

**DEPARTMENT OF EDUCATION**

**EQUALITY AND HUMAN RIGHTS**

**POLICY SCREENING**

**NORTHERN IRELAND TEACHERS’ PENSION SCHEME: PROPOSED CHANGES TO SCHEME REGULATIONS**

DeparTMENT OF EDUCATION

TEACHERS’ PAY & PENSIONS TEAM

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**Part One**

**BACKGROUND**

* 1. What is the name of the policy / decision?

Northern Ireland Teachers’ Pension Scheme: proposed changes to scheme regulations, namely the draft Northern Ireland Teachers’ Pension Scheme (Remediable Service) Regulations (Northern Ireland) 2023, to implement the 2nd stage (retrospective) of the McCloud remedy.

* 1. Type of policy?

This is a revised policy.

* 1. Description of the policy including:

• Are there any Section 75 categories which might be expected to benefit from the intended policy?

The policy imperative is to remove unlawful discrimination identified [by the Courts](https://www.education-ni.gov.uk/sites/default/files/publications/education/The-McCloud-Judgement-Joint-Statement-January2020_0.pdf).

The overwhelming benefit of this revision across all members of the section 75 age-related category is the removal of discriminatory effects of unlawful age-based criteria from Northern Ireland statutory based pension scheme designs.

It may be possible that some younger members who transferred to the reformed schemes on 1 April 2015 could benefit from the option to have their pension entitlements in the remedy period calculated under the terms of the legacy schemes.

Alternatively, some older members who qualified for transitional protection and retained membership of the legacy schemes for service after 1 April 2015 may benefit from the option of having their entitlements in the remedy period calculated under the reformed schemes.

Any such effects would be incidental to the policy imperative to remove unlawful discrimination identified by the Courts. These effects could equally be attributable to a variety of external factors and choices which can affect any individual’s pension outcomes, including, length of employment, salary levels, career choice, and personal financial decisions.

• What is the policy trying to achieve? (aim / outcomes)

The policy removes unlawful discrimination identified by the courts in reformed public service pension schemes from 1 April 2015.

• How will this be achieved?

The policy will apply to all members across all affected public service schemes, including the Northern Ireland Teachers’ Pension Scheme (NITPS), who were in service on or before 31 March 2012 and who have service on or after 1 April 2015 (including those with a qualifying break in service of less than 5 years). As the unlawful discrimination identified by the Courts only applies to those who were in service on or before 31 March 2012 it is therefore only that group who are in scope of the revised policy.

The exceptions that allowed certain members who were closer to their normal pension age to remain in the legacy scheme after 31 March 2015 under transitional protection arrangements will apply only in respect of service up to 31 March 2022. On 1 April 2022, as the 1st stage (prospective) for the McCloud remedy, all active members moved to the reformed 2015 NITPS Career Average Revalued Earnings (CARE) Scheme and from that point will build future pension rights on the same basis irrespective of age.

The policy will protect pension rights accrued by members since 1 April 2015 by offering all eligible members with a choice whether to have their pension entitlements in the period 1 April 2015 to 31 March 2022 (the remedy period) calculated under the reformed or legacy scheme rules.

The Department of Finance (DoF) consulted on options relating to when this choice is made with the outcome being a deferred choice made at the point at which the member either retires or takes their pension benefits. This is the period during which the transitional protection existed which, in respect of similar provisions in other public service pension schemes, was found to be discriminatory by the Court of Appeal – this part of the remedy is being dealt with by these regulations.

1.4 What factors could contribute to, or detract from the intended aim/outcome of the revised policy?

None.

1.5 Main stakeholders affected?

Teachers and other eligible scheme members.

1.6 Who is responsible for?

1. Devising the revised policy.

Department of Education.

1. Implementing it.

Department of Education.

1.7 Other policies or objectives with a bearing on this revised policy.

• What are they?

None

• Who owns them?

N/A

• Are there any links to other NI departments/NDPBs?

N/A

|  |
| --- |
| **EVIDENCE**  1.8 What evidence/information (both qualitative and quantitative) have you gathered to inform this revised policy in respect of each of the categories?  All Categories:  The policy will be applied to all members regardless of membership of S75 categories.  The Department of Education collects several S75 characteristics of the teaching workforce but not all teachers are members of the NITPS. The pension scheme administration system does not actively report, for the information types held, on the S75 characteristics of the scheme membership by scheme type i.e. reformed and legacy.  The consultation document will ask stakeholders the following questions in relation to equality:  Q1. Are you aware of additional data that would help assess the potential impacts of the proposed changes on the Teachers’ Pension Scheme membership?  Q2. Are there other comments or observations on equalities impacts that you would wish to make?  \* Relates to Section 75 of the [Northern Ireland Act 1998](https://www.legislation.gov.uk/ukpga/1998/47/section/75)  **The equality screening analysis will be reviewed based on responses received during the consultation.** |

**needs, experiences and priorities**

1.9 Taking into account the evidence gathered at 1.8 what are the needs, experiences and priorities of each category in relation to this particular revised policy?

