

Staff & Pensions Committee

Response to HM Treasury consultation on McCloud/Sargeant remedy for Fire Pensions Scheme

14 September 2020

Recommendation(s)

The Staff and Pensions Committee note and comment on the HM Treasury consultation questions and the draft response on the proposed amendments to the Firefighters Pension Schemes

1.0 Executive Summary

- 1.1. As part of the 2015 reforms, those within 10 years of retirement remained in their legacy pension schemes. This transitional protection was provided following negotiations with member representatives and was intended to protect and give certainty to people who were close to retirement.
- 1.2. In December 2018 the Court of Appeal found that this part of the reforms unlawfully discriminated against younger members of the judicial and firefighters' pension schemes in particular, as transitional protection was only offered to older scheme members. The Courts required that this unlawful discrimination be remedied by the government. This document sets out the government's proposals for doing so.

2.0 Financial Implications

- 2.1. There is likely to be a cost to the Fire Service, but this ultimately depends on the demographic of the scheme members. The Government Actuaries Department (GAD) have included a request for additional information for members in scope, so that the cost of increasing benefits can be factored into the 2020 valuation of the Firefighter schemes.
- 2.2. Because the proposed amendments are retrospective to April 2015 there are additional administrative costs in recalculating the benefit entitlement for retired and dependant members, early leavers with a preserved entitlement and members who have transferred their entitlement to other pension schemes. An early indication is that this work will cost in the region of £32,000, but this figure will be refined as work progresses and the number of members in scope is

confirmed. This cost will need to be funded by Warwickshire Fire & Rescue Service.

3.0 Environmental Implications

3.1. None

4.0 Supporting Information

4.1. The government proposes to introduce legislation:

- i.) to make changes to the schemes to remove the discrimination identified by the Courts for the period 1 April 2015 to 31 March 2022 (the remedy period); and
- ii.) to address future service beyond the remedy period. In relation to the remedy period, simply extending the transitional arrangements to all eligible members - effectively placing them all back in their legacy schemes - could make many members worse off.

4.2. The government proposes to provide members with the option to choose between receiving legacy or reformed scheme benefits in respect of their service during the period between 1 April 2015 and 31 March 2022. This is referred to as the remedy period. This consultation seeks views on that proposal and especially on the two possible approaches:

- i.) an immediate choice; or
- ii.) a deferred choice underpin (DCU)

4.3. Under the immediate choice exercise, members would make this decision in the year or two after the point of implementation in 2022. For many members, this will be some years prior to retirement, and at a time when there is still some uncertainty over the precise benefits that would accrue to them in the alternative schemes.

4.4. In contrast, under DCU, this decision would be deferred until the point at which a member retires (or when they take their pension benefits). Until that deferred choice is made, all members would be deemed to have accrued benefits in the legacy scheme, rather than the reformed scheme, for the remedy period.

4.5. The government is therefore consulting on further changes that would ensure members can keep or choose benefits in the reformed schemes if they wish. This would mean those who did not have transitional protection (and so moved to the reformed schemes in 2015) could choose to keep those benefits they have accrued in the reformed schemes, and those who did have transitional protection (and so did not originally have access to the reformed schemes) can now choose to have such access.

4.6. A coordinated response to the 24 questions raised in the consultation document will be submitted on behalf of WCC. Representatives from Pensions Administration, HR, payroll, finance and the Fire Service will all take part in this exercise.

5.0 Timescales associated with the decision and next steps

5.1. This consultation will run for 12 weeks and will close at midnight on Sunday 11 October.

6.0 Appendices

6.1 Appendix 1 – Consultation questions and draft responses.

7.0 Background Papers

7.1. None.

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The report was circulated to the following members prior to publication:

Local Member(s): None

Other members: None

Appendix 1

Public Service Pension Schemes: Changes to the transitional arrangements of the 2015 schemes.

Questions

Question 1: Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

Question 2: Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

Question 3: Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

Question 4: Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

Question 5: Please set out any comments on the proposals set out above for an immediate choice exercise.

Question 6: Please set out any comments on the proposals set out above for a deferred choice underpin.

Question 7: Please set out any comments on the administrative impacts of both options

Question 8: Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

Question 9: Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

Question 10: Please set out any comments on our proposed method of revisiting past cases.

Question 11: Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

Question 12: Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.

Question 13: Please set out any comments on our proposed treatment of annual benefit statements.

Question 14: Please set out any comments on our proposed treatment of cases involving ill-health retirement.

Question 15: Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.

Question 16: Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

Question 17: If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

Question 18: Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

Question 19: Please set out any comments on our proposed treatment of divorce cases.

Question 20: Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

Question 21: Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

Question 22: If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

Question 23: Please set out any comments on our proposed treatment of abatement.

Question 24: Please set out any comments on the interaction of the proposals in this consultation with the tax system