Department for Education

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Teachers' Pension Scheme (TPS)
Further regulations to complete reform

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To	Schools, colleges, teachers, employer associations and trade unions, other government departments, education faith associations and other bodies representing groups of employers.
Issued	28 April 2014
Enquiries To	If your enquiry is related to the policy content of the consultation you can contact the Department on 0370 000 2288 e-mail: reformedteacherspension.consultation@education.gsi.gov.uk

Contact Details

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the GOV.UK 'Contact Us' page.

1 Proposals for consultation

1.1 Introduction

1.1.1 Public service reforms and the TPS Regulations 2014

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. Following the recommendations of the Independent Public Service Pensions 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 taxpayers.

On 9 March 2012, the Department for Education (the Department) published a Proposed Final Agreement ("PFA") which set out the design for a reformed TPS to be implemented from 1 April 2015. 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. It was decided, in July 2012, to proceed with the published PFA following a detailed equality analysis.

Following detailed consideration, discussions with representative groups, and consultations with all stakeholders (launched on 7 May and 13 September 2013), the Department has finalised the regulations – the Teachers' Pension Scheme Regulations 2014 ("TPS Regulations 2014") - covering the main provisions of the reformed TPS. These were laid before Parliament in March 2014 and provide the framework for the career average arrangements in the TPS as well as for the transition to the new arrangements.

Full details of the PFA and consultations are available on GOV.UK.
The TPS Regulations 2014 are available on: www.legislation.gov.uk.

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 it will help employers to attract and retain excellent teachers.

1.1.2 Consultation on amendments to the remaining regulations covering arrangements for the TPS and additions to the TPS Regulations 2014

As set out in the earlier consultations, further legislation is needed to complete the full arrangements for the reformed TPS, because:

- some areas of policy outside the main structure of the TPS regulations still needed to be developed further before suitable regulations could be taken forward;
- the reforms meant that there were some consequential amendments that needed to be made to the existing arrangements in the Teachers' Pension Regulations 2010; and
- the Department had identified a number of miscellaneous amendments that needed to be made to the overall TPS arrangements to improve/clarify how they work.
- additions to the Teachers' Pension Scheme Regulations 2014; and
- amendments to the Teachers' Pensions Regulations 2010.

The Department has now completed consideration of the issues involved and set out below is how it proposes to address them. Where appropriate, this takes account of central directions for the public service pension schemes made by HM Treasury and discussions with employer and member representative groups via the TPS Discussion Forum.

The proposals involve:

- additions to the Teachers' Pension Scheme Regulations 2014; and
- amendments to the Teachers' Pensions Regulations 2010.

The proposals aim to complete the legislative provisions for the successful operation of the TPS from 1 April 2015 in line with the PFA.

1.1.3 Consultation process

This document commences a further period of consultation on the reformed Teachers' Pension Scheme and associated arrangements. The policy proposals involved are set out in detail below, and draft regulations, which would give effect to the proposals, will be provided for stakeholders' consideration during the consultation process. The Department will ensure that stakeholders are given ample time to consider both the policy proposals and the draft regulations.

The majority of the changes are technical in nature and involve no change in policy, but are, nevertheless, needed to ensure the continued smooth operation of the TPS; and in particular the transition from final salary to career average arrangements. The details below set out the changes involved, and your comments are invited on any aspect of both the policy proposals and the draft regulations.

The consultation will run for twelve weeks from 28 April 2014 to 18 July 2014. 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' Pensions Reform Team, GF Area B, Department for Education, Mowden Hall, Staindrop Road, Darlington, DL3 9BG.

The regulations are being made under the Public Service Pensions Act 2013 and the Superannuation Act 1972.

2 The Proposals

2.1 Part 1: Preliminary

The proposals are aimed at completing the legislative arrangements for implementing the reformed TPS from 1 April 2015. In addition, some of the proposals (see miscellaneous amendments) aim to improve the clarity/operation of parts of the existing arrangements, where, for example, experience from particular cases has shown up a need to do so. The majority of the proposals are technical in nature or a result of provisions determined in overriding regulations and guidance set by HM Treasury. Those, and other changes involved, are set out below, and you are invited to consider and comment on any aspect of this consultation. Ultimately, the proposals ensure the TPS is reformed in line with the PFA and earlier consultations.

