

McCloud/ Sargeant - Pensions Remedy

Your questions answered

Pensions Remedy (or the 2015 Remedy as it's officially called) is the term used for the upcoming changes within public sector pension schemes. The 2015 Remedy will address the age discrimination that has been judged to have taken place in public service pension schemes, such as the Firefighters' Pension Schemes.

There have been a number of changes to pension arrangements in recent years, which has resulted in a lot of 'new' information being made available to members. We're aware of the confusion this can cause and also that a number of 'myths', 'untruths', 'fake news' etc. are circulating in relation to the 2015 Remedy and its impact on members' benefits.

It's important to us that members have accurate information when making important decisions about their futures, even if those decisions do not need to be made for some time. The information provided here should help to answer some of the questions around the 2015 Remedy that we know members have. We've also included some information about the 2015 CARE scheme as we know this is another topic people have questions about. We'll be producing a more detailed benefit illustrations communication in March 2022, which should further help your understanding.

In the meantime, if you need more information after reading this document, please visit fpsmember.org/2015-remedy

The information provided here has been prepared for the Firefighters' Pension Scheme Advisory Board for Wales (SABW) by Barnett Waddingham LLP. Barnett Waddingham LLP is authorised and regulated by the Financial Conduct Authority.

Before we get into checking some 'facts' about the 2015 Remedy, let's address a couple of other key questions which we know members are asking...

What is the 2015 Remedy and why is it important?

Before 2015 (2014 for local government), public sector pension schemes provided benefits on a final salary basis. In 2015 (2014 respectively), the Government replaced the final salary schemes with new career average (CARE) schemes for future pensionable service. Existing members had to switch from the final salary schemes to the new CARE schemes unless they received 'protections', which were granted based on a member's proximity to normal pension age.

In December 2018, the McCloud/Sargeant judgment found the protections introduced in 2015 to be discriminatory against younger members of the final salary schemes. In February 2021, following consultation on its proposal to address the age discrimination, the Government published its response which explained that:

- Final salary schemes will be permanently closed to future pension build up on 31 March 2022. These final salary schemes will become known as 'legacy schemes'.
- All active members (including members who had previously been granted protections) will build up benefits in the relevant CARE schemes from 1 April 2022. The CARE schemes will be known as 'reformed schemes'.
- Any service built up by affected members in a CARE scheme during the 'remedy period' (1 April 2015 to 31 March 2022) will be converted to final salary scheme service.
- At retirement, affected members will need to make a decision on how they want the benefits earned during the remedy period to be calculated. The choice is between the relevant final salary scheme or the 2015 CARE scheme.

- Annual benefit statements will be provided to members for each of these schemes, setting out their entitlement under both options. This will ensure members have a clear understanding of the benefits available so that they can choose the most beneficial option for them when they come to take their benefits.

Who is affected by the 2015 Remedy?

Members will be affected by the 2015 Remedy if the following applies:

- They were a member of the Firefighters' Pension Schemes or eligible to be a member on or before 31 March 2012; and
- They were a member of the Firefighters' Pension Schemes between 1 April 2015 and 31 March 2022; and
- The two periods above were continuous (or treated as continuous under the Scheme regulations, including a qualifying break in service of less than five years).

The changes not only affect active members, but also deferred or pensioners members who have left or retired since 1 April 2015.

2015 Remedy 'Facts' – True or False

I need to take action now or I'll be worse off

FALSE

Members don't need to take any action now. The Government has committed to applying these changes across all public sector pension schemes. This means members don't need to do anything to receive the 2015 Remedy or to protect their existing benefits.

Affected members will need to make a decision close to retirement about whether to take benefits built up during the remedy period from the relevant final salary or 2015 CARE scheme. Benefit illustrations for both schemes will be provided to members to help them decide.

