Cabinet Office

Equality Analysis

Civil Service Compensation Scheme Reform

June 2016

CONTENTS

Purpose of the document

This document identifies the equality impact (if any) of specific changes the government proposes to make to the Civil Service Compensation Scheme (CSCS), and acts as a written record of the government's assessment and analysis of this.

Section 1: Public Sector Equality Duty

On 5 April 2011, the public sector equality duty came into force in England, Scotland and Wales. It replaced the separate race, disability and gender equality duties in previous legislation. The public sector equality duty is set out at Section 149 of the Equality Act 2010. It requires that those subject to the equality duty must, when exercising their functions, have "due regard" to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Cabinet Office has had due regard to those three aims when formulating the proposed changes in the CSCS. Having due regard to the second aim has involved having due regard to the need to – (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; and (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.

Protected characteristics

The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and Maternity
- Race (including ethnic or national origins, colour or nationality)
- Religion or belief
- Sex
- Sexual Orientation

and marriage and civil partnership in relation to the aim of eliminating discrimination only.

Section 2: The Reform Proposal

Introduction

To remain the best in the world, the Civil Service needs to respond to both the challenges and opportunities of our times. That means being able to recruit and retain the best people, but it also means ensuring that we have a good, cost-efficient system in place to help civil servants leave when exits are needed. The Civil Service continues to require new and different skills to respond to the fiscal environment, global competition and changes in technology, whilst at the same time delivering better services more efficiently: in short, doing more for less.

Background

The CSCS was last reformed in 2010 and, having been in place for approximately six years, the government concluded that it is not fully delivering against its aims. The government proposed changes to the CSCS so that it would remain a suitable and appropriate tool. Specifically, the government consulted on reforming so that it would meet the following principles:

- to align with wider compensation reforms proposed across the public sector, including the government's manifesto commitment to prevent excessive pay-outs by ending six-figure exit packages;
- 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 provisions remains appropriate.

Reform Plan

The government is making a formal offer to the trade unions with the following terms:

- the standard tariff to be three weeks' per year of service;
- Voluntary Exit capped at 18 months' salary;
- Voluntary Redundancy capped at 18 months;
- Compulsory Redundancy capped at 9 months;
- only to allow employer funded top up to pension from age 55 and for this to track 10 years behind state pension age;
- to offer a partial buy out option for employees above minimum pension age where the cash value of the exit payment is insufficient to fully buy out the actuarial reduction or where the full exit payment is otherwise affected other restrictions in legislation (e.g. the introduction of the £95,000 exit cap);
- Compulsory Redundancy notice periods will be set at 3 months for new starters.
- [the lower paid underpin to be increased to £24,000 and to be reviewed on an annual basis in relation to 90% of the average private sector earnings figure;]
- Inefficiency Compensation tariff to be reformed to align with Voluntary Redundancy terms as part of a package of reforms which limits its use to cases of underlying ill health and includes amending the management code and associated guidance; and
- a revised 2016 Protocol for Civil Service Redundancy principles.

If the government's offer is not accepted it intends to implement a reformed scheme with the following terms:

- the standard tariff to be three weeks' per year of service;
- Voluntary Exit capped at 15 months' salary;
- Voluntary Redundancy capped at 15 months;
- Compulsory Redundancy capped at 9 months;
- only to allow employer funded top up to pension from age 55 and for this to track 10 years behind state pension age;
- Compulsory notice periods will be set at 3 months for new starters;
- the Inefficiency Compensation tariff reformed to align with Compulsory Redundancy terms;
- a set of central redundancy principles to be operated by departments to replace the current 2008 and 2014 Protocols.

Data used for analysis

In order to understand and assess the impact of the proposed changes on employees facing redundancy, analysis was conducted on the current CSCS and the proposed CSCS changes, using the scheme that the government would implement if the formal offer was not accepted. These terms represent a slightly less generous offer and so was assumed to represent a higher bar for the Equality Impact Assessment than the offer made to the Unions.

It is based on data from the Annual Civil Service Employment Survey 2015, to which a model of the CSCS was applied. The model calculates the entitlement of all Civil Servants under the current and proposed scheme. The key limitations of the model with respect to Equality considerations are discussed below.

- The coverage of the CSCS is wider than the Civil Service. However, the Civil Service forms the vast majority of members, so the model achieves very high coverage levels and so should be representative.

- The characteristics of those who take an exit package may be different to the scheme average. However, as the changes affect all members' exit entitlement the average figures across the entire Civil Service are shown.

Analysis

The members who face the biggest losses are those:

i. who are aged 50-54 and currently benefit most from the employer funded buy-out of reduction of pension for early access; and,

ii. those with long-service.

If members with a protected characteristic are heavily concentrated in these groups, it is possible that unintended indirect discrimination could take place. This will be discussed in Section 4.

For some protected characteristics, such as gender reassignment and pregnancy/maternity, there is not enough sufficient data to draw substantial conclusions.

Section 3: Direct Discrimination

Across the proposed changes, the only potential direct discrimination present is in relation to age due to the early access to pension changes. Direct age discrimination is lawful if it is a proportionate means of achieving a legitimate aim.

