

EIS Response to UK Government consultation on addressing Public service pension schemes: changes to the transitional arrangements to the 2015 Schemes - Consultation

The EIS is the largest teachers' union in Scotland (circa 60,000 members) and represents members in all sectors of Scottish Education from Early Years to Further and Higher Education. Our members are also members of the Scottish Teachers' Pension Scheme. We have both active and retired members within our membership. The EIS is concerned that this consultation document is limited in scope and does not fully address the concerns that have been raised through the Scottish Teachers' Pension Scheme Advisory Board.

Outstanding Concerns:

- The remedy period is defined in this consultation document as ending on 31 March 2022. The assumption that all members will move to "reformed schemes" on 1 April 2022 does not address the increase in normal pension age (NPA) to state pension age for members of the legacy scheme who were not eligible for full protection. We are firmly of the view that members should be returned to the benefit structure they were enrolled into for the duration of their careers.
- An immediate and irrevocable choice for members at some point after 2022 does not allow members to make an informed decision with respect to their future retirement income. The information in the consultation is misleading in that the numbers of members who will be better off in the "reformed schemes" is unknown but expected to be limited. Members will not be equipped with the certainty required in terms of future career progression, health, and family circumstances to make this decision in 2022.
- HMT should cover all costs of the remedy and should not fall upon the existing schemes. We do not agree to the 2016 scheme evaluation being revisited or the 2020 evaluation including any costs to HMT as a result of the remedy. Future employee and employer contributions should not be impacted by the rectification of unlawful age discrimination.
- The pause on the implementation of the scheme improvements as a result of the 2016 valuation should be halted and the increase in member accrual rates re-instated immediately. Post 2012 members should not have their pension benefits impacted because of previous age discrimination.

Without prejudice to the above , the EIS view on the choice of options offered in the consultation document is that a **deferred choice (DCU)** for members on retirement is the only option that will allow members to make an informed choice.

Comments on Consultation Questions

Question 1: Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

Response: We are concerned that the April 2022 new cliff-edge will create further age-related discrimination.

Question 2: Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

Response: Consideration should be given to further age discrimination potential.

Question 3: Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

Response: Our concerns relate to the ability of members to make informed choices if the immediate option is decided upon.

Question 4: Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

Response: Our concern is that these members will be disadvantaged.

Question 5: Please set out any comments on the proposals set out above for an immediate choice exercise.

Response: Members will not be in position to make an informed choice. The decision making needs to be immediately prior to retirement so individuals are best placed to make a fully informed choice.

Question 6: Please set out any comments on the proposals set out above for a deferred choice underpin.

Response: This is our preferred option within the scope of this consultation. The limited nature of the choice in the remedy has been noted. The adverse effects on members of the immediate choice would be an additional factor in making an unsatisfactory remedy even worse.

Question 7: Please set out any comments on the administrative impacts of both options

Response: There will be administrative burdens for SPPA on both options but the deferred option spreads this over time and allows for resources and systems to be put in place to meet the demand.

Question 8: Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

Response: DCU is preferable as this gives members better prospects of making an informed choice.

Question 9: Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

Response: We view this as a limited, technical solution only. There will also be the potential for large number of age or early retirements in March 2022 and the potential for further age discrimination for those aged under NPA at this point.

Question 10: Please set out any comments on our proposed method of revisiting past cases.

Response: There should be a guarantee of equal treatment of any leavers since 2015 and retrospective choices must be allowed.

Question 11: Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

Response: Reformed and legacy schemes have had the same structure for teachers since 2015.

Question 12: Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.

Response: Members should be given the right to revisit their choice.

Question 13: Please set out any comments on our proposed treatment of annual benefit statements.

Response: Accuracy of annual benefit statements is paramount going forward – members must be able to trust the data provided.

Question 14: Please set out any comments on our proposed treatment of cases involving ill-health retirement.

Response: Members should be given the same choices as active members.

Question 15: Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.

Response: The best results for survivors should be applied.

Question 16: Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

Response: We believe that individual cases need to be considered.

Question 17: If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

Response: Whichever gives members the best choice, members are unlikely to transfer age 60 benefits to a CARE scheme.

Question 18: Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

Response: Same response as for Q17 above.

Question 19: Please set out any comments on our proposed treatment of divorce cases.

Response: No comment.

Question 20: Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

Response: No, interest should not be charged as it is not the fault of members.

Question 21: Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

Response: Yes, this should be paid. Interest should be paid at the rate of CPI plus 1%.

Question 22: If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

Response: Existing rate or CPI plus 1%, whichever is the greater should be applied.

Question 23: Please set out any comments on our proposed treatment of abatement.

Response: Abatement rules and any outstanding debts should be abolished with immediate effect.

Question 24: Please set out any comments on the interaction of the proposals in this consultation with the tax system

Response: Those affected need to be identified and given the opportunity to obtain advice.

Summary: The EIS views the deferred choice (DCU) to be in the best interests of members of the Scottish Teachers' Pension Scheme and the scheme itself.