Department for Education

Consultation – Teachers' Pension Regulations 2014

13 September 2013

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Proposals for Consultation

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' pensions, 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 design 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. Full details are available at: http://www.education.gov.uk/schools/careers/payandpensions/b00204965/proposed-teacher-pension-scheme-reforms

3. 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 attract and retain excellent teachers.

Consultation on policy proposals for implementation of the reformed TPS

4. On 7 May 2013 the Department published the consultation document, Consultation – Proposals for implementation of the reformed Teachers' Pension Scheme in 2015. The consultation document set out the Department's proposals on the detail of how the PFA for the reformed TPS should be implemented, i.e. how it is proposed the new arrangements will work in practice, and sought views on the proposals.

5. The proposals set out: what the impact will be on those who enter the scheme on, or after, 1 April 2015; and the transitional arrangements for current scheme

members, including for scheme members with protections. The consultation enabled scheme members, employers and other interested parties to identify, and express views on, any issues associated with the implementation of the reformed scheme, including anything on equality and additional burdens.

6. The consultation represented 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. It was not, however, about the detail of the Proposed Final Agreement, which had already been determined following separate detailed negotiations and consultations.

7. The consultation ran from 7 May 2013 to 28 June 2013. The consultation document was available on the Department's website and responses returned to the Department for Education by email or by post.

8. 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 scheme members' and employers could easily link to it from there. In addition, the Department has proactively engaged and met with unions and employers to discuss the proposals, before, during and after the consultation process.

9. The Department has considered all responses to the consultation and alongside this document a response was published which sets out the Department's position. The full response can be found at www.education.gov.uk/consultations alongside this document.

Process for consulting on draft regulations to give effect to the reformed TPS

10. This document commences a further period of consultation on the reformed Teachers' Pension Scheme. It is proposed that the attached draft Teachers' Pension Regulations 2014 form the basis for Regulations to be laid in Parliament by 1 April 2014, with the reformed scheme coming into force on 1 April 2015.

11. These draft regulations include details on 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 consulted implementation proposals that resulted from consideration of the consultation responses. There are some areas of scheme arrangements where overall policy for the public sector schemes is still being finalised (e.g. scheme valuation arrangements and transfer arrangements). There are also some associated arrangements where the relevant regulations need to be updated in the light of the reformed TPS (e.g. Premature Retirement

Compensation and Additional Voluntary Contribution arrangements). The draft regulations include placeholders for these issues. The relevant sections will be completed and added (via amending regulations), and the associated regulations involved will be updated, in 2014. These will, of course, be the subject of further consultation. Consequential amendments to the Teachers' Pensions Regulations 2010 will also be consulted upon and completed to the same timetable. Altogether, the new regulations and amendments/updates to existing regulations will come together to form the basis for the reformed TPS, and they will be complete in time to allow effective administration and communication of the changes involved.

12. Your comments are invited on the operation of these draft regulations. The consultation will run from 13 September 2013 until 11 November 2013. You can respond to the consultation by completing the response form and emailing it to: reformedteacherspension.CONSULTATION@education.gsi.gov.uk or by sending your response by post to: Teachers' Pension Reform Consultation, Department for Education, Ground Floor Area B, Mowden Hall, Staindrop Road, Darlington, DL3 9BG.

13. The regulations are being made under the Public Service Pensions Act 2013.

What the regulations say

Part 1 Preliminary

Part 1 of the Teachers' Pension Regulations 2014 establishes the name of both the regulations and the scheme and determines the extent of the regulations. It also provides for commencement of the governance section (in particular arrangements for the TPS Pension Board – see below for more details) at an earlier date than the rest of the scheme and sets out the definitions used throughout the document.

Part 2 Governance

This part establishes the Secretary of State as the scheme manager for this scheme and the final salary scheme. It also provides the legal basis for the Teachers' Pension Scheme Pension Board and the Teachers' Pension Scheme Advisory Board (which are being established to provide assurance and assistance to the scheme manager in ensuring the effective administration and running of the Scheme).

Part 3 Scheme membership

Part 3 of these regulations is split into four chapters each covering different aspects of scheme membership.

Chapter 1 provides definitions used throughout this part.

