



Department
for Education

Consultation – Teachers’ Pension Regulations 2014

**Summary of comments received and
government response**

March 2014

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Introduction

Public service reforms

1. Following the recommendations of the Independent Public Service Pensions Commission (the Commission), chaired by Lord Hutton of Furness, public service pensions are being reformed to make them more sustainable and affordable in the long term, and fairer to both members and the taxpayer. People are living much longer, on average 10 years longer than was the case in the 1970s. This means that the cost of providing public service pensions, including teachers' pension, has increased by a third in the last 10 years. Despite recent reforms, most of those costs are being met by taxpayers.
2. On 9 March 2012, the Department for Education (the Department) published a Proposed Final Agreement (PFA) which set out the framework for a reformed Teachers' Pension Scheme (TPS). The key provisions of the reformed scheme include: a pension based on career average earnings; an accrual (build up) rate of 1/57th; and a Normal Pension Age (NPA) equal to State Pension Age (SPA), but with options to enable scheme members to retire earlier or later than their NPA.
3. Following detailed consideration, and discussions with representative groups, on 7 May 2013 the Department launched a consultation on its policy proposals for implementing the PFA. That consultation closed on 28 June and on 13 September the Department published its response to the consultation.
4. Full details of the PFA, the policy consultation and the Government's response to it are available at:

<http://www.education.gov.uk/schools/careers/payandpensions/b00204965/proposed-teacher-pension-scheme-reforms>
5. The reforms to the TPS will ensure that the scheme remains one of the very best available – with guaranteed levels of benefits and inflation proofing. It will provide members with a high-quality and sustainable pension that reflects their valued service to education, and will help employers to continue to recruit and retain excellent teachers.

Why the Department consulted on the regulations for the reformed TPS

6. On 13 September 2013 the Department published the consultation document, Consultation – Teachers' Pension Regulations 2014. The TPS is given effect by regulations and the consultation document contained a draft of the Teachers' Pension Scheme Regulations 2014 showing the detail of how the reformed TPS should operate.
7. The regulations deliver provisions for the operation of the reformed scheme as set out in the PFA and as consulted on from 7 May to 28 June 2013. They also include those changes to the implementation proposals that resulted from consideration of the consultation responses.

8. Both consultations represent a key step in the process of public sector pension reform which began with the Government's commitment to review the long-term affordability and sustainability of the public service pension schemes. The purpose of this latest consultation was to focus on the effectiveness of the draft regulations in delivering the reformed Teachers' Pension Scheme. It was not about the detail of the PFA or the implementation proposals consulted on previously, which had already been considered.

Consultation process

9. The consultation ran from 13 September 2013 to 11 November 2013. The consultation document was available on the Department's website and responses could be returned to the Department for Education by email or by post.
10. On publication, details of the consultation were sent to all key stakeholder groups and representative bodies, including the teacher unions and employer associations. The Department also ensured that the consultation document was publicised prominently on the scheme administrator's (Teachers' Pensions) website, and that members and employers could easily link to it from there. In addition, the Department has proactively engaged and met with unions and employers before, during and after the consultation process.

Summary of responses received and the Government's response

11. In total 32 substantive responses were received. These included responses from teachers and head teachers, teacher unions, employer associations, colleges and other stakeholders, as follows:

Type of Respondent	Responses	
HT/Teacher:	13	41%
Trade Union:	7	22%
School	1	3%
Employer Association	4	13%
Faith Organisations	1	3%
Local Authorities & Councils:	1	3%
Other	5	15%
Total:		100%

The responses which fell into the 'other' category include responses from a pension administrator, a pension/assurance provider and responses from TPS employers outside the schools sector.

