



HM Treasury

Reforms to public sector exit payments:

response to the consultation

September 2016



HM Treasury

Reforms to public sector exit payments: response to the consultation

September 2016



© Crown copyright 2016

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at public.enquiries@hmtreasury.gsi.gov.uk

ISBN 978-1-911375-24-1
PU1978

Contents

		Page
Chapter 1	Summary	3
Chapter 2	Context for reform	7
Chapter 3	The government's consultation proposals and responses to the consultation	13
Chapter 4	The government's proposed course of action	19
Chapter 5	Process and timeline for reform	23
Chapter 6	Devolution	25
Chapter 7	Impact analysis	27
Annex A	List of respondents	31

1 Summary

1.1 The government announced at the 2015 Spending Review and Autumn Statement that it intended to consult on cross-public sector action on exit payment terms to reduce the costs of redundancy payments and ensure greater consistency between workforces.

1.2 On 5 February 2016 the government published the consultation setting out proposals for cross-public sector action on exit payments and asked for respondents' views on the proposals. The consultation closed on 3 May 2016.

1.3 The consultation document is available at:
<https://www.gov.uk/government/consultations/further-consultation-on-limiting-public-sector-exit-payments>

1.4 The consultation document set out that the government would consider three key principles to underpin reform: fairness; modernity and flexibility; and greater consistency. It set out a package of proposed maximum levels for the calculation of different elements of exit packages to apply across the public sector, subject to negotiation at workforce level.

1.5 Around 350 responses to the consultation were received. These gave a range of views on the government's proposed approach. Many responses were opposed to reform in this area, while others expressed support for the government's overall approach and to specific proposals. The main issues raised in response to the consultation are summarised in Chapter 3.

1.6 Having considered these consultation responses as well as further information gathered during the consultation period, Ministers remain of the view that it would be appropriate to reform exit payment arrangements across the public sector consistent with the proposals set out in the consultation.

1.7 In particular the government has not seen evidence to change their view that applying upper limits across the different elements used to calculate exit terms in the public sector would make public sector exit terms fairer, more modern and more consistent. Specifically, such reform could achieve significant cost savings of up to approximately £250 million a year, while maintaining a good standard of compensation for individuals; better reflect factors such as improvements in life expectancy; ensure greater consistency between the terms available to different public sector workforces; and bring public sector exit terms more in line with those commonly available in the wider economy.

1.8 The responses to the consultation strengthened the government's view that the most appropriate way of taking forward these reforms was for the departments responsible for the different public sector workforces to seek to reach agreement on packages of reforms appropriate to those workforces, within an overall, centrally-set framework.

1.9 The government therefore intends to take forward the proposals set out in its consultation. These proposals are summarised below.

Table 1.A: Table

Who is in scope	
Which employees/ schemes	<ul style="list-style-type: none">• current and future public sector employees• the major workforces covered by existing statutory compensation schemes and other contractual exit arrangements are expected to begin reforms immediately, informed by the details below. These are the: Civil Service, NHS, Local Government, Teachers, Police, Firefighters and (taking account of the unique nature of the occupation) Armed Forces• those covered by any new compensation schemes set up for public sector employees• in other areas, and for smaller public sector workforces, the government would encourage reforms consistent with the principles set out in this response
How will it work?	
Policy proposals	<ul style="list-style-type: none">• a maximum tariff for calculating exit payments of three weeks' pay per year of service. Employers could apply tariff rates below these limits• a ceiling of 15 months on the maximum number of months' salary that can be paid• a maximum salary on which an exit payment can be based. As a starting point the government will expect this to align with the existing NHS scheme salary limit of £80,000• a taper on the amount of lump sum compensation an individual is entitled to receive as they get closer to their normal pension age• action to limit or end employer-funded early access to pension within exit packages. As part of an overall package the government will consider proposals appropriate to each workforce, including action to:<ul style="list-style-type: none">○ cap the amount of employer funded pension 'tops ups' to no more than the amount of the redundancy lump sum to which that individual would otherwise be entitled○ remove the ability of employers to make such top ups altogether, or offer greater flexibility to employers as to the circumstances in which they are available• increase the minimum age at which an employee is able to receive an employer funded pension top up, so that this minimum age is closer to or otherwise linked more closely with the individual's normal pension age in the scheme in which they are currently accruing pension benefits or to which they would be entitled to belong if they were accruing benefits

Payments in scope

- general limits would be imposed on most employer-funded payments made in relation to leaving employment, including compensation packages for exits whether in impending or declared redundancy situations or in other situations where individuals leave public sector employment with employer-funded exit packages
- any increase in the minimum age at which an employee might be able to receive a pension top up on voluntary or compulsory exit would apply to payments under the major compensation schemes
- these reforms will not affect any payments made in relation to death or injury attributable to duty or ill health retirement

Process and implementation

- following the publication of this government response, the government will expect departments to produce packages consistent with the framework above and consult on these where appropriate
- the government will expect departments to produce these proposals within three months of the publication of the response and to have completed negotiations and made the necessary amendments to exit arrangements within nine months of the publication of this government response

Transition

- the government will consider the case for protection for those with exits formally agreed on terms that applied before new workforce exit compensation arrangements come into effect. The government expects the details of such protection will form part of the agreements reached by the relevant department with each workforce in scope of the reforms
- the government does not consider it appropriate to introduce any overarching transitional protection related to age of individuals, proximity to pension age or other similar factors in this particular case

Devolution

- this policy would extend to all employments where compensation policy and practice is within the competence of the UK government
- the Scottish government, Welsh government and Northern Ireland Executive would determine if and how they wanted to take forward similar arrangements in relation to devolved bodies and workforces

2 Context for reform

Previous workforce reforms

2.1 Since 2010 the government has undertaken a series of reforms to modernise terms and conditions for public sector workers. The overarching principle behind such reforms is that public sector terms and conditions should continue to be fair, while being made more sustainable in the face of a challenging economic climate in order to protect jobs and public services.

