

# Civil Service Compensation Scheme Reform

Response to “Fairness for All” consultation

AS UPDATED ON 2 FEBRUARY 2010

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## Introduction

On 31 July 2009, the Cabinet Office published proposals for reform of the Civil Service Compensation Scheme terms to take effect from 1 January 2010. The proposal document, *Fairness for All*, was issued to the Civil Service trades unions and to other interested parties and was also made available through the Civil Service website [www.civilservice.gov.uk](http://www.civilservice.gov.uk)

Comments were invited on these proposals, to be submitted to Cabinet Office by 5 October 2009. Cabinet Office received in excess of 18,000 responses. The majority of responses were from civil servants (or employees of organisations providing redundancy etc terms “by analogy” to the Civil Service scheme rules) and some employers also responded. Responses were also received from the Council of Civil Service Unions (CCSU) and from many of the unions representing civil servants. Union representatives also met Cabinet Office ministers Tessa Jowell MP and Angela E Smith MP, together with the head of the Home Civil Service, Sir Gus O’Donnell, on 22 September.

This document summarises the proposals as set out in *Fairness for All* and the main issues raised during the consultation. We also set out the revised reforms to the Civil Service Compensation Scheme. This document was originally published on 4 December 2009. Since then, union representatives have had a further meeting with Tessa Jowell MP (on 17 December) and there have been intensive discussions between Cabinet Office and the unions. The final package of reforms has been agreed with the FDA, Prospect, the GMB, Unite and the Prison Officers’ Association. This document, as updated on 2 February 2010, provides details of the final package..

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## Background

The Civil Service Compensation Scheme (CSCS) is a statutory scheme made under the Superannuation Act 1972. It provides details of the discretionary payments which may be made on exits in circumstances which attract compensation either in the form of a severance payment or an early retirement package. The terms of the CSCS – together with the associated provisions in the Civil Service Management Code (the Code<sup>1</sup>) – have remained broadly unchanged since the last major review which took effect from April 1987. The 1986 review rationalised the early departure arrangements and also introduced a right for members to take pension before pension age on an actuarially-adjusted basis.

In a Written Ministerial Statement of 31 March 2009, the Prime Minister said

*“The Government .. intends fundamentally to reform the severance and early retirement terms for all Civil Servants in order to control costs. The current arrangements have been in place since 1987 and are inflexible and expensive. The new terms require departments to reduce costs and will improve accountability and value for money for the taxpayer, saving up to £500m over the next 3 years.”*

The Prime Minister reiterated his commitment to change in his speech to the Trades Union Congress on 15 September.

In addition, the current terms provide different benefits depending on age. Some aspects of the rules have been challenged by members on age discrimination grounds, with varying degrees of success.

The proposals in *Fairness for All* took account of matters raised in confidential discussions with the Council of Civil Service Unions (CCSU) and, internally, with Civil Service management and were intended to strike a fair balance between the interests of all parties.

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<sup>1</sup> The Code can be found at [www.civilservice.gov.uk](http://www.civilservice.gov.uk)

## Current exit terms

Following the 1986 review, a range of terms applied, as summarised below. The circumstances in which the different terms may be used are set out in the Code.

Current exit category	When used
Compulsory category	The most generous terms, intended to be used where the individual's contract was being terminated compulsorily (for instance on redundancy but also for "structural" departures of senior staff). Employers could also use these terms to invite volunteers for redundancy.
Flexible category	Used in circumstances where no compulsion is involved.
Approved Early Retirement	Early access to an unreduced pension with employer consent.
Medical Retirement	Where an individual is prevented, permanently, by health reasons, from performing their job. Medical retirement is provided from the pension scheme and is included here for completeness only.
Inefficiency	Where a severance payment is considered appropriate following dismissal for poor performance or poor attendance. May also be used in cases which do not meet the stringent criteria for medical retirement.

The CSCS sets out the tariff to be applied in exits under the Compulsory and Flexible categories, and also where compensation is paid on Inefficiency grounds. Further details, including the usage of the terms during the period 2005-8, are provided in *Fairness for All*.

## Principles to underpin the reformed arrangements

At the meeting with the unions on 22 September 2009, Cabinet Office Minister Tessa Jowell MP set out the key principles for reform, namely:

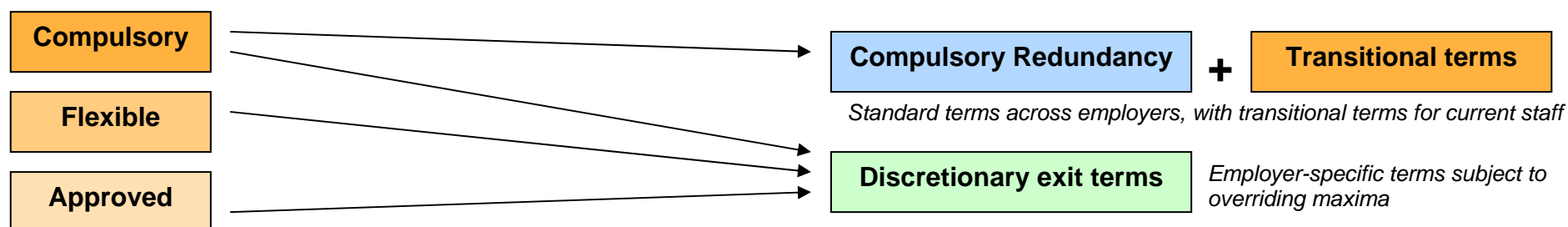
- To deliver the savings that the Prime Minister had committed to;
- To set terms at a reasonable level which is not over-generous;
- To remove aspects of the current scheme which may be perceived as providing “perverse incentives”; and
- To ensure that the terms are not age discriminatory

These key principles are supplemented by further principles set out in *Fairness for All*:

- A distinction will be drawn between the compensation payable in respect of cases of unavoidable redundancy (“compulsory redundancy”) and all other exits (including the inviting of volunteers to reduce staff surpluses). Where staff leave as a consequence of compulsory redundancy the compensation payable will be mandated in the Compensation Scheme rules and will therefore be the same for all employers. In other cases the employer will have a degree of flexibility as to the compensation payable subject to certain maximum amounts.
- All civil servants work for employers who already have, or are planning to have by 1 April 2010, no retirement age. Compensation payments will therefore be paid regardless of age (subject to the next point).
- Civil servants have access to an index-linked occupational pension which is largely employer-funded. Most civil servants have access to an unreduced pension from age 60, while recent entrants have a pension age of 65. Compensation payments will be tapered to take account of access to pension.

