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Ribble Valley
Borough Council

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Dear Councillor

The next meeting of the **PERSONNEL** will be held at **6.30 pm** on **WEDNESDAY, 13 JANUARY 2021** by **ZOOM**.

I do hope you can be there.

Yours sincerely

M. H. Scott

CHIEF EXECUTIVE

AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **TO APPROVE THE MINUTES OF THE PREVIOUS MEETING** (Pages 3 - 8)

Enclosed
3. **DECLARATIONS OF PECUNIARY AND NON PECUNIARY INTERESTS**

Members are reminded of their responsibility to declare any pecuniary or non-pecuniary interest in respect of matters contained in the agenda.
4. **PUBLIC PARTICIPATION (IF ANY)**
5. **REPORTS FROM REPRESENTATIVES ON OUTSIDE BODIES (IF ANY)**

None
6. **PAY POLICY UPDATE** (Pages 9 - 30)

Report of the Director of Resources - Enclosed
FOR DECISION
7. **PUBLIC SECTOR EXIT PAYMENT REGULATIONS** (Pages 31 - 60)

Report of the Director of Resources - Enclosed
FOR INFORMATION

8. **EXCLUSION OF PRESS AND PUBLIC**

9. **GENERAL STAFFING UPDATE**

(Pages 61 - 66)

Report of the Director of Resources - Enclosed

FOR DECISION

Electronic agendas sent to members of Personnel – Councillor Rosemary (Rosie) Elms (Chair), Councillor Susan Bibby (Vice-Chair), Councillor Stephen Atkinson, Councillor David Berryman, Councillor Sarah Rainford, Councillor Richard Bennett, Councillor Donna O'Rourke, Councillor Mark Hindle and Councillor Jennifer (Jenni) Schumann.

Contact: Democratic Services on 01200 414408 or committee.services@ribblevalley.gov.uk

Minutes of Personnel Committee

Meeting Date: Wednesday, 16 September 2020, starting at 6.30pm
Present: Councillor S Bibby (Chairman)

Councillors:

S Atkinson	S Rainford
D Berryman	J Schumann
D O'Rourke	

In attendance: Chief Executive, Head of HR.

Not in attendance: Councillor M Hindle.

714 APOLOGIES

Apologies for absence from the meeting were submitted on behalf of Councillors R Bennett and R Elms.

715 MINUTES

The minutes of the meeting held on 15 January 2020 were approved as a correct record and signed by the Chairman.

716 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST

There were no declarations of pecuniary and non-pecuniary interest.

717 PUBLIC PARTICIPATION

There was no public participation.

718 REPORTS FROM REPRESENTATIVES ON OUTSIDE BODIES

There were no reports from Representatives on Outside Bodies.

719 UPDATE TO TERMS OF REFERENCE OF COMMITTEE

The Director of Resources submitted a report asking Members to approve an amendment to the Terms of Reference for Committee.

The Local Authority (Standing Order) (England) (Amendment) Regulations 2015 amended the previous legislation to change the statutory process for dismissing the Head of Paid Service, Monitoring Officer and Chief Finance Officer.

The JNC Conditions of Service Handbook for Chief Executives includes a Model Disciplinary Procedure and Guidance that recommends that in order for potential

disciplinary issues to be considered quickly, Councils should establish the following:

- An Investigating and Disciplinary Committee
- An Appeals Committee
- An Independent Panel
- An elected Member with the designated power to suspend the Chief Executive in an emergency

It was logical that should there be a need to take disciplinary action against the Chief Executive, such a Committee should be drawn from Members of this Committee.

RESOLVED: That

1. Members receive the report;
2. the following be added to the terms of reference of Personnel committee for approval at Annual Council:

'To act as the investigating and disciplinary Committee in relation to the Chief Executive and Chief Officers'

'To hear and determine matters of discipline in relation to the Chief Executive and Chief Officers including taking action up to and including dismissal. Where dismissal is the outcome in the relation to the Head of Paid Service, the Monitoring Officer and the Chief Financial (Section 151) Officer the Committee will recommend this to Full Council for final decision';

3. the Constitution be updated accordingly when approval has been granted; and
4. the Chief Executive in conjunction with the Head of HR bring a report to the next meeting with proposals for the establishment of an Appeals Committee and Independent Panel in line with the JNC conditions of service for Chief Executives model disciplinary procedure and guidance.

720 COVID 19 – UPDATE

The Chief Executive and Head of HR gave a verbal update to Members on issues relating to staff since lockdown in March 2020.

The Council had faced enormous and unprecedented challenges in protecting staff, keeping services running and continuing to support residents. Key services had had to be prioritised.

A significant number of staff had worked from home for varying reasons with some staff being deployed to other areas of work where they could not carry out their normal duties.

A community hub had been created to help vulnerable residents. 4000 phone calls had been made to vulnerable residents, and a database of over 300 volunteers had been established throughout the Ribble Valley.

Following risk assessments most staff had returned to work by 20 July 2020.

The Chief Executive had kept staff informed of issues/developments with a weekly bulletin.

Members expressed their thanks to the Chief Executive and all staff who had ensured that services continued during the pandemic and for the support given to residents throughout the Ribble Valley via the community hub.

It was suggested a joint letter of thanks be written to staff from the Leader and Chair of Personnel Committee.

721 WORKFORCE PROFILE

The Director of Resources submitted a report for Committee's information updating Members on the workforce data to be published in compliance with the Equality Act 2010. Members were given a detailed analysis of figures.

RESOLVED: That the report be noted.

722 2019/2020 YEAR END PERFORMANCE INFORMATION

The Director of Resources submitted a report for Committee's information presenting the year end performance information for the HR section. Members were given detailed analysis of the figures.

RESOLVED: That the report be noted.

723 EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That by virtue of the fact that the following items of business be exempt information under Category 1 of Schedule 12A of the Local Government Act 1972, the press and public be now excluded from the meeting.

724 GENERAL STAFFING UPDATE

The Director of Resources submitted a report informing Members of appointments and resignations that had taken place since the last meeting of Committee.

The report also included job title changes, internal movements, changes to the establishment - including the creation of a new post of part time Cleaner at the Depot and a review of the HGV and Municipal Vehicle Technician post which had been re-evaluated. That had resulted in a change to the job title to Senior HGV and Municipal Vehicle Technician and in an increase in the grade of the post from scale 5 to scale 6. In addition the report also included details of honorarium payments, retirements, and additional fixed term contracts. It was reported that the

Council had received funding for 3 new posts from Sport England as part of a Pennine Lancashire pilot scheme called Together an Active Future.

RESOLVED: That Committee

1. note and approve the decisions taken by CMT and the Chairman as outlined in the report; and
2. write letters of thanks to those staff retiring/leaving the authority where appropriate.

725 STAFF SURVEY RESULTS

The Director of Resources submitted a report outlining the results of the Employee Survey 2019. The analysis of the results had been considered by CMT and feedback was being sought from all staff with a view to developing an action plan that would be shared with Committee in due course.

RESOLVED: That the report be noted.

726 ANNUAL ABSENCE MANAGEMENT UPDATE

The Director of Resources submitted a report providing Members with the levels of sickness absence across the authority for 2019/20. The report gave a detailed breakdown of the absences.

Absence had increased in the last 12 months from an average of 10.15 days per employee in the year ended March 2019 to 11.5 days per employee in the year to 31 March 2020.

Members were advised that absence management remained a priority task in order to control absence and identify trends, and that the proactive approach towards management of absence, particularly with potential long term absences, had a significant impact on overall performance and thus diligence remained to ensure that this continued.

RESOLVED: That the report be noted.

727 STAFF ESTABLISHMENT UPDATE

The Director of Resources submitted a report updating Members on the full staffing establishment for the Council that included a list of those posts based either at the Council offices or one of the Council's other facilities which comprised the approved establishment for which specific budgetary provision is made.

RESOLVED: That the report be noted.

728 UPDATE ON NATIONAL PAY NEGOTIATIONS

The Director of Resources submitted a report updating Members on the latest position in respect of the national trade union pay claim for 2020 which had now resulted in a final offer of 2.75% being accepted. The pay deal also included an increase in the minimum annual leave entitlement from 21 to 22 days for employees with less than 5 years' service. A budget provision of 3% had been allowed by the Council so this final agreement fell within this provision.

RESOLVED: That the report be noted.

729 ANNUAL ANALYSIS OF EXIT INTERVIEWS

The Director of Resources submitted a report providing Members with information relating to staff who had left Ribble Valley Borough Council between 1 January 2019 and 31 December 2019.

As an aid to improve recruitment and retention strategies for the future, exit interviews were helpful in obtaining information about why an employee was leaving the authority and highlighted what the Council did well and areas for improvement. Information was shared with both CMT and the relevant Head of Service to ensure consideration was given to any points raised.

RESOLVED: That the report be noted.

The meeting closed at 7.18pm

If you have any queries on these minutes please contact Marshal Scott (414400).

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RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PERSONNEL COMMITTEE

meeting date: WEDNESDAY, 13 JANUARY 2021
title: PAY POLICY STATEMENT 2021/22
submitted by: JANE PEARSON - DIRECTOR OF RESOURCES
principal author: MICHELLE SMITH – HEAD OF HR

1. PURPOSE

1.1 To review the Council's Pay Policy Statement in accordance with the Localism Act 2011.

1.2 Relevance to the Council's ambitions:

- Council's Ambitions: The effective control and implementation of remuneration across the organisation supports our ambition to be a well-managed Council.
-
- Corporate Priorities: This policy contributes to the priority to maintain critical financial management and controls, and ensure the authority provides Council taxpayers with value for money.
-
- Other considerations: None.

2. BACKGROUND

2.1 The Localism Act came into force on 15 November 2011. Sections 38-43 of the Act refer to 'Pay Accountability' and sets out the requirements for Councils to determine and publish an Annual Pay Policy Statement.

