Ministry of Justice

New Judicial Pension Scheme 2015

Consultation

This consultation begins on 16 June 2014

This consultation ends on 8 September 2014

New Judicial Pension Scheme 2015

Consultation

A consultation produced by the Ministry of Justice. It is also available on the Ministry of Justice website at www.gov.uk/moj

About this consultation

To:	This consultation seeks views from members of the judiciary who are entitled to be a member of a judicial pension scheme, legal professionals, pension industry professionals and any persons likely to be affected by these reforms.
Duration:	From 16/06/2014 to 08/09/2014
Enquiries (including requests for the paper in an alternative format) to:	Alex Scott Judicial Policy, Pay and Pensions Ministry of Justice 2.53, 102 Petty France London SW1H 9AJ Email: judicialpensionreview@justice.gsi.gov.uk Fax: 08707 39 59 39
How to respond:	Responses to the consultation questions should be submitted online at: https://consult.justice.gov.uk/digital-communications/judicial-pension-scheme-2015-consultation Responses can also be submitted to the 'Enquiries' contact details above
Response paper:	A response to this consultation exercise is due to be published at: www.gov.uk/moj

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Ministerial foreword

The current public service pension system has been unable to respond flexibly to changes in demographics over the past few decades. The need for reform was set out very clearly by Lord Hutton's Independent Public Service Pensions Commission, and this Government is committed to undertaking reform in this area whilst still providing very good future pension values and ensuring current accrued benefits are protected.

It is essential that we make savings in this area, to ensure long-term sustainability and demonstrate a greater fairness to taxpayers in how public service pension benefits are funded. We need a long term solution that will last a generation: to do that it will need to be fair to public service pension scheme members and fair to taxpayers.

The framework for the reformed judicial pension arrangements was outlined in the Public Service Pensions Act 2013, which incorporated the recommendations of Lord Hutton. This is not a 'one size fits all' pension scheme; this standalone scheme has been designed with the judicial membership in mind throughout, whilst adhering to the overall framework of the public sector reforms.

The protection of every scheme member's accrued rights is a fundamental principle of these reforms, and as part of this, we will maintain the link to final salary for the purposes of calculating the value of a member's accrued rights in existing schemes. The Government has also committed to providing further protection for those closest to retirement across the public sector, allowing these members to remain in their current arrangements until retirement.

In addition to these provisions protecting members of all public service pension schemes close to retirement, the Government has also agreed to provide an additional option to judges affected by these reforms, in the form of the Transitional Protection Allowance. This option is unique to the judiciary.

These reforms have been designed to deliver a financially sustainable, fit for purpose judicial pension scheme that will continue to provide generous, fully indexed defined benefit pensions to members of the judiciary upon retirement, and support the recruitment and retention of the right people for judicial office.

I believe that the proposed features of the new judicial pension scheme outlined in this consultation will provide a long-term solution and make the changes necessary to ensure that the provision of a good quality pension to all scheme members is preserved, as well as commanding trust and confidence in the scheme from both members and taxpayers. I invite all those who have an interest in these reforms to respond to this consultation on the features of the reformed judicial pension arrangements, and I look forward to considering your responses.

The Right Honourable Chris Grayling MP
Lord Chancellor and Secretary of State for Justice

Executive summary

1. This consultation seeks views on the reforms to judicial pension arrangements, in the form of the proposed New Judicial Pension Scheme 2015 (NJPS 2015) and on the draft regulations that will give effect to the proposed scheme.

2. This Government announced, at the time of the Emergency Budget in 2010, the establishment of an independent review of the provision of public service pensions. The judiciary were included in the scope of this review.

3. This review by the Independent Public Service Pensions Commission (IPSPC), led by Lord Hutton, was tasked with making recommendations for reform to public service pensions in order to make them both affordable and sustainable in the long-term as well as offering certainty and fairness to public service pension scheme members and taxpayers.

4. The Government's response to this review, the 2011 paper *'Public Service Pensions: Good pensions that last'*, adopted many of the recommendations of the IPSPC and outlined the preferred design of the reformed public service pension schemes. This included a guarantee that benefits already built up before the date of the change would be protected fully.

5. The Government also made a commitment, which went beyond Lord Hutton's recommendations, that scheme members within 10 years of pension age at 1 April 2012 would continue in their current scheme until retirement, and thus outside of the scope of the changes. This is known as 'Transitional Protection'. Normal Pension Age under the current judicial pension schemes is 65 years of age. Limited protection will also be available to those members who were within 13.5 years of normal pension age at 1 April 2012. This is known as 'Tapering Protection'.

6. On 9 July 2012, the previous Lord Chancellor wrote to the Heads of Jurisdiction outlining a number of proposals for the reform of judicial pension arrangements, with the preferred option being judicial membership in the reformed Principal Civil Service Pension Scheme (PCSPS).

7. Over the subsequent months, members of the judiciary were given the opportunity to comment on these proposals. The department considered the views of the judiciary and as a result agreed to provide a standalone judicial pension scheme instead of entering judicial office holders into the reformed PCSPS. This scheme is to be analogous with the reformed PCSPS, except in limited circumstances. As a result, the new judicial pension scheme will be registered for tax-purposes.

8. On 5 February 2013, the Lord Chancellor announced to Parliament the intention to reform judicial pension arrangements in the form of the standalone New Judicial Pension Scheme 2015. The Lord Chancellor also wrote to the Heads of Jurisdiction and all non-devolved judicial office holders, via the judicial intranet, informing them of the proposed scheme design for the reformed judicial pension arrangements.

9. The statutory framework for the establishment of the NJPS 2015 is the Public Service Pensions Act 2013 (PSPA 2013). This Act was given Royal Assent on 25 April 2013 and is consistent with the aforementioned policy document '*Public Service Pensions: Good pensions that last*'. The PSPA 2013 provides for the establishment of the reformed public service schemes, and outlines the provision of Transitional Protection for members within ten years of their Normal Pension Age at 1 April 2012.

10. All open judicial pension arrangements will close to new members on 31 March 2015, except where Transitional Protection or Tapering Protection applies. The NJPS 2015 will open on 1 April 2015.

11. It should be noted that reforms to judicial pension arrangements will apply to eligible members of the judiciary in Scotland and Northern Ireland, as well as those in England and Wales. There are a number of devolved judicial offices in Scotland and Northern Ireland to which these reforms will not apply.

Fee-paid judiciary

12. The NJPS 2015 will be open to eligible fee-paid and salaried judicial office holders. The complete schedule of fee-paid offices eligible for a pension under the NJPS 2015 is yet to be finalised. However, a document outlining those fee-paid judicial offices whose eligibility for a pension under the NJPS 2015 has already been confirmed by the time of publication is included in Annex A of this document.

13. It may be that other fee-paid judicial offices are confirmed as eligible over time, and as a result, additions may be made to this schedule. Once the litigation has concluded, there will be an announcement detailing all those eligible for membership to the NJPS 2015.

14. In light of the O'Brien and Miller judgments in respect of fee-paid judicial pension entitlement, the department will implement a fee-paid judicial pension scheme (FPJPS) for fee-paid service from 7 April 2000 to 31 March 2015 for eligible fee-paid judicial office holders. This pension scheme will mirror the current judicial pension scheme (JUPRA) for salaried judiciary. Further details of progress on this scheme are published on the Ministry of Justice website.

15. Judges eligible for membership in the FPJPS will be eligible to join NJPS 2015, subject to the operation of Transitional Protection or Tapering Protection.

16. It is Government policy that Transitional Protection and Tapering Protection are 'portable' between public sector pension schemes. This means that a fee-paid judge who is eligible to remain a member of the pre-2015 fee-paid judicial pension scheme (FPJPS), and subsequently joins the salaried judiciary, will be treated as a protected member of the salaried judiciary and entered into the current judicial pension scheme (JUPRA) rather than the NJPS 2015.The implications of this 'portability' of transitional provisions are explained in detail later in the document (p.17).

Equality

17. The department has carried out an equality impact analysis of the reformed judicial pension scheme. The results of the analysis were published in the 'Judicial Pensions Reform: Equality Impact Assessment' document in February 2013. A copy of the document is available on the Consultation Hub website.

18. The department remains committed to taking equality considerations into account in its proposals for the NJPS 2015. The department does not consider any further equality implications have arisen as a result of the proposals contained in this document. This will continue to be monitored.

Areas not covered by this consultation

19. There are certain elements of pension policy that apply to all public sector pension schemes and remain the responsibility of HM Treasury or the Department for Work and Pensions (DWP). These are set out below:

    - Consent to make scheme regulations
    - The detailed design of the employer cost cap
    - The Directions for scheme valuations
    - Levels of in-service indexation of benefits
    - Requirements and eligibility for Transitional Protection, including concept of 'portability'
    - Publication of information about the scheme

20. Along with these policy areas that are the responsibility of HM Treasury or DWP, there are a number of features of the scheme that are set out in the PSPA 2013. These areas include:

    - The requirement to establish governance arrangements for the scheme including the appointment of a Responsible Authority and a Scheme Manager, along with the establishment of distinct boards focusing on scheme management and scheme policy respectively;
    - The adoption of a career average model, and alignment of Normal Pension Age and State Pension Age;
    - The requirement for scheme actuarial valuations in accordance with HM Treasury directions, as well the implementation of an employer cost cap to control future spending on public service pensions;
    - Requirements on the publication of information by schemes to improve transparency and accountability; and
    - Eligibility for the schemes.

21. The PSPA 2013 outlines the Government's long-term commitment to these reforms. The Act places restrictions on a Responsible Authority, who for the NJPS 2015 is the Lord Chancellor, if they propose further scheme regulations containing provisions changing either the member contributions or the benefit accrual rate, or the extent to which the scheme is a career average scheme, before 31 March 2040.

22. In the event this would occur, a Responsible Authority must consult persons likely to be affected with a view to reaching agreement with them, and lay a report in Parliament setting out the reasoning for the proposal, with a regard for the desirability of not making a change.

About this document

23. This consultation outlines the provisions for the proposed NJPS 2015, and the draft regulations to bring the proposed scheme into effect. This consultation will enable those likely to be affected by the proposals to express views on any issues associated with the new scheme.

24. This consultation document is divided into sections. Firstly, to whom these reforms will apply is outlined. This is followed by a section containing general information that will be applicable to members of all schemes. The next section outlines the features of the NJPS 2015, including how a career average accrual model works in practice. Subsequently, the changes to procedures for members leaving the scheme are outlined, before the document concludes with the proposed governance arrangements to oversee the operation of the scheme are explained.

25. Where appropriate, illustrative examples are provided to explain how members might be affected under the new scheme. Toward the end of the document, there is a glossary of terms used throughout this consultation.

26. Where there is a divergence in policy with the current judicial pension arrangements, under the Judicial Pensions and Retirement Act 1993 (JUPRA), the document highlights this. When this document refers to 'JUPRA', this definition covers all pre-JUPRA schemes in addition to the 1993 scheme.

27. In addition to this document outlining the proposed policy of the reformed judicial pension arrangements, the department has provided the draft regulations to bring this scheme into effect. A copy of the draft regulations is available on the Consultation Hub website, and the department would welcome consultation responses addressing this document.

28. The draft regulations will be subject to minor drafting revisions, to reflect best drafting practice and changes required by HM Treasury as drafting for public service pension schemes evolves. These changes will not be to the substance of the pension scheme and any major alterations to the wording of the regulations will be addressed in the departmental response to the consultation.

29. Additionally, on the Consultation Hub website, a copy of the scheme policy papers used in the development of this consultation is provided for further information, should a consultee wish to read further. All the relevant detail of the reforms is provided in this consultation document, however further detailed examples are available in the proposed scheme policy papers.

Timing and process

30. The department will issue a response to this consultation in autumn 2014 along with an updated copy of the scheme regulations, which will take into account views received through this consultation. The scheme regulations will be laid in draft before both Houses of Parliament, in accordance with the affirmative procedure following the response to this consultation.

31. This consultation will close on 8 September 2014.

Section 1: Application of the reforms

32. This first section details to whom amongst the judiciary these reforms will apply.

33. It should be clarified at this stage that members of both the salaried judiciary and members of the fee-paid judiciary that are determined as eligible for a pension will be entitled to pension provision. However, not all judicial office holders will be eligible to join the New Judicial Pension Scheme 2015 (NJPS 2015).

34. Beyond protecting the accrued pension benefits of all pension scheme members, and maintaining the final salary link, the Government also committed to providing protection to those members with 10 years or less to retirement at 1 April 2012. The details are set out in the paper, '*Public Service Pensions: Good pensions that last*'.

35. The judicial pension schemes are within scope of these commitments, and as such, this 'Transitional Protection' will extend to those salaried, and eligible fee-paid judiciary, with 10 years or less to normal pension age at 1 April 2012. Limited protection will also be available to those members who were within 13.5 years of normal pension age at 1 April 2012. Normal Pension Age under the current judicial pension scheme is 65 years of age.

36. Transitional provisions will be available for eligible fee paid judges in the same way as it is available for the salaried judiciary; the department will legislate to ensure this.

37. The details of eligibility for the transitional provisions are outlined below.

Transitional provisions

38. Salaried and eligible fee-paid judges will generally fall into one of five groups:

Group A: All salaried and eligible fee-paid judicial office holders who were in service immediately before 1 April 2012, and at that date, aged 55 or over. These judges are eligible for **Transitional Protection.**

Group B: All salaried and eligible fee-paid judicial office holders who were in service immediately before 1 April 2012 and at that date, aged between 51 years 6 months and 55 years. These judges are eligible for **Tapering Protection**, and may be eligible for the **Transitional Protection Allowance**.

Group C: All salaried and eligible fee-paid judicial office holders who were in service immediately before 1 April 2012 and at that date, aged 51 years 6 months or below.

This group also includes all salaried and eligible fee-paid judges who were appointed on or after 1 April 2012, **but whose appointment to that office had been agreed as at 1 April 2012**. These judges will be referred to as 'pipeline judges'.

Judges in Group C are not eligible for Transitional Protection, however if they meet further criteria, may be eligible for the **Transitional Protection Allowance**.

Group D: All salaried and eligible fee-paid judges appointed on or after 1 April 2012. These judges are not eligible for Transitional Protection.

Group E: All salaried and eligible fee-paid judges appointed on or after 1 April 2015. Judges in this group are not eligible for any Transitional Protection, and will enter the NJPS 2015 upon appointment to judicial office.

Group A

39. Judges who fall into the first group will not be affected by these reforms, as they are eligible for **Transitional Protection**. As a result of the Government's commitment to protect those nearest to retirement, these members will continue in their current arrangements until retirement.

40. Eligible fee-paid judges in this group will accrue benefits under the fee-paid judicial pension scheme (FPJPS), which will offer benefits in line with the current salaried scheme until retirement.

Group B

41. Salaried judges in Group B will have a choice of whether to remain in their current scheme until their personal age-defined taper date, or whether to elect to move into the NJPS 2015 from 1 April 2015. This is known as **Tapering Protection**.

