

Consultation: mechanism for updating MPs' salaries, and

Consultation report: the McCloud judgement and MPs' pensions

July 2021

IPSA

MPs' pay and pensions: consultation on periodic adjustments to MPs' salaries and consultation report on McCloud

Summary

1. In autumn 2020 we consulted, as we are legally required to do in the year after a general election, on the mechanism for making periodic changes to MPs' salaries.¹ We also stated our intention to consider the potential impact of the McCloud legal judgement on MPs' pension arrangements once the government had concluded its own consultation on the matter.
2. We decided that MPs' pay should remain unchanged in April 2021 given the extraordinary impact of the pandemic, but we did not decide to make any change to the mechanism we use for determining MPs' pay in future years. Since 2015 that mechanism has been based on a statistical series showing changes in public sector pay, called AWE KAC9. In our March 2021 report on the consultation, we set out some factors we would consider for the future and indicated that this could lead to a further consultation. We are now launching a further, targeted consultation in this document.
3. It is important to be clear that we are not consulting on the amount of MPs' pay, on whether we should change it this year or, if so, by how much. Instead, we are consulting on how IPSA should take that decision at the appropriate time. The approach proposed would give us, for the next three years, some bounded discretion to depart from the AWE KAC9 figure if that was the right thing to do and explains how we would make that judgement at the relevant time. It is therefore important to be clear that we are not proposing that MPs' salaries should be increased by an amount equivalent to the most recent KAC9 figure available at the time of the consultation. Our proposal is that we should review the KAC9 data relating to October each year when it is published, and then form a view whether any adjustment to that figure is needed.
4. In March 2021, we also consulted on whether we should make changes to the MPs' pension scheme in the light of the McCloud judgement and, if so, how.² In this document we are publishing our response to that consultation, with thanks to all who responded. In the light of the consultation we have concluded that it is appropriate to prepare more detailed proposals for changes to the scheme in the light of McCloud. We will therefore prepare more detailed proposals, informed by the responses to this consultation and, provided we remain confident that they deliver a fair result for impacted members and taxpayers in line with our pay principles, hold a further consultation on those proposals. We expect to launch that consultation towards the end of this year.

¹ The principles we apply to decisions about MPs' pay are set out in Annex 1.

² [Consultation: MPs' Pensions and the McCloud Judgement](#), March 2021.

How to respond

5. We are consulting at this time on our approach to the periodic updating of MPs' pay. We encourage anyone who wishes to respond to use our quick and easy online survey. You can find it here: <https://www.smartsurvey.co.uk/s/MPSalaryUpdateMechanism2021/>.
6. We will summarise the responses we receive when we publish our decisions. In doing so, we may refer to individual respondents and the content of their responses. We may also publish a list of who responded. If you would like your response to be treated as confidential, please say so clearly in your response. We will not quote from confidential responses or attribute the views in them to any particular respondent. Whether your response is confidential or not, we will not publish your email address or any other contact details, in line with our compliance with data protection law and the General Data Protection Regulation (GDPR). For more information about what we do with personal data, please see our [privacy notice](#).
7. **Please send us your response by 11:59 pm on Thursday 19 August 2021.**

Periodic updating of MPs' salaries

Background to this consultation

8. In 2020 we reviewed whether we needed to change the mechanism used since 2015 for making an annual update to MPs' salaries. Under that approach we use the October datapoint in a statistical measure of changes in public sector earnings called AWE KAC9, which is published by the Office for National Statistics monthly, to determine the percentage change to MPs' pay with effect from the following April.
9. Before launching that consultation, we had considered whether it was still desirable to use an external benchmark and whether other preferable benchmarks were available. We were also conscious that all the available benchmarks would be significantly affected by the pandemic, the full impact of which was becoming clear during our consultation. We were therefore hesitant about making significant changes to our approach or changing benchmarks at a time of significant economic uncertainty when the behaviour of alternative benchmarks would be hard to gauge.
10. In the light of the consultation, we concluded that since IPSA chose the link to earnings statistics as the benchmark for updating MPs' pay it has provided a transparent and objective basis for periodic adjustments. It has enabled us to avoid the situation which often arose before we were established where MPs' pay went unchanged for many years, meaning a larger adjustment was needed periodically to catch up with the wider economy. We considered it was right to remain cautious about moving away from this approach without having a robust alternative which will be fair and seen to be fair to MPs and taxpayers alike. However, in the particular circumstances we faced last year, we had to make the judgement that applying the standard approach was not the right thing to do. In making that judgement, economic data and forecasts were useful to us, as were the more granular data on wage settlements beyond the public sector. We indicated that we were open to further reflection on whether it is necessary or appropriate for us to draw on these sources again and whether there is a way for us to do so without losing the confidence of our stakeholders in the fairness of the result. We said that as the economy and the country

emerged from lockdown and the pandemic, we would consider whether further consultation was needed before our next statutory review in the first year of the next parliament.

