

Email request

Our ref: ATISN 13663

Date: 17 January 2019

Dear

ATISN 13663

Thank you for your request which I received on **20 December 2019** about **Welsh Government Voluntary Exit Schemes (VES) 2017 and 2019 – Compensation Payment Levels**.

For ease of reference, I have responded to each of your questions in turn.

- Attached at Annex A is the VES 2017 Overview document provided for the 2017 Voluntary Exit Scheme. The VES was delivered using proportionate project management methodology. The document sets out the rationale and overall case for change for delivering the VES.
- The Welsh Government did not attempt to obtain additional funding to increase the 2017 VES compensation payments following the High Court judgement.
- Attached at Annex B is the Ministerial Advice (MA) provided for the 2018/19 Voluntary Exit Scheme. The VES was delivered using proportionate project management methodology. The MA provided the rationale and business case for delivering the VES.
- The 1 April 2017 pay award for Welsh Government staff (agreed in autumn 2017) was paid to all staff who left under the VES, with arrears of salary paid accordingly. The relevant pension administrators (MyCSP) were also informed of the pay award, as is standard practice. Compensation payments made by the Welsh Government to successful applicants under the VES were not recalculated following the pay award. The scheme operated by the Welsh Government was a voluntary one, where successful applicants were given an offer of compensation which they chose to accept. This was not a pre-redundancy situation and the Welsh Government was under no contractual obligation to recalculate any voluntary exit payments which were offered, accepted and paid to staff leaving under the scheme. It remains the position of the Welsh Government that the payments made to staff who successfully applied for voluntary exit under the scheme were appropriate and consistent with the relevant Cabinet Office guidance.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit,
Welsh Government,
Cathays Park,
Cardiff,
CF10 3NQ

or Email: Freedom.ofinformation@gov.wales

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

Annex A

2017 Voluntary Exit Scheme

2017 VES Scheme – Overview

A voluntary exit scheme was launched at the end of March 2017 in order to generate staff cost savings. As a result 139 staff agreed to depart. This action will reduce running costs by £6.6m per annum.

- The terms were specifically targeted to **help budgetary pressures by removing posts** and generating staff costs savings.
- The scheme was **voluntary**. All exits were voluntary and made within the Civil Service Compensation Scheme framework.
- Within the framework the scheme was **specifically designed to generate savings ‘in year’**. This meant changes were made to start the **notice period from the point of application**. Also a **cap of £95k** was included.
- Under the scheme **139 departures** were agreed with the majority leaving on 31 July (132).
- The scheme had a one off **cost of £5.3m** and generated **£6.6m annual recurring savings**. Meaning a return on investment within 10 months (9.6 months) – by the end of May 2018.
- The average compensation payment was £38,259; the smallest payment was £4,500 and the largest payment was £95,000

Judicial Review

The Civil Service Compensation Scheme (CSCS) was reformed in November 2016. After which the UK Government lost a judicial review meaning the changes have been quashed and the 2010 CSCS terms are now the lawful terms in place. A new consultation geared towards lowering exit payment terms was launched on 25 October. Reforms are not expected to be made before 2018.

Cabinet Office Guidance

- *“the position for voluntary exit (VE) is materially different from a redundancy situation. VE’s are flexible payments that are a voluntary agreement between employer and employee, with the employer able to decide on the exact terms to offer within the framework set by the CSCS. Any of the VE schemes decided on by employers under 2016 terms would also have fallen within the framework of 2010 terms. As such, these VE payments would still be lawful.*
- *There is no requirement to change the terms offered unless the employer takes the view they would have come to a different decision if the 2010 terms had been applicable at the time. In practice, this means that.*

In reviewing a VE exit that has already been offered or agreed **you will need to satisfy yourself as an employer that you would not have decided to pay more if the 2010 scheme terms had been in force** rather than the 2016 scheme terms.

In reaching a conclusion on this you should ask two questions:

- **What were the criteria that formed our thinking when we first made the decision on VE terms?;**
 - At the time the thinking behind the scheme was:
 - Pay back within 12 months.
 - Redesigned Notice Period
 - Expectations around the £95k cap
 - **An expectation** that all public sector terms would have changed by June 2017.
- **Having identified those criteria and applying them again using 2010 VE terms as our reference, would we have come to the same or a different conclusions?**
 - [arguably expectations on term changes inline with the September 2016 framework as included in the Treasury's response to their consultation on exit payments. This expected changes within 9 months – June 2017.]

Voluntary Exit Scheme 2017 - Selection Criteria

The Selection Criteria aimed to ensure that people with key skills that the organisation needs to maintain were not allowed to depart and that no agreed departure would have an adverse impact on business continuity.

