

**NORTHUMBERLAND COUNTY COUNCIL PENSION FUND
Pension Fund Panel Meeting 23 February 2018**



South Tyneside Council

Pensions Committee

Date: 7th March 2017

Pensions Administration

Report of the Corporate Director Business and Resources

1. Purpose of Report

This report briefs the Committee on developments in pensions administration.

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Public Sector Exit Payment Reforms

2. As members will be aware, the Government has committed to restricting the size of redundancy payments and other early exit costs across the public sector. To further this objective the Government consulted on three significant changes to the rules applying to public sector exit payments.
3. The three changes are:-
 - The introduction of a requirement that some or all of the exit payments made to staff earning £80,000 or more at the point of leaving and who return to public sector employment within twelve months be clawed back.
 - The introduction of a cap of £95,000 on the total value of exit payments made to an individual.
 - Reforms to the circumstances when exit payments can be made and to how they are calculated.
4. The Government has confirmed how it intends to proceed with its planned reforms but its planned timescales have slipped. The current position on each of the reforms is as follows.

Clawback provisions for high earners returning to public sector employment

5. We had been informed that the regulations required to give effect to the powers enacted in the Small Business, Enterprise and Employment Act 2015, which allow for the recovery of exit payments when a high earner (those earning £80,000 or more) returns to the public sector within twelve months after exit from their employment, were to be laid before Parliament at the turn of the year in order that the new provisions might become effective early in 2017.
6. At the time of writing the regulations have still not been laid before Parliament.

The Public Sector Exit Payments Cap

7. Provisions allowing for the introduction of a Public Sector Exit Payments Cap were included in the Enterprise Act, which received its royal assent on 4th May 2016.
8. The Enterprise Act 2016 (Commencement No 2) Regulations 2017, which are effective from 1st February 2017, amend the provisions of the Small Business, Enterprise and Employment Act to enable the public sector exit payments cap to be introduced once regulations are put in place.
9. It has recently been confirmed that HM Treasury have decided to undertake a further consultation on the draft regulations and guidance that will cover the cap, but we do not yet know when this consultation will be issued.

Reform to the rules governing the availability and calculation of public sector exit payments

10. The Government has decided not to introduce a single exit payment regime across all the public services, instead choosing to allow a more flexible approach reflecting the needs of different public sector workforces.
11. Individual Government Departments are being tasked with compiling proposals for reform that are based around a common Government framework.
12. The common framework guidelines are expected to include
 - Capping exit payments at 3 weeks' pay per year of service (although a lower level is possible)
 - A cap of 15 months' salary that can be paid as a redundancy payment (with different levels possible for voluntary and compulsory redundancies)
 - Restricting the salary on which an exit payment can be based, with a strong steer that this should be in line with the £80,000 limit for NHS redundancies
 - Tapering any lump sum compensation for individuals closer to their normal pension age
 - Limiting or removing employer-funded early access to pensions on redundancy (but there is nothing yet on how this is expected to work in the LGPS, with its Fund specific early retirement strain costs)
 - Possibly increasing the minimum age at which an employee is able to receive an employer funded pension access so that it is more closely linked with the normal pension age of the Scheme.
13. Each Government Department's proposals will then need to be agreed with unions and other workforce representatives.
14. Government Departments had three months from the publication of the response (26th September 2016) to come up with proposals and a further six months to complete negotiations and make the necessary amendments.
15. The Government does, however, retain the right to introduce change via primary legislation if no meaningful proposals are put forward or there is a failure to reach agreement.
16. The Department for Communities and Local Government have put forward some proposals to the unions and workforce representatives in respect of the LGPS, which, we understand, are currently being considered.

Delays to the proposed LGPS (Amendment) Regulations 2016

17. As members will recall, DCLG issued a consultation on some technical amendments to both the LGPS 2013 Regulations and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.
18. Whilst most of the amendments constitute minor corrections and technical changes, there were included a number of noteworthy changes, including revised access provisions and flexibilities for members who have contributed to an in-

house AVC arrangement, a new ability to return excess funding to employers who have left the Fund and a proposed amendment that would allow for an admission agreement to have retrospective effect.

