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Fiona Dunsire
Government Actuary

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Dear Fiona,

The Public Service Pensions (Exercise of Powers, Compensation and Information) (Amendment) Directions 2024 - Calculation and Payment of Interest

Background

1. As you will be aware, HM Treasury have developed a set of policies to remedy the discrimination resulting from the transitional protection arrangements introduced when public service pension schemes were reformed under the Public Service Pensions Act 2013.

2. This discrimination ceased from 1 April 2022 with the closure of the legacy schemes to accrual and all active members becoming members of the new schemes. Affected members are entitled to a retrospective remedy, which will apply to a member's 'remediable service'. This is the period of eligible service from when their new scheme was first introduced up to the closure of their legacy scheme. In most cases this is 1 April 2015 to 31 March 2022.

3. The legislative framework for the remedy is set out in the Public Service Pensions and Judicial Offices Act 2022 (the Act).

4. Sections 27, 62 and 85 of the Act enable HM Treasury to make Directions regarding certain features of the remedy set out in the Act. As required under Sections 27(4), 62(4) and 85(4) of the Act, Directions that relate to the calculation and payment of interest may only be made after consultation with the Government Actuary.

In December 2022, HM Treasury made the Public Service Pensions (Exercise of Powers, Compensation and Information) (Amendment) Directions 2022 after consulting with your predecessor Martin Clarke.

5. HM Treasury has decided to amend the Directions. Two of the proposed amendments relate to the calculation and payment of interest. One amendment changes the process for implementing changes in interest rates. The other amendment adds a further situation in which interest should be paid. I am formally writing to you to ask for your professional opinion on the proposed amendments as set out in this letter. This approach will be set out in Directions in due course to enable schemes to implement the remedy for affected members.

Proposed amendments relating to interest payments

6. One of the interest rates to be used is the NS&I Equivalent Savings Rate. The intention is that this should be in line with the interest available on the NS&I easy access savings account, 'Direct Saver'. The process set out in the Directions is that the rates to be applied before 14 December 2022 are set out in the Schedule to the Directions and rates to be applied after that point will be published by HM Treasury. The proposed amendment will change the process so that the interest rates to be applied will be the Direct Saver interest rates published on the NS&I website.

7. The Directions add a new situation in which interest should be paid which was previously omitted. This is where a member transferred their remediable service rights to another pension scheme before remedy was implemented and the transfer was not a Club transfer to another remedy scheme. Some of these members will be entitled to the remedy of an additional transfer payment. Interest will be awarded on these payments at a rate of 8% simple until 28 days after the member is informed of the amount of the additional transfer payment after which the rate will be the NS&I direct saver rate.

Government objectives and rates for interest

8. The Government's objectives for the interest payments remain the same as when the 2022 Directions were made and are to:

1) Reflect the position members may have otherwise been in – The determination of interest payment should consider what position the member may have been in had the payments been made on the date they originated from.

2) Recognise the circumstances of the award – The interest payments should reflect the context as to why the remedy is being implemented and what interest rates are being applied elsewhere as a part of the remedy.

3) Not unduly burden the taxpayer – Any interest payments should be proportionate and where possible not result in unnecessary costs to the taxpayer.

9. The NS&I Direct saver interest rate is applied to the following payments made as a result of remedy:

1) Payments made from the scheme (other than Judges and Local Government) to the member when the remedy is implemented in respect of interest accruing beyond 28 days after a Remediable Service Statement is first issued in relation to the member.

   A rate of 8% simple applies up to 28 days after a Remediable Service Statement is first issued. This also applies up to the date of payment for Judges and Local Government Pension Schemes to take account of the different way their remedies operate

   Except for payments in relation to tax related compensation which will accrue in line with HMRC's interest rate on tax refunds, which is set as the Bank of England base rate minus 1% with a lower limit of 0.5% p.a.

2) Contribution refunds made from the scheme to the member when the member retires, or otherwise leaves the scheme after the implementation of the remedy.

3) All payments made from the member to the scheme.

10. HM Treasury recognises that it is important to keep the choice of interest rates set out in the Directions under review to ensure that they continue to deliver the Government's objectives. HM Treasury also recognises that while remedy is being implemented schemes and members need stability over the interest rates to be applied. The choice of interest rate will therefore be subject to a review every five years, or in response to unexpected events.

11. I would be grateful if you could offer your professional opinion on the proposed amendments to the determination of interest payments as set out in this letter. In particular, I would welcome your view on the extent to which they meet the Government's objectives.

Yours sincerely

Nick Donlevy

Director of Public Spending, HM Treasury