Religious Belief:

There is no evidence that different religions will have any different needs, experiences, priorities in relation to the policy.

Political Opinion:

There is no evidence that different political opinions will have any different needs, experiences, priorities in relation to the policy.

Racial Group:

There is no evidence that different racial groups will have any different needs, experiences, priorities in relation to the policy.

Age:

There is no evidence that different age groups will have any different needs, experiences, priorities in relation to the policy.

Marital Status:

There is no evidence that different marital statuses will have any different needs, experiences, priorities in relation to the policy.

Sexual Orientation:

There is no evidence that different sexual orientations will have any different needs, experiences, priorities in relation to the policy.

Men and Women Generally:

There is no evidence that men and woman generally will have any different needs, experiences, priorities in relation to the policy.

Disability:

There is no evidence that people with disabilities will have any different needs, experiences, priorities in relation to the policy.

Dependants:

There is no evidence that those of different dependant status will have any different needs, experiences, priorities in relation to the policy.

**Part two – screening questions**

**likely impact**

2.1 What is the likely impact of this revised policy on equality of opportunity for each of the Section 75 equality categories?

Religious Belief:

No impact on equality of opportunity.

Political Opinion:

No impact on equality of opportunity.

Racial Group:

No impact on equality of opportunity.

Age:

Yes, the removal of discriminatory effects of unlawful age-based criteria from Northern Ireland statutory based pension scheme designs.

Marital Status:

No impact on equality of opportunity.

Sexual Orientation :

No impact on equality of opportunity.

Men and Women Generally:

Minor impacts for sex. These are incidental to the imperative of the policy revision which is to remedy unlawful discrimination identified by the courts in public service pension schemes since 1 April 2015 and to remove it for the future. There are no unjustified adverse differential impacts for the section 75 groupings.

Disability:

No impact on equality of opportunity.

Dependants:

No impact on equality of opportunity.

**opportunities to better promote equality of opportunity**

2.2 Are there opportunities to better promote equality of opportunity for people within the Section 75 equality categories?

Religious Belief:

No – The policy will allow for the retrospective part of the remedy to be implemented. This will rectify the discrimination identified in public service pension schemes from 1 April 2015.

Political Opinion:

No – The policy will allow for the retrospective part of the remedy to be implemented. This will rectify the discrimination identified in public service pension schemes from 1 April 2015.

Racial Group:

No – The policy will allow for the retrospective part of the remedy to be implemented. This will rectify the discrimination identified in public service pension schemes from 1 April 2015.

Age:

Yes, the removal of discriminatory effects of unlawful age-based criteria from Northern Ireland statutory based pension scheme designs.

Marital Status:

No – The policy will allow for the retrospective part of the remedy to be implemented. This will rectify the discrimination identified in public service pension schemes from 1 April 2015.

Sexual Orientation:

No – The policy will allow for the retrospective part of the remedy to be implemented. This will rectify the discrimination identified in public service pension schemes from 1 April 2015.

Men and Women Generally:

Minor impacts for sex. These are incidental to the imperative of the policy revision which is to remedy unlawful discrimination identified by the courts in public service pension schemes since 1 April 2015 and to remove it for the future. There are no unjustified adverse differential impacts for the section 75 groupings.

Disability:

No – The policy will allow for the retrospective part of the remedy to be implemented. This will rectify the discrimination identified in public service pension schemes from 1 April 2015.

Dependants:

No – The policy will allow for the retrospective part of the remedy to be implemented. This will rectify the discrimination identified in public service pension schemes from 1 April 2015.

**likely impact on good relations**

2.3 To what extent is the revised policy likely to impact on good relations between people of different religious belief, political opinion or racial group?

Religious belief:

None – The policy relates exclusively to remedying the discrimination identified in public service schemes from 1 April 2015. There is no impact of the policy/decision for persons within the Section 75 groups including people with different religious beliefs.

Political opinion:

None – The policy relates exclusively to remedying the discrimination identified in public service schemes from 1 April 2015. There is no impact of the policy/decision for persons within the Section 75 groups including people with different religious beliefs.

Racial group:

None – The policy relates exclusively to remedying the discrimination identified in public service schemes from 1 April 2015. There is no impact of the policy/decision for persons within the Section 75 groups including people with different religious beliefs.

* 1. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

Religious belief:

No – The policy will not impact on good relations.

Political opinion:

No – The policy will not impact on good relations.

Racial group:

No – The policy will not impact on good relations.

**Multiple identities**

2.5 Please provide details of data on the impact of the revised policy on people with multiple identities and specify relevant Section 75 categories concerned.

* None – The policy relates exclusively to remedying the discrimination identified in public service schemes from 1 April 2015.
* There are no potential impacts of the policy/decision for persons within the Section 75 groups including people with multiple identities.

**PART THREE**

**SCREENING DECISION**

3.1 **The decision is not to conduct an equality impact assessment. However, mitigations are shown for the policy.**

The screening exercise identifies only minor impacts for sex and age. These are incidental to the imperative of the policy revision which is to remedy unlawful discrimination identified by the courts in public service pension schemes since 1 April 2015 and to remove it for the future. There are no unjustified adverse differential impacts for the section 75 groupings.

