

HOME OFFICE CIRCULAR 14/2013 ON LONG TERM REFORM OF POLICE PENSIONS

FREQUENTLY ASKED QUESTIONS

The Home Secretary announced the Government's position on the long term reform of police pensions on 4th September 2012.

We have previously published the following FAQs:

- about the Home Secretary's announcement and pension reform on 14th September 2012; and
- about mis-selling and similar issues on 8th November 2012.

Copies of these remain available on the PFEW website:

http://www.polfed.org/documents/Pension_QA_document_140912.pdf

http://www.polfed.org/documents/081112_Mis-selling_FAQ_PolicePensions.pdf

The Home Office has now provided some further information about pension reform. Home Office Circular 14/2013 sets out the Government's final position on some of the detail, including further information about how transitional arrangements will apply:

<https://www.gov.uk/government/publications/circular-0142013-further-information-on-long-term-police-pension-reform>

We remain committed to ensuring that our representatives and members have as much information as possible to enable them to understand the implications of the changes that have been announced and have produced this additional FAQ document to assist in that process.

The answers given represent our best understanding of the position at the date of drafting following the publication of HOC 14/2013. It is important to understand that the precise and final position on many of the questions will depend on the legal provisions (and in particular the terms of the relevant regulations). Members should not make any decisions on the basis of the information contained in this document, without first seeking specific confirmation of the details of the impact of the changes in their personal circumstances from their force pensions administrator. Any member considering opting out of the pension scheme should seek their own independent financial advice before reaching their decision.

The questions are organised under the following headings:

- General
- Career average revalued earnings (CARE) schemes and revaluation
- The definitions of transitional and tapering protection
- Part time service and transitional protection
- Career breaks

- Commutation
- Transitional protection and tapering
- Opting out
- Actuarial reduction
- Transfers
- Additional pension, added 60ths and AVCs
- Death in service – lump sum grant

General

1. *Does the Home Office Circular mean that the details of the new career average scheme have changed since the announcement in September 2012?*

No. The Circular is intended to answer some questions which have been raised with the Home Office and to give further details. The Government's position has not changed since the announcement in September 2012.

2. *What is the effect of the passing of the Public Service Pensions Act 2013?*

The Public Service Pensions Act 2013 ("the PSPA 2013") was passed in April 2013. It means that from 1 April 2015 any public service pensions have to be paid in accordance with the provisions of the Act. The Act requires that, other than cases which fall within transitional arrangements, all public service pension schemes must follow a specified design framework. Effectively, that framework includes a requirement that the scheme design is career average rather than based on final salary.

3. *What about section 2 Police Pensions Act 1976?*

The effect of the PSPA 2013 is to avoid the protections contained in section 2 Police Pensions Act 1976, by requiring future pensions to be paid under the PSPA 2013 (other than where transitional arrangements apply). This means that no legal challenge under section 2 Police Pensions Act 1976 can be made.

Career average revalued earnings (CARE) schemes and revaluation

4. *How does a CARE scheme work?*

Questions 1.1 – 1.8 of the Home Office Circular address various questions about aspects of the career average scheme and how re-valuation (sometimes described as uprating or indexation) will operate.

Information about how a career average scheme works in principle can be found at Questions 14 – 20 of our FAQ dated 14th September 2012.

5. *What would happen if CPI were to be negative?*

The 2015 scheme is designed around a revaluation rate of CPI + 1.25% for “active members” (this means members who are in service and contributing to the scheme).

If CPI were to be less than minus 1.25% then revaluation would operate to reduce the value of members’ pension pots. However, it needs to be emphasised:

- If CPI were to be negative but above -1.25%, the pension pots would still be increased. For example, if CPI were to be -0.5%, the pots would still be increased by 0.75% (as the revaluation measure is CPI + 1.25%);
- for CPI to be less than -1.25% there would have to be a significant reduction in prices;
- this is regarded as very unlikely; but
- If it were then the “real” value of the pension ought to remain the same.

