the Government had failed to demonstrate that the transitional protections were a proportionate means of achieving a legitimate aim, and therefore constituted unlawful discrimination on the grounds of age. The Government was subsequently refused permission to appeal this decision to the Supreme Court, and then conceded that it would need to take action to remove the unlawful discrimination from all affected public service pension schemes, including the police scheme. This meant that the Government would be required to construct and implement a remedy to address the discrimination caused to members who had not been provided with full protection as part of the transitional arrangements.

## 1.4. What has happened since the Court of Appeal decision?

The work required to remove the unlawful discrimination retrospectively from 1 April 2015 will be a complex and extensive exercise requiring the recalculation of benefits, contributions and tax liabilities, whilst not reducing accrued benefits or creating any new discrimination.

On 16 July 2020, HM Treasury (HMT) issued a formal consultation on its proposals for the remedy to the discrimination, which [PFEW responded](#) to on 11 October 2020. The police pension Scheme Advisory Board (SAB) also submitted a response on 8 October 2020. Following consideration of the submissions from consultees, HMT published their response to the consultation in February 2021, detailing how it had decided that the discrimination would be remedied. PFEW have and continue to raise a number of concerns about the proposed Remedy, and have taken legal advice from a number of specialist Queen's Counsel barristers.



## 2. THE REMEDY

### 2.1. Who qualifies for the Remedy?

All officers who were active members of one of the Legacy Schemes on 1 April 2012 and continued in active pension scheme membership up to 1 April 2015 fall within the scope of the application of the Remedy. This is the case for all such members whether they qualified for full protection, tapered protection or no protection under the transitional protections introduced in April 2015.

Members who are in scope of the Remedy can fall into any of the following categories:

- Active (currently paying contributions)
- Deferred (left service and did not receive a refund of contributions)
- Retired (pension in payment)
- Beneficiary/ies (Adult or child survivors of a deceased member)

Please note: officers who joined NPPS 2006 from 1 April 2012 and were required to move into the 2015 CARE Scheme on 1 April 2015 will not qualify for the Remedy as they were not within scope of the legal judgment which found the transitional protections to constitute direct age discrimination.

### 2.2. What period of time does the Remedy Cover?

The transitional protections which were judged to be unlawful took effect from 1 April 2015, which is the start date for the application of the Remedy.

The Government has decided to remove the unlawful discrimination with effect from 1 April 2022. Therefore, the period to which the Remedy applies (known as the 'Remedy Period') is 1 April 2015 to 31 March 2022.

Any member who is in scope will be entitled to the application of the Remedy for any period of their active membership of any of the police pension schemes during the Remedy Period.

## 2.3. How will the Remedy work?

When a member to whom the Remedy applies decides to take their pension benefits from the police schemes, they will be given a choice in respect of the pension benefits they receive for any period of accrual of pension benefits that they have during the Remedy Period (1 April 2015 to 31 March 2022).

The choice will be a binary one between receiving pension benefits calculated in accordance with their Legacy Scheme in which they have a period of membership, or the pension benefits calculated under the 2015 CARE Scheme. This means that the choice will cover the whole of their accrual of pension benefits during the Remedy Period and there will be no ability to “mix and match” benefits from two schemes (even where a member previously had tapered protection). They must choose one form of scheme benefits only for the Remedy Period: either their Legacy Scheme, or the 2015 CARE Scheme.

Until the member makes their choice at retirement, they will be ‘deemed’ (legally treated) to have been a member of their Legacy Scheme for the duration of their pensionable service during the Remedy Period, this approach is known as the ‘Deferred Choice Underpin’ (DCU).

## 2.4. What adjustments to my police pension will be necessary?

### PENSION CONTRIBUTIONS

As a result of members being returned to the Legacy Schemes for the Remedy Period with effect from 1 April 2022, it will be necessary to adjust the pension benefits accrued during that time, in addition to an adjustment to the pension contributions paid by members during the Remedy Period. This is because the three police schemes (PPS 1987, NPPS 2006 and 2015 CARE Scheme) have different contribution rates.

The PPS 1987 has a higher contribution rate than the 2015 CARE Scheme and so members moving from the 2015 CARE Scheme to PPS 1987 for the Remedy Period will need to make up the difference in contributions they would have paid if they had remained in PPS 1987.

The NPPS 2006 has a lower contribution rate than the 2015 CARE Scheme and so members moving from the 2015 CARE Scheme to the NPPS 2006 for the Remedy Period will be entitled to a refund of the extra contributions they paid into the 2015 CARE Scheme over and above what they would have paid into NPPS 2006.

## **TAX**

Member contributions are deducted from gross income (i.e. salary before tax), and these contributions therefore attract tax relief. Consequently, if members are required to make up a shortfall in pension contributions as part of the Remedy, then they have received less tax relief than they were entitled to and so a refund will be paid to the member in respect of the tax relief.

If a member has overpaid contributions (as a result of the Remedy) then these will be refunded, with a deduction made to account for the excess tax relief given at the time.

Please note that it is possible that some higher ranking officers of the federated ranks will have been subject to an Annual Allowance tax charge in respect of their pension scheme membership during the Remedy Period, and this will also be retrospectively adjusted to reflect the change in benefit accrual.

If a member chooses to receive 2015 CARE Scheme benefits for the Remedy Period rather than the default Legacy Scheme benefits when they retire, there will need to be a further adjustment to the member's contributions and tax position in respect of the Remedy Period at the point of retirement.

## **2.5. Will interest be applied where member contributions are adjusted?**

Yes, where a member needs to make up a shortfall in contributions as part of the adjustments required to implement the Remedy, interest for late payment will be charged. Equally, where members are entitled to a refund of overpaid contributions as part of the required adjustments, interest will also be added to those payments. The rate at which interest will be applied has not yet been determined by Government, but when decided upon it will be applied consistently.

