

Police Federation
Of England and Wales



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Lloegr a Chymru

Established by Act of Parliament

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NATIONAL SECRETARY'S OFFICE

8th March 2021

The Right Honourable Steven Barclay MP
Chief Secretary to HM Treasury

Sent via email to PensionsRemedyProjectConsultation@hmtreasury.gov.uk

Pensions Remedy Project Team
HM Treasury
2/Red
1 Horse Guards Road
London
SW1A 2HQ

Dear Mr Barclay

Government's response to the consultation *Public service pension schemes: changes to the transitional arrangements to the 2015 schemes*

I write further to the publication (on 4 February 2021) of the Government's response to the consultation to remedy the unlawfully discriminatory transitional protections in the 2015 CARE public sector pension schemes.

Whilst I welcome the progress being made on this project, I seek your response to a concern raised in Police Federation of England and Wales' (PFEW) response to the consultation, which has not been addressed or explained to our satisfaction.

The issue at hand concerns late joiners of the Police Pension Scheme 1987 (PPS 87) who were aged at least 45 on 1 April 2012 and therefore received full transitional protection. Whilst they may have reached their Normal Retirement Age (NRA) by March 2022, they will not have reached their Compulsory Retirement Age (CRA) by that date.

The Government's response to the consultation states that *"it was never the government's intention that the legacy schemes would continue indefinitely"* (¶. 3.36), and further that *"Many of this group could be expected to remain in pensionable employment for many years, long after it was envisaged that the legacy schemes would be closed"* (¶. 3.38). However, whether it was the Government's intention or not, the fact is that the information provided did not make it clear to the members described above that they would not remain in the schemes they were in until retirement. These are officers who were under the informed opinion that they could continue membership of their current scheme until retirement. By way of example, we have been given sight of Annual Benefit Statements which clearly shows that members with full protection were entitled to that protection until retirement, and the estimated pension was calculated accordingly. If members should have anticipated moving to the 2015 CARE Scheme in the future it is not apparent how they could have expected to grasp this information, particularly as it would be contrary to the Annual Benefit Statement from their pension administrator.

The Government's response to the consultation does not detail what consideration has been given to those who legitimately expected to remain in their legacy scheme until retirement. Therefore, the 20-month lead time referred to in the consultation response is of little consolation to this cohort, who are left to deal with a reduction in retirement benefits from their legacy scheme compared to their expectations.

The argument we put forward is one of moral duty and obligation to fulfil legitimate expectations. To date, we have no compelling evidence to suggest that the position of these members has been appropriately considered, nor has any justification for ignoring their legitimate expectations been forthcoming. The updated Equality Impact Assessment also published on 4 February 2021 offers no further evidence of any consideration for members expecting to remain in their legacy schemes until retirement. However, I do note that the aforementioned document asserts that *"By 1 April 2022, all members who were eligible to be offered full transitional protection in 2012*

will have reached their legacy NPA” (¶. 3.38); this is a very broad statement which as previously noted does not directly address the specific cohort of late joiners to the PPS 87 that I refer to. We are not content to await the scheme specific EIA which will accompany consultation on the secondary legislation, and have an expectation that the equality impacts of those in scope of the Remedy should already have been considered in full.

In that regard, we respectfully request a response which details how the Government has considered the impact of breaching the legitimate expectation for the fully protected late joiners to the PPS 87, and how it intends to mitigate the impact – or if not, the justification for taking no action. This is a fairly unique circumstance in the context of the remedy required across all public sector schemes, but the members affected are no less deserving of an answer than any other cohort in scope of the Remedy.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alex Duncan', with a stylized flourish at the end.

ALEX DUNCAN
National Secretary