



**The response of the Police Superintendents' Association and the Superintendents' Association of Northern Ireland to the government's consultation:**  
**Public service pension schemes: changes to the transitional arrangements to the 2015 schemes**

1. This is the response of the Police Superintendents' Association and the Superintendents' Association of Northern Ireland (the Associations) to the consultation paper 'Public service pension schemes: changes to the transitional arrangements to the 2015 schemes'. Paragraph 1.16 confirms *the government proposes to introduce legislation: (a) to make changes to the schemes to remove the discrimination identified by the Courts for the period 1 April 2015 to 31 March 2022 (the remedy period); and, (b) to address future service beyond the remedy period. The changes under (a) could require retrospective adjustments to individuals' pensions and to their member contributions. Where pension entitlements change this may also have tax consequences...* (paragraph 1.19).
2. The Associations are engaging fully with this consultation on behalf of their members, although their position is and has always been that the reformed pension scheme should have been restricted to those who joined public service after 1 April 2015. Under the current proposals, members who joined the service before this date must join the reformed scheme as of 1 April 2022, with an associated risk of further discrimination, as identified in the government's Equality Impact Assessment and as further highlighted below.
3. The complexities of police pensions include double accrual and the absence of any normal pension age in the 1987 legacy regulations. The Associations recommend that an Equality Impact Assessment be conducted for effected police officers specifically, as part of this consultation process. None of the impact assessments currently appended to the consultation paper take these aspects of the police pension schemes into account.
4. The Associations remind the Government that employee contributions in the police legacy schemes increased by 3.2% before the introduction of the reformed scheme in 2015. This increase did not result from any actuarial revaluation. It was simply a policy decision by Government. Consequently, police officers accruing legacy scheme benefits have already

paid (and continue to pay) what amount to a levy on top of the actuarially determined contribution rate for the legacy schemes. The effect of the proposed remedy will see even more police officers paying that levy.

5. One of the most significant challenges to providing a comprehensive response to the consultation paper is the absence of any information about likely contribution rates and their impact on the government's consultation proposals once the suspension of the cost cap mechanism is lifted. The Associations are also concerned that the cost of remedying the discrimination will be factored into the calculation of future contributions for those who were unaffected by the discrimination and do not benefit from the remedies proposed (see also paragraph 11 below). This is unfair, and may also discriminate against younger members/women/members of ethnic minorities.
6. The police scheme is one of just two locally administered public service pension schemes. Each of the 43 Police and Crime Commissioners in England and Wales is responsible for administering the scheme for its officers. Finding a workable solution that implements the remedy across the different police forces and ensures a consistency in approach is likely to be more challenging than in other sectors of public service.
7. In answering the Government's questions below, we have considered information from our members, the Pension Scheme Advisory Board and the Government.

**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? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?**

Members who joined the police between 31 March 2012 and 1 April 2015 and those who joined afterwards

8. Under the proposals those who joined the police between 31 March 2012 and 1 April 2015 are not given the choice to join the legacy scheme over the remedy period. These individuals are outside the scope of the discriminatory transitional protections and tend to be younger than those who are in scope. They also tend to be women and members of ethnic minorities. The Equality Impact Assessment refers to the likely negative impacts on individuals with these protected characteristics at paragraphs 2.11, 2.18 and 2.19.
9. The fact these individuals did not suffer discrimination as a result of the transitional protections does not mean they will not suffer discrimination when denied this choice. Remedying discrimination suffered by others does not justify new discriminatory provisions.
10. The Government maintains that these individuals knew they would have to leave the legacy scheme when they joined the public service and this justifies their exclusion from the legacy schemes over the remedy period. This is not our understanding of the position.

The Associations request full details of how these individuals were put on notice of the imminent changes in their pension arrangements. Furthermore, the Government should clarify how these individuals were to know that at some future date they would be denied the option of returning to their legacy scheme, when this option was to be given to others who had joined the service shortly before they did.

