



Scottish Public
Pensions Agency
Buidheann Peinnseanan
Poblach na h-Alba

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

**Scottish Government Consultation
Response**

January 2023

1. Introduction

1.1. On behalf of the Scottish Ministers, the Scottish Public Pensions Agency undertook a consultation between 6 May 2022 and 29 July 2022 on proposals to allow for the “phased withdrawal” of employers from the Scottish Teachers’ Pension Scheme (STPS).

1.2. Under existing regulations, a school that participates in the STPS must enrol all eligible teachers into the scheme. Should the school wish to cease being a participating employer in the STPS, they must do so in full, meaning all active members would have benefits preserved in the scheme, and given access to alternative provision. As set out in the consultation, phased withdrawal would allow participating employers to cease enrolling new employees into the STPS whilst allowing existing members to retain their membership of the scheme. The consultation sought views on the merits of the Scottish sector having access to a provision in line with that introduced in England and Wales in August 2021.

1.2. Phased withdrawal was introduced in England and Wales in response to the financial challenges that the independent schools’ sector was facing, principally in meeting the increased costs of employer pension contributions from September 2019. Employers participating in all the unfunded public service schemes were subject to increased contribution rates in that year, mostly from 1 April. The rates were determined by the results of the 2016 scheme valuations, undertaken in line with the cost control mechanism for public service schemes and which set a Discount rate known as SCAPE¹.

1.3. The SCAPE rate is set by HM Treasury and is a key assumption used in the quadrennial statutory valuations of all public service pension schemes. It is linked to UK Gross Domestic Product, and is essentially a measure of the ability of government to meet the costs of benefits being accrued by members of public service pension schemes. In short, a lower discount rate would suggest more money is required to be set aside to meet liabilities, thus leading to an increase in costs to employers.

1.4. The SCAPE rate was initially set at CPI + 3.5% in 2011, and had been reduced on two occasions before being reduced again in 2019 from CPI +2.8% to CPI +2.4%. The use of the latter rate in the 2016 valuation had the effect in Scotland of increasing the rates employers are required to pay from 17.2% to 23% of pensionable pay from 1 September 2019. Whilst the impact of these changes were largely (but not fully) mitigated in the state sector through additional UK government funding, such central funding was not extended to the non-state sector.

¹ Superannuation Contributions Adjusted for Past Experience

1.5. Alongside a consultation in June 2021 on the functioning of the cost control mechanism prompted by a review by the government actuary, HM Treasury also consulted on the [discount rate methodology](#). HM Treasury has yet to publish its response, which is expected in early 2023. The response will determine the rate to be used in the 2020 valuations, which will set employer contribution rates with effect from the beginning of the next implementation period, currently expected to be 1 April 2024.

2. Impact

2.1. There are 72 independent schools participating in the STPS, employing around 3,686 active scheme members. This equates to around 4.2% of the overall membership of the STPS with annual contributions amounting to around £30 million.

3. Summary of Respondents

3.1. SPPA received 19 responses to the consultation. Responses were received from eight individual scheme members, six employers, three trade unions, one sector representative body, and one other individual

4. Summary of Responses

4.1. SPPA is very grateful to those individuals and groups that took the time to respond to the consultation. Respondents went to some lengths to provide insight and evidence to illustrate the circumstances and the impact that proposals would have, not only on both relevant institutions and individuals but also on the teaching profession.

4.2. The questions included in the consultation and a summary of responses received are set out in the following section:

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?

4.3. SPPA is grateful for the range of responses received. The majority of respondents, including the Scottish Council for Independent Schools (SCIS), agreed that the proposals would help schools manage financial pressures, although it was difficult to assess the impact of the measures. Many respondents set out significant concerns about the impact on individual teachers and the long-term capability of the sector to attract and retain teaching staff.

4.4. The context of cost pressures for independent schools was a key theme. The loss of rates relief, increases in National Insurance, rising energy costs and the proportion of expenditure that goes on staffing were all cited as reasons why independent schools may welcome the option of phased withdrawal over the more extreme “all in or all out” option of complete withdrawal from the STPS.

