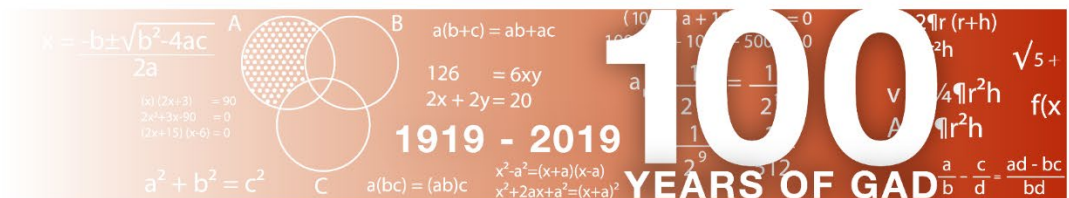# New Judicial Pension Scheme 2015

Annual Allowance Charges: Calculation of Scheme Pays Offset

Date: 26 September 2019

Contents

1   Introduction

1.1   This note is addressed to the Lord Chancellor in his capacity as the Scheme Manager of the New Judicial Pension Scheme 2015 (NJPS 2015), which came into force from 1st April 2015 by the Judicial Pension Regulations 2015 ("the Regulations").

1.2   This document sets out the guidance to the scheme manager on the general method for assessing a pension offset, under Regulation 159(2) of the Regulations, that is applied to a NJPS 2015 member who incurs an Annual Allowance charge (as defined in Section 227 of the Finance Act 2004) and subsequently elects, under Regulation 159(1)(a) of the Regulations, for the NJPS 2015 to meet part, or all, of this charge through the "scheme pays" mechanism.

1.3   The scheme manger is responsible for these factors. Any reduction in benefits where the annual allowance charge is paid by the scheme manager must be consistent with normal actuarial practice, as described by Regulation 159(3)(b) of the Regulations.

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1.4   The tables in section 4 set out the factors required for determining pension offsets.

1.5   The factors provided in this note have been prepared in light of the advice on assumptions in our letter to MoJ dated 30 October 2018.

1.6   This guidance is intended to supersede any factors or advice previously issued, for the purposes of Annual Allowance calculations, carried out from 1 April 2019. No advice or factors previously issued should be used for cases after this date. In particular, this guidance supersedes:

        "New Judicial Pension Scheme 2015: Annual Allowance Charges: Calculation of Scheme Pays Offset- Factors and guidance" dated 15 January 2016.

        and

        Addendum to GAD Guidance Note "Annual Allowance Charges: Calculation of Scheme Pays Offset" dated 15 April 2016.

1.7   The remainder of this introduction contains:

   • details of the implementation and future review of this guidance,

   • statements about third party reliance and liability

1.8   In the remainder of this note:

   • the second section describes the scheme pays mechanism and sets out the calculation of the offset

   • the third section provides example calculations

   • the fourth section contains the relevant factors

- Appendix A sets out the assumptions underlying factors contained in this guidance note

- Appendix B sets out some important limitations

Exclusions and Scope

1.9   Administrators should satisfy themselves that the pension offset resulting from a scheme pays election complies with all legislative requirements including, but not limited to, tax requirements. Any legal advice in this area should be sought from an appropriately qualified person or source.

1.10   The tables in this note should be used only to calculate the pension and lump sum debits applying to a member who has elected for the scheme to pay annual allowance related tax charges on their behalf.

1.11   These factors should not be used to calculate debits in respect of lifetime allowance tax charges, or debits resulting from pension sharing on divorce.

1.12   This guidance note does not cover the method for determining the amount of any Annual Allowance charge, Cash Equivalent Transfer Values (CETV), or the service credits on transfers-in.

1.13   The administrator should ensure that a member is eligible to use the scheme pays mechanism before applying the approach set out in this guidance note.

Implementation and review

1.14   The factors and guidance contained in this note should be followed with effect from 01 April 2019. This implementation date has been determined by MoJ. This guidance will apply from the date of issue.

