



Government
Actuary's
Department

2015 Remedy: *Retrospective Remedy Phase*

Analysis to Support the Equalities Impact Assessment Scottish Teachers' Pension Schemes

May 2023

Taylor Brightwell-Smith

Greg Donaldson

The Government Actuary's Department is proud to be accredited under the Institute and Faculty of Actuaries' [Quality Assurance Scheme](#). Our website describes [the standards we apply](#).



Contents

1. Introduction.....	3
2. Approach to Assessment.....	7
3. Equality Impact Analysis: Age.....	12
4. Equality Impact Analysis: Sex	16
5. Equality Impact Analysis: Other Protected Characteristics	21
Appendix A: Data and Assumptions	25
Appendix B: Compliance and limitations.....	26

1. Introduction

Purpose

- 1.1. This report is addressed to, and has been prepared at the request of, the Scottish Public Pensions Agency ('SPPA').
- 1.2. The Public Sector Equality Duty ('PSED') was created by the Equality Act 2010 and is supported by the specific duties contained in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, as amended.
- 1.3. The PSED requires the Scottish Government to assess the impact of applying a proposed new or revised policy or practice. Scottish Ministers must have 'due regard' to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people with different protected characteristics when carrying out their activities.
- 1.4. There are nine protected characteristics identified in the Equality Act 2010: (1) sex, (2) age, (3) disability, (4) race, (5) religion or belief, (6) gender reassignment, (7) pregnancy and maternity, (8) sexual orientation, (9) marital or civil partnership status.
- 1.5. The purpose of this report is to provide analysis, specifically in relation to the Scottish Teachers' Pension Schemes, to support SPPA who is acting on behalf of Scottish Ministers, in considering **the impact of the policy decision to provide all eligible members with a choice of legacy scheme¹ or reformed scheme benefits, in relation to service from 1 April 2015 to 31 March 2022.**
- 1.6. This is one aspect of the approach to address the age discrimination identified in the 2015 public service pension reforms, referred to as 'Transitional Protection Remedy', or '2015 Remedy'. A separate report has already been provided, which covers the policy decision to close all legacy schemes to future accrual with effect from 1 April 2022.

¹ For the Scottish Teachers' Pension Schemes, the legacy schemes are the NPA 60 and NPA 65 Scheme, and the reformed scheme is the 2015 Scheme.

Background

- 1.7. When public service pension reforms were introduced in 2015, the UK Government agreed to allow those closest to their retirement age to stay in their legacy schemes. These arrangements were referred to as 'transitional protection' arrangements.
- 1.8. For the Scottish Teachers' Pension Schemes, this meant:
 - A. All Active members who, as of 1 April 2012, had 10 years or less to their Normal Pension Age (i.e. NPA 60 Scheme members who were aged 50 and over on 1 April 2012, and NPA 65 and Mixed Service Scheme members who were aged 55 and over on 1 April 2012) would remain in their existing scheme.
 - B. Active members who, on 1 April 2012, were within 10 to 13½ years of their Normal Pension Age (i.e. NPA 60 Scheme members who were aged between 46½ and 50 on 1 April 2012, and NPA 65 and Mixed Service Scheme members who were aged between 51½ and 55 on 1 April 2012) had limited protection with linear tapering so that for every month of age that they were beyond 10 years from their Normal Pension Age, they lost 2 months of protection. At the end of the protected period, they would be transferred into the 2015 Scheme.
- 1.9. In this report, members in categories A are referred to as 'Protected' members and members in category B are referred to as 'Tapered Protected' members.
- 1.10. Following a challenge in the Courts, however, it was found that such transitional arrangements were discriminatory on the grounds of age and, for certain schemes, gave rise to indirect sex and race discrimination.
- 1.11. To address the discrimination identified, it was announced that:
 - In relation to service from 1 April 2015 to 31 March 2022 (known as the 'Remedy Period'), all eligible members will have a choice between:
 - legacy scheme benefits (i.e. benefits in the NPA 60 or NPA 65 Scheme of the Scottish Teachers' Pension Schemes)
 - or
 - benefits equivalent to those available under the reformed scheme (i.e. benefits in the 2015 Scheme in Scottish Teachers' Pension Schemes)
 - There will not be an option to have a combination of benefits in the legacy scheme and the reformed scheme over the Remedy Period².

² As set out in 1.8 (B), some members would have previously been eligible for what is referred to as 'tapered protection', where, as of 1 April 2012, they were within 3 years and 6 months of qualifying for transitional protection. The effect of the judgment in the McCloud case was that this tapered protection was considered to be discriminatory, and that this discrimination was unlawful. Maintaining an age-based system of tapered protection would therefore be perpetuating or indeed extending such discrimination. As a result, all eligible members are able to choose legacy scheme benefits or reformed scheme benefits for the whole Remedy Period. They are not able to choose a mixture of the two.

