Cabinet Office

Consultation on reform of the Civil Service Compensation Scheme

Launched on 25 September 2017

Respond by 6 November 2017

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Alternative format versions of this report are available on request from Peter Jinks at peter.jinks@cabinetoffice.gov.uk

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1. Context for this Consultation

1.1 Last year, the Government consulted on reforms to the Civil Service Compensation Scheme (CSCS). This consultation was intended to ensure that CSCS terms remained appropriate in the light of developments in the wider public sector landscape, including public service pension reform and proposals for exit scheme reform across the public sector; the fact that the 2010 scheme had not realised the level of savings that had been expected; and the ongoing need for departments to make savings. More detail on the background to this 2016 consultation is at Section 2.

1.2 Following the 2016 consultation the Government entered into discussions with Trade Unions around a basic structure to see if agreement could be reached. These discussions led to further changes to the proposal, which made it more generous in certain respects. The Government made a formal offer to Trade Unions on 26 September 2016.

1.3 The offer was ultimately agreed with eight out of ten unions (FDA, Prospect, GMB, UNISON, Unite, NCOA, the Defence Police Federation and PGA). The Government considered it had met its consultation objectives and provided a good deal for civil servants, and a reformed Civil Service Compensation Scheme (CSCS) was introduced on 9 November 2016.

1.4 The reforms were not agreed by the Prison Officers Association (POA) and the Public and Commercial Services Union (PCS), and late last year the PCS applied for a Judicial Review of the reforms, which was held in July 2017.

1.5 The Court did not doubt that the Government had good reasons for seeking to reform the 2010 CSCS terms. The judgment was clear that changes to the CSCS would make a material contribution to reducing the budget deficit, particularly as the 2010 scheme had not realised the expected level of savings; the changes struck an appropriate balance between those affected and the taxpayer; a significant number of unions had agreed to the 2016 amendments; and the Government was entitled to make such changes in the public interest.

1.6 However, the Court found that the Government had not met its statutory obligation to consult with a view to reaching agreement. As a result of this breach of the obligation on consultation the Court has quashed the reformed CSCS terms introduced on 9 November 2016. This means that the previous CSCS terms, introduced in 2010, remain in force.

1.7 The Government believes that there are still good reasons to reform the CSCS and that it is necessary to have sustainable compensation terms in place.

1.8 This consultation therefore sets out a new proposition for reformed CSCS terms, which builds on the principles behind the 2016 reforms, and is also shaped by the Government's evolving thinking as a result of that consultation as well as other events in the wider landscape of public sector exit scheme policy. This is discussed in more detail in Section 3.

SCOPE OF CONSULTATION

Topic of consultation	This consultation seeks views on proposed reforms to the Civil Service Compensation Scheme (CSCS)
Purpose of consultation	The purpose of the consultation is to gather views from interested parties on the form and nature of the proposed amendments to the CSCS as part of the statutory duty to consulting with a view to reaching agreement.
Target of consultation	This consultation is targeted at Civil Servants and other individuals in scope of the CSCS, employee representatives (Trade Unions) and other interested parties.
Responses	Responses to the consultation should be sent to the below address by 6 November.
Next steps	The Government will consider all responses to the consultation received by 6 November. Subject to consideration of the consultation responses and the outcome of discussions with unions, the Government's present intention is to lay an amended Civil Service Compensation Scheme before Parliament. The Government's response to the consultation, including a summary of responses will be published on GOV.UK

HOW TO RESPOND TO THIS CONSULTATION

Please send responses to this consultation to: cscompensationscheme@cabinetoffice.gov.uk
Or to:
Civil Service Compensation Scheme Reform
4th Floor Orange Zone
Cabinet Office
1 Horse Guards Road
London
SW1A 2HQ
Responses are requested by 6 November 2017

2. Background to the 2016 Consultation on CSCS reform

2.1 At the time of the 2016 Consultation, the 2010 Civil Service Compensation Scheme had been in place for over four years and experience had led the Government to believe that it was not fully delivering against its original aims. In particular the Government was concerned that:

