Department for Education

Consultation – Proposals for implementation of the reformed Teachers' Pension Scheme in 2015

June 2013

1. The NASUWT and NUT welcome the opportunity to comment on the Department for Education (DfE) Consultation on proposals for implementation of the reformed Teachers' Pension Scheme in 2015.

2. The NASUWT and NUT represent 90% of teachers and school leaders. The overwhelming majority of NASUWT and NUT members will be active, deferred or retired members of the Teachers' Pension Scheme (TPS).

GENERAL COMMENTS

3. The NASUWT and NUT wish to reiterate our firm beliefs that further review of the teachers' pension scheme in England and Wales is neither necessary nor appropriate and regret that, in the consultation document, reference is made throughout to issues of clarity rather than whether the reforms of the TPS are necessary or justified. There should have been a further formal opportunity to comment on the principle of the reforms, not just the detail.

4. The Unions reject the premise that there is a case for further structural reform of public service pensions. The Unions consider that this is based on the Coalition Government's ideological antagonism towards public sector pensions, not the evidence available. We have continually pressed the Government to complete and publish the valuation of the current scheme as at 31 March 2008 in order to establish the true financial position of the TPS.

5. In fact the NASUWT and the NUT wrote to the Secretary of State again on 18th March 2013, demanding that he agree to publish the valuation of the current Teachers' Pension Scheme conducted on the basis of the 2010 criteria and factors and commit to genuine discussion on its findings.

6. It was the clear view of the Unions, the Department for Education and Skills (DfES) and the Treasury at the time that the agreement reached on changes to the TPS for implementation

in 2007 resulted in ‘a good and fair balance between the interests of teachers and taxpayers’ while ‘ensuring the long-term sustainability and affordability of the TPS’.

7. The NASUWT and the NUT note that the Reports of the Independent Public Service Pensions Commission (IPSPC), chaired by Lord Hutton, found that these past reforms, the current freeze on public sector pay, and planned workforce reductions will reduce the future cost of pensions to such an extent that ‘the gross cost of paying unfunded public service pensions is expected to fall from 1.9 per cent of GDP in 2010-11 to 1.4 per cent of GDP by 2060’ (paragraph Ex.12) and, as the Commission’s own projections show, the net cost (after taking account of employee contributions) will reduce from 1.5 per cent of GDP in 2010-11 to below 1.1 per cent of GDP from 2050 until 2060.

8. Since the publication of the IPSPC Reports, the National Audit Office (NAO) has examined the impact on future cash costs to taxpayers of the 2007/08 reforms to the pay-as-you-go schemes for civil servants, teachers and NHS staff,[1] including the increase in the level of employee contributions and the pension age for new staff from 60 to 65, and concluded that, ‘As a result of the changes, which are on course to deliver substantial savings, long-term costs are projected to stabilise around their current levels as a proportion of GDP. The changes are also set to manage one of the most significant risks to those costs, by transferring from taxpayers to employees additional costs arising if pensioners live longer than is currently projected.’

9. More specifically, the NAO estimated that, as a result of the changes, costs to taxpayers in 2059/60 will be reduced by 14% compared to what they would have been without the changes. As a consequence of the changes, the NAO estimated overall costs to taxpayers will stabilise at around 1.0% of GDP, close to their current levels.

10. The NAO estimate excludes the savings from the Coalition Government’s unilateral decision to link pension increases to the CPI rather than the RPI from 2011 but a more recent report from the Pensions Policy Institute on the implications of the Coalition Government’s public service pension reforms[2] concluded that if the unfunded public service pension schemes had remained the same as after the 2006-2008 reforms, but with pension benefits indexed by the CPI net government expenditure on the unfunded public service pensions (after allowing for member contributions) would have peaked at around 1.8% of GDP in 2016, before falling to around 1.1% by 2065.

11. The PPI Report concluded that the impact of the recent Coalition Government reforms (including the changes in the benefit structures and the increase in employee contributions) is to reduce net government expenditure on the unfunded public service pension schemes even further. After implementation of the proposed reforms - including the change to CPI and increased member contributions - net government expenditure on the unfunded public service pensions is estimated to fall to around 0.8% of GDP by 2065 – a reduction of around a quarter compared to the pre-reform system.

