

DEPARTMENT OF EDUCATION

THE FINAL EQUALITY IMPACT ASSESSMENT REPORT

ON

**THE DRAFT TEACHERS' (COMPENSATION FOR REDUNDANCY AND
PREMATURE RETIREMENT) REGULATIONS (NI) 2010 AND
COMPLEMENTARY AMENDMENTS TO THE TEACHERS'
SUPERANNUATION REGULATIONS (NI) 1998**

March 2010

This document presents the findings of an Equality Impact Assessment (EQIA) on the draft Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (NI) 2010 and complementary amendments to the Teachers' Superannuation Regulations (NI) 1998

Section 75 of the Northern Ireland Act 1998 requires the Department, in carrying out its functions, to have due regard to the need to promote equality of opportunity between:

- people with different religious beliefs;
- people from different racial groups;
- people of different ages;
- people with different marital status;
- people with different sexual orientations;
- men and women generally;
- people with or without a disability;
- people with or without dependants; and
- people with different political opinions.

In addition, but without prejudice to the duty above, the Department should have due regard to the desirability of promoting good relations between people with different religious beliefs, with different political opinions or from different racial groups.

This legislation requires public authorities to conduct an Equality Impact Assessment (EQIA) where a proposed policy is likely to have an impact on equality of opportunity. In response to this, the Department decided that the draft Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (NI) 2010 and complementary amendments to the Teachers' Superannuation Regulations (NI) 1998 (hereafter referred to as the draft regulations) required an EQIA.

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1. INTRODUCTION AND BACKGROUND

Introduction

The Department of Education proposes to make the Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (NI) 2010 and complementary amendments to the Teachers' Superannuation Regulations (NI) 1998 (hereafter referred to as "the draft regulations"). The draft regulations provide that, in future, employers will pay for the extra cost of teachers' premature retirement as and when it takes place.

The draft regulations will have the effect of transferring liability to teachers' employers for all the costs associated with compensation for premature retirement, including the early payment of unreduced pension benefits. They will also provide employers with discretion to make enhanced severance payments up to a maximum of 104 weeks pay with no upper age limit. For teachers aged 55 and over, this will provide employers with an alternative to granting premature retirement compensation. The circumstances under which payments may be made and the level of such payments will be a matter of policy on the part of the employer.

The draft regulations, together with an Equality Screening of the draft regulations, were the subject of a public consultation during March, April and May of this year (see Section 7: *Formal Consultation*). A significant number of respondents claimed that the draft regulations would have an impact on certain Section 75 groups and that a full EQIA should be carried out.

Background

The NI Teachers' Pension Scheme (NITPS) is a statutory scheme subject to the Teachers' Superannuation Regulations (NI) 1998 (as amended). It is a contributory, defined benefit, "final salary" scheme administered by the Department of Education on behalf of teachers' employers.

Discrete arrangements currently exist that allow teachers who retire prematurely to have their pension paid early without actuarial reduction and, at the employers' discretion, to be awarded further compensation in the form of an additional service credit ("added years"). These arrangements are known as the Premature Retirement Compensation Scheme (PRCS).

The PRCS arrangements are intended to provide a management tool which employing authorities can use to bring about a qualitative improvement in the educational provision in their schools. They allow teachers' employers to effect redundancies in the context of necessary organisational change and to retire teachers in the interests of the efficient discharge of the employer's function. They do not confer a right to early retirement on teachers.

PRCS applies to early retirement (before the NITPS normal pension age¹): there are separate provisions for ill-health retirement, which are unaffected by the draft regulations.

Decisions on early retirement are presently made by school authorities and the award of any added years authorised by the Compensating Authority (the Education & Library Boards (ELBs) for controlled and maintained schools; the Department of Education for all other grant-aided schools; the Department for Employment and Learning (DEL) for colleges of further education). The costs of paying unreduced pension before normal retirement age are borne by the NITPS and are thus not a charge on individual school budgets or on the budgets of the ELBs. Under the existing Teachers' (Compensation for Redundancy and Premature Retirement) Regulations employing authorities are required to pay any added years compensation which they decide to approve. Prior to April 2008 this requirement was not observed and these costs were also borne by the NITPS. (For colleges of further education these costs were already being met by DEL.)

In broad terms, all pension schemes operate on the basis that contributions paid by members and their employers should be sufficient to cover the cost of

¹ For entrants after 1 April 2007, normal pension age is 65. For entrants prior to this date, normal pension age is 60

future benefits. Under the current arrangements, the costs of premature retirement to the NITPS are pooled among all employers of teachers (the term “teachers” should be taken to include both school teachers and lecturers in further education). Thus an employer might make no premature retirements or very many, but would pay the same contribution rate in either case. Also, the cost of employers’ decisions on premature retirement is not reflected in their contributions until the Government Actuary Department’s next valuation of the NITPS, which might not be for several years. This system has not encouraged employers to behave prudently. While the PRCS has been effective in helping employers to manage teacher redundancies arising from school closures and amalgamations, the generous enhancements awarded as part of expensive redundancy packages for increasing numbers of teachers have drawn criticism from the Westminster Committee of Public Accounts.

A combination of generous levels of enhancement and an increase in recent years in the number of premature retirements means that a significant increase in contributions would be needed if the cost of premature retirement were to remain a burden on the NITPS. This would have an unwanted impact on frontline services and/or on the take-home pay of all teachers. Such a position is unsustainable and requires action to control the costs of premature retirement.

Action was taken some years ago² in the comparable schemes in Scotland and in England and Wales to ensure that employers became accountable for the cost of decisions to grant premature retirement. Employers were thus encouraged to make considered, prudent decisions. A comparison of arrangements in the north of Ireland, England & Wales and Scotland is attached at Annex 7. The effect of the draft regulations would be to bring the NITPS into line with the comparable schemes in Scotland and in England and Wales and also with other public sector schemes in the north of Ireland where employers are already responsible for meeting the additional costs of premature retirement. A comparison of arrangements between public sector schemes in the north of Ireland is attached at Annex 8. In the south of Ireland all three

² In 1996 in Scotland and in 1997 in England & Wales employers became liable for the full costs of premature retirement. The cost of enhancements (“added years”) was transferred to employers in 1991.

strands of the Early Retirement Scheme for Teachers were suspended indefinitely following the 2008 budget.

Almost all public sector occupational pensions are defined benefit schemes, while the private sector has increasingly chosen to close these schemes and either move to defined contribution schemes or not to contribute to an occupational scheme at all. The more generous public sector schemes have become more costly and this has attracted significant criticism from the press, particularly in the current economic climate. In this context it is no longer a realistic option for a public sector scheme to continue to add to its liabilities by meeting the ongoing additional costs of premature retirement compensation.

A wide-ranging review of all three Teachers' Pensions Schemes (England and Wales, Scotland and the north of Ireland) began in November 2003, and a package of reforms was agreed between Government, unions and employers to ensure financial sustainability in the longer term, and to meet the needs of an increasingly diverse, and modern, workforce. As part of the arrangements, the member contribution rate following the implementation of the new provisions was set at the same level across all three teachers' pension schemes. This was justified on the basis that members receiving broadly comparable benefits should expect to pay contributions at the same rate, regardless of which of the three schemes they were members.

In arriving at this agreement, it was anticipated that premature retirement arrangements in the north of Ireland would be brought into line with those operating in the other teachers' pension schemes. To continue with an unfunded PRCS in the north of Ireland would therefore run counter to established policy for the Teachers' Pension Schemes and for public sector pensions generally.

It is, however, important to emphasise that the proposed draft regulations do not seek to abolish or reduce the compensation that employers may pay to prematurely retired teachers. Rather, they seek to make employers liable for the cost of such compensation and thus encourage a more sustainable use of the existing provisions.

2. DEFINING THE AIMS OF THE DRAFT REGULATIONS

What are the aims, objectives and purpose of the draft regulations?

The NITPS is a defined benefit "final salary" scheme and remains one of the most important and valuable benefits available to teachers. It is important to note at the outset that the draft regulations do not propose any changes to the benefits available to teachers under the NITPS. These include:

- Substantial employer contribution towards the cost of pension – currently at the rate of 13.6% of gross salary;
- Guaranteed pension at normal pension age;
- The option to take part of pension as a tax-free lump sum (compulsory for teachers joining the Scheme before 1 April 2007);
- Pension value protected through full index linking;
- Access to ill-health benefits, should a teacher become permanently unable to teach;
- Children's and dependants' pension;
- In-service death grant;
- The option to have pension paid early at an actuarially reduced rate or through a phased retirement option.

The new legislation aims to introduce measures to control the escalating costs of the PRCS. The Government Actuary's Department advised in 2005 (since when the incidence of premature retirement has risen significantly) that a significant increase in contributions, of over £60m a year, would be needed if the cost of premature retirement was to remain as a liability on the NITPS; and the present arrangements have attracted severe criticism from the Westminster Committee of Public Accounts.

The new legislation will bring provisions for compensating teachers for premature retirement broadly into line with arrangements under the corresponding schemes in Scotland and in England and Wales. The effect of the new regulations will be to make employers liable for the cost of early payment of unreduced pension benefits in cases where they have agreed to grant premature retirement, in addition to the cost of any “added years” enhancement. This means that, once the regulations have been made, the NITPS will meet the cost of accrued benefits only, i.e. an actuarially reduced amount of pension and lump sum for teachers retiring prematurely. The cost of the balance of annual pension and lump sum will be met by the employer, including any additional service credit.

The regulations will also allow employers to make an enhanced severance (or “termination”) payment of up to 104 weeks’ salary. Such payments would count towards fulfilling the employer’s statutory duty to pay redundancy compensation and would also be available to all teachers regardless of age or length of service (including those teachers who are not eligible by reason of their age for immediate payment of pension). It is important to note that the options of premature retirement and enhanced severance pay would be mutually exclusive and that, under existing regulations³, from 6 April 2010 the minimum age at which pension can be paid will increase to 55. For teachers aged between 55 and 65 enhanced severance would therefore afford the employer an alternative to granting premature retirement.

The aim of the draft regulations is to help secure the future sustainability of the NITPS and ensure that member contributions and benefits remain equivalent to those of the comparable schemes in England and Wales and in Scotland. The draft regulations seek to achieve this aim by:

- transferring liability for the costs of premature retirement compensation to teachers’ employers, thus ensuring that they do not remain a burden on the NITPS;

³ The Teachers Superannuation Regulations (NI) 1998 (S.R. 1998 No. 333) as amended by The Teachers’ Pensions etc. (Reform Amendments) Regulations (NI) 2007 (S.R. 2007 No. 137)

- maintaining the existing provisions for premature retirement, which allow employers to secure the early release of teachers where necessary; and
- giving employers the power to make severance payments of up to 104 weeks' salary.

The proposed draft regulations do not seek to abolish or reduce the compensation that employers may pay to prematurely retired teachers.

Rather, they seek to make employers liable for the cost of such compensation and thus encourage a more sustainable use of the existing provisions.

3. CONSIDERATION OF AVAILABLE DATA AND RESEARCH

Available data about the profile of the current teaching workforce is set out at Annex 4. Annex 5 provides data from the teachers' pensions' computer systems showing the numbers of teachers previously availing of the premature retirement arrangements; and comparative information for England and Wales is set out at Annex 6. Annex 7 compares the premature retirement provisions for teachers in the north of Ireland with those for teachers in England and Wales, Scotland and the south of Ireland; and Annex 8 provides a comparison with other public sector schemes in the north of Ireland.