19. We submitted our response to the consultation on 17th August 2016, and it was expected that DCLG would issue the finalised regulations shortly thereafter.
20. Due to recent retirements and resignations, DCLG's LGPS team has been reduced to the point that the team have not been able to progress the proposed LGPS (Amendment) Regulations 2016 as planned.
21. We have been advised that the following approaches are being considered in respect of the matters covered in the consultation document:
 - Revised access provisions – the consultation responses highlighted a number of gaps in the draft regulations and a further consultation may need to be undertaken on an amended set of draft regulations. The policy intent, to extend the principles of Fair Deal to the LGPS, has not changed.
 - Freedom and Choice for AVCs – the consultation responses noted a number of deficiencies with the draft regulations, meaning that a further consultation may be necessary to address these.
 - Other amendments – these are being considered on a case by case basis and DCLG will try to move these forward as appropriate.

Consultation on the Indexation and Equalisation of Guaranteed Minimum Pensions in Public Service Pension Schemes

22. On 28th November 2016, HM Treasury commenced a consultation on proposed options for the indexation of the Guaranteed Minimum Pension (GMP) element of pensions paid to those members of public service pension schemes who will reach State Pension age on and after 6 December 2018.
23. Members will recall that on 6th April 2016 the Government introduced the new State Pension, designed to radically simplify pension provision whilst ensuring that pensioners have security in retirement. This simplification removed layers of complexity from the system, harmonised the rate of National Insurance contributions paid by employees and employers and was intended to promote private saving by giving people a better understanding of the amount of support they can expect to receive from the State when they reach State Pension age.
24. Amongst the layers of complexity that has been removed is the Additional State Pension (AP), an earnings related element of the old state system.
25. The removal of AP has led to the need to consider how public service pension payments for members reaching their State Pension Age after 5th April 2016 should be increased in the future.
26. The Government initially decided on an "interim solution" under which public service pension scheme members who reached State Pension Age between 6th April 2016 and 5th December 2018 will receive full indexation of the guaranteed

minimum pension (GMP) element of their pension via their public service pension scheme.

27. The consultation considers how members who have accrued a GMP from their public service pension scheme and who will reach State Pension Age after 5th December 2018 should be treated.
28. The consultation aimed to consider two issues by putting forward a number of solutions. The two issues that are considered are:
 - How best to avoid the unequal payments to men and women in public service schemes that result from the abolition of AP, and
 - Whether, following the introduction of the new State Pension, public service pension schemes should, for someone who reaches their State Pension Age after 5th December 2018, provide full indexation on any GMP the public service pension scheme pays?
29. The consultation identifies three possible ways forward to address the issues identified by the Government. These are:-
 - For each member an annual, case by case, review
 - Extending the interim solution
 - Converting the GMP into scheme benefits
30. The annual case by case review for each member approach is by far the most complex of the three possible solutions and we are concerned that the level of complexity and the reliance on assumptions makes it the most likely of the three methods to fail to fully address gender inequality. In addition this method will not meet the Government's commitment to fully index the GMP of public service pension scheme members.
31. The second option, extending the interim solution, is the continuity approach. It appeals in that it requires virtually no system changes, only very minor documentation changes, and no retraining of staff. On the other hand, it does mean that the current, fairly complex, calculations are retained for decades.
32. The third option, converting the GMP into scheme benefits, envisages a one-off conversion calculation. This approach appeals in that it would allow, going forward, for a very significant simplification of the pension increase calculations, reducing system costs and making pensions increase much easier for members to understand.
33. Having considered the merits and issues inherent in each of the options we have supported converting the GMP into scheme benefits, but only if a relatively straightforward calculation can be agreed that can be run in a bulk exercise for all of the relevant membership. If this is not possible and any conversion method would need to be done at an individual record level to take into account variable factors, then we would instead support the Extension of the Interim Solution.
34. The deadline for consultation responses was the 20th February 2017. A response has been prepared and submitted and a copy of that response is attached to this report.

Recommendation

35. The Committee is recommended to note the report.



Tyne and Wear Pension Fund

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Consultation on Indexation and Equalisation of GMP in
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My Reference DS/Pens
You Reference:

Contact: Dave Smith
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Date: 14th February 2017

Dear Sir or Madam

Consultation on Indexation and Equalisation of GMP in Public Service Pension Schemes

I refer to your consultation in respect of the indexation and equalisation of GMP in public service pension schemes. Thank you for the opportunity to comment on these proposals.

This response reflects the views of South Tyneside Council in its role of administering authority to the Tyne and Wear Pension Fund. Consequently this response primarily addresses administrative and technical issues.

The indexation position before the introduction of the New State Pension

Public service pensions, including those paid via the Local Government Pension Scheme (LGPS), receive annual increases in accordance with indexation orders made under the Pensions Increase Act 1971 and the Pension Schemes Act 1993.

