

10 December 2010

Dear HR Director,

CIVIL SERVICE COMPENSATION SCHEME AND SUPERANNUATION BILL: HR UPDATE

The Superannuation Bill, introduced in July 2010, is currently going through the final stages of the Parliamentary process. My letter dated 17 November provided information on the reasons for the Bill and its provisions. Subject to Parliamentary approval, the Bill should receive Royal Assent before the Houses rises for Christmas.

In parallel with progressing the Bill we have been finalising the changes to the Civil Service Compensation Scheme, high level details of which were provided under cover of Karen Cadman's letter dated 30 November. I am now able to attach a scheme summary document providing more detailed information and some additional Q&A briefing. Although this information will help you answer questions from your staff it is not intended to be circulated more widely. We have included questions received from you since Karen's letter in composing the latest Q&A so if you have not received a direct response your query should be answered here.

Could I please take this opportunity to remind you, as set out in the Spending Review letters and the guidance issued by the Chief Secretary and the Minister for the Cabinet Office on 25 October, all compensation schemes need to be approved by the Cabinet Office before they are offered to your staff. Requests should be sent to redundancyschemes@cabinet-office.x.gsi.gov.uk I should also mention that the Minister for the Cabinet Office will need to approve all schemes that wish to offer a tariff higher than One month per year. If you wish to utilise such a tariff please ensure that you submit a business case demonstrating the clear value for money benefit for doing so.

I am copying this letter to HRDG (Main), HRDG (Small) and Agency Chief Executives.

Yours sincerely



HRD Briefing Note

Superannuation Bill 2010

What does the Bill do?

The Bill sets out clear limits on the value of the compensation package available for both any compulsory redundancies (12 months' pay) and exits under voluntary schemes (15 months' pay). The Government has made clear these are the minimum levels that it considers reasonable as limits on compensation; they are regarded as a fallback if, for any reason, it were not possible for the new compensation scheme that is in preparation to be implemented.

Have there been any changes to the Bill?

The Bill was further amended at Report stage in the House of Lords on 1 December to:

- emphasise the Government's commitment to meaningful consultation on any future changes to the scheme that would reduce compensation benefits
- clarify the content of the report the Government will lay before Parliament on such consultation
- ensure that the caps on compensation could not be revived using the order-making powers in this Bill more than three years after Royal Assent.

Is there a breach of human rights in changing the scheme?

The Government does not consider that the Civil Service Compensation Scheme benefits are "possessions" within the meaning of Article 1, Protocol 1 of the European Convention on Human Rights. Civil servants do not acquire a right to receive compensation when they enter employment. The benefits under the Civil Service Compensation Scheme are not received by all civil servants, and only become available if and when they agree to voluntary severance or are made compulsorily redundant.

Even if the benefits which might be payable under the Civil Service Compensation Scheme were to be regarded as "possessions", the Government's view is that there is an over-riding public interest to make the reductions proposed in order to reduce the cost of the scheme and it is well established that measures interfering with the peaceful enjoyment of possessions are capable of being justified by a sufficiently compelling public interest.

It is important to be clear that the Government is simply reforming, not cancelling, the scheme. The new proposals will still leave civil servants with a scheme which is fair and affordable in current conditions and which is still comparable to the best in the private sector.

What will happen next?

The Bill was due to receive its Third Reading in the House of Lords on 7 December after which it will return to the House of Commons which will consider the Lords' amendments.

The Bill would then be granted Royal Assent, which the Government hopes will be able to take place before Parliament goes into recess before Christmas, and it would become an Act of Parliament. The Bill itself provides that it would then come into effect immediately, other than the new consultation and reporting duties.

The provision in the Bill which applies a lower cap for compensation on voluntary departures than those in the new Compensation Scheme will be repealed immediately after Royal Assent.

Compensation Scheme

When will the new compensation scheme take effect?

Subject to the Bill having received Royal Assent the new scheme will be laid before Parliament before Christmas.

