

Staff Side of the Police Negotiating Board Submission to the Independent Public Service Pensions Commission

Staff Side welcomes the opportunity to provide further evidence and comments to the Independent Public Service Pensions Commission.

Scheme Design

Q1. What is an appropriate scheme design for public service pensions? Why?

In its Comprehensive Spending Review of October 2010 the Government made a commitment to continue with a form of defined benefit pension for public service schemes.

Staff Side welcomes the Government's support for defined benefit as an appropriate design for public service pensions as there is both transparency and clarity for members when a pension is linked to salary, particularly when it is linked to final salary.

The Commission's Interim Report noted that public service pensions should provide not only a reasonable level of retirement income, but also "a reasonable degree of certainty." This is best achieved through the retention of final salary schemes through which members have a clear understanding of the benefits they will receive on retirement.

Although advocating mobility of pensions, the Interim Report also noted that it was particularly important to retain employees in whose training the employer has invested. As mentioned in Staff Side's previous evidence, the initial costs for the recruitment and training of police officers within the first two years have been estimated to be in excess of £150,000 not including the costs of training officers as they progress through their careers and/or take on specialist roles. The continuation of a final salary scheme would therefore also help retain experienced officers in whose training the service has greatly invested.

Risk-sharing

Q2. Which risks associated with pension saving should the scheme members bear, which by the employer and which should be shared? Why?

Staff Side is not in a position to answer this question.

Q3. What mechanisms could be used to help control costs in public service schemes? For example, is there merit in flexible normal pension ages linked to changes in longevity? What indexation factor should be used in a career average type scheme to ensure a reasonable balance of risk between scheme members and taxpayers?

Public service employers are sufficiently large to smooth out short-term fluctuations and to ensure that their pension schemes follow longer-term trends.

Growth in earnings can be managed by contributions linked to those earnings. Changes in the discount rate or longevity can be reflected either in changes to the contribution rate or to scheme design. One way to change scheme design is to alter the normal pension age, as noted in Q3. However any changes to a scheme need to be made in an orderly and transparent way through full consultation in order to ensure the most suitable outcome. A well-structured contribution rate and a scheme design flexible enough to be renegotiated from time-to-time is the most transparent way of sharing risk fairly between employer and employee.

Changing the normal pension age alone could have adverse effects on succession planning. Careful management of recruitment is particularly important in the police, given the need for younger officers to take on the more physically demanding tasks. In addition, flexible normal pension ages would inhibit the ability of scheme members to plan for their retirement. It would also add to the administrative burden.

There is also the wider point that the current pension age for the police reflects the physical demands of operational policing. We would caution against changes to the pension age which leave operational requirements out of account. Police officers are there to protect society against crime and terrorism and to maintain public order. Recent events illustrate the physical strains that officers are exposed to and highlight the risks to society of making changes to police career patterns which take insufficient account of operational demands.

Staff Side does not support the introduction of a career average scheme for the police (see our response to Q1) but as a general point Staff Side believes that the indexation factor in a career average scheme must at the very least be the RPI in order for the benefits built up in the early years of a career to be in some sort of balance, in terms of a wage-earner's purchasing power, with those accrued at the end.

Q4. Where and how have risks associated with pensions been effectively shared in private sector companies?

Staff Side is not in a position to comment on this question.

Q5. Which international examples of good practice in the area of risk sharing should the Commission consider when compiling the final report? Why?

Staff Side has concerns that any international comparisons may fail to take into account the differential nature of the restrictions upon police officers in the comparator countries.

In the Commission's Interim Report, it quoted the example of the Netherlands' collective defined contribution schemes, which move the onus of risk from the employer to the members, by using solvency margins and conditional indexation while targeting career average pensions.

Staff Side would make two comments on this point. Firstly, Staff Side would reiterate the strengths of a pension scheme linked to salary, a clear benefit of which is the certainty of the eventual scale of the pension for scheme members. Further, the more that the risk is passed to scheme members, the less of an incentive there is for officers to use the scheme to save for a decent pension. This increases the risk of individuals opting out of the scheme and retiring on an inadequate pension.

Secondly, the police service in the Netherlands is one of the clearest examples in Europe of where a right to industrial action exists for police officers. In fact, in a long-running police strike dating from 19 December 2007, the police force initially refused to fine civilians for minor offences. The action escalated to work stoppages, which resulted in the cancellation of several football matches¹.

Moreover, police officers in the Netherlands are not alone in having industrial rights which are denied to police officers in the UK. Police in Belgium and Austria, and also in Slovenia and Iceland have the right to strike.²

Therefore, any international comparisons may be inappropriate if they fail to take into account the degree of restriction placed upon police officers specifically in the UK. As Staff Side set out in its initial submission to the Commission, pension provision is the only area of police terms and conditions of service under the remit of the PNB which is not subject to arbitration, rendering police officers at a double disadvantage: not only do they not have the employment status of other workers by which to resist changes in their pension schemes, but they also cannot seek independent arbitration.