In December 2002 the Government published a Green Paper containing proposals and recommendations to encourage people to work longer and save more for retirement: *Simplicity, security and choice: Working and saving for retirement* Cm 5677 (http://www.dsdni.gov.uk/green_paper-2.pdf).

In June 2003, a recommendation was made that all public service pension schemes should be reviewed: *Simplicity, security and choice: Working and saving for retirement- Action on occupational pensions* Cm 5835 (http://www.dsdni.gov.uk/wasfr_action_occup_pensions.pdf). The Government was of the view that normal pension age should be increased, and schemes changed to reflect improved longevity and modern working patterns.

In May 2006 the Government published its response to the long-term pensions challenge: *Security in retirement: towards a new pensions system* Cm 6841 (<http://www.dwp.gov.uk/docs/white-paper-complete.pdf>). The White Paper aims to encourage more people to plan and save for their retirement.

Together, these documents outline the challenges facing occupational pension schemes as a result of pressures such as increasing longevity. For example, between 1980 and 2005, life expectancy at 65 in the north of Ireland increased from 13 to 20 years; and those reaching 65 by the middle of this century will represent over 90% of their generation and will have a life expectancy of around another 24 years.

Reports by both the NI Audit Office (NIAO) and the Westminster Committee of Public Accounts (PAC) have been critical of the use of the Premature Retirement Compensation Scheme, both in terms of the numbers of teachers prematurely retired and the amount of the compensation routinely awarded:

NIAO report 1992 (*Department of Education for Northern Ireland: Premature Retirement of Teachers, Northern Ireland Audit Office, February 1992, HC 248*) and subsequent PAC hearing in 1992 (*17th Report, Session 1992-93, HC 84*).

NIAO report of Dec 2002 (*The Management of Substitution Cover for Teachers*):

<http://www.niauditoffice.gov.uk/pubs/reports/2002/Teachers/FullReport.pdf> and subsequent PAC hearing in Feb 2003:

<http://www.publications.parliament.uk/pa/cm200203/cmselect/cmpublic/473/473.pdf>)

In April 2008 a screening process was undertaken in relation to the decision to make employers liable for the pension costs associated with the award of additional service credit (“added years”). The Screening Template was placed on the Department’s website and comments invited from stakeholders, including representatives of Section 75 groups. None was received. The number of teacher redundancies in schools (excluding FE Colleges) fell by 47% in 2008 as compared to 2007; and there has been a further 29% reduction in 2009 as compared to 2008.

There was a sudden reduction by over 80% in the number of premature retirements in England and Wales in 1998 following the introduction of full hard charging there from September 1997. This was the result of greater discipline by employing authorities in the use of premature retirement compensation and a corresponding reduction in the number of volunteers. In the five years immediately following 1998 the number of premature retirements gradually increased to around 60% of pre-1997 levels. See table at Annex 5.

Consultation has taken place with the teacher unions and employing authorities through a Premature Retirement Compensation Working Group, which is a sub-group of the Teachers' Superannuation Consultative Committee (see Section 7: *Formal Consultation*). The following views were expressed and noted by the Department. (Many of the views expressed may be founded on the assumption that, following the making of the proposed regulations, employers will not be prepared to fund the early release of pension benefits or to offer equivalent compensation):

- The changes could result in compulsory redundancies.
- A supply pool should be established to guarantee continued employment for teachers who would otherwise be compulsorily redundant.
- There is the need for a facility to allow teachers greater flexibility for winding down towards the end of their careers.
- The changes will mean a reduction in the number of newly qualified teachers obtaining employment.
- Changes should be delayed on the basis it would make more sense to bring them into operation at the same time as ESA.
- The changes will result in anomalies between the premature retirement benefits and severance terms offered to teachers and to non teaching school staff, and the RPA affected group.
- Failure by employers to fund the early release of pension benefits as in previous years may result in industrial action by the teacher unions.

This was followed up by an 8-week formal public consultation which finished on 15 May 2009. A summary of consultation responses is attached at Annex 2.

The following equality issues were raised:

- New arrangements are discriminatory against teachers now over 50, who will have to work longer and whose health may suffer as a result.
- As older teachers remain longer in employment, newly qualified teachers will find it more difficult to obtain work. Younger teachers will be more likely to suffer compulsory redundancy.
- There will be an impact in terms of gender given the high proportion of female teachers, particularly in the lower age ranges.
- There will be an impact on the dependants of teachers who take actuarially reduced pensions

These points are addressed under *Assessment of Impacts* and *Consideration of Mitigation and Alternatives*.

The arguments associated with equality appear to be predicated on the assumption that employers will be unable to secure sufficient volunteers to avoid compulsory redundancies. Evidence from the other teachers' schemes, which moved to hard charging in the 1990s, indicates that whilst there was an initial drop off in the number of volunteers, the numbers volunteering increased once teacher expectations had adjusted to the level of compensation offered by employing authorities.

4. ASSESSMENT OF IMPACTS

In this EQIA, the Department considered the duty not to discriminate (either directly or indirectly) in respect of the affected groups and also how the proposals promote equality of opportunity. An assessment of the impacts and the benefits of the draft regulations to each of the Section 75 categories is set out in the following paragraphs.

Gender

At August 2008 the makeup of the teaching workforce was 74.4% female and 25.6% male. The age breakdown of those eligible to receive premature retirement benefits (teachers over 50) shows that 64.8% were female and 35.2% male. The figures for premature retirement (2007/08 financial year) show uptake of premature retirement to be 61.3% female and 38.7% male. This showed a slightly higher take-up by male teachers when compared with the eligible field.

Responses to both consultations suggested that the numbers of young female teachers facing compulsory redundancy would increase if severance or premature retirement terms are less attractive to older teachers, reflecting the higher proportion of females in the younger age bands compared to the over-50s or the teaching profession as a whole. However, it is not yet clear how the compensation offered in future years will affect the numbers and profile of those volunteering for redundancy.

To continue **without** the proposed legislative changes would lead to a significant increase in the NI Teachers' Pension Scheme's standard contribution rate. An increase in the employer contribution rate would have an unwanted impact on frontline services, while an increase in the employee contribution rate would reduce the take-home pay of all teachers, and may impact disproportionately on younger teachers, who are more likely to be on the lower points of the pay scale. The younger age bands also contain proportionately more women.

Age

As this policy is concerned with premature retirement there may be an age related impact. The Employment Equality (Age) Regulations (NI) 2006 make it unlawful for pension schemes to discriminate against members or prospective members of a pension scheme. However, the Government recognises that many age-related rules and practices are necessary for the proper operation of pension schemes. The Employment Equality (Age) Regulations (NI) 2006, therefore, effectively exempt many age-related rules, practices, actions or decisions in relation to pension schemes.

There is evidence of an expectation among some teachers that early retirement is or should be an option that may be exercised voluntarily on or after reaching age 50. This is not a legitimate expectation as the Premature Retirement Compensation Scheme is intended to be a management tool to assist employers in managing the teaching workforce, and a not a means of facilitating those teachers who wish to retire early. (A separate provision was introduced in 2007 which allows a teacher aged 55 or over to retire before normal retirement age and receive actuarially reduced pension benefits). Nonetheless, teachers under the age of 50 whose posts are declared redundant currently have an expectation that transferred redundancy will normally be possible owing to the number of likely volunteers among the over-50s. Legislation is already in place raising the minimum retirement age to 55 with effect from 6 April 2010.

As under the proposed regulations the cost of premature retirement would no longer be borne by the NITPS, the level of compensation offered by employing authorities may be less generous than in previous years and consequently there may be fewer volunteers for redundancy. (This pattern was observed when hard charging for the total costs of premature retirement was introduced in England and Wales in 1997.) If, in future, employers are unable to identify sufficient volunteers for redundancy, there may be an increase in the number of compulsory redundancies. The age profile of redundant teachers may therefore become more mixed – or predominantly in the younger age range – rather than almost exclusively older (50+) teachers as at present. However, this depends entirely on the level of funding allocated for compensation by employing

authorities and on their ability to match redundant posts to volunteers. This would depend in turn on the extent of teachers' expectation about what constitutes a reasonable or acceptable level of compensation. In the five years immediately following 1998 the number of premature retirements in England and Wales gradually increased to around 60% of pre-1997 levels (see Annex 6).

Following the transfer to employers of costs associated with "added years" in April 2008, the number of premature retirements in schools (excluding FE Colleges) fell from 557 in 2007 to 306 in 2008 (within which redundancies fell from 516 to 272). There has been a further reduction in the number of redundancies in 2009 to 194 (as at 31 December). Of these 12 were compulsory. There is as yet no evidence to suggest that employing authorities will be unable to secure volunteers for redundancy in future years.

The argument has been advanced that the draft regulations might make it more difficult for newly qualified teachers to find work. Given that the number of teachers retired prematurely in the interests of the efficient discharge of the employer's function has been relatively small in recent years (see Annex 5), this argument appears to be predicated on the assumption that the number of premature retirements in any year is determined by the level of compensation available rather than the number of redundant posts. The Westminster Committee of Public Accounts commented⁴ that it was not justifiable to pay bounties to older teachers in order to ensure that younger teachers will find employment. Annual retirements through age and ill health, combined with a sustainable level of premature retirement, should provide ample opportunity to refresh the teaching workforce.

Enhanced severance payments would also be available at employers' discretion to teachers who are not eligible by reason of their age for immediate payment of pension. This is a positive impact.

⁴ Committee of Public Accounts, 17th Report, Session 1992-93, HC 84.

Age discrimination law requires employers to ensure that a person's age does not influence decisions that are made regarding redundancy unless there is a justifiable reason for age to be taken into account. The Employment Equality (Age) Regulations (NI) 2006 provide exceptions for statutory authority and for provision of enhanced redundancy benefits. The former provides that it shall not be unlawful to discriminate on age grounds where this has been done in order to comply with the requirement of any statutory provision. The latter allows an employer to make more generous redundancy payments than under the statutory scheme and to use one of the methods specified in the Age Regulations and based on the statutory redundancy scheme to calculate the amount of redundancy payment. Both exceptions make clear that, even though statutory redundancy payments are calculated using age-related criteria, such payments are lawful.

The onus will therefore remain on employing authorities to satisfy themselves that they can objectively justify any difference in compensation payments to individuals of different ages whose employment is being terminated early.

Religion

At present this type of information is typically collected by employing authorities during recruitment activity in line with statutory monitoring requirements. This information is not usually collated and we have not been able to identify any single source of information on the workforce in relation to this measure. However, there is no indication that this policy will unduly impact on the basis of religion. The move to a single employing authority should provide the opportunity to collate this information from a single source in future.

Political Opinion

This information is not collected by employing authorities. There is no evidence that this policy will unduly impact on members of this group.

Marital Status

At present this type of information is typically collected by employing authorities during recruitment activity in line with statutory monitoring requirements. This information is not usually collated and we have not been able to identify any single source of information on the workforce in relation to this measure.

However, there is no indication that this policy will unduly impact on the basis of marital status. The move to a single employing authority should provide the opportunity to collate this information from a single source in future.

