



## **PUBLIC SECTOR PENSIONS AUTHORITY**

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# **Summary of Responses to Consultation relating to the draft Public Sector Compensation Scheme 2013**

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January 2014



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## **Part 1 – Introduction**

### **Consultation – draft Public Sector Compensation Scheme 2013**

The purpose of the Scheme is to reform Government's redundancy compensation arrangements through the introduction of new compensation benefits for a number of Public Sector employment groups, (primarily Civil Service and analogous employment groups, Manual Workers employed by central government departments and NHS Employees) in respect of the compulsory or voluntary 'loss of office' (including termination of employment by way of redundancy).

The Public Sector Pensions Authority (PSPA) has a statutory responsibility for administering and managing the legislation around redundancy compensation provisions. The Public Sector Compensation Scheme 2013 has been drafted by the PSPA with the key aims of seeking to harmonise and simplify the provisions, provide a fair level of compensation for those that experience compulsory or voluntary redundancy and to break the automatic link to early retirement pension. The terms have been negotiated through a Working Group of the PSPA consisting of Employer and Union representatives of affected workers along with a Treasury representative, which has been meeting since September 2012 and was chaired by the Vice-Chairman of the PSPA. The draft Scheme was based on the final proposal made by the Employers' side of the Working Group.

The proposed arrangements seek to provide a compensation lump sum based upon a formula of pay and length of service made up of one month's pay for each year of service up to certain maximum levels, for permanent employees and those appointed on a limited or fixed term basis (with agreed redundancy terms) with at least two years service.

Members of the Unified Scheme or the Manual Workers No 1 Scheme may exchange their lump sum to buy additional service to enhance their pension if over age 50 and subject to certain conditions.

## **Part 2 - The Consultation Exercise**

A series of ten presentations were given by the joint Working Group around the Island during August and September 2013 to outline the provisions of the proposed scheme and to allow affected members to ask questions. Further detailed information was also provided on the PSPA website in the form of the draft Scheme, a summary of the new provisions, a Frequently Asked Questions document and a copy of the presentation. Facility Time was granted by the Civil Service Commission for civil servants to attend a presentation. For non-civil servants, employing authorities also allowed time off to attend.

Aside from regular meetings of the Joint Working Group, Scheme members, relevant employing authorities, the Treasury, staff representatives and trade unions were consulted about the proposals by way of emails pointing to further information and copies of the draft Scheme and regulations on the PSPA website. Managers were asked to bring the consultation to the attention of colleagues without access to a computer.

The consultation ran from 9<sup>th</sup> July 2013 to noon on 4<sup>th</sup> October 2013. There were no requests for this period to be extended.

## Part 3 – The Responses

The PSPA wishes to thank everyone who responded to the consultation for their suggestions and comments, all of which were considered.

This document summarises the main points raised but does not refer in detail to all of the correspondence received. In summary the responses consisted of:

### Individual responses

29 individual responses were received together with a single response covering 8 MEA staff, one from Prospect, one from the BMA and another from the Isle of Man Chamber of Commerce. A response was received from Unite the union the day after the consultation ended and from the Employees' Side of Whitley Council four days after consultation ended.

The majority of responses were broadly in supportive of the proposals. Of those that remained, only about 1/5<sup>th</sup> were strongly opposed, with opposition mainly centred around the removal of the link with pensions at older ages. One respondent emphasised the detrimental effect it would have on those already over 50 and particularly those aged between 50 and 55 who would no longer be able to receive their pension on departure and with an automatic enhancement to service. It was also highlighted that they would face a lower accrual rate for the calculation of their benefits if they chose to claim them before 60.

