Tel:	020 8213 2739

E-Mail:	neil.mason@surreycc.gov.uk

Our Ref: Increasing the normal minimum pension age consultation
Your Ref:

HM Treasury,
1 Horse Guards Road,
London,
SW1A 2HQ

nmpaconsultation@hmtreasury.gov.uk

By email

20th April 2021

Dear Sir or Madam,

Increasing the normal minimum pension age: consultation on implementation

Surrey County Council (Surrey) welcomes the opportunity to respond to the consultation on the proposed increase in the normal minimum pension age.

Surrey is the Administering Authority for the Surrey Pension Fund (the Fund) as part of the Local Government Pension Scheme (LGPS). The Fund has assets of almost £5 billion and includes over 110,000 members and over 300 employers.

Introduction

Surrey is of a view that the proposals contained in the consultation are generally well considered, however, we do highlight some areas where the consequences may not have been fully appreciated.

Although general life expectancy is gradually increasing, the normal minimum pension age (NMPA) must be viewed through the prism of healthy life expectancy in retirement remaining static.

The long lead time for the new NMPA may soften perception of the likely consequences but it will, nonetheless, have a significant impact when it does bite.

Protections

Surrey notes that the proposal will not affect members of the Firefighters, Police or Armed Forces public sector pension schemes and it thinks that this is sensible.

A member of any registered defined benefit or defined contribution pension scheme on 11th February 2021, the date of the consultation, with an unqualified right (i.e. without another party's consent) to retire from age 55 will have the whole of their pension protected from the proposed increase in NMPA.

The consultation says that individual members who transfer from (say) Teachers' Pensions where they have protection, to (say) the LGPS after 11th February 2021 would lose their NMPA unless it was a "block transfer" (a specific type of transfer where two or more members transfer simultaneously; PTM062240 - Pensions Tax Manual - HMRC internal manual - GOV.UK (www.gov.uk)).

1 Are there any specific considerations that should be taken into account regarding the government's proposed framework for the increase to the NMPA?

This approach introduces a two-tier work force with members in post on 11th February 2021 enjoying a protected NMPA and those who enter employment or move to another pension scheme afterwards losing out. The real watershed is the 11th February 2021, albeit that the consequences do not become apparent until 2028, and there is no period of grace in which to prepare for it / make contingency plans.

Under the plans consulted on, the protected retirement age (55) only applies to members who remain in the same job or are "block" transferred. This may stifle employment mobility because members who are considering retiring at 55 after 2028 are now (say) in their 40s, and arguably in their working prime, may be averse to changing jobs.

The early retirement reductions are sufficiently punitive to deter all but the highest earners and most highly motivated members from retiring ten years early, so twelve years' reductions are likely to be even less appealing, at least on the tranche of membership accrued after 2028. Nonetheless, the members who are most likely to take advantage of this tend to be key employees.

The Government seems to imply that early retirements/redundancies are just additional costs. This is not necessarily the case as, for many years, all early retirements are fully costed and supported by comprehensive business cases that demonstrates net savings for the organisation. These proposals are meant to save money; however, the unintended consequences could be to frustrate savings and impede reorganisations designed to make workforces more efficient.

As voluntary early retirements are cost neutral, because the actuarial reductions offset any additional costs, and compulsory early retirements are funded by the employer anyway (through a strain cost), it is difficult to see how the increase in the early retirement age will drive any reduction in pension costs. It may instead drive up employers' contributions in the long-term as they tend to increase as the median age of the membership grows.

The increase in NMPA proposal undermines flexibility because local government has used judicious flexible retirement to retain key skills and mentor new recruits into sensitive positions. These employees are, by virtue of their skills, very marketable and members who started after 11th February 2021 could be more likely to leave local government if the employer is unable to offer flexible retirement. Also, what happens if a business with a closed admission agreement is TUPE transferred with only one employee who is eligible to be in the LGPS? Technically, this is not a block transfer but it would have been if the admission agreement had been open - and this seems arbitrary and unfair.

The block transfer rule is open to manipulation as Freedom and Choice transfers can sidestep it by finding a "buddy". This option is not available to defined benefit scheme members unless it is a genuine bulk transfer.

Another unintended consequence of this change is likely is likely to be that local government will have an increasingly aging workforce with many employees hanging on in employment longer than they would have liked to.

It will particularly difficult to remove very high earners before age 57 because they are likely to have input into their remuneration package, their reason for timing of leaving and the timing of their departure.

A significant minority of members may have health issues in their mid-50s, which may be very debilitating, but not sufficient to qualify for the top two tiers of ill-health retirement (e.g. heart disease, stroke and cancer). Will employers feel pressure to selectively relax the criteria for ill-health retirement rather than allow employees to linger in employment until age 57 to the detriment of the service and their health? Although it may appear pragmatic to do this, and there are unlikely to be many cases, it would be a step in the wrong direction.