Dependent Status

This information is not collected by employing authorities. The policy may affect teachers with dependants inasmuch as it affects teachers in different age groups (see "Age" above). It has been asserted that teachers with dependants are likely to be in the under-50 age group and therefore more vulnerable to the financial effects of redundancy. Responses to consultation suggested that the numbers of teachers with dependants facing compulsory redundancy will increase if there is a downturn in the number of older teachers volunteering for transferred redundancy. However, this did not seem to take into account the extent to which older teachers are also likely to have dependent children and/or other caring responsibilities.

It is not yet clear how the compensation offered in future years will affect the numbers and profile of those volunteering for redundancy.

Disability

At present this type of information is typically collected by employing authorities during recruitment activity in line with statutory monitoring requirements. This information is not usually collated and we have not been able to identify any single source of information on the workforce in relation to this measure. The move to a single employing authority should provide the opportunity to collate this information from a single source in future.

A Health and Wellbeing Survey⁵ commissioned by the Management Side of the Teacher Negotiating Committee in 2001 found that a small proportion (5.3%) of teachers reported that they considered themselves to have a disability.

(Disability was defined as any physical or mental impairment, which has a substantial and long term (lasted or expected to last 12 months or more) adverse impact in ability to carry out normal day to day activities.) However, there is no indication that this policy will unduly impact on the basis of disability. The policy/decision will not in any way discourage people with disabilities from participating in public life nor does it fail to promote positive attitudes towards disabled people.

There is no opportunity to better promote positive attitudes towards people with disabilities or encourage their participation in public life by making changes to the policy/decision or introducing additional measures.

Ethnicity

At present this type of information is typically collected by employing authorities during recruitment activity in line with statutory monitoring requirements. This information is not usually collated and we have not been able to identify any single source of information on the workforce in relation to this measure.

However, there is no indication that this policy will unduly impact on the basis of ethnicity. The move to a single employing authority should provide the opportunity to collate this information from a single source in future.

Sexual Orientation

This information is not collected by employing authorities. There is no indication that this policy will unduly impact on the basis of sexual orientation.

⁵ The NI Teachers' Health and Wellbeing Survey, Final Report – PricewaterhouseCoopers, December 2002: http://www.deni.gov.uk/teachers/h_safety/teachers_health_survey.pdf

5. CONSIDERATION OF MITIGATION AND ALTERNATIVES

The Department of Education is totally committed to the proper implementation of the duties imposed on public authorities by Section 75 of and Schedule 9 to the Northern Ireland Act 1998.

The effect of the draft regulations is to transfer liability for the cost of premature retirement from the NITPS to those responsible for making decisions on premature retirement. The Department's assessment is that the draft regulations will have a positive impact because they do not remove any of the benefits previously available and they will also provide employers with discretion to make enhanced severance payments up to a maximum of 104 weeks pay irrespective of age or length of service. This provision impacts positively by extending the availability of discretionary compensation to include teachers below the age of 55.

The introduction in 2007⁶ of phased retirement arrangements and the facility to take an actuarially reduced pension provide additional flexibilities for teachers approaching the end of their careers. The facility to purchase additional pension of up to £5,000, also implemented as part of the 2007 amendments, provides an additional flexibility of which employers may avail to compensate teachers as an alternative to offering premature retirement. The Teachers' Superannuation Consultative Committee is currently considering the potential benefit in introducing a Winding Down Scheme for teachers similar to that provided for by the Scottish Teachers' Superannuation Scheme.

From time to time over the years it has been proposed that the employing authorities should establish supply pools, in which redundant teachers are retained in permanent employment in order to meet substitute teaching requirements. The employing authorities made use of supply pools in the past but these were discontinued in 1994, principally on grounds of cost and because they ran counter to the principles of Local Management of Schools. It is difficult to envisage circumstances, particularly in the current economic climate, in which keeping teachers in full-time employment on full pay,

⁶ S.R. 2007 No.137 The Teachers' Pensions etc. (Reform Amendments) Regulations (NI) 2007

irrespective of whether or not there is work for them, can be considered value for money.

Historically, the multiplicity of employing authorities has militated against redeployment between ELB areas or across school management types. The Department has actively encouraged employing authorities to co-operate in securing volunteers for redundancy and the redeployment of teachers in redundant posts where appropriate. The advent of the Education and Skills Authority (ESA) as the single employing authority should facilitate the redeployment of teachers and the matching of volunteers to redundant posts; and in this context the Department, in conjunction with ESA, will re-examine the case for a teacher supply pool. At the time of publication the budget position for the 2010/11 financial year has not been finalised. However, the Department will make available at least £6m to help employing authorities manage teacher redundancies in 2010. This is new money for premature retirement and the first time that dedicated funding has been made available for this purpose.

The draft regulations will require amendment in the future to reflect the establishment of ESA as the single employing authority and to designate ESA, as the Compensating Authority for all grant-aided schools. In the meantime, as suggested by the Department for Employment and Learning in its response to the consultation on the draft regulations, the relevant governing body will be designated as the Compensating Authority for each college of further education.

It is also proposed to amend the draft regulations to afford compensating authorities greater flexibility in meeting any compensation costs for which they are liable by providing an option to pay such costs by up to five annual instalments.

To continue without the proposed legislative changes would lead to a significant increase in the NI Teachers' Pension Scheme's standard contribution rate. An increase in the employer's contribution rate would have an unwanted impact on frontline services, while an increase in the employee's contribution rate would reduce the take-home pay of all teachers, and may impact disproportionately on

younger teachers, who are more likely to be on the lower points of the pay scale. (The younger age bands also contain proportionately more women).

There is a responsibility on all employers to comply with equality legislation when making decisions to dismiss staff. Employing authorities are required to develop and implement policy on redundancy and premature retirement and be satisfied that their policies comply with equality legislation.

The Department does not consider that the draft regulations will have a discriminatory impact or any adverse impact, taking into account the current composition of the teaching profession. However, data will be collected on an annual basis about the effect the regulations are having on employers' policies and how this affects the relevant groups and sub-groups within the equality categories, as well as the number of premature retirements. If this monitoring and analysis of results over a two-year period shows a greater adverse impact than expected, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the regulations will be reviewed along with the employing authorities' relevant policies to determine whether better outcomes for the relevant equality groups may be achieved.

6. RURAL/REGIONAL PROOFING

The purpose of the rural/regional proofing is to determine whether or not the draft regulations will have a different impact on rural areas than elsewhere.

A breakdown of the number of schools located in Urban and in Rural areas by Education and Library Board is included at Annex 4. There is no evidence to suggest that the draft regulations will have an adverse impact on rural communities.

7. FORMAL CONSULTATION

Teachers' Superannuation Consultative Committee

The Teachers' Superannuation Consultative Committee (TSCC) is the established forum for consultation on matters relating to the NITPS. It comprises representatives of the five recognised teacher unions, two unions representing FE lecturers and, since 2007, employer representatives from both the school and further education sectors. Members of the Committee were first made aware in February 2006 that action was required to control the escalating costs of the PRCS. PRCS has featured as an agenda item at every meeting of the TSCC since then. Meetings were held in June 2006, December 2006, June 2007, November 2007, June 2008, November 2008, May 2009, June 2009 and November 2009.

PRCS Review Group

A sub-group of the Committee, the PRCS Review Group, was set up to consider options to manage the costs of the premature retirement compensation scheme and to bring forward recommendations. Its remit is to bring forward options for managing the costs of the premature retirement compensation scheme. The Working Group met on 26 February 2008, 7 April 2008, 25 June 2008, 13 November 2008, 5 February 2009 and 27 May 2009.

The Group comprises representatives of the Department, employers and trade unions as follows:

- 6 representatives from DE (including Chair and 1 from ESAIT);
- 1 representative from DEL;
- 5 Employer representatives (4 nominated by Management Side of TNC and 1 from ANIC); and
- 7 TUS representatives: 1 each from ATL; INTO; NAHT; NASUWT; UTU; ACM & UCU.

Public Consultation

The draft regulations, together with an Equality Screening of the draft regulations, issued for formal consultation on 12 March 2009 to bodies in the education sector, other stakeholders, Section 75 consultees and other interested parties. In addition, schools were emailed and the consultation was advertised in the Belfast Telegraph, the Irish News, the Newsletter and Foinse. The document was also available through the DE website. The consultation closed on 15 May 2009. A summary of the key issues from responses to the consultation is set out at Annex 2.

Equality Impact Assessment (EQIA)

Following consideration of responses to the consultation and Equality Screening, the Department decided that a full EQIA should be carried out. . The Consultation on the potential equality impacts of the draft regulations followed the Equality Commission's guiding principles to consultation contained in their Practical Guidance on Equality Impact Assessment. The Department:

- notified the opening of the consultation and the availability of the EQIA consultation document to schools, educational interest groups, religious groups, Section 75 groups, all stakeholders involved in prior consultation on the draft regulations and to any members of the public on request;
- placed a copy of the consultation documents on DE's website and a link to the consultation on the OFMDFM website through Policy Link, together with an on-line consultation response form;
- made the consultation documentation available in alternative formats for those who requested it.

The consultation was co-ordinated by Teacher Negotiating & Pensions Policy Branch and the closing date was 29 January 2010.

8. DECISION BY THE PUBLIC AUTHORITY

The Department has analysed the responses to the consultation and has taken the findings of the EQIA into account in arriving at final decisions on the draft regulations.

The Minister has reviewed the draft regulations in light of the main points raised in the course of consultation, including the conclusions in the final EQIA, and has confirmed that the regulations should be made as drafted, subject to:

- the inclusion of a provision to afford compensating authorities the flexibility to meet compensation costs in up to five annual instalments; and
- the designation of the relevant governing body as the compensating authority for each college of further education.

9. PUBLICATION OF RESULTS OF EQUALITY IMPACT ASSESSMENT

The Department will be writing to all those who participated in the consultation to advise that the final EQIA has been published on the Department's website and to offer a copy of the EQIA in a format of their choice.

10. MONITORING FOR ADVERSE IMPACT IN THE FUTURE AND PUBLICATION OF THE RESULTS OF SUCH MONITORING

Data will be collected on an annual basis about the effect the regulations are having on employers' policies and how this affects the relevant groups and sub-groups within the equality categories as well as the number of premature retirements. If this monitoring and analysis of results over a two-year period shows a greater adverse impact than expected, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the regulations will be reviewed along with the employing authorities' relevant policies to determine whether better outcomes for the relevant equality groups may be achieved.

GLOSSARY OF TERMS

ACM	Association of College Managers
ANIC	Association of NI Colleges
ATL	Association of Teachers and Lecturers
DE	Department of Education
DEL	Department for Employment and Learning
ELB	Education and Library Board
EQIA	Equality Impact Assessment
ESA	Education and Skills Authority
ESAIT	Education and Skills Authority Implementation Team
FE	Further Education
GAD	Government Actuary's Department
GTC (NI)	General Teaching Council for NI
INTO	Irish National Teachers' Organisation
NAHT	National Association of Head Teachers
NASUWT	National Association of Schoolmasters/Union of Women Teachers
NIAO	NI Audit Office
NITPS	NI Teachers' Pension Scheme
OFMDFM	Office of First Minister and Deputy First Minister
PAC	Committee of Public Accounts (Westminster)
PRCS	Premature Retirement Compensation Scheme
RPA	Review of Public Administration
TNC	Teacher Negotiating Committee
TSCC	Teachers' Superannuation Consultative Committee
TUS	Trade Union Side
UCU	University and College Union
UTU	Ulster Teachers' Union

Summary of Consultation Responses to the Draft Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (NI) 2009 and complementary amendments to the Teachers' Superannuation Regulations (NI) 1998.