The remaining respondents were broadly supportive of the proposals, but suggested some changes:

- A number of respondents claimed the Scheme discriminated in favour of those 45 years and older and particularly to the detriment of younger employees with longer service. The general consensus was that compensation should be based on length of service, rather than age;
- There were calls for any related UK service to be counted as continuous service with one respondent asking for this to be set down in the Scheme Rules rather than being discretionary;
- There were also calls for new starters to receive 12 months pay for compulsory redundancy and 21 months for voluntary redundancy with one saying that new starters from the UK should have the same rights & recompense as the UK scheme. It was claimed that any major disparity between the UK & Isle of Man schemes could have a negative and ultimately a financial effect on the recruitment and retention of staff from the UK.
- One respondent considered that the provision which reduces the amount of compensation payable if the employee receives benefit from another scheme or

arrangement, disadvantaged and acted as a disincentive to those who had prudently made further arrangements for their future in the event of redundancy.

### **The view of trade unions' and other bodies.**

#### **Prospect**

1. Asked for the minimum level of pay to be set by reference to the average salary level for full time employees as identified by the Isle of Man Earnings Survey and then increased in line with the Retail Prices Index each year.
2. Requested a more explicit and tightly defined definition of continuous employment, so as to avoid any unfair or inconsistent application of the exercise of discretion. Prospect would also like to explore how groups other than the NHS might benefit from this rule and negotiate further.
3. Existing Staff – Maximum redundancy payments: Prospect accepted a maximum redundancy payment of up to 24 months pay for all existing staff, but didn't accept that those below 45 should receive payments capped at a lower amount.
4. New Starters – Maximum redundancy payments: Prospect sought up to a maximum of 12 months' pay for compulsory redundancy and up to 21 months' pay for voluntary redundancy so as to reflect the position in the UK for civil servants.
5. Other issues:
  - excluded groups should be consulted about their future inclusion in the Scheme;
  - redundancy provisions should be moved into established collective bargaining procedure; and
  - all public service staff should benefit from a standard 3 months re-deployment plus a 3 month notice period.

#### **Unite the union**

Although received after the consultation deadline, the PSPA has noted that Unite the union commented that they were unable to recommend acceptance of the current terms to their members and had a mandate to negotiate further.

#### **Whitley Council Employees' Side**

Although received after the consultation deadline, the PSPA has noted that Whitley Council Employees' Side commented that members still did not understand what had been negotiated as many did not attend the presentations. They also advised that they would be willing to participate in ongoing negotiations in order to reach amicable agreement.

#### **British Medical Association (BMA)**

Currently all doctors, irrespective of age providing they have 2 years service receive one month's pay for each year of service up to a maximum of 24 months.

The draft Scheme reduces this maximum payment for those under 45 to 18 months' (compulsory) and 24 months (voluntary) and for new starters to 12 months' (compulsory) and 18 months (voluntary) which is of concern to the BMA.

The BMA also expressed concern about the potential age discriminatory implications of the "age 45" cut-off which they advise was unlikely to be accepted in the UK and therefore could not be supported in the Isle of Man.

### **The Isle of Man Chamber of Commerce.**

The Chamber confirmed support for the aim of the Government to simplify and harmonise the compensation benefits in the event of compulsory or voluntary loss of office.

The Chamber also agreed that it was no longer appropriate to structure benefits based broadly upon and supporting early retirement, and that benefits should properly and fairly be based upon paying a fair level of compensation for loss of office as this would be more in line with the private sector.

The Chamber again agreed that the historical link between redundancy and early retirement should be ended. As a matter of employment law, they would be entirely separate reasons to lawfully end an employment contract.

The Chamber also noted that the minimum level of pay upon which benefits will be calculated was £25,000. Whilst it accepted that there will be many employees that are employed on a higher salary than this, it queried what the justification is for the benefit calculation being set at this level. Chamber also advised that it was not clear why those employees employed on a lower salary should receive an enhanced benefit in this regard.

In relation to benefits for voluntary redundancy, Chamber's view was that this is considerably more generous than most private employers can and do provide to employees that are made redundant. Similarly, in relation to benefits for compulsory redundancy, Chamber's view was that this is also considerably more generous than the amounts of termination payments typically paid in the private sector. Chamber also questioned the validity or justification for the difference in amounts for those over 45 and under 45.

