| **No. 1** | **REMOVE THE LINK WITH THE PENSION SCHEMES** |
| --- | --- |
| The Department considers that this will bring many benefits to the membership. There is no rationale for the Injury Benefits Scheme to remain linked to Pension Schemes and in fact you do not need to be a member of the pension schemes to qualify for an Injury Benefit. A concern expressed by members is the time taken to process awards. Removing this link will simplify the administration process. It will also make calculations easier and quicker to do as they will be based on basic pay rather than pensionable earnings as defined in each scheme.  The Scheme rules as they currently stand do not legislate for the nuvos (2007) arrangement or alpha (2015) scheme. Having a standalone Injury Benefits Scheme will remove the necessity to make an amendment every time there is a change to Pension Scheme legislation. | |
| **Question: Should the Injury Benefit Scheme be amended to remove any link to the Pension Schemes and therefore stand alone as a separate scheme?** | |
|  | |

| **No. 2** | **DEFINE “INJURY” AND “INJURY ON DUTY”** |
| --- | --- |
| The Department considers that clarity is needed around key terms in the existing rules. There is ambiguity around qualifying injuries and in particular rule 1.3a which states; “References in rule 1.3 to "duty" include activities reasonably incidental to the duty”. This rule is vague and open to varying interpretations of its intended meaning. Through experience from past cases, decisions have been challenged by both members and The Pensions Ombudsman because of this ambiguity. For example, perception cases where there is a disagreement between the applicant and their line manager or an injury occurs away from the normal workplace and there appears to be no causal link, however it can be construed that the current rules do not preclude these types of “injuries”. | |
| **Question: Should further clarity be provided around definitions of “injury” and “on duty” for example; “Injury on duty” will be confined to mean an injury sustained as a direct result of and caused by the employed position?** | |
|  | |

| **No. 3** | **ELIGIBILITY FOR THOSE WHO HAVE LEFT** |
| --- | --- |
| The Department considers that if an individual has already left the NICS with normal or full retirement benefits, they cannot make a claim for injury benefit, as there is no injury-related loss of earnings experienced in these circumstances. Full pension should be the most that claimants would reasonably have expected to leave with. Injury Benefits should be considered for applicants who leave with reduced benefits within set timeframes from date of leaving (as per point 4 below). | |
| **Question: Should there be a liability under the Injury Benefit Scheme if the individual has already left the NICS with full pension benefits under normal retirement? How would any potential loss of earnings be calculated?** | |
|  | |

| **No. 4** | **TIME LIMITS FOR RETROSPECTIVE CLAIMS** |
| --- | --- |
| The Department accepts that time limits must be introduced for retrospective claims and that the status quo of no time restrictions cannot continue. Retrospective claims and backdating cause substantial arrears payments with no control mechanism in place. The NIAO highlighted this aspect of the scheme so a change must be made. Cash spend on Injury Awards across all NICS employers during 2015-16 was £1.32 million and has since almost trebled to £3.876 million for 2020-21. The trend shows cash spend increasing year on year and it is unsustainable. The main contributing factor for the high spend is the retrospective element as there are currently no limits on backdating claims. Other benefit awards have imposed time limits ranging from only paying from the date of receipt of the application up to a permitted maximum of 3 months retrospection regardless of the category of injury or how long it took for the injury to manifest or be diagnosed. | |
| **Questions: When should Injury Benefit claims be accepted and paid from? For example;**  **4(a) From date application is received?**  **4(b) From date of (or date of diagnosis of) eligible injury providing application is received within 3 months of this date?**  **4(c) Should receipt of applications be time bound after leaving NICS employment, i.e. within 3 months of date of leaving?**  **4(d) Please suggest reasonable alternative timeframes and justification.** | |
|  | |

| **No. 5** | **LUMP SUM PAYMENT** |
| --- | --- |
| The Department considers that the lump sum element as currently paid is no longer in keeping with the aim of the scheme.  At inception, the Scheme rules were modelled on the classic pension arrangement and mirrored the classic benefits of a lump sum and monthly pension. The Scheme makes awards only in respect of loss of earning capacity and is designed to bring the beneficiary’s income from specified sources up to a guaranteed level. If a lump sum is paid in addition to a monthly top-up amount, this brings the income above this level. | |
| **Question: Should the lump sum element be removed in every case?** | |
|  | |

| **No. 6** | **OFF-SETTING** |
| --- | --- |
| The Department considers that there is a need to explore the issue of off-setting for claimants of this benefit.  The current Injury Benefits Scheme can off-set any payments from Public Funds and compensation payments that provide for loss of earnings in relation to the qualifying injury. There may be issues when claimants have income from other sources such as re-employment. Injury Benefit top-ups are designed to keep income at a guaranteed level. | |
| **Questions:**  **6(a)** **Are there any areas of income from Public Funds which should be disregarded for off-setting purposes?**  **6(b) Should other sources of income, e.g. earnings from re-employment be off-set?** | |
|  | |

| **No. 7** | **REVIEW MECHANISM** |
| --- | --- |
| The Department considers that this is necessary to address not only new claims but also existing claims as at present there is no review mechanism for Injury Benefits that can be instigated by Civil Service Pensions. Other health-related benefits or schemes have review mechanisms in place. Recipients of Injury Benefit Awards may experience an improvement in their condition or income which could impact on their Injury Benefit Award. | |
| **Question: Should a periodical review mechanism be introduced in accordance with appropriate timescales, for example at intervals not exceeding 5 years or at any time the Scheme Manager directs for existing and new awards?** | |
|  | |

| **No. 8** | **DURATION OF AWARDS** |
| --- | --- |
| The Department considers that the payment of an injury benefit award for life, which is the current practice, is unsustainable. Payments are made to surviving adults and dependants when an employee dies as result of a qualifying injury. These are also currently paid for life. “For life” awards are not always equitable as someone at pension age with an injury award could earn more than someone with a retirement pension. Injury Benefits are designed to top-up earnings where there is a loss of earnings capacity due to a work-related injury. There is no normal expectation to earn a salary in the employment market past State Pension Age. | |
| **Question: Do you agree that it would be fair and reasonable to end all injury benefit awards at State Pension Age at the latest, including ending payments to surviving adults and dependants from the date the claimant would have reached State Pension Age?** | |
|  | |

| **ANY OTHER COMMENTS** |
| --- |
| **Please use this sheet for any additional comments you may have.** |
|  |
| **Response Submitted by:**  **On behalf of Organisation:**  (if applicable) |