

## Briefing Paper

### **Compensation for loss of pension rights or just working the system?**

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In 2010, Mark Hoban MP, the then Financial Secretary to the Treasury, announced further reductions in both the lifetime and annual allowances that applied to pension contributions and the resulting funds. In his speech, he confirmed the Coalition Government's commitment to protecting those on low to moderate incomes as far as possible and that the Coalition intended to continue the previous Government policy of raising revenues by reducing pension tax relief (Hoban, 2010). The effect of this legislation was to reduce the annual allowance to £50,000 per annum (subsequently reduced to £40,000 from April 2014) and the lifetime allowance to £1.5 million (£1.25 million from April 2014).

For some high earning individuals with large pension funds above the lifetime allowance or where substantial pay increases had resulted in increased accrual the implications of these changes are potential tax charges. However, it appears that some have attempted to reduce the effects of these rules by stopping accruing further benefits and negotiating with their employers increased salaries to compensate for the loss of these benefits. Notably, senior officers in both Pembrokeshire and Carmarthenshire County Councils (BBC, 2014a).

Subsequently, this scheme has been audited by the Wales Audit Office (WAO) team (2014), who suggest that this approach is unlawful. The justification by the local authority for this approach was in part that it was an 'aid to recruitment' however they provided no evidence to support this.

The background to this case is as follows. Some higher earning officers within these councils had reached the point where their current pension accrual was likely to exceed the reduced limits if they continued to actively accrue further benefits. They therefore opted out of the local government scheme (presumably registering for some form of fixed protection) and then negotiated with their employers increased salary broadly equivalent to the cost to the employer of funding their pension contribution. This resulted in the Chief Executive of Pembrokeshire Council receiving additional pay in 2012/13 of £22,269 and a further £28,742 in 2013/14 under this 'pay supplement scheme' (Wales Audit Office, 2014).

Given that the councils in question no longer needed to fund the respective pension schemes for further active accrual of these employees then it might be argued that it is reasonable that they should receive the equivalent amount as additional salary assuming the net cost to the employer was not increased. In fact the WAO (2014) suggested that there was a cost to the councils in the way the scheme had been designed but nevertheless adjustments could no doubt have been made to negate this cost. However, in times of austerity when the majority of public sector workers (or at least those that have managed to retain their jobs) have been restricted to sub-inflation pay rises assuming they have received any at all, it seems morally corrupt that the senior officers can invent a scheme that

effectively compensates them for the effects of legislation that was designed to try and make the better off contribute more towards the recovery.

Of course it could be argued that the additional salary received by these officials would be subject to income tax and national insurance, so in fact, they are contributing a greater amount to the overall tax take, but surely in times like these this is unacceptable. Would these local authorities be prepared to grant these privileges to the teaching assistant or car park attendant who wanted to swap their right to accrue pension for a salary increase of 14.7%?

Although this practice has rightly [in my view] been deemed unlawful by the Wales Audit Office, [although a subsequent enquiry by Gloucestershire Constabulary found no criminal offences took place, (BBC, 2014b)] it begs the question as to whether similar practices are being used elsewhere by those with the power to influence their employers. It seems unlikely these are the only cases where one rule prevails for the majority and another for those who are able to work the system to their own advantage.

Barrett, A (2014) *Senior Officers' Pay and Pensions, Pembrokeshire County Council Report in the Public interest*. Wales Audit Office, Cardiff.

BBC (2014a) *Pembrokeshire and Carmarthenshire made unlawful payments says watchdog*  
<http://www.bbc.co.uk/news/uk-wales-25948610>

BBC (2014b) *No action over Carmarthenshire and Pembrokeshire unlawful payments*

<http://www.bbc.co.uk/news/uk-wales-south-west-wales-27298349>

Hoban, M (2010) *Financial Secretary to the Treasury, announced a reduction in the annual allowance for tax-privileged pension savings.*

<https://www.gov.uk/government/news/financial-secretary-to-the-treasury-announces-changes-to-restricting-pensions-tax-relief>

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