- the Voluntary Redundancy (VR) terms were limiting the flexible use of the Voluntary Exit (VE) terms. The scheme was therefore not functioning as intended but was still encouraging staff to hold on in the expectation of better terms later;
- early access to pension was included to allow staff to retire and draw all of their Civil Service pension without reduction for early payment. Given the significant costs for the employer, the limited eligibility and the Government's aim in encouraging longer working lives (for example the recent pension reforms) it was questionable as to whether it was still appropriate for the employer to be funding this as an option;
- overall the scheme remained too expensive in light of the national debt and budget deficit; and
- more broadly the scheme was out of line with the terms that the Government considers should be generally available in the public sector.

2.2 The 2016 Consultation therefore proposed reform in order to address these concerns. It set out that in its proposed reforms the Government would look to meet the following principles:

- to align with wider compensation reforms proposed across the public sector;
- to support employers in reshaping and restructuring their workforce to ensure it has the skills required for the future;
- to increase the relative attractiveness of the scheme for staff exiting earlier in the process, and to maintain flexibility in voluntary exits to support this aim;
- to create significant savings on the current cost of exits and ensure appropriate use of taxpayers money; and
- to ensure any early access to pension provision remains appropriate.

2.3 These principles provided the framework for the Government's consideration of consultation responses and discussions with unions and informed the CSCS reforms proposed in 2016.

2.4 The 2016 consultation and consultation response document can be found here: https://www.gov.uk/government/consultations/consultation-on-reform-of-the-civil-service-compensation-scheme

3. Principles for reform in this Consultation

3.1 The 2017 Court judgment found that the Government had not fully met its obligations with regard to how the consultation process was carried out ahead of the 2016 reforms. However the judgment accepted the Government's contention that it was right to seek to reform the CSCS.

3.2 The judgment was clear that changes to the CSCS would make a material contribution to reducing the budget deficit; the changes struck an appropriate balance between those affected and the taxpayer; and the Government was entitled to make changes to the terms in the public interest. The judgment noted that the 2016 reforms were justified because there had been a relevant change of circumstances since the 2010 reforms were introduced, and that the difference between the expected and actual costs under the 2010 reforms was a good reason for the introduction of the 2016 reforms.

3.3 Following the Court judgement the Government has again considered its objectives for reform to the CSCS. The Government has concluded that the overarching principles for reform set out in 2016 remain fundamentally the right ones. However, the detail of the Government's thinking has evolved in certain areas since February 2016 as a result of arguments made by unions and others in response to the 2016 consultation as well as developments in the wider compensation scheme landscape since that time. This is discussed in more detail below.

3.4 Building on the principles set out in 2016 and developments since then, the Government's principles for reform in this consultation are:

- to align with the principles of the compensation scheme reform expected across the public sector;
- to support employers in reshaping and restructuring their workforce to ensure they have the skills required for the future;
- to create significant savings on the current cost of exits and ensure appropriate use of taxpayers money;
- to ensure any early access to pension provision remains appropriate;
- to ensure efficiency compensation payments are appropriate for a modern workplace;
- to support the flexible use of voluntary exits; and
- where possible, implement a set of reforms that are agreed by Trade Unions.

3.5 These principles are discussed in more detail below, including how these align with and where they differ from the 2016 reform principles and the reasons for this.

Aligning with wider compensation scheme reforms

3.6 At the same time as the 2016 consultation on reforms to the CSCS, the Government was also consulting on exit payment scheme reforms across all of the major public sector workforces. This consultation was led by HM Treasury and followed an announcement in the

2015 Autumn Statement and Spending Review. This consultation proposed reform of exit terms across all of the major public sector workforces (including the Civil Service, NHS, teachers, local government, police, firefighters and the armed forces) in order to meet the principles of fairness; modernity and flexibility; and greater consistency.

3.7 The Government response to this cross-public sector consultation was published on 26 September 2016[1]. This consultation found that there was currently significant disparity between the exit terms available to different public sector workforces and the terms commonly available in the private sector. It set out that, since exit arrangements are ultimately funded by the taxpayer, it was appropriate for the Government to ensure that they provided value for money within the Government's consultation objectives.

