

LGPS: reform of exit pay arrangements

The Government first announced plans in 2015 to cap the amount paid by public sector employers to employees who were leaving at £95,000. Following many delays the cap has now been provided for within the Restriction of Public Sector Exit Payments Regulations 2020 and in parallel the Ministry of Housing, Communities & Local Government have issued a consultation on further restrictions to exit payments. It is the Fund's understanding that your organisation is covered by both the cap and the proposed further restrictions and therefore we wanted to highlight these changes to you so you can consider the implications as an employer within the Fund.

1. Restriction of Public Sector Exit Payment Regulations 2020 (£95k cap)

The exit cap applies to all public sector employees and employers including Councils (City, District, Borough or Parish/Town) and Academy Trusts.

The Restriction of Public Sector Exit Payments Regulations 2020 ([Link](#)) required to implement the £95K cap were approved by Parliament on 30 September 2020. However, the regulations have still to be enacted. This can happen at any point from now (we await the date from central government) though the regulation do make provision for a 21 day period between the regulations coming into force and when employers are required to apply them.

Once the regulations are in place it will mean the cost to the employer of terminating an employee's contract cannot exceed £95,000. The payments to include within the £95,000 assessment are stated within regulation 5 – though there are some limited exceptions within regulation 6.

This will potentially impact any employees who may have already received quotations for termination on the grounds of redundancy and business efficiency, who leave after the exit cap regulations are enacted.

The Local Government Association (LGA) on behalf of all LGPS Funds are seeking urgent clarification from the government on the two matters below:

- the position for exits agreed before the legislation takes effect but where the date of leaving is after.
- the position if the HM Treasury regulations come into effect before Ministry of Housing, Communities and Local Government (MHCLG) can introduce the necessary changes to the LGPS regulations to accommodate it.

We will update employers as and when we receive a response.

To further assist employers, the Scheme Advisory Board's website ([Link](#)) contains all the latest information on public sector exit payment cap.

Employers should carefully consider and assess the impact these changes will have on their organisation and employees, specifically if an employee's retirement date is after the implementation of the exit cap.

2. Consultation on changes to the Local Government Pension Scheme (LGPS) and Discretionary Compensation Regulations

There is a separate consultation on changes to the LGPS and Discretionary Compensation Regulations [Link](#) (This is still pending an implementation date).

These proposals will limit the payments made to, or in relation to, employees of 'reform employers' in addition to statutory entitlement as follows:

- the actual pay used in severance calculations will be limited to £80,000.
- the maximum severance (including statutory redundancy pay) will be limited to 3 weeks' pay per year of service or 15 months' pay, whichever is the lower.
- no severance will be payable if the member receives an immediate pension with a payment by the employer to cover the cost of early release of pension - the strain cost - except in the case of the severance amount exceeding the strain cost in which case the excess would be payable.

The consultation ends on 9th November 2020. If you wish to comment please do so direct to LGExitPay@communities.gov.uk or online via the link within the consultation document.