42. Eligible fee-paid judges in Group B will have the choice to accrue benefits under the FPJPS until their personal age-defined taper date, or to move into the NJPS 2015 from 1 April 2015.

43. This will be an individual decision, unique to each member. Details on the calculation of the taper periods are available in Annex B.

44. Some salaried and eligible fee-paid judges in this Group B will be eligible to opt for the **Transitional Protection Allowance (TPA)**, if they meet the criteria outlined later in this section. This is a one-off, irrevocable decision, and cannot be taken at the same time as Tapering Protection; it can only be taken instead of Tapering Protection.

45. By taking the TPA, a judge in Group B will forego all of their protective rights under Tapering Protection, and lose their final salary linking for their accrued benefits. All accrued benefits will be preserved at the point the member leaves the scheme, and uprated in accordance with the Pensions Increase Act 1971.

Group C

46. Judges in Group C are **not eligible for Transitional Protection or Tapering Protection.**

47. Judges in Group C may be eligible to opt for the **Transitional Protection Allowance (TPA)**, if they meet the criteria outlined later in this section.

48. If a salaried judge in Group C is ineligible for, or does not opt for, the TPA, that judge will remain in their current scheme until 31 March 2015, after which point they will move into the NJPS 2015.

49. If an eligible fee-paid judge in Group C is ineligible for, or does not opt for, the TPA, that judge will accrue benefits under the FPJPS until 31 March 2015, after which point they will move into the NJPS 2015.

Group D

50. Judges in Group D are **not eligible for Transitional Protection or Tapering Protection**. Salaried judges in this group will remain in their current scheme until 31 March 2015, after which point they will move into the NJPS 2015.

51. Eligible fee-paid judges in Group D will accrue benefits under the FPJPS until the same date, after which point they will also move into the NJPS 2015.

Group E

52. Judges in Group E will be placed in the NJPS 2015 from their date of appointment.

All judges

53. All judges eligible to join the NJPS 2015 will have the option to open a Partnership Pension Account in lieu of joining the NJPS 2015 career average scheme. More details on this are provided in Section 3, under the heading ‘Partnership Pension Account’ (p.31).

Transitional Protection Allowance

54. For those judges who meet all the criteria outlined below, there will be a one-off, irrevocable option to take a ‘Transitional Protection Allowance (TPA)’ alongside salary from April 2015.

55. The TPA will be a monthly payment, calculated as a percentage of salary and paid alongside salary, for as long as the judge remains in service. The level of the TPA will be equivalent to the ‘actual’ employer contribution that would have been paid by the employer, if the member were in the NJPS 2015. If a judge were to opt for the TPA from 31 March 2015, they would no longer accrue pension benefits under the judicial pension schemes, nor pay any member contributions.

56. The level of the ‘actual’ employer contribution, to which the TPA rate will be equivalent, has been **provisionally assessed to be 37.9% of pensionable pay**, by the scheme actuary, the Government Actuary’s Department (GAD). The valuation calculations are largely complete but GAD has not yet completed the checking of the results and it is therefore possible that the final employer contribution will be different from this assessment.

57. It should be noted that the ‘actual’ employer contribution differs from the employer cost cap value noted later in the document. The ‘actual’ employer contribution, to which the TPA will be equivalent, will likely be higher than the employer cost cap, as

this value incorporates costs of providing benefits to those members accruing under JUPRA. These costs are not included in the calculation of the cost cap. Further details on this are available in the Section 6, under the heading 'Changes in costs that will affect the employer cost cap' (p.51).

58. The Government has agreed to provide the TPA to the judiciary as a feature beyond the Transitional Protection arrangements applicable to the entire public service. This is to provide an option to those judges for whom to join a tax-registered scheme would result in significant financial impact because of the implications of pre-existing tax-protected allowances, or those who do not wish to join a tax-registered scheme, and who meet the criteria outlined below.

59. If a member opts for the TPA on 1 April 2015, they immediately forego all protective rights under Transitional Protection. This decision is irrevocable.

60. Opting for the TPA will be in lieu of joining the NJPS 2015, and this option will be available for those judges in a qualifying judicial office, or whose appointment to that office had been agreed, as at 1 April 2012 and who meet all the following criteria:
    - The individual is not eligible for full protection;
    - The individual has had continuous membership of the judicial pension scheme since first being eligible to join it and are still active members of the scheme at 31 March 2015;
    - The individual can provide proof of having registered with Her Majesty's Revenue and Customs (HMRC) for either Enhanced Protection (EP) under Finance Act 2004 or Fixed Protection (FP) under Finance Act 2011 and has not contacted HMRC to revoke such Protection; and
    - The individual has not taken any action which negates the validity of their Protection (for instance, joining a registered pension scheme or making contributions to a registered money purchase pension arrangement after 5 April 2006 (EP) or making contributions or building up benefits in a registered pension scheme after 5 April 2012 (FP).

61. The level of the TPA is to be equivalent to the 'actual' employer contribution that would have been paid by the employer, if the member were in the NJPS 2015, provisionally assessed at 37.9% of pensionable pay. The TPA payment will be subject to income tax and National Insurance contributions. A condition of the TPA is that it will cease in the event that a judge joins a pension scheme in respect of his or her service as a judge. If the level of employer contribution were to change in the future, the TPA would change also.

62. This option will be one-off and irrevocable at 1 April 2015. All pension accrued up until this point under JUPRA will be preserved until retirement, **no longer linked to final pensionable earnings**, but uprated in accordance with the Pensions Increase Act 1971. This accrued pension will not be able to be accessed before Normal Pension Age.

63. There will be an exercise run for all salaried judges for whom there will be an option in 2015. The department will write to each judge explaining what options are available to them at this time and the procedure through which they can exercise these options. It is anticipated that this 'options exercise' will take place in the autumn of 2014. A similar 'options exercise' will also be run for eligible fee-paid judicial office holders, with more information provided on the details of this later in the year.

64. Those judges who are not eligible for any of the above protections, by virtue of the date that they were appointed, or their age on 1 April 2012, will move into the NJPS 2015 from 1 April 2015.

Leaving the scheme

65. The government's commitment to the preservation of the final salary link for accrued benefits in the pre-2015 schemes is only applicable for those judges who remain in the NJPS 2015 defined benefit scheme. In the event a judge opted out of that scheme, they would sacrifice this final salary linkage. In this case, the member's pension will be preserved upon leaving the scheme and uprated in accordance with the Pensions Increase Act 1971.

66. This definition of 'leaving the scheme' includes those judges who opt for the Transitional Protection Allowance, or Partnership Pension Account. By opting for one of these arrangements, and thus opting out of the NJPS 2015, a member will lose their final salary linkage.

Rejoining the scheme

67. This section outlines the provisions for final salary linking for those members who leave a judicial pension scheme, before rejoining at a later date. This covers those judges who leave active service, or who opt out of a judicial pension scheme whilst remaining in active service.

68. Judges who opt to take a career break, or any other period of unpaid leave, whilst retaining their appointment are still deemed to be active scheme members, and thus not covered by these rejoining provisions.

69. Members that are eligible for Transitional Protection (Group A) who leave their current scheme (JUPRA) and return within five years will return to their current arrangements (JUPRA). If a member in Group A leaves the scheme and returns after a period longer than five years, they will lose their Transitional Protection, and will be entered into the NJPS 2015.

70. If a member is in the Tapering Protection group (Group B), leaves their pension scheme, and returns within five years, they will return to the scheme arrangements that they would have been in had they remained in service, retaining their final salary linking. However, their period out of active service will count towards the length of their tapered protection.

71. Members of all other groups are not covered by Transitional or Tapering Protection. If they leave their judicial pension scheme and return within five years, they will be able to re-link their accrued rights in their pre-2015 scheme to final salary on retirement.

72. If any member leaves a judicial pension scheme and returns after a period of longer than five years, they will lose any right to Transitional or Tapering Protection, and upon their return will only be eligible to enter the NJPS 2015, regardless of their circumstances at 1 April 2012.

73. The returning member will be offered the choice of converting their past service to the current scheme terms on a Cash Equivalent Transfer Value (CETV) basis or leaving it as an accrued benefit without final salary linkage.

74. If a member has opted for the Transitional Protection Allowance (TPA) and left active service before returning within five years, they will retain their TPA in line with their new pensionable earnings. However, as the member has opted for the TPA, their accrued rights will no longer be linked to their final salary on retirement.

75. If a member rejoins the scheme more than five years after leaving, they will lose their right to the Transitional Protection Allowance, and will only be eligible to enter the NJPS 2015

Judicial Pension Reform – Application to salaried judiciary

Group A: Judges in service immediately before 1 April 2012 and aged at least 55 years

Remain in current scheme until retirement

Group B: Judges in service immediately before 1 April 2012 and aged between 51 years 6 months and 55 years

Remain in current scheme until 31 March 2015

Options: **1**, **2** (if eligible), **3** and **4**

Group C: Judges in service immediately before 1 April 2012 and aged below 51 years 6 months **AND** all specified 'pipeline judges'

Remain in current scheme until 31 March 2015 and then move into NJPS 2015 career average scheme

Options: **2** (if eligible), **3** and **4**

Group D: All judges appointed on or after 1 April 2012

Remain in current scheme until 31 March 2015 and then move into NJPS 2015 career average scheme

Options: **3** and **4**

Group E: All judges appointed on or after 1 April 2015

Join the NJPS 2015 career average scheme from date of appointment for future service

Options: **3** and **4**

Option 1: Remain in current scheme until taper date before joining NJPS 2015, or join NJPS 2015 from 1 April 2015

Option 2: Remain in current scheme until 31 March 2015, and then <u>if eligible</u>, opt for TPA

Option 3: Join NJPS 2015, opt out of career average scheme and join the Partnership Pension Account

Option 4: Opt out of the NJPS 2015 at any point

Judicial Pension Reform – Application to eligible fee-paid judiciary

Group A: Eligible fee-paid judges in service immediately before 1 April 2012 and aged at least 55 years	**Group B:** Eligible fee-paid judges in service immediately before 1 April 2012 and aged between 51 years 6 months and 55 years	**Group C:** Eligible fee-paid judges in service immediately before 1 April 2012 and aged below 51 years 6 months **AND** all specified 'pipeline judges'	**Group D:** Eligible fee-paid judges appointed on or after 1 April 2012	**Group E:** Eligible fee-paid judges appointed on or after 1 April 2015
Accrue benefits under the FPJPS until retirement	Accrue benefits under the FPJPS until 31 March 2015	Accrue benefits under the FPJPS until 31 March 2015 and then join NJPS 2015	Accrue benefits under the FPJPS until 31 March 2015 and then join NJPS 2015 career average scheme	Join NJPS 2015 career average scheme from date of appointment for future service
	Options: **1, 2** (if eligible), **3** and **4**	**Options:** **2** (if eligible), **3** and **4**	**Options:** **3** and **4**	**Options:** **3** and **4**
	Option 1: Accrue benefits under the FPJPS until taper date before joining NJPS 2015, or join NJPS 2015 from 1 April 2015	**Option 2:** Accrue benefits under the FPJPS until 31 March 2015, and then if eligible, opt for TPA	**Option 3:** Join NJPS 2015, opt out of career average scheme and join the Partnership Pension Account	**Option 4:** Opt out of the NJPS 2015 at any point

Portability of transitional provisions

76. The transitional provisions apply to all reformed public service pension schemes. This will apply universally to the judiciary, whether salaried or eligible fee-paid.

77. The Government has committed that any member who is eligible for protection under one public service pension scheme, and subsequently joins the pension arrangements of another public service scheme will retain their protection rights. The protection rights are **'portable'** between schemes.

78. Therefore, if an individual is eligible for Transitional Protection in Public Service Pension Scheme A and then moves into Public Service Pension Scheme B, they will be treated as a protected member of Scheme B provided they meet the eligibility criteria in Scheme B.

79. In the judicial pension schemes, the eligibility criteria for Transitional Protection and Tapering Protection are identical for all judicial office holders, whether eligible fee-paid or salaried. This means that any protection earned under one judicial pension scheme, will apply to all other judicial pension schemes.

80. Given the nature of judicial office, it is unlikely that there will be significant movement of individuals between judicial and other public service pension schemes. However, movements between the schemes for eligible fee-paid and salaried judges can be expected.

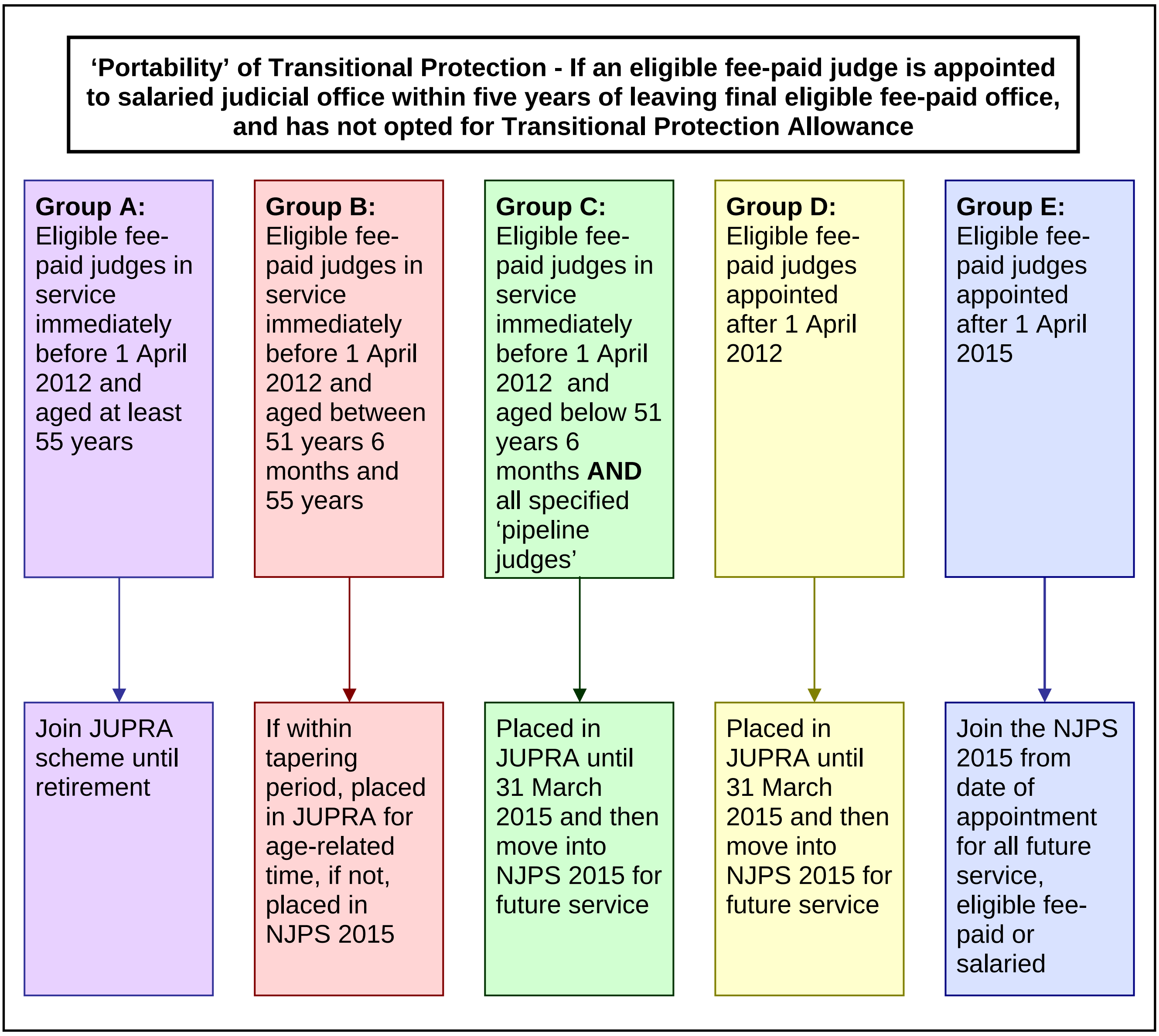
81. If a fee-paid judge is eligible for Transitional Protection as part of the fee-paid pension scheme (i.e. a member of Group A), and subsequently joins the salaried judiciary, the judge will be treated as a protected member of the salaried judiciary and entered into JUPRA rather than the NJPS 2015.