11. Since we published our consultation report in March 2021, we have decided that it is appropriate to consult again now on a temporary adjustment to the mechanism we use to update MPs' salaries. We set out below why this is the case, and the two options on which we are consulting.

Why we are consulting again now

12. Last year, we noted that the ONS AWE series were likely to be significantly impacted by the structural changes in the labour market due to the pandemic, leading to 'compositional effects' as employment patterns changed. This meant that a potentially significant proportion of the change in average earnings shown by AWE related to changing patterns of work, rather than to changes in the salaries of individuals at work. This disconnect was reflected in some of the responses to our consultation from members of the public, who could not see the connection between the numbers implied by AWE KAC9 and the actual pay awards being given to public sector workers.
13. Since then the ONS has started to quantify its estimate of the current size of these 'compositional effects', which has confirmed that they are much more significant now than before the pandemic, and a range of other commentators from the Bank of England to private sector pay-data specialists have commented that there continues to be a significant difference between the AWE data and changes to individuals' wages.
14. As other commentators have pointed out, there is also the potential for significant 'base effects' in the period ahead. 'Base effects' can arise where the comparison between two periods is affected because one or other of the periods is a highly unusual time, which can give a distorted impression of the real significance of the change.
15. Taken together, this means that if we follow our usual approach in these highly unusual economic conditions, we might rely on statistics that are a much less reliable guide to changes in earnings than they are in ordinary times. We do not think that this satisfies our principles of being fair to either MPs or to taxpayers, so we have thought about what adjustment we could make for the next few years when the unpredictability following the pandemic is likely to be most acute without losing the benefits of reference to an objective and transparent external benchmark.

Proposals and our reasons for them

16. Our starting point was to consider the range of material that helped us to understand and interpret what was happening in the economy last year and informed our eventual decision. As set out in our March 2021 consultation report, there is data and commentary available from a wide range of highly-respected public sector bodies and from acknowledged private-sector specialists in this field which proved very useful to us in reaching an informed judgement with a basis that we could explain to stakeholders. We have set out an indicative and non-exhaustive list of such sources in **Annex 2**.

17. We think that for the next few years we will need to continue to exercise judgement, while being able to explain the basis for our judgements and set parameters around our discretion, so as to maintain our stakeholders' confidence in the objectivity of the exercise. We are therefore proposing a temporary amendment to our determination on the method for updating MPs' salaries in relation to the years beginning April 2022, April 2023 and April 2024. We would still take the AWE KAC9 series as our starting point. But we would then take account of data and commentary as referred to above, in the light of our established pay principles, to reach a judgement as to whether an adjustment to that amount was needed.
18. We are considering two different versions of this approach. In the first, we would only give ourselves discretion to reduce the amount relative to KAC9. In the second, we would give ourselves discretion to vary the amount, which could be either an increase or a reduction. We would make the relevant change to the formal determination on the MP salary and equivalent changes to the separate determination relating to additional pay for certain committee chairs.
19. To put these options in context, it is important to be clear that if current trends continue we think it is more likely that we would be making a downward adjustment rather than an upward adjustment to the AWE KAC9 figure. However, the commentary suggests that we could see some very unexpected changes in the statistics over the next few years which could mean that the right thing to do would be to make an upward adjustment. We think it is prudent to consider this possibility now because we do not wish to have to revisit our method for adjusting salaries before the next statutory review which will be due in the first year after the next general election. It is also important to be clear that a downward adjustment could be relatively small, and that it is highly unlikely that we would leave MPs' pay completely unchanged in any or all of these years.
20. In either case, we would await the publication of the AWE KAC9 datapoint for the three months to October, typically published in mid-December, and then begin our deliberation about whether an adjustment was needed and, if so, what it should be. That would mean we would be likely to take the eventual decision in the following year, closer to the date on which the decision takes effect. This has the advantage of allowing us to consider more up-to-date data in our decision, and reducing the time-lag between the data, our decision and implementation.
21. Our expectation is that after this temporary period we would revert to relying on AWE KAC9. However, there would be an opportunity to reflect on this in the statutory review following the next election.
22. We are therefore seeking respondents' feedback on the following proposal:
 - a. For the April 2022, 2023 and 2024 annual adjustments of MPs' salaries we would temporarily derogate from the 'automated' application of AWE KAC9, by
 - b. Giving the IPSA Board the possibility but not the obligation to adjust the award from the level indicated by KAC9, having regard to:
 - i. data and commentary on wage settlements, earnings statistics and trends, and the economic outlook, including wider public sector pay policy; and

