



Department
for Education

Teachers' Pension Scheme - Independent Schools Phased Withdrawal Proposal

Government consultation

Launch date 9 September 2019

Respond by 3 November 2019

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Introduction

The Department for Education (DfE) is consulting on a proposal to amend the Teachers' Pension Scheme (TPS) rules so that independent schools could opt out of TPS participation for future teaching staff whilst allowing existing staff to remain as active members.

The proposal is in response to the consultation entitled "Funding increases to teachers' pensions employer contributions", published on 15 January 2019, following which the department agreed to consider allowing independent schools to leave the TPS via phased withdrawal.

The proposal was developed in conjunction with the Independent Schools Council (ISC) and Independent School Bursars' Association (ISBA) in order to mitigate the financial risks for some independent schools as a result of increased employer pension contributions and the department's decision not to fund that sector for those increased costs at this stage. Independent schools can participate in the TPS on a voluntary basis, but are then responsible for meeting all of the employer contributions from their own funds.

Who this is for

This consultation relates to the TPS, which provides a pension for participating teachers and other eligible staff working in the education sector in England and Wales. Teachers' pensions in Scotland and Northern Ireland are a matter for those devolved administrations.

The department has a published list of organisations that it would expect to consult on proposed TPS changes and those on the list will be contacted. The list includes relevant member representatives, employers and other sector bodies.

Issue date

The consultation was issued on 9 September 2019.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team on:

- 01325 340679 and ask for Kevin Connolly;

or email: TPS.CONULTATIONS@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the department's response will be [published on GOV.UK](#) in winter 2019.

About this consultation

This consultation document seeks views on whether the proposal meets the aim of assisting independent schools to continue participating in the TPS for existing members while reducing the financial pressures, which may be faced by some, as a result of increased employer contributions.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If for exceptional reasons you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

By email

- TPS.CONULTATIONS@education.gov.uk

By post

TPS Pensions Policy Team
Department for Education
Bishopsgate House
Darlington
DL1 5QE

Deadline

The consultation closes on 3 November 2019.

Phased withdrawal from the TPS for independent schools

Background

On 10 April 2019, the department published the quadrennial scheme valuation following a report from the Government Actuary's Department. That valuation report confirmed that the employer contribution rate, paid by all scheme employers, will increase from 1 September 2019.

Following notification of the increase to the employer contribution rate, the ISC and ISBA wrote to the department to express concerns raised by some of the independent schools they represent, that the increase would create financial difficulties and some would be unable to afford to remain in the TPS.

Whilst for most employers who fall within the scope of the TPS participation is mandatory, this is not the case for independent schools. The provisions of the TPS allow independent schools to choose to apply to participate in the scheme. If accepted, the school must enrol all of its eligible teaching staff into the TPS and when a new teacher commences employment they must also be enrolled. As with all members/employers, an individual teacher may then choose to opt out if they do not wish to accrue pension in this way.

As the TPS rules currently stand, participating independent schools cannot offer TPS membership to some eligible teachers but not others. An independent school is able to leave the TPS; but, if they do, the current regulations require that the school withdraw all of their teachers.

Proposal and rationale

The proposal is to amend TPS rules with the intention of helping those independent schools that need it to manage the additional pension costs, while protecting teaching staff that are already participating in the scheme in order to keep as many existing employees in the TPS as possible.

The phased withdrawal proposal would require an amendment to the TPS regulations so that participation of an independent school could be frozen, meaning that existing teachers in that school could remain in the TPS whilst employed there but teachers joining after the school had changed its status would not be enrolled.

The main elements of the proposal are:

- TPS regulations to be amended to allow an independent school to choose to keep its existing teachers in the TPS, while offering alternative pension provision to new teaching employees (as it is mandatory for an employer to enrol an employee into a pension scheme).
- A teacher joining a school that made this choice would be enrolled in an alternative pension scheme, including those who were active members of the TPS immediately beforehand.
- Existing members could remain in the TPS until they leave employment with that particular school (or join another fully participating school).
- A teacher who was employed by a school at the time that participation was frozen but who opted out would be able to return to the TPS at a later date.
- A teacher who opted out of the TPS after the independent school had frozen participation would not be eligible to return to the TPS and would instead be offered an alternative pension scheme.
- A teacher who was no longer in pensionable service as a result of sick leave or family leave etc. would be able to resume active participation in the TPS where the period involved is covered by statutory rights or their contract of employment.
- In cases where the leave of absence is beyond statutory or contractual rights, whether the teacher could return to the TPS, or would instead be offered alternative pension provision, would be at the discretion of the school.
- An independent school which chose to freeze participation would retain the option of returning to the TPS at a future date, but where a school did return, it would be required to enrol all eligible teaching staff from the date that it returned.

The proposal is aimed at allowing some schools to remain in the TPS with the knowledge that, over time, the costs associated with the scheme would reduce through natural staff turnover. At the same time, those schools would leave the TPS gradually thereby reducing the financial impact on the scheme. The alternative could be that an independent school chooses to cease all participation in the TPS, thereby affecting all of the active members.

Question 1:

Do you agree that the phased withdrawal proposal will help independent schools to manage the financial pressures resulting from the additional costs of TPS employer contributions?

Question 2:

Do you agree that the phased withdrawal proposal will protect those teachers that are currently participating in the scheme?

Question 3:

Other than government funding, which the department confirmed will not be provided to independent schools at this stage, are there any alternative methods of achieving the aim of helping independent schools to manage this additional financial pressure while protecting existing TPS members?

Question 4:

Do you have any other comments regarding this proposal?

Public Sector Equality Duty

The Public Sector Equality Duty places a legal obligation on the department to consider how its policy decisions impact differently on different people. When making decisions about policies, the department must have due regard to the need to eliminate discrimination and to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are:

- sex
- race
- disability
- religion or belief
- sexual orientation
- pregnancy and maternity
- gender reassignment
- age

Understanding the possible impact that policy decisions could have on different groups helps us to identify, avoid and manage negative equality impacts. The department's initial analysis is that there could be some impact in respect of gender, age, or pregnancy and maternity characteristics.

The average age of a newly qualified teacher is 25. A newly qualified teacher employed by an affected school would not be able to join the TPS.

Members aged between 25-34 are most likely to opt out of the TPS and those who do so would not be eligible to re-join the TPS at that school at a future date.

Gender, pregnancy and maternity leave may affect the likelihood of taking an extended break that may exceed contractual or statutory rights and could therefore result in the teacher not being able to re-join the TPS (as it would be at the discretion of the employer). TPS data shows that female members are more likely to take career breaks or extended periods of parental leave and may therefore be impacted more than others.

To assist with the ongoing assessment, respondees are asked for their views.

Respondents are asked to consider;

- if there are any equality impacts that may result from the phased withdrawal proposal?
- if there are potential equality impacts identified, how they might be mitigated?

Next Steps

After the consultation has closed on 3 November 2019, responses will be fully considered before the department makes a final decision, expected to be by late 2019. A consultation response document will be published.



Department
for Education

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