82. The principle also holds for any members eligible for Tapering Protection (Group B). If a member moves between schemes for eligible fee-paid and salaried judiciary during their period of tapering protection, they will be treated as a protected member of the scheme to which they are moving until their period of tapering protection expires.

83. This 'portability' of transitional provisions is subject to the five-year time limitation on rejoining the scheme outlined earlier in this section. If a judge leaves active service for more than five years, their protection will no longer be valid upon their return.

84. The principle will apply to any judge, either eligible fee-paid or salaried, in Groups A or B highlighted earlier. Any judge with any form of transitional provision will be able to 'port' this protection between judicial pension schemes.

85. If an eligible judge opts for the Transitional Protection Allowance at 1 April 2015, foregoing any protection rights they may have been eligible for, and is subsequently appointed to a different eligible fee-paid office, or salaried office, the amount paid as TPA will be linked to the judge's pensionable salary or fee in their new office.



86. This ‘portability’ of transitional provisions, will also apply to salaried members of the judiciary who are eligible for protection, and subsequently take fee-paid office, for example, sitting in retirement. These judges will be entered into the FPJPS.

87. Any changes in judicial office would be irrelevant in terms of Transitional and Tapering Protection, as long as the member remained in a judicial pension scheme.

Transitional arrangements

88. All pension benefits accrued in the current judicial pension schemes, which are linked to final salary, will be protected. These benefits will remain linked to the current Normal Pension Age, which are 65 years old.

89. If, at retirement, a judge has accrued benefits in more than one scheme, they will receive pension payments constituted of more than one element: one from each of the schemes in which they have accrued benefits.

Example: Transitional arrangements

Judge A was appointed to salaried judicial office on 31 March 2013, and as a result is not entitled to any protection. Judge A was initially pensioned under JUPRA, and moved into the NJPS 2015 on 1 April 2015.

Judge A retired from judicial office on 1 April 2025. At this point, he is entitled to two pension payments: one for his service in JUPRA, and one for his service in the NJPS 2015. Judge A's overall pension is therefore calculated as follows:

<u>JUPRA (31 March 2013 – 31 March 2015)</u>

- Final salary at retirement x 2/40 = (A) (2 years service)
- Along with automatic lump sum of 2.25 x A

<u>NJPS 2015 (1 April 2015 – 1 April 2025)</u>

- 10 years of Judge A's career average pension (i.e. annual salary x 2.32%, plus annual revaluation by CPI)

90. Additionally, if the judge's service in the current and reformed schemes is continuous, (i.e. there was not a gap of more than five years between the two periods of service), the benefits accrued under JUPRA, will continue to be linked to a judge's final salary at retirement. If the period was more than five years, the final salary for the purposes of JUPRA would be the final salary earned at the end of that period of office. This pension will be uprated in accordance with the Pension Increase Act 1971.

91. In the case of separate service in the FPJPS and JUPRA, or the FPJPS and the NJPS 2015, the service in the FPJPS will be accrued to the date at which the member leaves fee-paid office. Subject to the final design for the FPJPS, it is proposed that the 'final salary' in this context will be **the greatest amount of salary payable in respect of such service in any period of twelve consecutive months falling within a period of three years ending with the day of leaving fee-paid office**. This pension will be uprated in accordance with the Pension Increase Act 1971.

Example: Transitional arrangements (2)

Judge B was appointed on 1 April 2010 as a member of the eligible fee-paid judiciary. On 1 April 2012, Judge B was aged 54 years 11 months, and was still a serving member of the fee-paid judiciary. As a result of her age, Judge B is entitled to Tapering Protection, and is placed into the FPJPS until her tapering date, which in this example is 31 January 2022.

On 2 April 2017, Judge B is appointed as a member of the salaried judiciary. Due to her Tapering Protection, Judge B is placed in JUPRA until her tapering date of 31 January 2022.

On 1 February 2022 after Judge B's Tapering Protection has expired, she is placed in the NJPS 2015.

On 1 April 2024, Judge B retires from salaried judicial office. Judge B is entitled to three pension payments: one for her time in the FPJPS, one for her time in JUPRA, and one for her time in the NJPS 2015.

Judge B's overall pension is therefore calculated as follows:

<u>FPJPS (1 April 2010 – 1 April 2017)</u>

- Preserved pension, with 'final salary' at 1 April 2017 and uprated in line with Pensions Increase Act 1971 = **(A)**
- Automatic lump sum = 2.25 x A = **(B)**

<u>JUPRA (2 April 2017 – 31 January 2022)</u>

- Preserved pension, with final pensionable salary as salaried judge = **(C)**
- Automatic lump sum = 2.25 x C = **(D)**

<u>NJPS 2015 (1 February, 2022 – 1 April, 2024)</u>

- 2 years, 60 days of career average pension (i.e. annual salary x 2.32%, plus annual revaluation) = **(E)**

<u>Overall Pension</u>

- Three pension payments of A, C and E
- Two lump sum payments of B and D

92. Only those benefits accrued in the NJPS 2015 will be tied to the State Pension Age. For judges that have accrued benefits in both schemes, these pension payments will be treated as separate. If a judge in this situation were to retire at the 65, they would be able to draw benefits accrued in JUPRA fully, however if they wished to draw their benefits accrued in the NJPS 2015 at this time, these benefits would be subject to an actuarial reduction.

93. Further details on the age at which an NJPS 2015 pension is payable is available in Section 3, under the heading 'Age at which pension is payable' (p.30).

Options in 2015

94. For those judges not eligible for full protection, (i.e. all those not in Group A), there will be options available for 2015 concerning their pension provision.

95. There will be an exercise run for all salaried judges for whom there will be an option in 2015. The department will write to each judge explaining what options are available to them at this time and the procedure through which they can exercise these options. It is anticipated that this 'options exercise' will take place in the autumn of 2014. A similar 'options exercise' will also be run for eligible fee-paid judicial office holders, with more information provided on the details of this later in the year.

96. Each member eligible to join the NJPS 2015 will have the decision to join the career average scheme or an alternative scheme in lieu of the career average scheme, known as the Partnership Pension Account (PPA). More details on this are provided later in the document in Section 3, under the heading 'Partnership Pension Account' (p.31).

Default options in 2015

Group A: All judges in Group A will remain in their current arrangements until retirement. They will not be required to make any decisions in 2015 as part of the reforms.

Group B: All judges in Group B will be required to make a decision in 2015. These judges will have the option whether or not to stay in their current pension arrangements until their individual taper date, or to move into the NJPS 2015 from 1 April 2015. They will also have the choice to join either the NJPS 2015 career average scheme or the Partnership Pension Account.

If judges in this group can provide proof that they meet the criteria for the Transitional Protection Allowance, this option will be available to them also from 1 April 2015. However, by selecting this option, a judge would forfeit their Tapering Protection and cease accruing pension benefits from 31 March 2015.

The default position for judges in Group B will be to remain in their current pension arrangements until their individual taper date, at which point they would move into the NJPS 2015 career average scheme.

Group C: Judges in Group C are not eligible for Transitional Protection, so will join the NJPS 2015 from 1 April 2015 unless these judges can provide proof that they meet the criteria for the Transitional Protection Allowance (TPA). If this can be provided a judge will be eligible to take the TPA, however the judge would cease accruing pension benefits from 31 March 2015.

If a judge is not eligible for the TPA, they will have the choice of joining either the NJPS 2015 career average scheme, or the Partnership Pension Account from 1 April 2015.

The default position for judges in Group C will be for them to join the NJPS 2015 career average scheme from 1 April 2015.

Group D: Judges in Group D are not eligible for Transitional Protection. All judges in Group D will join the NJPS 2015 from 1 April 2015, unless they decide to opt out. Ahead of 1 April 2015, judges in this group will have the option to join either the NJPS 2015 career average scheme, or the Partnership Pension Account.

The default position for judges in Group D will be for them to join the NJPS 2015 career average scheme from 1 April 2015.

Group E: All Judges in Group E will not be in post to make any decisions before the new scheme opens, however upon appointment, these judges will have the option to join either the career average scheme, or the Partnership Pension Account.

The default position for judges in Group E will be for them to join the NJPS 2015 career average scheme from their date of appointment.

97. For judges in Group B, the department will advise of their service credit up until 31 March 2015, and up until their individual taper date. Judges should note that under the JUPRA scheme, a judge can only accrue 20 years of service. Beyond this limit, a judge will no longer be able to accrue reckonable pensionable service. There is no limit to service accrual in the NJPS 2015.

98. It is not appropriate for the department to provide individual financial advice to scheme members, and judges in a position where they must make a decision are encouraged to seek independent financial advice before making any decision.

99. Decisions will need to be registered with the department by 31 March 2015. All service up to this point will be accrued under current pension arrangements. If a member does not respond with a decision, the relevant default option outlined above will be exercised.

100. It should be noted that it will be possible for scheme members to opt out of the NJPS 2015 at any time.

Section 2: General information

101. This section is relevant for salaried and eligible fee-paid judges in all groups referenced earlier in the document.

102. The department welcomes comment from all judges with regards to this section.

Member contributions

103. Alongside the implementation of the reformed scheme, the rates of member contributions for all members of the judiciary are also set to change. The member contributions outlined in the box below will be the rate paid as part of membership of any judicial pension scheme, including JUPRA, from 2015/16.

104. Members of JUPRA should note that these rates are inclusive of the contributions made for dependant's pensions. It should also be noted that contributions in JUPRA will continue to cease at 20 years, whereas contributions under the NJPS 2015 are payable throughout service.

Annual Rate of Pensionable Earnings	Member Contributions for those in JUPRA immediately before April 2015	Member Contributions for all other members
Up to and including £15,000	3.00%	4.60%
£15,001 - £21,000	4.60%	4.60%
£21,001 - £47,000	5.45%	5.45%
£47,001 - £150,000	7.35%	7.35%
£150,001 and above	8.05%	8.05%

105. These contribution rates will apply to members of the NJPS 2015, JUPRA and the FPJPS. These rates are fixed in the regulations until 2018/19. However, the annual salary bandings do change over this period. See Part 8 of the draft regulations for further details.

106. The member contribution rates may change after a subsequent actuarial valuation that shows a substantial change in the overall cost of the scheme, either up or down. At this point member contributions may be amended to reflect the changing cost of the scheme. Further details are available in the Section 6, under the heading 'Employer cost cap' (p.50).

Example: 2015/16 contributions under JUPRA

- The NJPS 2015 is a tax-registered scheme; therefore, member contributions paid in this scheme will be subject to tax relief.
- JUPRA is a non tax-registered scheme, and the FPJPS will also not be registered for tax purposes. As a result, member contributions paid under these schemes will reflect this.
- Currently under JUPRA, contribution rates equal **5% of pensionable earnings**. This is broken down into 3.2% personal pension contributions and 1.8% for dependants.
- From 2015/16, the contribution rate for a member whose annual pensionable earnings are between £47,001 and £150,000 will equal **4.41% of pensionable earnings**. This will be the total rate of member contribution a JUPRA member will pay in 2015/16, unless paying additional contributions.

  (4.41% = 7.35% x 60% to reflect tax rate for income of this level.)

107. For those judicial office holders not working on a full time basis, the method of calculation of member contributions is not as straightforward as for salaried judiciary working full time. These contributions could be calculated under an ‘actual earnings’ approach, or a ‘whole time equivalent’ approach.

108. Judges working under Salaried Part Time Working (SPTW) arrangements currently have member contributions set against the proportion of the full time salary that the individual receives. This is because there are no salary bands with regards to contributions under JUPRA. Judges working under SPTW arrangements pay contributions pro-rata to their annual rate of pensionable earnings, rather than what an equivalent full time office holder would pay.

Example: Member contributions – SPTW basis

- **Judge C** earns £41,580 per annum on a Salaried Part Time Working basis.
- Under an ‘actual earnings’ approach, Judge C’s member contribution will be set at 5.45%, in line with her annual rate of pensionable earnings.
- If the ‘whole time equivalent’ approach is used, and the comparable ‘whole time equivalent’ salary for her role is £103,950 per annum, Judge C would pay 7.35% of her pensionable earnings as her member contribution.

109. With the inclusion of eligible fee-paid office holders into the reformed pension arrangements, the method of calculation for member contributions will have a wider impact. Judges sitting in fee-paid office may have working patterns that are more variable within a given year than those in salaried office.

110. As a result, member contributions for these judges will become more difficult to calculate. Under the ‘actual earnings’ approach, contributions would be assessed on the annual rate of pensionable earnings **in each pay period**. This would fluctuate within a given scheme year dependent on the applicable member contribution rate for that pay period.

Example: Member contributions – Fee-paid basis

- **Judge D** serves on a fee-paid basis as a first tier tribunal judge, sitting 60 days a year, and earns £28,620 per annum in fees of £477 per day.
- Under an **'actual earnings'** approach, the member contributions paid by Judge D's would fluctuate monthly in line with the equivalent annual rate of pensionable earnings paid that month. This process would operate in a similar manner to the calculation of National Insurance contributions, in this case linked to the pensionable earnings in each pay period.
- So, for instance, if Judge D worked 5 days a month, every month, during a scheme year, her annual rate of pensionable earnings would equal £28,620 in each pay period, and as a result, her member contribution rate would be 5.45%.
- However, if Judge D worked 7 days a month between April and October, and 3 days a month between November and March, her contribution rate would fluctuate in line with the annual rate of pensionable earnings in each pay period.

  <u>April – October</u>

  Annual rate of pensionable earnings = £477 per day x 7 days x 12 months = £40,068

  Member contribution = 5.45% per month

  <u>November – March</u>

  Annual rate of pensionable earnings = £477 x 3 days x 12 months = £17,172

  Member contribution = 4.60% per month

- If the **'whole time equivalent'** approach is used, Judge D's contributions would be set to be equal to the rate her salaried comparator would pay. Judge D's salaried comparator as a first tier tribunal judge is £104,990 per annum; therefore, Judge D would pay 7.35% of her pensionable earnings as her member contribution.

