Home Office

# Report on proposed amendment to the Police Pensions Regulations 2015

February 2019

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Presented to Parliament pursuant to section 22(2)(b) of the Public Service Pensions Act 2013

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This publication is available at www.gov.uk/government/publications

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ISBN 978-1-5286-1064-3

CCS0219647704 02/19

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office

**Report on proposed amendment to the Police Pensions Regulations 2015**

*This Report is required under section 22(2)(b) of the Public Service Pensions Act 2013*

Introduction

1. The current employee contribution rates in respect of police pensions will expire on 31 March 2019. The current scheme is set out in the Police Pensions Regulations 2015 (made under section 3 of the Public Service Pensions Act 2013 ('the PSPA'). Under section 22 of the PSPA, member contribution rates under the scheme are listed as a "protected element". Further scheme regulations purporting to amend a 'protected element' cannot be made during the protected period (which ends on 31 March 2040) unless the responsible authority (in this case, the Home Secretary) consults with the persons (or representatives of those persons) likely to be affected by the proposed change with a view to reaching agreement.

2. The expiry of the current rates will mean that, without amendment to the relevant regulations, the necessary employee contributions under the scheme will come to a halt, meaning that the scheme will no longer operate effectively. This would have significant ramifications for police pension payments and so steps must be taken now to avoid these difficulties. We consider this particular change to be necessary at this point in time (i.e. before the expiry of the protected period) to ensure that contributions can continue to be lawfully deducted from 1 April 2019 and maintain the effective operation of the 2015 scheme.

*The consultation*

3. The Home Office (HO) issued a consultation on employee contributions on 8 November 2018 until 13 February 2019 to reach agreement on a solution for employee contribution rates when they expire on the 31 March 2019. During the course of the consultation the HO put forward possible options for consultees to consider such as: removing the end date of 31 March 2019 in the regulations; or by extending the date by one or four years of the current member contribution rates and earnings thresholds for the 2015 scheme. Alternative proposals put forward by consultees were also considered such as extending the date for which employee contributions can be collected by six months. These proposals are discussed in this report. The consultation was directed to and sought views from representatives of persons who Home Office consider are likely to be affected by the proposed changes.

Responses to consultation

4. The HO received two responses to the consultation. The responses came from members of the Police Pension Scheme Advisory Board (SAB) (namely the Police Federation of England and Wales (PFEW) and the Police Superintendents' Association (PSA)) whose members will be affected by the proposal; and Capita, a police pension scheme administrator.

**Stepped approach to contribution rates**

5. The PFEW and PSA's initial response of 27 November 2018 set out their position where they indicated a preference for a six-month extension to be implemented to allow the cost cap rectification process to be completed and implemented. This proposal was superseded, in the Government's view, firstly, by the swift agreement from the SAB on cost cap rectification, and secondly, and as the PFEW

acknowledged in their subsequent response of 4 February 2019, by HM Treasury's written ministerial statement dated 30 January 2019 suspending the cost cap-rectification process due to ongoing legal challenges.

**Home Office position**

6. We note the respondents' concerns. We have engaged with them to address their comments and explain the HO's position and the rationale for the proposal as an interim measure, with a view to reaching agreement on the proposed change. The current tiered approach for member contributions is an integral part of operating the police pension schemes, and was introduced after detailed scrutiny, following the recommendations of an independent review (led by Lord Hutton), public consultation and parliamentary approval. This approach is also in line with the overall approach for other public service pension schemes.

7. The HO has noted the initial suggestion of extending the date by six months. This position had moved once the suspension of the valuation process was known and following swift consideration of the cost cap rectification by the Scheme Advisory Board.

8. It will not be possible to conclude any remedial action related to the valuation by 31 March 2019 when the existing provision for member contributions will expire as the valuation process has been suspended by HM Treasury. The HO await further directions from them on the process from HMT and, for that reason, as well as to await an outcome of the litigation mentioned above, we are proposing an interim approach.

**Further engagement**

9. The SAB reviewed the issue again as part of the consultation on the draft regulations amending the 2015 scheme that started on the 18 December and ended on the 4 February, which included the employee contribution date amendment. The following 2 responses were received on this issue.

10. Following further direct engagement as part of a further consultation response the PFEW and PSA stated: *"We expressed our views on the one year extension of the member contribution rate in the Police Pensions Regulations in our response to the previous consultation on this matter (dated 27 November 2018 and subsequently endorsed by the SAB). However, as the valuation process has now been suspended, we understand that the Home Office will consult the SAB on changes to the necessary regulations covering the employer contribution rate and the member contribution rate in the 2015 Scheme and we await that consultation.*

    *You requested views on how to deal going forward with the situation whereby the correct member contribution rate cannot be placed into the regulations before the start of the financial year. The four year period currently in the regulations is, of course, inextricably linked to the valuation cycle and any potential remedy to a breach of the cost cap. In general, we would see no good reason why any necessary regulatory changes could not be made before the relevant effective date and consequently we question the necessity for any change. However, if the four-year limitation period were to be removed, then our suggestion would be to make the continued application of the existing member contribution rates subject to any change in that rate agreed as part of the valuation process and consultation on any cost cap breach revealed thereunder. We reserve our position on the impact of the* *suspension of the valuation process on members' pension benefits until more details are known."*

11. Capita responded:
*" In response to the question regarding the requirement to extend the expiry date of the employee contribution rate we observe that when the cost cap is breached the intention is that the benefits built by a member during the quadrennium 2019 to 2023 should be returned to fall within the cost cap. We understand that there is a proposal to change the accrual rate to 1/47th for the quadrennium 2019 to 2023. However, we would highlight that if there were further cost cap breaches, which could be rectified in part by a change to the employee contribution rate (which would occur after the quadrennium has commenced), administrators would need to know how benefits are to be determined for those members who leave the Scheme before the full rectification takes place. Additionally, how would contributions be balanced for continuing active members who would essentially have overpaid contributions during the period starting 1 April to the date of the employee contribution rate changes?"*

12. We considered the views of all respondents. The SAB, whom we consulted as representing those most likely to be affected by the change, agreed with our final proposal to extend the existing employee contribution rates by one year to 31 March 2020.

**Home Office position**

13. We can confirm that under this interim proposal the cost of accruing pension scheme benefits will remain the same for members of the 2015 scheme for the year 1 April 2019 – 31 March 2020. If it is agreed that changes to member contribution rates (or other changes) are required as a result of the overall valuation process, HMT has confirmed that any changes will be backdated until 1 April 2019, where it is appropriate to do so.

<u>Conclusion and next steps</u>

14. We have considered carefully all the responses to the consultation. The comments received have been helpful in informing our decision regarding the proposal on which we consulted.

15. The Home Office wrote to the SAB on 7 February 2019 setting out the consultation progress to date and a proposal to extend the employee contribution date by one year to 31 March 2020, which matches the position in other public-sector pension schemes and allows time for the legal challenges mentioned above to be concluded. On 12 February 2019, the SAB Chair wrote to the Home Office, confirming a unified agreement from the board that a one year extension of the employee contribution rate should be made.

16. We now intend to proceed with laying the draft Regulations to make provision for the extension of the member contribution rates and earnings thresholds for the 2015 Scheme to 31 March 2020.

**Policing Directorate**
**Home Office**
**February 2019**

CCS0219647704
978-1-5286-1064-3