- Taxpayers have the right to know how much public money has been spent on redundancy and other early departure costs. Treasury is consulting on amendments to guidance on the preparation of departmental resource accounts.
- For the future, Departments will generally deliver compensation on termination of contract in the form of a cash payment rather than continuing the current model of early retirement for those aged over 50 and severance payments for those aged under 50.

The way in which the current exit terms map onto the proposed arrangements is shown below. The coverage and nature of the new compulsory redundancy and discretionary exit terms is described on the following pages.



## Summary of proposals in Fairness for All

### Compulsory Redundancy

Where, after all of the procedures and processes of the Protocol have been followed, Cabinet Office agrees that compulsory redundancies appear inevitable, compulsory redundancy terms will apply for individuals with a minimum of one year's service. A lump sum redundancy payment will be calculated by reference to continuous service on the basis of one month's pay for each of the first five years of service and two months' pay for each subsequent year, to a maximum of two years' pay.

Compulsory redundancy payments will be capped at a maximum of six month's pay for those who are over pension age<sup>2</sup> to take account of the fact that they have immediate access to an occupational pension which is funded largely by the employer. To avoid a "cliff-edge" at pension age, payments for those close to pension age will also be subject to tapering; modelling indicates that tapering would start to apply within around two years of pension age. In no case will the payment be less than the amount which would be provided by the statutory redundancy scheme<sup>3</sup>.

Transitional terms will be available to people in service before 30 July 2007. In the event of genuine compulsory redundancy during the period up to 31 March 2011, those affected will be able to leave on the current redundancy terms.

### Other exits attracting a severance package

In other circumstances, including as a measure to attract volunteers as a redundancy avoidance measure, a standard tariff will exist based on one month's pay per year of service up to a maximum of two years' pay. Employers will have discretion to substitute their own arrangements (for individual or group departures) paying more or less than the standard tariff, but subject to an absolute maximum of twice the standard tariff (or, if less, two years' pay) and a minimum of statutory redundancy. Departments will have discretion to offer early payment of pension to those aged 55 or over.

<sup>2</sup> Pension age is 60 for those in the **classic**, **classic plus** or **premium** pension schemes and 65 for those in **nuvos**. For those who have opted for a **partnership** pension or who have chosen to opt out of the pension arrangements, "pension age" will be taken as 60 for those whose current service began before 30 July 2007 and 65 for those whose service began on or after 30 July 2007.

<sup>3</sup> The statutory redundancy scheme does not apply to civil servants (s159, Employment Rights Act 1996)



Departments may choose to fund part or all of the cost of buying-out the actuarial reduction but cannot provide extra years of service as well. If employers choose to exercise this discretion they cannot make a cash payment as well.

This discretion will be subject to guidance to be issued by the Cabinet Office which will emphasise the need to secure value for money and the need for Departments to satisfy themselves that their terms are not unjustifiably discriminatory.

Where employers wish to provide discretionary exit terms in excess of the standard tariff (but still within the two-year maximum), the following controls will apply:

Staff below the senior Civil Service ("SCS")	the Permanent Secretary must be satisfied that there are appropriate processes in place to ensure value for money
Deputy Directors and Directors	the Permanent Secretary must approve the exit terms personally
Directors General and above	the Permanent Secretary must obtain Cabinet Office approval for the exit terms

### Interaction with pension benefits

The *Fairness for All* proposals envisaged severance generally being paid as a cash lump sum, with pension benefits being preserved for payment at pension age. Where individuals are already over pension age (or close to), they would have immediate access to an unreduced pension (or one which would be subject to only a small reduction if drawn immediately) and this will be reflected in the calculation of the severance lump sum

Members of any of the Civil Service pension schemes will continue to have the right to draw their pension before pension age on an actuarially-reduced basis. A new option will be provided in the pension scheme rules so that members can, on retirement, buy out all, or part, of the actuarial reduction by payment of a lump sum amount. Where the member is funding this by use of all or part of a severance lump sum, the payment may be made by the Department on the member's behalf as a deduction from their severance payment. In other circumstances, the additional contribution to buy out the actuarial reduction will attract tax relief up to normal HMRC limits. Individuals may also ask their Department to use some or all of their severance lump sum to purchase Added Pension. Under the pension scheme rules, Added Pension purchased from a severance payment will not be subject to the normal limits in scheme rules (although it may potentially come within the scope of the special annual allowance announced in Budget 2009).

### Changes to current CER terms

In view of the judgment in *Wallis*, the CER terms will be modified, backdated to 16 July 2008<sup>4</sup>, to remove the tapering which currently applies to the lump sum element of the CER terms<sup>5</sup> paid to those aged between 57 and 60.

The CER terms will also be modified, backdated to 1 April 2009, to provide the full 6 months' lump sum to those leaving under CER terms aged over 60.

Following amendment of the scheme rules, employers will revise the payments made to those who are affected by these changes.

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<sup>4</sup> The judgment in the Employment Tribunal case of *Wallis and others v Cabinet Office and others* was handed down on 16 July 2008. The tribunal found in Mr Wallis's favour in relation to the tapering of the lump sum

<sup>5</sup> The CER terms include a payment of 6 months' salary. This is tapered progressively to zero for those aged between 57 and 60 on departure

### **Fixed-term workers**

The proposals will apply to workers on fixed-term contracts in the same way as to permanent staff.

### **Re-employment**

Where an individual, who has received a severance payment, takes up a post with an organisation covered by the Civil Service pension and compensation arrangements within the lesser of (a) six months and (b) the notional period of the severance payment, the severance payment will be required to be repaid pro-rata. The repayment will be reduced in cases where the new employment is at a lower salary level than before.

### **Inefficiency terms**

Fairness for All proposed no immediate changes to the compensation payable on departures on “inefficiency” grounds. Cabinet Office has now begun a review of the use of the inefficiency terms and plans to make recommendations early in 2010.

## Issues raised in consultation

The vast majority of responses from civil servants were opposed to the proposed reforms although a small minority were in favour and viewed the changes positively.