As part of its ongoing obligations under the public sector equality duty (section 149 of the Equality Act 2010) the Department has continued to assess equality impacts and has produced a separate equality impact assessment in respect of member contributions from 2015. The Department does not consider any further equality implications have arisen as a result of the proposals in this document.

2.2 Part 2: Scheme valuations and operation of the employer cost cap and funding arrangements for the administration of the TPS

Scheme valuations and operation of the employer cost cap

Scheme valuation is the process whereby the scheme actuary assesses the financial position of the scheme. The process compares the scheme's assets to its liabilities (i.e. the notional investment fund against the money expected to be needed to pay benefits both now and in the future). Its purpose is to ascertain whether the scheme is in surplus or deficit at a particular point in time - using a set of financial and demographic assumptions - and to set an appropriate contribution rate for the next four years.

Lord Hutton set out how the valuation process could be improved to aid clarity and comparability across schemes. He also recommended that there should be an employer cost cap mechanism whereby employer (and thus taxpayer) costs would be capped at an agreed level, and there would be a mechanism for bringing them back to that level if the cap was breached.

Following a series of consultations on 13 March 2014, the Chief Secretary to the Treasury published the Government's final policy on valuations and the employer cost cap; details of these can be accessed on GOV.UK.

HM Treasury directions ("the directions") and regulations set out the legal framework for undertaking and operating these. The framework covers the technical details of the processes involved and also sets out what the Department is required to provide for in the TPS regulations in order to comply with the requirements involved. Accordingly, the Department proposes to provide for the following in the TPS regulations:

- *Valuations are to take place in line with and to timescales set out in the directions* – in practice, this means an initial valuation as at 31 March 2012, with further valuations to be undertaken every four years thereafter (e.g. the next valuation will be as at March 2016 and is expected to be implemented in April 2019).
- *The new employer contribution rate to be implemented from September 2015* – the directions specify that the calculations for determining the contribution rates arising from the 2012 valuations should be based on the assumption they will be implemented in April 2015. However, because schools' and colleges' budgets are generally set to follow academic years,

it is proposed that the 2012 valuation result for the TPS will be implemented from September 2015. This will allow schools and colleges longer to prepare for the expected increase in the contribution rate. All other things being equal, the postponement in implementing the contribution rate will result in a small deficit accruing to the TPS, this will be taken into account at the next valuation thus ensuring the full costs of the scheme are reflected in future contribution rates.

- *A requirement to produce a valuation report that contains the information set out by the directions* – this includes: summary data; assumptions used; the various elements making up the total contribution rate to be paid; and details of the cost cap analysis.
- *The setting of the employer contribution rate in line with the valuation result and directions* – for the initial valuation, to be implemented from September 2015, this will be the overall contribution rate determined by the valuation less the average employee contribution of 9.6%. The Government set the level of the employee rate earlier in the reform process (see, for example, HM Treasury's 'Public Service Pensions: good pensions that last' dated November 2011 which confirmed it would be the previous rate (6.4%) plus 3.2%), and HM Treasury confirmed in the directions how the employer rate would be set. On 13 March 2014, the Chief Secretary to the Treasury published, via a written Ministerial statement, the initial results of the TPS valuation; this indicated that the overall contribution rate would be 26%, and, therefore, the employer contribution rate would be 16.4%. The valuation is still in the process of being finalised, and the Department will confirm the final rate in the draft regulations to be circulated later in this consultation process.
- *The employer cost cap* – in line with the directions, this will be the rate set out in the valuation report.
- *The mechanism for reaching agreement on changes to the scheme to bring costs back to the target cost in the event the employer cost cap is breached, and the default mechanism for doing so* – The Department set out in the PFA for the TPS that an adjustment to the accrual rate (up or down, as appropriate) would be the default mechanism for bringing costs back in line in the event that the valuation report shows that relevant costs have risen or fallen by more than 2% from the level of the cap. In line with the directions, and HM Treasury guidance, the Department proposes a process whereby:
    - following the valuation report, the Secretary of State will commission the Teachers' Pension Scheme Advisory Board (which will include

