Twitter Thread by Dr Tony Goldstone ■

Dr Tony Goldstone ■
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1/ A thread [1/2]about your NHS pensions, tax & the age discrmination “McCloud” case■

OK this is complicated stuff, Im going to take you through it step by step. But its important, and will affect your pension, so buckle up and pay attention!

Please share & RT/share awareness

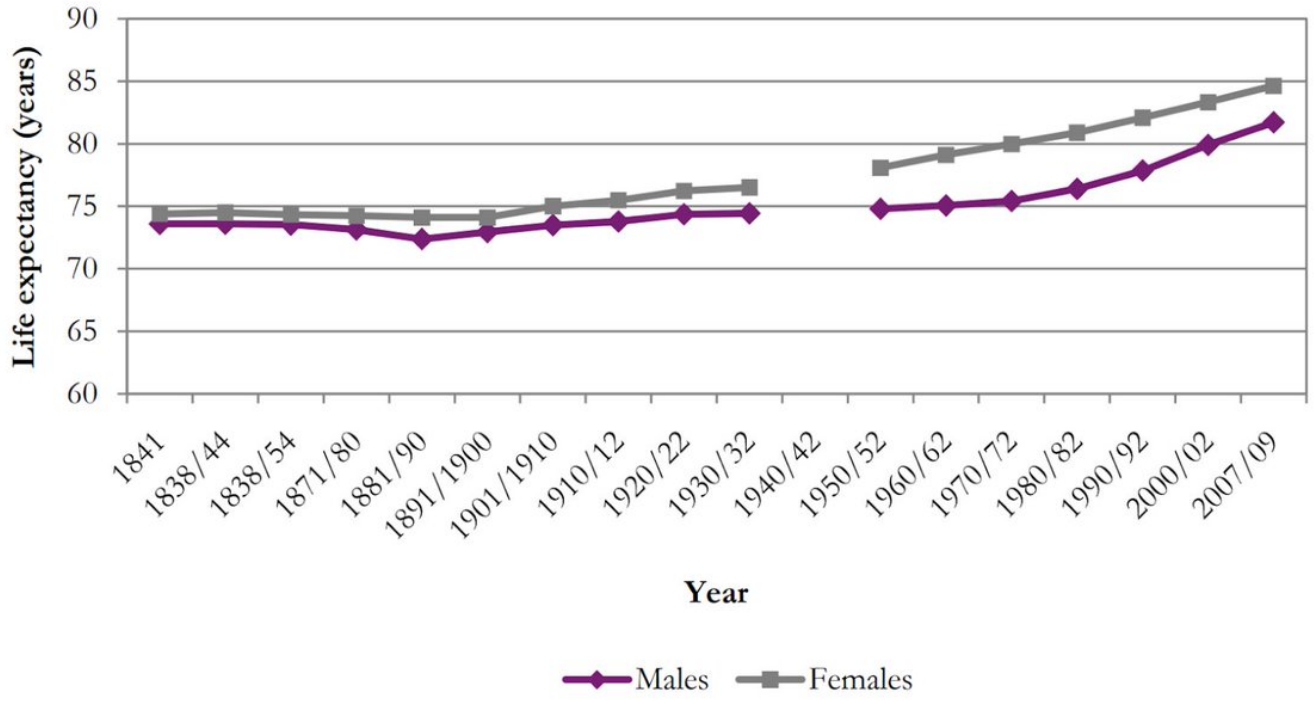
2/ To understand “McCloud” let's rewind to yesteryear- you gave a lifetime of public service & (deservingly) got a good “final salary” pension.

Broadly in 1995 (or “legacy”) pension scheme, each year you got 1/80th of your “final salary” as a pension & 3/80th a tax free lump sum

3/ Back in yesteryear, pensions cost 5 or 6% gross salary. For example you worked 37 years & final salary £120k, pension= 37/80ths x £120k=£55,500. You would get this at normal retirement age- 60yrs & it would be index linked to inflation, plus a lump sum (3/80ths) of £166,500

4/ So roll on 2006-08 & government were worried about affordability of the scheme. Life expectancy was increasing so people were in retirement longer. So they made the scheme more expensive & introduced a new “2008” section for new entrants. The 08 scheme removed the lump sum

Chart 1.A: Period life expectancies for those reaching age 60 – general population



Source: Life tables, Office for National Statistics.

5/ Existing 95 members had a “choice” to move to ‘08’ scheme. It had a higher retirement age (65) but paid a higher “accrual rate” (60ths not 80ths). Rather than “final salary” (best of last 3 yrs) it was based on a more complicated “reckonable” pay based on best 3/10 yrs pay.

