



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

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## 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 the National Police Chiefs' Council (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. The ongoing technical issues may mean that administrators need to issue statements for other cohorts first. The timelines in this document reflect the current position after significant delays from government departments.
5. While, it is difficult to provide updates with certainty, this note has been provided to update on the 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.

## Background

6. 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

7. 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.
8. 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).

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

## Unauthorised lump sums

9. 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>.
10. 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).
11. Due to the commutation factors used at retirement, this means that an unauthorised payment can affect all officers not just those over a certain rank. The unauthorised payment charge applied is proportional to the amount of pension, and is not related to salary.
12. In some historical cases, scheme managers have also incorrectly charged an additional amount called the scheme sanction charge (SSC) of 15% to the member. This is being dealt with separately by individual scheme managers and should not be confused with remedy. Members who are owed a refund of SSC will be contacted separately by their force.
13. A member who has had an unauthorised lump sum is someone who originally paid a 40% [unauthorised payment](#) tax charge when they retired and received their lump sum.

## Policy Concerns

14. 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.

15. 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

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

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.
16. This was confirmed in [HMRC newsletter 156](#)<sup>3</sup> in February 2024.
  17. 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.
  18. 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

19. 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.
20. 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.
21. 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?

22. 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.
23. The following members are not affected by this issue: -
  - a) Protected members and beneficiaries
  - b) 2006 retired members and beneficiaries

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

<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.

- c) Members who have retired after 1 April 2023 and before 30 September 2023 with unauthorised lump sums where the unauthorised payment tax charge has not already been paid to HMRC by the scheme or the member.
- d) Members with authorised lump sums
  - i. These are members who had a restricted commutation of 2.25 \* pension, or
  - ii. Chose to restrict the lump sum so a charge was not payable

### Pre-election period

- 24. On 22 May 2024, it was announced that a General Election is being called for the 4 July 2024. This meant that Government was unable to take forward and make any decision or make any public statements between 23 May 2024 to the date of the election.

### Current position of IC-RSS statements

#### Update at June 2024

- 25. 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.
- 26. 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.
- 27. 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.
- 28. Scheme administrators are encouraged to identify officers whose original pension payments were authorised, with a view to commencing IC-RSS for those members.
- 29. 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%).
- 30. Forces have been encouraged to identify any known vulnerable cases, and to escalate with NPCC for support.

31. More detailed information about the implementation of the age discrimination remedy can be found in the [age discrimination project update document](#).

## Update at October 2024

32. Following the general election, the Economic Secretary to the Treasury (EST) wrote to the new policing minister Dame Diana Johnson in July 2024 to confirm that amendments to the legislation would be made before the end of the current tax year and that schemes could act in advance of those legislation by following imminent HMRC advice.
33. On 26 September 2024, HMRC finally published a [newsletter](#) with their guidance to the “offsetting” that is required in the calculations of the unauthorised payments. A [news article](#) was published to the website to confirm this.
34. Unfortunately, the guidance from HMRC does not take account that the Police scheme does not have a single scheme administrator. Therefore, NPCC have been working with pension administrators to understand whether they have consistent methodologies to enable them to resume processing these cases.
35. In addition, the calculations will require the Government Actuary Department (GAD) to provide a bespoke calculator tool which pension administrators can use to calculate an additional rate of interest due to a member for these cases. This tool has not yet been provided to pension administrators.
36. Due to the complex nature of these calculations, it has also not yet been possible to develop the necessary methodologies to enable these calculations to be carried out. However, work is underway to make this available to all pension administrators as soon as possible.
37. Due to the significant delays that have been caused by government departments in providing all the necessary guidance and tools for this work, it does mean that it is now extremely difficult to say with any certainty that pension administrators will be able to provide IC-RSS’ to affected members in line with the nationally agreed timetable.
38. NPCC appreciate that this may cause concern for members and that they may be anxious that this means that they will not receive their IC-RSS by the 31 March 2025 deadline. NPCC would like to reassure members that pension administrators are still working extremely hard and they will be making every effort to complete as many cases as possible before this deadline.
39. Members will not need to seek additional tax advice on receipt of the final IC-RSS.
40. Pension administrators are working with forces to replan the outstanding work, this does mean that there will almost definitely be local differences as

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cases that can be done are more likely to be processed ahead of these more complex calculations.

41. NPCC continue to monitor progress of administrators and forces, and further updates will be provided in early 2025 when the position and details of outstanding cases are known.

### 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  |
| 15/06/2024 | Clair Alcock | V1.2        | Updated to clarify; <ul style="list-style-type: none"><li>• Status of timeline</li><li>• Types of tax previously paid</li><li>• Who is not affected</li></ul>   |
| 28/10/2024 | Claire Neale | V2.0        | Updated with <ul style="list-style-type: none"><li>• Confirmation that the unauthorised payment can affect all ranks of police officers</li><li>• An additional group of members that are not affected</li><li>• An update at October 2024 about the remedy timeline.</li></ul> |

### Disclaimer

This note has been prepared by NPCC using the regulations as they stand at October 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.