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[1] *The impact of the 2007-08 changes to public service pensions*, National Audit Office, 8 December 2010

[2] *The implications of the Coalition Government’s public service pension reforms* Pensions Policy Institute published 17 May 2013

12. The PPI also concluded that the impact of the Government's proposed reforms across all members of the scheme will be to reduce the value of the pension benefit for members of the TPS by more than a third, on average, to 14% of a member's salary.

13. When the Teachers' Pension Scheme was less mature, contributions paid into the scheme exceeded pensions paid out. Analysis shows that if the surpluses and deficits from the TPS were revalued to the present day in line with GDP growth, then contributions paid into the TPS exceed pensions and other benefits paid out from the TPS by £46.4bn. The NASUWT and NUT note that Government was willing to take the loan of teachers' contributions at that time, lessening the amount that it had to borrow or tax its citizens, but refuse to pay the benefits teachers deserve now.

14. The NASUWT and NUT believe that the above statistical findings of the IPSPC, the NAO and the PPI completely refute the case for further reform of public service pensions and it remains our clear view that the proposed changes to the teachers' pension schemes are unjustified.

15. The NASUWT and the NUT are profoundly opposed to the changes to teachers' pensions over which the DfE is consulting, which alongside the reforms to other public sector pension schemes are not only unjustified but represent a cynical seizure of the pensions of public sector workers to pay for an economic crisis which is not of their making. In addition to this, the Coalition Government is building a profoundly unequal society marked by profound and growing inequality and poverty, on the backs of attacks on teachers' and other public sector workers' pensions. The Coalition Government has condemned millions of public sector workers to pensioner poverty.

16. The NASUWT and NUT oppose the provision that normal pension age should equal state pension age in the proposed TPS. We think it is unreasonable to expect teachers to be forced to work into their late 60s for a full pension. It would be completely unacceptable for teachers to be expected to work past their 70th birthday, as is perfectly foreseeable under the proposal for future reviews of the state pension age included in the current Pensions Bill. That proposal means that teachers will not be able to plan for the future with any certainty, as a Government decision to increase the state pension age would have a knock-on effect on all of their post-2015 occupational pension rights as well as their state pension rights.

17. The NASUWT and NUT also continue to oppose the average 3.2% increase in employee contribution rates prior to 2015. This has nothing to do with pension scheme funding. Instead, it is a levy on teachers to pay for the costs of the recession.

18. The NASUWT and the NUT have responded to the questions in the consultation solely to attempt to secure members' interests as fully as possible. The NASUWT and the NUT will continue to fight for a fair, living pension for all teachers and will continue to have as our aim the replacement of the 2015 Teachers Pension Scheme with a fair and just Teachers Pension Scheme.

SPECIFIC COMMENTS

Question 1: Are the proposed arrangements clear, and, if they are not, what further guidance or support would be helpful?

19. The arrangements in a CARE scheme are inevitably complicated - even more complicated than the final salary arrangements in the current Teachers' Pension Schemes. The NASUWT and the NUT remain fundamentally opposed to the key scheme reforms and the clarity, or otherwise, of the illustrations of those reforms is not the issue.

Question 2: Are there any further issues the Department needs to consider in deciding whether or not to take account of residential emoluments as part of scheme member's pensionable salary?

20. The NASUWT and the NUT can see no rationale for not treating residential emoluments as pensionable salary. The NASUWT and the NUT do not consider that the inclusion of residential emoluments as pensionable salary pose a risk to the scheme and do not accept that their inclusion encourages salary suppression. If they are excluded from pensionable salary, there should be appropriate protection for existing cases. Members who are in receipt of pensionable residential emoluments will have made retirement plans in good faith based on their existing pension entitlements and these should not be removed. Payments for scheme members' residential duties that are part of a national pay agreement must in particular continue to be pensionable within the TPS.

Question 3: Will the proposals help employers and scheme members to do more to ensure the accuracy of pension-related data and thus benefits?

21. There is no reason to believe that the accuracy of pension-related data, and thus benefits, will improve as a result of the reforms. The section 'Improving understanding and accuracy – scheme member and employer roles' does not contain one proposal to improve the standard of employer record keeping. Instead the focus is on members to check their own records.

