

NHS Pension Scheme and McCloud

Alan Fox
National Pensions Officer
UNISON



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McCloud Background

- ❑ From the 1 April 2015 everyone moved into the 2015 Scheme unless they had “protection”
- ❑ The Courts have ruled that this protection directly discriminated against some younger scheme members and has to be remedied
- ❑ **You will now be given a choice as to which scheme you wish to be in for the remedy period**

Remedy Period

1 April 2015 to 31 March
2022

In Scope members

- Members paying in as at 1 April 2012 and 31 March 2015

5 year returners

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When do you get to make a choice?



You will make a choice on **retiring**



Might not be before October 2023
however



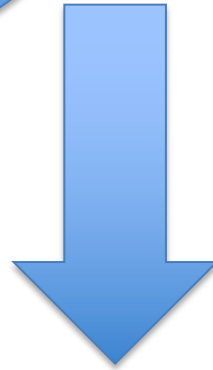
**Default position is you are assumed to
be in 1995/2008 scheme**

Retirement before October 2023



**Already
retired**

**Due to retire
before
October 2023**



Will get a choice at first available opportunity. Award will be revised and backdated accordingly

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Choice and no choice

Pre 1 April 2022



In 1995 or 2008 Section
unless **choose** otherwise
for post 31 March 2015
service

1 April 2022 onwards



No choice – now
in 2015 Scheme

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Post 31 March 2022

2015 Scheme benefits



You build up benefits at a rate of $1/54^{\text{th}}$ of your actual salary for each future year of service

1995/2008 benefits are protected



Everything you've built up to the 1 April 2022 is fully protected. You just can't build up any more years

1995/2008 benefits Final Salary Link



Even though your membership is frozen there's still a link to your final pensionable pay at retirement

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Things we are still awaiting



- ❑ The legislation! The Public Service Pensions and Judicial Offices Bill has passed through Committee Stage of the House of Lords and will proceed to Report Stage on 22 November 2021
- ❑ There will need to be secondary legislation expected to be in two parts (post April 22) and (choice remedy) with the post April 2022 package expected to be out for consultation sometime this month
- ❑ HM Treasury response on 1995 Section “retirement flexibilities” – will pensionable re-employment be allowed?
- ❑ Guidance on “Contingent Decision” cases
- ❑ Voluntary member contributions – “*scheme level discussions and secondary legislation*”

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Contingent Decisions

A decision made as a result of actual or perceived implications of the 2015 Scheme reforms, where the member would otherwise have acted differently

- ❑ **Example**: opting out permanently or temporarily
- ❑ Members who believe would have acted differently can lodge complaints “*with sufficient evidence*”
- ❑ Awaiting guidance on how to handle and settle such cases

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Immediate detriment cases

- Retirements prior to October 2023
- Ill-health retirements
- Death benefits

Individual schemes can bring forward “if scope to do so”. If choice leads to a greater award this will be revised accordingly and backdated to original award date. FBU have an agreement with LGA to review cases within 90 days!



Annual Benefit Statements and Choice Options

- “It is important that members receive information about alternative benefits available to them”*
- Statements will need to incorporate this moving forward
- Plan is to write directly to all *“in scope members”* with choice options

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Divorce cases

**Pension Debit
members
make the
choice**



- As it was them subject to the discrimination

**CETV revised
accordingly**



- Pension Debit member CETV re-calculated

**Pension
Credit
member's
benefits
amended**



- Pension Credit member's benefits increased or decreased

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Effect of choice on tax



- ❑ Position outlined in HMRC policy paper, “*Taxation of public service pension reform remedy*” published on 27 October 2021
- ❑ There will be a power in the Finance Bill 2021-2022 to make detailed technical changes in secondary legislation
- ❑ Expected to have effect from 6 April 2022

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Choice tax principles (1 of 2)

1. Exempting any tax charges on compensation received if owed money following a remedy choice
2. Allowing an individual to protect their pension rights from LTA or AA charges calculated on the higher of the two pension choices available
3. Additional AA to be made available so that an individual will not pay more AA charges than they would have done if accrued benefits in the relevant tax years

Choice tax principles (2 of 2)



4. Where a scheme has paid LTA or AA charges on behalf of a member, but that accrual is now under a different scheme, for the payment to be deemed to have been paid by the latter scheme
5. Ensuring that payments of pensions and lump sums that would have been authorised payments had they been made at the relevant time, are treated as being authorised

Net result – members should not have to pay extra tax if they receive an uplift to their benefits due to the McCloud remedy?



Retiring early

1995 SECTION

Age	50	51	52	53	54	55	56	57	58	59
Pension	37%	34%	32%	29%	25%	21%	18%	14%	10%	5%
Lump Sum	27%	25%	23%	20%	18%	15%	12%	9%	7%	3%

2008 SECTION

Age	55	56	57	58	59	60	61	62	63	64
Pension	40%	37%	34%	31%	27%	24%	19%	15%	11%	6%

2015 SCHEME

Years Early	12	11	10	9	8	7	6	5	4	3	2	1
Pension	45%	43%	40%	37%	34%	31%	27%	24%	20%	16%	11%	6%

The 3 NHS Pension Schemes



	1995 Section	2008 Section	2015 Scheme
Scheme Type	Final Salary	Final Salary	CARE
Build up Rate	1/80th	1/60th	1/54 th
Tax-free cash	Must take at least 3 x pension value	Have to “commute” pension	Have to “commute” pension
Pension Age	60*	65	State Pension Age
Service Limit	45 years	45 years	None
Revaluation Rate	None	None	Inflation plus 1.5%

* MHO’s and SCS members have an NPA of 55

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Further Info/Contacts

- ❑ **UNISON Website pension pages** - <https://www.unison.org.uk/get-help/knowledge/pensions/nhs-pension-scheme/>.
- ❑ **NHSPS McCloud Judgement FAQ's** - <https://nhsbsa-live.powerappsportals.com/knowledgebase/article/KA-25794/en-us>.
- ❑ **NHS Pensions Knowledge Base** - <https://faq.nhsbsa.nhs.uk/knowledgebase/category/?id=CAT-01289&parentid=>.
- ❑ **NHS Total Reward Statements** - <https://www.totalrewardstatements.nhs.uk/>.
- ❑ **Government response to McCloud consultation** - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/958635/Public_Sector_Pensions_Consultation_Response.pdf.
- ❑ **State Pension Forecast** - <https://www.gov.uk/check-state-pension>.

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UNISON's Pensions Unit

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- ❑ UNISON has a Pensions Unit dedicated to dealing with issues concerning our member's pension schemes and rights
 - ❑ We have 2 full-time pension officers plus secretarial support
 - ❑ We'll always do what we can to accommodate requests for presentations and pension surgeries but obviously our resources are somewhat limited
 - ❑ We also deal with pensions casework and are more than happy to advise/assist in any way we can
 - ❑ All cases should be referred to us via the appropriate area/regional officer with a fully completed CASE Form and all relevant paperwork
 - ❑ Alan Fox leads on NHS Pensions for UNISON and can be contacted via Branches



Questions?