Following approval from the Minister for Education, the draft regulations issued for formal consultation on 12 March 2009 to bodies in the education sector, other stakeholders, Section 75 consultees and other interested parties. In addition, schools were emailed and the consultation was advertised in the Belfast Telegraph, the Irish News, the Newsletter and Foinse. The document was also available through the DE website. The consultation closed on 15 May 2009.

Below is a summary of the key issues from the responses during the consultation process. Each response has been analysed and issues raised have been fully considered by the Department.

Responses were received from 77 organisations/individuals in the following categories.

Principal / VP	17
Teacher	41
School Governor	1
Employing Authorities/Organisations	5
Teachers Unions	6
Local Councils	2
Government Departments	2
Other	3
Total	77

Responses were mainly negative. In relation to the specific question - ***Are you content that there is a need for the Department to make these regulations?*** The percentage of organisations directly expressing disagreement was 80.5%, 9.1% were in agreement and 10.4% neither agreed nor disagreed (see breakdown of figs in table below). Employing Authorities were supportive of the need for changes to the regulations. The vast majority of responses from teachers echoed concerns raised by teacher unions during consultation through the review group. Although over 10% of respondents agreed there was a need for the regulations almost all respondents (including those who agreed with the need for the regulations) raised one or more specific issues falling under the following themes:

- Financial
- Impact on teachers
- Educational issues
- Timing
- Equality
- Legislative
- Consultation
- Re-employment of retired teachers.

Response Category	YES	NO	Not Sure	Did Not Answer
Principal / VP	0	15	2	0
Teachers	0	41	0	0
School Governor	0	1	0	0
Employer	4	0	1	0
Teacher Unions	1	4	0	1
Local Councils	0	0	0	2
Govt Depts	1	0	0	1
Others	1	1	0	1
Total	7	62	3	5
%	9.1	80.5	3.9	6.5

Financial

Twenty four respondents made comments about financial issues. The main themes raised were as follows:

- Insufficient funds have been made available to employers to enable them to pay the extra cost of premature retirement resulting in employers being unable to manage their workforce effectively.
- Based on the common funding formula, declining pupil numbers will result in reduced funding which in turn will require reductions in teaching staff. If this is to continue to be facilitated by encouraging voluntary early retirement of teachers, sufficient funding needs to be allocated to avoid the need for compulsory redundancy.
- There needs to be a contingency fund created to resolve any difficulties created if the changes are created on the proposed date.
- Lack of detail on the actual funding mechanism that will be used.
- Savings can be made from releasing teachers employed on higher salary scale points and employing newly qualified teachers.
- The necessary savings should be made through administrative savings in government departments.
- A comparison should be made between the costs for sickness absence compared with the savings which the new proposals are expected to provide.
- Teachers in receipt of a Teaching Allowance in their existing school are entitled to a Reorganisation Allowance to retain their salary at its existing level if they are unsuccessful in obtaining a post of responsibility in the new school or a post of responsibility at the same level. This additional cost would have to be accounted for.

- Increased risk of challenges at industrial tribunal and the associated costs including employers' time defending such cases.

Impact on Teachers

Seventy one respondents highlighted an impact on teachers. The main themes raised were as follows:

- Older teachers unable to retire early creating an increase in personal stress levels; it is suggested that teachers' are "burnt out" by their early 50's.
- The Department of Education should review the career profile and support provided for teachers who may otherwise suffer from "burn out".
- Older teachers should be encouraged to leave the profession to facilitate the employment of younger teachers.
- Teachers accepting voluntary early retirement will be financially disadvantaged.
- Reduced promotion opportunities.
- Newly Qualified Teachers will find it more difficult to obtain work.
- Actuarial reductions should not be applied in redundancy cases such as curricular needs, closure or amalgamation of schools.

Educational Issues

Thirty four respondents commented on the impact on education. The main themes raised were as follows:

- There is likely to be an adverse impact on the quality of education provision within schools arising from the retention of staff who otherwise

would have accepted early retirement and been replaced by younger teachers.

- Scotland, England & Wales have a shortage of teachers while the north of Ireland has a surplus.
- Pupils will suffer as older teachers may be unable to deliver new curriculum requirements and embrace technological changes in classrooms.
- The changes will inhibit Boards of Governors and Employing Authorities securing voluntary redundancies with the associated staff morale, governance and financial implications in the declaration of Compulsory Redundancies.
- Area Based Planning is about anticipating the future education needs of an area and planning to meet those needs. Its central objective is to provide a sufficiency of education places through the appropriate mix of facilities of the right size, in the right locations. At present this objective is not being achieved – there is significant surplus capacity, struggling schools with falling rolls and no integration of planning across the different sectors. To meet this key objective of Area Based Planning, based on demographic downturn and reduction of current surplus places, school closures, rationalisation and amalgamations will have to occur. This will result in fewer teaching posts being required which in turn will require reductions in teaching staff. Without the Teachers' Premature Retirement Compensation Scheme in place, this will prove very difficult for the relevant bodies to achieve.
- There are consistent reports from schools in relation to the benefits for learning from the engagement of the younger cohort of teachers especially in the area of ICT skills and their application to the classroom.
- A reduction in the number of new teachers required would result in a corresponding reduction in the number of teacher training places. We

need to be careful to ensure that teacher training facilities retain the capacity to cope with a future upturn in demand and the north of Ireland does not end up, as is the current position in England & Wales, with a future shortfall of teachers.

- The co-operation of staff in the schools concerned for closure/amalgamation must be secured in order to ensure that the proposed closure/amalgamation proceeds smoothly and to sustain teacher morale and Trade Union support. Experience demonstrates that compulsory redundancies are disproportionately demoralising on the workforce and undermine good industrial relations in schools.

Timing

Twenty two respondents commented on the timing of the changes. The main themes raised were as follows:

- Changes should be deferred until the completion of the school rationalisation process.
- These changes should be delayed until the establishment of ESA.
- The changes are being made too quickly; the changes should be phased in or delayed.
- There is a lack of clarity for those affected by redundancy. The proposals should be delayed and/or phased in.
- A number of principals and teachers have deferred their retirement to stay in schools whose closure has been postponed for a year and as a result have now lost out on the ability to access their pension.
- The changes are being rushed through and will impact on the intake upon Teacher Training Colleges.

Legislative

Eleven respondents commented on the actual content of the legislation. The main themes raised were as follows:

- Further Education Colleges should be designated as both Deciding and Compensating Authorities.
- There should be no discretion in Part 2.
- There is no specific definition of the employer.
- The regulations should be amended to allow for a pool of teachers to be created to support schools thus ensuring no compulsory redundancies.
- It is unclear from Part 4 of the proposed regulations if this mandatory compensation only applies in the event of premature retirement on efficiency discharge grounds of the employers function and not when an employer permits a teacher to retire early but with actuarially reduced benefits.
- The minimum level of benefit is not specified.
- There is no definition of the term “up to a maximum”.
- A step down scheme for Head Teachers should be devised to treat them equally.
- The method by which notional investment outcome is determined should be subject to open and transparent scrutiny by the recognised negotiating body.

Equality Issues

Twenty-one respondents commented in relation to equality issues arising as a result of the changes. Fifteen respondents requested that a full EQIA should be carried out and, of these, 4 gave detailed reasons. The main themes raised were as follows:

- New arrangements are discriminatory against teachers now over 50, who will have to work longer and whose health may suffer as a result.
- As older teachers remain longer in employment, newly qualified teachers will find it more difficult to obtain work. Younger teachers will be more likely to suffer compulsory redundancy.
- There will be an impact in terms of gender given the high proportion of female teachers, particularly in the lower age ranges.
- There will be an impact on the dependants of teachers who take actuarially reduced pensions

A number of other concerns were raised, which are more properly concerns about fairness/equity rather than equality in terms of Section 75 groups:

- The regulations will have a potentially greater impact upon teachers working in the secondary sector than upon those in the grammar sector.
- These changes will result in compulsory redundancies.
- Arrangements for teacher redundancy are the least attractive of any group of public sector workers in the north of Ireland. A parallel has been drawn with severance terms available to non teaching school staff, and the RPA affected group.
- The discretionary element to the compensation could lead to unequal treatment.

Consultation

Fifteen respondents commented on consultation. The main themes raised were as follows:

- There has been no attempt to engage in meaningful consultation.
- The consultation period was too short.
- The changes should be negotiated and agreed with the recognised teacher unions.

Re-employment of Retired Teachers

Three respondents commented that:

- Retired teachers should not be re-employed as substitute teachers.

Department's comments and changes proposed in response to issues raised in the consultation

Issue Raised in Consultation	Comment	Changes Proposed
<p>(1) Insufficient funding has been made available to employers to make effective use of the premature retirement arrangements.</p>	<p>At the time of publication the budget position for the 2010/11 financial year has not been finalised. However, the Department will make available at least £6m to help employing authorities manage teacher redundancies in 2010. This is new money for premature retirement and the first time that dedicated funding has been made available for this purpose.</p> <p>The arguments associated with lack of funding are predicated on the assumption that employers will be unable to secure sufficient volunteers to avoid compulsory redundancies. Evidence from the other teacher schemes, which moved to hard charging in the 1990s, indicates that whilst there was an initial drop off in the number of volunteers, the numbers volunteering increased once teacher expectations had adjusted to the level of compensation offered by employing authorities.</p>	<p>It is proposed to amend the draft regulations to afford compensating authorities greater flexibility in meeting any compensation costs for which they are liable by providing an option to pay such costs by up to five annual instalments.</p>
<p>(2) Savings in other areas should be used to allow the PRCS to continue unchanged, e.g. savings from administrative costs in government departments; potential</p>	<p>This argument is based on a misconception that administrative savings can be redirected to meet the ongoing liabilities of the Teachers Pension Scheme. This is not the case. In broad terms, all pension schemes operate on the basis that contributions paid</p>	<p>None</p>

Issue Raised in Consultation	Comment	Changes Proposed
<p>savings that could be made from releasing teachers at the top of the pay scale and employing NQTs; and savings from not having to meet potential additional costs, including legal costs, that may arise from an increase in compulsory redundancies.</p>	<p>by members and their employers should be sufficient to cover the cost of future benefits. However, paying pensions early or with added years involves significant extra costs which disturb the equilibrium. In recent years the Teachers' Pension Scheme liabilities have been increasing by upwards of £60m a year on account of Premature Retirement Compensation. Such a position is unsustainable and requires immediate action to control the costs of premature retirement. To continue without taking action would mean a significant increase in the NI Teachers' Pension Scheme's standard contribution rate. An increase in the employer's contribution rate would have an unwanted impact on frontline services, while an increase in the employee's contribution rate would reduce the take-home pay of all teachers.</p> <p>Also, in other areas of employment, redundancies are typically made to reduce the number of posts, not to allow for the replacement of more expensive employees. This is normally achieved through natural wastage.</p> <p>The existing system does not encourage employers to behave prudently. For example, it has been common practice (prior to 1 April 2008) for employers</p>	