11. In the absence of more information, the Associations consider there is likely to be an unjustifiable negative impact on members who are younger and/or female and/or from ethnic minorities. The Treasury does not provide any detail about the likely impact on workload and financial costs to which reference is made at paragraph 2.15 in order to justify the negative impact. Nor does it specify how many individuals joined public service pension schemes in the period 31 March 2012 to 1 April 2015. Those who joined the service in this period should be given the same choice as those who were employed during the entire three-year period beginning on 1 April 2012.
12. There are similar negative impacts on those who joined public service after 1 April 2015. This is particularly unfair as they are likely to suffer a loss of benefits as a result of the revaluation of the costs cap following the decisions in *McCloud* and *Sergeant*, without the option of increasing their benefits over the seven-year remedy period.

#### Fully protected members who remain in service on 31 March 2022

13. The consultation paper does not provide an adequate explanation of why the remedy period cut-off date is 31 March 2022. There is a suggestion that this is to allow sufficient time for the introduction of new legislation, and administrative procedures to implement change. It may be that the date reflects the point at which it is envisaged those who benefitted from full transitional protection will have retired.
14. However, some police officers with full protection, mainly those aged 55 who have less than 30 years of service with the police, including those who have taken career breaks, or worked part time, or left the service and re-joined within five years, will remain in service at this date and be transferred to the reformed scheme. This is because the 1987 legacy police scheme requires an individual to work for 30 years in order to obtain full benefits. Age is not a consideration.
15. Until now these members have been secure in the knowledge that they retained the full benefits of their legacy scheme. They have made life choices and financial decisions on this basis. With a cut-off date of 31 March 2022 some will be transferred to the reformed scheme with a possible loss of benefits. The Equality Impact Assessment does not address this situation. It should do so. The proposed end date for the remedy period may indirectly discriminate against women and/or younger members.
16. In any event, this outcome is contrary to the affected individuals' legitimate expectation and is clearly unfair.

17. The Associations consider the cut-off date for the remedy period should be postponed to a point when all those who are fully protected under the transitional arrangements may retire from their legacy scheme will full benefits.

#### Fully protected members who have taken a career break

18. Under the proposals, those with a qualifying break in service of less than five years may choose to remain in the legacy or the reformed scheme for the remedy period, whether or not their career break straddled some or all of the period 31 March 2012 to 1 April 2015. By the end of the remedy period on 31 March 2022, some of these individuals will not have been able to work the 30 years required to receive full benefits under the 1987 scheme. They may have made life choices and financial decisions secure in the knowledge that they were fully protected and would remain in the legacy scheme. The Equality Impact Assessment does not address this scenario and it should do so. In the meantime, it appears likely that the cut-off date impacts adversely on women and on younger members.

#### Fully protected members who have left and re-joined the service within five years.

19. The Associations raise the same arguments regarding fully protected members who left and re-joined the service within a five year period as are made in paragraph 15 above.

#### Fully protected members who work part time

20. Similarly, by the end of the remedy period, some fully protected members who have worked part – time will not have been able to complete the 30 years of work required to receive full benefits under the 1987 scheme. The Equality Impact Assessment does not consider this group of individuals and it should do so. In the meantime, it is likely that the current cut-off date discriminates against part – time workers, women and those who are younger.

#### Other areas of potential discrimination

21. Under the current proposals there are a number of other areas of potential discrimination, which include negative impact on members:
- with tapered protection;
  - who must adjust their pension contributions;
  - who must pay interest on shortfalls in contributions;
  - who have suspended their pension contributions on temporary promotion (honorarium);
  - who have made important life decisions in the legitimate expectation they could remain in their legacy scheme;
  - with a greater tax liability as a result of the proposed changes.

