

**COST MANAGEMENT, BENEFIT DESIGN  
AND ADMINISTRATION COMMITTEE  
– 28 February 2017**

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**Exit payments**

**Background**

- 1.1 In September 2016 HM Treasury published their response to the consultation on reforms to public sector exit payments.
- 1.2 In the above paper departments were asked to make proposals on further limiting exit payments within the forthcoming exit payment cap regulations (still awaited)
- 1.3 The paper outlined HM Treasury's framework for such proposals which included:-
  - action to limit or end employer-funded early access to pension within exit packages. As part of an overall package the government will consider proposals appropriate to each workforce, including action to:
    - cap the amount of employer funded pension 'tops ups' to no more than the amount of the redundancy lump sum to which that individual would otherwise be entitled
    - remove the ability of employers to make such top ups altogether, or offer greater flexibility to employers as to the circumstances in which they are available
  - increase the minimum age at which an employee is able to receive an employer funded pension top up, so that this minimum age is closer to or otherwise linked more closely with the individual's normal pension age in the scheme in which they are currently accruing pension benefits or to which they would be entitled to belong if they were accruing benefits

**Committee sub group**

- 1.4 At the committee meeting of 1<sup>st</sup> November it was agreed to form a sub group to look at the paper in more detail.
- 1.5 The sub group agreed that limiting the strain cost to the equivalent severance payment would not be appropriate in local government due to the wide variation in payments made across councils.
- 1.6 The group could not reach a consensus on the subject of introducing a choice to defer pension in respect of employees whose strain cost is in excess of £95k.

1.7 The Board secretary was asked to discuss with DCLG and HMT the possibility of continuing to pay full strain costs up to the £95k cap limit.

### **Alternative proposals**

1.8 Following these discussions with DCLG/HMT and wider informal discussions with the sector proposals were made, without prejudice, to DCLG as follows

- Any proposal to limit pension strain costs to the amount of severance otherwise received would be challenging to implement in Local Government given the wide variation in payments as a result of local determination. This would result in significant differences in the amount of pension received by staff with equal periods of service within the LGPS.
- Therefore in respect of members of the Local Government Pension Scheme employers should be able to continue to pay the full strain cost for scheme members aged 55 or over who leave membership as a result of redundancy or business efficiency. The total of the strain cost plus any statutory redundancy payment made would be subject to the HM Treasury cap on total exit payments.
- Although a statutory redundancy payment would be made to the scheme member, where appropriate, no additional severance payment will be paid except where such payment exceeds the strain cost. In this case then the balance of additional severance after the strain cost has been deducted would be payable to the scheme member.

### **Progress**

1.9 Further discussions were held with both DCLG and HMT with regard to the above proposals. These indicated that although strain costs up to the cap may be accommodated any statutory redundancy payment would have to be forgone.

1.10 As statutory redundancy payments have to be made under the Employment Rights Act 1996 the employee would therefore be faced with a choice of either handing the payment back to receive an unreduced pension or keeping the payment and receiving a partially reduced pension.

1.11 Such a situation would be administratively complex, confusing for the employee and could result in the employee making a decision which is not in their long term interests.

1.12 Accordingly legal advice is being sought as to the ability of employers to pay the statutory redundancy directly into the pension fund as part of the strain cost either under regulations or on receipt of a waiver from the employee.

1.13 It is anticipated that DCLG will publish a consultation on their proposals in early March with a view to having regulations .

**RECOMMENDATION** –the committee is asked to note the contents of this report.