Chapter 2 provides criteria for general scheme membership. In particular this chapter defines dual membership as a scheme member who has more than one status in the scheme. A scheme member who has had a break in service of more than five years and then returns to the reformed scheme, for example, would be a deferred member in respect of their service before the break and an active member in respect of service after the break.

Chapter 3 defines pensionable service in the reformed scheme and includes details of automatic enrolment under the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010.   These provisions are to be amended to take account of forthcoming changes to auto enrolment requirements.

Chapter 3, Section 2 deals specifically with those scheme members who are called out, or re-called, for permanent service in Her Majesty's armed forces. This provision is unchanged from the Teachers' Pension Regulations 2010.

Sections 3 and 4 provide for scheme members to opt out of, and in to, the scheme before and after automatic enrolment takes effect.

The focus of chapter 4 is on pensionable earnings. This is the salary, and other payments, used to determine the amount of pension a scheme member will accrue each year as well as the contributions to be paid. Following consultation a decision was made to retain the provisions for residential emoluments. It has also been decided to take account of overtime payments within pensionable earnings in the reformed scheme, and the draft regulations cover that.

Part 4 Pension accounts

Part 4 of the Regulations sets out how benefits are recorded for different member types e.g. active, deferred and pensioner members, and the relevant indexation to be applied in each case. It also establishes provisions for recording and indexing additional pension and extra pension accrued through faster accrual.

Chapter 1 explains that indexation will be applied on a pro rata basis in circumstances where the scheme member leaves the scheme during the financial year. Active member benefits will be indexed, as stated in the PFA, at 1.6% above the rate specified in a treasury order. Deferred benefits and pensions in payment will be indexed in line with the Pensions Increase Act.

Chapter 2 sets out the various elements that go to make up a scheme member's accrued pension. This includes the value of pension earned each year, the value of any additional pension or faster accrual election and the indexation that applies to those. Definitions of each element are provided throughout part 4.

Chapter 3 requires the scheme manager to establish an account to record the benefits accrued or purchased by each scheme member and specifies that each scheme member may have more than one account. This chapter also provides that a scheme member's accounts must be closed if the accrued benefits are transferred to another scheme or, if contributions are repaid.

Chapter 4 establishes an account for each active member. It confirms the elements that must be included in the active account for each financial year. This includes the standard earned pension, which accrues at $1/57^{th}$ of pensionable earnings and the value of any pension accrued through faster accrual. Transferred pension will also be held in the active member's account. The opening balance for each year of active service is also set out here.

Chapter 5 refers to the establishment and administration of an additional pension account. This account will be used for all additional pension elections made. The amount placed in the account when an election is made will be the additional amount of pension the member has decided to purchase (e.g. £250, £500, etc.). Indexation will be added each year thereafter, in line with the Pensions Increase legislation. It should be noted, however, that an adjustment to the amount of additional pension payable will be made where the member is purchasing the additional pension by instalments and does not complete the payment of all instalments. There are exceptions for where the member retires due to ill health and receives ill health benefits from the scheme, or where the member dies during the instalment period when any beneficiaries' pension applicable will be based on the full amount.

Chapter 6 establishes a deferred member's account when an active member's account is closed, together with the on-going administration of the account. In particular, it refers to a scheme member who returns to pensionable service after a break of not more than 5 years; here the scheme member's benefits return to the active account and are re-valued in line with the annual treasury order plus 1.6% (this includes any relevant revaluation for the period whilst the scheme member was on the break). This chapter also covers where the break is more than 5 years, the previous account (i.e. pension earned) remains deferred and an active account is opened in respect of the further service.

Chapter 7 provides for the establishment of a pensioner member's account where benefits become payable, including for phased retirement members. Where a scheme member draws benefits in full any active and deferred account is closed, together with any additional pension account, and a pensioner account is opened. Adjustments are made to the account in relation to actuarial adjustment and lump sum commutation. Where a scheme member draws part of their benefits (phased retirement) the relevant amount of benefits is transferred from their active or deferred account to the pension account and the active or deferred account is adjusted accordingly.

Chapter 8 covers the establishment of an account or accounts for a pension credit member. It provides that a pension credit member will have a separate account in respect of each pension debit member.

