**ANNEX A: Cabinet Office guidance to employers on reviewing Voluntary Exits that took place on 2016 terms**

Voluntary Exits (VE) provide a flexible means of facilitating the early departure of civil servants on the basis of agreement, and do not form part of a formal redundancy process - although they may sometimes be used as a redundancy avoidance measure. As such the terms only operate on the basis of agreement and there is no compulsion for a staff member to accept any VE offer.

Accordingly, there is a considerable amount of flexibility in VE terms. Subject to the separate £95K approvals process, the 2016 VE terms allowed for any offer between the equivalent of a statutory redundancy terms and the standard tariff, while the 2010 terms also offered some flexibility to exceed the standard tariff. The decision on what terms to offer under VE is at the discretion of the employer and there is no right to be offered specific terms.

Because of this flexibility the amount of a VE payment made under the 2016 terms could also have been made under the 2010 terms. Our view is therefore that, provided the employer is satisfied on a scheme by scheme basis that they would not have offered different terms had the 2010 terms been in place:

* it is lawful to continue with VE exits on terms that have already been agreed; and
* VE exits that have already been made are lawful.

Employers must now review all VE schemes made in the past on 2016 terms.

**Review**

In reviewing a VE exit that was previously offered on 2016 terms you, as an employer, will need to satisfy yourself that you would not have decided to pay more if the 2010 scheme terms had been in force rather than the 2016 scheme terms.

**In reaching a conclusion on this you should ask two questions:**

* What were the criteria that formed our thinking when we first made the decision on VE terms?; and
* Having identified those criteria and applying them again using 2010 VE terms as our reference, would we have come to the same or a different conclusion?

**In undertaking this exercise you should apply the exit scheme business case considerations that you applied at the time of the original decision.**

Once you have reached your decision please notify Cabinet Office (redundancy schemes mailbox and MyCSP (exit schemes mailbox) of the outcome of your review.

You should note that where this reconsideration and subsequent recalculation on new terms means a VE exit now exceeds £95K, this will be subject to scrutiny and approval by the Minister for Government Resilience and Efficiency in the same way as they would have been when the exit scheme was first approved.

We would advise seeking your own legal advice as part of reconsidering past exit schemes on 2016 terms, but are very happy to discuss.