## **3. APPLICATION OF THE REMEDY**

### **(A) MEMBERS WHO ARE FULLY PROTECTED**

#### **3.1. Why am I being given a choice of benefits for the Remedy Period?**

The Government are legally obliged to remove the unlawful age discrimination caused by the transitional protections and need to ensure that in doing so, no further unlawful discrimination is caused.

Accrued pension rights are protected by law, and these accrued benefits cannot be removed without the consent of the member. Members who benefited from full protection are required to make a choice of benefits at retirement because they must be subject to the same remedy and treatment as other members in scope (those who received tapered or no protection).

#### **3.2. Why is the Remedy period ending on 31 March 2022?**

The purpose of the transitional protections was to protect the position of members who were within ten years (or less) of retirement at their Normal Pension Age (NPA). The date of 1 April 2022 is ten years from 1 April 2012, which is the date nominated by the Government as being the effective start date for the application of transitional protections which the Government intended to end by 31 March 2022. Whilst it would theoretically have been possible for the Government to close the Remedy Period (and therefore end the discrimination) at an earlier date, the Government has remained consistent with its original intention by closing the Remedy Period at the end of 31 March 2022.

**3.3. I joined PPS 1987 at a later age but qualified for ‘full protection’ as I was 45 or over on 1 April 2012. I thought my pension was protected until retirement, so I planned to continue in service and membership of PPS 1987 after my Normal Pension Age (NPA) and up until my Compulsory Retirement Age (CRA) in order to maximise my accrual of my pension under PPS 1987. Why am I being forced to cease being a member of PPS 1987 at the end of March 2022?**

The Government’s position is that it never intended for anyone to receive protection or continue in active membership of PPS 1987 or NPPS 2006 after 31 March 2022, which reflected the ten-year period from 1 April 2012 (as explained in [3.2](#)). The Government has stated that there will be no exceptions to the cessation of active membership of the Legacy Schemes at the end of 31 March 2022. The reason for this is that the Government needs to comply with the decision of the Court of Appeal by removing the unlawful discrimination, and in doing so must not create any further discrimination. If Government were to permit some members to remain in their Legacy Schemes they would be continuing and creating further discrimination against other members who are unable to do so. By adopting the Remedy and a universal date for cessation of all active Legacy Scheme membership, all members will be treated equally from 1 April 2022.

**3.4. I am fully protected under PPS 1987 or NPPS 2006, but some of my service is part-time. I thought I was protected until retirement and intended to continue in service and membership past 31 March 2022 to maximise my pensionable service in my Legacy Scheme. Why am I now being forced to cease being a member of my Legacy Scheme at the end of March 2022?**

The reasons behind the Government's approach are the same as those described in [3.3](#). When the transitional protections were first introduced in 2015, PFEW argued that members with periods of part-time service should be able to extend their period of protection on a pro rata basis, but this argument was not accepted. The Government is remaining adamant that no protection should extend beyond the maximum ten-year period which ends on 31 March 2022.

For those members with an element of part-time service, it remains the case that part-time service counts the same as full-time service for the purposes of qualification for and access to pension benefits. However, the pension benefits themselves are calculated on a pro rata basis for the period of part-time service.

**3.5. I am fully protected under PPS 1987 or NPPS 2006 but have taken a career break. I thought my protection continued until I retired, and I intended to continue in service and membership past 31 March 2022 to make up my pensionable service in my Legacy Scheme. Why am I now being forced to cease being a member of my Legacy Scheme at the end of March 2022?**

As explained in [3.3](#) and [3.4](#), the Government's position is that protection for all members of the Legacy Schemes will cease at the end of 31 March 2022. During discussions about the introduction of the 2015 CARE Scheme and the

transitional protections, PFEW argued for members who had taken career breaks to have their protection extended by the length of their career break. However, the Government did not accept that suggestion and so their position remains consistent in moving all remaining active members of the Legacy Schemes to the 2015 CARE Scheme on 1 April 2022.

### **3.6. What action has PFEW taken in respect of the position of the members outlined in [3.3](#), [3.4](#) and [3.5](#) above?**

As part of its consideration of the cohort of members described in [3.3](#), [3.4](#) and [3.5](#) (late joiners to PPS 1987, members who have taken a career break, and members who have part-time service), and to inform its response to the consultation, PFEW obtained legal advice from a number of specialist Queen's Counsel barristers as to whether there was a viable chance of making a successful challenge to Government's proposals for the remedy to the unlawful discrimination and for future benefit provision. The advice received has included opinion on the position of the members detailed in sections [3.3](#), [3.4](#) and [3.5](#). The advice is comprehensive and clear that there is no realistic viable challenge to the proposed changes. Further, where discrimination does appear to exist it seems highly likely that the Government will be able to justify the discrimination as being a proportionate means of meeting the legitimate aim of removing the unlawful discrimination in order to comply with the Court of Appeal ruling.



## **(B) MEMBERS WHO HAVE TAPERED PROTECTION**

### **3.7. What choice of pension benefits for the Remedy Period do I have?**

Currently, members with tapered protection will have membership in both a Legacy Scheme (PPS 1987 or NPPS 2006) and the 2015 CARE Scheme for the period between 1 April 2015 and 31 March 2022. At retirement, members will have to choose whether their membership during the Remedy Period should be in their Legacy Scheme, or the 2015 CARE Scheme. It will not be possible to maintain their current position of having a mixture of scheme membership during the Remedy Period.

As described in section [2.4](#), due to the retrospective change in scheme membership there will need to be adjustments to contributions and tax relief.

