Q&A – exceptions to the transfer ban - May 2015

Background

On 13 January 2015, the Northern Ireland Assembly approved a motion that the Westminster Pension Schemes Act 2015 ('the Act') extend to legislate for Northern Ireland for the purpose of restricting transfers from the unfunded public service defined benefit pension schemes to defined contribution schemes. Section 71 of the Act amends section 91 the Pension Schemes (Northern Ireland) Act 1993 so that public service pension entitlements under that section **cannot** be transferred to schemes in which they could be drawn down as flexible benefits.

1. Is there scope for introducing any exceptions to the transfer ban?

Section 71 also confers a power enabling the Department of Finance to make regulations providing that that restriction will not apply in certain circumstances or in relation to certain schemes or to schemes of a certain type.

2. Why haven't you introduced any exceptions?

The decision to restrict transfers from unfunded defined benefit public service pension schemes to schemes from which benefits can be accessed flexibly was taken to protect the taxpayer. This followed careful consideration of the effect of the restriction on members as well as the impact on the taxpayer if the number of transfers out increased and led to an upfront direct cost to the Exchequer.

There may be situations where an exception to this rule is required in the future. So far, an appropriate case for doing so has not been identified. Public Service Pensions remain good value to both their members and to the taxpayer, and members who leave their scheme will still retain access to their benefits.

Why haven't you introduced an exception for…

3. Pension Credit Members?

Example: My husband was a Police Officer and divorced me, so I am now entitled to a pension credit. I've never worked in the Public Service, and I don't see why I can't transfer my pension credit to another scheme!

There was previously no ability to transfer out benefits acquired through the granting of a pension credit. Therefore, the new legislation does not amend this position. Public Service Pensions remain good value to both their members and to the taxpayer, and provide a high level of certainty for pension credit members.

4. **Those leaving the schemes with early leaver benefit entitlements?**

Where a member, with less than two years service, requests a transfer of accrued benefits, the right to transfer those benefits is provided separately under sections 97AA and 97AB of chapter 5 of part VI of the Pension Schemes (Northern Ireland) Act 1993. These sections are not affected by the transfer ban and therefore the facility to transfer scheme benefits attributable to early leavers with **less than two years service can continue**,

5. **Those members who are diagnosed with terminal ill health?**

Example: I am a Civil Servant and have recently been diagnosed with terminal cancer. I've been given 6 months to live. I want to be able to transfer my pension benefits to another scheme from which I can draw them down, so that I can enjoy my hard-earned money now and leave the rest to my family tax-free

This is a sensitive and difficult area. The terminally ill health benefits available to members of Public Service Pension Schemes are very generous, including the provisions of pensions for survivors and dependants. It is unclear whether it would be in the best interest of a member who is terminally ill to transfer their benefits to a scheme providing flexible benefits. It is likely to be finely balanced and depend on a number of factors, including whether the member has any survivors and the tax treatment of the income if bequeathed, for example.

6. **Those members who wish to transfer to a Qualifying Recognised Overseas Pension Scheme?**

Example: I am a nurse and have decided to move to Australia to work and eventually retire. Why can't I transfer my pension benefits to a scheme in Australia?

Members of Public Service Pension Schemes who choose to move abroad to work or retire will continue to be able to access their pension, and will continue to have their benefits increased in line with prices. These changes do not affect that.

7. **Those members who wish to transfer to a Public Service DC Scheme?**

Example: I am a Civil Servant and member of the Northern Ireland Civil Service Pension Schemes. I want to transfer my benefits into the Civil Service Partnership Scheme. Why can't I?

In making the decision to restrict transfers from unfunded Public Service Pension Schemes, both the interests of members and those of other taxpayers need to be considered. Allowing such transfers could have exposed the Government to significantly higher upfront direct costs in the short term, leading to either higher taxes or more debt. In light of this the view was that the balance of interests was in favour of restricting transfers.

Although the Civil Service does offer both a Defined Benefit and a Defined Contribution Pension Scheme, there is no clear rationale for undermining the principle of restricting transfers from unfunded Public Service Pension Schemes to Defined Contribution schemes in this case.

8. **Is the legislation in breach of Article 45 of the Treaty on the functioning of the EU, which provides that freedom of movement for workers shall be secured within the EU?**

The Government considers that in introducing provisions in the Pension Schemes Act 2015 for restriction these transfers it is fully complying with all relevant European obligations.

9. **I was planning to transfer to a DC scheme and now can't. I wasn't kept well informed of the changes and have now missed my chance. Can an exception be created that will allow me to transfer my benefits?**

In making the decision to restrict transfers from unfunded Public Service Pension Schemes, consideration has been given to both the interests of members and those of other taxpayers. Continuing to allow such transfers after the introduction of the new pension flexibilities could have exposed Government to upfront direct costs, leading to either higher taxes or more debt. In light of this, the view was that the balance of interests was in favour of restricting transfers.

There may be situations where an exception to this rule is required in the future. The Act confers a power enabling the Department of Finance to make regulations providing that that restriction will not apply in certain circumstances or in relation to certain schemes or to schemes of a certain type, if needed. So far, an appropriate case for doing so has not been identified.

The Coalition Government set out its intention to restrict transfers from unfunded Defined Benefit Public Service Pension Schemes in March 2014, in the publication of the consultation document, *Freedom and Choice in Pensions,* and confirmed this in its response to the consultation, which was published in July 2014. The restriction itself was made by Parliament by way of the Pension Schemes Act 2015.

Schemes also set out on their websites the detail of these changes to inform members that their applications had to be received by the scheme before 6 April for the transfer to proceed if it is to a scheme from which the member can acquire a right or entitlement to flexible benefits e.g. a Defined Contribution scheme. Transfers to other Defined Benefit Pension Schemes will continue to be permitted as before.