12. The Department has considered each response and a summary of the main points raised, along with the Department's final position, are set out below.
13. This consultation centred on how accurately the draft regulations give effect to the proposals for implementing the reformed TPS, including the amendments following the Government's response to the earlier consultation. Nevertheless, a significant number of the respondents (19) again signalled their opposition to any reform of the public sector schemes, and the overall design for the reformed scheme, as set out in the PFA for the TPS. Claims included that there is no need to change the existing structure for the TPS; the scheme as currently designed is affordable and fair; there is no need to change contribution rates; and, that moving the NPA for teachers to the SPA is not appropriate given the demands of teaching.
14. The Department recognises that there is opposition to the overall proposals for reforming the TPS. However, the Department considers that Lord Hutton clearly set out the case for change. It also notes that the issue has been the subject of much discussion and negotiation. Indeed, all of the issues raised by respondents to this consultation were considered within those negotiations, and in March 2012 the Government announced its final position on reforming the TPS. The PFA published at that time set out the structure of the reformed TPS, and arrangements for protecting those near retirement as well as the benefits all members have built up in the existing scheme. The consultation on implementing the proposals, held earlier this year, added to that by providing the detail of how the reformed TPS and protections will operate.
15. Whilst the Department acknowledges the comments made in opposition to the overall reforms, it maintains that they are necessary and appropriate and this

response concentrates on feedback from respondents on the Department's draft regulations.

Consultation question and responses

16. The Department asked for stakeholders' views on the draft regulations, in particular, how accurately they give effect to the proposals for implementing the reformed TPS, including the amendments following the Department's response to the earlier consultation.
17. Responses tended to fall into one of the following four areas.
 - i. Queries and suggestions in respect of individual regulations or parts of them. These were raised by a number of respondents, and are summarised in Annex B attached, along with the Government's response to them.
 - ii. Concerns about wider aspects of the regulations (e.g. access arrangements) or issues that affect the regulations as a whole (equality issues). In most cases these were issues raised by more than one respondent, and they are covered in Annex C attached, along with the Government's response to them.
 - iii. Suggestions for alternative wording for specific regulations, i.e. areas where respondents felt change would provide clarity and ease understanding. The Department has taken account of these suggestions where appropriate, and will ensure that the regulations are backed up with suitable guidance and support so as to ensure both members and employers can understand and utilise the new arrangements effectively. The Department is working closely with the scheme administrator (Teachers' Pensions) on that, ensuring that what is needed is provided within the context of an overarching communications plan.
 - iv. Issues and suggested amendments which were outside of the scope of this consultation. A number of individuals and organisations raised suggested changes in respect of parts of the current arrangements that are not directly related to reform. For example, asking whether historic transfer arrangements could be amended retrospectively to cover a particular situation, or whether access arrangements could be amended for particular types of education worker. The Department has considered those responses separately and will, where appropriate, respond directly to the individuals and organisations involved.

Government's overall response

18. The Department is grateful for the comments received from respondents. These are very useful and helpful in assessing the effectiveness of the draft regulations.
19. Account has been taken of all comments on the content of the regulations and the Department will make suitable amendments to the regulations where appropriate

(as detailed in this document). It is mindful that a number of changes in processes and arrangements are involved, some of which are significant. In addition, that in some areas there will be additional actions/work for employers (e.g. on maintaining data and managing scheme flexibilities). In determining arrangements, the Department has ensured that any new duties are kept to a minimum, and will ensure that all stakeholders are provided with adequate support and guidance so as to help ensure effective implementation and use of the new arrangements – which are, of course, designed to enable as smooth a transition as possible, and to provide good pensions arrangements for teachers in the future.

20. As set out above, the Department notes that a significant number of those who responded, in particular a majority of the unions and individual teachers who responded, do not agree the overall case for reform, and that at least one respondent considers the regulations should not be taken forward as they do not consider the changes are appropriate or fair.
21. In line with paragraphs 14 and 15 above, the Department maintains that the case for change is proven. On the issue of fairness and equality, the Department considers that it and other parts of Government, including HM Treasury, have properly undertaken their obligations under the public sector equalities duty in respect of the proposed changes. In particular, the Department is of the view that the arrangements suitably balance the need to: make the TPS more sustainable; introduce changes in a way that does not unfairly disadvantage members who have little time to amend their pension saving and retirement planning; and, ensure future arrangements are fair to both members and the taxpayer.
22. Within that, the Department maintains that the changes mean that all members will have the scope to build up a good pension, and one that compares favourably with the best available elsewhere. Furthermore, that the arrangements will not disadvantage those from groups with particular protected characteristics. Indeed, the new arrangements will ensure that all members get a similar return in terms of amount of pension built up for each £1 they contribute, which is not always the case under the current final salary arrangements.