1.15   This guidance has been written for pension administrators and assumes some knowledge of general pension terminology, and some familiarity with retirement calculations for the New Judicial Pension Scheme 2015. Any questions concerning the application of the guidance should, in the first instance, be referred to MoJ.

1.16   In line with best practice and in order to make sure that factors are being used as intended and the instructions are fit for purpose, we suggest that some example calculations are sent to GAD for review.

1.17   The factors contained in this guidance will be subject to review periodically. This will depend on external circumstances, for example whenever there is a change in the SCAPE basis; when changes in the actuarial assumptions adopted for other scheme factors take place; or following each future actuarial valuation where mortality and other relevant experience is reviewed or if other credible and material information comes to light

Third party reliance

1.18   This guidance has been prepared for the use of MoJ and the scheme administrators for the purposes of demonstrating the application of the factors covered by this guidance only. This guidance may be published on MoJ and the scheme administrator's website but must not otherwise be reproduced, distributed or communicated in whole or in part to any other person without GAD's prior written permission.

1.19   Other than MoJ and the scheme administrators, no person or third party is entitled to place any reliance on the contents of this guidance, except to any extent explicitly stated herein. GAD has no liability to any person or third party for any action taken or for any failure to act, either in whole or in part, on the basis of this guidance, whether or not GAD has agreed to the disclosure of its advice to the third party.

2 Annual Allowance – Scheme Pays Mechanism

Introduction

2.1 This section sets out the method and instructions for calculating the pension offset applied to a member who incurs an Annual Allowance charge in the scheme and gives notice to the scheme manager who then satisfies the liability.

2.2 It is our understanding from HM Treasury's initial documentation prepared during the development of the revised Annual Allowance regime, that costs incurred by the scheme administrator in relation to operating the scheme pays mechanism may not be recovered from the member concerned.

2.3 MoJ has confirmed that the Relevant Date (also known as the Implementation Date) will be the day coincident with the end of the pension input period. From 2016/17 financial year, we understand that the Relevant Date is 31 March each year.

Calculation of the initial pension offset

2.4 The calculation of the pension offset for different categories of member is set out in the following sections. We note that the scheme pays pension offset will be based on the pension relating to NJPS 2015 benefits only. Where, at retirement, the pension is insufficient to cover the pension offset then the case should be referred to GAD.

Pension offset for an active member

2.5 The calculation depends on whether the member is below, or has attained, normal pension age at the Relevant Date. Details for the two situations are set out below.

2.5.1 Where the active member is below normal pension age, the principle is that the pension offset acts like a negative deferred pension. The offset should be expressed as a deduction to the member's pension which is to be recovered from the member's normal pension age. The calculation will be carried out at the Relevant Date for the particular member. The calculation of the pension offset is:

Pension offset = AATAX / (AAFACa x REV)

Where:

AATAX = the Annual Allowance tax charge that the member has notified the scheme that they wish to meet via the scheme pays mechanism.

AAFACa = the Annual Allowance scheme pays factor from Table A1 based on the member's age at the Relevant Date. These tables have NPA specific factors and are included in Section 4 of this note. For this purpose, NPA should be based on the assumed State Pension age set out in the Public Service Pensions (Valuations and Employer Cost Cap) Directions 2014[1].

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[1]
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411287/HMT_Direction

> *REV = the revaluation factors from Table B1 for the number of 6 Aprils between the Relevant Date and the member's normal pension age*

The pension payable to the member on retirement at normal pension age will be reduced by an amount equal to the member's pension offset.

2.5.2 Where the active member has already attained normal pension age, the principle is that the pension offset acts like a negative pension entitlement. The offset should be expressed as a deduction to the member's pension which is to be recovered once the member retires. The calculation will be carried out at the Relevant Date for the particular member. The calculation of the pension offset is:

Pension offset = AATAX / AAFACa

Where:

AATAX = the Annual Allowance tax charge that the member has notified the scheme that they wish to meet via the scheme pays mechanism.

