

Independent Schools Phased Withdrawal

In Autumn 2019, the Department for Education (DfE) consulted on a Government proposal to allow independent schools to remain in the Teachers' Pension Scheme (TPS), but close access to the scheme on a specified date to new starters, known as the Independent Schools Phased Withdrawal Proposal. The DfE has now responded to the consultation.

The outcome of the consultation is not a surprise, which is that the DfE is proceeding with its proposal to allow independent schools to close the TPS to new employees if they wish to do so. The DfE will now propose amendments to the TPS Regulations which give effect to the change in policy. The NASUWT will respond to the DfE's consultation on amendments to the TPS Regulations, and a particular priority for the Union will be to ensure that the changed TPS Regulations are not cast so widely that TPS employers in the private sector, other than independent schools, can also utilise them to close the TPS to new employees.

The NASUWT will also seek to ensure that if a teacher is promoted in a school which has closed the TPS to new employees, the school cannot make leaving the TPS a condition of the promotion.

Since September 2019, some independent schools have left the TPS. However, data provided by Teachers' Pensions indicates that six out of seven independent schools which were in the TPS in September 2019 continue to be in the TPS.

It is clear from the DfE's response to the consultation that the Department does believe that the future ability of independent schools to close the TPS to new employees will reduce the number of teachers in independent schools which leave the scheme, because schools will close the TPS to new employees rather than leaving it completely. The NASUWT has cast doubt on this and the DfE accepts that it is a judgment call as to whether the change in the Regulations will accelerate the number of teachers in independent schools being opted out of the TPS or slow the trend.

The DfE has accepted many of the observations which the NASUWT has made about the adverse equalities impact of allowing independent schools to close the TPS to new employees, including potential age, disability and race discrimination, given the changing profile of the teacher workforce. This has not been sufficient to prevent the DfE from proceeding with its proposal, but the DfE has accepted that if an independent school closes the TPS to new employees when a teacher is on non-pensionable family leave or non-pensionable sick leave, they will have the right to rejoin the TPS when they return to pensionable service.

The NASUWT advises Negotiating Secretaries to oppose the closure of the TPS to new employees. Whilst this might seem a partial solution if a school intends to leave the TPS completely, it will potentially have the impact of locking teachers into individual schools in the independent sector to retain their TPS membership. It will also impact detrimentally on teachers with protected characteristics, most particularly younger teachers.

Even though the DfE has announced the policy change to allow independent schools to close the TPS to new employees, the Regulations to give effect to this have not yet been proposed, let alone consulted over and laid, and schools should not close the TPS to new employees until the amended Regulations take effect. The NASUWT will issue further advice on the timescales involved, as well as the impact of the Regulations.

