



This special bulletin focuses on restricting exit payments in the public sector, and the impact on the Local Government Pension Scheme (LGPS).

In this issue:

- Employers covered by the exit payment legislation
- The Restriction of Public Sector Exit Payments Regulations 2020
- Impact on the LGPS
- Impact on retirements and redundancies
- Further information
- Clarification



Restricting exit payments in the public sector: Impact on the LGPS

We are contacting our Pension Fund employers to highlight an issue which is moving quickly towards a conclusion. It may have a significant impact on current and future workforce planning arrangements.

In view of the following information, we have taken the decision to temporarily suspend the provision of estimated pension shortfall costs until we have received final legislation and actuarial guidance on calculating shortfalls. We will contact you when we are able to resume this service.

We are sending this special bulletin to all employers participating in the LGPS for information. The exit payment cap applies to public sector bodies, however, it is worth noting that we are awaiting guidance and clear interpretation on the bodies in scope of the legislation at this stage.

Please share this information with your colleagues who may be involved in workforce planning arrangements.

As soon as we receive any new information on this matter we will let you know.

Employers covered by the exit payment legislation

Our recent [employer newsletter 168](#) included a link to [the government's response](#) to its 2019 consultation on restricting exit payments in the public sector. Employers covered by the cap are listed in the [proposed regulations](#).

Based on verbal advice from the Local Government Association (LGA) and the Ministry for Housing, Communities and Local Government (MHCLG), we understand that the following employers will be covered by the legislation:

- all local authorities (i.e. councils)
- schools including academies and academy trusts
- possibly some admitted bodies (depending on the terms of the TUPE contract regarding maintained redundancy rights)

We also understand that the following employers will not be covered by the legislation:

- further education colleges
- higher education establishments (i.e. universities)

It is up to each employer, however, to establish for themselves whether or not they are covered by the legislation.

The Restriction of Public Sector Exit Payments Regulations 2020

The exit cap regulations were approved by parliament on 30 September 2020 and will come into force 21 days after they are signed off by a treasury Minister. We understand this is imminent, so the regulations are expected to come into force within the next month.

The regulations will change the options open to employees age 55 and over retiring on redundancy or business efficiency grounds and will restrict an exit payment to an employee leaving public sector employment to £95,000. Even below the £95,000 limit, employees will no longer be able to receive completely unreduced pension benefits as well their full redundancy payment.

The main elements of an exit payment will be:

- statutory and discretionary redundancy payments
- shortfall payments to a pension fund to reduce or remove actuarial reductions on the payment of early retirement benefits

Other payments which may also form part of the £95,000 limit are listed in the proposed regulations.

Impact on the LGPS

As noted in our recent newsletter, [a further consultation](#) is currently open until 9 November 2020 about how the exit cap regulations will be applied to the LGPS, including proposals for reforming local government exit pay and the impact on the local government workforce.

The proposals introduce changes which may affect all early retirements where shortfalls are due (i.e. redundancies).

Currently when an age 55+ LGPS member is made redundant (voluntary or compulsory), any redundancy payment is paid in addition to unreduced LGPS pension benefits which are paid from the date of redundancy. Employers pay a shortfall cost (where applicable) to cover the removal of the early payment reduction.

The proposed changes will introduce a choice for members to either:

- give up some or all of their redundancy payment in exchange for an unreduced (or partially reduced) pension paid immediately or
- take their redundancy payment, and either defer the payment of their pension to a later date, or take their pension immediately (pensions taken before normal pension age would be paid at a reduced level).

Impact on retirements and redundancies

The consultation does not indicate a timescale for the changes to the LGPS to take effect. There will be a period of time where there will be a conflict between the exit cap regulations and the LGPS regulations. Guidance from the government on how to deal with this conflict is expected shortly. In the meantime, it should be assumed that the new regulations are likely to apply to any early retirements and redundancies from public sector bodies which are currently under discussion as well as to those in the future.

Any pension quotes already issued for dates after the new regulations take effect may become invalid.

It will not be possible for updated pension or shortfall quotes to be issued until new LGPS regulations are in force and we have revised our procedures and applied new factors supplied by Government Actuaries Department (GAD) to our shortfall calculations.

Further information

Ahead of the exit payment cap regulations coming into force, the LGA hosted an “Exit Payment Reform” webinar on 23 September 2020 for local government employers. The slides and video of the webinar are now available [on the LGA website](#).

The Pension Fund’s actuary Hymans Robertson LLP has also prepared a [briefing note](#) and [summary](#). The briefing note provides some examples to illustrate the current understanding of how the proposed changes will affect pension benefits.

Clarification

The LGA are seeking urgent clarification from government on the following two matters:

- the position for exits agreed before the legislation takes effect but where the date of leaving is after
- the position regarding the HM Treasury regulations coming into effect before MHCLG is able to introduce the necessary changes to the LGPS regulations to accommodate them

If you have any queries about the information provided in this Newsletter, or about the LGPS in general, please contact us at:

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