111. The department would like to hear the views of interested parties concerning the method of calculation of member contributions in the circumstances explained above.

112. This would be especially relevant for fee-paid judiciary and those salaried judicial office holders working under Salaried Part Time Working arrangements, for whom working patterns may be variable within a given year.

Judicial Added Voluntary Contribution Scheme

113. Under the current judicial pension arrangements, all judges are able to make additional voluntary contributions to save for their retirement via the Judicial Added Voluntary Contributions Scheme (JAVCS). The JAVCS is a defined contribution pension account operated by a third party provider into which a judge can opt to invest a proportion of their salary each month, on top of their savings as part of JUPRA.

114. This arrangement will continue as part of the NJPS 2015. Any judge in the NJPS 2015 will be able to take out an additional JAVCS pension account as part of the NJPS 2015, and any member who currently holds one of these accounts as part of JUPRA will be able to continue to invest in this scheme.

115. For those judges who are currently purchasing 'added years' or 'surviving spouse's pension' the ability to do so will close upon entry to the NJPS 2015. Judges will be entitled to the value of the benefits that they have purchased by the date the judge enters the new scheme. These benefits will be payable on retirement.

Governance

116. Members of JUPRA should note that the new governance arrangements for the NJPS 2015 will have scope over all connected schemes, including JUPRA. These arrangements are detailed later in the document in the Section 6, under the heading 'Governance framework' (p.47).

117. As part of this, the proposed Internal Dispute Resolution Procedure (p.53) will apply to all members of judicial pension schemes, including JUPRA.

Sitting in retirement

118. Judges will now be able to accrue pension benefits whilst sitting in an eligible fee-paid office. As a result, members of JUPRA will be able to accrue benefits if they are sitting in retirement in an eligible fee-paid office.

119. If a member wishes to sit in retirement in an eligible fee-paid office, and is eligible for Transitional Protection, that member would be placed in the FPJPS. This is as a result of the 'portability' of transitional provisions.

120. If a judge is not eligible for Transitional Protection, or due to a break in their continuity of service have had their protection lapse, they would be placed into the NJPS 2015 for the period they would be sitting in retirement. Further details on this are available in the Section 5, under the heading 'Sitting in retirement' (p.42).

Section 3: NJPS 2015 features

121. This section sets out the features of the New Judicial Pension Scheme 2015 (NJPS 2015) to be introduced from 1 April 2015. This will cover the basic design of the scheme, and other arrangements.

122. The features of this scheme will not be relevant for members of Group A who are eligible to remain in JUPRA until retirement. Members of Group B will have the option to remain in their current arrangements until the end of their individual tapering period at which point they will move into the NJPS 2015, or to move into the NJPS 2015 from 1 April 2015. Members of all other groups will have the option to join the NJPS 2015 from 1 April 2015, or from their date of appointment.

123. The department welcomes comment from all judges with regards to this section.

Scheme design

The key elements of the reforms that affect scheme members' pensions are:

- A pension scheme design based on 'career average' accrual model.
- No restriction on the number of accruing years in service.
- An accrual rate of 2.32% of pensionable earnings each year (1/43.1).
- Revaluation of active, deferred and retired scheme members' benefits in line with the index set under the Pensions Increase Act 1971 (currently in line with CPI).
- Normal Pension Age linked to State Pension Age.
- Scheme is registered for tax purposes.
- Optional tax-free lump-sum commutation at a rate of 12:1, subject to HMRC limits and regulations.
- Pension for surviving adults of 37.5% of the member's pension, and pensions for eligible children.

124. Judges should note that as the NJPS 2015 is to be a tax-registered scheme, pension benefits accrued will be factored in to Annual and Lifetime Allowances.

125. Under the NJPS 2015, each member will have their own individual pension account. Every scheme year, a member will 'bank' an amount of pension in this account at a rate of 2.32% of their pensionable earnings in that scheme year.

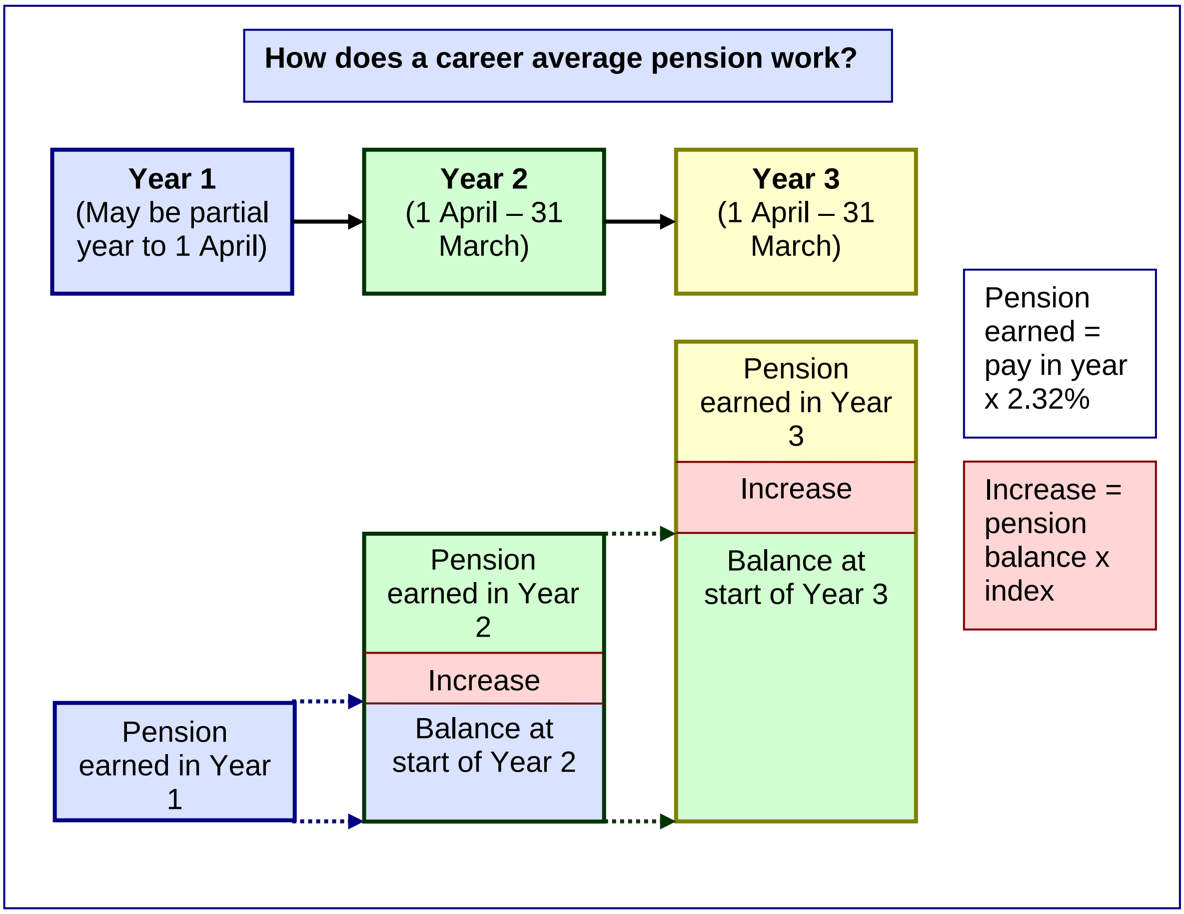
Example: Career average

Judge E's earnings for 1 April 2015 to 31 March 2016 are £115,489. In that scheme year, Judge E will earn a pension of:

£115,489 x 2.32% = **£2,679.34**

126. For full time salaried members of the judiciary, and those on salaried part-time working arrangements, 'pensionable earnings' will equate to their actual salary in that scheme year. For fee-paid judiciary eligible for the NJPS 2015, the pensionable earnings will be equivalent to their total fee income in that scheme year.

127. A judge's final pension is then made up of the amounts 'banked' each scheme year, with index-linking applied.



Revaluation (index-linking) of benefits

128. The Government has committed to ensure that the value of a pension is maintained by applying index-linking annually. The rate of indexation will apply to all scheme members, be they active, deferred or retired.

129. There is nothing in the legal framework that guarantees increases by reference to a particular index. The level of increases is decided following the Secretary of State for Work and Pensions' annual review of the general level of prices. The NJPS 2015, as well as the other public service schemes, apply the increase as directed by a HM Treasury Order that reflects the Secretary of State's decision.

130. For the NJPS 2015, the rate will be set to be equivalent to CPI, via an HM Treasury Order. The revaluation will occur at the beginning of each subsequent scheme year, i.e. April.

131. The NJPS 2015 rules do not set out the method of revaluing pensions. The NJPS 2015, along with other public service pension schemes, is increased under the provisions of the Pensions Increase Act 1971.

Example: Revaluation of benefits

The index-linking addition will be applied at the start of each subsequent scheme year, i.e. April. Assuming that rate set out in the Treasury Order is 2.5%, **Judge E's** pension would be indexed as follows:

At the start of Judge E's second year of service (April 2016), the Judge's pension 'banked' in Year 1 (£2,679.34 (A)), is increased by 2.5%.

Index-linking addition: £2,679.34 (A) x 2.5% = £66.98 (B)

New total pension: **£2,746.32** (C) = A + B

132. The CPI revaluation will apply to the entire pension pot at the beginning of each year.

Example: Revaluation of benefits (2)

Assuming **Judge E's** salary remains at £115,489 for the Judge's second year of service, Judge E will again earn benefits of £2,679.34 for that year of service.

Revalued pension from Year 1 (from above): £2,746.32 (C)

Pension earned in Year 2: £2,679.34 (D)

Equals total pension at end of Year 2: £5,425.66 (E) = C + D

Index-linking addition at start of Year 3: £5,425.66 x 2.5% = £135.64 (F)

New total pension: **£5,561.30** = E + F

133. Each member will receive an annual benefit statement clearly explaining the current value of their pension.

Optional Lump sum commutation

134. The NJPS 2015 will not provide an automatic lump sum. However, scheme members will be able to take a part of their earned pension as a lump sum, subject to HMRC tax limits. The maximum amount for a tax-free lump sum is set by HMRC rules for tax-registered schemes and is generally the lesser of:

- 25% of the HMRC pension valuation; and
- 25% of the member's remaining Lifetime Allowance.

135. On retirement, members are allowed to 'commute' – or give up – some pension in exchange for lump sum. The commutation rate in the NJPS 2015 will be 12:1. This means that each £1 of pension given up buys £12 of lump sum. This commutation will have no knock-on effect on pensions for dependants, which continues to be based on pre-commutation amounts.

Example: Lump sum commutation

Judge F has a pension of £24,000 (A) *(NB. This example assumes no Lifetime Allowance considerations.)*

In this example, Judge F wants a lump sum of £72,000 (B). This is calculated below:

Commutation lump sum: £72,000 / 12 = £6,000 (C) (i.e. 1:12 commutation)

To obtain this commuted lump sum, Judge F must give up the amount of pension commuted, in this instance, £6,000.

New pension value: £24,000 - £6,000 = **£18,000** (D) (i.e. A - C)

Age at which pension is payable

136. The age at which pension in the NJPS 2015 will become payable will be linked to a scheme member's State Pension Age (SPA). Members will have the right to draw their pension before scheme pension age but, under current legislation, not before age 55.

137. Pension drawn before scheme pension age will be subject to an early retirement reduction, reflecting the fact that the pension will be in payment for longer than would have been the case if the member retired at scheme pension age. The reduction will be determined using factors set by the Lord Chancellor having taken advice from the scheme actuary, the Government Actuary's Department.

138. A member may opt to make periodical payments throughout their career to attain a pension age of any period up to three years below the member's normal pension age, provided that it would achieve an 'effective pension age' of at least 65. This option will allow a member to be able to access their pension before normal pension age, without reduction.

139. Upon leaving the scheme, members will also have a facility to make a one-off payment to 'buy out' the early retirement reduction. The scheme pension age in the NJPS 2015 will be linked to the State Pension Age, which is currently 66.

140. If a member decides to stay beyond retirement, a late retirement enhancement will be applied, reflecting the fact that the pension will be in payment for a shorter time than would have been the case if the member had retired at scheme pension age. The enhancement, or 'Late Retirement Addition', will be determined using factors set by the Lord Chancellor having taken advice from the scheme actuary.

141. More details on early and late retirement are available in Section 5, under the headings 'Early retirement' (p.38), and 'Late retirement' (p.39).

142. The Government has stated that it wants a regular and more structured way of considering increases to the State Pension Age to make sure the State Pension system is affordable in the long term and fair between generations. Further details on the current State Pension Age timetable and the plans for future review are available here:

www.gov.uk/government/policies/reviewing-the-state-pension-age

143. If a scheme member's State Pension Age changes, all benefits accrued under the NJPS 2015 will be linked to the new age. This means any new SPA will be the age at which the member's entire pension under the NJPS 2015, including pension earned before that change, is available on an unreduced basis.

Partnership Pension Account

Features

144. The NJPS 2015 is a career average, defined benefit pension scheme. As an alternative to this scheme, members of the judiciary will be offered the option of a tax-registered stakeholder pension scheme, to be known as the Partnership Pension Account (PPA).

145. The PPA provided as part of these reforms is to be equivalent to the partnership scheme provided as part of the reformed civil service pension arrangements. As with the civil service approach, the design of this scheme is not provided for in the draft regulations.

146. The PPA will be offered to all judicial office holders eligible to join the NJPS 2015, and can be opted for in lieu of joining the career average scheme. By opting for the PPA, a member would not be able to accrue benefits in the career average scheme.

147. As a member of the PPA scheme, a judge would hold an account with a nominated third party provider, into which the member and the department would pay contributions. The member would hold the relationship with the third-party provider and would be able to select a fund or investment strategy for the account.

Eligibility

148. All judges eligible to join the NJPS 2015 will be able to opt to join the Partnership Pension Account in lieu of the NJPS 2015 career average scheme.

149. A judge will retain the right to move between the career average and the PPA arrangements. This is subject to any changes as an outcome of the 2014 budget statement on the form in which pensions may be taken. Details on the HM Treasury consultation on freedom and choice in pensions is available here:

    www.gov.uk/government/consultations/freedom-and-choice-in-pensions

150. The PPA is flexible in its design in that a member can draw their pension any time after turning 55 years old, under current legislation, and the member does not have to be in retirement to do so. A member can choose the timing to fit in with their personal circumstances.

151. For comparison, a judge would not be able to draw their NJPS 2015 pension before retiring from judicial office, and drawing such a pension before their normal pension age would result in an actuarially reduced pension.

152. It should be noted that the act of opting out of the NJPS 2015 career average scheme to join the PPA will be classified as 'leaving the scheme' for the purposes of final salary linking in respect of the accrued benefits under a pre-2015 scheme.

153. If a member was to opt for the PPA over the career average scheme, any accrued benefits would be preserved upon joining the PPA and then up-rated upon retirement in accordance with the Pensions Increase Act 1971.

