Written evidence from Eifion Edwards (PPF0121)

1. It may help to say that academics sometimes partly assess regulation more generally by looking at whether an organisation is “motivated and capable”.

2. My evidence is to argue that there is a marked lack of motivation at The Pensions Regulator and at various Pension schemes to address issues and problems.

3. I aim to use the detail of what I have seen at The Pensions Regulator and Teachers’ Pension Scheme.


5. Obviously the Equality Act 2010 covers more than issues around Disability but by looking at how The Pension Regulator and the Teachers’ Pension Scheme have seemingly overlooked complying with the Equality Acts 2010 regards Disability we can see grounds to provoke a much wider and fuller review of other issues regards the Equality Act 2010.

6. The Equality Act 2010 covers people with illness being regarded as having a Disability within the meaning of the Act.

7. The background is that people with an ill health disability are disadvantaged by not being well enough to work the number of years that other people can. Or be in work at times to gain promotion, even when they are very good at their work.

8. But the Teachers’ Pension Scheme then makes matters worse by unfair formula and many unfair rules that are used rigidly.

9. Various parties falsely claim that the Teachers’ Pensions Scheme pays out a pension based on what is paid in. This is a false claim because firstly pensions grew rapidly in the 1980s and 1990s when the stock market did well. Secondly the formulae used is not salary times years of service but rather that is turned into a formulae with something like salary times years service and then ‘times a figure or may be divided by a figure’.

10. The extra aspects of a formulae and the fact that my money when paid in grew considerably due to the investments means that the teachers pension
scheme seems to potentially even rob people with ill health disability of what they should be entitled to, when compared with other similar pensions.

11. I have more than one pension scheme so that I can compare how the Teachers' Pension Scheme fail members.

12. In a comparison with my other pension schemes from a similar era, the formula used by the Teachers’ Pension Scheme that says they will pay out much less than my other pension scheme. So that I believe the formula used by the Teachers’ Pension Scheme disadvantages people with ill health disabilities.

13. That unfair disadvantage for some members of the Teachers’ Pension Scheme to be paid substantially less especially when compared to other schemes, may constitute Discrimination under the Equality Act 2010 by the Teachers Pension Scheme structuring it’s rules to cause that unfairness and disadvantage for people with an ill health disability.

No adequate procedures to ensure continuous improvement.

14. More concerning is that after contacting The Pension Regulator and Teachers’ Pension Scheme many times there would seem to be no proper procedure for them to review what they do, at the Teachers’ Pension Scheme or by The Pensions Regulator.

15. A lack of procedures to ensure continuous improvement refers to many issues, and pension scheme management, not just issues relevant to the Equality Act 2010.

Should there be a review of definitions and interpretations of ill health retirement for compatibility with the Equality Act 2010?

16. The needs of people with an ill health disability can vary. One example can be that people need to retire early but that the interpretations of rules regards retiring early due to an ill health Disability are old school (and far too narrow and strict), and may not be compatible with the ethos of the Equality Act 2010.

Should there be a review of how the Teachers’ Pension Scheme unfairly disadvantages those with an ill health disability and whether that unfairness is compatibility with the Equality Act 2010?

17. There is also the opposite example where many with an ill health Disability do not qualify for, or do not claim ill health retirement for various reasons and the Teachers’ Pension Scheme refuses to look at the problems they cause by trying to impose they pay the pension early at 60 years of age to people who receive income related state disability benefits and are to retire by the state pensions age of around 66 years of age.

18. The Teachers’ Pension Scheme seeks to substantially deplete the pension of a person with ill health disability by paying out too early before the state
retirement age. By paying out too early to a person on income related state help, the pension is clawed back and lost. Whereas in certain situations if the pension is not paid out early at 60 years of age the money is saved for retirement when of course it is needed.

Why not have more than one rule and formula? So that people covered by the Equality Act 2010 can be dealt with differently and fairly

19. The Teachers’ Pension Scheme is an example of worst practice because compared to other schemes and almost identical situation the Teachers’ Pension Scheme uses a rigid formula to pay people who are covered by the Equality Act 2010. So that the member does not have adequate pension to manage, whereas the member could potentially if the Teachers’ Pension Scheme used a formula as is used other private schemes.

The DWP exemption rule for those not of pension credit age eg around 66 years – when the Teachers’ Pension Scheme ignore that rule to hound members with misleading information (that members must claim a pension early at 60 years of age) when that can cause a significant loss.

20. If a person is entitled to receive their pension early (i.e. at 60 years of age not the state retirement age of 66 years) and is on income related state benefits that pension if claimed is lost by being clawed back in part or in whole by the Department for Work and Pensions.

21. But to stop that unfairness there is a Department for Work and Pensions’ exemption rule so that people who have not reached state retirement age (described as not of pension credit age) are able to not claim their pension early to avoid their pension being depleted

22. I sent the Teachers’ Pension Scheme what is called the exemption rule (supplied by the Citizen’s Advice Bureau) to explain why they should not tell people they must apply to receive their pension at 60 years of age or they will lose out. But the Teachers Pension Scheme refuse to give a clear reply to me and continue to b bombastic in trying to get members to claim a pension early and so suffer a significant loss.

