Item 17 Appendix 3

Consultation on Exit Payment Reforms
Workforce, Pay and Pensions Team
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Our ref.: Pens/AGS

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Dear Sir

Consultation on Exit Payment Reforms

With reference to the current consultation regarding exit payment reforms, this is the response from Bath and North East Somerset Council as the administering authority for Avon Pension Fund which represents 36,370 actives, 40,050 deferred beneficiaries and 28,000 pensioners [incl. dependants].

This is the third consultation regarding exit payments to have been issued in the last few months, the others being recovery on re-entering public sector employment and the introduction of the cap of £95k. The response in this paper will reflect on comments made in these previous consultations as there is a common theme within each.

It does appear that the subject of public sector exit payments is high on the Government's agenda, however rather than issuing several separate consultations for discussion each generating its own legislative requirements it would have been more constructive to have just one consultation taking into account all the areas collectively for comment. Any resulting legislation could have had the same operative date .Indeed the original date for the repayment of certain exit payments due to re-employment within the public sector has already been delayed from its proposed date of 1 April 2016.

Different commencement dates puts employers in a difficult position when planning future workforce levels as estimates currently being given may become obsolete if restrictions are introduced in a relative short period of time. It is unclear if transitional arrangements will apply in any or all parts. These proposals suggest that agreed arrangements will be honoured whereas it has been suggested that this will not be the case with the exit cap of £95,000

The attached [enclosure 1] sets out the proposals with comments included as to how they relate to previous experiences to outline if they are already being operated or how they could be incorporated.

Our previous responses on exit payments did cover whether the proposals actually dealt with the intended individuals as employees on relatively low incomes would be included within the restrictions.

This issue was raised during the discussions in Parliament on the Enterprise Bill where it was discussed that even individuals earning £27,000 could be affected by the exit cap and thus show that it was not only the targeted high earners who would be restricted.

Also raised previously was the interpretation of what constitute a public sector employer and although whilst some bodies, predominately private outsourced nuclear power employers are freezing redundancies until the new criteria sets in, the position of other publically owned bodies remain excluded such as banks, media and regulatory bodies .

As regards these latest proposals they do again set out further controls that may be put in place for public sector employees on top of the other austerity measures already imposed with restricted pay awards not only affecting income but also having an effect on the pensions being accrued. These may seek to delay the age at which immediate benefits are payable.

Public sector employers are required to save more costs each year which ultimately leads to redundancies. These changes do not assist the process.

These measures add further restrictions if a member is made redundant as any exit payment will be assessed with any pension strain costs or may be scaled down because of age.

Although people are living longer and as a result working longer there appears to be little concern for their income at what could be a very stressful time in their life, especially as all the new proposals on exit payments could lead to more compulsory rather than voluntary redundancies

These proposals do not appear to be just aimed at high earners as they could potentially affect all employees who are made redundant regardless of pay especially those approaching their normal retirement age.

Also there would be a dilemma for an employee who needs to decide whether to opt for voluntary redundancy because if they decide not to apply they may still be compulsory made redundant and as there may be a time delay between the 2 processes may be subject to an even further reduced exit payment as they would be nearer retirement.

The attached [enclosure 2] sets out a table to show that the proposals for all changes to exit cap will add even further administration to both employers and administering authorities in a period where changes are constantly being made. The intention of making all schools become academies will increased the situation further with a high number of new employers becoming scheme employers and the need to ensure their compliance with the regulation.

The key points to consider are

1. Whether it would be appropriate to consolidate the exit payment legislation into one to simplify process in one place

2. Whether employers are already using controls within the current legislation and further restrictions could hinder their current flexibility to manage workforce change.

3. Whether any changes to pension schemes especially the LGPS will have an effect on the overall cost control of the scheme and whether other changes will be required to balance the scheme cost levels of benefits removed

4. Whether there are other methods to prevent adding further administrative challenges in addition to the ones currently being faced by administering authorities and employers.

