

Sir Derek Jones KCB
Ysgrifennydd Parhaol
Permanent Secretary



Llywodraeth Cymru
Welsh Government

Darren Millar AM
Chair of the Public Accounts Committee
National Assembly for Wales
Cardiff Bay
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Dear Darren,

12th February 2016

Public Accounts Committee Report: Senior Management Pay

Thank you for your letter of 15 January 2016 in which you sought further clarification around the work being undertaken by the Welsh Government to implement the recommendations made in the Public Accounts Committee's Report on Senior Management Pay.

Transparency of senior pay for Registered Social Landlords and the higher and further education sectors

Work on transparency of senior pay for Registered Social Landlords and the higher and further education sectors remains ongoing. Recommendation 17 was addressed through the distribution of the Transparency of Senior Remuneration in the Devolved Welsh Public Sector principles announced by the Minister for Public Services in December last year. With reference to Recommendation 13, a forward work plan has been developed to ensure we continue to make progress against the outstanding recommendations. Please see a note on the next steps below.

Grant award conditions for organisations which do not explicitly fall within the public sector

I note the Committee's comments on placing conditions on new grant awards. However, following further advice from Legal Services colleagues, I can confirm that the Welsh Government's position remains unchanged. The placing of such conditions onto grant awards to organisations, in particular organisations in the higher and further education sectors, would be legally problematic.

As I set out in my earlier letter, the conditions that may be attached to annual funding are not set out exhaustively in statute, but the general principles of public law provide that they may not stray too far from the purpose of the funding. The additional conditions contained within the Transparency Principles are too far removed from the purpose and effect of the funding itself.

Conditions which can be attached to funding must be reasonably related to the purpose(s) for which funding is being provided, taking into account only considerations which are relevant to those purpose(s). To take the examples in Recommendation 22, such considerations may be derived from the specific terms of the powers contained in relevant legislation involving FE/HE and housing, or drawn from wider obligations derived from other legislation such as the Equality Act 2010 which the Welsh Ministers must take into account. Conditions which are not reasonably related to the power in question are potentially unlawful. Each award of funding must, as a result, be considered on its own terms taking account only of considerations relevant to the exercise of that particular power. Whilst there are some grants that cap the amount of salary supported under the grant scheme, the Welsh Government does not control the total amount of salary paid to individuals, only how much grant is provided by the Welsh Government towards the salary costs. Attempting to introduce specific and prescriptive conditions such as how an organisation would manage recruitment, pay scales, pay arrangements, information that is on its website and job evaluations, is above and beyond what Welsh Ministers could reasonably impose as conditions attached to the annual funding.

Timetable for implementation of remaining recommendations

As mentioned above, a forward work plan is being developed to ensure we continue to make progress against the recommendations. A draft plan will be discussed with the Workforce Partnership Council and Public Service Staff Commission in the next few months; I would be happy to share the agreed plan with the Committee in due course. My expectation is that the vast majority of the work will be completed during the next financial year. The Committee will note that this is a longer period of time than the high level delivery outline attached to the Welsh Government's original response to the report. Whilst the response to the report did stress that the delivery of this work would need to take into account other pressures on our resources, I do acknowledge that the early timeline for the delivery of the outstanding research, reporting and embedding work, following the development of the Transparency Principles themselves, was over-optimistic.

I hope that the Committee will find this update useful. I look forward to discussing the report at the session on 23 February.

Yours,
Derek