

Report Title:	Public Sector Exit Payment Reform
Contains Confidential or Exempt Information	No - Part 1
Lead Member:	Councillor Julian Sharpe, Chairman Pension Fund Committee and Advisory Panel
Meeting and Date:	Pension Fund Committee and Advisory Panel – 22 March 2021
Responsible Officer(s):	Kevin Taylor, Pension Services Manager
Wards affected:	None

REPORT SUMMARY

This report provides Pension Fund Committee and Advisory Panel Members with an update to the Public Sector Exit Payment Reform (the £95k Cap).

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Pension Fund Committee:

i) Note the report.

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 On 12 February 2021 HM Treasury (HMT) issued the Exit Payment Cap Directions 2021 which dis-applied parts of the Restriction of Public Sector Exit Payments Regulations 2020 in England with immediate effect.
- 2.2 A Governmental statement issued at the same time gave reason for the action taken: *“After extensive review of the application of the Cap, the Government has concluded that the Cap may have had unintended consequences and the [2020] Regulations should be revoked. HMT Directions have been published that dis-apply the Cap until the Regulations have been revoked.”*
- 2.3 It is important to note that the Exit Payment Cap Directions 2021 dis-apply the exit cap with effect from 12 February 2021 and do not revoke the Restriction on Public Sector Exit Payments Regulations 2020.
- 2.4 However, HM Treasury has now laid regulations to formally revoke The Restriction of Public Sector Exit Payments Regulations 2020 with effect from 19 March 2021.
- 2.5 The Restriction of Public Sector Exit Payments (Revocation) Regulations 2021 (the “Revocation Regulations”) formally tidy up the revocation of the Cap and whilst not strictly retrospective in effect, require relevant authorities to make additional exit payments up to the greater amount which would otherwise have applied if the Cap had not been in force. This is a mandatory requirement and not an employer discretion.

- 2.6 Members are advised that the pension payment policy approved by the Pension Fund Committee on 14 December 2020 to only offer affected scheme members a fully reduced or deferred pension benefit is now void.
- 2.7 The Pension Fund will apply Regulation 30(7) of the LGPS Regulations 2013 (as amended) in all cases where a scheme member aged 55 or over is either made redundant or retired on grounds of business efficiency i.e. pay to such members immediately an unreduced pension (as was the case prior to 4 November 2020) and require the employer to pay, in full, any pension strain cost arising.
- 2.8 Chapter 3 of guidance issued by HMT makes it clear what they expect employers to do for those individuals who may have left their employment on or after 4 November 2020 and before 12 February 2021 and were affected by the Cap. Chapter 2 of the guidance also sets out what HMT expects those individuals who have been affected by the Cap to do. In effect, to ensure that scheme members receive the pension benefits they would otherwise have received but for the introduction of the Restriction of Public Sector Exit Payments Regulations 2020 on 4 November 2020.
- 2.9 The Local Government Association (LGA) has advised that HMT will legislate again to tackle unjustified exit payments although an expected timeframe is not known.

3. KEY IMPLICATIONS

- 3.1 The Exit Payment Cap Directions 2021 place all Local Authority Pension Funds in England back in the same position as prior to the introduction of the Restriction of Public Sector Exit Payments Regulations 2020 on 4 November 2020.
- 3.2 Action has already been taken by the Pension Fund to identify any cases where a scheme member may have been affected by the Cap.

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 Whilst there is no direct financial implication it should be noted that considerable time and resource has been used by Pension Fund officers in interpreting now dis-applied Regulations and providing guidance and support to scheme employers and scheme members alike as to how the Exit Cap would be applied.

5. LEGAL IMPLICATIONS

- 5.1 None.

6. RISK MANAGEMENT

- 6.1 None.

7. POTENTIAL IMPACTS

7.1 Equalities: Equality Impact Assessments are published on the [council's website](#) . N/A

7.2 Climate change/sustainability: N/A

7.3 Data Protection/GDPR. N/A

8. CONSULTATION

8.1 Not applicable.

9. TIMETABLE FOR IMPLEMENTATION

9.1 Immediate.

10. APPENDICES

10.1 This report is supported by 0 appendices.

11. BACKGROUND DOCUMENTS

11.1 This report is supported by 0 background documents:

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
Cllr Julian Sharpe	Chairman – Berkshire Pension Fund Committee		
Adele Taylor	Director of Resources and Section 151 Officer		
Andrew Vallance	Head of Finance and Deputy s151 Officer		
Ian Coleman	Interim Pension Fund Manager		

REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Pension Fund Committee decision	Yes/No	Yes/No

Report Author: Kevin Taylor, Pension Services Manager, 07792 324393