DEFENCE POLICE FEDERATION
Established by Act of Parliament

Pensions Remedy Project Team
HM Treasury
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1 Horse Guards Road
London
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Our Ref: 01/04/2020/15

08th October 2020

Dear Sir/Madam,

Public Service Pension Schemes: Changes To The Transitional Arrangements To The 2015 Schemes. Consultation

The Defence Police Federation (DPF) is the staff association representing the federated ranks of the Ministry of Defence Police (MDP).

The MDP is a statutory civilian police force, whose officers provide specialist armed policing at strategic MoD establishments and Critical National Infrastructure sites nationwide.

MDP officers are members of the Civil Service Pension Scheme arrangements.

It is in my capacity as DPF National Executive Committee pensions lead that I write this, the DPF formal response to the above consultation

We welcome the Rt Hon Steve Barclay MP undertaking in the Foreword to take full and careful account of the views of all stakeholders and that the Government recognises the issues are complex and affect a large number of people in different ways.

The DPF understand the rationale behind the pension reforms introduced in 2015, we made our observations and concerns known at that time and do not intend to repeat them all in this response.

However, there is one area of the 2015 reforms, which I recognise is not in scope for this consultation process but feel it appropriate to comment on at this point.

As a result of the 2015 public sector pension reforms the Normal Pension Age (NPA) for members of the reformed Civil Service pension scheme, “alpha” was linked to the individuals State Pension Age (SPA).

As highlighted in the opening paragraphs of this response, our members are members of the Civil Service pension arrangements and are the only Police force in the United Kingdom where new entrants join with a NPA above 60.

The proposals outlined in the consultation document will see all MDP officers move to the reformed scheme with a NPA linked to their SPA. We believed in 2015 that this is unrealistic and continue to believe that to be the case now.

During the 2015 reform process the DPF unsuccessfully lobbied for the MDP to be included in the uniform services section of the legislation which would have provided our members with a NPA of 60 in line with all other police officers in the reformed schemes.

During an amendment debate Lord Hutton, chair of the Independent Public Service Pension Commission acknowledged that the omission of the MDP was an error and had he known of the force then he would have included our members in the relevant section.

The MDP form part of the United Kingdom strategic police reserve and are deployed in support of our Home Office police colleagues during times of national police mobilisation or national emergencies such as operation Temperer.

With the current drive to harmonise the MDP operational capability and fitness standards with those set out in the College Of Policing (COP) national role profiles, we believe that it is more appropriate now than ever for our officers to be provided with a NPA in line with all other UK police officers.

We intend to raise this omission and oversight by Lord Hutton in order that it can be properly addressed during this process. We look forward to working constructively with the force, department and wider Government to resolve this ongoing injustice.

I will now comment on the proposals and address the questions raised in the consultation document

Question 1: Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010[9]? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

Question 2: Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

As stated above, we believe that imposing a pension scheme with an NPA equal to SPA is not realistic. It sets a test that most officers will be bound to “fail” in the sense that they will never be able to retire from operational duties

at their NPA. In the case of the MDP, it also discriminates on the grounds of (a) sex, (b) age and (c) in particular, sex and age combined.

At the time when the Public Service Pensions Bill was going through Parliament, there was no uniform fitness standard applied in the MDP. A fitness standard was developed with advice and assistance from the Institute of Naval Medicine (INM), which was provided in their report "The Physical Demands of and Occupational Fitness Standard Options For Critical Job-Related Tasks Undertaken by The Ministry of Defence Police" dated February 2015 (copy attached for ease of reference). It was adopted with effect from 1 April 2016, initially on the basis that officers who could not meet the required standard would not suffer any adverse consequences. Now, if an officer is not able to meet it he or she must improve their fitness or leave the MDP.

The INM considered various possible fitness standards, and analysed their impact on (a) men and women and (b) various age cohorts. Their conclusions were summarised in table 3 on page 26 of their report.

In the event the chosen fitness standard for those joining after 2014 is 41 VO_2 $ml \cdot kg^{-1} \cdot min^{-1}$.

The pass/fail differentials for men and women, and for members over the age of 55, are very striking. More than 62% of men of all ages will pass. Less than 19% of women of all ages will do so. The age cohort analysis is more detailed, but if the cut-off age is 55, fewer than 49% of members of all ages would pass the test. If it is age 64, that reduces to fewer than 13%. The analysis does not tell us what the pass rate would be at ages 65, 66, 67 or 68.

