

2016



# **FDA RESPONSE TO CABINET OFFICE CONSULTATION ON REFORM OF THE CIVIL SERVICE COMPENSATION SCHEME**

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## CABINET OFFICE CONSULTATION ON REFORM OF THE CIVIL SERVICE COMPENSATION SCHEME

### FDA RESPONSE

#### Introduction

The FDA is the trade union and professional association for nearly 20,000 senior managers and professionals in the public sector, primarily in the Civil Service but also, through Managers in Partnership, in the NHS.

FDA members are angry that having voted for a reformed Civil Service Compensation Scheme (CSCS) in 2010, the government is again seeking to override that agreement and introduce changes to the terms of the scheme. Civil servants see these proposals as a further attack on their terms and conditions that is both unjust and unnecessary. Rather than change the terms of the CSCS, the government should be consulting with the FDA and other trade unions on positive reform to improve the process or efficiency of Civil Service exits.

Through HM Treasury's exit payment recovery regulations and the £95k cap in the Enterprise Bill, foreshadowed in the Civil Service as a Ministerial policy; the CSCS has already been 'reformed' by this government resulting in disruption to planned departures, confusion among employers and civil servants and significant waste to taxpayers.

Under the Superannuation Act, changes to the CSCS have to be meaningfully consulted on with relevant trade unions. The FDA is concerned that the decision by the Cabinet Office to consult on these changes before the result of the HM Treasury consultation on cross public sector exit payment reforms is known undermines the extent to which this consultation can be seen as meaningful. Having sought assurances on this point from both HM Treasury and Cabinet Office we have secured a commitment from the Cabinet Office that "the Minister is willing to commit to not seeking Cabinet Committee approval on changes to the Civil Service Compensation Scheme until the Government has agreed its position on wider public sector compensation" (Cabinet Office correspondence dated 25 April 2016). While this

does not resolve the problem completely, we accept that this offers some helpful assurance.

## **2010 Reforms**

The CSCS was reformed extensively in 2010 saving the government around 40% on the previous arrangements. When the new scheme was announced in Parliament the Minister, Francis Maude described it as a “lasting settlement”. The then head of the Civil Service, Sir Gus O’Donnell said the new scheme was “sustainable, affordable and fair”.

The process of reform was not easy as the Minister himself acknowledged:

“This has not been a quick process, negotiations have been going on for several months - and indeed for several years before that. But what the new scheme shows is that constructive negotiations with the unions can work and the result is a package that is fair for civil servants and fair for other taxpayers.... I believe we now have a scheme which is fair, protects those who need the most support, addresses the inequities in the current system and is right for the long term.”

## **2016 Reform**

This 2016 consultation does not explain why, five years later, radical changes including another 33% reduction in the value of severance arrangements, is necessary. Indeed the timing of these proposals, as departments announce significant workforce changes and job losses looks cynical.

The FDA calls on government to offer balanced reform, building in a redeployment process it has steadfastly refused to engage on. Conducting a proper assessment of current Civil Service skills and those that are required in the medium term instead of simply seeking headcount reductions each year with minimal consideration of how the Civil Service is to deliver on the government’s commitments in this context.

There is no equality assessment of the proposals outlined but Cabinet Office will be aware that its proposals disproportionately affect staff with longer service, who are particular ages and who are disabled. Before reaching any decisions on reform, the FDA believes there should be a full equality impact assessment and in line with the Public Sector Equality Duty, steps taken to limit the negative impact of any changes on civil servants with relevant protected characteristics.

**Q1: Do you agree that these are the right principles for the reform of the scheme? If not, what should be the principles to be followed?**

The FDA does not believe the principles for reform outlined are helpful to reforming the CSCS arrangements.

To take each emphasised statement in turn:

Aligning with wider compensation reforms - this cannot be achieved without the HM Treasury consultation response being known, so this is an inappropriate objective. Furthermore, there is no value to anyone in aligning schemes arbitrarily. Pay rates are not aligned across the public sector, nor are the demographics of workforces.

Prevent excessive pay-outs - the consultation claims this is in line with the government's manifesto commitment but as that commitment was to restrict payments to the highest paid, this principle does not fully align with the manifesto. Government's chosen mechanism to achieve its objective in this regard is to cap the value of exit arrangements at £95,000 which targets long service civil servants rather than the highest paid. The FDA believes the 2010 reforms sufficiently managed redundancy payments in the Civil Service and that arbitrary caps are a flawed way to manage a complex workforce that the government is seeking to meet an ever expanding range of commitments. It is also the case that pay at senior levels is lower than pay for equivalent roles elsewhere in the public sector (and even further below private sector remuneration levels). Having this policy in the Civil Service is therefore an inefficient way to target higher earners in the public sector or the wider economy.