AAFACa = the Annual Allowance scheme pays factor from Table A1 based on the member's age at the Relevant Date.

The pension payable to the member on retirement will be reduced by an amount equal to the member's pension offset, adjusted to allow for the period between the Relevant Date and the date of retirement.

2.6 Pension offsets do not affect GMPs.

2.7 Administrators should store the offset calculated above with the Relevant Date on the member's record. Where a member has multiple pension offsets, they should be recorded separately.

2.8 The pension offset should be increased in accordance with the relevant provisions of the Regulations or other relevant NJPS 2015 Regulations during the period between the Relevant Date and the member's eventual retirement as if it were a deferred pension. This is using the most recent government issued tables on Public Service Pension Increases, under the Pensions (Increase) Act 1971[2].

Contingent survivor benefits

2.9 The benefits payable to a spouse, civil partner or other partner who is eligible to receive a pension on the member's death will not be reduced as a result of the scheme pays mechanism. This will apply regardless of whether the member dies during active service, in deferment or after retirement.

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s_9_Mar_2015.pdf
As at the date of this guidance, there have been no amendments made to paragraph 18 of the HMT directions which set out the assumptions for State Pension Age.
[2] https://www.gov.uk/government/collections/public-service-pensions-increases

Other benefits

2.10 No offset will be applied to children's pensions.

2.11 No offset will be made to the lump sum death grant payable to an active member who dies in service.

2.12 No offset will be made to the death in deferment lump sum award that is payable to deferred members who incurred an Annual Allowance charge prior to exit and elected for the scheme pays mechanism. However, the lump sum will be based on the pension after any scheme pays offset has been applied.

2.13 No offset is made to any lump sum paid on death after retirement that is payable to pensioner members who incurred an Annual Allowance charge prior to exit and elected for the scheme pays mechanism. However, the lump sum will be based on the pension after any scheme pays offset has been applied.

Adjusting benefit offsets on leaving

2.14 If the member leaves the scheme prior to receipt of their pension, then the pension offset should be revalued to date of exit by treating it as a negative deferred pension which applies to the member benefits only. The deferred pension can then be revalued to date of retirement in the normal way.

Adjusting benefit offsets at retirement

2.15 This section sets out the method and instructions for calculating the pension offset to be applied at the point of retirement from active service. In many cases this could be several years after the pension offset was initially calculated. The member's normal pension age at retirement may be different to their normal pension age at the time the pension offset was calculated, because of changes to State pension age. MoJ have confirmed that the amount of the pension offset should not be recalculated if State Pension age changes.

2.16 When the member retires, the total pension is initially calculated ignoring the pension offset. The pension is then reduced to allow for the pension offset. The offset should be revalued as described in paragraph 2.8. If the pension is not drawn at normal pension age then the pension offset will need to be adjusted to allow for early or late payment.

2.17 The pension offset to be applied at retirement if the member retires at normal pension age is as follows:

Pension offset at retirement at normal pension age = Pension offset x PI

Where:

Pension Offset = as calculated in paragraph 2.5

PI =   the pension increase factor in line with the Pension (Increase) Act between the Relevant Date and the April immediately before the date of retirement.

2.18 The pension offset to be applied at retirement if the member retires before normal pension age is as follows:

Pension offset at retirement before normal pension age = Pension offset x PI x ERF

Where:

Pension Offset = as calculated in paragraph 2.5

PI   =   the pension increase factor in line with the Pension (Increase) Act between the Relevant Date and the April immediately before the date of retirement.

ERF   =   where the member retires in ill-health contact GAD for the appropriate factor; for all other cases refer to the latest version of our "Early Payment of Pension Guidance". Administrators should take care to ensure that the most recent Early Retirement Factors are applied.

