

MERSEYSIDE PENSION FUND

PENSION BOARD

14 SEPTEMBER 2020

SUBJECT:	LGPS UPDATE
REPORT OF:	DIRECTOR OF PENSIONS

1.0 EXECUTIVE SUMMARY

- 1.1 This briefing covers the long-awaited Government response to the consultation on restricting exit payments in the public sector and the publication of the draft Restriction of Public Sector Exit Payments Regulations 2020 issued on 22 July 2020.
- 1.2 It also raises awareness of the Written Ministerial statement on survivor benefits payable from public service pensions in response to an Employment Tribunal relating to the Teachers' Pension Scheme. The case concerns the lower survivor benefits paid to a widower of a female scheme member compared to those paid to a same sex survivor.

2.0 BACKGROUND AND KEY ISSUES

HM Treasury Response to £95k public sector exit cap consultation

- 2.1 HMT has published its response to the consultation issued last year, seeking to cap public sector exit payments at a value of £95,000, along with the draft regulations; The Restriction of Public Sector Exit Payments Regulations 2020.
- <https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector>
- 2.2 The regulations will affect LGPS members in England and Wales who currently qualify for an unreduced pension because of redundancy or efficiency retirements and include a list of employers who will be covered by the cap.

2.3 There are a few key points to highlight in the response as follows:

- The government has decided to no longer proceed with a staged approach. The cap will now apply across all the public sector when implemented to ensure value for money as soon as possible.
- HMT has confirmed that employer funded early access to pensions will be within scope of the exit payment although the cap will not apply to all employers in Funds as it currently stands.
- The government is committed to strong governance and that any exceptions process for the cap not to apply will be fit for purpose and not cause any unnecessary delays.
- Whilst there is no current plans to uprate the £95k cap each year the government has committed to “making decisions on the level of the cap with reference to full contextual factors” and any change can be implemented through secondary legislation.

2.4 Under current LGPS provisions members whose employment is terminated on redundancy or efficiency grounds must access their pension benefits. In cases where the cap is breached, then the member may have to take a reduced pension. Consequently, MHCLG is looking at options to introduce choice to allow members in this position to opt for a deferred pension instead.

2.5 It is also expected that a standard strain cost calculation will be introduced so that the cap can be applied equally to members across the LGPS.

2.6 The Restriction of Public Sector Exit Payment Regulations 2020 provide for the cap to come into force 21 days after they are made. However, the regulations are subject to the affirmative procedure so will need to be approved by both Houses of Parliament before they can be made. We understand it is the intention that the cap will be in force for the end of the 2020 calendar year.

SURVIVOR BENEFITS FOR OPPOSITE SEX WIDOWERS PENSIONS

2.7 On 20 July, HMT issued a statement confirming that, following a successful case against the Teachers’ Pension Scheme (TPS), known as the “Godwin Case” historical widowers’ pensions in the public sector pension schemes discriminated against male members.

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-07-20/HCWS397/>

Departments responsible for the administration of affected schemes will consult on and take forward changes as soon as possible.

- 2.8 For the LGPS this will affect surviving widowers where their deceased spouse left prior to April 1998. In some cases, this will lead to an increase in the widower's pension in payment. In other cases (where the member left prior to April 1988) this will lead to a new widower record needing to be set up, as previously there was no widower's pension entitlement.

3 IMPACTS & CONSIDERATIONS

- 3.1 The government are expecting employment contracts, compensation schemes, and pension schemes to be changed to accommodate the £95k exit cap.

We expect more details to emerge in the coming months with regard to updated guidance and HMT Directions. Both Funds and employers will need to ensure they are making plans to prepare for the implementation as the detail emerges.

- 3.2 The need to re-visit hundreds, perhaps thousands of historical deferred and pensioner records in relation to the restatement of survivor pension entitlements will only add to the governance and administration burden Funds are facing on the back of the proposed McCloud remedy (covered as a separate agenda item) and the implementation of the exit cap.
- 3.3 The Fund's external auditor, Grant Thornton, has flagged the "Godwin Case" with regard to the potential impact on accounting liabilities at both a whole Fund and individual employer level.
- 3.4 The Fund's actuary, Mercer, has undertaken analysis as to the materiality of the change in widowers benefits and has concluded that the cost is on average less than 0.1% of liabilities and is certainly within the margins inherent in the roll-forward calculation which forms the basis of the accounting figures.

**REPORT
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