Contributions

154. As in the career average scheme, both the member and the department will pay contributions into a member's Partnership Pension Account.

155. It is expected that the level of contribution from the department will be set as a proportion of pensionable earnings. It is intended that the overall cost to the department should be broadly the same irrespective of whether the individual chooses the NJPS 2015 scheme or the PPA. These rates are to be calculated by the scheme actuary, the Government Actuary's Department (GAD).

156. The PPA is to be equivalent to the 'Partnership' scheme in the reformed civil service pension arrangements. The civil service scheme is currently being revised and as a result of this, the department will not be in a position to confirm the details of the employer contribution rates until the civil service scheme arrangements, and the actuarial calculations, have been finalised.

157. The civil service scheme is expected to consult on their reformed arrangements in summer 2014, and once this consultation has been launched, the department will provide further details on the proposed employer contribution rates on the Consultation Hub website.

158. The PPA is flexible in that there is no limit on the amount that a member can pay in contributions into their account. The member contribution rates will not be fixed, as in the NJPS 2015 career average scheme. It is proposed that the contributions rates, once set, are reviewed every four years in line with the scheme valuation.

159. The details of the rate of contributions and all funds available from the third-party provider will be made fully available to all judges before the options exercise is initiated. Further details on the options for judges in 2015 are available on page 21 under the heading "Options in 2015"..

Next steps

160. The department is currently working with a third-party provider to finalise the details of scheme provision and the investment funds available. The department is also working with the scheme actuary, the Government Actuary's Department (GAD), to establish the rates of contributions, Details will be made available once finalised ahead of the options exercise.

161. The department is currently working with officials from the Cabinet Office on the development of the 'Partnership' scheme in the reformed PCSPS, and will make an announcement on the Consultation Hub website during the consultation period with further details, once they are available.

Examples: Partnership Pension Account

- **Judge G** is a salaried judge, eligible to join the NJPS 2015. She decides that rather than joining the career average scheme, she would rather open a PPA account. Judge G no longer accrues benefits in the career average scheme.
- On January 1 2019, Judge G decides she would now wish to accrue benefits in the NJPS 2015 career average scheme, rather than the PPA. From this point, neither Judge G nor the department will make contributions into her PPA account, rather making the contributions into her account in the career average scheme.
- Judge G will be able to draw pension benefits from her career average, NJPS 2015 account upon retirement. However, under current legislation, she will be able to access her pension from the PPA from age 55, regardless of whether or not she is retired.
- **Judge H** is a fee-paid judge, eligible to join the NJPS 2015 from 1 April 2015. He decides to opt for a PPA account, rather than for the career average scheme.
- Subsequently, Judge H is appointed as a salaried judge. As the NJPS 2015 provides for both salaried and fee-paid judiciary, he is under no obligation to change pension schemes. Judge H decides to move into the career average. From this point, Judge H and the Department will pay contributions into the career average scheme rather than the PPA.
- When Judge H is over 55, he will be able to withdraw his pension from the PPA, whilst still accruing benefits in the NJPS 2015.

Section 4: Membership

162. This section details additional features available as part of the NJPS 2015.

163. These features will not be relevant for members of Group A who are eligible to remain in JUPRA until retirement. Members of Group B will have the option to remain in their current arrangements until the end of their individual tapering period at which point they will move into the NJPS 2015, or to move into the NJPS 2015 from 1 April 2015. Members of all other groups will have the option to join the NJPS 2015 from 1 April 2015, or from their first day of service.

164. The department welcomes comment from all judges with regards to this section.

Eligibility and admission to membership

165. The NJPS 2015 will be open to all UK judiciary, except where terms and conditions are specifically non-pensionable, or where a judge is a member of another judicial pension scheme in respect of his or her service. This includes eligible fee-paid judiciary.

166. It is proposed that an eligible individual is enrolled in the NJPS 2015 from their first day of service, unless a member is eligible for any form of transitional provision, or the Transitional Protection Allowance, then other defaults would apply. These defaults are highlighted in Section 1, under the heading 'Default options in 2015' (p.**Error! Bookmark not defined.**).

167. A member may opt out of scheme membership at any time. Opting out within one month from first joining the scheme is backdated to Day 1; otherwise it generally takes effect from the beginning of the pay period after notice of opting out is given.

168. Judges who have registered with HMRC for Enhanced Protection or Fixed Protection need to be aware that if they join the pension scheme, they will lose their Protection rights. Judges to whom this applies must make clear at the time of taking up appointment that they do not wish to join the scheme.

169. Individuals who have either opted out of the scheme, or initially chose not to join the scheme, will be able to opt in to membership. A member will not be able to opt in more than once within a twelve-month period.

Qualifying periods

170. An eligible individual is enrolled in the NJPS 2015 from their first day of service. A member may opt out of the scheme at any time.

171. Scheme members will need two years' qualifying service to qualify for any pension benefits drawn before pension age. This includes dependant's benefits. Service in a judicial pension scheme immediately prior to moving into the NJPS 2015 will be added to NJPS 2015 service to calculate qualifying service.

172. On leaving the scheme with less than two years' service, an individual will have the option of a refund of contributions, or a transfer value to another pension scheme or arrangement.

173. The NJPS 2015 will be open to both salaried and fee-paid judiciary. Qualifying service is calculated by reference to start and end dates and does not vary depending on full-time or part-time status. Any requirements for a minimum period of qualifying service will look at a combination of service in JUPRA, the FPJPS, and the NJPS 2015.

Options for scheme members

174. There will be a number of options available to members of the NJPS 2015 which include:

- Commutation of pension for a tax-free pension lump sum;
- Allocation of member pension for additional pension for dependant(s); and
- Purchase of added pension.

Commutation

175. The NJPS 2015 will not provide an automatic lump sum. At retirement, members can commute part of their earned pension into a lump sum (subject to HMRC tax limits). The pension will convert at a rate of £1 of annual pension for £12 of lump sum.

176. Reducing your annual pension in this way has no impact on pensions for dependants as these are based on your pension pre-commutation.

177. The maximum amount of tax-free lump sum is set by HMRC rules for tax-registered schemes and is generally the lesser of:

- 25% of the HMRC pension valuation; and
- 25% of the member's remaining Lifetime Allowance.

Example: Commutation

Judge F has a pension of £24,000 (A) *(NB. This example assumes no Lifetime Allowance considerations.)*

In this example, Judge F wants a lump sum of £72,000 (B). This is calculated below:

Commutation lump sum: £72,000 / 12 = £6,000 (C) (i.e. 1:12 commutation)

To obtain this commuted lump sum, Judge F must give up the amount of pension commuted, in this instance, £6,000.

New pension value: £24,000 - £6,000 = **£18,000** (D) (i.e. A - C)

Allocation

178. Allocation allows a member to surrender part of his or her own pension to provide a pension for a financial dependant, payable following the member's death. A

'dependant' in this context means a person who is financially dependent on a scheme member or a person with whom the scheme member is financially interdependent.

179. The option is exercisable on the member's retirement or during active service. However, once made, this decision cannot be revoked. As a result, this option tends to be exercised upon retirement.

180. The annual pension for a financial dependant will be calculated by multiplying the surrendered part of the member's pension by an 'Allocation Factor'. This 'Allocation Factor' depends on the relative ages and gender of the scheme member and the dependant.

181. There are restrictions on the amount of pension a member may choose to allocate in that the scheme member's pension cannot be less than the total of pensions paid to adult dependants.

Example: Allocation

Judge I is retiring at age 67 with a pension of £72,000. Under the scheme rules, his wife will receive a pension of £27,000 after his death. Judge I wants to make some provision for his sister, aged 64, who he supports financially.

Judge I is in good health. He opts to allocate £5,000 of his pension to provide a pension for his sister after his death. Judge I's pension is therefore reduced to £67,000. His wife's pension remains at £27,000.

Calculation of Allocated Pension = Allocation value x Allocation Factor

If in this example the allocation factor is 3.7 (illustrative), then Judge I's sister will receive a pension of £5,000 x 3.7 = £18,500.

The pensions for Judge I's wife and sister will be paid upon Judge I's death.

182. The option is only available where an appointed medical advisor is satisfied with the health of the scheme member. This is not available where the member is retiring on grounds of ill-health.

183. Members opting for allocation must be aware of the attendant risks of this option. Specifically that the reduction to their pension is permanent and will apply even if the beneficiary predeceases them.

Purchase of 'Added Pension'

184. Currently, members of JUPRA are able to top-up their benefits through tax-registered 'Added Voluntary Contribution' arrangements, known as the JAVCS. The 'JAVCS' allows for judges to make added contributions of up to a maximum of 15% of salary, inclusive of the dependent's contributions to JUPRA, to an account offered by a third party. AVC investments are managed by a third-party provider, and used to provide a mix of lump sum and pensions subject to HMRC rules.

185. The AVC scheme is not required to close in March 2015. The department has agreed with the provider that members of all schemes will be able to contribute to these accounts.

186. In the NJPS 2015, judges will have the following options:

- Paying additional contributions (or lump sums) to purchase ‘Added Pension’. It will be priced by the scheme actuary. The total amount of Added Pension that an individual can purchase will be subject to limits set by HM Treasury (currently £6,500 per annum).
- Transferring other private or occupational pensions into the NJPS 2015 within 12 months of joining the scheme, subject to limits on the amount that can be transferred.
- Making contributions into the AVC scheme to build up a pension pot to be invested by the third-party provider, and which will be drawn according to HMRC rules.
- Making periodical payments throughout a career to attain a pension age of any period up to three years below the member’s normal pension age, provided that it would achieve “effective pension age” of at least 65.
- Upon leaving the scheme, members will have a facility to make a one-off payment to ‘buy out’ the early retirement reduction. The scheme pension age in the NJPS 2015 will be linked to the State Pension Age, which is currently 66.

Section 5: Leaving the scheme

187. This section looks at provisions in the NJPS 2015 for leaving the scheme.

188. These features may not be relevant for members of Group A who are eligible to remain in JUPRA until retirement. Members of Group B will have the option to remain in their current arrangements until the end of their individual tapering period at what point they will move into the NJPS 2015, or to move into the NJPS 2015 from 1 April 2015. Members of all other groups will have the option to join the NJPS 2015 from 1 April 2015, or from their date of appointment.

189. Members should note that the policies on retirement under the NJPS 2015 will not affect a judge's statutory retirement age. There is information in this section on sitting in retirement, which may be of interest to all members.

190. This section covers all forms of retirement, including early, late, partial, and ill-health. The section also sets out provisions for judges who wish to sit in retirement. This section also looks at provisions for death in service, death in retirement, and death in deferment.

191. The department welcomes comment from all judges with regards to this section.

Early retirement

192. Active and deferred members of the NJPS 2015 will have a right to draw their NJPS 2015 pension before scheme pension age, after the age of 55. While a member must make a formal claim to have their pension brought into payment early, the consent of the department is not required.

193. Early retirement in the NJPS 2015 is subject to the member being entitled to deferred benefits, that is, they must have a minimum of two years' qualifying service.

194. If taking a pension early, a member will be subject to an early retirement reduction. The early retirement reduction is permanent, and applies to the member's benefits only. Under the NJPS 2015, any surviving adult pension will be based off the full pension, regardless of any actuarial reduction.

195. Pension drawn before scheme pension age will be subject to an early retirement reduction, reflecting the fact that the pension will be in payment for longer than would have been the case if the individual retired at scheme pension age. This reduction will be determined using factors provided by the scheme actuary.

196. Upon leaving the scheme, members will have a facility to make a one-off payment to 'buy out' the early retirement reduction. The scheme pension age in the NJPS 2015 will be linked to the State Pension Age, which is currently 66.

197. If this option of 'buying out' the early retirement reduction is exercised, the pension would then be brought into payment on an unreduced basis. The level of this one-off payment will be dependent upon the individual's circumstances and will be calculated by the scheme actuary.

198. It should be noted that a buyout payment made to the scheme by a member would attract tax relief subject to HMRC limits. The buyout payment would not count directly for Annual Allowance purposes, as the Annual Allowance calculation reflects the amount of pension accrued in a year, not the level of contributions made by a member.

Example: Early retirement

- **Judge J** became a judge in 2013 and has a State Pension Age of 66. In 2019, he is 64 and wishes to retire. At this time he will have 2 years of service in JUPRA, and 4 years service in the NJPS 2015. Judge J is married and has a widow's pension.
- At this point, Judge J would be entitled to early payment of his JUPRA pension as well as his NJPS 2015 pension as he meets the qualifying criteria for early retirement in both schemes.
- Judge J's JUPRA pension (65) will be actuarially-reduced to reflect the fact that the payment will be coming into effect one year before the JUPRA pension age.
- His NJPS 2015 pension will be reduced by a different percentage, reflecting the fact that the payment will be coming into effect two years before the NJPS 2015 pension age (66).
- If Judge J's wished, he could make a one-off payment upon retirement to avoid the actuarial reduction to his NJPS 2015 pension. This is not an available option under JUPRA.
- Upon Judge J's death, his widow's pension will be based on the full (pre-reduction) amount of his NJPS 2015 pension, but only the actual (actuarially-reduced) amount of his JUPRA pension.

Late retirement

199. Late retirement means drawing pension (and lump sum, if applicable) from the scheme, after the scheme pension age.

200. The NJPS 2015 is a career average scheme, with no limit on the amount of years a member can accrue in the scheme however; benefits will be subject to annual and lifetime allowances. If a member wishes to take late retirement, they will be eligible for a 'late retirement addition'.

201. The late retirement addition will be calculated by taking the balance in the individual's pension account at 31 March of the previous year, multiplied by a percentage. This calculation will be determined using factors provided by the scheme actuary. The late retirement addition would be applied from in the April following the individual's attainment of scheme pension age

202. The member will still accrue annual pension in the career average scheme on top of this late retirement addition, and the pension earned in late retirement addition will be added to the member's overall pension balance. It should be noted that as this will be classed as 'pension accrued in a year' for tax purposes, any late retirement addition would be subject to the Annual Allowance.

203. In subsequent years after scheme pension age, a late retirement addition will be calculated with reference to the pension account balance at the end of the previous year.

204. It should be noted that the late retirement arrangements described here will also apply in the event of partial retirement if that takes place after scheme pension age. In the instance of a member taking partial retirement, and also late retirement beyond pension age, the late retirement addition would be applied to the member's second pension account, as their first account will already be in payment by virtue of the member taking partial retirement.

Late retirement in deferment

205. Late retirement in deferment means drawing pension (and lump sum, if applicable) from the scheme, after the scheme pension age, whilst a member is in deferment.

206. If a member wishes to take late retirement whilst in deferment, they will be eligible for a 'late retirement addition'.

207. The late retirement addition will be calculated by taking the balance in the individual's pension account at 31 March of the previous year, multiplied by a percentage. This calculation will be determined using factors provided by the scheme actuary. The late retirement addition would be applied from the April following the individual's attainment of scheme pension age.

208. The pension earned in late retirement addition will be added to the member's overall pension balance.

209. In subsequent years after scheme pension age, a late retirement addition will be calculated with reference to the pension account balance at the end of the previous year.