Next steps

23. The draft regulations will be amended where appropriate in light of the comments from the consultation. The aim is to finalise the regulations in time to lay them in Parliament in early March 2014.
24. The regulations will also include details on how transfers will operate, following HM Treasury's finalisation of policy. Specifically, this includes details of how the public sector transfer club will continue to operate and how those arrangements will protect members to ensure pension issues do not get in the way of movement across the public service. The regulations will not, however, cover details on arrangements for transfers between the TPS and other teachers' pension schemes in Great Britain and the United Kingdom ('comparable British and United Kingdom service'). Those arrangements will be subject to further consideration, with the respective schemes and stakeholders, and will be covered in the regulations to be laid in Parliament in September 2014 (see below for more details).
25. For completeness, details on contributions are included in the regulations. However, these are based on arrangements as at 1 April 2014 and the final rates/arrangements that will apply will be determined following completion of the latest scheme valuation which is currently underway. The proposed final rates/arrangements will be the subject of further consultation later in the year.
26. Whilst the majority of the provisions will not be in force until 1 April 2015, the governance provisions will come into force from 1 April 2014. Commencing this section early will allow us to further develop the terms of reference for the Teachers' Pension Scheme Pension Board (TPSPB) and the Teachers' Pension Scheme Advisory Board (TPSAB). We will also be able to begin the recruitment and training process to ensure both boards are fully operational by the time the reformed scheme is implemented on 1 April 2015.
27. Work will continue, with other government departments and HM Treasury, to develop policy on key areas not covered by these regulations. These areas include scheme valuations and consequential amendments to the Teachers' Pensions Regulations 2010. We will also be considering updating the separate regulations covering Additional Voluntary Contributions and Premature Retirement Arrangements for the TPS, as well as a number of necessary amendments to the 2010 Regulations which arise from recent cases and developments in over-riding pensions' legislation.
28. A further consultation on these policy areas will be launched later in 2014 with a view to regulations being laid in Parliament in September 2014, and coming into force on 1 April 2015. The overall aim is to finalise the regulations as soon as is reasonably possible in order to allow sufficient time to communicate the changes and implement them effectively.

Annex A: List of respondents to the consultation

The following is a list of people and organisations who responded to the consultation (excluding those who have made confidential responses).

Organisation or Person
Aquilaheywood (Pension Administrator)
Association of Colleges (Employer Representative Group)
Association of School and College Leaders (Union)
Association of Teachers and Lecturers (Union)
Chinn, Jonathan (Headteacher/Teacher)
Falzon, Alfred (Headteacher/Teacher)
Haines, C (Headteacher/Teacher)
Independent Schools' Bursars Association (Employer Representative Group)
Jellis, Sarah (Headteacher/Teacher)
Local Government Association (Employer Representative Group)
Loxton, Paula (Headteacher/Teacher)
Loynes, Anya (Headteacher/Teacher)
National Association of Head Teachers (Union)
National Association of Schoolmasters Union of Women Teachers, the (Union)
National Union of Teachers (Union)
Prudential (Pension/Assurance Company)

Randall, John (School)
Tanner, Claire (Headteacher/Teacher)
Thomas, Chris (Headteacher/Teacher)
Thomas, Deborah (Local Authority)
University and College Union (Union)
Universities & Colleges Employers Association (Employer Representative Group)
VOICE (Union)
White, David (Headteacher/Teacher)