2.2 The purpose of the Pay Policy is to ensure there is transparency as to how pay and remuneration is set by the Council, for all of its employees and particularly for its most senior level posts.

2.3 The Council was required to publish its first Pay Policy Statement by 31 March 2012. Thereafter, the Policy must be reviewed annually and approved by Full Council prior to the end of March each year.

3. ISSUES

3.1 The current policy has been reviewed and updated and the Pay Policy Statement for 2021/22 is attached at Appendix A.

3.2 The Pay Policy sets out the existing approach to the remuneration of all posts within the Council. In particular it specifies certain mandatory requirements that must be detailed within the Policy. This refers to:

- the pay structure of the Council and how it is set;
- Senior Management Remuneration, providing details of the pay grade for posts defined as Chief Officer and the accompanying allowances;
- the recruitment arrangements for a Chief Officer;

- the relationship between the salaries of Chief Officers and other employees;
- details of the lowest paid posts within the Council;
- Employer's Pension Contribution details;
- termination of employment payments.

3.3 Any changes to the Pay Policy Statement need to be approved by Full Council and then the revised statement must be published on the Council's website from 1 April 2021. We will be unable to meet this requirement this year as the normal Committee meeting schedule has been revised due to Covid. We can put a holding statement to that effect on the website on 1 April 2021 and confirm that the approved policy for 2021/22 will be published once it has been approved by Full Council on 27 April 2021.

4. RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources: No financial implications.
-
- Technical, Environmental and Legal: Failure to comply with the requirements of the Act could result in sanctions.
-
- Political: There are no political implications.
-
- Reputation: Failure to comply could result in negative publicity and potentially on a national scale.

5. **RECOMMENDED THAT COMMITTEE**

5.1 Receive the report.

5.2 Recommend the Pay Policy Statement for 2021/22 for approval by Full Council at its meeting on 27 April 2021.

MICHELLE SMITH
HEAD OF HR

JANE PEARSON
DIRECTOR OF RESOURCES

BACKGROUND PAPERS

APPENDIX A
Pay Policy Statement 2020/21

For further information please ask for Michelle Smith, ext 4402.



Ribble Valley
Borough Council

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PAY POLICY STATEMENT 2020/2021

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1. Introduction and Purpose

- 1.1 Under section 112 of the Local Government Act 1972, the Council has the “power to appoint officers on such reasonable terms and conditions as authority thinks fit”. This Pay Policy Statement (the ‘statement’) sets out the Council’s approach to pay policy in accordance with the requirements of Sections 38 and 43 of the Localism Act 2011, and the ‘Openness and accountability in local pay: Guidance under section 40 of the Local Government Act 2011 – supplementary guidance’, which requires the council to produce a policy statement that covers a number of matters concerning the pay of the Council’s staff, principally Chief Officers.
- 1.2 The purpose of the statement is to provide transparency with regard to the Council’s approach to setting the pay of its employees by identifying:
- the methods by which salaries of all employees are determined;
 - the detail and level of remuneration of its most senior staff;
 - the Committee(s) responsible for ensuring the provisions set out in this statement are applied consistently throughout the Council and recommending any amendments to the Council.
- 1.3 Once approved by the Council, this policy statement will come into immediate effect and will be subject to review on a minimum of an annual basis, the policy for the next financial year being approved by 31st March each year.
- 1.4 This document also sets out details of local arrangements regarding elements of pay and reward for Council staff below Chief Officer grade. It is additional to the National Joint Council for Local Government Service’s National Agreement on Pay and Conditions of Service (commonly referred to as ‘the Green Book’) and as such is incorporated into the terms and conditions of employment of all Ribble Valley Borough Council employees.

It also ensures that the Council maintains a consistent approach to pay in line with budgetary limitations and management of the Council’s finances.

2. Other legislation relevant to pay and remuneration

- 2.1 In determining the pay and remuneration of all of its employees, the Council will comply with all relevant employment legislation. This includes legislation such as the Equality Act 2010, Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000 and where relevant, the Transfer of Undertakings (Protection of Earnings) Regulations.
- 2.2 The Council ensures there is no pay discrimination within its pay structures and that all pay differentials can be objectively justified through the use of job evaluation mechanisms, which directly establish the relative levels of posts in grades according to the requirements, demands and responsibilities of the role.

3. Definition of Officers Covered by the Policy Statement

- 3.1 This policy statement is required to cover “chief officer” posts as defined in the Localism Act 2011.

For Ribble Valley Borough Council these are:

- a) The Chief Executive (Head of Paid Service)
- b) Director of Resources (Section 151 Officer responsible for the administration of the authority’s financial affairs)
- c) Director of Community Services

- d) Director of Economic Development and Planning
- e) Service Heads
 - Head of Cultural and Leisure Services
 - Head of Engineering Services
 - Head of Environmental Health
 - Head of Financial Services
 - Head of HR
 - Head of Legal and Democratic Services (Monitoring Officer)
 - Head of Planning Services
 - Head of Regeneration and Housing
 - Head of Revenues and Benefits

3.2 It should be noted that, whilst within the terms of the Act, the posts listed at 3e above may fall within the wide definition of Chief Officer posts; they are not designated as such within the Council.

4. Pay Structure

4.1 The Council uses the nationally negotiated pay spine(s) (i.e. a defined list of salary points) as the basis for its local pay structure, which determines the salaries of the large majority of its workforce as detailed below:

SCALE	SALARY BAND (VALUE AT TIME OF PREPARATION OF THIS STATEMENT)	NJC SCALE POINTS
1a	£17,842	scp 1
1b	£18,198 - £18,562	scp 2 - 3
2	£18,562 - £18,933	scp 3 - 4
3	£19,312 - £19,698	scp 5 - 6
4	£20,092 - £21,748	scp 7 - 11
5	£22,183 - £24,491	scp 12 - 17
6	£24,982 - £27,041	scp 18 - 22
SO1	£27,741 - £29,577	scp 23 - 25
SO2	£30,451 - £32,234	scp 26 - 28
PO1-4	£31,346 - £33,782	scp 27 - 30
PO2-5	£32,234 - £34,728	scp 28 - 31
PO5-8	£34,728 - £37,890	scp 31 - 34
PO6-9	£35,745 - £38,890	scp 32 - 35
PO10-13	£39,880 - £42,821	scp 36 - 39
	HEADS OF SERVICE	
PO16 -19	£45,859 - £48,863	scp 42 - 45
PO 23 -26	£53,051 - £56,271	scp 49 - 52

A Job Evaluation points scale is attached at Appendix 1 together with the procedure for ongoing evaluation of posts.

- 4.2 The Council adopts the national pay bargaining arrangements in respect of the establishment and revision of the national pay spine.
- 4.3 Following the completion of Job Evaluation there are no remaining bonus or shift allowance payments in operation across the Council.
- 4.4 All other pay related allowances are the subject of either nationally or locally negotiated rates, having been determined from time to time in accordance with collective bargaining machinery. These are outlined at Appendix 2.
- 4.5 In determining its grading structure and setting remuneration levels for any posts which fall outside its scope, the Council takes account of the need to ensure value for money

in respect of the use of public expenditure, balanced against the need to recruit and retain employees who are able to meet the requirements of providing high quality services to the community, delivered effectively and efficiently and at times at which those services are required.

- 4.6 New appointments will normally be made at the minimum of the relevant pay scale for the grade, although this can be varied where necessary to secure the best candidate. Where the appointment salary is above the minimum point of the pay scale and is not affected by other council policies, for example redeployment or flexible retirement, this is approved in accordance with written procedures.
- 4.7 From time to time it may be necessary to take account of the external pay levels in the labour market in order to attract and retain employees with particular experience, skills and capacity. Where necessary, the Council will ensure the requirement for such is objectively justified by reference to clear and transparent evidence of relevant market comparators, using data sources available from within the local government sector and outside, as appropriate. Further detail on the application of market supplements is attached at Appendix 3.
- 4.8 Any temporary supplement to the salary scale for the grade is approved in accordance with this Pay Policy.
- 4.9 There are a number of pay points within each salary band. For staff not on the highest point within the band, there is a system of annual progression to the next point on the band.
- 4.10 There are a small number of career-graded posts within the Council where advancement through a grade is based on achievement of relevant qualifications and the acquisition of practical experience. A job description has been created to cover each stage of the career in order to assess advancement through the grade. The current list of career-graded posts is attached at Appendix 4.
- 4.11 **Additional**
- 4.11.1 Pay is calculated on the basis of Annual Salary divided by 365 days. Salaries are paid 2 weeks in arrears and 2 weeks in advance on the 15th of the month.
- 4.11.2 The Chief Executive/Director of Resources is authorized to write off any over payment of salary in exceptional circumstances eg death in service.
- 4.11.3 To meet specific operational requirements it may be necessary for an individual to temporarily take on additional duties to their identified role. The Council's arrangements for authorising any additional remuneration e.g. honoraria, ex gratia, 'acting up' relating to temporary additional duties are as agreed by Personnel Committee.
- 4.11.4 In addition to basic salary, staff (including Chief Officers) are, or may be, eligible for other payments under the Council's existing policies, for example reimbursement of motoring expenses for business travel.
- 4.11.5 Pay Protection – where a member of staff is placed in a new post and the grade is below that of their previous post eg as a result of restructuring, pay protection at the level of their previous post is paid for 12 months. (Pay Protection would not apply where a move to lower graded jobs is the result of a disciplinary sanction.)

Any annual pay awards will continue to be applied. This protection period will also apply in any re-deployment situations where a member of staff is re-deployed to a lower graded post.

Where the employee is a member of the Local Government Pension Scheme and their income has reduced at the end of the protection period a certificate will be issued to protect the value of their pension.