The paragraphs below – under the heading “Changes to the Proposals” – set out the main changes to be made to the different elements of the proposals to take account of points made during the consultation

Many of the replies showed a worrying lack of understanding about the nature of the reforms and didn’t realise that they related to payments made where the employer terminates the employment contract early. In particular:

- Many respondents thought that the reforms were about cutting back on their pension benefits. Some thought that they wouldn’t be able to retire at 60 (the pension age for those in **classic**, **classic plus** and **premium**). Some thought that the pension commencement lump sum (an integral part of the pension scheme) was to be cut. The pension scheme is not affected adversely by the proposed reforms.
- A number of respondents thought that the reforms were about cutting back on medical retirement terms. These provisions are provided from the pension scheme and are not affected by the proposed reforms.
- Some respondents thought that they had a right to enhanced early retirement terms “on demand”. This has never been the case.

A large proportion of respondents thought that changes should be applied only to new entrants.

Annex C summarises the main issues raised, and our commentary on them.

## Changes to the Proposals

Annex A sets out the terms as revised following consultation and further discussions with the unions.

### Introduction of new terms

Concerns were expressed by respondents about contractual rights and also about the speed of implementation.

Cabinet Office's legal advice is that rights to CSCS benefits accrue only when an individual comes within the scope of the scheme. Cabinet Office has already issued guidance to departments in relation to the honouring of terms agreed before the publication of *Fairness for All*. For those who are made compulsorily redundant, we do not consider that staff have "accrued rights" to either the current or new terms until an individual actually comes within the scope of the scheme. However, as a matter of policy, staff made compulsorily redundant may be allowed to leave under the current terms providing that their last day of service is on or before 31 March 2011.

Cabinet Office proposes to delay the introduction of the new terms until 1 April 2010 to allow a number of detailed issues around implementation to be finalised. For exits during the period January to March 2010, Cabinet Office will require departments to discuss proposals to use any terms other than Approved Early Retirement or Flexible Early Severance for non-redundancy departures.

### Discretionary exit terms

Few comments were made on the discretionary exit terms and no changes are proposed to these (except to the extent that they are affected by definitions of service and pay).

### Compulsory redundancy terms

Most concerns were expressed in relation to redundancy terms, particularly given the context of increased concerns over job security and the impact on the low-paid. No change is proposed to the method of calculating the redundancy payment, but the maximum payment will be set at 3 years' pay

for the lowest-paid. In other cases, the maximum will be set at the better of 2 years' pay (as previously proposed) and £60,000<sup>6</sup>. Overall, this change has the potential to provide better outcomes than the *Fairness for All* proposals for those on annual salaries of less than £30,000.

The disappearance of early retirement terms on redundancy was seen as of great concern, especially by those already in their 50s. Where people wish to draw pension early, the proposals already provide a flexibility such that the normal actuarial reduction can be bought out – and those leaving on redundancy could use their severance payment (or part of it) accordingly. We will provide that, where people are leaving on compulsory redundancy terms and are choosing to draw their pension no earlier than 5 years before pension age, if the severance payment is not sufficient to buy out the actuarial reduction, then the employer will make a top-up payment. (This will apply only in relation to pension earned in the Civil Service and not to any pension transferred in or bought at the employee's own cost). This provision will also be extended to cover the early retirement (below the age of 55) of those who were 50 (or more) at 31 March 2010 and had a minimum of 5 years' service at that date.

Additionally, beneficial early retirement terms will be extended to those who are aged 50 or more at 31 March 2010 (and have a minimum of 5 years' service) and who are dismissed as compulsorily redundant in circumstances where Cabinet Office are satisfied that all redundancy-avoidance measures have been pursued. In these circumstances, the current compulsory early retirement terms will continue to be available, but by reference to the individual's reckonable service at 31 March 2010.

People who were in a mobile grade at 1 April 1987 are currently eligible to receive more beneficial severance terms, referred to as "1987 reserved rights". Where an individual would, if made redundant on 31 March 2010 potentially be eligible for 1987 reserved rights, any future redundancy payment could be calculated by reference to the amount that would have applied on 31 March 2010. This would apply only where the individual was under 50 at the date of dismissal and where the dismissal is on the basis of compulsorily redundancy in circumstances where Cabinet Office are satisfied that all redundancy-avoidance measures have been pursued. The payment would be calculated as follows:

Compulsory redundancy 1 April 2011 – 31 March 2012 : 100% (of the 31 March 2010 amount)

Compulsory redundancy 1 April 2012 – 31 March 2013 : 80%

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<sup>6</sup> The better of (a) £60,000 and (b) £50,000 as increased over time in line with median full-time Civil Service earnings

Compulsory redundancy 1 April 2013 – 31 March 2014 : 60%

Compulsory redundancy 1 April 2014 – 31 March 2015 : 40%

Some employers raised concerns that redundancy benefits should be paid to those with less than the 24 months' service required by the statutory scheme. We will increase the qualifying period to 24 months' service.

Some people commented that it was unfair to make payments at a lower level to those over pension age. Others commented that the tapering calculation (for those just under pension age) was (a) unfair and (b) too complicated. We consider it reasonable to take into account that the pension is a major element of the reward package, is almost entirely funded by the employer and that employees generally have indicated that they expect to retire and draw pension at pension age<sup>7</sup>. As far as the tapering calculation is concerned, we continue to see it desirable to avoid a cliff-edge at pension age but have adopted a simpler approach.

### **Re-employment**

A number of civil servants expressed concerns about abuse of the system where people leave with a severance payment, only to reappear either as an employee or as a consultant. Some departments already have policies preventing someone coming back – as an employee or as a consultant – within a period (typically 12 months) and Cabinet Office will recommend to all departments that they consider developing policies of their own. As far as the CSCS is concerned, the re-employment provisions will be tightened such that severance will be repaid pro-rata where re-employment occurs during the notional period of the payment. Cabinet Office will explore the feasibility of extending this to those re-employed as consultants.

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<sup>7</sup> Government proposals to move the Civil Service pension age from 60 to 65 for future service of current staff were withdrawn in 2005 after representations by public service unions.

