



UNISON Scotland Response to HM Treasury Consultation – Public service pension schemes: changes to the transitional arrangements to the 2015 Scheme

UNISON Scotland is Scotland's largest health trade union. We represent staff who provide public services in the public, third and private sectors. We represent the whole NHS and health care team. Our members include nurses, student nurses, midwives, health visitors, healthcare assistants, paramedics, cleaners, porters, catering staff, medical secretaries, clerical and admin staff and scientific and technical staff.

Our healthcare workers see their pension scheme as a key component of their overall terms and conditions and accordingly we've received numerous comments from our members which have helped to formulate this response. We are able to collate their experiences in order to support improved policy making.

Summary

- UNISON Scotland is broadly supportive of the UK Government's two proposed remedy options.
- However, we do believe Deferred Choice Underpin (DCU) to present the better remedy option for correcting this discrimination on the simple premise that it reduces the likelihood of individuals making the wrong choice. **UNISON Scotland therefore proposes DCU as our preferred remedy option.**
- UNISON Scotland does not support the UK Government's proposal for the remedy costs to be met by members.
- UNISON Scotland also calls for a review of the Normal Pension Age for certain occupational groups within the 2015 NHS Pension Scheme to see if the evidence base supports a lower Normal Pension Age, such as that currently applied to the "uniformed services".
- Immediate detriment members and dependants must be prioritised in being provided with a choice at the first available opportunity.

Scheme members in scope for remedy

UNISON understands that the scope of this consultation is to remedy the age discrimination for staff that joined the scheme on or before 31 March 2012.

However, we have some concern regarding members who joined the scheme between 1 April 2012 and 31 March 2015 and whether there is a risk of not including those members in the scope of the remedy. The consultation document Equalities Impact Assessment highlights that those outside of the proposed remedy are more likely to be younger, woman and/or from ethnic minority groups.

As part of the government's response to the consultation UNISON would like to see that legal advice has been sought on this issue as in its absence there remains the future risk of legal challenge from this cohort of scheme members.

Immediate Choice (IC)

UNISON is not against IC as a potential remedy option as it does provide a degree of clarity to members on what scheme they are in for the duration of the remedy period.

Clearly there would be a strong emphasis however on administrators to provide clear and accurate information to members to enable them to make enough information to make their choice. Interactive modellers would be invaluable in this respect.

UNISON is mindful however that with IC some members run the risk of in effect making the wrong choice as in many cases assumptions will have to be made on factors such as expected retirement age and salary growth which simply may not play out in practice for the individual. Earlier choice exercises show that the risk of "wrong choice" is real and could affect significant numbers of scheme members.

IC is likely to be particularly difficult for current NHS Pension Scheme 2015 members that have a choice to move back to the 2008 Section given the relative closeness in accrual rates and Normal Pension Ages between the respective schemes.

UNISON's fundamental concern with IC is the potential future prospect of certain members realising that they would indeed have been better off not making a choice and staying in the scheme they were in prior to the age discrimination remedy taking effect.

Deferred Choice Underpin (DCU)

DCU is UNISON's preferred remedy option as it enables members to make decisions at retirement based on known member entitlements rather than on a set of assumptions. It reduces the likelihood of members making wrong decisions.

Hence under DCU members will not be making decisions based on a set of assumptions concerning the length of their working life, salary progression, career and potential promotion progression, inflation etc. Members will be able to make decisions based on actual figures that are fully reflective of their working history up to that point. **Quite simply DCU provides less risk of members making the wrong decision.**

For example, when applying to the NHS it's clear that the 2015 Pension Scheme (i.e. the reformed scheme) has a better accrual rate than the legacy schemes and in many cases a revaluation rate of inflation plus 1.5% will provide better outcomes on a like for like basis than the legacy scheme. The downside is the vast increase in Normal Pension Age for many meaning that those who want to retire at a similar age to their legacy scheme pension age will incur a significant reduction.

The point here being that many members are likely to choose to move back to legacy schemes because of the lower retirement age but yet if they find they want or need to work for longer they are likely to have been better off staying in their reformed scheme for the remedy period all along.

There are limitations however of DCU in that it won't provide the immediacy that many individuals are likely to crave and will in some instances still provide uncertainty. Numerous members find it difficult to fully understand their pension statement as it is which is likely to be compounded if annual benefit statements have to show two different calculation methods. Under DCU clear and understandable annual pension statements are needed to ensure scheme members can adequately prepare for retirement.

