

EMPLOYMENT COMMITTEE**30 JUNE 2016****PUBLIC SECTOR EXIT PAYMENTS****REPORT OF THE DIRECTOR OF CORPORATE RESOURCES****Purpose of Report**

1. The purpose of this report is to advise the Committee of the Government's proposals to place a cap on exit payments for public sector employees and to introduce a repayment requirement where senior employees return to any part of the public sector within 12 months of receiving such a payment.

Background

2. In May 2015 the Government announced its intention to end six-figure exit payments for public sector workers. This was triggered by evidence that many senior employees had re-joined the public sector within a year of receiving a redundancy payment from the same or another public sector organisation.
3. On 31 July 2015 the Government published a consultation document setting out its proposals to end this practice. All public sector organisations were invited to respond. The consultation closed on 27 August 2015.
4. Despite a significant number of respondents not being in favour of a cap on exit payments being introduced, the Government has confirmed that, in the absence of a suitable alternative, it intends to progress with its proposals.
5. In summary, these proposals are as follows:-
 - (i). To limit the total value of exit payments made to employees in the public sector to £95,000;
 - (ii). To apply this cap to a range of exit payments including voluntary and compulsory redundancy payments, the costs associated with early access to unreduced public sector pensions, and 'special' severance payments such as those that form part of settlement agreements. Payments made in relation to ill health retirement, incapacity or death attributable to an individual's employment or those made in compliance with any court order are excluded;
 - (iii). Where an individual works for or holds an office with more than one public sector authority, any exit payments received from any of these authorities in a period of 28 days will be aggregated for the £95,000 maximum;
 - (iv). Where an employee with a salary of £80,000 or more receives an exit payment they will have to repay some or all of that payment if they return (as a direct employee, as the employee of another person or on a self-employed basis) to any part of the public sector within 12 months.

6. The Government recognises that there may be exceptional circumstances where payments in excess of the £95,000 cap may be required. Consequently, it is proposing the introduction of a waiver process which would enable Full Council to approve such payments. Further guidance is awaited from the Treasury on how this power is to be exercised.
7. In February 2016, the Government launched another consultation document proposing options for further reforms to public sector exit payments in order to make 'compensation terms fairer, more modern and more consistent'. This consultation closed on 3 May 2016. The options proposed include:-
 - (i). Setting the maximum tariff for calculating exit payments at three weeks' pay per year of service;
 - (ii). Capping the number of months used to calculate redundancy payments at 15 months;
 - (iii). Setting a maximum salary for the purpose of calculating an exit payment. For example, this could potentially align with the NHS limit of £80,000;
 - (iv). Tapering the amount of lump sum compensation an individual is entitled to receive as they get closer to pension retirement age;
 - (v). Reducing the cost of employer funded pension top up payments by capping the amount of these contributions so that they do not exceed the redundancy lump sum the individual would be entitled to (current practice within the NHS), by removing employer funded top up contributions altogether but allowing the individual to use their lump sum exit payment to increase their pension entitlement, or by increasing the minimum age at which an employee is able to receive an employer funded top up.

Implementation Timescales

8. The regulations relating to both the cap on, and repayment of, public sector exit payments are being introduced as part of the Enterprise Act 2016. This bill was given Royal Assent on 4 May 2016.
9. It is expected that the regulations relating to the recovery of exit payments will be implemented in July 2016. Those relating to the £95,000 exit payment cap are not expected to come into effect until 1st October 2016 at the earliest.
10. A newsletter has been distributed to all Local Government Pension Scheme members to advise them of the impending cap on exit payments and how this might affect them. Where an employee is entitled to unreduced pension benefits as part of their exit package but the cost of the exit payment, including the pension strain figure, exceeds the maximum limit, the employee may be given the option of receiving payment of the reduced pension and lump sum, giving up some of their redundancy or other exit payment to remove the reduction to their pension and lump sum or a mixture of these two options. A separate report to the Committee on pensions discretions under the Local Government Pension Scheme addresses an element of this.

Potential Implications for the Council

11. A number of potential issues relating to the introduction of these regulations have been identified:-

- Employees may be less likely to volunteer for redundancy if their exit package is likely to be affected by the cap. This may result in an increase in the number of compulsory redundancies required;
- The Council is likely to save money on the cost of redundancies where early release of unreduced pension is involved as the employee will need to make a contribution towards any pension strain costs if the total package exceeds £95,000;
- Employees may be less inclined to enter into settlement agreements and be more willing to litigate, given that no cap will then apply to any compensation payment. This could result in increased litigation costs; although it should be noted that the vast majority of settlement agreements are significantly less;
- Appointment timescales for senior managers may be extended as pre-employment checks will need to be conducted to determine whether a qualifying exit payment was made by their previous employer. If this is the case, confirmation will need to be obtained that the individual has agreed repayment terms with that employer before they can start work with the Council;
- The Council and the public sector in general may experience problems recruiting experienced senior employees from other public sector organisations. Individuals who have received a relevant exit payment may delay looking for alternative employment until the 12 month repayment period has passed, or will seek work in other sectors.

12. A number of the Council's policies and procedures will need to be updated to reflect the new legislative requirements. Processes will also need to be established to ensure that sufficient records are available to allow for the calculation of any amounts to be repaid and to publish, at the start of each financial year, the details of any waivers granted in respect of the payment of exit payments.

Recommendation

13. The Committee is asked to note the contents of the report. A further report will be provided to the Committee once further information is available, and this will include relevant changes to the Council's pay policy.

Background papers

14. None.

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Equal Opportunities Implications

15. Possible implications as a result of the capping of exit payments. An assessment will be carried out once sufficient detail is known.