

Government consultation on the Teachers' Pension Scheme - Independent Schools Phased Withdrawal Proposal

Response of the Association of School and College Leaders

A. Introduction

1. The Association of School and College Leaders (ASCL) represents over 19,000 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 contribute to this consultation.

B. Key points

3. ASCL is concerned that this proposal will lead to many teachers and school leaders, including a significant number of our members, losing access to the Teachers' Pension Scheme (TPS). Many teachers and leaders have been members of the TPS for many years, in most cases since the beginning of their careers.
4. We are also concerned about the financial impact of the withdrawal of independent schools from the TPS, whether immediately or on a phased basis, on the scheme as a whole. This could negatively affect the majority of our members, not just those working in the independent sector.

C. Answers to specific questions

Question 1: Do you agree that the phased withdrawal proposal will help independent schools to manage the financial pressures resulting from the additional costs of TPS employer contributions?

5. Whilst we agree that the proposal would help independent schools to manage the financial pressures resulting from the additional costs, we cannot agree with the proposal itself. Helping independent schools to manage their financial pressures should not be done at the expense of teachers' pension arrangements.
6. We agree with the Government's position that it is important that as many teachers and school leaders as possible retain their current entitlement to TPS benefits. However, it is our position that where a teacher or school or college leader meets the eligibility requirements for the TPS and wishes to enrol in or remain in the scheme, then their employer should make this provision available. We are therefore unable to support a

proposal which would see a significant number of our members refused access to the scheme.

Question 2: Do you agree that the phased withdrawal proposal will protect those teachers that are currently participating in the scheme?

7. No. This would only protect them while they remained in their current role. If they were to take up a new role within their current school, the employer could use the contractual change to transfer them to the alternative pensions' scheme. Moreover, if a teacher or leader then moved to a school that was not offering the TPS to new staff they would lose any protection they had.
8. The proposal also offers no protection for staff who may take a career break and return to a school that has frozen participation, as they would not be eligible to return to the TPS and would instead be offered an alternative pension scheme.
9. Furthermore, there is no protection for teachers who are currently in the scheme and who move schools within the sector. For example, if a teacher moves to a school which has frozen participation then they would not be allowed to continue in the TPS and would have to join the alternative scheme. Whilst we recognise that if they then moved again to a school that was offering TPS they could move back in, the financial implications for teachers in this position are extremely unclear.

Question 3: Other than government funding, which the department confirmed will not be provided to independent schools at this stage, are there any alternative methods of achieving the aim of helping independent schools to manage this additional financial pressure while protecting existing TPS members?

10. Whilst we recognise the financial burden the increase in employer contributions will have on independent schools, and the disproportionate impact this will have on smaller institutions, the answer cannot be to withdraw from the TPS. Instead, employers should make every effort to manage their costs accordingly, as they would with any other increase in costs, and make savings elsewhere in order to continue to offer access to the TPS.
11. Access to a high-quality pension scheme is a fundamental benefit which teachers expect to receive, regardless of the sector in which they work.
12. If independent schools were to withdraw from the TPS, we are concerned that this would have a negative personal impact on teachers and leaders working in the independent sector, on recruitment and retention in the sector, and on ease of movement between the state and independent sectors.
13. Furthermore, we would question what guarantee there is that employer contributions to the alternative scheme would not be reduced or capped in future if, for example, a school experiences further financial pressure.

Question 4: Do you have any other comments regarding this proposal?

14. Yes. We are concerned that, if the proposal goes ahead it will be setting a precedent, and that over time it could be extended to other public sectors, most notably the academy and maintained sectors.
15. The proposal will also cause confusion amongst teachers who may be looking for jobs elsewhere within the sector, as they will have the added difficulty of finding out whether

their service within the TPS will continue or not, bringing about uncertainty in the job market, further exacerbating the current recruitment and retention crisis.

16. This is in addition to the perplexities in the proposal around extended absence, which may, or may not, lead to teachers and leaders losing their pension scheme.
17. There are many potential future financial implications for teachers arising from this proposal, and the impact of these has not been assessed or addressed here. For example, the proposal states that a school which chose to freeze participation then decided to reinstate it in the future would be required to enrol all eligible teaching staff from that date. Independent schools may 'offer' the alternative as a more attractive offer to younger staff with lower employee contributions available, these would then increase when transferring to the TPS.

D. Other considerations relating to Public Sector Equality Duty

Question 1: are any equality impacts that may result from the phased withdrawal proposal?

18. Yes. This could lead to age discrimination, as new staff, many of whom would be younger, would be refused membership of the TPS, when older staff who are already in the scheme would benefit from a better pension scheme.
19. There are also potential implications for teachers who may take a career break, for example to look after dependents. This is highlighted in the Department for Education's 'Equalities considerations as part of appraisal and pay determination process' guidance with reference to pay portability. The same principle applies here. The proposal has the potential for indirect discrimination 'likely to disadvantage women teachers who have taken a break from teaching to give birth and/or to care for their children.'

Question 2: if there are potential equality impacts identified, how they might be mitigated?

20. By ensuring that all teachers continue to be eligible for membership of the TPS, regardless of the sector they work in. It is not the role of the Government to support private sector employers in managing their financial constraints, and especially not at the expense of teachers' basic contractual entitlements.

E. Conclusion

21. We are pleased that the government is trying proactively to find ways to ensure that as many teachers and school leaders as possible retain their current entitlement to the TPS, and we recognise the financial burden that the increased contributions places on independent schools. We cannot, however, support any proposal that allows any teachers or school leaders to be refused access to the TPS.
22. I hope that this response 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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October 2019