Supporting employers in reshaping and restructuring - the FDA would absolutely support a fair and considered approach to delivering on this principle but the proposals put forward in this consultation will not meet that objective. Without proper procedures for workforce planning and redeployment covering the whole Civil Service and all grades within it, employers are left to deal with a limited, disruptive exit process that is beset by delays and confusion. Seeking to present these issues as solvable by cutting Civil Service severance arrangements is misguided and doomed to fail.

Increase the attractiveness of the scheme for staff exiting early - since the 2010 scheme was launched over 80% of Civil Service exits have been at the first stage of the exit process: voluntary exit. The current scheme meets this objective, so it defies logic that the government seeks to change a system that already delivers on a stated objective. Furthermore the proposal here does not involve any increase in the value of exit payments at an early stage so cannot be said to 'increase the attractiveness' of such exits.

Maintain flexibility in voluntary exits - Civil Service employers currently have almost total flexibility in voluntary exit terms. They cannot offer more than voluntary redundancy terms without Cabinet Office clearance but aside from that employers are free to offer whatever terms they like at the voluntary exit stage. As above, given employers have huge flexibility in terms, why does Cabinet Office seek to change a scheme where the only restriction on employer flexibility is its own clearance policy?

Create significant savings and ensure appropriate use of taxpayers' money - 40% has already been saved from the 2010 reforms. If government would remove the delays to the exit process such as those put in for Cabinet Office clearance and MyCSP delays that can hold up exits for months, the process would be quicker, employees would suffer less stress and taxpayers' money would not be wasted. It is a more appropriate use of taxpayers' money for staff with key skills and experience to be redeployed rather than made redundant yet redeployment rarely occurs at SCS level and is a lottery for delegated grades. Despite this, there are no proposals in these reforms to address this waste of talent and knowledge.

Ensure access to pension remains appropriate - through their contributions and service, civil servants build up rights to pension provision. Having access to those pensions in line with the rules of pension scheme agreed in 2012 and the agreement on the CSCS reached in 2010 is and remains appropriate.

The FDA would support the government in reforming exit processes to achieve principled objectives that would actually improve the efficiency and fairness of Civil Service redundancy situations:

- fairness for employees;
- value for money for the public;
- retention of important skills and knowledge necessary to the delivery of high quality public services;
- encouraging a long term view of workforce planning;
- abiding by the ACAS Code of Practice on managing redundancies;
- prioritising redeployment over redundancy where possible; and
- minimising undue delays in the process e.g. the provision of exit figures from MyCSP and the layers of bureaucracy around Cabinet Office clearance processes.

These principles would go a lot further to ensuring value for money for the taxpayer than those put forward in this consultation.

**Q2: Should the tariff be reduced as part of the cost saving measures? If so, to what level should it be reduced? If not, what should be changed instead to produce comparable savings?**

The FDA believes the objective of cutting exit payments by a third is excessive. Cabinet Office would be better focused reducing the time civil servants spend waiting either for exit quotes from MyCSP, or for certainty from their employer about how their proposed workforce changes will be managed. That, combined with a genuine approach to redeployment would make significant savings and improve the efficiency of the service.

Reducing the tariff would discourage staff from putting themselves forward for voluntary exit as they do now and would consequentially mean a more drawn out and fractious process as individuals seek to avoid being made redundant. The FDA believes the government's move to reduce the tariffs will be counterproductive and urges Cabinet Office to rethink its approach.

**Q3: Should the cap on the multiple of salary be reduced? If so, to what level should it be reduced? If not, what should be changed instead to produce comparable savings?**

The FDA believes the combination of cuts to CSCS terms proposed in this consultation will disrupt a scheme that has delivered on the objectives set for it in 2010. At the earliest stage of the process, voluntary exit, employers already have the option to vary the tariff in terms of the salary multiple used. To limit that flexibility by reducing the level across the board would inhibit employers and discourage voluntary departures. As the avoidance of compulsory redundancy has been a success of the 2010 scheme and most employers in the wider economy maintain avoiding compulsory redundancies is a sound objective, the FDA calls on government to withdraw this proposal and focus on the principles set out above that would genuinely improve Civil Service exit processes.

**Q4: Are there any other significant cost saving measures that should be considered instead of or in addition to a reduction in the tariff and/or cap?**

The FDA believes the Civil Service needs to improve its approach to workforce planning. Too often exit schemes are run where the employer does not know what skills and experience they need to have at the end of the exercise, just that headcount needs to reduce. This leads to vital skills and unquantifiable experience leaving the service only to have to be replaced shortly after by new staff who may have the necessary skills but will take time to develop experience. Cabinet Office should support and demand employers undertake detailed assessments of the skills and staff needed before embarking on an exit process, not part way through or after.

