

City and County of Swansea Pension Fund
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Administered by

Exit Pay Consultation
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Date: 02nd November 2020
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Dear Sir

LGPS Consultation – Reforming Local Government Exit Pay

I refer to the above consultation and respond on behalf of the City and County of Swansea Pension Fund; for ease of reference, the questions have been replicated and a response provided underneath.

Q1 – 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?

In response to Q1;

Members impacted by this change are those who are entitled to unreduced early retirement pensions as a result of redundancy. It should be noted average pension in payment in Swansea is £5k p.a, and over 2/3 of those members are women workers many of whom only work part time hours.

The proposals encompass key member groups identified includes front-line staff; School support staff i.e. lunchtime supervisors, teaching assistants, social service staff i.e. Community Care Officers, residential home support, refuse operators. Employees employed on lower grades who will be forced to make complex financial decisions based on receiving either a cash lump sum payment from their employer or unreduced pension benefits.

As pension strain is linked to length of service, the financial detriment will be proportionately larger for members with significant service.

Employees taking early retirement pension from aged 55 and above especially where the pension strain is essentially greater than any redundancy pay. Historically individuals have been entitled to immediate payment of unreduced pension benefits from the LGPS along with any additional statutory redundancy pay and potential

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discretionary lump sum top up paid by their employer, when made redundant. Outlined reforms will significantly reduce the overall cost of exit packages.

The original £95k cap had a clear parameter within which to limit costs clearly aimed at medium /high earners with medium/long service, , however, the exit reform proposal are more pervasive and impact across the pay structure.

A potential solution to mitigate the impact (on those below the cap) would be to remove the requirement to reduce pension strain cost by statutory redundancy

Q2 – 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) for Local Government Services. This is because the majority of local authority employees will be covered by that award, and even if not, any pay award agreed for them is likely to mirror or be close to the NJC award. Therefore, uplifting on this basis would mean it would accurately reflect actual increases in pay in local authorities. Using average earnings may be a reasonable proxy, however, basing it on CPI or RPI would not provide that direct link.

Q3 – 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?

Identified individuals instantly recognized as being affected by the proposed redundancy payment ceiling are long-serving employees who have built up significant long-service of which redundancy payments are offset against.

While it is appreciated that the intent of the overriding policy is to restrict the amount of exit payments paid to local government personnel to ensure reforms meet key principles of fairness, modernity, flexibility and consistency across workforces, reducing the calculation of lump sum compensation from 104 to 66 weeks is one means of achieving this.

The majority of local authority of employers do not provide for exit packages based on a maximum 104-week lump sum compensation payment.

Q4 - 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?

£80,000 is a significant salary in local government so this will affect the most senior positions. Considerable experience and skills will be required for such posts and so this will be more likely to affect older workers, (more of them who are likely to be male) although not exclusively so. It will affect professions and roles that are hard to recruit in the sector and as such will weaken the reward package that local authorities are able to offer.

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Q5 - 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 LGPS stands alone as the only funded large public sector scheme and has 'actual pension strain costs' when assessing the costs of redundancy. To ensure consistency and fairness across public sector pensions, these equivalent costs should be considered in the exit caps/reforms in the other public sector exit reforms, if not they should be removed for LGPS workers. These proposals demonstrably adversely affect the lower paid members of the local government workforce in the event of redundancy. Local government workers do not have a right or entitlement to voluntary redundancy but they do currently have the long-standing entitlement to the safety net of unreduced accrued benefits and statutory redundancy pay in the event of their employment being terminated on the grounds of redundancy. Many workers will quite rightly argue that this safety net is one of the primary reasons that they have remained in local government employment.

These proposals also represent significant challenges at an administrative level. Current process requires Pension Sections to carry out one estimate calculation of benefits and strain cost to an employer. Under these proposals, four different calculations will have to be performed quadrupling the workload of sections, with the current financial climate making it unlikely that there would be recruitment to reflect the additional workload. It is also worth noting current software does not allow for these calculations so there will be a cost for pension funds for software development to accommodate these proposals.

These proposals will also place an additional burden of complexity on pension fund members to make a complex financial decision with potentially long lasting consequences, which their Pension Fund and employer will be unable to advise on. There is the potential some members will be placed in a vulnerable position whereby they are at risk of becoming victims of fraudulent activity.

The proposals will also severely affect employers' ability to manage their workforce with voluntary redundancy packages., whilst also adversely impacting those made compulsorily redundant This in turn will create a situation where lower paid members of the workforce will experience financial hardship, which has come about directly because of these reforms.

It places many local government workers in an invidious position meaning that . that a school based lunchtime supervisor has to choose between an unreduced pension or a redundancy payment. It is questionable if this situation is the best way to meets the government's policy objectives.

Q6 - Do you agree that the further option identified at paragraph 4.8 should be offered?

I would consider the removal of immediate payment of reduced retirement benefits from the table a sensible proposal. Members who retire at age 55 on the grounds of redundancy will receive pension benefits that are greatly reduced and the financial impact this will have might not be fully realised by an individual in real terms which could lead to financial pressures in the future (e.g.mortgage repayments etc).

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It is appreciated that an individual's financial situation is unique to them however if the Regulations continue in the same vein, in the long-term the annual reduction to a members annual pension could very well be greater than any redundancy payment received. Again, there is the need to highlight that the average annual pension is £5k and a member aged 55 who retires now will not be in receipt of their state pension benefit until age 67.

This situation could lead to grave financial difficulties for individuals, as extensive financial planning for retirement might not have been considered beforehand.

