

UCU Scotland response to the Scottish Public Pensions Agency Scottish Teachers' Pension Scheme Consultation on implementing the 2015 Remedy

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.

Responses to consultation questions:

- 1. Immediate choice and Deferred choice – Do the proposals in this consultation achieve the policy intention of giving all eligible members a choice of retired benefits for the remedy period?*

We agree that the proposals in the consultation do fulfil the policy intention of giving those pension scheme members who are eligible the choice of taking their pension benefits in the legacy scheme or in the new career average scheme for the remedy period, 1 April 2015 – 31 March 2022.

- 2. Remedial Service Statements – Do the policy proposals in relation to the scheme members' receiving an RSS achieve what is required in the Public Service Pensions and Judicial Offices Act (PSPJOA) 2022 and Public Service Pensions Directions 2022?*

We agree that the policy proposals do deliver what is required by the relevant legislation to provide Remedial Service Statements (RSS) information for those eligible members to set out to them the benefit information based on the benefits they would have build up during the remedy period in both the legacy scheme or the new scheme. It is vital that this information is presented clearly and coherently to eligible members to enable them to easily decipher information and make informed decisions.

- 3. Deferred Choice – Does the proposed deferred choice (DC) election period of 12 months from when the RSS is issued seem reasonable, in that it gives eligible*

members a suitable window to make a decision with consideration for the proximity to retirement and administrative considerations?

The 12 month period for eligible members to make a decision on which scheme they wish to take benefits for the remedy period does seem reasonable, provided the information in the RSS is clear and coherent, and that the member, if required is able to easily access other support and advice, for example financial advice, in the event that they have questions or their situation is more complex. We note that many members affected by the remedy are likely to be older people. Some members may find it challenging to access financial support, or other advice to take these decisions quickly. Therefore, we consider that where members do require additional time and support to make a decision, this should be viewed sympathetically.

4. Deferred Choice – Does the proposed deferred choice (DC) election period of 12 months from when the RSS is issued seem reasonable, in that it gives eligible decision-makers enough time to make a DC decision taking into account the administrative requirements and the emotional impact of bereavement?

We consider that there should be an ability for the scheme manager to allow a longer period to take a decision where there are complex issues and or difficult circumstances for those dealing with illness and bereavement. There are already complex rules in place for the distribution of assets upon death, where an individual dies with or without a will in place, including a six month period before assets can be distributed. Therefore, there may well be situations where the eligible decision makers are not able to make informed decisions about the pension within the 12 month period. In such circumstances extensions to the time period should be provided.

5. Deemed Election – do you agree with the proposal for when and how a deemed election may be made? If not, please say why.

As noted above, we consider there should be some flexibility to the 12 month period to support members or eligible decision makers to make their own choice in this matter. Particularly in the case of bereavement, or where an immediate choice decision is required which may involve ill-health, disability or other circumstances, we want to see flexibility and support to the member or eligible decision maker to extend the time for decisions to enable them to make their own decision. If after additional time and provision of additional information does not result in the member or eligible decision maker taking their own decision, we agree with the arrangements for exceptional cases and for the scheme manager to act. We agree that the scheme manager should make these decisions based on the higher monetary value of the pension in either the legacy or reformed scheme.

6. Added pension – Do the policy proposals for members with added pension ensure that all eligible members are given the same opportunity?

We agree that the proposals ensure that all eligible members are given the same opportunity to buy additional service retrospectively. It would be helpful to see more detail on these proposals so as members have clarity on their options, the costs and benefits of these processes.

7. Ill-health retirement – Does the proposal for ill health retired members meet the requirements in the PSPJOA 2022?

We believe that the proposal for ill-health retired members or members who may have been able to retire for ill-health in the alternative scheme does meet the requirements of the PSPJOA 2022. However, we are concerned at the impact upon members who applied for ill-health retirement in this period and were turned down, but would have qualified in the alternate scheme. The decision to reject their application will have had profound and long-lasting impacts upon such members, their health and well-being and their financial circumstances, as well as impacting upon their families. We believe these members should be compensated for the impact such rejection and denial of retirement benefits at an earlier stage will have had on their lives.