2.2 The Coalition government introduced new pension schemes for the majority of public sector workers in April 2015, following the recommendations of the Independent Public Service Pensions Commission established in 2010. These reformed pension schemes incorporated increases to pension ages, career average revalued earnings designs and a cost cap mechanism to provide backstop protection for employer and taxpayer costs. Together with the Coalition government's reforms to rebalance pension contribution rates between members and employers and to move to uprating pensions in payment by CPI, these changes have been forecast to save £430 billion over the next 50 years. However, the government is clear that the reformed public service pension schemes continue to be among the best occupational pensions available within the UK.

2.3 As well as delivering fundamental structural reform of major public service pension provision, the Public Service Pensions Act 2013 provided powers to close or amend statutory compensation schemes for the major public sector workforces with the expectation that new public sector compensation provision would be established in the future.

2.4 Public sector pay restraint has also played a key role in meeting the government's objectives. The OBR has estimated that the government's pay policy of funding a 1% average pay award for the 4 years from 2016 to 17 onwards announced at the Summer 2015 Budget will protect 200,000 public sector jobs by 2019 to 20.

Exit payment reforms

2.5 Redundancy provision and exit payments play an important role in enabling employers to reform and reorganise. They support employees during the transition to other employment or provide a bridge to retirement following the loss of employment. However public sector arrangements vary significantly, including in the benefits provided for people with similar pay and length of service. Such provisions can often be out of line with those available in much of the wider economy.

2.6 The government is taking forward targeted action in response to particular areas of public concern on exit payments in the public sector. It is ending six figure exit payments in the public sector through introducing a £95,000 cap on such payments. It is also taking action to recover exit payments from highly paid public sector workers who leave and then quickly return to the public sector.

2.7 Building on these reforms, the government announced in the Spending Review and Autumn Statement 2015 that it will continue to modernise the terms and conditions of public sector workers, by taking forward targeted reforms in areas where the public sector has more generous rights than most of the private sector. As part of this, the government committed to consulting on further cross-public sector action on exit payment terms, to reduce the costs of redundancy payments and ensure greater consistency between workforces.

Current compensation arrangements across the public sector

2.8 There is currently considerable variation in the exit terms available to public sector workers in different workforces. The key features of voluntary redundancy under the main public sector compensation arrangements are summarised below.

Civil service

2.9 Redundancy lump sums are calculated on the basis of one month's pay for every year worked, capped at a maximum of 21 months. A maximum salary of £150,000 applies for calculating the redundancy lump sum, and a minimum salary of £23,000. Tapering of the redundancy lump sum can apply to those closest to retirement age. Employer-funded early retirement is available from the age of 50 or 55, depending on the date at which the employee joined the civil service.

NHS

2.10 For most NHS staff, redundancy lump sums are calculated on the basis of one month's pay for each year worked, capped at 24 months. A maximum salary of £80,000 applies for calculating the redundancy lump sum, and a minimum salary of £23,000. Employer-funded early retirement, available from age 50 or 55 depending on when the employee joined the NHS, is limited to the value of the redundancy lump sum that would otherwise be payable.

Local Government

2.11 Arrangements for redundancy lump sums are determined by individual employers within an overall statutory framework, which allows redundancy payments to be paid an actual week's pay rather than the statutory redundancy limit and for employers to offer an additional lump sum payment; however, the maximum compensation paid must not exceed 104 weeks' pay in total. In practice, terms vary widely and almost all local government employers offer considerably less than this. Local Government Pension Scheme rules entitle members to immediate employer-funded early retirement where they are made redundant at age 55 or over.

Teachers

2.12 For local authority schools exit arrangements are determined at local level within an overall statutory framework. This allows redundancy payments to be based on an actual week's pay rather than the UK statutory redundancy weekly pay limit and for employers to offer an additional lump sum payment, up to a maximum of 104 weeks' pay in total. Employers can also offer employer-funded early retirement. Terms offered at local level vary widely and in many cases are considerably below the statutory maximum, with employer-funded early retirement increasingly less common. Academies are not subject to the statutory arrangements for local authority schools, but often offer exit terms consistent with those.

Armed Forces

2.13 The Armed Forces maintains two exit schemes and are developing a third to take account of the recently introduced pension scheme. Which of these applies usually depends upon an individual's entry point to the service. All schemes, including the proposals for the new scheme apply the same criteria; namely years of completed service, uncompleted service and salary. This reflects the special characteristics of the Armed Forces.

2.14 Compensation to those who have served sufficient time to receive an immediate pension/early departure payment are tapered to take account of this. For example, those who joined after April 2005 would receive between 3 to 12 months compensation. Those who joined before April 2005, and irrespective of how long they still had to serve past their immediate

pension/early departure payment point, receive only three months redundancy compensation. 70% of Service Personnel leave the Armed Forces before entitlement to receive an immediate pension/early departure payment.

2.15 The criteria for those who leave before their immediate pension/early departure payment point is more complex and depends on the scheme and the commitment type. Compensation varies from 1/8 of final salary for each year of service to one and a half months pay for each year of service, or the lesser of one and a half months of pay for completed service or one and a half months pay for each year of uncompleted service.

