

**PENSIONS COMMITTEE****Monday, 29 March 2021**

<b>REPORT TITLE:</b>	<b>LGPS UPDATE</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF PENSIONS</b>

**REPORT SUMMARY**

This report updates Members on the Treasury announcement of 12 February, to issue a direction to disapply the 'Restriction of Public Sector Exit Payments Regulations 2020 (£95k cap) with immediate effect. Subsequently, on 25 February the Treasury formally revoked the regulations with effect from 19 March 2021.

In addition, the report raises awareness of the publication of the final report from the Scheme Advisory Board on the Good Governance review and overriding legislation that will impact on the administration of the LGPS.

**RECOMMENDATION**

That Members note the governance, resource and operational implications emerging from impending changes to the regulations and industry developments.

**SUPPORTING INFORMATION****1.0 REASON/S FOR RECOMMENDATION**

1.1 There is a requirement for Members of the Pension Committee to be kept up to date with legislative developments as part of their decision-making role.

**2.0 OTHER OPTIONS CONSIDERED**

2.1 Not relevant for this report.

**3.0 BACKGROUND INFORMATION**

## **£95K Cap “Disapplied”**

- 3.1 Further to updates provided at the last committee meeting on the £95k Exit Cap, HM Treasury (HMT) published the Exit Payment Cap Directions 2021, on 12 February, accessible from the following link:

<https://www.gov.uk/government/publications/guidance-on-public-sector-exit-payments/mandatory-hm-treasury-directions>

The Directions disapply regulations 3, 9 and 12 of the Restriction of Public Sector Exit Payment Regulations 2020 with immediate effect on the basis that the Government has concluded that the Cap may have had unintended consequences.

This means the exit cap does not apply to exits that take place on or after 12 February 2021.

- 3.2 HMT also issued guidance which set out their expectation that employers who had capped exit payments since 4 November 2020 should revisit those cases and pay the additional sums that would have been payable had the cap not applied.

### **Exits Between 4 November 2020 and 11 February 2021**

- 3.3 The Scheme Advisory Board (SAB) has sought legal advice on exits that occurred while the 2020 Regulations were in force and based on that advice, the SAB recommends that administering authorities:
- may pay unreduced benefits to all members who left during this period due to redundancy or business efficiency at age 55 or over
  - should request the full strain cost of paying unreduced benefits from the Scheme employer, and
  - should not seek to adjust the unreduced benefits or the strain cost payable by the Scheme employer to reflect any cash alternative payment the employer has paid.
  - If an employer has made a cash alternative payment, they should seek to recover the cash alternative payment made to the employee when the LGPS administering authority confirms they will be paying an unreduced pension.
- 3.4 The Fund has circulated LGA’s updated employer information notes covering the disapplication of the £95k exit cap, these also incorporate the SAB recommended approach to deal with exits during the relevant period.

### **The Restriction of Public Sector Exit Payment (Revocation) Regulations 2021**

- 3.5 On 25 February 2021, the above regulations were made and laid before parliament and will come into force on 19 March 2021. These regulations confirm the effect of the disapplication Directions made on the 12 February 2021 and remove any uncertainty for administering authorities in making benefit payments to members who have terminated employment on redundancy or efficiency grounds with effect from 4 November 2020.

## Future Exit Payment Reform

- 3.6 The Government has confirmed that the Treasury will bring forward proposals at pace to tackle unjustified exit payments and MHCLG has advised that it will consult again on reforms to exit payments, before any changes are made further to the recent consultation on reforming local government exit pay.
- 3.7 It is not expected any changes will take shape in the next few months due to the time it will take to consult and amend the regulations, although employers planning future workforce reform will need to be aware that:
- an exit cap may be in force later in 2021, and
  - MHCLG may introduce further reforms to exit pay when the exit cap is reintroduced.
- 3.8 When providing benefit estimates to members and strain cost calculations to employers in respect of future redundancies or business efficiency cases, the fund will need to include warnings on the documentation about possible future reforms to exit payments.

## Final Good Governance Report Published

- 3.9 On 15 February 2021, SAB published the Good Governance: Phase 3 Report which builds on the phase 1 and phase 2 reports published in 2019. The Phase 3 report can be accessed from the following link

[https://lgpsboard.org/images/Other/Good\\_Governance\\_Final\\_Report\\_February\\_2021.pdf](https://lgpsboard.org/images/Other/Good_Governance_Final_Report_February_2021.pdf)

The report provides further detail on the following recommendations.

- **The LGPS senior officer:** a single named officer who is responsible for the delivery of LGPS activity for a fund. The report covers the core functions of the role, the personal competencies needed to fulfil the role successfully and how the role could be incorporated into different organisational structures.
- **Conflicts of interest:** all administering authorities should publish a conflicts of interest policy that is specific to the LGPS. That policy should cover how it identifies, monitors, and manages any conflicts. The report includes more detail on what LGPS-specific areas should be covered by the policy.
- **Representation:** each administering authority must publish a policy on how scheme members and non-administering authority employers are represented on its committees.
- **Skills and training:** introduce a requirement for key individuals, such as pension committee members and section 151 officers, to have the appropriate level of knowledge and understanding to carry out their duties efficiently. The administering authority must publish a training strategy that sets out its policy on delivery, assessment and recording of training plans.