- Eligible members were defined as those who were in service on or before 31 March 2012 and who were still in service on or after 1 April 2015. This includes members who are currently active, deferred or retired and those with a non-disqualifying break in service of no more than five years.
- Members will be able to make their choice at the point at which they will receive their scheme benefits. Where a member's benefits are already in payment, the choice will be offered as soon as practicable.
- From 1 April 2022, all members will accrue benefits in their reformed scheme, regardless of age. There will be no further benefits accrued in the legacy schemes from this point.

1.12. The [Public Service Pensions and Judicial Offices Act 2022](#) is the legislative vehicle that sets out the provisions that give effect to the above announcements and applies across all schemes in the UK in relation to the 2015 Remedy. This came into force on 1 April 2022. An [Equality Impact Assessment](#) ('EqIA') was carried out alongside this Act.

1.13. Scottish Ministers are responsible for making the secondary legislation to amend the Scottish Teachers' Pension Schemes. This secondary legislation was/will be delivered in two phases:

A. *Prospective Remedy Phase (in force from 1 April 2022):*

- Legacy schemes closed on 31 March 2022 and all members continuing in pensionable service from 1 April 2022 did so as members of the 2015 Scheme.

B. *Retrospective Remedy Phase (by October 2023):*

- From 2023, eligible members will be able to choose to receive legacy pension scheme benefits or benefits equivalent to those available under the reformed pension scheme for service between 2015 and 2022.

Policy to be assessed

1.14. **This report is intended to support consideration of the impact of (B) above.**

1.15. Further information on our approach to assessing this is provided in chapter 2.

Next steps

1.16. Chapters 3-5 consider the potential impact of the proposed measures by reference to the protected characteristics identified in the Equality Act 2010.

1.17. We have included commentary on the analysis of the data which SPPA may wish to use in the preparation of its EqIA. However, it is important to note that **it is for SPPA, acting on behalf of Scottish Ministers, to review this analysis and ultimately determine their view of the assessment of the equalities impact** i.e.

have 'due regard' as to whether the policy treats someone less favourably due to a protected characteristic.

2. Approach to Assessment

This Chapter sets out the information we will use as a basis for examining the equality impacts of the policy decision to provide eligible members with a choice of either legacy or reformed scheme benefits in the Remedy Period.

Members eligible to choose benefits in the Remedy Period

Data used

- 2.1. As outlined in 1.11, members eligible or 'in scope' for 2015 Remedy, and therefore, eligible to choose between accruing legacy or reformed scheme benefits in the Remedy Period, are those who were in service on or before 31 March 2012 and who were still in service on or after 1 April 2015. This includes members who are currently active, deferred or retired and those with a non-disqualifying break in service of no more than five years.
- 2.2. Ideally, we would therefore analyse the active membership as at 1 April 2015, and then identify active members who were in active service on or before 31 March 2012. We could then assess the characteristics of all members who are eligible for the 2015 Remedy and compare this to the characteristics of the overall scheme membership, to determine whether the policy treats a subsection of the membership less favourably, due to a protected characteristic.
- 2.3. Although the Government Actuary's Department ('GAD') does hold some membership data as at 1 April 2015, this data is not as detailed, and has not undergone as rigorous checks, as that used for quadrennial valuations of the Scheme. Therefore, it was not deemed suitable to use for this purpose.
- 2.4. Therefore, the next best alternative is to analyse the active membership as at 31 March 2016, which was provided to GAD by SPPA for the purposes of the 31 March 2016 actuarial valuation. From this, members who were eligible or 'in scope' for 2015 Remedy were identified. We acknowledge that analysing only active members as at 31 March 2016 may mean certain eligible members may not be included in the analysis (e.g. those who left the Scheme or retired after 1 April 2015 and before 31 March 2016). We do not believe including these members would make a material difference to the outcomes of this analysis given that we expect the vast majority of eligible members will still have been in active service in the Scheme as at 31 March 2016.
- 2.5. Data on the membership of the Scheme as at 31 March 2020 has also been provided to GAD by SPPA for the purposes of the 31 March 2020 actuarial valuation. However, identifying eligible members within this dataset would require consideration of active, deferred and pensioner members (as well as deaths/other movements over the period since 2015). We did not believe there would be any additional benefits to analysing the membership data as at 31 March 2020, compared with analysing the active membership as at 31 March 2016.

Identifying 'in scope' members

2.6. We have then identified members as being 'in scope' of the 2015 Remedy (and therefore, eligible to choose between accruing either legacy or reformed scheme benefits in the Remedy Period), if they meet the following criteria:

- Date of Joining before 1 April 2012, or
- Protected or Taper Protected Status (even if recorded Date of Joining after 1 April 2012)

2.7. Please note that this will not always accurately identify members in scope. For example, members may have a Date of Joining after 1 April 2012 which reflects the date they first joined the Scottish Teachers' Pension Schemes, but they may have had previous service in a different public sector scheme which brings them in scope for the 2015 Remedy (e.g. as a result of a bulk transfer). Again, we do not expect such limitations to have a material impact on this analysis.

