

Teachers' Pension Scheme: proposed changes to scheme regulations

Government consultation

Response of the Association of School and College Leaders

A. Introduction

1. The Association of School and College Leaders (ASCL) represents over 21,500 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 to alter the Teachers' Pension Scheme (TPS) regulations as the first part of the remedy to the transitional arrangements to the 2015 public sector schemes. The Association is pleased that many of its responses and suggestions to the initial July 2020 consultation were adopted into the Public Sector Pensions and Judicial Offices Bill (July 2021).
- 3 **ASCL continues to be strongly opposed to the proposal that the cost of the remedy will be incurred by the TPS, and therefore ultimately funded by member and/or employee contributions. The scheme (administrators, members, employers) is not at fault and should not incur costs to fund a remedy to an illegality not of its making.**

With reference to your specific questions

B. Answers to specific questions

Question 1: Are there any scenarios where a full protection member who will transition to the new scheme on 1 April 2022 could have entitlement to ill-health pension in the legacy scheme, if their application was instead approved on 31 March 2022?

- 1 ASCL full protection members retiring after the end of the remedy period will have reached normal pension age (NPA). Their enhancement would have been tested and calculated under the rules of the scheme in which they are active in at that time. Being protected members, therefore, this component would not be affected by any Remedy Choice they make. Their binary choice for the Remedy Period would logically be congruent with that of NPA retirees. Consequently, had the member not reached NPA

the criteria for awarding Tier 1 ill health retirement (IHR) (with enhancement) is based on a likelihood of being able to work again prior to retirement age. There may be situations where members can be assessed as eligible in the Legacy Scheme but not the Reformed Scheme due to the confluence between NPA and likelihood of recovery. However, being fully protected this would be relevant to this specific scenario and an ill-health underpin could well be superfluous.

Question 2: Do the draft amendments achieve the policy aims as described in the consultation document?

2. ASCL's view on the Independent Public Sector Pensions Commission (2011) Report and the 2015 Pension Regulation changes that followed is a matter of record and does not need repeating here. Consequently, from where the subsequent architecture of the scheme design sits following the McCloud ruling, ASCL is broadly in agreement with the approach taken. Due diligence, given previous errors, is essential, albeit with the caveat that no ASCL member should suffer detriment because of lost protection in being necessitated to opt for exclusively either the legacy or reformed scheme during the remedy period.

Question 3: Are any other amendments to scheme regulations required to achieve the stated policy aims?

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

Question 4: Are there any further considerations and evidence that you think the Department should take into account when assessing any equality issues arising as a result of these proposed amendments?

4. The complexity of the remedy in the context of a fragmented kinetic system, alongside data protection protocols, may exacerbate ongoing concern about missing service history where an employer is not able to supply the required historic member data. This is compounded by additionalities such as maternity and carers leave. This highlights the need for a more responsive set of guidelines that provide an audit trail framework for securing legitimacy about service and salary history in the absence of complete information. This would ensure consistency of treatment across employers in the maintained, academy and independent sectors. Again, considering the complexity of the remedy we reserve the right to highlight any further concerns should they become apparent.

Question 5: Are there any other comments regarding the draft amendments?

5. ASCL emphasises the need for clarity and transparency in the mechanism whereby members people make their decision under this deferred choice underpin. As this will have a fundamental impact on their income in retirement, quality of information throughout is paramount. Notwithstanding, as it has been presented, we have not identified any specific issues. However, considering the complexity of the remedy we reserve the right to highlight any concerns should they become apparent.

C. Conclusion

6. 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.

Jacques Szemalikowski
Conditions of Employment Specialist I Pensions
Association of School and College Leaders
21 January 2022