3.8 The Government considered that the best way to meet its objectives would be to set a common framework of upper limits to the main elements of compensation across the main public sector schemes. In summary, this framework is:

- a maximum tariff for calculating exit payments of three weeks' pay per year of service;
- a ceiling of 15 months on the maximum number of months' salary that can be paid as a redundancy payment;
- a maximum salary of £80,000 on which an exit payment can be based;
- 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, including through:
  - capping the amount of employer funded pension 'tops ups' to no more than the value of the redundancy lump sum to which that individual would otherwise be entitled;
  - removing or restraining the ability of employers to make such top ups altogether; and
  - increasing the minimum age at which an employee is able to receive an employer funded pension top up.

3.9 The Consultation response acknowledged that there may be a case for some flexibility for individual workforces within this overall framework, for example as part of a negotiated agreement. But it was clear that it expected "meaningful reform" from each workforce consistent with the principles it had set out.

3.10 There is now a clear expectation from the Government as to the reforms that are expected to be made to the CSCS. Since publication of the Government response, the Departments responsible for the public sector workforces have been working to produce reforms that are consistent with this framework. The Government therefore believes it is right that aligning with these wider public sector reforms remains a principle for reform of the CSCS.

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[1] This can be found at: https://www.gov.uk/government/consultations/further-consultation-on-limiting-public-sector-exit-payments

Supporting employers in reshaping and restructuring their workforces

3.11 The Government believes that this principle, as set out in the February 2016 Consultation, still stands. It remains the case that the Civil Service of the future will require different skills from that of the past, and there is a growing divergence between the skills required for the future and the skills that have been prioritised in the past. Employers will therefore need to refresh the skills they need in their organisation, which may involve exiting some staff.

3.12 The responses to the February 2016 consultation have strengthened the Government's view that, while there clearly is a role for compulsory redundancy in certain circumstances, using a voluntary process wherever possible is better for both the employee and the employer. This is because the employee gains a degree of control over the timing and nature of their leaving employment, as well as financial support as they search for a new job, while the employer benefits from avoiding the time and expense of running a compulsory scheme. Employers also benefit from having more flexibility to exert control over who is offered a compensation payment to leave compared to a compulsory redundancy situation where they are far more constrained in having to identify those staff whose jobs will be lost. Therefore the use of voluntary processes allows employers to extend the population from which departures can be drawn and supports the employer retaining those staff needed to build capability to meet the needs of a modern civil service.

Cost savings and appropriate use of taxpayers' money

3.13 As set out in the 2016 consultation, while the 2010 compensation scheme did succeed in lowering costs significantly, the costs of the 2010 scheme had been greater than expected when it was introduced and expected savings had not been realised. This was largely because the demographics of those leaving under the CSCS proved to be different than had been expected, with a greater proportion than had been expected coming from those with long periods of service, or from those in the 50-54 age group, who were entitled to employer-funded access to their pension, which is generally the form of exit that carries the greatest cost to the employer.

3.14 The Government's view remains that the costs of the 2010 scheme are too high. This is particularly true in the context of a continuing need for the Government to reduce the deficit; the need for departments to make savings in order to live within their budgets; and the findings in the HMT consultation response that exit terms in the public sector are generally more generous than in the wider economy. The Government believes that it is important that exit terms are looked at in the context of the wider economy to ensure they are fair to the individual and the taxpayer who ultimately fund these costs.

3.15 The Government is launching this new consultation in a context in which the cost savings expected from the 2016 reforms have not been realised, which in itself puts additional pressure on departmental budgets.

3.16 Saving costs therefore remains a key principle behind these reforms. The Government's initial expectation is that these reforms should save at least as much as the quashed 2016 scheme. Reform to the CSCS can play an important role in the context of the continuing need for the Government to control departmental spending in order to reduce the deficit, while maintaining public services. Other workforces in the wider public sector will and are reforming exit terms to align with the HMT-led reforms, and the Civil Service should ensure it is playing its part and delivering on the principles of those reforms of fairness, modernity and flexibility, and greater consistency.