Police (England & Wales)

2.16 There are arrangements for police officers to receive voluntary exit payments as due to the special status of their office they are not able to be made redundant. The Winsor review of police terms and conditions (in 2011 to 2012) recommended the Police adopt a scheme similar to the Civil Service Compensation Scheme (CSCS) for voluntary exit, retaining the same tariff rate and redundancy cap. A small but increasing number of police forces have chosen to implement voluntary exit schemes based on the CSCS provisions for calculating lump sums in cases of voluntary redundancy.

Firefighters

2.17 There have been few if any formal redundancies to date among firefighters. Firefighters currently receive statutory redundancy entitlements. Other fire authority staff fall under local government redundancy arrangements.

2.18 Different provisions apply where an individual is leaving employment owing to ill-health or, where a firefighter aged 55 or over, fails a fitness test through no fault of their own, and these provisions are outside the scope of this consultation.

Judiciary

2.19 The judiciary cannot be made redundant. However, although rarely used in the past, compensation can be paid if certain offices are abolished. However, the amount cannot exceed the person's accrued pension or a lump-sum equivalent to their last annual salary. In addition, the Lord Chancellor has discretion to compensate individuals who leave the Immigration Tribunal.

Government view

2.20 There is currently significant disparity in the exit terms between different workforces. This is the case even after recent reforms in the NHS and civil service exit schemes, for example. While the government's £95,000 cap will curb the most generous exit payments and so may provide some greater consistency, it will not have an impact on the large majority of exits. The 2014 to 15 Whole of Government Accounts¹ showed that total expenditure on public sector exit payments in 2014 to 15 was £1.5 billion (compared to £1.8 billion in 2013 to 14), but that within that £1.5 billion more than 97% of exit payments in the public sector in 2014 to 15 were below the level of the £95,000 exit payments cap.

2.21 HMT analysis shows that these differing terms can lead to very different outcomes for those with similar employment characteristics and service histories in different workforces, particularly where employer funded early retirement is available at a relatively low age. Where employer funded early retirement is available as part of an exit package at a relatively early age,

¹ Whole of Government Accounts year ended 31 March 2015: <https://www.gov.uk/government/publications/whole-of-government-accounts-2014-to-2015>

it can create a significant cliff-edge both within schemes and between those in different schemes where this is not available in one of them or is available only on quite different terms. For example, a 50 year old civil servant on average public sector earnings of £27,000 with 20 years' service who is eligible for employer funded early retirement at age 50 could receive an exit package worth nearly a third more than a 49 year old civil servant with the same salary and years of service; around a third more than a 50 year old NHS worker with the same characteristics; and more than double the payment to a local government worker with the same characteristics. Conversely, a local government worker made redundant when aged 55 or more and entitled to employer funded early retirement could receive an exit package worth considerably more than an NHS worker with the same characteristics.

2.22 Even for those below this age, differences in the tariffs for calculating redundancy lump sums can lead to significant differences between, and within, schemes. For example, a 40 year old civil servant or NHS worker earning £27,000 with 20 years' service could receive an exit payment at least double to that of a local government worker with the same characteristics, and where a local government employer does not award additional lump sum compensation under the '104 weeks' (or 24 months) provisions mentioned at 2.11 above, the differential could be greater still.

2.23 The government recognises the point made by many consultation respondents that compensation terms have historically been determined at workforce level, often through collective agreement, and that the differences between terms in different schemes reflect the history of previous workforce-level negotiations and the particular circumstances of individual workforces. The government accepts that there can be good reasons for there to be differences between the exit terms available to those doing different jobs in different parts of the public sector, often with differences in workforce demography reflecting that, and that particular exit payments form part of the overall remuneration package in each sector.

2.24 Consistent with this, the government is not minded to fundamentally change the way in which exit payment terms are determined for the different workforces in the public sector at this point in time, whether this is through statutory compensation schemes, collective agreements or other arrangements.

2.25 The government does not believe there is a case at this time for, for example, a single exit compensation scheme across all workforces, or a single set of unified exit terms that cover every workforce. This government response does not therefore propose to change the mechanisms through which exit terms are currently delivered.

2.26 However, the government believes that having significant cliff-edges in the exit terms available within a particular workforce has the potential to distort behaviours and lead to less effective workforce management, and that maintaining such significant differences in the exit terms available to those with similar characteristics in different workforces would not be consistent with the consultation principles of fairness to the individual and the taxpayer, and of introducing greater consistency between schemes.

2.27 The government intends to continue to work with departments responsible for workforces to further develop analysis on comparisons across the public sector as part of the benchmarking process for reform proposals in each workforce.

Comparisons with the wider economy

2.28 In the wider economy the government sets minimum standards for redundancy compensation through statutory redundancy pay. For employees that have been with their current employer for two years or more this guarantees:

- half a week's pay for each full year the employee was under 22
- one week's pay for each full year the employee was 22 or older, but under 41
- one and half week's pay for each full year the employee was 41 or older

Length of service is capped at 20 years and weekly pay is currently capped at £479. The maximum exit payment under statutory redundancy pay is currently £14,370.

2.29 This sets a minimum standard across the economy as a whole. Many private sector employers do go beyond this, and consultation respondents have highlighted examples of private sector employers that offer terms that are comparable with the best of those in the public sector. However, evidence suggests terms set at these levels are relatively uncommon. For example, survey evidence² suggests that only around 10% of large private sector employers in the services sector base redundancy calculations on four week's pay per year of service, as is currently offered in the civil service and NHS compensation schemes. This falls to around 5% of large employers in the manufacturing sector, and is less still for smaller private sector employers in both the manufacturing and service sectors.

