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The Scottish Government
Riaghaltas na h-Alba

LEGACY 2014
XX COMMONWEALTH GAMES
SCOTLAND

Iain Gray MSP
Convenor Public Accounts Committee
Scottish Parliament
Edinburgh
EH99 1SP

21 June 2013

Dear Mr Gray

Thank you for your letter of 31 May seeking clarification on various points arising from the recent Audit Scotland report on Managing Early Departures from the Scottish Public Sector.

The attached Annex provides our responses to the various points raised.

Yours sincerely

**PETER HOUSDEN**

**Annex A**

**The report draws attention to the use of compromise agreements and that the SG has 'emphasised that confidentiality clauses should only be used appropriately.'** ***The Committee would welcome information on how the SG ensures whether such agreements are being used 'appropriately; how many such agreements there are; what guidance the SG has issued to public bodies on their use and what monitoring or oversight the SG carries out with regards their use.***

Compromise agreements must comply with the requirements of the Scottish Public Finance Manual (SPFM) - (http://www.scotland.gov.uk/Topics/Government/Finance/spfm/severanceetcterms).

The SPFM is issued by Scottish Ministers to provide guidance to the Scottish Government and other relevant bodies on the proper handling and reporting of public funds. It sets out the relevant statutory, parliamentary and administrative requirements; emphasises the need for economy, efficiency and effectiveness; and promotes good practice and high standards of propriety. Specifically, in relation to severance, early retirement and redundancy packages, the SPFM makes clear that public bodies must ensure that issues of regularity, propriety and value for money are taken fully into account.

Any proposal by constituent parts of the Scottish Administration or bodies sponsored by the Scottish Government to offer a financial consideration to secure the voluntary resignation of an employee outwith any existing and approved early exit scheme must be approved by officials working with the authority of the Director General Finance and the Director of Human Resources before any offer is made. Ministerial clearance must also be obtained as and, when appropriate, including in relation to any high profile cases.

The SPFM also states that any undertakings about confidentiality should leave transactions open to proper public scrutiny.

The Scottish Government does not collect or hold information centrally on the number of compromise agreements used across the wider public sector. However, compromise agreements are not used frequently by the Scottish Government, only where there are clear business benefits for doing so, such as a saving in public expenditure and the avoidance of disruption to the effectiveness of the organisation. From 1 April 2011 to 31 March 2013, there were three compromise agreements in the core Scottish Government. Not all compromise agreements result in employees leaving the organisation. They can for example be used in cases where the employer and employee reach a settlement in order to protect the employer against any further claims.

**The report states that there should be 'controls over the potential re-employment of individuals who have received an early departure deal or have chosen to retire early' and highlights the approach of Dumfries and Galloway Council in placing restrictions on the future recruitment of such individuals.** ***The Committee would welcome information on what the position of the SG is on this matter and what 'controls' it considers should be in place.***

Under the rules of the Principal Civil Service Pension Scheme (PCSPS), staff who have left under an early release scheme are unable to be re-employed directly by an organisation which is a member of the PCSPS without suffering potential abatement of their pension and having to repay some or all of their compensation payment. The exact amount of the abatement and repayment will depend on the time which has elapsed since they left the organisation.

In addition, within the Scottish Government, when an individual leaves under such arrangements it is made clear to them in writing that they will not be offered temporary jobs by an employment agency working for the Scottish Government within 12 months of leaving. In order to ensure that former employees are not re-engaged, National Insurance numbers are used for cross-checking purposes.

The SPFM makes clear that any offers of subsequent employment or consultancy work should be exceptional and only made where they represent value for money. It is for each individual body to determine appropriate arrangements to ensure that this is the case.

**The report provides a reminder of the 'principles of good practice on how organisations should design, manage and monitor' their early departure schemes. *The Committee would welcome information from the SG on how it supports the adoption of these principles across the public sector.***

Early Departure Schemes run by the Scottish Government must comply fully with the rules set out in the Civil Service Compensation Scheme and the requirements of the SPFM.

More widely, the benefit, structure and terms of compensation schemes for severance, early retirement or redundancy provided by bodies sponsored by the Scottish Government are expected to be broadly similar to the arrangements in place within the core Scottish Government. Sponsored bodies must submit a business case for prior approval from the Scottish Government to run a scheme. In arriving at a decision the Scottish Government considers whether what is proposed is comparable to equivalent schemes in the Scottish Government, is broadly in line with what would be offered under the Civil Service Compensation Scheme and whether it complies with the SPFM. A Public Bodies Information Update was issued to sponsor teams in December 2012 reminding them of the need to ensure the necessary approvals are sought from the Scottish Government for all severance, early retirement and redundancy payments.

The Scottish Government does not design or control schemes across the wider public sector. In the case of the NHS in Scotland, the Agenda for Change (AfC) handbook contains a section covering arrangements for redundancy pay for employees dismissed by reason of redundancy. These arrangements are mirrored within the terms and conditions of all other NHS Scotland staff.

All Health Boards in Scotland have voluntary severance arrangements in place that must comply with AfC terms and conditions as set out in the handbook. The Staff handbook provisions have been agreed in partnership with NHS trade unions and are the only way in which voluntary severance can take place.

The arrangements in place at NHS Boards represent best practice and all voluntary severance agreements in NHS Scotland reflect an approach which has been agreed in partnership between NHS management and NHS staff representatives.

Local government is responsible for the design of its own schemes. Local authorities must use resources as efficiently as possible and deliver services effectively to ensure taxpayers get the best possible value. How this is done is a matter for each council – councils are autonomous bodies, responsible for managing their own day-to-day business and answerable to their electorates.  The principles of good practice advocated by the Auditor General for Scotland and Accounts Commission provide helpful guidance in this regard.