This means that if their pay has been reduced through circumstances beyond their control within the last ten years then their final pay will be the best years pay in the last three years, or the best consecutive three year average in the last ten years.

- 4.11.6 Professional Fees – The Council pays for or reimburses the cost of one practicing certificate fee or membership of a professional organisation provided it is relevant or essential to the post that an employee occupies within the council. This is relevant to some Chief Officers.

5. Senior Management Remuneration

- 5.1 For the purposes of this statement, senior management means ‘chief officers’ as defined within the Localism Act. The posts falling within the statutory definition are set out in section 3 above.

6. Chief Executive Remuneration

- 6.1 The post of Chief Executive (which also acts as Head of Service) is paid a salary which falls within a range of 5 incremental points between £99,384 and a maximum of £108,263. The postholder also acts as the Returning Officer for which additional fees are payable in relation to specific election based activities.

7. Returning Officer Fees

- 7.1 In accordance with the national agreement the Chief Executive is entitled to receive and retain the personal fees arising from performing the duties of Returning Officer, Acting Returning Officer, Deputy Returning Officer, Counting Officer and similar positions which he or she performs subject to the payment of pension contributions thereon. Where appropriate fees for Returning Officer and electoral duties are identified separately for local government elections, elections to the EU Parliament and other electoral processes such as referenda. As these relate to performance and delivery of specific election duties as and when they arise, they are distinct from the process for the determination of pay for Chief Officers.

8. Directors

- 8.1 The Council has three Directors. The salary of posts designated as Director fall within a range of 5 incremental points between £78,786 and a maximum of £85,980 p.a. Directors are also entitled to a lease car contribution of up to a maximum 7.5% of salary p.a.

9. Heads of Service

- 9.1 There are 9 Heads of Service. The salary package of Heads of Service falls within two bands as outlined at point 4.1 above. Heads of Service are also entitled to a lease car contribution of up to a maximum 7.5% of salary p.a.

10. Other Chief Officers Conditions of Service

- 10.1 Chief Officers are entitled to a lease car contribution up to a maximum of 7.5% of salary p.a.

- 10.2 Other terms and conditions of service are in accordance with:

Chief Executive - The Joint Negotiating Committee for Local Authority Chief Executives.

Directors - The Joint Negotiating Committee for Local Authority Chief Officers.

Heads of Service - The Joint Negotiating Committee for Local Government (Green Book).

11. Recruitment of Chief Officers

- 11.1 The Council's policy and procedures with regard to recruitment of Chief Officers is set out within Part 4, Section 33 of the Constitution.
- 11.2 When recruiting to all posts the Council will take full and proper account of all provisions of relevant employment law and its own Recruitment and Selection Policy as approved by Personnel Committee.
- 11.3 The determination of the remuneration to be offered to any newly appointed Chief Officer will be in accordance with the pay structure and relevant policies in place at the time of recruitment. Any proposal to offer a large salary package in excess of £100,000 (as per the recommendation of the Secretary of State's supplementary guidance) must be approved by Full Council. A salary package includes salary, any bonuses, fees or allowances routinely payable to an appointee and any benefits in kind to which the officer is entitled as a result of their employment.
- 11.4 Where the Council is unable to recruit Chief Officers, or there is a need for interim support to provide cover for a substantive Chief Officer post, the Council will, where necessary, consider engaging individuals under a 'contract for service'. These will be sourced through a relevant procurement process ensuring the council is able to demonstrate the maximum value for money benefits from competition in securing the relevant service. In assessing such it should be noted that in respect of such engagements the Council is not required to make either pension or national insurance contributions for such individuals. The Council does not currently have any Chief Officers engaged under such arrangements.
- 11.5 The Council will not enter into any arrangements in the employment of Chief Officers which would or be perceived to be an arrangement to minimise an individual's tax liability.

12. Pension Contributions

- 12.1 Where employees have exercised their statutory right to become members of the Local Government Pension Scheme, the Council is required to make a contribution to the scheme representing a percentage of the pensionable remuneration due under the contract of employment of that employee. The Council contributes to the Local Government Pension Scheme for all its employees equally. The rate of contribution is set by Actuaries advising the Lancashire Pension Fund and is reviewed on a triennial basis. For 2020/21 the employer contribution rate will be 18.7%, until the next triennial actuarial review. In addition a lump sum payment is made as a contribution towards the Ribble Valley share of the deficit on the pension fund.

The employee contribution rates, which are defined by statute, as at 1 April 2020 are:

Full Time salary	Contribution rate
Up to £14,600	5.5%
£14,601 - £22,800	5.8%
£22,801 - £37,100	6.5%
£37,101 - £46,900	6.8%
£46,901 - £65,600	8.5%
£65,601 - £93,000	9.9%
£93,001 - £109,500	10.5%
£109,501 - £164,200	11.4%
£164,201 or more	12.5%

Not available 2021/2022.

13. Payments on Termination

- 13.1 The Council's approach to statutory and discretionary payments on termination of employment of Chief Officers is set out within its Redundancy policy statement in accordance with Regulations 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 Regulation 12 of the Local Government Pension Scheme (Benefits, Membership and Contribution) Regulations 2007.

At the time of preparation of this pay policy, the policy is:

- to pay statutory redundancy payments in accordance with the Employment Relations Act 1998, which provides for a maximum calculation of up to 30 weeks' pay. The payment will be based on an employee's actual weekly salary rather than the figure set by the Government.
- 13.2 Any proposal to offer a large severance package beyond a particular threshold must be approved by Full Council. The Secretary of State for Local Government recommends that this threshold should be set at £100,000. When presenting information to Full Council, the components of any severance package will be clearly outlined. These components may include: salary paid in lieu, redundancy compensation, pension entitlements, holiday pay and any bonuses, fees or allowances paid.
- 13.3 For all permanent employees (including Chief Officers) where there is an option for early retirement, the terms of the Council's Early Retirement Policy will apply (See Appendix 5).

14. Lowest Paid Employees

- 14.1 The Council complies with the National Joint Council – Pay and Conditions of Service. The minimum salary the Council pays in accordance with the National Conditions of Service is spinal column point 1 of the pay scale, which as at 1 April 2020 equals £17,842 per annum.

Spinal Column Point	Salary (per annum)
1	£17,842

Progression through the grade occurs through the payment of an additional annual increment on 1 April each year.

Part-time posts are paid the same salary, but on a pro-rata basis.

The Council employs Apprentices who are paid in accordance with the National Minimum Wage rates for Apprentices.

- 14.2 Currently, the lowest paid persons employed under a contract of employment with the Council are employed on full time (37 hours) equivalent salaries in accordance with the minimum spinal column point currently in use within the Council's grading structure, with the actual lowest salary as at 1 January 2021 being at spinal column point 1 - £17,842.

This relates to the employment of a cleaner

15. Relationship between Remuneration of Chief Officers and Remuneration of Employees who are not Chief Officers

- 15.1 The relationship between the rate of pay for the lowest paid and Chief Officers is determined by the processes used for determining pay and grading structures as set out earlier in this policy statement.
- 15.2 The highest paid salary in the Council is to the Chief Executive with a mid-point salary of £103,732. Set out below is the relationship between the Chief Executive's salary and the median and Lowest salaries within the Council.
- 15.3 The mid point salary for Chief Officer salaries is £65,920.
- 15.4 Set out below is the relationship between the Chief Officer's salaries and the median and lowest salary.

Post	Mid point salary	Benchmark Salary (Median)	Ratio
Chief Executive	£103,732	£21,322	1:4.9
Chief Officers	£65,920	£21,322	1:3.1
Post	Mid point salary	Benchmark salary (Lowest)	Ratio
Chief Executive	£103,732	£17,842	1:5.8
Chief Officers	£65,920	£17,842	1:3.7

The Council does not have a policy of maintaining or reaching a specific pay multiple. However, the council is conscious of the need to ensure that the salaries of its highest paid employee is not excessive and is consistent with the needs of the Council.

16. Gender Pay Gap Reporting

- 16.1 The Equality Act 2010 (Gender Pay Gap Information) Regulations came into effect in March 2017. They require that organisations with 250 employees or more publish a series of statistics covering a number of different measures of the gap between total pay of male and female employees. The Council employs under 250 staff so there is no requirement to publish at present.

17. Accountability and Decision Making

- 17.1 In accordance with the Constitution of the Council, the following Committees are responsible for decision making in relation to the recruitment, pay, terms and conditions and severance arrangements in relation to employees of the Council: Personnel Committee and Full Council.

18. Publication

- 18.1 Upon approval by the Council, this statement will be published on the Council's Website www.ribblevalley.gov.uk
- 18.2 In accordance with regulation 7 of the Accounts and Audit (England) Regulations 2011, for posts where the full time equivalent salary is at least £50,000, the Council's Annual Statement of Accounts will include a note setting out the total amount of:
- salary, fees or allowances paid to or receivable by the person in the current and previous year;
 - any bonuses so paid or receivable by the person in the current and previous year;

- any sums payable by way of expenses allowance that are chargeable to UK income tax;
- any compensation for loss of employment and any other payments connected with termination;
- any benefits received that do not fall within the above

The Statement of Accounts is available on the Council's website.

18.3 Also, in accordance with the Local Government Transparency Code 2014, the Council will place a link to the following data on its website:

Senior Salaries:

- the number of employees whose remuneration in that year was at least £50,000 in brackets of £5,000
- details of remuneration and job title of certain senior employees whose salary is at least £50,000
- the names of any employees whose salary is £150,000 or more
- a list of responsibilities (eg the services and functions they are responsible for, budget held and number of staff) and details of bonuses and 'benefits in kind', for all employees whose salary exceeds £50,000.