Recognising that officers who were already in service were starting from a lower base-line fitness, pre-2014 officers are required to meet a standard of 35.6 VO_2 $ml \cdot kg^{-1} \cdot min^{-1}$. Subject to further review, they will be required to meet the higher standard on a date that has yet to be agreed.

To be clear, the DPF does not question the need for a fitness standard. Officers who are not fit to perform the duties of an armed police officer are a risk to themselves and to others. What we do say, however, is that the consequences of not meeting the required standard need to be carefully considered.

That was done when the legacy schemes for the armed forces, Home Office police and firefighters were created many years ago, with an NPA of 50-55. Whether it has been properly considered for them as part of the 2015 reforms which imposed an NPA of 60 is more debatable. But what is very clear is that placing MDP officers in a pension scheme with an NPA equal to SPA is to put them in a scheme where (a) the vast majority of officers will not be able to carry out operational duties to NPA, (b) an even greater majority of female officers will not do so and (c) almost all older female officers will not do so. In these circumstances, there is nothing "normal" about the NPA.

I have already stated our view that the NPA needs to be revisited. But for present purposes the interplay between the fitness standard and the NPA has

a very significant disproportionate impact upon (a) older and (b) female scheme members.

It is even more severe for officers who were already in post when the new requirements were introduced. It is well recognised that cardio-vascular fitness declines with age, and that it is more difficult to regain a required level of fitness than to maintain it. To require them to reach a challenging fitness standard when they are already older and start from a lower base level means that they are a cohort who are even more likely to fail the test.

These impacts need to be justified. Either the NPA needs to be revisited for all, or the consequences of failing to meet the required standard (i.e. being required to leave with no pension or an actuarially reduced pension) need to be considered more carefully.

Question 3: Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

We are content with the proposed treatment of members who originally received tapered protection and have not identified any adverse impact caused by the proposals.

Question 4: Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

We believe that the number of individuals who fail to respond to an immediate choice exercise will be extremely small. However, we do recognise that there are likely to be some and feel that the proposed route for dealing with these individuals is appropriate in most cases.

As highlighted in the consultation document, those in the tapered protection group are a little more difficult to address and whether legacy or reformed scheme are more beneficial will very much depend on individual circumstances.

In these circumstances when deciding how to treat taper protected members who do not respond to the immediate choice exercise, we believe that it would be most appropriate to retain their current scheme benefits.

This would provide for a consistent approach with that proposed for transitionally protected and unprotected members.

There are several reasons why an active member may not respond to the immediate choice exercise, one of which is that they may be away from their normal place of work for an extended period on long term detached duty, possibly overseas.

The pension scheme administrators do not always hold members home address details at the request of some employers, which includes the MDP. In these cases, all pension related correspondence which is sent via post is addressed to the member's place of work. This could cause members difficulty if working away from their permanent place of work when mail is not forwarded regularly.

As outlined above we anticipate the number not replying will be small, therefore we believe that it would be appropriate for the scheme administrator to engage with the employer and line management chain requesting that individuals not responding are sent information electronically to the official email address highlighting the importance of the exercise and provide details of what action needs to be taken if the member has not received hard copies of documents sent by post.

There may be a slightly higher number of individuals failing to respond who are in receipt of their pension having retired during the remedy period and could possibly have moved home without updating their details with the administrator.

This may also include those who are in receipt of a dependant's pension and have no real understanding of public sector pensions, the discrimination cases or the remedy proposals. These cases will need to be treated sympathetically and it is difficult to assess how best to address this especially where for instance additional contributions may be necessary to provide increased pension benefits.

Question 5: Please set out any comments on the proposals set out above for an immediate choice exercise.

The Immediate Choice option in our view has few benefits for either the member or the Government.

While the member will make the choice immediately and have a clearer understanding of the makeup of their pension from that point, they may not be making the most appropriate pension choice as they will not know what their personal circumstances will be or their career profile might look like at the point of retirement.

As outlined in the consultation document, the government will have heavy upfront resource requirements and costs in order to manage 3 million member pension choices while trying to prioritise those who have already retired and deceased member cases. This would be in addition to the administrator's normal day to day work which we believe could easily result in the administrators becoming overwhelmed.