22. There is a growing fragmentation within school provision with the formation of Trust Schools, Academies and Free Schools. General trends of Academisation mean that local authorities will often cease to be responsible for administering school teachers' pensions. Beyond the schools sector, there has been greater fragmentation in Further Education and contracting-out in other education services. A growing number of small employers administering pensions and more changes of employer for teachers over their careers mean that in future there will be a far greater likelihood of error.

Question 4: Are the proposed arrangements for death grants and dependants' benefits clear and, if not, what further guidance or support would be helpful?

23. The main issue for the Unions with regard to these arrangements is that they will - like the rest of the proposed changes to the TPS - lead to lower payments in most cases. With regard to the proposals in the consultation document, the Unions believe that these arrangements should be widely publicised through the TPS website and other channels in

order to enable members to better understand their pension scheme. The current enhancement formula to enhance dependents' benefits in the event of death-in-service is not displayed prominently on the Teachers' Pensions website.

Question 5: Do you agree that the Department should amend the arrangements for enhancing dependants' pensions where a scheme member dies in service to better target them to those in most need, in line with the ill-health retirement arrangements?

24. The Unions are content with the recommendation to change the system of enhancement for dependents' pensions to match the current ill-health arrangements where a total incapacity benefit is awarded. We have been assured by the DfE that this change is revenue-neutral.

Question 6: Will the Department's proposals for calculating ill-health benefits and short-service serious ill-health grants ensure scheme members continue to be appropriately supported, or is there anything else the Department needs to consider?

25. The Unions welcome the measures to protect the position of members who step down in order to attempt to stay within the profession by use of the higher of FTE earnings or the revalued FTE equivalent salary from the point at which the member stepped down. Administrative procedures will have to be put in place to log these arrangements so that members are not disadvantaged.

Question 7: Will the Department's proposals for extending the time limits for making an in-service ill-health retirement application be sufficient to appropriately help those with difficult-to-diagnose or degenerative illnesses?

26. Even though the overall context of the pension reforms is unacceptable, the NASUWT and the NUT welcome the change to allow teachers to make an in-service application for ill-health benefits for up to two years after the ending of pensionable pay. The NASUWT and the NUT consider that this is fairer towards teachers with hard to diagnose or degenerative medical conditions. Applications for ill-health retirement are stressful events for members, especially for those suffering from mental ill-health. The time limits should be such that all reasonable treatment options can be explored, medical evidence can be obtained in reasonable time, and the application considered on its merits.

27. It is not guaranteed that a two year period will be sufficient to encompass all those cases involving difficult to diagnose or degenerative illnesses and the Unions reserve the right to return to this issue in future - either collectively or in individual cases - if this time limit proves insufficient.

28. The eligibility for ill health retirement during periods of an ongoing employment relationship should be made explicit, as now.

Question 8: Are the proposed arrangements sufficiently clear to help ensure that scheme members and employers can effectively manage the transition to the new arrangements?

29. The Unions regret the position that the Government has chosen to take over abatement of pension following re-employment. While career average benefits accrued from 2015 are not themselves subject to abatement, they will be included in the calculation to assess whether final salary benefits should be abated. These final salary benefits will be abated if the total of pension payments (both final salary and career average) plus re-employment earnings exceed the indexed salary of reference. This decision means that abatement will potentially continue on until the last member with final salary benefits has fully retired.

30. If abatement is not to be abolished altogether, career average benefits should be excluded from the calculation to assess whether final salary benefits should be abated. It will then wither on the vine as the percentage of members with career average benefits increases.

31. The Unions note that abatement will not apply to benefits payable on an actuarially reduced basis, or payable through phased retirement. In the latter case, it will be important to clearly transmit into detailed regulations that this will not apply whether the phased retirement is taken before or after the individual's NPA.

32. The Unions understand that members will be able to use online tools to assess their position. This will include whether, and if so, when, they will be moved into the career average scheme and when. It is essential that these tools and other communication processes work effectively so members can understand their underlying pension position.

Question 9: Do you agree that transitional scheme members who have passed their final salary NPA and move within the public service should have the option to transfer their benefits provided their new pension scheme is within the Public Sector Transfer Club?