Part 5 Retirement benefits for teachers

This section of the regulations delivers the basis for a scheme member's entitlement to the different types of pension, the date any such pension would be payable from and the method for calculating the annual rate of pension. Please note that there is no automatic lump sum payable but members can commute up to 25% of their pension pot into a lump sum, in line with the current scheme (part 8, chapter 3 applies).

Chapter 1 provides definitions to be used throughout this part and confirms that qualification for pension benefits remains as 2 years qualifying service. It also introduces a further element to qualification in that, for transitional members, any service in the existing scheme will count towards qualification service in the reformed scheme.

Chapter 2 relates to benefits payable at or after normal pension age (NPA). A scheme member who qualifies for retirement benefits and leaves all pensionable service on or after reaching their NPA will become entitled to their pension. In line with the provisions set out in the consultation on pension reforms, this chapter also confirms that a pension taken after NPA will be actuarially adjusted.

Chapter 3 sets out the conditions, under which a scheme member can elect to take phased retirement. A scheme member can continue to take up to 75% of their accrued benefits and continue to work in eligible employment. This option is available on a maximum of three occasions but on no more than two occasions before the scheme member reaches 60 years of age. This chapter also confirms that a phased retirement will cease should the scheme member’s circumstances change within the first 12 months such that the scheme member no longer meets the phased retirement conditions.

Chapter 4 sets out the provisions for premature retirement in line with those provided for in the existing scheme. The main provisions will be set out in the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 and, should amendments to these regulations be required, we will consult further in 2014.

Chapter 5 provides for a scheme member, who has reached at least 55 years of age, to elect to receive pension benefits before reaching NPA. Such an election takes effect where the scheme member has left all eligible employment. Pension benefits taken before the member reaches NPA will be actuarially adjusted. Where a member is retiring early, the adjustment will be in line with the new flexibility whereby for members with normal pension ages (NPA) of over 65, up to three years of actuarial adjustment (reduction in this case) will be at the lower rate of 3% (typical average is currently 5%). A member with an NPA of 66, for example, would have the final year adjustment calculated at 3%, a member with an NPA of 67 would have the final two years calculated at 3% per year, and a member with an NPA of 68 or over the final three years calculated at 3% per year.

Chapter 6 sets out the provisions for an ill-health pension and total incapacity benefits. Section 2 establishes the conditions to be met by active and deferred members in relation to an ill health pension and annual rate of such a pension. Section 3 confirms the conditions to qualify for a total incapacity benefit to be paid along with an ill health pension, and the method for calculating the value of any total incapacity benefit. Both sections confirm the circumstances where an ill health pension or total incapacity pension will cease.

Chapter 7 provides that a scheme member who has become seriously ill before qualifying for retirement benefits may be entitled to a short service serious ill health grant.

Chapter 8 explains that a scheme member who enters post benefit service (i.e. re-enters pensionable service after retiring and drawing benefits previously built up in the scheme) but subsequently leaves before qualifying for benefits is not entitled to a refund of contributions under HMRC rules. This chapter provides that in such circumstances the scheme member will receive a short service annuity.

N.B. Schedule 5 provides more details on how benefits are calculated and paid for those members with both final salary and reformed scheme service.

Part 6 Survivor's benefits

This part sets out the pensions and lump sums that are payable in the event of a scheme member's death. The level or type of pension or lump sum varies, subject to a number of factors, such as whether the scheme member is still contributing to the scheme and whether there are dependants. In line with the existing scheme, there is no qualification period for death grants, although scheme members will need to complete two years' qualifying service before their dependants are eligible for pension benefits.

Chapter 1 contains definitions that clarify whether a scheme member is active, deferred or a pensioner member at the date of death. This chapter also includes definitions of surviving adult, surviving nominated partner and surviving beneficiary.

Chapter 2 explains who a member can nominate to receive a death grant or survivor's pension on the member's death.

Chapter 3 sets out who a death grant should be paid to and provides the calculation of the death grant depending on whether the member was active, deferred or a pensioner member at the date of death.

Chapter 4 provides for the calculation of the long and short term rates of a surviving adult pension.

Chapter 5 delivers the provision for payment of a surviving adults' pension where the scheme member has purchased additional pension with a surviving adult element. (Schedule 3 contains details of additional pension.)

