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LGPS England and Wales Exit payment reform update

Following June's general election, the LGPC Secretariat understand that there is no policy change in respect of the various exit payment reforms that the 2015-2017 Government were in the process of introducing prior to the snap election. However, given the focus on Brexit in the coming period and the new Government's minority status, it is unclear the extent to which pursuing each reform will be a priority for the Government. It is also unclear the implementation timescales the Government plan to adopt for each reform. The LGPC's understanding of the current position on each reform is as follows:

1. **Exit payment recovery** – the draft regulations issued under the Small Business, Enterprise and Employment Act 2015 proposed that, where an individual with a salary of £80,000 or more leaves a public sector employment and returns to work in the public sector within 12 months, they will be required to pay back some or all of the exit payments (including strain cost) received.

   Prior to the announcement of the general election the final HM Treasury regulations that would have enacted the recovery provisions were expected "soon".

   If and when issued, the regulations will be overriding meaning that it will not be necessary to amend the LGPS regulations for exit payment recovery to have effect.

   The legislation is subject to the affirmative procedure meaning that it will require the formal approval of both Houses of Parliament before it becomes law – this is expected to take 3-4 weeks from the publication of the final regulations.

   For the recovery regulations to apply the individual must have both left and become re-employed in relevant public service employments on or after the effective date of the recovery regulations (i.e. the regulations will not be retrospectively applied).

   Once the recovery regulations are enacted changes will need to be made to both leaving and recruitment communications. We see this to be largely driven by the Scheme employer as this is largely an employer issue. The draft legislation places certain duties on the exit payee, responsible authority and hiring authority to ensure the repayment requirement is satisfied.

2. **Exit Cap** – where an individual leaves a public sector employment, the total exit payments that their employer can make in respect of that exit will be capped at £95k. This cap includes the strain cost payable in respect of an LGPS pension coming into payment early.

   Subject to the Government proceeding with its plans in this area, we anticipate that there will be further consultation (draft HM Treasury regulations) on how the cap will work in practice. The consultation is expected to last for 6-8 weeks.

   Once final Treasury regulations are laid they will enact the relevant parts of the Enterprise Act 2016 which will amend the LGPS regulations.

   HM Treasury are also expected to publish guidance on the circumstances when the cap can be waived – 3 these circumstances will be prescriptive and set out the specific situations in which HMT think it would be acceptable to waive the cap.

   Discussion with regard to how the 'strain on fund' cost would be calculated for the purposes of the exit payment cap are ongoing i.e. whether it will be on a standardised basis.

3. **Exit payments further reform** – proposals looking at the overall severance packages payable from public sector bodies following a Government consultation on this topic, undertaken in February 2016. HM Treasury issued its formal response to the consultation in September 2016 setting out broad criteria within which they expected responsible departments to reform the exit packages of their workforces.

   Subject to the Government proceeding with its plans in this area, we expect DCLG to publish a consultation on the proposed package for local government. No further details as to the content are available at this time.