Although the Government has signalled its intention of increasing the NMPA to 67 in 2028 (currently 66 rising to 67 and then [Office for Budget Responsibility estimate] 68 in 2036) and keeping the gap with State pensionable age (SPA) at 10 years – the consultation asserts that they are not establishing a fixed relationship between NMPA and SPA at this time.

The proposed NMPA appears to introduce a disconnect with the Pensions Increase Act 1971 (PIA), which currently engages at age 55. In Surrey's opinion, it is better to leave the PIA as it is as, otherwise, protected members who can draw their pensions at 55 would not benefit from Pensions Increase until (say) 57 and, more worryingly, ill-health retirements of any age - who might be capable of further employment at some point - would not benefit from indexation until (say) age 57.

2 Are there any particular issues that the government should consider in the way NMPA is defined in pension scheme rules?

At first sight, a protected NMPA seems like a good idea but, although it may be good for individual members, on closer inspection the avoidance of a “cliff edge” introduces additional complexity for practitioners.

The key date affecting NMPA is 11th February 2021, and software systems will have to have a separate field to record this information, particularly if the member has transferred within the LGPS. It would be sensible to build in a variety of codes in order to accommodate further changes in the future.

As there is little difference between Pensions Increase awards and career average revalued earnings (CARE) increases in the LGPS, it may be tempting to leave an existing preserved in the LGPS, in order to keep the protected NMPA, rather than transfer it to another scheme. This may lead to the fragmentation of individuals’ pension benefits over time.

The consultation envisages members who are in post on 11th February 2021 keeping a protected pension age unless they change pension schemes for any reason apart from a block transfer.

1) What happens if someone leaves the LGPS, defers their pension benefits (with a protected NMPA) and subsequently returns to the LGPS?

2) Will there be any circumstances where they retain NMPA protection or will they have to keep the two tranches separate?

3) Will there be a mechanism for protecting final salary pension benefits - as long as there has not been a five year gap in membership of a public sector pension scheme - or will they be forced to choose between final pay protection and a protected NMPA?

4) Presumably the LGPS counts as one employer - so we are going to have to record the protection date if they move within the LGPS?

5) There will be a requirement to alert members to and explain the implications.

6) As the existing protection trigger is an arbitrary fixed date in the past, it is likely that members are going to argue that they would not have transferred-out if they had known about it. If the Government is intent on a trigger, it might be better if it was a fixed point (say) six months in the future?

7) The government says that it is not tying NMPA to SPA, but SPA also rises to 67 in 2028. Surrey is of the view that keeping age 55 is more flexible but (who

is going to go 10 years, let alone 12 years [post 28] early) but, if the Government is intent on going ahead, it should consider introducing a fixed relationship with SPA – if only as an aspiration – to facilitate retirement planning.

8) The change in NMPA means that it moves out of step with Pensions Increase but Surrey's view is that there is no need to change the latter because the mismatch was easily accommodated prior to 2010.

9) It appears that the protection is an attempt to address the issue that members may have planned to retire aged 55 at or shortly after 2028. The form of protection consulted on seems to imprison members in their existing pension schemes and it may have been more progressive if it had been based continuous membership of approved DB or DC pension schemes?

10) There will be a two-tier workforce from 2028.

11) Finally, and crucially, the block transfer regulations are complicated and there needs to be a simple and clear definition for the purposes of these regulations.

3 The government proposes that the protected pension age will apply to all the member's benefits under the scheme (if the conditions for a protected pension age are met), not just those benefits built up before 2028. Are there any other alternative options or issues the government should consider around the treatment of accrued and future pension savings?

If the government decides that having protection is the best approach, it would be simpler if all the pension benefits are protected as, otherwise, how would practitioners handle flexible retirement?

4 Are there any issues associated with schemes informing members who meet the conditions of their rights to a protected pension age?

None, depending on the complexity of the final arrangements.

5 Are there any circumstances why the increase in NMPA may impact on pension flexibility (which was introduced following the 2014 consultation on "Freedom and Choice in Pensions")?

As scheme reductions are largely self-regulating the main impact will be to reduce the number of Freedom and Choice transfers. Practitioners have noticed that many cases go ahead in spite of clear financial advice stating that a transfer is not in the member's best interests, and this is likely to lead to poverty in retirement. If improving the regulation of Freedom and Choice was one of the key drivers behind this reform, perhaps it would have been better to draft specific amendments to that legislation instead.

6 Are there any implications the government should consider by not requiring that all scheme benefits must be crystallised on the same day as a condition for a protected pension age?

It would be both regressive and undermine flexible retirement if members were required to draw all their pension benefits at once.

Yours sincerely

Anna D'Alessandro