



SFCA Response to the HMT Transitional Protection Consultation

October 2020

Introduction

This consultation response is submitted on behalf of the Sixth Form Colleges' Association (SFCA). SFCA is an employers' organisation and represents, promotes and supports dedicated 16-19 sixth form colleges in England, including all designated Sixth Form Colleges (SFCs), as well as a growing number of GFE and Tertiary colleges, 16-19 free schools, academies, and schools.

There are over 160,000 students studying at a Sixth Form College and the sector is responsible for almost a quarter of all the A levels taken in England each year. SFCA has for over 25 years been the home of specialist experts in sixth form teaching, learning and leadership and, at this time of change in public health, policy, curriculum and funding, is the influential voice of sixth form education and the hub of a national network of diverse sixth form providers.

We have serious concerns about any additional pension costs resulting from this consultation. The recent significant and unprecedented increase in employer contributions requires additional funding to cover the increase in employer contributions under the 2020 spending review. However, the 16 – 18 sector is the worst funded part of the education sector and is in the greatest need for additional funding. Colleges cannot meet the increased costs of TP employer contributions. The underinvestment in 16 to 18 education is having a significant impact on colleges and the students in the sector. Sixth Form Colleges are not funded in the same way as schools.

In addition to dealing with funding cuts and cost increases, the needs of students have become increasingly complex as a result of the Covid-19 pandemic (for example the significant increase in mental health problems). Colleges are providing front line support services to young people that extend far beyond their immediate educational needs.

The SFCA response to the HMT Transitional Protection consultation questions is as follows:

Q1: Do you have any views about the implications of the proposals set out in this consultation for people with protected characteristics as defined in section 149 of the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impacts identified?

We would expect HMT/DfE to have undertaken an equality impact assessment on the implications of the proposals and to keep this issue under review through the Teacher Pension Scheme Advisory Board (TPSAB).

Q2: Is there anything else you would like to add regarding the equalities impacts of the proposals set out in this consultation?

Not at this time.

Q3: Please set out any comments on our proposed treatment of members who originally received tapered protection. In particular, please comment on any potential adverse impacts. Is there anything that could be done to mitigate any such impacts identified?

No comment at this time.

Q4: Please set out any comments on our proposed treatment of anyone who did not respond to an immediate choice exercise, including those who originally had tapered protection.

SFCA can support the proposal that teachers who did not respond to an immediate choice exercise would be deemed to have chosen to accrue benefits in their existing scheme for the remedy period. Colleges have concerns regarding that the burden of communication must rest with TPS/DfE to resolve this issue. We understand that a number of teachers, like other public sector employees, are not engaged with their pension.

We would be concerned that teachers who do not respond to an immediate choice exercise could claim they were either not given the opportunity to make choice or were not provided with appropriate and timely support and documentation to make an informed decision.

Q5: Please set out any comments on the proposals set out above for an immediate choice exercise.

We have major concerns on any additional unfunded costs under the immediate choice exercise in respect of additional employer contributions or any other scheme administrative costs that might be incurred that might impact on college funding.

Q6: Please set out any comments on the proposals set out above for a deferred choice underpin (DCU).

We have concerns on the costs for schemes in the long term for DCU, maintaining systems and data, there will also be major administrative activities for schemes to

undertake. As we understand it DCU proposes that members would be returned to the legacy scheme for the remedy period. This would be a significant exercise for schemes to undertake, including ensuring that service data could be maintained for several decades and raise historic service queries in the future. We have concerns on any additional administrative burden that could be placed on SFCA member colleges.

Q7: Please set out any comments on the administrative impacts of both options

As we understand it both options would require schemes to develop complex software systems and guidance. We have concerns on the additional administrative burden and that there should not be any hidden costs in terms of administrative time placed on colleges.

Q8: Which option, immediate choice or DCU, is preferable for removing the discrimination identified by the Courts, and why?

We have concerns with both option for Immediate choice see our response to question 4. The fact that the consultations states that the decision is irrevocable, members could later claim that they had not been provided with adequate information to make an informed decision. As we understand it, under the DCU option where a member, at the point of taking their benefits chose the reformed scheme for the remedy period and chose to restore their original elections, there may be a financial impact on the member.

Q9: Does the proposal to close legacy schemes and move all active members who are not already in the reformed schemes into their respective reformed scheme from 1 April 2022 ensure equal treatment from that date onwards?

We believe that the proposal would ensure fair treatment for TPS members.

Q10: Revisiting past cases

We have concerns that revisiting past cases may result in arrears of compensation owed by employers and colleges would need to be fully funded to meet any additional costs if this were to be case.

Q11: Please provide any comments on the proposals set out above to ensure that correct member contributions are paid, in schemes where they differ between legacy and reformed schemes.

Q12: Voluntary member contributions

We do not have any comment to make on questions 11 or 12 at this time.

Questions 13 to 15: Please set out any comments on our proposed treatment of annual benefit statements.

We do not have any comment to make on questions 13 to 15 at this time.

Q16: Please set out any comments on our proposed treatment of individuals who would have acted differently had it not been for the discrimination identified by the Court.

SFCA have major concerns about member colleges as employers meeting the cost of additional employer contributions where, for example, a member who had opted out of the remedy period was allowed to opt in. Colleges need to be fully funded to meet any additional costs. SFCA does not support compound interest being charged to members or employers.

Questions 17 to 19:

If the DCU is taken forward, should the deferred choice be brought forward to the date of transfer for Club transfers?

Where the receiving Club scheme is one of those schemes in scope, should members then receive a choice in each scheme or a single choice that covers both schemes?

Please set out any comments on our proposed treatment of divorce cases.

We do not have any comment to make on questions 17 to 19 at this time.

Q20: Should interest be charged on amounts owed to schemes (such as member contributions) by members? If so, what rate would be appropriate?

SFCA does not support compound interest being charged to members or employers. It is likely that there would be financial implications for some colleges TPS employers meeting the cost of employer contributions retrospectively; additional charges of interest could put them in financial difficulty with pressure on budgets.

Q21: Should interest be paid on amounts owed to members by schemes? If so, what rate would be appropriate?

Interest should be paid on amounts owed to members.

Q22: If interest is applied, should existing scheme interest rates be used (where they exist), or would a single, consistent rate across schemes be more appropriate?

We would support a consistent approach in respect to interest across the schemes in relation to the proposals in the consultation.

Q23: Please set out any comments on our proposed treatment of abatement.

At this time we do not have any comments on this issue.

For more information about this submission, please contact Graham Baird at SFCA: graham.baird@sixthformcolleges.org