### Service and pay definitions

There were a number of comments about the definitions of “service” and “pay”. A significant change from the approach taken in the current CSCS is that all service will count as full years (regardless of whether full or part time) but pay will reflect actual pay received during the last 2 years. There were misunderstandings as to how the current terms operate in relation to part-timers and those with a mix of full and part-time service, with some part-timers thinking that the current terms would give them 3 years’ pay at full-time rates. Given the policy intention that the severance payment is intended to provide a cushion while someone looks for another job or, alternatively, a bridge into retirement, we will continue to calculate the payment by reference to recent pay history (whether full or part time) as this is the pay that the person is currently earning. However, we will be making changes to the detail, in particular where the last 2 years includes periods of authorised absence or periods of reduced pay.

### Equality impact

Some respondents complained that *Fairness for All* did not contain an equality impact assessment.

The intention of the CSCS reforms is to provide a framework that provides severance payments on a consistent and fair basis to all civil servants whose contracts are terminated prematurely by their employer. It will be for individual employers to ensure that their selection of individuals is fair and, where choosing to divert from the standard tariff for discretionary exits, that any other approach to calculation of severance payments is also fair.

The following comments apply therefore only in the context of (a) redundancy terms and (b) payments under the standard tariff.

**Gender** – a large proportion (20%) of the Civil Service work part-time, and the majority of part-time staff are female. Fair application as to full-time and part-time staff is therefore important and is described above under the heading “service and pay definitions”. The changes proposed to benefit the low paid (see “compulsory redundancy terms” above) may well favour female civil servants. This change is however being made to allow for the likelihood that the lowest paid may have less savings to fall back on following a redundancy.

**Age** – the proposals treat those over pension age less favourably than those under pension age. The reasoning for this differential treatment is set out under “compulsory redundancy terms” above.

**AS UPDATED ON 2 FEBRUARY 2010**



It could be argued that the calculation of benefits by reference to service indirectly discriminates on the grounds of age or sex. However, the Civil Service has a long-established culture of providing benefits linked, to some extent, to service. In consultation, the general view was that people would prefer a greater, rather than a lesser, link to service.

## DETAIL OF NEW TERMS

Effective date	The new terms will apply to exits from 1 April 2010.
Qualification for benefits	<b>Compulsory redundancy</b> benefits will normally be payable only where the individual has a minimum of 24 months' service. For <b>discretionary exit terms</b> , the Department will set their own qualifying service period (cannot be more than 24 months)
<b>Compulsory Redundancy</b>	Standard compulsory redundancy terms will apply when Cabinet Office agrees that dismissal on the grounds of compulsory redundancy is unavoidable. Further details will be set out in guidance to Departments.
<b>Compulsory redundancy tariff</b>	<p>The compulsory redundancy tariff applies in all cases of <b>compulsory redundancy</b> (but note that some employees covered by the <b>transitional arrangements</b>). The Department does not have discretion to vary the terms paid on compulsory redundancy.</p> <p>The compulsory redundancy tariff is 1 month's <b>pay</b> per <b>year of service</b> plus a further 1 month's pay for each <b>year of service</b> after the first five to a maximum of the <b>compulsory redundancy ceiling</b> and a minimum of statutory redundancy.</p>
<b>Years of service</b>	The period of service will be counted in years and days and expressed as decimal years. It will comprise the individual's continuous service within the Civil Service and other bodies covered by the Civil Service pension scheme. Periods of unpaid leave (for instance career breaks or unpaid sick absence) and any unauthorised absences will therefore normally be excluded. Years of part-time service count as full years (ie not reduced to the full-time equivalent as they are in <b>classic</b> , <b>classic plus</b> and <b>premium</b> pension schemes).

## DETAIL OF NEW TERMS

### Pay

**Pay** will normally be determined as the average of the individual's actual (not full-time equivalent) pensionable earnings over the last 24 months of service. However, in certain circumstances (for example, maternity, paternity or adoption leave), the pensionable earnings used are what would have been received if those circumstances had not applied. Periods of unpaid leave, unpaid sick absence and sick leave at pension rate, are treated differently, and are effectively skipped over when determining the last 24 months' service. Where the individual has less than 24 months of service, amounts will be calculated pro-rata. The earnings cap will not apply.

### Pension age

- 60 for individuals, other than pre Fresh Start prison officers, whose current period of continuous service began before 30 July 2007
- 65 for individuals whose current period of continuous service began on or after 30 July 2007 (and who were not eligible to join the **premium** or **classic** pension schemes)
- 55 for pre Fresh Start prison officers

## DETAIL OF NEW TERMS

### Access to pension

Individuals have a right to draw pension on an actuarially-reduced basis from either 50 or 55 (depending on scheme rules). From 1 April 2010, there will be an option for individuals to “buy out” the actuarial reduction so as to draw an unreduced pension.

Employers may offer to provide pension on an unreduced, or partially-reduced, basis to people leaving on **discretionary exit terms** (see below).

Where individuals who are leaving on **compulsory redundancy** terms are choosing to use their severance payment to buy out the actuarial reduction and their pension will be coming into payment no earlier than 5 years before pension age, the employer will top the severance payment up, where this is necessary, to bring the earned element of the pension into payment on an unreduced basis. (See also transitional arrangements)

### Transitional arrangements

Individuals who have been in continuous service since before 30 July 2007 and who then leave on **compulsory redundancy** terms may opt for the current compulsory terms (Compulsory Early Severance or Compulsory Early Retirement, as appropriate) to apply instead of the new terms providing that their last day of service is on or before 31 March 2011.

Individuals born before 1 April 1960, whose current period of continuous service began before 30 July 2007, who had a minimum of 5 years’ current qualifying service at 31 March 2010 and who subsequently leave on **compulsory redundancy** terms are guaranteed that they may draw their earned pension on an unreduced basis even if their severance payment is insufficient to pay for the cost of “buying out” the actuarial reduction.

This paragraph applies only to those dismissed as compulsorily redundant after 31 March 2011, where Cabinet Office agrees that all redundancy-avoidance measures have been pursued and where the individual was born before 1 April 1960 and who had a minimum of 5 years’ current qualifying service at 31 March 2010. These

## DETAIL OF NEW TERMS

individuals may continue to leave on the current Compulsory Early Retirement terms but with benefits calculated by reference to their service at 31 March 2010. Pension benefits derived from service from 1 April 2010 would be preserved and paid at normal pension age (or drawn immediately on an actuarially-reduced basis).