### **3.8. Why am I not being allowed to keep my current tapered status in my Legacy Scheme?**

The Government's position is to treat all members equally, to remove the unlawful discrimination, and to not create any further discrimination. If members were allowed to maintain their tapered protection status, the Government would also have to provide members who have no protection or full protection with the ability to choose a mixture of Legacy Scheme and 2015 CARE Scheme benefits for the Remedy Period. This would greatly increase the complexity and difficulty of implementing the Remedy, and the Government are not prepared to do this.

With the help of expert actuarial advisors, PFEW have considered whether any of its members would be better off maintaining their tapered protection status, and therefore whether the design of the Remedy diminishes any member's existing accrued benefits. Whilst we cannot provide absolute certainty, it is highly unlikely that the accrued benefits any of our members with tapered protection will be prejudiced.

## **(C) MEMBERS WHO ARE NOT PROTECTED**

### **3.9. Why am I being given a choice of pension benefits, should I not just automatically be returned to my Legacy Scheme for the Remedy Period?**

The declaration of the Court in the *Aarons'* case (the police equivalent of the *McCloud* and *Sargeant* cases) stated that members who had not been fully protected should be treated as if they had been. Consequently, the Government is obliged to offer members with no protection access to the Legacy Scheme benefits they would have accrued during the Remedy Period.

However, members with no transitional protection have been accruing benefits in the 2015 CARE Scheme since 1 April 2015 and have accrued an entitlement to pension benefits under that scheme, which cannot be diminished without explicit consent from each member. This is the reason why members are being given a choice over which scheme to take benefits from (for the Remedy Period) at retirement. By making a choice at retirement, members will be able to make a decision based on factual information (e.g. actual rather than projected salary at retirement), which will ensure they are best placed to make the choice which is most suited to their individual circumstances.

As described in sections [2.3](#) and [2.4](#), prior to members making their choice at retirement, all members in scope of the Remedy will be treated as if they had been a member of their Legacy Scheme during the Remedy Period, with appropriate adjustments being made to their contributions and tax liability during implementation of the Remedy. This approach reflects the fact that for many (but not all) members who did not receive any transitional protection, being treated as a member of their Legacy Scheme for the Remedy Period will be advantageous. If, at retirement, members choose Legacy Scheme benefits for the Remedy Period, then no further adjustments to contributions or tax should be necessary. There will only be a further adjustment required if a member chooses benefits from the 2015 CARE Scheme for the Remedy Period.

## **(D) OTHER MEMBERS**

### **3.10. I joined the police force/scheme on or after 1 April 2015, does the Remedy affect me?**

Members who joined after 1 April 2015 will have membership in the 2015 CARE Scheme, as this was the only scheme available to new entrants from that date.

This group of members were not subject to the unlawful transitional protections, were not discriminated against and therefore are not subject to the Remedy. The 2015 CARE Scheme will continue to be the scheme available for members to accrue future pension benefits.

### **3.11. I joined NPPS 2006 on or after 1 April 2012 and before 1 April 2015, why does the Remedy not apply to me?**

As mentioned in section [3.2](#), 1 April 2012 was the date nominated by the Government as being the start date for the ten-year protection period, and the date on which members needed to already be a member of one of the Legacy Schemes in order to be eligible for any transitional protection.

The transitional protections came into force on 1 April 2015, and therefore in order to qualify for transitional protection, members were required to be a member of a Legacy Scheme before 1 April 2012, and continue in active membership until and including 1 April 2015. If members joined NPPS 2006 on or after 1 April 2012 the transitional protections did not apply, they were therefore not discriminated against by the application of the transitional protections and so do not fall within the scope of the Remedy.

PFEW have taken legal advice as to whether the exclusion of members who joined on or after 1 April 2012 from the Remedy constitutes discrimination, and whilst it may create some indirect discrimination, the advice is that the Government will be able to justify the exclusion of this group of members from the Remedy.

### **3.12. I did not join and/or opted out of the 2015 CARE Scheme, where do I stand in relation to the application of the Remedy?**

If a member does not have continuous membership of the police schemes from before 1 April 2012 until after 1 April 2015, they are excluded from the application of the choice of pension benefits for the Remedy Period described above.

However, as a separate part of the Remedy, the Government is proposing to introduce a process whereby officers who have not joined (or opted out) of their pension scheme will be able to apply for reinstatement in the police schemes. This process is currently referred to as 'Contingent Decisions', and if a member is accepted back into the pension scheme through this process the choice of pension benefits for the Remedy Period will apply to them, subject to the payment of all of the arrears of the pension contributions that they would owe.

However, there is very little detail so far about how this process will work. What is clear is that there will be a very high evidential threshold to be reached by applicants before such reinstatement is permitted. More information will be provided once further details emerge.

## **4. WHAT HAPPENS BETWEEN 1 APRIL 2022 AND WHEN THE REMEDY IS FULLY IMPLEMENTED?**

### **4.1. When will the Remedy be put in place?**

The Remedy Period will end on 31 March 2022, and the effective date for the application of the Remedy is 1 April 2022 (as this will be the date from which the discrimination ceases to apply). However, in acknowledgement of the level of complexity and resourcing necessary to enable an accurate and consistent implementation of the Remedy, Government have given forces and their pension scheme administrators until 1 October 2023 to fully implement Remedy.

PFEW will continue to ensure that all possible steps are taken as swiftly as possible to implement the Remedy accurately for all concerned.