Annex B: Issues relating to specific regulations

Regulation Number and Description	Comments Raised and Government Response
6 to 12 – Governance	Matters raised on Governance and the Government’s response to them are covered in Annex C below.
22 – Service not pensionable unless standard contributions are paid	<p>A number of unions raised concerns that the limit of three years is not necessarily long enough to allow for a suitable repayment period.</p> <p><i>The Department can confirm that the regulation as drafted reflects current arrangements and does give the scheme manager discretion to not apply this regulation/the three year limit where the circumstances of a particular case make that appropriate. The Department considers that covers for situations such as those referred to, where a repayment period of more than three years is appropriate, and that there is no need for a drafting change. It will, however, review this provision in the future if it does prove problematic.</i></p>
32 – Meaning of “regular” and “irregular” employment	<p>One union raised concerns about the use of the term “irregular” employment, arguing it is ambiguous and unnecessary and calling for the distinction to be removed.</p> <p><i>The Department acknowledges those concerns but would note that the term is used in the current regulations and it is there to cover those who are employed under a contract of employment but who undertake and are paid for work only when and for periods requested by the employer. The distinction is needed in the reformed scheme to ensure that a fair salary can be arrived at where an individual is a member in respect of more than one employment and they, for example, retire on ill health grounds or die whilst in service. For such members the ‘final salary’, when determining any enhancement or death benefits, needs to be determined by taking appropriate account of the relevant full time equivalent salaries involved (as determined by the employer) and the amount of service in each post. There is no effect on the ‘normal’ accrual of benefits, as they will be directly related to the amount of salary earned overall each year.</i></p>

	<p><i>Ultimately, the Department considers the term “irregular” should continue to be used but has made amendments to the regulations to make the purpose of the distinction clear.</i></p>
<p>33 – Pensionable earnings for school teachers.</p>	<p>A number of respondents raised concerns as to whether the definition of pensionable earnings here adequately covers teachers employed in academies and free schools.</p> <p><i>The Department can assure respondents that such teachers are covered by the definition in regulation 34, which covers the same range of payments.</i></p>
<p>61-66 - Accounts and disqualifying breaks</p>	<p>One respondent suggested that members should always regain access to the in-service index-linking rate for accrued career average benefits on returning to service following a break, even when the break is over 5 years. They argued that the current provision is likely to disadvantage female teachers who take career breaks to have children.</p> <p><i>The Department would note that this issue was determined when the overall framework for reform was set, applies to all public service schemes going forward, and featured in the PFA for the TPS. Furthermore, the Department considers the overall arrangements for index-linking benefits are fair, and it does not consider this unfairly disadvantages female members in the way suggested. The equalities impact assessment that accompanied the PFA covered this issue in detail and concluded that experience shows that female members are not more likely to take long breaks in service than are male members.</i></p>
<p>73 – Meaning of “commutation amount” (Lump Sums)</p>	<p>A number of respondents felt that using the term 'convert' rather than 'commute' would make this provision (which allows members to give up some annual pension in exchange for a higher lump sum) more understandable to members.</p> <p><i>The Department agrees that this change would make the provision more understandable and will look to change the wording accordingly.</i></p>
<p>79 – Separate account for each capacity of membership</p>	<p>Some respondents asked for more clarity in annual benefits statements on how a member’s pension will be affected by any Pension Sharing Order (following a divorce settlement).</p> <p><i>The Department notes that the arrangements for benefits statements are covered by separate over-</i></p>