Although this is being classed as an immediate choice, the consultation document does recognise in paragraph 2.44 that this immediate choice process "would take some years to implement" and therefore we feel it is likely to turn into a deferred choice for those within a few years of retirement.

Question 6: Please set out any comments on the proposals set out above for a deferred choice underpin.

We believe that the Deferred Choice Underpin option is the most appropriate for both the member and the Government.

While we recognise that it will make it more difficult for the Government to accurately assess the full scheme cost as there is no way of knowing in advance which scheme benefits members will chose, we believe this is offset through lower upfront costs by reducing the need for additional resources required to process 3 million member choices immediately after the end of the remedy period under the IC option.

It will avoid scheme administrators becoming overwhelmed and provide the opportunity to develop the necessary administrative systems to process cases at a more manageable rate over many years as members retire or leave the service.

Individuals will be able to make the choice at the time of retirement when they have a clearer understanding of their career progression and personal circumstances which will allow members the opportunity to assess which scheme benefits best suit their retirement needs.

Question 7: Please set out any comments on the administrative impacts of both options

We recognise that whichever option is implemented, there will be significant challenges faced by the Government and scheme administrators in dealing with the number of members affected by this process.

As we have indicated in our response to question 6 above, we believe that the initial administrative burden can be eased and spread over many years by adopting the DCU option.

We note that there will be additional system requirements to store the additional information and data over the longer term; however, we believe that modern system and software designers could resolve this requirement swiftly and efficiently.

We note in paragraphs 2.55 and 2.57 that it is recognised there is scope for errors to occur under both IC and DCU options.

As detailed throughout the consultation document there are complex calculations needed under both IC and DCU options. We believe that it is unrealistic to expect members to fully understand these and will be totally reliant upon the scheme administrator getting these calculations correct.

We have seen recently cases where members in their mid-70's are receiving correspondence from the scheme administrators indicating that errors have

been identified in pension calculations carried out over 15 years ago and are accompanied by demands for repayment of several thousand pounds.

While these cases may be rare, they highlight the impact errors could have upon individuals in later life.

Since the need for these calculations has arisen from the Governments unlawful discrimination, we believe that any errors identified relating to pensions in payment caused solely as a result of the McCloud remedy process should not be subject to recovery action with the administrator taking responsibility for the errors.

Question 8: Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

We believe that the DCU is the most appropriate choice for removing the discrimination identified by the courts. Please see our comments in response to question 6.

Question 9: Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

The proposal to close the legacy schemes on 31st March 2022 does initially appear to provide equal treatment from that date in so much as everyone will have future service accruing in the reformed scheme, but as stated in the response to questions 1 and 2 this raises a particular issue for older members who currently have a lower standard of fitness being transferred to a scheme with an unrealistic NPA. Prima facie this discriminates against a particular cohort of members identified by age.

Consequently, we believe that as a result of this proposal, a “cliff edge” is created where a small number of members will be treated unfairly and disadvantaged.

As the end date for the remedy period is approached there will inevitably be a number of members at various stages in the Ill Health Retirement (IHR) process.

During the 2015 pension reforms, provisions were made to allow those in the IHR process who were not in the transitional protected group to remain in their legacy scheme until their IHR process concluded.

However there appears to be no provision made for similar circumstances in the current proposals with all active members including those in the IHR process who are not already members of the reformed scheme being moved with effect of 1st April 2022.

This could result in members of the “classic” scheme, who tend to be older, being moved to the reformed scheme immediately before their Ill Health retirement. These members would then not qualify for the 6&2/3 years enhancement to their legacy “classic” scheme. This would have a significant impact on members retiring on lower tier IHR terms.

This could give rise to a situation where one member leaves one week on legacy terms and another with similar service leaves the following week with a significantly reduced pension. We do not believe this to be an appropriate way to treat members exiting under these circumstances and believe that provision needs to be made to avoid this situation and allow members the opportunity to benefit from their legacy IHR terms in these very limited circumstances.

Question 10: Please set out any comments on our proposed method of revisiting past cases.

Notwithstanding our comments in response to question 14 below regarding the treatment of IHR cases, we are broadly content with the proposals for dealing with “past cases”.

It is likely that by the time the remedy is implemented many of these members will have been retired or left the service for many years.

We believe that they will not necessarily have followed the progress of the legal cases closely and will not have access to Trade Union or Staff Associations for support and information regarding the decisions they need to make.

Some may be in failing health and need comprehensive information quickly to make appropriate arrangements for their dependants.