- **Service delivery:** regulation change to make it compulsory for an administering authority to publish an administration strategy.
- **KPIs:** that focus on ensuring that each administering authority has defined service standards and has the governance in place to monitor those standards.
- **Business planning process:** the senior officer and committee must be satisfied with the resource and budget allocated to administer the LGPS each year.

3.10 The SAB Chair has written to MHCLG to ask them to implement the recommendations either via revised guidance or regulations.

Furthermore, SAB have put forward an action plan for work to be undertaken by SAB to support the improvements to governance arrangements.

### **HMT Consultation Response to McCloud**

3.11 On 4 February HM Treasury published its response to the consultation on changes to the transitional arrangements to the 2015 public service pension schemes. This relates to the “unfunded schemes” including the civil service, teachers, police and fire schemes and the key policy decisions set out in the response are:

- The deferred choice underpin (DCU) method has been selected, whereby members will choose whether they wish to have membership of the legacy scheme or the reformed scheme in respect of their affected membership when they retire.
- Prior to making their deferred choice, members will be deemed to have accrued benefits in their legacy schemes for the remedy period (i.e. 1 April 2015 to 31 March 2022)
- Legacy schemes will close on 31 March 2022, meaning all active members will move to their reformed schemes from 1 April 2022.
- Members who move from one unfunded scheme to another and transfer their pension will retain the right to make a deferred choice on the remedy period when they retire.
- The Government will bring forward primary legislation to provide the powers to deliver the changes and consultations will follow from the individual schemes to implement the changes by 1 October 2023.

3.12 As Committee are aware, changes to the underpin in the LGPS were consulted on separately and a ministerial statement on the extension of the transitional arrangements is expected by the end of April 2021.

### **UK Pensions Schemes Act 2021**

3.13 On 11 February 2021, the UK Pensions Scheme Act received Royal Assent. The provisions within the Act will require regulations to bring them into effect with the following sections relevant to the LGPS;

#### **a) Pension Dashboards**

The Act provides a framework to support pensions dashboards, including new powers to compel schemes to provide information. The Fund will be required to feed in information on scheme members and regulations will specify the detail that must be provided, the timing and mode of data transfer.

### **b) Climate Risk Reporting**

The provisions impose requirements on trustees to ensure there is effective governance of schemes with respect to the effects of climate change, and to publish information relating to the effects of climate change on the scheme. This provides the legal framework for requiring trustees to make disclosures in line with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD). It is expected that MHCLG will consult on TCFD for the LGPS in the summer.

### **c) Limiting Transfer Rights**

The Act will allow trustees to block transfer requests where conditions in relation to the member's new employment or to their place of residence, are not met. The detail, including the implementation date, will be set out in regulations but the aim is to help prevent pensions scams. This is welcomed by Fund officers as exercising due diligence when a transfer request is received can be difficult with little scope to refuse a transfer that displays the characteristics of a scam.

### **Consultation on Increasing the minimum pension age 55 to 57 in April 2028**

- 3.14 On 11 February, HMT launched a consultation on the implementation of increasing the minimum pension age from 55 to 57 in April 2028. This is the age at which individuals can access their pension benefits without incurring an unauthorised tax charge.
- 3.15 Government had previously signalled its commitment to increase the minimum pension age to 57 in 2028 in its response to the Freedom and Choice in Pensions consultation in July 2014. The Government's justification is to reflect increases to life expectancy since the minimum pension age was last increased from 50 to 55 in 2010, so that tax efficient pension savings are only used to provide income and security in later life.

The consultation confirms that the proposals do not apply to those who are members of the firefighters, police and armed forces public service pension schemes. The consultation closes on 22 April 2021.

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are none arising from this report.

### **5.0 LEGAL IMPLICATIONS**

- 5.1 The Fund will be adopting the legal recommendations from the Scheme Advisory Board in relation to payment of unreduced pensions for

redundancy cases that exceeded the cap following disapplication of the exit cap.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 The Fund will need to ensure that its member data is consistent with the key data standards published by the Pensions Dashboard Programme.
- 6.2 The Fund system supplier will be engaged in developing a means to 'upload' member data securely to the Pensions Dashboard. The method of secure transfer and the supplier costs will become clearer at a later date as the requirements and onboarding timescale approaches in 2023.

## **7.0 RELEVANT RISKS**

- 7.1 There are none arising from this report.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 The relevant consultations are set out in this report.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone.

An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision, or activity.

- 9.2 MHCLG and HMT undertake equality impact assessments with regard to the statutory reform of the public sector pension schemes and LGPS.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 There are none arising from this report.

**REPORT AUTHOR:** **Yvonne Murphy**  
(Head of Pensions Administration) telephone:  
(0151) 242 1333  
email: [yvonnemurphy@wirral.gov.uk](mailto:yvonnemurphy@wirral.gov.uk)

## **APPENDICES**

### **BACKGROUND PAPERS**

**The LGPS Scheme Advisory Board information page on Public Sector Exit Payments:**

<https://www.lgpsboard.org/index.php/structure-reform/public-sector-exit-payments>

**LGPC BULLETIN 206 – February 2021**

<https://lgpslibrary.org/assets/bulletins/2021/206.pdf>

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>The LGPS Update is a standing agenda item on Pensions Committee</b>	