There are also differing cultures and styles of policing from country to country which can lead to the need for different career patterns. It is important to ensure that the pensions for the police in the UK meet UK policing requirements.

Managing risk is an essential part of the way the police service operates. Whether responding to major public disorder, terrorist situations or natural disasters, police officers have to use judgement in managing the risk to public, themselves and the service as a whole. However, having to consider that their occupational pension arrangements may not be sufficient to provide security in retirement could potentially lead to a more risk-averse culture among officers, which would almost certainly be contrary to the public interest.

¹ *The Right to Strike: A Comparative Perspective*, edited by Arabella Stewart & Mark Bell, Institute of Employment Rights, April 2009

² 'Strike Rules in the EU27 and beyond', European Trade Union Institute for Research, Education and Health & Safety, 2007

Q6. What should the split between member and employer contributions look like?

A one third/two thirds split, with the officer or employee paying one third of the cost, is likely to be the more suitable for modern-day conditions. The Interim Report notes that some public service schemes started out with a 50/50 split, but that was in the days when scheme membership was compulsory. To move to a 50/50 split now by increasing officer/employee costs would add to pressure to raise salaries. To make such a move by reducing employer costs would undermine the value of public service schemes and encourage the race to the bottom that the Interim Report rightly wants to avoid.

Given the voluntary nature of scheme membership, which the Interim Report does not seek to change, a one third/two thirds split is a more effective way of ensuring scheme member buy-in. The higher the proportion paid by the member the less reason he or she has to contribute and the higher the risk of opting out and failing to make adequate provision for retirement, thus resulting in a burden on the taxpayer.

There is no reason why a one third/two thirds split in the costs of a scheme cannot be cost-effective for the taxpayer, if set in the context of a properly negotiated and structured remuneration package for the public servants in question.

Police officers who are members of the Police Pension Scheme (PPS) 1987 already pay 11% of their salary towards their pension. This is nearly a third of the total cost. We would caution against a rigid one-size-fits all ratio which takes no account of the level of contributions already being paid. Indeed, according to the Occupational Pension Schemes Annual Report (2009) the norm in the private sector defined benefit schemes is closer to one-quarters/three quarters, with a one-third/two-third split the norm in private defined contribution schemes. Therefore, comparison with the private sector reinforces the point that what is important is a system of sharing which has been properly negotiated as part of the remuneration package and which meets the needs of the organisation.

Q7. Should there be different treatment of different professions (for example, lower normal pension ages for some public service employees)?

Staff Side would caution against the harmonisation of benefits in public service pension schemes. Each scheme has been designed to meet the needs of its membership and the police pension provision therefore reflects the distinctive nature of policing. Police officers, for instance, perform a dangerous and physically and emotionally demanding role. They are also subject to “unique restrictions and limitations.”³

³ *Committee of Inquiry on the Police: Reports on Negotiating Machinery and Pay*, HMSO, July 1978

Consequently an essential provision of the police pension schemes is a normal pension age of 55. This is necessary as there is evidence that certain types of medical conditions are directly related to age, such as arthritis, cardiac conditions and diabetes. Further, the volatile and confrontational nature of policing can exacerbate existing age-related conditions. Front line officers working well beyond 55 years to obtain full pension entitlements would therefore be putting themselves at risk. This, in turn, would produce a significantly older work force which is bound to limit operational flexibility. Indeed, even if officers felt that they could continue in service beyond this age, the existing compulsory retirement age for the rank of chief inspector and below is 60, which is based in part upon advice from Force Medical Advisors.

It should also be reiterated that police officers contribute greatly towards benefits, such as a lower pension age, at either 11% or 9.5% of their salary.

Q8. Should there be different treatment for those at different income levels?

There is real value for an organisation in having all its members as part of the same pension scheme so that senior managers have a personal interest in maintaining high standards of pension provision for all. Although there are two police schemes in operation only one is open to new members and neither differentiates on the basis of rank. The more that senior managers are made to feel separate from other members the greater the likelihood of disengagement and lack of interest in maintaining the quality of pensions for the great majority with modest incomes.

The Interim Report pre-dated the Treasury announcement on the restriction of tax relief on pension savings.

For high earners there now exists double taxation: first upon the excess above the annual allowance (AA) at the marginal rate and second when the pension is in payment. Further unfairness arises where an officer only receives 40% tax relief on pension contributions but pays the tax charge for any excess at 50%.