    key employer and member representatives) to make, within a period of six months, a recommendation on whether the default option or an alternative on which the Board is agreed should be taken forward (NB: if agreement on an alternative is not reached the default option will be taken forward to consultation);
    - there is then a consultation with all stakeholders on the proposed changes;
    - any scheme amendment is then determined and introduced at the same time as the valuation result would normally be implemented (i.e. within 3 years of the effective date for commencing the valuation), if possible, but with a ‘fall back’ of within a maximum of four years from the valuation cycle commencing. Within that, the extra time would only be used in exceptional circumstances where the Secretary of State considers there is good reason for allowing more time, e.g. because there is an alternative to the default option that is worth investigating further.
- The TPS arrangements already provide for the appointment of a suitably qualified scheme actuary, and a responsible authority to maintain and provide information for the valuation; these are the other key requirements in the directions. Details of how the employee rate will be provided for in the regulations are set out in a separate section below.
- This consultation is not about the results of the valuation process, as the mechanisms involved have been determined previously by HM Treasury. It is rather about how the TPS provides for the valuation and cost cap processes.

Funding arrangements for the administration of the TPS

The Secretary of State for Education, through the officials of the Department, manages the TPS and retains responsibility for the governance, policy direction and delivery of the scheme. Currently, the costs of the TPS administration (e.g. contract fees for the scheme administrator, the scheme actuary and the scheme medical advisor) are met by the Department. However, in the wider pensions industry, including in some of the other public sector pension schemes, it is normal for the cost of the scheme administration to be met through the contribution rate.

As part of the wider review of scheme reform, we have taken the opportunity to consider funding arrangements for delivery of a reformed scheme and its associated costs. We have also considered the cost implications of the need to implement a revised governance structure to incorporate a scheme ‘Pension Board’. This requirement results from the Independent Public Service Pensions Commission’s report on public service pension reform, which identified the need for schemes to ensure that effective and efficient administration is being consistently delivered.

Through the Teachers’ Pension Scheme Pensions Board (“the Board”), employers and scheme members will be in a position to influence, and help select, the type and quality of administration, and they will have a meaningful role in deciding how much should be spent on scheme administration.

To align the Board’s responsibility for administration with responsibility for the cost and efficiencies of the administration, the Department proposes that scheme administration costs will be devolved to scheme employers in the form of an administration charge. Not only will this ensure that the Board is responsible for both the costs and quality of the administration, but it will allow the Board to implement solutions which look beyond the immediate short-term costs to the central administrator to the wider costs within the system, e.g. the Board may look to invest in services from the scheme administrator which have upfront administration costs but which will deliver greater longer-term savings to employers by reducing the burden upon them. This is not always possible at the moment, as the upfront costs have to be met from the Department’s administration budget. The setting of central Government’s budgets for a period of up to three years, and the large proportion that the TPS costs represent of the Department’s administration budget, make it very difficult for the Department to support proposals which have costs beyond the current Spending Review cycle or which would significantly increase one-off expenditure on the scheme administration. This, in turn, could limit the scope for innovation in the services provided to employers and members.

Many employers currently provide good standards of information and service to their staff and to the scheme administrator, but passing the administration costs to employers will encourage all employers to take an active interest in the quality of the administration and the information they provide to the administrator, as costs associated with resolving poor quality data and contributions currently fall on the Department rather than on those responsible for providing that data to the administrator.

This approach is consistent with general practice within the private sector where employers bear the costs of administration. It is also in line with what some of the other public service schemes are either currently doing, or are thinking about doing, in the future. In addition, it will ensure that the TPS is appropriately funded by those who benefit most from the scheme.

The administration costs could be charged as a standard flat fee for each employer; that, however, would disadvantage small schools which would face the same charge as much larger employers. Instead, it proposed that the charge would be levied as a percentage of the salary costs, which would ensure that the cost to each employer reflects the size of their workforce, and, therefore, the benefit that they gain from the scheme and its administration. For ease of administration by employers and the scheme administrator, it is proposed that this administration charge will be added to, and payable with, each employer's monthly contributions.

The per member costs of administering the TPS are the lowest amongst all the public service pension schemes, and compare very favourably to the per member costs of private sector pension schemes. These costs are expected to reduce over the coming few years, as further efficiencies are introduced to the scheme administrator's operation. Therefore, the additional cost to each individual employer will be marginal. The Department estimates that the administration charge will be 0.08% of the employers' salary costs, which would increase the provisional employer contribution rate from 16.4% to 16.48%, payable from September 2015.

The level of the administration charge is determined by the need to continue to meet the costs of:

- ongoing contractual commitments to meet administration costs (including costs of scheme management currently met by the Department);
- actuarial services;
- independent medical services to help assess ill health retirement applications; and
- implementation and ongoing operation of the TPS Pension Board and Scheme Advisory Board.