Chapter 6 sets out the method of calculating the short and long term rates for a surviving child pension and provides a definition of an eligible child.

Part 7 Benefits for pension credit members

This part provides that a person who is entitled to a pension as a result of a pension sharing order is a pension credit member. A pension credit member may apply for a pension at any time after reaching 55 years of age. A pension put into payment before the pension credit member reaches their NPA in the scheme would be actuarially adjusted. A death grant and survivor's pension are payable to a pension credit member's surviving nominated beneficiary.

Part 8 Payment of benefits

Chapter 1 sets out the requirement for a scheme member to make a written application to the scheme manager in order to receive benefits.

Chapter 2 provides for benefits to be paid either monthly or quarterly and for the scheme member to request the frequency as part of the application.

Chapter 3 is concerned with the payment of lump sums in circumstances such as where the member chooses to commute part of pension to lump sum, serious ill health commutation and small pension commutation. This chapter sets out the conditions that must be met if a lump sum is to be paid, and the methods for calculating the value of the lump sum payments.

Chapter 4 provides powers allowing the scheme manager to request evidence from a scheme member who is in receipt of benefits that they continue to be eligible for those benefits. Should the scheme member not provide evidence as requested, or the scheme manager determines the scheme member was not entitled, or is no longer entitled to benefits the scheme manager may cease and recover payments.

Chapter 5 includes a number of administrative provisions including: interest paid on the late payment of benefits; payments to a child or person who is unable to manage financial affairs; forfeiture of benefits in certain cases; and reduction in benefits following of a charge in relation to annual and lifetime allowances. This chapter also confirms that benefits accrued under this scheme cannot be assigned to another person.

Part 9 Contributions

Contributions are payable by scheme members and employers of scheme members. Part 9 provides the basis in which contributions are payable.

N.B. The level of contributions payable will be determined in line with the arrangements for scheme valuations. Those arrangements are yet to be finalised and will be the subject of further regulation before the reformed scheme comes into effect, see notes on part 10 and Schedule 4 below for more information.

Chapters 1 and 2 are concerned with payment of contributions in relation to scheme members and those called out for permanent service in Her Majesty’s armed forces. Contributions for scheme members are determined under Schedule 3 (see below).

Chapter 3 explains that a scheme member who leaves all pensionable service before qualifying for retirement benefits is entitled to apply for a repayment of contributions. A scheme member in post benefit service is not entitled to a refund of contributions. This chapter also provides the method of calculating the value of contributions to be repaid.

Chapter 4 confirms that the employer of a scheme member is to pay contributions at a percentage rate of the scheme member's pensionable earnings. The rate is determined under schedule 3 (see below)

The employer of a scheme member is required under chapter 5 to deduct the appropriate member contributions from the scheme member's salary each month and pay that, together with the relevant employer's contribution, to the scheme manager. This chapter also provides for a scheme member to pay to the scheme manager any amount of contributions that are not deducted by the employer. Should such an amount not be paid by the scheme member, the scheme manager may deduct an appropriate value from the scheme member's benefits.

Part 10 Actuarial valuations and employer cost cap

This part will include details of how the TPS will be valued, and how the cost cap will work. HM Treasury are in the process of finalising the overall arrangements for scheme valuations. We expect to consult further on the details for TPS valuations once the overall guidance is determined, and to lay appropriate regulations before Parliament in 2014. The draft regulations include a placeholder for this issue.

Part 11 Transfers

This part sets out the arrangements governing when a member is entitled to a transfer value payment. (Please also refer to Schedule 2 for further information on transfers.)

Part 12 Miscellaneous and supplemental

This part provides for supplemental processes, such as the payment of transfer values. It also requires the employer of a scheme member to retain, and make available specified information.

Schedule 1 Eligible employment

Schedule 1 sets out the employments under which a person is eligible to become an active member of the Teachers' Pension Scheme. Part 1 provides definitions of "accepted schools" and "accepted functions providers"

Other than the inclusion of multi academy trusts in Part 2, the employments listed in this schedule are in line with the existing scheme regulations.

Amendments will subsequently be made to this section to ensure it takes full account of new fair deal arrangements and the outcome of any changes the Department for Work and Pension make to the auto enrolment regulations following a recent consultation. Please note that these changes will extend, rather than reduce, access to the scheme. Furthermore, the fair deal arrangements are likely to shortly be the subject of separate consultation aimed at amending the current regulations as soon as possible, so that members can benefit from the extended arrangements as early as possible.