	<p><i>riding regulations laid under section 14 of the Public Service Pensions Act 2013 but that it will in any case consider how more clarity can be provided .</i></p>
83-84 – Age retirement pensions	<p>A number of respondents argued against the rise in NPA and one suggested that these regulations should be reworded so as the entitlement day for an age retirement pension is on the day members reach 65.</p> <p><i>As set out previously in this response the Department considers the case for a rise in NPA has already been made and that this issue was set earlier in the consultation process. It also notes the concerns raised about state pension ages changing and all TPS benefits being linked to the new age when it has changed. The Department would point to the proposals put forward by DWP for how changes in SPA will be managed in the future, those will ensure the process is robust and that a suitable lead time is involved, which will avoid changes close to an individual’s original pension age.</i></p>
83, 102 etc – Entitlement to retirement pension	<p>A number of employers asked if it was possible to provide more clarity in regulations on when a break in service has occurred, particularly in the context of actuarially adjusted benefits.</p> <p><i>The Department’s view is that the regulations are clear in that the employment involved has to come to an end for a break in service to be triggered, it will nevertheless consider what more can be done in supporting guidance to add clarity here.</i></p>
99 – Entitlement to premature retirement pension	<p>A number of respondents raised concerns that the wording of the regulations implied that the requirement to pay mandatory compensation has been dropped.</p> <p><i>The Department can confirm that there is no change in policy or effect here, that provision will be covered in the separate premature retirement regulations which will be consulted upon later in the year.</i></p> <p>One respondent suggested that the regulations should provide automatic access to premature retirement compensation (PRC) for all members.</p> <p><i>The Department would note that that is outside the scope of the current consultation and is in any case</i></p>

	<p><i>an employment rather than a pensions matter. That is, the issue of entitlement to compensation in such circumstances is a matter that should be determined between the individual and their employer. The PRC arrangements give a framework through which the TPS can be used to provide such compensation but are not there to determine entitlement and that remains at the discretion of the employer. The Department does not, therefore, consider such a change is appropriate and has no plans to introduce it.</i></p>
<p>135 - Meaning of “eligible child”</p>	<p>Several respondents queried the condition whereby a child is not eligible if they are wholly maintained out of money provided by Parliament, claiming that makes it unlikely that adult disabled children of deceased members would ever benefit from dependents' benefits.</p> <p><i>The Department notes that this is a provision of the current arrangements and that it is needed to avoid ‘double-funding’ from monies provided by the Exchequer. It considers that the arrangement currently works effectively and does not prevent benefits being paid when appropriate.</i></p> <p>One respondent considered that eligibility should be extended to allow for children who are born within three years of a member’s death, thus allowing longer for the grieving process and be beneficial when IVF is used by the surviving spouse, nominated partner or civil partner.</p> <p><i>The Department acknowledges the concern raised here but would note this is outside of the current consultation and that in any case it is not convinced the case for change is proven at this stage.</i></p>
<p>196 – Provision of benefit information statements to members</p>	<p>A number of respondents raised concerns about how projected pension (to pension age) will be calculated and communicated to members.</p> <p><i>The Department notes that the Act provides separate provisions on benefits statements and confirms it will ensure the TPS arrangements comply with them. Furthermore, if benefit forecasts are involved it will ensure these are robust and clear.</i></p>

<p>Schedule 3 - Flexibilities</p>	<p>Matters raised on flexibilities and the Government's response to them are covered in Annex C below.</p>
<p>Schedule 5, part 5, paragraph 14 – Payment of benefits to transition members</p>	<p>A number of respondents felt the regulations need to make it clearer that a member who has passed their final salary NPA can claim their final salary benefits separately to their career average benefits if they are out of service at that point. The Department acknowledges the comments here and has amended the regulations to seek to make this clearer.</p>

Annex C: Commonly raised issues/themes

Governance

1. Six respondents to the consultation commented on this section of the regulations, all of which were teaching unions. In general many of the responses made comment on the policy underpinning the regulations, rather than the regulations themselves, and as such covered ground raised during the first of this two stage consultation process.
2. The majority of those responses focussed on what is seen as a lack of specificity in the regulations in respect of how the Pension Board and the Scheme Advisory Board (SAB) will operate, i.e. that the regulations were too high level and lacked the detail necessary to understand how the board would operate, and the regulations continued to give the Secretary of State too much independence thereby potentially undermining the role of the Boards. One organisation suggested a rewording of the regulations to reflect a revised policy suggestion, i.e. a 50/50 split between employee and employer representatives on the board.
3. In particular responses focussed on:
 - the role of Secretary of State and Department officials as active members of the Pension Board;
 - the narrow remit and lack of independence of both the Pension Board and the SAB, particularly the inability of either to determine wider pension policy or operate as a negotiation body;
 - concern as to whether the proposed make-up of the boards would allow for effective representation of the diverse interests of the membership at board level; and,
 - alternative proposals for the remit and constitution of the SAB.