2.8. We have therefore identified the following number of members as eligible to choose between legacy and reformed scheme benefits in the Remedy Period:

		Number of members	Proportion of the membership (based on number of members)
Eligible for 2015 Remedy	<i>Unprotected members</i>	41,222	54%
	<i>Tapered Protected members</i>	5,839	7%
	<i>Protected members</i>	16,200	21%
	Total	63,261	82%
Not eligible for 2015 Remedy		13,631	18%
Total		76,892	100%

2.9. The following table sets out which legacy scheme the 63,261 members who are eligible for 2015 Remedy accrued / are accruing benefits in:

	NPA 60 Scheme	NPA 65 Scheme	Mixed NPA 60/65 Service	Total
Unprotected members	24,839 (55%)*	14,121 (95%)	2,263 (73%)	41,222
Tapered Protected members	5,241 (12%)	365 (2%)	233 (8%)	5,839
Protected members	15,297 (34%)	307 (2%)	596 (19%)	16,200
Total	45,377	14,792	3,092	63,261

* This is the percentage of overall total in that particular scheme
Due to rounding, numbers in each column may not add to 100%

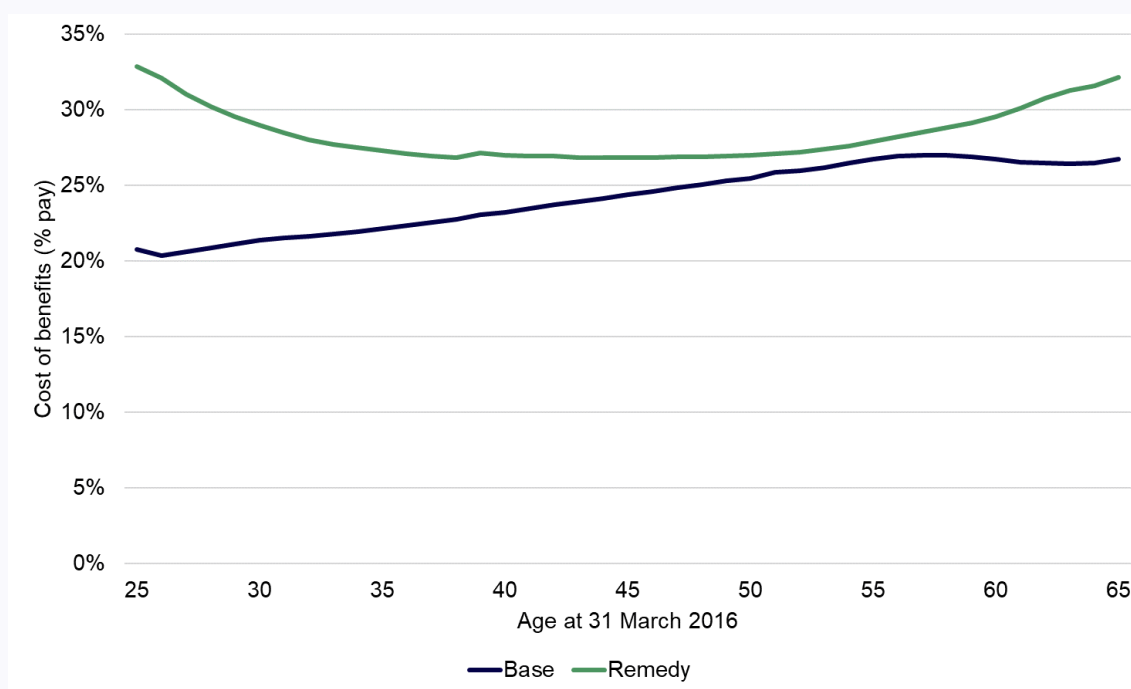
- 2.10. This analysis identifies that:
- 72% of the members in this Scheme who are eligible to choose between legacy and reformed scheme benefits, are accruing or have accrued benefits in the NPA 60 Scheme (45,377 ÷ 63,261). 23% are accruing or have accrued benefits in the NPA 65 Scheme (14,792 ÷ 63,261). 5% are accruing or have accrued Mixed NPA 60/65 Service (3,092 ÷ 63,261).
 - Eligible members who accrued benefits in the NPA 65 Scheme and Mixed NPA 60/65 Service are predominantly Unprotected members.
 - Of the eligible members who accrued benefits in the NPA 60 Scheme, the proportion who are Tapered Protected or Protected is slightly higher than the proportion who are Unprotected.
- 2.11. In this report, we have analysed the protected characteristics of all members eligible to choose between accruing either legacy or reformed scheme benefits in the Remedy Period.