2.30 Employer-funded early retirement is routinely available in large parts of the public sector, particularly in the civil service and local government, and is often the most valuable form of exit compensation for the employee. The government has also not seen evidence to suggest that this is replicated to anything like the same extent by private sector employers. In part this will reflect the relatively low number of private sector employers that now offer Defined Benefit (DB) pension schemes: there are currently only around 1.6 million active members of DB pension schemes in the private sector, and of those only around a third are in schemes that are still open to new members³. This contrasts with the public sector where there are around 5 million active members of DB pension schemes and the vast majority of new entrants to the public sector have access to DB pension schemes.

2.31 As set out in the consultation, the government believes it is important to consider public sector exit arrangements in the context of those in the wider economy, and does not believe there is any overarching reason in principle why people in some areas of the public sector should routinely receive higher exit packages than their counterparts in the private sector. The government therefore believes that reform of public sector exit payments that moved public sector exit terms more closely towards those more commonly available in the private sector would be consistent with the government's principles for reform, while recognising the need to retain exit payment terms that provide a good level of support for employees and maintain their effectiveness as a workforce planning tool for employers.

² Xpert HR "Managing Redundancy 2015"

³ Office for National Statistics Occupational Pension Schemes Survey 2014:

<http://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/pensionssavingsandinvestments/bulletins/occupationalpensionssurvey/2015-09-24>

The government's consultation proposals and responses to the consultation

3

3.1 The consultation set out three principles the government is taking into account in considering reform to exit payments terms in the public sector.

Fairness

3.2 Building on the changes already underway, it is important that a fair and appropriate level of compensation is provided for employees who are required to leave public sector jobs, whether on a mutually agreed or voluntary basis, or through compulsory redundancy. It is also important that the level of compensation is recognised as being fair and appropriate by taxpayers, who ultimately fund these costs. The government therefore believes that compensation arrangements in the public sector should be considered in the context of compensation arrangements that are commonly available in the wider economy.

Modernity and flexibility

3.3 Exit compensation terms need to reflect a rapidly changing economy and society, the modernisation and improvement of public services and consequential changes in the public sector workforce. They need to give employees a reasonable degree of certainty over their potential entitlements. However, there also needs to be a considerable degree of flexibility in setting those entitlements and any related limits, so they can be readily updated to reflect overall changes in the structure and financing of public services, in the size and make-up of the various workforces and the broader fiscal environment.

3.4 Improvements in life expectancy also mean people are living for longer, and current exit provisions may not reflect the fact that staff are taking early access to pension yet remaining economically active. This change was reflected in the fundamental reform to public service pension provision undertaken in the last Parliament.

Greater consistency

3.5 It is important that departments and other bodies responsible for exit arrangements have flexibility to adjust exit terms for their particular workforces. However, given the very large amounts of public money involved and wider public interest in the size and value of such expenditure, it is also important that the government sets an overall framework to curb costs and ensure a reasonable and greater degree of consistency in exit compensation terms between and within different workforces.

3.6 Consistent with these principles, the consultation set out the government's proposals to take action on some, or all, of the following elements across all major public sector compensation provision.

- setting a maximum tariff for calculating exit payments. This maximum tariff would be three weeks' pay per year of service. Employers could apply tariff rates below these limits
- **limiting to 15 months the maximum number of months' salary that can be paid as a redundancy payment.** Where employers distinguish between voluntary and compulsory redundancies there may be a case for maintaining a differential by applying a lower maximum payment. Likewise, where employers offer voluntary exit packages that are not classed as redundancies there may be a case for applying a different maximum. Employers could apply lower maxima, as some do at present
- **setting a maximum salary on which an exit payment can be based.** This could be set at various levels and could potentially align with the existing NHS scheme salary limit of £80,000
- **tapering the amount of lump sum compensation an individual is entitled to receive as they get closer to their pension retirement age**
- **requiring employer-funded early access to pension to be limited or ended, through one or more of a range of measures that would considerably reduce such costs, such as:**
 - capping the amount of employer funded pension 'tops ups' to no more than the amount of the redundancy lump sum to which that individual would otherwise be entitled
 - removing the ability of employers to make such top ups
 - increasing the minimum age at which an employee is able to receive an employer funded pension top up, so that this minimum age is moved closer to or otherwise linked more closely with the individual's normal pension age, in the scheme in which they are currently accruing pension benefits or to which they would be entitled to belong if they were accruing benefits

3.7 The consultation set out that the government will consider the case for any form of transitional protection: for example, whether exits formally agreed between employer and employee on terms that applied before the new maxima took effect should be protected. However, the consultation set out that the government did not anticipate going further and, for example, introducing transitional protection related to the age of individuals or their nearness to pension age.

3.8 Finally, the consultation made it clear that pension top up payments made by employers in relation to injury, ill-health, physical fitness or death during employment were outside the scope of the consultation and of any reforms to public sector exit terms that result.

Responses to the consultation

3.9 The government received around 350 responses to the consultation. These included responses from unions; public sector employers and employer organisations; and public sector workers and others responding in an individual capacity.

3.10 A wide range of views were expressed in these responses. The majority of responses expressed opposition to the government's proposals. A smaller number of responses supported the principles of the government's proposed reforms and some or all of the specific proposals. Others suggested the government should consider going further in certain areas, or should introduce a mandatory scheme that set equal exit terms across every workforce.

3.11 An overarching point made in a number of responses was that exit payment terms in the public sector have historically been set by collective agreement at workforce level and as such have evolved to be responsive to the specific circumstances and to balance the needs of employers and employees in each workforce. There was the view that imposing a single framework across all workforces would cut across this balance and could have disproportionate impacts in some sectors. Some argued that this was particularly the case in areas such as the civil service and NHS, where there has already been significant reform to exit payments in the recent past. Some also thought that the government's forthcoming cap on public sector exit payments of more than £95,000 was sufficient to meet the government's objectives and there was no need for further reform in this area.

