What's happening with Exit Payments in the public sector?

April 2017

As part of its wider attack on the funding of public services and public sector workers, the Government is introducing a set of punitive 'reforms' to exit payments – including redundancy payments.

In summary there are three sets of proposals.

1. **To recover exit payments given to anyone earning £80,000 or above at the time of exit if you return to a public sector job within 12 months**

2. **Cap exit payments to no more than £95,000 in total**

3. **Reform existing agreements to reduce the factors relating to calculating an exit payment**

All of the proposals fly in the face of recent local and national collective agreements, and come at a time when our members are facing wide-scale redundancies and the erosion of their pay and conditions. Flexibility for Councils to negotiate fair redundancy packages will also be jeopardised if these proposals are imposed. UNISON believes this attack on exit payments is unjustified, damages industrial relations and morale, and undermines employers' ability to respond to changes driven by the Government's own cuts. It also breaches the Government's previous commitment not to alter public sector pensions for 25 years.

Who do the Government's proposals apply to?

The government states that the proposed legislation will apply to "those bodies where employment and remuneration practices are the direct responsibility of the UK government", although further clarification is awaited. Our understanding is that the proposed reforms to existing agreements apply to most "major employers" in the Public Sector in England, including Local Government, the NHS, Civil Service, Teachers, Police, Fire Fighters and Armed Forces.

What's UNISON done about this?

UNISON is joining with other unions and the TUC to challenge these latest attacks on exit payments, specifically via meeting with Treasury officials, robust responses to consultations, and lobbying of MPs and Lords. We continue to seek to minimise the effect of these changes and to secure sufficient safeguards for our members and shall, of course, continue to give regular updates as-and-when we have any new information.

What is included in exit payments?

Exit payments are those made to an employee leaving employment, including:

- Redundancy payments;
- Pensions top-ups which enable early retirement – sometimes known as **'strain on the fund payments'**;
- Any payment made as part of an agreed settlement between the employer and the employee.
- **PLEASE NOTE:** pension lump sums (received by you as part of your pension) are **not** included in the maximum cap of £95,000.

Proposed changes – and what they mean for members

(Please note that the following examples are for illustrative purposes only)

1. Recovery of exit payments if you return to the public sector within 12 months

When does it come into force?
We're told to expect final regulations to be passed imminently ('by Easter'?), with immediate implementation.

Who is affected?
Anyone earning £80,000 or more at the point of leaving public sector employment, if they return to **any** job, **anywhere** in the public sector within twelve months. Up to 100% of the exit payment will be recovered by the old employer.

What if I return on a lower salary?
The current proposals do not take a reduced salary into account for recovery of exit payments.

What happens if I can't pay it back?

There will be a new requirement placed on prospective employers to withdraw any new job offer if a means of recovery cannot be established.

Do I have to return "top-up / strain payments" paid into my pension scheme as part of my exit package?

Yes. If a member takes early retirement, and receives his / her pension, there would need to be special arrangements to recover the pension top-up given to the scheme by the previous employer.

2. Absolute cap on the value of any exit payment set at a maximum of £95,000

When does it come into force?

The Government intends to publish draft regulations for consultation before Easter. A deadline for implementation has been set for the end of June 2017.

Who is affected?

Any local government worker receiving an exit payment could potentially be affected. Although the proposals will hit high earners hardest, moderate earners with long service – such as social workers and librarians could also be hit – particularly if they seek to access early retirement as an alternative to being made redundant. As, currently, anyone made redundant after age 55 is automatically entitled to early retirement instead of redundancy, someone earning – say – £25,000 could be affected, because an early retirement settlement (made directly to the to the pension scheme to compensate for taking current entitlements earlier than expected) is often much larger than a straightforward redundancy settlement.

In other words, the £95,000 cap applies to the **whole settlement**, even the part of it which is paid to the pension scheme – not just the part which the individual receives.

What happens if my exit payment is no longer enough to cover my entitlement to an early retirement?

At present we don't have the answer to this. However, the Government has suggested that an employee in this situation could have three choices, namely to:

- Take a straight redundancy payment instead of early retirement; or
- Make up the difference themselves (find part of the lump sum to pay the pension scheme from elsewhere); or
- Accept a partly reduced pension.

Will there be any exceptions to the £95k cap?

Few, if any; as a general rule, an exception is expected to be available only by a vote of the full council.

3. New reduced limits on calculating all exit payments

When does it come into force?
Following discussions with the Treasury for over a year, our employers were told to present preliminary proposals to government by December 2016, ready for final implementation by **June 17, 2017** – although there may already be slippage with this deadline. Nevertheless, the government insists that it will press ahead with legislation on new proposals as soon as possible if negotiation alone does not secure its objectives.

Who is affected?
All workers in the public sector in England

What is proposed?
Whilst it is not expected that every public sector exit payment agreement will look the same, the government expects local authorities to 'reform' our Scheme regarding exit payments, in order to achieve financial savings. Specifically, they are instructed to look at the following:

1. **New maximum redundancy / exit entitlements**;

2. **Reducing entitlements as people near retirement;**

3. **Reducing, or eliminating, access to early retirement options.**

Hence, they are looking at such limits on redundancy entitlements as:

- Maximum of 3 weeks' pay for each year of service

- Maximum of 15 months' pay in total and possibly less for compulsory redundancies (to encourage people to take exit packages earlier)

- Maximum salary for calculating an exit payment set at £80,000

- A tapered reduction to the exit package the closer someone is to retirement.

In addition, the government has also suggested options for changing access to pension "top-ups" which enable older workers to access an unreduced pension in lieu of a redundancy payment. (In the case of members of the Local Government Pension Scheme, there is no currently no choice but to take a pension if a member is made redundant at the age of 55 or above.) The proposed options are:

- Capping the employer funded pension "top-up" to no more than the amount of redundancy settlement that would otherwise be used.
- Removing the ability of employers to make pension "top-ups" altogether
- Increase the minimum age at which an employee is able to receive a pension "top-up".

Please note: The above proposals are expected to be considered under the exit payments reviews, but are NOT regarded as the necessary outcomes.

For queries please contact Michelle Singleton, Policy Unit, at policy@unison.co.uk

How bad could it get? – the Civil Service example:

Features of the Civil Service Exit Payment Scheme – which have already been implemented – include:

- Voluntary Exit capped at 18 months' salary;
- Voluntary Redundancy capped at 18 months' salary;
- Compulsory Redundancy capped at nine months' salary

WARNING – As each public sector pension scheme is consulting individually, this will not necessarily act as a precedent for LGPS

Scheduled Implementation Timeframe for LGPS members:

Despite no formal negotiations have yet taken place with the Local Government Association, the Department for Communities and Local Government (DCLG) still maintains that its detailed proposals will be ready 'by Easter'.

Specific policy:	Intended implementation:
Recovery of exit payments if you return to the public sector within 12 months	*Regulations to be passed by 'Easter 2017', for immediate Implementation.*
Absolute cap on the value of any exit payment set at a maximum of £95,000	*Draft regulations intended 'by Easter' for implementation at the end of June.*
New reduced limits on calculating all exit payments	Expected implementation by **June 17, 2017** may be subject to slippage, although government is still keen on legislation a.s.a.p.

We will keep you updated as formal proposals and consultation on the LGPS sector develops.