

22 June 2017

Derek Mackay  
Cabinet Secretary for Finance and the Constitution  
The Scottish Government  
Victoria Quay  
Edinburgh  
EH6 6QQ

Dear Minister,

***A Severance Policy for Scotland***

I am writing to you in my capacity as the Strategic HR Spokesperson for COSLA in connection with the above, which is currently out for consultation.

In our deliberations, COSLA has reflected on two key issues in particular:

- Firstly whether any of the proposals would improve or impede Scottish local authorities' ability to manage their workforces to achieve Best Value for taxpayers, provide flexible and responsive public services in an increasingly demanding fiscal and social environment, whilst maintaining good employee relations
- Secondly, whether the proposals have the effect of eroding – without benefits - local decision-making with its democratic accountability and transparent scrutiny arrangements.

Whilst we consider it has been a useful exercise to consider the proposals, COSLA has concluded that the status quo represents the best option for Scottish local government. The attached submission sets out the reasons for this in more detail.

Sincerely,



Councillor Billy Hendry  
**COSLA Spokesperson for Strategic Human Resources Management**

WHEN CALLING PLEASE ASK FOR: Louise Lissaman 0131 474 9269 [louise@cosla.gov.uk](mailto:louise@cosla.gov.uk)



### OVERVIEW

COSLA welcomes the consultation on severance arrangements across the devolved public sector. COSLA's response has been compiled following consultation with our members, including with local government Directors of Finance and the Society for Personnel & Development Scotland (SPDS).

COSLA is pleased that the consultation is framed in terms of delivering objectives which are consistent with the aims of Scottish local authorities in managing their workforces, namely achieving:

- Best Value to taxpayers;
- flexible and responsive public services;
- a fair deal for public sector employees.

COSLA acknowledges the preparatory work done by Scottish Government and set out in the consultation document which confirms that:

- "there is evidence to show that Scotland's public sector generally follows the principle of good practice" and that "Most use some form of business case to help decide if early departure will lead to savings." <sup>1</sup>
- "exit payments associated with the loss of employment are an important part of an employer's ability to flex their organisational structure to react to new demands and circumstances."
- "the average cost of exit payments in local government in 2015-16 was £36,520."

Given this starting point, and taking account of the full picture, COSLA's view is that a cap on exit payments is unnecessary. Indeed, the proposals would not meet the policy objective as they would damage local government's ability to achieve Best Value for taxpayers, provide flexible and responsive public services in an increasingly demanding fiscal and social environment, whilst maintaining good employee relations.

Finally, an overriding issue for COSLA is that local decision-making, which currently takes place against a backdrop of democratic accountability and transparent scrutiny arrangements, would be eroded.

**For these reasons COSLA recommends 'Option 1, Status Quo'**

---

<sup>1</sup> Audit Scotland report 'Managing Early Departures from the Scottish Public Sector', 2013.

## DETAILED RESPONSE

COSLA recommends 'Option 1, Status Quo' because:

### 1. Local government needs to be agile

Audit Scotland has said:

"Public sector finances will continue to be under pressure for the foreseeable future as budgets decrease and the ageing population increases demand for many public services....Given the challenges ahead, public bodies, and especially councils, will need to make further workforce changes. Without service reform, these are unlikely to deliver the savings needed."<sup>2</sup>

### 2. Voluntary early retirement & severance (VERS) schemes are effective

Retaining effective mechanisms to change the size, shape and focus of their workforces is essential for local authorities, who deploy a hierarchy of measures to manage workforce numbers and costs, for example pay restrictions and vacancy management. All Councils use VERS<sup>3</sup> schemes, not least because:

"Early retirements and voluntary redundancies can be a useful way of avoiding the delays and costs of compulsory redundancies and quickly reducing staff numbers and costs. Once the initial outlay has been recouped, they can provide significant savings for organisations."<sup>4</sup>

North Ayrshire's analysis is just one example of the savings that can be made when local government uses VERS schemes.

No. of FTE removed from structures	No. managed through turnover	No linked to VR/VER	Total saving secured	Total costs linked to VR/VER	Pay back @ 31.03.17
156.00	99.43	56.57	£4,573,155	£2,740,393	0.6

### 3. Local government uses VERS schemes responsibly

Local government uses VERS schemes that:

- are transparent, with costs reported in their annual accounts.
- deliver Best Value by requiring business cases to demonstrate savings within two, or at most three years.
- have effective corporate governance processes in place to ensure effectiveness and guard against misuse.

### 4. A uniform approach across the public sector would be counterproductive

Audit Scotland recommended that public bodies needed to consider:

"Making use of the flexibility available to them to tailor early departure schemes to their own circumstances. Where the flexibility is insufficient, bodies may need to seek guidance from the Scottish Government or COSLA."

The proposed legislation will create barriers to effective workforce planning by public authorities at a time of reducing resources. It will cost money, stop savings being made and restrict public sector employers' efforts to deploy their resources effectively to meet local demand and improve services.

