

NORTHERN IRELAND TEACHERS' PENSION SCHEME

CONSULTATION ON CHANGES TO TRANSITIONAL ARRANGEMENTS

FAQs

What is the consultation about?

The consultation is about changes to Public Sector Pension Schemes, including the NI Teachers' Pension Scheme, which have arisen from claims made by several judges and firefighters (McCloud and Sargeant cases) in the Employment Tribunal on the grounds that the transitional protection offered to older members when schemes were reformed in 2015, which meant they remained in their old pension schemes (Final Salary), was discriminatory. They argued that younger members were treated less favourably than older members who were given transitional protection.

The Court of Appeal in GB ruled, in December 2018, that transitional protection in the judges' and firefighters' pension schemes gave rise to unlawful discrimination.

In July 2019, the government confirmed that they accepted that the Court of Appeal's judgment has implications for the main public service pension schemes, including teachers, as these schemes also provide transitional protection arrangements for older members.

In March 2020 the government confirmed, in a written ministerial statement which can be found [here](#), that the difference in treatment since 2015 for all affected members would be addressed regardless of whether they had submitted a legal claim and ensure equal treatment going forwards.

The devolved schemes in NI incorporate similar age based transitional protections and legal advice confirms discrimination must be similarly addressed and removed.

What is transitional protection?

Transitional protection allowed members of the NI Teachers Pension Scheme, who were within ten years of their normal retirement age, to remain in their final salary schemes, while other members moved to the new career average scheme in, or after, 2015.

When will details of the changes to pension schemes be confirmed?

The Department of Finance has responsibility for devolved public service pension policy under the Public Service Pensions Act (Northern Ireland) 2014. On 19 August 2020 it launched a consultation on proposals to address the discrimination. This is your opportunity to put forward your views on their proposals to address the discrimination. The consultation ends on 18 November 2020 and the government will take decisions following consideration of the consultation responses. You can find details on how to respond to the consultation [here](#).

What are the changes proposed in the consultation?

The Department of Finance is consulting on two options to remove the discrimination caused by transitional protection arrangements. Both options provide members *in scope* with a choice of receiving either their old or new scheme benefits. Full details are set out in the consultation [here](#). There has been no decision made as to which option is preferable. That decision will not be made until the consultation process is complete.

Who is *in scope* of the consultation proposals?

Scheme members who were in post on or before 31 March 2012 and still in post on or after the 1 April 2015 will be *in scope* of these proposals. This includes those members who are active, deferred or retired and those with a non-disqualifying break in service of no more than five years. Service from 1 April 2015 until the end of the remedy period (the period of service affected) will be subject to the consultation proposals. The consultation is proposing to bring in legislation to end the remedy period by 1 April 2022.

Am I affected?

If you were in post on or before 31 March 2012 and still in post on or after 1 April 2015 then the consultation will apply to you. Please read the consultation and provide your feedback to the proposals.

What period of service is covered by the 'remedy period'?

The consultation reference to the 'remedy period' is the period for which members would be offered the choice as to which scheme their service should be considered under. The consultation states the remedy period will be from 1 April 2015 to 31 March 2022.

Where can I find out more information on the consultation?

You can find further information on the consultation on the Department of Finance website [here](#).

What are the proposals?

These are the two proposed options contained in the consultation, Immediate Choice (IC) or Deferred Choice Underpin (DCU). Both options involve members having the choice between the legacy (final salary) and reformed (career average) scheme benefits for the service they have accrued during the remedy period (the period of service affected from 1 April 2015, with the consultation proposing an end date of 31 March 2022).

Under the immediate choice option, most members would make this decision soon after the point of legislative implementation. Under the deferred choice underpin for the majority of members this decision would be deferred until the point at which they take their pension benefits (e.g. retirement).

Full details are set out in the consultation document and a supporting leaflet, which you can find on the Department of Finance [website](#).

Is the 2015 NI Teachers' Pension scheme discriminatory?

The transitional protection was a policy that kept those closest to retirement age in the legacy final salary teachers' schemes, when others were moved automatically to the reformed career average scheme, and it is this policy that the courts found

to be discriminatory. The proposed remedy will ensure that all affected members have access to the scheme that they consider is better for them for the period involved.

