



Reforming local government exit pay: A consultation on the reform of exit payments in local government

Response by Prospect on Ministry of Housing, Communities and Local Government consultation on the reform of local government exit pay

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Introduction

1. Prospect is an independent trade union that represents over 150,000 people across the UK. Our members in local government work for a range of employers including local authorities, Welsh government, Universities, Fire & Rescue authorities and the Environment Agency.
2. Many thousands of Prospect members are in scope of the public sector exit payment cap and we have a significant number of members will be affected by the proposals currently under consultation.
3. This submission reflects the strong opposition of Prospect members to the proposed method of implementation of the exit payment cap in local government.

Prospect's position on the cap

4. The Conservative party's 2015 general election manifesto included a commitment to "end taxpayer-funded six-figure payoffs for the best paid public sector workers". It was very unfortunate that a political party decided to misrepresent redundancy compensation in the public sector as unjustifiably or unfairly high and scapegoat dedicated public servants for terms that are not uncommon in other, similar organisations. However, having won the 2015 general election, it was legitimate for the then government to seek to implement its policies on restricting redundancy compensation for the highest paid public sector workers.
5. Unfortunately, the government took a flawed approach to restricting redundancy compensation for the highest paid public sector workers. Changes to public servants' terms and conditions should have been subject to negotiation rather than imposed by legislation.
6. The primary legislation that gives ministers the power to bring forward regulations capping exit payment in the public sector, the Enterprise Act 2016, is also flawed. This legislation allows for an exit payment cap that is far wider in scope than could possibly have been anticipated by voters ahead of the 2015 general election. It also brings public servants on relatively moderate earnings into the scope of the cap and is therefore not focussed on the "best paid public sector workers" as intended.
7. The exit cap regulations have now been made and came into force on 4 November 2020. It is farcical that these regulations have been brought in prior to this consultation, and others within the public sector, concluding.
8. While the Regulations prohibit relevant authorities from making exit payments in excess of the cap, they do not alter an employee's legal entitlement to the various payments. This has created issues where an employee is entitled to a payment, but the authority cannot pay it.
9. This is especially relevant in local government where we are now in a position within local government where there are conflicting pieces of legislation in force. The exit payment regulations prohibit a total exit package, including

pension strain payments, from being over £95,000 yet the Local Government Pension Scheme (LGPS) regulations state that if an employee is aged 55 or over and they are made redundant, they must take an unreduced pension. The pension strain cost alone could be more than £95,000.

10. This puts local authorities and LGPS employers in a position that whichever way they proceed in the time between 4 November and when changes to the LGPS are made, of being legally challenged. This is an unacceptable situation which demonstrates how ill thought out the exit cap policy is and that it has been implemented poorly.

Prospect's position on the current proposals by MHCLG

11. The MHCLG's proposals go beyond the approach authorised by Parliament in implementing the £95k exit payment cap. The changes proposed to local government workers are wide ranging and should not be brought in under the guise of implementing the exit payment cap. This is an attack on the terms and conditions of local government workers and the financial consequences will be severe.
12. For the reasons outlined above, the proposals currently under consultation are not a proportionate means of implementing an exit payment cap in local government.
13. Prospect members want MHCLG ministers to withdraw these proposed regulations and to implement this policy in a manner that is more consistent with the original stated objective instead.
14. The purpose of £95k cap was to limit payments to the highest earners, the cap in itself goes completely against this principle but to also restrict members to an either-or approach in regard to receiving an unreduced pension or their discretionary severance compensation is a gross overstep from government.
15. This is a valued benefit and this change is monumentally detrimental to all staff including the lower paid. This change should not be able to take place under the Conservative party's 2015 general election manifesto pledge which was to "end taxpayer-funded six-figure payoffs for the best paid public sector workers" and it is not appropriate for the Government to impose such fundamental changes unilaterally.
16. This is a far more overarching change and should not proceed. If the pension strain cost and redundancy payments do not exceed £95k, then the current system should be able to be maintained as this would reduce the impact on lower paid and moderate earners who are not supposed to be the subject of these restrictions.