APPENDIX 1

JOB EVALUATION POINTS SCALE

Grade	Points
1a	182 - 225
1b	226 – 245
2	246 – 281
3	282 – 347
4	348 – 395
5	396 – 425
6	426 – 489
SO1	490 – 517
SO2	518 – 527
PO 1-4	528 – 543
PO 2-5	544 – 595
PO 5-8	596 – 625
PO 6-9	626 – 689
PO 10-13	690 +

Ongoing Job Evaluation

All new posts created within the authority will be evaluated under the Job Evaluation system.

Job descriptions are reviewed annually as part of the performance appraisal process. If during such a review the duties of a particular post have changed significantly since the original evaluation, an updated job description, job title and additional information sheet, must be agreed with the individual and relevant Head of Service and approved by the Director, and then submitted for re-evaluation, following which any score will then be moderated by Corporate Management Team (CMT). The decision of CMT is final and there will be no right of appeal.

To qualify for a re-evaluation, duties must have changed substantially and that change must be permanent. A change in 'volume' or throughput does not necessarily constitute a significant change. Also, where it is claimed that duties have increased there must be clear evidence as to where the additional duties have come from eg new legislative requirements, new Central Government requirements. If tasks have been acquired from other posts then those posts will also need job descriptions updating and re-evaluation. Any re-revaluation would be carried out by the Head of HR and UNISON branch representative, and moderated as above.

Please note: during any re-evaluation all aspects of a post will be considered, not just the proposed additional duties

If at anytime during the course of the year, an employee feels that his/her job has changed significantly, they should discuss the changes with their manager, update their job description as appropriate and then follow the re-evaluation procedure as outlined above.

Weekend Working

Remuneration arrangements for weekend working are in accordance with the terms outlined in the National Agreement on Pay and Conditions of Service (the Green Book).

Overtime

Overtime rates only apply after full time hours have been worked in the week, and for posts paid up to and including scp 22. In these circumstances employees will receive payment at the following rates:

Monday to Saturday	– time and a half.
Sundays, public and extra statutory holidays	– double time (min 2 hours).

Overtime can only be worked with the permission of an authorised Officer. Any hours worked for posts paid above scp 22 should be recorded as lieu time and must be agreed in advance by an authorised Officer.

Bank Holiday Working

Remuneration arrangements for Bank Holiday working are in accordance with the terms outlined in the National Agreement on Pay and Conditions of Service (the Green Book).

NB. Staff whose contract arrangements and practices involve working on public or statutory holidays or additional days receive a day's leave in lieu for any such days worked.

Sick Pay

Arrangements for entitlement to sick pay are in accordance with the terms outlined in the National Agreement on Pay and Conditions of Service (the Green Book).

Call Out Allowance

The Council's arrangements for out of hours contact applies to employees listed in the Council's Emergency Plan, who may be called upon to attend work in respect of emergency arrangements.

If staff are called out they receive the following payments:

Salary between scp 1 – 2	Fixed payment of £14.73 plus the appropriate overtime rate payable.
Salary between scp 3 – 22	Fixed payment of £20.79 plus the appropriate overtime rate payable.
Salaries over scp 22	Fixed payment of £47.90 plus time off in lieu

These rates are reviewed and updated in accordance with Pension Scheme revisions.

A disturbance allowance of £9.13 (as at 2020/21) is payable when an employee is contacted out of hours by telephone. If they then need to attend to an incident they will receive a callout allowance as outlined above but not the disturbance allowance. In exceptional circumstances these arrangements may be varied.

Market Supplements

Introduction

Pay is an important element in recruitment and retention, and if the Council is significantly and demonstrably below the market rate and unable to recruit or retain appropriate staff, then market supplements will be considered.

Market supplements will be used in a manner that:

- Helps preserve the integrity of the grading system
- Is fair and transparent
- Is consistent with equal opportunities policy and Equal Pay considerations

Policy

Market supplements will normally be considered where there is difficulty recruiting staff following two advertisements within six months and a subsequent risk assessment carried out by the Head of Service in the Request to Re-appoint procedure, indicates potential recruitment difficulties. There would need to be investigation and analysis by the manager and Human Resources to be sure that pay is the critical factor and this may involve local benchmarking where appropriate. There could be other reasons why people do not apply (eg hours of work, location, nature of the work, not advertising in the correct press). Consideration may also need to be given to amending the person specification of the post.

A market supplement will also be considered if retention problems are being encountered either for a job family or an individual key post. Again, it is important to investigate the reasons for retention difficulties to establish that pay is the principal and primary reason. There could be many other factors, such as staff not being able to make full use of their skills, working conditions, career development, management or training and development opportunities.

The market with which a comparison is being made will need to be carefully established. If comparison is being sought with the private sector, then the total recruitment package should be compared. A private sector company may have a higher salary but other conditions may not be as attractive, eg. hours of work, pension, access to training and development opportunities, etc.

Where possible a reliable, reputable salary survey will be used as a comparator rather than specific jobs from other sources although these can be added to build up a comprehensive set of comparative data. The National/Regional Employers Organisation will be used as a key source, supplemented by other means. Where data is not readily available the Human Resources Section will advise on the process for assembling comparative data.

Care should be taken to compare like with like (ie just because a job has the same title, the job content, responsibilities and remit could be vastly different).

Procedure

Where a Head of Service has severe recruitment or retention difficulties, s/he should discuss these with HR who will advise on a range of options to investigate and to solve the difficulties. These could include:

Recruitment

advertise in different press
advertise in different area
change the advertisement

redesign the job
consideration of flexibility over hours of work
part-time / job share
a survey of the people who apply for a recruitment pack but who do not convert to applicants
a salary survey

If consideration of other factors is unlikely to resolve the problem and a survey of salaries shows that Ribble Valley Borough Council pay is below the appropriate market, then a report to pay a market supplement should be submitted to CMT and then Personnel Committee for approval. The Director of Resources should be consulted to cost the proposal and the Head of Service must be able to identify the resources to meet the cost of the market supplement. The market supplement will not exceed 4 increments.

If the post is one of a number of posts having identical duties, the market supplement will be applied to staff currently in post.

The market supplement will be superannuable and clearly distinguishable from basic pay. It will be reviewed when the post becomes vacant and in any event, after 2 years and every 12 months thereafter. If a further salary survey shows that there is no longer a pay differential, this will justify the removal of the supplement.

If the market supplement is withdrawn, it will be removed after 12 months.

CAREER GRADED POSTS

Audit Technician	grade 2/3/4
Environmental Health Technician (Food, H&S)	grade 4/5/6
Environmental Health Technician (Pollution)	grade 4/5/6
Cemetery & Grounds Maintenance Officer	grade 5/6
Assistant Planning Officer	grade 4/5/6
Assistant Planning Officer	grade 4/5/6
Assistant Planning Officer (Forward Planning)	grade 4/5/6
Building Surveyor	grade 6/SO1
Building Surveyor	grade 6/SO1
Building Surveyor	grade 6/SO1
Principal Surveyor	grade PO5-8



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

EARLY RETIREMENT POLICY

1. Intention
 - 1.1 The intention of the scheme is to enable the Council to retain maximum flexibility in any situation where it needs to reduce the number of employees or otherwise change the establishment of any department or section. Reorganisation in order to improve the efficiency of a department will also be considered as part of the scheme.
2. Scope
 - 2.1 This policy applies to all Ribble Valley Borough Council employees but the provisions regarding pension benefits apply to members of the Local Government Pensions Scheme only.
3. Principles
 - 3.1 Employees 55 years of age or over may be eligible for early retirement:
 - At the employee's request but subject to the Council's consent. In these circumstances pension benefits may be subject to an actual reduction.
 - In the interest of avoiding redundancies. Employees who apply for early retirement in such circumstances will be able to access their pension without an actuarial reduction.
 - In the interest of facilitating restructuring and/or to improving the effectiveness of the service. Personnel Committee will decide on the merits of each case following the presentation of a robust business case by the relevant Director. If successful, the employee will receive their pension without actuarial reduction.
 - Gradual/phased retirement by reducing their hours of work or taking a less well-paid job.
 - 3.2 In cases of early retirement, employees will not receive any redundancy payments.
 - 3.3 The Service benefitting from the increased efficiency will finance any extra costs.

4. Procedure

- 4.1 An employee considering requesting early retirement would first discuss the position with a member of the HR section. The employee can ask that the enquiry is "in confidence" at this stage.
- 4.2 The employee may then apply in writing to the HR section for a more detailed pension benefits statement because he/she is seriously considering the possibility of early retirement/. The relevant Director will be notified at this stage and the employee will be informed whether an application would be likely to fulfil the Council's criteria for early retirement ie:

Key criteria:

- (i) Staff must be age 55 or above to apply for early retirement and the Council will take account of the age, years of service in the pension scheme and years of service with Ribble Valley Borough Council, of the employee involved.
- (ii) The maximum enhancement the Council will, at their discretion allow, should be $6\frac{2}{3}$ years.