Q7 - Are there any groups of local government employees that would be more adversely affected than others would by our proposals?

As stated in points Q1 & Q5; and in support of previous responses given it would appear that LGPS members are disadvantaged for being a member of this particular scheme as opposed to that of any other public sector pension scheme. Whilst it is accepted that the £95K exit payment cap will come into effect and apply to the majority of public sector pension schemes going forward the disparity between the make-up of redundancy packages made could amount to discrimination against LGPS schemes (see earlier comments re. funded schemes and pension strain costs).

For example there could be the ridiculous situation in a school where the same employer has staff in 2 separate schemes(The teachers' pension agency and the LGPS) where; a Teaching Assistant will have to choose between a redundancy payment from their employer or unreduced benefits whereas the Teacher could potentially retire with a redundancy payment of up-to £95K.

Q8 - 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?

There is concern that a full impact assessment was not available at the commencement of the consultation. The GAD impact assessment has since been published in draft. However, that assessment does not identify the greater proportionate impact that statutory redundancy pay being either deducted from the pension strain cost, resulting in a lower pension for life, or paid to the employee and then paid into the pension fund in order to part-pay the strain on fund cost, will have on lower paid and part-time workers

Q9 - Are these transparency arrangements suitably robust? If not, how could the current arrangements be improved?

Being in receipt of taxpayer's monies local authorities in particular are subject to scrutiny. The transparency requirements in local government are established and would seem adequate but we cannot speak of the consistency with similar requirements in other parts of the public sector or across all workforces covered by these reform proposals.

Q10 - Would any transitional arrangements be useful in helping to smooth the introduction of these arrangements?

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In reference to point 5.2 of the MHCLG – Reforming local government exit pay https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/927502/Reforming_local_government_exit_pay_consultation.pdf and in particular the statement concerning ‘the workforce has a greater proportion of women’ employees, there is the recent Backto60 Court of Appeal hearing brought about by women who had been affected by the state pension age change.

Based on this evidence again it is apparent that the female workforce will be most hit by these further reforms. While it is recognised that in the scheme of things it does not necessarily lead to the closure of the chapter of an individual’s working life and further employment follows; nevertheless as we are all very much aware there are many areas in the UK especially in Wales that are subject to socio and economic issues with very little employment and above average health issues. This has been made progressively worse by the Covid-19 pandemic.

Like Scotland, Wales is a devolved nation therefore; consideration of how to apply appropriate measures concerning the application of waivers should apply; for example:

1. When applying the Exit Cap local authorities in Scotland are not taking into account any pension strain costs; should the same approach be applied?
2. Application of indexation arrangements in line with inflation / local authority pay awards
3. Introduction of a transitional phase to allow pension software providers to develop suitable workflows to allow for the amended/additional calculation process and updated member communications. Appropriate guidance to be sought from software providers to allow for a sensible timeframe.
4. Consideration of a temporary suspension to the further reform to allow for adequate employee engagement ie employee roadshows. This will give individuals time to digest the changes and make appropriate decisions concerning financial provisions during retirement based on the information provided following the removal of what historically has been considered an unwritten T & C of employment.
5. Analysis of possible employee numbers affected by this change ie employees who are aged 50+ but under aged 55.

Q11 - 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?

The proposals to amend the Local Government Pension Scheme Regulations 2013 go further than was expected, and it’s clear that in order for the process to work effectively there will need to be lots more communication and information sharing between employers and administering authorities to ensure that members are given the correct figures and options.

Further, if the new changes and flexibilities for members on redundancy are translated into LGPS Regulations, then they may also apply to members employed by employers not subject to the £95k cap, although this is not clear in the consultation and our initial

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expectations were that there would be no changes for those employed by employers not subject to the Cap.

The consultation doesn't appear to address non-redundancy exits where a pension strain cost is involved (e.g. a member retiring early where the employer agrees to waive any early retirement reductions). Given that the pension strain cost is likely to be the only exit payment that counts for the £95k cap in this scenario, fewer members will be affected, but we assume that there will be similar restrictions on the level of pension that can be taken to ensure that the strain cost remains under the cap. However, this is another area that requires clarification.

It's not clear whether the salary limit refers to basic pay only or whether it also includes any allowances/bonuses etc., and it's also not clear how that limit would apply to any part-timers (i.e. is the £80k limit actual pay or the FTE?).

The consultation also does not clarify what is meant by discretionary redundancy pay.

Finally, given the interaction between the employer's role and the administering authority's role, it is not clear who would be responsible for providing the member with these choices and obtaining the decision. If this is not covered by regulations or statutory guidance employers and administering authorities will need to review their procedures and will collectively need to ensure that all parties know who is responsible for providing what information.

Q12 - Would you recommend anything else to be addressed as part of this consultation?

The LGPS is already subject to various administration impacts such as McCloud, GMP equalization etc therefore further regulatory changes will add further weight to an already vast timetable. As the administration, software cannot accommodate these changes administration staff will be required to undertake manual calculations which will lead to additional pressures on what is already very complex scheme to administer.

To ensure fairness across all public sector schemes assurances that going forward the cost of pension / actuarial strain will be calculated or even considered for other public sector schemes on an equal basis; otherwise, individuals will not be treated equitably.

Yours sincerely,

Cllr Clive Lloyd
Chairman, Pension Fund Committee.

Croeswir gohebiaeth yn y Gymraeg a byddwn yn ymdrin â gohebiaeth Gymraeg a Saesneg i'r un safonau ac amserlenni.

We welcome correspondence in Welsh and will deal with Welsh and English correspondence to the same standards and timescales.