

Summary of Consultation Responses to the Draft Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (NI) 2009 and complementing amendments to the Teachers' Superannuation Regulations (NI) 1998.

Introduction

1. This consultation sought views on draft regulations the Department proposes to make under the Superannuation (NI) Order 1972. The regulations will have the effect of transferring to teachers' employers all the costs associated with compensation for premature retirement, including the early payment of unreduced pension benefits.
2. The new regulations also provide employers with discretion to make enhanced severance payments up to a maximum of 104 weeks pay with no upper age limit as an alternative to granting Premature Retirement Compensation.
3. This document summarises the key issues from the responses during the consultation process. Each response has been analysed and issues raised have been fully considered by the Department.
4. The Department of Education is grateful to all those who responded to the consultation document.

Consultation Process

5. The proposed changes to the arrangements for the Premature Retirement Compensation Scheme (PRCS) have been under discussion at various fora involving the Department, the employing authorities and the teacher unions since early 2006.
6. The Teachers' Superannuation Consultative Committee is the established forum for consultation on matters relating to the Teachers' Pension Scheme. It comprises representatives of the 5 recognised teacher unions, UCU and ACM and since 2007 employer representatives from both the school and further education sectors. Members of the Committee were first made aware in February 2006 that action was required to control the escalating costs of the PRCS which has featured as an agenda item at every meeting of the Committee since then. Consultation has also taken place with the teacher unions and employing authorities through the Premature Retirement Compensation Working Group, which is a sub-group of the Teachers' Superannuation Consultative Committee. The Working Group met on 26 February 2008, 7 April 2008, 25 June 2008, 13 November 2008, 5 February 2009 and 27 May 2009.

7. Following approval from the Minister for Education, the draft regulations issued for formal consultation on 12 March 2009 to bodies in the education sector, other stakeholders, section 75 consultees and other interested parties. In addition, schools were emailed and the consultation was advertised in the Belfast Telegraph, the Irish News, the Newsletter and Foinse. The document was also available through the DE website. The consultation closed on 15 May 2009.
8. Responses were received from 77 organisations/individuals in the following categories.

Principal / VP	17
Teacher	41
School Governor	1
Employing Authorities/Organisations	5
Teachers Unions	6
Local Councils	2
NICS Departments	2
Other	3
Total	77

Overview of Consultation Responses

9. Responses were mainly negative. In relation to the specific question - ***Are you content that there is a need for the Department to make these regulations?*** The percentage of organisations directly expressing disagreement was 80.5%, 9.1% were in agreement and 10.4% neither agreed nor disagreed. Employing Authorities were supportive of the need for changes to the regulations. The vast majority of responses from teachers echoed concerns raised by teacher unions during consultation through the review group. Although over 10% of respondents agreed there was a need for the regulations almost all respondents (including those who agreed with the need for the regulations) raised one or more specific issues falling under the following themes:

- Financial
- Impact on teachers
- Educational issues
- Timing
- Equality
- Legislative
- Consultation
- Re-employment of retired teachers.

10. A breakdown of responses to the specific question is provided in the table below – ***“Are you content that there is a need for the Department to make these regulations?”***

Response Category	YES	NO	Not Sure	Did Not Answer
Principal / VP	0	15	2	0
Teachers	0	41	0	0
School Governor	0	1	0	0
Employer	4	0	1	0
Teacher Unions	1	4	0	1
Local Councils	0	0	0	2
NICS Dept's	1	0	0	1
Others	1	1	0	1
Total	7	62	3	5
%	9.1	80.5	3.9	6.5

Financial

11. Twenty four respondents made comments about financial issues. The main themes raised were as follows:

- Insufficient funds have been made available to employers to enable them to pay the extra cost of premature retirement resulting in employers being unable to manage their workforce effectively.
- Based on the common funding formula, declining pupil numbers will result in reduced funding which in turn will require reductions in teaching staff. If this is to continue to be facilitated by encouraging voluntary early retirement of teachers, sufficient funding needs to be allocated to avoid the need for compulsory redundancy.
- There needs to be a contingency fund created to resolve any difficulties created if the changes are created on the proposed date.
- Lack of detail on the actual funding mechanism that will be used.
- Savings can be made from releasing teachers employed on higher salary scale points and employing newly qualified teachers.
- The necessary savings should be made through administrative savings in government departments.
- A comparison should be made between the costs for sickness absence compared with the savings which the new proposals are expected to provide.

- Teachers in receipt of a Teaching Allowance in their existing school are entitled to a Reorganisation Allowance to retain their salary at its existing level if they are unsuccessful in obtaining a post of responsibility in the new school or a post of responsibility at the same level. This additional cost would have to be accounted for.
- Increased risk of challenges at industrial tribunal and the associated costs including employers' time defending such cases.