- (iii) The additional cost to the Council of any early retirement (both lump sum and ongoing pension) must be at least offset by savings directly arising from staff changes following the retirement.
 - (iv) Any pension strain and associated costs of the employee retiring early will be charged directly to the relevant service from which the savings have been found.
- 4.3 If the criteria is met, and the employee wishes to proceed they must commit themselves to early retirement should their application be agreed by CMT and Personnel Committee. The employee in such a case, will inform the HR department who will submit the application to CMT stating, the date from which termination will be effective.
- 4.4 Each application, together with the financial details will be submitted to CMT for consideration. If CMT approve the application it will be forward to Personnel Committee for approval.
- 4.5 When an application has been approved by the Personnel Committee, the appropriate Director will be notified and a letter sent to the employee formally terminating his/her service. The termination will be effective following the normal period of notice or from a date specified by the Committee (which, where appropriate, will be the date requested by the applicant or suggested by his/her Director).
- 4.6 The Personnel Committee may refuse the application, or, if the application cannot be approved immediately but may be approved in the future, the Personnel Committee may defer the application until such time as it can be approved. The decision of the Committee in these cases will be conveyed to the applicant in writing by the HR section.
5. Retirement on the Grounds of Redundancy
- 5.1 Employees qualify for an immediate pension if they are made redundant (or retired in the interest of the efficiency of the service) so long as they are age 55 or over and have two years service, or have transferred pension rights to the Local Government Pension Scheme (LGPS). Where there is a dismissal for redundancy there will also be an entitlement to a redundancy payment.
- 5.2 All employees who are members of the LGPS will be able to convert the lump sum compensation payment into added years of service in accordance with the scheme regulations.
6. Retirement in the Interests of Efficiency
- 6.1 There may be occasions where retirement on the grounds of efficiency will be appropriate. In cases such as these the Council has the flexibility to deal with individual cases on their own merits.
- 6.2 Employees who are members of the Local Government Pension Scheme will be given the option of converting compensation payments into additional pensionable service on a strictly cost neutral basis.
- 6.3 The Council will not make use of the augmentation provisions of regulation 52 of the Local Government Pension Scheme.
7. Flexible Retirement
- 7.1 The Council recognises the need to keep the skills and experience of its members of staff for the benefit of the Council and the community as a whole. The Council is therefore committed to working with employees to facilitate a flexible retirement option that will meet the needs of both the individual and the service.

7.2 Employees over 55 years of age can apply to change the nature and intensity of their work and receive accrued pension benefits and build up further benefits within the Scheme (where appropriate) whilst continuing in employment, thereby enabling them to ease into retirement.

The change may be:

- a reduction in hours;
- a change in duties resulting in a reduction in grade.

The change must meet the needs of the Service and is at the Council's discretion and there is no obligation on the Council to grant any application.

7.3 Benefits Payable (only applicable to employees who are members of the Local Government Pension Scheme).

7.4 Employees who retire flexibly are entitled to their accrued pension and lump sum subject to an actuarial reduction. Employees who were contributing to the Scheme prior to 1 October 2006, may have some protection if they take flexible retirement between the age of 60 and 65. However, if they retire flexibly between 55 and 59 their pension benefits will be reduced to reflect the early payment. The Council will not waive this reduction.

7.5 Once a flexible retirement request has been approved, the employee may not, at a later date, increase their hours or grade beyond those approved for flexible retirement as per 7.2 above.

7.6 In circumstances where the job description of a post is changed as a result of a request for flexible retirement, the post will be re-evaluated. If the result of the evaluation is that the post is downgraded then pay protection **will not** apply.

8. Applications for Flexible Retirement

8.1 Employees who wish to apply for flexible retirement must do so in writing to their Director with a copy to the Head of Human Resources (HR).

8.2 Applications from staff who are not members of the Local Government Pension Scheme can be granted by CMT in consultation with the Head of HR.

8.3 Applications for flexible retirement from employees who are members of the Local Government Pension Scheme must be authorised by the:

- Corporate Management Team;
- the relevant Director;
- Head of Human Resources.

8.4 Applications for flexible retirement will be submitted to Personnel Committee for approval.

8.5 Applications for flexible retirement from the Chief Executive, Directors or Heads of Service must have the approval of Personnel and Policy and Finance Committees.

Signatures:

..... Chief Executive

..... Head of HR

..... UNISON Branch Secretary

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RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PERSONNEL COMMITTEE

meeting date: WEDNESDAY, 13 JANUARY 2021
 title: PUBLIC SECTOR EXIT PAYMENT REGULATIONS 2020
 submitted by: JANE PEARSON - DIRECTOR OF RESOURCES
 principal author: MICHELLE SMITH – HEAD OF HR

1 PURPOSE

1.1 To inform Members of the enactment of the Public Sector Exit Payment Recovery Regulations.

1.2 Relevance to the Council's ambitions and priorities:

- Council Ambitions – A well-managed Council must ensure that all aspects of pay and remuneration for staff are well managed and in accordance with legislation.
- Corporate Priorities – See above.
- Other considerations – None.

2. BACKGROUND

2.1 Members previously considered the draft regulations in 2016 and in June 2019 the Council received an email from North West Employers Organisation with details of the Local Government Association's (LGA) response to the Exit Payment cap consultation. The Employers Organisation were encouraging individual Councils to respond to add weight to the LGA response. Under delegated powers the Chief Executive duly sent a response to the consultation in support of the LGA's response on 21 June 2019.

2.2 Parliament approved 'The restriction of Public Sector Exit Payments Regulations 2020' and they came into effect on Wednesday 4 November 2020.

2.3 This means that any exit payments have to be capped at £95,000 for employees leaving employment or vacating office from the Council.

3 ISSUES

3.1 The cap applies to payments in terms of redundancy, pay in lieu of notice and compensation for loss of office or early release of an employee's pension (known as pension strain).

3.2 It excludes any payments for death in service, accident/injury or accrued/untaken holidays. It is also stated that payment in lieu of notice will not fall under the cap if it does not exceed one quarter of the employee's salary.

3.3 At present, North West Employers Organisation understand that there are 4 or 5 legal challenges to/application for judicial review of the cap. For example, the GMB Union believe that there are negative consequences for their members employed in Local Government who are aged 55 and over and are made compulsory redundant, because pension strain costs will be included in the exit calculation and they believe that will take the majority of Local Government Exit payments over the £95,000 cap. It is

possible that the legal challenges may be heard together in January. North West Employers will keep us informed of any further development. However, for the Council it is clear that we must follow our legal duty and abide by them.

3.4 The Ministry of Housing, Communities and Local Government (MHCLG) have also produced guidance detailing HM Treasury directions that set out circumstances where the power to relax restrictions must be exercised in either mandatory or discretionary cases, which is attached as Appendix A for information.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – None directly arising from this report.
- Technical, Environmental and Legal – as an employer we have a duty to abide by Public Sector legislation.
- Political – No political implications have been identified.
- Reputation – No reputational implications have been identified.
- Equality & Diversity – No equality and diversity issues have been identified.

5. **RECOMMENDATION**

5.1 That Members note the report.

MICHELLE SMITH
HEAD OF HR

JANE PEARSON
DIRECTOR OF RESOURCES

For further information please ask for Michelle Smith, ext 4402.



HM Treasury

Restriction of Public Sector Exit

Payments:

Guidance on the 2020 Regulations

December 2020

Restriction of Public Sector Exit Payments: Guidance on the 2020 Regulations



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Chapter 1

Introduction

- 1.1 This document (the guidance) should be read alongside [‘The Restriction of Public Sector Exit Payments Regulations 2020’](#) (the Regulations).
- 1.2 Section 153A of the Business, Enterprise and Employment Act 2015 provides the power for the Regulations to impose the cap. During the relevant s 153A Parliamentary debates, it was made clear that the cap applies to existing contractual terms even if agreed before the 4 November 2020, the date when the Regulations came into force. It is envisioned such existing contractual terms will, by implication, be unenforceable to the extent they contravene the relevant legislative provisions.
- 1.3 The Regulations take precedence over existing contractual agreements in addition to earlier regulations and other exit schemes which make more generous provisions when compared to the Regulations, unless these arrangements are exempt as a result of the Regulations. The guidance and Regulations do not replace existing regulations applying to an organisation’s exit payments where the existing regulations are more stringent.
- 1.4 Definitions of relevant terms are set out in the [Small Business, Enterprise and Employment Act 2015](#) (‘the 2015 Act’), as amended by the [Enterprise Act 2016](#) (‘the 2016 Act’) and in regulation 2 of the Regulations.
- 1.5 The guidance sets out how public sector authorities listed in the schedule to the regulations should implement the legislation and must be used in conjunction with the separate, mandatory HM Treasury Directions when relaxing the £95,000 cap on exit payments (the cap). In the event of any perceived discrepancies, the Regulations will prevail.

Intended Audience

- 1.6 The guidance is intended for public sector authorities listed in the schedule to the Regulations and their employees and office-holders. References to an employee in this document includes, where appropriate, a reference to an office holder.

Background

- 1.7 Exit payments are important for employers to reform and react to new circumstances. They also provide support for employees as they find new employment or as a bridge until retirement age. However, these payments must represent value for money and be fair to the taxpayers who fund them.

- 1.8 In line with other decisions on financial management and pay policy, it is the responsibility of individual employers and departments to ensure that their exit payment arrangements are fair, proportionate and lawful.
- 1.9 The government enacted [framework powers](#) in the primary legislation found in the 2015 Act (as amended by the 2016 Act) to allow for a cap of £95,000 on exit payments in the public sector.
- 1.10 The Regulations set out the detail of the obligations on individuals and employers. The Regulations also provide a list of the public sector authorities within scope of the policy, referred to as the schedule.
- 1.11 1.12 HMT Directions and Guidance will be reviewed on a regular basis. This includes a review and update, where appropriate, to the documents after the completion of any relevant statutory consultation exercise. The TUPE waiver, paragraph 3.1, in the Directions, which concerns EU derived rights TUPE rights is also subject to review pending the outcome of the ongoing post Brexit EU negotiations.