6. *What would happen to pensioners if CPI were to be negative?*

Under present provisions, revaluation would not be less than zero for pensions in payment.

7. *Would a negative revaluation be lawful?*

For the reasons explained above, it is unlikely that negative revaluations will occur. If however it were to happen, it would be lawful as it is part of the scheme design and no legal challenge could be made.

The definitions of transitional and tapering protection

8. *What is the difference between “transitional protection” and “tapering protection”?*

In the Home Office Circular:

- “transitional protection” means full protection i.e. for those members of the PPS 1987 or NPPS 2006 who can remain in their old scheme and never have to transfer to the 2015 CARE scheme; and
- “tapering protection” means the partial protection, for those who are within 4 years of full transitional protection, which consists of remaining in the old scheme for a period after 1 April 2015, before transferring to the 2015 CARE scheme.

In these FAQ, we refer to the two categories as “full transitional protection” and “tapering protection” respectively.

Part time service and transitional protection

9. How do full transitional and tapering protection work for those who are working part-time or who have had part-time service in the past?

There are various issues for officers who have worked or who are working part-time. The main issues are:

- How is part-time service prior to 1 April 2012 treated for the purposes of calculating eligibility for full transitional protection or tapering protection?
- For those officers who are in tapering protection, how will the protected period work if an officer is working part-time?
- For those officers who are currently in PPS 1987 and who join the new scheme, how will weighted accrual operate in relation to any periods of part-time service?

These questions are dealt with in the Home Office Circular at Questions 3.1 – 3.3 and 4.1 and in the next three questions in this document.

10. How is part time service prior to 1 April 2012 treated for the purposes of calculating eligibility for full transitional protection or tapering protection?

For the purposes of calculating eligibility for full transitional protection or tapering protection, part-time service is treated as full time service. Pensionable service while part-time is still calculated on a pro-rata basis. This means for example:

- An officer who at 1 April 2012 had 15 years' full time service and 5 years' part time service who had been in the pension scheme throughout would have a total of 20 years' service and would be fully protected and would not join the new scheme. (If his or her part-time service averaged 20 hours a week s/he would have 17.5 years' pensionable service at 1 April 2012.)
- An officer who at 1 April 2012 had 8 years full time service and 10 years part-time service would fall into tapering protection on the basis of 18 years' service. (If his or her part-time service averaged 20 hours a week s/he would have 13 years' pensionable service at 1 April 2012.)

11. For those officers who are in tapering protection, how will the protected period work if an officer is working part-time?

The Home Office position is set out at Questions 3.2 and 3.3 of the Circular. No adjustment will be made for part-time officers. This means that if an officer is entitled under tapering protection to remain in the PPS 1987 or NPPS 2006 for two years after 1 April 2015, protection will end on 1 April 2017, regardless of whether the officer works part-time or not.

We argued that this was not fair for part-time officers and that, for example, an officer who was entitled to remain in PPS 1987 or NPPS 2006 for two years who worked 20 hours per week should be entitled to remain in the old scheme for four years, in order to accrue two additional years' pensionable service in that old scheme. The Home Office rejected that argument.

We consider that this may be unlawfully discriminatory and will monitor its impact in practice after the transitional protection period begins. If at that time members have claims which are likely to succeed we will support them.

12. For those officers who are currently in PPS 1987 and who join the new scheme, how will weighted accrual operate in relation to any periods of part-time service?

The position is explained in some detail at Question 4.1 of the Home Office Circular. The central point is that an officer who has had part-time service will benefit from weighted accrual in the same way they would have done if that service had been full time.

For example:

- An officer who works full time throughout their service and who joins the CARE 2015 scheme after 18 years' service in PPS 1987 and who remains in the CARE 2015 scheme for at least 12 years, will be entitled to a PPS pension calculated as 18/45ths of their final salary, as opposed to 60ths. That would be in addition to their CARE 2015 pension.
- An officer who works part time during their service and who joins the CARE 2015 scheme after 18 years' service in PPS 1987 and who remains in the CARE 2015 scheme for at least 12 years, will also be entitled to a PPS 1987 pension calculated as on the basis of 45ths of their final salary as opposed to 60ths. The amount of pension will be calculated on a pro-rated basis. For example, if the officer worked 50% hours for the whole of their PPS 1987 service, the PPS 1987 pension would be 9/45ths. Again that would be in addition to their CARE 2015 pension.

