

## **IMPORTANT – Government Consultation on restricting public sector exit payments in local government**

### **When will the exit cap come into force?**

The consultation does not indicate a timescale for the Regulations to take effect. However, we understand from previous briefings that the intention is for these to be implemented by the start of 2021

Whilst they will not be backdated, they will potentially disrupt workforce planning discussions currently underway that might not come into effect until after the exit payment cap restrictions are introduced.

This is the reason for quickly ensuring that colleagues at councils, academy schools and other public sector employers are aware of these proposals.

### **Who does this apply to?**

The cap will apply to all public sector workers including, Employers and Employees of Councils (whether Metropolitan, County, District, Borough or Parish) Police and Fire Authorities and Academies.

### **Changes coming into force – the key elements can be summarised as:**

- A maximum tariff for calculating exit payments of three weeks' pay per year of service. Employers could apply tariff rates below these limits.
- A ceiling of 15 months (66 weeks) on the maximum number of months' or weeks salary that can be paid as a redundancy compensation payment. Employers will have discretion to apply lower limits, as they do at present under 2006 Regulations.
- A maximum salary of £80,000 on which a redundancy compensation payment can be based, to be reviewed on an annual basis using an appropriate mechanism, for example: CPI (Consumer Prices Index)
- A £95k cap on the total of all forms of compensation, including redundancy payments, pension top-ups (pension strain), compromise agreements and special severance payments

### **Urgent action to be taken by public sector employers**

Employers should carefully consider and assess the impact the changes announced by the Government will have on their Organisation and Employees, specifically if an Employee's retirement / leaving date is likely to be post the implementation of the Exit Payments Cap.

- Does your current redundancy / severance pay terms and conditions need amending in line with the first three bullet points detailed above.
- Ensure that potential early retirement packages being prepared are suitably caveated. In particular, there are risks if retirement quotes are being issued this calendar year where the retirement may not occur until after these new Regulations take place: the quotes may be invalidated with the benefits requiring revision;
- Consider completing your own response to the consultation

## **The purpose of the Consultation – closing date for responses 9 November 2020**

This consultation is **not** seeking views or representations on the government's position regarding exit pay reform. The framework for reform has been produced following extensive consultation led by HM Treasury. Instead, this consultation is seeking information on:

- The effect/s that the proposals for reform outlined below will have on the regulations which currently govern exit payments (including both redundancy compensation pay and early access to pensions) in local government.
- The impact that the proposals for reform will have on the local government workforce. Consultation responses will inform a full impact assessment, including equalities considerations which will be issued alongside the regulations when these are laid before Parliament

Link to the full consultation

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

## **What is covered?**

The exit payment cap is set at a total of £95,000 with no provision for this amount to be index-linked. Exit payments include redundancy payments (including statutory redundancy payments), severance payments, **pension strain costs** – which arise when an LGPS pension is paid unreduced before a member's normal pension age – and other payments made as a consequence of termination of employment.

The cap applies to all exit payments that arise within a 28 day period and the regulations cover the process to follow if an individual has multiple exits from public sector employment within 28 days.

The cap will only apply to those individuals where the combined total value of their exit payments (including pension strain costs) is greater than the £95,000 limit.

Where it does apply then the value of the exit payments will have to be reduced to the point where the total value of all exit payments is no greater than £95,000

### **What isn't covered?**

Payments related to death in service or ill health retirement, pay in lieu of holidays, payments made in compliance with an order made by a court or tribunal and payments in lieu of notice that do not exceed a quarter of a person's salary are not exit payments for the purposes of these regulations.

Although statutory redundancy is included as an exit payment it cannot be reduced. If the cap is exceeded, other elements that make up the exit payment must be reduced to achieve an exit payment of £95,000 or less.

### **Relaxing the cap**

There are circumstances, as set out in draft HMT Directions, when the cap must be or may be relaxed by a Minister or the Authority. However, most are subject to consent by HM Treasury, even if passed by full Council. Employers are required to record and publish information about any decisions made to relax the cap.

### **Applying the cap in the Local Government Pension Scheme**

The current proposals confirm that position, and now provide some detail on the practicalities. In brief:

- The amount of strain cost will be determined using standardised actuarial factors, rather than fund specific factors already in place;
- If the overall package is below £95,000 then benefits can, as now, be paid in full;
- If the overall package exceeds the cap then the strain cost needs to be addressed, with the member having various options, including:
  - (a) LGPS benefits still being paid immediately but on a reduced basis, with no additional compensation;
  - (b) LGPS benefits being paid in full, with the member choosing to take less lump sum compensation;
  - (c) LGPS benefits being deferred until normal pension age, where they would be paid unreduced and the individual instead receiving lump sum compensation within the cap limits.
- In certain circumstances the member may be able to make up any reduction in strain costs from their own resources

### **Further information**

To further assist employers, see the advisory board website for all the [latest information on public sector exit payment cap](#).