Issue Raised in Consultation	Comment	Changes Proposed
	<p>to award the maximum enhancement in each case. The PAC was critical of both the generosity of the scheme and the increasing incidence of its use. It is right that those making decisions to grant premature retirement should have to account for any additional expenditure not covered by contributions to the pension scheme.</p> <p>The circumstances under which premature retirement is granted or severance payments are made and the level of such payments will be a matter for the employer. Employing authorities have a duty to satisfy themselves, the Department and ultimately the taxpayer that they are achieving value for money in the use of public funds. The Department agrees that, when weighing up the costs associated with a decision to make a redundancy, employers should take into account the potential savings in salary costs as well as any potential legal or other costs that might arise in the event of a compulsory redundancy.</p>	
<p>(3) Older teachers will be unable to retire early creating an increase in personal stress levels and other health related problems; it is suggested that teachers are "burnt out" by their early 50's.</p>	<p>Responsibility for teachers' health and wellbeing ultimately rests with teachers' employers. The Department fully acknowledges the importance of healthy schools – for pupils, teachers and support staff – and is aware of the health and wellbeing issues facing teachers today and the importance of addressing them if we are to retain a committed,</p>	<p>The Teachers' Superannuation Consultative Committee is currently considering the potential benefit in introducing a Winding Down Scheme for teachers similar to that provided for by the Scottish Teachers' Superannuation Scheme.</p>

Issue Raised in Consultation	Comment	Changes Proposed
	<p>motivated and healthy workforce. Through the Teacher Negotiating Committee, the Department, employing authorities and teacher unions are currently developing a strategy for the promotion of teacher health and wellbeing.</p> <p>As part of the current Teacher Education Review (TER), the General Teaching Council for Northern Ireland (GTCNI) was commissioned to submit recommendations to the Department on, among other things, Continuing Professional Development (CPD). Research commissioned by the Department for Children, Schools and Families (DCSF) has identified CPD as a consistently positive influence on teachers across all professional life phases. The GTCNI's recommendations focused on the establishment of a new Professional Development Framework together with professional milestones (Chartered Teacher and Advanced Chartered Teacher) with a view to reinvigorating teachers in their mid/late career through relevant and structured CPD provision. The CPD of teachers is an important aspect of the TER and, as such, the draft TER policy framework document includes proposals based on the GTCNI's recommendations. The Department believes that this the appropriate context in which to address concerns about maintaining older teachers' motivation,</p>	

Issue Raised in Consultation	Comment	Changes Proposed
	effectiveness and commitment. Using an expensive early retirement scheme to deal with issues such as teacher burnout is merely masking an underlying problem and does not represent a legitimate solution.	
(4) Those accepting voluntary early retirement will be financially disadvantaged; older teachers will remain in employment longer thus impacting on promotion opportunities for those in employment and creating difficulties for NQTs in finding employment.	<p>It is not a defensible use of finite public funds to provide expensive early retirement packages to older teachers, many of whom subsequently seek and obtain re-employment as substitute teachers, in order to ensure that younger teachers will find employment. To continue without the proposed legislative changes would lead to a significant increase in the NI Teachers' Pension Scheme's standard contribution rate. An increase in the employer's contribution rate would have an unwanted impact on frontline services, while an increase in the employee's contribution rate would reduce the take-home pay of all teachers, and may impact disproportionately on younger teachers, who are more likely to be on the lower points of the pay scale. (The younger age bands also contain proportionately more women).</p> <p>In December 2002 the Government published a Green Paper entitled Simplicity, Security and Choice: Working and saving for retirement. The Green Paper contained proposals and recommendations to</p>	None

Issue Raised in Consultation	Comment	Changes Proposed
	<p>encourage people to work longer and save more for retirement. In June 2003, in Working and saving for retirement - action on occupational pensions, a recommendation was made that all public service pension schemes should be reviewed. The Government was of the view that normal pension age should be increased, and schemes changed to reflect improved longevity and modern working patterns.</p> <p>A wide-ranging review of all of the Teachers' Pensions Schemes (including NITPS) began in November 2003, and a package of reforms was agreed between Government, unions and employers to ensure financial sustainability in the longer term, and to meet the needs of an increasingly diverse, and modern, workforce. To continue with an unfunded PRCS in this context runs counter to established policy for public sector pensions.</p> <p>The arrangements by which teachers are compensated for premature retirement are intended to provide a management tool which Employing Authorities can use to bring about a qualitative improvement in the educational provision in their schools. They allow teachers' employers to effect redundancies in the context of necessary</p>	

Issue Raised in Consultation	Comment	Changes Proposed
	<p>organisational change and to retire teachers in the interests of the efficient discharge of the employers function. They do not confer a right to early retirement on teachers. A separate provision was introduced in 2007 which allows a teacher aged 55 and over to retire before normal retirement age and receive actuarially reduced pension benefits.</p>	
<p>(5) Arguments have been made based on demographic downturn, school closures, rationalisation and amalgamations; the benefits for learning to be gained from the engagement of the younger cohort of teachers; the potential impact on the need for teacher training; and the difference in the supply and demand model in the north of Ireland compared to Scotland, England and Wales.</p>	<p>Again, assertions about the potential effects of the draft regulations are predicated on the assumption that employers will be unable to secure sufficient volunteers to avoid compulsory redundancies. Evidence from the other teacher schemes, which moved to hard charging in the 1990's, indicates that whilst there was an initial drop off in the number of volunteers, the numbers volunteering increased once teacher expectations had adjusted to the level of compensation offered by employing authorities.</p>	<p>None</p>
<p>(6) The changes should be delayed or phased to varying degrees.</p>	<p>In one sense the Department has already adopted a phased approach in that employing authorities were asked to meet the cost of added years from 2008 while the benefits of early payment of unreduced pension and lump sum have remained available in the interim at no immediate cost to employers. Employers here have already enjoyed an ostensibly</p>	<p>None</p>

Issue Raised in Consultation	Comment	Changes Proposed
	<p>cost-neutral premature retirement compensation scheme for over a decade longer than their counterparts in Scotland and in England & Wales. In 2005 as part of the work involved in compiling the 2001 Report of the Government Actuary on the Teachers Superannuation Scheme (NI), the Government Actuary's Department (GAD) advised that, in order to maintain the current level of premature retirements, the employers' rate of contribution would need to increase by between 7.5% and 8%. In order to satisfy the Actuary about the ongoing viability of the pension scheme as a whole, and avoid the need for an immediate increase in contributions which would have added over £60m to annual public expenditure, the Department asked GAD to plan on the assumption that employing authorities would be responsible for the additional costs of early retirement from 1 April 2007. In setting the contribution rate from 1 April 2006 GAD therefore assumed that employers would meet the full cost of premature retirement from 1 April 2007, thus avoiding the need for an immediate increase in contributions. However, in the event the changes planned for April 2007 were deferred to coincide with the establishment of the Education and Skills Authority (ESA), which was initially scheduled for April 2008. As the establishment of ESA did not take place in 2008, hard-charging for enhancements ("added years") only was introduced as an interim measure.</p>	

Issue Raised in Consultation	Comment	Changes Proposed
	<p>The Scheme therefore continued to meet the full cost of premature retirement in 2007 and the cost of early payment of pension in 2008 and 2009. GAD is expected to have the 2008 Valuation Report completed during 2010 and will have to take into account additional liabilities accrued in 2007, 2008 and 2009 when setting the new contribution rate. The longer the proposed changes are delayed, the greater the resulting increase in contribution rates will be.</p>	
<p>(7) The timing of the proposals has created problems for employers and teachers in handling the redundancy process during the 2008/09 school year.</p>	<p>The Department acknowledges the uncertainty that had been created for employers and teachers due to the fact that the redundancy procedure in 2009 had to take place on the basis of anticipated legislation. However, the Department has a duty to ensure value for money in the use of public funds. Employers have been aware that DE proposed changes to the PRCS since 2006 and the Department advised them in December 2007 when hard charging was introduced for added years that this was an interim measure prior to consulting on the necessary legislative change required to introduce full hard charging.</p>	<p>None</p>
<p>(8) The Department of Employment and Learning (DEL) has asked that Further Education Colleges should be designated as both Deciding and Compensating Authorities.</p>	<p>The draft regulations will require amendment in the future to reflect the establishment of ESA, as the single employing authority. and to designate ESA as the Compensating Authority for all grant-aided schools. In the meantime, as suggested by the</p>	<p>The relevant governing body is designated as the Compensating Authority for each college of further education;</p>

Issue Raised in Consultation	Comment	Changes Proposed
	<p>Department for Employment and Learning in its response to the consultation on the draft regulations, the relevant governing body will be designated as the Compensating Authority for each college of further education.</p>	
<p>(9) The Regulations should be amended to allow for a pool of teachers to be created to support schools thus ensuring no compulsory redundancies.</p>	<p>From time to time over the years it has been proposed that the employing authorities should establish supply pools, in which redundant teachers are retained in permanent employment in order to meet substitute teaching requirements. The employing authorities made use of supply pools in the past but these were discontinued in 1994, principally on grounds of cost and because they ran counter to the principles of Local Management of Schools. It is difficult to envisage circumstances, particularly in the current economic climate, in which keeping teachers in full-time employment on full pay, irrespective of whether or not there is work for them, can be considered value for money.</p> <p>Historically, the multiplicity of employing authorities has militated against redeployment between ELB areas or across school management types. The Department has actively encouraged employing authorities to co-operate in securing volunteers for redundancy and the redeployment of teachers in redundant posts where appropriate. The advent of the Education and Skills Authority (ESA) as the single</p>	

Issue Raised in Consultation	Comment	Changes Proposed
	<p>employing authority should facilitate the redeployment of teachers and the matching of volunteers to redundant posts; and in this context the Department, in conjunction with ESA, will re-examine the case for a teacher supply pool. At the time of publication the budget position for the 2010/11 financial year has not been finalised. However, the Department will make available at least £6m to help employing authorities manage teacher redundancies in 2010. This is new money for premature retirement and the first time that dedicated funding has been made available for this purpose.</p>	
<p>(10) Discretion should be removed and a minimum level of benefits should be specified.</p>	<p>It is not appropriate to remove discretion or specify a minimum level of benefits payable. This could result in placing a financial burden on employers which they may not have the resources to meet. It is right that the circumstances under which premature retirement is granted or severance payments are made – and the level of such payments – will be a matter of policy on the part of the employer. There is a responsibility on all employers when making decisions to dismiss staff to comply with equality legislation.</p>	
<p>(11) The term “up to a maximum” and the word “employer” have not been defined in the regulations.</p>	<p>The Department is content that the regulations contain all appropriate definitions. The term up to a maximum is self explanatory. The word “employer” has no specific function within the regulations and does not need to be defined. The regulations use (and define) the terms “appropriate body”, “employing authority”, “deciding authority” and “compensating</p>	

Issue Raised in Consultation	Comment	Changes Proposed
	authority” to assign responsibility for decision making and liability for costs.	
(12) A step down scheme for Head Teachers should be devised to treat them equally.	The Teachers’ Pensions etc (Reform Amendments) Regulations (NI) 2007 provide for pensionable salary to be calculated using the average of the three best consecutive years (increased in line with the retail price index) in the last ten years. This provision provides protection for those wishing to take up a post of lesser responsibility towards the end of their careers. The Teacher Negotiating Committee is currently discussing the feasibility of a common winding down scheme administered by employing authorities. Provisions for phased retirement already exist within the pension scheme and the Teachers’ Superannuation Consultative Committee is currently considering the potential benefit in introducing a Winding Down Scheme for teachers similar to that provided for by the Scottish Teachers’ .	
(13) The method by which notional investment outcome is determined should be subject to open and transparent scrutiny by the recognised negotiating body.	This amendment is of a technical nature to comply with Treasury guidance. It is not apparent why respondents should believe that issues of this nature should be included in the scope of negotiations with teacher unions.	
(14) A full EQIA should be carried out as there could be impacts in relation to gender, age and/or dependent status.	Accepted	A full EQIA has been carried out, consultation on the EQIA finished on 29 January 2010.