It is proposed that the administration charge would be subject to regular review by the TPS Pension Board to provide assurance to employers, members and the Secretary of State that appropriate costs associated with the delivery and governance of the TPS are being recouped from employers. This process would aim to ensure that only what is needed is recouped, but would provide that, if there is any over/under-collection, the future rate is adjusted accordingly as soon as it is appropriate to do so. The Secretary of State would ultimately determine the value of the administration charge; this would be set out in regulations made after the necessary consultation with employers and members.

2.3 Part 3: Member contribution rates

In line with 'Public Service Pensions: good pensions that last' the PFA for the reformed TPS includes a commitment that teachers would pay an average contribution rate of 9.6% from April 2015. The PFA also included a commitment that there would be a review to consider whether that rate should be tiered. The Department has completed that review, with input from union and employer representatives. In undertaking the review, the Department has considered available evidence and sought to answer three questions: does it support the use of tiered contributions?; if so, how many tiers should there be?; and what should the differential be between the highest and lowest tiers?

The Department considers there is justification for retaining tiered contributions, at least in the short term. The most significant factor behind that is there will continue to be large numbers of active members after 2015 who have lots of final salary service, and that means higher-paid scheme members will still tend to continue to benefit proportionately more from the scheme than the lower-paid ones. In addition, there is an ongoing need to protect the lower paid and there continues to be a possibility that such members would opt out if the cost to them rose significantly and suddenly. That uncertainty is against a backdrop of pay reform and increasing tuition fees which may affect new teachers' perception of affordability.

However, the Department believes that the ultimate aim should be to move to a much flatter tiering structure when the majority (or all) of the scheme membership are accruing pensions on a career average basis. The Department is very mindful of the risk of increased opt-outs, and, therefore, anticipates the scheme will move to a flatter tiering structure over the next two valuation cycles. This will allow the Department to evaluate any changes in teachers' behaviour over the next four years.

The current contribution rate payable by any teacher is determined by their full-time equivalent ("FTE") salary, e.g. a teacher with a FTE salary of £50,000 who works 60% (i.e. take-home salary of £30k), will have 11% of salary deducted because their FTE salary places them in the £45k-75k tier, whereas a teacher working full time on £30,000 would pay 8.3% in contributions.

The Department considered this issue when tiering was first introduced in 2012, and concluded that using FTE was reasonable and proportionate because pension benefits in the final salary scheme are calculated on the basis of FTE. There is little justification for continuing to use FTE to determine contribution rates in a career average scheme. The Department, therefore, proposes to move to using actuals rather than FTE, as it better reflects the pension being accrued by the majority of the membership.

Consequently, a teacher's contribution rate will be determined with reference to his or her earnings for a particular employment, rather than the FTE rate for it. Where a teacher is a member of the TPS in respect of more than one employment (i.e. has two or more part-time jobs, or a full-time and a part-time job in the TPS) the earnings in each employment will determine the contribution rate paid for each particular employment.

Basing contribution rates on actual salary would move a significant number of teachers into lower bands, and, whilst this will benefit them, it would result in a corresponding increase in contribution rates for each band, particularly those in the middle and higher tiers. Nevertheless, the Department considers that a move to using actual salary is justified in career average environment and that any such move should be made at a time where the potential impact is minimised. The Department, therefore, proposes that the change to actuals applies from 2015.

The proposed contribution structure below is based on actual salary data and demonstrates that a move to actual salary from April 2015 will result in a minimal increase in contributions rates. Taking all the adjustments together, the largest increase (1%) is for those who are currently in the <£15,000 salary band and who would be in the <£25,999 salary band (and that is a product of the gradual reduction in tiering as opposed to the move to actual salaries). The Department considers this structure provides the best fit with the aims set out above.

	Contribution Rate	**Member numbers**		
Salary band		**Male**	**Female**	**Total**
£0 - £25,999	7.4%	38,584	158,221	196,805
£26,000 - £34,999	8.6%	38,219	106,061	144,280
£35,000 - £41,499	9.6%	43,367	103,500	146,867
£41,500 - £54,999	10.2%	49,796	71,709	121,505
£55,000 - £74,999	11.3%	13,958	16,061	30,019
≥ £75,000	11.7%	3,721	2,698	6,419

As the arguments for and against tiering will continue to evolve over the coming valuation cycles, the Department proposes to return to this issue in four years, i.e. when the next valuation cycle is due to complete, with a presumption that the number of tiers and the differential between them should reduce further, but that another review will be undertaken which takes account of the same factors considered this time.

