



Pensions equality issues

The Northern Ireland Teachers' Pension Scheme (NITPS) includes discriminatory provisions, which the NASUWT is campaigning to remove.

The reformed NITPS, introduced on 1 April 2015, is highly discriminatory and the NASUWT has consistently opposed it for this reason.

During negotiations on NITPS reform, the NASUWT repeatedly pressed the Northern Ireland Executive to carry out a fit-for-purpose equality impact assessment (EQIA) into its planned NITPS reforms before implementing them. The Department for Finance and Personnel (DFP) refused to do so and has failed to do so since. The NASUWT continues to press for this data to be collected so that the full equalities impact of NITPS reform can be assessed.

The NASUWT's campaigning and industrial action achieved a Department for Education Northern Ireland (DENI) EQIA and the provision of some limited equalities data, but the reformed NITPS design remains unacceptable to the NASUWT.

The NASUWT continues to assert that the reformed NITPS design is discriminatory in several key aspects and therefore remains unacceptable to the NASUWT.

NITPS adult survivor benefits for widowers and civil partners

The NASUWT opposes and campaigns against the continuing discrimination against women and civil partners in the provision of NITPS survivor benefits (sometimes known as family benefits).

In the NITPS, a Scheme member's pensionable service determines their benefits and those of a surviving partner. However, for adult survivor benefits, not all pensionable service counts.

Discrimination against women in the NITPS

The following pension survivor benefits are paid to survivor spouses of men and women members of the NITPS:

- benefits for widows – backdated to 1 April 1972;
- benefits for widowers – backdated to 6 April 1988.

Discrimination against civil partners in the NITPS

The following pension survivor benefits are paid to survivors of men and women members of the NITPS who are civil partners:

- benefits for civil partners – backdated to 6 April 1988.

The current situation is that civil partners are treated less favourably than some married couples in respect of survivor benefits. The benefits for civil partners are equal with those of opposite-sex married partners but only in respect of those for widowers, which includes any service since 6 April 1988, rather than for widows, which includes service from 1 April 1972.

The Marriage (Same Sex Couples) Act 2013 does not cover Northern Ireland, but any same-sex couples who were married in Britain and who are members of the NITPS would be treated as civil partners and would have service backdated to 6 April 1988, rather than 1 April 1972.

The NASUWT continues to campaign for widows, widowers, civil partners and same-sex married couples to all have equal pension rights, including survivor benefit rights, and that the equalisation of survivor benefit rights must include service which is backdated to 1 April 1972 in the calculation of those rights. To do otherwise would mean the NITPS perpetuating an unacceptable form of discrimination against women and Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) teachers.

The NASUWT led the campaigning and lobbying against this discrimination:

- In 2009, the NASUWT opposed the pensions exemption in the 2010 Equality Act, which permitted continuing discrimination against women and civil partners. The NASUWT lobbied ministers on this issue.
- The NASUWT asserted that the DENI has taken an unacceptable, discriminatory approach towards survivor benefits in the NITPS. The NASUWT opposed the continuation of this discrimination in a DENI consultation which took place in September 2014, but the Northern Ireland Executive failed to end discrimination.

Coalition Government Review of Pension Survivor Benefits under the Marriage (Same Sex Couples) Act 2013

The UK Government has undertaken a review of survivor benefits for same-sex partners, widows and widowers under Section 16 of the Marriage (Same

Sex) Couples Act 2013. A Report of the review was published on 26 June 2014. There is an order making power in s.16(6) of the Act enabling the Westminster Secretary of State to introduce legislation to equalise or reduce differences in survivor benefits. The NASUWT took full opportunity of the UK Government Review to advance members' interests and responded in detail to the consultation.

The terms of reference of the UK Government Review were as follows:

'The review will investigate differences in occupational pension schemes between: same sex survivor benefits and opposite sex survivor benefits provided to widows; same sex survivor benefits and opposite sex survivor benefits provided to widowers; and opposite sex survivor benefits provided to widows, and opposite sex survivor benefits provided to widowers. The review will include separate consideration of survivor benefits provided to both surviving same sex married couples and to surviving civil partners.

'The review will investigate what the costs and other effects would be of the elimination of these differences by the equalisation of survivor benefits. The review will consider the extent to which same sex survivor benefits are provided in reliance on paragraph 18 of Schedule 9 to the Equality Act 2010, and the extent to which same sex and opposite sex survivor benefits are calculated by reference to different periods of pensionable service.

'The review will inform the Secretary of State's decision as to whether he should exercise his powers to change the law to eliminate or reduce differences in survivor benefits in occupational schemes.'

The costs of ending discrimination in the NITPS

The assumptions provided by the Treasury to the NASUWT indicated that the capitalised cost to the England and Wales Teachers' Pension Scheme (TPS) of backdating all survivor benefits to 1972 would be in the region of £600 million with between one third and a half of this being in respect of backdated payments, with a comparable proportionate figure being the case for Scotland.