On face value DCU does present a range of administration challenges. Most notably that administrators are likely to have to run two sets of benefit designs simultaneously for many years into the future.

However, although significant work would be necessary in the short term to move many members back to their legacy schemes, the rest of the administrative impact would be spread over decades in stark contrast to IC which is likely to put considerable short-term strain on administrators.

To deliver IC administrators will have to develop online resources including benefit calculators and will have to contact vast numbers of members to process their decisions shortly after April 2022. Also, with the potential need to develop software the risks of effective delivery increase as do the potential costs.

This more long-term approach means that administrators will have longer to process cases and build software and minimise the risks of manual error.

Remedy costs being met by members

UNISON Scotland does not accept that remedy costs should be met by scheme members.

The NHS Pension Scheme 2016 actuarial valuation results identified that member-related costs had fallen from target by 3.1% of pensionable pay which should have triggered the Cost Cap mechanism, requiring the value of the 2015 scheme for members to be improved to restore costs back to the level of the Cost Cap.

In looking to re-run the 2016 actuarial valuation and confirming that any increase in cost will be met by members, you are penalising in-particular all new joiners to the 2015 Scheme who have in effect overpaid contributions for the benefit of others.

It is ultimately the Government that has been found to have discriminated and scheme members should not have to suffer the consequences of paying for it.

Transition to the reformed schemes from the 1 April 2022

UNISON recognises the Government's proposal to close legacy schemes and move all active members who are not already in reformed schemes into their respective reformed schemes with effect from the 1 April 2022 which will be the 2015 Scheme in respect of the NHS Pension Scheme.

UNISON believes strong consideration should be given to reviewing the link between State Pension Age and Normal Pension Age in the NHS 2015 Pension Scheme. There are many demanding NHS roles, which only offer a limited possibility of redeployment, that warrant a break from the State Pension Age link.

This is a particularly acute issue for UNISON Scotland members working in the ambulance services. For the purposes of pension age ambulance staff have been omitted from the definition of "uniformed services" – the armed forces, police and fire fighters, that the Hutton report into public sector pension provision identified as requiring a lower pension age.

Although undertaking similarly unique work, often working side- by-side, to those in the "uniformed services" a paramedic who is a member of the NHS 2015 Pension Scheme has a Normal Pension Age linked to their State Pension Age whereas the armed forces, police and fire fighters have a Normal Pension Age of 60 in their reformed schemes.

UNISON asks that as part of the transition to the reformed schemes from 1 April 2022 that pension age provisions for ambulance staff be reviewed and brought into line with those in the "uniformed services".

UNISON supports “protected” members also having a choice to move to the reformed schemes because in some cases this could be beneficial. For example, those that wish to work longer without retiring (most schemes require a retirement break prior to drawing benefits) and some schemes still apply maximum service limits for benefit accrual.

As part of the transition to the reformed schemes, UNISON believes that the pension access available to scheme members in the 1995 section who retire and return needs to be reviewed. As it stands a returning member of the 1995 section is unable to join the NHS 2015 pension scheme on re-employment in the NHS. Not only does this mean the staff member misses out on the accrual of future NHS Pension Scheme benefits but it may act as a disincentive for staff to return to NHS employment which has the potential to cause workforce supply issues.

It is also vital that the Final Salary Link on legacy scheme benefits is maintained and that all existing rights are fully protected. For example, Special Class and Mental Health Officer status in the case of the NHS Pension Scheme 1995.

Immediate Detriment members – Revisiting past cases

There will be many members who were in service for a part of the remedy period and have now retired and are in receipt of a pension. Or have been turned down for ill-health early retirement where they may have qualified under the legacy scheme eligibility conditions. Or may even have died with benefits paid to dependants.

Clearly tracing and reviewing all these cases is a considerable task and will present numerous challenges. However, it is vital that all past cases are treated as a top priority with pensioners and dependants receiving choices at the first available opportunity with benefit adjustments applied retrospectively where necessary.

UNISON supports the over-riding principles in these cases that all members and dependants should in effect have the opportunity to be put back in the same position as they would have been in had the transitional protection discrimination not applied.

We also support the contingent decision recommendations applying the above principle in that anyone who feels they have incurred a detriment can present a case to this effect with the potential for this detriment to be corrected. For example, previous scheme members who have opted out of the new schemes who might not have done so had they been covered by the transitional protections.

It would be helpful if the Government could provide greater clarity in due course on the forms of evidence they consider to be appropriate and the mechanism for funding the employer contribution element in cases where it's deemed that retrospective pensionable service should be applied that require an employer contribution.

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