### **4.2. Which Police pension scheme will I be in whilst the Remedy is put in place?**

Until the end of the Remedy Period (1 April 2022), all active members will remain in the pension scheme that they are currently in, paying contributions at the applicable level under that pension scheme and accruing benefits on the existing basis. There is one exception, and this is where a member with tapered protection reaches the end of their period of protection under the Legacy Scheme. At that point the member will transition into the 2015 CARE Scheme. The member will remain a member of the 2015 CARE Scheme until such time as the Remedy is put in place, when they will then be treated as having been a Legacy Scheme member for the entire Remedy Period. At retirement, the member will make their choice of benefits for their membership during the Remedy Period in accordance with the 'Deferred Choice Underpin' (DCU).

During working groups amongst Scheme Advisory Board members, PFEW pointed out that it would be more logical to allow members who reach the end of their period of tapered protection to remain in their Legacy Scheme until the end of the Remedy Period. This would reduce the number of adjustments to be made to their contributions and tax position when the Remedy is fully implemented, and members are deemed to have been fully protected for the Remedy Period (due to be completed by 1 October 2023). As yet, PFEW have received no response from the Government to this recommendation.

With effect from 1 April 2022 all active members will be in the 2015 CARE Scheme and will pay the appropriate level of pension contributions, and accrue pension benefits under that scheme.

### **4.3. Can I still transfer-in pension from an external (non-police) pension scheme?**

Yes, both Club and Non-Club Transfers can be accepted into the 2015 CARE Scheme, provided that the normal conditions in respect of such transfers are met.

A Club Transfer is where you are transferring pension benefits from another pension scheme which is a member of the Public Sector Transfer Club. Pension schemes that are members of the Club transfer pension benefits on special terms so that the member receives a similar level of pension in their new scheme compared to what they had earned in their previous scheme. Generally, transfers between pension schemes that are members of the Club will be more beneficial than transferring in or out of a non-Club pension scheme.

A non-Club Transfer is undertaken when a member transfers pension benefits where one or both of the pension schemes are not a member of the Club. In these instances, the pension to be transferred is converted into a Cash Equivalent Transfer Value (CETV) which, in practical terms, is a lump sum figure which represents the overall value of your pension benefits. The receiving pension scheme then converts the CETV value to additional benefits in your new scheme, but unlike transfers within the Club there is no guarantee that the transfer is conducted on an equivalent basis.

#### **4.4. What happens to pension I have transferred-in during the Remedy Period?**

Members subject to the Remedy will **not** need to have made a choice between Legacy Scheme benefits or 2015 CARE Scheme benefits at the point they made the transfer in. The choice will be made at retirement in accordance with the 'Deferred Choice Underpin' (DCU), and when exercised the choice will relate to all pension benefits accrued during the Remedy Period, including benefits that have been transferred in.

If a transfer is made into the PPS 1987 or the NPPS 2006 a service credit will be granted, and if the transfer is made into the 2015 CARE Scheme a pension credit will be granted. PFEW await confirmation from the Government of how these transfers will be dealt with during the implementation of the Remedy, but it seems likely that any member who takes a transfer in to the 2015 CARE Scheme and who subsequently opts for Legacy Scheme benefits for the Remedy Period, will need to have their transfer-in recalculated to ascertain how much service credit they will receive in their Legacy Scheme.

For further details on transfers-in you should contact your force's pension administrator.

#### **4.5. What if I qualify for the Remedy but want to retire before it has been fully implemented?**

Officers imminently approaching retirement are referred to as Immediate Detriment (ID) members. Currently, pension scheme regulations do not make provision to allow ID members to make their choice of benefits in respect of the Remedy Period when they retire. Pension schemes are subject to legislation which prevents the application of discriminatory practices within schemes, which in theory permits forces/administrators to pay benefits in line with the Remedy. However, in practice, forces and their pension administrators are not yet ready to calculate and pay fully compliant Remedy benefits.

A member in scope of the Remedy, who is currently in the 2015 CARE Scheme, and wishes to take Legacy Scheme benefits for the Remedy Period is unable to

do so as the pension regulations and other relevant legislation currently stand. Instead, if the member retires now, they will receive benefits calculated on the existing pre-Remedy basis (i.e. a mixture of Legacy Scheme and 2015 CARE Scheme benefits).

In August 2020 the Home Office (HO) circulated Immediate Detriment Guidance ('the ID Guidance') to forces and their pensions administrators, with a revised version issued in June 2021. The ID Guidance was aimed at encouraging forces to allow ID Members to retire on a basis that, whilst not fully compliant with the Remedy, would mean they could retire and receive a pension and lump sum that was much closer to the correct benefits they are due under Remedy. Unfortunately, the ID Guidance was problematic because parts of it were confusing and not comprehensive, which led to inconsistent application of the guidance – some forces were content to use it whilst others were not. Then, in November 2021 the ID Guidance was withdrawn by HMT on the basis that the tax position was significantly more complicated than had previously been thought, and so almost no forces are now using the advice that was contained in the ID Guidance.

Based on further legal advice, the NPCC have written to all chief constables to warn against using the ID Guidance at all.

Clearly this situation is far from ideal for officers wishing to plan for their future after retiring from the force. PFEW, along with the other staff associations have lobbied long and hard for this situation to be addressed and corrected as a priority – and continue to do so.

When the Remedy is fully implemented, at some point after October 2023, the member's benefits will be re-calculated and corrected to reflect their choice of Legacy Scheme benefits for the Remedy Period. The principle of putting members back in the situation they would have been in had the discrimination not occurred will continue to apply, and ultimately the member should not be any worse off in relation to the pension benefits they receive and any tax paid.



## 5. WHAT HAPPENS ONCE THE REMEDY IS IN PLACE?

### 5.1. What scheme will I be in once the Remedy is in place?

From 1 April 2022 all officers will be members of the 2015 CARE Scheme unless they choose to opt out of pension scheme membership. The 2015 CARE Scheme will be the only scheme available to members under which future benefits can be accrued. The introduction of the Remedy is designed to remove the unlawful discrimination caused by the transitional protections and, by only allowing future membership in the 2015 CARE Scheme from 1 April 2022 the Government avoid any further discrimination by ensuring that everyone is treated equally.