Career breaks

13. What happens to officers who are entitled to full transitional protection who take (or remain on) a career break from 1 April 2015?

So long as the career break is an unpaid leave career break, it will have no impact on their position in relation to full transitional protection. They will return to their old scheme when they return from the career break.

14. What happens to officers who are entitled to tapering protection who take (or remain on) a career break from 1 April 2015?

The Home Office position is set out at Question 5.1 of the Circular. No adjustment will be made for officers on career breaks. This means that if an officer is entitled under tapering protection to remain in the PPS 1987 or NPPS 2006 for two years after 1 April 2015, protection will end on 1 April 2017, even if the officer takes a career break for some or all of the period from 1 April 2015 to 1 April 2017.

We argued that this was not fair to such officers and that a career break should pause the period of tapering protection. The Home Office rejected that argument.

We consider that this may be unlawfully discriminatory and will monitor its impact in practice after the tapering protection period begins. If at that time members have claims which are likely to succeed we will support them.

15. Can officers who have taken career breaks in the past “buy back” that time for pension purposes now?

No. There is no right under the Police Pensions Regulations to “buy back” time spent on a career break.

16. How will the rules in relation to unpaid leave operate during the tapering protection period? For example, if an officer takes unpaid maternity leave during her tapering protection period will she be able to “buy back” that period?

There are limited rights in the Police Pensions Regulations to buy back some forms of unpaid leave, subject to short time limits.

The Home Office has not determined its position on how this will operate during the tapering protection period. We are pressing for the current rules on buy back of unpaid leave to continue to apply during the tapering protection period.

Commutation

17. Will members of PPS 1987 who join the new CARE 2015 scheme be able to commute their PPS 1987 pension?

Yes. The Home Office Circular addresses this in Questions 6.1 – 6.3.

The approach adopted is broadly that the PPS 1987 rules will still apply to the commutation of the PPS 1987 pension. This means that:

- the PPS 1987 pension will be calculated with weighted accrual and “final final” salary as appropriate;

- whether a member can commute 25% of that pension or a sum of no more than 2.25 times their gross annual pension will depend (as now) on their circumstances;
- for the purposes of determining whether a member has sufficient service to be able to commute 25%, time spent in the CARE 2015 scheme will count. (NB this does not mean that any of the CARE 2015 pension will be commuted on PPS 1987 terms); and
- that the PPS 1987 commutation will continue to be on the basis of actuarial factors prepared by the scheme actuary (currently the Government Actuary's Department).

Thus for example: a member who joins the CARE 2015 scheme with 18 years' pensionable service in PPS 1987 and who remains in the CARE 2015 scheme for 12 years, serving full time throughout, will be entitled on retirement to a PPS 1987 pension of 18/45ths of final salary and will be able to commute up to 25% of that PPS 1987 pension. The commutation will be on the basis of the actuarial factors in force at the time of commuting. The CARE 2015 pension (including any commutation of that pension) will be payable in addition in accordance with the rules of the CARE 2015 scheme (See Question 20 below).

18. How will this work for officers with part-time service?

As with other design features, for the purpose of assessing whether an officer with part-time service meets a service threshold, part-time service counts as full-time service. This does not affect the fact that part-time pensionable service will be assessed on a pro-rata basis.

So for example: a member who joins the CARE 2015 scheme with 18 years' pensionable service in PPS 1987 and who remains in the CARE 2015 scheme for 12 years, serving part time throughout the PPS 1987 service with an average of 20 hours per week, will be entitled to a PPS 1987 pension of 9/45ths of final salary and will be able to commute up to 25% of that pension. The commutation will be on the basis of the actuarial factors in force at the time of commuting.