- ii. fairness of MPs' overall remuneration to both MPs and taxpayers, taking account of their constituents' experiences, in line with our principles for MPs' remuneration.
23. We are also seeking feedback on which of two approaches to take to how we frame the discretion available to the IPSA Board:
- Option 1:** Discretion to reduce the award below the figure indicated by AWE KAC9;
 - Option 2:** Discretion to vary the award below or above the figure indicated by AWE KAC9.
24. We are conscious that at the time of launching this consultation, AWE KAC9 data will be available for other months (though not for the October figure we take as our reference) and that the intention behind our consultation could be misunderstood as implying a firm proposal to award MPs' a salary increase equivalent to the most recent available AWE KAC9 data. For the avoidance of doubt, this consultation is not about whether MPs' salaries should increase by that amount next year, and we are not proposing that it should do so. This consultation is about ensuring that we have the right basis in place on which to take a decision early next year in the light of the data available at that time. Our starting point at that time will be the KAC9 figure relating to the three months to October, which is usually published in December.

Consultation questions

Q1 Do you agree that IPSA should temporarily adjust its approach to updating MPs' salaries for the years 2022, 2023 and 2024 by having the possibility to adjust the level indicated by KAC9, having regard to economic data and commentary and our pay principles?

Q2 Should the temporary adjustment give IPSA:

Option 1: Discretion to reduce the award below the figure indicated by AWE KAC9; or

Option 2: Discretion to vary the award below or above the figure indicated by AWE KAC9.

Response to the McCloud judgement

25. In 2015, the Government implemented changes to public sector pension schemes such that they changed from providing benefits on a basis related to the beneficiary's final salary, to benefits related to 'career average revalued earnings' (CARE). Provision was made for those closest to retirement to stay in the final salary scheme, and for a further group closer to retirement to transition in later phases after the date on which other members moved across to the CARE scheme to 'protect' those closer to retirement when the CARE scheme was introduced from unanticipated changes to pension benefits. IPSA implemented analogous changes to the MPs' pension scheme in 2015, as part of its review of MPs' overall remuneration. The objective in making the change from FS to CARE was to ensure that MPs' pension arrangements, which had grown increasingly expensive to provide in the preceding years, were put on a more sustainable basis.
26. The McCloud judgement subsequently found that those transitional arrangements put in place in some other public sector schemes, but not the CARE scheme itself, constituted unlawful age discrimination under the Equalities Act 2010. In the light of that judgement the Government has

consulted on and proposed changes³ to various public sector schemes in order to move to a position where all scheme members are treated in the same way regardless of proximity to retirement and to address the position of those who were subject to transitional provisions that the court found to be unlawful.