### 5.2. What happens to my PPS 1987 benefits after I have been moved to the 2015 CARE Scheme?

Member's benefits in the PPS 1987 will be protected in the following ways:

- The PPS 1987 pension will be calculated by reference to the final salary rules of that scheme i.e. calculated by reference to the final salary at the time of retirement ("Final Final" Salary) and not by reference to their salary at the date they move into the 2015 CARE Scheme;
- The accrual rate will not simply be 60<sup>ths</sup>, but instead will be weighted to reflect the expectation of double accrual. This is known as "Weighted Accrual" – see [5.3](#) for further details;
- The PPS 1987 scheme pension can be accessed at the age/service point which applies in the PPS 1987 – see [5.4](#) for further details.

However, it is important to note that:

- Access to PPS 1987 benefits could be severely affected if a member opts out (before or after moving into the 2015 CARE Scheme). **PFEW strongly recommend that any member who is considering opting out seeks**

**confirmation of the effects of doing this from their pension administrator, and takes independent financial advice before making their decision;**

- The PPS 1987 pension can only be accessed by retiring. It will not be possible to take a PPS 1987 pension and continue to serve as a police officer.

### 5.3. How does Weighted Accrual work?

Weighted Accrual is a beneficial feature of continuous scheme membership intended to address the double accrual that PPS 1987 members are eligible for (i.e. each year counting for 2/60<sup>ths</sup>) in the last ten years of their pensionable service.

To account for the double accrual that would have applied to PPS 1987 service, the accrual rate used to calculate PPS 1987 benefits is adjusted by including the member's entire pensionable service (PPS 1987 and 2015 CARE Scheme) in determining their accrual rate at retirement. This is a more beneficial formula than just using 60<sup>ths</sup>.

In PPS 1987, a member who served for 20 years or less has an accrual rate of 60<sup>ths</sup>, a member who served for 30 years, because of double accrual, has an average accrual rate of 45<sup>ths</sup> (as 40/60<sup>ths</sup> is the same as 30/45<sup>ths</sup>). A member who served for between 20 and 30 years had an average accrual rate somewhere between 45<sup>ths</sup> and 60<sup>ths</sup>.

The Weighted Accrual formula replicates the position in relation to the average accrual rate and applies that to the members' PPS 1987 service. The formula is:

Number of years' service in the PPS 1987 Scheme  
x  
Weighted Accrual rate  
x  
Final Final Salary

The Weighted Accrual rate is:

$$\begin{aligned} & \text{Years that were or would have been at single accrual rate} \times 1/60^{\text{th}} \\ & + \\ & \text{Years that were or would have been at double accrual rate} \times 2/60^{\text{th}} \\ & \text{Divided by} \\ & \text{Total number of years' pensionable service} \end{aligned}$$

Please note that no more than 30 years' service can count towards the Weighted Accrual rate.

**Example 1:**

An officer who works full-time and has 18 years' service in PPS 1987 and 12 years' service in the 2015 CARE Scheme will be entitled to a PPS 1987 pension calculated as  $18/45^{\text{th}}$  of their Final Final Salary, as opposed to  $60^{\text{th}}$ . This will be in addition to their pension accrued in the 2015 CARE Scheme.

**Example 2:**

An officer who has had part-time service will benefit from Weighted Accrual in the same way they would have done if their service had been full-time.

An officer who works part-time and has 18 years' service in PPS 1987 and 12 years' service in the 2015 CARE Scheme will be entitled to a PPS 1987 pension calculated as  $18/45^{\text{th}}$  of their Final Final Salary, as opposed to  $60^{\text{th}}$ . The amount of pension will then be calculated on a pro-rated basis. For example, if the officer worked 20 hours per week for the whole of their PPS 1987 service, the PPS 1987 pension would be  $9/45^{\text{th}}$ . Again, this will be in addition to their pension accrued in the 2015 CARE Scheme.

## 5.4. When can I start to receive my PPS 1987 pension?

At the same age/service point that would have applied in PPS 1987. Therefore:

- Immediately after 30 years' Pensionable Service; or
- From age 50 with at least 25 years' Pensionable Service; or
- From your voluntary retirement age as per Regulation A4 of the Police Pensions Regulations 1987. This will be age 55 for constables, sergeants and MPS inspecting ranks, and age 60 for the inspecting ranks outside of the MPS.

For the purposes of putting the PPS 1987 pension into payment, pensionable service in the PPS 1987 and the 2015 CARE Scheme is combined. However, if an officer does not remain a member of the 2015 CARE Scheme then they will stop accruing pensionable service both in that scheme and for the purposes of building up the combined service they need in order to reach the length of service/age at which they can retire and receive their PPS 1987 pension (see explanation above).

A PPS 1987 pension cannot be paid before retirement from police service.

## 5.5. When I retire and access my PPS 1987 pension can I take my 2015 CARE Scheme pension at the same time?

Whether a member can access both their PPS 1987 and 2015 CARE Scheme benefits at the same time depends upon their age at the date of retirement. The information outlined below applies to retirement from active membership only.

The earliest date from which a pension from the 2015 CARE Scheme can be put into payment is age 55. If a member chooses to retire and commence receipt of their PPS 1987 pension before reaching the age of 55, then the 2015 CARE Scheme pension becomes a deferred pension payable from their State Pension Age. Once they reach age 55, the 2015 CARE Scheme pension can be put into payment at any time, but it will be subject to an actuarial reduction for early payment prior to State Pension Age.

