

HM Revenue and Customs  
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## **Consultation: The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023**

Thank you for your consultation seeking views on the draft Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023.

Cheshire Fire and Rescue Service are the sub-scheme administrator and Scheme Manager for the Firefighters' Pension Scheme in Cheshire. Local Government Pensions for our support staff are administered separately by Cheshire Pension Fund. Our response is with particular reference to the Firefighters' Pension Scheme.

Technical support for pensions tax matters is provided by our outsourced pension administrator, XPS pensions, as well as the Local Government Association (LGA). Both organisations will be responding to this consultation and will provide their feedback and views on the technical aspects of the draft regulations.

### **Comments on the Regulations**

1. Regulation 6 allows for a pension saving statement for the tax year 2022/23 to be provided by 6 October 2024 rather than 6 October 2023. We have a number of officers who are close to, or have already, breached their annual allowance. As a result, we feel this would present a risk for members as they would not be informed in a timely manner about their tax position for that tax year, which may impact their self-assessment.
2. Regulation 10 outlines that where a member has settled an annual allowance tax charge by lump sum, they will not be able to reverse this decision. There could be a risk that the member is not able to be in their pre-reform position, and therefore the discrimination isn't being fully removed.
3. Some regulations will have retrospective effect, but it would be welcomed if more clarity could be provided in each regulation as to whether retrospection will apply.
4. In October 2021, an immediate detriment framework was agreed between the LGA and Fire Brigades union, which was designed to provide Fire Services with a mechanism to remove the discrimination and pay out remedy to members who were eligible to retire prior to remedying legislation being finalised. It also reduced the risk of costly litigation against Services for not



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removing the discrimination.

5. However, there remained a number of risks and issues around pensions tax, one of which was the fact that late payments of lump sum more than 12 months after leaving are deemed to be unauthorised payments (UAP). The framework provided that Services would compensate members for any UAP charges incurred, which could be a significant cost burden. It was indicated in the HMRC policy document published in October 2021, that the Finance Act 2022 would change these rules to make payments authorised and that it would have retrospective effect to 6 April 2022. This would have mitigated this risk.
6. It is therefore disappointing that these regulations are not fully retrospective to 6 April 2022 and that they can't apply to members in scope for immediate detriment by virtue of the fact that the scheme regulations won't be in place until 1 October 2023.
7. Reference to 'new scheme administrator' and 'legacy scheme administrator' may give rise to confusion for Fire Services, as these will be the same.
8. Amendments to reporting requirements such as the extension of deadlines for pension saving statements and being able to report on future accounting for tax returns rather than amending previous returns are welcomed. This will reduce the administrative burden on Fire Services and our respective administrators.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jill Swift', on a light blue background.

**Jill Swift**  
**HR Business Partner – Payroll and Pensions**