Chamber supported the initiative to allow lump sum payments to be used instead to enhance an employee's personal pension plan.

### **Other comments**

Some respondents made comments which were not entirely relevant to the consultation and the PSPA's role in administering and managing the legislation, including matters around notice and re-deployment periods, the focus of changes being predominantly on civil servants, issues around MEA workers finding alternative employment in the Island if made redundant, changes to the tax system rather than changing redundancy provisions, questions around pensions rather than compensation.

## Part 4 – Conclusions

The Public Sector Pensions Authority carefully considered the responses received to the consultation. It noted the broad agreement with many of the negotiated terms of the new Scheme but that there were also some areas where agreement was not reached or where individuals and bodies requested changes. The PSPA also noted the movement already made in the original proposals from the Employers' Side which had been made as a result of negotiations since the inception of the Working Group in September 2012. In the further spirit of joint working, a meeting of the joint Working Group was convened by the PSPA on 21 October 2013 to discuss the consultation responses and a final proposal from the Employers' Side in response to the consultation feedback. The Employers' side were prepared to move on the following:

1. To remove the age 45 cut-off for existing staff and therefore to extend the maximum benefit of 24 months' pay (based on one months' pay for each year of service) for both compulsory and voluntary redundancy to all existing staff in employment at the inception date of the Scheme;
2. To amend the definition of deemed salary for lower paid employees to the average salary level for full time employees as identified by the current Isle of Man earnings Survey applicable at the inception date of the Scheme, increased each year thereafter in line with the average Isle of Man RPI each calendar year;
3. To review the definition of service to enable a tighter definition of continuous service to be defined within the Scheme. The PSPA believes that it may be difficult to define such terms in a different manner but if this is the eventual conclusion, the PSPA notes that it still has discretion to review and thereafter to include previous periods of relevant service within an individual's period of continuous service;
4. That the PSPA will agree to work with the relevant organisations (e.g. trade unions, Office of Human Resources, Civil Service Commission and any successor) to move future compensation arrangements outside of its remit.

The draft Scheme was amended to reflect the above proposed changes by the Employers' Side of the Working Group and has now been considered and approved by the Board of the PSPA. The Council of Ministers has also approved the amended Scheme which includes the above changes. The PSPA determined therefore that the Scheme should be made on the basis of the original draft, plus the amendments made and highlighted above and the revised table of actuarial factors prepared by the PSPA's actuaries for purchasing additional pensionable service under the Unified Scheme. However, it was agreed to postpone making the Scheme until the results of the various member ballots undertaken by relevant trade unions on the revised proposals were known.

The results of most member ballots were known in early January 2014. Overall, 96% of the members who responded to the ballots undertaken by Prospect, Unite the union, Unison and Royal College of Nursing approved the basis of the Scheme. None of the ballots produced a result which rejected the Scheme. No formal feedback was provided by the British Medical



Association after a meeting of the Isle of Man Medical Society held in December 2013 and an extended deadline of 10<sup>th</sup> January 2014 was provided to the BMA in order to provide a formal, written response. No response had been received by this date.

In view of the overwhelming support for the Scheme as demonstrated by the trade union ballot results, the Scheme was made by the PSPA on 13<sup>th</sup> January 2014 and the Scheme is therefore in force from this date. The Scheme will now be required to be laid before the next available sitting of Tynwald for ratification and this is likely to be in February or March 2014.

A copy of the Scheme can be found on the PSPA website at: [www.pspa.im](http://www.pspa.im)

## **List of respondents to the Consultation**

29 individuals

The British Medical Association

Prospect

Isle of Man Chamber of Commerce

Manx Electricity Authority on behalf of 8 staff

A response was received from Unite the Union, the day after the consultation ended

A response was received from Whitley Council Employees' Side four days after the consultation ended