3.12 A related point expressed by many unions and employers was that reform to exit payments would reduce the incentives for staff to choose to leave on voluntary exit terms. This could affect employers' ability to implement planned workforce reforms and would lead to an increase in the number of compulsory redundancies, which can ultimately be more costly for the employer, and often more difficult for the employees affected.

3.13 Similarly, many respondents argued that reform to exit payments would have a negative impact on staff morale, with some arguing that this was part of a larger erosion of public sector terms and conditions and linking this to previous workforce reforms, such as pension reform, pay restraint and workforce restructuring. It was argued that this could lead to difficulties recruiting and retaining skilled staff and so damage productivity.

3.14 Some responses questioned elements of the government's case for reform. Some argued that exit payment terms in the public sector were not out of line with those in the private sector, and examples were given of exit schemes in private sector companies that were comparable with those offered in the public sector. Others argued that it was inappropriate to compare exit terms in the public and private sectors, or argued against a 'race to the bottom' in exit terms. Few, if any, responses disputed that there are currently significant variations in the exit terms available between the different public sector workforces.

3.15 Consistent with the views above, many respondents stated that they did not support any of the detailed proposals for setting new maxima across the different elements used to calculate exit payments set out in paragraph 4.8 of the consultation. Specific views raised were that the 3 week tariff limit would impact on lower paid workers; that capping the maximum number of months to 15 months would have a significant impact on those with longer service; that introducing an £80,000 maximum salary would unfairly penalise those on higher salaries; and that options to limit employer-funded early retirement, or taper exit payments for those closest to retirement age, would impact those who may have least time to adjust to reforms and may find it hardest to move into alternative employment.

3.16 Conversely, other respondents expressed support for some or all of the government's proposals. A number set out their support for reducing the tariff to 3 weeks and capping the maximum number of months' salary that could be awarded at 15 months, arguing that this was fair and would introduce greater consistency between the terms available to different workforces. In particular, some highlighted that this would bring other schemes closer to the terms that are commonly available in local government. Some responses supported the introduction of an £80,000 maximum salary cap, noting that it would affect only a small proportion of employees but could mitigate the potential for perverse salary and service combinations that could still exist within the government's £95,000 exit payments cap. Some employers were supportive of proposals to reduce the cost of employer-funded pension top up, arguing that this would become increasingly unaffordable and could offer an undue incentive for those that qualified to seek voluntary redundancy early, meaning valuable skills and

experience could be lost to the public sector. Some argued there should be greater employer discretion around the circumstances in which employer-funded early retirement could be offered.

3.17 A number of responses highlighted equalities considerations. In particular, it was argued that the proposals around employer funded early retirement and tapering payments for those closest to retirement could be directly discriminatory on grounds of age. Some also thought that exit compensation reforms could be indirectly discriminatory on grounds of gender, given the composition of the public sector workforce.

3.18 A number of responses, both from those who were broadly supportive of the government's proposals and those who were not, argued that there should be transitional arrangements as part of any reform. Those who commented generally welcomed the government's statement in the consultation document (para 4.19) that it would consider the case for protecting those individuals where exit terms had formally been agreed between employer and employee before the reforms took effect. Some argued that this should go further and transitional protection based on criteria such as age or nearness to pension age should be introduced. Others thought that any reforms should apply to new starters only.

3.19 Several responses argued that the government should consider greater use of redeployment and retraining of public service workers as a means to retain valuable experience and expertise and as a means to reduce exit costs.

3.20 Finally, some respondents commented specifically on the timing of the government's consultation on reforms to the civil service compensation scheme. They expressed the view that running this consultation alongside the wider government consultation on public sector exit reforms was premature, led to a lack of clarity as to the government's intentions in each area and could potentially cut across the ability of unions to engage in meaningful negotiation with the government on reform to the civil service compensation scheme.

Government response

3.21 The government welcomes the responses to the consultation and has considered them carefully in developing its next steps. The government is grateful to all those who responded.

3.22 The government recognises the importance of continuing to ensure that exit payments are fair to employees and provide an appropriate level of support as a bridge into finding new work, or into retirement. Nevertheless, the government also considers it important to ensure that exit terms are fair to taxpayers who fund them, and are appropriate in the context of the public sector as a whole, and in the wider economy.

3.23 The government recognises the argument made by many respondents that exit terms have historically been determined at workforce level and have evolved to meet needs specific to those workforces. Recognition of this underpins the government's approach to reform. As set out above, at this point in time the government does not believe there is a case for a fundamental change to the way in which exit arrangements are determined, and does not believe that it would be appropriate to set a single set of terms that would apply without exception across every public sector workforce. Nevertheless, the government does believe that it is right to take forward reforms to cut the cost of redundancies, and to ensure greater consistency between schemes. The government believes that the approach set out in Chapter 4, of individual workforce negotiations within an overarching framework, strikes the right balance in ensuring fairness to the individual and the taxpayer and that there is greater consistency between schemes while recognising the differences between workforces.

3.24 Consistent with this, the government committed to ensuring that reformed exit payment terms remain fair and attractive to employees and retain their effectiveness as a tool for workforce planning. The government expects departments taking forward reform at workforce level to consider, as part of the development of their proposals, the effect of reform on factors such as staff morale and on employers' ability to restructure workforces. The government is clear that where differential terms exist between voluntary and compulsory redundancy terms or other voluntary exit arrangements in order to incentivise voluntary redundancy, it will consider the maintenance of such differentials within reformed exit packages where this is shown to be appropriate.