27. The legal arrangements for the MPs' scheme differ from those for the public sector schemes about which the Government has consulted. This means that it is for IPSA to determine whether changes are needed to the MPs' scheme in the light of McCloud and, if so, what those should be. In line with our principles for MPs' remuneration more broadly, we have approached this principally as a matter of fairness, both to MPs and taxpayers. We considered the tests set out in the Equality Act 2010, the Government's proposed changes to public service schemes and the extent to which those were applicable to the MPs' pension scheme. We concluded that when the Equality Act tests were applied there were some members who were treated unfairly relative to others during the transition to the CARE scheme and therefore consulted on a proposal that we should make changes in response, and some key elements of what the response should be.
28. We are very grateful to all those who responded in relation to what we appreciate is a complex and technical matter. We received responses from 18 MPs or former MPs, the PCPF Trustees, two members of the public, the 1922 Committee and the Parliamentary Labour Party. These responses have informed our view of whether a response is needed and how to design a response that is fair, workable and value for money to taxpayers and the pension scheme. **Annex 3** contains a summary of the responses received to each consultation question and our reaction to them, but our key conclusions are summarised below.
29. There was widespread support for the principle that changes should be proposed in response to McCloud, alongside recognition that designing and implementing those changes effectively is a complex task which will involve cost to the taxpayer and the scheme in terms of both extra benefits payable and administration. We therefore think it is right to press ahead with preparing detailed proposals for change. Our plan would be to formally consult on those detailed changes towards the end of this year. Between now and then, we will work intensively on designing the detail of the rule changes and, in close collaboration with the PCPF Trustees, a timeline and approach to implementation. That work will give us a much deeper insight into what will be involved if we proceed. We therefore think it is appropriate to check before launching any second consultation whether in the light of that deeper understanding we are still confident that we can deliver a fair, workable and good value response and to consult the Trustees before making our decision. While our aim would be to find a solution that enabled us to consult on proceeding, we think it is prudent to acknowledge now that it may not be possible.
30. In the meantime, we have concluded in the light of the consultation that main lines of the proposed changes are likely to include:

³ See HM Treasury, *Public service pension schemes: changes to the transitional arrangements to the 2015 schemes*, CP373, February 2021. Separate consultations were also held on some individual schemes with distinct characteristics.

- a. An 'immediate' rather than a 'deferred' choice for those impacted, but over a longer timescale than that we originally consulted on and with a timetable better aligned to the next general election;
 - b. The closure to future accruals under the Final Salary Section as consulted on, with the timing aligned to the above, and with more detailed consideration to be given to the precise arrangements for those transferring, for example in relation to added years, before the second consultation.
31. We recognise that those impacted will want clear information to support their decisions, and that some may feel they want to take regulated financial advice. We are keen to work with the Trustees to ensure that clear, timely support is available to those impacted and will consider in the months ahead what form that would best take. We are aware that those who are active members may want to have an indication of how they are impacted before the next election, even if they are not required to make a choice until afterwards and will consider with the Trustees to what extent and how we can best accommodate this. Our aim is to ensure that impacted individuals are not taken by surprise by the possible implications of any decision they take, for example in relation to the potential need in some circumstances to pay a tax charge, but we cannot commit to providing access to full personalised advice on each and every person's circumstances.
32. The consultation has informed our view of areas where further detailed work is needed before final decisions are taken. These include areas such as the most appropriate defaults for those who do not make an active decision, and detailed arrangements for those with extra pension arrangements under one or other section.

Annex 1: Outcomes and guiding principles for our review of MPs' remuneration

1. During the review which concluded in 2015, we consulted on guiding principles for how we would make decisions about MPs' pay. We found these helpful in guiding our approach and explaining our thinking. For this review, we take a similar approach.
2. The outcomes we wish to achieve aim to capture the goals that underpin the Act of Parliament which created IPSA, and recognise explicitly that the office of MP is one which anyone not subject to a statutory disqualification is entitled to hold, if they are chosen by the electorate. Making this point explicit will help us to consider the equalities impact of our work and to reduce the possibility that there are any inadvertent barriers to diversity in the remuneration scheme we decide.
3. Taken together, these principles help us to ensure that our decisions are fair both to MPs, given the nature of the office they hold, and to the taxpayers who fund MPs' pay. We start with a strong presumption that this principle of fairness means all MPs should be paid the same, with additional payments made only to those who hold specified, additional parliamentary roles, such as chairs of select committees, which bring extra responsibilities.

Table 1: Outcomes and guiding principles for IPSA's review of MPs' pay

Outcomes: what MPs' remuneration arrangements are designed to achieve	
R1	The structure and level of MPs' overall reward:
R1A	<ul style="list-style-type: none"> • enables MPs to fully and effectively carry out Parliamentary duties
R1B	<ul style="list-style-type: none"> • is fair for all MPs given the diversity of MPs who may be elected by voters
R2	The determination and its implementation provide appropriate assurance that good value is obtained from public funds
Guiding principles: criteria we apply to ensure the remuneration arrangements deliver the outcomes	
P1	MPs should be fairly remunerated for the work they do and the total cost to the taxpayer should be affordable and fair
P2	MPs' overall remuneration should be considered as a whole package
P3	The package should have a clear rationale linked to the intended outcomes, and be cost-effective and efficient to administer
P4	The package should be sustainable in the medium term without the need for frequent, major changes
P5	As far as is practicable MPs' remuneration and reward should reflect the experience of other working citizens

