



Scottish Public
Pensions Agency
Buidheann Peinneanan
Poblach na h-Alba

**Scottish Teachers' Pension Scheme:
Independent Schools Phased
Withdrawal**

**Scottish Government consultation
2022**

About This Consultation

This consultation document seeks views on the proposal of allowing for the phased withdrawal of independent schools from the Scottish Teachers' Pension Scheme (STPS). The purpose of phased withdrawal is to enable independent schools to continue participating in the STPS for existing members while reducing the financial pressures, which may be faced by some, as a result of increased employer contributions.

Duration of Consultation

This consultation will run for a period of twelve weeks commencing on 6 May 2022 and ending on 29 July 2022.

How to respond

Please use the consultation response form and once completed send to sppapolicy@gov.scot before midnight on the closing date.

Alternatively, responses can be posted to:

STPS: Independent Schools Phased Withdrawal Consultation
SPPA,
Tweedside Park
Tweedbank,
Galashiels, TD1 3TE

Further information

If you are unable to access an electronic version of the document, please write to the above address and a paper copy will be provided.

Data Protection Statement

The Scottish Public Pensions Agency (SPPA) is an executive Agency of the Scottish Government and forms part of the legal entity of the Scottish Ministers (Framework Document).

This framework of statutory powers and responsibilities, as agreed with the Scottish Ministers, enables SPPA to undertake the role of data controller for the processing of personal data which is provided as part of your response to the consultation. Any response you send us will be seen in full by SPPA staff dealing with the issues which this consultation is about or planning future consultations.

The process allows informed decisions to be made about how SPPA exercises its public function.

Where SPPA undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. SPPA use Scottish Government standard terms and conditions for such contracts which set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the SPPA intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response.

If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response, then these published reports will be retained indefinitely. Any of your data held otherwise by SPPA will be kept for no more than three years.

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is the independent regulator for data protection.

For further details about the information the SPPA holds and its use, or if you want to exercise your rights under the GDPR, please refer to our Privacy Policy in the first instance or contact:

Agency Data Protection Officer
Scottish Public Pensions Agency
7 Tweedside Park
Tweedbank
GALASHIELS
TD1 3TE

Tel: 01896 892 469

Website: <https://pensions.gov.scot/>

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk>



Contents

1. Background	page 6
2. Proposal and rationale	page 7
3. Equality Impact Assessment	page 8
4. Consultation Questions	page 10
5. Next Steps	page 10

1. Background

1.1. Following the 2016 quadrennial scheme valuation, the STPS employer contribution rate increased from 17.2% to 23% for the period 1 September 2019 to 31 March 2023. HM Treasury subsequently announced the current employer contribution rates will remain in place for a further year until 31 March 2024. Any future changes to the employer contribution rate beyond 1 April 2024 will be determined by the results of the 2020 valuation, expected in 2023.

1.2. Following the 2019 increase, Government funding was made available to employers to account for the increase, however funding was not extended to independent schools. The Scottish Council for Independent Schools (SCIS) and independent schools themselves expressed concern that the increase would create financial difficulties and some schools would be unable to afford to remain in the STPS. Since the increase in the employer contribution rate, four independent schools (with 16 active members) have left the STPS. However, the exact reason for leaving the scheme is unknown.

1.3. Whilst participation is mandatory for most employers who fall within the scope of the STPS, this is not the case for independent schools. The provisions of the STPS allow independent schools to choose to apply to participate in the scheme. If accepted, the school must enrol all of its eligible teaching staff into the STPS and when a new teacher commences employment they must also be enrolled. As with all occupational pensions, an individual teacher may then choose to opt out if they do not wish to accrue pension in this way.

1.4. Independent schools that participate in the STPS may cease to do so by giving notice to the scheme manager. However, any decision to cease participation will apply to all employees within the school (i.e., the school must decide to be completely in or completely out of the scheme).

1.5. As at 31 March 2022, independent schools account for 4.2% of the overall membership of the STPS, this equates to over 70 Independent Schools with 3,686 active members.

Department for Education (DfE) Consultation

1.6. The DfE ran a consultation between 9 September 2019 and 3 November 2019 on introducing phased withdrawal for the scheme in England and Wales, where similar concerns about the increase in employer contribution rates had been raised. The DfE's response to that consultation confirmed that, after careful consideration, the phased withdrawal proposal would be accepted and the scheme rules would be amended.

1.7. Phased withdrawal was introduced in England and Wales from 1 August 2021 and this has prompted further calls from the independent schools sector in

Scotland for Scottish Government to facilitate the same access to phased withdrawal for schools who are considering the sustainability of membership of the STPS.