3.25 The government recognises the evidence put forward by some respondents that there are examples of exit terms in the private sector that are comparable with or even better than those available in the public sector. However, it does not believe there is evidence to show that exit terms at the upper end of those currently available in the public sector, such as calculating redundancy lump sums on the basis of four weeks' pay per year of service or offering employer-funded early retirement to those as young as fifty, are available to anything like the same extent in the private sector as in the public sector. It therefore believes that setting upper limits on such terms in the public sector will be consistent with its principle of considering public sector terms in the context of those available in the wider economy.

3.26 As above, the government recognises that different workforces have different characteristics, and so certain proposals may have distinct equalities impacts for different workforces. This will be reflected in the way that the government proposes to take forward reforms on a workforce-by-workforce basis within the overall framework set out by government. The government expects each department leading workforce negotiations to produce a full impact assessment and to give full account to equalities impacts as it takes forward reform in each workforce. Nevertheless, the government's view is that, for example, proposals for limiting the cost of employer-funded early retirement that would affect those within a particular age group are justifiable, both by reference to the wider principles for reform and because to a large extent they would be reducing a current disproportionate advantage for these age groups.

3.27 The government recognises that redeployment policies and other similar policies can be valuable tools to ensure that skills are retained and appropriately deployed within the public sector, and to avoid the costs associated with redundancy. The government will continue to support the use of such policies where they provide value for money and are an effective tool for workforce planning. However, the government does not believe that such policies alone can always avoid the need for workforce restructuring that involves redundancies. The government therefore believes it is right to pursue reform to exit payment terms consistent with its overall principles, alongside its support for use of redeployment where appropriate.

3.28 On the issue of transitional protection, the government's view is that it may be appropriate for there to be transitional arrangements to ensure, for example, that exit terms formally agreed between the employer and employee before the date that new reform terms take effect should be honoured where the exit itself takes place shortly after that date. The government believes the precise detail of such transitional arrangements is most appropriately determined at workforce level, as part of an overall package of reformed exit terms. The government does not believe that it would be right to introduce more extensive transitional arrangements, for example to introduce an overarching protection from the effects of reform for those above a certain age. Unlike pension reform, where this form of protection was applied to protect those who would have least time to adjust to the reforms, redundancy is by definition an unexpected event, and so the government does not believe the same considerations apply. Such protection could also significantly reduce the cost savings from reform.

3.29 Finally, the government does not accept that the concurrent process of reform to the civil service compensation scheme leads to any irregularities in process. As set out in the Cabinet Office consultation, this reform is being carried out explicitly in the context set by the government's overarching consultation on reforms across the public sector, and the government believes that the Cabinet Office proposals for reform are broadly consistent with those for the wider public sector.

The government's 4 proposed course of action

4.1 Having considered the range of responses to the consultation and further evidence gathered during the consultation period, the government believes that there is a case for further action on public sector exit payments, when considered against the principles of fairness, modernity and flexibility, and greater consistency.

4.2 Specifically, such reform could achieve significant cost savings while maintaining a good standard of compensation for individuals, better reflect factors such as improvements in life expectancy, ensure greater consistency between the terms available to different public sector workforces, and bring public sector exit terms more in line with those commonly available in the wider economy.

The government's proposals

4.3 The government does not believe that there is a case at present for a fundamental reform of the way in which public sector exit terms are determined and delivered.

4.4 Consistent with many of the consultation responses received, the government believes that it is an important principle that exit arrangements are determined at workforce level, including through collective agreement where this is currently the case. This allows exit terms to reflect the particular circumstances and needs of each workforce. Accordingly, the government has no plans to replace existing arrangements for determining exit compensation at workforce level with a single compensation scheme for all public sector workers at this point in time.

4.5 However, given that exit arrangements in all workforces are ultimately funded by the taxpayer it is clearly appropriate for the government to ensure that these provide value for money, within the principles for reform set out in the consultation.

4.6 The government considers that the best way to meet these objectives is to set a common framework of upper limits to the main elements of compensation provision across the main public sector schemes.

4.7 The government believes that, if applied across the public sector workforces, the maximum upper limits on exit scheme terms set out below would strike a balance between fairness to public sector employees and fairness to the taxpayer that funds exit payments. Applying these upper limits across the schemes would mean there was greater consistency between the schemes, and would bring public sector terms more in line with exit terms more commonly available in the wider economy.

4.8 As before, this framework is set out below:

- a maximum tariff for calculating exit payments of three weeks' pay per year of service. Employers could apply tariff rates below these limits
- a ceiling of 15 months on the maximum number of months' salary that can be paid as a redundancy payment. Where employers distinguish between voluntary and compulsory redundancies there may be a case for maintaining a differential by applying a lower limit. Likewise, where employers offer voluntary exit packages that are not classed as redundancies there may be a case for applying a different maximum. Employers could apply lower limits, as some do at present

- a maximum salary on which an exit payment can be based. As a starting point the government will expect this to align with the existing NHS scheme salary limit of £80,000
- a taper on the amount of lump sum compensation an individual is entitled to receive as they get closer to their normal pension retirement age
- action to limit or end employer-funded early access to pension as an exit term. As part of an overall package the government will consider proposals appropriate to each workforce, including proposals to:
 - cap the amount of employer funded pension 'tops ups' to no more than the amount of the redundancy lump sum to which that individual would otherwise be entitled
 - remove the ability of employers to make such top ups, or offer greater flexibility to employers to determine the specific circumstances in which they would be available
 - increase the minimum age at which an employee is able to receive an employer funded pension top up, so that this minimum age is closer to or otherwise linked more closely with the individual's normal pension age in the scheme in which they are currently accruing pension benefits or to which they would be entitled to belong if they were accruing benefits

4.9 As above, the government recognises that there are currently differences in the exit provisions between different workforces. While the government wants greater consistency, it recognises, consistent with its principle on modernity and flexibility, that there may be reasons for maintaining some differences between schemes. It does not wish to impose a single set of terms across all public sector schemes at this time. The government also believes in the importance of maintaining the existing principles of collective agreement to exit terms, where these are currently in place.

