



# NPCC Police Pensions Immediate Choice – Unauthorised payments update 28 May 2024

## Purpose

1. This note provides an update on the position of Immediate Choice statements for taper protected and unprotected pensioners.
2. The regulations<sup>1</sup> require that all members receive a remediable statement called an Immediate Choice Remediable Service Statement (IC-RSS) by 31 March 2025.
3. In 2022 NPCC issued guidance to scheme managers and scheme administrators on a recommended order of production of statements, with an assumption that this would commence from 1 October 2023. Information about this timetable and changes made to it, is available in the ['Remedy timeline'](#) member factsheet.
4. This note has been provided to update on an unanticipated policy issue which has contributed to a delay in issuing IC-RSSs for the expected 7,236 members who are likely to choose alternative benefits to be paid to them, and the effect of the General Election being called on 4 July 2024.

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<sup>1</sup> [Public Service Pensions and Judicial Offices Act 2022 \[Section 29, Paragraph 10\]](#)

## Background

5. The result of choosing 1987 legacy benefits will mean an uplift in pension and lump sum, and in line with directions will be uplifted by 8% interest. This note explains some technical issues that have been experienced with regards to calculating the interest and the top-up lump sum.

## Interest

6. The [treasury directions](#) published in December 2022, instruct scheme managers to pay interest at a rate of 8% on lump sum top up payments and pension arrears where an increased amount is due as result of the members' choice.
7. More information about interest and how it was decided and applies is available under the [Interest FAQs](#) on [policepensioninfo.co.uk](http://policepensioninfo.co.uk).

## Unauthorised lump sums

8. The portion of commuted lump sum, where it is more than the amount known as the permitted Pension Commencement Lump Sum (PCLS) will be treated as an [unauthorised payment](#). The permitted PCLS is calculated as a quarter of the overall value of the pension.<sup>2</sup>
9. In police schemes, this has been the case for most lump sums paid under the 1987 scheme since 2011 when commutation factors rose above 20. The part of the lump sum over the PCLS is known as unauthorised where: -
  - an [unauthorised payment charge](#) of 40% is paid by the member, and
  - in addition, a charge of 15% paid by the scheme (known as scheme sanction charge).

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<sup>2</sup> 20 \* Pension + Lump Sum



## Policy Concerns

10. Since January 2024, we have been working with HM Treasury (HMT) and HM Revenue and Customs (HMRC) officials on two issues with regards to rectification, these are the: -
  - i. Authorised / Unauthorised position of interest payments.
  - ii. Existing and new unauthorised lump sum amounts.

### Authorised / Unauthorised position of interest payments.

11. In January 2024, HMT notified public service schemes public service pension schemes that: -
  - The 8% interest payments on authorised top-up lump sums and pension arrears would be treated as unauthorised where the interest paid was over the commercial rate. At the time of the announcement it was expected that the commercial rate should be 1% over base rate.
  - All interest on unauthorised payments would be treated as unauthorised.
12. This was confirmed in [HMRC newsletter 156](#)<sup>3</sup> in February 2024.
13. That position stayed the same for four months, until 25 April 2024 when following legal advice HMRC published [newsletter 159](#) confirming that interest on authorised payments would be authorised. Because they could treat the 8% as a commercial rate.
14. However, interest on unauthorised amounts remains unauthorised, which is the position for most retired police officers who took the maximum commutation available under the 1987 scheme..

### Existing and new unauthorised lump sum amounts

15. In seeking confirmation of how to calculate the authorised and unauthorised interest, HMRC identified a further issue with regards to the unauthorised status of the top up lump sum and unauthorised amounts already paid.

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<sup>3</sup> [HMRC newsletter 159](#) withdraws parts of newsletter 156

16. It was confirmed that the [Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#) did not allow for the rectification of previously paid unauthorised amounts in their legislation, and would treat the new top up lump sum as unauthorised.
17. This position, if left without a solution, will mean that all new top-up lump sums are unauthorised so all the interest paid on them is unauthorised and the original unauthorised payment which is now an overpayment cannot be refunded.

## Who does this affect?

18. This issue affects only members who have received an unauthorised<sup>4</sup> lump sum, these are members of the 1987 scheme who when they retired received an unauthorised lump sum and paid a tax charge.

## Pre-election period

19. On 22 May 2024, it was announced that a General Election is being called for the 4 July 2024. This now means that Government is unable to take forward and make any decision or make any public statements from now up to the date of the election.

## Current position of IC-RSS statements

20. Prior to the pre-election period HMRC and HMT had recognised this issue and had agreed to amend regulations, and in the meantime to provide a Written Ministerial Statement (WMS) to provide a legislative solution. The pre-election period now means that a WMS is unachievable while parliament is dissolved.
21. We will be continuing discussions, but we will have to wait for ministers to be in place before any new decisions can be made, and therefore the potential resolution dates are unknown.
22. This position does not stop the IC-RSS being issued with regards to providing members with information about their choice, but it might stop payment of the new amounts with interest to ensure the tax treatment is correct.

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<sup>4</sup> Members who received a lump sum based on the restricted commutation, ie the lump sum was 2.25 \* pension, are likely to have received **authorised** lump sums.

## IC-RSS Unauthorised payments update

23. Scheme administrators are encouraged to identify officers whose original pension payments were authorised, with a view to commencing IC-RSS for those members.
24. Some administrators may also want to consider whether to start issuing the RSS to the bulk of the immediate choice population who are protected (81%)..
25. Forces have been encouraged to identify any known vulnerable cases, and to escalate with NPCC for support.
26. More detailed information about the implementation of the age discrimination remedy can be found in the [age discrimination project update document](#).

### Version Control

Date	Author	Publication	Reason for change
20/05/2023	Clair Alcock	V1	N/A
28/05/2024	Clair Alcock	V1.1	Updated to reflect pre-election period

## Disclaimer

This note has been prepared by NPCC using the regulations as they stand at May 2024, however they should be used only as an informal view of the interpretation of the Police Pension Scheme as only a court can provide a definitive interpretation of legislation.

This note should not be interpreted as legal advice.