19. Does this mean that the same actuarial factors used today for PPS 1987 commutation will apply?

Not necessarily. It has always been the case that the factors can change, if the scheme actuary so advises. That will remain the case.

20. How will commutation work in the CARE 2015 scheme?

Members will not have to commute any of their CARE 2015 pension for a lump sum. If they choose to do so the same factor, of 12:1 will be applied. This means that for each £1 given up a lump sum of £12 will be payable as a lump sum.

Transitional protection and tapering protection

21. Which taper applies to a member if they are covered by two tapers?

This is dealt with in Question 7.1 of the Circular. The member is entitled to whichever taper is more favourable.

22. What is the position of, for example, a member who is aged 36.5 and has 17 years' service in the 1987 scheme at 1 April 2012 and therefore falls just outside any tapering protection – despite being within four years of the length of service criterion?

This is dealt with in Question 7.2. Such a member falls outside tapering protection.

23. Can a member who is entitled to tapering protection move to the 2015 scheme during the tapering period if they wish?

No. This is dealt with in Question 7.3.

24. Can those with full transitional protection choose to move to the 2015 scheme?

No. This is dealt with in Question 7.4. However, a member who has opted out for over five years can join the 2015 scheme.

25. Will there be any restrictions on how much pension officers can accrue in the 2015 scheme? For example, will there be limits on officers whose tapered protection takes them to near 30 years in the 1987 scheme before being moved to the 2015 scheme?

There is no limit on the pension that can be accrued in the CARE 2015 scheme, whether a member has rights in PPS 1987 or NPPS 2006 or not (although those with full transitional protection cannot choose to move into the CARE 2015 scheme, unless they have opted out for over five years).

Opting out

26. Is opting out a good idea?

While each member must make his or her own decisions, our view is that in most cases opting out is likely to be a very bad idea, resulting in adverse financial consequences. Anyone considering opting out should take their own independent financial advice before doing so.

The precise implications of opting out will depend in part on a member's age and length of service; the scheme they are currently in and their rights in relation to full or tapering protection. This is covered in Questions 8.1 – 8.8 of the Home Office Circular.

Actuarial reduction

27. What is actuarial reduction?

Information about actuarial reduction can be found at Questions 38 – 40 of our FAQ dated 14th September 2012.

Questions 9.1 – 9.3 of the Home Office Circular address various questions about how actuarial reduction will operate.

Transfers

28. Does pensionable service before a member joined the police service which has been transferred in to the police scheme count for eligibility for full transitional protection and tapering protection?

The Home Office has confirmed that such service does count. This means for example that a member who had as at 1 April 2012:

- (a) 17 years' pensionable service acquired by serving as a police officer and making pension contributions for 17 years; together with
- (b) 3 years' pensionable service acquired by transferring in earlier pensionable service with the Armed Forces

would be fully protected as s/he would have a total of 20 years' pensionable service.

Additional pension, added years, added 60ths and AVCs

29. What will happen to existing agreements to buy added 60ths in the PPS 1987 or added years in the NPPS 2006?

The Home Office has confirmed that existing agreements will be honoured, but has not yet confirmed whether members will be able to choose to revoke such agreements should they so wish.

30. Will any added 60ths or added years bought by 1 April 2012 count for the purposes of assessing service for the purposes of eligibility to full transitional or tapering protection?

This has not yet been determined.

31. What will happen to existing AVC agreements?

Members will be able to continue with existing agreements.

32. Will it be possible to buy increased service or pension in the 2015 CARE scheme?

The Home Office indicate that it will be possible to buy additional pension within limits (see Question 12.2 of the Circular).

Death in service - lump sum death grant

33. How much will the death grant be if a member dies while a member of the CARE 2015 scheme?

It will be three times that of the deceased officer's pensionable pay.

34. Who will receive the death grant?

The rules for determining who receives the death grant will be as in the same as they are now under NPPS 2006.

We hope this FAQ document is useful. We will continue to issue further documents in the light of any relevant developments or as further questions arise.

Ian Rennie

General Secretary

19th November 2013