

NHS Pension Scheme 2021/08

Who should read: Scheme Members, NHS HR and Payroll Managers, GP Practice Managers, Direction Bodies, Practitioner Service Division (PSD), Dental Payments, Trade Unions

Action: For information

Subject: The 2015 Remedy (McCloud)

Date: 19 November 2021

The purpose of this circular is to update stakeholders on the progress of the 2015 remedy to public service pension schemes (the “McCloud” case).

In 2015 most public service pension schemes, including the NHS Pension Scheme (Scotland), were reformed and new 2015 Career Average Revalued Earnings (CARE) schemes were introduced. Following negotiations with trade unions, the coalition government agreed to allow those within 10 years of retirement to remain in their existing pension schemes when the reformed schemes were to be introduced on 1 April 2012.

However, in 2018 the courts found this to be discriminatory against younger members of the judicial and firefighters’ pension schemes. The action being taken to address this unlawful discrimination is known as the **2015 Remedy**. Legislation will address the discrimination for the period between **1 April 2015 and 31 March 2022** - this is known as the remedy period.

You can find out more on the UK Government website here:
www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes or by visiting the www.gov.uk and typing ‘McCloud 2015’ in the search bar.

Who is affected?

Members of the NHS Pension Scheme (Scotland), who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than five years.

What does this mean?

To address this, eligible members will remain in, or be returned to, their old final salary schemes (1995 or 2008) for service between 1 April 2015 and 31 March 2022. In addition, the legislation means that the 1995 and 2008 schemes will close to all scheme members from 1 April 2022. This means all future pension entitlement will be built up in the 2015 CARE scheme, ensuring equal treatment for all members. You will still have access to your final salary scheme benefits and the final salary scheme rules still apply to those benefits.

Any pension built up in the 1995 and 2008 schemes is safe and members will still be able to access their pension and lump sum in the same way and at the same agreed pension age. **There is no need to retire early or leave the pension scheme by March 2022 in order to access 1995 or 2008 scheme benefits.**

When members do decide to retire, they will receive:

- Final salary (1995 or 2008) scheme pension up to 31 March 2015, including any tax free lump sum they are entitled to, plus;
- The choice between 1995/2008 or 2015 CARE benefits built up between 1 April 2015 and 31 March 2022, plus;
- 2015 CARE pension from 1 April 2022 until the member's retirement date. If the member decides to take this before their state pension age it will be reduced to take account of the early settlement.

Members will be able to defer the 2015 CARE part of their pension benefits built up after 1 April 2022 until their state pension age to ensure they don't receive any reduction of pension.

Next steps

Members **do not need to do anything** now. SPPA are working on the scheme changes and will keep members informed as these changes are finalised.

Member's ongoing pension entitlement will include a Deferred Choice Underpin (DCU) to ensure members can choose the best pension to suit their circumstances. From October 2023, DCU pension growth will be included in the annual benefit statement. This means members can track both your final salary and reformed scheme benefits up to retirement. This will help members make an informed choice about which scheme benefits are best for them.

Because the legal changes are still to be finalised, we are not able to take individual queries in relation to this right now.

Where can I find out more information?

The SPPA website is the best source of information relating to the 2015 Remedy for our members and the Frequently Asked Questions section is always being updated with new and relevant FAQs.

Please visit our website (www.pensions.gov.scot) for the most up-to-date information.

2015 Remedy - Myth Busters

The 2015 Remedy is a complex and significant change to those who are affected and we are aware of a number of myths currently circulating that are understandably making members nervous. These myths may also have members thinking about what they should do before the 1995 and 2008 schemes close on 31 March 2022.

We want to set the record straight and bust these myths to ensure that members have the right information to help them decide what their next steps are.

Myth 1: If I want take my 1995 scheme pension at age 60 or my 2008 pension at age 65 I need to retire before April 2022.

FALSE

After you have transitioned to the CARE scheme on 1 April 2022, you will still be able to retire at the retirement age set out in your final salary scheme (age 60 for the 1995 scheme or age 65 for the 2008 scheme).

Retiring at your final salary schemes normal retirement age means you would receive;

- Your final salary pension up to 31 March 2015, including any tax free lump sum that you are entitled to;
- The choice of pension between final salary or CARE for pension built up between 1 April 2015 and 31 March 2022 and;
- Any CARE pension from 1 April 2022 until your retirement date.

If you decide to retire at your final salary schemes normal retirement age, the CARE portion of your pension built up after 1 April 2022 would be reduced to take account of the early settlement. However, you will be able to defer this portion of your pension benefits until your state pension age to ensure you don't receive any reduction on these benefits. The reduction is a percentage based on how many years you are from your state pension age.

Myth 2: If I move into the 2015 CARE scheme when my final salary scheme closes, I will lose the rights to my 1995 or 2008 scheme final salary pension

FALSE

When you transition into the 2015 CARE scheme on 1 April 2022, you will still have access to all of your final salary benefits in the 1995 or 2008 schemes, and no changes will be made to these benefits by SPPA.

You will be given the choice of your final salary or CARE scheme benefits for the period between 1 April 2015 and 31 March 2022 and an estimate will be provided for each of these schemes to ensure you choose the most beneficial option for you.

The benefits you've built up in your final salary scheme prior to 1 April 2015 will be calculated using the legacy scheme rules, meaning you won't lose anything when you retire.

Myth 3: If I move into the CARE scheme when my 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 and you will still be able to enjoy access to a tax-free lump-sum from your final salary and CARE pension schemes when you decide to retire.