Department for Education

Teachers' Pensions Schemes (Amendment) Regulations 2025

Government consultation response

March 2025

Contents

Introduction

1. The Teachers' Pension Scheme (TPS) provides pensions and other benefits to teachers in England and Wales. The scheme is made up of three distinct sections. There are two final salary pension sections, with a normal pension age of 60 and 65 respectively, provided for under the Teachers' Pensions Regulations 2010 (the 2010 regulations) (SI 2010/990). Both final salary sections closed to further accrual on 31 March 2022. The third is a career average revalued earnings section (CARE), with a normal pension age of State Pension Age or age 65 whichever is the later date, provided for under the Teachers' Pension Scheme Regulations 2014 (the 2014 regulations) (SI 2014/512). As of 1 April 2022, all active members of the TPS are accruing pension in the career average section.

2. In addition to the 2010 and 2014 regulations, there is also the Teachers' Pension Scheme (Remediable Service) Regulations 2023 (the 2023 regulations) (SI 2023/871). These regulations are to rectify the age discrimination that was identified in the way that public service pension scheme reforms were implemented in 2015 (the McCloud case).

3. The Department for Education has consulted on proposed amendments to the 2010, 2014 and 2023 scheme regulations.

4. The consultation was launched on 14 November 2024 and closed on 23 January 2025. A document outlining the purpose and effect of the proposed amendments was published on www.gov.uk alongside the draft regulations, with responses invited through the consultation platform, or by email or post. An Equalities Impact Assessment (EIA) was also included in the consultation document.

5. Key stakeholders were notified of the consultation. Prior to publication of the consultation, the proposed changes to the member contribution tiers were discussed with the Teachers' Pension Scheme Advisory Board (TPSAB). This is a statutory board, comprising of member and employer representatives whose purpose is to provide advice to the Secretary of State for Education on the desirability of potential changes to the TPS rules.

6. Respondents were invited to submit comments and views on the draft regulations and EIA.

7. This document summarises the response to the consultation and sets out the changes the Department now intends to implement.

Background and consultation proposal

8. The proposed amendments to the draft regulations were primarily related to the need to adjust the member contribution tiers and to implement His Majety's Treasury's (HMT) policy of extending the Fair Deal provisions to Further Education colleges. All other proposed changes were minor amendments to ensure the regulations remain up to date.

Member contribution tiers

9. The proposed amendment to the contributions structure is needed because, under the design of the scheme, members are required to collectively contribute 9.6% of pensionable salary overall - this is the member contribution yield. The member yield of 9.6% is factored into the benefits structure and costings of the scheme.

10. As part of the 2020 scheme valuation which was concluded in 2023, the Government Actuary's Department (GAD) estimated that the yield of the existing member contribution structure would only be 9.45% for the current valuation period (April 2024 to March 2027). Consequently, an adjustment is needed to re-set the structure to ensure that the required 9.6% member yield will be achieved within the current valuation cycle.

11. The Department has worked closely with GAD and the TPSAB on potential adjustments to achieve the required yield. Following extensive consideration of the options that were discussed and modelled, including those put forward by the TPSAB, the unanimous recommendation which was accepted by the Department was to retain the current six-tier structure with the forecast shortfall met by a small increase of 0.3 percentage points (p.p.) for tiers two-six. The contribution rate for the lowest tier, which will cover those earning up to £34,873 from April 2025, will not be increased, as a key aim is to protect the lowest paid members.[1]

12. The table below was used in the consultation document to show the current member contribution structure and what the proposed rates would be.

[1] The salary bands will change in April 2025 following the annual uplift of contribution tiers in line with the Pensions Increase factor

Annual Salary Bands 1 April 2024	Current Member Contribution Rate	Revised Member Rate (from 1 April 2025)
0 - £34,289.99	7.4%	7.4%
£34,290.00 - £46,158.99	8.6%	8.9%
£46,159.00 - £54,729.99	9.6%	9.9%
£54,730.00 - £72,534.99	10.2%	10.5%
£72,535.00 - £98,908.99	11.3%	11.6%
> £98,909.00	11.7%	12%

The table below details the member contribution structure that will apply from 1 April 2025, which also includes the annual uplift of contribution tiers in line with the Pensions Increase factor.