6/ So sorted? They made the scheme more expensive for all, and introduced this new scheme with later retirement to make it more sustainable. And around the same time in 2007/08 they also introduced two new taxes - lifetime allowance (£1.5m) and annual allowance (£255k).

7/ So lifetime allowance is a tax on the total value of your pension at retirement. As we have no “pot” in the NHS scheme, they estimate the cost at 20x pension plus lump sum. So broadly your pension could be £65k (1995 terms) before you were affected, so very few were.

8/ Similarly annual allowance was based on how how much your pension grew each year. Again as no real “pot” this was estimated (19x pension growth) - but at an AA of £255,000/yr this was a tax to stop tax avoidance in the super-rich - not hardworking public sector workers.

9/ So that's quite a lot of tinkering already, and in all honesty they should probably have left the NHS pension scheme alone for a generation. We were now paying more, to retire later, without a lump sum. LTA and AA were set at a level to tax only the very best pensions.

10/ But in 2011 the coalition gvmnt had their eyes on wider reforms across the whole public sector. So they asked Lord Hutton to look at affordability of all “final salary” schemes (ignoring that the NHS had just reformed already) and making sure

the taxpayer was protected

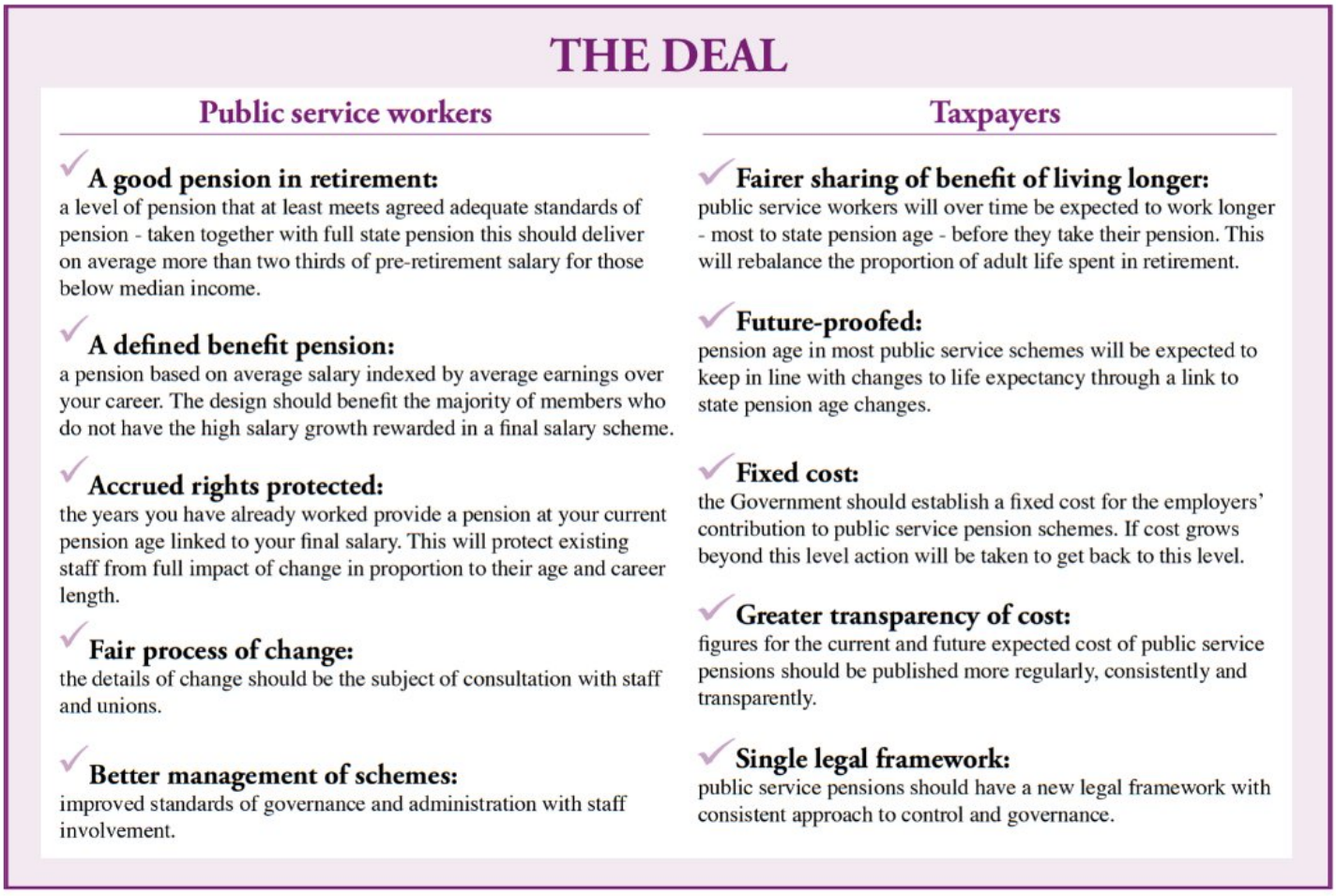
Independent Public Service Pensions Commission:

Final Report

10 March 2011

Independent
Public Service
Pensions Commission

11/ Hutton decided public sector workers deserved a “defined benefit” scheme but this would be “career average” or CARE (not final salary) and linked to state pension aged (not 60 or 65) to allow future proofing - allowing this to come with a 25 year promise to not change again



THE DEAL

Public service workers

A good pension in retirement:
a level of pension that at least meets agreed adequate standards of pension - taken together with full state pension this should deliver on average more than two thirds of pre-retirement salary for those below median income.

A defined benefit pension:
a pension based on average salary indexed by average earnings over your career. The design should benefit the majority of members who do not have the high salary growth rewarded in a final salary scheme.

Accrued rights protected:
the years you have already worked provide a pension at your current pension age linked to your final salary. This will protect existing staff from full impact of change in proportion to their age and career length.

Fair process of change:
the details of change should be the subject of consultation with staff and unions.

Better management of schemes:
improved standards of governance and administration with staff involvement.

Taxpayers

Fairer sharing of benefit of living longer:
public service workers will over time be expected to work longer - most to state pension age - before they take their pension. This will rebalance the proportion of adult life spent in retirement.

Future-proofed:
pension age in most public service schemes will be expected to keep in line with changes to life expectancy through a link to state pension age changes.

Fixed cost:
the Government should establish a fixed cost for the employers' contribution to public service pension schemes. If cost grows beyond this level action will be taken to get back to this level.

Greater transparency of cost:
figures for the current and future expected cost of public service pensions should be published more regularly, consistently and transparently.

Single legal framework:
public service pensions should have a new legal framework with consistent approach to control and governance.

12/ Part of that deal was a “fixed cost” or “cost cap” to taxpayers. If schemes got to too expensive (cost cap ceiling breach) i.e. people living longer, would be made less generous. If scheme got too “cheap” (cost floor breach) i.e. pay rises lower, would be made more generous

13/ So despite the recent changes with the 2008 scheme, government pressed on with the “reformed” 2015 NHS scheme

- CARE (not fin sal)
- 1/54ths (not 80ths/60ths), “revalued” at 1.5%/yr
- State pension age (not 60 or 65)
- Final salary link maintained for pre-2015 pension

14/ Lord Hutton warned government not to “protect” members close to retirement. After all they had most accrued “legacy” benefits.

Government ignored him and decided to either fully protect those closest (full protection) or just behind this cohort (tapered protection)

Whoops

Effects on members near to retirement

7.34 The Commission's expectation is that existing members who are currently in their 50s should, by and large, experience fairly limited change to the benefit which they would otherwise have expected to accrue by the time they reach their current scheme NPA. This would particularly be the case if the final salary link is protected for past service, as the Commission recommends. This limitation of impact will also extend to people below age 50, proportionate to the length of time before they reach their NPA. Therefore special protections for members over a certain age should not be necessary. Age discrimination legislation also means that it is not possible in practice to provide protection from change for members who are already above a certain age.

15/ To add insult to injury, around the same time, the coalition government decided to greatly reduce both the LTA and AA. The former reduced from a peak of £1.8m down to £1m - a level which could impact consultants and GPs. Additionally AA was to reduce from £255k to £40k.