While we hope and anticipate that comprehensive information will be provided to these members by the scheme administrator when they are offered the choice, we feel that consideration should be given for the provision of a dedicated team of call handlers to be made available to these members who will inevitably have questions that are not covered in the information provided with the choice forms.

Question 11: Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

This does not apply to our members and therefore we do not intend to comment further.

Question 12: Please provide any comments on the proposed treatment of voluntary member contributions that individuals have already made.

We are content with the proposals for dealing with Added Years (AY) and Added Pension (AP) purchased by members via additional contributions.

We are also pleased to note that the Government proposes to ignore any breach of the scheme limits for AP if it is caused by the application of the remedy.

However, we have significant concerns around the proposals for dealing with members who are in scope for the remedy process and are eligible to have an employer funded Effective Pension Age (EPA) option applied to their service in the reformed scheme during the remedy period, in our member's case "alpha".

A fundamental part of the revised MDP Terms And Conditions Of Service (TACOS) negotiated and introduced with effect from 1st April 2016 was the provision of an EPA of the higher 65 or three years below SPA. This provision was to be fully funded by the employer. (This has not yet been implemented and is the subject of an ongoing complaint to the Pension Ombudsman).

The proposals contained in the consultation document at paragraph A.18 outline that where a member is returned to their legacy scheme for the remedy period they will have the EPA voided with any individual contributions refunded.

Paragraph 2.45 in the consultation document states *"Under the DCU, eligible members would, in the first instance, be deemed to have been accruing benefits in their legacy scheme for the remedy period, regardless of whether they originally had transitional protection or not. When those members are entitled to receive pension benefits under either their legacy or reformed scheme design (e.g. on retirement), they would then be offered a choice of which set of benefits they wished to receive for the remedy period. In technical terms, individuals would remain members of the legacy scheme, but if they opted for reformed scheme benefits, they would be paid those benefits within the legacy scheme, by means of a 'statutory underpin'".*

It is clear that under DCU, slightly less clear under IC, members will be returned to their legacy scheme for the remedy period resulting in the employer funded EPA being void.

Paragraph A.18 says:

Members who are returned to the legacy scheme for the remedy period (under either IC or DCU) would therefore receive a refund of their contributions to such arrangements. A refund would void the EPA or ERRBO benefit **even if reformed scheme benefits were ultimately chosen**.

(emphasis added)

This causes a particular discrimination problem if the option chosen is DCU:

1. Consider the case of a member who is in the remedy cohort, has an employer funded EPA, and defaults back to their legacy scheme during

the remedy period. They lose their EPA. If they choose to take 2015 scheme benefits when they retire, they will be treated as having an NPA equal to their SPA and if they retire early an actuarial reduction will be applied accordingly.

2. Contrast an officer who joined the service after 31 March 2012 and has an employer funded EPA. Like the officer in (1) above, they retire under the terms of the 2015 scheme, but unlike their older colleague in example 1, their EPA remains effective and any actuarial reduction is applied by reference to the EPA age they have selected.

This only applies to those members in scope for the remedy who by default tend to be older members and subject to the 2015 discrimination.

Those members not in scope for the remedy tend to be new entrants who are likely to be younger and would still be benefitting from having the employer funded EPA applied during the remedy period.

We therefore believe that this proposal fundamentally changes the TACOS agreement negotiated and implemented in 2016. We also believe it opens up a further discrimination claim and will take whatever measures we need in order to defend our members position going forward.

Any changes to our members TACOS would need to be subject to a separate formal negotiation process and cannot be included in this consultation process.

We therefore cannot agree to these proposals which in our view conflict with our TACOS.

The proposal for dealing with EPA and similar options in other schemes indicate where members have made individual contributions, they will be refunded as there is no equivalent option in legacy schemes and therefore it is not possible to convert to an equivalent value of AP.

However, the cash value of the contributions will be known as it is proposed to refund these to the individual. We do not understand why the individual could not be given the choice to simply use this value to buy AP up to the scheme limit instead of an automatic refund.

Question 13: Please set out any comments on our proposed treatment of annual benefit statements.

We recognise the need for scheme administrators to produce accurate annual benefit statements and as highlighted in the consultation document this is particularly important for those who may need to pay an annual allowance charge.

However, we cannot accept that it would take “some years” to implement and test new systems to provide clear benefit statements outlining the benefits available should the DCU be implemented as indicated in paragraph A.23.