Annual Salary Bands (1 April 2025)	Member Contribution Rate (1 April 2025)
< £34,873	7.4%
£34,873.00 - £46,943.99	8.9%
£46,944.00 - £55,660.99	9.9%
£55,661.00 - £73,768.99	10.5%
£73,769.00 - £100,590.99	11.6%
> £100,591	12%

Fair Deal

13. Fair Deal is a non-statutory policy which maintains access to public service pension schemes in certain circumstances where employees are transferred from the public sector to a private sector employer under Transfer of Undertakings (Protection of Employment) (TUPE) terms. Scheme regulations specify which TPS employers the Fair Deal policy applies to, allowing those transferred employees to continue to participate in the scheme.

14. In November 2022 the Office for National Statistics (ONS) reclassified FE colleges as public sector organisations. Following this change, HMT has confirmed that the Fair Deal policy would be updated to include FE establishments from 14 November 2024 (the date that the change of policy was confirmed).

15. To implement this revised policy, the Department needs to amend the TPS regulations. The amendment will extend the existing Fair Deal provisions to employees of FE establishments who are already members (or eligible to be members) of the TPS and whose contract transfers to a new employer after 14 November 2024. This will allow those members to retain access to the scheme while they remain employed on that same public service contract.

Miscellaneous amendments

16. All of the other amendments included in the draft regulations are minor wording changes or clarifications to ensure that the regulations continue to work as intended. The minor amendments are as follows:

(a) Updating the 2010 and 2014 regulations to reflect the latest enactment of the Diocesan Board of Education Measure.
(b) Including the National Institute of Teaching as an eligible organisation and employer of the TPS. They are currently participating under a provision for temporary acceptance.
(c) Changing the pay over day for employers from the 7th to the 15th of each month following the rollout of Monthly Contribution Reconciliation (MCR).
(d) A redundant provision in the 2023 regulations was removed to prevent the policy intention from being misinterpreted.

Summary of consultation responses received and the Government's response

17. A total of 187 responses were received through the consultation platform and by email, the majority of which were from individuals.

18. 48.6% of respondents agreed that the proposed amendments to the TPS regulations deliver the policy objectives as set out in the consultation document (Q.1). The majority of respondents that responded 'no' to this question put forward alternative changes rather than explaining how the proposed amendments did not deliver the policy objectives set out in the consultation document.

19. 48.6% of respondents replied that no other regulations were required to achieve the stated policy aims (Q.2). As with question 1, respondents who selected 'yes' tended to suggest alternative policy approaches rather than commenting on any other regulations that they considered necessary to achieve the stated policy aims.

20. When asked if there were anything else that the Department needed to consider when assessing equalities issues arising because of the proposed regulations (Q.3.) 57% of respondents replied 'no.' The subsequent comments made in relation to this question generally did not reference equality impacts arising from the proposed policy outlined in the consultation document and generally stated alternative changes.

21. 10 responses were received from organisations which represent members and employers in the education sector. These organisations were:

- Association of Colleges
- Association of School and College Leaders (ASCL)
- Community
- Independent Schools Council / Independent Schools Bursars' Association
- LTE group
- The National Association of Schoolmasters and Union of Women Teachers (NASUWT)
- The National Education Union (NEU)

- National Education Union (NEU) post 16 group
- University Arts London
- University and College Unions

Main findings from the consultation

22. 48.6% of respondents agree that the draft regulations achieve the policy aims as described in the consultation document.

23. The NASUWT, NEU, ASCL and ISC / ISBA expressed their agreement that the proposed change to the member contribution tiers was the most preferential approach to the projected shortfall in the required member contribution yield. Many of those organisations acknowledged the Department’s detailed consultation with the TPSAB, which allowed for detailed consideration of the impact on different cohorts of member.

24. The NEU and others added that whilst they support the required approach to amending the member contribution structure, that does not mean that they agree with the requirement that members contribute an average of 9.6% of pensionable salary.

25. Several of those respondents expressed concerns about the adjustment of the member contribution rates, citing the financial impact.

26. A large proportion of the individual respondents also commented on the impact of the increased rates on member affordability.

27. Several respondents commented that they believe it is unfair that higher earners pay a higher percentage in monthly contributions.

28. Some respondents suggested that members should be given the option to decide what percentage of their pay they want to contribute to their pension.

