

Ministry of Justice: Judicial Pension Scheme

1 Overview

1.1 Objectives

The Ministry of Justice: Judicial Pension Scheme (JPS) includes various judicial pension schemes which are described in the paragraphs which follow.

The 1981 Scheme

Salaried judges appointed before 31 March 1995 usually belong to a scheme established under the Judicial Pensions Act 1981. There is a right of election to transfer from the 1981 Scheme to the 1993 Scheme (see below) at any time up to six months after retirement.

Under the 1981 Act maximum benefits accrue over either 15 or 20 years. The qualifying conditions for pension benefits vary according to age and length of service requirements. The lump sum is twice the annual pension.

The 1993 Scheme

Salaried judges appointed between 31 March 1995 and 31 March 2015 usually belong to a scheme established under the Judicial Pensions & Retirement Act 1993 (JUPRA). Both the 1981 and 1993 schemes are unfunded, final salary occupational pension schemes.

The 1993 Act provides a lump sum of 2.25 times the member's annual pension. The annual pension is calculated at 1/40th of the highest of the last three years of pensionable pay, up to a level reflecting the former HMRC earnings cap, multiplied by the number of years of reckonable service, up to a maximum of 20. Pension benefits are payable from age 65, subject to five years' service.

A top up scheme operates to provide pension benefits for 1993 Act members in respect of salaries above the HMRC earnings cap. The 2018-19 earnings cap was £160,800 (2017-18: £154,200).

Members of the 1981 and 1993 schemes with full transitional protection (those with less than ten years to serve at the point of transfer on 1 April 2012) remain in their current scheme. Those with tapering protection will move to the JPS 2015 (see below) when the taper period comes to an end.

The 2015 Scheme

The JPS 2015 was established under the Judicial Pensions Regulations 2015 which came into effect on 1 April 2015. It applies to members of the 1981 and 1993 schemes without transitional protection. All new eligible judicial office holders appointed for the first time from that date become members of the scheme, unless they decide to opt out. The JPS 2015 is an unfunded career average scheme which includes both salaried and fee paid judges.

The scheme is based on a 'career average' accrual model and there is no restriction on the number of accruing years in service. The annual accrual rate is 2.32%. The scheme does not provide an automatic lump sum. It is however possible for members to commute part of their pension into a lump sum at the rate of £12 for every £1 of pension commuted, subject to HMRC limits.

Fee Paid Judicial Pension Scheme 2017

The Fee-Paid JPS 2017 is a pension scheme for eligible fee-paid judges with reckonable service between 7 April 2000 and 31 March 2015 and for service beyond that date for those eligible judges who, because of transitional arrangements, are not required to join the JPS 2015 scheme. The scheme was established under the Judicial Pensions (Fee-Paid Judges) Regulations 2017 and came into effect on 1 April 2017.

This is an unfunded, final salary occupational pension scheme that mirrors the benefits of the JUPRA Scheme. It provides for a lump sum of 2.25 times the member's annual pension with an annual pension calculated at 1/40th of the highest of the last three years of pensionable pay, multiplied by the number of years of reckonable service, up to a maximum of 20. Pension benefits are payable from age 65 subject to five years' service.

1.2 Spending controls

The Ministry of Justice: Judicial pension scheme budgets are not subject to pre-set departmental Expenditure Limit (DEL) control totals; they sit within a category of spending known as Resource Annually Managed Expenditure (AME), which can be revised and reforecast regularly. This is because net expenditure and cash payments are largely outside the control of the scheme administrators on a day to day basis, instead being affected by factors such as membership numbers, salary levels, mortality rates, the age profile of members and annual pension increases.

The **Resource AME** sought under the Ministry of Justice: Judicial pension Scheme Estimate is essentially the amount by which liabilities under the pension scheme are estimated to increase during the year, less the contributions paid by employers and employees towards those liabilities.

In addition, the **net cash requirement** represents the estimated net cash required for the year to cover payments of pensions, after taking account of estimated contributions and transfer values paid in by employees and employers. A negative value means that more is forecast to be received than paid in year.

1.3 Comparison of net spending totals sought

The table and graphic below show how the totals sought for the pension scheme compare with last year.

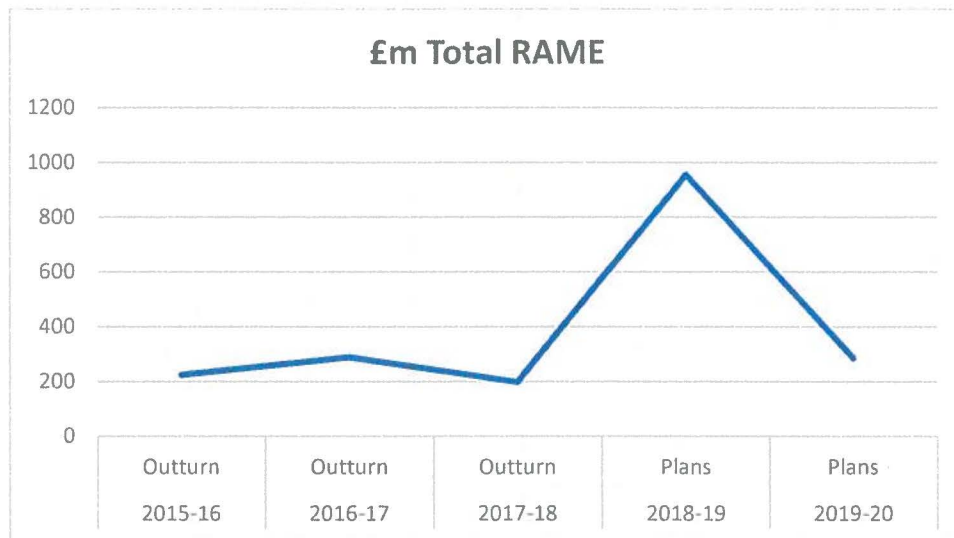
Net spending total Amounts sought this year Main Estimate 2019-20			Increase/(Decrease) Compared to final budget last year (Supplementary Estimates 2018-19)		Increase/ (Decrease) Compared to original budget last year (Main Estimates 2018-19)	
			£m	%	£m	%
Resource AME	Voted	175.5	(669.0)	79.22	(71.8)	(29)%
Resource AME	Non-Voted	111.2	(0.2)	(0.2)%	3.6	3.3%
Resource AME	Total	286.7	(669.2)	(233)%	(68.2)	(24)%