4.5. An expectation that even higher contribution rates might come into effect from April 2024 was cited as another reason for schools to have this flexibility.

4.6. NASUWT helpfully provided details of the impact in England and Wales of the changes to rates since 2019, which has led to around a quarter of independent schools fully withdrawing from the scheme there. This has had an impact on teachers in those schools, as the sector has not offered alternative defined benefit pension provision, or indeed adopted any consistent approach. NASUWT was clear that schools opting out of the STPS would have a detrimental effect on teachers in retirement, as alternative provision was not available and the experience in England and Wales suggested employers would inevitably offer a reduced employer pension contribution in an inferior pension saving product. In a similar vein, EIS voiced concerns that defined contribution alternatives would lead to lower employer contributions and a less valuable remuneration package for teachers, risking poverty in retirement.

4.7. The Association of Headteachers and Deputies in Scotland (AHDS) highlighted potentially negative consequences in the longer term for teacher recruitment and retention in independent schools. The comments from AHDS particularly reflected the position in specialist provision schools where the possibility to close the scheme to new members would create significant concern about the long-term implications for recruitment, the consequent quality of teaching and of specialist support.

4.8. One responding school agreed it should be available to the wider sector, although given low levels of staff turnover it would take a while to have meaningful effect.

4.9. However, respondents acknowledged the issues that phased withdrawal would present for teaching staff and also for the sector in attracting and retaining staff, in itself creating different financial pressures.

4.10. One respondent stated other “cost-cutting” exercises should be explored but offered no examples for achieving this.

Question 2: Do you agree that the phased withdrawal proposal will protect those teachers that are currently participating in the scheme?

4.11. SPPA thanks respondents for their input to this question. Most of the respondents recognised that permitting continuing access to the STPS for currently participating teachers was a key policy intention and agreed that the

proposal would provide some protection for them. Those who disagreed felt that schools could still opt for complete withdrawal.

4.12. EIS warned that such protection was not sustainable in the long run. Teachers could suffer in the medium to longer term as the protections would erode, as job mobility and progression would be discouraged, as teachers might be limited in moving to another school in the sector, or into the sector from the state sector.

4.13. Concerns were also raised about the inevitable creation of a two-tier system, where newer, usually younger teachers would have less favourable pension provision. Others offered the view that where newly appointed teachers were offered an alternative then an alternative remuneration package could be offered.

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?

4.14. SPPA is grateful for the suggestions of alternative methods of achieving the aim of supporting schools managing financial pressures, whilst protecting existing STPS members.

4.15. Most respondents who offered suggestions advocated raising fees and cutting back on non-teaching staff or other projects. One other suggested tax breaks. One respondent offered two options, such as the introduction of salary sacrifice on pension contributions, or introducing a flexibility on the split between member and employer contributions.

4.16. A number of respondents took the opportunity of highlighting the problem as being caused by the SCAPE rate, and called on the Scottish Government to make representations to HM Treasury to adopt the “Social Time Preference Rate” methodology included as an option in its recent consultation.

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

4.17. SPPA is grateful for comments received. Most respondents took the opportunity to reinforce points made in other consultation questions. A number of respondents asked for clarity on whether and when the proposals would be introduced to help school in their decision making, particularly with new employer contribution rates expected from 2024

4.18. One respondent felt the option would make it easier for schools to renege on honouring contractual arrangements with staff.

4.19. One respondent highlighted the long-term impact on the cashflow of the “pay-as-you-go” scheme, as reduced numbers of active scheme members would in

turn mean less contributions income, adding pressure on HM Treasury to meet any shortfall in funding pensioner payments.

4.20. One respondent suggested Grant-Aided schools should also be included, as they may suffer similar financial pressures without the flexibility to increase school fees.