For the police scheme the sums involved are beyond an officer's capability to pay in year. The Chief Police Officers' Staff Association (CPOSA) has therefore requested that this tax is treated much in the same way as the Lifetime Allowance (LTA) and is either paid as a lump sum upon benefit crystallisation or the pension is reduced by 1/20th for life.

In order to illustrate these changes below is detailed the average career progression of an aspirant chief constable:

A deputy chief constable in Kent Police receiving a promotion within their own force would receive a salary increase of £26,000 but an AA tax bill of £115,000 and a LTA tax charge of £118,000, totalling £233,000. This equates

to a 44% reduction in the net increase in pensionable pay assuming 25 years' post-retirement life expectancy.

Should this officer then transfer to Greater Manchester Police, the salary increases by £30,000, but it results in a new AA tax charge of £142,000 and a LTA of £218,000, totalling £360,000. This now represents a 69% reduction in net pensionable pay assuming 25 years' post-retirement life expectancy.

Clearly any further adverse impact for high earners will simply result in a mass transfer of funds out of the police pension scheme and an absence of any officer contemplating, without private income, the most challenging posts. These punitive sums alone clearly demonstrate that individuals with promotion ambitions will be liable to pay significant sums to secure their ordinary pension rights.

Q9. What is the appropriate normal pension age for the different public service schemes? Should this vary across schemes and, if so, why?

Please see our answer to Q7, above.

Adequacy

Q10. How should the Commission think about measuring adequate levels of resources in retirement?

Staff Side is unable to provide a response to this question within the short-timescale given.

Q11. What should be considered an adequate level of resources in retirement?

Staff Side is unable to provide a full response to this question within the short-timescale given. It is inevitable that police officers will compare any new level of pension provision with what has been available before and that the case has not been made for regarding the current annual pension that officers can typically expect to receive after a full career in the service as over-generous.

Q12. Should a full state pension and a full public service pension ensure people have adequate resources in retirement? Or should room be left for individuals to make their own arrangements?

Staff Side believes that the combination of a full state pension and a full police pension should be adequate to provide for officers in their retirement. If officers are not confident of this fact and are asked to make additional or alternative financial arrangements for their retirement, Staff Side would alert the Commission to the potential implications of this for the Office of Constable.

Police officers are not employees. The Office of Constable provides police officers with legal powers of arrest and control of the public given to them directly by a sworn oath and warrant: they have not been delegated these powers simply because they have been appointed as officers.

The primary function of the Office of Constable is to protect life and property. It is also the duty of a constable to prevent and detect crime and to uphold the Queen's peace. Even when a police officer is off duty, their failure to carry-out the responsibilities of the Office of Constable would see them facing procedures for misconduct.

As the Edmund-Davies Committee noted, together with the armed forces and the judiciary, police officers occupy a "unique role in our society and are essential to its continuation". This unique role is reflected in the "unique restrictions and limitations" to which police officers are subjected.⁴

Police officers have knowledge, power and access to sensitive information. They occupy a unique position of trust and responsibility. The Office of Constable, therefore, requires absolute integrity at all times. For this reason, Schedule One of Police Regulation states that a police officer shall not "wilfully refuse or neglect to discharge any lawful debt". Moreover, new recruits are not allowed to join the service if they are bankrupt, although if they have been clear of bankruptcy for three years they may be considered.

Police officers are also restricted from taking on any employment or business interests outside of policing without the express consent of their chief constable. In certain circumstances, these restrictions can also apply to the partner, spouse or relative of a police officer residing with them. This is a significant imposition upon the personal life of a police officer, but it seeks to reaffirm the importance of the constable as an office-holder sound in judgement and independent from compromise. This restriction also significantly reduces the scope of officers to make any additional or alternative financial arrangements for their retirement

If the police service, and rightly so in the view of Staff Side, is to place such restrictions upon officers, then police officers must be secure in the knowledge that they will be adequately provided for in their retirement.

Further, the effective delivery of public services is best supported by public servants being adequately rewarded for their work both in terms of their current salary and in terms of their eventual pension. For the great majority of public servants who have only a modest salary and can look forward to only a modest pension, deliberately making that pension fall short of being adequate incurs unnecessary risk for officers or employees who may fail to top up their basic pension adequately, and for the State which may then have to pick up the shortfall.

⁴ *Committee of Inquiry on the Police: Reports on Negotiating Machinery and Pay*, HMSO, July 1978

Giving officers the prospect of an inadequate basic retirement income at the end of their career reduces loyalty to the service or alternatively reduces scheme member buy-in, with members tempted to opt out of the scheme altogether. To encourage loyalty and also to avoid the risk to the State of poor pension provision in retirement, there would need to be increased emphasis on public service pension schemes offering top-up facilities in addition to the basic pension. Top-up schemes do exist, but normally they are taken up by late entrants and those who have been on career breaks. Having such schemes for all would add to administrative workload if there is a high take-up, or else result in inadequate pensions if take-up is low and members fail to make suitable alternative arrangements.

