

**Fire Fighters Pension Case**

**Background**

• On 20 December 2018, the Court of Appeal in Lord Chancellor v McCloud (and others) held

that in relation to the judicial and Fire fighters’ pension schemes, transitional provisions

introduced in 2015 gave rise to unlawful age discrimination. The management is now being

discussed at Employment Tribunals to determine a remedy for claimants.

• Case management discussions (CMDs) have been held in respect of the judiciary, police,

Firefighters and Ministry of Defence police.

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the judiciary, police, Fire fighters and Ministry of Defence police.

• The government has agreed an interim declaration with claimants in the case management discussions for the judicial, police, Fire fighters and MoD police claimants. The declaration mean that the claimants are entitled to be treated as members of the appropriate pre-2015 schemes.

***The government intends to extend the same treatment to all members of the public service***

***pension schemes (whether claimants or not), including the NHS Pension Scheme, who are***

***in the same legal and factual position as the claimants. However, this is not***

***straight forward as simply returning all relevant members to the pre-2015 schemes would***

***cause detriment for some members of public service pension schemes as there are***

***hundreds of thousands of individuals who were in post as at the 31 March 2012 that are***

***expected to better off in the new schemes. This will particularly be the case in the NHS***

***Pension Scheme.***

• It’s important to remember that the courts found that the transitional protection that were introduced as part of the move to the 2015 scheme were discriminatory not the scheme itself. Hence, it is entirely possible that NHS 2015 scheme members who have been

discriminated against and are potentially allowed the opportunity to move back into their previous 1995 or 2008 Section could find that at some future point they will still be required

to move to the 2015.

• Changes to legislation will be required in order to eliminate the discrimination identified in

the public sector pension schemes. These changes will be subject to consultation prior to

implementation.

**Next steps**

• The NHS scheme advisory boards that cover the England and Wales scheme, the Scotland

scheme and the Northern Ireland Scheme are due to meet over the coming weeks.

• The process for compensating NHS scheme members who have been discriminated against will be discussed at these meetings.

• Once more information is available on how compensation will be applied this will be

circulated to branches.