Partial retirement

210. Partial retirement allows scheme members to draw pension benefits while remaining in office. Where a member opts for partial retirement, they can draw all their benefits, or decide on the proportion of their benefits they wish to draw.

211. Someone who opts for partial retirement would draw benefits from their pension account, and at that point would open a second pension account in the NJPS 2015. This second account is used to accrue benefits going forward, whilst at the same time drawing pension benefits from their first account.

212. In comparison, JUPRA does not offer partial retirement. In the current scheme, JUPRA pensions are payable only on retirement from judicial office. As a result of this, partial retirement would only apply in respect of service in the NJPS 2015. For the purpose of determining if an individual had sufficient qualifying service however, service in JUPRA would be taken into account.

213. Partial retirement in the NJPS 2015 will only be possible where an individual's working patterns have changed such that an individual's pensionable earnings have reduced to no more than 80% of the amount before the change. For instance, if a

judge was to sit four days a week, instead of five days, this would 80%. Subject to business needs, where an individual is working on a salaried part time basis (SPTW), the administrative requirement to meet 50% working time may be relaxed.

214. The partial retirement option is only available once, and must be exercised within three months of the reshaping of the individual's working pattern. A member would be entitled to retire if he is aged at least 55 and, if under his pension age, has two years' qualifying service.

Ill-health retirement

215. The NJPS 2015 diverges from the other reformed public service schemes on the matter of ill-health retirement benefits. As a result of the unique circumstances of the judiciary, and in particular the 'return to practice' convention, the NJPS 2015 will offer a **single level** of ill-health retirement benefits, rather than the two-tier system common in other reformed schemes.

The NJPS 2015 will provide a single level of ill-health retirement benefits whereby:

- Ill-health pensions would be payable to a judge who had "suffered a permanent breakdown in health involving incapacity for employment". This is a similar standard as is applied under JUPRA.
- The pension would be payable for life and equal to the accrued pension, plus half of the expected pension that the member would have accrued before scheme pension age, which in the NJPS 2015 will be tied to the State Pension Age. This is also the same enhancement as under JUPRA.

216. Eligibility for an ill-health pension under JUPRA depends on the Minister (Lord Chancellor) being satisfied by means of a medical certificate that, by reasons of infirmity, the person is incapable of discharging his duties of his qualifying judicial office and that the incapacity is likely to be permanent.

217. Under the NJPS 2015, a period of two years' qualifying service will be required to apply for an award of pension benefits due to the incidence of ill-health. The Scheme Manager will also have to be satisfied by means of a medical certificate that states that the member has suffered a permanent breakdown in health involving incapacity for employment.

218. It is proposed that in exceptional circumstances, the Scheme Manager, after consideration by the Pension Board, will have discretion to bring an ill-health pension into payment without the required two years' qualifying service. This requirement for qualifying periods will be a divergence from the current arrangements.

219. Under JUPRA, in the event of a member retiring due to grounds of ill-health, they will receive a pension equal to their accrued pension, along with an enhancement that is equal to half of the expected pension that a member would have accrued before scheme pension age, which in JUPRA is 65. A judge would also be eligible for their JUPRA lump sum of 2.25 times their annual JUPRA pension, after enhancement.

220. The JUPRA method of enhancement will be adopted by the NJPS 2015. If a member was to retire on the grounds of ill-health in the new scheme, they will receive a pension equal to their accrued pension as well as an enhancement equal to half of the expected pension that the member would have accrued before scheme pension age, which in the NJPS 2015 is tied to State Pension Age.

221. In the event a scheme member has accrued benefits in both JUPRA and the NJPS 2015 before retiring on the grounds of ill-health, the accrued JUPRA pension would be brought into payment, along with the NJPS 2015 accrued pension, but any enhancement come from the NJPS 2015.

Sitting in retirement

222. The NJPS 2015 allows for re-employment after retirement so that a pensioner member in respect of a qualifying judicial office can at the same time be an active member in respect of a different qualifying judicial office.

223. For sitting in retirement from 1 April 2015, it is proposed that the scheme adopts a consistent approach for all judicial office holders; this will apply except where the post-retirement appointment is specifically non-pensionable.

224. For pension that has been earned from service pre-retirement, the pension will continue to be paid during sitting in retirement whether the pension is from JUPRA, the FPJPS, or the NJPS 2015.

225. Whilst sitting in retirement, service will be pensioned from NJPS 2015 or PPA whether fee-paid or salaried. No alternative remuneration will be provided where the judicial office holder chooses to opt out.

226. The sitting in retirement rules will apply only where there has been a retirement; judges who are members of the NJPS 2015 may be able to use partial retirement as an alternative.

Deferment

227. Deferment means a judge who is no longer accruing benefits in the scheme, but is not yet eligible to draw their pension.

228. Under the NJPS 2015, if a member is in deferment, the member's pension will be preserved, and subject to enhancement in accordance with the Pension Increase Act 1971 at the point of drawing their pension.

Death in service

229. A scheme member's dependants, or nominated beneficiaries, will be awarded a 'Death in Service' (DIS) lump sum through the NJPS 2015 should the member die in service.

230. Along with a lump sum payment, the NJPS 2015 will also provide pensions for eligible children and surviving adults upon a member's death. This section outlines how these payments will be calculated and how eligibility for survivors will be defined.

Death in service lump sum

Under the NJPS 2015, the DIS lump sum will be calculated as **the greater of**:

- 2 x 'Final Pay' (less any lump sums already paid – from all schemes); and
- 5 x the member's new scheme pension (less the total of pension payments already made from the new scheme)

'Final Pay' in this context is defined as the greater of:

- the amount of a member's pensionable earnings in the 12 months, ending with the last day of pensionable service;
- the amount of a member's pensionable earnings for any scheme year in the 10 scheme years immediately before the last active scheme year ("the earnings year").

231. Scheme members may nominate one or more beneficiaries to receive the lump sum, and specify how the benefits are to be apportioned between them. We expect the scheme rules to provide for:
    - One or more individuals;
    - One incorporated or unincorporated body; or
    - One or more individuals and one incorporated or unincorporated body.

232. As mentioned above, beyond the Death in Service lump sum, there will be a pension available for survivors of members that have died in service. These pensions will be available to both 'surviving adults' and 'eligible children'.

233. For judges that have accrued service in both JUPRA and the NJPS, surviving adults and eligible children will each receive two pension payments one in respect of the service in each scheme. Any enhancement will be calculated and paid in accordance with NJPS 2015 rules.

Surviving Adult

234. The NJPS 2015 will pay a pension to a surviving spouse or civil partner upon a member's death.

235. This pension will be equal to 3/8 (37.5%) of the scheme member's pension plus an enhancement factor, and will be payable for life.

236. Where there is no surviving spouse or civil partner, the NJPS 2015 may pay a pension to a 'surviving adult' dependant. This 'surviving adult' pension would be calculated in the same manner as any pension for a spouse or civil partner.

237. The draft regulations require that to be determined a surviving adult, a person must satisfy the Scheme Manager that immediately before the member's death:
    - The person and the member were cohabiting as partners in an exclusive, committed long-term relationship;
    - That neither party were prevented from marrying or entering into a civil partnership; and

- The relationship was one of financial dependence or interdependence.

238. Under the current JUPRA scheme, only individuals that were married to, or in a civil partnership with, a scheme member upon the member's death would be entitled to a pension. The pension would be suspended if the deceased member's spouse remarried or entered into a new civil partnership. Under JUPRA, a spouse's pension will be paid at the rate of one-half of a member's pension in JUPRA.

239. In JUPRA, there is no pension available for surviving adults who do not fall under the above definition. The NJPS 2015 will provide a pension to surviving adults, for life, regardless of the age of the survivor, if the survivor meets the above criteria.

240. A 'surviving adult' pension under the NJPS 2015 will be paid for life. It does not stop if the survivor remarries or enters into a new relationship. However, where the surviving adult is more than 12 years younger than the member, the pension is to be reduced by 2.5% for every year over twelve (subject to a maximum reduction of 50%).

241. As a result of the change in criteria to qualify for a pension, with it being broader than the criteria under JUPRA, there may be some cases where an individual qualifies for a pension under the NJPS 2015, but not JUPRA.

242. Also, if an individual was eligible for a pension under both schemes, but subsequently remarried or entered into a civil partnership, the JUPRA element of the pension may be stopped, whereas the NJPS 2015 pension is payable for life.

Eligible Child

JUPRA definition

Under JUPRA, the definition of eligible child is any of the following:

- Natural children of the deceased
- Step-children of the deceased
- Children adopted by the deceased before retirement
- Children adopted by the deceased after retirement, if the Treasury so directs

Beyond these criteria, to be defined as an eligible child, the child must also be:

- Under age 18;
- In full-time education; or
- Undergoing full-time training (of at least 2 years' duration) for any trade, profession or vocation during which time the child is receiving remuneration less than a specified amount.

NJPS 2015 definition

The NJPS rules are required to operate within the HMRC definition of 'dependant' and are proposed to define an eligible child as:

A natural or adopted child of the member who meets any of the following conditions:

- Under age 18;
- In full-time education and under age 23; or
- Unable to engage in gainful employment because of physical or mental impairment and either a) aged under 23, or b) the impairment is, in the opinion of the scheme medical advisor, likely to be permanent and the person is dependent on the member as at the date of the member's death because of physical or mental impairment.

Any other young person who meets any of the three conditions listed above, and was financially dependent on the member at the date of the member's death, will also be eligible for a pension.

243. When a child ceases to be an eligible child (typically on leaving full-time education or reaching age 23), their pension will stop, but this will not result in recalculation of pensions to the other children. If the child subsequently re-qualifies for pension – for instance, on going into higher education after a gap year – their pension will recommence without impacting pensions for any other children.

An 'Eligible Child' pension under the NJPS 2015 is calculated as follows:

- Where the member leaves a surviving adult, and no more than two eligible children, each child receives a pension of '80% of the surviving adult's pension' (A).
- In the event a member leaves N children (where N is greater than 2), each child will receive a 2/N share of A.
- Where the member leaves either one or two eligible children, but no surviving adult, each of the children receives a pension of '4/3 of the 'notional' surviving adult pension (B).
- In the event a member leaves N children (where N is greater than 2), each child will receive a 2/N share of B.

244. To meet the HMRC definition of 'dependant', financial dependency must exist. This term is not defined and it is, as far as HMRC are concerned, for the Scheme Manager to determine whether or not this condition is satisfied. The department are proposing that the Pension Board be asked to consider whether or not a person is considered an eligible child based on these requirements, with the ability to make recommendations to the Scheme Manager if any discretions are to be made.

245. Pension for adult survivor and for eligible children are subject income tax in the hands of the recipient.

Death in retirement or deferment

246. Retirement means a judge that has retired and drawn their pension.

247. Deferment means a judge who is no longer accruing benefits in the scheme, but has not yet elected to draw their pension.

The NJPS will provide the following benefits to those members who meet the eligibility for either death in deferment or death in retirement:

- A lump sum on death which is to be calculated as 5 times the member's NJPS pension (less any payments already made).
- A surviving adult pension of 37.5% of the member's NJPS pension. (3/8th) This will be paid for life.
- Where the member leaves a surviving adult, and no more than two eligible children, each child receives a pension of 80% of the surviving adult's pension (A). Where the member leaves N children, (where N is greater than 2), each child receives 2/N of A.
- Where the member leaves one or two eligible children but no surviving adult, each child receives a pension of 4/3 times the 'notional' surviving adult pension (B). Where the member leaves N children, (where N is greater than 2), each child receives 2/N of B.

Section 6: Scheme governance

248. This section covers the proposed governance framework to oversee the operation of the schemes, and the new scheme valuation process. This section goes on to outline the new proposed Internal Dispute Resolution Procedure for the NJPS 2015, which will apply to all schemes.

249. This section will be relevant for all judges.

250. The department welcomes comment from all judges with regards to this section.

Governance framework

251. The implementation of standardised governance frameworks across the public service pension schemes was a recommendation of Lord Hutton's Independent Public Service Pensions Commission, and was adopted by this Government in the policy document *'Public Service Pensions: Good pensions that last'*.

252. Subsequently, the requirement to implement government arrangements was established in the Public Service Pensions Act 2013. These requirements included the establishment of:
    - a Responsible Authority for the scheme;
    - a Scheme Manager to be responsible for managing and administering the scheme; and
    - two governance boards: a Pension Board, and a scheme advisory board.

253. It should be noted that equivalent arrangements are being applied to all public service pension schemes.

254. The two governance boards will have a clear separation of responsibilities, with the Pension Board focusing on the operation of the scheme, whilst the scheme advisory board will focus on potential changes to the scheme policy. The department has gone beyond the requirements of the PSPA 2013 to ensure that each board will have equality of numbers between scheme members and the department.

255. The procedures of the Pension Board or the scheme advisory board are not set out in detail in the NJPS 2015 regulations. This is to allow the respective boards flexibility in their procedures once established. It is intended that both boards shall sit in shadow form in early 2015. Terms of reference and procedures will be set by both boards at their initial meetings.

Governance features:

- The establishment of the Lord Chancellor as the 'Responsible Authority' for the scheme. The Responsible Authority may make scheme regulations
- The Lord Chancellor to also take the role of 'Scheme Manager'. As Scheme Manager, the Lord Chancellor is responsible for managing and administering the scheme and any statutory pension scheme connected with it.
- The establishment of a scheme management board, to be known as the 'Pension Board', responsible for assisting the Scheme Manager in matters relating to good governance and administration. This board will be independently chaired, and will have equality in representation between the department and the scheme membership.
- The establishment of a policy group, to be known as the 'scheme advisory board', responsible for advising the Responsible Authority on the desirability of any potential changes to the scheme. This board will also be independently chaired, and will have equality in representation between the department and the judiciary.
- These arrangements would be applicable for all of the judicial pension schemes. The Pension Board will subsume the existing Judicial Pension Scheme Board (JPS Board).

Judicial Pension Board

256. The Judicial Pension Board will be focused on the operation of the scheme. The Board will sit quarterly, and will be formed of eleven members. This Board will be chaired by an Independent Chair, who is to be appointed through the public appointments process regulated by the Office of the Commissioner for Public Appointments (OCPA).. The Lord Chief Justice has nominated a judicial representative to sit on the selection panel for this campaign.

257. It is proposed that there will be four members of the judiciary on the Judicial Pension Board. These representatives are to be nominated by the Lord Chief Justice, in consultation with the Heads of Jurisdiction. There will also be four employer representatives on the board.

258. This membership will be supplemented by two independent non-voting board members who will be expected to provide expertise in the operation of pension schemes, and working with third party administrators. These appointments will also be subject to the Public Appointments process, and the campaign for these appointments will begin once the Independent Chair has been appointed. It is intended to have all board members appointed by November 2014.

259. The Independent Chair will sit on both the Judicial Pension Board and the scheme advisory board. There will also be a core of employer and member representatives to sit on both the Judicial Pension Board and the scheme advisory board, with equality in membership preserved. The membership of the board will be supplemented with specialist advice relevant to the potential change to the scheme under consideration.

