

Equality of Opportunity Committee

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Additional information from the Welsh Local Government Association on the Equal Pay Campaign

Additional information has been received from the Welsh Local Government Association in response to questions raised by members of the Committee on Equal Pay. The responses are attached as an annex to this paper.

Committee Service

Equality of Opportunity Committee's Questions on Equal Pay

Thank you for your letter of 16 March 2010 requesting information from local authorities on Single Status and equal pay costs. You will appreciate I am sure that these are very sensitive issues. We would not want individual local authority responses to be in the public realm where information could be misinterpreted or misused. As your Committee Services have advised that the information needs to be suitable for publication, we have now decided to provide headlines only in response to your questions.

1. How each local authority has spent the 4.5% uplift provided by the Welsh Government over the period 2005-8?

14 authorities confirmed that they had either set aside a sum equivalent to their share of the 1.5% of the headline non-teaching paybill in each of the 3 years or put it into the base budget to prepare for single status implementation.

10 authorities specifically stated that they had also earmarked additional resources

7 authorities did not answer the question directly, but 3 of these stated that a sum had been put into a reserve or their base budget to pay for single status, 1 that it aimed to keep costs within current budgets, and 3 that eventual single status costs would be considerably more than a 4.5% increase on their pay bill.

5 authorities made similar points to those Cllr. Kemp makes in his letter, regarding the difficulty of quantifying how much additional funding each authority actually got with regard to the stated 4.5% pay bill uplift.

2. Which local authorities have set aside reserves to cover equal pay settlements; and for those that have not why not?

This question is addressed in Cllr. Kemp's letter.

3. Why have more local authorities not made requests for capitalisation directions?

Three authorities made reference to their use of capitalisation directives in their responses. Otherwise the points made in Cllr. Kemp's letter fully reflect the information received from councils on this issue.

I am sorry it has not been possible to provide a fuller response, but I hope this information coupled with Cllr. Kemp's letter is of assistance to the Committee.

Yours sincerely

Anna Freeman

Director of Employment

Single Status and Equal Pay in Local Government

I thought it might be useful to write to you regarding the questions that you raised in your letter to Anna Freeman of 16 March 2010. Anna, I know, has provided you with some information that she has received in response from authorities. However, I am concerned that your line of questioning suggests that there is still a lack of real understanding about these issues within the Assembly.

With regard to your question concerning the '4.5% uplift provided by the Welsh Government over the period 2005 - 8 to enable local authorities to implement the single status agreement'. The uplift on the headline non-teaching local government pay bill was provided in direct response to the WLGA lobbying on the issue of the cost of implementing single status. At the time this cost was running at an average of 3-5% on the pay bill in England (it should be noted that this has since increased considerably as larger authorities with more directly employed labour forces have completed the process).

Over that period, the total average increases to local government's total discretionary revenue funding were 5.1% in 2005/6 (ranging from 3.5% to 7.3%), 5.1% in 2006/7 (ranging from 3.1% to 6.0%) and 4.4% in 2007/8 (ranging from 3.1% to 5.6%). These uplifts included funding to meet general pay and price pressures as well as the costs of new responsibilities, but did not cover all local government's funding pressures. Pay, pension and price pressures accounted for 4.5% growth in 2005/06, 4.2% in 2006-07 and 4.4% in 2007-08. In these years the pay award was 2.95%, 2.95% (1.76% for teachers) and 2.5% respectively.

Individual authorities receive different shares of the national allocation derived using the local government funding formula (as demonstrated by the ranges in brackets above), which takes account, inter alia, of population, relative deprivation and rurality. As a result it is not possible to quantify exactly how much each authority received in respect of single status implementation. Clearly some authorities will have had far less of an uplift than others from which to meet their additional financial pressures, including the costs of single status.