2. Proposal and Rationale

2.1. This consultation seeks views on proposals to amend STPS rules to introduce phased withdrawal with the aim of helping those independent schools that need it to manage employer pension costs. This proposal would also protect teaching staff that are already participating in the scheme in order to keep as many existing employees in the STPS as possible.

2.2. The phased withdrawal proposal would require an amendment to the STPS regulations so that participation of an independent school could be frozen, meaning that teachers currently in active pensionable employment in that school could remain in the STPS but teachers joining after the school had changed its status would not be enrolled into the scheme, and alternative pension arrangements would be offered.

2.3. The main elements of the proposal are:

- STPS regulations to be amended to allow an independent school to choose to keep its existing teachers in the STPS, while offering alternative pension provision to new teaching employees (as it is mandatory for an employer to enrol an employee into a pension scheme).
- A teacher joining a school that had made this choice would be enrolled in an alternative pension scheme, including those who were active members of the STPS immediately beforehand.
- Existing members could remain in the STPS until they leave employment with that particular school (or join another fully participating school).
- A teacher who was employed by a school at the time that participation was frozen but who opted out would be able to return to the STPS at a later date.
- A teacher who opted out of the STPS after the independent school had frozen participation would not be eligible to return to the STPS whilst still employed at that school, and would instead be offered an alternative pension scheme.
- A teacher who was no longer in pensionable service as a result of sick leave or family leave etc. would be able to resume active participation in the STPS where the period involved is covered by statutory rights or their contract of employment.

- In cases where the leave of absence is beyond statutory or contractual rights, whether the teacher could return to the STPS, or would instead be offered alternative pension provision, would be at the discretion of the school.
- An independent school which chose to freeze participation would retain the option of returning to the STPS at a future date, but where a school did return, it would be required to enrol all eligible teaching staff from the date that it returned.

2.4. The proposal is aimed at allowing some schools to remain in the STPS with the knowledge that, over time, the costs associated with the scheme would reduce through natural staff turnover. At the same time, those schools would leave the STPS gradually thereby reducing the financial impact on the scheme. The alternative could be that an independent school chooses to cease all participation in the STPS, thereby affecting all of the active member. Where a school decides to leave the Scheme it will be for that school to decide what pension provision will be offered as an alternative to the STPS, and the Scottish Government has no role in providing an alternative pension scheme.

3. Equality impact assessment

3.1. The Public Sector Equality Duty ('PSED') was created by the Equality Act 2010 and is supported by the specific duties contained in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, as amended.

3.2. The PSED requires the Scottish Government to assess the impact of applying a proposed new, or revised, policy or practice. Scottish Ministers must have 'due regard' to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people with different protected characteristics when carrying out their activities.

3.3. There are nine protected characteristics identified in the Equality Act 2010: (1) sex, (2) age, (3) disability, (4) race, (5) religion or belief, (6) gender reassignment, (7) pregnancy and maternity, (8) sexual orientation, (9) marital or civil partnership status.

3.4. Our initial Equality Impact Assessment has determined that there could be some impact in respect of gender, age, or pregnancy and maternity characteristics.

3.5. The average age of a newly qualified teacher is 25. A newly qualified teacher employed by an affected school would not be able to join the STPS.

3.6. Members aged between 25 and 34 are most likely to opt out of the STPS and those who do so would not be eligible to re-join the STPS at that school at a future date.

3.7. Gender, pregnancy and maternity leave may affect the likelihood of taking an

extended break that may exceed contractual or statutory rights and could therefore result in the teacher not being able to re-join the STPS (as it would be at the discretion of the employer). STPS data shows that female members are more likely to take career breaks or extended periods of parental leave and may therefore be impacted more than others.

3.8. The Scottish Government would like to take this opportunity to ask stakeholders the following question in relation to equality:-

Are there any considerations and evidence that you think should be taken into account when assessing any equality issues arising as a result of the proposed changes?

3.9. The Equality Impact Assessment will be reviewed based on responses received during the consultation.

4. Consultation Questions

Question 1:

Do you agree that the phased withdrawal proposal will help independent schools to manage the financial pressures resulting from the additional costs of STPS employer contributions?

Question 2:

Do you agree that the phased withdrawal proposal will protect those teachers that are currently participating in the scheme?

Question 3:

Other than government funding, which has not been provided to independent schools, are there any alternative methods of achieving the aim of helping independent schools to manage this additional financial pressure while protecting existing STPS members?

Question 4:

Do you have any other comments regarding this proposal?

Question 5:

Are there any considerations and evidence that you think should be taken into account when assessing any equality issues arising as a result of the proposed changes?

5. Next Steps

5.1. After the consultation has closed on 22 July 2022, responses will be fully considered before Scottish Ministers make a final decision, expected in summer 2022. A consultation response document will be published.