Government Actuary's Department

July 2020

Technical Bulletin

Public Service Pensions - update

On 16 July 2020, the Chief Secretary to the Treasury provided an update to Parliament on public service pensions. His statement covered options for removing the discrimination between scheme members arising from transitional protection arrangements, and future pension provision; as well as an update on the cost control mechanism. This bulletin provides an overview of that statement and associated publications issued by HM Treasury.

Transitional protection

Following the final report of the Independent Public Service Pensions Commission in 2011, the public service pension schemes were reformed. New career average re-valued earnings schemes were put in place, typically with effect from April 2015.

Members who were within 10 years of their Normal Pension Age (NPA) on 1 April 2012 qualified for transitional protection – meaning they continued to accrue benefits in the legacy schemes beyond April 2015. Some schemes also provided 'tapered protection'. This involved members who were slightly more than 10 years from their NPA on 1 April 2012 remaining in the legacy schemes for a period of time after April 2015, before moving into the reformed schemes.

Following claims brought by judges and firefighters, in December 2018 the Court of Appeal ruled that transitional protection constituted unlawful age discrimination. In July 2019, in a Written Ministerial Statement to Parliament, the government confirmed its intention to remedy the difference in treatment across all of the main public service pension schemes.

Proposals to remove the discrimination

Depending on their personal circumstances and preferences, some members are likely to be better off in the reformed schemes, whilst others are likely to be better off in the legacy schemes. In March 2020, the government confirmed to Parliament that it was considering proposals which would allow relevant members to make a choice as to whether they accrued service in the legacy or reformed schemes for periods of relevant service, depending on what is better for them.

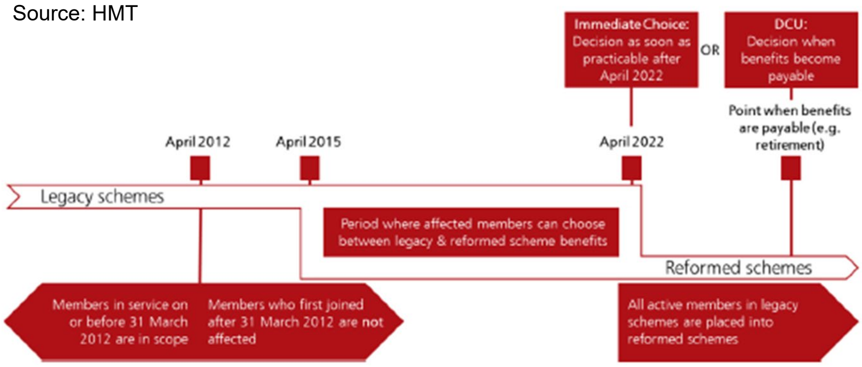
As such, members will need to decide in which scheme they wish to accrue benefits during the remedy period. HM Treasury (HMT) is now consulting on how to provide this choice, at an estimated cost for the schemes in scope[1] of around £17 billion.

[1] Separate consultations will be undertaken in respect of the pension schemes for local government workers, pension schemes for the judiciary and those pension schemes managed by the Northern Ireland Executive.

HMT is consulting on whether to follow an **Immediate Choice** approach or a **Deferred Choice Underpin**. The key difference relates to the timing at which individuals would make their choice. Under both options, the remedy will apply to:

- members in service both on/before 31 March 2012 and on/after 31 March 2015
- accruals in the remedy period, between 1 April 2015 and 31 March 2022
- members, whether or not they held transitional or tapered protection

Source: HMT



The remedy will apply for members whose benefits come into payment during the remedy period. Members with tapered protection will be required to accrue benefits in the legacy scheme or the reformed scheme for the entire remedy period.

Immediate Choice

- members will be offered their choice within a few years after 1 April 2022
- schemes will provide information to help members forecast their pension entitlements under both the legacy and reformed schemes
- if the member does not make a choice, they will remain in their current scheme[2] by default

Deferred Choice Underpin

- all members will be moved back into the legacy schemes for the remedy period
- members will be offered a choice when their benefits come into payment
- if they opt for reformed scheme benefits, those benefits would be paid from the legacy scheme by means of a ‘statutory underpin’

Further implications

Annex A of the HMT consultation document considers various technical issues which will need to be addressed when implementing remedy. These include issues such as:

- where member contributions differ in the legacy and reformed schemes
- member options exercised during the remedy period and re-visiting past decisions
- the impact of choice on ill-health assessments and dependants’ benefits
- transfers and the operation of the public sector transfer club during the remedy period
- abatement and divorce cases processed during the remedy period

[2] For most members this would be the reformed scheme, but those members who were originally granted transitional protection will stay in their legacy schemes.

Tax implications: Changes in scheme benefits may affect individuals' tax positions for the remedy period. Any refunds due will be payable back to 2015. Any tax owed will only be collected in respect of the tax year of the member's choice and the preceding 4 full tax years (the statutory time limit for collecting additional tax). Due to the design of Deferred Choice Underpin, higher annual allowance tax charges may occur at the point when an individual makes their choice. In these cases government will provide compensation for this additional annual allowance charge. Annex B of the HMT consultation document considers the implications for tax relief on pensions.

Future pension provision

The HMT consultation document also covers the provision of public service pensions after the remedy period. The government is proposing that all members should be in their respective reformed schemes from 1 April 2022. The legacy schemes will then be closed to all members, whilst maintaining final salary links.

Update on the cost control mechanism

The government has also published an update on the cost control element of the 2016 valuations. In January 2019, the government announced a pause to the cost control element of the 2016 valuations, due to the uncertainty around member benefits caused by the discrimination ruling.

As that uncertainty is now receding the government is lifting the pause so that the cost control element of the 2016 valuations can be completed. The government has set out that the costs of remedy will be included in this process. HMT will be preparing valuation directions setting out the technical detail of how the costs of remedy will be included in the valuation process.

The government has also confirmed that the Government Actuary will now review the cost control mechanism (as was originally announced in 2018 - see our Technical Bulletin). The review will assess whether the cost control mechanism is working in line with original government objectives. The review will report in time for the completion of the 2020 round of actuarial valuations.

Next steps

The consultation on remedy options and future pension provision closes on 11 October 2020. If you would like to discuss any of the topics covered in this bulletin, then please get in touch with your usual GAD contact.