



Pausing of pension bulk transfer option exercises in Machinery of Government “TUPE transfers” by the Government Actuary's Department (“GAD”)

Questions & Answers

Introduction

This FAQ document is addressed to Contracting Authorities involved in a Machinery of Government transfer. The document relates specifically to pension bulk transfer work.

It has been decided to temporarily pause work on almost all COSoP/Machinery of Government bulk transfers, until we and scheme stakeholders have had the opportunity to consider how to proceed from here. This document has been prepared to explain why this decision has been taken and answer some of the questions you might have.

Background

Following a review of the public service pension schemes by the Independent Public Service Pensions Commission, initially reported on in October 2010, the public service pension schemes were reformed. New career average re-valued earnings schemes were put in place, typically with effect from April 2015.

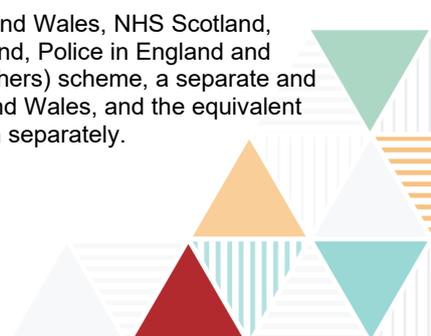
Members who were within 10 years of their Normal Pension Age (NPA) on 1 April 2012 qualified for transitional protection – meaning they continued to accrue benefits in the legacy schemes beyond April 2015. Some schemes also provided ‘tapered protection’. This involved members who were slightly more than 10 years from their NPA on 1 April 2012 remaining in the legacy schemes after April 2015, before moving into the reformed schemes.

Following claims brought by judges and firefighters, in December 2018 the Court of Appeal ruled that the transitional protection constituted unlawful age discrimination – referred to as ‘the McCloud judgment’. In July 2019, in a Written Ministerial Statement to Parliament, the government confirmed its intention to remedy the difference in treatment across all the main public service pension schemes.

In March 2020, in a further Written Ministerial Statement to Parliament, the government set out that in order to do this it was considering proposals which would allow relevant members to make a choice as to whether they accrued service in the legacy or reformed schemes for periods of relevant service.

On 16 July 2020, the Chief Secretary to the Treasury released a consultation document “Public service pension schemes: changes to the transitional arrangements to the 2015 schemes” detailing, amongst other things, the government’s proposals to deal with the discrimination issues identified by McCloud, and future pension provision for public service employees¹.

¹ While this consultation document only covers the pension schemes covering the NHS in England and Wales, NHS Scotland, Teachers in England and Wales, Teachers in Scotland, Fire in England, Fire in Wales, Fire in Scotland, Police in England and Wales, Police in Scotland, Civil Service in Great Britain, UK Armed Forces, and the Civil Service (Others) scheme, a separate and similar consultation has been issued covering the Local Government Pension Scheme in England and Wales, and the equivalent scheme in Scotland. The public service pension schemes in Northern Ireland are being consulted on separately.



Questions and Answers

Q1 Why has the decision to pause bulk transfer exercises been taken?

As described above, for all the main public service pension schemes, it is expected that some member benefits will be subject to a remedy (i.e. members will be offered a choice of legacy or reformed scheme benefits).

A bulk transfer exercise for a Machinery of Government transfer involves transferring benefits from one public service pension arrangement to another. A key part of the bulk transfer exercise is providing in-scope members with details of their benefit entitlement in their former public service pension arrangement and the alternative credit they are being offered in their new public service pension arrangement. However, the benefit information available does not currently reflect the remedy that some members are expected to receive, based on the proposals set out in the consultation document.

For cases where all or part of the benefits to be transferred will be subject to a remedy, it may be difficult for members to make an informed and binding decision to transfer their benefits without further information on the remedy. Therefore, a decision has been taken to pause such bulk transfer exercises whilst this is considered.

Q2 Why has the decision been taken now?

The Written Ministerial Statement in March 2020 confirmed that government were considering proposals that would make changes to the public service pension schemes by giving the members a choice for the relevant period of service. Following this, and after consideration, a decision was made to pause Machinery of Government bulk transfer cases.

Q3 How long will they be paused for?

At the current time, it's difficult to put a timescale on how long cases will be paused for. We will, however, provide updates when new information becomes available.

Q4 We have a transfer of employment that has already taken place and staff have joined a new pension scheme. What does pausing the bulk transfer work mean for the affected staff?

Members' benefits for service prior to the staff transfer date will be retained in their previous scheme for the moment. GAD is discussing with scheme managers and key stakeholders whether interim arrangements may be made for members crystallising benefits in the meantime.

Q5 What about the work already undertaken on paused bulk transfer exercises?

Once a solution is known it is likely that, to a certain extent, any work/calculations carried out to date can be built on. Ultimately this depends on the outcome of discussions with the scheme managers.

Q6 What will this mean for the fee estimates given for bulk transfer work to date?

We will advise you of the impact on any changes to the fee estimates once a way forward has been agreed.

Q7 Should I inform staff involved in the transfer?

If staff are expecting a bulk transfer option to be undertaken in the near future, then it may be appropriate to update the staff to advise them that there is currently a delay in being able to issue option packs, or otherwise proceed to process the bulk transfer, and that a further update on this will be issued once agreement has been reached with key stakeholders over the impact of the McCloud remedies. Please contact your usual GAD contact to discuss this and for help drafting staff communications.

Q8 The transfer of employment hasn't taken place yet. Does this mean that we should put it on hold?

Whilst it is preferable to ensure that the pension arrangements proposed by the new employer are certified as broadly comparable and bulk transfer terms are agreed before the transfer of employment takes place so that a bulk transfer can be offered as soon as possible after the transfer of employment, this does not always happen. Pensions issues are only one of many aspects that need to be considered when a transfer of employment is undertaken, and as such Contracting Authorities should determine their own position regarding Fair Deal or COSoP and discuss with the relevant employer(s) as applicable.

Contracting Authorities may decide to proceed with future transfers of employment, accepting that, where staff join a new employer's pension scheme, a broad comparability assessment and bulk transfer work can only be undertaken at a later stage.

However, before determining whether or not to proceed, Contracting Authorities should speak to the relevant scheme managers and GAD to discuss the situation.

Q9 The title of this note refers to Machinery of Government transfers. Has GAD also paused work on other bulk transfers?

This note relates specifically to Machinery of Government bulk transfers. GAD is continuing to progress work on some other types of bulk transfers. For example, we expect to continue our work on New Fair Deal bulk transfers from private sector schemes into public service pension schemes.

Q10 Are completed transfers affected?

We are discussing with scheme managers and other stakeholders whether completed cases are affected. We will then contact relevant contracting authorities.

Q11 What if I have other questions?

If you have any further questions relating to the pausing of a bulk transfer exercise being carried out by GAD on your behalf, then please contact your usual GAD contact in the first instance.

References

Links to the various Written Ministerial Statements and the consultation document mentioned in this note are as follows:

- Written Ministerial Statement 15 July 2019: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-07-15/HCWS1725>

- Written Ministerial Statement 25 March 2020: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2020-03-25/HLWS182/>
- Consultation document on changes to the transitional arrangements to the public service pension 2015 schemes:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900766/Public_Service_Pensions_Consultation.pdf
- Written Ministerial Statement 16 July 2020: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-07-16/HCWS380/>
- A GAD Technical Bulletin has also been published, which provides more detail on the changes:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901436/Public_Service_Pensions_update_-_a_GAD_technical_bulletin.pdf

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