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

22. The Equality Impact Assessment does not address the impact of the remedy cut-off date on fully protected individuals who will not have 30 years of service under the 1987 legacy police scheme at the end of the proposed remedy period of 31 March 2022. This should be rectified.
23. Furthermore, the justifications provided for the potentially discriminatory impacts tend to be couched in general terms lacking in detail. In order to evaluate the likely impact, whether it may be justified and whether the proposal is likely to benefit our members, we need the following information: -
- The precise terms of the legitimate aim pursued which is said to justify each provision that has a potentially discriminatory impact;
  - An explanation as to how that provision is a proportionate means of achieving the legitimate aim identified. For example, what is meant by the words “appropriate” and “reasonable” at paragraph 2.15 of the Equality Impact Assessment? What is the extent of the likely increase in administrative workload and financial cost associated with extending the proposed choice to those who joined public service in the three years beginning 1 April 2012 (see paragraph 2.15)? How many individuals joined public service in this period?

**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**

24. Like those with full protection, tapered protection members are given an either/or choice for the remedy period. They must choose between their legacy and reformed schemes and cannot have a mixture of both.
25. Paragraph 2.25 of the Equality Impact Assessment confirms: *For some individuals, however, tapered protection may be more advantageous than the choice of receiving either reformed or legacy scheme benefits for the entire remedy period.* This may have an adverse impact on younger members, and also those who are female and/or from ethnic minorities.
26. We cannot comment on any potential impacts or mitigation measures without further information. Please provide concrete examples showing how tapered protection may be more advantageous than receiving either reformed or legacy benefits for the entire remedy period. How many individuals are likely to be adversely affected?

27. Please also explain why it is not possible to provide an alternative system of taper protection that is not age based (see paragraph 2.26 of the Equality Impact Assessment). What alternatives have been considered?
28. In the meantime, like those with full protection, tapered protection members have made financial decisions and life choices secure in the knowledge that their tapered protection will last until a given date before transfer into the reformed scheme. Instead it is proposed that all those who have tapered protection should lose it retrospectively for the seven-year period to 1 April 2022. This is unfair and a breach of the legitimate expectation of those who suffer disadvantage as a result. Before taking this step, the relevant pension scheme administrator will need to obtain the consent of those individuals who are adversely affected (see section 23 Public Service Pensions Act 2013).
29. The Associations consider that those who will lose out by the proposed retrospective changes should retain their transitional protections or receive compensation for the loss of benefits.
30. On a separate point which arises out of the black and white either/or choice that has to be made for the remedy period, what is to be done for those police officers who reach 30 years of service in their legacy scheme during the remedy period? Can they make contributions into the reformed scheme for what remains of the period?

**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.**

31. There may be any number of reasons why a pension scheme member might not respond to an immediate choice exercise. Deferred pension scheme members, many of whom are likely to be women, will be among those who cannot be contacted or do not respond for some other reason. There may be a negative impact on women in adopting a procedure under which those who do not respond have no choice but remain in their legacy scheme (if they had transitional protection) or reformed scheme (if they had no transitional protection) for the remedy period. The Associations consider there must be an independent mechanism for reviewing default choices in those cases where the default transfer is less advantageous than the alternative option.

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

32. Under immediate choice members would be required to make a decision on hypothetical figures based on a number of unknowns. Furthermore, the mechanism for evaluating benefits accrued under the reformed scheme is not guaranteed as was reflected by the recent suspension of the cost control mechanism.

33. Paragraph 2.34 the Equality Impact Assessment confirms: *it is possible that younger scheme members would find it more difficult than older scheme members to determine whether to choose to accrue benefits in the legacy or reformed schemes during the remedy period, and to make sound, objectively based choice.*

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

34. Under the deferred choice underpin members will be able to make an informed decision as to which pension scheme is better for their individual circumstances over the seven-year remedy period.

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

35. The Associations' position is that administrative difficulties or complexities must not be criteria that define the remedy. Also, there are concerns about the practicalities of implementing immediate choice within the time frame envisaged, that is at some point after 1 April 2022. It will be a complex logistical exercise. The deferred choice underpin is likely to provide a much longer lead in time which will facilitate many of the necessary administrative changes.