Issue Raised in Consultation	Comment	Changes Proposed
<p>(15) A parallel has been drawn with severance terms available to non teaching school staff, and the RPA affected group.</p>	<p>The new regulations will bring the Teachers' Pension Scheme into line with other public sector schemes where employers are already responsible for meeting the additional costs of premature retirement. The new regulations do not remove any of the benefits previously available and they will also provide employers with discretion to make enhanced severance payments up to a maximum of 104 weeks pay irrespective of age or length of service. (For those over minimum retirement age this can be used as an alternative to granting Premature Retirement Compensation.) It should be noted that there is a significant difference between managing the teaching workforce over the long term and implementing a one off major review of public sector administration.</p>	
<p>(16) The regulations will have a potentially greater impact upon teachers working in the secondary sector than upon those in the grammar sector.</p>	<p>It is not clear from this assertion which Section 75 group might be affected. Again it appears that the assertion relies on the assumption about an increase in compulsory redundancies proving correct. At bottom the issue is that, under a system of academic selection, secondary schools are more vulnerable than voluntary grammar schools to the effects of demographic decline on enrolment numbers. This issue is currently being addressed through other policies.</p>	

Issue Raised in Consultation	Comment	Changes Proposed
<p>(17) The discretionary element to the compensation could lead to unequal treatment.</p>	<p>The circumstances under which premature retirement compensation is granted or severance payments are made, and the level of such payments, will be a matter for the employer. The onus will remain on employing authorities to satisfy themselves that they can objectively justify any difference in compensation payments to individuals whose employment is being terminated early.</p> <p>Employing authorities agreed to act consistently in 2009 in the award of premature retirement compensation and co-operated in seeking to keep compulsory redundancies to a minimum and ensure an optimum level of redeployment. The introduction of ESA as a single employer should further address any concerns about the potential for unequal treatment.</p>	
<p>(18) There has been no attempt to engage in meaningful consultation on these changes which should have been agreed with the teacher unions; and the consultation period was too short.</p>	<p>The Teachers' Superannuation Consultative Committee is the established forum for consultation on matters relating to the Teachers' Pension Scheme. It comprises representatives of the five recognised teacher unions, two unions representing FE lecturers and, since 2007, employer representatives from both the school and further education sectors. Members of the committee were first made aware in February 2006 that action was required to control the</p>	

Issue Raised in Consultation	Comment	Changes Proposed
	<p>escalating costs of the PRCS. PRCS has featured as an agenda item at every meeting of the Committee since then. Consultation has also taken place with the teacher unions and employing authorities through the Premature Retirement Compensation Working Group, which is a sub-group of the Teachers' Superannuation Consultative Committee. The Working Group met on 26 February 2008, 7 April 2008, 25 June 2008, 13 November 2008, 5 February 2009 and 27 May 2009.</p> <p>Members of the group were invited from the outset to put forward alternatives to hard charging. None were suggested, other than that the changes proposed by the Department should be phased in over a longer period.</p>	
<p>(19) Teachers should effectively be banned from seeking further employment following early retirement.</p>	<p>The Department has repeatedly advised employers that retired teachers should only be re-employed to provide short-term cover where newly qualified teachers or experienced non-retired teachers are unavailable.</p> <p>The rules of the Teachers' Pension Scheme militate against the employment of retired teachers, in that such teachers may suffer a reduction in pension as a result of earnings from employment as a teacher. The Department has strict controls in place to monitor</p>	

Issue Raised in Consultation	Comment	Changes Proposed
	<p>such cases.</p> <p>Since 1999/2000 the level of central reimbursement by education and library boards of the cost of substitute cover has been capped at point 4 of the Main Scale. This provides an incentive for schools to employ newly qualified teachers to provide substitute cover in preference to costlier retired teachers. However, schools have the flexibility to decide to engage a teacher at a higher cost at a charge to the school budget if they so desire.</p> <p>The Department is currently exploring options for further restrictions on the re-employment of prematurely retired teachers, taking into account the possible legal and equality issues that might arise from any potential new measures.</p>	

AVAILABLE DATA ON THE TEACHING WORKFORCE IN THE NORTH OF IRELAND

1. Number of teachers by age and gender, March 2008

Age Range	Female	%	Male	%	Total	%
<i>24 and under</i>	304	81.5	69	18.5	373	1.9
<i>25 to 29</i>	2064	79.5	531	20.5	2595	13.1
<i>30 to 34</i>	2534	78.6	689	21.4	3223	16.3
<i>35 to 39</i>	2558	77.2	756	22.8	3314	16.7
<i>40 to 44</i>	1899	74.1	664	25.9	2563	12.9
<i>45 to 49</i>	1681	70.3	711	29.7	2392	12.1
<i>50 to 54</i>	2198	71.2	891	28.8	3089	15.6
<i>55 to 59</i>	1248	65.6	655	34.4	1903	9.6
<i>60 to 64</i>	199	60.1	132	39.9	331	1.7
<i>65 and over</i>	12	63.2	7	36.8	19	0.1
<i>Totals</i>	14697	74.2	5105	25.8	19802	100.0

Source: GTC (NI) Digest of Statistics 2008

2. Number of teachers by school management type and gender, March 2008

Gender	Catholic Maintained Schools	Controlled Integrated Schools	Controlled Schools	Grant Maintained Integrated Schools	Other Maintained Schools	Voluntary Grammar Schools	Totals
Female	4,958	212	6,607	679	141	2,100	14,697
Male	1,705	65	1,834	232	43	1,226	5,105
Totals	6,663	277	8,441	911	184	3,326	19,802

Source: GTC (NI) Digest of Statistics 2008

3. Number of teachers by school management type and age, March 2008

Age Range	Catholic Maintained Schools	Controlled Integrated Schools	Controlled Schools	Grant Maintained Integrated Schools	Other Maintained Schools	Voluntary Grammar Schools	Totals
24 & under	89	4	182	28	7	63	373
25 to 29	780	44	1,144	147	50	430	2,595
30 to 34	1,048	55	1,322	223	34	541	3,223
35 to 39	1,212	44	1,295	181	32	550	3,314
40 to 44	959	32	988	120	14	450	2,563
45 to 49	822	27	967	92	18	466	2,392
50 to 54	1,095	47	1,400	75	13	459	3,089
55 to 59	555	20	969	39	11	309	1,903
60 to 64	102	4	159	5	5	56	331
65 & Over	1		15	1		2	19
Totals:	6,663	277	8,441	911	184	3,326	19,802

Source: GTC (NI) Digest of Statistics 2008

4. Teachers with a disability

A Health and Wellbeing Survey¹ commissioned by the Management Side of the Teacher Negotiating Committee in 2001 found that a small proportion (5.3%) of teachers reported that they considered themselves to have a disability. (Disability was defined as any physical or mental impairment, which has a substantial and longterm (lasted or expected to last 12 months or more) adverse impact in ability to carry out normal day to day activities.)

¹ The NI Teachers' Health and Wellbeing Survey, Final Report – PricewaterhouseCoopers, December 2002: http://www.deni.gov.uk/teachers/h_safety/teachers_health_survey.pdf

5. Number of schools located in Urban and in Rural areas by Education and Library Board 2008/09

		Belfast	Western	North Eastern	South Eastern	Southern	NI total
Nursery schools	Rural	0	1	0	2	4	7
	Urban	32	11	15	17	16	91
	Total	32	12	15	19	20	98
Primary schools (inc. prep)	Rural	0	129	126	72	166	493
	Urban	94	56	85	86	59	380
	Total	94	185	211	158	225	873
Post primary Secondary (non-grammar) schools	Rural	0	13	11	8	10	42
	Urban	20	18	25	20	29	112
	Total	20	31	36	28	39	154
Grammar schools	Rural	0	2	1	0	2	5
	Urban	16	11	15	10	12	64
	Total	16	13	16	10	14	69
Special schools	Rural	0	1	0	2	1	4
	Urban	11	6	9	8	4	38
	Total	11	7	9	10	5	42

Source: NI school census

Note:

Classification of urban and rural areas is as set out in the Report of the Inter-Departmental Group on Statistical Classification and delineation of Settlements (February 2005).

RETIREMENT OF TEACHERS AND FE LECTURERS IN THE NORTH OF IRELAND

1990-91 to 2009-10 financial years - Correct up to 1 October 2009

Year	Premature		Total	Age	Actuarially Reduced	Ill Health	Total Retirements	Premature as % of the total
	Efficient Discharge	Redundancy						
1990-91	246	164	410	169		104	683	60
1991-92	208	174	382	154		84	620	62
1992-93	131	149	280	174		114	568	49
1993-94	106	141	247	191		136	574	43
1994-95	85	173	258	162		159	579	45
1995-96	60	170	230	198		200	628	37
1996-97	56	274	330	214		182	726	45
1997-98	52	410	462	232		182	876	53
1998-99	61	327	388	240		183	811	48
1999-00	52	287	339	224		177	740	46
2000-01	57	376	433	229		181	843	51
2001-02	53	358	411	231		180	822	50
2002-03	49	378	427	248		184	859	50
2003-04	53	386	439	273		147	859	51
2004-05	44	373	417	289		121	827	50
2005-06	46	567	613	291		126	1030	60
2006-07	48	540	588	368		137	1093	54
2007-08	42	561	603	285	30	158	1076	56
2008-09	28	476	504	305	72	78	959	53
2009-10	1	166	167	224	63	46	500	35
Total	1,478	6,450	7,928	4,701	165	2,879	15,673	51

Source: DE Teachers' Pensions computer system

RETIREMENTS FROM LOCAL AUTHORITY MAINTAINED SCHOOLS IN ENGLAND¹

Financial year	Premature ²³	Age	Ill-health ⁴	Total	Premature as % of Total
1989-90	8,060	3,500	3,580	15,140	53
1990-91	7,740	3,500	4,280	15,520	50
1991-92	6,530	3,170	4,030	13,730	48
1992-93	7,170	3,310	4,050	14,530	49
1993-94	8,030	3,430	4,820	16,280	49
1994-95	7,120	3,520	5,290	15,930	45
1995-96	8,600	3,480	5,160	17,240	50
1996-97	10,210	3,300	4,980	18,490	55
1997-98	11,350	3,590	3,260	18,200	62
1998-99 ⁵	2,370	3,850	2,280	8,500	28
1999-00	2,650	4,280	2,320	9,250	29
2000-01	3,150	4,250	2,630	10,030	31
2001-02	3,470	4,450	2,380	10,300	34
2002-03	3,950	5,070	2,030	11,050	36
2003-04	4,930	5,690	1,870	12,490	39
2004-05	6,050	6,580	1,580	14,210	43
2005-06	6,640	6,440	1,500	14,580	46
2006-07 ⁶	7,460	8,610	1,100	17,170	43
2007-08	7,440	10,120	720	18,280	41
2008-09	7,880	10,700	610	19,190	41

Source: Pensioner Statistical System (PENSTATS).

