

## Information

# Age discrimination remedy – Scheme manager guidance Interest process – FPS 1992

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## Introduction

1. This note clarifies the position with regards to interest periods and waiving of additional interest for those that have received their Annual Benefit Statement - Remediable Service Statement (ABS-RSS) and wish to settle their contribution adjustment prior to retirement.
2. This note is only in respect of interest due on contribution adjustments for active members who are legacy FPS 1992 members and should be read in conjunction with [the contribution adjustment process](#) guidance.

## Interest due on contributions owed for FPS 1992

3. National Police Chief's Council (NPCC) obtained legal advice on behalf of their police forces about interest, which they have provided guidance on them, and which would also apply the same for FRAs and found that:
  - a. Charging interest is not discriminatory.
  - b. Interest in its entirety cannot be waived.
  - c. Waiving of interest can only be applied on a case-by case basis.
  - d. A decision to waive interest should consider the individual circumstances of the member, considering the hardship requirement, and the exceptional circumstances requirement.

- e. "Interest free loans" to deferred choice members are not advisable as it is a direct operational cost entirely to an FRA and acts outside the remedy legislation.
4. Interest accrues on the amount owed from the date when the contributions first became due. Interest is based on a compound rate of NS&I<sup>1</sup> and is calculated on each year within the remedy period separately. Interest is due on this amount right up to the date of payment.
5. For members that do not choose to settle their contribution adjustment this year, interest will continue to accrue from the date of the statement up to the earlier of 31 August of the next year or their retirement date.
6. To recalculate the interest, this should be done through the [GAD Tax and Contribution calculator](#). The scheme manager would need to know what the payment date is going to be to enable the exact amount of additional interest to be calculated. It is likely that it will be difficult to determine the exact payment date in advance.

## What is the date of the statement for active members?

7. The statement is the RSS part of the ABS.
8. If ABS-RSS' were issued on 31 August, then this is the date of the statement, and the three-month period (12 weeks) starts from 1 September.
9. If a rolled back ABS only was provided on 31 August, this is not the RSS, the date of the statement will be the date that the member receives their RSS.
10. Where the ABS-RSS or RSS is issued later than 31 August, e.g. 31 October, then the three-month period starts from day after the statement has been issued in this example this would be 1 November.
11. Interest at NS&I rate is always calculated to the date of the statement. If the ABS-RSS is issued on 31 August, interest is calculated to this date. If the ABS-RSS or RSS is issued later e.g. 31 October, then interest is calculated to this date.

## Waiving of interest for limited period

12. There is no 28-day grace period for interest and there is no ability under the legislation to freeze interest at any point for any member.
13. Within [Direction 4](#), scheme managers do have the ability to use powers to reduce or waive liabilities. Waiving is different to freezing.
14. Scheme managers should consider this power when determining whether it is appropriate to recalculate the interest that has accrued after the initial RSS has been issued.
15. It is recommended that the period during which interest can be waived should ONLY be in respect of members that have elected to settle their contribution adjustment within the three-month period, and ONLY applies to the additional interest from the day after the date of the RSS for the three-month period up to date of payment.
16. When making decisions relating to discretionary powers, scheme managers should have regard to Pensions Ombudsman case [PO-25374](#) which warns against making blanket policies with no opportunity to consider the particular merits of a case on a case-by-case basis.
17. One of the main reasons why a scheme manager may choose to waive the interest is because the process needed to recalculate the interest once the member has indicated that they wish to pay, is uneconomical to do so.

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<sup>1</sup> NS&I Direct Saver historical interest rates - <https://www.nsandi.com/historical-interest-rates>

18. This will be the same issue every year and scheme managers will need to make their decision each year about waiving interest for the three-month period for members that choose to settle their contribution adjustment after receipt of their ABS-RSS.
19. Where the additional period of interest is waived, this does not then have to be paid by the FRA. But the reason for the decision to waive the interest in respect of **each** member should be recorded.

## Further consideration for FRAs

20. Where the ABS-RSS or RSS is issued later than 31 August, FRAs will need to consider the reason for the delay and whether they consider it appropriate to compensate the member for the period of interest between 1 September and the date of the statement for members that elect to settle their contribution adjustment.
21. If a scheme manager decides to compensate interest applied from 1 September, then the amount that is due between 1 September to the date of statement would need to be paid from the FRAs operational account. It should also be noted that this is not a valid claim for compensation under the remedy [compensation mechanisms](#) and quarterly Home Office claims.
22. Only the period of interest waived from the date of statement up to three months does not have to be paid.
23. This will obviously bring a cost to the FRA directly and whilst this is not recommended, there may be exceptional cases that would deserve such consideration.
24. There may be other circumstances where scheme managers may consider waiving the interest that has accrued on the contribution adjustment. The waving of interest on compassionate grounds might be appropriate in such cases where benefits are due to a beneficiary, in cases of severe ill health or in cases of hardship.
25. Such cases will need to be considered on their own merits on a case-by-case basis, and where interest is to be waived in these circumstances, this does not then have to be paid by the FRA. The amount and the reason for the decision to waive the interest in respect of **each** member should be accurately recorded. This would then need to be reported for internal audit purposes and it is also recommended that this is reported to your local pension board.