Affected deferred and pensioner members who have left the Scheme or retired since April 2015 will be contacted automatically by their Firefighters' Pension Schemes administrator. The only action you should take is to make sure your contact details are up to date with your pension scheme administrator.

A list of administrators is available at fpsmember.org/contact

I need to leave the scheme before 1 April 2022 to 'protect' my final salary scheme benefits. If I move into the 2015 CARE scheme when my final salary scheme closes, I will lose the rights to my 1992/2007 scheme pension.

FALSE

It is true that final salary schemes will be closed to future pension build up on 1 April 2022. This means all active members (including members who received protection) will move into the Firefighters' Pension Scheme 2015 (the 2015 CARE scheme) from 1 April 2022 and build up benefits in the 2015 CARE scheme from that date.

However, when you move into the 2015 CARE scheme on 1 April 2022, you will still have access to any final salary benefits you have built up in the Firefighters' Pension Scheme 1992 (FPS 1992) or the Firefighters' Pension Scheme 2007 (FPS 2007). No changes will be made to these benefits, and the benefits you've built up will be calculated using the final salary scheme rules when you retire, meaning your final salary benefits are protected. Your future service will also count towards double accrual in respect of service in FPS 1992. The benefit illustrations that will be made available in March 2022 will show how this works.

You can find out more at fpsmember.org/fps-2015/double-accrual-guarantee

But I will still have to work until I'm 60 to get anything!

FALSE

You can still choose to retire at your final salary scheme's normal pension age. You would then receive the sum of:

- Your final salary pension up to 31 March 2015 from your relevant normal pension age;
- For service between 1 April 2015 and 31 March 2022, the choice of pension calculated in line with your relevant final salary or 2015 CARE scheme, and;
- Any 2015 CARE scheme pension built up from 1 April 2022 until your retirement date.

Any FPS 1992 pension will be enhanced for double accrual as noted above.

The 2015 CARE scheme pension for both service in the remedy period and service after 1 April 2022 may be reduced if you choose to take your 2015 CARE scheme pension before age 60, as it is being paid for longer than expected.

If you do choose to retire before age 55, you will not be able to access your 2015 CARE scheme pension immediately. This can then be taken from age 55 with early retirement reductions or paid in full at your State Pension age.

The changes negatively impact me; I'd be better off financially if I opt out of the 2015 CARE scheme.

FALSE

You can opt out of the scheme at any time, but please think carefully before doing this and consider taking independent financial advice. While your take-home pay may be higher, you lose other valuable benefits including additional guaranteed income in retirement and death-in-service cover.

The 2015 CARE scheme is still a valuable defined benefit scheme, which is expected to be worth more than your contributions. It's a Career Average Revalued Earnings (CARE) scheme, which means it provides benefits based on your average salary throughout your career instead of final salary. A pension of 1/61.4th of your pay is added to your pension account each year and revalued in line with average weekly earnings until retirement. When you retire, you'll have the option to exchange part of your pension for a tax-free lump sum.

If you opt out of the 2015 CARE scheme, you should be aware you won't benefit from building up additional pension in a scheme where the employer contributes a significant proportion of the cost. You'll receive a lower level of pension at retirement, and it will also impact your death-in-service cover and the value of any potential ill-health pension.

2015 CARE scheme benefits for active members are payable from age 60 (without reduction) and from age 55 onwards (with reduction). If you opt out, benefits are instead payable from your State Pension age and CARE pension taken before State Pension age will be reduced by the relevant early retirement factors. CARE pension will also not be revalued in line with average weekly earnings but revalued in line with Consumer Price Index (CPI).

If you opt out, your final salary scheme benefits would also become deferred. In that case, FPS 1992 benefits are payable from age 60 and FPS 2007 benefits from age 65.

See more information at fpsmember.org/fps-2015/optiming-out

I can just transfer my benefits out of the pension scheme instead...