**The equality screening analysis will be reviewed based on responses received during the consultation.**

3.2 **Mitigation**

* Under the new regulations all members with eligible service in the remedy period will be treated equally and afforded the same choices, without reference to protected characteristics, with the outcome that the unlawful discrimination is remedied and they should not suffer any detriment to pension entitlements already accrued as a consequence of its previous effects in the transitional protections which operated in the public service schemes from 1 April 2015 to 31 March 2022.
* All affected members will be provided with relevant appropriate information about their entitlements under both legacy and reformed scheme rules to assist informed remedy decision making.
* All members of public service schemes will also be treated equally for future pensionable service accrued from 1 April 2022 without reference to protected characteristics.
* Members of these schemes will continue to receive a high quality defined benefit pension with a guaranteed payment in retirement that is protected against inflation, regardless of their gender; racial background; age; disability; persons with dependents and persons without; political opinion; religion or belief; sexual orientation, or marital/civil partnership status.

**PART FOUR**

**MONITORING**

Information gathered from this consultation and similar being carried out from comparative Teachers’ Pension Schemes in England, Wales and Scotland, will be used to monitor any potential impact.

Data in relation to scheme Opt-Outs i.e. those electing to no longer contribute as active members, will continue to be monitored on a monthly basis. Any increase in Opt-Outs attributed directly to this policy will be noted.

**PART FIVE**

**DISABILITY DISCRIMINATION**

5.1 Will the revised policy in any way discourage persons with disabilities from participating in public life or fail to promote positive attitudes towards persons with disabilities?

No

* 1. Is there an opportunity to better promote positive attitudes towards persons with disabilities or encourage participation in public life by making changes to the revised policy or introducing additional measures?

No

* 1. Please detail what data you will collect in the future in order to monitor the effect of the revised policy with reference to the disability duties.

There is no indication that this policy will disproportionately impact on the basis of disability.

**PART SIX**

**HUMAN RIGHTS ISSUES**

6.1 Does the revised policy affect anyone’s Human Rights?

Particularly consider:

* [The Human Rights Act (1998)](http://www.opsi.gov.uk/acts/acts1998/ukpga_19980042_en_1)
* [The United Nations Convention on the Rights of the Child](http://www.unicef.org/crc/index_understanding.html)
* [The United Nations Convention on the Rights of Persons with Disabilities](http://www.un.org/disabilities/convention/conventionfull.shtml)
* [The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)](http://www.un.org/womenwatch/daw/cedaw/cedaw.htm)

No the policy has a neutral impact on Human Rights.

6.2 If you have identified a negative impact; what Human Right is impacted, what is the nature of the impact and who is affected and how?

No adverse impacts on Human Rights have been identified.

At this stage you should determine whether to seek legal advice and to refer the issue to the Equality Unit to consider:

* whether there is a law which allows you to interfere with or restrict rights;
* whether this interference or restriction is necessary and proportionate; and
* what action would be required to reduce the level of interference restriction).

6.3 Outline any actions which could be taken to promote or raise awareness of human rights or to ensure compliance with the legislation in relation to the revised policy.

The policy revision does not provide an opportunity to positively promote Human Rights.

**PART SEVEN**

**RURAL NEEDS**

The undertaking of a [Rural Needs Impact Assessment (RNIA)](http://nics.intranet.nigov.net/education/documents/rural-needs-act-northern-ireland-2016) is an integral part of the development, adoption, implementation or review of a policy, strategy or plan or the design or delivery of a public service.

Will a separate RNIA be completed? Yes

Completed RNIA’s are published on the Department’s Internet site and shown under [Rural Needs Impact Assessments](https://www.education-ni.gov.uk/rural-needs-impact-assessments).

**PART Eight**

**APPROVAL AND AUTHORISATION**

FOR COMPLETION BY Policy TEAM

Screened by: Josephine Boyle Grade SO

Date 31 March 2023

Approved by: Brian Quinn Grade G6

Date 19 April 2023

Notes:

The Screening Form must be approved and ‘signed off’ by a senior manager responsible for the policy.

The TRIM version of the completed Screening Form must be sent to the Equality Team (DE.Equality@education-ni.gov.uk) for quality assurance

FOR COMPLETION BY EQUALITY TEAM

Screening Decision Agreed.

Quality Assured by: Catherine Service Date 04/04/23

Team Informed: Date 04/04/2023

RECORDING AND PUBLISHING BY POLICY TEAM

You must store this completed screening form on Content Manager and finalise it. Use the record naming convention “Completed Screening form of……”

Content Manager Ref No: ED1/21/101/24 Document Ref No: ED1/23/97490

Placed on Internet by policy team Date 21/04/2023.

As soon as possible, following quality assurance, you must publish a copy of the screening form in Microsoft Word (or other Open Document Format) on the Department’s website: <https://www.education-ni.gov.uk/publications> with a link on the “Policy Screening" page: <https://www.education-ni.gov.uk/de-equality-screenings>