The Government's response

4. The Department notes the background to and legal position of both the Pension Board and the SAB. Lord Hutton set out the case for the introduction of a Pension Board and SAB for each public service pension scheme. He considered the primary aim of the (Pension) "Board" should be to address the lack of a standard approach across government public service pension schemes and to give scheme members, taxpayers and others confidence that public service schemes are being efficiently and effectively administered. Lord Hutton's recommendations were set against a background where many public service schemes at the time of the review did not have open and effective communication or reporting channels – the TPS was not in such a position.
5. In line with the recommendations made in Lord Hutton's report, the Public Service Pensions Act 2013 (PSPA13) requires each scheme to establish a Pension Board and a SAB. The main function of the Pension Board is clear in the primary legislation (the Act), with its purpose set as assisting the "scheme manager", in this case the Secretary of State, in the effective administration of the scheme. Specifically, in the matters associated with compliance to the pension scheme and related regulations, and with any requirements imposed by the Pensions

Regulator. It is also clear that the Secretary of State must retain overall responsibility for the scheme management, and within that setting policy.

6. It is not appropriate, or possible, therefore, for the Department to provide within the TPS Regulations for alternative roles for the Pension Board or SAB; i.e. ones which do not comply with what is in the primary legislation, for example, to require the SAB to determine policy matters. Furthermore, the arrangements for both Boards within the draft TPS regulations fully comply with what is set out in PSPA13.
7. The Department is keen to ensure that both Boards can effectively carry out the roles set out for them in the Act, and that the Boards have scope to shape both their ways of working and make-up. That is why the draft regulations are framed as they are, i.e. to provide the overall framework but leave some flexibility for the Boards to manage their approach.
8. The Department, nevertheless, acknowledges respondents concerns, and whilst it does not consider there is a need to change what is provided in the draft regulations it will continue to involve stakeholders in determining the fine detail of setting up and running the Boards.
9. Finally on this, the Department would wish to remind stakeholders that the Boards will add to and not replace the existing arrangements within the TPS for consulting stakeholder groups on administration and policy matters. Those arrangements have in the past worked well, and the Department is keen to add to them in the most effective way possible. Ultimately, the aim is to ensure all representative groups continue to have effective avenues through which to make their voices heard on both administration and policy issues.

Access/Eligible Employment

10. All those who responded on access arrangements welcomed the proposed extension of the regulations to enable, for example, teachers employed by Multi Academy Trusts to be members of the TPS. Respondents also welcomed the proposed regulations in respect of New Fair Deal (NFD), though some noted the outstanding HM Treasury consultation on whether Further and Higher Education institutions will be required to use NFD, and asked for clarity on some of the administrative arrangements (like those for providing guarantees).
11. A significant number of respondents, including all the teacher unions and a number of individuals and employers, did, however, raise concerns about the extent to which access arrangements in the TPS regulations are keeping up appropriately with the changing face of education provision. In particular, whether it is appropriate to continue to link access to the type of employer involved given the various organisational forms that are now emerging in the education sector.

The Government's response

12. The Department welcomes the comments and feedback from respondents on access and eligible employment arrangements. It will address the concerns about the clarity of provisions for NFD within the final regulations were possible, and will also ensure that appropriate guidance and support is provided to both employers and members to back that up. The Department also acknowledges the comments

on Further and Higher Education institutions and NFD but would note that the outcome of the HMT consultation on this issue ultimately determines what can be included in the TPS regulations for them.