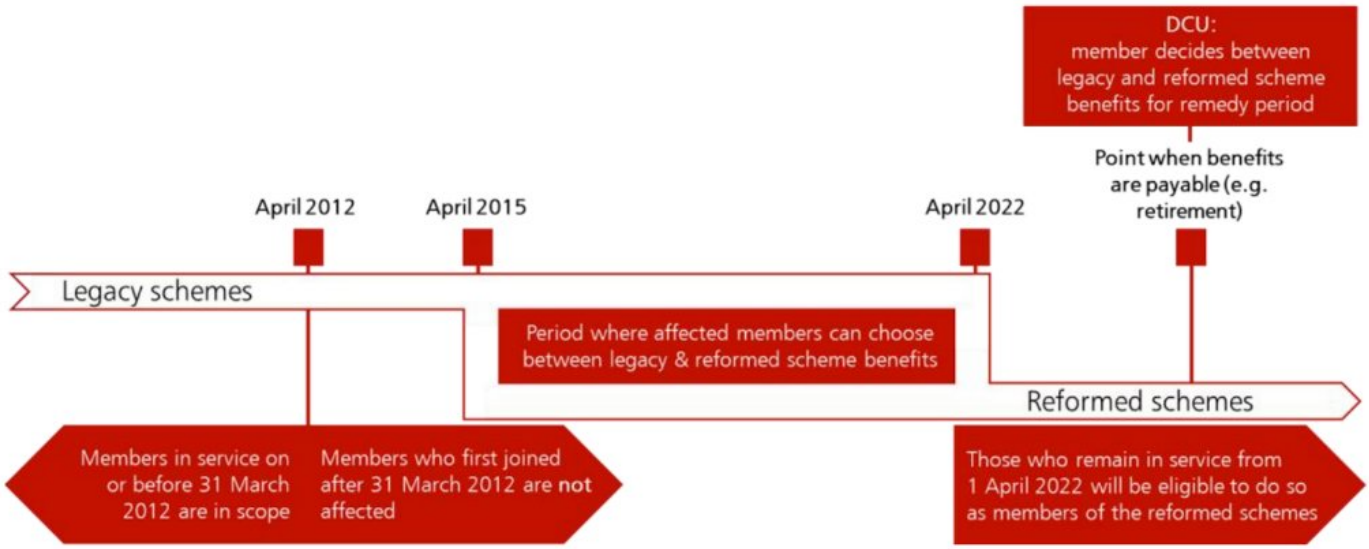
16/ And in 2016/17 government pressed on with one of the most ill informed tax policies ever implemented - the "tapered" annual allowance. This further reduced the AA down to a minimum of £10k, and now (20/21) a minimum of £4k (yes from £255k) for the highest earners.

17/ A number of groups including judges (McCloud) and firefighters (Sergeant) brought age discrimination cases. Important to realise that it was the "transitional protection" *not* the 2015 schemes themselves found to be discriminatory. Upheld by Court of Appeal December 2018

18/ Also crucially important to realise timing of these cases is v important. Too early - i.e. in 2015 - and government can remove discrimination by "levelling down" i.e. removing the (illegal) protections for all - this would have put those who received it in a worse position.

19/ So in 2020 government has been consulting to see how to "remedy" the discrimination accross the whole public sector. After 2022 *ALL* members will go into the reformed (i.e. 2015) schemes. This leaves the 7 year "remedy period" - 2015-22.

Figure 1: Diagram of the pension reform process



20/ If you were a member of the scheme on 31/3/12 & in service during the remedy period (2015 -22, or your retirement date if earlier), you will be asked to decide which pension scheme benefits you would like to receive for that period - “legacy” (1995/08) or “reformed” (2015)

21/ This is going to be pretty complicated, for a whole host of reasons. *DO NOT ASSUME* you will always be best choosing legacy benefits. Lets talk you through some of the important issues resolved in the consultation, & significant questions which remain

22/ First thing to say is *don't worry, there's no rush*. Under ”DCU” or deferred choice underpin - you choose the best pension (for 2015-2022) either legacy 95/08 or reformed ‘15 at *your retirement*. That's good, you can always choose the best pension when it is known.

23/ This is much better than “immediate choice” that was also considered. Though there is a temptation to get this “sorted”, you might make the wrong choice and got a less valuable pension, especially if the rules change in the future (past performance in gvmnt meddling noted)

24/ AA Tax - this is where it starts to get complicated. During the legacy period AA tax rules changed twice, and in 19/20 in England & Wales there was a compensation scheme for clinicians with AA. This means there are 4 different tax periods!

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
AA	Pre/Post Split	£40k	£40k	£40k	£40k	£40k	£40k
Threshold		£110k	£110k	£110k	£110k	£200k	£200k
Adjusted		£150k	£150k	£150k	£150k	£240k	£240k
Min AA		£10k	£10k	£10k	£10k	£4k	£4k
Special					*E&W Scheme*		



25/ Members need to calculate AA for 7 years both legacy & reformed scheme. Pension schemes have till October 2023 to issue information to help you with this. For tax, members will ALL be assumed initially to have stayed in the legacy scheme.

contin/ 26.. https://t.co/jSvpkEyzj0

> Cont\U0001f447
> 26/ If you have paid AA tax between 1995-22 it is likely your charges will be lower in 1995 than in 2015 scheme. This is because the AA rules are particularly unfair to members of 2 schemes. If your AA charges go down during any of the remedy period, you can claim a refund
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> — Dr Tony Goldstone \U0001f499 (@goldstone_tony) February 13, 2021