What happens if I have already taken my benefits?

Members *in scope* who have already retired and received a pension award, from either the legacy or reformed scheme, will be given a choice as soon as practicable once the legislative changes are implemented. Any revised award will be backdated to the date their pension award was made. Members who retire between now and the implementation of the changes will be treated in the same way.

Full details are set out in the consultation document and a supporting leaflet, which you can find on the Department of Finance [website](#).

When will these changes be ready/implemented?

The consultation is seeking views on two different ways to eliminate the discrimination identified by the courts. Each of these proposals will require different legislative and administrative changes before schemes will be able to implement the new provisions. Until a final decision is made, we cannot provide an accurate implementation date, but are committed to starting this process as early as possible.

What we can confirm it is the intention to make legislation by 1 April 2022 that will confirm the end of the *remedy period* and move all active scheme members into the 2015 career average scheme from that time. In the meantime, schemes will be progressing with cases where possible. The [consultation document](#) provides details on these cases.

Why isn't the consultation proposing to return everyone to their old schemes?

Depending on members' personal circumstances, many members may be better off in the career average (reformed) scheme so it's not fair to simply move everyone back into the final salary (legacy) schemes. The consultation therefore proposes to

provide members with the option to choose between these scheme benefits for the period between 1 April 2015 and 31 March 2022.

Full details are set out in the consultation document and a supporting leaflet, which you can find on the Department of Finance [website](#).

Which would you suggest is my best option?

The consultation is the opportunity for you to give your views in relation to what you feel would be your best option. Please read the consultation document in full and provide your feedback by responding to the consultation.

Does the immediate choice option allow me to change my decision in the future?

No. The consultation sets out that the immediate choice decision is irrevocable and cannot be changed.

What will the scheme look like after 31 March 2022?

The consultation seeks to ensure public service pension schemes, including the NI Teachers' Pension Scheme, remain appropriate and affordable while also treating members equally for their future service. All active members will be placed in the career average (reformed) scheme from 1 April 2022. The final salary link for members with prior service in the final salary (legacy) scheme will be retained.

Will members who were previously covered by 'transitional protection' also be moved into the new scheme?

From 1 April 2022, all active members of the NI Teachers' Pension Scheme who continue in service will be moved into the career average (reformed) scheme.

What change will I see to my pension?

If you have already retired, or otherwise are in receipt of benefits, we'll write to you once a final position is confirmed. Until such time as the solution is in place and your choice has been made, it's not possible to quantify changes to pension.

Do I need to submit a claim to the courts to be eligible for the pension changes?

No. The consultation document confirms that whichever solution is implemented, it will apply across all public service pension schemes, including the NI Teachers' Pension Scheme, and for all members with relevant service, regardless of whether they've lodged a claim.

In the Westminster Written Ministerial Statement released in March 2020, it was mentioned that it would be helpful for members to retain their tax paperwork for 2015/16, is this still the case?

Yes. Depending on the eventual policy, members may need the relevant paperwork to help them reassess previous tax liabilities. Therefore, it would be helpful if people kept their paperwork related to tax from April 2015 onwards.

This would include all self-assessment returns, P60s, the annual statements from your pension scheme administrator and documents relating to any other personal or occupational pension schemes.

What if I entered the NI Teachers' Pension Scheme on or after 1 April 2012?

Members who first joined their scheme after 31 March 2012 were ineligible for transitional protection regardless of their age, and so are not affected by the discrimination identified by the court.

What is the cost control mechanism?

The cost control mechanism was introduced in 2015 with the public service pension scheme reforms.

It is part of the valuation process to ensure the costs of public service pensions remain sustainable, protecting the taxpayer from increased costs; but also maintaining the value to members when costs fall.

How would the unpausing of the cost control mechanism affect the 2016 NI Teachers' Pension Scheme valuation?

The Department of Finance will set out in directions how the cost control part of the 2016 valuations will be completed. This will determine how the cost cap calculations are to be completed for the NI Teachers' Pension Scheme.