29. Some respondents raised concerns about the impact the adjustment of the member contribution rates will have on the number of members opting out of the scheme.

30. The LTE group raised that HMT wrote to stakeholders in November 2024 informing them that the extension of Fair Deal to FE establishments would apply from 14 November 2024, whereas the draft SI that was published alongside the Department’s consultation document suggested that the provision would apply to FE colleges from 1 April 2025.

31. The NASUWT, NEU and UCU expressed disappointment that the extension of the Fair Deal provision does not apply retrospectively from November 2022,

when the ONS reclassified Further Education colleges as public sector organisations.

32. The NEU and UCU requested assurance that education contracts that are in the process of being retendered will be covered by the proposed Fair Deal amendment.

33. The Association of Colleges commented that the Fair Deal amendment could make it more expensive for colleges to compete for publicly procured contracts compared to providers who are not bound by the same rules.

Government Response

34. The Department is grateful for the detailed responses received. The key comments and concerns are addressed below.

35. The Department notes the objections to the requirement that the member yield is 9.6% overall. However, a key element of the TPS reforms that were announced in 2012 was an increase to the member contribution rate of 3.2 percentage points to 9.6% of pensionable salary. This is the amount that features of the Public Service Pensions Act 2013, alongside Treasury Directions for the scheme valuations, are based on. Therefore, it is necessary to set the structure accordingly.

36. Regarding the concerns raised about the affordability of the scheme following the adjustment to the member contribution rates, the Department is mindful of the impact and affordability was one of the key considerations of the tiered structure. This is why the proposed adjustment to the member contribution rates was made across the majority of tiers. The Department worked with GAD to determine the smallest adjustment that could be made while ensuring the required 9.6% contribution yield is achieved. Furthermore, the contribution rate for tier one will remain unchanged, in line with the aim to protect the lowest paid.

37. Whilst the circumstances of a member will determine the precise impact, the Department looked at the estimated difference to take-home pay (i.e. after-tax relief has been applied) as part of the analysis of options. The estimated impact for most members is shown in this table:

Example Salary	Net effect (Annual)	Net effect (Monthly)
£30,000	£0	£0
£40,000	£96	£8
£50,000	£120	£10
£65,000	£117	£10
£85,000	£153	£13
£110,000	£198	£17

38. A number of respondents commented that they believe it is unfair that higher earners pay a higher percentage of contributions. The decision to continue applying tiered contributions in a progressive way was unanimously agreed by the TPSAB, on the basis that it would best support wider objectives – which include maintaining the attractiveness of the scheme in supporting recruitment and retention, protecting the lowest paid and those at the beginning of their careers, and decreasing the likelihood of opt-outs especially amongst the lowest earners This approach also recognises that higher earners generally continue to receive a greater return on their contributions to the scheme than lower earners, tend to benefit more from pension tax relief, and are more able to absorb the increase. The Department is satisfied that this approach is a legitimate policy aim that does not contravene equality legislation.

39. Some respondents suggested that members should be able to choose what percentage of their salary they contribute to the TPS. As explained in paragraph 35, the requirement for members to collectively contribute 9.6% towards their pension benefits is an important element of scheme changes announced in 2012. The benefits structure of the scheme is based on members contributing 9.6% of pensionable salary and to change this would require a redesign of scheme benefits. The member contribution tiers are in place to ensure the scheme remains affordable for members and a valuable benefit upon retirement.

40. Some concerns were raised about the impact the change in member contribution rates would have on participation in the scheme. The Department monitors the monthly opt out figures and will continue to do so. Member participation rates are stable and there is no indication that the proposed adjustment to the member

contribution structure is likely to increase the number of members opting out of the scheme. The Department and TPSAB regularly monitor the number of opt outs and will continue to assess the impact of the structure on this.

41. The Department acknowledges the comment about the date that the Fair Deal policy applies from, and the SI has been amended accordingly. The regulation will take effect retrospectively from November 14, 2024. More detail of this change is provided on page 15 of this document.