Section 3a: Early Access to Pension

Currently, employees have a right to draw some or all of their pension from 50 or 55 (depending on when they joined the relevant scheme). If the pension is put into payment before the Normal Pension Age (NPA), which can be 60, 65 or State Pension Age (SPA) depending upon the scheme, the pension is reduced to reflect the fact that it will be paid for longer. The current scheme rules allow exiting staff to opt to have their pension, unreduced for early payment, from any point once they have reached Minimum Pension Age (MPA) and for that reason, if the cost for this is more than the compensation payment, then the employer meets the additional charge.

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 to become economically inactive.

The proposed changes are for employer funded pension top up to be only available to employees over 55, and for that age to track 10 years behind State Pension Age.

Rationale for change

- The 2010 provisions do not reflect the reality that under the current arrangements staff taking unreduced early access to pension may be 15 years from State Pension age, and may remain economically active.
- The requirement to have been a member of the scheme in 2006 in order to have a MPA of 50 means that there is a small and declining population of people with access to employer-funded early access to pension between the ages of 50 and 54.
- However, the cost to employers of exit payments for this group is currently disproportionately high compared to other age groups and those of the same age with a higher MPA.

Supporting Data

Current CSCS scheme, using dataset of members leaving service in the year to 31st March 2015

Table 1: Mean cost of exit by age

	Mean package value		
Age	**CR**	**VR**	**VE**
<30	£14,800	£14,900	£14,900
30 to 39	£22,300	£25,700	£25,700
40 to 44	£24,600	£35,800	£35,800
45 to 49	£25,800	£40,300	£40,300
50 to 54	£26,900	£64,300	£64,300
55 to 59	£28,100	£47,700	£47,700
60 to 64	£18,100	£22,800	£22,800
65 and over	£13,300	£13,300	£13,300
Total	**£24,100**	**£40,400**	**£40,400**

Source: Cabinet Office estimates using Annual Civil Service Employment Survey 2015, figures rounded to nearest £100

Notes: Excludes records where salary or date of joining are missing or leaving quarter is zero.

The table above demonstrates that the mean value of VR and VE exit packages for staff aged 50 to 54 is currently significantly higher than for other age groups.

Proposed CSCS scheme, using dataset of members leaving service in the year to 31st March 2015

Table 2: Mean cost of exit by age

	Mean package value		
Age	**CR**	**VR**	**VE**
<30	£10,300	£10,300	£10,300
30 to 39	£16,100	£17,700	£17,700
40 to 44	£18,100	£25,200	£25,200
45 to 49	£19,200	£28,500	£28,500
50 to 54	£20,000	£30,600	£30,600
55 to 59	£20,900	£38,300	£38,300
60 to 64	£15,800	£19,200	£19,200
65 and over	£13,100	£13,100	£13,100
Total	£18,400	£27,600	£27,600

Source: Cabinet Office estimates using Annual Civil Service Employment Survey 2015, figures rounded to nearest £100
Notes: Excludes records where salary or date of joining are missing or leaving quarter is zero.

The table above demonstrates that staff aged 50 to 54, using an entitlement to 15 months maximum would receive packages under the proposed reforms that are more comparable with those for other age groups.

Section 3b: Is the change proportionate?

The purpose of the CSCS is to provide a proportionate cushion whilst people search for new employment or transition into retirement, which may be earlier than expected. Despite the changes to the scheme this aim remains. However the Government, especially given the current economic circumstances, only has limited funds and so must use them wisely. The change in age for early access to pension, from 50 to 54, is proportionate as this will address the current situation where those who are age 50 are gaining a significantly higher amount than those who are slightly younger.

Whilst some of those who are aged 50-54 will experience a much larger reduction in the value of the benefits available to them compared to staff at other ages, the change does bring them into line with those who are 50-54 and who joined the Civil Service after 6th April 2006 as well as those under 50 or those closer to their pension age. In addition, due to the changes to the rules of the pension scheme the population of the employees who have a right to draw any pension from the age of 50 is limited and will steadily decline. Furthermore, as the relevant pension schemes are closed to future service the average value of the benefit will reduce over time.

The change therefore will affect only a limited number of people. Although it will reduce the value of their benefits for those affected, it will do so only to the level available to others. The government believes this change is proportionate, as it will remove an anomaly where this group can currently receive significantly higher payments than those in different age groups, or those in the same age group that have a higher MPA.

Section 4: Indirect Discrimination

In this section key changes to the CSCS will be analysed to see whether there is anything about the scheme that has a greater impact on a population with a protected characteristic, therefore being indirectly discriminatory.

Section 4a: Tariff – 3 weeks per year of service and reducing the maximum multiple of salary

These changes in tariff to 3 weeks per year or service and the reduction of the maximum multiple of salary will be analysed together due to the interplay between them when calculating redundancy payments.

The tariff is the rate used to calculate compensation. Currently, the CSCS tariff is set at a month's salary per year of service. The reduction to 3 weeks, with no other changes, would provide savings of around 14% of costs.

Under the existing CSCS the cap on the maximum multiple of salary is set at 21 months for VE, VR and is 12 months for CR. The proposed change is for VE and VR to be capped at 15 months and CR at 9 months.