This paragraph applies only to those dismissed as compulsorily redundant after 31 March 2011, where Cabinet Office agrees that all redundancy-avoidance measures have been pursued, where the individual was born between 1 April 1960 and 31 March 1970 and who is potentially eligible for the “1987 reserved rights” and is aged under 50 at the date of dismissal. The redundancy payment would be calculated by reference to the payment that would have applied had the individual been made redundant on 31 March 2010, in the following way:

Compulsory redundancy 1 April 2011 – 31 March 2012 : 100% [of the 31 March 2010 amount]

Compulsory redundancy 1 April 2012 – 31 March 2013 : 80%

Compulsory redundancy 1 April 2013 – 31 March 2014 : 60%

Compulsory redundancy 1 April 2014 – 31 March 2015 : 40%

Transitional arrangements do not generally apply to discretionary exits. Cabinet Office will however consider business cases from departments who wish to use the current terms ***on an exceptional basis*** during the period to 31 March 2011.

## DETAIL OF NEW TERMS

**Discretionary exit terms** Discretionary exit terms will not apply in the case of **compulsory redundancy**.

The Department may (subject to controls and guidance to be issued by Cabinet Office) make severance payments of more or less than the **standard tariff** but this cannot be more than the **flexible range maximum** or less than a payment calculated according to the statutory redundancy formula. The flexibility can extend to making a payment to an individual with less than 12 months' service. Cabinet Office will consider applications to go beyond the **flexible range maximum** but payments cannot exceed the **compensation ceiling**.

Departments may offer enhanced early retirement terms to people aged 55 or more. The maximum enhancement that can be provided is waiver of the early retirement reduction applicable to benefits earned in service (but not benefits arising from a transfer in). No funding of additional service will be made. Severance payments cannot be made in addition to enhanced early retirement terms.

**Standard tariff** 1 month's **pay** per **year of service** to a maximum of the **flexible range maximum**. Benefits will taper in the same way as described for the **compulsory redundancy tariff**.

**Compensation ceiling** 24 months' pay.

## DETAIL OF NEW TERMS

### Compulsory redundancy maximum

For people **well under pension age**, the greater of:

- £60,000<sup>8</sup> (or, if less, 36 months' pay), and
- 24 months' pay

For people **over pension age**, the greater of:

- £15,000<sup>9</sup> (or, if less, 9 months' pay), and
- 6 months' pay

For people **close to pension age**, the lesser of:

- The “well under pension age” amount; and
- The “over pension age” amount plus the salary (and notional pension contributions<sup>10</sup>) that would have been earned if continuing to work to pension age

See worked example 5 in Annex B

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<sup>8</sup> The better of (a) £60,000 and (b) £50,000 as increased over time in line with median full-time Civil Service earnings

<sup>9</sup> The better of (a) £15,000 and (b) £12,500 as increased over time in line with median full-time Civil Service earnings

<sup>10</sup> Notional pension contributions will be calculated in the same way as when calculating compensation in lieu of notice

## DETAIL OF NEW TERMS

- Flexible range maximum** The lesser of:
- 2 x **standard tariff**, and
  - the **compensation ceiling**



**WORKED EXAMPLES****EXAMPLE 1**

Jane is aged 40 and has 20 years' service.

<b>Current compulsory terms (CES)</b>	<b>Current flexible terms (FES)</b>	<b>New compulsory redundancy tariff</b>	<b>New discretionary terms</b>
20 months plus 10 months (service after 30), plus 5 months (service after 35) Total = 35 months' pay	2 weeks x 5 = 10 weeks, plus 3 weeks x 5 = 15 weeks, plus 4 weeks x 10 = 40 weeks Total = 65 weeks' pay	Depending on Jane's salary, potentially a maximum of 35 months' pay provided this does not come to more than £60,000.  If Jane's salary is more than £30,000 then her redundancy payment will be 2 years' pay.	Standard tariff = 20 months' pay  Flexible range maximum = 2 years' pay  Minimum (statutory redundancy)= 19.5 weeks' pay, subject to a maximum weekly pay of £380

Jane's pension will be preserved for payment at pension age. Alternatively, Jane could transfer her pension rights to another scheme or arrangement or draw her pension early (but not before 50<sup>11</sup>) on an actuarially-reduced basis.

<sup>11</sup> minimum pension age is 55 for new entrants from 6 April 2006

## WORKED EXAMPLES

## EXAMPLE 2

Keith is aged 55 and has 30 years' service. He is a member of **classic**. Keith was over 50 at 31 March 2010.

Current compulsory terms (CER)	Current flexible terms (FER)	New compulsory redundancy tariff	New discretionary terms
Enhanced early retirement package with service enhanced to age 60. Early pension plus 6 months' pay.  Cost to employer = 3.8 years' pay <sup>12</sup>	As for CER but without the lump sum of 6 months' pay.  Cost to employer = 3.3 years' pay	Depending on Keith's salary, potentially a maximum of 36 months' pay provided this does not come to more than £60,000.  If Keith's salary is more than £30,000 then his redundancy payment will be 2 years' pay.  If dismissed as compulsorily redundant <sup>13</sup> , current CER terms can apply by reference to service at 31 March 2010	Flexible range maximum = standard tariff = 2 years' pay  Minimum (statutory redundancy)= 27 weeks' pay, subject to a maximum weekly pay of £380  Keith's Department could offer immediate payment of his pension without the normal actuarial reduction (but with no extra years of service).

If leaving on the new terms, Keith's pension would usually be preserved for payment at pension age (60). Alternatively, he could draw his pension immediately on an actuarially-adjusted basis (in which case it would be reduced by around 25%).

<sup>12</sup> Cost to the employer is shown in the tables in section 6, Annex 6C of the Employers' Pension Guide (available on the Pensions website at [www.civilservice.gov.uk/my-civil-service/pensions](http://www.civilservice.gov.uk/my-civil-service/pensions))

<sup>13</sup> Cabinet Office must be satisfied that all redundancy-avoidance measures have been pursued

## WORKED EXAMPLES

## EXAMPLE 3

David is aged 65 and has 10 years' service. He is a member of **premium**.