Can I still make offers under the current scheme?

No. With Royal Assent so close it is no longer practicable to exit staff under the new scheme. If you are still waiting for some of your staff to sign and return offer letters you should ensure that they have done so **no later than 14 December**. Any letters signed/notices issued after this date could be caught by the caps in the Bill

When can we provide staff with offers and quotations under the new scheme

No quotations should be offered until after the new scheme has been laid in Parliament. We are currently hoping that this will happen on 21 December and the scheme take effect from 22 December.

MyCSP will provide you with a calculator shortly which will enable you to generate estimates of severance payments under the scheme.

What about the union ballots?

The Minister will consider the outcome of the ballots of the FDA, Prospect, Unite and GMB before taking a final decision on whether to introduce the scheme. Given that the PCS and POA ballots will not close before mid-January and that the ballots are not on the compensation scheme the Minister will not wait for those results.

What is the position on notice periods in case of compulsory redundancy?

Where an individual is leaving on compulsory redundancy they should receive three months notice unless their contract provides for a longer notice period.

Compensation in lieu of notice (CILON) should only be used in exceptional circumstances (where it delivers a benefit for the business) and the expectation is that staff will work their notice.

How much discretion will employers have in designing voluntary schemes?

Where departments wish to run a voluntary exit scheme before commencing formal and meaningful consultation on compulsory redundancy, they will have some discretion over the terms on offer as follows:

- **Below normal pension age** – Employer discretion within the range of statutory minimum to two months' pay for each year of service up to 21 months.
- **Above normal pension age** – Employer discretion within the range of statutory minimum to two months' pay per year of service up to a maximum of six months.
- All staff will be given three month's notice which, subject to mutual agreement between the employer and employee, may be paid in lieu of working through the notice period. i.e. where the parties agree a release date before the end of the notice period.
- The employer will have the discretion to offer to staff who have reached the **minimum pension age (either 50 or 55)** the option of early retirement on their current pension entitlement.
 - This will be the pension that staff are entitled to for their work in the civil service at their point of departure, i.e. the pension that has been earned at that point in the latest period of continuous service (so previous service, transferred in service and added years will not normally be included).
 - Staff will be asked to surrender some (or all) of any severance payment to meet the cost of receiving their pension early.
 - Where the severance payment is not sufficient to fund an unreduced pension, the employer will make a top up payment.
 - Where all of the severance payment is not required to fund an unreduced pension, the balance will be paid as cash compensation.

Departments will need to run a further voluntary redundancy scheme, where they will not have discretion over terms, open to all staff at risk of redundancy before they make anyone compulsorily redundant.

Will employers be able to offer compensation to staff in any circumstances other than downsizing/redundancy, for example to mirror the current ability to offer AER to someone over 55 with more than 25 years' service?

The ability for staff to request Approved Early Retirement (AER) on an individual basis will not exist in future. The expectation is that employers will not offer this, or an equivalent, other than through exit schemes approved by the Cabinet Office.

How do we go about requesting any discretion before embarking on compulsory exits?

Applications must be made to Cabinet Office. We will issue a pro-forma shortly that will set out the key information needed to consider cases. Any request to use a tariff above the standard rate will need to be supported by a full business case demonstrating how this will provide value for money.

What constitutes "latest period of unbroken service" where someone has moved from one employer to another whilst covered by the Civil Service pension and compensation arrangements?

The latest period of unbroken service will include service with all employers who are covered by the Civil Service arrangements providing the individual's reckonable service for pension purposes if unbroken.

When individuals have to repay severance employments on re-employment will this be before or after tax?

The amount the individual has to repay can be reduced to take account of any tax paid on the original severance payment.

How do we know whether a member of staff has pre 87 reserved rights?

Staff who were under age 40 and in a mobile grade on 1 April 1987 and are under age 50 at the time of departure currently have pre 87 reserved rights.