



Pensions equality issues

The Scottish Teachers' Pension Scheme (STPS) includes discriminatory provisions, which the NASUWT is campaigning to remove. The reformed STPS, introduced on 1 April 2015, is highly discriminatory and the NASUWT has consistently opposed it for this reason.

The NASUWT continues to campaign for a Scottish Government equality impact assessment (EIA) of the STPS and the provision of relevant equalities data.

During negotiations on STPS reform, the NASUWT repeatedly pressed the Scottish Government to carry out a fit-for-purpose EIA into its planned reforms before implementing them. The Scottish Government failed to do so, but the NASUWT continues to press for this data to be collected so that the full equalities impact of STPS reform can be assessed.

The NASUWT continues to assert that reformed STPS design is discriminatory in several key aspects and this remains a key reason why the reformed STPS is unacceptable to the NASUWT.

Adult survivor benefits for widowers, civil partners and same-sex married couples

In addition to the reformed STPS, the NASUWT opposes and campaigns against the continuing discrimination against women, civil partners and same-sex married couples in the provision of STPS survivor benefits (sometimes known as family benefits).

In the STPS, 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

The following pension survivor benefits are paid to survivors of men and women members of the STPS who are opposite-sex spouses:

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

Discrimination against civil partners and same-sex married couples

The following pension survivor benefits are paid to survivors of men and women members of the STPS who are same-sex spouses or civil partners:

- benefits for civil partners – backdated to 6 April 1988;
- benefits for same-sex married couples – backdated to 6 April 1988.

The current situation is that same-sex married couples and civil partners are treated less favourably than some opposite-sex married couples in respect of survivor benefits.

The benefits for same-sex married couples and civil partners are equal with those of opposite-sex married partners but only in respect of those for widowers, which include any service since 6 April 1988, rather than for widows, which include service from 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 STPS perpetuating an unacceptable form of discrimination against women and Lesbian, Gay, Bisexual and Trans (LGBT) 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 Scottish Government has taken an unacceptable, discriminatory approach towards survivor benefits in the STPS. The NASUWT opposed the continuation of this discrimination in a Scottish Government consultation which took place in December 2014, but the Scottish Government failed to end discrimination.

UK 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 in s.16(6) of the Act that enables 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 STPS

The assumptions provided by the Treasury to the NASUWT indicated that the capitalised cost to the England and Wales 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. This is a relatively small figure and the NASUWT argued that discrimination in the STPS should now end 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 STPS. 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 supports the TUC petition calling for equalisation of survivor benefits: www.tuc.org.uk/survivorpensions.

The NASUWT has also produced a campaigning presentation for Local Associations and school groups, which can be found at the following link: www.nasuwt.org.uk/SurvivorBenefits.

The NASUWT leads the campaign for an end to adult pension survivor benefit discrimination. The Union seconded a motion at TUC Congress 2015, which was passed unanimously, and committed the TUC to campaigning for an end to discrimination. NASUWT members are urged to lobby MPs, also using the materials on the 'campaigns' section of the NASUWT website.

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 or enter into a civil partnership. 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 STPS is a career average revaluation of earnings (CARE) scheme and annual pension earnings are revalued in accordance with an indexation formula. This is the Consumer Prices Index (CPI) + 1.6% for STPS members, providing that they do not leave pensionable service for more than five years. If an STPS 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 STPS members are teachers who take career breaks to raise families, the majority of whom are women.

For the same reasons, the NASUWT opposes the STPS provision which removes full and tapering protection from STPS 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 STPS 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.

TPS flexibilities

The reformed STPS 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 reasonable 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.

Supply teachers

In a career average scheme, low pay levels lead to a low pension. The NASUWT has taken industrial action, and continues to campaign for the restoration of short-term supply teachers' pay levels, which were slashed by the Scottish Negotiating Committee for Teachers (SNCT) in 2011.

Employee contribution structure

The NASUWT has rejected the Teachers' Pension Scheme Proposed Final Agreement (TPS PFA), which the UK Government first adopted for the England and Wales Teachers' Pension Scheme and which has now been adopted by the Scottish Government. The NASUWT is the only teachers' union in Scotland to implement continuous industrial action against the worsening of teachers' pensions from November 2011 onwards.

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 highest number of tiers possible to spread the financial burden more fairly and protect lower-paid teachers.

The Scottish Government was unable to simply implement the same post-2015 tiering structure as in England, Wales and Northern Ireland, because Scottish teachers are lower paid overall than English teachers and an identical contribution structure gave a lower overall yield to the Treasury.

The Scottish Government, therefore, consulted on two alternative models to the England and Wales post-2015 pension contribution structure.

The first of these added to pension contributions for all teachers and the second reduced pension contributions for the lowest-paid teachers and increased pension contributions for higher-paid teachers.

The NASUWT made very clear to the Scottish Government its continuing opposition to the 9.6% average pension contribution, but presented detailed evidence of the importance of protecting lower-paid teachers from the worst

impact of the pension reforms, to try to minimise opt-outs from the STPS and in the interests of fairness and equality. The NASUWT therefore advocated the second of the Scottish Government’s models.

The Scottish Government accepted NASUWT representations and decided that teachers’ pension contributions from 2015-2019 will be tiered as follows:

Annual salary for the financial year 2015-16 rate	Employee's contribution
£0 - £25,999	7.2%
£26,000 - £34,999	8.7%
£35,000 - £41,499	9.7%
£41,500 - £54,999	10.4%
£55,000 - £74,999	11.5%
greater than £75,000	11.9%

The NASUWT also argued for pension contributions to be paid on the basis of actual rather than full-time equivalent (FTE) salaries, to protect lower-paid, part-time teachers. The Scottish Government accepted NASUWT representations and teachers’ pension contributions have been paid on the basis of actual salaries from 1 April 2015 onwards, rather than on the basis of FTE salaries, 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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