Annex 2: Indicative, non-exhaustive list of sources for pay determination

Economic forecasts

Office for Budget Responsibility, Economic and Fiscal Outlook

Bank of England/Monetary Policy Committee,

Monetary Policy Report

Agents' summary of business conditions

Other forecasts referenced in the above

Earnings data and labour market trends (in addition to the above)

Office for National Statistics

Labour Market Trends

Average Weekly Earnings

Real Time Information (experimental statistics)

Other commentary on labour market statistics published from time to time

National Institute for Economic and Social Research (NIESR) Wage Tracker

Employer surveys and pay trends

Adecco/Chartered Institute of Personnel and Development (CIPD) Labour Market Outlook

Incomes Data Research (IDR) Pay Climate

Labour Research Department median basic pay awards and Workplace Report

Recruitment and Employment Confederation (REC)/KPMG Report on Jobs produced by IHS Markit

Xpert HR, open access median basic pay awards, with potential purchase of other resources

Public sector pay awards and pay strategy

Senior Salaries Review Body: mandates received from and advice to government

Office for Manpower Economics: occasional research reports

Annex 3: responses to IPSA's consultation on the approach to McCloud for the MPs' pension scheme

Q1 Do you agree that changes are needed to the MPs' pension scheme in the light of the McCloud judgement?

Only one respondent (MP/former MP) disagreed and their comments made clear that was because of concerns about how aspects of the particular proposals consulted on would affect their specific circumstances, rather than the principle of whether changes should be made. We will consider those points as we reflect further on how to respond to the judgement.

Many respondents explicitly expressed support for applying the principles of the judgement to the MPs' Scheme. The PCPF Trustees did not consider that a decision to change MPs' pensions in response to McCloud should lead to any further changes to MPs' overall remuneration arrangements.

IPSA response: in the light of the feedback, we conclude that it is appropriate to prepare detailed proposals on changes to the MPs' Pension Scheme in the light of the McCloud judgement. As previously indicated, these would be formally consulted on before any final decision and, where applicable, implementation. We will aim to find fair, workable and good value solutions to the practical challenges of implementation but may decide not to proceed if, in the light of our detailed preparatory work, we are not confident we can do so.

Q2 Do you agree with the proposed overall approach to McCloud?

Overall response

The majority of respondents did agree with the overall approach and those who did not typically highlighted one or more particular matters of concern rather than arguing specifically for no change. Some of those who did support the overall approach also indicated that they did not agree with every aspect of the more detailed proposals consulted on.

Areas of concern included the timing of implementation and basis for more detailed decisions such as defaults (both discussed further below).

Several respondents, including the PCPF Trustees and PLP, noted the difficulty of members potentially needing to pay a sizable lump sum of additional contributions at relatively short notice, and asked IPSA to explore the availability of repayment plan options to reduce the burden of paying additional contributions.

The 1922 Committee underlined the importance of communicating to impacted individuals the benefits as well as the costs associated with the options on which they would be asked to make a choice.

IPSA response: on the basis of the consultation we think there is clear support for developing more detailed proposals to change the MPs' Pension Scheme in the light of the McCloud case. We agree that impacted individuals should have information about both costs and benefits of the choice they will be asked to make. We will also explore the availability of repayment plan options for those who may need to make significant extra contributions as a result of exercising their choice.

'Immediate choice'

The PCPF Trustees and two individual MPs called for IPSA to adopt a deferred choice rather than an immediate choice approach. This would mean that impacted members would make their choice at the point they individually reached retirement.

The PCPF Trustees refer to arguments made by HM Treasury in relation to some other public service schemes and argue that the Judicial Scheme is not relevant because it is not a tax-registered scheme and so does not have the same tax issues. They argue that immediate choice would increase the burden on members and potentially lead to less equitable outcomes, arguing that MPs may have less job security than members of other public service schemes. They therefore consider that, despite the greater administrative complexity, a deferred choice would be preferable.

