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Mr Shane McAteer
Clerk
Committee for Finance and Personnel
Room 419
Parliament Buildings
Stormont

Our Ref CFP/486/11-16

26 November 2015

Dear Shane,

LEGISLATIVE CONSENT MOTION ON THE PROPOSED CAP ON PUBLIC SECTOR EXIT PAYMENTS

Following its meeting on 12 November the Committee wrote to the Department to request a further response on issues raised in latest correspondence it had received on the LCM for a proposed cap on public sector exit payments from:

- The Education Committee.
- The Northern Ireland Local Government Association (NILGA) , and
- The Equality Commission for Northern Ireland

Responses are set out below.

CORRESPONDENCE FROM COMMITTEE FOR EDUCATION

The Letter from the Education Committee relays comments from an employee in the Education Authority who is a member of the Local Government Scheme. The member is concerned that entitlements from the NILGOSC schemes are being reduced to take account of their state pension age. The member proposes that the cap should to those earning more than £30,000 p.a.

The Departmental response to these the matters raised is set out below.

In terms of impact on pension, the cap will not impact on any accrued entitlement or benefits which an individual has built up and paid for in pension contributions to a public sector pension scheme. There is no reduction with reference to state pension age.

The circumstances of the Local Government Pension Scheme are that its rules currently provide for an unrestricted employer contribution to the cost of early payment of an unreduced pension. The Department considers that the cap should apply to the wide range of exit packages which the individual schemes currently provide, including the cost to employers of early access to pensions, where these exceeds the £95,000 threshold. This approach will ensure the cap is fairly implemented and is not subject to avoidance through individuals taking early retirement or being offered other forms of payment. The cap establishes a fair and reasonable baseline cap of £95,000 to the employer costs of early exit packages across the public sector schemes. In future members of all public sector schemes including the Local Government Scheme would be able to choose to buy out any costs in excess of the £95,000 cap if that is their choice. In addition it should be pointed out that those affected by the cap are still having the value of their pension increased by a substantial contribution by their employer (i.e. the taxpayer) of up to £95,000.

The proposal to adjust the salary threshold at which the cap would apply to £30,000 p.a. needs to be considered in light of the policy intent of this change. The purpose of the policy is to restrict the level of employer funded exit payments paid out across the public sector at £95,000. The Department does not propose that this aim should be further qualified by an individual's salary. Under DFP regulations for the policy there will be flexibility for employing authorities to vary application of the cap and to disapply the restriction where it can be demonstrated their proposal achieves a restructuring outcome which is fair and proportionate, and represents value for money to the taxpayer.

The large majority of workers across the public sector will not be affected by the cap. However where certain schemes do offer generous early retirement packages which include early payment of unreduced pension some lower paid staff with very long service can receive exit packages above the level of the cap, and in excess of what could be available in other schemes, had they a shorter service and higher salary. The purpose of any exit package is to provide employees with a financial cushion into new employment or retirement and £95,000 remains a large exit payment figure regardless of an individual's former salary and when compared to the maximum statutory redundancy available of £14,700.

CORRESPONDENCE FROM THE NORTHERN IRELAND LOCAL GOVERNMENT ASSOCIATION (NILGA)

The NILGA correspondence raises some points on potential effects for currently planned and future redundancy arrangements under RPA, and on timescales for the LCM. In the case of the NILGA correspondence the Committee has requested that the Department respond directly to NILGA. The Department's response to NILGA is attached at the end of this letter for the Committee's information.

Correspondence from the Equality Commission for Northern Ireland (ECNI)

It should be noted that this proposal, contrary to what is stated in the ECNI letter, does **not impact** on accrued pensions; it is not a cap on pensions that have been paid for by employee contributions.

The letter makes reference to the potential impact on long-serving employees who earn in excess of £54,285. It is worth noting that the level of earnings referred to by ECNI is over double the average full-time earnings in Northern Ireland[1] (£24,000). The Department considers that placing a £95,000 cap on the exit payment of a high-earning employee like this would be a fair and proportionate use of tax payer money. High-earning staff are generally better positioned to manage their transition to retirement or alternative employment and the £95,000 payment is a considerable sum of money to facilitate this move.