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

36. DCU is preferable for removing the discrimination identified by the Courts for the reasons set out in paragraph 34 above. This is subject to an important caveat. When the member makes their choice, their benefits should be taxed at the rates applicable during the remedy period and not when the choice is made. See the answer to question 24 below on the tax implications of both options and potential unfairness.

**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?**

37. No. See paragraphs 8 to 20 above. The proposed end of the remedy period should be adjusted so that the potentially discriminatory impacts are removed and the legitimate expectations of those identified are satisfied.

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

38. In cases where interest is paid to the government by a member as part of a return to the legacy scheme and where this is reversed to the reformed scheme at the time when benefits are taken under DCU, not only should that interest be repaid, but interest on the

repayment should be calculated by reference to the amount originally paid by the member (i.e. principal and interest).

39. The consequences of choices which could have been made had the member known they would be returned to a different scheme over the remedy period need to be factored in: for instance when electing for non-pensionable pay or honorarium, buying pension growth through additional contributions and time to pay.
40. The annual allowance ought not to be revisited, as is proposed currently in only one case (see 2.51 of the consultation paper). There is otherwise a recipe for complexity of an order which is rarely seen, even in matters of pension taxation.
41. The Associations consider that contributions made in later years should at the election of the member be capable of being carried back to the year in which the contribution would have been made had the member been in the correct scheme. In other words, relief should be given at the rate applicable in that tax year if elected for. This reflects the fact that relief in a later year may prove less valuable than relief in an earlier year, for instance because lower marginal rates apply in a later year. For instance, the individual may have left employment. It needs to be clear that the pension administrator can take these deductions into account in applying PAYE. (See B.18 of the consultation document on this point.)
42. The availability of commuted cash is an important issue for police officers, and our understanding of paragraph A.3 is that a member may make a choice which results in payment of an additional lump sum (whether optional or automatic) that triggers a tax charge. This issue seems most likely to arise where a member has transitioned into the reformed scheme during the remedy period and subsequently retired. Their maximum commuted lump sum from the legacy scheme will be lower than it would have been if they had remained in the legacy scheme throughout the remedy period. However, a second payment of commuted cash is likely to be an unauthorised payment under HMRC regulations. The Associations consider the member should not be liable to pay any additional tax as a result of this additional payment.
43. Conversely, where a member makes a retrospective choice that means that they have received too big a commuted cash payment (for example where a previously fully protected member opts for reformed scheme benefits for the remedy period, perhaps because of survivor benefits), they will be prevented from repaying the excess lump sum and instead their pension for the remedy period will be reduced “on the usual terms”. This seems unfair. Why not allow members the choice of repayment either by lump sum or in instalments from the pension? If there is to be no repayment option, the conversion rate from the scheme the cash came from should be used to calculate the reduction in pension, not the factor from the reformed scheme.



**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.**

44. The government proposes that members who move to the legacy scheme for the remedy period under IC or DCU may need to make additional contributions to the scheme. This may adversely impact on lower paid members who are more likely to be women, ethnic minority groups or those with disabilities. Paragraph 2.41 and 2.43 EIA recognises that this is potentially race, sex and disability discrimination.
45. The Associations support the suggestion that the government allow pension schemes to agree individual repayment plans so that members can choose their preferred pension benefits regardless of financial circumstances. The proposal may have an adverse impact on older members who will have less time to make repayments before they retire.
46. There is a need for clarity on potential methods of payment and the government's position on interest payments.
47. We propose that any 'payment plan' that is to be deducted from a member's pensionable income is also deducted for the purposes of calculating the members' lifetime allowance liability.

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

48. Sections A14 to A20 of the consultation paper headed 'Voluntary member contributions' contain no detail on how scheme members who are concerned about detrimental changes to their pension may buy additional years of pension to compensate. This needs to be clarified, and members advised of the tax implications of their decisions, particularly in relation to any annual allowance charge, at the right juncture. This is likely to affect those groups who are identified in questions 1, 2, 3, & 9, who may wish to mitigate the impact of the government's proposals.

