

Scheme Advisory Board

C/O SAB Secretariat
SPPA
7 Tweedside Park
Tweedbank
Galashiels
TD1 3TE

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HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

HM Treasury paper 'Addressing unjustified age discrimination in transitional arrangements to the 2015 pension schemes – working proposals'

This response is to the above paper that sought initial engagement with Scheme Advisory Boards (SABs) on a technical discussions basis. The paper provides the initial HMT proposals on a remedy to remove the age discrimination created by the 2015 transitional protections.

The Scottish Teachers' Pension Scheme (STPS) SAB met initially on the 22 January and again on the 24 February to consider the options set out in the paper. Additional information was provided by the Government Actuary's Department (GAD) at the meeting on 24 February which compared the value of the pre and post 2015 STPS benefits covering the remedy period. The GAD paper provided illustrative examples covering a number of scenarios which indicated that, typically, pre 2015 final salary benefits were of higher value to members when compared to post 2015 CARE benefits for the same period. Exceptions to this included, for example, ill-health retirement where the longer period over which service enhancements were provided resulted in a higher post 2015 benefit.

The two options provide for an immediate and deferred choice to determine the benefit accrued during the remedy period. The SAB agreed that a consensus view was not required in responding to these initial proposals and this response sets out individual side views reflecting both employer and employee side views.

Employees' representatives views

The Employee side remains adamant that when considering the terms of a post remedy scheme the remedy should simply provide that those members who were unlawfully removed from their final salary schemes are put back in those schemes remaining in them through to retirement, be it age 60 or 65. Members need greater certainty and trust in the UK Government that the pensions they are provided with will deliver a pension at the age they originally expected and have planned on. Whilst the Employee side recognises the proposed remedy is looking to address the age discrimination created by the transitional protections, limiting a solution to the remedy period simply creates a further cliff edge, whereby those nearest to retirement remain at an advantage. This therefore creates a further age discrimination question which would be open to further challenge. Without prejudice to this position, if asked to express a view at this point as to the relative merits of an immediate or deferred choice, the Employees' side is of the view that the deferred option would provide greater certainty for members at retirement allowing them to make an informed choice on what scheme during the remedy period would be more beneficial for them at the point of retirement.

The Employee side also understands that HMT proposes that the cost of the remedy will fall to the members. Given that it was through a UK Government decision to limit the transitional protections that caused the age discrimination, the costs of rectifying that error should fall to HMT. Not knowing how the costs of the remedy will be managed creates further uncertainty on how members' pensions and their value will be directly affected.

Employers' representatives views

Initial views from the Employers' side was that the immediate option provides greater certainty on scheme costs over a significantly shorter period. The Employers' side considers that there is benefit to everyone from ensuring financial certainty. Whilst the choice between the immediate and deferred options is ultimately a decision between the level of risk vs clarity, what is necessary is that Employers are clear on ongoing costs for financial planning, and to ensure longer term sustainability.

What does appear to be clear from the work undertaken by GAD on the different scenarios is that the STPS benefit structure is such that, for a considerable proportion of members, staying in the Final Salary Scheme for the Remedy Period is the most advantageous option. In view of this, the Employers' side considers that an approach for the STPS should place everyone back in the Final Salary Scheme for the duration of the Remedy Period only. For those limited scenarios where a member would have been better off staying in the CARE scheme, then there is given an undertaking of compensation to ensure provision of an equivalent benefit.

The Employers' side is clear that the technical working paper from HM Treasury provides for just two options, and that for the reasons of sustainability (both as stated above and as identified in the Hutton report), it is not appropriate to reopen any other option.

Limitations

Both sides recognised, as set out in the HMT paper, that key issues still need to be finalised around tax implications, scheme design/landscape post remedy, the impact of applying the 2016 valuation cost cap breaches and how the costs of implementing the remedy will be met.

The SAB looks forward to considering the formal public consultation on the remedy and expects that the issues raised through the technical discussions will be fairly and objectively considered and included in the consultation if a fair and lasting remedy is to be agreed and delivered.

Yours faithfully

The Chair and members of the Scottish Teachers' Pension Scheme Advisory Board