During the period 6th April 1978 to 5th April 1997, members of public service pension schemes built up a Guaranteed Minimum Pension (GMP). The indexation of pensions for those members who built up a GMP and have reached State Pension Age (SPA) was delivered by a combination of:-

- An increase to the pension in excess of the value of the GMP in line with Pension Increase (Review) Orders
- An increase to the GMP element built up after 5 April 1988 by the amount of the GMP Increase Order (maximum increase 3%)
- Net Additional State Pension (AP) - calculated by increasing the gross AP by the percentage increase in prices (currently CPI) and subtracting a Contracted-out Deduction which broadly equates to the pensioners GMP.

The arrangements prior to April 2016 therefore shared the cost between public service employers and the Government through the AP element of the state pension.

The impact of the introduction of the New State Pension

The Government has noted that the abolition of AP in April 2016 has resulted in:-

- Inequality in the payment of public service pensions between the sexes, and
- The loss of the mechanism for fully indexing public service pensions

The Government has already made provisions, known as the interim solution, that mean public service pension scheme members who reached State Pension Age between 6th April 2016 and 5th December 2018 will receive full indexation of the GMP element of their pension via their public service pension scheme.

The Government is now consulting on how to deal with the indexation of the GMP element of the pensions received by public service pension scheme members who will reach State Pension Age on or after 6th December 2018 and also how to address the inequality between the sexes.

South Tyneside Council's responses to the questions put by the consultation

Question 1: Which pension schemes (public and private) follow the PIA 1971 and SSPA and therefore may be affected by a policy change?

South Tyneside Council is responsible for the administration of the Tyne and Wear Pension Fund, an LGPS fund, and consequently this response addresses the LGPS only. The LGPS does follow PIA 1971 and the Social Security Pensions Act 1975

Question 2: Do you consider the case-by-case method to be an appropriate method to ensure that the abolition of AP does not create new gender inequality?

No. The level of complexity and assumptions necessary for the calculation of old state pension and potential for changes to the New State Pension could result in outcomes where either gender inequality is not fully corrected or a new form of inequality is inadvertently created.

Question 3: Does the case-by-case method adequately honour the previous commitment by government to fully index the GMP of public service scheme members?

No, as full indexation is not part of the calculations that are being proposed.

Question 4: Do you consider full indexation to be an appropriate method to avoid the unequal pension payments to men and women that the abolition of the AP would otherwise lead to?

Yes, in respect of the indexation element of treatment of GMPs. However it will not address any unequal payments that result from any difference in the treatment of GMPs prior to State Pension Age.

Question 5: Do you consider full indexation to be an appropriate method through which to meet past indexation commitments to men and women in employment in the public services between 1978 and 1997?

Yes

Question 6: Do you consider conversion on a 1:1 basis to be an appropriate method to avoid the unequal pension payments to men and women that the abolition of the AP would otherwise lead to?

Yes, in respect of the indexation element of treatment of GMPs. However it will not address any unequal payments that result from any difference in the treatment of GMPs prior to State Pension Age.

Question 7: Do you consider conversion on a 1:1 basis an appropriate method through which to meet past indexation commitments to men and women in employment in the public services between 1978 and 1997?

Yes

Question 8: Under this methodology, how should government treat those in receipt of a public service pension but below SPA?

GMP's for these members should also be converted on a 1:1 basis

Question 9: Do you agree that conversion on an actuarial equivalent basis does not meet past indexation commitments to men and women in employment in the public services between 1978 and 1997?

Yes

Question 10: Which of the three policy options outlined in section 3 best match the criteria set out in the third paragraph in section 1.2?

Converting the GMP into scheme benefits, but only if a relatively straightforward calculation can be agreed that can be run in a bulk exercise for all of the relevant membership. If this is not possible and any conversion method would need to be done at an individual record level to take into account variable factors, then we would instead support the Extension of the Interim Solution.

Question 11: Are there alternative methodologies the government could consider?

None that we are aware of.

Reasons why South Tyneside Council favours converting the GMP into scheme benefits if the required conversion can be done as a bulk exercise.

The consultation identifies three possible ways forward to address the issues identified by the Government. These are:-

- For each member an annual, case by case, review
- Extending the interim solution
- Converting the GMP into scheme benefits

For each member an annual, case by case, review

This approach is by far the most complex of the three possible solutions and we are concerned that the level of complexity and the reliance on assumptions makes it the most likely of the three methods to fail to fully address gender inequality. In addition this method will not meet the Government's commitment to fully index the GMP of public service pension scheme members.

