

# Public sector pay and terms: guidance note

## Details

This guidance note is a reminder of the cross-cutting public sector pay and terms rules that are in place, and the government's expectations on public sector employers.

There may be additional rules and processes in place for determining other elements of public sector remuneration, such as the setting of average pay increases through the Pay Review Bodies process or Civil Service Pay Guidance. Where appropriate and required, public sector organisations should continue to operate within these rules.

## 1. Guidance

### 1.1 Senior pay controls

The approval of the Chief Secretary to the Treasury (CST) is required for civil service appointments and appointments to public sector bodies which are subject to Ministerial approval where the pay and remuneration package is £150,000 or above. CST sign-off is also required for bonus arrangements worth more than £17,500. Any breach of the control process may result in a deduction from the departmental budget or an increase in spending controls. Further details can be found in the senior pay guidance.<sup>i</sup>

More generally, public sector employers should always ensure that senior pay is proportionate and justifiable and that terms and conditions are in line with other staff. Contracts for senior staff should include the expectation that salaries will be published. For local government, where decisions are for locally-elected members, ministers have said that proposals to appoint staff on salaries of £100,000 or more should be subject to a vote of full council.

### 1.2 Off-payroll rules

The government is committed to tackling all forms of tax avoidance and have taken forward a wide range of measures to close down tax loopholes. It is essential that public sector employers are able to assure themselves that their staff are meeting their tax obligations. Arrangements set up explicitly to avoid tax would normally breach the principles set out in *Managing Public Money*.<sup>ii</sup>

Public sector organisations should not engage in, or connive at, tax evasion, tax avoidance or tax planning. If a public sector organisation were to obtain financial advantage by moderating the tax paid by a contractor, supplier or other counterparty, it would usually mean that the Exchequer as a whole would be worse off – thus conflicting with the accounting officer's duties.

Since 2017, public sector employers have been required by IR35 legislation to deduct income tax and National Insurance Contributions, where an individual would have been an employee if they were providing their services directly and where the employer is the fee-payer to the individual. In addition to this, departments must abide by HM Treasury's off-payroll rules<sup>iii</sup> which are clear that the most senior staff should be on the payroll, unless there are exceptional temporary circumstances.

### 1.3 Exit payments

The government has legislated to cap public sector exit payments at £95,000 and to ensure that high earning public sector workers who take a new job in the same part of the public sector within twelve months of leaving will have to repay some of their exit payment. Secondary legislation is required to bring these policies into force and the government is currently considering options for implementation.

### 1.4 Confidentiality clauses

Confidentiality clauses should only be used in exceptional circumstances and not as a matter of course. These clauses should not be used to stop, stifle or control individuals from raising concerns or to cover up cases of individual or organisational failure. As set out in annex 4.13 of Managing Public Money "any proposal to keep a special payment confidential must be justified especially carefully since confidentiality could appear to mask underhand dealing. Also, financial reporting requirements and Freedom of Information legislation should be complied with".

Guidance has been published for the Civil Service and Arm Length Bodies (ALBs)<sup>iv</sup> and for local government.<sup>v</sup> The government expects other parts of the public sector to follow a similar approach where specific requirements have not been set out.

### 1.5 Salary sacrifice

Salary sacrifice arrangements mean employees and employers paying less income tax and National Insurance on remuneration.

Public sector employers should consider their use of these schemes carefully, particularly when considering any new schemes. New schemes are likely to be considered novel or contentious and, for those bodies covered by Managing Public Money, Treasury approval will generally be required before they are established.

### 1.6 Travel

Public sector employees should make sure that public money and other resources are used properly and efficiently and that expenditure is reasonable and defensible. This principle forms part of the Civil Service Code,<sup>vi</sup> and all employees across the public sector should take a similar approach. Public sector employers should ensure that all travel is necessary and staff use the most efficient and economic means of travel in the circumstances.

Travel by business or first class is only permitted if there is a strong business need to do so. Government departments are required to be transparent about spend in this area, for example by publishing details of senior officials' business expenses, hospitality and meetings with

external organisations. The wider public sector should take a similar approach to enable taxpayers to see how public money is being spent.

### 1.7 Transparency

Openness and transparency have an important role to play in strengthening public accountability and supporting public service improvement. As part of the government's transparency agenda, there are a range of requirements on public sector employers to publish information to enable the public to hold them to account on senior salaries and expenses.

For example, the Cabinet Office publishes an annual central 'high earners' list<sup>vii</sup> of individuals in departments, agencies and Non-Departmental Public Bodies earning a full-time total pay rate of £150,000 and above. Contracts for senior staff should include the expectation that salaries will be published.

Public sector employers are also required to assure themselves that they are acting in compliance with the General Data Protection Regulation (GDPR).

### 1.8 Other benefits

When considering offering other types of pay and terms which are not covered above, public sector employers should take into account paragraph 2.3.4 of Managing Public Money, which makes clear that Treasury delegation 'cannot extend to transactions which set precedents, are novel, contentious or could cause repercussions elsewhere in the public sector', alongside any guidance specific to their workforce.

In particular, the government is clear that public sector employers should not offer private medical insurance.

### 1.9 Complying with this guidance

As set out throughout the guidance, the government expects every part of the public sector to demonstrate that it is using public money efficiently and responsibly and to ensure that pay and terms are always proportionate, justifiable and deliver value for money for taxpayers.

This guidance reflects rules which have been issued by the Treasury and form part of the delegation framework for government departments and their arm's length bodies. In central government departments and their ALBs, primary responsibility for ensuring that these rules are followed falls to the Principal Accounting Officers, who should also make arrangements to satisfy themselves that their ALBs have systems adequate to meet the standards.

The application of these rules should be reflected in ALBs' Framework Documents, and any proposal for public spending outside the agreed approach would be considered a breach of the regularity requirements of Managing Public Money.

While local authorities, including fire and rescue authorities, are not covered by Managing Public Money, the government is clear that they should operate to the same standards as the rest of the public sector in relation to decisions on senior pay and reward.

Each authority must publish an annual pay policy statement setting out its approach to a range of matters on pay and reward, particularly for senior staff, including matters covered in this guidance. Pay policy statements must be approved by full council and published online. It is the responsibility of local elected members to put in place local arrangements on senior pay and reward that are fair, accountable and deliver best value for tax payers.

This guidance will be updated to reflect any changes in government policy.

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<sup>i</sup> [Guidance for the approval of senior pay](#)

<sup>ii</sup> [Managing Public Money](#)

<sup>iii</sup> [Review of the tax arrangements of public sector appointees](#)

<sup>iv</sup> [Civil Service settlement agreements special severance payments and confidentiality clauses](#)

<sup>v</sup> [Use of severance agreements and off payroll arrangements](#)

<sup>vi</sup> [Civil Service code](#)

<sup>vii</sup> [Senior officials high earners salaries](#)