

# Exit Payment Reform

- £95k cap
- MHCLG further limitations

# £95k cap

- First proposed in 2015, being debated for the final time in Parliament w/c 21 September
- The cap will be law 21 days after Parliament approve the legislation
- Restricts the total value of an exit to £95k, including pension 'strain' costs for those aged 55 and over

# MHCLG consultation

- MHCLG consultation open from 7 Sept to 9 November, expected implementation in December
- Proposes changes to the LGPS and Compensation regulations
- Changes will accommodate the £95k cap and introduce wider exit payment reform

# LGPS employers

- Local authorities will be in scope of the exit payment cap and wider reform
- Other LGPS employers could be in scope of the cap, wider reform, both or neither

Today's webinar covers **only local authorities.**

# Redundancy – current position

**Not entitled to immediate payment of an LGPS pension**

**Employees not in the LGPS receive:**

- Statutory redundancy pay (SRP)
- Discretionary compensation of up to 104 weeks' pay.  
Employer may substitute member's actual weekly pay if this is more than the statutory maximum

**Employees in the LGPS and under age 55** will also qualify for deferred benefits. Paid between age 55 and 75, and adjusted for early / late payment if taken before / after State pension age

# Redundancy – proposed position

## Not entitled to immediate payment of an LGPS pension

### Employees not in the LGPS receive:

- Statutory redundancy pay
- Discretionary compensation limited to:
  - Maximum of three weeks' pay per year of service
  - 15 months' pay
  - Max salary of £80,000 to be used in calculation

The result is then capped at £95,000

**LGPS members under age 55** will also qualify for deferred benefits payable in full at State Pension age (SPa)

# Redundancy - current position

## LGPS members over age 55 on leaving date

- Statutory redundancy payment
- Discretionary compensation in line with employer policy
- Immediate payment of LGPS pension with no adjustment for early payment
- Employer funds early payment of pension. 'Strain cost' calculation' set locally by each LGPS fund.

# Redundancy - proposed position

## LGPS members over age 55 on leaving date

- Standard strain cost across all LGPS funds

Total cost of an exit limited to the greater of:

- Strain cost (maximum £95,000)
- Discretionary payment, with the new limits on weeks, weekly pay and annual pay (maximum £95,000)



# Exit cost under the cap – Option 1

**Strain cost is under £95,000**

## **Option 1**

Employee receives SRP and

LGPS pension reduced based on SRP amount

OR employee gives up SRP in exchange for unreduced LGPS pension

Rarely: strain cost < discretionary compensation

In these cases the employee will be entitled to an additional cash payment

# Exit cost under the cap – Option 2

**Strain cost is under £95,000**

**Option 2 – Employee receives:**

- Statutory redundancy payment (SRP)
- Discretionary compensation, with the new limits on weeks, weekly pay and annual pay (maximum £95,000)
- No employer strain cost
- Deferred LGPS pension payable in full at SPa

# Exit cost under the cap – Option 3

**Strain cost is under £95,000**

## **Option 3**

Same as Option 2, except the employee receives their LGPS pension immediately.

The LGPS pension is reduced based on the standard factors to reflect the early payment date

# Exit cost capped – Option 1

## Strain cost > £95,000 – Option 1

### Employee receives

- Statutory redundancy payment (SRP)
- Immediate pension reduced so that:  
    strain cost = £95,000 less SRP
- Employee option to give up SRP and use their own funds to lower the reductions applied to their LGPS benefits

# Exit cost capped – Options 2&3

## Strain cost > £95,000 – Options 2&3

Same as an employee who did not exceed the cap:

- Statutory redundancy payment
- Discretionary compensation, with the same limits on weeks, weekly pay and annual pay (maximum £95,000)
- No employer strain cost
- Deferred LGPS pension payable in full at SPa OR paid immediately reduced based on standard factors

# Other Challenges

- Employee understanding of their options and the default position
- Complex calculations performed manually while software updates are developed
- Greater liaison between employer and pension fund to arrange employee payments

# Waiving the cap

Further reforms e.g. salary limit of £80k cannot be waived

£95k cap has two waiver options:

- Mandatory
  - Payment relates to whistleblowing, discrimination and similar cases which an ET could consider
  - TUPE Regulations obligations

# Discretionary Waiver

- An option in cases:
  - of undue hardship
  - where workforce reform would be inhibited
  - delay not attributable to the employee or office holder



# Discretionary Waiver Process

- Full council approval
- MHCLG Accounting Officer (Permanent Secretary)
- MHCLG Minister
- HMT
  - If all approve the use of the waiver, the cap does not apply

# Conflicting Legislation

- HMT regulations introducing the exit payment cap expected to be in force **before** LGPS amendments needed to implement the cap
- Potentially several months where LGPS says individuals **must** receive an unreduced pension and cap rules say the employer can't fund it

# LGA Concerns

- Legislation timing exposes councils to legal risk and significant administrative burden
- HMT did not engage on the Directions and Guidance that accompany the Regulations and set out how it should operate
- Waiver process challenges local autonomy and adds cost and delay to exits