1.4 Key drivers of spending changes since last year

The provision sought under Resource AME is lower than last year mainly due to the non-inclusion of a large provision for the effects of the judgments in the O'Brien, Miller and McCloud cases (see note to table at section 2.1 for further detail).

1.5 Spending trends

The charts below show overall spending trends for the last five years and plans presented in Estimates for 2018-19 and 2019-20. As AME is re-forecast on an annual basis, there are no future plans beyond the current Estimate.



In 2018-19, we received additional funding of £750m in relation to potential provisions for the O'Brien, Miller and McCloud legal cases. It is not expected this level of provision will be required in future years.

1.6 Administration costs and efficiency plans

The costs of the administration of the scheme are borne by the scheme through subhead A and are forecast to amount to £0.917m in 2019-20.

2 Spending detail

2.1 Explanations of changes in spending

Subheads	Description	Detail	Resource AME				Is change significant? (>£10m & 10%) See explanatory note
			2019-20	2018-19	Change from last year		
			£ million	£ million	£ million	%	
A	Expenditure	<i>Current service costs</i>	123.795	125.610	(1.815)	(1.445)	
		<i>Interest on scheme liabilities</i>	134.000	120.000	14.000	11.667	1
		<i>Provisions</i>	121.000	750.000	(629.000)	(83.867)	2
		<i>Administration fee</i>	0.917	0.871	0.046	5.281	
		Sub total	379.712	996.481	(616.769)	(68.364)	
B	Expenditure	<i>Current service costs</i>	111.205	111.390	(0.185)	(0.166)	
		Sub total	111.205	111.390	(0.185)	(0.166)	
A	Income	<i>Employer and employee contributions</i>	(204.253)	(152.000)	52.253	34.380	3
		Sub total	(204.253)	(152.000)	52.253	34.380	
A	Net		286.664	955.871	(669.207)	(70.010)	

Notes

Differences which are above 10% and £10 million are explained below.

1. Interest costs have increased by £14m, mainly due to an increase in the discount rate.
2. The 2018-19 estimates allowed for £750m to make provision for the effect of the O'Brien, Miller and McCloud court cases. The only requirement in 2019-20 is for potential increases to these provisions, estimated at £121m.
3. Contribution rates are forecast to increase by £52.253m. This is due to an increase in the employer contribution rate from 38.45% to 51.35%, as recommended by the Government Actuary's Department following the results of the latest full actuarial valuation.

2.2 Changes to contingent liabilities

The JPS has the following two contingent liabilities:

1. Pension rights for eligible fee paid judicial office holders were established following a UK Supreme Court ruling in February 2013. There were further appeals from claimants in relation to the scope of retrospective remedies arising from this decision, which were partly resolved by a judgment of the Court of Justice of the European Union (CJEU) in November 2018. There is an outstanding issue regarding the time limits for making a claim, which will return to the Supreme Court in July 2019 (the Miller case). It is not possible to accurately measure any potential financial liability, over and above the provisions recognised, to the Scheme; and

2. The Court of Appeal in December 2018 upheld an Employment Appeal Tribunal decision that transitional protection in the Judicial Pension Scheme 2015 Regulations is unlawful on grounds of age discrimination (the McCloud case). MoJ has sought permission to appeal this decision. It is not possible to accurately measure any potential financial liability, over and above the provisions recognised, to the Scheme.

2.3 Estimated scheme liabilities

The latest valuation of scheme liabilities was £4.62 billion as per the 2017-18 Annual Report and Accounts. At that time there were 11,585 scheme members.

[Judicial Pension Scheme Annual Report and accounts 2017-18](#)


An updated valuation will be produced for the 2018-19 Annual Report and Accounts.

The Scheme is subject to full actuarial valuations at intervals not exceeding four years, the last of which (as at 31 March 2016) has now been completed. This valuation covers all schemes except the 2017 Scheme (which will be included in the next full valuation as at 31 March 2019). The operation of the cost control mechanisms has, however, been paused pending the outcome of the appeal on the transitional protection issue. In order to ensure that employers are meeting the increased costs of providing pensions, changes to the employer contribution rate from 1 April 2019 will go ahead as if the control mechanisms had not been paused.

3. Accounting Officer approval

This memorandum has been prepared according to the requirements and guidance set out by the House of Commons Scrutiny Unit, available on the Scrutiny Unit website.

The information in this Estimates Memorandum has been approved by myself as Departmental Accounting Officer.



Sir Richard Heaton

Principal Accounting Officer

Permanent Secretary

Ministry of Justice

12 April 2019