If a member retires aged at least 55, it is possible for the 2015 CARE Scheme pension to be put into payment at the same time as their PPS 1987 pension. In this instance, the 2015 CARE Scheme pension will be subject to an actuarial reduction for early payment prior to the 2015 CARE Scheme Normal Pension Age of 60. If the member chooses not to put the 2015 CARE Scheme pension into payment at the same time, it becomes a deferred pension payable from their State Pension Age.

## 5.6. How does the Remedy affect the commuted lump sum from PPS 1987?

The PPS 1987 permits members to permanently exchange (“commute”) part of their pension for a cash lump sum. The lump sum is tax free, and its value is based on age-based commutation factors prepared by the scheme actuary. In most circumstances members can commute up to 25% of their initial gross annual pension for a lump sum. However, in certain circumstances commutation is limited to 2.25x the initial gross annual pension.

The PPS 1987 Scheme rules will still apply to the commutation of the PPS 1987 pension when the Remedy is implemented. If, at retirement, a member chooses to receive PPS 1987 benefits for the Remedy Period, the rules around commutation of pension apply as they would had the member never left the PPS 1987 Scheme.

Whether a member can commute 25% of their pension or a sum limited to 2.25x their initial gross annual pension will depend (as now) on their circumstances. For the purposes of determining whether a member has sufficient pensionable service to be able to commute 25% rather than 2.25x pension, pensionable service in the 2015 CARE Scheme will count. However, please note that the 2015 CARE Scheme pension **cannot** be commuted on PPS 1987 terms.

The PPS 1987 commutation factors (used to convert pension into lump sum) will continue to be applied on the basis of actuarial tables prepared by the scheme actuary.

### **Example 1:**

An officer who works full-time and has 19 years' service in PPS 1987 (this includes the 7 years' service during the Remedy Period) and 11 years' service in the 2015 CARE Scheme will have completed 30 years' pensionable service overall and therefore is entitled to commute up to 25% of their PPS 1987 pension. The 2015 CARE Scheme pension, including any commutation of that pension will be payable in addition to the PPS 1987 pension. See [5.5](#) for an explanation of when the 2015 CARE Scheme pension can be put into payment.

### **Example 2:**

For the purposes of assessing whether an officer with part-time service meets the service threshold for commutation, part-time service is counted the same as full-time service. This does not affect the fact that part-time pensionable service will be assessed on a pro-rata basis when calculating the pension.

An officer who works part-time (average of 20 hours per week until 1 April 2015, then full-time until retirement) and has 19 years' service in PPS 1987 (this includes the 7 years' service during the Remedy Period) and 11 years' service in the 2015 CARE Scheme will be deemed to have completed 30 years' pensionable service overall (for the purposes of qualifying to commute 25% rather than 2.25x their initial pension) and is therefore entitled to commute up to 25% of their PPS 1987 pension. The 2015 CARE Scheme pension, including any commutation of that pension according to the separate commutation rules in the 2015 CARE Scheme will be payable in addition to the PPS 1987 pension.

## **5.7. What happens to my NPPS 2006 benefits after I have been moved to the 2015 CARE Scheme?**

Member's benefits in the NPPS 2006 will be protected in the following ways:

- The NPPS 2006 pension and lump sum will be calculated by reference to the final salary rules of that scheme i.e. calculated by reference to the final salary at the time of retirement ("Final Final" Salary) and not by reference to their salary at the point they move into the 2015 CARE Scheme;

- The NPPS 2006 scheme pension can be accessed from age 55.

However, it is important to note that:

- The ability to access the NPPS 2006 pension at age 55 requires the member to remain in the 2015 CARE Scheme once they have been moved into that scheme (i.e. maintain continuous pensionable service); and
- The NPPS 2006 pension can only be accessed by retiring. It is not possible to put the NPPS 2006 pension into payment and continue to serve as a police officer.

### **5.8. If I retire at age 55 can I access my NPPS 2006 pension and 2015 CARE Scheme at the same time?**

Yes, the 2015 CARE Scheme pension can be put into payment at any point from age 55. However, it will be subject to an actuarial reduction for early payment prior to the 2015 CARE Scheme Normal Retirement Age of 60.

However, if a member chooses not to put their 2015 CARE Scheme pension into payment at the same time as their NPPS 2006 benefits, it becomes a deferred pension which is payable from State Pension Age. If the member subsequently opts to put their 2015 CARE Scheme pension into payment before State Pension Age, it will be actuarially reduced for early payment prior to State Pension Age.

### **5.9. What happens if I have PPS 1987 or NPPS 2006 service, but I am ill-health retired from the 2015 CARE Scheme?**

If a member is ill-health retired, they will need to exercise a choice of benefits for the Remedy Period before doing so, in accordance with the 'Deferred Choice Underpin' approach to Remedy.

Members with Legacy Scheme benefits who are ill-health retired from the 2015 CARE Scheme will receive a pension calculated using a "two pot" approach which recognises the service and accrued benefits from both schemes.

A former member of PPS 1987 will be eligible to receive:

(a) Their entitlement to an ill-health pension from the 2015 CARE Scheme;

and

(b) The better of:

- The ill-health pension they would have received if they had been ill-health retired on their last day in PPS 1987 (which will include the Remedy Period if they opted for Legacy Scheme benefits under the 'Deferred Choice Underpin' approach to Remedy);

or

- The PPS 1987 pension that would have been payable on retirement from the PPS 1987, applying Weighted Accrual to that PPS 1987 service (which will include the Remedy Period if they opted for Legacy Scheme benefits under the 'Deferred Choice Underpin' approach to Remedy).