42. Some respondents would like the Fair Deal amendment to the TPS regulations to apply from November 2022, when the ONS reclassified Further Education colleges as public sector organisations. The Fair Deal amendment is led by HMT policy in this area. In their consultation response letter to stakeholders, HMT explained that extending Fair Deal from the point of decision (November 14 2024) strikes the right balance between the consistent application of Fair Deal guidance and protections of staff subject to outsourcing exercises, as well as the ability of Further Education employers to have security in their planning decisions.

43. Requiring the terms of contracts that were awarded prior to HMT's announcement on November 14 2024, and the terms and conditions of transferred staff, to potentially be revisited now could undermine the basis of the contracting process, and any existing pension rights accrued by staff during the intervening period could not be removed. Moreover, applying the Fair Deal amendment from 2022 could create an additional and unanticipated cost for employers.

44. HMT also confirmed that Fair Deal should apply to exercises currently in progress, where the transfer of staff has not yet been concluded. Any organisation currently undertaking a public tender will be fully aware and will have proactively sought bid pricing to include Fair Deal in anticipation of this new policy coming into force.

45. The Department notes the Association of College's response regarding the potential effect of the Fair Deal amendment on Further Education establishments' ability to compete for contracts. The Fair Deal policy is determined by HMT and the Department is simply giving effect to the policy in the TPS regulations. However, the

Department will continue working with Further Education colleges on any ongoing concerns, through the existing channels.

Equalities Impact Assessment

Background

46. The Department has conducted a thorough Equalities Impact Assessment (EIA) in relation to the proposed amendments. The relevant data available on TPS membership relates to a member's age and sex, as the scheme administrator only collects data that is needed for the administration of the scheme, in line with General Data Protection Regulations (GDPR). Where TPS specific information is not available, the Department has obtained data from the School Workforce Census' (SWC). This data was collected over a different period than the TPS data and will not entirely reflect the scheme membership, however the Department believes that it provides a reasonable representation.

47. Data is limited for the protected characteristics outside of age and sex, but the Department has and will continue to consider the impact of potential changes on all protected characteristics as far as possible based on the information available.

48. The Department has concluded that any disproportionate adverse impact of the amendments on members is unlikely and that the changes being made represent a proportionate means of achieving the legitimate policy aims stated.

49. The impact on groups with protected characteristics is assessed as being neutral. There is no evidence to suggest that the changes being implemented are likely to discriminate against these groups.

Main findings from the EIA

50. One respondent was concerned that the change to the member contribution rates will disproportionately affect disabled members, and another respondent commented that older women will be disproportionately affected.

Government Response

51. As the proposed change to the member contribution rates will apply to all members equally the Department believes its approach is fair and justified. Inevitably, more females will be affected by this change as females make up a higher proportion of the membership. There tends to be a higher proportion of male members, compared to the overall proportion of the membership, in the higher salary bands and therefore the Department does not believe that older female members are unfairly impacted by this change.

52. The Department does not believe that disabled members or older female members will experience an unjustified disadvantage or inequality as a result of the proposed change. Should any protected group be disproportionately affected, the Department believes this would be justifiable given the policy intention of protecting the lowest paid members.

Changes and additions to the draft amendments

53. In the draft regulations, the provision relating to Fair Deal colleges was to come into effect from April 1 2025. However, this has been amended in the final regulations to apply the policy retrospectively from November 14, 2024. This has been changed because HMT confirmed their final policy in November 2024, and the regulations are to be aligned with that policy.

54. Two additional institutions have also been added to the Fair Deal amendments to ensure that all relevant FE establishments that are eligible to participate in the TPS are brought in line with that new policy. The governing body of an institution within the FE sector to which grants are made (found in Chapter 2, Part 1, Schedule 1, paragraph 14 of the TPS 2014 Regulation) and institutions for the further education and training of disabled persons are now included in the amendment (found in Chapter 2, Part 1, Schedule 1, paragraph 24).

Next steps

55. The Department would like to thank the TPSAB and all respondents to the consultation for providing detailed comments and feedback, which has helped test the proposals and provided insight from across the TPS membership and interested stakeholders.

56. Subject to the changes described in the section above, the draft regulations will now form the basis of the final regulations. Regulations will be laid in March 2025 and come into force on 1 April 2025.

Department for Education

About this publication:

enquiries https://www.gov.uk/contact-dfe
download www.gov.uk/government/publications

Follow us on X: @educationgovuk
Connect with us on Facebook: facebook.com/educationgovuk