The Treasury also estimated that the whole of the capitalised cost across all public sector schemes would add around 0.2% of pensionable pay to employer contribution rates over a 15-year term. The UK Government

Review did not cover Northern Ireland and no Treasury estimates were produced. However, there is no reason to believe that costs will be significantly different in Northern Ireland from Britain and the NASUWT argues that discrimination in the NITPS should therefore end now and that the ending of that discrimination is not only just, but is clearly affordable.

The outcome of the UK Government Review

When the UK Government Review reported in June 2013, it failed to make any recommendations to end discrimination in occupational pension schemes, including the NITPS. The Treasury simply reported the costs involved, which the NASUWT has already demonstrated are affordable and which many private sector pension schemes have already met. The NASUWT believes that the UK Government has failed to discharge a basic equality duty. It has allowed discrimination to continue.

The NASUWT has stepped up its campaign for full pensions equality in response. The NASUWT has produced campaigning materials to lobby MSPs. The NASUWT has also produced a campaigning presentation for Local Associations and school groups, which can be found at the following link: www.tuc.org.uk/survivorpensions.

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The NASUWT has further argued for the ending of the provision where adult survivor pensioners, who received their pension before 1 January 2007, surrender their pension if they remarry, enter into a civil partnership or cohabit. The NASUWT considers that full equality involves meeting the cost of retrospective claims where survivors have surrendered their pension.

Indexation of pension benefits

The reformed NITPS is a career average revaluation of earnings (CARE) scheme and annual pension earnings are revalued in accordance with an indexation formula.

This is Consumer Prices Index (CPI) + 1.6% for NITPS members, providing that they do not leave pensionable service for more than five years. If a NITPS member leaves pensionable service for more than five years,

indexation is CPI only, which reduces the pension pot which that teacher eventually receives.

The NASUWT opposes this provision, which discriminates against teachers who take career breaks. The most significant group of such NITPS members are teachers who take career breaks to raise families, the majority of whom are women.

For the same reasons, the NASUWT opposes the TPS provision which removes full and tapering protection from TPS reforms from teachers who are out of pensionable service for five years or longer.

In February 2016, the Chief Secretary to the Treasury announced that the 2016 revaluation index for NITPS members who are out of service would be CPI minus 0.1%. This was because of a negative 0.1% figure for one month in 2015. This would revalue the pension pot of teachers who are out of service downwards and the NASUWT wrote to the Chief Secretary to the Treasury to protest at this unacceptable, and potentially discriminatory, decision.

NITPS flexibilities

The reformed NITPS includes new 'pensions flexibilities' which are available, at a cost, to teachers.

These are buying out the actuarial adjustment and buying faster accrual. It is also possible to buy additional pension in largely the same way as it was before 1 April 2015 and purchase teachers' additional voluntary contributions (TAVCs) from Prudential. The NASUWT is campaigning and taking industrial action to achieve a decent teachers' pension at a decent pension age and believes that teachers should not have to purchase additional pension to give them such provision.

Many teachers with protected characteristics, as well as part-time teachers and teachers on temporary contracts, already suffer from low pay and intermittent work and will not be able to afford to purchase additional pension.

Employee contribution structure

The NASUWT rejected the Teachers' Pensions Scheme Proposed Final Agreement (TPS PFA), which the UK Government first adopted for the England and Wales TPS, and has now been adopted by the Northern Ireland Executive. Some other unions, however, agreed to an average employee pension contribution of 9.6%, which the NASUWT demonstrated was unjustifiable and has consistently opposed. The agreement of these unions, representing less than 10% of the teaching profession in England and Wales, gave the UK Government the opportunity it needed to continue to attack teachers' pensions and to worsen pension provisions.

Once the unacceptable figure of an average 9.6% employee pension contribution was set by the TPS PFA, the NASUWT argued vigorously for tiering of contributions, with the most progressive structure possible, in order to give some protection to the lowest-paid teachers. The NASUWT also argued that pension contributions should be paid on the basis of actual, rather than full-time equivalent (FTE) salaries, for the same reason.

The NASUWT has achieved these objectives in the NITPS employee contribution structure:

Annual salary for the financial year 2015-16	Employee's contribution rate
£0 - £25,999	7.4%
£26,000 - £34,999	8.6%
£35,000 - £41,499	9.6%
£41,500 - £54,999	10.2%
£55,000 - £74,999	11.3%
greater than £75,000	11.7%

From 1 April 2015, teachers have paid an average pension contribution of 9.6%, but the contribution structure has been tiered, with those who earn the least paying the least. In addition, part-time teachers have paid a contribution based on their actual salary, rather than their FTE salary, which was the case before 1 April 2015.

For further information on:

- How the CARE scheme works;
- How to access information about pension provision;
 - Buying additional pension.

Go to: www.nasuwat.org.uk/PensionsMaterials

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