2.19 The pension offset to be applied at retirement if the member retires after normal pension age depends on whether the member was above or below normal pension age at the Relevant Date, and the two situations are covered separately as follows:

2.19.1 Where the member was below normal pension age at the Relevant Date the pension offset at retirement is as follows:

Pension offset at retirement after normal pension age
= Pension offset x PI x (100% + LRF)

Where:

Pension Offset = as calculated in paragraph 2.5

PI   =   the pension increase factor between the Relevant Date and the date of retirement.

LRF   =   late retirement factor from Table C1.

2.19.2 Where the member had already attained normal pension age at the Relevant Date the pension offset at retirement is as follows:

Pension offset at retirement after normal pension age
= Pension offset x PI x (100% + LRF1) / (100% + LRF2)

Where:

Pension Offset = as calculated in paragraph 2.5

PI   =   the pension increase in line with the Pension (Increase) Act between the Relevant Date and the date of retirement.

LRF1 =   late retirement factor from Table C1 applicable to the period between normal pension age and actual retirement, and

LRF2 =   late retirement factor from Table C1 applicable to the period between the normal pension age and the Relevant Date.

Additional guidance for certain specific circumstances

2.20 **Interaction between Annual Allowance and scheme pays Lifetime Allowance ("LTA") charges**
We understand that when calculating LTA charges the pension tested should be that which would come into payment after allowing for the impact of any Annual Allowance scheme pays offsets. The calculations set out in this document should therefore be carried out prior to any LTA test being applied to these members.

2.21 **Multiple Annual Allowance and scheme pays offsets**
Members may breach the Annual Allowance on more than one occasion during their careers. Since there is no limit on the number of times a member may opt to utilise scheme pays (subject to usual eligibility), a member may also have multiple Annual Allowance scheme pays offsets. In this circumstance each offset can be considered separately and treated in accordance with the guidance set out above.

2.22 **Interaction between Annual Allowance, scheme pays offsets and pension debits**
It is possible for members to have both AA scheme pays offsets and pension debits resulting from Pension Sharing on Divorce ("PSOD"). In this case each instance of the Annual Allowance scheme pays offset or the PSOD pension debit is treated in accordance with the relevant set of guidance.

2.23 **Members exercising options at the point of retirement**
Some members are able to exercise options at the point of retirement such as commuting pension for lump sum. This guidance note does not attempt to illustrate the interaction between Annual Allowance scheme pays offsets and any of these member options.

2.24 **Interaction between scheme pays offsets and flexible retirement**
Where a member opts to draw-down their membership, the offset relating to that part of the membership which is being drawn-down should be applied at the point of partial retirement (and having regard to paragraphs 2.18 to 2.20 where relevant). Where the member elects to draw-down only a proportion of the membership, the offset should be pro-rated (in proportion to the membership being drawn-down) and applied to the relevant benefit being drawn-down, with allowance for early / late retirement factors as appropriate. The remaining offset should be applied when the member eventually retires.

3 Example calculations

3.1 This section provides some examples of the calculations described by this note.

Example 1: Calculation of the pension offset

The following information is needed for this calculation:

A.	Member's date of birth	23 January 1974
B.	Tax year Annual Allowance charge is incurred	2019/20
C.	Relevant Date	5 April 2020
D.	Member's age (last birthday)	46 years
E.	Gender	Male
F.	Tax charge	£4,000
G.	Normal pension age (illustrative)	67

From 2.21, the formula for calculating the pension offset is:

Pension offset = AATAX / AAFAC

We have:

AATAX = £4,000 (from **F**)

AAFACa = 7.29 (which is the scheme pays factor for a male member at age 46 and NPA 67, obtained from **Table A1**)

6 Aprils between the Relevant Date and NPA 67 = 21

So REV = 1.52 (from **Table B1**)

Substituting these values into the formula we get:
Pension offset = £4,000 ÷ (7.29 x 1.52) = £360.98 pa
This offset is recorded on the member's record with Relevant Date of 5 April 2020.