The selection criteria included an assessment of:

- **Key skills** – one of our biggest priorities is to adapt and grow the skills we need to meet the challenges ahead. Can the individual's skills be replaced from elsewhere within the organisation or do they have skills which we can't afford to lose?
- **Business continuity** – what will the business continuity risk be if the individual leaves through the scheme?
- **Replaceability** – if the individual leaves will their post no longer be required; will a post need to be replaced internally; or, will a post need to be replaced through external recruitment?
- **The Post being DRC or non DRC funded** – If the individual is in a non DRC funded post will there be a clear link to a DRC saving made elsewhere with a corresponding headcount reduction?

Process

The scheme was launched on 27 March 2017. Key messaging pointed towards the Welsh Government not being able to afford to lose anyone with essential skills or knowledge. Line managers were asked to have conversations with those interested in applying to consider suitability, in terms of both skills and cutting posts.

A group assessment panel in each area then considered each application before making departure recommendations to a corporate decision making panel. The outcome was then notified to individuals.

Terms

Agreed departures received compensation payments based on the Civil Service Compensation Scheme rules. For this scheme that meant a voluntary exit compensation offer was based on 3 weeks pay per year of continuous service up to a maximum of 18 months. A 6 month cap was imposed for those above or close to pension scheme retirement age. In line with incoming regulations, exit payments were also cap at a maximum of £95,000.

Annex B

Ministerial Advice

To: PS First Minister

From: Shaun Patterson (03000 253 678)

Date: 12 December 2018

Subject: Voluntary Exit Scheme 2018-19

[MATS](#) Reference number: **MA - P/FM - /4509/18**

When is a decision required from the Minister? 14 December 2018 to enable internal communication with staff to commence 17 December.

1. What is the issue you are asking the Minister to consider?

The First Minister is asked to note the recommendation for officials to run a Voluntary Exit Scheme 2018-19 which will exit up to 200 staff by the 31 May 2019, with the scheme launching on the 17 December 2018.

2. What action(s) are you recommending to the Minister?

The First Minister is asked to:

- note the recommendation for officials to run a Voluntary Exit Scheme 2018-19 and to communicate internally to Welsh Government staff immediately.

3. Deputy Director, Statement of Assurance

I, Peter Kennedy confirm that I have quality assured this advice.

Advice

4. Context - What is the situation that has led to this advice?

The Welsh Government's running cost budget has been reduced by 5% in 2019-20 (as part of last years Draft Budget) and there are anticipated cost increases due to a pay award and pay increments. As a result, there is a £14m forecast deficit against staff costs within the CSA MEG. As a result of these budgetary pressures, the Welsh Government will need to reduce the number of staff charged to its running costs budget by around 250 in 2019-20 in order to contain costs within budget. Officials advise that a Voluntary Exit Scheme (VES) is therefore required to achieve this level of staff reduction (as usual attrition rates would not deliver the financial savings required) as one of a number of measures which will help to ensure the organisation can live within budget (alongside, for example, tight controls around external recruitment).

5. What is your advice to the Minister?

The preferred option is to undertake a Voluntary Exit Scheme to exit up to 200 staff. This will support organisational priorities to help Welsh Government to live within its budget and help adapt and grow organisational skills to meet the challenges ahead.

Subject to agreement, the scheme is planned to launch on 17 December 2018 with up to 200 staff leaving the organisation by 31 May 2019. Based on our experience from previous voluntary exit schemes, the estimated compensation costs would be circa £7.7m.

The deadline for applications will be the 21 January 2019. An indicative milestone plan is attached for your information at annex A.

The Civil Service Compensation Scheme provides the overarching framework for the terms of voluntary exit schemes. Within this framework, civil service employers are able to determine the level of compensation payable to employees (up to a maximum permitted amount). For consistency with previous schemes and to maximise the cost payback of the planned scheme, we intend to use the terms which applied during the last VES (2017-18). The tariff will be three weeks pay per year of service up to a maximum of 18 months. This will be tapered for colleagues close to pension age. It should be noted that this is less than the maximum tariff available under the Civil Service Compensation Scheme, but it should ensure that the cost payback for the scheme should be achieved in approximately 12 months. This is vital to ensure the majority of cost is recovered within 2019-20. In addition (and in line with the previous scheme) no individual employee will receive more than £95,000 in compensation.

All staff will be able to apply and as per the last scheme with applications assessed against key criteria including: key skills, impact on business continuity, replaceability and whether the post is DRC or non-DRC funded. There is a real risk that whilst individuals may seek a voluntary exit, business areas are unable to agree a considerable number of these requests due to the requirement for the work to continue or because we could not afford to lose the skills and experience of the individual concerned.

