British Steel Pension Scheme

1. In May 2016, the Government launched a consultation to explore what might be done to help the British Steel Pension Scheme (BSPS) in the wider context of efforts to protect the UK steel industry.
2. The consultation ran for four weeks and we received over 5,000 replies, amounting to 4,509 individual respondents (taking account of duplicate responses). Further responses and comments continued to be submitted throughout 2016 and 2017.
3. The consultation asked for views on four options:
   - **option one**: use existing regulatory mechanisms to separate BSPS from the sponsoring employers (Tata Steel UK Limited and other associated companies);
   - **option two**: payment of pension debts – the existing sponsoring employer 'buys-out' of the scheme;
   - **option three**: reduction of the scheme's liabilities through new legislation which would allow the trustees to reduce the indexation and revaluation on future payment of accrued pension rights; and
   - **option four:** legislating to permit a bulk transfer without member consent to a new scheme which would offer lower indexation and revaluation but pay benefits equal to or greater than the compensation paid by the Pension Protection Fund (PPF).

Summary of consultation responses

4. Many respondents were in favour of legislative changes which would allow the scheme to reduce its liabilities by reducing the level of indexation and revaluation on accrued pensions. In particular, the majority of BSPS members who responded were in favour of this option, which was also the trustee's preferred option. A large number explicitly indicated that they considered it preferable to the alternative of the scheme entering the PPF.
5. Respondents from the pensions industry, however, were more cautious about any legislative change, arguing that allowing one individual scheme to make changes in this way would be unfair, and that it was likely to set a precedent for other schemes to push for similar changes. A significant number of individual scheme members and organisations representing them also opposed any legislative change which would make it easier for schemes or their sponsoring employers to reduce benefit levels. One large campaign group expressed widespread concerns that making changes to the BSPS would set a worrying precedent that other Defined Benefit schemes would follow. These concerns also applied to option four which would have permitted bulk transfers to a new scheme which provided lower revaluation and indexation without the need to obtain member consent.
6. During the green paper consultation period, the BSPS and Tata Steel UK Limited continued to be a live issue. A small number of respondents cited Tata Steel UK Limited as an example when expressing concern about employers evading their responsibilities to members and questioning whether the current system provided an appropriate level of member protection.

The outcome for the BSPS and Tata Steel UK

7. The Pensions Regulator, the Pension Protection Fund (PPF) the BSPS trustees and both Tata Steel UK Limited and Tata Steel Limited worked through 2016 and 2017 to

secure the best possible outcome for the BSPS considering the difficult circumstances, using existing legislation.

8. On 11 September 2017, the Regulator confirmed its approval of the Regulated Apportionment Arrangement (RAA). As part of this, Tata Steel UK Limited paid £550m to the trustee and transferred a third of its equity into the BSPS.

9. The RAA was approved by the Pensions Regulator and not objected to by the PPF under existing rules, because the alternative would be the inevitable insolvency of Tata Steel UK Limited and the other employers leading to a worse outcome for the pension scheme.

10. A new British Steel Pension Scheme (BSPS2) has now been set up. It is sponsored by Tata Steel UK Limited.

11. Transfer to BSPS2 has not been automatic. Following a consultation period, scheme members had a choice of remaining in BSPS, or transferring to BSPS2. This exercise was known as 'Time to Choose'. Members who did not choose to move to BSPS2 will remain in BSPS. BSPS will enter a PPF assessment period at the end of March 2018 and members will receive PPF compensation.

12. There are various differences between the benefits provided in BSPS2 and the PPF. This position is most complex for those who have not yet started drawing their pensions – for example, if they opt for the PPF they will need to weigh up a reduction in their starting pension against more generous early retirement and cash lump sum options. Which option is more financially beneficial will depend on the member's personal outlook and their retirement choice.

Bulk transfer of BSPS members

13. We recognise that BSPS members were faced with sometimes difficult choices as to whether to transfer to BSPS2, stay in the BSPS, or transfer their benefits out of BSPS completely and into an alternative pensions arrangement (a right non-retired members have anyway and not specific to the Time to Choose process). The Government was asked by the trustees and others to apply option four (the bulk transfer of members to BSPS2, without consent, where it would be in their interest to do so).

14. Also, the Work and Pensions Select Committee, in its sixth report of the current session (British Steel Pension Scheme) said at paragraph 30: "*We recommend that, in its forthcoming white paper on Defined Benefit pension schemes, the Government bring forward proposals for a system of deemed consent. This should enable the bulk transfer of members from a Defined Benefit scheme certain to enter the PPF into an alternative scheme providing unequivocally better benefits than the PPF to those members. It should be used for future cases similar to BSPS.*'"

15. The Government has considered this very carefully throughout the period since the consultation in 2016. We accept that, for some members, the current system may lead to sub-optimal outcomes. However, the alternative is to place trustees in the position of determining exactly who should move and applying a power to transfer them without consent. Whilst an opt-out of the move would provide some mitigation for individual members, we believe that providing such a wide power in future cases is undesirable because:

    - Member choice is a key part of pensions protection. It would not be appropriate to move people into a new pension scheme without their expressed consent unless the individuals concerned are clearly not worse off;
    - It is not always possible to be sure who will be better off in the new pension scheme. Outcomes will depend on personal circumstances and on members' plans

for the future. For example, in the case of BSPS someone planning to take their pension early might be better off in the PPF due to different calculation factors used by PPF. Similarly, some members may be able to secure a better survivor's benefit for their spouse by moving to the PPF;

- While for many members it may be possible to calculate arithmetically who would be better off in a new scheme rather than the PPF, this is not the only consideration in members' decision making. For example, members may have lost trust in the sponsors or trustees of the scheme and may wish to make decisions on that basis. Where the financial difference between options is small, and this is the case for the vast majority of pensioner members in the BSPS, emotional factors may become more important for members; and
- While we have confidence in the trustee and advisors who are managing BSPS, any change made to legislation to allow pension scheme members to be moved to a new scheme would have to apply to similar schemes in similar circumstances. Measures put in place for BSPS might be misused by others, either by accident or design, with unwelcome consequences more widely for the protections scheme members enjoy.

16. Although we are not pursuing the deemed consent recommendation, we strongly believe that there are lessons to be learned from all aspects of this case. We will seek to better understand the circumstances and motivations of members who made choices during the Time to Choose exercise. We will be dependent on access to data held by others but will work with the trustee of the BSPS, the Pensions Regulator, the Financial Conduct Authority and The Pensions Advisory Service to inform future decisions in any future situations with similar characteristics.

Conclusion

17. We believe that the agreement to separate the BSPS from Tata Steel UK Limited and its other employers through an RAA, together with Tata Steel UK Limited's agreement to sponsor the new pension scheme, and thereby providing members with the option to transfer into a new Defined Benefit scheme a very positive outcome considering the difficult circumstances.
18. Concerns that Tata Steel UK Limited would unreasonably avoid its liabilities have proved unfounded as Regulator has been able to secure an outcome that is better for pension scheme members than if it had become insolvent: all without the need for changes to pensions legislation. As a result, we have concluded that it is not necessary or appropriate to bring forward new legislation either to permit the trustee to reduce the pension scheme's liabilities by reducing future increases (option three in the consultation paper), or to allow the transfer of members to a new scheme paying lower benefits without individual member consent (option four in the consultation paper).
19. While Tata Steel UK Limited and the BSPS were arguably an exceptional case, lessons can and will be learned to the benefit of other employers, schemes and their members.

Response to the British Steel Pension Scheme consultation
www.gov.uk/government/consultations/british-steel-pension-scheme

Department for Work and Pensions
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