33. The Unions believe that the Transfer Club is important as it encourages the movement of employees within the public sector. The Union agrees with this proposal but notes that the continued operation of the Transfer Club is outside the scope of this consultation and will be included in the second-stage of the consultation in September.

Question 10: Do the Department's proposals for the operation of faster accrual provide scheme members with sufficient flexibility whilst also being practical to administer by employers and payroll providers?

34. The NASUWT and the NUT believe the inclusion of this provision should not be presented as giving teachers access to improved pensions.

35. In the context of no general pay increase for two years and increased pension contributions in 2012, 2013 and 2014, teachers have suffered significant pay cuts in real terms. It is not realistic or acceptable to expect teachers to pay significant additional amounts each month for a better accrual rate, so that they can receive a better pension or even to receive the pension to which they would have been previously entitled.

36. The NASUWT and the NUT do not regard this flexibility as an improvement. Lower paid teachers (who are disproportionately likely to be women, disabled, and black and minority ethnic teachers) will be unable to make use of such “flexibilities”.

Question 11a: Should the option to buy-out the actuarial adjustment feature in the reformed scheme?
Question 11b: Do you agree with the Department’s proposals for the operation of this option?

37. The NASUWT and the NUT consider that the inclusion of this provision constitutes recognition by the DfE of the unacceptability of a normal pension age of 68 (or higher) for teachers. The proposal that teachers should pay additional pension contributions to those already imposed for the whole of their careers, to buy out any actuarial adjustment so that they can take their pensions at a reasonable pension age, does not make the Teachers’ Pension Scheme reforms acceptable to us.

38. The NASUWT and the NUT consider that there should be no need for Teachers’ Pension Scheme design to include a series of “flexibilities”, all of which involve teachers paying more or receiving reduced benefits, to enable teachers to retire at an acceptable pension age.

39. Even if the NASUWT and the NUT agreed with the provision to buy out the actuarial reduction, we would be concerned at the proposal that the additional contributions required should be revalued on a potentially annual basis. In the context of a career average scheme, there is no immediately apparent reason why the same percentage contribution would not cover the cost of buying out the actuarial reduction on the pension earned in future at the higher salary. We would not wish to see contributions revalued between valuations for reasons such as more recent longevity data. When valuations occur, the most likely outcome is that scheme benefits would be reduced in response to increased cost pressures and, if these comprised eg a higher NPA or lower revaluation factor, this would cut the value of scheme benefits for the whole of the member’s post 2015 service including the period for which the actuarial reduction had already been “bought out”. In such circumstances, an overpayment would have been made and a commitment would therefore be needed that a refund of contributions would be given. Given the complexities and risk involved, the NASUWT and the NUT therefore oppose the option to buy-out the actuarial adjustment factor in the reformed scheme.

Question 12: The intention is to ease the administrative burdens on existing arrangements, especially for MATs. Do the proposals outlined in this section address the main issues? If not, why not?

40. The Unions would prefer local authorities to administer the employer functions for all LA maintained schools and academies. However, where a teacher works for a Multi-Academy Trust (MAT), it would be preferable for the MAT to be responsible for delivering employer functions for all its employees in the TPS rather than the individual Academy. The key point for members is that pensions are administered effectively. Other things being equal, larger employers are likely to have better standards of administration than individual schools.

Question 13: Do you agree that the proposed PRC arrangements will appropriately assist employers and members where early termination of employment is being considered?

41. It is beneficial for the proposed Premature Retirement Compensation Regulations to be in place. However, a very significant difficulty is that many local authorities and schools do not make sufficient use of the regulations when terminating teachers' employment.

42. The NASUWT and NUT, therefore, welcome the decision to maintain the current premature retirement arrangements and agrees that the PRC regulations should be updated to allow academies to formally use the arrangements where they choose to award discretionary compensation. The NASUWT and NUT do not believe that there is a need for greater 'flexibility' within the system. Allowing greater 'flexibility', such as by allowing employers to pay a percentage of the mandatory compensation (with the rest effectively falling on the employee) would potentially encourage scheme members to accept proposals that they might later regret accepting.

43. In order to address the failure of many employers to exercise their full discretion under the regulations, the NASUWT and the NUT consider that they should be mandatory, not discretionary.