4.21. One respondent referred to the experience in England and Wales, where although phased withdrawal has been helpful in limiting industrial disputes, continuing access to the scheme there has come with a cost in the negotiation of current or future pay deals. There was little available evidence that the same issues that had driven the proposal in England and Wales also existed in Scotland, so it was debateable that there was in fact any problem to fix.

4.22. A number of respondents reiterated reservations about the proposals due to the absence of a financially attractive alternative provision and on the potentially damaging impact of recruitment, retention and job mobility.

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?

4.23. SPPA is grateful to those who offered further comments here, which was just over two thirds of respondents.

4.24. A number of comments were general rather than being specifically in relation to equalities issues, but were valuable, nonetheless. These included points in relation to the independent schools sector, and with that students of independent schools, suffering if there was any detrimental impact on its continuing capacity to be attractive to teachers.

4.25. One respondent highlighted that teachers with particular family commitments or disabilities or in other circumstances may feel trapped in a particular job, unable to leave due to the implications for their pension.

4.26. It was generally recognised that in the longer term, there would be an impact on newly-qualified and therefore usually younger teachers, who would not have access to the same level of pension provision. EIS and NASUWT both emphasised the disproportionate impact on younger teachers who may lose access to STPS if they need to take any break from teaching or scheme membership, and highlighted the need for a more detailed equalities impact assessment, the results of which should inform the actions to be taken. In addition, it would be important to monitor and regularly review the impact of the proposals, should they be introduced.

5. Scottish Government's Response

5.1. The Scottish Government is grateful for the responses received and the constructive discussions of the scheme advisory board in reaching this point.

5.2. Responses received from independent schools and their representative body have clearly indicated that the proposals will go some way to helping schools manage finances in a challenging climate. Scottish Ministers recognise the issues being faced and also that for the option of withdrawing from the STPS is not made lightly. Providing those schools with the option of withdrawing on a phased basis seems reasonable and will, importantly, protect many teachers who are existing members of the scheme.

5.3. In addition, providing this option will offer schools an alternative to complete withdrawal. Schools that do opt for phased withdrawal will not be barred from seeking to enrol teachers into the STPS at a later date.

5.4. The Scottish Government has no vires to determine the overarching legal or financial framework for public service pensions. Decisions on the SCAPE rate and the subsequent impact of employer contribution rates are a matter for Westminster. In making these changes, Scottish Ministers wish to re-emphasise a full commitment to public service pensions that are affordable, sustainable and fair and a strong view that the STPS is a valuable part of the reward and remuneration package for teachers in Scotland. The features of the scheme make active membership of it a valuable recruitment and retention tool, and the benefits earned over the course of a teacher's career will provide protection and valuable benefits payable for life during retirement.

5.5. Pension provision offered to teachers in the independent education sector is ultimately a decision for the boards of independent schools. However, the Scottish Government hopes that for the above reasons full consideration is given to the implications of withdrawing from the scheme, either in full or on a phased basis. This should include full consultation with teaching staff well in advance of any option of phased withdrawal being taken up.

5.6. Schools that opt for a phased withdrawal may, upon the amending regulations coming into force, allow existing teaching staff to remain members of the STPS, whilst providing new recruits with suitable alternative pension provision. Scottish Ministers believe that all current teaching staff should be permitted access, so that teachers who have currently opted out of the scheme should be provided with the opportunity to re-enrol, and teachers currently on longer term non-pensionable leave should retain access upon their return to employment.

5.7. Teachers moving from one phased withdrawal school to another phased withdrawal school would be taking up new employment, and it is considered in those circumstances and in the interests of fair and open recruitment that they would not retain access under their new employer.

6. Next Steps

6.1 The Scottish Government will now proceed to draft amendment regulations to deliver the policy intention with an aim to have these in place by Summer 2023 at the latest. The regulations will be subject to consultation in the usual way.

6.2 SPPA will work with stakeholders to develop supporting guidance for those independent schools who wish to consider the option of phased withdrawal from the STPS. In the meantime, should any schools looking to explore this option wish to discuss the implications, they should contact SPPA at sppapolicy@gov.scot.