4.10 The government therefore believes that the most appropriate way of meeting its principles is for the government departments responsible for each workforce to agree reforms to their exit payment arrangements that are consistent with the above framework. These departments should then implement these changes through, for example, changes to secondary regulations or other instruments governing compensation.

4.11 The government recognises there are currently significant differences between the terms available for different workforces. It also recognises that there have been past reforms in some compensation schemes. This will mean that there will be differences in the impact that the elements outlined above will have for different workforces.

4.12 The government therefore recognises that there needs to be some limited flexibility in how this framework applies to individual workforces. The government might therefore expect that within the overall framework and the government's principles for reform, there may be some room for departments to construct reform packages that apply slightly different maxima in some areas, where a case that is acceptable to the government can be made for this. The consideration of particular flexibilities within this overall framework may form part of negotiations.

4.13 Based on trends in public sector exits over the last Parliament, the government believes that reforms consistent with those set out above have the potential to save up to approximately £250 million per year. The precise level of savings will depend on the detail of the reform

packages agreed in each workforce and on the number of affected exits. Such reforms will also lock in savings over the longer term. Savings from these reforms will accrue to employers in the public sector and, consistent with the government's wider approach to workforce reforms, will free up resources to spend on protecting jobs and public services.

4.14 While the government does not wish to set a single scheme across all workforces for the reasons set out above, it is clear that it expects meaningful reform consistent with the terms set out in this document within each workforce. Should such agreement not be reached according to the timetables set out in the next Chapter, the government will consider options for legislation to set terms across the public sector.

5 Process and timeline for reform

5.1 Consistent with the government's view that it remains appropriate for the detail of exit arrangements to be negotiated at workforce level, departments responsible for the workforces will take forward the detailed design and analysis of proposals for exit payment reform, within the overall framework and principles for reform set out in this document.

5.2 Following the publication of this document the government expects departments to begin work immediately to produce proposals for reform for each workforce that are consistent with the terms set out in this document and with the government's principles for reform.

5.3 As set out above, the government will consider the case for applying elements of the framework flexibly on a workforce by workforce basis. Examples of where the government may consider there is a case for flexibility may include where it can be demonstrated that a particular option may not lead to significant cost savings; where there is an alternative approach that may deliver commensurate cost savings; or where workforce demographics mean that a particular option may have unwarranted equalities or other workforce impacts.

5.4 The government expects departments to put forward proposals for reform within three months of the publication of this government response. Departments should then consult on proposals as appropriate and should follow the normal process of discussions and negotiations with Trade Unions and other workforce representatives in order to seek agreement to their reform proposals. The government expects this discussion process to be concluded, agreement reached and the necessary changes made to compensation schemes and other arrangements within nine months of the publication of this response.

5.5 Should it not be possible to achieve meaningful reform for one or more workforces, the government will consider options for primary legislation to take forward reform.

6 Devolution

6.1 In both the exit payment recovery and exit payment cap reforms, the government position has been that the reforms would apply to those areas which are the responsibility of the UK government. It would be for the Scottish government, Welsh government and Northern Ireland executive to determine if and how they wanted to take forward similar arrangements in relation to devolved bodies and workforces.

6.2 The government will take the same approach to cross-public sector exit payment reform. It will be for the Scottish government, Welsh government and Northern Ireland government to decide individually whether each should set a framework, with a view to seeking agreement on revised exit terms for devolved workforces. Should the government ultimately decide that primary legislation is required in taking forward further reforms, the UK government would request Legislative Consent Motions from the Devolved Administrations where appropriate, which would give the relevant Administration the option of including devolved workforces and schemes under any legislation the UK government brings forward.

6.3 However, if and when a Legislative Consent Motion is required, it would be for the Devolved administrations themselves to decide whether this is a desirable approach.

7 Impact analysis

Economic and fiscal impacts

7.1 These reforms could potentially reduce public spending on exit payments by up to approximately £250 million per year. This will be through a direct reduction in the amount of exit payment compensation which affected individuals receive as against current baselines, and so will equate to a reduction in their spending power, after tax. The exact size of these reductions cannot be known now as this will depend on the exact nature of the reform packages agreed within each workforce, and then the demography of those affected by future redundancies under these new terms. Departments responsible for these reforms will set out more details on these impacts as part of the reform process. It should be noted that economic and fiscal affects arising from a reduction in spending power of affected individuals may be offset by wider benefits arising from commensurate savings to government, freeing up resources to spend on other government priorities.

Social impacts – including distributional and equalities

7.2 Labour Force Survey evidence suggests that the public sector has a significantly greater proportion of women and older workers than the workforce population as a whole, as well as slightly greater proportions of those with other protected characteristics, including disability. However, within this there are significant variations between different workforces. For example, around 75% of the NHS and Teaching workforces are female, while around 85% of firefighters are male, and around 40% of civil servants are over 50, compared to only 3% of the armed forces.

7.3 Given this wide variation in public sector workforce demographics, the precise impacts of the government's intended reforms to public sector exit payments cannot be set out at this time. The government will expect each department responsible for taking forward reform to produce a full impact assessment, including equalities considerations, as part of the reform design process, and the government will carefully consider these impacts in making decisions on the appropriateness or otherwise of proposed reforms in each workforce.