For this, and to facilitate speedier processing of Cabinet Office clearance for schemes, proper resourcing of that department should be ensured. The implementation of a viable and effective redeployment process for all staff also requires some level of resource but will result in significant savings in terms of cost, time and skills.

The FDA has engaged extensively with Cabinet Office and MyCSP around the problems caused for members of delayed and inaccurate quotes. While the problems with pension statements and payments are well known, the delay to employers and individuals resulting from MyCSP errors had been completely overlooked in this consultation. In many cases exits are delayed by months while these problems are corrected causing unnecessary cost to the taxpayer, delay to the employer and stress to the individual. Before seeking to cut the terms of CSCS, the FDA believes government should ensure it is doing everything possible to ensure an efficient process can operate.

**Q5 Should the Civil Service apply a different cap on the salary that qualifies for compensation payments?**

Reducing the cap on salary usable for exit payments would have represented a more targeted approach to capping exit payments in line with the government's manifesto commitment. However, it instead opted for an arbitrary £95,000 cap that hit long service employees hardest. The FDA does not believe the cap should be reduced, to do so would seem petty given the negligible savings (less than 1% according to the consultation, the FDA suspects the costing would have to run to several decimal places in order to register at all) and the combined effects of other legislation: the £95,000 cap and exit payment recovery regulations that are specifically targeted at the highest earners in the Civil Service despite these posts being among the hardest to recruit. The disruption caused to employers by the constant changes to exit arrangements is likely to be a significantly greater cost than any saving that could be generated by reducing the cap so the FDA suggests the 2010 terms around thresholds are maintained.

**Q6: Should the requirement for at least one offer under voluntary terms (and for that to be a "good" one rather than a minimal one) before moving to Compulsory Redundancy be kept?**

Yes. It is a fundamental principle of fairness that an individual who is served notice of potential redundancy has the option of the best available terms. The quality of workforce planning in Civil Service employers is not sufficient for Cabinet Office to be confident that people just 'know' that they are at risk. Most employers are opaque about their workforce reform strategy until they get close to notices of

redundancy. If the employer isn't clear who is in scope then it is profoundly unfair to penalise the individual for their employer's lack of clarity.

**Q7: If the requirement for a voluntary offer before redundancy is kept, should that offer be on the basis of a fixed "tariff"?**

Yes. In order to be sure that individuals get the best terms when at risk of redundancy, the amount offered should be fixed. As stated above, it is generally accepted that avoiding compulsory redundancies is a positive objective, if the terms on offer are a moveable feast, individuals are far more likely to defer making a decision to exit until the very end of the process as a result of the uncertainty of the situation.

**Q8: Should Voluntary Exit allow for higher maximum payments than Voluntary Redundancy? If it should, by how much?**

The FDA believes it is right for employers to have flexibility about what is offered in a voluntary exit situation. When they are simply trying to reduce headcount and have no particular objectives for workforce change in mind, voluntary exit is a sensible approach. However, government is proposing to reduce the terms available for voluntary and compulsory redundancy so suggesting voluntary exit payments could be higher is disingenuous. It is possible now for voluntary exit terms to exceed voluntary redundancy terms though this flexibility is rarely exercised. The FDA is sceptical that in the proposal put forward by government, voluntary exit terms would in fact never be significantly more than the voluntary redundancy terms. So if the maximum for voluntary redundancy was set at 12 months, it would be irrelevant that the maximum for voluntary exit was 18 months if employers only have to offer up to 13 months to be better than the voluntary redundancy terms. The FDA does not believe reducing the maximum likely exit terms to such a level is fair or proportionate. We believe that the fairest approach is for the best possible terms to be available to those who are at risk of redundancy.

**Q9: Are there any other ways in which staff could be encouraged to be more proactive in coming forwards when exit exercises are being run?**

On average 85% of staff leaving the Civil Service do so on voluntary exit terms, i.e. at the earliest possible point in the process. The one blip was last year when around 2,000 voluntary exits in HMRC were classed as voluntary redundancies to accommodate a particular situation in that department at the time. There is no evidence that delays in the exit process are caused by employees but there is significant evidence that delays by employers, Cabinet Office and MyCSP mean the process takes far longer than anyone should accept.

**Q10: Should the employer funded early access to pension provision be removed from the scheme?**

No. It was part of the agreement reached in 2010 and forms a useful incentive for some employees to leave the service that cannot be matched by any other mechanism.

