



Public Sector Exit Cap Parliamentary Briefing on behalf of West Midlands Employers

1.0 About West Midlands Employers (WME)

West Midlands Employers is a representative body owned by the 32 Councils in the West Midlands Region and the organisation is registered with the Certification Office for Trade Unions and Employer Organisations. We are owned by our subscribing councils and we are governed by our constitution. We have a representative body comprising of the Chief Executive of each subscribing member council who agrees our business plans, budgets and other constitutional matters.

We also report through an Elected Member Management Board nominated from sub-regional groupings covering Birmingham; Black Country; Coventry, Solihull and Warwickshire; Worcestershire; Herefordshire, Telford and Wrekin and Shropshire; and Staffordshire and Stoke with an additional member representing the District Councils.

The chair of the WME Management Board is Cllr Ken Meeson, Cabinet Member for Solihull MBC and the Vice Chair is Cllr Tristan Chatfield, Cabinet Member for Birmingham City Council.

The total public sector workforce WME represents through our employers is circa 116,000

2.0 West Midlands Employers Position Statement

Following our AGM we have a mandate from Chief Executives of our membership councils to lobby for changes and further consultation and dialogue on the implementation of the Exit Cap.

WME offers no opinion on behalf of our membership on the concept or ideology of an 'Exit Cap'; that represents a political policy and as such would generate a significant divergence of views across our Region which is outside the remit of an Employers Organisation.

As large public sector employers across the West Midlands Region there is significant concern about the proposed regulations from our subscribing councils and as such **West Midlands Employers recommends that Members of the House of Lords DO NOT SUPPORT the regulations as laid.**

WME responded to the Treasury consultation in spring 2019 and there was no further dialogue with Government until the Treasury published their response to this in July 2020; none of the concerns raised by WME had been taken into account or addressed.

3.0 Considerations

West Midlands Employers seeks the withdrawal of the current regulations and a further period of consultation and dialogue with HM Treasury to mitigate some of the adverse impacts that the current Exit Cap legislation would have on the Local Government workforce, specifically in three key areas:

3.1 Pension Implications

There is a significant concern relating to the payments that are proposed as in-scope for the 'Exit Cap' threshold.

There is a consistent view from across our membership that payments in scope should be limited to genuine exit payments such as redundancy payments.

Pension strain costs should not be included as these are not payments to the individual but rather to a pension fund to ensure the individual gains access to the pension they have earned.

This is particularly relevant when looking at the data which demonstrates that even employees that seek early retirement (with no redundancy or Pay in Lieu of Notice) would be impacted.

“An employee on a salary of £40,000 with 37 years’ service will be caught by the cap just on early retirement costs. In such a case the County Council would pay to the fund £96,250. That is without any redundancy pay, holiday pay or notice pay”.

Under current legislation, if a Local Government employee is made redundant (Compulsory or Voluntary) they currently must receive an unreduced pension. The LGPS is the only funded pension scheme in the Public Sector and on this basis Local Govt employees are being treated inequitably to other Public servants, in that, the pension strain is included in the cap and in other Public sector services it is not included.

It appears to our member Councils that the Local Government workforce are being targeted unfairly in comparison to other parts of the public sector.

3.2 Pension Regulation Changes

Changes are required to the local government pension scheme if the Treasury’s regulations are approved.

The two sets of regulations must come into force at the same time to avoid council staff being compelled to receive a significantly reduced pension for life. The Ministry of Housing, Communities and Local Government is consulting on changes but the consultation does not close until 9 November, and any regulations will not be made until several months after that period due to the complexity of the issues required.

Until these amendments are in place the exit pay cap should not be applied to the Local Government workforce. The current regulations specify they will become law within 21 days of approval.

3.3 Impact on long serving – low earning employees

It is the understanding of our membership that the purpose of the ‘Exit Cap’ was to reduce individual exit payments, for ‘high earning’ executives; however, there is a concern that the exit cap legislation, as currently proposed, will disproportionately impact on those ‘low earning’ employees with ‘long service’ due to the inclusion of pension strain costs (as outlined above).

This will not only affect the ‘high earners’ that are the target group but will also impact on mid-level staff with long service e.g. frontline senior practitioner and team leader roles where the post holders have 25 plus years’ service.

Calculations provided by one of our Councils demonstrates this:

“The Council would have to pay £67,375 to the Pension Fund for an employee on £28,000 with 37 years’ service. Therefore even with a very low redundancy payment the cap would be hit”.

There is a concern that the impact of the proposed ‘Exit Cap’ across protected characteristics is not clear. The cap appears to disadvantage on the grounds of age and gender, as the group who are most likely to be affected by the cap are those over age 55, and who are members of the LGPS (or another public sector pension scheme). No Equality Impact Assessment (EIA) has been shared by the Treasury focusing on the Local Government workforce and we would encourage the Government to work with the Regional Employers Organisations to carry out an EIA to understand the impact further on the sector.

3.3 Full Council Waiver

Our membership, 32 Councils in the West Midlands are all democratically elected bodies and accountable to the public. As such, we believe they should have complete autonomy over how and when a waiver to the ‘Exit Cap’ should be applied.

We are of a strong view that Councils (through a Full Council decision) should have the ability to apply a waiver to the 'Exit Cap' through operating within clear guidelines, which should provide sufficient assurances that democratically elected representatives have considered the proposal, without the need for central government involvement in agreeing that waiver.

3.4 Implementation Phased

WME and our member Councils are particularly concerned about the proposed start date for these Regulations. As stated, the 'Exit Cap' and associated provisions will come into force 21 days after the Regulations are made.

As outlined above there are some fundamental areas of concern for our Local Government employers relating to issues to be navigated before determining what exit payment can legitimately be paid to an individual, once these Regulations come into force.

Conclusion

We would encourage the Government to consider a withdrawal of these draft regulations and allow a period of meaningful consultation to develop an appropriate timeframe and approach for implementing these in Local Government and allow, ourselves, as the Regional Employers Organisation time to effectively support and prepare our member Councils.