The scheme administrators already produce annual benefit statements outlining member benefits in various schemes and we believe it would not take systems and software developers “some years” to resolve this.

This provision should be immediate, or as soon as is reasonably practicable, but, in worse case scenario, within year one of the remedy work.

Question 14: Please set out any comments on our proposed treatment of cases involving ill-health retirement.

The proposals contained within the consultation document for dealing with IHR are somewhat disappointing.

We note in paragraph 2.25 that while recognising the court ruling that members have an entitlement to be treated as a member of their legacy scheme, there is only a vague commitment from the Government to work with scheme administrators to try and offer those retiring on health grounds between now and 2022 the choice.

If this is not possible, they will retire and be offered the choice as soon as practicable after the legislative changes have been implemented.

We also note the careful wording in paragraph 2.13 which states “*If, ultimately, the government decides to adopt the proposals set out in this consultation paper, the scheme year starting on 1 April 2022* ***is the earliest date*** *by which the relevant legislation and administrative arrangements necessary to implement the present proposals (including the proposal that all active members would be moved into their relevant reformed scheme, as set out in Chapter 3) is expected to be in place.”*

(Emphasis added)

Although 2022 is quoted throughout the consultation document, it is clear that this is the earliest date possible and by no means certain. This appears to be a very ambitious target and one which we believe is unlikely to be achieved.

Indeed, at one of the Technical Discussion meetings attended at the Cabinet Office earlier this year we were briefed that the working assumption for the remedy implementation was April 2023.

This has significant implications for those who have or who will retire on health grounds without being given the option at the time of retirement. Also for those who may pass away before this is resolved.

While the Government has given the undertaking in paragraph 2.25 and repeated at A.30 to work with scheme administrators to provide the choice at retirement where possible, this is not enough.

In paragraph 2.25 the government give the undertaking to assess members in the Ill Health process against the criteria in both legacy and reformed schemes.

Despite being almost a year since we secured declarations from the courts, our members who have transitioned into the reformed scheme and who are in the ill health process are still only being assessed against the reformed scheme criteria.

We are aware of a number of members who have transitioned into the reformed “alpha” scheme and are being refused IHR under the reformed scheme rules with correspondence from the scheme medical advisors indicating that the higher NPA may be a factor. We believe that many of these members could have qualified under the legacy scheme terms.

These individuals then find themselves in a position where they are unable to fulfil their role and are placed in the capability process which can result in dismissal without pension unless taken on an actuarial reduced basis.

These are real people who cannot wait another two possibly three years for their pension to be reviewed. This we feel is totally unacceptable and needs to be addressed as a matter of urgency.

Similarly, there are several members who have already retired on health grounds, some a number of years ago, who retired on lower tier reformed scheme benefits and are missing the enhancement they are entitled to under the legacy “classic” scheme.

It is unacceptable to expect these members to wait another two possibly three years for their cases to be reviewed. These members were discriminated against and if this continues we will have no choice other than to take further legal action to address this ongoing discrimination.

Following the 2015 pension reforms the DPF lodged over 1000 discrimination claims with the Employment Tribunal on behalf of our members.

These claims were successful, and we secured a declaration from the Tribunal on 29 October 2019 confirming these claimants were entitled to be treated as members of their legacy schemes.

Having had our cases upheld in the courts, it is unacceptable for our members who filed successful claims to have to wait several years for the remedy to be applied in accordance with the declaration.

We have instructed our solicitors to take the necessary recourse to ensure our members who filed a claim and leave/ have left on health grounds have their case assessed and given the choice immediately.

Question 15: Please set out any comments on our proposed treatment of cases where members have died since 1 April 2015.

As indicated in the consultation document, this is an area which will require a great deal of sensitivity and in the main agree with these proposals.

We welcome the commitments to deal with these cases as a priority to allow grieving families to finalise the financial affairs and that any expenses associated with reopening of probate etc. will be reimbursed.

We disagree with the argument outlined in paragraph A.38 preventing the choice being given to unmarried partners in circumstances where a member had the historic choice to move to a scheme which provided a dependant's pension to unmarried partners.

It is our understanding that the only Civil Service scheme not to provide a whole life pension to unmarried partners is the "classic" scheme.

Members were given the option in 2002 to move to the "premium" scheme which provided a pension for their unmarried partner.