Government should be clear about the terms that are on offer to civil servants. Individuals chose to forgo some or all of their exit payment in order to access their pension early. Only when that falls short of the amount needed to buy out the actuarial reduction for early payment does the employer top this up. The individual does not get any cash in this situation as all the money goes to the Civil Service pension scheme (and therefore to HM Treasury).

The FDA would request that provision for members to secure a partial buy out of the actuarial reduction for early payment is made. Currently members affected by the £95,000 cap and others may not be able to buy out all of the actuarial reduction but still want to draw their pension. Provision of partial buy out options could encourage a greater number of voluntary exits as this would greatly assist a number of individuals in planning their life after Civil Service employment.

**Q11: Should the minimum age for early access to pension be increased to 55?**

No. There is a declining group of civil servants who have the facility to access their pension at 50 and this was protected as a result of the Finance Act 2006. The FDA does not believe there are any grounds to retrospectively change the date at which these individuals can access their accrued benefits. To do so would implement a fundamental change with no notice. The FDA believes this would be morally wrong and legally challengeable and we strongly urge the government not to change the minimum age for early access to pension. We also query the inclusion of this question in a consultation on the compensation scheme. It is the pension scheme, specifically the PCSPS that contains the rules on minimum ages for accessing benefits and reform to that scheme was agreed in 2012 with a commitment from the then government, of which the current government was a part, that there would be no change to the scheme outside the cost sharing mechanism for 25 years. The FDA believes that commitment should be honoured.

**Q12: Are there any other ways in which the key issue (the provision of a very expensive retirement benefit to staff unlikely to actually retire) could be resolved?**

No explanation has been given as to why there is a problem with the early retirement provisions of the CSCS now that weren't known in 2010 when they were deemed 'fair and sustainable'. The FDA does not believe it is appropriate to change these rules again. We do not accept the assertion in 4.4.3 that it "is therefore clear that those under 55 will actually be unable to 'retire'" and therefore the CSCS must change. Many civil servants are unable to live on their Civil Service pension and savings alone even when they reach normal pension age so it is unclear what point the government is making here. The FDA is aware that a number of people made redundant after a career of public service continue to work in a voluntary or part time capacity in roles that are financially not remotely comparable with the job they had before redundancy but are able to do this because they have been able to access their pension. The FDA is not convinced of the benefit of attacking these individuals and leaving a situation where people are less likely to volunteer for redundancy.

**Q13: Do you agree that employers should have the flexibility to set a lower maximum cap than £95,000 in Voluntary Exit schemes? Is there any level below which a cap should not be set?**

Employers are already able to set almost whatever terms they like in voluntary exit situations so this provision is simply extra complexity and the FDA thinks should be withdrawn. Setting low caps simply means fewer people will volunteer for exit which runs contrary to one of the stated objectives of these reforms. As discussed above and in previous consultations, this type of cap affects those with long service, it is not clear why Cabinet Office is suggesting another reform to the detriment of long service civil servants on top of its proposals to reduce tariffs and maximum service limits.

**Q14: Do you support the suggested package set out above?**

No. The FDA believes the proposals set out are unnecessary and would be counterproductive causing disruption, delays to exit processes and a fall in the number of people leaving at an early stage of the process. The package does nothing to address the real problems in the exit system and fails to honour the lasting agreement reached between government and employees in 2010.

**Q15: Is there another way in which the Government's aims of reducing costs and ensuring that the CSCS operates as desired could be met?**

The FDA believes the government should introduce a comprehensive and effective redeployment process that applies to all grades in the Civil Service.

Delays caused by bureaucratic processes and needless Cabinet Office red tape should be replaced with requirements on employers to properly plan their workforce reforms.

MyCSP should be provided by employers with the relevant and accurate data on their employees ahead of any exit process in order to eradicate the costly current delays caused by individuals waiting for accurate statements or exit quotes.

Savings accrued from the imposition of the £95,000 cap and exit payment recovery regulations should be quantified alongside the savings resulting from the more efficient process outlined above and the savings resulting from redeploying staff.

**Q16: What should the tariff be for the reformed “inefficiency” terms?**

As agreed between the NTUC and government in May 2015, the FDA believes the tariff for inefficiency exits should be the best available terms under the CSCS which is a maximum of 21 months.

**Q17: Should the revised arrangements be called something different?**

The FDA and other NTUC union agreed reforms to the inefficiency process in May 2015, we believe it is disingenuous for government to reopen that agreement. We believe the ‘PIN 40’ guidance should be amended as was agreed to cover those exits that are mutually agreed to be in the best interests of the individual and the efficiency of the Civil Service.