As you will see from the responses provided from authorities that have completed the process, the actual cost of implementing single status generally far exceeds the notional 4.5% uplift provided. You will also see that authorities which have yet to complete are making suitable provision to meet these costs. Whether they made that provision during the financial years 2005-6, 2006-7 and 2007-8, or whether it was at a later stage and / or from other resources strikes me as a complete red herring. The costs are inescapable. If any authority were to attempt to implement a Single Status package that proved unworkable due to a level of investment below their share of the 4.5% uplift, that might be the time to ask questions.

You will also note the high costs of the Single Status exercise. Single Status has necessitated the employment of teams of analysts, team leaders and managers dealing with job evaluation, validation of results and appeals. There has also been considerable management time expended in the pay modelling process and the detailed and often difficult negotiations with the unions on all aspects of the Single Status process and package. The idea that local government may not have 'spent' the 4.5% uplift (provided for 'equal pay audits') appropriately, is frankly nonsensical given the evidence of the astronomical sums that councils have, and continue to have to spend on the Single Status process.

With regard to the issue of authority reserves for equal pay settlements; As you know 9 authorities have made settlements to date, (although this has by no means resolved the issues for them due to the additional second generation claims made following the publication of JE results) The position for the remainder will, as the WLGA has been at pains to explain, depend on their individual circumstances and legal advice. Currently some authorities intend to negotiate on equal pay back pay as part of the overall single status package at the end of the process. Others may have a strategy of defending claims, based on the strength of their material factor defence (and a duty to protect the public purse appropriately) . This will be kept under continual review as the legal landscape shifts, as it does intermittently.

Clearly it would be inappropriate to share sensitive information which may indicate the intentions of individual local authorities on equal pay claims which are, after all, currently being pursued at the tribunal and subject to legal privilege. However, you will be aware of information on provisions for equal pay claims in local authority audited accounts which are in the public domain. Not all authorities are in a financial position to be able to set aside sufficient reserves. In these cases a bid for capitalisation may well be necessary in due course.

As Carl Sargeant AM has already written to authorities asking for their intentions with regard to capitalisation, the WLGA has not duplicated his request for information. We are however able to explain why more authorities have not made a request for capitalisation at this stage:

As authorities draw nearer to implementing Single Status there are a lot of financial variables that can make it difficult to determine with any certainty what monies may be available to settle any equal pay claims from the total provisions made to cover Single Status costs. These variables may include the extent to which the implementation is backdated (e.g. to April 2007) or not, the cost of the Part 3 provisions package, where the pay line is drawn, the cost of pay protection, the number of second generation equal pay claims and the legal position with historic equal pay claims. Until these costs are much clearer it may be very difficult to determine if a bid for capitalisation will be needed or not.

Capitalisation directions must be 'used' in the financial year in which they are issued, and the timescales are quite tight from date of issue to financial year end. It follows that an authority must be at the appropriate stage and know they will be completely ready to make equal pay compensation payments before a bid for capitalisation is made. To make a bid before this would be premature. Councils will therefore wait until they are absolutely ready to make a bid.

The granting of capitalisation directions only facilitates the accounting treatment of one off revenue costs to capital. In the words of one local authority Finance Director "capitalisation is not money but consent to pay yesterday's debts tomorrow". Such capitalised costs need to be repaid by local authorities over the period of the Direction, and there is also an annual revenue cost in terms of servicing the debt. Capitalisation is therefore not a panacea as it costs more in the long term. Concerns with regard to 'mortgaging the council' and placing 'the costs of current staff on local council taxpayers for many years in the future' are examples of reasons cited by councils for avoiding capitalisation of equal pay compensation payments if at all possible. Council's understandably have a clear preference for using their limited capital resources on investment in their assets.

I hope the information I have provided clarifies some of the issues of concern for the Equality of Opportunity Committee. I can assure you that local government wishes to see these matters resolved just as much as the National Assembly, and I am confident that we will continue to make steady progress despite the considerable obstacles placed in our way.

Yours sincerely

Cllr Gordon Kemp

WLGA Employment Spokesperson