

By: Gary Cooke – Cabinet Member for Corporate & Democratic Services
Amanda Beer - Corporate Director – Engagement, Organisation Design and Development

To: Personnel Committee

Date: 13 October 2016

Subject: Exit Payments Cap – Waiver Policy

Classification: **Unrestricted**

SUMMARY: The Council is required to have a policy that shows under what limited circumstances Kent County Council will determine whether to relax the cap of £95,000 on exit payments. This report proposes a policy to meet KCC's statutory obligations.

1. INTRODUCTION

- 1.1 The government announced on the 23 May 2015 that it intended to end six figure exit payments for public sector workers as they are not fair and do not offer value for money for the tax payers who fund them. The government has consulted twice on this proposal and is yet to reply to the last consultation which closed on 3 May 2016. However, draft regulations have been prepared and the best intelligence suggested they may be implemented in October 2016. This is looking unlikely now but it is believed that the cap will come into force in the coming months.
- 1.2 The regulations cover a wide range of payments including redundancy, the employer costs of early release of pension, payments made in relation to a voluntary exit from employment, payment made under a settlement or conciliation agreement and payment in lieu of notice. There is to be a cap for these aggregated payments of £95,000.
- 1.3 The regulations allow, in exceptional circumstances, for employers to relax the application of the cap so that the amount of £95,000 can be exceeded.
- 1.4 Decisions on relaxing the cap require full Council approval. Personnel Committee on 10 September 2013 considered the transparency requirements in the Localism Act 2011 which included the provision for the County Council to agree any severance payments over £100,000. It was determined that Personnel Committee would discharge this matter on behalf of the Council.

2. WAIVER POLICY

- 2.1 The Committee has the option to extend this role described in paragraph 1.4 to severance payments over £95,000. These payments would only then be

agreed if they meet the limited criteria set by the regulations for relaxing the cap. There is an expectation that decisions are made in a timely manner.

2.2 It is proposed that in considering whether to waive the cap, the Personnel Committee takes the following into account (only one of these criteria would need to be met for the waiver to be available):

- Is the payment in excess of the cap being made to support a particular programme of reorganisation where changes need to be made quickly to avoid undermining the continuing effectiveness of operational delivery?
- Are there special circumstances pertaining to an individual employee?
- Is it in the public interest to grant a waiver in respect of a particular severance payment used either to settle a statutory dispute or claim or disputes or claims under an individual employment contract?

2.3 Where the power to relax the restrictions on exit payments is used the Council is required to:

- (a) keep a record of the exercise of that power and the reasons for it for at least 36 months;
- (b) publish, as part of annual accounts or in a list published at the start of the financial year, details of all the times in the preceding twelve months that that power has been exercised and the reasons for it.

3. RECOMMENDATIONS

- a) Personnel Committee are asked to agree the proposed policy for the relaxation of the cap on exit payments.

Background documents:

“Pay Policy Statement for 2013/14”. Personnel Committee – 10 September 2013

Author:

Paul Royel
Head of Human Resources
Ext 416631