To ensure that the required average contribution rate of 9.6% is paid over the four-year period and to reduce the potential for members drifting up through the tiers as a result of pay increases, the Department proposes that the tiers should be adjusted annually. A number of options were presented to, and discussed with, member and employer representatives. During these discussions, it was established that all the presented options could provide the intention but a preference was expressed for the use of the index used for uprating pensions in payment; this is currently the Consumer Prices Index (“CPI”). In light of this, the Department considers the use of CPI as an appropriate factor in up-rating salary bands in a way that provides simplicity and clarity for the membership while minimising the potential for unintended movement between tiers.

2.4 Part 4: Club transfers and the arrangements for members with comparable British service and United Kingdom service

The PFA included a commitment that the public sector transfer club will continue, and that consideration would be given as to how it can best be maintained in the future. That consideration has taken place with HM Treasury and the other public service schemes, and, from it, the arrangements for how the club will operate in the future have been determined by HM Treasury and the Cabinet Office (which maintains the memoranda for how the club arrangements will operate). The arrangements for club transfers in the TPS post reform, which are based on that central direction, are provided for in the Teachers’ Pension Scheme Regulations 2014 which were laid before Parliament in March 2014.

In summary, those arrangements provide for those who move across the public service to transfer their pension rights to the new (club) pension scheme on preferential ‘club’ terms. Those terms will ensure:

- final salary benefits move across, in line with current arrangements, to the last open final salary arrangements in the club scheme moved to (in the case of the Civil Service to the final salary element of the NUVOS scheme);

- career average benefits move across in a way that protects them, i.e. by ensuring benefits built up in a particular pension scheme continue to be index-linked in line with the arrangements for that particular scheme even after the transfer;
- where individuals have both final salary and career average benefits those will both move across, in effect, as a two-part transfer; and,
- where individuals have protections that apply to their existing final salary benefits, those will be maintained, provided the individual would have qualified for such protections in the new club scheme too (for example, a member who was 55 on 1 April 2012 and in the NHS Pension Scheme at that point, but subsequently moved to the TPS, would maintain full protection status, but subject to the time limits set out below).

As now, transfers will have to be applied for within 12 months of joining the new club scheme, but, in line with the rules on gaps in service which affect whether protections have been maintained, from 1 April 2015 a club transfer will not be possible where there has been a gap in service of more than 5 years between the member leaving the previous club scheme and joining the new one. Members in that position will, however, be able to pursue a transfer on non-club terms.

The arrangements ensure that the benefits of those entering the TPS from other public service schemes, and those transferring from it to another such scheme, can be transferred in a way that best fits with current club arrangements. In addition, the protections the Government has provided in relation to the transition to career average arrangements across the public service schemes are applied appropriately. This means that those nearer retirement can stay in the final salary arrangements and existing final salary service can continue to be linked to salary at retirement, subject to the relevant conditions being satisfied.

The time limits which apply to the new club arrangements will, however, mean that it is not appropriate or possible to maintain the current special arrangements that apply to those who move between the Scottish Teachers' Superannuation Scheme ("STSS"), the Northern Ireland Teachers' Pension Scheme ("NITPS") and the TPS (which applies to England and Wales).

These are known as Comparable United Kingdom Schemes ("CUKS"): arrangements which provide for pension rights to transfer to another CUKS in a similar way to the current club arrangements (in effect providing service to transfer on a day-for-day basis). However, they also give a person almost an unlimited amount of time to make the transfer request, i.e. s/he can elect to transfer their CUKS entitlement at any time up to Normal Pension Age ("NPA"), or even after it if s/he joined the new CUKS before NPA and s/he has not had a break in active service. In addition, any member with a NPA of 60 will retain that NPA in the new CUKS employment, unless the person has a break in pensionable public service of more than five years. If there is such a break, the person will have a NPA of 65 for future service, in line with transitional arrangements accompanying the 2007 reforms to the TPS.