Current compulsory terms (CER)	Current flexible terms (FES)	New compulsory redundancy tariff	Proposed discretionary terms
Payment calculated as for statutory redundancy	None	6 months' pay  But, if David earns less than £30,000 he will receive the lesser of: <ul style="list-style-type: none"> <li>• £15,000 and</li> <li>• 15 months' pay</li> </ul>	Standard tariff = 6 months' pay  Flexible range maximum = 1 year's pay  Minimum (statutory redundancy)= 15 weeks' pay, subject to a maximum weekly pay of £380
<b>Revised compulsory terms<sup>14</sup></b>  6 months' pay			

David's pension will be paid immediately.

<sup>14</sup> This change is being backdated to 1 April 2009

**WORKED EXAMPLES****EXAMPLE 4**

Tracy is aged 30 and has 8 years' service.

<b>Current compulsory terms (CES)</b>	<b>Current flexible terms (FES)</b>	<b>New compulsory redundancy tariff</b>	<b>New discretionary terms</b>
8 months' pay	2 weeks x 5 = 10 weeks, plus 3 weeks x 3 = 9 weeks Total = 19 weeks' pay	11 months' pay	Standard tariff = 8 months' pay Flexible range maximum = 16 months' pay Minimum (statutory redundancy)= 8 weeks' pay, subject to a maximum weekly pay of £380

Tracy's pension will be preserved for payment at pension age. Alternatively, Tracy could transfer her pension rights to another scheme or arrangement or draw her pension early (but not before 50<sup>15</sup>) on an actuarially-reduced basis.

<sup>15</sup> minimum pension age is 55 for new entrants from 6 April 2006

## WORKED EXAMPLES

## EXAMPLE 5

Mark is aged 59 and has 38 years' service. He earns more than £30,000 and is a member of **classic**. He is over 50 at 31 March 2010.

Current compulsory terms (CER)	Current flexible terms (FER)	New compulsory redundancy tariff	New discretionary terms
Enhanced early retirement package with service enhanced to age 60. Early pension plus 2 months' pay.  Cost to employer = 0.8 years' pay	As for CER but without the lump sum of 2 months' pay.  Cost to employer = 0.6 years' pay	Payment tapered to 1.75 years' pay, being: <ul style="list-style-type: none"> <li>▪ 6 months' pay plus</li> <li>▪ the cost of 1 year's salary foregone plus 25% notional pension contributions</li> </ul> <p>If dismissed as compulsorily redundant, Mark may choose current CER terms<sup>16</sup>. These would apply by reference to service at 31 March 2010</p>	Standard tariff (tapered) = 1.75 years' pay  Flexible range maximum = 2 years' pay  Minimum (statutory redundancy)= 29 weeks' pay, subject to a maximum weekly pay of £380
<b>Revised compulsory terms<sup>17</sup></b>  As CER but with 6 months' pay instead of 2 months' (cost to the employer = 1.2 years' pay)			

<sup>16</sup> Cabinet Office would need to be satisfied that all redundancy-avoidance measures have been pursued

<sup>17</sup> This change is being backdated to 16 July 2008

## WORKED EXAMPLES

## EXAMPLE 6

Andrew is aged 48 and has 15 years' service; he is a member of **classic**.

Current compulsory terms (CES)	Current flexible terms (FES)	New compulsory redundancy tariff	New discretionary terms
15 months plus 10 months (service after 5 years), plus 13 months (service after 35) Total = 3 years' pay (maximum)	2 weeks x 5 = 10 weeks, plus 3 weeks x 5 = 15 weeks, plus 4 weeks x 5 = 20 weeks, plus 2 weeks x 8 = 16 weeks Total = 61 weeks' pay	Depending on Andrew's salary, potentially a maximum of 25 months' pay provided that this does not come to more than £60,000. If Andrew's salary is more than £30,000 then his redundancy payment will be 2 years' pay.	Standard tariff = 15 months' pay Flexible range maximum = 2 years' pay Minimum (statutory redundancy)= 21 weeks' pay, subject to a maximum weekly pay of £380

Andrew's pension will generally be preserved for payment at pension age (60). Alternatively, Andrew could transfer his pension rights to another scheme or arrangement or draw his pension early (but not before 50<sup>18</sup>) on an actuarially-reduced basis.

<sup>18</sup> minimum pension age is 55 for new entrants from 6 April 2006

## WORKED EXAMPLES

## EXAMPLE 7

Jenny is aged 46 and has 25 years' service. Jenny was in a mobile grade on 1 April 1987 and aged over 40 on 31 March 2010.

Current compulsory terms (CES)	Current flexible terms (FES)	New compulsory redundancy tariff	New discretionary terms
1987 terms apply.  Cash payment of approximately 6.2 years' pay	2 weeks x 5 = 10 weeks, plus  3 weeks x 5 = 15 weeks, plus  4 weeks x 15 = 60 weeks, plus  2 weeks x 6 = 12 weeks  Total = 97 weeks' pay	Depending on Jenny's salary, potentially a maximum of 36 months' pay provided this does not come to more than £60,000.  If Jenny's salary is more than £30,000 then her redundancy payment will be 2 years' pay.  If dismissed as compulsorily redundant before April 2015, Jenny could receive a payment based on the 1987 terms. <sup>19</sup>	Flexible range maximum = standard tariff = 2 years' pay  Minimum (statutory redundancy)= 22.5 weeks' pay, subject to a maximum weekly pay of £380

Jenny's pension will be preserved for payment at pension age. Alternatively, Jenny could transfer her pension rights to another scheme or arrangement or draw her pension early (but not before 50<sup>20</sup>) on an actuarially-reduced basis.

<sup>19</sup> Cabinet Office must be satisfied that all redundancy-avoidance measures have been pursued. The payment would be based on the 31 March 2010 amount and tapered (see Annex A)

<sup>20</sup> minimum pension age is 55 for new entrants from 6 April 2006

**WORKED EXAMPLES****EXAMPLE 8**

Frances is aged 68 and has 3 years' service.

<b>Current compulsory terms (CES)</b>	<b>Current flexible terms (FES)</b>	<b>New compulsory redundancy tariff</b>	<b>New discretionary terms</b>
Payment calculated as for statutory redundancy	None	3 months' pay	<p>Standard tariff = 3 months' pay</p> <p>Flexible range maximum = 6 months' pay</p> <p>Minimum (statutory redundancy)= 4.5 weeks' pay, subject to a maximum weekly pay of £380</p>

Frances's pension will be paid immediately.



## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
1. Changes to terms and conditions are unlawful	<p>Contracts refer to the Civil Service Compensation Scheme. The CSCS is a statutory scheme made under the Superannuation Act 1972 and this envisages schemes being amended from time to time, subject to union consent in respect of detrimental changes to accrued rights. Our legal advice is that the terms of the CSCS can be amended along the lines proposed in <i>Fairness for All</i> without union consent.</p> <p>For those who are made compulsorily redundant, we do not consider that staff have “accrued rights” to either the current or new terms until an individual actually comes within the scope of the scheme. However, as a matter of policy, staff made compulsorily redundant will be allowed to leave under the current terms providing that their last day of service is on or before 31 March 2011.</p>	None

## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
<p>2. Unfair that someone with long service gets the same severance payment as someone with moderate service (15 years). This is “insulting and demoralising”.</p>	<p>A redundancy payment is for loss of office; it is not a long-service award. As such, the payment is intended to provide a cushion during a period of job-search or a bridge into retirement.</p> <p>Service-related benefits run the risk of challenge on the grounds of indirect age or sex discrimination. We consider that it is consistent with Civil Service culture to recognise length of service to some degree and the calculation of the compulsory redundancy payment does this.</p>	<p>Extended transition will apply to those who are potentially eligible, at March 2010, for the “1987 reserved rights” severance terms. Payments will be tapered down to the new levels over the period to April 2015.</p>
<p>3. Speed of implementation is too great - the period of transition is too short</p>	<p>Staff made compulsorily redundant will be allowed to leave under the current terms providing that their last day of service is on or before 31 March 2011. Additionally, departments may approach Cabinet Office with a business case seeking permission for the current terms to apply to other departures during the period to 31 March 2011.</p>	<p>New terms will come in from 1 April 2010. During the period January – March 2010, departments will need to consult Cabinet Office on their proposals to use CSCS terms.</p> <p>Cabinet Office discretion will still be required for use of the current terms during financial year 2010/11.</p> <p>Full implementation of the new terms from 1 April 2011 subject to limited transitional protection (see (2) and (5)).</p>

## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
4. The new terms impact disproportionately on the low-paid	People at all salary levels may have a lifestyle consistent with income, but it could be argued that the low-paid have fewer savings and are less well-placed to cope with redundancy payments calculated on a less-generous basis than now.	<p>Compulsory redundancy payments to be calculated in line with the proposals in <i>Fairness for All</i> but subject to a cap of 3 years' pay where this is no more than £60,000 (or, if better, £50,000 as uprated in line with increases in median full-time Civil Service earnings). In other cases the redundancy payment will be capped at the better of:</p> <ul style="list-style-type: none"> <li>(a) 2 x pay, and</li> <li>(b) £60,000</li> </ul> <p>This change has the potential to provide a better outcome than in the original proposals for the four-fifths of civil servants who earn less than £30,000.</p>

## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
<p>5. The lack of access to pension is unfair and singles the proposed Civil Service terms out as the worst in the public sector. The impact is particularly harsh on those in their early 50s who had an expectation of being able to draw pension plus enhancement.</p>	<p>The proposals allow employers to offer early payment of pension (without actuarial reduction) to those aged 55 and over.</p> <p>The compulsory redundancy terms provide a cash payment, but <i>Fairness for All</i> also proposes a change to the pension scheme rules so that people can “buy out” the actuarial reduction if they want to draw pension early.</p>	<p>On compulsory redundancy, employees who are within 5 years of their pension age and who want to draw their pension early will be guaranteed that they can do this without actuarial reduction. Where the redundancy payment is insufficient to meet the “buy out” cost, the employer will meet the balance of cost (<i>this applies only in respect of benefits derived from service, not extra pension derived from a transfer-in or purchased by the employee</i>)</p> <p>The change outlined above will also apply to employees in service at 31 March 2010 with a minimum of 5 years’ service at that date and whose date of birth is before 1 April 1960. This provides extra protection to those over 50 when <i>Fairness for All</i> was published. Additionally, the current early retirement terms will continue to apply to this group on dismissal on redundancy in circumstances where Cabinet Office is satisfied that all redundancy-avoidance measures have been pursued. Service will be frozen at 31 March 2010 amount.</p>

## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
<p>6. The proposals are detrimental to accrued rights in respect of added years purchased by employees who joined the Civil Service before 1997.</p>	<p>Employees who joined before 1997 and who leave on the current exit terms receive all their pension early, including added years purchased at their cost. This group may argue that they are not now getting what they paid for.</p> <p>However, the costings for added years assume retirement at normal pension age. This means that it is just more expensive for the employer to fund early retirement of someone with added years than an equivalent person without added years.</p>	<p>None</p>
<p>7. Unfair that people over 60 only get a maximum of 6 months' pay while people well under pension age will get a maximum payment of 2 years' pay</p>	<p>The proposals take account of access to pension, recognising that everyone has to retire at some point. The pension is a valuable part of the overall employment package, is largely funded by the employer and constitutes "deferred pay". It would be difficult to defend the use of taxpayers' money in providing a payment of 2 years' salary to someone who had been planning to retire anyway.</p> <p>The tapering provisions prevent a "cliff edge" effect at pension age and are likely to provide better outcomes, for people affected by them, than the current Compulsory Early Retirement terms.</p>	<p>See (8)</p>

## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
8. The tapering provisions for those close to pension age are too complicated	Agree that they can be difficult to understand	<p>For those close to pension age, the redundancy payment will be the lesser of:</p> <ul style="list-style-type: none"> <li>(a) the full amount; and</li> <li>(b) the payment if the person was over pension age plus the salary and pension value they would have earned if they had worked to pension age. ("Pension value" will be calculated in the same way as for compensation in lieu of notice)</li> </ul>
9. The new terms should only impact new starters; terms and conditions of current staff should be respected.	<p>Accrued pension benefits are protected by the Superannuation Act 1972, so changes are possible only in respect of future service. In 2005, the Government agreed to retain the current pension terms for current staff. However, CSCS terms are not generally, in our view, an accrued benefit. They are also being challenged, with union backing, as age discriminatory.</p>	See (1) in relation to accrued rights

## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
<p>10. The pay definition proposed is particularly unfair to people who have gone part-time late in their career. These people are getting no recognition for full-time service earlier on. The proposal acts as a disincentive for people to move from full-time to part-time work.</p>	<p>The pay definition proposed is “pensionable earnings during the last 24 months”. The intention is to link the exit payment to the actual level of earnings at the end of the career (as this is what people are currently living on). The 24 month period is proposed to avoid abuse (eg people going full-time right at the end to get a bigger severance payment) and also to be fair to those who reduce their hours or grade shortly before leaving.</p> <p>We understand that the proposed definition could be perceived as unfair in circumstances where we currently calculate exit terms by reference to full-time rates (with a pro-rata adjustment for people with part-time service). We recognise that the definition could impact adversely on those who have a gap in service during their last 24 months.</p>	<p>The pay definition will reflect pay in the last 24 months when pay was actually received. This makes allowance for those who have periods of authorised unpaid absence close to retirement.</p> <p>However, as the intention of the payment is to compensate to some extent for loss of future earnings, we do not propose changes to take account (for instance) of earlier periods at a higher pay rate</p>
<p>11. The 12-month qualifying period for CSCS benefits doesn’t fit well with many fixed-term contracts which are set at just under 2 years.</p>	<p>Rights to statutory benefits require a minimum service period of 2 years.</p>	<p>The qualifying period for CSCS compulsory redundancy benefits will increase to 2 years. For voluntary exits, departments may use their discretion to offer benefits for shorter periods of service.</p>

## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
12. The new terms are draconian – we should get an unreduced pension plus some cash, as happens in other public service schemes	<p>Payment of an unreduced pension is not a no-cost option. There are also misconceptions as to the terms applying in other schemes.</p> <p>The NHS scheme provides a cash payment of 1 month's pay per year of service to a max of 2 years' pay. On redundancy, people over 55 can opt to give up the payment and, instead, receive their pension early on an unreduced basis.</p> <p>On redundancy, the Local Government scheme provides an immediate, unreduced, pension plus the statutory redundancy payment.</p>	See proposed changes at (4) and (5)
13. Over 50s won't go voluntarily in future and will clog up the system, meaning less opportunities for younger people	Employers already (under the proposals) have the scope to offer early payment of pension (without reduction) for those aged 55+. This has proved attractive in the past in some departments and should have wide appeal once expectations are adjusted elsewhere.	None



## ISSUES RAISED IN THE CONSULTATION

Issue raised in consultation	Comment	Changes proposed
14. Civil servants who are in other public service pension schemes (e.g. staff employed by SOCA) aren't covered by the CSCS provisions if made redundant	The policy intention is that the CSCS should provide a cash payment to all civil servants who lose office, except where compensation benefits are payable under another scheme (for instance, people who have remained in the NHS pension scheme) or where their terms of appointment exclude them.	Rule drafting will reflect policy intention as stated
15. Lump sum payment will be taxed more heavily than a pension payment under the current terms	Tax policy cannot be influenced by the scheme. The first £30,000 of a payment for loss of office is paid tax-free. Where someone wishes to have pension rather than lump sum they can usually achieve this in a tax-efficient way by diverting some of their compensation payment into additional pension (or by buying-out the actuarial reduction on pension).	None (other than mentioned elsewhere)
16. The proposed terms amount to constructive dismissal	Constructive dismissal can be claimed only where someone has left their job (because of the matter being complained about). The new redundancy terms are subject to reasonable transitional provisions and the new terms are, in any event, still generous.	None

**ISSUES RAISED IN THE CONSULTATION**

Issue raised in consultation	Comment	Changes proposed
17. State pension age (SPA) is increasing to 68; the proposals should take account of the fact we will have to wait longer for our pensions.	The proposals relate to an employer's scheme and operate independently of the State pension scheme	None
18. The changes impact most on older workers and so are age discriminatory	Unlike the current terms, the proposed terms treat staff the same, regardless of age. The only exception to this is that account is taken of access to pension	None
19. It is all the bankers' fault that these savings need to be made	Reforms to the CSCS would have been merited in any event, for the reasons set out in <i>Fairness for All</i>	None
20. If you want to make this change, you should buy out our rights.	We do not accept that CSCS terms constitute an accrued right until an individual actually comes within the scope of the scheme.	See (1) in relation to accrued rights
21. People shouldn't be allowed to come back into the Civil Service after leaving with a payoff	The proposals envisage pro-rata repayment of compensation payments on return to the Civil Service within six months. A number of people have commented that this period is too short.	Repayment of compensation on a pro-rata basis if people return to the Civil Service during the notional period covered by their payoff. We are investigating whether this can be extended to those returning as consultants.

**ISSUES RAISED IN THE CONSULTATION**

Issue raised in consultation	Comment	Changes proposed
22. Need to amend the redundancy management process, not the terms	We already have the joint Cabinet Office / CCSU Protocol for handling staff surpluses and this sets out the approach to be taken, including the circumstances when departments may move to issuing notices of compulsory redundancy.	Guidance to employers will clarify the circumstances in which the redundancy terms may be used (and when the employer may use their discretionary terms).
23. Wrong that people joining on or after 30 July 2007 are not covered by the transitional arrangements	This reflects the fact that these people are not currently covered by the CSCS provisions at all. Where people are currently leaving on redundancy and voluntary departures, they are receiving benefits on an <i>ex-gratia</i> basis	None. Where a department wants, for voluntary exits, to mirror the current Compulsory terms during the transitional period they can do this within their own discretion (bearing in mind that these people have very short service).
24. Not so much the new terms which are a problem but the lack of negotiation and agreement with the unions	Cabinet Office was in confidential discussion with the unions for a year before publishing the proposals in <i>Fairness for All</i> . The new terms take account of issues raised by the unions, civil servants and Civil Service employers and have been agreed by FDA, Prospect, the GMB, Unite and the Prison Officers' Association. Cabinet Office regards the revised package as balanced and fair to all stakeholders. Retention of the current terms for existing staff for an indefinite period is not realistic.	Changes noted above provide greater protection to the lowest paid and also provide assurance on early retirement for those close to pension age.
25. Want further details and costs of the new feature allowing "buy out" of actuarial reduction on pension taken before normal pension age	Reasonable request.	We will consider putting a "calculator" on the Civil Service Pensions' website so that people can see for themselves what the costs would be.

**AS UPDATED ON 2 FEBRUARY 2010**

ISSUES RAISED IN THE CONSULTATION