



Ministry
of Defence

Consultation Response

New Flexible Service Opportunities for Armed Forces Personnel and their Implications for the Armed Forces Pension Schemes

June 2018

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INTRODUCTION

1. In the Spring, the Ministry of Defence launched a four week public consultation on the changes we propose making to the Armed Forces Pension Schemes so that they can accommodate Service personnel wanting to take up flexible working from 2019.
2. The consultation outlined the proposed changes to the main Armed Forces Pension Schemes. The Ministry of Defence's aim throughout this process has been to ensure that those Service personnel wishing to take up flexible working from next year will be neither advantaged nor disadvantaged to those who choose not to do so.
3. The consultation closed on April 13th 2018. The Department received two responses. Both responses were supportive of the changes the Ministry of Defence is planning to make to the Armed Forces Pension Schemes.
4. A summary of the responses received and the government's response is set out in the following pages.

Responses to the consultation

1. Recommendation 7 - The issues around the options available to those on flexible service paying AVCs on APS 15 could be further clarified. If payments are to be "reconciled" (i.e. brought up to the original level) within the financial year then does that mean that the added pension benefits (i.e. the amount of additional pension purchased) will be precisely the same as if they had remained in regular payment throughout the year? Or will the benefits be different in some way (reflecting non-regular contribution throughout the year)?

Government response:

This situation is covered already by regulation 94 of the AFPS 15 Regulations. Our intention is to simply add members serving on flexible service terms to the categories of members who fall under regulation 94. Members who serve on flexible terms will be able to opt, under a revision to regulation 94(c), to pay the contributions for the option period within the scheme year in which their flexible service ends, rather than during their period of flexible service. The added pension benefits purchased will be precisely the same as if they had not opted to defer these payments, and there will be no additional costs. However, where the period of flexible service comes to an end in a different tax year, the member will need to consider whether this affects their personal tax position.

2. Recommendation 17 - The paper says that it will be possible for those on the 05 Scheme who go on to flexible engagements to continue to pay into AVCs at the existing rate at FTEE (i.e. the rate established when they were on regular engagements). But this will not be possible if it takes them above the ceiling applied

to such payments (15% of pensionable earnings). So the use of this option might be limited. This is not made clear and we would therefore expect to see something along the lines of “pay the AVC contribution based on FTEE where permissible and within extant HMRC limits”. This observation also applies to the '75 scheme AVC option (Recommendation 27).

Government response:

The AFPS 05 and AFPS 75 scheme rules limit additional contributions to 15% of pensionable earnings in each tax year, which reflects the abolished statutory limitation which existed before the Finance Act 2004. If a period of flexible service would result in this limit being breached, the member's contribution would be reduced accordingly for the relevant period. This would result in a proportionate reduction to the benefit purchased.

3. Recommendation 18 - Clarification is sought regarding how time in rank is calculated for '75 scheme awards when flexible service is taken. Using the example (Example 24) shown at Recommendation 18 –three years flexible service attracts 2.8yrs of reckonable/pensionable service. If these three years were spent in Acting rank on full time service, this would be sufficient time for full pension qualification for this rank – however if the time adjustment (reducing three years to 2.8 years) was applied to the time in rank element for pension calculation, the example would not attract the full pension entitlement for the rank, but a proportional rank uplift. If all time in rank is considered as full-time service, then simply two (or three years) in rank would be sufficient for qualification – however this could attract criticism from personnel who serve full time but qualify for a proportional rank uplift only.

Government response:

Time in rank is presently calculated on the basis of calendar periods and not on the basis of either qualifying or reckonable service. The introduction of flexible service will not affect this and accordingly, periods of service used to calculate pensionable rank will not be adjusted for any periods of flexible service. We believe this is fair and mirrors other elements such as incremental pay.

4. Recommendation 26 - When calculating abatement (para 203) there would be a concern if the final salary was in fact a flexible service salary- this could significantly reduce potential earnings on re-employment. We would hope to see this behaviour highlighted in relevant literature to ensure costly mistakes are not made by individuals tempted to leave the services whilst serving on Flexible Service.

Government response:

The current rules for abatement require that we apply the member's final salary on the final day of service. Where the member was serving on flexible terms on the final day of service, the rules will provide that their salary will be determined as though they had not been serving on flexible terms on that day.

5. Recommendation 27 - If Transition Members are offered an option to cease paying into AVCs for survivor benefits and Death-in-Service, this option should also be offered to personnel on Full Time service to maintain fairness (and avoiding the situation whereby personnel opt for Flexible Service simply to take advantage of the opportunity to cease paying for these AVCs).

Government response:

The Armed Forces (Transitional Provisions) Pensions Regulations 2015 provided that all survivor benefits and Death in Service AVCs for transition members ceased on transition from AFPS 75 to AFPS 15. This is because AFPS 15 provides comparable benefits to those being purchased.