Early access to pension

3.17 The Government remains of the view that it is appropriate to take action on early access to pension. The Government does not believe that it is appropriate to continue the position where this form of exit is available for those aged as young as 50, given wider trends towards longer working lives; the fundamental reforms to public service pension schemes, including linking normal pension age to state pension age that have taken place since the 2010 scheme was introduced; and the disproportionately large costs that this form of exit can have for the employer.

3.18 The Government therefore believes ensuring that any early access to pension is appropriate should be a principle of these reforms.

Efficiency compensation

3.19 Alongside the CSCS reforms made in 2016, efficiency compensation was reformed, the main change being to limit the use of efficiency compensation to cases of underlying ill health. The management code and associated central guidance were amended, including the associated guidance. At the same time the efficiency compensation tariff was changed to be the same as the VR tariff in the 2016 CSCS scheme. While the changes to the management code and guidance on the use of efficiency compensation remain in place, the quashing of the 2016 CSCS scheme means that efficiency compensation awards are now again calculated on the terms that were in place prior to 2016. The Government believes that these terms are out of date and that reform of efficiency compensation awards to ensure the terms are appropriate for the modern workplace should be a principle of these reforms.

Supporting the flexible use of voluntary exits

3.20 The 2016 Consultation set out that the commitment made in 2010 that all staff would be eligible to apply for an exit under standardised voluntary terms before they were made compulsorily redundant had been successful in incentivising VR over CR, and so avoiding large numbers of compulsory redundancies. However, the Government set out its concern that this commitment may have reduced the flexible use of VE. This was based on concerns expressed by employers that the nature of the Voluntary Redundancy terms meant that it was inefficient to try offering VE schemes on any terms that did not match those for VR and that this meant staff generally did not come forwards for VE schemes unless they were already minded to leave.

3.21 In response to these concerns the Government proposed in the 2016 consultation to introduce a differential between maximum VE and VR terms and to cap VE at 18 months and VR at 12 months.

3.22 However during the 2016 Consultation there were arguments put forward by unions centred on the view that staff should be able to leave in a VR situation on no worse terms than if they had taken an earlier VE and that the evidence did not suggest that the structure of VE terms was necessarily limiting the use of VE in general. The Government was persuaded by these arguments in 2016 and concluded that it was not necessary for the VE tariff to be higher than the VR tariff in order to incentive the use of VE. This was reflected in the final offer made to unions in 2016 and this now remains the Government's view in this consultation.

3.23 Therefore, it remains the Government's view that VE is the best form of exit for both employer and employee. Encouraging the flexible use of VE therefore remains a principle of this consultation, but the Government is content that this does not need to be through maximum VE terms being higher than standard VR terms.

3.24 The Government is keen to achieve a negotiated settlement on CSCS reform. To that end, it will seek to engage with all Trade Unions during the consultation period with a view to reaching agreement with them and will carefully consider the views they put forward in these discussions as well as formal responses to the consultation. Given the importance the Government attaches to union agreement this forms one of the principles of this consultation.

Question 1: Is there any other reform principle the Government should consider?

4. The Government's proposals

4.1 Section 4 of the 2016 consultation discussed at length the different options for reforming the scheme in order to meet the Government's priorities and set out the cost savings attached to various potential elements of reform.

4.2 There are several ways in which the Government could seek to make savings of the required level, including through fundamental reform to the structure of the CSCS. However the Government believes that in order to make those savings while also meeting the other objectives of reform it is appropriate to retain the key features of the existing structure of the scheme. Instead the Government's proposal is to make adjustments to elements of the scheme within the overall structure. This proposal also reflects the context set out in paragraph 3.15- that the savings expected from the 2016 reforms have not been realised, which has put increased pressure on departmental budgets. For these reasons, Government considers that this is a sensible basis on which to seek to reach agreement again.

4.3 In line with the principles above, and consistent with the Government's belief that it would not be appropriate to make fundamental alterations to the structure of the CSCS scheme, the Government's proposal for revised terms for the CSCS is set out below.