This offset will increase in line with the Pensions (Increase) Acts and will be adjusted if the member's pension comes into payment before or after normal pension age.

Example 2: Member retiring at normal pension age in normal health, with pension offset

The following information is needed for this calculation:

A. Member date of birth	23 March 1953
B. Retirement date	31 March 2018
C. Member age	65
D. Gender	Male
E. Member's pension at retirement before offset	£30,000 pa
F. Pension offset for 2015/16 (at 65)	£450 pa
G. Pension increase uprating factor 2015/16 (from 2015/16 offset Relevant Date, 5 April 2016, to retirement) (illustrative)	1.04

From paragraph 2.17, the formula for calculating the pension offset at retirement is:

Pension offset on retirement at normal pension age =

Pension offset x PI.

We have:

Pension offset = £450 (from **F.**)

PI = 1.04 (from **G.**)

Substituting these values into the formula we get:

Adjusted pension offset	= £450 x 1.04
	= £468.00 pa

The pension to be implemented is the full pension (£30,000 pa from **E.**) less the pension offset at the retirement age. Therefore the pension to be implemented is:

= £30,000 – £468

= £29,532 pa

Example 3: Member retiring after normal pension age in normal health, with pension offset

The following information is needed for this calculation:

A. Member date of birth	23 March 1953
B. Retirement date	31 August 2020
C. Member age at retirement	67 years 5 months
D. Member NPA	65
E. Gender	Male
F. Member's pension before offset (including late retirement age additions)	£30,000 pa
G. Pension offset for 2015/16 (at 65)	£450 pa
H. Pension increase uprating factor 2015/16 (from 2015/16 offset Relevant Date, 5 April 2016, to retirement) (illustrative)	1.10

From paragraph 2.19, the formula for calculating the pension offset at retirement is:

Pension offset on retirement after normal pension age
= Pension Offset x PI x (100% + LRF)

Here the member is aged 67 and 5 months at retirement, with NPA 65. Linear interpolation of the age 67 factor and the age 68 factor from table C1, from the NPA 65 column, is used to calculate the value of LRF because the member is not an exact age at retirement. The calculation is as follows:

LRF= 7/12 x 11.7% + 5/12 x 18.4% = 14.5%

We have:

Pension offset = £450 (from **G.**)

PI = 1.10 (from **H.**)

Substituting these values into the formula we get:

Adjusted pension offset	= £450 x 1.10 x (100% + 14.5%)
	= £566.78 pa

The pension to be implemented is the full pension (£30,000 pa from **F.**) less the pension offset at the retirement age. Therefore the pension to be implemented is:

= £30,000 – £566.78

= **£29,433.22 pa**

4 Tables of factors

Table A1 (Table 601 in the consolidated factors spreadsheet) – Scheme pays factors based on normal pension age (NPA)

Age last birthday at relevant date	NPA 65	NPA 66	NPA 67	NPA 68
38			5.24	4.87
39			5.46	5.08
40			5.69	5.29
41			5.93	5.51
42			6.18	5.74
43			6.44	5.98
44			6.71	6.23
45			6.99	6.49
46			7.29	6.76
47			7.59	7.05
48			7.91	7.35
49			8.25	7.65
50		9.26	8.60	7.98
51		9.65	8.96	8.32
52		10.06	9.35	8.67
53		10.49	9.74	9.04
54		10.94	10.16	9.42
55		11.41	10.60	9.82
56		11.91	11.05	10.24
57		12.42	11.53	10.69
58		12.97	12.03	11.15
59		13.53	12.56	11.64
60	15.21	14.13	13.11	12.15
61	15.89	14.76	13.69	12.68
62	16.60	15.42	14.30	13.24
63	17.35	16.11	14.94	13.83
64	18.14	16.84	15.61	14.45
65	18.26	17.61	16.33	15.11
66	17.70	17.72	17.08	15.80
67	17.13	17.15	17.17	16.54
68	16.56	16.57	16.59	16.62
69	15.99	15.99	16.01	16.03
70	15.41	15.41	15.42	15.44

Notes:
1. The offset applies only to the member's pension. Dependants' benefits are not affected.
2. The offset is equal to the tax charge divided by the appropriate factor.
3. Interpolation should be used for non-integer normal pension ages.