Applications will be assessed by Deputy Directors, Line Managers and HR Business Partners and recommendations will be considered by an ExCo Decision Making panel which will be chaired by the Permanent Secretary and observed by TUS.

Opportunities for utilising staff accepted on the VES to backfill new Brexit posts or to bolster divisions where resource is required to complete priority activities on a short term basis will be examined. We do not anticipate that there will be large numbers but this may mean that some staff will exit the organisation at a later point than 31 May. Staff will be informed upfront as part of the conditions of the VES.

Key members of staff, including the Trade Union Side who have already been engaged in the development of the scheme proposals, will be involved throughout.

The VES will be delivered using light touch project management with the Deputy Director HR as Senior Responsible Owner.

6. What legal or policy obligations are relevant to this advice?

The Civil Service Compensation Scheme (CSCS) was reformed in November 2016. After which the UK Government lost a judicial review (brought by the PCS Union) meaning changes to the terms were quashed and the 2010 CSCS terms are now the lawful terms in place. A new consultation by the UK Government, geared towards lowering exit payment terms was launched on 25 October 2018. Reforms are not expected to be made before 2018. An e-mail received on 15 November stated that the Civil Service Workforce Policy and Reward team have confirmed that the deadline has been extended guaranteeing the 2010 Civil Service Compensation Scheme terms, to 31st December 2018.

As per the last scheme applicants will be informed that the scheme is voluntary and will be made within the Civil Service Compensation Scheme framework.

7. What are the financial implications of Ministers agreeing to this advice and which budget will this be paid through?

The cost of a VES is dependent upon the number of applicants, salaries and length of service. However, officials expect the costs of VES for around 200 staff to be approximately £7.7m. The Cabinet Secretary for Finance has recently agreed to transfer £7.7m from reserves into the CSA MEG to fund VES in 2018-19 (MA-P/FM/3966/18). If agreed, officials will seek to maximise savings from the funding available.

The costs of administering VES can be accommodated within existing administration costs budgets.

Central Services operations clearance number CSOT(18/19)-MA183.

8. What communication, engagement or media activity is planned following this decision?

The VES will be launched on 17th December with an intensive internal communications and engagement campaign to support individuals to consider if this the right option for them. Press Office lines to take will be agreed once approval to launch the VES is confirmed.

Annex A: Milestone Plan

Annex B: Copy Recipients

All mandatory copy recipients (as indicated in the guidance). Additional copy recipients specifically interested in this advice:

PS Permanent Secretary
Peter Kennedy
James Owen
Liz Richards
Natalie Pearson
Yvonne Pawlin
Gawain Evans
Andrew Phillips
Welsh Government Newsdesk.

Annex A: Indicative VES Milestone Plan

Date	Activity	Notes
Friday 30 Nov 2018	Business Case Complete	
Thursday 6 Dec 2018	ExCo - Draft Permanent Secretary Note available	
Monday 17 Dec 2018	Permanent Secretary Note to Staff HR Director Briefing Pack VES Launched (Scheme Launched for Applications)	
Tuesday 8 Jan 2019	Live Exchange Thread	
Wednesday 9 Jan 2019 – Wednesday 16 Jan 2019	HR Information Sessions	
Monday 21 Jan 2019	Scheme closed for Applications	
Tuesday 22 Jan 2019 – Wednesday 23 Jan 2019	HR Complete Quality Assurance of applicant compensation estimates	
Friday 25 Jan 2019 - Wednesday 6 Feb 2019	Line Manager Assessments / Group Assessment Panels to meet	
Thursday 7 Feb 2019	Group Assessment Panels to Report Recommendations	
Friday 8 Feb 2019 – Tuesday 12 Feb 2019	Corporate Assessment ranking and Recommendations	
Thursday 14 Feb 2019	ExCo - Decision Making Panel to agree list of exit offers	
Friday 15 Feb 2019 - Tuesday 19 Feb 2019	Ministerial Engagement / Ministerial Sign Off	
Friday 15 Feb 2019	Accepted list plus CSCS1 forms sent to MyCSP	
Friday 22 Feb 2019	Accepted / Rejected Letters Issued	School Half Term 25 Feb - 1 Mar 2019
Thursday 28 Feb 2019	VES Review Panel	
Friday 29 Mar 2019	All exit packs produced by MyCSP and issued to staff	6 weeks MyCSP to produce up to 200 exit packs
Thursday 18 Apr 2019	Deadline for exit packs to be returned to MyCSP (to ensure compensation is paid by 31 May)	Easter 12 Apr - 29 Apr (19 Apr – 22 Apr)
Mon 31 May 2019	Last Day in Service Date	