260. The primary responsibility of the Judicial Pension Board, as set out in the Public Service Pensions Act 2013, will be to assist the Scheme Manager in relation to the

compliance with scheme regulations and relevant legislation with regards to the governance and administration of the scheme.

261. Training will be provided to all board members to ensure a working knowledge of the scheme rules and related legislation, as well as providing the tools necessary to execute the roles and responsibilities of being a board member, acting in the best interests of the scheme as a whole.

262. The Judicial Pension Board will be expected to challenge the performance of the administrator by analysing management information and performance indicators to ensure value for money. The Board will also be expected to establish the effectiveness, efficiency and value for money of the service via regular benchmarking exercises. Any contract will be managed by the department.

263. The Judicial Pension Board is also proposed to have a role in the Internal Dispute Resolution Procedure (IDRP) outlined later in this section.

264. As stated in the NJPS 2015 regulations (4(3)) "Before exercising any discretion under the regulations, the Scheme Manager must obtain a recommendation from the Judicial Pension Board". The proposed discretionary decisions that the Pension Board will be able to consider and then make a recommendation to the Scheme Manager are outlined below:

Proposed discretionary decisions to be considered by the Judicial Pension Board prior to making a recommendation to the Scheme Manager:

- **When does opt-in take effect? (Regulation 18)**
- **Entitlement to ill-health pension (Regulation 67)**
- **Meaning of 'surviving nominated partner' (Regulation 91)**
- **Entitlement to surviving adult's pension (Regulation 96)**
- **Meaning of 'eligible child' (Regulation 102)**
- **Payment of pensions for surviving adults and eligible children (Regulation 105)**
- **Suspension and recovery of pensions paid for surviving adults and eligible children (Regulation 106)**
- **Invalid nominations of individuals (Regulation 112)**
- **Payment of lump sum death benefit to nominees or personal representatives (Regulation 113)**
- **Recovery of payments (Regulation 116)**
- **Request for acceptance of a transfer payment (Regulation 141)**
- **Evidence of entitlement (Regulation 163)**

265. It may be that in practice, the Judicial Pension Board and the Scheme Manager agree procedures or protocols for the Scheme Manager to deal with certain discretions within set tolerances or limits. Such an arrangement would require agreement of both the Scheme Manager and the Pension Board.

Scheme advisory board

266. The scheme advisory board is responsible for providing advice to the Lord Chancellor, at the Lord Chancellor's request, on the desirability of making changes to the scheme.

267. This board will only sit on an ad hoc basis, upon the request of the Lord Chancellor. As the Government intends this reform of public service pensions to be a long-term solution, frequent proposed policy changes are not anticipated. As a result, it is not anticipated the scheme advisory board will sit as often as the Judicial Pension Board.

Scheme valuations

268. Conducting periodic actuarial valuations of schemes is a fundamental aspect of the implementation of the public service pension scheme reforms. These valuations will measure the full costs of paying pension benefits within each scheme, and will inform the future contributions to be paid into the schemes by employers, to ensure that costs are fully recognised by employers in the future.

269. Treasury Directions, made under the Public Service Pensions Act 2013, provide the legal framework for carrying out these valuations. These Directions are available here:

   www.gov.uk/government/publications/public-service-pensions-actuarial-valuations-and-the-employer-cost-cap-mechanism

270. The Directions provide that actuarial valuations will be carried out every four years. The first of these valuations is due to be completed as at summer 2014 ahead of the launch of the scheme next year. The next valuation is due to be completed by 2019.

271. Another key objective of the reforms to public service pensions is to ensure a fair balance of risks between scheme members and the taxpayer. To achieve this, the Government will establish a mechanism, to be known as the 'employer cost cap', in each of the reformed public service pension schemes.

Employer cost cap

272. As part of these reforms, each scheme must set an 'employer cost cap'. This cap is to be used for measuring changes in the cost of the scheme. The employer cost cap must be expressed as a percentage of pensionable earnings of all members of the scheme, and calculated in accordance with the Treasury Directions.

273. The employer cost cap figure will be included in the scheme regulations, and will provide a benchmark for future valuations of scheme costs to be measured against. The initial employer cost cap will be the target cost to the employer for the judicial pension scheme, represented as a percentage of pensionable earnings.

274. This employer cost cap figure has been **provisionally assessed to be 25.7% of pensionable pay** by the scheme actuary, the Government Actuary's Department (GAD). The valuation calculations are largely complete but GAD has not yet completed the checking of the results and it is therefore possible that the final employer cost cap will be different from this assessment.

275. Scheme valuations are scheduled to take place every four years in the reformed public service pension schemes, with the next valuation scheduled for completion in 2019. If a future valuation indicates that the cost has moved significantly away from the employer cost cap, **two percentage points** either above or below, the scheme must take action to bring the cost of the scheme back to the employer cost cap.

276. This action to return the cost of the scheme to the cap could take the form of amending scheme benefits for future accruals to alter the overall cost of the scheme, or by altering the level of member contributions so that a higher or lower level of employer contributions is required.

277. In practice, the actual employer contribution paid by the department will be higher than the employer cost cap stated in the regulations, as the actual amount paid will incorporate the costs of those judges still accruing JUPRA benefits through Transitional Protection and Tapering Protection. These costs, among others, have not been incorporated into the employer cost cap figure to ensure a fair comparison at the time of the next valuation. Details of these calculations are available below:

www.gov.uk/government/publications/public-service-pensions-actuarial-valuations-and-the-employer-cost-cap-mechanism

278. The Transitional Protection Allowance, which is to be paid alongside salary, detailed in Section 1 (p.11), is to be equal to the 'actual' employer contribution paid by the department, not the employer cost cap figure.

Changes in costs that will affect the employer cost cap

279. The Government has committed that cost risks associated with the employer will not affect the operation of the cost cap. While these costs may affect the employer contribution rate that is actually paid, changes in these costs will not affect the cost cap mechanism. Only changes in those costs defined as 'member costs' will affect the cap.

280. Many of the assumptions that must be made to carry out a valuation relate to the profile of the entire scheme membership, for example the expectations about their life expectancy, growth in salaries, or career paths. These will be defined as 'member costs'.

281. Other decisions and assumptions that must be made to carry out a valuation are financial or technical in nature, for example the discount rate that is used to assess the present costs of future benefits, or the actuarial methodology to be used. These will be defined as 'employer costs'.

282. Changes that arise solely from changes in 'employer costs' **will not** trigger changes in member contributions or benefits as they will not be factored into the cost cap calculations. Public service employers, and ultimately the Exchequer, will bear the risks of changes in these costs.

Actions required upon 'breach' of the employer cost cap

283. In the event that action is required upon a breach of the employer cost cap, there will be a procedure to allow stakeholders to reach agreement on the adjustments required before any change is made. This is explained in detail in the March 2014 HM Treasury policy document *'Public service pensions: actuarial valuations and the employer cost cap'.*

284. Costs may be rebalanced by amending scheme benefits for future accruals to alter the overall cost of the scheme, or by altering the level of member contributions so that a higher or lower level of employer contributions is required.

285. In the event of a breach of the two percent range either side of the NJPS 2015 employer cost cap, there will be a process of consultation to allow the Responsible Authority, the Scheme Manager, employers, and scheme members (or their representatives) to reach agreement on how the scheme costs will be returned to the level of the cap.

286. In the NJPS 2015, this process of consultation is proposed to be exercised through the **scheme advisory board**. Using the current provisional assessment of the employer cost cap as a guide, if a future valuation indicated that the cost of the scheme had either risen above 27.7% of pensionable pay, or fallen below 23.7% of pensionable pay, action must be taken to bring the overall cost of the scheme back to 25.7% of pensionable pay.

287. If the two percent range around the NJPS 2015 cost cap is breached after a valuation, the Government Actuary's Department (GAD) will notify the Lord Chancellor, in his role as Responsible Authority. The Lord Chancellor will then convene the scheme advisory board to consider what actions might be taken in order to bring the costs of the scheme back to the level of the cap.

288. The scheme advisory board will analyse the available evidence to agree upon a method through which the costs of the scheme could be returned to the level of the cap.

289. At this stage, there will be an opportunity for the Lord Chief Justice, and the other Heads of Jurisdiction, to state their opinion on the desirability of any potential changes to the scheme to returns the costs back to the level of the cap, provisionally assessed at 25.7% of pensionable pay.

290. After considering the evidence and reaching an agreement, the scheme advisory board will make a recommendation to the Lord Chancellor on the actions proposed to return the costs of the scheme to the cap.

291. The Lord Chancellor will request clearance from HM Treasury and the Public Expenditure (Pay and Pensions) Cabinet Sub-Committee before implementing the changes to the scheme to return it to the cap. This is in line with the general requirement for HM Treasury consent to scheme changes.

292. If clearance to make the proposed changes to the scheme is not provided by HM Treasury, the Lord Chancellor will inform the scheme advisory board of the decision and the board will be required to reconsider their proposal.

293. If, following such consultation, agreement is not reached, each public service pension scheme is required to nominate a 'default option' of action to be taken. This default option must be to amend either member contributions, or the accrual rate of benefits.

294. It is proposed that in the NJPS 2015, if agreement is not reached, the **accrual rate** could be adjusted so that the target cost for the scheme is achieved.

Internal Dispute Resolution Procedure

295. A new Internal Dispute Resolution Procedure (IDRP) will be implemented to **cover all judicial pension schemes**. From 1 April 2015, if a member was to have a complaint or a dispute in relation to the scheme, they would follow this procedure.

296. This procedure is in line with other schemes across the public sector, and has been designed to comply with the requirements of The Pensions Regulator.

297. The department is proposing a two-stage procedure to support the resolution of pension disputes between:

- The administrators of the scheme and a person with an interest in the scheme; and
- The Scheme Manager and a person with an interest in the scheme.

Interested Persons

A person is defined as having an interest in the scheme if:

- They are a member or beneficiary of the scheme;
- They are a prospective member of the scheme;
- They have ceased to be a member or beneficiary of the scheme or a prospective member; or
- They claim to be in one of the categories mentioned above and the dispute relates to whether they are such a person.

298. In the current schemes, if a person is aggrieved by any decision taken by the administrators concerning the interpretation of the rules of the scheme, they have the right of appeal to the appropriate Minister against that decision.

299. The proposed NJPS 2015 would expect the complainant to approach the third party administrators of the schemes before appealing to the Scheme Manager.

Stage One

300. If a person who satisfied the above conditions was to have a dispute over benefit entitlement as part of the judicial pension arrangements, the first action would be to make an application to the third party administrators of the scheme directly within three months of the initial response.

301. The applicant would then be entitled to receive a formal written explanation from the third party administrator of the decision that they have made within two months of the application. This is the first stage decision.

302. If the formal written explanation from the administrator failed to clarify the dispute, the applicant would then have the right to appeal this decision.

Stage Two

303. The third party administrators of the schemes will provide the applicant with the forms required to lodge an appeal. This appeal would be sent to the Scheme Manager. The appeal request must be made within six months of the original decision, and must include the reasons why the original decision is considered to be incorrect.

304. Upon receipt of the appeal, the Scheme Manager will refer to the Pension Board for consideration. After the appeal is considered by the Pension Board, the Independent Chair of the Board will then make a recommendation to the Scheme Manager. If the Scheme Manager does not follow a recommendation of the Pension Board, he will be required to provide formal written reasons to the next Board meeting.

305. The Scheme Manager must respond to the applicant in writing with the outcome of the decision within four months of receiving the application. If a decision can not be made in that time, the Scheme Manager must send a reply explaining the delay and offering a realistic date for a full reply.

306. The substantive reply must include an explanation of how the decision was reached, and refer to any documents on which it is based. The reply must also explain the rights of the applicant with regard to future options.

Further consideration

307. The Pensions Advisory Service (TPAS) can help members with any difficulties they are unable to resolve with the Scheme Manager. If the complainant still wishes to challenge the decision adjudicated by the Scheme Manager, The Pensions Ombudsman is available to investigate any complaint. Before contacting them, the Office of The Pensions Ombudsman normally expects the complainant to have been given first and second stage IDR decisions, and asked for the help of TPAS.

308. There are certain exempted complaints to which the IDRP will not apply. These exempted complaints include those where proceedings in respect of the complaint have been commenced in any court or tribunal, or where the Pensions Ombudsman has commenced an investigation in respect of it. If proceedings are commenced before a court or tribunal or a complaint is made to the Pensions Ombudsman after an application has been made under this procedure but before a decision is made, then the procedure will be suspended.

Glossary

Accrual rate: The rate, as a proportion of pensionable earnings, at which pension builds up for each year of membership. The accrual rate in the reformed scheme is 2.32% of pensionable earnings for each scheme year.

Accrued pension: The amount of pension built up in the final salary or career average (reformed) scheme up to the current date. In the reformed scheme, this takes account of the pension earned in all scheme years to date, together with the index-linking that has been applied to date.

Active scheme members: Members paying contributions and accruing benefits in the scheme.

Actuarial adjustment: The adjustment applied to a member's accrued pension to take account of the fact that it is being paid early, or in some cases late. The adjustment is made using factors, determined by the scheme actuary, which are calculated in a way that aims to reflect fairly the fact that benefits are expected to be in payment for a longer, or a shorter, period.

Added pension: Under the new scheme, judges may pay additional contributions or lump sums to purchase added pension. Any added pension will be subject to the same rules as 'normal' pension. It will be priced by the scheme actuary, and the rate will depend on an individual's age, amongst other things.

Added Voluntary Contribution: Under the JUPRA scheme, and the NJPS 2015, all judges are able to make additional voluntary contributions to save for their retirement via the Judicial Added Voluntary Contributions Scheme (JAVCS). The JAVCS is a defined contribution pension account operated by a third party provider into which a judge can opt to invest a proportion of their salary each month, on top of their savings as part of JUPRA. This will be accessible upon retirement from judicial office.

Allocation: Allocation allows a member to surrender part of their own pension to provide a pension for a financial dependant, payable following the member's death.

Career average scheme: A defined benefit scheme that gives scheme members a pension based on a proportion of the salary earned in each scheme year. Amounts of pension earned in previous years have index-linking applied in order to maintain their value.

Commutation / Commutation rate: Commutation is where a member exchanges an amount of annual pension in return for a retirement lump sum. The rate at which pension is given up for a higher retirement lump sum is known as the commutation rate. In the NJPS 2015, giving up £1 of annual pension provides £12 of retirement lump sum.

Consumer Prices Index (CPI): An index of inflation published by the Office for National Statistics. This is the current basis for determining cost of living increases for public sector pensions.

Current scheme: When referring to the 'current scheme', we are looking at the Judicial Pensions and Retirement Act 1993.

Deferred scheme members: A member who was previously an active member, but has now left pensionable service and not yet taken all pension benefits from the scheme.

Defined benefit pension scheme: A pension scheme where the pension is related to the members' salary or some other value fixed in advance. Final salary and career average are typical examples of such a scheme.