Schedule 2 Transferred pension

The Government has confirmed that the public service transfer club will continue to operate, as set out in the PFA for the TPS. The club arrangements ensure that the treatment of pension savings is not barrier to individuals moving across the public service. Discussions are on-going with HM Treasury and the other public service schemes on the detail of how the club can best operate in light of the reformed schemes. It is expected that further details will be available soon and appropriate provisions will be added, most likely via amending regulations, once those details are known. The draft regulations include a placeholder for this issue.

Provisions covering transfers to other (private) pension schemes will be added at the same time. The arrangements for these will be in line with current arrangements though the method of calculation will change to take account of the career average arrangements.

Schedule 3 Scheme flexibilities

Schedule 3 provides options for a scheme member or the member’s employer to buy additional pension or for the scheme member to elect for a faster accrual rate.

Part 1 sets out definitions used throughout this schedule including, the maximum amount of extra pension a scheme member can elect to purchase, the method for applying indexation to additional pension, and the accrual rates available.

Part 2 provides that, if a scheme member wants to purchase additional pension, an election to that effect must be provided to the scheme manager in writing. The election is to contain specified information as set out in regulation 208. This part also sets out the conditions under which additional pension will be paid to the scheme member or, if appropriate, contributions can be refunded.

Part 3 establishes faster accrual in the reformed scheme, i.e. the flexibility whereby members will be able to build up additional pension benefits each year by paying higher contributions for the year. This part provides for the application for faster accrual and the conditions under which this flexibility will operate.

Part 4 provides for a member with a normal pension age (NPA) of over 65 to buy out up to three years of actuarial adjustment by paying additional contributions (members with an NPA of 66 can buy out one year, members with an NPA of 67 can buy out two years, and so on). An election to that effect must be made to the scheme manager within 6 months of joining the reformed scheme, and this part sets out the conditions under which the adjustment will be applied.

Schedule 4 Employees' and employers' contributions

This schedule will contain information on the rate of contributions payable by scheme members and employers. This links directly with the arrangements for valuing the scheme (part 10). HM Treasury are in the process of finalising the overall arrangements for scheme valuations. We expect to consult further on the details for TPS valuations and contribution rates once the overall guidance is determined. We then plan to lay appropriate regulations before Parliament in 2014. The draft regulations include a placeholder for this issue.

Schedule 5 Transitional provisions

Schedule 5 provides for scheme members to move from the existing scheme to the reformed scheme on or after 1 April 2015.

Part 1 provides definitions used throughout this schedule. It defines a “full protection member”, confirms the conditions for such protection and the circumstances where such protection would be lost. It further defines a “taper protection member” and explains the circumstances whereby such a member would lose protection.

Parts 2 to 4 explain the arrangements for full and tapered protection members, including when and how the latter join this scheme.

Part 5 sets out the arrangements that apply to paying benefits to transition members (i.e. those with both final salary and reformed scheme service) for each case type. For example paragraph 23 sets out that any total incapacity benefit will be payable under the reformed scheme.

Part 6 sets out various arrangements that apply in respect of the existing scheme to transition members, e.g. that service in both the final salary and reformed schemes will count for qualification purposes in both schemes.

Consultation Question

The Department would welcome stakeholders' views on the draft regulations, in particular, how accurately they give effect to the proposals for implementing the reformed Teachers' Pension Scheme, including the amendments following the Department's response to the earlier consultation.

How to respond

This consultation will run from 13 September 2013 until 11 November 2013. You can respond to the consultation by completing the response form and emailing it to: reformedteacherspension.CONSULTATION@education.gsi.gov.uk or by sending your response by post to:

Teachers' Pension Reform Consultation, Department for Education, Ground Floor Area B, Mowden Hall, Staindrop Road, Darlington, DL3 9BG.

Additional Copies

Additional copies are available electronically and can be downloaded from the Department for Education's e-consultation website at:

www.education.gov.uk/consultations

Plans for making results public

The results of the consultation and the Department's response will be published on the Department's e-consultation website early in 2014.