Members benefitting from having a choice of benefits in the Remedy Period

- 2.12. As outlined in paragraph 1.11, all eligible members will have a choice between legacy scheme benefits or reformed scheme benefits, in relation to service in the Remedy Period. Members will be able to make their choice at the point at which they will receive their scheme benefits, e.g. retirement. That is, the benefits are provided as a Deferred Choice Underpin.
- 2.13. A member's preference for either legacy or reformed scheme benefits will depend on their individual circumstances, including the circumstances under which they are retiring, e.g., retirement due to ill-health, and indeed their preferences for certain aspects of a particular benefits' package.
- 2.14. Additionally, for active members, future experience, e.g., an individual's salary progression, may influence which benefits will be more appealing to them, at the point at which they are asked to make this choice.
- 2.15. Asking eligible members to choose between accruing legacy or reformed scheme benefits in the Remedy Period, at the point at which the member is due to receive benefits, allows members to consider the benefit that is best for them, with the knowledge of the circumstances under which they are retiring, and the exact benefits available to them under each option.
- 2.16. Therefore, all eligible members could be considered as 'benefitting' from being offered a choice of benefits in the Remedy Period.
- 2.17. An alternative interpretation is that members who choose different benefits to the 'Base' benefits which they had already accrued prior to Transitional Protection Remedy, could be seen as having 'benefitted' from being offered a choice of benefits in the Remedy Period.

2.18. Analysis conducted as part of the 2016 Cost Control valuation³ identified that almost all Scottish Teachers' Pension Schemes members eligible for Transitional Protection Remedy have the potential to benefit from the alternative benefits available.

2.19. The following graph from the analysis shows the weighted average cost of benefits by age (as a percentage of pensionable pay), for both the 'Base' benefits, under the transitional protection arrangements, and the 'Remedy' benefits under the Deferred Choice Underpin.



2.20. Please note that this is a high-level assessment. It is not a detailed member-by-member analysis, nor does it examine the comparison of benefits under each potential contingency event (e.g. withdrawal, early retirement, ill-health retirement, death, etc).

2.21. As a result, it may be that the comparison of benefits would be very different when analysing, for instance, a member retiring early or a member retiring due to ill health. **Rather than placing any reliance on the information above, individuals should consider their own specific circumstances and possibly seek Independent Financial Advice before deciding which benefits package they will opt for.**

2.22. Broadly speaking, however, this analysis indicates that, based on the assumptions adopted, the aggregated Remedy cost is higher than the aggregated Base cost. This suggests that members at all ages have the potential to benefit from the Remedy.

³ [2016 Cost control valuation report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk). Further information on the assumptions are detailed in our report "[Scottish Teachers' Pension Schemes - Actuarial valuation as at 31 March 2016: Advice on assumptions](#)" of 18 February 2019 and "[Scottish Teachers' Pension Schemes - Cost-cap valuation as at 31 March 2016: Assumptions, methodology and data](#)" of 10 February 2022.

- 2.23. In this report, we have therefore maintained the assumption that almost all members eligible for Transitional Protection Remedy are likely to benefit.

Assessing Protected Characteristics: Data Used

- 2.24. Data on sex and age (and service, and part-time status) of the membership of the Scottish Teachers' Pension Schemes was provided to GAD by SPPA for the purposes of the 31 March 2016 actuarial valuation.
- 2.25. For the other protected characteristics under the Equality Act 2010, SPPA does not hold complete or up-to-date data. However, data for the whole of the teaching workforce in Scotland is available for certain protected characteristics and has been used. Given the expected generally high participation rate in the Scottish Teachers' Pension Schemes we believe this represents a reasonable approximation to the membership of the Scheme.

3. Equality Impact Analysis: Age

This Chapter sets out our analysis of the equality impacts of the policy decision to provide eligible members with a choice of either legacy or reformed scheme benefits in the Remedy Period, on the protected characteristic of age, as identified in the Equality Act 2010.

Introduction

- 3.1. As previously outlined, the Courts determined that the transitional protection element of the 2015 public service pension scheme reforms treated those members who were closest to retirement more favourably than younger members, and this amounted to direct age discrimination.
- 3.2. The UK Government's policy decision to provide all eligible members with a choice of legacy scheme or reformed scheme benefits in the Remedy Period is one aspect of the approach that is to be taken to address the age discrimination identified.
- 3.3. We have analysed below the split by age, of both members eligible to choose between legacy and reformed scheme benefits in the Remedy Period and those expected to be more likely to benefit from having this choice.

