Exit payment reforms

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The reforms

- £95k cap on exit payments
- Recovery of exit payments made to those earning £80k or more and who return to public sector within 12 months
- Further reforms e.g. cap of 15 months' actual pay

When?

- £95k cap
  - Consultation on draft Regs to be issued soon?
  - Followed by Parliamentary process
- Recovery of exit payments
  - Draft Regs consulted on in January 2016
  - Will go before Parliament soon?
- Further reforms to be in place by end of June 2017

£95k cap

- Applies to all public sector bodies (ONS definition: few exemptions)
- What’s included?
  - Most payments including pay in lieu of notice
  - Settlement agreement payments
  - Costs arising from early pension access (LGPS will be amended to limit strain costs)

£95k cap

- Exceptions
  - Payments for injury, death, serious illness etc,
  - Contractual bonuses, accrued holiday
  - TUPE protected entitlements
  - Court/ET Orders
- Waiver: can be made by ‘specified person’ in line with Treasury directions
- Treasury has power to increase level of cap in future

£95k cap

- Statutory redundancy payment must be paid but flexibility in respect of payments in excess
- LGPS members will be able to pay part of strain cost themselves
- LGPS members will still be required to take retirement pension after redundancy even if reduced because of cap

£95k cap example

- 58 yr old employee made redundant
- Exit payments:
  - £35,000 redundancy payment (inc £14,370 statutory component)
  - £80,000 LGPS strain cost
- Options:
  - Receive full redundancy payment and have reduced pension
  - Receive reduced redundancy payment and full pension
  - Something in between/ employee contributes to pension

Recovery provisions

- Applies to those earning £80k or more if return to any public sector body within 12 months of leaving prior employer
- Return includes as a self-employed contractor/employee of another
- Must repay a proportion of exit payments
- Tapering principle: always keep sum equivalent to statutory redundancy and what you would have earned in interim

Recovery provisions

- Pro-rata for ‘part-time’ return (compared to hours worked on exit)
- Includes strain on fund payments made to pension fund, but not pay in lieu of notice
- Exceptions: Waiver by SoS/ prior local authority in line with Treasury directions
- Implementation: will apply to exits after date in force

Recovery provisions

- Individual must tell old and new employer of return and repay/agree repayment
- New employer must not permit return until repayment/agreement in place
- Old employer must keep record of exit payment for 3 years and take all reasonable steps to recover payment
- If no repayment or breach of agreement new employer must consider dismissal

What's next?

- Further reforms announced September 2016
  - Maximum tariff of three weeks' pay per year of service
  - A cap of 15 months' pay: could be lower for compulsory redundancies and higher for non-redundancies
  - £80k maximum salary that can be used to calculate exit payments
  - Tapering lump sum closer to retirement

What's next?

- Reducing or ending employer-funded early access to pension: three options
  - Capping payments at redundancy pay entitlement
  - Removing employer's ability to make payments (employee could still make payment)
  - Increasing the minimum age at which employee may receive employer-funded early retirement. Five years before NPA or 55 or 58?

What’s next: implementation

- Government proposes that each department responsible for a particular workforce will devise its own scheme within the framework
- This will be introduced through negotiation with the trade unions, where existing schemes form part of a collective agreement
- Draw up scheme by 26 December 2016
- Agreed by 26 June 2017 or legislation