

Nuclear Decommissioning Authority: Pension Reform

Response by Prospect to consultation on
implementation of reform of final salary pension
schemes across the NDA estate.

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INTRODUCTION

1. Prospect is an independent trade union representing over 140,000 professional, managerial, technical and scientific staff across the public and private sectors. Our members work in a range of jobs in a variety of different areas including in aviation, agriculture, communications, defence, energy, entertainment, heritage, nuclear decommissioning and scientific research.
2. In nuclear decommissioning, Prospect represents over 4,500 members of the final salary pension schemes covered by this consultation as well as thousands of other employees who joined after these schemes were closed to new entrants.
3. Members of Prospect and the other recognised trade unions played a key role in the process that led to the emergence of a revised CARE proposal during last year's consultation on pension reform.
4. The main features of the revised CARE proposal were the subject of a ballot of Prospect members who are in these schemes. It is crucial that the implementation of these reforms is in line with the expectations Prospect members had when voting in that ballot.
5. We hope this submission is useful and is viewed as a constructive attempt to deal with the questions raised in the consultation document. Prospect officials are happy to discuss any of the issues raised in more detail should that be helpful.

SUMMARY OF PROSPECT'S POSITION

6. While Prospect members engaged with the process of reform of these schemes, it must be emphasised that they rightly view these attacks on their pension provision as a disgraceful betrayal of past promises. When these members were transferred to the private sector, they were given commitments that their pension provision would never be subject to detrimental changes. These commitments were even enshrined in legislation. The government's threadbare and flawed justification for breaking these promises is an insult to these members and their commitment to their work in nuclear decommissioning.
7. Scheme members were effectively forced to the negotiating table to discuss pension reforms because of the potential for government to bypass or even repeal the statutory pension protection they enjoyed. Nevertheless they engaged in this process in good faith and expect government to honour its most recent commitments.
8. Therefore it is crucial that the implementation of the agreed reforms is absolutely consistent with the main principles of reform that Prospect members were balloted on last year. In particular any power of amendment

of these pension schemes must be narrowly defined and only allow changes in line with the agreed principles for reform. Members' faith in pension commitments given by government is understandably limited given the context to these reforms.

DETAILED COMMENTS

9. The consultation document contains a number of detailed questions about the implementation of the agreed reforms to the final salary pension schemes across the NDA estate. Prospect's responses to these questions are set out below.

- **What are your views on amending statutory pension protections in respect of protected employees in the Combined Nuclear Pension Plan (CNPP) and the SLC section of the Magnox Electric Group of the Electricity Supply Pension Scheme (MEG-ESPS) for the purpose of enabling the implementation of pension reform?**

10. The statutory pension protections represent promises made to scheme members when they transferred from the public sector to the private sector, firstly in the context of electricity privatisation and secondly as part of the Government's policy on competition in the UK civil nuclear decommissioning sector. These promises were supposed to hold for the rest of their careers. It is disgraceful that government intends to break those promises by amending the relevant legislation now.

11. The government's case for applying the wider public sector pension scheme reforms to these schemes despite the promises previously made to the members is deeply flawed. These are private sector, trust-based schemes rather than public sector, statutory schemes like those listed in the terms of reference of the Independent Public Service Pensions Commission. Reform of these schemes happened many years ago when they were closed to new entrants, a step that went much further than the public sector pension reform process.

12. It is hypocritical for government to have previously insisted that these members could no longer retain access to public sector pension schemes only to now insist that public sector pension reform must apply to them anyway.

13. Prospect members felt compelled to engage in consultation and negotiation about changes to these pension schemes, despite the statutory pension protection they enjoyed, because of the real risk that government would bypass or repeal those protections and impose changes that were even more detrimental.

14. Despite these deep frustrations with the proposals and real concerns about the way that government has reneged on past commitments, Prospect members engaged in this reform process in good faith. Through discussions with officials and the minister, it was possible to negotiate a proposal for a

reformed CARE scheme that was better than the original options under consultation (though still detrimental compared to the current arrangements).