Analysis: Age

- 3.4. The following table sets out the age profile of all active members in the Scottish Teachers' Pension Schemes as at 31 March 2016, as well as the age profile of the active members eligible to choose between legacy and reformed scheme benefits in the Remedy Period, and those not eligible:

Age as at 31 March 2016	All Active Members	Active Members Eligible for Choice	Active Members NOT Eligible for Choice
16-19	-*	-	-*
20-24	3%	-*	15%
25-29	10%	4%	37%
30-34	13%	13%	14%
35-39	13%	14%	10%
40-44	12%	13%	8%
45-49	12%	14%	7%
50-54	13%	15%	5%
55-59	14%	16%	3%
60-64	9%	10%	1%
65+	2%	2%	1%
Total	76,892	63,261	13,631

* Note this is not actually zero, but denoted '-' as less than 0.5%
Due to rounding, numbers in each column may not add to 100%

Scottish Teachers' Pension Schemes:
Retrospective Remedy Phase – Analysis to support the Equalities Impact Assessment

3.5. This analysis identifies that:

- Most of the active scheme population is between ages 25 and 59 (c. 87%).
- Most members eligible to choose between legacy and reformed scheme benefits in the Remedy Period are between ages 30 to 64 as at 31 March 2016 (c. 95%).
- Most members not eligible to choose between legacy and reformed scheme benefits are between ages 20 to 39 as at 31 March 2016 (c. 76%).
- Members eligible to choose between legacy and reformed scheme benefits are therefore generally older than the overall active membership. This is to be expected as the majority of new joiners since 1 April 2012 are expected to be younger on average than the overall population, and these members are not eligible for Remedy.

3.6. The following table sets out the age profile of the members eligible to choose benefits in the Remedy Period, split to show their relevant legacy scheme:

	NPA 60 Scheme	NPA 65 Scheme	Mixed NPA 60/65 Service	Total
20-24	-	100%	-	-*
25-29	-*	99%	-*	4%
30-34	34%	64%	2%	13%
35-39	70%	26%	4%	14%
40-44	78%	17%	5%	13%
45-49	78%	16%	6%	14%
50-54	83%	12%	6%	15%
55-59	89%	6%	5%	16%
60-64	89%	4%	7%	10%
65+	78%	4%	18%	2%

* Note this is not actually zero, but denoted '-' as less than 0.5%

To be clear, the percentages shown under each section column represent the percentage of eligible members in that scheme, within each age group.

Due to rounding, numbers in each row/column may not add to 100%

3.7. This analysis identifies that:

- At ages 20 – 34, the majority of members eligible to be offered a choice of benefits in the Remedy Period, have accrued benefits in the NPA 65 Scheme.
- At ages 35 – 65+, the majority of members eligible to be offered a choice of benefits in the Remedy Period, have accrued benefits in the NPA 60 Scheme.
- Very few members have mixed NPA 60/65 service, with the proportion broadly consistent across age bands but higher at older ages.

3.8. This is as expected as it is consistent with the average entry age of members into the Scottish Teachers' Pension Schemes and the opening date of the NPA 65

Scottish Teachers' Pension Schemes:
Retrospective Remedy Phase – Analysis to support the Equalities Impact Assessment

Scheme being more recent (i.e. younger members are more likely to be in the NPA 65 Scheme).

3.9. The following table sets out the age profile of the members eligible to choose between legacy and reformed scheme benefits, split by protection status:

	Unprotected Members ⁴	Tapered Protected Members	Protected Members	Total
20-24	100%	-	-	-*
25-29	100%	-	-*	4%
30-34	100%	-	-*	13%
35-39	100%	-	-*	14%
40-44	100%	-	-*	13%
45-49	100%	-*	-*	14%
50-54	32%	58%	9%	15%
55-59	7%	4%	89%	16%
60-64	18%	-*	82%	10%
65+	30%	-*	70%	2%

* Note this is not actually zero, but denoted '-' as less than 0.5%

To be clear, the percentages shown under each protection status column represent the percentage of eligible members in that protection status, within each age group.

Due to rounding, numbers in each row/column may not add to 100%

3.10. This analysis identifies that:

- Of the eligible members aged 49 or below, the majority are Unprotected members.
- Of the members aged 50 to 54, the majority are Tapered Protected members.
- Of the members above aged 55 and above, the majority are Protected members.

3.11. The age profile of the members in each protection status is as expected based on criteria for the protection status (i.e., Protected Members are closest to retirement, and Tapered Protected members are closer than Unprotected members to retirement).

⁴ There are a small number of 'Unprotected members' at older ages where their protection status in the data provided is not consistent with the criteria set out in paragraphs 1.8 and 1.9 above. This may indicate a data inaccuracy, such as incorrect date joined scheme or recorded protection status, which is leading to the incorrect classification of these members. The cause of this inaccuracy is unclear from the data available. Due to the small number of members involved we do not believe that this has a material impact on the conclusions which can be drawn from the information shown, in the context of this analysis. We propose that the most practical way forward is to accept this data uncertainty, for the purposes of this analysis.