Chapter 2

Public sector bodies in scope of the Regulations

- 2.1 The intention is for the cap to apply to the whole of the public sector. We can exercise our own judgement on a case by case basis but HM Treasury will mostly be guided by the Office for National Statistics (for National Account purposes) classification of bodies to determine if a body is 'public sector' for the purposes of the cap. A full list of authorities in scope of the exit payment cap can be found in the schedule to the Regulations.
- 2.2 Where an authority is not included within the schedule, there is no legal obligation for that authority under the Regulations to apply the cap to an exit payment. The Armed Forces, the Secret Intelligence Service, the Security Service, the Government Communications Headquarters, the Natwest Group plc (formerly the Royal Bank of Scotland Group plc), NRAM Limited, and Bradford & Bingley are exempt from the Regulations. However, they should ensure exit payments represent value for money and are fair to taxpayers.
- 2.3 The Regulations cover exit payments made by the authorities listed in the schedule. The Regulations do not cover exit payments made by:
- an authority which exercises functions devolved to Northern Ireland;
 - the Scottish Parliamentary Corporate body or any authority which exercises functions devolved to Scotland, with the exception of the following which are covered by the Regulations: payments made by the Scottish Administration to non-Ministerial office holders and staff of the Scottish Administration.
- or
- "relevant Welsh exit payments" made to the office-holders specified in section 153(B)(6) of the 2015 Act.
- 2.4 Separate regulations and guidance may be issued by the appropriate devolved administration for payments not covered by the Regulations.
- 2.5 Devolved administrations and government departments can provide further guidance on the application of the cap for their responsible bodies that are in the schedule to the Regulation. Additional guidance should comply and be read in conjunction with the HM Treasury documents, except where stated in the Guidance or Directions.
- 2.6 Machinery of Government changes can involve the dissolution of a body and the transfer of its functions to a successor body or the merger of one body with another. Likewise, new bodies may be created to deliver new services or perform new functions. A newly created public sector body will not be in

scope of the Regulations until it is added to the schedule. This includes new bodies that carry out employment functions which used to be the responsibility of a body which was in scope of the Regulations. However, the Government expects all public bodies to apply their own commensurate arrangements voluntarily prior to the body being added to the schedule. It is the responsibility of government departments to inform HM Treasury of bodies which should be added to or removed from the Regulations.

Chapter 3

Payments

Payments in scope of the Regulations

- 3.1 An exit payment is subject to the cap if it is a type of payment described in [regulation 5\(2\)](#) when made in consequence of termination of employment or office.
- 3.2 Any part of a payment in lieu of notice (PILON) which represents up to a quarter of the individual's salary is exempt from the cap. This means the cap only applies to the remaining part of the PILON. As such, when calculating the total exit payment subject to the cap, only the PILON which is over a quarter of an individual's salary should be considered.
- 3.3 'Salary' is defined in the Regulations as the annual value of remuneration that the person was contractually entitled to receive for the salaried employment or office on the date they left. This includes any benefit in kind.
- 3.4 Employers and departments should seek legal advice if they have any doubt whether a payment falls within scope of the Regulations.

Calculating the capped amount

- 3.5 The Regulations provide a standard legal underpin in respect of exit payments made by relevant authorities. However, authorities can apply alternative contractual capping arrangements where those provisions are stricter than the Regulations.
- 3.6 The exit payment cap applies to the total cost for the public sector authority, as calculated under normal processes. For example, in the case of a pension strain payment, the capped amount should be the amount as calculated by the scheme actuary.

Payments out of scope of the Regulations

- 3.7 Types of exit payments which are specifically exempt from the scope of the public sector exit payment cap are set out in regulation 6. Also regulation 7 sets out a prohibition on reducing a statutory redundancy payment or its equivalent.

Regulation 6 exclusions

- 3.8 The exit payment cap only applies where there is an extra cost to the authority in relation to that exit. Payments - or elements within payments - that result from an individual's accrued right to a pension, including additional pension purchased with the individual's own monies, are not exit

payments for the purpose of the cap. For example, if an individual retires and receives a lump sum from their pension scheme, that lump sum is outside the scope of the cap if it is based on the pension entitlement that the individual had accrued in respect of their employment up to the time of their exit or that had otherwise been paid for by the individual.

- 3.9 However, employer funded early access to pension payments are within scope of the cap. These payments are also referred to as pension 'strain' or pension top up payments. These are payments made by an employer as an additional contribution to a pension scheme in respect of an individual's exit upon retirement before reaching the scheme's normal pension age, so that the individual receives a greater pension than they would otherwise be entitled to.
- 3.10 Fire and Rescue Authorities (FRA) can remove the current commutation lump sum scheme restriction which limits the lump sum to the value of 2.25 x annual pension. This discretion applies to firefighter members of the 1992 Firefighters' Pension Scheme who are under 55 years of age and have less than 30 years' service. Ordinarily commutation payments are of no cost to the employer as the arrangement is between the scheme member and pension scheme. However, where the FRA exercises this discretion, it is required to make a payment equivalent to the additional amount to their pension fund account. These payments are to be exempt from the scope of the Regulations as they do not fund an increase in the actuarial value of the firefighter's pension.
- 3.11 Therefore, regulation 6(c) exempts payments made by a FRA to their pension fund account, where the FRA exercises its discretion to allow a firefighter (who is subject to the above 2.25 times pension commutation lump sum restriction) to commute up to a maximum of 25% of their annual pension for a pension lump sum. Effectively, this discretion aligns the commutation entitlement available to firefighters who are aged 55 or over, or who have accrued the maximum 30 years' service.
- 3.12 Payments made by a FRA to their pension fund account in respect of firefighters who are unable to maintain operational fitness through no fault of their own, and where the FRA has agreed to put into payment an authority initiated early retirement pension, are also exempt. This will honour the government's previous commitment that firefighter members of the 2006 and 2015 Firefighters' Pension Schemes in these circumstances should be awarded an unreduced pension if they cannot be redeployed.

Regulation 7 prohibition

- 3.13 Relevant authorities must ensure that an individual receives a redundancy payment that is at least equal to their minimum statutory entitlement under section 135 of the Employment Rights Act 1996 (ERA 1996). Employees of certain public offices are not eligible for statutory redundancy pay as a result of s159 ERA 1996 and in this scenario the relevant authorities must ensure the employee receives the equivalent of that minimum statutory entitlement.
- 3.14 In respect of an exit, an individual may receive a statutory redundancy payment or, where appropriate, its equivalent in addition to other exit

payments. In this scenario, where the total of these payments exceeds the cap, the other exit payments must be reduced, if necessary to zero, so the total sum does not to exceed the cap amount. The amount of the statutory redundancy payment or its equivalent cannot be reduced even if this causes the payment to exceed the cap.

Chapter 4

Employers' and employees' responsibilities

Public sector employers' responsibilities

- 4.1 A public sector authority subject to the Regulations has a legal obligation to cap public sector exit payments in the sum of the exit payment cap, £95,000. However, as noted above, there are some payments outside the scope of the cap and there are certain circumstances where the cap may be relaxed to allow payments that would otherwise be within scope.
- 4.2 Exit payments often comprise a variety of payments, including elements such as PILON and pension strain payments. The total value of the exit payments needs to be calculated (measured in terms of current costs, for example when considering the value of extra continuing pension). Where two or more exits take place within 28 days (multiple exit payments) and as a result the total would exceed the exit payment cap, the Regulations prescribe the sequence in which exit payments will have been paid for the purpose of applying the cap.
- 4.3 The government's expectation is that compensation scheme rules and pension scheme rules will be amended to reflect the introduction of the cap. For example, where an employee receives a partially reduced pension as a result of retiring early before normal pension age, (see 3.3 above), the employer can meet the cost of that reduction to ensure that, in these circumstances the employee receives a pension that is not actuarially reduced. This cost is referred to as a pension strain cost and is subject to the cap. In the event the pension strain cost is capped, the expectation is that pension schemes will provide members with options to use their own monies to make up any shortfall or to take a partially reduced pension.
- 4.4 Where the application of the cap would result in a relevant authority being unable to make a pension strain payment because of pension scheme rules (for example, the scheme has not yet been amended to allow for partially reduced pensions), it must as an alternative pay the pension scheme member an equivalent capped sum (regulation 8). For the avoidance of doubt, the reference to another person includes pension schemes and/or administrators. The aggregate of that cash sum and any other exit payments must not exceed the cap.
- 4.5 Employers must keep a record of exit payments made to an employee or office holder.

Multiple exit payments

- 4.6 When calculating whether an individual's exit payment should be subject to the £95,000 cap, authorities must take into account all payments (i.e. the aggregate amount) received by the individual related to two or more public sector exits which occur within a 28-day period. In this scenario, and where the exits do not occur on the same day, the exit payments are treated as having been paid in chronological order for the purpose of calculating the cap. For example, where an individual leaves employment with authority A with an exit payment of £50,000, then leaves employment with authority B within the next 28 days, authority B should not make an exit payment in excess of £45,000. Section 4.6 sets out the individuals' responsibilities for informing employers of the fact they have left employment and are entitled an exit payment from another employer.
- 4.7 Regulation 4(b) sets out the order in which exit payments will be treated as having been paid for the purpose of calculating the cap, where an individual leaves the employment or office of two or more qualifying public sector authorities on the same day and the total sum of exit payments exceed the cap.
- 4.8 Where, in relation to an exit, a capped exit payment comprises several elements such as a contractual redundancy lump sum and a pension strain payment, it is for the responsible authority to establish if and how the cap applies to each element. Subject to the provisions in regulation 7 on prohibiting the reduction of statutory redundancy pay or its equivalent, HM Treasury has not prescribed an order for prioritising elements that make up a total exit payment to ensure employers have flexibility. However, the pension strain payment must be reduced if otherwise the total exit payment would be over £95,000.