Comparable British Service ("CBS") arrangements extend CUKS type arrangements to those with service in the teacher schemes in the Channel Islands and the Isle of Man. The same time limits as for CUKS currently apply; however, individuals who move to the TPS from those schemes do not retain an NPA of 60 and the transfer is undertaken on club terms.

In view of the changes taking place from 1 April 2015 in respect of time limits for requesting club transfers, the time limits for maintaining protections and arrangements for in-service indexation of career average benefits the existing arrangements for CUKS and CBS transfers in the existing Final Salary are to be removed and replaced with the new club rules.

It is proposed that there will be a transition period of one year to 31 March 2016 whereby members with previous rights in another CUKS or CBS arrangement will be able to transfer those rights on the existing basis. Any election to transfer rights after 31 March 2016 will be subject to the new club rules and the aforementioned 12 month and five-year limits will then apply. The TPS is liaising with the other CUKS about this change and how best to communicate this to members.

Overall, the new club arrangements will provide for teachers in the other schemes involved to transfer their benefits in line with other public service workers and in a way that enables them to consolidate and protect their pension savings effectively, albeit in the future they will have to make the application to do so around the time of the move to the new scheme. Furthermore, the arrangements set out above will ensure that those who have moved between the schemes involved, but who have not requested a transfer, have ample time to do so in order to enable them to take advantage of the terms currently available to them.

For information, we are taking the opportunity to consider the impact of announcements in the recent Budget in respect of transfers to defined contribution pension schemes, and appropriate action will be taken when the HM Treasury consultation ‘Freedom and choice in pensions’ has concluded.

2.5 Part 5: Consequential amendments to the 2010 Regulations

The table below sets out consequential amendments to the final salary regulations which result from introduction of the career average arrangements. They are aimed at ensuring the overall TPS arrangements continue to work coherently and effectively after introduction of the reforms.

Regulation to be changed	Reason for the change
Regulations 64 – Abatement	In line with previously announced policy, a change is needed to allow for pension from the career average arrangements to be taken into account in the calculation of abatement for final salary pension.
Proposed amendment to regulation 65 and schedule 7 paragraph 3(4), ill-health retirement benefits – to extend the period from leaving pensionable employment in which an ‘in-service’ application can be made for ill-health retirement from 6 months to 2 years.	In line with proposals for the 2014 regulations, it is proposed that the final salary arrangements are amended to better allow for ‘slow to develop’ or ‘difficult to diagnose conditions’ on leaving the teaching profession. The timescale for ‘in-service’ applications (and thereby the chance to access enhanced benefits) will be increased from 6 months to 2 years for applications received on, or after, 1 April 2015. It should be noted that the provisions whereby an application can be considered as ‘in-service’ whilst the member remains in an employee / employer relationship will not be affected by this.

2.6 Part 6: Miscellaneous and technical changes to the TPS Regulations 2014 and the Teachers Pensions Regulations 2010

The tables below set out the miscellaneous and technical amendments the Department proposes to make to the regulations governing both the career average and final salary arrangements. Some of these relate to the introduction of the career average arrangements but others result from experience of operating the current arrangements which has highlighted the need to change or clarify the particular regulation. All are aimed at ensuring the overall TPS arrangements continue to work coherently and effectively after the introduction of the reforms.

Proposed miscellaneous amendments to the TPS Regulations 2014

Proposed amendment to be added to provide that pre-1997 ill-health retirees are excluded from pensionable service.	This maintains the position for a number of existing members who retired on ill-health grounds before 1 April 1997 and are able to continue in limited part-time employment and retain their pension – but only on the basis they do not rejoin the scheme. This does not prevent someone who has regained health from rejoining the scheme, but their pension would cease if they are below their final salary NPA when they do so.
Proposed amendment to regulation 41 – Multiple employments including at least one irregular employment	Regulation 41 sets out the means of calculating salary for insurance-type benefits paid by the scheme where a person has a combination of regular and irregular employments. Having reviewed arrangements again, it is acknowledged that members who have a full-time contract could be unduly disadvantaged if they also have a small portion of irregular part-time earnings where the “annual rate of those pensionable earnings” (i.e. the full-time equivalent salary) is significantly lower. The overall salary for insurance-type purposes would be reduced in these circumstances. In view of this, it is proposed that a separate calculation, excluding irregular employments, is undertaken, in accordance with regulation 40, in order to determine which rate of “annual rate of pensionable earnings” is the highest.
Proposed amendment to Part 10, Chapter 3 – payment of transfer values	Following the consultation in May 2013 and proposals set out above, the Department now proposes to allow club transfers beyond NPA (career average as well as final salary) and up to age 75. This will give more flexibility by