3.12. **Commentary on analysis:**

As illustrated above, members eligible to choose between legacy and reformed scheme benefits are older than the overall active member population, and older than those members not eligible for 2015 Remedy.

The EqIA carried out as part of the Public Service Pensions and Judicial Offices Act recognised this point in section 3.6 (page 22).

4. Equality Impact Analysis: Sex

This Chapter sets out our analysis of the equality impacts of the policy decision to provide eligible members with a choice of either legacy or reformed scheme benefits in the Remedy Period, on the protected characteristic of sex, as identified in the Equality Act 2010.

Introduction

- 4.1. In determining that the transitional protection arrangements discriminated on the grounds of age, the Courts also concluded that if older members in a scheme were more likely to be male, providing older members with preferential terms amounted to indirect sex discrimination.
- 4.2. The UK Government's policy decision to provide all eligible members with a choice of legacy scheme or reformed scheme benefits in the Remedy Period is one aspect of the approach that is to be taken to address the age discrimination identified, and in turn, the indirect sex discrimination where it too applies.
- 4.3. We have analysed below the split by sex⁵ of both members eligible to make a choice of legacy and reformed scheme benefit in the Remedy Period and those expected to be more likely to benefit from this choice.

Analysis: Sex

- 4.4. The following table sets out the sex profile of all active members in the Scottish Teachers' Pension Schemes as at 31 March 2016, as well as the sex profile of the active members eligible to choose between legacy and reformed scheme benefits, and those not eligible:

	Active Membership as at 31 March 2016	Active members as at 31 March 2016 eligible for Remedy	Active members as at 31 March 2016 NOT eligible for Remedy
Males	25%	25%	27%
Females	75%	75%	73%
Total	76,892	63,261	13,631

⁵ The Equality Act 2010 lists 'sex' as a protected characteristic. Data for the Scottish Teachers' Pension Schemes is also available by sex. However, it is important to note that sex and gender are two different concepts. A person's gender identity is not always the same as the sex assigned to them at birth, and some people may not identify as having a gender or as non-binary. Gender reassignment is also a protected characteristic under the Equality Act 2010, and this is examined in Section 5.

Scottish Teachers' Pension Schemes:
Retrospective Remedy Phase – Analysis to support the Equalities Impact Assessment

4.5. This analysis identifies that:

- The proportion of active members eligible for Remedy who are male is broadly consistent with the overall proportion of active members who are male.
- The majority of active members are female, and so too are the majority of active members who are eligible to choose between reformed and legacy scheme benefits over the Remedy Period.
- The percentage of the members not eligible to choose between reformed and legacy scheme benefits over the Remedy Period who are male is slightly higher than the percentage of male members eligible to make this choice.

4.6. The following table sets out the percentage of male and female members who are eligible, and have accrued benefits in each of the legacy schemes as at 31 March 2016:

	NPA 60 Scheme	NPA 65 Scheme	Mixed NPA 60/65 Service	Total
Males	24%	25%	29%	25%
Females	76%	75%	71%	75%
Total	45,377	14,792	3,092	63,261

4.7. This analysis identifies that:

- The percentage of eligible members who are females and accruing/have accrued benefits in the NPA 60 Scheme is slightly higher than the percentage accruing/have accrued benefits in the NPA 65 Scheme, and higher than the percentage accruing/have accrued mixed benefits in the NPA 60 Scheme and NPA 65 Scheme.
- The percentage of eligible members who are males and accruing/have accrued mixed benefits in the NPA 60 Scheme and NPA 65 Scheme is higher than the percentage in the overall eligible member population, and higher than the percentage accruing/have accrued benefits in only the NPA 65 Scheme or only the NPA 60 Scheme.
- The percentage of eligible members who are males and accruing/have accrued benefits in the NPA 60 Scheme is slightly lower than the percentage in the overall eligible member population, and lower than the percentage accruing/have accrued benefits in only the NPA 65 Scheme.

Scottish Teachers' Pension Schemes:
Retrospective Remedy Phase – Analysis to support the Equalities Impact Assessment

4.8. The following table sets out the percentage of male and female members who are eligible, in each protection status as at 31 March 2016:

	Unprotected Members	Tapered Protected Members	Protected Members	Total
Males	23%	28%	28%	25%
Females	77%	72%	72%	75%
Total	41,222	5,839	16,200	63,261

4.9. This analysis identifies that:

- The percentage of eligible members who are females and are Unprotected is slightly higher than the percentage in the overall eligible member population, and higher than the percentage who are Tapered Protected and Protected members.
- The percentage of eligible members who are males and are Unprotected is slightly lower than the percentage in the overall eligible member population, and lower than the percentage who are Tapered Protected and Protected members.