Comments on the proposals

17. It is unacceptable that those who are not high earners and would not be subject to the exit payment cap are having to choose between a redundancy payment and an employer contribution towards pension strain.

18. The government's own analysis shows that 86% of members ceasing their employment on grounds of redundancy are affected by these proposals and would have received higher benefits than they are going to be entitled to under the proposed reforms. The average loss to members would be around £13,000. These proposals take money away from public sector workers who could never have envisaged that they would be affected by a cap on public sector exit payments that is aimed at high earners.
19. With such a stark weakening of the overall redundancy package, these proposals will impact on the ability of local authorities to restructure as there will undoubtedly be fewer individuals agreeing to voluntary exits or redundancies.
20. The consultation also outlines a reduction in how severance payments are calculated when an individual exits the local government workforce. We believe that these terms should be derived through negotiations with trade unions and not unilaterally decided upon by government.
21. These proposals should therefore be withdrawn and MHCLG needs to revise its proposals and start a process of negotiation and agreement with the local government trade unions. When re-consulted upon, the proposals should only make changes which are required for the implementation of the £95k exit payment cap.

Consultation questions

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?

Those local government workers on lower and moderate salaries who even with a pension strain cost, would not reach the £95k are the group of employees who are going to be most adversely affected. These individuals should not be the target of these reforms and the current proposals must be withdrawn.

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

We believe that the maximum salary should be increased in line with the consumer prices index level of inflation to keep this consistent with the uprating of other factors in local government such as pension increases, and the contribution salary bands within the LGPS.

Our view is that the Government's policy objectives on exit pay can be delivered for local government workers without the introduction of the £80,000 cap on earnings. The civil service compensation scheme (CSCS) operates a cap on earnings that is substantially higher and designed to limit severance of the most senior civil servants. We propose the cap is set at the

same level as the existing cap in the civil service compensation scheme which is currently £149,820 and is increased in line with CPI.

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?

To reiterate, these proposals are going to have the greatest impact on the lower and moderate paid who are long serving local authority workers. The proposals are flawed and do not implement the exit payment cap policy as originally intended.

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?

The salary cap proposed is too low as this will again impact those employees who were not the original target of these reforms. If a maximum salary is going to be used it should, the government should honour the intention of the changes and implement this at a more appropriate level.

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?

We strongly disagree with these proposals as they are an attack on local government workers terms and conditions. The government's policy objective was to implement a cap to stop six figure exit packages from the public sector. This can be achieved in local government in a manner which implements the £95k cap and only affects a minority of staff.

The proposals in this consultation will detrimentally affect most staff in local government and are a major overstep as these proposals could not possibly have been foreseen based on the original policy intention. These proposals should be withdrawn, and negotiations should begin with trade unions on how the cap can be introduced within local government in a manner that impacts on those who were the true target of this policy.

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

Given that these proposals will have an impact on all staff and not just the higher paid, this further option should be offered as employees over the age of 55 will need this flexibility as their overall redundancy compensation will have been watered down to such an extent that they are likely to be required to seek further employment, if possible, after being made redundant.

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

See answer for questions 1 and 3.

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?

We have no comment to make on this question.

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

We have no comment to make on this question.

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

We are concerned that local government employees over 55 who are already aware that they will be leaving on voluntary or compulsory redundancy are going to be adversely affected. Whilst the policy intention of the cap has been known for some time, these employees would have expected to leave before the cap was introduced. With the inclusion of the scheme strain cost in the cap, local government employees on modest salaries over 55 will see their compensation limited.

We believe that transitional arrangements should apply for these employees to smooth the introduction of these arrangements. For employees whose leaving had already been agreed on an exit scheme prior to the exit payment cap coming into force on 4 November 2020, our suggestion is that a relaxation or waiver should automatically apply.

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?

See main body of our response.

12. Would you recommend anything else to be addressed as part of this consultation?

See main body of our response.