

UCU Scotland response to the Scottish Government consultation

The Teachers' Pension Scheme (Scotland) (Amendment) Regulations 2022

Introduction

The University and College Union (UCU) represents members in teaching, research and professional support staff roles in post-92 higher education institutions in Scotland. Many of these UCU members in teaching/academic roles are members of the Scottish Teachers Pension Scheme.

UCU Scotland is the largest trade union for higher education staff in Scotland, representing nine thousand members across the university sector.

Before responding to the consultation questions, UCU would wish put on record that feedback from our members demonstrates that the need for the legacy schemes to close for all has not been made convincingly. Government did not defend the need for transitional protection in the Courts but neither is it clearly explaining why it was found to be unlawful. Consequently, members are calling for those in legacy schemes to be able to remain in them indefinitely.

Question 1- *Do you think the draft Regulations adequately ensure that the legacy pension schemes are closed to future accrual on 31 March 2022 and that all active pension scheme members are moved to the 2015 pension scheme from 1 April 2022? Do you think there are any errors or omissions in the draft in achieving this aim?*

Yes, we consider that the draft regulations will move all remaining active scheme members from the legacy scheme to the 2015 scheme as of 1 April 2022.

Question 2 – *Do you have any views on the proposed treatment of pension scheme members who have applied for ill health retirement before 31 March 2022 but who don't retire until on or after 1 April 2022? In particular, does this proposal in your view ensure that these members are treated no less favourably than if the application was determined on 31 March 2022?*

We consider the proposed treatment of pension scheme members in the Legacy Scheme who have applied for ill health retirement prior to 31 March 2022 but will not get retirement until after 1 April 2022 does not treat them less favourably. Given the age profile of "protected" or "tapered protected" legacy scheme members, they are likely to be at their normal pension age by 2022 in

any case. Where there are scheme members in this position, it is absolutely vital that they receive timely and clear communications from SPPA. It is already likely to be a period of worry and uncertainty for them, and so further uncertainty relating to their pension should be avoided.

However, we have concerns that the final ill health pension of a member in the Legacy Scheme up to 31 March 2022 will then be paid from the 2015 Scheme. This does not seem fair in that younger members in the 2015 Scheme, who are not affected by the remedy arrangements, are paying for those affected members' higher pensions based on the Legacy Scheme arrangements. Given the overall aim of the policy is to address the age discrimination in the transitional arrangements, it does not seem equitable that Legacy Scheme ill health retirement costs are to be borne by the 2015 Scheme and its members.

Question 3 – *Do you have any views on the proposed treatment of additional contributions arrangements? In particular, do you agree that existing provisions in the regulations allow for arrangements on additional pension and added service entered into under the existing schemes to continue after 31 March 2022?*

We would wish to understand more details on the implications for the 2015 Scheme of the proposal that Legacy Scheme additional pension arrangements that are already in place prior to April 2022.

Question 4 – *Do the prospective Regulations in this consultation have an impact on people with protected characteristics, beyond those equality considerations undertaken and set out in the equalities impact analysis undertaken alongside this consultation and in support of the PSPJO Bill. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Specifically, do you think that the draft regulation amendments and policy intent described above will have any positive or negative impacts on people with protected characteristics, beyond those already considered? If so, which and why/why not?*

We are clear that it is the responsibility of government to ensure their regulations and pension schemes do not discriminate. UCU wishes to ensure that any of the costs or transitional arrangements for the Legacy Scheme or for rectifying the age-discrimination of the McCloud decision should not be absorbed by members of the 2015 Scheme. We wish to address intergenerational unfairness, and, given that Legacy Scheme members are by definition going to be an older age profile, any transfer of the costs of their scheme to younger members would be unfair. It is probable, and the equality impact assessment that accompanies the consultation supports this to some extent, that those in the Legacy Scheme are more likely to be male. Given the overall policy aim is to counter the unfair age discrimination in the transitional arrangements, it is important not to embed further discrimination in the detail of these measures.

It is really important that government and SPPA should continue to conduct and review equality impact assessments on a scheme by scheme basis, to identify and enable actions to address discriminatory aspects of the regulations. This process of continually equality analysing impact should be monitored by the Scheme Advisory Board so as any unforeseen or unexpected issues can be addressed.

Question 5 – *Are there other areas that you think should be addressed in these regulations to ensure all members are moved to the 2015 Scheme and the differential treatment as identified by the Court of Appeal is ended?*

As outlined here and in previous responses from UCU, members should not have to bear the cost of remedying the age discrimination introduced into public service pensions by the UK government. This is particularly true for public sector workers who joined schemes after 1 April 2012 and are therefore out of scope of the remedy. This has been an unfortunate and avoidable episode, and at a time of great uncertainty, with the ongoing Covid-19 pandemic, and an anticipated cost of living crisis on the horizon, scheme members do not wish to face additional uncertainty or to bear the costs of government error.

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