¹ Excludes sixth form colleges.

² Includes phased retirements and in these cases the teachers may remain in service.

³ The effect of the change in the Teachers' Pension Scheme as from 31 August 1997 was that many more teachers took early retirement in 1997 than in previous years. Premature includes Actuarially Reduced Benefit retirements from 2000-01.

⁴ Changes in the statutory regulations governing ill-health retirement came into force on 1 April 1997. To qualify for ill-health retirement benefits a teacher must now be regarded as permanently unfit to teach.

⁵ Figures from 1998-1999 onwards continue to be subject to slight revision due to the addition of retrospective awards and suspension of pension benefits where teachers return to service.

⁶ Figures from 2006-07 onwards are provisional estimates.

Comparison of Teachers' Premature Retirement Arrangements in the north of Ireland, England & Wales, Scotland and the south of Ireland

	NORTH OF IRELAND	ENGLAND & WALES	SCOTLAND	SOUTH OF IRELAND
Main Scheme Regulations	The Teachers' Superannuation Regulations (NI) 1998	The Teachers' Pensions Regulations 1997	The Teachers' Superannuation Regulations (Scotland) 2005	Primary School Teachers Pension Scheme 2009; Secondary, Community and Comprehensive School Teachers Pension Scheme 2009
Premature Retirement Regulations	The Teachers (Compensation for Redundancy and Premature Retirement) Regulations (NI) 1991	The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997	The Teachers (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996	N/A. The Early Retirement Scheme for Teachers was suspended indefinitely following the 2008 Budget.
Redundancy Payment	Up to a maximum of 30 weeks' full pay.	Up to a maximum of 30 weeks' full pay.	Up to a maximum of 30 weeks' full pay.	Two weeks' pay for every year of service plus one further week's pay subject to a maximum earnings limit of €600 per week.
Discretionary Enhancement	Up to a maximum of 6 2/3 years. Costs borne by the Compensating Authority/Employer from 1 April 2008.	Up to a maximum of 10 years. Costs have been borne by Compensating Authority/Employer since 1991.	Up to a maximum of 10 years. Costs have been borne by Compensating Authority/Employer since 1991.	N/A. The Early Retirement Scheme for Teachers was suspended indefinitely following the 2008 Budget.

	NORTH OF IRELAND	ENGLAND & WALES	SCOTLAND	SOUTH OF IRELAND
Early Payment of Pension	Teachers made redundant under the Premature Retirement Scheme receive unreduced pension benefits. The cost of the early payment i.e. the difference between the accrued benefits and the actuarially reduced amount (known as mandatory compensation in the other schemes) is borne by the Pension Scheme.	Teachers made redundant under the Premature Retirement Scheme receive unreduced pension benefits. The Pension Scheme pays the actuarially reduced amount of pension and lump sum. The difference between the reduced amount and unreduced accrued benefits, annual compensation and lump sum compensation (known as mandatory compensation) has been borne by Compensating Authority/Employer since 1997.	Teachers made redundant under the Premature Retirement Scheme receive unreduced pension benefits. The Pension Scheme pays the actuarially reduced amount of pension and lump sum. The difference between the reduced amount and unreduced accrued benefits annual compensation and lump sum compensation (known as mandatory compensation) has been borne by Compensating Authority/Employer since 1996.	While the Early Retirement Scheme has been suspended, the Main Pension Schemes include provision for optional retirement at age 55. A teacher who has reached the age of 55 and has 35 years pensionable service may apply to retire on pension. This option is not available to new entrants entering service on or after 1 April 2004.
Adjustment to Mandatory Compensation	N/A	Where the period of a teacher's additional service by way of discretionary enhancement exceeds 6 2/3 and he/she is entitled to a redundancy payment mandatory compensation is reduced by regulation 17.	Where the period of a teacher's additional service by way of discretionary enhancement exceeds 6 2/3 and he/she is entitled to a redundancy payment mandatory compensation is reduced by regulation 11 in accordance with the formula in schedule 3 of the regulations.	N/A.

	NORTH OF IRELAND	ENGLAND & WALES	SCOTLAND	SOUTH OF IRELAND
Enhanced Severance	N/A	Up to a maximum of 104 weeks less any payment made in the form of a redundancy payment. Payable as an alternative to granting premature retirement to teachers over the minimum retirement age. These payments are also available to teachers who are not eligible by reason of their age for immediate payment of pension. It is important to note that the options of Premature Retirement and enhanced severance pay are mutually exclusive.	Up to a maximum of 104 weeks less any payment made in the form of a redundancy payment. Payable as an alternative to granting premature retirement to teachers over the minimum retirement age. These payments are also available to teachers who are not eligible by reason of their age for immediate payment of pension. It is important to note that the options of Premature Retirement and enhanced severance pay are mutually exclusive.	N/A. The Early Retirement Scheme for Teachers was suspended indefinitely following the 2008 Budget.
Actuarially Reduced Pension	The provision to take an Actuarially Reduced Pension was introduced as part of the pension reforms at 1 April 2007. It provides a facility for a member aged over 55 to retire voluntarily on a reduced pension before normal pension age. It does not impact on the provisions to retire on grounds of age, ill-health, redundancy or efficient discharge. Actuarially	The provision to take an Actuarially Reduced Pension was introduced at 30 March 2000. It provides a facility for a member aged over 55 to retire voluntarily on a reduced pension before normal pension age. It does not impact on the provisions to retire on grounds of age, ill-health, redundancy or efficient discharge. Actuarially Reduced Pensions are not	The provision to take an Actuarially Reduced Pension was introduced at 1 July 2002. It provides a facility for a member aged over 55 to retire voluntarily on a reduced pension before normal pension age. It does not impact on the provisions to retire on grounds of age, ill-health, redundancy or efficient discharge. Actuarially Reduced Pensions are not	A Cost Neutral Retirement Option was introduced in 2005, which allows teachers to retire at age 50 (or at age 55 if they entered service on or after 1 April 2004). Actuarial reduction is applied to the pension and lump sum based on the age of the teacher.

	NORTH OF IRELAND	ENGLAND & WALES	SCOTLAND	SOUTH OF IRELAND
	Reduced Pensions are not subject to abatement.	subject to abatement.	subject to abatement.	
Purchase of additional annual pension benefits.	Employers may purchase additional annual pension benefits on behalf of the individual in multiples of £250 up to a maximum of £5,000 worth of additional annual pension benefit. Introduced as part of the pension reforms at 1 April 2007.	Employers may purchase additional annual pension benefits on behalf of the individual in multiples of £250 up to a maximum of £5,000 worth of additional annual pension benefit. Introduced as part of the pension reforms at 1 January 2007.	Employers may purchase additional annual pension benefits on behalf of the individual in multiples of £250 up to a maximum of £5,000 worth of additional annual pension benefit. . Introduced as part of the pension reforms at 1 April 2007.	There is no option to purchase additional annual pension benefits. However, an option exists to purchase notional service by periodic deductions from remuneration.

Comparison of Public Sector Premature Retirement Arrangements in the north of Ireland

	Teachers	Health	Civil Service ¹⁴	Local Government
Redundancy Payment	Up to a maximum of 30 weeks full pay	Up to a maximum of 24 Months Salary on the basis of one month's salary for each complete year of reckonable severance. Transitional Arrangement: If a member opts to avail of transitional arrangements the redundancy payment is capped at 30 weeks full pay.	Only payable in cases where compensation is less than that which would be payable under the statutory provisions.	Up to a maximum of 30 weeks full pay
Enhanced Severance	<i>Under Consideration: From April 2010 up to a maximum of 104 weeks less any payment made in the form of a redundancy payment. Payable as an alternative to granting premature retirement to teachers aged between 50 and 59. These payments are</i>	No separate provision but included as part of the redundancy payment.	For those under age 50 a maximum of 3 years pensionable salary for compulsory severance and 2 years salary for flexible early severance (voluntary).	Up to a maximum of 104 weeks pay less any payment made in the form of a redundancy payment.

¹⁴ Reforms of the Civil Service Compensation Scheme for the Home Civil Service will be implemented on 1 April 2010. Details of the changes may be found at <http://www.civilservice.gov.uk/my-civil-service/pensions/compensation-scheme.aspx>. Corresponding changes are under consideration for the NI Civil Service subject to approval by the Minister of Finance and Personnel.

	Teachers	Health	Civil Service¹⁴	Local Government
	<i>also available to teachers who are not eligible by reason of their age for immediate payment of pension. It is important to note that the options of Premature Retirement and enhanced severance pay are mutually exclusive.</i>			
Discretionary Enhancement	Up to a maximum of 6 2/3 years. Costs borne by the Compensating Authority/Employer from 1 April 2008.	From 1 October 2011 no enhancement will be payable. Transitional Arrangement: Maximum enhancement available at 30 September 2006 was 10 years. For each year after that the maximum enhancement is reduced by two years until no enhancement is available from 1 October 2011.	See early payment section.	Up to a maximum of 6 2/3 years. Costs borne by the Employer. <i>Maximum enhancement will Reduce to 4 years at 1 April 2009, 2 years at April 2010 and from March 2011 there will be no discretion by employers to offer added years pension.</i>
Early Payment of Pension	Teachers made redundant under the Premature	Members of the NHS Pension scheme may	Compulsory Early Retirement is payable to those who are	As an alternative to early severance teachers made

	Teachers	Health	Civil Service¹⁴	Local Government
	<p>Retirement Scheme receive unreduced pension benefits. The cost of the early payment i.e. the difference between the accrued benefits and the actuarially reduced amount (known as mandatory compensation in the other schemes) is borne by the Pension Scheme.</p> <p><i>Under Consideration:</i></p> <p><i>From April 2010 teachers made redundant under the Premature Retirement Scheme will continue to receive unreduced pension benefits.</i></p> <p><i>The Pension Scheme pays the actuarially reduced amount of pension and lump sum. The difference between the reduced amount and unreduced accrued benefits, annual compensation and lump sum compensation (known as mandatory compensation) will be borne by Compensating Authority/Employer</i></p>	<p>choose to retire early without reduction in the value of pension benefits as an alternative to receiving the Redundancy payment. The employer meets the full capitalised cost. If a member chooses this option and the amount payable as a redundancy payment exceeds the capitalised cost to the employer, the employee is entitled to receive the difference between the two sums.</p>	<p>redundant and includes those who apply for redundancy when the employer calls for early payment of pension. Costs borne by employers.</p> <p>An enhanced (maximum of 6 2/3 Years) pension and tax free lump sum paid immediately plus a lump sum compensation payment of up to 6 months salary.</p> <p>Or</p> <p>All of your additional early retirement benefits paid solely as compensation with an unenhanced pension and lump sum preserved for payment at pension age.</p>	<p>redundant may receive immediate payment of unreduced pension benefits. The cost of the early payment is borne by the Employer.</p>

Summary of Consultation Responses to the EQIA on the Draft Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (NI) 2010 and complementary amendments to the Teachers' Superannuation Regulations (NI) 1998.