7.4 However, looking at the government's individual proposals for reforming the different elements of exit compensation, it is likely that in general:

- the proportionate impact of capping the maximum tariff at 3 weeks' pay per year of service would be broadly equal across workforces, where the tariff is currently more than this
- limiting the maximum payment to 15 months' salary would have a particular impact on those with longer service in schemes where more than 15 months' salary can currently be paid, for example the civil service or NHS
- capping the maximum salary for redundancy calculation purposes at £80,000 would impact on higher earners, who are in general likely to be older
- tapering compensation for those closest to normal pension age would have a differential impact on this particular group, although since exit payments are intended to bridge the gap into other employment or retirement it would arguably be correcting what is currently an anomalously generous situation for those people in this group who would not be subject to such tapering under existing exit compensation rules

- as with all pension related issues, options to limit the cost of employer funded retirement arguably involve differential treatment on the grounds of age. Removing the ability of employers to provide pension top ups above the level of any redundancy lump sum entitlement would have a significant impact on the age groups currently able to receive them (mainly over 50s in the civil service, and over 55s in most other schemes for the larger workforces). However, these arrangements currently offer significantly higher exit payments for these groups than those paid to people too young to qualify in the same scheme, or who are in schemes where this is not available. Likewise, increasing the age at which these pension top ups are available (e.g. to SPA minus 10 years) would have a particularly large impact on the 50-54 age group in the civil service, but this is the group that can currently receive the proportionally most valuable exit payments

7.5 The government believes, to a large extent, any impact on protected groups as a result of these reforms would simply be a natural consequence of the composition of these workforces, and does not believe that there would necessarily be disproportionate impacts on particular groups aside from this. However, the detailed impact assessments produced for each workforce will examine whether this is the case, and the government will carefully consider policy in the light of that. While options to reduce the cost of employer-funded early retirement in particular will directly impact on those in particular age groups the government's view is that to a large extent these would be reducing a current advantage for these age groups, which would be justifiable with reference to the consultation principles.

Environmental

7.6 This policy is assumed to have no tangible environmental impacts.

Costs and benefits – direct and indirect

7.7 The policy would produce a benefit to employers in terms of reductions in redundancy payments which would contribute more widely to the public finances as outlined above. The potential effects include: the reduction in compensation to affected employees (which the government believes is justified on grounds of fairness and affordability), and administrative costs to employers of implementing the necessary changes to their compensation arrangements.

Regulatory impact

7.8 This policy primarily affects the public sector and so is not expected to increase regulation on private business in the wider economy.

7.9 Depending on final decisions, the policy may also have an impact on bodies employing staff previously from the public sector who are subject to Transfer of Undertakings (Protection of Employment) (TUPE) rules. These impacts cannot be quantified at this stage.

Enforcement and implementation

7.10 The government expects departments responsible for the main public sector workforces to negotiate and agree reforms, and then implement them, including where applicable through changes to secondary regulations. The government will reserve the ability to set a reform framework in future primary legislation depending on progress in implementing the reforms.

7.11 The government would ensure any reforms do not breach the provisions of the Public Service Pensions Act 2013. Employees would remain entitled to pensions they have accrued during their employment and there would be no change to the age at which 'normal' retirement is available under existing scheme terms.

7.12 The government will carefully consider impacts around equalities and the economic and fiscal landscape as well as the practical implications of implementing any reforms.

A List of respondents

Association of Educational Psychologists
Association of Local Authority Chief Executives and Senior Managers
Association of Local Authority Chief Executives and Senior Managers, FDA, GMB, Managers in Partnership and UNISON Joint Response]
Association of Principal Fire Officers
Association of School and College Leaders
Association of Teachers and Lecturers
Bath and North East Somerset Council
Bedfordshire Pension Fund
British Dental Association
City of Lincoln Council and South Kesteven District Council
CSC Computer Sciences Limited
Devon and Somerset Fire and Rescue Authority
Devon County Council
Education Authority
Employment Lawyers Association
FDA
Gateshead Council
GMB
Hampshire County Council, Hampshire Fire and Rescue Service, and Hampshire Constabulary
Hereford and Worcester Fire and Rescue Service
Intergenerational Foundation
Kent County Council
Kent Fire and Rescue Service
Lancashire Fire Service
Leeds City Council
Lincolnshire County Council
Local Government Association
London Borough of Newham
Manchester City Council
Medical Research Council
Mercer
National Association of Head Teachers
National Association of Schoolmasters Union of Women Teachers
National Housing Federation
National Trade Union Committee
National Union of Teachers
NHS Employers
NHS Trade Union
North Yorkshire County Council
Northamptonshire and Cambridgeshire County Councils
Northern Ireland Local Government Association
Northern Ireland Local Government Officers' Superannuation Committee
Northern Ireland Public Service Alliance
Nottinghamshire County Council
Oxford City Council
Police Federation of England and Wales and the Police Superintendents' Association of England and Wales
Prospect
Public Health England

Research Councils and Innovate UK
Scheme Advisory Board for the Local Government Pension Scheme (Northern Ireland)
Society of Personnel and Development Scotland
South Tyneside Council
Staffordshire County Council
Surrey County Council
Thompsons Solicitors
Trades Union Congress
Trowers and Hamlins LLP
UNISON
Unite
Warwickshire County Council
Welsh Local Government Association
West Midlands Fire and Rescue Authority
Wyre Forest District Council

HM Treasury contacts

This document can be downloaded from
www.gov.uk

If you require this information in an alternative
format or have general enquiries about
HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

Email: public.enquiries@hmtreasury.gsi.gov.uk