

# briefing



**5 February 2018**

**BB/14/18**

**To: All Branch Secretaries**

## **CIVIL SERVICE COMPENSATION SCHEME (CSCS)**

### **Background**

In 2017, PCS won a High Court victory quashing the cuts to redundancy terms implemented by the Government in 2016. This Branch Briefing updates Branches on the latest developments.

### **Remedy Issues**

Branches will recall that, as a result of our High Court victory, the Government has been forced to compensate workers who were made redundant on 2016 Civil Service Compensation Scheme (CSCS) terms broadly to the tune of what they would have received under the 2010 terms.

We have continued to meet and correspond with the Cabinet Office on remedy issues and have secured some further progress. The key points to note are as follows:

- We have wrung a significant concession from the employer that, in respect of exit payments made under the 2016 voluntary exit, voluntary redundancy, compulsory redundancy and efficiency payment terms, they will not seek to recover overpayments where workers have enjoyed a higher payment under the 2016 terms than they would have received under the 2010 terms
- In a further notable concession, where departments have revisited voluntary exit schemes, they are indicating that they would have offered more generous

terms for 80% of those schemes had the 2010 terms been available; and that they will be compensating workers accordingly. The Cabinet Office has indicated that they expect all departments to have responded on this issue by mid-January 2018. We have therefore scheduled a further meeting with them in late-January 2018 to revisit this issue.

- We have pressed the Cabinet Office further in respect of workers who opted not to take the unreduced pension option under the 2016 terms; but who would have taken it had the 2010 terms been available; and who are not in a position to repay their initial compensation, in whole or in part, as they have spent the money in good faith. We have cited the "*change of position*" defence and have raised the spectre of legal action on this basis. We have pressed the Cabinet Office to agree a process with us whereby such cases can be reviewed and considered further. The Cabinet Office has undertaken to consider this and will come back to us.

Further guidance has been issued to negotiators at delegated level.

### **Fresh Consultation**

In September 2017, the Cabinet Office launched a fresh consultation. The fresh consultation proposes even worse terms than the ones they imposed in 2016.

### **National Trade Union Committee Position**

Following a difference of opinion on how to approach the negotiations on the fresh consultation, GMB, POA, UNITE and PCS have formed a united negotiating front and are meeting the employer without the FDA and Prospect.

### **Negotiations**

We have met the employer on a number of occasions since the fresh consultation was launched.

We have made it clear to the employer that we are prepared to negotiate an agreement on a revised CSCS, but that any such agreement cannot be on the 2016 terms or something worse. We have pointed out that it is clear that such terms are unacceptable to us - it is obvious that PCS would not have proceeded with a legal challenge had they been acceptable, and our members have rejected them in a ballot by a majority of 96%. GMB and UNITE, despite previously agreeing the terms, have both affirmed to the employer that the 2016 are also unacceptable to their members

now that the full implications of those terms changes are understood and following the terms of the High Court judgement.

We have made it clear to the employer that the Minister has a legal obligation to consult the trade unions on any changes to the CSCS with a view to reaching agreement; that the proposals in the consultation document contains terms that are worse than those implemented in 2016; and that it is therefore apparent that the proposals need to change significantly during the course of the consultation process if the Minister is to be considered to have discharged his legal obligation.

The employer has confirmed that the consultation document contains the position that the government had settled upon before any agreement was reached with the trade unions. They have said that they will consider any counter proposals that we wish to make and that they will continue to negotiate until we reach agreement or until it is clear that agreement will not be reached.

We have pressed the employer on the timescale for talks. They agreed at the first meeting that talks would need to continue beyond the closure of the consultation on 6 November 2017. They have now conceded that talks will continue at least until the end of February 2018.

We have tried to dissuade them from making further changes to the scheme. We have pointed out that, during the talks in 2016, when we highlighted the assurances given by Francis Maude to Parliament on the enduring nature of the previous changes, the Cabinet Office responded that this was the view of a previous administration, a General Election having been held in 2015. We have forcefully made the point that there has now been another General Election in 2017; that a new administration is in place; and that, given the previous voting records of the Westminster political parties on this matter, there is no longer a majority of MPs in the House of Commons in favour of changes to the CSCS. However, the Cabinet Office appear determined to plough on regardless.

We have questioned the employer on their citing of deficit reduction as part of their rationale for the changes. Their argument on this point has quickly crumbled. So far, the employer has been unable to explain the total savings they expect to make as part of the civil service contribution to deficit recovery.

We have requested a set of data to assist our attempts to craft alternative proposals. We emphasised that the costings were important to enable us to do this. They now appear to have fallen back on a position that the outcome of the consultation needed to be that the average cost of a redundancy going forward must be reduced. When pressed, it became apparent that what they mean is that the actual cost of each redundancy payment must be reduced.

We made it clear that such a pre-determined outcome would not be acceptable to us and that, if they were unable to quantify savings, such an approach would make it difficult to sustain their argument that the cuts were about deficit reduction.

At the latest meeting, we also advised the employer that, given the departure of Damien Green as Minister for the Cabinet Office, we would want a meeting with the new Minister in order to hear his view on changes to the CSCS. In the event he was also minded to proceed with changes, we would also want to explore with him the scope for negotiation. We advised the employer that we would be refraining from submitting counter proposals before that meeting had taken place. The Cabinet Office agreed to facilitate the meeting.

Further meetings have been scheduled for February 2018.

### **Political Work**

We are continuing our discussions with politicians to explore parliamentary mechanisms that could be used to frustrate any further detrimental changes, particularly as the Democratic Unionist Party (DUP) has previously opposed cuts to the CSCS.

We will keep Branches informed of developments.

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