8. Contingent decisions – Do the proposals for contingent decisions adequately provide members with an opportunity to revisit the listed pension-related decisions taken during the remedy period?

We welcome the provisions for contingent decisions within the regulations. Many scheme members will have made significant life-changing decisions due to their position within the legacy or reformed pension scheme. We are concerned that some members may struggle to provide the evidence or sufficient information from the relevant period, which could be from 2012 or earlier, relating to decisions they took because of the changes to the pension scheme. Therefore, it is going to be essential that the scheme manager is responsive and understanding where scheme members have very limited evidence to back up any claims in relation to contingent decisions. We would call on the legislation to provide this flexibility and understanding for the scheme manager in dealing with contingent decisions over this time period.

9. Divorce and dissolution -Do the proposals for the treatment of pension sharing align with the requirements of the PSPJOA 2022?

We agree that the proposals for the treatment of pension sharing upon divorce and dissolution of civil partnership align with the requirements of the PSPJOA 2022. Again, we

would urge that the legislation allows for additional timeframes for these processes, and decisions for the member in such circumstances, given the complexities and time needed to take such decisions in an informed manner.

10. Survivor benefits and child pensions – Does the proposed “child pensions guarantee” ensure that children are fairly treated in line with the requirements of the PSPJOA 2022?

Yes, we agree that the proposed “child pensions guarantee” ensures that a child’s pension in payment is protected should the eligible decision maker make a choice that results in the child pension value decreasing. We welcome the process to ensure that the higher amount continues to be paid to the child.

11. Do you agree with the overall policy approach set out in the consultation to address the discrimination with the transitional protection arrangements?

UCU opposed the changes to the legacy pension scheme back in 2011. We also opposed the closure of the legacy scheme in April 2022. We believe it is the responsibility of government to ensure their regulations and pension schemes are free from discrimination. Given where we are at this juncture, we consider providing affected members with the options of deferred choice underpin is the most appropriate way forward.

12. Do you agree that overall, the draft regulations deliver the policy objectives and requirements set by the PSPJOA 2022?

As noted above, we are unhappy that there was discrimination within the transitional arrangements. We consider that the draft regulations as set out in the consultation deliver the policy objectives and requirements as set out by the PSPJOA 2022.

13. Do the equalities considerations set out in the equalities analysis address the impact of the remedy on members with protected characteristics?

We consider it is the responsibility of government to ensure its pension schemes and related policies do not discriminate. The equality impact assessment as presented in the consultation does give consideration to the impact of the remedy. However, the equality impact assessment needs to be continually reviewed and the impact of the roll out of the remedy re-assessed.

As we have noted in previous submissions UCU wishes to ensure that the costs of the transitional arrangements and for implementing the McCloud remedy should not be absorbed by members of the 2015 scheme. It is important to address intergenerational

unfairness, and given that legal scheme members are by definition going to be an older age profile, any transfer of the costs of this whole process to the new scheme is going to be borne by younger workers. We consider this is unfair.

14. Do you have any other comments about this consultation?

The remedy and the arrangements to address the discrimination within the transitional arrangements are complex and not easy to understand. It is going to be vital that information from SPPA to members in this situation is clear, coherent and understandable to enable them to take informed decisions relating to their circumstances.

We have concerns that members seeking independent financial advice on their situation are not going to find it easy to identify suitable practitioners. We are concerned at the potential for unscrupulous players to offer advice that may be inappropriate or inaccurate.

As noted above we recognise the huge piece of work in developing and implementing the arrangements for the remedy. We do not believe the costs of delivering this should be borne by the new scheme, and in effect new scheme members. The discrimination in the transitional arrangements was the fault of government and it should cover the costs of implementation of the remedy.

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