	allowing those who go on working beyond NPA scope to consolidate their pension saving in their new club scheme – provided it has similar transfer arrangements in place. As now, this is only possible if benefits have not come into payment.
Clarification of policy in Schedule 7, paragraph 6 and regulation 109 (c) - entitlement day for ill-health retirement	The reform amendments in 2006 introduced a new two-tier ill-health pension arrangement for 'in-service' members from January 2007. Included within that was a new provision whereby an application would be regarded as ‘in-service’ provided the member was still in a contractual relationship with the employer when it was made – even if the member was on less than half-pay and, therefore, out of pensionable employment at that stage. In the 2010 consolidated regulations, changes were made to the entitlement day for ill-health benefits to include the day after ceasing non-pensionable leave, but not applied in practice. This is to clarify that, from April 2015, the payable date will be the latest of the following: • the day on which the member left pensionable/excluded employment; • the day when non-pensionable sick leave, non-pensionable family leave or a career break ceased; or • the day 6 months before the date of a medical report considered by the Secretary of State. This is in line with the payable date for members retiring on ill-health grounds from the career average arrangements where a person leaves ‘eligible employment’. Eligible employment in the career average arrangement includes non-pensionable sick leave, non-pensionable family

	leave or a period of unpaid leave in relation to that employment.
Proposed amendment to Schedule 1, Part 3 - change for the Lycée Français Charles de Gaulle	The Lycée Français Charles de Gaulle is currently an accepted school, but in order to allow different treatment between French nationals, who participate in the French Civil Service scheme and other teachers, it is proposed that the latter teachers will, in future, be admitted to the TPS with employer consent under Part 3 of this schedule.

Proposed technical amendments to the TPS Regulations 2014

Change	Reason for the change
Proposed amendment to regulation 174(5) – commutation: small pensions for family benefits	Regulation 174(5) of the TPS 2014 Regulations refers to 1% of the standard Lifetime Allowance as the limit to the amount that can be taken as a lump sum (‘commuted’) for the purposes of family pensions. Following the 2014 Budget, a higher limit of £30,000 is to be adopted. In order to apply this change and “future proof” any further change to the small pensions commutation limit, it is proposed that regulation 174(5) is amended to refer to paragraph 20 of Schedule 29 to the Finance Act 2004 (as amended).
Proposed amendment to Schedule 3 - active member of the existing scheme in paragraphs 14(c), 15(d)(i) and (ii), and 16(3)(b) and NPA for transition members entering the career average arrangement in paragraphs 21(c)(i) and 22(3)(b).	It is proposed to amend the latter date in the sub-paragraphs referred to by changing 1 September 2025 to read 30 September 2025 to ensure that those members who were within 13 years and 6 months from NPA on 1 April 2012 receive tapered protection. The members involved will enter the career average arrangement on 1 June 2015 rather than 1 April 2015; – this was intended in the PFA. As a consequence of this, amendments are also needed to the dates that apply to members with

	no protection, and who enter the career average arrangement from 1 April 2015. These members will have an NPA on, or after, 1 October 2025 rather than 2 September 2025.
Proposed additions to Schedule 3 paragraphs 38 and 39 – re-calculation of pre-6 January 2007 ill-health enhancement on subsequent retirement where a member has returned to health and has pensionable service in the career average arrangements. Career average arrangements will also be taken into account for the calculation of dependant's entitlement on paragraph 41 and 43 of Schedule 3.	It is proposed to provide an addition here to clarify that service in the career average arrangements will be taken into account in re-calculating any enhancement under the final salary scheme that was granted in accordance with the 1997 Teachers' Pensions Regulations. By taking the career average arrangements into account, there will be consistent treatment with the calculations for ongoing final salary members and ensure there is no excessive benefit from both enhancement and benefits in respect of future service (following the return to pensionable employment).
Proposed addition to schedule 3 – review of benefits to cover pre 6 January 2007 ill-health retirees who subsequently return to health, enter the career average arrangements and are then awarded ("TIB") enhancement.	An amendment to the 2014 regulations is proposed to the effect that, where such members retain enhancement in the final salary scheme and become entitled to TIB in the career average scheme, the scheme manager may, after taking actuarial advice, determine the appropriate amount of enhancement, TIB or both. This is in line with the current final salary arrangements and is in place to ensure that total enhancement is reasonable but not excessive. A similar review will be added in respect of dependants' benefits payable on death.