Table B1 (Table 603 in the consolidated factors spreadsheet) – Pension Revaluation factors

Pension Revaluation Factors	
Number of 6 Aprils before NRA	Factor
0	1.00
1	1.02
2	1.04
3	1.06
4	1.08
5	1.10
6	1.13
7	1.15
8	1.17
9	1.20
10	1.22
11	1.24
12	1.27
13	1.29
14	1.32
15	1.35
16	1.37
17	1.40
18	1.43
19	1.46
20	1.49
21	1.52
22	1.55
23	1.58
24	1.61
25	1.64
26	1.67
27	1.71
28	1.74
29	1.78
30	1.81
31	1.85
32	1.88
33	1.92
34	1.96
35	2.00
36	2.04
37	2.08
38	2.12
39	2.16
40	2.21

Table C1 (Table 801 in the consolidated factors spreadsheet) – Late payment supplement factors

Age last birthday at relevant date	NPA 65	NPA 66	NPA 67	NPA 68
65	0.0%	0.0%	0.0%	0.0%
66	5.6%	0.0%	0.0%	0.0%
67	11.7%	5.8%	0.0%	0.0%
68	18.4%	12.1%	6.0%	0.0%
69	25.7%	19.0%	12.5%	6.2%
70	33.6%	26.6%	19.7%	13.0%

Notes:

1. Linear interpolation should be used in cases members are not at an age exact at the date of retirement.

Appendix A: Principal assumptions underlying factors

Financial assumptions

Nominal discount rate	4.448% pa
CPI	2.00% pa
Real discount rate (in excess of CPI)	2.40% pa

Mortality assumptions

Base mortality tables and adjustments	92% of S2NMA_L (M) and 80% of S2NFA (F) (as per 2016 valuation)
Future mortality improvement	Based on ONS principal UK population projections 2016
Year of use	2020

Other assumptions

Proportion of male members for unisex factors	70%
Proportion partnered	90% of men and 80% of women are assumed to be married or have a qualifying partner at retirement
Age difference between member and partner	Males assumed 3 years older than their partners and female members assumed 2 years younger than their partners
Allowance for commutation	Nil

Appendix B: Limitations

B.1   This guidance should not be used for any purpose other than those set out in this guidance.

B.2   The factors contained in this guidance are subject to regular review. Scheme managers and administrators need to ensure that they are using the latest factors, as relevant, when processing cases.

B.3   Advice provided by GAD must be taken in context and is intended to be considered in its entirety. Individual sections, if considered in isolation, may be misleading, and conclusions reached by a review of some sections on their own may be incorrect. GAD does not accept responsibility for advice that is altered or used selectively. Clarification should be sought if there is any doubt about the intention or scope of advice provided by GAD.

B.4   This guidance only covers the actuarial principles around the calculation and application of Annual Allowance scheme pays offset factors. Any legal advice in this area should be sought from an appropriately qualified person or source.

B.5   Scheme managers and administrators should satisfy themselves that Annual Allowance scheme pays offset calculations and benefit awards comply with all legislative requirements including, but not limited to, tax and contracting-out requirements.

B.6   This guidance is based on the Regulations in force at the time of writing. It is possible that future changes to the Regulations might create inconsistencies between this guidance and the Regulations. If users of this guidance believe there to be any such inconsistencies, they should bring this to the attention of MoJ and GAD. Under no circumstances should this guidance take precedence over the Regulations. Administrators should ensure that they comply with all relevant Regulations.