RESTRICTING EXIT PAYMENTS IN THE PUBLIC SECTOR

COUNTY DURHAM AND DARLINGTON FIRE AND RESCUE AUTHORITY'S RESPONSE

County Durham and Darlington Fire and Rescue Authority (CDDFRA) is concerned about the issues raised by the reform of the Public Sector Exit payments. CDDFRA accepts that significant payments should be subject to accountability and oversight, but fire and rescue authorities already have a number of audit processes (both internally and externally) and therefore their policies and procedures in relation to exit payments are already subject to scrutiny. The Localism Act and similar regulations already require authorities to publish pay policies which include any exit payments, as well as their policy with regards to how exit payments are calculated.

A large proportion of a fire and rescue authority's day to day expenditure is incurred on salaries and wages; therefore it is reasonable to expect that if expenditure needs to be reduced, it will impact on the establishment levels of the organisation. It is therefore important that an authority has the flexibility to pay reasonable exit packages without limitation, which often encourages employees to leave earlier than planned, thus generating the necessary savings. The fact that the proposal detailed in this consultation includes the cost impact of pension strain will without doubt impact on employees across the whole organisation and not, as we suspect this proposal intends, just those at the top end of the organisation.

With regards to the pension strain costs, you will be aware that an individual in the Local Government Pension Scheme has an entitlement to access their pension benefits once they reach the age of 55, and should they choose to access their pension if they were made either voluntary or compulsory redundant, then a pension strain cost would arise. This pension strain cost is not an exit payment as the individual has, over the years of contributions, accrued an entitlement to draw their pension once they have reached the age of 55.

The employer is charged the cost of the strain by the pension fund administering authority and this is netted off against the revenue budget saving made through the redundancy. There is always a saving in this situation and payback is usually over quite a short period.

The proposed restrictions go against the grain of empowering local authorities to apply what is most appropriate given their financial and local environment. However, authorities should be expected to be reasonable and fair in their approach and be able to justify their decisions to the external auditors.

Given the ongoing reduction to fire and rescue authority funding over recent years, this Authority has made several compulsory redundancies and allowed a number of voluntary redundancies across the organisation. Several employees would have exceeded the proposed cap limit of £95k, due to the fact that they had larger pension strain costs as they had a significant amount of public sector service. The current flexibility has enabled CDDFRA to award reasonable termination packages, which has facilitated long term financial efficiency savings, which would not have been possible had the Authority been compelled to comply with a capping limit of £95k.

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Had the benefits to the individuals been reduced it is likely that they would not have chosen the option to leave the organisation on grounds of voluntary redundancy. If, however, the pension strain costs had been excluded from the limit then the payments would have fallen well below the threshold. Authorities should be expected to act fairly and responsibility in awarding such packages.

We would suggest rather than defining a monetary cap, it would be more appropriate to allow authorities to manage such situations by paying a reasonable settlement, which for transparency purposes and assurance to the public, should be audited, so that the reasons for the value of such settlements are justified. As the information already needs to be published as part of the statement of accounts, the external auditors could focus more attention at the year-end audit to such payments. It would seem more consistent and fairer to apply a maximum percentage of an individual’s salary that could be used in the calculation.

Setting a limit at £95k could prohibit the use of settlement agreements, especially at senior management levels, and consequently result in potential employment tribunal claims, which could be avoided if there was sufficient flexibility in agreeing compromise or settlement agreements with a specific individual.

The Government originally intended to introduce an exemption to the regulations in exceptional circumstances and CDDFRA believe this should be the case. An example would be wholescale mergers or amalgamations of public sector bodies which may necessitate an extensive restructuring programme in a relatively short space of time.

The introduction of the cap is more likely to impact on senior management roles. On average it is more likely that individuals within these roles will be 45 plus. Therefore, the introduction of the cap could be perceived as disadvantaging older employees and lead to age discrimination claims.

CDDFRA welcomes the intention to exempt payments made by FRAs to their pension fund account in respect of firefighters who are unable to maintain operational fitness.