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

49. The Associations recommend combining the annual benefit statement with a tax statement so that members receive a single document setting out their pension and tax position. This requirement should be set out in the reforming legislation for both prospective and retrospective annual benefit statements.

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

50. The consultation document identifies a number of specific challenges related to ill-health provision, but no proposed answers or solutions on which to provide comment. This lack of detailed information adds weight to the Associations' concern that the 31 March 2022 closure date for the legacy schemes is unrealistic.
51. There is a suggestion at paragraph A.25 that ill health retirement cases may need to be reconsidered under legacy scheme rules where the ill health retirement decision was made under reformed scheme rules. Those who have been ill health retired in the reformed police scheme have met the criteria for ill health retirement in their legacy scheme as the appropriate SMP (Senior Medical Practitioner) has already made the medical assessment that the member is permanently medically unfit for performing the ordinary duties of a member of the police force. These cases need not be reconsidered, other than to recalculate the ill health pension benefit due under the legacy scheme.
52. There are complicated pension contribution and tax implications that need to be explored and fully explained by the government.

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

53. Paragraphs A.36 and 37 of the consultation document lack detail. It is not clear whether the new survivors' amount will be reduced to keep it within the regulatory limit. If this is what is proposed, the Associations do not accept the proposal.
54. Paragraph A.38 adds an unnecessary complication. At the point of death an individual is a member of a scheme, and there is no requirement to go back and unpick the options already selected.
55. The Associations welcome the government's suggestion at paragraph A.41 that it cover the costs incurred by survivors stemming from the remedy changes. Additional costs incurred in divorce proceedings, and in recalculating tax liabilities generally should also be covered.

**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.**

56. The proposals suggest pension administrators deal with contingent decisions on a 'case by case basis. It is important that a formal and independent procedure with a right of appeal be put in place to deal with applications. This will ensure consistency in approach and fairness. There are 43 administrators of the police pension scheme, all of whom might otherwise reach different decisions on the same facts.

57. The procedure should set out a broad definition of contingent decisions which encompasses:

- Downsizing of property;
- Removal of children from private schooling;
- Length of maternity leave;
- Taking of career breaks;
- Suspension of pension contributions on temporary promotion;
- Leaving the police service;
- Opting out of the police pension.

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

58. The primary advantage of the DCU over the Immediate Choice is that it allows members to decide based on fact, rather than projections which may subsequently prove to be inaccurate. If the final DCU remedy effectively implements Immediate Choice for members at the point of club transfer, then the key advantage of DCU is removed for the member. The purpose of club transfers is to facilitate the smooth transition of members with their accrued pension benefits into other areas of the public sector so that the value of pension benefits is retained. This purpose should not be undermined in any way. DCU should be maintained until the member takes their benefits in the receiving scheme. The Associations understand that this is what is proposed for transfers outside the Club.

**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?**

59. The member's choice in the receiving club scheme should be exercised when the member takes their benefits under that scheme. At that point the member will no longer have any benefits within their previous, ceding scheme. It makes sense for the member to exercise one choice covering all their benefits accrued during the remedy period under both the receiving and ceding schemes. This choice should be made when the member takes their benefits in accordance with the DCU proposal.

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

60. With increased benefits members may be asked to make increased contributions to the income of divorced partners. Agreements and court orders may need reviewing, such as where there are existing Cash Equivalent Transfer Values (CETV) issues or Pension sharing orders based on specific amounts and not percentages. The associated costs should not fall on the individual and the government should compensate for these costs where they arise.

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

61. No. It is vitally important not to lose sight of the fact that it is the Government that needs to rectify the discrimination suffered by members. They should not suffer any penalty as a result, such as interest charged as a result of the Government's remedy.
62. See also the Associations' answer to question 10.