Question 14: Does the proposed remit, structure and operation of the Board provide scheme members and employers with assurance over the administration of the scheme as recommended by Lord Hutton?

44. The proposed remit, structure and operation of the Board is completely unacceptable. The proposed remit of the Board is to assist the Secretary of State in securing the effective and efficient administration of the Teachers' Pension Scheme. The Secretary of State will remain responsible for overall scheme management. This responsibility should instead be held by a truly independent Board.

45. The NASUWT and the NUT do not consider that the Board has the necessary powers to discharge its remit and, even if it was to be given these, the Board does not meet even the most basic criteria of independence from the Secretary of State. As currently constituted, the Board is simply a waste of scheme members' money.

46. The remit of the Board is far too narrow and the powers given to the Secretary of State are far too wide. The "unions", representing scheme members, only have a third of the seats on the board. In addition to this, all members of the Board, whether they are employer representatives, union representatives, or are supposedly "independent", are vetted and appointed by the Secretary of State.

47. The Unions believe that in accordance with best practice in private sector trustee boards, member representatives should make up one-half of the Pensions Board and agree that stakeholder groups should be able to nominate board members, and that board members need not themselves be members of the scheme. The Unions do not believe that DfE officials should have specific representation on the Pensions Board.

48. The DfE Consultation does not ask a specific question about the Scheme Advisory Board, but does make a proposal, in Paragraph 8.22, that the Teachers' Superannuation Working Party should become the scheme's national policy group. That Working Party has never, however, had formal terms of reference so that proposal has little practical meaning.

49. The NUT and NASUWT believe that any future changes to the Teachers' Pension Scheme must be the subject of negotiation with teacher unions, not merely subject to discussion and consultation with a "policy group" or "advisory board". We therefore wish to see a joint negotiating body established which builds on and goes beyond the minimum requirements for scheme advisory boards set out in the Public Service Pensions Act and demonstrates a commitment to working together on pensions issues. The constitution and terms of reference for this joint body should be enshrined in the regulations governing the Teachers' Pension Scheme.

    The following are the key features which the NASUWT and NUT wish to see in such a joint body:

    - It should be responsible, inter alia, for negotiations on scheme benefits and contributions, membership regulations, conduct of valuations and application of cost sharing / cost cap arrangements as well as matters relating to effective administration and management
    - The joint body should be made up of a Teachers' Side, comprising appropriate representatives of the teacher unions, and an Employer Side, comprising appropriate representatives of the DfE and employers
    - Both Sides should negotiate with a view to reaching agreement on any and all of the matters for which the joint body's terms of reference make it responsible.
    - Both Sides should have equal weight of representation and should have a Chair, Vice Chair and Secretary.
    - The Teachers' Side should be made up only of teacher unions which represent members of the TPS for England and Wales; subject to this, all teacher unions which currently participate in the TSWP should be entitled to membership of the Teachers' Side.
    - The Teachers Side may determine its own constitution and arrangements for decision making and representation at meetings independently.
    - The two Sides should agree that a "conflict of interest" as defined in the Act does not arise as a result of any member of the body exercising their representative role.
    - Meetings of the joint body may be chaired by any member of the body by agreement of those present.

    In addition, the NASUWT and the NUT consider that there should be continued provision for General Secretary Level meetings with DfE Ministers and Officials as appropriate which will discuss matters which fall within the remit of both the Pensions Board and The Scheme Advisory Board, but recognise that the need for these may reduce as the body we propose becomes established.

Question15: Will the proposals ensure that the TPS continues to help employers to help scheme members manage effectively their careers and retirement?

50. The proposals will not ensure that the TPS 'continues to help employers help scheme members manage effectively their careers and retirement." The opposite is the case – the proposals have spread uncertainty amongst teachers at best and despair at worst.

51. Employers now face having to manage teachers who will have to work for up to eight years longer to receive a full pension. There will be significant problems of motivation and morale for these teachers.

