

Sargeant

WMS: Reinstatement of Opted Out Service
TPO: Approach to complaints



Recap on proposals

26 March 2026: Written Ministerial Statement



Secondary legislation - Using the Special Case power within the PSPJOA



Apply to service between 1 April 2015 and 31 March 2022 **only**



Timings on legislation - TBC

Why the SAB sought legal advice



Addressing Regulatory Delays

- The SAB responded to sector concerns about delays between the Written Ministerial Statement and amending regulations introduction.



Risk Assessment Necessity

- SAB commissioned legal advice to assess risks of progressing cases ahead of legislation and ensure governance compliance.



Ensuring Sector Consistency

- The SAB aimed to avoid inconsistent approaches across FRAs that could create further risk and inequity.



Supporting Good Governance

- By obtaining independent legal advice, SAB supports governance, manages risk, and balances fairness and legal compliance.

Headline conclusions

SAB [letter](#) to Scheme Managers and LPB Chairs



Low Risk: The legal advice indicates a low risk for FRAs progressing opted-out cases ahead of regulation amendments.



Key Risk Factors: Assessment accounts for government clarity, few cases pending, and strong protections against discrimination.



Defensible Legal Position: Even worst-case scenarios affirm FRAs have defensible legal grounds to progress cases responsibly.

Government intent set out in the WMS

Clarity of Government Intent

- The Written Ministerial Statement clearly expresses the Government's policy direction reducing legal risks.

Legal Influence of WMS

- Though not law itself, the WMS is highly persuasive and guides courts and regulators in legislation preparation.

Risk Reduction for FRAs

- Following the WMS helps FRAs make informed decisions, minimising risks of unlawful or unreasonable actions.

Roadmap for Legal Changes

- The WMS provides a clear roadmap for upcoming legal amendments, enabling proactive interim decisions.

Weight of a Ministerial Statement

Authoritative Government Communication

- A Written Ministerial Statement is a formal communication conveying Government policy and intended actions to Parliament and the public.

Legal Reliance on Ministerial Assurances

- Decision-makers can rely on clear ministerial assurances linked to statutory powers under public law.

Mitigating Legal Risk

- Following a WMS shows a reasoned response to government direction, reducing risks of acting before formal regulations.

No Material Difference Between Opt-Out Cohorts

Risk Equality Across Cohorts

- Risk levels do not materially differ between members opting out before or after April 1, 2015.

Consistent Legal Principles

- Legal protections apply equally despite varying factual circumstances of opt-out timing.

SABs Position on Progressing Cases

Reasonable Case Progression

- Progressing opted-out cases before legislation is reasonable and proportionate when feasible for FRAs.

Risks of Inaction

- Inaction carries legal and reputational risks when known discrimination remains unaddressed.

Balancing Compliance and Compassion

- Following WMS guidance allows FRAs to comply legally while showing compassion towards members.

Clear Member Communication

- Authorities should ensure clear and transparent communication with affected members throughout the process.

Next steps



LGA [scheme manager contingent decision guidance](#) under review.



SAB and LGA to work with MHCLG on regulations including how to address the disqualifying break issue.



FTWG to consider consistent application to member records to address break in pensionable service.

A quick word on other contingent decision cases...



Unpaid absences
during the
remedy period

Optant out who
subsequently
transfer out



An update from The Pensions Ombudsman

TPOs approach to
Sargeant complaints

TPOs previous position

Until recently, TPO's position has been to investigate Sargeant remedy complaints in limited circumstances.

For example: Immediate detriment cases concerning financial hardship where the scheme was not addressing the issues satisfactorily.

This is reflected in TPO's [information sheet](#) on Sargeant complaints published in July 2022

This approach reflected the fact that the Government was introducing legislation to remedy the discrimination, and schemes needed time to change their systems and procedures.

TPOs developing approach

Given that significant milestones have been reached TPOs approach to cases is being developed.

- TPO expect schemes to be making progress and should have an organised approach to remedy implementation.

Significant determinations expected on key issues.

- This involves TPO issuing Determinations on cases concerning an issue or issues affecting several members across several schemes.
- These Determinations will set out TPO's position on key Sargeant issues which will act as guides and inform the approach schemes should take in resolving complaints internally.
- If internal resolution is not possible, TPO will still be available to investigate complaints.

Identification and consideration phase

- Case suitable for significant Determinations.
- Acceleration of those complaints.

Information sheet to be updated after the significant Determinations are issued.

- There may also be some commentary from TPO following those Determinations.

TPO recognise that there will still be some cases that are distinguishable on their facts from any of the significant Determinations.

- These will be dealt with on an individual basis.

What TPO expect of schemes

Member communication is key

Communicate with members on the steps being taken to implement the remedy.

Consider the approach to immediate detriment cases

including any options for prioritising these.

Signposting for members

Internal Dispute Resolution Procedures (IDRPs) and to TPO on completion of IDRPs.

Fully investigate and address complaints raised at IDRPs

IDRP training [available](#) from the LGA

Engagement with The Pensions Regulator

Ensure they are aware of extensions to statutory deadlines.

Look out for significant Determinations and updated information from TPO

Any questions



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Thank you for listening!

claire.johnson@local.gov.uk

bluelightpensions@local.gov.uk