IPSA response:

It is correct that the original judicial scheme and proposed new scheme for the judiciary were not tax registered; however, the 'post-CARE' judicial scheme was tax registered, making considerations in relation to individuals' annual and lifetime allowances relevant to impacted members of the judiciary.

Like the judicial schemes, the MPs' Scheme is unusual among public service schemes in that all its active members are at least higher-rate taxpayers. It is relatively common for MPs to have additional earnings, which could bring them within the scope of the annual allowance taper for at least some of the relevant years. [The threshold income for the taper was £110k before being raised to £200k in April 2020.] In combination with the way pension tax allowances work, this may mean that there are a higher proportion of impacted members in the MPs' Scheme than in some other schemes who may be close to or exceed annual and lifetime allowances, resulting in a tax charge.

Under the deferred choice approach there are two points at which impacted members could face an additional charge as a result of the McCloud changes: once at the end of the 'relevant period' (at which point all impacted members would be returned to the FS section for the years in the relevant period, even if they ultimately did not wish to be) and again if they choose to take benefits under the new scheme on retirement. An 'immediate choice' approach means there will only be one change, if any, rather than potentially two.

We are conscious that tax matters are complex for individuals and that uncertainty as to tax implications can be highly stressful. We are concerned about adopting an approach which prolongs this uncertainty.

Although not the primary driver, we are also concerned about the administrative complexity and cost of servicing a deferred choice approach to a scheme which is much smaller than most of the public service schemes. This reduces the resource available to service pension scheme members' other needs and increases the risk of operational error and delays which ultimately affect scheme members.

For the reasons set out in our consultation and to reduce the complexity the change introduces to individuals' tax affairs we remain minded to prepare proposals on the basis of an immediate choice. We will look for ways to provide appropriate support to impacted members through the decision-making process. As discussed further below, we are also proposing to extend the implementation timeline which should make it easier in a number of respects for individuals to make their choice.

Choice of accrual rate

We had proposed that anyone choosing to return to the Final Salary section would do so on whichever of the three accrual rates they had paid into previously. The PCPF Trustees called for members to have a choice of accrual rate, particularly if they are asked to make an 'immediate choice', citing management of potential tax implications, scheme limits in the FS section and ability to mitigate the impact of backdated contributions. They argue that the PCPF has offered members the option to change accrual rate in the past, principally when contribution rates changed, and was therefore already able to administer such an approach.

IPSA response:

We appreciate that the Trustees are seeking to achieve a good outcome for impacted scheme members by seeking this flexibility. However, we are concerned that this approach would mean presenting those members with a highly complex range of choices which would make it difficult for many to make decisions in a timely way and is not necessary to address the underlying unfairness or ensure that impacted members receive a fair pension. We are further concerned about the extent of operational complexity this would introduce and increased risk of errors or consuming resource which could be directed at supporting scheme members in other ways. We are therefore not minded to adopt the approach proposed by the Trustees. However, we would consider in developing more precise proposals any particularly difficult cases the Trustees identified where there may be a specific need to provide additional flexibility.

Possibility for partially-protected members to maintain status quo

The Trustees proposed that some partially protected members would prefer to keep their current mix of benefits under the two sections than to have to choose one or other section for the whole of the relevant period. They argued that this was administratively simpler and may be necessary to ensure compliance with the statutory protection of accrued rights.

IPSA response:

We recognise that partially protected members are the group for whom there is not a 'no change' choice under the options we proposed. We proposed this approach to address the unfairness caused by differentiating between scheme members on the basis of their age. However, we recognise that this unfairness was not caused by the PPMs themselves. We will explore further whether it is possible to provide a 'no change' option to some or all PPMs while maintaining fairness towards other groups.

Possibility for fully protected members to transfer to the CARE section for the relevant period

The Trustees repeated their call for fully protected members to be able to transfer to the CARE Section for the relevant period. They note that this is likely to be relevant to members who have reached the 'scheme limits' in the FS Section. They also argue that if such members are eligible to accrue benefits in the CARE section after the end of the relevant period our approach is difficult to reconcile with our intention to limit the maximum achievable pension benefit in the interests of affordability.

IPSA response:

We remain of the view that the maximum pension accrual under the FS section represents an appropriate limit to FPMs' pension entitlements and a fair balance between the interests of MPs and taxpayers. This matter was consulted on and determined in 2018.