Impact on Teachers

12. Seventy one respondents highlighted an impact on teachers. The main themes raised were as follows:

- Older teachers unable to retire early creating an increase in personal stress levels; it is suggested that teachers' are "burnt out" by their early 50's.
- The Department of Education should review the career profile and support provided for teachers who may otherwise suffer from "burn out".
- Older teachers should be encouraged to leave the profession to facilitate the employment of younger teachers.
- Teachers accepting voluntary early retirement will be financially disadvantaged.
- Reduced promotion opportunities.
- Newly Qualified Teachers will find it more difficult to obtain work.
- Actuarial reductions should not be applied in redundancy cases such as curricular needs, closure or amalgamation of schools.

Educational Issues

13. Thirty four respondents commented on the impact on education. The main themes raised were as follows:

- There is likely to be an adverse impact on the quality of education provision within schools arising from the retention of staff who otherwise would have accepted early retirement and been replaced by younger teachers.
- Scotland, England & Wales have a shortage of teachers while NI has a surplus.

- Pupils will suffer as older teachers may be unable to deliver new curriculum requirements and embrace technological changes in classrooms.
- The changes will inhibit Boards of Governors and Employing Authorities securing voluntary redundancies with the associated staff morale, governance and financial implications in the declaration of Compulsory Redundancies.
- Area Based Planning is about anticipating the future education needs of an area and planning to meet those needs. Its central objective is to provide a sufficiency of education places through the appropriate mix of facilities of the right size, in the right locations. At present this objective is not being achieved – there is significant surplus capacity, struggling schools with falling rolls and no integration of planning across the different sectors. To meet this key objective of Area Based Planning, based on demographic downturn and reduction of current surplus places, school closures, rationalisation and amalgamations will have to occur. This will result in fewer teaching posts being required which in turn will require reductions in teaching staff. Without the Teachers' Premature Retirement Compensation Scheme in place, this will prove very difficult for the relevant bodies to achieve.
- There are consistent reports from schools in relation to the benefits for learning from the engagement of the younger cohort of teachers especially in the area of ICT skills and their application to the classroom.
- A reduction in the number of new teachers required would result in a corresponding reduction in the number of teacher training places. We need to be careful to ensure that teacher training facilities retain the capacity to cope with a future upturn in demand and Northern Ireland does not end up, as is the current position in England & Wales, with a future shortfall of teachers.
- The co-operation of staff in the schools concerned for closure/amalgamation must be secured in order to ensure that the proposed closure/amalgamation proceeds smoothly and to sustain teacher morale and Trade Union support. Experience demonstrates that compulsory redundancies are disproportionately demoralising on the workforce and undermine good industrial relations in schools.

Timing

14. Twenty two respondents commented on the timing of the changes. The main themes raised were as follows:

- Changes should be deferred until the completion of the school rationalisation process.

- These changes should be delayed until the establishment of ESA.
- The changes are being made too quickly; the changes should be phased in or delayed.
- There is a lack of clarity for those affected by redundancy. The proposals should be delayed and/or phased in.
- A number of principals and teachers have deferred their retirement to stay in schools whose closure has been postponed for a year and as a result have now lost out on the ability to access their pension.
- The changes are being rushed through and will impact on the intake upon Teacher Training Colleges.

Legislative

15. Eleven respondents commented on the actual content of the legislation. The main themes raised were as follows:

- Further Education Colleges should be designated as both Deciding and Compensating Authorities.
- There should be no discretion in Part 2.
- There is no specific definition of the employer.
- The Regulations should be amended to allow for a pool of teachers to be created to support schools thus ensuring no compulsory redundancies.
- It is unclear from Part 4 of the proposed regulations if this mandatory compensation only applies in the event of premature retirement on efficiency discharge grounds of the employers function and not when an employer permits a teacher to retire early but with actuarially reduced benefits.
- The minimum level of benefit is not specified.
- There is no definition of the term “up to a maximum”.
- A step down scheme for Head Teachers should be devised to treat them equally.
- The method by which notional investment outcome is determined should be subject to open and transparent scrutiny by the recognised negotiating body.

Equality Issues

16. Twenty three respondents commented in relation to equality issues arising as a result of the changes. Fifteen respondents requested that a full EQIA should be carried out and of these, 4 gave detailed reasons. The main themes raised were as follows:

- The regulations will have a potentially greater impact upon teachers working in the secondary sector than upon those in the grammar sector.
- These changes will result in compulsory redundancies.
- Arrangements for teacher redundancy are the least attractive of any group of public sector workers in Northern Ireland. A parallel has been drawn with severance terms available to non teaching school staff, and the RPA affected group.
- The discretionary element to the compensation could lead to unequal treatment.
- There will be equality impacts in relation to gender, age and/or dependent status.

Consultation

17. Fifteen respondents commented on consultation. The main themes raised were as follows:

- There has been no attempt to engage in meaningful consultation.
- The consultation period was too short.
- The changes should be negotiated and agreed with the recognised teacher unions.

Re-employment of Retired Teachers

18. Three respondents commented that:

- Retired teachers should not be re-employed as substitute teachers.