13. The Department also acknowledges comments and concerns about wider access issues. There are a range of issues involved which stretch outside the reaches of this consultation. The Department is considering those and will engage with stakeholders separately once it has considered them further.

Flexibilities/Employer Duties

14. Most respondents who made comments in this area welcomed the provisions covering scheme flexibilities, though some questioned the need for such a range of flexibilities and the practicality of some of the arrangements involved. One organisation claimed that the inclusion of provisions to buy out the actuarial adjustment for those with NPAs over 65 (up to three years in total) is a sign that the Department acknowledges that it is not appropriate to expect teachers to work beyond age 65.
15. Some respondents raised concerns about the additional burdens being placed on employers, citing scheme flexibilities in particular, and pointed to the need for good clear guidance, advice and support. Other respondents pointed to the need to ensure all employers provide good quality and timely information, as this will be important in order to ensure effective handling and presentation of the build-up of pension benefits, including flexibilities.

The Government's response

16. The Department considers that the new flexibilities, when taken together with the existing additional pension and additional voluntary contribution (AVC) provisions, will provide a suitable range of options to cover the varying needs and requirements of all members in the reformed scheme. Each flexibility and provision offers a different and unique option for members to make additional pension provision, for example, faster accrual offers members the choice to make short term boosts to their pension savings one year at a time, whereas the AVC provisions will continue to allow members to vary the amount they save and when they pay in, as well as to have that money invested in a different way.
17. The Department refutes the suggestion that the actuarial buy-out option shows that it agrees that NPAs above 65 are not appropriate for teachers. This flexibility will allow members to effectively decide to retire one, two, or three years early with an unreduced pension and as such is unique from the others, which all involve saving amounts of pension rather than for a particular retirement date. Whilst it is true that this provision is more likely to be attractive to those who are part way through their career when joining the reformed scheme, and who already have a retirement date in mind, the Department nevertheless considers that it is a valuable option that could appeal to any member.
18. The Department acknowledges concerns about the additional workload that could be involved for employers. It has in setting the draft regulations/arrangements sought to ensure that any additional work is kept to a minimum. For example, for most of the flexibilities the requirement will simply be to communicate with the

member and the scheme administrator and then deduct a fixed additional percentage of contributions from salary, akin to what already happens for additional pension. The Department will also ensure that employers have suitable guidance and support to further reduce any burden and smooth the handling of cases.

19. The Department agrees that the provision of accurate, timely and effective data by employers will be a key part of successful implementation of the reformed scheme. It will work closely with the scheme administrator to ensure that all employers are supported and encouraged to provide what is needed. The Department does not consider that any additional powers are needed in the TPS regulations to achieve that. Here, the Department would note that the Pension Regulator has powers to direct or fine employers who fail to comply with information and contributions requirements, and that the Public Service Pensions Act (Schedule 4 in particular) gives the Regulator a wider role in managing those issues (including data requirements) for the public sector schemes. The Department considers that this is the appropriate avenue through which to address any non-compliance issues, indeed it will be responsible for reporting any such occurrences to the Regulator, who may then direct or fine the employers involved.

Equality Issues

20. One respondent raised a number of equality issues in response to this consultation.
21. The issues/claims mainly repeat ones raised during the initial consultation stages and include:
- the scope of Treasury's Equality Impact Assessment (EIA) and suggestions for further analysis;
 - that reforms have a very high likelihood of being discriminatory on grounds of gender, e.g. towards women in TPS and males in the uniformed services;
 - that the Department's EIA was not fit for purpose, because of the adequacy and extent of the data used;
 - that increases in NPA discriminate against younger teachers;
 - that women teachers, disabled teachers, and black and minority ethnic (BME) teachers will be discriminated against, or at a serious disadvantage, as a result of the teachers' pension changes, specifically the flexibilities detailed in regulations - this is due to the likelihood that they will be in lower pay brackets and the flexibilities will be unaffordable;
 - that CARE arrangements are potentially discriminatory on the grounds of age, gender and ethnicity;
 - that the revaluation of deferred members accounts is potentially discriminatory on grounds of sex as women tend to take career breaks to rear children; and,
 - questions over whether the proposed accrual rate and revaluation factor provide the fairest balance for the majority of the membership.