- the standard tariff to be three weeks' pay per year of service;
- Voluntary Exit payments to be capped at 15 months' salary and flexibility in the terms to be maintained;
- Voluntary Redundancy capped at 15 months' salary;
- Compulsory Redundancy capped at 9 months' salary;
- only to allow employer funded top up to pension from age 55 and for this to track 10 years behind State Pension Age; and
- the Efficiency Compensation tariff to be reformed to align with Compulsory Redundancy terms (i.e. a maximum of 9 months' salary). Eligibility for those in nuvos and alpha to be confirmed. This to operate within the context of the revisions made to the use of efficiency compensation set out in revised guidance issued in November 2016

4.4 The 2016 Protocol - Civil Service Redundancy Principles, which set central redundancy principles to be operated by departments, will continue to complement revised CSCS arrangements.

4.5 The above terms reflect the responses received to the last consultation as well as the discussions with unions during the consultation period and are the terms that would have been implemented in 2016 had agreement not been reached.

4.6 The Government will carefully consider all responses to this consultation and on the proposed terms set out here, and from there will decide on whether to make a formal offer to unions, if so, the content of that offer and any timeframe for unions to consider the offer. The Government's aim would be to achieve union agreement to any proposed reformed package.

Question 2: If you do not agree with the proposal, what alternative proposal would you suggest that fulfils the objectives set out in this consultation?

Question 3: If you have provided an alternative proposal, please explain how you think it meets the objectives set out in this consultation to a greater extent than the Government's proposal?

5. How the Government's proposals meet its reform principles

5.1 The Government believes that this proposal would represent a fair deal for civil servants and for the taxpayer that ultimately funds exits. We believe it meets our reform principles.

Align with the principles of public sector compensation reforms

5.2 The Government believes that this package is consistent with principles of the reform framework for public sector compensation schemes set out in the Government's response to its consultation on cross-public sector exit payment reform. These proposals for reform of the CSCS follow the key features of that framework, taking account of the flexibility to consider some limited variation in some areas where this was appropriate for a particular workforce. As an example of this, the Government judges that the most appropriate and cost effective means of limiting employer-funded early access to pension in the Civil Service is to increase the age at which an employee is able to receive an employer funded pension top up, which the proposals increase to age 55, and this is tracked 10 years behind the State Pension Age.

Support employers in reshaping and restructuring their workforce

5.3 These proposals ensure that the balance of encouraging voluntary arrangements over compulsory arrangements, and of allowing employers flexibility in tariffs for VE is maintained.

5.4 Using a voluntary process is better for both the employee and the employer. The employee gains a degree of control over the timing and nature of their leaving employment, as well as financial support as they search for a new job. The employer benefits from avoiding the time and expense of running a compulsory scheme. They also benefit from having more flexibility to exert control over who is offered a compensation payment to leave compared to a compulsory redundancy situation where employers are far more constrained in having to identify those staff whose jobs will be lost. Therefore the use of voluntary exit schemes allows employers to extend the population from which departures can be drawn and supports the employer retaining those staff needed to build capability to meet the needs of a modern Civil Service.

Create significant savings on the current cost of exits

5.5 The proposed reforms would result in significant savings when compared to the 2010 scheme. The Government estimates the proposed package will save around a third compared to the 2010 scheme. This is in addition to the savings that have been made by the changes to simplify the redundancy process also announced in November 2016. This reduction to the cost of exiting staff where this is needed will make an important contribution to ensuring that employers can make the most effective use of their resources while protecting public services.

Ensure any early access to pension provision remains appropriate

5.6 The Government must ensure that any early access to pension provisions remains appropriate. It has carefully considered this and believes that increasing the minimum age at which an employer can receive an employer funded pension top up to 55, tracked 10 years behind state pension age represents a fair deal to the taxpayer and the individual.

5.7 This early retirement provision was retained in 2010 to allow staff who had provided long service to be able to retire early rather than spend a small number of years between leaving the Civil Service and their Normal Pension Age trying to find work. Although it remains challenging for those close to pension age to be able to find comparable employment the Government is supportive of people being able to work for longer and to remain economically active until later in life. It therefore runs counter to this for the Civil Service, as an employer, to spend significant sums of money to encourage people who may be 15 years from state pension age to become economically inactive.