15. Prospect members were balloted on the reformed CARE proposal and voted to accept it only on the basis that it was the best outcome achievable by negotiation.
16. Prospect members recognise that amending the statutory pension protections is a necessary feature of the agreed pension reform and they accept this on that basis.
17. The clarification in the consultation document, that the amendments to the statutory protections is limited to members of the pension schemes within the scope of this consultation and employees of the companies listed, will be welcome to the many thousands of other members of other schemes covered by the same protections.
18. It is important to note the impact that these reforms could have on employees working in nuclear facilities that will move to a decommissioning phase in the near or medium term. Should this work be brought under the remit of the NDA, there will be great concern that pension protections will be under threat. This could impact on the ability to retain key skills and experience in these areas. Government should reassure other protected persons that they will not be affected by these changes but people's trust that government will not renege on pension commitments in the future will inevitably be impacted by this process. This could particularly impact on the future decommissioning of AGRs currently operated by EDF Energy.
 - **What are your views on the proposal to provide lead employers with an amendment power to ensure they are able to fully implement the CARE scheme agreed?**
19. In the absence of further detail at this stage, this proposal has caused some unease amongst Prospect members.
20. Prospect members understand that overriding current trustee and member consent provisions in scheme rules will be necessary to implement the revised CARE proposal that was agreed.
21. However it is vital that only the changes necessary to implement the agreed reforms can be made through any amendment power given to lead employers.
22. We accept that this is the intention but it would be helpful for the response to the consultation to make this absolutely clear in order to give comfort to a group of members who have every reason to be cynical about promises in relation to pension protections.

23. In due course the draft legislation itself will provide definitive proof that the amendment power will be restricted to changes that are necessary to implement the agreed reforms.

- **What are your views on the options to maintain an average member contribution rate? Do you have a preferred approach? Are there any alternatives you would recommend?**

24. The average member contribution rate of 8.2% is a key feature of the reforms that members voted on and it is important that this is maintained over time.

25. It is more difficult to maintain an average contribution rate when contributions are tiered by earnings because changes to the profile of the workforce or the earnings of members can result in the average rate drifting up or down over time.

26. Despite the difficulty with maintaining an average contribution rate in a tiered contribution structure, this approach is the most appropriate because it uses the pension tax relief system to implement the member contribution increases in the fairest possible way.

27. As long as the pension tax relief system remains largely as it currently is, then the most obvious step in maintaining the average member contribution rate at 8.2%, and preventing this from drifting up over time, is to increase the relevant earnings bands in line with CPI whenever the tax bands are indexed. Increasing the earnings bands does not have a detrimental impact on members and so does not require any additional powers.

28. If the pension tax relief system is significantly reformed, or if there are major changes that impact on the workforce, then it is possible that more fundamental changes will be needed to maintain the average member contribution rate at 8.2%. While this would simply maintain the average member contribution rate at the agreed level, it could mean a detrimental change for at least some members (if, for example, the average member contribution rate had fallen over time).

29. In these circumstances it is important that the relevant regulations clearly state that:

- (1) Any changes must bring the average member contribution rate back to 8.2%.
- (2) The trade unions must be consulted on any proposed changes with a view to reaching an agreement.

30. While not an issue covered by this consultation, it is important that scheme managers publish guidance on how employers can take a practical approach to dealing with issues arising as a result of the tiered contribution structure (eg pay awards potentially resulting in lower take-home pay).

- **Do you agree on the need for the proposed power to allow the lead employers to make ancillary changes in order to ensure the scheme operates in the way which is envisaged? Any further views are welcome.**

31. Many Prospect members have expressed concern about this issue.

32. Members accept that ancillary changes may be needed to overcome any unintended consequences of the reforms or to ensure that reform can be implemented as intended.

33. However it is inappropriate to give lead employers the power to make these changes. If the changes are minor consequential changes, then they should be subject to the current amendment provisions. If the changes are more significant and too difficult to change through the current amendment provisions then they cannot realistically be described as ancillary changes and should be subject to negotiation.

- **In your view are there are unintended consequences or impacts of the proposed approach to amending legislation?**

34. None have been raised with Prospect but it is important to keep this under review as the reform process proceeds.

- **In helping the government to meet its duty under the Equality Act 2010 to consider equality impacts of the proposed changes to the two NDA pension schemes, the government would welcome any evidence you could provide on the potential impacts of the proposed approach upon people or groups of people with protected characteristics.**

35. Prospect does not have access to scheme level data needed to undertake a detailed equality impact analysis of these reforms. A full equality impact analysis should be published by BEIS.

- **Do you have any further comments or are there any other relevant issues that the government needs to consider before making a decision?**

36. We have made all relevant points elsewhere in the document or directly to BEIS and the NDA.