It is important to ensure that there is appropriate clarity in the scheme rules in future for all those who have reached maximum accrual under the FS section. We will consider carefully how to achieve this in a way that does not give rise to unintended consequences and will welcome input from the Trustees in this regard.

Q3 Do you agree that the date on which future accruals to the FS Scheme cease should be 1 April 2023?

Although some respondents, including the 1922 Committee and PLP, indicated that the proposed date was reasonable, and one said that 1 April 2022 ought to be feasible, most individual respondents and the PCPF Trustees drew attention to the interaction between the chosen end date and the timing of the next general election. In particular, several respondents noted that a specificity of the MPs' Scheme as distinct from other public service schemes is that MPs will often make plans for their retirement relative to the end of a parliamentary term.

IPSA response:

We understand that the cycle of parliamentary terms is a distinctive feature for MPs which is different from other public service schemes and brings particular challenges for active scheme members planning for retirement.

We will therefore consider whether it is fair to all those affected and feasible to align the end of the relevant period to the date of the next election. In doing so, we will need to take account of the Government's intention to repeal the Fixed Term Parliament Act, and to consider whether some kind of longstop date may be needed. Our decisions on this will also have implications for the timing of the options exercise for those impacted, which is discussed further below.

We will also consider how the cycle of the parliamentary term affects the information needs of active scheme members in particular about the impact of McCloud-related changes on their projected retirement benefits.

Q4 Do you agree that the 'default' should be that impacted members who were previously on the 1/50th and 1/60th accrual rates would revert to the FS scheme for the relevant period at their previous accrual rate, while those who were previously on the 1/40th would by default stay in CARE?

The 1922 Committee supported the proposal, with the proviso that information to impacted members should make clear the benefits as well as costs of each option available to them, and the PLP did not comment specifically on this point.

Most individuals who responded disagreed with the proposal. However, the explanatory comments suggest that some understood the proposals differently from what we intended. Some respondents had understood that those previously on the 1/40th accrual rate would not be offered the chance to re-join the FS section. Our intention was that all impacted individuals (ie all partially-protected and

unprotected members) would be explicitly offered the choice as to whether to be treated as members of the FS section under their old accrual rate, or the CARE section. Only if they did not express a choice within a specified period would the relevant default option apply.

Some individuals who did not disagree with the principle of having default options for those who do not express an active choice wanted further consideration of what the appropriate defaults should be.

The Trustees noted that any default options would need to respect the protection of members' accrued rights under the Constitutional Reform and Governance Act 2010, Schedule 6, paragraph 19. They argued that a 'deferred choice approach' would render a default option largely unnecessary.

IPSA response:

It is important to clarify that we want all impacted members to have the opportunity to make an active choice, and appropriate support to enable them to do so, and that those who were previously on the 1/40 accrual rate (not just those previously on 1/50 or 1/60) would be given the choice to return to the FS section at that accrual rate. A default would only apply where a member did not make a choice at the necessary time.

We continue to believe that it is necessary to identify one or more defaults which would apply in this situation. We do not agree that a deferred choice approach would obviate the need for this, though we do think that changing the implementation timeline for the immediate choice approach, as the Trustees proposed, could make it easier for more impacted members to make an active choice.

However, although there was some support for the defaults we outlined, we think it is prudent to give further thought to whether the default options need to be changed or further refined before determining whether our detailed proposals will be developed on this basis. We would welcome further input from the Trustees on that question.

Q5 Do you have any comments on the approach we should take to the 2017 or 2020 cost cap valuations?

One respondent considered this matter should be addressed through a separate consultation, while another indicated that it would grate on members to bear the cost of what appeared to be a mistake not of their making.

The PCPF Trustees argued that McCloud costs were not relevant to the form of cost cap included in the MPs' Scheme and should be excluded. They also questioned why IPSA had not agreed to waive the impact of any breach of the ceiling and whether any such breach in relation to the 2017 cost cap as a result of including McCloud costs would indeed lead to an increase in member contributions with effect from 1 April 2018.

Understandably, several individual respondents did not feel well placed to express a view on this point. One explicitly supported our proposed approach and another indicated that resolving this point should not delay the McCloud implementation. Another respondent considered it important to avoid retrospective increases in contributions for all scheme members.

