Our Ref: CPF/PENS/
Your Ref: Exit pay reform
Ask for: Maggie Sheppard
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Date: 9 November 2020

Exit Pay Consultation
Local Government Workforce and Pay Team,
Ministry of Housing, Communities and Local Government,
2nd Floor, Fry Building,
2 Marsham Street,
London
SW1P 4DF
Sent via e-mail to: LGExitPay@communities.gov.uk

Dear Sir/Madam,

Consultation – Reforming Local Government Exit Pay

Please find below our response to the Ministry of Housing, Communities and Local Government Consultation on Reforming local government exit pay published 7 September 2020.

The response is on behalf of Cheshire West and Chester Council in its role as Administering Authority for the Cheshire Pension Fund.

Question 1
Are there any groups of local government employees that would be more adversely affected than others by our proposed action on employer funded early access to pension?
- If so, please provide data/evidence to back up your views?
- How would you mitigate the impact on these employees?

As Administering Authority, we are not directly involved in setting redundancy policies, but we understand that local employers' policies seek to balance exit costs alongside the need to manage organisational change in response to changing government funding and priorities. At a time of significant local government funding reductions, employers will no doubt be concerned whether the proposals to amend the 2006 Compensation Regulations hinder their ability to make workforce changes.

As the cap on exit payments includes pension strain costs and MHCLG's proposals apply regardless of whether the Exit Payment Cap of £95,000 is breached, then clearly a much broader range of scheme members leaving at aged 55 or over will be affected than "high earners".

Lower paid scheme members, many of whom are also female and part time, who lose employment due to redundancy may be more financially reliant on the payment of unreduced pension benefits and hence may suffer more hardship as a result of the proposals.

MHCLG also proposes that pension strain costs be reduced by the value of any statutory redundancy paid to the scheme member. We are aware that local employers calculate redundancy pay due based on actual pay per week rather than the statutory £538 per week. For higher paid staff, reducing pension strain cost by statutory redundancy pay will have proportionally less impact on pension benefits than will be the case for lower paid staff. This impact could be mitigated (but not eliminated) by only requiring pension strain cost to be reduced by statutory redundancy where total exit payments exceed the exit cap.

Across the local government "family" of employers there are differences in the employers in scope of the Exit Payment Cap regulations and employers who participate in the LGPS and who will be affected by the MHCLG consultation on exit pay reform. Many of the employees of these organisations work alongside each other in providing local services. This adds scope for confusion for both employers and scheme members in the LGPS.

Question 2
What is the most appropriate mechanism or index when considering how the maximum salary might be reviewed on an annual basis?

The most appropriate mechanism would be to link it to the local government collectively agreed pay awards under the National Joint Council (NJC)/Joint Negotiating Council for Local Government Services.

Please also see our comments in response to Q4 below about the application of different salary caps across the public sector.

Question 3
Are there any groups of local government employees that would be more adversely affected than others by our proposed ceiling of 15 months or 66 weeks as the maximum number of months' or weeks salary that can be paid as a redundancy payment?
- If so, please provide data/evidence to back up your views?
- How would you mitigate the impact on these employees?

We have no direct involvement as Administering Authority in setting redundancy policy but understand this will create issues for employers as the proposals are inconsistent with the provisions of the Employment Rights Act 1996 which set the maximum number of weeks for redundancy pay at 60.

Question 4
Are there any groups of local government employees that would be more adversely affected than others by our proposal to put in place a maximum salary of £80,000 on which an exit payment can be based?
- If so, please provide data/evidence to back up your views?
- How would you mitigate the impact on these employees

A salary of £80,000 is a significant salary in local government so this will affect the most senior positions and potentially more older scheme members.

It is a concern that the maximum salary cap of £80,000 is not being applied consistently across the whole of the public sector and indeed that the provisions for

Local Government are more stringent than being applied elsewhere. We would ask Government to review this unequal approach.

Question 5
Do you agree with these proposals? If not, how else can the Government's policy objectives on exit pay be delivered for local government workers?

The removal of the right to an unreduced pension at age 55, whether the Exit Cap is breached or not, is a material change in the benefits payable and will affect all local government workers who are members of the LGPS. The proposals may cause significant financial hardship to scheme members who, particularly given the current pandemic, may face little prospect of further employment.

The proposals do reduce the significant differential between the pension benefits payable to scheme members who leave on redundancy at age 54 or below and those who leave at age 55 and above, albeit by levelling down.

We would highlight the proposal to offer choice to scheme members who are made redundant. Four potential options are described, each with varying impacts on the level of redundancy and pension payable. These choices will inevitably add complexity for employers, scheme members and administering authorities in providing information on the impact of redundancy. Scheme members will face potentially significant financial decisions at an already stressful time.

Please also see our comment above about the inequality of exit cap proposals across the public sector

Question 6
Do you agree that the further option identified at paragraph 4.8 should be offered?

Given the proposal to remove the entitlement to an unreduced pension, then it would seem sensible to have flexibility for scheme members to elect to defer pension benefits and receive discretionary redundancy rather than taking a fully reduced pension with statutory redundancy pay, to reflect individual circumstances and reduce undue hardship.

That said, the addition of flexibility inevitably adds administrative complexity in terms of scheme member and employer communications and retirement estimates.

Please also note our comments in response to Question 5 about the provision of advice to scheme members faced with potentially material financial decisions at such a time.

Question 7
Are there any groups of local government employees that would be more adversely affected than others by our proposals?

All scheme members made redundant at age 55 or over will be more adversely affected. As commented earlier, those on lower pay, predominantly part time and female, will suffer a proportionally higher pension impact if pension strain costs are reduced by statutory redundancy pay.

Question 8
From a local government perspective, are there any impacts not covered at Section 5 (Impact Analysis), which you would highlight in relation to the proposals and/or process above?

The consultation confirms that MHCLG has yet to conduct a full impact assessment including equality assessments, so it is not possible to give a definitive view.

We have not yet had the opportunity to complete work to assess the impact of the proposed new GAD factors to be used to calculate pension strain costs, both to assess whether they cause more/less scheme members to breach the cap or leave unfunded liabilities when compared to local factors.

Question 9
Are these transparency arrangements suitably robust? If not, how could the current arrangements be improved?

Local authorities are already required by law to publish policies on redundancy and pension discretions including abatement on re-employment. There seems little basis to add further requirements.

Question 10
Would any transitional arrangements be useful in helping to smooth the introduction of these arrangements?

Recognising that some redundancies may already be in train and notice being served then some limited transitional arrangements would seem appropriate for redundancies fully agreed prior to the introduction of the exit cap and MHCLG consultation, but where the date of leaving is after the introduction of the cap.

Question 11
Is there any other information specific to the proposals set out in this consultation, which is not covered above which may be relevant to these reforms?

Neither the consultation or impact assessment include any information about proposals for the rest of the public sector and this should be provided to demonstrate transparency, consistency and fairness, particularly given the generally lower pay and hence lower pension benefits earned by many in local government.

Yours faithfully

M. L Sheppard

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CHESHIRE PENSION FUND