52. The Unions also believe that the proposals will have exactly the opposite effect and will encourage mistrust and ill feeling between employers and employees. The new system does not have protection for teachers 'stepping down'. Under career average, every payslip that a teacher gets will count towards their pension. It is very possible that teachers will seek to hoard responsibilities for as long as possible to maximise their pension position. Employers will not be able to trust that older teachers are likely to step back, or even that they are likely to leave by their early to mid-60s.

Question16: Will the proposals help scheme members to manage effectively their pension savings and plans?

53. The Unions do not believe that these proposals are intended to 'help' employees with their pension planning. Instead, they will cut their income in retirement.

54. Teaching is an extremely demanding profession and teachers have planned their working lives, family and financial commitments so that they are consistent with the normal pension ages of the schemes of which they are members. These teachers now face the prospect of having to work for far longer to receive an adequate and sufficient pension.

55. The Government admits in its Proposed Final Agreement that, up until 2023, its assumption is that teachers will retire at the same ages they do now (Costing and Behavioural assumptions). The NASUWT and NUT believe that this will also tend to be the case after 2023 because of the highly demanding nature of teaching. In effect, therefore, most teachers will not draw a full pension under the reformed scheme, leading to potential teacher pensioner poverty for some teachers.

56. Teachers with protected accrued service in the scheme with an NPA of 60 will want to take their entire pension at 60, including that earned in the post-2015 scheme. The Early Retirement Factors of 3% per year from 65 to 68 are therefore insufficient to remedy the increase in the Normal Pension Age. In such cases, teachers with an NPA of 68 in the reformed scheme would lose around a third of benefits if they took their pension at 60.

57. For those teachers who wish to retire before a normal pension age of 60, both their accrued pension under the current scheme and their service in the reformed scheme will be actuarially reduced, with a reduction for a teacher taking a pension at age 55 of at least a fifth of their accrued pension (NPA 60) and a reduction of at least half of their reformed

scheme pension. The teachers' pension "reforms" therefore give many teachers – particularly those with a greater proportion of total benefits in the post-2015 scheme - the prospect of poverty after they have finished teaching and for the remainder of their lives.

58. In addition to this, the NASUWT and the NUT find it completely unacceptable that, if the pension age is raised above 68, all of the pension earned in the new scheme before the change in normal pension age will become payable at the new, higher pension age. Teachers will not be able to take the pension they have accrued at the previous pension age unless they accept an actuarial reduction in the whole of their pension benefits. Any future increase in NPA should only affect future accrual from the date of the change. Otherwise, any Government, could, in the future, worsen teachers' pensions further to meet the cost of other Government expenditure. The NASUWT and the NUT find this scandalous.

59. The detailed proposals also seem to pass new responsibilities to employees. The proposals effectively force employees to superintend their own career average pension records. The Government has encouraged a multiplicity of school providers and a growing number of small employers, which is likely to mean more changes of employer for teachers over their careers. The Government does not intend to enforce decent standards of administration in this environment - the solution seemingly is to pass the responsibility on to the employee.

Question17: Are there any additional administrative, equality or practical issues that the Department needs to consider in implementing the new arrangements?

60. The Unions stand by their view that the changes contained in the Proposed Final Agreement have significant adverse equality implications regarding age, sex, ethnicity and disability status.

61. The DfE states that it has carried out an Equality Impact Assessment. The NASUWT and NUT do not regard this assessment as fit for purpose. The data was lacking at the time and will continue to be lacking for the foreseeable future. Furthermore, the DfE Equality Impact Assessment accepts that over 59% of teachers (those under 50 on 1st April 2012) will see an increase in their NPA and over 14% of these teachers will see an increase in the NPA of eight years to 68. Disgracefully, such age discrimination has not prevented the Government from pressing ahead with its pension reforms.

62. In addition to this, women teachers, disabled teachers, and black and minority ethnic teachers, will be discriminated against, or at a serious disadvantage, as a result of the teachers' pension changes. These teachers tend to be the lowest paid members of the profession and the "flexibilities" which the DfE has built into the scheme will be unaffordable. Furthermore, the age profile of women and black and minority ethnic teachers is younger than the generality of teachers and the Government's pension reforms impact most detrimentally on younger teachers.

Chris Keates (Ms)	Christine Blower
General Secretary	**General Secretary**
NASUWT	**NUT**

NASUWT/NUT Together – Representing 90% of teachers