Can we compare the regulation of solicitors with the way the regulation of the Teachers’ Pension Scheme, - Teachers’ Pension Scheme refuse to pay interest for money held when members are between 60 to 66 years.

23. The Solicitors Regulation Authority (SRA) is presently changing rules (and there are exemptions for solicitors who work out side of a law firm), but the SRA rules lean towards the principle that solicitors pay interest to the client if they hold money for a client.

24. Has The Pension Regulator failed in not arranging the same rules for the protection of client’s money, regards pensions
25. The Teachers’ Pensions Scheme emphasise that pensions that are not claimed when a member reaches 60 years of age will not accrue interest of any kind and so the pension money goes down in value.

26. The pension scheme must know of ways to invest money to gain interest on money that will not be claimed for six years.

27. Can there be a review whether there may potentially be a form of discrimination within the meaning of the Equality Act 2010?

28. Many who do not claim their pension until the state retirement age of around 66 to 67 years of age do not claim because of their circumstances related to having an ill health disability.

The Teachers’ Pension Scheme say many people do not know they have a Teachers’ Pension and no effort is made to inform them.

29. From what staff told me apparently it is common for employers not to give the Teachers’ Pension Scheme the contact details or national insurance number of members so that say there are many people who do not realise that they have a pension.

30. I am not sure of the regulatory procedure here, but potentially it seems that the Teachers’ Pension Scheme make no effort to address this problem by contacting the employers or by reporting the problem to The Pensions Regulator which I believe may be the correct procedure.

The Teachers’ Pension Scheme do not adequately inform members. Who is at fault? The Pensions Regulator? The Teachers Pension Scheme? Or a member for not knowing the rules? (When staff do not know the rules)

31. Is the following evidence of a failure by The Pensions Regulator to show leadership and a structure to ensure basic standards?

32. At first it was very difficult to get through on the telephone to the Teachers’ Pension Scheme. I therefore wrote to the Chairman to say people could not telephone. Things improved in that I could telephone, but then I would get conflicting answers each time we spoke.

33. I then wrote but my questions were answered. So I wrote twice more and each reply showed that the reply before did not adequately inform me.

34. I wrote via the Chairman three times and the later replies show the early replies do not give enough information. After three written replies there is still much to go through so that I need to write again.

35. The Secretariat seems to me to say they support that staff just write some kind of letter even if inadequate and I should accept that letter.
36. My view is that a pension scheme should either have a set pack of information and rules to send out for predictable questions. Or to reply by saying an advisor (trained to deal with the specific area) will telephone to take the member through issues. Or both of those. But the Teachers’ Pension Scheme do not have either.

37. The latest written reply from the Teachers’ Pension Scheme says I was given a copy of the rules when I started with the scheme. But the staff at the Teachers Pension Scheme know I started 26 years ago (1990) and the Ombudsman uses a later set of Teachers Pension 1997 rules in his determinations on other like cases.

38. So I will have to write even more letters to the Teachers’ Pension Scheme.

39. But there is also the issue that the Teachers’ Pension Scheme say in September 2016 that I am just out of time to claim. When in the first letter of July 2016 they said I had six months.

40. The Teachers’ Pension Scheme assert that rules exist somewhere but will not give a reference to find the rule, or give me a copy of the rules. There are updated rules. So which rules apply? The rules when a member joins? Or the rules when they claim the pension?

41. The Teachers’ Pension Scheme say it would be unprecedented to succeed with a claim out of time. The Pension Regulator, Pensions Advisory Service and the Office for the Ombudsman all tell me there should be way to claim out of time if I was seemingly being misled, but cannot say if there actually is a way. Or how to go about making a claim other then to escalate through normal procedures.

42. But next we find another flaw, that normal procedures for a public sector pension means there is no discretion to be flexible regards rules to address unfairness.

43. It feels to me as if there is no regulation at all.

**Should there be a review where Pensions Advisory Service says Public Sector Pension Schemes are rigid regards rules yet Lord Justice Beatson has said a rigidity in the application of rules may be unlawful**

44. The Pensions Advisory Service say that there are problems from all the public sector pensions (such as the Teachers' Pension Scheme) having no discretion regards rules and so no discretion to rectify unfairness.

45. The ethos of Disability Discrimination as is in the Equality Act 2010 can require there to be a flexibility that means an end to a rigid application of rules.

46. But the rigid application of pension schemes rules may also be unlawful for any scheme member. I ask that the rigid use of rules be reviewed.
47. Of some public sector decisions Lord Justice Beatson has said that a :-

“rigid policy…..in all cases of a particular type of complaint without the power to review whether an exception should be made or the circumstances of the particular case require a different solution would arguably be unlawful”.

48. Whereas the context in which Lord Justice Beatson was speaking is somewhat confusing and far too distracting to raise here, I believe we should consider whether the principle of what he says could ever apply to the work of The Pensions Regulator and particularly unfair or inept pension scheme rules. And obviously whether changes need to occur regards the rigidity of public sector pension scheme rules like that of the Teachers’ Pension Schemes

49. I ask that we note that the Pensions Advisory Service know of problems such as a rigid use of rules mainly in public sector schemes, that can lead to unfairness but that legitimate concern is not put into a system for continuous improvement in the management and regulation of pensions schemes

November 2016