LGA RESPONSE TO CONSULTATION ON SALARY SACRIFICE FOR THE PROVISION OF BENEFITS IN KIND

This response is submitted by the Local Government Association (the LGA), on behalf of local authorities. The LGA is the national voice of local government. We work with councils to support, promote and improve local government. The LGA covers every part of England and Wales and includes county and district councils, metropolitan and unitary councils, London boroughs, Welsh unitary councils (via the Welsh LGA), and fire and national park authorities. The Workforce Team of the LGA offers advice on employment issues and represents local government employer interests to central government, government agencies, trades unions and European institutions. Our response is based on views expressed by authorities following a consultation that we carried out with them.

Question 1: Alongside annual leave are there any other salary sacrifice arrangements that the Government should be aware of that do not strictly involve receipt of a benefit?

We and the local authorities who have contributed to this response are not aware of any.

Question 2: What are the likely impacts on employers and employees of limiting the scope of BiKs that can obtain tax advantages when offered through salary sacrifice?

Although the most common salary sacrifice BiKs in local government will not be changed (i.e. childcare vouchers, bikes to work and pension contributions), many authorities still provide certain other BiKs through salary sacrifice, such as cars, car parking, computers, mobile phones, training and wellbeing schemes. Those positive benefits are valued by employees and at a time when authorities face increasing financial challenges, those benefits can be provided in a cost effective manner, as the employer NIC savings can be offset against the administration and associated costs of providing the salary sacrifice. Providing the BIKs therefore helps to maintain the overall value of the reward package for employees and the employer ‘brand’, at minimal cost for the employer, when salaries are otherwise under pressure and may not be competitive in the overall job market.

If the employer NIC tax advantages for those BiKs are removed, not only will many employees not be able to afford the benefits any longer, but many local authorities will not be able to afford to provide those benefits, because of the administrative and associated costs of providing those benefits. Removing those benefits could adversely affect employee relations and have a disproportionate impact on lower paid employees, for whom changes in take home pay have a greater impact. Ultimately the removal could impact on recruitment and retention, as employees look to other sectors for work where there are less financial pressures and therefore the potential to achieve a higher salary. This would be at a time when authorities are finding recruitment and retention increasingly difficult, putting the delivery of services under pressure.

Question 3: Are these impacts different, or are there different considerations for large/small businesses or particular business sectors:

The main issue for local authorities and many public sector bodies is that they face increasing pressures on their finances, at a time when demand for services is increasing. Unlike other bodies therefore they do not have the option of increasing pay to make up for the removal of the tax advantages of salary sacrifice arrangements. Further the opportunity to mitigate the impact of the loss of the tax advantages by providing employees with loans to purchase the benefits will be limited in local authorities. As indicated in our response to question 2 this could therefore impact on employee relations and recruitment and retention.

Another consideration is that for local authorities, the employer NIC savings under current arrangements that are not spent on administering schemes are ploughed back into providing services and so benefit the public, rather than company owners as may be the case in the private sector.

Question 4: Are the impacts different for particular BiKs?

<u>Green car schemes</u>

Many authorities have indicated that green car schemes will be particularly hit, as the value of the asset is high, and the lease extends over 3 – 4 years.

The rationale behind the introduction of the green car scheme was:-

- that it would encourage staff to drive newer, less polluting cars.
- this would aid the environment.
- this would help the government to hit its target reduction of CO_2 emissions.

Any decision which results in fewer cars being sourced through such schemes will mean:-

- older, more polluting cars are likely to remain on the road.
- a negative impact on environmental conditions.
- a decrease in the possibility of hitting the government's target reduction of CO_2 emissions.

It is also important to keep in mind that cars provided under salary sacrifice arrangements will be fully insured for business use. This reduces the risks for employers when employees use the car for their work, which is common practice in local authorities, for example in the case of care workers who use their car to deliver services in people's homes.

<u>Home computers</u>

Other authorities have indicated that the provision of home computers through salary sacrifice can assist employees and their family members to become proficient in the latest technology that they might not otherwise be able to afford to purchase.

<u>Car parking</u>

Savings through cheaper car parking particularly support working parents and other carers of dependents who need to use a car to get to and from work to fit in with those caring commitments.

Training schemes

Training schemes enable employees to learn skills that can help their current role as well as their general self-development.

Wellbeing schemes

Wellbeing schemes (such as gym access) contribute to the health of employees, supporting the wider public health agenda and potentially reducing sickness absence rates.

Question 5: Do you think that the government needs to take any steps to mitigate any negative consequences of this change for employees and employers, such as those who may be locked into salary sacrifice arrangements? If responding, it would be helpful to understand specific examples and factors the Government should take into consideration.

Any new legislation should not have immediate effect for those who are locked into contracts for a fixed period. For instance, cars are currently leased for 3 to 4 years and, generally, attract a substantial fee if the contract is terminated early. This would penalise the individuals unfairly, since they had entered into the agreements in good faith. Further, some employees might seek to argue that the termination of the arrangements amounted to a breach of the employment contract.

Question 6: Do you consider that the approach proposed for legislation would work as intended?

We have no substantive comments on the proposed detail of the legislation. However, it will be very important that the legislation is accompanied by clear guidance.

Question 7: Are there any consequences the Government has not considered in proposing to legislate in this way?

We have no substantive comments on the proposed detail of the legislation. However, we ask that the adverse impacts identified earlier in this response are taken into account when considering the wider policy implications of these proposals.

Question 8: Would this timeline present employers with difficulty, for example with updating payroll software?

Many local authorities have expressed concern with the timeline, which provides little time for employers to assess the implications of the changes, implement them and to communicate them to employees. As is anticipated the timeline will present particular issues for payroll providers, whether they be ‘in house’ or external, as the changes will have to made at short notice and are likely to incur additional costs. Therefore authorities would like to see a longer timeline for implementation.

Question 9: Are there any other changes that employers would need to make?

Employers will need to change employment policies, contracts and website pages etc that deal with salary sacrifice arrangements to ensure that employees know about the changes. They may also need to enter into negotiations with the companies they may have contracted with in order to supply particular benefits such as cars and computers.

Some authorities might seek to mitigate the impact of the loss of the tax advantages by providing employees with loans to purchase the benefits. However the opportunity to do that will be limited, bearing in mind the constraints on public finances.

Question 10: Are there any other compliance considerations which HMRC should be aware of?

It is very important that clear HMRC guidance accompanies the changes so that employers can be sure that they are complying with the revised law and also how proposed salary sacrifice arrangements will be assessed by HMRC where any clearance might be sought**.**

19 October 2016
Workforce Team
Local Government Association
eru@local.go.uk