

DRAFT FOR COMMENT

Pensions Remedy Project Team

HM Treasury

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Public Service Pension Schemes

Changes to the transitional arrangements of the 2015 schemes

Responses on behalf of Warwickshire Fire and Rescue Service

Question 1: Do you have any views about the implication of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010?

Response:

Choices over which is the best benefit is made more complicated by the fact that the 1992 scheme does not provide dependent benefits for unmarried partners. Is there any consideration to amending 1992 scheme rules to allow for this?

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

Response:

No response

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?

Response:

As per question 1, taper members who were previously members of the 1992 scheme, can provide dependent benefits for unmarried partners as part of the 2015 scheme. They can not in the 1992 scheme is the any consideration to change the 1992 scheme rules to allow for dependent benefits for unmarried partners.

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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.

Response:

The default option, to place members who do not respond, into the legacy scheme may not be beneficial for some members (particularly 2006 and dependents of 1992 scheme members) unmarried partners in the 1992 scheme are not entitled to dependents benefits. This could be challenged later. Should the default not be the most beneficial scheme for the member/dependent depending on status of the member, retired/deceased. DCU option would mitigate this.

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

Response:

What if information supplied to a member on which they based their decision is later found to be incorrect? Would there be any vires to allow a change of decision in these circumstances?

Members may choose the option that is not the most beneficial (based on correct assumptions) where should members go for advice and guidance? Administrators can provide information but are not financial advisors.

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

Response:

- Where members are making the choice when the benefit is due for payment on known benefit entitlements, there is more certainty and less chance of challenge later.
- How will the compensation where AA tax charges arise be calculated?

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

Response:

Immediate choice - This option would impact on administrators immediately and create a huge demand for information to be provided by members in a short time frame shortly after the legislation is passed. Software would need to be developed to cope with the change to the regulations and development of on-line calculators to allow members to produce their own forecasts would be needed.

If software is not developed in time for change this could mean administrators would need to calculate pension benefits manually, increasing the time it takes and the possibility of human error. This also creates delays in being able to deliver responses to members.

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Deferred choice underpin - this option allows administrators more time to deal with member requests for information, however, increases administrator workload over a longer period. It also creates complexities in dealing with collection of underpaid pension contributions and retrospectively adjusting tax for tax relief on contributions and tax charges where a member exceeds annual allowance.

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

Response: DCU

- DCU allows administrators to spread the work, therefore more time to develop systems and procedures to cope with the additional workload.
- There is less risk with member decision making as they are not having to make a predictive choice. Therefore, reducing risk of future legal challenge.
- Fewer errors with a greater implementation period
- Longer term implementation may have a smoothing effect on cost

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?

Response:

Yes

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

Response:

- Death cases are extremely complex for members who had service in 1992 and 2015 schemes. If a member has died should the remedy option be given to a partner? Unmarried partners in 1992 scheme are not eligible for dependent benefits. There may be difficulties tracing dependents where no dependent benefit is in payment.
- Potential for challenge on death grant payments – where they are paid to representatives of the estate and not a partner
- Additional administration burden on the collection of overpayments and underpayments
- Additional administration burden on correcting the tax position for members going back over statutory 4- year time limit.

The Home Office Immediate Detriment Guidance would mitigate some of these issues

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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.

Response:

- There is an additional administration burden for the calculation and collection of additional contributions and the refunding of any excess contributions. It would make sense to try and follow the process used in the 2006 Special member exercise on the collection of contributions, however claiming tax relief would need to be simplified.
- Under the DCU option, any balance of contributions owed could be collected from lump sum due upon retirement.
- Access to legacy System to enable calculation of over/underpayment of calculations, what are the requirements for the calculation is this on a year by year basis

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

Response:

Point A.16, allowing members to exceed the limit on purchase of additional AP, could lead to members to take up the option to purchase additional pension in the remedy period before regulations are changed, in order to benefit from this. Experience of members taking up the option to purchase additional pension is that it is rarely taken up by members as it is seen as too expensive, so the risk of this happening may be small.

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

Response: The proposed treatment of Annual Benefit Statements is acceptable, even though it would again increase administration burden having to show two sets of benefits based on different schemes. However, administrators are reliant on software providers making the necessary changes in time for 31 August deadline following the change in regulations, to be able to provide this information to members. This would not be achievable if we must do manual calculations.

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

Response: For immediate cases of ill-health where a member may have a terminal illness it would make sense to allow that member to make the decision at the time of their retirement and not have to wait. Changes to the exiting regulations should be made quicker for these cases.

Processing these cases based on the members choice of scheme, would reduce the stress and anxiety caused to members and potential for having to adjust benefits in payment.

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

Response:

Some of the complexities of these cases could be reduced if the provision of partner benefits was made equal across all schemes.

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.

Response:

Explicit guidance would be required as members choices on retirement dates and remaining in the scheme are going to be based on individual circumstance at the time they made the decision.

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

Response:

Yes

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?

Response:

A single choice that covers both schemes

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

Response: Agree the approach suggested

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

Response: Interest should be charges at the same rate as that applied to the 2006 special members exercise

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

Response: Interest did not form part of the payments made to members who were due arrears as part of the 2006 special members exercise, to pay interest on payments owed to members now would be inconsistent to that.

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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?

Response:

A single consistent rate would seem appropriate.

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

Response: Abatement apply going forward but not retrospectively.

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

Response:

In previous exercises where, retrospective changes have had to be made to the amount of tax due or tax relief applied, it has been difficult to co-ordinate and drawn out when members are claiming tax relief on an individual basis. This process would be far easier if it could be done on the members behalf by the administrator/payroll provider with a central contact at HMRC.