I trust that if some areas are taken up then a further consultation will be given to discuss the finer points and how the legislation can be adopted efficiently

Yours sincerely

Alan South

Alan South
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Setting the maximum tariff for calculating exit payments at 3 weeks' pay per year of service.

It would be appropriate to regulate the maximum levels across the public sector but not to impose restrictive levels that limit the scope for an employer. Although the local authority maximum level is 104 weeks, this would only be used once the employer has reviewed the costs of any redundancy exercise. In particular this level was set to assist in reorganisation within local government.

In some instances it is how the employer can manage the position to get maximum overall savings rather than getting a quick gain.

From Hansard 8 March 2016 [Enterprise Bill on Exit Cap]

"This provision will also hit middle-income earners, who are not meant to be the target. The local authority that I belonged to periodically operated a teacher refresh scheme to allow older, more experienced teachers to be considered for early retirement and replaced by younger teachers. That represents a virtuous circle of creating vacancies for young teachers, protecting the pensions of retiring teachers, and saving the taxpayer money overall due to the lower wages that are paid to new starts. Good governance is needed, not an exit cap that, in its current format, is too much of a blunt instrument."

Capping the maximum number of months' salary that can be used when calculating redundancy payments to 15 months. Where employers distinguish between voluntary and compulsory redundancies there may be a case for maintaining a differential by applying a lower limit to the latter. Likewise, where employers offer voluntary exit packages that are not classed as redundancies there may be a case for applying a slightly higher limit to those as part of an overall package.

There should be a consistent approach on exit payments to avoid any employer manipulations around any of the restrictions.

Setting a maximum salary for the calculation of exit payments. This limit could be set at various levels and could potentially align with the NHS redundancy scheme's salary cap of £80,000.

This concept has already been adopted by some local authorities.

Enabling the amount of lump sum compensation an individual is entitled to receive to be tapered as they get close to the normal pension age or target retirement age of the pension scheme to which they belong, or could belong, in that employment.

This change does raise some conflicts with how employment conditions have changed over the years. The LGPS used to have a provision that when a member reached age 65 their employment ceased unless the employer gave an extension. There is now no specific age at which an employee must retire. Some individuals have to work beyond their State Pension Age for economic reasons. It would seem unfair to restrict redundancy payments to a specific date by tapering.

Reducing the cost of employer-funded pension top up payments, such as limiting the amount of employer funded top ups for early retirement, or removing access to them, and / or increasing the minimum age at which an employee is able to receive an employer funded pension top up. The latter would link the minimum age more closely with the individual's Normal Pension Age in the scheme in which they are currently accruing, or have accrued, pension benefits.

Local government has come a long way from the days of routinely awarding 10 compensatory added years to a pension at age 50. From 1998 the employers had to pay the cost of this upfront and the awarding of service became an exception. Since the move over to career average pensions there is no longer the provision to top up service but purchasing extra pension is an option. However, most employers' discretionary policies only allow this in extenuating circumstances. This may be offered to facilitate an employee leaving without going through the tribunal route which may result in greater expense. *Could affect the cost control levels which is contained in the benefit package set out*

Increase of Administration due to Exit Payment Changes **Enclosure 2**

	Expectation	Changes	Admin
LGPS	Payable from age 55	Remove this automatic right Increase age when payable [e.g. 10yrs before NRD]	Need to give what members deferred benefits are and also reduced May get frequent requests for estimates between leaving and NRD Workforces up for redundancy could have different NRD dates and therefore different amounts
Exit payments including strain costs	Exit payments are separate from pension	Strain cost is included within Exit Payments	Employer needs to give options as to which elements can be taken and which can be given up. Administering authorities will be required to give full range of alternatives Some members may be subject to Annual and Lifetime Allowance decisions and therefore this will add to the administration further with comparisons required to see all the options available
Exit payments	Standard payments for redundancy and any under Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.	Put in taper for those nearing NRD	As NRD now varies for members depending on date of birth employers would require information on these dates especially when going through a transition like age 66 to age 67 with varying dates within the transition Non LGPS employees would have to be compared within the scheme rules so monitoring of employers understanding of NRD will be essential