The Government's response

22. The Government maintains that it has properly complied with its obligations under the public sector equality duty (PSED) in developing proposals for both public service pension reform and reforms to the TPS. It also considers the EIAs record the detailed and robust analysis of the possible equality impacts.
23. Many of the concerns raised in response to this consultation have previously been raised with the Department. The Department has acknowledged the concerns, given further consideration to equality related issues, and published an addendum to the TPS reform related EIA (which was originally undertaken when the PFA was determined). The addendum gave details for those areas where implementation proposals were considered to give rise to further issues. Between the original EIA and the addendum, the Department considers that it has given due regards to equality issues.
24. The PSED places an obligation on the Department to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
25. The Department has used all available data and consulted widely on the proposals and equality impacts. The Department has acknowledged that no/limited data is available in respect of certain groups with protected characteristics and is taking steps with the scheme administrator to address this going forward. This is not an issue unique to the TPS, and ultimately collection of such data is subject to individuals voluntarily giving it. The absence of complete data does not render the equality analysis undertaken invalid and the Department has looked at the available evidence and views in reaching its conclusions.
26. The impact from the rise in normal pension age is not disproportionate for groups with particular protected characteristics, like those from a minority ethnic background, and instead reflects differences in the make-up of the workforce at different ages. Within that, teachers from a minority ethnic background are proportionally more greatly represented in the younger age groups; however, the difference is at most 7%. Furthermore, the decision to protect those within 13.5 years of retirement is aimed at avoiding unfairly disadvantaging older members, by ensuring anyone affected has sufficient time to plan ahead for changes before retirement. As such it is considered an appropriate and proportionate move.
27. The concerns raised on additional flexibilities were considered fully in the EIA. Evidence shows that the current additional pension facility is used by teachers from the whole range of earnings brackets and the new flexibilities on offer involve a wider range of opportunities for teachers to access them. The Department considers that, therefore, the additional flexibilities further advance the opportunity to increase pension savings for members from all groups, including those with particular protected characteristics.
28. The concerns raised on career breaks were also explored in the EIA. The Department concluded that the available data showed there is little difference in the pattern of length of break in service between male and female returners. In

addition, the Department continues to monitor opt out data and has seen no major increases as a result of reforms to date. The data also shows that although more women opt out than men this continues to be in proportion with the gender split of the workforce. The Department maintains that the provisions around breaks in service are proportionate and reasonable.

29. The overall impact of introducing CARE arrangements, in terms of the changes to when benefits are available in full and the accrual of benefits were also considered in detail in the EIA. The Department does not accept that there will be a negative impact on the low paid in particular, and thus female members or members from groups with particular protected characteristics, such as the disabled. As set out previously, the Department is convinced that all members will still be able to build up good pensions that are commensurate with their earnings and compare favourably to the best available elsewhere. It also believes that the arrangements will ensure that the low paid receive similar returns for their contributions to those that are more highly paid or who enjoy fast career progression, which is not the case under final salary arrangements.
30. Within the above, the Department believes that the accrual rate of 1/57 and the revaluation factor of CPI +1.6% provides the best and fairest balance on how pension will build-up for teachers, and will appropriately cover the needs of the membership as a whole. This was the subject of much discussion and consideration when determining the PFA for the TPS and the Department did listen to stakeholders views in determining the approach taken.
31. Ultimately, the Department considers that the proposals for reforming the TPS are fair and proportionate in delivering the policy intention, which is to make the scheme sustainable and fair to both members and the taxpayer. The Department will however continue to ensure that the views put forward are fully considered in finalising the regulations/legislation.



Department
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