TRUE though there are restrictions

If you leave the pension scheme, you may be able to transfer your benefits to another public sector pension scheme or registered occupational pension scheme with defined benefits in the Public Sector Transfer Club. However, under Government regulations, it's not possible to transfer to defined contribution schemes such as a personal pension.

You can only transfer your benefits once you have left the pension scheme and as long as you are not within one year of normal pension age

I've heard some high earners are opting out of the Firefighters' Pension Schemes. This must mean they're no good.

FALSE

You may have heard of some high earners opting out of the schemes. While we're unable to comment on individual cases, we'd expect this could be to avoid triggering a tax charge from either the annual or lifetime allowance by remaining in the scheme. For information, the annual allowance is the limit on the total amount that can be saved into a pension scheme each tax year with tax relief applying and before a tax charge might apply. The annual allowance is currently £40,000 for most people. However, if you're a high earner with an income above £200,000 a year, your annual allowance might gradually reduce to as low as £4,000. The lifetime allowance (currently £1,073,100) is the limit on how much you can build up in pension benefits over your lifetime while still enjoying the full tax benefits.

If you think you might be affected by this, we recommend you seek regulated financial advice, as it may still be in your interests to remain in the scheme even if you have to pay tax or ask the scheme to pay it on your behalf in return for a reduction in benefits.

More information on tax is available at fpsmember.org/need-to-know/tax-and-your-pension-benefits

Once I've reached 30 years of service, I won't build up any more benefits in the 2015 CARE scheme.

FALSE

There is no limit to the amount of service you can build up in the 2015 CARE scheme regardless of how much was built up in your final salary scheme. The maximum service that can be built up in the final salary schemes is 40 years (30 years for the FPS 1992 scheme as service after 20 years counts double).

If I joined before I was 20, I will still get my contributions holiday after 30 years once I've transferred to the 2015 CARE scheme.

FALSE

The contributions holiday was introduced to take account of the fact that members could not build up more than 30 years of service in the FPS 1992. As there is no service cap in the 2015 CARE scheme, the contributions holiday provision does not apply. You will carry on building up benefits for every year you are a scheme member.

If I move into the 2015 CARE scheme when the final salary scheme closes, I won't receive a tax-free lump sum when I retire.

FALSE

The rules around tax-free lump sums are not changing. This means you will still be able to access a tax-free lump sum from your final salary and 2015 CARE schemes when you retire. If you have service in the FPS 1992 scheme, the age-related commutation factors will still apply to this part of your benefits.

We just want our pensions to be put right... My Fire & Rescue Authority is dragging its heels.

FALSE

Because the 2015 Remedy offers you a deferred choice, many people won't have to make a decision for some time, until they are due to retire.

This is helpful because there are still some complex issues to resolve and administration challenges to overcome before schemes will be in a position to implement the 2015 Remedy and process cases without the risk of members not getting right the tax relief or interest on the various payments that will need to be made.

This is why the Government has given public sector pension schemes until October 2023 to make new laws to move affected members of the CARE schemes back to their final salary schemes for the remedy period and offer a choice to those retiring.

For more information on the Government's progress in implementing the 2015 Remedy go to: commonslibrary.parliament.uk/research-briefings/cbp-9177

However, for those that are retiring sooner or have already retired, individual Fire and Rescue Authorities are considering how to respond to changing Government guidance on processing cases. Any payments that are made at a later date will be backdated and have interest applied.

We're also making a more detailed communication available to members in March 2022. This will show a range of illustrative member scenarios to help you better understand the implications of the 2015 Remedy on your benefits.

The differences between the final salary and CARE pension schemes means the set of benefits that is best for members depends on personal circumstances and preferences, including things you may not yet know, such as how your salary changes in the future and when you will retire. The communication will outline various scenarios, using different milestones and salary profiles for a set of example members in service across all the final salary schemes.

This means you'll be able to see the benefits the members would be entitled to if they retired at these milestones, comparing the position of the member choosing final salary or CARE benefits for the remedy period.