Commentary on analysis:

Based on the analysis above, members who are eligible to choose between legacy and reformed scheme benefits in the Remedy Period are more likely to be female, compared to those not eligible, but this is consistent with the proportion of females in the overall scheme population.

Analysis: Sex and Age

4.10. We have also set out below the percentage of females in both the overall scheme population and the population eligible to choose benefits in the Remedy Period, at each age range:

Age as at 31 March 2016	Active Membership as at 31 March 2016	Active members as at 31 March 2016 eligible for Remedy	Active members as at 31 March 2016 NOT eligible for Remedy
16-19	33%	-	33%
20-24	83%	100%	83%
25-29	81%	84%	79%
30-34	78%	80%	67%
35-39	77%	79%	62%
40-44	76%	77%	71%
45-49	74%	75%	69%
50-54	72%	73%	62%
55-59	72%	72%	57%
60-64	71%	72%	60%
65+	58%	59%	37%

4.11. This analysis identifies that:

- The percentage of members who are eligible to make a choice of benefits in the Remedy period and who are female, is generally consistent with the overall scheme population for the age bands shown, except for age band 20-24 where it is higher than the overall scheme population at those ages.
- The percentage of members who are not eligible to make a choice of benefits in the Remedy period and who are female is generally lower than the overall scheme population at all ages.

4.12. **Commentary on analysis:**

The above analysis supports the previous comments members who are eligible to choose between legacy and reformed scheme benefits in the Remedy Period are more likely to be female, across all age bands, compared to those not eligible, reflecting the larger number of females in the overall active membership of the scheme. However, this is broadly consistent with the overall population splits.

Analysis: Sex and Employment Status

- 4.13. In Scotland, women are more likely to work part-time than men⁶. It is therefore worth considering the equalities impact of those who work part-time within this protected characteristic.
- 4.14. The analysis below provides a split of the scheme membership into those working part-time and those not.

	Active membership as at 31 March 2016	Eligible members as at 31 March 2016	Members NOT eligible as at 31 March 2016
Full-time	60%	58%	68%
Part-time	40%	42%	32%
Total	76,892	63,261	13,631

- 4.15. Of the 26,718 members as at 31 March 2016 who are eligible to choose benefits in the Remedy Period and who work part-time:
- 22,003 are female (82%)
 - 19,995 are accruing benefits in the NPA 60 Scheme (75%).
- 4.16. This analysis identifies that:
- The percentage of those members eligible to choose benefits in the Remedy Period, and work part-time, is higher than the percentage of the overall active member population who work part-time.
 - The percentage of those members not eligible to choose benefits in the Remedy Period, who work part-time, is lower than the percentage of the overall active member population who work part-time.
 - Of those members who are eligible to choose benefits in the Remedy Period and who work part-time, the percentage that are female (82%) is higher than the percentage of the overall active member population that is female (75%) and the percentage of the eligible member population that is female (75%).
- 4.17. **Commentary on analysis:**
Based on the above analysis, members eligible to choose benefits in the Remedy Period are more likely to work part-time. Members not eligible to choose benefits in the Remedy Period are less likely to work part-time.

⁶ <https://www.closesthegap.org.uk/content/gap-statistics/>

5. Equality Impact Analysis: Other Protected Characteristics

This Chapter sets out our analysis of the equality impacts of the policy decision to provide eligible members with a choice of either legacy or reformed scheme benefits in the Remedy Period, on the other protected characteristics, as identified in the Equality Act 2010.

Introduction

- 5.1. The proposed changes will apply to all members regardless of these protected characteristics. However, we have considered the potential impact of these individually below.

Data Analysed

- 5.2. SPPA does not hold complete or up-to-date data on the other protected characteristics under the Equality Act 2010.
- 5.3. For the remaining protected characteristics, we had hoped to use data for the teaching workforce in Scotland as a whole, rather than pension scheme membership. However, we have been unable to easily locate such data in relation to most of the remaining protected characteristics; we will discuss with SPPA what they might be able to acquire for these purposes.
- 5.4. The proposed changes will apply to all members regardless of these protected characteristics. However, where information is readily available, we have considered the potential impact below.
- 5.5. Eligible members are those who were in service on or before 31 March 2012 and who were still in service on or after 1 April 2015.
- 5.6. While we have used data on active membership of the scheme as at 31 March 2016 for the analysis by age and sex, the analysis has excluded individuals who joined the scheme after 1 April 2012.
- 5.7. Therefore, comparing characteristics of the teaching workforce in Scotland as a whole in 2012 with the characteristics as at 2016 could provide an indication as to whether the protected characteristics of the eligible membership might differ to the membership as whole.
- 5.8. Unfortunately, workforce data available relating to protected characteristics is not aligned to an annual date of 31 March. As such, for the purposes of our analysis we have used data as at September 2012 and September 2016.