Proposed miscellaneous amendments to the Teachers' Pensions Regulations 2010

Proposed amendments to regulations 31 and 35, (payment and acceptance of	Proposed amendments in line with proposals for the 2014 regulations to allow club transfers post

transfer values) – to allow club transfers post NPA	NPA and up to age 75.
Proposed amendments to regulation 64 (abatement) – to ensure this works properly for those who leave and draw benefits part way through the scheme year and for phased retirement members.	To ensure the calculation can be applied appropriately, it is proposed that an amendment is made to state that the 'salary of reference' is apportioned in the tax year when the member first becomes entitled to retirement benefits. Technical changes are also being made to clarify that a re-employed member who is also in receipt of phased retirement benefits will not have the phased retirement element of pension abated, even though any pension awarded on an age basis could be abated.
Proposed amendments to regulation 121 (forfeiture) – to make the process, including how to make representations, more clear.	It is proposed to make amendments to make the process and the opportunity to make representations clearer.
Proposed amendment to Schedule 2, Part 3 - change for the Lycée Français Charles de Gaulle	The Lycée Français Charles de Gaulle is currently an accepted school, but, in order to allow different treatment between French nationals, who participate in the French Civil Service scheme, and other teachers it is proposed that the latter teachers will in future be admitted to the TPS with employer consent under Part 3 of this Schedule.
Proposed amendment to Schedule 9 – Family benefit service	In line with changes for members' own benefits, it is proposed to remove the limit whereby enhancement to family benefit service cannot take total service above 40 years (before the member would have reached 60). The overall limit on reckonable service of 45 years will still apply.
Proposed amendment to Schedule 13 – Persons formerly members of the	It is proposed to amend paragraph 26 of Schedule 13 to clarify that former members of the NHS Pension Scheme retain a right to NPA of 55

National Health Service (NHS) Pension Scheme	if they were made compulsorily redundant before the age of 50 – this is to mirror regulation R2(3)(b) of the National Health Service Pension Scheme Regulations 1995 for former nurses etc and R3(5) for former mental health officers.

Proposed technical amendments to the Teachers' Pensions Regulations 2010

Proposed amendment to regulation 17 – Cap on contributable salary	It is proposed to amend this regulation to clarify that only those members whose annual rate of contributable salary was above the earnings cap before, or on, 31 March 2008 (£112,800) are affected by the earnings cap in future years. In addition, amendments are required to ensure the earnings cap continues to increase in line with the original inflation index, because the previous provision (the Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2006) no longer has effect.
Proposed amendment to regulation 71 – Calculation of retirement benefits after ill-health pension ceases to be payable: supplemental	For members with mixed service (i.e. those who retired on ill-health grounds from the NPA 60 scheme and subsequently joined the NPA 65 scheme), it is proposed that the slide-back calculation (whereby previous enhancement is re-calculated) is applied to NPA 60 rather than NPA 65 service. By attributing the enhancement to NPA 60 service, automatic lump sums previously paid can be recovered appropriately under regulation 62(5).
Proposed amendment to regulation 119(8)(d) – commutation: small pensions in respect of family members.	In line with the proposed amendment to regulation 174(5) of the 2014 Regulations, in order to future proof the way in which changes to the small pensions commutation limit are applied to family benefits in the TPS (and thereby take account of the new higher limit announced in Budget 2014), regulation 119 of the 2010 regulations will be amended to refer to paragraph 20 of Schedule 29 to the Finance Act 2004 (as amended).

3 How To Respond

Consultation responses can be completed online
at www.education.gov.uk/consultations

by emailing reformedteacherspension.consultation@education.gsi.gov.uk

or by downloading a response form which should be completed and sent to:

Teachers' Pension Reform Team, GF Area B, Department for Education, Mowden Hall, Staindrop Road, Darlington, DL3 9BG

4 Additional Copies

Additional copies are available electronically and can be downloaded from the GOV.UK website at:
https://www.gov.uk/government/collections/teachers-pension-scheme

5 Plans for making results public

The results of the consultation and the Department's response will be published on the GOV.UK in Summer 2014.