Records and reporting

- 4.9 Whole of Government Accounts returns may request information relating to the exit payment cap, or any exit payments made by the relevant authority, for publication purposes. Public sector employers are expected to cooperate in providing such information.
- 4.10 When a responsible authority caps an exit payment, it may wish to keep a record of that payment for public accountability purposes, however, this is not required by the Regulations. The Regulations require records on relaxation of the cap (see below) to be maintained for public accountability purposes, and to provide the government or auditors with the information required to evaluate the operation of the policy.
- 4.11 Where the cap is relaxed in accordance with the separate HM Treasury Directions, the responsible body must keep a separate record of the exercise of the power. This record must be kept for a minimum of three years from the date the power is exercised, showing:
- the name of the payee in respect of whom the cap was relaxed
 - the amount and type of the qualifying exit payment for which the cap was relaxed

- the date on which the power to relax the cap was exercised
- and the reason why the power was exercised (this should refer to the guidance and be sufficiently detailed to enable HM Treasury to assess if it has been appropriately applied)

Compliance

- 4.12 The relevant authority is responsible for ensuring any exit payment it makes does not exceed the public sector exit payment cap. Any payment that exceeds the cap and is not compliant with the Regulations or Directions is considered a payment beyond the organisation's legal competence, which may result in sanctions on the organisation or, if appropriate, on the sponsoring department by HM Treasury.
- 4.13 Authorities that make payments in excess of the cap which are not compliant with the provisions in the Regulations or Directions must make a value for money assessment on whether to pursue civil repayment through the courts. This assessment must be agreed by the relevant Accounting Officer in line with their Accounting Officer responsibilities.

Transparency

- 4.14 Public sector authorities must publish information about any decisions to relax the cap. The government strongly recommends that public sector authorities publish such information in their annual accounts. At the end of the financial year, the responsible authority must publish a list of:
- the amounts and types of qualifying exit payments made by the responsible authority in respect of which the relaxation power was exercised in that financial year
 - the dates on which that power was exercised
 - and the reasons why that power was exercised
- 4.15 The reasons for exercising a power to relax the cap should relate directly to a relaxation category (see section 5 and the separate HM Treasury Directions). For example, 'genuine hardship' would be considered a sufficient explanation for this purpose.
- 4.16 As in previous years, employers will be required to disclose in their annual accounts information about exit payments paid during the financial year. This disclosure includes details about the number of exit payments paid in bands from £0 to over £100,000.
- 4.17 Departments are expected to assure themselves that their arm's length bodies (ALBs) and non-departmental public bodies (NDPBs) are properly recording and holding information according to the requirements set out in this guidance.

Individuals' responsibilities

- 4.18 When an individual is entitled to receive a payment in relation to an exit that has occurred and that individual is also employed by or is an office holder in respect of one or more other prescribed authorities, that individual must

provide the following information in writing to the authorities set out in regulation 9(2):

- that they are entitled to receive an exit payment
- the amount and type of that exit payment
- the date that they left employment or office
- the identity of the relevant authority that made the exit payment

Chapter 5

Relaxation of the Cap

- 5.1 The Government understands that it may be necessary or desirable to relax the restrictions imposed by the Regulations. Therefore, the Regulations allow for relaxation of the cap in appropriate circumstances. This safeguard is for use in exceptional situations, including where imposing the cap would cause genuine hardship.
- 5.2 The power to relax restrictions in relation to exit payments may be exercised by a Minister of the Crown¹ unless the payment is -
- a) a relevant Welsh exit payment
 - b) made by a relevant Scottish authority with the exception of certain payments made by the Scottish Administration
 - c) made by a devolved Welsh authority²
 - d) made by a local authority in England or the Greater London Authority
 - e) made by a fire and rescue authority in England
- 5.3 The Regulations do not cover relevant Welsh exit payments, meaning payments to the offices specified in section 153B(6) of the Act³. Therefore, any power to relax restrictions in relation to these payments may only be made by Welsh Ministers.
- 5.4 The Regulations do not cover payments made by a relevant Scottish authority, namely the Scottish Parliamentary Corporate authority or any authority which exercises functions devolved to Scotland, with exception of certain payments mentioned in this paragraph. Therefore, any power to relax restrictions in relation to these payments may only be made by Scottish Ministers. However, the Regulations do cover payments made by the Scottish Administration to non-Ministerial office holders and staff of the Scottish Administration, and any power to relax the restriction in relation to these payments may be exercised by a Minister of the Crown.

¹ The definition of a Minister includes Secretaries of State, the Lord Chancellor, Ministers of State, Parliamentary Under Secretaries of State and Parliamentary Secretaries: section 8(1) of the Ministers of the Crown Act 1975

² As defined in section 157A of the Government of Wales Act 2006

³ The offices are: member of the National Assembly for Wales; the First Minister for Wales; Welsh Minister appointed under [section 48](#) of the [Government of Wales Act 2006](#); Counsel General to the Welsh Government; Deputy Welsh Minister; member of a county council or a county borough council in Wales; member of a National Park Authority in Wales; member of a Fire and Rescue Authority in Wales.

Process for relaxation of the cap under the Regulations

- 5.5 The Minister of the Crown's power to relax a restriction in respect of certain payments is delegated to the following authorities –
- a) The full council of a local authority in England in respect of exit payments made by local government bodies for which it has responsibility;
 - b) The London Assembly in respect of exit payments made by the Greater London Authority, and
 - c) The fire and rescue authority in England in respect of exit payments made by that authority.
- 5.6 The Minister of the Crown's power to relax restrictions including where that power has been delegated can be only be exercised either in compliance with the conditions set out in HM Treasury Directions or with the consent of HM Treasury, with the exception of payments made by a devolved Welsh authority. Where the exit payment is made by a devolved Welsh authority, the power to relax restrictions is conferred upon Welsh Ministers.
- 5.7 HM Treasury Directions set out circumstances where the power to relax restrictions must be exercised ("mandatory cases") and may be exercised ("discretionary cases").
- 5.8 In respect of discretionary cases, the relevant delegated authority or employer must submit a business case to their sponsoring department for approval by the Principal Accounting Officer and the relevant minister before submitting the business case to HM Treasury for approval. The power of the relevant minister to approve the business case may be exercised by a junior minister or a responsible departmental official under the Carltona principle.
- 5.9 In mandatory cases, the relevant delegated authority or employer must submit a business case to their sponsoring department for final approval from the Principal Accounting Officer and relevant minister.
- 5.10 Where the employee is a civil servant, approval should be sought from the Cabinet Office Principal Accounting Officer and relevant Cabinet Office Minister rather than the employing department. In respect of a discretionary case, a business case should be submitted to HM Treasury for approval after the payment has been approved by the Cabinet Office.
- 5.11 The National Audit Office (NAO) must first seek approval from the Public Accounts Commission as the body responsible for NAO oversight before submitting to HM Treasury for approval. This process must be followed for mandatory and discretionary waivers.
- 5.12 The Minister of the Crown or a delegated authority can relax the cap outside of the circumstances outlined in HM Treasury Directions only with HM Treasury consent. In these exceptional cases, the relevant delegated authority or employer must submit a business case to the sponsoring department for approval of the Principal Accounting Officer and the relevant Minister before submitting the business case to HM Treasury for approval.

- 5.13 A Welsh Minister has the power to relax the cap in relation to exit payments made by a devolved Welsh authority. This power is not subject to the requirement to relax only in compliance with conditions set out in HM Treasury Directions or with HM Treasury consent.
- 5.14 Departments are responsible for designing, updating and sharing their own guidance to comply with relevant processes and procedures in relation to relaxation of the cap. These processes should ensure decisions are made in a reasonable and timely fashion. Local authorities will be expected to follow any relevant guidance issued by the Ministry of Housing, Communities and Local Government which will ensure accountability and transparency.

Managing Public Money

- 5.15 Departments must still consult the HM Treasury about special payments, regardless of value, unless there are specific, agreed delegation arrangements in place. Local Government, Devolved Authorities and Public Corporations should follow their own internal processes. A department must seek HM Treasury approval, in advance, for any special payment for which it has no delegated authority, or which exceeds its authority. Similarly, ALBs should consult their sponsor departments in comparable circumstances. In turn, the department may need to consult the HM Treasury.
- 5.16 The special payments which Departments may need to consult the HM Treasury are summarised in [Managing Public Money](#). The list is not exclusive. If a department is in doubt, it is usually better to consult the HM Treasury.

Scope of relaxation powers

- 5.17 The decision to relax restrictions imposed by the Regulations must be exercised in respect of individuals on a case by case basis.
- 5.18 In exceptional circumstances, the individual will be part of a group of employees in similar circumstances, for example where redundancies occur as a result of urgent workforce reforms. Any relaxation of the cap for a group of individuals must be appropriate to the circumstances.
- 5.19 Relaxation is expected to be granted only in exceptional circumstances that meet the criteria in this guidance. All decisions should be supported by appropriate evidence, with an explanation of the business interests, a value for money assessment and should be disclosed in the organisation's annual accounts.

Mandatory relaxation

- 5.20 There are situations in which the power to relax the restrictions imposed by the Regulations must be exercised. These are set out in the separate HM Treasury Directions and are summarised as follows:
- Where a payment is made as a result of the application of TUPE Regulations or the EU Acquired Rights Directive;
 - Where a payment is made to avoid employment tribunal litigation in relation to a complaint that someone has suffered a detriment or been dismissed as a result of whistleblowing

- Where a payment is made to avoid employment tribunal litigation in relation to a complaint that someone has suffered a detriment or been dismissed as a result of carrying out activities in connection with preventing or reducing risks to health and safety at work
- Where a payment is made to avoid employment tribunal litigation in relation to a complaint of discrimination under the Equality Act 2010;
- Certain payments made by the Nuclear Decommissioning Authority

TUPE

5.21 Where an obligation to pay an exit payment arises as a result of the Transfer of Undertakings (Protection of Employment) Regulations 2006, the Transfer of Undertakings (Protection of Employment) Regulations 1981 or the EU Acquired Rights Directive.⁴

Payment made (for example as part of a settlement agreement) in order to settle a grievance or employment tribunal litigation involving a whistleblowing complaint.

