

## **Ministry of Housing, Communities and Local Government consultation on the reform of exit payments in local government**

### **Response of the Association of School and College Leaders**

#### **A. Introduction**

- 1 The Association of School and College Leaders (ASCL) represents more than 20,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and in an increasing proportion of the primary phase. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
- 2 ASCL welcomes the opportunity to make a written response to the proposals to further reform exit payment terms for local government workers, specifically those who are eligible to be members of the local government pension scheme (LGPS).
- 3 This response is primarily submitted on behalf of school business leaders and bursars, as these are the category of ASCL member who are in the LGPS.
- 4 In ASCL's view, it is completely unreasonable to include pension 'strain' costs as netted off against all statutory redundancy payments, regardless of cap. A significant number of ASCL members are members of the LGPS. Many earn substantially less than the amount affected by the £95k cap. Strain costs currently apply to any such members facing redundancy over the age of 55 as mandatory on the part of the employer. Under these proposals all such employees would be denied access to their pension on a non-actuarially reduced basis without redundancy pay (and indeed discretionary pay) forfeit. It affects nearly all potential redundancies for those over the age of 55, including those whose total exit payments fall far short of the £95k exit cap. In addition, ASCL believes that these changes to pension benefits are a clear breach of the 25-year no change guarantee. Moreover, it is further completely unreasonable that the proposal applies retrospectively to the whole-life pension rather than attributable only to any pension accrued in respect of service after the proposed regulations come into force.

#### **B. Answers to specific questions**

*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?*

5. Yes. ASCL is concerned that such a proposal would disproportionately impact employees who are members of the LGPS when compared with employees in other arrangements. These proposals will impact on all workers over 55 in the pension scheme, including those who are lower paid and with a small pension. Consequently, and by design, it will impact adversely on older workers. Part-time workers will also be disproportionately affected where the congruence between statutory redundancy payment and salary leads to the strain cost being comparatively high in percentage terms with a greater netting-off. The only real method to mitigate is to flex the proposed restriction so that the employer can action statutory redundancy pay additional to the total strain costs below £95k. Notably, the proposal to offset statutory redundancy pay against strain cost will result in either a lower pension for life (or as paid, invested into a pension fund that contributes to the strain on fund cost) and will hurt the poorest paid on redundancy. This is particularly pertinent given the impact of COVID and the disproportionate difficulty of older workers in securing alternative employment. Moreover, 73% of ASCL members in scope of these proposals as school business leaders are women. (The Institute of School Business Leadership (ISBL) 2020 workforce survey reports 86% women, with over a quarter nearing retirement).

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

6. Linked to the Local Government Pay Award annually or RPI, whichever is the highest.

*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?*

7. ASCL recognises that discretionary severance schemes use a multiplier on the statutory redundancy calculator to determine the number of week's pay. A small number of higher paid colleagues may be worse off. Clarity is needed as to reconcile the existing standard algorithms for calculating the value of a member's exit package with the actual funding impact of early retirement pensions.

8. Moreover, the proposed ceiling on the statutory redundancy calculation limits the amount of service that can be considered to the detriment of employees who now find themselves in an already difficult situation.

*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?*

9. This salary leans towards our members who form part of leadership teams in schools and trusts such as senior business leaders. The skills and experience commensurate imply a tendency towards older workers. Therefore, it is completely unreasonable that the proposal applies retrospectively to the whole-life pension rather than attributable only to any pension accrued in respect of service after the proposed regulations come into force. Moreover, the implication for local government re. salary cap is limited below other public sector roles.

*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?*

10. No, not, as outlined above. The limit already now applies to severance payments. This goes way beyond the desire to cap expensive exit payments and so should not be extended to early retirements in cases of redundancy. This will damage the conditions of employment and morale, not just of ASCL members, but all members of the LGPS, many of whom were/are pivotal emergency workers during the COVID pandemic. ASCL believes this is an unnecessary upheaval to facilitate, at best, no significant pecuniary advantage to public finances.

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

11. This flexibility could assist some employees depending on circumstance, age and personal financial situation. It should remain as an option.

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

12. As above, particularly ASCL members over 55 in the LGPS. Longer service will inherently be penalised by causation of the link between strain and redundancy payments. As noted earlier, and worth reiterating, 73% of our ASCL school business leaders are women, with the ISBL 2020 workforce survey reporting 86% women, with over a quarter nearing retirement. Whilst, in pure pecuniary terms, longer serving higher earners will suffer the most, it is lower paid workers whose lives will be most impacted alongside the inability in the current pandemic of securing novel employment.

*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.*

13. ASCL suggests a more nuanced demographic analysis may form part of the impact assessment of any proposals to amend the redundancy provision within the LGPS. There may be potential adverse differential impacts upon older workers that may be challenged on discriminatory grounds.

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

14. There is sufficient transparency across the school workforce within its diverse structures.

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

15. ASCL believes that these proposals as presented will have a seriously detrimental effect on employees in age-scope. These members will be particularly adversely affected in the event of redundancy, particularly in the current COVID-affected economic climate. There also needs to be a safety-net for members involved in ongoing organisational change alongside the recognition of statutory consultation periods. Transitional arrangements of at least 12 months are therefore essential.

*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?*

16. ASCL recognises an in-built tension for our school business leaders in both being scheme members and implementing adverse proposals. Our members currently have

the security of their contingency planning on current rules and we are mindful of unintended consequences. The consultation, in our view, fails to make a case for this significantly worse provision that erodes security for our LGPS members.

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

17. ASCL is concerned that this consultation appears to single out colleagues in schools and colleges deemed local government workers, aligned to LGPS. Congruent with the higher exit cap legislation, there should at least be for restriction variation.

## **C. Conclusion**

18. We hope that this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that it can.

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