The only advantage we have identified for this method is that it would, at least initially, appear to be the lowest cost solution. However we are not convinced that the potential cost assessed for adopting this approach has fully recognised the financial costs associated with the need for

—

- A major rewriting of the various pension administration systems used by public sector schemes
- Obtaining, and maintaining thereafter, extensive additional data. In order to carry out the case by case reviews, administering authorities will need to have access to DWP records, GMP data for both sexes and New State Pension amounts. Whilst individual member GMP data should be available in public sector membership databases following the national GMP reconciliation exercise, many if not all public sector schemes are currently basing their reconciliation on a level of approximation, and this approach will need to be reviewed if it is decided that the case by case review solution will apply. This in turn may massively increase the number of cases where inconsistencies need to be resolved with DWP, who are already struggling to deal with the current level of queries.

- Enhanced regular communications with members to explain each year's calculation outcome, together with additional member helpline resources to support concerned members who are confused by the high level of complexity inherent in the annual case by case review. In addition, the level of assumptions and the potential for mistakes in calculations is likely to lead to a high level of challenge from members. Dealing with such challenges is invariably very resource intensive, placing an even higher level of pressure on already hard worked administration teams.

Finding suitably qualified and experienced staff to address such a resource intensive approach will be a challenge for large LGPS funds such as the Tyne and Wear Pension Fund and may well be beyond many small LGPS administration teams. In addition, the adoption of this approach is heavily dependent upon LGPS administering authorities being able to rapidly source extensive data from Government departments (particularly DWP) who are already struggling to deal with current levels of data exchange resulting from the ongoing GMP reconciliation exercise.

More fundamentally, however, South Tyneside Council cannot support any approach that does not offer a high level of reassurance that gender inequality issues will be fully addressed and, in addition does not meet the commitment given by the Government to ensure the full indexation of GMPs.

Extending the interim solution

This solution simply extends the existing approach and so does not require extensive and complex new calculations, or changes to systems or procedures. Unlike the case by case review solution, there is no need to obtain extensive extra data, as all the data that is needed will either be already held by schemes/funds or is currently being obtained as part of the GMP reconciliation exercise.

GMP records will need to be maintained over many years, but as noted above, this information either already exists within public service pension scheme electronic records or will soon be put in place. Calculations and documentation will need very little modification and virtually no retraining of pension administration staff will be needed.

Although there is undoubtedly a higher cost for this solution than would be the case if the annual case by case review solution were to be adopted, this solution offers a much higher level of reassurance that gender inequality issues will be fully addressed and, in addition it does meet the commitment given by the Government to ensure the full indexation of GMPs. It also offers a simple "business as usual" approach that should minimise potential challenges and allow LGPS administering authorities to focus on continuing to improve services to employers and members whilst driving down administration costs. This solution would be our chosen method if it were not for the fact that the third solution, converting the GMP into scheme benefits, offers the potential for significant simplification of pensions administration going forward.

Converting the GMP into scheme benefits

Under this option the GMP element of the pension would be converted into scheme benefit on a 1 to1 basis. GMP records would no longer be required following conversion, with indexation being thereafter applied to the full pension.

This option has the virtue of being the most simple to administer once the conversion has taken place. The key to its suitability depends upon whether a relatively straightforward calculation can be agreed that can be run in a bulk exercise for all of the relevant membership. If this can be achieved then, although there would be an initial burden for implementation, that should be manageable, with the resulting record sets made much simpler and allowing for simplified calculations to be adopted thereafter for the affected members.

In addition the conversion for these members will result in fewer GMP records having to be maintained and will shorten the period over which the administration of all legislation related to GMP will be required. Depending upon timings, if these GMP records are dealt with via the conversion then it may assist with the GMP reconciliation exercise, at least for this group of members.

As for the extending the interim solution option, whilst there is undoubtedly a higher cost for this solution than would be the case if the annual case by case review solution were to be adopted, this solution offers a much higher level of reassurance that gender inequality issues will be fully addressed and, in addition, it does meet the commitment given by the Government to ensure the full indexation of GMPs. Although initially more burdensome than extending the interim solution, this option will significantly reduce the ongoing administrative burden.

However this all depends upon a relatively straightforward calculation being put in place that can be run in a bulk exercise for all of the relevant membership. If, for technical or other reasons, the conversion method will need to be done at an individual record level to take into account member variable factors, then the administrative burden of the conversion exercise would be so great as to make the conversion option totally unviable.

I hope these comments and observations will be will be of use to you in your deliberations.

Yours sincerely

Dave Smith

Dave Smith
Principal Pensions Manager