## Process going forward

26. Administrators must have the bulk GAD contribution adjustment details uploaded to their software systems for each member to enable them to provide the RSS part of the ABS-RSS.
27. All pension administration software systems will be able to roll the interest forward to the following year statement date of 31 August, enabling the correct amount of interest to be added to the ABS-RSS.
28. Each year if an FRA chooses **not to** waive the additional interest, then after the ABS-RSS have been issued, they will need to recalculate the interest to the payment date for those that choose to settle their contribution adjustment.
29. Each year if an FRA chooses to waive the additional interest, they will not need to recalculate the interest, and the FRA can expect the member to pay the amount shown on the ABS-RSS.
30. FRAs should retain all the spreadsheets relating to the GAD contribution adjustment in case a member has a query about their adjustment in the future or needs to make a compensation claim.

31. As a matter of best practice FRAs should already be taking steps to ensure that all GAD tax and contribution calculator spreadsheets are saved appropriately and kept in a secure area, to ensure they are retained in line with other pensions data and your retention policies. You will need to retain the original spreadsheets for the longevity of the member's pension record so that it may be used for reconciliation purposes in the case of dispute.

### **FRAs with Civica pension administration software**

32. As long as the GAD contribution adjustment data has been submitted to your administrator and uploaded and stored correctly, the software will be able to calculate the correct amount of interest for all prospective types of calculations going forward to the relevant calculation date, including future ABS-RSS'.
33. This means that when a member retires from now on, the pension administrator will have the ability to calculate interest up to the date of retirement, or for purposes of an estimate.
34. Therefore, neither FRAs nor administrators will need to recalculate the interest due on the contribution adjustment, other than in cases where interest is not waived for the three-month period after the ABS-RSS is issued.

### **FRAs with Heywood pension administration software**

35. As long as the GAD contribution adjustment data has been submitted to your administrator and uploaded and stored correctly, the software will be able to calculate the correct amount of interest for all prospective ABS-RSS' going forward to the relevant calculation date.
36. However, there is currently no facility within the software to automatically recalculate the interest for any other type of calculations such as retirement, or for purposes of an estimate.
37. Therefore, FRAs will need to recalculate the interest due on the contribution adjustment for all other types of calculations using one of the available GAD tools, which is another reason why it is vital that FRAs have kept and maintained their GAD contribution adjustment spreadsheets.
38. Heywood is reviewing the feasibility of this enhancement to the software, and there are no confirmed timescales at present.

## **Record keeping**

39. In all cases, where a member chooses to settle their contribution adjustment, the FRA must ensure that copies of relevant documentation, dates and payment amounts are all provided to their administrator.
40. Where a member transfers to another FRA, it will be important to ensure that these payment details are also transferred to the new administrator / maintained by the current administrator.
41. If a member transfers FRA after electing to settle their contribution adjustment but before payment is made, then the payment should be made to the new FRA, so there will be a need to liaise between FRAs and administrator(s) to ensure that the correct details and payments are made to the right places.

## **Legislation**

42. The relevant legislation relating to Interest is: -

[The Public Service Pensions and Judicial Offices Act](#) (PSPJOA 2022)

- Pension contributions – active and deferred members– Sections [16](#) and [17](#)
- Remediable service statements – [Section 29](#)

[The Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#) (The Directions)

- Powers to reduce or waive liabilities – Chapter 2, Direction 4
- Interest and process – Chapter 4, Directions 13 to 19
- Remediable Service statements - Direction 20, paragraph 1b

[The Firefighters' Pensions \(Remediable Service\) Regulations 2023](#)

- Remediable service statement – [Part 2](#)
- Payment of amounts owed to the scheme manager – [Regulation 66](#)

43. The guidance from HMT about [Managing Public Money](#) should also be taken into account.

This factsheet has been prepared by LGA using the regulations as they stand in October 2024.

This factsheet will be reviewed, referencing any changes to the scheme regulations and policies that might be needed.

This factsheet should not be interpreted as legal advice.

Please address any queries on the content of this factsheet to [bluelightpensions@local.gov.uk](mailto:bluelightpensions@local.gov.uk)

October 2024