5.8 This can often be a particularly expensive form of compensation for employers and ultimately for the taxpayer, and is a form of compensation that is often not available in the wider economy. The Government therefore feels that its proposal strikes the right balance and aligns with this reform principle.

Ensuring efficiency compensation payments are appropriate for a modern workplace

5.9 The Government believes that the changes to the central guidance made in 2016 have been effective in ensuring that the use of efficiency compensation is limited to circumstances where there is underlying ill health. However, it is also important that the tariff for calculating awards is also appropriate. The Government believes that its proposal to link efficiency compensation payments to the proposed terms for compulsory redundancy strikes a fair balance between the needs of the individual and the need to ensure an appropriate use of taxpayers money.

Supporting the flexible use of Voluntary Exits

5.10 The Government believes that Voluntary Exits are generally the best means of reducing staff numbers where this is necessary and so supports their use over redundancies wherever this is possible. The Government is persuaded that it is not necessary to set a higher maximum tariff for VE than VR in order to support this objective and therefore believes that its proposal to match the maximum terms of VE with VR, while maintaining flexibility within those terms is appropriate and meets its reform principle.

6. Summary of Equality Impact

6.1 The Government will carefully consider the equality impacts of its proposals before making any final decisions on a reformed CSCS and will publish a full equality impact analysis alongside its response to the consultation. However, in order to aid consultees' understanding of the Government's proposals during the consultation period, a summary of the likely impacts of these proposals is set out below.

6.2 The Cabinet Office published an equality impact assessment alongside its response to the 2016 consultation. This analysis was based on the scheme that the Government intended to implement if the offer it made to unions was not accepted at that time. That scheme had the same terms as the proposal made in this consultation and as such the Government believes that this is a useful illustration of the likely equality impacts of the current proposals. The key findings of the 2016 equality impact analysis are therefore summarised below for illustrative purposes.

Direct Discrimination

6.3 The 2016 analysis found the only potential direct discrimination was in relation to age due to early access to pension changes. Those in the 50-54 age bracket would see the most change in the amount they were likely to receive from the proposed changes, however the Government's view was that this change was proportionate as it addressed a situation where otherwise those who were in the 50-54 age bracket received significantly higher payments than those in other age groups. Due to pension scheme changes the numbers eligible to draw any pension from the age of 50 is limited and will steadily decline.

Indirect Discrimination

Tariff- 3 weeks per year of service and reducing the maximum multiple of salary.

6.4 On the basis of age it was determined that due to the strong correlation between age and length of service there was a risk of indirect discrimination. It identified three groups who would be affected by the two changes. Those who have under 15 years of service experienced loss due to the change in tariff. Staff who had between 15 and 22 years of service saw change due to both the tariff and the cap.

6.5 Part time workers were looked at, due to the higher proportion of those that are female and part time workers. Analysis showed there was no gender disparity within the most affected group with longer service when looking at changes to the tariff and the maximum months' salary available and the analysis concluded that there was unlikely to be a disparate impact for part time workers that would lead to indirect discrimination.

6.6 On groups with other protected characteristics, there was no evidence to suggest that there was any negative impact on groups with the other protected characteristics that was disproportionate relative to others who differ in those characteristics.

Early access to pension

6.7 The 50-54 age group was also looked at to assess whether there was potential indirect discrimination in relation to the protected characteristics of race, disability and gender. It was determined that there was no particular over-representation of those with these characteristics within the 50-54 age group.

Efficiency Compensation

6.8 The 2016 equality impact assessment did not include details of the impact of efficiency compensation changes. However, the Government recognises that staff with a disability could be disproportionately impacted by changes to efficiency compensation. The Government will therefore consider the equality impact of its proposals and publish analysis alongside the response to this consultation

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[1] https://www.gov.uk/government/consultations/further-consultation-on-limiting-public-sector-exit-payments