MERSEYSIDE PENSION FUND

PENSION BOARD

10 NOVEMBER 2020

SUBJECT:	**LGPS UPDATE**
REPORT OF:	**DIRECTOR OF PENSIONS**

1.0 EXECUTIVE SUMMARY

1.1 This report provides an update on the position with Treasury's (HMT) reform to limit exit payments to a maximum of £95k for public sector employees and the publication of the 'Restriction of Public Sector Exit Payments' regulations with an effective date of 4 November 2020.

1.2 In addition, the report covers the related Ministry of Housing, Communities and Local Government (MHCLG) consultation – 'Reforming Local Government Exit Pay', issued on 7 September 2020.

The consultation requests feedback and comments on the proposed reforms set out in the draft 'LGPS (Restriction of Exit Payments) (Early Termination of Employment) (Discretionary Compensation and Exit Payment) regulations', issued on 14 October.

1.3 Finally, the report raises awareness of a further interim response on proposals set out in the consultation dated 8 May 2019, 'Changes to Local Valuation Cycle and The Management of Employer Risk' and the issue of the LGPS (Amendment) (No.2) Regs 2020.

2.0 BACKGROUND AND KEY ISSUES

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

2.1 The legislation implementing the £95k cap on public sector employee exit payments has now been signed and comes into force on 4 November 2020. Guidance and Directions to accompany the regulations are still outstanding, particularly those outlining the position of exits agreed before 4 November where the date of leaving is after and also the discretionary waiver process.

2.2 Government Actuary's Department (GAD) has produced draft factors and strain cost guidance for administrators to calculate the pension strain for retirements on both redundancy and efficiency grounds so that the £95k cap can be applied equally to members across the LGPS.

2.3 Government are expecting the compensation and pension scheme regulations to be changed to accommodate the £95k exit cap. Although, currently the provisions of the current LGPS regulations conflict with the Treasury legislative position and MHCLG are expected to issue a directive to local government employers and administering authorities as to a working solution during this hiatus.

MHCLG Consultation – Reforming Local Government Exit Pay

2.4 On 7 September, MHCLG released the above-named consultation which will have far-reaching implications for employers and members employed by public sector bodies within the LGPS. The consultation can be accessed from the following link:

https://www.gov.uk/government/consultations/reforming-local-government-exit-pay

The draft regulations – LGPS (Restriction of Exit Payments) (Early Termination of Employment) (Discretionary Compensation and Exit Payment) regulations, are designed to give effect to the measures proposed in the consultation and can be accessed from the following link:

http://lgpslibrary.org/assets/cons/lgpsew/20200907_DR.pdf

2.5 The reforms apply to all employers set out in the overarching HMT Regulations who are designated as public sector and are the responsibility of the UK Government. The reforms will not affect employees of employers outside of the public sector.

2.6 The proposals will radically change severance packages and impact workforce planning as the provisions go much further than the overarching public sector exit regulations and affect all members regardless of the £95k exit payment cap.

Summary of Proposals

2.7 The consultation sets out the following proposed approach:

- A general reform of redundancy payments, to involve a maximum of three week's pay per year of service, an overall ceiling of 15 months' pay and a maximum salary of £80,000 p.a. which can be used in the calculation.
- Inclusion of pension strain in the overall payment cap of £95k.
- A waiver process to allow for relaxation of the £95,000 cap in exceptional circumstances, requiring ratification of full council and approval of the business case by MHCLG.
- Strain costs and the related pension enhancements will be reduced by the value of any statutory redundancy payments which the employee will receive in cash.
- In general, the making of discretionary redundancy payments over the statutory redundancy payment will not be allowed in cases where a strain cost is paid.

The above proposals are to be implemented by individual government departments rather than via a central HMT directive. Currently no other part of the public sector has any 'live' proposals to enact further reforms beyond the £95k cap.

Impact on Members

2.8 Within the MHCLG proposals there are a number of options for how members can access redundancy packages; all options in the main lead to significantly reduced payments and complexity for a member.

However, in the period between 4 November and the date the LGPS regulations are amended:

- Only exits where the costs exceeds the £95k cap will be impacted
- The statutory guidance on standard strain cost will not be effective and strain will be calculated on a local basis
- The proposals in the MHCLG consultation around limiting cash severance payments and the strain cost being reduced by the value of any statutory redundancy pay will not apply

Impact on Funds and Employers

2.9 The issues for Funds and employers are wide ranging, as the proposals will affect governance arrangements, retirement processes, information flows calculations and communications with both employees and employers. The practicalities of implementation are extremely onerous from the Fund's perspective.

2.10 The consultation is open until 9 November and the Fund will respond from a LGPS perspective. The Fund has communicated the need for employers to respond to the consultation in regard the impact on severance packages and future workforce planning. Furthermore, it has been communicated to employers to avoid producing any illustration on redundancy/efficiency grounds beyond Tuesday 3 November 2020

Interim Consultation Response - Changes to the Local Valuation Cycle & the Management of Employer Risk

2.11 MHCLG has published a further interim response to the above consultation and issued amendment regulations effective from 23 September, which can be accessed from the following link:

http://lgpslibrary.org/assets/si/ew/SI2020-893.pdf

These regulations grant administering authorities and employers the flexibilities to review employer contributions under the following scenarios:

- Where there has been a significant change to the liabilities of an employer (this is more structural changes as opposed to changes in discount rate).
- Where there has been a significant change in the employer's covenant (it is not clear if this would be on the basis of affordability, long term financial strength or both).
- At the request of the employer (who would need to pay the costs) and subject to the two conditions above.

2.12 The trigger to amend contributions is therefore not related to changes in market conditions. Whilst a review of contributions may take place for an employer, it does not mean that contributions would subsequently be changed by the Fund, as all factors will be considered during the review.

2.13 The amendment regulations also permit the administering authority to agree a repayment schedule for an exit payment with employers who wish to leave the scheme but need to spread the costs over a period of time.

2.14 There is also provision to enter into Deferred Debt Agreements with an employer to enable them to continue paying deficit contributions without any active members; but only where the Fund is confident that the employer would fully meet its obligations.

2.15 We are waiting for statutory guidance from MHCLG for the Funding Strategy Statement (FSS) which is expected to be high-level just covering the Regulations and further guidance from the SAB, which will contain more examples of how the regulations will work in practice. The Fund will have to develop a policy on these matters which will be consulted on with employers and incorporated into a future ratified FSS.

3.0 **Impacts & Considerations**

3.1 The local government exit payment reforms and options available to employees will need to be carefully communicated as members of the LGPS are likely to seek guidance around their various retirement options with an impact on the administration team resources. In many cases there will be tension between the accessibility of the up-front redundancy cash and the longer-term pension enhancement.

3.2 Employers will need to be categorised into those affected by the £95k exit payment cap and those unaffected and severance policies updated.

3.3 Due to the accelerated timescales of HMT to implement the £95k exit payment cap, software providers will not be able to carry out the required system changes before the regulations are laid. This will require Funds to undertake manual calculations of the pension strain costs and the associated impact on severance packages.

3.4 Depending on the scale of employers seeking to enter into Deferred Debt Arrangements, there could be a capping of employer risk size as future accruals would stop for these employers, leading to an acceleration of the Fund’s maturity profile and reduction in cashflow.

4.0 RECOMMENDATION

4.1 That Members note the report and the resource implications in administering imminent changes to the regulations.

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