

Judicial Pensions Draft Consultation

The Intergenerational Foundation (IF) (www.if.org.uk) is an independent think tank researching fairness between generations. We believe that government must consider the intergenerational implications of pension reform.

1) Introduction

Unfunded public sector pensions are an unfair burden on younger and future workers. According to the ONS, public sector pension scheme liabilities amounted to £0.9 trillion in 2015,¹ two-thirds of which originated from unfunded, pay-as-you-go schemes. The use of high discount rates also serve to distort the government cost of borrowing by artificially underestimating the true costs of liabilities.² In 2018-2019 alone, the OBR estimated that the government's net spending on public sector pensions would total £13.3bn.³ Judicial pensions contribute to this deficit; the 2016 Actuarial Report on the Judicial Pension Scheme (JPS) estimated the net shortfall of existing JPS schemes to be £0.714 billion.⁴ Because no assets underpin these liabilities, it will be left to the young (who are likely to obtain far less generous pensions) to pick up the bill.

2) The Consultation proposal fails to consider the intergenerational implications of pension reform

The proposed reformed Judicial Pensions and Retirement Act (JUPRA) focuses on recruitment and retention of judicial professionals. However, this concern has not been weighed against the wider consequences of higher government expenditure on pensions. Regrettably, neither the 2018 Review by the Senior Salaries Review Body (SSRB) nor the Consultation Proposal consider the implications of a more generous, unfunded scheme. Nor do they attempt to estimate the additional costs to the exchequer of its more generous provisions.

This narrow focus is made clear by the consultation's preference for pension reform, as opposed to the salary increases proposed by the SSRB, on the basis that "this [salary increase] would be costlier

¹ ONS (2018) "Pensions in the national accounts, a fuller picture of the UK's funded and unfunded pension obligations: 2010 to 2015" [Accessed on 18/08/20]:

<https://www.ons.gov.uk/releases/pensionsinthenationalaccountsfullerpictureoftheuksfundedandunfundedpensionobligations2010to2015>

² Hanton, A. & Jones, E. (2018) "Weaponising Interest Rates: How UK governments have set interest rates to the disadvantage of the young", Intergenerational Foundation [Accessed on 19/08/20]: http://www.if.org.uk/wp-content/uploads/2018/02/weaponising-interest-rates_final.pdf

³ OBR (2018) "Public Service pension payments (net)", [Accessed on 18/08/20]: <https://obr.uk/forecasts-in-depth/tax-by-tax-spend-by-spend/public-service-pension-payments-net/>

⁴ Government Actuary's Department (2019) "Judicial Pension Schemes: Actuarial Valuation as at 31 March 2016", [Accessed on 18/08/20]: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/813717/jps-2016-valuation-report.pdf

in the short-term as it would require immediate funding in full”. In other words, the consultation prefers saddling the young with government debt instead of paying the costs upfront. Whilst IF welcomes cost capping in line with the Hutton principles, this is at best mitigatory given that the target costs do not aim to balance the pension books.

3) The Reformed JUPRA is excessively generous compared to other Public Sector Pension Schemes

Table 1 shows that the reformed scheme is far more generous than other public sector pension schemes.

Table 1: Comparing Reformed JUPRA to other Recent Public Sector Pension Schemes					
Pension provider	Scheme name	Judicial salary level (group 7)	How much less judges pay under Reformed JUPRA in contribution rates	How much less judges pay under Reformed JUPRA in contribution p.a.	How much more judges receive under Reformed JUPRA in accrual p.a.
Civil Service Pensions	“Alpha”	£112,542.00	-0.15%	-£168.81	£206.02
NHS Business Services Authority	“2015 NHS Pension”	£112,542.00	-4.44%	-£4,996.86	£712.73
Local Government Pension Scheme	“forty-ninth pension scheme”	£112,542.00	-2.58%	-£2,903.58	£525.56
Teachers’ Pensions	“New”	£112,542.00	-2.76%	-£3,106.16	£821.80

This analysis demonstrates that, under the reformed JUPRA, proposed member contributions are lower, and accrued pensions higher per annum, than those in the latest NHS, Teacher, Civil Servant, and Local Government schemes. The chosen salary level is equal to Judicial Salary Group 7, a figure used by the Consultation Proposal for its own worked examples. “Effective” contribution rates for tax-registered schemes are calculated to enable direct comparison. The rates have also been adjusted according to scheme-specific revaluation, using a CPI figure of 1.7% drawn from the Public Service Pensions Revaluation Order 2020. Whilst IF recognises that a small number of public sector employees can expect to earn a salary comparable to judges, these figures highlight the excessive remuneration suggested by the proposal.

The Local Government Pension Scheme (LGPS) is a particularly important comparison. Because it is two-thirds funded,⁵ its rates are a better reflection of what a sustainable pension might look like given employer contributions and returns on investment. A local government employee on the forty-ninth pension scheme would pay £2,903.58 more and receive a pension worth £525.56 less than a judge on a salary within judicial salary group 7.

⁵ Intergenerational Foundation (2019) “The soaring costs of government pensions”, [Accessed on 19/08/20]: http://www.if.org.uk/wp-content/uploads/2019/05/The-Soaring_costs_of_government_pensions_.pdf

The reformed JUPRA will almost certainly increase the Judicial Pension Scheme's financial shortfall. Yet, unlike in a funded scheme, the Judicial Pension Scheme does not have to make ends meet should pension payments exceed contributions. The proposal will not prevent the shortfall from placing an unfair intergenerational financial burden on younger and future workers.

IF is therefore concerned about the government's willingness to base policy solely on the remuneration concerns of its employees. At worst, these generous provisions could serve as a bargaining position for other public sector schemes seeking to improve their members' lot. More broadly, the proposal's silence on the issue offers a carte blanche for government to redistribute funds from the young to the old.

4) IF Recommendations

Based on these findings, IF suggests the following recommendations:

- 1) The Reformed JUPRA **should transition to a funded scheme**, to ensure that pensions are paid for by generations who benefit from their service and not paid for by future generations
- 2) The **contribution rates should be raised** at least to levels comparable to those to the Local Government Pension Scheme, which has an effective contribution rate of 6.84%. Judges would continue accruing a higher pension per annum, but at an intergenerationally fairer contribution rate.
- 3) Government **policy should be subject to an Intergenerational Impact Assessment**, as suggested by the Wellbeing of Future Generations Bill 2019-21. In the case of the consultation proposal, this should involve a comprehensive assessment of the costs of pension reform, to measure the wealth transfers from young to old that would be extracted to fund pension liabilities.

If you would like to learn more about the work of the Intergenerational Foundation please contact:

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