



Essex Pension Fund

A2, County Hall
Chelmsford
Essex, CM1 1JZ

Consultation on Exit Payments Cap
Workforce, Pay and Pension Team
HM Treasury
Horse Guards Road
London
SW1A 2HQ

27 August 2015

Dear Sir / Madam,

Consultation on Exit Payment Cap

The opportunity to respond to HM Treasury on this matter is welcomed. It is however unfortunate that the consultation period has been confined to the month of August as this may limit the number of responses Government receive.

This matter has been considered in detail by officers of the Essex Pension Fund. The core theme of the response has been discussed and agreed with both the Chairman of the Essex Pension Fund Strategy Board and the s151 Officer for both Essex County Council and the Essex Pension Fund.

The Essex Pension Fund is the tenth largest of the eighty nine Local Government Pension Scheme (LGPS) funds within England and Wales. It currently has in excess of 550 separate employers, including over 200 Academies. The Essex Pension Fund Strategy Board operates as the s101 Committee under the terms of the 1972 Local Government Act.

Our responses to the questions set out in the consultation are below.

Question 1: What other forms of exit costs do you think are relevant in this context?

We are not aware of any other exit costs relevant in this context.

Question 2: Do you agree that the government should introduce a cap on the value of public sector exit payments on the basis set out above?

No.

It appears as though a fundamental flaw or misunderstanding has been incorporated into the definition of the cap within 3.1 of the consultation as this includes:

“early access to unreduced pension – some employers offer the option for employees that have reached the relevant age to take early retirement on an ‘unreduced’ pension, in place of, or in addition to, a cash lump sum compensation payment. In these instances employers bear the cost of ‘buying out’ the actuarial reduction that would normally apply to a pension that was taken early.”

It is regulatory (1) requirement that employees within the LGPS aged 55 or over and who are made redundant, must have “early access to unreduced pensions”. This means a financial strain payment (sometimes called actuarial strain) becomes payable by the employer *to the LGPS Fund*. In other words the financial strain payment is *not* made to the exiting employee – and it is payments to exiting employees which Government intends to cap.

Furthermore, it is noted that the figures stated in section 3.3 of the Consultation do not distinguish between statutory redundancy payments, financial strain costs and other severance payments.

(1) Regulation 30 (6)&(7) LGPS Regulations 2013

Question 3: Do you agree that the payments listed above should be subject to a cap on exit payments under the terms set out above? If you believe certain payment types should be excluded please provide a rationale and examples.

No.

Section 4 of the Consultation stated that the cap would include *“the cost to the employer of funding early access to unreduced pensions for employees where available”*

As highlighted in our response to question 2, this cost to the employer is paid to the LGPS Fund *not* the exiting employee.

Furthermore, at a time when many Local Government employers anticipate being required to undertake a further round savings and restructuring exercises, any move which limits scope for voluntary redundancies will be considered counterproductive.

The Essex Pension Fund’s key response is to add its voice to those questioning whether this course of action is the Government’s underlying intention.

Question 4: Are there further payments that the government should include?

None of which we are aware.

Question 5: Do you agree that a cap on exit payments should be set at £95,000? If you think an alternative level would be more appropriate, please provide evidence and analysis to support your proposal.

We strongly believe that any cap on exit payments to individuals should exclude financial strain payments to LGPS Funds as it would give rise to unintended consequences.

The following analysis below has been produced by the Fund's Actuary Barnett Waddingham. This shows the financial strain costs payable by employers to LGPS Funds in respect of redundant 55 year olds. No other costs have been included.

Grey numbers

These indicate the amounts of financial strain payable to LGPS Funds lower than the proposed £95,000 cap. The implication is that less scope is then available for other payments such as the statutory redundancy payment.

Yellow numbers

These indicate the circumstances where the degree of financial strain alone exceeds the proposed £95,000 cap. The implication is that not only is there no scope for redundancy payments but that the strain itself would be limited to £95,000 – a move that would exacerbate deficits within the LGPS.

	Pay									
Service Yrs	£10,000	£15,000	£20,000	£25,000	£30,000	£40,000	£50,000	£75,000	£100,000	£150,000
2	£2,864	£4,295	£5,727	£7,159	£8,591	£11,454	£14,318	£21,477	£28,636	£42,954
5	£6,334	£9,501	£12,668	£15,835	£19,002	£25,336	£31,670	£47,505	£63,340	£95,010
10	£11,235	£16,852	£22,470	£28,087	£33,704	£44,939	£56,174	£84,261	£112,348	£168,521
15	£14,561	£21,841	£29,122	£36,402	£43,682	£58,243	£72,804	£109,206	£145,608	£218,412
20	£15,563	£23,344	£31,126	£38,907	£46,688	£62,251	£77,814	£116,721	£155,628	£233,442
25	£17,904	£26,857	£35,809	£44,761	£53,713	£71,618	£89,522	£134,283	£179,044	£268,566
30	£20,246	£30,369	£40,492	£50,615	£60,738	£80,984	£101,230	£151,845	£202,460	£303,690
35	£22,588	£33,881	£45,175	£56,469	£67,763	£90,350	£112,938	£169,407	£225,876	£338,814

Question 6: Are there other ways to ensure such arrangements are consistent with the cap on lump sum payments?

If the proposals go ahead, careful consideration will be needed to the issues faced by the LGPS where – as highlighted in our response to question 2 - the regulatory

requirement is an unreduced pension at age 55 or over for employees who are made redundant. If necessary, Government should consider delaying the introduction of any cap in local government until these issues have been fully resolved.

Question 7: Do you agree with the proposed approach of limiting early retirement benefits with reference to the cost for the employer? What alternative approaches would you suggest and why?

No.

These employer costs are paid to LGPS Funds not the exiting employee. In addition, the proposed approach could skew redundancy considerations based on the length of an individual employee's LGPS membership.

See also answers to Questions 2, 3 & 5

Question 8: Do you agree that the government has established the correct scope for the implementation of this policy?

A joint answer to Question 8 and 9 is set out under Question 9.

Question 9: How do you think the government should approach the question of employees who are subject to different capping and recovery provisions under TUPE rules following a transfer to (or from) the private sector and whether there should be consistency with public sector employees in general?

Joint answer to Question 8 & Question 9:

The employer profile of the LGPS has transformed radically in the last 15 years. Many local authorities commission service delivery from the private sector and the numbers of transferee admission bodies within the LGPS has grown significantly.

As a result, the active LGPS membership includes significant numbers of employees who having previously worked for public sector bodies, are now employed in the private sector. By definition the existing scope includes the former but excludes the latter. The consequence of imposing the cap with the current scope is that one group of LGPS employers will have limits placed on the amount of financial strain they can pay whilst another group will not.

In our view this reinforces the case for excluding financial strain from the exit payment cap.

Question 10: Do you agree with the proposed approach for waivers to the cap on exit payments?

As highlighted in our response to Question 3, moves which inhibit Local Government employers from effectively managing future restructuring exercise will be seen as counterproductive.

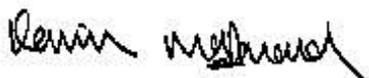
Question 11: Are there other impacts not covered above which you would highlight in relation to the proposals in this consultation document?

None of which we are aware.

Question 12: Are you able to provide information and data in relation to the impacts set out above?

Our response to Question 5 includes relevant data provided by our Fund Actuary Barnett Waddingham.

Yours sincerely,



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