

Private & Confidential

Mr Jeremy Hughes
Ministry for Housing, Communities and Local Government
Sent via email to lgpensions@communities.gov.uk

2 August 2021

Dear Jeremy

Consultation on New Best Value Statutory Guidance: Special Severance Payments

Hymans Robertson LLP is pleased to provide its response to MHCLG's consultation on the above topic. The Annex to this letter sets out our formal response to the consultation.

About Hymans Robertson LLP

Hymans Robertson has grown up with public service pension schemes, particularly the LGPS. The firm was founded to provide advice to the LGPS in 1921, just as the first funds were being created. Whilst our business has developed over the decades, working with the public sector remains at the heart of what we do.

We have a specialist public sector actuarial team, which employs over 60 people exclusively advising on public service pensions. Alongside our actuaries there is a team of 15 investment consultants providing investment advice and a team of governance, administration and project consultants providing advice to our public sector clients.

We believe that we are well placed, therefore, to respond to your consultation on the [draft statutory guidance](#).

Yours sincerely

Ian Colvin
Head of LGPS Benefits Consulting
For and on behalf of Hymans Robertson LLP
DDI (0)141 566 7923
ian.colvin@hymans.co.uk

Annex

Throughout our response below, the regulations quoted refer to the Local Government Pension Scheme Regulations 2013.

General comments

Navigating and referencing the guidance may be easier if individual paragraphs are numbered.

The opening paragraph refers to “*statutory and contractual redundancy terms*”, as do other parts of the guidance. However, the SSP principles extend beyond just redundancy and refer to payments that could be made on other severance grounds.

Chapter 1

The guidance states “*In taking decisions elected members must make all proper enquiries and consider all available material that can help in coming to a decision*”. We recognise that elected members are ultimately responsible for how powers are used within their local authority, but the phrasing here suggests that elected members should be involved in operational matters. In our experience, these decisions are usually delegated to officers.

It would be helpful to clarify that the following payments are **not** SSPs;

- Pension strain payments required under Regulation 68 (1) when members retire on ill-health grounds
- Pension strain payments made under 68 (2) when benefits are paid on redundancy efficiency grounds under regulation 30 (7)

These are implicit within the guidance, but it would be helpful to make it explicit.

The above comment about strain payments represents the situation as it currently stands. We recognise that the government’s policy is to reform exit payments, and in so doing may end up changing the way redundancy retirement works in the LGPS. This guidance will need to be consistent with any new approach that is introduced.

The list should also make clear that the following **is** an SSP;

- Pension strain payments required under 68 (2) when an employer waives or reduces reductions to a member’s benefit under 30 (8)

Chapter 2

The requirement for councils to demonstrate their economic rationale by considering “*how the exit payment will be perceived by the public*” seems difficult to apply in practice. How would a local authority know how a payment might be perceived? There are likely to be a range of views in most cases but, short of consulting on the matter, the authority would never know. There is also a possibility that “*the public*” may be hostile to a payment for misunderstood or incorrect reasons.

When considering the impact on efficiency and effectiveness, local authorities are urged to “*consider aligning with private sector practice, where payments are typically less generous*”. However, the redundancy package cannot be considered in isolation. We believe that the value of the overall employment package should be considered. Private sector employers may offer benefits that are unknown in the public sector e.g. subsidised private health care; it may be very difficult to take these into account in practice. There is also a huge discrepancy between reward packages within the private sector, making it difficult to determine a suitable comparator. Finally, the practice exists in the private sector of reaching an agreement to part ways with an employee. This might not be a redundancy situation, but it may involve payment to the individual. This sort of approach seems to be the very opposite of the SSP principles. On balance, it seems preferable to us to recognise that there are differences between public and private sector employment practices and remove this need to align with private sector practice altogether.

Chapter 4

The suggestion is that the Chief Executive Officer signs off all SSPs, having informed the leader of the council and consulted/taken advice from s151 officer and, where appropriate, the monitoring officer. This is arguably too prescriptive. It may be more flexible to allow councils to put in place their own delegations and processes for SSPs. Having a different process to the one outlined in the draft guidance would not, in any way, lessen the responsibility of the s151 officer to ensure financial probity, the monitoring officer to ensure it follows the law or the chief executive (as head of paid service) to deal appropriately with staffing matters.