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

63. Yes. Failure to meet inflationary increases at least would represent a worsening of the member's position and does not satisfy the principle of ensuring members are put back in the same position they would have been in had the mistake not been made.

**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?**

64. The Associations consider a single consistent rate across schemes is more appropriate to ensure that all members of public service schemes are treated the same.

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

65. There are no comments at present.

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

Annual allowance

66. Under either approach, we do not believe that an upwards revisiting of the annual allowance charge is sustainable. The complexity which this involves in terms of calculations and compliance is simply not something which the government can expect individuals to be faced with and the Associations believe it is wrong that the government place the responsibility for extremely complex taxation matters onto the individual.
67. Paragraph 2.51 of the 2020 Consultation with respect to DCU notes that the additional annual allowance charge will be waived where an individual draws benefits down and chooses to receive reformed scheme benefits rather than legacy scheme benefits in the remedy period. Para B.38 provides: '*The government is developing a process whereby the public service pension scheme can declare and pay the relevant AA charge relating to the reformed scheme benefits in the remedy period on the members behalf – they would not need to do anything*'. The Government appears to be encouraging members to join the reformed scheme.

68. It does not make sense that the proposal set out in paragraph 2.51 only works in one direction. The effect of this distinction is to discriminate based on whether the member is deemed, prior to an election upon retirement, to have been accruing benefits under the reformed scheme or not. As this is a distinction based on when membership commenced, it is indirectly based on age (and potentially sex and ethnicity) and is accordingly discriminatory as a result. Nor is there any obvious justification for such a mismatch.
69. Given that the operation of the annual allowance charge when the past is retrospectively altered is going to cause substantial practical difficulties (including multiple years' calculations with the information required going back to 2012), the appropriate methodology is also to waive any additional annual allowance charge for those members treated as moved into the legacy scheme on 1 April 2015. As confirmed at 2.39 of the Equality Impact Assessment, in the context of deferred choice underpin, this issue will arise predominantly to white male members.
70. Further, in addition to the administrative difficulties at a governmental level, the new proposals more generally will inevitably give rise to increased expense at an individual level. In light of this expense in complying, it would seem particularly unfair to burden the individual with an additional annual allowance charge liability. The fairer approach, as above, is to waive the additional annual allowance charge arising in all circumstances with respect to a retrospective alteration of the past.

### Honoraria

71. A significant issue stems from arrangements permitting members to ask for non - pensionable pay under the 1987 police legacy scheme only. This is beneficial in that it limits the contributions the member is required to pay but does not alter the final entitlement under the 1987 scheme as the benefit is calculated by reference to the final 3 years of service.
72. Younger unprotected or transitionally protected members taken back into legacy schemes for the remedy period will need to have the opportunity to revisit the question of suspending pension contributions. Decisions made on whether to suspend pensions contributions on promotion might have been made differently had it been known that a member might return to their legacy scheme over the remedy period.
73. To illustrate this point, one can take the example of someone who was in year 23-24 of service, who was transferred to the reformed scheme and took a temporary promotion to Chief Superintendent. They paid the requisite pension contribution under the reformed scheme and received an annual allowance charge because the £40,000 yearly limit on the increase in value of their pension was exceeded when growth in both pensions was taken into account. When placed back into the legacy scheme such an individual may want to opt for pay on the temporary promotion to be non-pensionable in order to reduce their tax liability. That would allow such the individual to recover contributions paid. Further there

would need to be tax adjustments reflecting the reduced contributions and the absence of reduction in the annual allowance charge. The new rules must address this sort of situation and ensure members do not suffer a detriment.

#### Buying pension growth

74. As is acknowledged in the consultation document, all of the legacy schemes permit members to make additional contributions to enhance pension benefits. In the context of the 1987 police scheme, this effectively permitted additional years of service to be bought and was particularly relevant for people who had been on career breaks. Those people taken out of the 1987 scheme and now, under the present proposals, being put back in, must be offered the ability to exercise this option retrospectively and purchase additional years at the rates that would have applied had they remained in the 1987 scheme. The consultation document provides no detail on how this arrangement will operate, which is disadvantaging this group and other identified in this response.