IPSA response:

We recognise that this is a complex matter and are conscious that the government is reflecting on the cost cap mechanism more widely, and also that we will need to consider what is fair in relation to the specific situation of the MPs' Pension Scheme and its version of the cost cap.

Since we consulted, the Government Actuary has published an options paper on the cost cap mechanism and HM Treasury has published proposals for changes to the mechanism. We will consider these further before determining whether any changes are needed to the MPs' scheme rules.

Q6 Do you agree that impacted members should be asked to make their choice of scheme for the relevant period before April 2023?

As noted above, two individual respondents, along with the PCPF Trustees, called for a 'deferred choice' rather than an 'immediate choice' approach under which individuals would choose when they reached retirement. However, all other individual respondents agreed that impacted members should be able to make their choice before April 2023, with some explaining that this was to provide clarity and certainty for those planning their retirement, particularly those who might be retiring relatively soon afterwards. The 1922 Committee considered the proposed decision date reasonable provided impacted members had good information about their personal circumstances by 1 July 2022.

The PCPF Trustees noted that the production of information members would need to make decisions was dependent on factors including the administrators' systems changes and suggested that members might find it easier to make their decisions after the next general election. They underlined the importance of giving members enough time, particularly those with complex circumstances and argued that the immediate choice approach meant that consideration should be given to how financial advice for impacted members could be sourced and funded.

IPSA response:

We recognise that for active members of the scheme it may be important to understand the effect of the changes in good time to make retirement planning decisions in the context of the parliamentary cycle. Our preference continues to be that we should provide clarity as soon as practically possible to all those impacted about how the McCloud response could affect their pension provision. However, we recognise that while some active members may want earlier information to inform their decision-making before the next election, those whose situation may change at that election may prefer to make a firm decision afterwards. We are also mindful of the need to give sufficient time to prepare meaningful information and support to those impacted, and to those who then need to make a decision. We will therefore explore, in collaboration with the Trustees, whether there is scope to provide some earlier information for those who most need it, recognising that this could be more indicative and less personalised than that available later, and to extend the timing of the 'options exercise' for some or all impacted members. We will reflect on this alongside our consideration of the appropriate end point for the 'relevant period'.

Q7 Which if any cases should be treated as priority cases?

Many individual respondents saw merit in some or all the categories we had suggested and understood that there were practical reasons to address these cases first. Some were concerned that this could lead to differentiation between the importance of different cases and potentially less fair treatment of those who were not prioritised.

IPSA response:

We would like to reassure respondents that our intention is to identify cases where timeliness is particularly important, not to identify some individuals as more important than others or to create a 'first come, first served' approach where those cases addressed later would be at a disadvantage.

In the light of the consultation, we still plan to identify types of cases which might need to be addressed earlier than others, or through a slightly different process, to ensure a fair outcome. We still expect such cases to include those we consulted on, but we may identify others before making our detailed proposals.

Q8 Are there any other matters which need to be addressed in our final proposals for Scheme changes related to McCloud?

Among individual respondents a key theme was the need for sufficient support to enable impacted members to make potentially complex decisions without an undue burden on them.

One respondent called for those who had bought AVCs as a result of the move to CARE to have these contributions refunded. It also called for clarity on the extent to which any additional tax liabilities could be paid through the 'Scheme Pays' mechanism (it is important to note that the impacted individual still bears the ultimate cost of liabilities paid through the 'Scheme Pays' mechanism).

Several respondents called for clarity about the death in service benefits available to impacted members in different circumstances.

The PCPF Trustees called for flexibility to address a wide variety of individual circumstances which might not all be foreseeable in advance such as those with transferred-in benefits or who have transferred out, divorced members whose benefits are subject to a pension sharing order, members who have registered for pensions-related tax protections with HMRC, fully-protected members who have already accrued maximum benefits from the FS section and members who have paid or are currently paying additional contributions under the 'added pension' provisions in the CARE section or 'added years contracts' in the FS section.

They also sought confirmation that those paying contributions under an 'added years' contract would be able to continue to do so as long as they remain CARE members in line with current FS Rule 59.2.

IPSA response:

We are keen to work closely with the Trustees to ensure that there is appropriate clarity for impacted individuals in the range of situations they described in their response. We would then expect to address these issues in our second formal consultation. We will also liaise with the Trustees about their plans for 'Scheme Pays' and about how to ensure that timely and appropriate support is available for those who need to make decisions.