However, this decision was made over 18 years ago and life events change plans which could have been in place at that time.

We believe that unmarried partners should be treated fairly and offered the choice and receive any dependant's pension available in the reformed scheme during the remedy period.

When dealing with cases where the member has passed away, it is likely that the dependants will have limited knowledge of the pension schemes or the available benefits which each scheme offers.

They are also unlikely to have access to Trade Union or staff associations for support or information.

While we would again hope and anticipate that the scheme administrator will provide comprehensive information to these individuals upon which to base their decisions, we again believe that consideration should be given to the provision of dedicated/specialist call handlers.

Question 16: Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

Following the introduction of the reformed scheme "alpha" in 2015 we know a small number of members opted out, with the majority moving to the Civil Service partnership scheme.

We recognise that moving the pensionable service back into the legacy scheme for the remedy period will be a very complex process and welcome the provision albeit on a case by case basis.

We recognise that this proposal will be subject to further development as the remedy process moves forward and we would like to see more detail with regard to this, in particular,

- How will the contributions to, and the pension built up in the partnership scheme be treated?
- What will the criteria be against which each case will be assessed?
- Since the employer may already have made contributions towards the partnership scheme, will they be compelled to make the additional contributions for each scheme year?
- Will the employer be able to block an application?
- Where the individual has moved employment to another employer in which the Civil Service pension arrangements apply, will both employers have to agree to the application?

As indicated above, we recognise the complexities of this proposal and welcome the provision although we suspect it may in many cases be cost prohibitive for the members to make the necessary contributions.

Question 17: If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

If the DCU were to be accepted and taken forward by the government, we believe that members should not be potentially disadvantaged by making the choice at the time of transfer.

Members who transfer should make the decision under the DCU in the same way as a member who had not moved employer allowing them to assess the options at the time of retirement when they better understand their retirement needs in the same way as those members who have not moved employer.

Question 18: Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

We believe that members who move schemes within the transfer club should receive one choice covering all schemes. This will in our view provide consistency of approach.

To provide a choice in each scheme would create a situation similar to that of a member who has tapered protection being offered a choice to have part of their pension during the remedy period treated as being in the legacy scheme and part as being in the reformed scheme. This possibility was specifically ruled out in paragraph 2.20

Question 19: Please set out any comments on our proposed treatment of divorce cases.

We are content with the proposals for dealing with divorce cases.

Question 20: Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

We do not believe that it would be appropriate for the government to apply interest to any money owed by members in the remedy process.

It would be wholly inappropriate for the Government to benefit financially as a result of its unlawful actions and delays in applying the remedy.

Question 21: Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

We believe that all Members who have found themselves out of pocket as a result of the Government's unlawful discrimination should receive interest on any money owed at the appropriate level.

Question 22: If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

We believe that it would be most appropriate to apply a single interest rate across all schemes where the Government owes money to members as a result of the unlawful discrimination.

It is our understanding that the default interest rate applied in discrimination cases by the Employment Tribunal is 8% simple. We therefore believe that this is the appropriate rate in these circumstances and should be applied across all schemes.

Question 23: Please set out any comments on our proposed treatment of abatement.

We are content with the proposals concerning abatement.

Question 24: Please set out any comments on the interaction of the proposals in this consultation with the tax system

The tax implications of these proposals upon our members are likely to affect our senior officers in higher salary bands and centre on potential changes to the Lifetime Allowance and Annual Allowance.

These proposals and choices individuals need to make could have a significant impact upon their tax position and be complex to fully understand.

These circumstances have arisen solely out of the government's unlawful discrimination of members in scope. We believe that provision should be made to enable this small minority of members to recover the cost of obtaining professional advice solely relating to the tax implications caused by the remedy choices.

In closing, we recognise the scale and complexity faced by the Government in removing the unlawful discrimination identified by the courts going forward.

However, despite it being almost a year since the declarations were made by the courts confirming that our members are entitled to have their pensions treated under legacy terms, the Government and scheme administrators have not started to deal with members who are suffering an immediate financial detriment as a result this unlawful discrimination. Instead it is proposed that these members will have to wait another two, three, or possibly more years for their pension to be reviewed and given the choice, this we find totally unacceptable.

We look forward to working constructively with you throughout this process.

Yours sincerely

Paul Hunter
National Executive Committee
Pension Lead

Enc - INM Report 2015.008 February 2015