

Teachers' Pension Scheme: proposed changes to scheme regulations (Government consultation).

Response of the Association of School and College Leaders

1. The Association of School and College Leaders (ASCL) represents more than 21,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and in an increasing proportion of the primary phase. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL welcomes the opportunity to make a written response to the proposals on proposed changes to the Teachers' Pension Scheme (TPS) regulations, as this is the school to which the majority of eligible ASCL members belong.
3. The consultation is in two parts, the first of which relates to proposals to amend scheme regulations so as to provide female members in an opposite-sex marriage or civil partnership with the same survivor pension rights as female members in a same-sex marriage or civil partnership, commonly cited as the Walker and Goodwin cases.
4. **ASCL fully supports pensions equality and welcomes regulatory change to ensure that school leaders' adult survivor pensions for all same-sex spouses and civil partners would be based on the same accrued pension as adult survivor pensions for widows of opposite-sex marriages, (backdated to 1972) and that the pensions of male survivors from heterosexual marriages and civil partnerships (widowers) would also be based on pensions accrued from 1972 onwards.**
5. With reference to your specific questions

Question 1

Do you agree that the proposed amendments to the TPS regulations deliver the policy objectives as set out in the consultation document?

6. ASCL supports the approach taken in the consultation in that the amendments to the regulations will ensure that all members in both opposite and same sex marriages and civil partnerships will benefit from equal survivor pension rights, with no detriment.
7. Question 2 is therefore not applicable.

Question 3

Are there any changes needed to ensure the proposed amendments deliver the policy objectives?

As it has been presented, we have not identified any specific issues. However, considering the considerable complexity of the retrospective application we reserve the right to highlight any concerns should they become apparent.

Question 4

Are there any equality impacts as a result of any of the proposed amendments that the Department has not identified and needs to take account of?

8. As it has been presented, we have not identified any specific issues. However, considering the considerable complexity of the retrospective application we reserve the right to highlight any concerns should they become apparent.

Question 5

Are there any additional comments you wish to provide with regard to the proposed amendments to scheme regulations?

9. We are supportive of this regulatory change and in agreement with the approach taken. Communicating the changes clearly to members is critical to them understanding their entitlements under these scheme changes, many of whom will be retrospectively benefitted.
10. The second part to this consultation follows on from the government's response to the phased withdrawal consultation for independent schools (November 2020) so as allow for the phased withdrawal of independent schools that might otherwise leave the TPS outright with immediate effect.
- 11. In the original consultation, as is still the case, ASCL strongly opposed the proposal to allow the phased withdrawal of independent schools. Where a teacher or school or college leader in an independent school meets the eligibility requirements for the Teachers' Pension Scheme (TPS) and wishes to enrol or remain in the scheme, then ASCL believes that their employer should make this provision available. Whilst we recognise the financial burden of employer pension contributions, the answer cannot be to withdraw or partially withdraw from the TPS. Instead, employers should make every effort to make savings elsewhere in order to continue to offer access to the TPS for our members.**

Access to a high-quality pension scheme is a fundamental benefit which all eligible teachers and school leaders should receive. We are concerned that phased withdrawal from the TPS will be of detriment to teachers and leaders working in the independent sector, on recruitment and retention in the sector, on mobility between schools and sectors, and on the financial cost of the TPS.

12. With reference to your specific questions

Question 1

Do you agree that the proposed amendments to the TPS regulations deliver the policy objectives as set out in the consultation document?

13. ASCL agrees that the proposed amendments to the regulations deliver the proposed objectives within the above caveat. However, since the reason given in the government response to the original consultation is affordability, ASCL would wish to see a transparent guarantee mechanism to validate the reason for a phased withdrawal, so as to prevent this detriment to school and college leaders for any other elective reason. ASCL supports the various mechanisms in the consultation to address what may have been contingent

decisions, including the guarantee to opt back into the scheme within the qualifying break period.

14. Question 2 is not applicable.

Question 3

Are there any changes needed to ensure the proposed amendments deliver the policy objectives?

15. ASCL would need to scrutinise the new type of guarantee proposed where an independent school elects for phased withdrawal and how it related to the guarantee requirement that was in place as an accepted school.

Question 4

Are there any equality impacts as a result of any of the proposed amendments that the Department has not identified and needs to take account of?

16. As it has been presented, we have not identified any specific issues. However, given that the consultation amendments relate to specific equalities issues and have been designed to address these we reserve the right to highlight any concerns should they become apparent.

Question 5

Are there any additional comments you wish to provide with regard to the proposed amendments to scheme regulations?

17. ASCL is concerned that employers may see the phased withdrawal option as an elective a cost-cutting measure regardless of genuine affordability. This is evidenced by numbers of organisations contacting independent schools to offer both services to facilitate opt-out and alternative pension schemes. Consequently, ASCL would like to see a guarantee mechanism to ensure that opt-out is purely on grounds of affordability rather than just wishing to save money per se. The guarantee should also preclude “fire and rehire” practices whereby members are recontracted on lower salaries to offset TPS employer contribution costs.

18. We hope that this is of value to your consultation, ASCL is willing to be further consulted and to assist in any way that it can.

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