#### Discretionary power

75. The paragraphs above cover the issues that are immediately obvious in the operation of the DCU framework as proposed. There will inevitably be other injustices. The Treasury should be given the power to remedy any injustices or hardship stemming from the operation of the new rules by way of compensation. This should be a broadly drafted discretionary power so as to ensure that any injustice or hardship, whether envisaged at this stage or not, is capable of being remedied. It will otherwise be inevitable that injustices occur given the enormous complexity of what is being proposed. It is the government and not members who have caused the need for retrospectively altering pension rights.

#### Time to pay arrangements

76. Time to pay arrangements need to cater for the possibility that, in reliance on the position as it was, funds may have been spent and cannot be refunded to the scheme until pension benefits crystallise.

#### Taxation & national insurance

77. The references in these representations to tax should be taken as including references to national insurance. We would make the following additional tax points.

78. The decision to exercise the option under immediate choice must clearly be after accrual rates under the reformed scheme have been determined which presumably requires Cost Cap issues to have been resolved in advance. In any event it is not proposed that the immediate choice be immediate so a person may retire before the end of the time permitted to make the immediate choice. As a consequence, a lifetime allowance charge may have arisen. Only two brief paragraphs are devoted to the lifetime allowance (B.25

& B.29), but this is clearly a complicated subject and even more so where the lifetime allowance arises before the date chosen to exercise immediate choice. In particular we wish to see the following points dealt with:

- a. Any lifetime allowance charge which could reasonably have been avoided had members been in the correct scheme at the time needs to be capable of mitigation and reduction.
- b. Revised annual allowance charges which reduce the lifetime allowance charge through being dealt with by scheme pays need to be factored into the revised lifetime allowance charge. At present this would not be possible as the member would have left the pension scheme. Therefore, tax adjustments need to be capable of being made.
- c. Any pension contributions deferred under a payment plan to reflect the move to a new scheme need to be taken into account in calculating the adjusted lifetime allowance charge.

We would note that the Equality Impact Assessment does not take into account tax, and specifically the huge complexity which younger members are being required to deal with as compared to those who remained in the legacy scheme throughout (with potentially very significant and punitive adverse consequences, if an error is made). At paragraph 2.11, the government accept the importance of providing members with appropriate information. The Associations think that help of a detailed nature must be provided by the government which takes into account individual circumstances and the factors set out throughout this document. A dedicated service and/or a financial compensation system needs to be provided by the government, at the correct time, at no cost, to allow members to negotiate these complexities and provide members with the necessary and accurate information.

79. Any self-help tool needs to deal clearly with the points made in these representations e.g. the impact of honoraria, annual allowance and lifetime charges, the impact of contributions. It needs to do justice to the complexity of what is proposed so that members are not adversely affected by the retrospective alteration of their position. It is vitally important that government provide members with the all the information they require about all the complexities and are able to fully understand the information before they are required to make a choice under either option.
80. Scheme pays is only offered to those in who are members of a pension scheme. To ensure fairness, these provisions will need to be expanded to enable pensioners or deferred members, who are no longer members of the pension scheme to access this option.
81. There is no assessment within the consultation document of the interaction between the proposed remedy and the lifetime allowance fixed protections. The Government will need to satisfy itself that there is no detriment caused by this interaction.

### Tax relief on pension contributions

82. It is understood that tax relief on contributions can be applied only to active members and not to retired or deferred members. It is important that those members are not disadvantaged through the retrospective choice of scheme under the remedy arrangements. Hence dispensation should be obtained from HMRC to provide tax relief to deferred and retired members, or to allow such members to make net pay contributions and for the scheme to receive any tax relief via HMRC (as operates with money purchase arrangements).

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