A former member of NPPS 2006 will be eligible to receive:

(a) Their entitlement to an ill-health pension from the 2015 CARE Scheme;

and

(b) The lower-tier ill-health pension (and lump sum) from the NPPS 2006 Scheme (which will include the Remedy Period if they opted for Legacy Scheme benefits under the 'Deferred Choice Underpin' approach to Remedy).

In respect of the ill-health pension which is payable from the 2015 CARE Scheme, for the purposes of calculating whether you have 5 years' service (which is relevant for the calculation of any upper-tier ill-health pension):



- (a) If you are a former member of PPS 1987, only service in the 2015 CARE Scheme counts;
- (b) If you are a former member of NPPS 2006, service in both the NPPS 2006 and 2015 CARE Schemes counts.

The effect of the provisions explained above is that any former member of the PPS 1987 or NPPS 2006 who is medically retired whilst a member of the 2015 CARE Scheme should be no worse off than if they had been medically retired on their last day in their Legacy Scheme. Whilst the precise position will depend on individual circumstances, such members should be better off, as they will have accrued further benefits under the 2015 CARE Scheme.

### **5.10. Is the ill-health retirement process in the 2015 CARE Scheme different to the processes in the PPS 1987 and NPPS 2006 Schemes?**

The ill-health retirement process in the 2015 CARE Scheme is very similar to the processes in the PPS 1987 and NPPS 2006 Schemes; both NPPS 2006 and the 2015 CARE Scheme have two tiers for ill-health pensions.

However, there are some differences. A member can only be medically retired if the doctor who they are referred to for consideration, the Selected Medical Practitioner (SMP), or a Police Medical Appeal Board (PMAB), determines that they are permanently medically unfit for performing the ordinary duties of a member of the force. The term “permanently disabled” has changed to “permanently medically unfit” in the 2015 CARE Scheme, but the meaning remains the same. Permanent in this context means until Normal Pension Age (60), or death if that is earlier. However, the chief officer has discretion to retain a member in the force rather than medically retire them.

If the SMP or PMAB determines that a member is permanently medically unfit for the ordinary duties of an officer, and the chief officer decides to retire them, they will be entitled to an ill-health pension.

## 6. FURTHER INFORMATION

### 6.1. What are the advantages of continuing active membership of the 2015 CARE Scheme from 1 April 2022 rather than opting out?

There are many advantages to membership of the 2015 CARE Scheme:

- Members build up benefits towards their retirement in an arrangement which is sponsored by and underwritten by the Government and the tax payer.
- Members receive tax relief on the contributions they pay.
- The force pays substantial contributions towards providing the pension benefits under the scheme. These are only payable into the 2015 CARE Scheme; **the force will not contribute towards any individual or personal pension arrangements.**
- The pension built up in the 2015 CARE Scheme will be revalued each year until retirement at the more generous rate of CPI + 1.25% (whereas deferred pensions are revalued at CPI only).
- Active members can access their pension benefits at an earlier age than would be the case if they had opted out and became a deferred member (deferred pensions from the 2015 CARE Scheme are payable from State Pension Age, which is currently in the process of increasing to 68), from NPPS 2006 at 65 and from PPS 1987 from 60.
- If a member becomes permanently medically unfit and had to retire from the force earlier than planned, the scheme provides benefits to support them.
- If a member unfortunately dies whilst an active member of the pension scheme, benefits (pension and lump sum) are provided for their surviving dependants.
- If a member has pension benefits accrued under PPS 1987 or NPPS 2006, the calculation of those benefits will be based on their Final Final Salary (i.e. their salary at the time when they eventually leave the 2015 CARE Scheme).

- If a member has pension benefits accrued under PPS 1987 they will continue to benefit from the provision of Weighted Accrual.

## **6.2. Where can I find out more about the 2015 CARE Scheme?**

The Members' Guide for the 2015 CARE Scheme can be found [here](#). However, please bear in mind that the guide needs to be amended to reflect Remedy and is therefore not up to date.

## **6.3. When will I receive a pension benefit statement that reflects Remedy and illustrates my choice of benefits for the Remedy Period?**

The legislation providing for the introduction of the Remedy will include a requirement for force pensions administrators to provide members with benefit statements showing the implications of the Remedy and thus both sets of potential benefits for the Remedy Period. Unfortunately, the legislation will not require administrators to issue the first Remedy compliant benefit statement until the end of March 2025. This is eighteen months after the date for implementation of the Remedy (October 2023) and three years after the effective date of the Remedy (1 April 2022).

PFEW believes this extended delay to the provision of appropriate information to be wholly unacceptable and have made clear its dissatisfaction and concerns about this.

## **6.4. Will a Remedy pension calculator be provided for members to use?**

Yes. The current version of the calculator is available to current or former members of the PPS 1987 scheme only. The calculator is a work in progress and future versions are planned to include NPPS 2006 scheme members.

Members should be aware that the calculator is for guidance only and the information provided is an estimate. It is not intended to provide financial advice. Please click [here](#) for the PPS 1987 police retirement calculator.

## **6.5. Will the Police Federation of England and Wales (PFEW) be providing more information?**

In producing these FAQs, PFEW have tried to anticipate the sort of questions our members will want to have answered. There are a number of areas where Government policy and the details of implementation are still being formulated which it has therefore not been possible to cover in these FAQs. As more details emerge, PFEW will communicate with members about the progression of the Remedy and its impact on the membership.