- 5.22 [Whistleblowing](#) is the term used when a worker passes on information concerning wrongdoing. The government believes that genuine whistleblowers are carrying out a service in the public interest, and that victimisation of a whistleblower is not acceptable. The government's guidance on whistleblowing emphasises that any instances of wrongdoing must be taken seriously and managed appropriately.
- 5.23 However, the government accepts that given the number and diversity of organisations in the public sector, there may be occasions where employers do not meet the standard expected of them. In such cases the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998) provides for the right for a worker to take a case to an employment tribunal if they have been subjected to a detriment at work or they have lost their job because they have 'blown the whistle'.
- 5.24 To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means that personal grievances and complaints are not usually covered by whistleblowing law. The second is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
- criminal offences (this may include, for example, types of financial impropriety such as fraud)
 - failure to comply with a legal obligation
 - miscarriages of justice
 - endangering someone's health and safety
 - damage to the environment

⁴ The Directions will be reviewed after 31 December 2020

- covering up wrongdoing in the above categories
- 5.25 The cap is not intended to inhibit protected disclosures, or to prevent such people from receiving an appropriate remedy from an employment tribunal.
- 5.26 In cases where an individual makes a disclosure covered by whistleblowing law, and has subsequently made a complaint that they have been dismissed or subjected to a detriment as a result of that disclosure, an employer must consider whether the employer and complainant should avoid litigation. In such cases, it may be appropriate to enter into a settlement or conciliation agreement involving an exit payment with the complainant rather than have the matter considered by an employment tribunal. Where a settlement agreement is entered into on the basis that the employer is satisfied that an employment tribunal would find in the complainant's favour, then the power to relax the restrictions imposed by the Regulations must be exercised if the amount payable under the settlement agreement would otherwise lead to the cap being breached.
- 5.27 It is expected that an employer will make legal advice available to the person exercising the power to relax the restrictions that demonstrates that, on the balance of probabilities, the individual has made a disclosure covered by whistleblowing law and that an employment tribunal would find that they had been dismissed or subjected to a detriment as a result of that disclosure.

Payment made (for example as part of a settlement agreement) in order to settle a grievance or employment tribunal litigation relating to a complaint that an employee has been subjected to a detriment or dismissed for undertaking health and safety related activities.

- 5.28 Section 100 of the Employment Rights Act 1996 protects employees by providing that a dismissal shall be automatically unfair where the reason for the dismissal is covered by one of the matters set out in section 100. For example, where the reason for the dismissal is related to the fact the employee had been designated by the employer to carry out activities in connection with preventing or reducing risks to health and safety at work and the employee had carried out, or had proposed to carry out, those activities.
- 5.29 Section 44 of the Employment Rights Act 1996 protects an employee from being subjected to any detriment by their employer for reasons set out in section 44, for example by being disciplined for health and safety related reasons, such as being a health and safety representative at work or member of a safety committee.
- 5.30 These payments are subject to mandatory relaxation for reasons similar to those set out above in respect of whistleblowing cases.

Payment made (for example as part of a settlement agreement) in order to settle a grievance or employment tribunal litigation involving a discrimination complaint.

- 5.31 Discrimination occurs where an individual is treated less favourably owing to:

- age
 - gender reassignment
 - being married or in a civil partnership
 - pregnancy and maternity
 - disability
 - race including colour, nationality, ethnic or national origin
 - religion, belief or lack of religion/belief
 - sex
 - sexual orientation
- 5.32 The government is committed to avoiding discrimination, but as with whistleblowing, acknowledges that with the number of organisations and people employed in the public sector that there may be occasions when discrimination occurs.
- 5.33 In cases where an individual makes a complaint that they have been subjected to a detriment or dismissed on discriminatory grounds, an employer must consider whether in their view the complaint is valid. As above, in such cases, it may be appropriate to enter into a settlement or conciliation agreement with the complainant rather than have the matter considered by an employment tribunal. Where an agreement involving an exit payment is entered into on the basis that the employer is satisfied that an employment tribunal would find in the complainant's favour then the power to relax the restrictions imposed by the Regulations must be exercised as if the amount payable under the agreement would otherwise lead to the cap being breached.
- 5.34 It is expected that an employer will make legal advice available to the person exercising the power to relax the restrictions that demonstrates that, on the balance of probabilities, that an employment tribunal would find that they had been a victim of discrimination.

Nuclear Decommissioning Authority (NDA): pension related payments paid upon redundancy

- 5.35 There are provisions within the NDA group pension arrangements which give individuals an entitlement to enhanced pension benefits where they leave service on grounds of redundancy. Such enhancements include the payment of an unreduced early retirement pension from age 50 and, in some instances, an increase to the member's pensionable service of up to 6 2/3 years. As well as applying to individuals who have already reached their relevant minimum pension age, the enhancements are also applicable to certain individuals who leave on grounds of redundancy before age 50 but who will then have a right to an enhanced pension when they reach age 50.
- 5.36 The form and level of the enhancements is determined by the arrangement and the status of the individual.

- 5.37 The cost of the funding strain attributable to the enhancements on redundancy is within the scope of the cap as these are payments made by the employer in respect of the individual's exit, such that the individual receives a higher pension than they would otherwise be entitled to on leaving service.
- 5.38 Payments in respect of an unreduced early retirement and, where applicable, to provide additional years of pensionable service, as well as any payments made in lieu of such enhancements, will be covered by the relaxation and so not subject to the cap where: (a) the individual's employer holds a site licence under the Nuclear Installations Act 1965 and they are employed on a site which is the subject of a decommissioning programme agreed by the NDA and BEIS Secretary of State; and (b) the individual's employment is terminated on grounds of redundancy as a result of a decommissioning programme and where there is no relevant suitable alternative employment for that individual.
- 5.39 Unless the specific criteria for the relaxation are met, the cost of any funding strain which arises on exit and therefore the level of pension benefits payable from the NDA group pension schemes will in all cases be subject to the cap."

Discretionary relaxation

- 5.40 The power to relax the restrictions imposed by the Regulations may be exercised at the discretion of the Minister or delegated authority where they are satisfied that it is appropriate to exercise the power on the basis of one or more of the following conditions:
- there are compassionate grounds owing to genuine hardship
 - it is necessary to exit an individual to give effect to urgent workplace reforms, or
 - an arrangement to exit was entered into with anticipated exit taking place before the date the Regulations came into force, but the exit was delayed until after that date and the reason for the delay was not attributable to the employee or office holder concerned.
- 5.41 Where the minister or a delegated authority wishes to exercise this discretionary power, it must submit to HM Treasury for approval a business case approved by the relevant Minister and/or the delegated authority. Whilst HM Treasury may request supplementary information, cases should be submitted in the format detailed below.

Compassionate grounds owing to genuine hardship

- 5.42 The government believes that an exit payment of £95,000 should mean that there are few, if any, circumstances where the operation of the cap should lead to genuine hardship. However, where the person exercising the power to relax the cap is satisfied that there are exceptional circumstances, then it may be appropriate for the restrictions to be relaxed.
- 5.43 The circumstances that may be considered are not limited to the employee's own circumstances, and it may be appropriate to consider the position of

family members. For example, where an individual is exiting the workforce and is not able to seek re-employment due to caring responsibilities.

To give effect to urgent workplace reforms

- 5.44 The government accepts that there may be instances where it is in the interests of urgent workforce reform to relax the restrictions imposed by the Regulations. However, cases where it is appropriate to use the power in this way will be exceptional and a detailed business case will need to be prepared in support of any request for a relaxation on this basis.

A written agreement to exit made before the Regulations came into force

- 5.45 The Regulations apply to any exit after the date that the Regulations come into force. However, where an agreement between an employer and an employee was entered into in good faith with the intention that the employee/office holder would exit before the Regulations came into force, and the exit is delayed for reasons outside the employee/office holder's control, it may be appropriate for the restrictions imposed by the Regulations to be relaxed. Circumstances where this is may be appropriate include where the employer asks the employee/office holder to remain in post for a longer period in order to complete a business critical project.

Discretionary Waiver Business Case

- 5.46 Before completing a HM Treasury Discretionary Waiver Business Case, the relevant delegated authority or employer must submit a business case to their sponsoring department for approval by the Principal Accounting Officer and the relevant Minister.
- 5.47 Where the employee is a civil servant, approval should be sought from the Cabinet Office Principal Accounting Officer and relevant Cabinet Office Minister rather than the employing department.
- 5.48 All business cases will be judged based on their merits in line with the relevant reason for the relaxation of the cap. Any discretionary waiver of an exit payment must be affordable within current budgets and additional funding will not be provided by HM Treasury to cover the cost of exit packages.
- 5.49 Please submit the completed business case to the relevant HM Treasury spending team. Decisions may take up to 4 weeks.

Annex A

Proforma for Discretionary Waivers

Table A.1: Proforma for Discretionary Waivers

Proforma for Discretionary Waivers	
Employer or Relevant Authority	
Reason for proposed relaxation of cap	<p>[Delete as necessary]</p> <ul style="list-style-type: none"> • there are compassionate grounds owing to genuine hardship • it is necessary to exit an individual to give effect to urgent workplace reforms, or • an arrangement to exit was entered into before the Regulations came into force, but the exit was delayed until after that date and the reason for the delay was not attributable to the employee or office holder concerned.
Breakdown of proposed exit payment, please list each payment separately	
Waiver Considerations	
Please provide relevant details	
The circumstances of the case	
The view of the principal accounting officer and relevant minister	
The value for money offered by the proposed exit payment	
Any non-financial considerations	
Whether the case could have a wider impact, e.g setting a precedent	
Impact of the waiver not being agreed	

Name of Principal Account Officer supporting this application	
Name of Departmental Minister	
Name and post of person submitting this application	
Contact telephone and email	
Date of application	
Source:	

HM Treasury contacts

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