

The background of the slide features a complex, abstract geometric pattern of overlapping lines and shapes in shades of blue and red, creating a sense of depth and structure.

Immediate choice calculations Unauthorised payments offsetting process 03 October 2024

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What has caused a delay issuing IC-RSS

The last 9 months

- In February HMRC advised in [newsletter 156](#) that the HMT interest paid at 8% on remedy payments would be unauthorised over the commercial rate, and
- In April HMRC removed parts of newsletter 156 in [newsletter 159](#) and confirmed that interest paid on authorised amounts is all authorised.
- HMRC have advised that previously paid UPs cannot be refunded or 'offset'
- Interest paid on unauthorised amounts is all unauthorised

Current position

- In July the Economic Secretary to the Treasury (EST) has written to the policing minister to assure that regulations will be delivered in this tax year and that schemes can use HMRC guidance to calculate in the meantime.
- HMRC have now finalised [guidance](#) in late September 2024

What is the issue that the guidance corrects

HMRC legislation problematic

- The problem is caused when the original UP decreases, there is currently no way to 'offset' that.
 - I.e. the member's choice increases amount of benefits, and so decreases amount of UP already paid.
- Does not allow for offsetting i.e. originally paid £4k, now due £6k, so member only pays £2k
- Member would otherwise have to pay the full amount i.e. £6k
- Member can reclaim overpaid UP charges only for UPs paid 2019–2020 onwards if they paid tax direct to HMRC (unlikely for police and fire because we use the mandating procedure to reduce the SSC to 15%)
 - Neither member nor scheme administrator can reclaim UP charges paid via the mandating procedure
 - Member cannot claim compensation for overpaid UP charges in out of scope years under HMT compensation directions

Who is affected

Applies to members who elected for an unauthorised lump sum at retirement

- Commuted more than PCLS maximum
 - Applies to 1992 and 1987 schemes only
- Member mandated the tax charge to be paid by the scheme
- Member paid 40% tax to HMRC via event reports from 1 April 2015 up to 31 January 2024
- Scheme manager paid 15% scheme sanction charge

Unaffected members

Protected members

2006 members

Members with authorised lump sums.

- Restricted commutation (2.25 * pension)
- Chose to restrict commutation so a tax charge was not payable

Members with unauthorised lump sums after 1 April 2023

- Where the unauthorised tax charge has not been paid over to HMRC

HMRC guidance



Offsetting will be allowed for remedy period
([appendix B](#))

Where the mandating procedure was in place originally



New charges will not need a mandate



Interest on unauthorised amounts (8%) will be unauthorised



Scheme sanction charge on unauthorised interest payments will be exempted.



If the member paid the charge themselves they
have to claim a refund on original UP through HMRC

Treasury directions will be amended to allow refunds for 'out of scope'
years

Offsetting guidance

One-off exercise

Guidance provides the structure for the calculation.

Recommended you read backwards through the guidance starting with the examples.

Don't analyse too much, EST letter to minister endorses the guidance.

Calculate member charge and scheme sanction charge individually, guidance tries to do both at once.

GAD is working on a calculator to calculate the [part 4 tax loss interest](#) on overpaid amounts.

- XPS kindly testing this

Interest



Interest paid on all unauthorised amounts is all unauthorised.



8% interest payments on unauthorised lump sums will be treated as unauthorised.



HMRC have acted to exempt the scheme sanction charge on unauthorised interest charges.

Funding



The interest paid on pension arrears and top-up lump sums is paid from the notional pension fund.



New scheme sanction charges (15%) that arise from the unauthorised lump sum is paid by the operating account.



The scheme sanction charge on unauthorised is exempt.

What now

Scheme manager decisions

SMs remain responsible
Need audit of decision making
Can rely on letter from treasury / policing minister and HMRC guidance

What are your RSS cohorts?

Do you know unauthorised vs authorised numbers?
Is it likely you have any members who paid the unauthorised tax charge themselves

Communications to members

National level – [police pensioninfo.co.uk](https://policepensioninfo.co.uk)

- [NPCC IC-RSS Unauthorised payments Update May 2024 \(policepensioninfo.co.uk\)](https://policepensioninfo.co.uk/news/npcc-ic-rss-unauthorised-payments-update-may-2024)
- <https://policepensioninfo.co.uk/latest-news/#26092024-news>

Local level – Liaise with administrator for a schedule / plan

Feedback

Do you know who is affected and have a plan for rectification?

Have you identified any gaps you are concerned about?

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