In response to the policy screening document, ECNI has suggested that the Department carry out further analysis of equality data for senior grades within the NICS to ascertain any differential impact. However, as previously outlined, we believe it is fair and proportionate to cap the exit payment of senior (highly paid) staff. The reference in the screening document relates solely to the potential adverse impact on long-serving lower paid members of staff. It is not possible to carry out further analysis of this group of staff as:

a) they could be working in numerous grades across the Northern Ireland public sector (not just senior NICS grades); and,

b) the years of service for an individual could have been accumulated across a number of different employers in the public sector and the requisite equality data is not available to conduct this analysis.

Although the cap on exit payments will affect mostly those high earning public sector employees leaving with the highest value exit packages, it is possible that some lower paid staff with very long service could be affected. This scenario would occur if generous early retirement provisions are offered that include immediate payment of unreduced pensions. The policy screening document produced by DFP refers to this scenario and notes that there could be an associated adverse impact on long-serving members of staff who are not high-earners. It should be noted that an exit payment of £95,000 would still provide long-serving lower paid members of staff with a considerable sum of money to facilitate their transition to retirement or alternative employment. In addition, the proposed secondary legislation will contain provisions to modify or disapply the application of the exit payment cap in situations where it is fair and proportionate to do so.

It should also be noted that any current or planned exit schemes within the Northern Ireland public sector are voluntary in nature and staff have the option as to whether or not to apply. Staff will be aware of the introduction of this new policy and will have time to adjust and make necessary arrangements, should subsequent schemes be on a non-voluntary basis.

[1] Source: 2014 Annual Survey of Hours & Earnings - median gross annual earnings for full-time employees

The introduction of this policy is considered fair and proportionate, and represents value for money for UK tax payers as a whole. The proposed cap on exit payments is set at £95,000. It is not considered fair for taxpayers to continue funding the small minority of exit packages in Northern Ireland costing in excess of this.

Finally, the ECNI response notes the potential impact of the Voluntary Exit Scheme and suggests that the equality data of leavers under the Scheme should be analysed to understand the impact that this will have on the structure of the NICS workforce. The Department intends to conduct this analysis once the Scheme is finished.

It should be noted that it is proposed that this cap will apply to the whole of the public service in Northern Ireland, of which the NICS is around 15%.

You may wish to bring this update to the attention of the Committee.

Yours sincerely

[redacted]

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Karen Smyth
Head of Policy
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26 November 2015

Dear Karen

PUBLIC SECTOR EXIT PAYMENTS

I refer to your email to the Committee for Finance and Personnel of 6 November on the above matter. The Committee has asked the Department to respond to you directly and copy them in. This response also deals with the same correspondence which you sent to Mr Sterling.

It is proposed that the Legislative Consent Motion (LCM) for a public sector exit cap will provide a power for regulations to be made by the Department of Finance and Personnel to administer the use of the restriction in the Northern Ireland Public Sector. Under these regulations flexibilities will be available to waive or ‘relax’ the cap under appropriate circumstances. It is also proposed that the capacity to relax the restriction may be delegated to a relevant Northern Ireland Civil Service Department or Employing Authority.

Circumstances in which this waiver may apply include where there is clear evidence of a business need to disapply the cap in order to achieve a required restructuring outcome. It would be expected that the application of the waiver should form part of the normal financial business case approval process for exit schemes, in terms of Employing Authorities and as necessary and appropriate, their sponsoring NICS Department. There will also be a requirement for all such instances to be disclosed in Annual Accounts and for appropriate records to be kept.

The LCM is due to be debated in the Assembly on 07 December 2015. Full guidelines on the flexibility to relax the exit payment cap will be issued by DFP in due course if the LCM is agreed.

Yours sincerely

[redacted]

GEAROID CASSIDY
Departmental Assembly Liaison Officer