

Report to: Governance Committee

Date of meeting: 22 September 2015

By: Chief Operating Officer

Title: Consultation on a Public Sector Exit Payment Cap

Purpose: To inform the Committee about the Government's consultation on its proposals to place a cap on exit payments for the public sector, and to provide a draft Member response to the consultation questions.

RECOMMENDATIONS

The Committee is recommended to:

1. note the Government's proposals to implement a Public Sector Exit Payment Cap; and
 2. give their views on the proposals and to delegate authority to the Chief Operating Officer to respond to the consultation, reflecting the Committee's view.
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1 Background

1.1 On 31 July 2015, the Government issued a consultation on its proposal to place a cap of £95,000 on the amount that public sector employees would receive if they were made redundant.

1.2 Essentially, the proposals are to:

- (i) cap the total cost of all forms of exit payments available to individuals leaving employment to £95,000, including the costs incurred by the employer in relation to pension strain fund costs; and
- (ii) apply the cap to all types of arrangement for determining exit payments.

1.3 It is therefore proposed that the cap will cover:

- a cash lump sum, such as redundancy payment in cases of voluntary and compulsory exits
- other voluntary exits with compensation packages
- ex gratia payments and special severance payments
- the costs associated with early access to an unreduced pension (on the basis that early retirement on an unreduced pension represents a financial benefit in the same way that a lump sum compensation payment does)
- monetary value of any extra leave, allowances or other benefits granted as part of the exit process
- payments in lieu of notice and payments relating to the cashing up of outstanding entitlements (such as outstanding annual leave)

1.4 Where a number of different payments are made, for example, a redundancy payment along with access to pension with no actuarial reduction, they would be aggregated together so that the total value of the exit package does not exceed £95,000.

1.5 Compensation payments in respect of death or injury attributable to employment, serious ill health or ill health retirement will be excluded, as would payments *following* litigation for breach of contract or unfair dismissal.

2 Supporting information

2.1 In support of its proposals, the Government has provided a range of statistical information. In particular, in 2011/12 the public sector paid out £2.7 billion in payments to staff exiting employment, in 2012/13 it paid out an additional £2 billion and in 2013/14 it paid out a further £1.8 billion.

2.1 In the public sector in 2013/14, the average cost of exiting a member of staff was £25,000. However, from the information provided by the Government, it is worth noting that local government payments were less than half of the average exit cost of the Civil Service. In comparison, the average cost of exiting a member of staff from East Sussex County Council was only approximately £11½k.

Implications of a Cap

2.2 Whilst recognising that exit payments should be proportionate, these are nonetheless important tools in enabling the Council to achieve workforce reductions. This is particularly relevant now as we look to develop proposals to transform and reduce the services delivered in order to meet the significant financial challenges we face over the next three years and beyond.

2.4 The introduction of a cap will reduce our ability to achieve the necessary workforce reductions through voluntary means and will, therefore, lead to more contentious negotiations with the attendant increase in costs associated with that, as well as the likely negative impact on the workforce in terms of morale and motivation.

Practical Considerations

2.5 The proposals raise a number of issues. In particular, of the range of payments proposed to be included in the cap, many are not actually exit payments, e.g. pay in lieu is a damages payment for breach of contract and holiday pay and pension entitlements are contractual entitlements that pre-exist any exit.

2.6 Likewise, the inclusion of pension strain costs would appear to be unreasonable. To date, these have never been included or regarded as an exit payment, as they are provided for in the pension scheme regulations.

3. Conclusion and reasons for recommendations

3.1 The consultation closed on 27 August 2015. In light of the nature of the issues, it is not appropriate for Officers to respond, given that they are directly affected by the proposal. On that basis, any response to the consultation would more appropriately come from Members.

3.2 However, given that the consultation ran for four weeks during the summer holiday period (31 July to 27 August 2015), this is the first opportunity for the Governance Committee to consider this.

3.3 In formulating our response to the consultation, we have linked in with our public sector neighbours to understand the responses they are making. To date, we have only seen the response made by the Police Treasurers Society, which is along very similar lines to ours. More broadly we have also seen the response from ALACE (the Association of Local Authority Chief Executives and Senior Managers) which again, is along similar lines. Attached at Appendix 1 is the proposed draft response. The Committee is invited to review this, and make any amendments it deems appropriate.

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LOCAL MEMBERS

All