

TPS Pensions Policy Team
Department for Education
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1 November 2019

Dear Sir or Madam

Teachers' Pension Scheme - Independent Schools Phased Withdrawal Proposal

Thank you for the Department's consultation document inviting comments on the proposal to change the England and Wales Teachers' Pension Scheme (TPS) rules to allow independent schools to opt out more flexibly.

I respond on behalf of the Local Government Association (LGA). The LGA is a politically-led, cross-party membership organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. In total, 415 local authorities are presently members of the LGA.

This letter sets out the LGA's views on the consultation proposal. The LGA does not support the proposal to allow independent schools to opt out of the TPS more flexibly. We set out our reasoning in our comments to question 4 of the consultation document below.

Question 4: Do you have any other comments regarding this proposal?

We recognise that the increase to employer contributions is likely to have a significant financial impact on independent schools' budgets and understand the rationale for this proposal. However, we are concerned about the impact of the proposal on local authorities (LAs) and other employers in the TPS.

Whilst we are aware that a small number of independent schools have left the TPS this year, there is a risk that the phased withdrawal proposal will result in more independent schools leaving the TPS than would leave under the current TPS rules. It is our view that the proposed change to the rules would influence independent schools that had no intention of leaving the TPS to re-consider their membership of the TPS and leave under a phased withdrawal. The proposal is attractive as current teachers would be satisfied because they would be able to remain in the TPS, and the school would have the

opportunity to reduce their pension costs by moving to a different scheme for new teachers.

Independent schools in the TPS account for nearly 10% of TPS active members. Should these schools decide to leave the TPS under a phased withdrawal proposed in the consultation document, this will place additional financial liability on the remaining employers in the TPS. The remaining employers will be left to pick up the deferred and pensioner liabilities of staff employed at independent schools which are either in the process of a phased withdrawal (so paying a lower share of employer contributions) or have withdrawn completely. As LAs are currently the largest employer group in the TPS with over 40% of active members working in LAs, the biggest financial impact would be on LAs.

Whilst we agree that future costs associated with the TPS for independent schools would be reduced through natural staff turnover, the costs associated with their deferred and pensioner members would transfer to other employers participating in the TPS.

In addition, the consultation does not address other important matters that will impact on the future costs of the TPS, for which all current TPS employers should be liable:

- McCloud judgment

HM Treasury has confirmed that the McCloud judgment applies to the TPS and that the remedy will result in changes to the benefits of TPS members to compensate for any discrimination suffered as a result of the TPS transitional protections. These changes will increase the Scheme's liabilities which will be taken into account at the next Scheme valuation.

In the [written statement](#) of 15 July 2019, the Chief Secretary to the Treasury stated that 'Initial estimates suggest remedying the discrimination will add around £4bn per annum to scheme liabilities [all public service pension schemes] from 2015'.

We are of the view that a larger financial impact of this judgment will fall on LAs and other TPS employers remaining in the TPS, if independent schools are allowed to leave the TPS under the phased withdrawal proposal. In our view the additional liabilities should be met by all the TPS employers to which they relate.

- Employer contributions beyond March 2023

There is no guarantee that the Department will provide funding to maintained schools to meet the cost of additional employer contributions of 7.2% beyond March 2023. There is a risk that if the additional funding is not continued (currently £1.5bn per year for maintained schools and academies) and the TPS rules are changed to allow independent schools to leave the TPS through a phased withdrawal arrangement, LAs

will not have the resources for the increased employer contributions and this will impact on maintained schools' budgets. The liabilities of independent schools could place additional financial pressure on LAs and impact on the viability of the TPS in the long term.

This proposal could impact on the pension arrangements of support staff who work in independent schools and who are members of the Local Government Pension Scheme (LGPS). Independent schools leaving the TPS could also decide to leave the LGPS and set up different pension arrangements for their support staff, rather than provide access to inequitable pension schemes for different sections of their workforce.

This consultation highlights the arrangements of admitted bodies in the TPS and that there is no assessment of unmet liabilities for independent schools if they choose to leave the TPS. The LGA would support a review of the membership arrangements of TPS admitted bodies to remove the financial risk of unmet liabilities falling to LAs and other TPS employers. We would ask the Department to consider employer arrangements in other public service schemes such as the LGPS. Support staff in independent schools are eligible for membership of the LGPS and where an independent school leaves the LGPS they are liable to pay an exit payment in relation to any unmet employer liabilities.

I hope the above is helpful; if you have any questions, please do not hesitate to contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Roger Phillips', written over a horizontal line.

Councillor Roger Phillips
LGA Lead Member, Pensions