Introduction

The consultation sought views on the Department's assessment of the equality impacts of the draft regulations; and any further information which could be useful in assessing those equality impacts.

This document summarises the key issues from the responses during the consultation process. Each response has been analysed and issues relating to Section 75 groups have been fully considered by the Department.

The Department of Education is grateful to all those who responded to the consultation document.

Responses were received from 18 organisations/individuals in the following categories.

Principal	2
Teacher	4
Board of Governors	1
Employing Authorities/Organisations	4
Teachers Unions	5
Section 75 Groups	2
Total	18

Overview of Consultation Responses

Some of the replies showed a worrying lack of understanding about the purpose of the consultation and used the consultation as an opportunity to respond again to the previous consultation about the draft regulations. Of the respondents, 50% asserted that there would be impacts in relation to Section 75 groups; however no evidence was presented in support of the assertions.

The table below summarises the issues raised relating to Section 75 groups and the Department's commentary on them.

Issue Raised in Consultation	Comment
<p>A number of consultees raised a number of issues about the paucity of data on some Section 75 groups.</p>	<p>Information on sexual orientation, dependents and political opinion is very difficult to obtain.</p> <p>It should be noted that the Equality Commission states in its guidance:-</p> <p>"While the collection of relevant data is important, public authorities must be aware that particular issues of sensitivity and confidentiality may arise in relation to disability, sexual orientation and political opinion".</p> <p>The Department will consider with education partners ways to obtain additional information on the composition of the teaching profession.</p>
<p>Older teachers will be unable to retire early with full pension and are therefore being treated less favourably than their predecessors.</p>	<p>As under the proposed regulations the cost of premature retirement would no longer be borne by the NITPS, the Department acknowledges that the level of compensation may be less generous than in previous years. However, the proposed regulations do not remove the employer's discretion to pay unreduced pension benefits to those over 55. The circumstances under which premature retirement is granted or severance payments are made and the level of such payments will be a matter for the employer. The onus will remain on employing authorities to satisfy themselves that they can objectively justify any difference in compensation payments to individuals whose employment is being terminated early.</p> <p>It should be noted that how teachers are treated now, compared to how their predecessors have been treated in respect of availing of their pension, is not a Section 75 issue.</p>
<p>Raising the minimum retirement age to 55 from April 2010 may have an adverse impact on grounds of age</p>	<p>The change to the minimum retirement age was introduced by the Finance Act 2004 and as such is not part of the consultation. Normal minimum pension age is the youngest age at which a member of a registered pension scheme can ordinarily expect to take his/her benefits. It is defined in section 279(1) of the Finance Act 2004 as age 50 before 6 April 2010, and age 55 on</p>

	<p>and after that date. This is a matter of tax law and applies to all members of registered pension schemes.</p> <p>The draft regulations provide employers with the flexibility to make an enhanced severance or termination payment as an alternative to granting premature retirement. This is available to all teachers, regardless of age, who are eligible for a statutory redundancy payment. This is a positive impact compared to the existing provision for teachers under minimum retirement age.</p>
<p>Those accepting voluntary early retirement will be financially disadvantaged; older teachers will remain in employment longer thus impacting on promotion opportunities for those in employment and creating difficulties for NQTs in finding employment.</p>	<p>It is not a defensible use of finite public funds to provide expensive early retirement packages to older teachers, many of whom subsequently seek and obtain re-employment as substitute teachers, in order to ensure that younger teachers will find employment.</p> <p>The arrangements by which teachers are compensated for premature retirement are intended to provide a management tool which Employing Authorities can use to bring about a qualitative improvement in the educational provision in their schools. They do not confer a right to early retirement on teachers. The draft regulations maintain the existing provisions for premature retirement and also provide for severance payments of up to 104 weeks' salary, thus allowing employers to continue to secure the early release of teachers where necessary.</p> <p>A separate provision was introduced in 2007 which allows a teacher aged 55 and over to retire voluntarily before normal retirement age and receive actuarially reduced pension benefits.</p>
<p>Arguments have been made based on demographic downturn, school closures, rationalisation and amalgamations; the benefits for learning to be gained from the engagement of the younger cohort of teachers; the potential</p>	<p>Again, assertions about the potential effects of the draft regulations are predicated on the assumption that employers will be unable to secure sufficient volunteers to avoid compulsory redundancies. Evidence from the other teacher schemes, which moved to hard charging in the 1990's, indicates that whilst there was an initial drop off in the number of volunteers, the numbers volunteering increased once teacher expectations had adjusted to the level of compensation offered by employing authorities.</p>

<p>impact on the need for teacher training; and the difference in the supply and demand model in the north of Ireland compared to Scotland, England and Wales.</p>	
<p>Discretion should be removed and a minimum level of benefits should be specified because the discretionary element to the compensation could lead to unequal treatment.</p>	<p>It is not clear which Section 75 group would be affected by this point.</p> <p>It is not appropriate to remove discretion or specify a minimum level of benefits payable. This could result in placing a financial burden on employers which they may not have the resources to meet. It is right that the circumstances under which premature retirement is granted or severance payments are made – and the level of such payments – will be a matter of policy on the part of the employer. The introduction of a single employer in the future should address any concerns about the potential for unequal treatment.</p>
<p>Those in senior posts, i.e. Principal and Vice Principal, will be discriminated against as no arrangements are in place to allow them to volunteer for redundancy or premature retirement.</p>	<p>Those in senior posts do not form a Section 75 group.</p> <p>Neither the existing nor the draft regulations prohibit those teachers in senior posts from being prematurely retired on grounds of redundancy or in the interests of the efficient discharge of the employers' function.</p>
<p>Will have an adverse impact on young female teachers facing compulsory redundancy as a result of fewer teachers volunteering for redundancy.</p>	<p>It is not yet clear how the compensation offered in future years will affect the numbers and profile of those volunteering for redundancy.</p> <p>Data will be collected on an annual basis about the effect the regulations are having on employers' policies and how this affects the relevant groups and sub-groups within the equality categories as well as the number of premature retirements. If this monitoring and analysis of results over a two-year period shows a greater adverse impact than expected, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the regulations will be reviewed along with the employing authorities' relevant policies to determine</p>

	whether better outcomes for the relevant equality groups may be achieved.
There may be an increase in the number of compulsory redundancies. The age profile of redundant teachers may become more mixed – or predominantly in the younger age range – rather than almost exclusively older (50+) teachers as at present.	<p>This point depends entirely on the level of funding allocated for compensation by employing authorities and on their ability to match redundant posts to volunteers. This would depend in turn on the extent of teachers' expectation about what constitutes a reasonable or acceptable level of compensation.</p> <p>Data will be collected on an annual basis about the effect the regulations are having on employers' policies and how this affects the relevant groups and sub-groups within the equality categories as well as the number of premature retirements. If this monitoring and analysis of results over a two-year period shows a greater adverse impact than expected, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the regulations will be reviewed along with the employing authorities' relevant policies to determine whether better outcomes for the relevant equality groups may be achieved.</p>
Dependant status is likely to be a factor due to the age profile of impacted teachers. As incomes would be potentially reduced and Scheme members may have dependents at tertiary level education, the impact on this group may be adverse.	It is not yet clear how the compensation offered in future years will affect the numbers and profile of those volunteering for redundancy.
A parallel has been drawn with severance terms available to other public sector workers.	The new regulations will bring the arrangements for premature retirement compensation into line with other public sector schemes where employers are already responsible for meeting the additional costs of premature retirement. The new regulations do not remove any of the benefits previously available and they will also provide employers with discretion to make enhanced severance payments up to a maximum of 104 weeks pay irrespective of age or length of service. (For those over minimum retirement age this can be used as an alternative to granting Premature Retirement Compensation.)

<p>Teachers should be banned from seeking further employment following early retirement.</p>	<p>The Department has repeatedly advised employers that retired teachers should only be re-employed to provide short-term cover where newly qualified teachers or experienced non-retired teachers are unavailable.</p> <p>The rules of the Teachers' Pension Scheme militate against the employment of retired teachers, in that such teachers may suffer a reduction in pension as a result of earnings from employment as a teacher. The Department has strict controls in place to monitor such cases.</p> <p>Since 1999/2000 the level of central reimbursement by education and library boards of the cost of substitute cover has been capped at point 4 of the Main Scale. This provides an incentive for schools to employ newly qualified teachers to provide substitute cover in preference to costlier retired teachers. However, schools have the flexibility to decide to engage a teacher at a higher cost at a charge to the school budget if they so desire.</p> <p>The Department is currently exploring options for further restrictions on the re-employment of prematurely retired teachers, taking into account the possible legal and equality issues that might arise from any potential new measures.</p>
<p>As rural schools close due to the implementation of the DE Sustainable school principles, then there will be an adverse impact on rural communities.</p>	<p>This comment is about the Sustainable Schools principles and not about the effect of the premature retirement regulations.</p>
<p>It is not considered that the regulations will have a detrimental impact on any of the Section 75 categories on the basis of the information currently available.</p>	<p>Accepted</p>
<p>It has been suggested that another EQIA should be carried out in two years' time.</p>	<p>Data will be collected on an annual basis about the effect the regulations are having on employers' policies and how this affects the relevant groups and sub-groups within the equality categories as well as the number of premature retirements. If this monitoring and analysis of</p>

	<p>results over a two-year period shows a greater adverse impact than expected, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the regulations will be reviewed along with the employing authorities' relevant policies to determine whether better outcomes for the relevant equality groups may be achieved.</p>
<p>It has been suggested that to mitigate the alleged impacts the regulations should be delayed or phased to varying degrees.</p>	<p>In one sense the Department has already adopted a phased approach in that employing authorities were asked to meet the cost of added years from 2008 while the benefits of early payment of unreduced pension and lump sum have remained available in the interim at no immediate cost to employers. Employers here have already enjoyed an ostensibly cost-neutral premature retirement compensation scheme for over a decade longer than their counterparts in Scotland and in England & Wales. In 2005 as part of the work involved in compiling the 2001 Report of the Government Actuary on the Teachers Superannuation Scheme (NI), the Government Actuary's Department (GAD) advised that, in order to maintain the current level of premature retirements, the employers' rate of contribution would need to increase by between 7.5% and 8%. In order to satisfy the Actuary about the ongoing viability of the pension scheme as a whole, and avoid the need for an immediate increase in contributions which would have added over £60m to annual public expenditure, the Department asked GAD to plan on the assumption that employing authorities would be responsible for the additional costs of early retirement from 1 April 2007. In setting the contribution rate from 1 April 2006 GAD therefore assumed that employers would meet the full cost of premature retirement from 1 April 2007, thus avoiding the need for an immediate increase in contributions. However, in the event the changes planned for April 2007 were deferred to coincide with the establishment of the Education and Skills Authority (ESA), which was initially scheduled for April 2008. As the establishment of ESA did not take place in 2008, hard-charging for enhancements ("added years") only was introduced as an interim measure. The Scheme therefore continued to meet the full cost of premature retirement in 2007 and the cost of early payment of pension in 2008 and 2009. GAD is expected to have the 2008 Valuation Report completed during 2010 and will have to take into account additional liabilities accrued in 2007, 2008 and 2009 when setting the new contribution rate. The longer the proposed changes are delayed, the greater the resulting increase in contribution rates will be.</p>