5.9. We have used information from the following source to comment on the protected characteristics:

- [Teacher Census 2016](#)

Disability

- 5.10. Available data on this characteristic in relation to the teaching workforce in Scotland or the Scottish Teachers' Pension Schemes membership is limited. Although there is limited data available, if new data indicates that this group may suffer disproportionate adverse effects, we will consider the impact further.

Religion or Belief

- 5.11. Available data on this characteristic in relation to the teaching workforce in Scotland or the Scottish Teachers' Pension Schemes membership is limited. Although there is limited data available, if new data indicates that this group may suffer disproportionate adverse effects, we will consider the impact further.

Sexual orientation

- 5.12. Available data on this characteristic in relation to the teaching workforce in Scotland or the Scottish Teachers' Pension Schemes membership is limited. Although there is limited data available, if new data indicates that this group may suffer disproportionate adverse effects, we will consider the impact further.

Race/Ethnicity

- 5.13. The proportion of the teaching workforce in Scotland identifying being from a minority ethnic group decreased from 1.1% as at September 2012 to 1.0% as at September 2016 in primary schools. The proportion remained consistent at 1.7% as at September 2012 and September 2016 in secondary schools.
- 5.14. This might suggest that members eligible to make a choice of legacy or reformed scheme benefits over the Remedy Period are no more or less likely to identify as being from a minority ethnic background compared with those not eligible to make a choice.

Gender reassignment

- 5.15. Available data on this characteristic in relation to the teaching workforce in Scotland or the Scottish Teachers' Pension Schemes membership is limited. Although there is limited data available, if new data indicates that this group may suffer disproportionate adverse effects, we will consider the impact further.

Pregnancy and maternity

- 5.16. Available data on this characteristic in relation to the teaching workforce in Scotland or the Scottish Teachers' Pension Schemes membership is limited. Although there is limited data available, if new data indicates that this group may suffer disproportionate adverse effects, we will consider the impact further.

Marriage and civil partnership

- 5.17. Available data on this characteristic in relation to the teaching workforce in Scotland or the Scottish Teachers' Pension Schemes membership is limited. Although there is limited data available, if new data indicates that this group may suffer disproportionate adverse effects, we will consider the impact further.

Appendix A: Data and Assumptions

Data

- The analysis shown in this report is based on the data provided by SPPA to GAD for the 2016 actuarial valuation, as detailed in our report [“Scottish Teachers’ Pension Schemes - Actuarial valuation as at 31 March 2016: Report on membership data”](#) of 27 February 2019.
- Whilst comprehensive data was received from SPPA for the 2016 actuarial valuation, some aspects of the data were incomplete and/or unreliable for certain elements of our valuation calculations. It was not possible to fully resolve those data issues in the timescale required for the valuation, and therefore, assumptions were required in respect of incomplete and/or unreliable individual member records. Further information on the steps taken to address data issues can be found in the above report.
- Please note that a member has been classed as ‘part-time’ if the part-time indicator provided by SPPA for the purposes of the 31 March 2016 actuarial valuation, was recorded as “Y”. All other members have been assumed to be full time. Please note that rigorous checks were not carried out on the part-time indicators provided.

Assumptions

- In order to estimate whether a member’s reformed or legacy scheme benefits over the Remedy Period have a ‘higher actuarial value’, we have used assumptions consistent with those used for the 2016 actuarial valuation of the Scheme.
- Further information on the assumptions are detailed in our report [“Scottish Teachers’ Pension Schemes - Actuarial valuation as at 31 March 2016: Advice on assumptions”](#) of 15 February 2019.

Appendix B: Compliance and limitations

This report is intended for the use of the Scottish Public Pensions Agency ('SPPA') for the purposes of analysing the potential impact of the 2015 Remedy and must not be reproduced, distributed or communicated in whole or in part to any other person without GAD's prior written permission.

Other than SPPA, no person or third party is entitled to place any reliance on the contents of this report, except to any extent explicitly stated herein. GAD has no liability to any person or third party for any action taken or any failure to act, either in whole or in part, on the basis of this report.

In preparing this report, GAD has relied on data and other information supplied by the Scheme Manager as described in the report. Any checks that GAD has made on this information are limited to those described in the report, including any checks on the overall reasonableness and consistency of the data. These checks do not represent a full independent audit of the data supplied. In particular, GAD has relied on the general completeness and accuracy of the information supplied without independent verification.

GAD are not lawyers, and our advice does not constitute legal advice. Advice in this area should be sought from an appropriately qualified person or source.

This report has been carried out in accordance with the applicable Technical Actuarial Standard: TAS 100 issued by the Financial Reporting Council (FRC). The FRC sets technical standards for actuarial work in the UK.