Early retirement: Active and deferred members of the NJPS 2015 will have a right to draw their pension before scheme pension age, after the age of 55. Early retirement is subject to the member being entitled to deferred benefits, that is, they must have a minimum two years' qualifying service.

Eligible Child: Under the NJPS 2015, the definition of an eligible child will be different than that under JUPRA. The new definition covers natural or adopted children, or any other children with a financial dependency, that are either under 18, under 23 and in full time education, or unable to engage in gainful employment because of a physical or a mental impairment, and this condition is deemed likely to be permanent.

Employer cost cap: The employer cost cap is a mechanism designed to ensure a fair balance of risks between scheme members and the taxpayer. Each public service pension scheme must set a cap, expressed as a percentage of pensionable earnings of all members of the scheme. If a future valuation shows that the costs of the scheme have risen more than two percentage points above the cap, or fallen two percentage points below the cap, action must be taken to bring the costs of the scheme back to the cap.

Fee-Paid Judicial Pension Scheme (FPJPS): This is the pension scheme being established by the department for eligible fee-paid judges. This scheme will offer benefits in line with the scheme for salaried judges (JUPRA).

Final salary: A defined benefit scheme that gives members a pension based on their final salary, the accrual rate and the period of service. JUPRA schemes are final salary schemes.

Full protection: Scheme members who, on 1 April 2012, have ten years or less to their NPA, will continue to accrue benefits in the current scheme, provided there is no break in service of more than five years.

Heads of Jurisdiction: When we refer to the Heads of Jurisdiction in this context we are referring to the Lord Chief Justice, the Lord Chief Justice Northern Ireland, The Lord President of the Court of Session, the President of the Supreme Court, and the Senior President of Tribunals.

Ill-health retirement: Applicable for judges who are retiring on grounds of ill-health. Ill health retirement benefits would be payable to a judge who had suffered a permanent breakdown in health involving incapacity for employment. This would be payable for life, and equal to the accrued pension plus half of the expected pension that the member would have accrued by pension age.

Index-linking addition: The amount of revaluation added to a scheme member's accrued pension at the beginning of each scheme year.

In-service index-linking: The rate at which amounts of career average benefits are revalued while the scheme member remains in pensionable service as an active member of the NJPS 2015. The rate for the NJPS 2015 will be that specified in the Treasury Order, currently aligned with CPI. Where a member returns to pensionable service following a break of less than five years, this rate will apply to the member's benefits earned up to the point of the break, provided the member has not drawn them in full.

Late retirement: This refers to the event of judges working beyond their retirement age, and not drawing pension benefits.

Normal Pension Age (NPA): The age at which benefits would come into payment in full, i.e. without actuarial adjustment. NPA is linked to the State Pension Age in the NJPS 2015. NPA in the current final salary scheme is 65.

Nomination of beneficiaries: nomination in respect of the payment of lump sum death benefit.

Partnership Pension Account: A tax-registered stakeholder pension scheme for NJPS 2015 members. This can be taken in lieu of the NJPS 2015 career average scheme.

Pay period: The period in which a payment (either salary or fee) is paid. This is monthly.

Pension Board: The Pension Board is to support the Scheme Manager in matters relating to good governance and administration. This will include both departmental and judicial representatives and will be independently-chaired.

Pensionable earnings: Pensionable earnings are the earnings against which the scheme member and the employer will pay contributions and is the salary used to calculate the pension earned in any given year.

Pensionable service: A period where the scheme member is an active member.

Pensioner: Members who are in receipt of a retirement pension. In addition, this will also include pensions payable to surviving adults and other dependants entitled to benefits in respect of deceased former members of the scheme.

Pensions Increase Act 1971: This Act makes provision for increases and supplements to be paid on certain pensions and related benefits.

Portability of transitional provisions: If a member is eligible for any protection as part of a public service pension scheme, and moves into another public service pension scheme (within 5 years of leaving the first scheme), that member's protection will port into the new scheme. A judge, who meets the criteria, be they fee-paid or salaried, will be eligible for Transitional Protection upon joining any other judicial pension scheme within five years of leaving their first scheme.

Reformed scheme: The new arrangements for the NJPS whereby benefits will be determined on a career average basis, i.e. a percentage of the salary earned in each scheme year.

Responsible Authority: The Responsible Authority has the power to make scheme regulations. The Responsible Authority in the NJPS 2015 is to be the Lord Chancellor.

Salaried Part Time Working (SPTW): The department introduced salaried part-time working for judicial office holders in 2001. It is a means of enabling people who cannot, or choose not to, commit to a full time post, to hold for judicial office.

Scheme advisory board: The scheme advisory board will be a policy group which will sit at the request of the Responsible Authority to consider the desirability of any potential changes to the scheme.

Scheme Manager: The Scheme Manager is responsible for managing and administering the scheme and any statutory pension scheme connected with it. In the NJPS 2015, the Scheme Manager is to be the Lord Chancellor.

Scheme member: A person who has contributed to the scheme and is an active member, deferred member or pensioner.

Scheme year: The period 1 April to 31 March.

Sitting in retirement: The NJPS 2015 allows for re-employment after retirement so that a pensioner member in respect of a qualifying judicial office can at the same time be an active member in respect of a different qualifying judicial office.

State Pension Age (SPA): The age at which the State Pension would normally become payable.

Surviving Adult: Like the arrangements under JUPRA, the NJPS 2015 will pay a pension to a surviving spouse or civil partner upon a member's death, however in a divergence from the current scheme, if there is no surviving spouse or civil partner, another "surviving adult" may be eligible for a pension if they meet the relevant criteria.

Tapering Protection: Judges who were in office, and aged between 51 years 6 months and 55 years immediately before 1 April 2012, will be eligible for tapering protection. 'Immediately before 1 April 2012' in this context means 23:59 on 31 March 2012. Each member eligible for Tapering Protection will be provided a personal taper date, calculated as a function of their age. A judge will have the choice to remain in their current pension arrangements until this date, or enter the NJPS 2015 from 1 April 2015. From that point onwards, the judge will move into the NJPS 2015

Taper date: The date on which a scheme member with service in the current scheme joins the reformed scheme.

Transitional Protection: Transitional Protection applies to those salaried and fee paid judges who were in office and aged 55 or over immediately before 1 April 2012. 'Immediately before 1 April 2012' in this context means 23:59 on 31 March 2012. Judges eligible for Transitional Protection will not be affected by these reforms and will remain in their current scheme.

Transitional Protection Allowance (TPA): Judges not eligible for Transitional Protection, and who meet certain criteria, will be able to claim a monthly payment alongside salary, in lieu of joining the new scheme. This payment will be in line with the employer contribution in the NJPS 2015, which has been provisionally assessed at 37.9% of pensionable pay. The option to take this will be one-off and irrevocable at 1 April 2015.

Transitional scheme member: A scheme member with pensionable service in the current scheme and the reformed scheme and is entitled to benefits in both.

Treasury Order: A direction from HM Treasury confirming the amount of indexation to be applied to in-service career average benefits at the beginning of each scheme year. This reflects provisions in the Public Service Pensions Act 2013. In-service index-linking in the NJPS 2015 is set equivalent to the Treasury Order (See In-service index linking).

Valuation: A report, carried out by the scheme actuary, of the financial position of a defined benefit pension scheme, which informs the contribution rates needed going forward.

Whole Time Equivalent (WTE): This is relevant for judges who are working less than full time. A judge’s Whole Time Equivalent salary is the salary a judge would earn in his role working on a full time basis.

List of consultees

This paper sets out for consultation the draft Regulations for the New Judicial Pension Scheme 2015 (NJPS 2015). The consultation is aimed at members of the judiciary who are entitled to be a member of a judicial pension scheme, law professionals, and pension industry professionals as well as anyone with an interest in public service pension reform in England and Wales, Scotland and Northern Ireland.

This consultation will run for 12 weeks from the date of issue, closing on 8 September 2014. Details of how to respond to the consultation are highlighted later in the document. Copies of the consultation papers are being sent to:

- Lord Chief Justice of England and Wales
- Lord Chief Justice of Northern Ireland
- Lord President of the Court of Session, Scotland
- President of the UK Supreme Court
- Senior President of Tribunals
- Association of High Court Judges
- Association of High Court Masters
- Association of HM District Judges
- Association of Part Time Judges
- Council of Appeal Tribunal Judges
- Council of District Judges (Magistrates' Courts)
- Council of Employment Judges
- Council of HM Circuit Judges
- Council of Immigration Judges
- Council of Upper Tribunal Judges
- District Judges Association (Northern Ireland)
- Forum of Tribunal Organisations
- HM County Court Judges in Northern Ireland
- Judges' Council (Northern Ireland)
- Judges' Council (Scotland)
- Judicial Pensions Committee
- Salaried Tribunal Judges Association

- Sheriffs' Association
- Tribunal Chamber Presidents
- First Minister of Northern Ireland
- First Minister of Scotland
- Secretary of State for Northern Ireland
- Secretary of State for Scotland

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in, or views on, the subject covered by this paper.

Next steps

The department welcomes the views of consultees relating to all sections of this statutory consultation by 8 September 2014. In particular, comments are welcomed on the following areas:

- The method of calculation of member contributions, using actual earnings approach or the whole time equivalent approach (p.24);
- Discretionary decisions to be considered by the Judicial Pension Board (p.49);
- Actions required upon breach of the employer cost cap (p.52);
- The 'default option' for action upon breach of the employer cost cap (p.53);
- Internal Dispute Resolution Procedure (p.53);
- Draft regulations; and
- Any equalities issues that the department has not considered in the Equality Impact Assessment that will result in individual groups being disproportionately affected by the reforms. If so, please let us have the evidence of such impacts.

However, this list in not meant to be exhaustive or exclusive, and the department welcomes views of consultees on all aspects of these reforms.

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself

Full name	
Judicial title / Job or capacity in which you are responding to this consultation exercise (e.g. member of the public etc...)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	☐ (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Responses to the consultation questions should be submitted online by **8 September 2014** at https://consult.justice.gov.uk/digital-communications/judicial-pension-scheme-2015-consultation

Responses can also be submitted to the 'Enquiries' contact details below.

If you have any enquiries about this consultation, including requests for the paper in a different format, please contact the department at:

Alex Scott
Judicial Policy, Pay and Pensions
Ministry of Justice
2.53, 2nd Floor Tower
102 Petty France
London SW1H 9AJ

Email: judicialpensionreview@justice.gsi.gov.uk

Fax: 08707 39 59 39

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available online at www.gov.uk/moj

Alternative format versions of this publication can be requested from the 'Enquiries' contact details above.

Publication of response

A paper summarising the responses to this consultation will be published. It is not anticipated that the department will respond to individual comments. The response paper will be available online at www.gov.uk/moj

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf

Annex A: Fee-paid Judicial Offices eligible for a pension under the New Judicial Pension Scheme 2015 as at 10 June 2014

Judicial offices - England and Wales

Lord Justice of Appeal (Sitting in Retirement)

High Court Judge (Sitting in Retirement)

Deputy High Court Judge

Deputy District Judge of the Principal Registry of the Family Division

Deputy Queen's Bench Master

Deputy Chancery Master

Deputy Bankruptcy Registrar

Deputy Costs Judge

Deputy Circuit Judge

Deputy Circuit Judge (Sitting in Retirement)

Recorder

Deputy District Judge

Deputy District Judge (Magistrates' Court)

Fee-paid Judge of the First Tier War Pensions and Armed Forces Compensation (Pensions Appeal Tribunal England & Wales)

Fee-paid Judge of the First Tier Social Entitlement: Social Security and Child Support (Appeal Tribunals; Child Support Commissioners; Protection of Children Act Tribunal)

Fee-paid Judge of the First Tier Social Entitlement: Asylum Support (Asylum Support Tribunal; Asylum Support Adjudicators)

Fee-paid Judge of the First Tier Social Entitlement: Criminal Injuries Compensation (Criminal Injuries Compensation Appeals Panel)

Fee-paid Judge of the First Tier Health, Education and Social Care: Mental Health (Mental Health Review Tribunal)

Fee-paid Judge of the First Tier Health, Education and Social Care: Special Educational Needs and Disability (Special Educational Needs and Disability Tribunal SENDIST England; Special Needs Tribunal)

Fee-paid Judge of the First Tier Health, Education and Social Care: Care Standards (Care Standards Tribunal)

Fee-paid Judge of the First Tier Health, Education and Social Care: Primary Health Lists (Family Health Service Appeal Authority)

Fee-paid Judge of the First Tier Direct and Indirect Taxation (VAT and Duties Tribunal)

Legal Chairman of the First Tier Direct and Indirect Taxation (VAT and Duties Tribunal)

Fee-paid Immigration Judge of the First Tier Immigration and Asylum (Asylum and Immigration Tribunal; Immigration Appellate Authority)

Fee-paid Deputy Adjudicator of the First Tier Property: Adjudicator to HM Land Registry

Lawyer Chairman of the First Tier Property: Rent Assessment Committees

Valuer Chairman of the First Tier Property: Rent Assessment Committees

Valuer Chairman of the First Tier Property: Residential Property Tribunal

Lawyer Chairman (Fee Paid) of the First Tier Property: Residential Property Tribunal

Fee-paid Employment Judge of the Employment Tribunal (Industrial Tribunal)

Legal Member of the Upper Tier Lands (Lands Tribunal)

Legal Member of the Special Immigration Appeals Commission

Chairman of the Competition Appeals Tribunal

Annex B: Information for Tapering Protection

JUPRA – pension age 65		
Age on 1 April 2012		First day in NJPS 2015 – Transition Date
Years	Months	
54	11	**01/02/2022**
54	10	**01/12/2021**
54	9	**01/10/2021**
54	8	**01/08/2021**
54	7	**01/06/2021**
54	6	**01/04/2021**
54	5	**01/02/2021**
54	4	**01/12/2020**
54	3	**01/10/2020**
54	2	**01/08/2020**
54	1	**01/06/2020**
54	0	**01/04/2020**
53	11	**01/02/2020**
53	10	**01/12/2019**
53	9	**01/10/2019**
53	8	**01/08/2019**
53	7	**01/06/2019**
53	6	**01/04/2019**
53	5	**01/02/2019**
53	4	**01/12/2018**
53	3	**01/10/2018**
53	2	**01/08/2018**
53	1	**01/06/2018**
53	0	**01/04/2018**
52	11	**01/02/2018**
52	10	**01/12/2017**
52	9	**01/10/2017**
52	8	**01/08/2017**
52	7	**01/06/2017**
52	6	**01/04/2017**
52	5	**01/02/2017**

JUPRA – pension age 65		
Age on 1 April 2012		First day in NJPS 2015 – Transition Date
Years	Months	
52	4	**01/12/2016**
52	3	**01/10/2016**
52	2	**01/08/2016**
52	1	**01/06/2016**
52	0	**01/04/2016**
51	11	**01/02/2016**
51	10	**01/12/2015**
51	9	**01/10/2015**
51	8	**01/08/2015**
51	7	**01/06/2015**
51	6	**01/04/2015**

Alternative format versions of this report are available on request from judicialpensionreview@justice.gsi.gov.uk