Rationale for change

- The impact of changing the tariff to 3 weeks would be spread across the great majority of members although those with very long service will not see any reduction in their compensation. This therefore places the burden of savings across a wider population.
- The 3 week tariff provides a large amount of savings, compared to other suggested changes, significantly contributing to the overall aim to save one third of the costs.
- Reducing the maximum payable in a voluntary situation to 15 months, with no other change, would yield 9% savings.
- Members of staff who would be entitled them to a payment of more than 9 months' salary due to their length of service would be incentivised to go under VE or VR due to the higher compensation pay out. This is in line with one of the principles of the scheme reform.

Impact assessment

Age

Those with long service will see a reduction in their redundancy payment with the changes to both the tariff and the maximum months' salary available. This means that someone who would be eligible for 21 months under the current scheme would be limited to 15 months under the new terms. The strong correlation between age and length of service means that there is a risk of indirect discrimination.

There are 3 populations who will be affected by these two changes:

- Those who have under 15 years of service and will experience loss only due to the change in tariff.

- Those who have between 15 and 22 years of service and will see a steadily increasing change, depending on how far above 15 years they have served, due to both the tariff and the cap.
- Those who have served 22+ years who will experience loss due to the cap no matter what length of service. They will experience comparatively less of a drop than those who have been in service for 21 years. Once 21 years of service has been reached, the loss of absolute and relative value begins to decline.

Sex

Due to the higher proportion of those who are female and part-time workers, there is potential for indirect discrimination if a part-time worker is disadvantaged when compared to someone who works full time.

The rules of the scheme calculate payments based on full time salaries and reckonable service. This means that staff who have recently moved onto part time working will not be disadvantaged by seeing a large fall in the compensation they can receive. The scheme rules also include a "part time taper" for those who have worked part time in the last three years. This multiplies the amount to be paid by the length of reckonable service divided by the length of actual service. This has the effect of reducing the amount of compensation paid so that it reflects the average proportion of a full time equivalent worked across the career. This means that a part time worker (or one who was recently working part time) cannot receive proportionally more than a full time colleague.

Given that the changes in the terms apply equally to full time and part time workers, and given the rules already in place on part time workers, there is no comparative disadvantage for part time workers.

The Government also considered whether there was any indirect discrimination as a result of changes to the tariff and the maximum months' salary available. However analysis shows there is no gender disparity within the most affected group with longer service.

Other Protected Characteristics

The government does not have evidence to suggest that any negative impact on groups with the other protected characteristics that is disproportionate relative to others who differ in those characteristics.

Section 4b: Early Access to Pension

Those who are close to pension age, and who are therefore older, will be affected by the changes to the early access to pension. The information regarding the change was detailed in Section 3 and direct discrimination was identified.

The indirect discrimination impact assessment is below.

Impact assessment

The government has looked in particular at the 50-54 age group in relation to the protected characteristics of race, disability and gender. The government does not believe there is evidence to suggest any significant over-representation of those with these characteristics within the population of those aged 50-54, and so has no reason to assume there will be any negative impact on these groups relative to others who differ in these characteristics.

The government also has no evidence to suggest that there is any significant over-representation of those with the other protected characteristics in the 50-54 age group, and so has no reason to assume any negative impact relative to others who differ in these characteristics.

Implementation of changes

We propose to implement changes from early November 2016. Any exit schemes initiated before this, on the previous 2010 CSCS terms, should be concluded by end December 2016.

Monitoring and Evaluation

There are two sets of responsibility in terms of monitoring in line with the Equality Duty. One is on the Cabinet Office to ensure that the CSCS remains fair and non discriminatory. However, there is also an obligation on the employer (different departments) to not select candidates on a discriminatory basis.

If anomalies in data are spotted it will be difficult to ascertain whether this is driven by a change in the scheme or by a department. The annual ONS survey of the CS will be used to see if there is any unusual data in terms of the population that is exiting the CS.

Conclusion

The Equality Impact Assessment shows that there is direct discrimination in relation to age in respect of early access to pension. However, the government believes this is justifiable as it is a proportionate means of achieving a legitimate aim. Specifically, and aligned with an objective of cost reduction, the changes to early access to pension address a current situation where those in the 50-54 age group can gain a significantly higher amount than other groups. Whilst some of those who are aged 50-54 will experience a larger reduction in the value of compensation compared to staff at other ages, the change does bring them into line with those who are 50-54 and who joined the Civil Service after 6th April 2006 as well as those under 50 or those closer to their pension age and as such increases consistency and fairness across different age groups within the civil service workforce.

Annex A: Definitions of protected characteristics

Age

Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Disability

A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Gender reassignment

The process of transitioning from one gender to another.

Marriage and civil partnership

Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

Pregnancy and maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context.

Race

Where this is referred to, it refers to a group of people defined by their race, colour, nationality (including citizenship) ethnic or national origins.

Religion and belief

Religion means any religion and includes a lack of religion; belief means any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Sex

A man or a woman.

Sexual orientation

A person's sexual orientation towards persons of their own sex, of the opposite sex or of either sex.