<sup>2</sup> Audit Scotland report 'Scotland's Public Sector Workforce', November 2013

<sup>3</sup> Audit Scotland report 'Scotland's Public Sector Workforce', November 2013

<sup>4</sup> Audit Scotland report 'Managing Early Departures from the Scottish Public Sector', May 2013

## 5. The cap could be discriminatory on the grounds of gender and age

Any cap that takes account of costs associated with early pension payments runs the risk of being discriminatory on the grounds of gender<sup>5</sup> and age, because local government pension fund strain costs are calculated on actuarial factors relating to a member's age and sex. A cap that leaves employers at risk of legal challenge would lead to additional costs and burdens, the avoidance of which would impede the public sector's ability to manage their workforces to achieve Best Value, respond to service demands and maintain good employee relations.

## 6. The cap will not affect only 'high earners'

The Scottish Government's consultation document states that the average exit pay-out in local government in 2015-16 was £36,520. However, this does not mean it would be unusual for costs to exceed £95k, nor does it mean that affected employees would only be a 'high earners'.

Local authority VERS schemes vary to meet local needs, so like-for-like comparisons are not straightforward. However, relatively modest salaries can lead to exit costs that exceed £95k. This is particularly the case for women, with long service who are entitled to access their pension<sup>6</sup>, as illustrated in the table below, which includes samples of data from several authorities and a variety of differently-structured schemes.

Sex	Age (nearest full year)	Length of service (nearest full year)	Hourly rate £	Salary FTE £	Strain cost - payable to pension fund <sup>7</sup> £	Severance payment to employee £	Pay in lieu of notice to employee £	Total one-off cost paid by employer £	Business case shows saving
female	53	32 yrs	12.10	22,081	76,626	11,434	5,082	93,142 <sup>8</sup>	Y
female	50	31 yrs		25,524				108,132	Y
female	51	16 yrs		30,994	72,700	20,700		94,160	Y
female	53	31 yrs		26,495				98,362	Y
female	52	28 yrs		24,410				99,869	Y
female	50	28 yrs		32,079				100,928	Y
female	52	33 yrs		24,575				101,616	Y
female	51	31 yrs		24,615				109,337	Y
female	52	22 yrs		25,509				112,653	Y
female	54	35 yrs		30,002				116,165	Y
female	52	28 yrs		29,687				117,439	Y

These examples show exit costs for employees with salaries ranging from £22k-£32k (the average annual salary in the UK was just over £26k in May 2017<sup>9</sup>.) In local government, a £22k salary would include jobs such as social care workers and family support workers, whilst a £30k salary would include social workers and home care managers. The need to retain tools to flex this particular workforce is self-evident, given increasing pressures and policy imperatives around health and social care integration. But, the principle extends across public sector workforces if employers are to be able to reform in the face of changing demands and policy objectives.

<sup>5</sup> See table in section 6. In the pay range £22k-£32k, all examples provided of exits that approached or exceeded the proposed £95k cap were women.

<sup>6</sup> Strain costs are higher for women due to longer life-expectancy.

<sup>7</sup> No enhancement of pension; strain costs relate simply to early access of pension already accrued at time of departure.

<sup>8</sup> A modest increase in salary or slight change in length of service or age would tip this cost over the proposed £95k cap.

<sup>9</sup> Office for National Statistics

## **7. A cap is likely to lead to greater use of compulsory redundancies**

In many cases, service re-design will affect whole teams, where there is a strong business case due to quick 'payback' overall, but where one or more individuals would be impacted by the cap. If the cap makes voluntary severance unattractive, the service redesign would be obstructed or compulsory redundancies implemented.

## **8. Recovery arrangements after re-employment are unnecessary**

Measures already exist to moderate how quickly certain public sector workers can be re-engaged after receipt of a severance payment, through the Redundancy Modifications Order, Local Authority Pension Schemes and SPPA scheme. In addition, exit payments in local government are already sufficiently scrutinised with business cases demonstrating value for money. This ensures the 'reasonableness test' is met, such that recovery of exit payments, beyond current arrangements, is unnecessary.

## **9. Recovery arrangements would be detrimental to public sector bodies**

In many parts of Scotland, there is a limited pool of people from which to recruit. The public sector is also a major employer in many areas, but is not a single entity: it would be inappropriate to place barriers in the way of employing an individual in a public sector organization after s/he had been made redundant from different public sector body. On the contrary, individuals who have skills and experience that would benefit local services and the local economy should be encouraged back into the workplace as soon as possible, and public sector bodies should be free to draw from a pool of the best possible candidates for their vacancies.

There is no evidence in the consultation that a practical, low cost, low risk enforcement mechanism for the recovery of severance payments has been identified. COSLA would object to legal duties of recovery being placed on local government. The notion that public sector bodies could be expected to consider dismissing employees because another organisation had failed to recover exit payments is wholly impractical, unduly burdensome and potentially open to expensive legal challenge.

Thus, whilst recovery arrangements seem superficially attractive, they could only be deemed reasonable and practical if they applied solely to re-engagement in the same organisation – and measures for this already often exist. In short recovery of exit payments is a disproportionate means to an unnecessary end.

## **10. The proposed legislation is contrary to the principle of subsidiarity**

As well as believing that the 'one size fits all' approach proposed is counterproductive and will not meet its policy objectives, COSLA also strongly objects to measures, such as this, that erode local decision-making. In local government, decisions on severance are taken against a backdrop of democratic accountability and transparent scrutiny arrangements; this is as it should be.

**Louise Lissaman**  
**Policy Manager, Employers' Team**  
**20 June 2017**