## 7. GLOSSARY OF TERMS

<b>2015 CARE Scheme</b>	The pension scheme established by the Police Pensions Regulations 2015
<b>Accrual Rate</b>	The rate at which pension builds up with increases of pensionable service (expressed as a fraction)
<b>Aarons</b>	The legal case confirming unlawful discrimination under the police pension scheme as a result of the Transitional Protections
<b>Active Member</b>	A serving officer who is contributing to one of the police pension schemes and accruing benefits under that scheme in respect of current service
<b>Actuarial Reduction</b>	A reduction made to pension benefits, applied when the pension is taken early, to recognise that the pension is in payment earlier and will therefore be paid for longer
<b>CARE Scheme</b>	A Career-Average Revalued Earnings scheme is a form of defined benefit pension scheme whereby the pension is based on pensionable earnings throughout a career, instead of at or near retirement
<b>Career Break</b>	A period of unpaid leave under the determination at Annex OO for Regulation 33 of Police Regulations 2003
<b>Club Transfer</b>	A transfer of pension rights between pension schemes which are part of the arrangement between public service schemes which enables the making of transfers on favourable terms
<b>CPI</b>	The Consumer Prices Index; a measure of inflation
<b>Deferred Choice Underpin</b>	The method for the application of the Remedy adopted by Government following consultation. This is also known as the DCU and allows members in scope of the Remedy to make a choice of their benefits for the Remedy Period at retirement

<b>Deferred Pension</b>	A benefit relating to the past service of members of one of the police pension schemes who are no longer Active Members but have not yet retired
<b>Defined Benefit Scheme</b>	A scheme in which the benefits are defined in the scheme rules or regulations and accrue independently of the contributions payable and investment returns (where applicable). Most commonly, the benefits are related to members' earnings and the length of pensionable service at the date of retirement or leaving. Final salary and CARE schemes are both defined benefit schemes
<b>Double Accrual</b>	A feature of the Police Pension Scheme 1987 whereby pension accrues at the rate of 1/60 <sup>th</sup> for the first 20 years of pensionable service, but accrual then doubles to 2/60 <sup>ths</sup> for the last ten years
<b>Final Final Salary</b>	Police Pension Scheme 1987 (PPS 1987) and New Police Pension Scheme 2006 (NPPS 2006) members who become members of the 2015 CARE Scheme will have their PPS 1987 and NPPS 2006 benefits calculated by reference to their final salary at the point of retirement, and not by reference to their final salary when they move into the 2015 CARE Scheme
<b>Full Transitional Protection</b>	A protection introduced in April 2015 which enabled PPS 1987 and NPPS 2006 members to remain in those schemes and therefore not become members of the 2015 CARE Scheme. This protection has subsequently been found to have been unlawfully age discriminatory against younger members
<b>Immediate Detriment (ID)</b>	The disadvantage caused to members who are in scope of Remedy and who retire from service and take their pension before the point at which Remedy has been fully implemented. They will be retired in accordance with the existing governing regulations rather than being able to retire with Remedy compliant benefits and therefore will suffer this detriment. The benefits payable to such members will, once Remedy is fully implemented, be revisited and corrected to be fully Remedy compliant

<b>ID Guidance</b>	The non-binding guidance issued by the Home Office to forces and their pensions administrators setting out a way of providing ID members with benefits closer to Remedy Compliant ones prior to the full implementation of Remedy. The guidance was withdrawn in November 2021
<b>ID Member</b>	A member in scope of Remedy who is subject to Immediate Detriment
<b><i>McCloud and Sargeant</i></b>	The Judges' and Firefighters' cases on the Transitional Protections, which were the first to be heard and established via a Court of Appeal judgment that the Transitional Protections were unlawful discrimination on the grounds of age
<b>New Police Pension Scheme 2006 (NPPS 2006)</b>	The pension scheme established by the Police Pensions Regulations 2006
<b>Non-Club Transfer</b>	A transfer to or from a police scheme which is not a Club Transfer
<b>Normal Pension Age (NPA)</b>	The age at which a pension, other than a Deferred Pension or ill-health pension, is usually paid. PPS 1987 has various pension ages. The Normal Pension Age in NPPS 2006 is 55. The Normal Pension Age in the 2015 CARE Scheme is 60
<b>Pensionable Service</b>	The service which counts in the calculation of a pension, and during which pension contributions are made or are deemed to have been made.
<b>Police Pension Scheme 1987 (PPS 1987)</b>	The pension scheme established by the Police Pensions Regulations 1987
<b>Remedy</b>	The means by which the Government has chosen to remove the unlawful discrimination caused by the Transitional Protections and to ensure that no further unlawful discrimination is caused

<b>Remedy Period</b>	The period running from the start of 1 April 2015 until the end of 31 March 2022. Members in scope of the Remedy will be able to make a choice of benefits in respect of their pensionable service during this period
<b>Scheme Advisory Board</b>	Also known as the SAB. The body established under the Police Pensions Regulations 2015 to provide advice (on request) to the Home Secretary on changes to the police schemes and to provide advice to the scheme managers in relation to the effective and efficient administration and management of those schemes.
<b>State Pension Age</b>	The age at which an individual can claim his or her state pension
<b>Tapered Protection</b>	A protection introduced in April 2015 which allowed some members of PPS 1987 or NPPS 2006 to remain in that scheme beyond 1 April 2015 for a limited period of time. When Tapered Protection ceased, the member moved into the 2015 CARE Scheme
<b>Transitional Protections</b>	The protections afforded to members of PPS 1987 and NPPS 2006 who were closest to retirement on 1 April 2012, as a consequence of the introduction of the 2015 CARE Scheme. Transitional Protection was either Full Protection or Tapered Protection
<b>Weighted Accrual</b>	A formula to allow PPS 1987 members who become members of the 2015 CARE Scheme to benefit from the expectation of double accrual. The effect of the formula is that the average accrual rate which would have applied, if the member's entire pensionable service (PPS 1987 and 2015 CARE Scheme) had been in the PPS 1987, is applied in the calculation of the PPS 1987 pension