Q13. How should this change where people work part careers in public service?

Staff Side is unable to provide a response to this question within the short-timescale given.

Employee understanding and choice

Q14. How much do workers value and understand pensions? Is there any evidence this differs between groups (for example, by age, by income)?

Staff Side can only speak on behalf of its members in this respect. The police pension schemes – and their value – are widely understood by officers. This is perhaps due in part to the high rate of contributions currently paid by members. It may also be a result of the necessary shorter working life in the police service.

This knowledge has many benefits. Firstly, it results in a high rate of members joining the schemes which helps off-set the costs of pensions in payment. Secondly, officers do not have to worry about their pension provision after leaving the service because they have certainty over the benefits they will receive in retirement. This means they can focus on the job in hand and productivity is not affected. Thirdly, it assists with reducing turnover and therefore retaining experienced officers.

Q15. Which forms of scheme design will encourage employees to save for their retirement? Is there any evidence from pension scheme reforms influencing opt out rates in the private sector?

The current final salary police pension schemes encourage officers to save for their retirement because they are aware that although they pay 11% or 9.5% in contributions they receive a valuable benefit in return. Consequently, despite the high contribution rate less than 1% of officers do not join the pension schemes and the rate of opt-out is very low.

Currently officers pay around one-third of the cost of the pension, with the employer paying the other two-thirds. As mentioned above (see Q6), if there

was to be a move towards a 50-50 split this would increase the risk of opting out and officers may then fail to make adequate provision for retirement, thus resulting in a burden on the taxpayer.

Q16. What best practice exists in the private sector around communication of benefits with scheme members?

Staff Side is not in a position to answer this question.

Q17. Should any new scheme design offer members a degree of choice in the level of contributions paid and benefits received? For example, should members be able to receive a higher pension if they want to take the pension later? Why?

Staff Side agrees with the importance of members understanding the provisions of their pension scheme and its value. In order to achieve this aim schemes need to avoid being over-complicated, especially with regards to core benefits. Too much choice could have the unintended consequence of a greater likelihood of a member making the wrong decision

In addition, care also needs to be taken not to provide a strong incentive for officers to continue serving beyond the point where it is generally advisable for them to step down from what is a physically and emotionally demanding job.

Pensions and plurality of provision of public services

Q18. Whether and how public service pensions could be structured to support a more level playing field between the public and private sectors when tendering for contracts?

Staff Side is not in a position to answer this question.

Q19. Which non-public service employees should be eligible for membership of public service schemes?

Staff Side is not in a position to answer this question.

Administration costs

Q20. What evidence is there on administration costs (excluding fund management costs) of private sector pension schemes? How do these compare with those in the public service schemes?

Staff Side is not in a position to answer this question.

Q21. How do private sector schemes ensure that there is good quality and efficient scheme administration? Which measures can be applied to public service schemes?

Staff Side is not in a position to answer this question.

Q22. Is there scope for rationalising the number of local government pension funds? If so, how could this be achieved?

Staff Side is not in a position to answer this question.

Transition issues

Q23. How can the Commission ensure an effective transition to the new arrangements?

For the reasons set out above, and in the previous submission, Staff Side does not believe new arrangements for police officer pensions are required.

However, if the Commission were to recommend, and the Government to accept, any changes Staff Side would request that consultation takes place through appropriate mechanisms, namely the Police Negotiating Board in the case of police officers, to ensure that their implementation is well-reasoned and well costed.

It would also be essential to have a realistic timetable for implementation to ensure any changes are phased-in. To do otherwise would be unfair to members close to retirement. This would need to be coupled with a comprehensive communications strategy to clearly inform members about any changes which would take place and any options open to them.

It is also important to note that there may be an overlap with outcomes from the Independent Review of Police Officers' and Staff Remuneration and Conditions.

Q24. How can the Commission learn about moving to a new scheme from best practice in the private sector and internationally?

Staff Side is not in a position to answer this question.

Q25. How have accrued rights been protected or transferred during changes in schemes in the private sector?

Staff Side is not in a position to answer this question.

Concluding Comments

Staff Side welcomes the Government's commitment to continue with a form of defined benefit provision for public service schemes. In addition, it considers that final salary schemes provide not only transparency and clarity for members, but a reasonable degree of certainty of the benefits which will be received in retirement. With regard to the police, the retention of final salary schemes would continue to help retain experienced officers in whose training the service has greatly invested.

Staff Side would caution against the harmonisation of benefits in public service pension schemes. The current police pension provision was designed to meet the needs of its membership and therefore reflects the unique, and often dangerous, office of constable. Staff Side is also concerned that comparisons may unfairly be made with other sectors which do not share the same distinct characteristics.

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