

**CYNGOR SIR POWYS COUNTY COUNCIL**

**Powys Pension Board  
5<sup>th</sup> March 2021**

**REPORT BY:** Board Secretary

**SUBJECT:** New Legislation and Guidance Update

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**REPORT FOR:** Information

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**1. Summary**

This report provides the Board with an update on any new legislative changes and guidance that has been issued recently.

**2. Key points for information**

**2.1 HM Treasury Directions disapply exit payment cap**

At the last meeting of the Board in November, the restriction of Public Sector Exit Payment Regulations 2020 were discussed which came into effect from the 4<sup>th</sup> of November 2020. This legislation imposed a restriction of £95,000 on exit payments made from public sector employments and included any payment in respect of the early release of pension benefits (known as Pension Strain within the Local Government Pension Scheme (LGPS)).

There were complications at the time of the last meeting, since the above legislation was not compatible with the existing LGPS regulations.

On 12 February 2021, HM Treasury [HMT] published the Exit Payment Cap Directions 2021 [the Directions]. The Directions disapply regulations 3, 9 and 12 of the Restriction of Public Sector Exit Payment Regulations 2020 [the 2020 Regulations] with immediate effect. This means the exit cap does not apply to exits that take place on or after 12 February 2021.

HMT has provided further information in the Restriction of Public Sector Exit Payments: Guidance on the 2020 Regulations [the Guidance]. HMT confirms in the Guidance that:

"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 HMT Directions have been published that disapply the Cap until the Regulations have been revoked."

### **Exits between 4 November 2020 and 11 February 2021**

The Scheme Advisory Board (SAB) sought legal advice on exits that occurred while the 2020 Regulations were in force. Based on that advice, the SAB recommends that administering authorities:

- may pay unreduced benefits to all members who left during this period due to redundancy or business efficiency at age 55 or over
- should request the full strain cost of paying unreduced benefits from the Scheme employer, and
- should not seek to adjust the unreduced benefits or the strain cost payable by the Scheme employer to reflect any cash alternative payment the employer has paid.

### **3. Other Updates**

#### **Final Good Governance Report Published.**

On 15 February 2021, SAB published Good Governance: [Phase 3 Report](#). This report provides further details on some of the recommendations that were included in the [Phase 2 Report](#). The two reports should be read in conjunction. The Phase 3 report provides further detail on the following recommendations, among others:

- **The LGPS senior officer:** a single named officer who is responsible for the delivery of LGPS activity for a fund. The report covers the core functions of the role, the personal competencies needed to fulfil the role successfully and how the role could be incorporated into different organisational structures.
- **Conflicts of interest:** all administering authorities should publish a conflicts of interest policy that is specific to the LGPS. That policy should cover how it identifies, monitors and manages any conflicts. The report includes more detail on what LGPS-specific areas should be covered by the policy.
- **Representation:** each administering authority must publish a policy on how scheme members and non-administering authority employers are represented on its committees. This should include the reasoning behind that policy.
- **Skills and training:** introduce a requirement for key individuals, such as pension committee members and section 151 officers, to have the appropriate level of knowledge and understanding to carry out their duties efficiently. The administering authority must publish a training strategy that sets out its policy on delivery, assessment and recording of training plans.

- **Service delivery:** regulation change to make it compulsory for an administering authority to publish an administration strategy. This proposal is being taken forward by the Cost Management, Benefit Design and Administration Committee.
- **KPIs:** that focus on ensuring that each administering authority has defined service standards and has the governance in place to monitor those standards.
- **Business planning process:** the senior officer and committee must be satisfied with the resource and budget allocated to administer the LGPS each year. Required expenditure should be based on the business plan for the coming year, not the budget for the previous year with an inflationary increase.

The Fund will review these policies and any accompanying guidance and action accordingly.

### 3.1 Employer Flexibilities

The SAB published a [draft guide to employer flexibilities](#) on 22 February 2021. The SAB has published the guide for information only at this point. The SAB will finalise and publicise the guide after MHCLG publishes statutory guidance covering employer flexibilities.

The LGPS (Amendment) (No. 2) Regulations 2020 introduced increased flexibility when dealing with exiting employers, and the ability to review employer contribution rates between valuations. The purpose of the draft guide is to assist administering authorities to use these new flexibilities appropriately. The draft guide provides information, examples and options associated with the flexibilities. It also sets out:

- matters for administering authorities to consider when setting policies
- the data and information which may be needed
- the roles and responsibilities of all parties during the implementation of the flexibilities.

The Powys Fund is currently working on a new employer policy and revised Funding Strategy Statement, which will be shared with Board for comment as soon as it is available and then distributed to participating employers.

### 3.2 McCloud

Work is continuing in respect of the McCloud judgement. The fund has contacted Employers and provided guidance, data templates and had several discussions in respect of helping employers provide the data that the fund requires.

The impact of this is expected to be considerable with a significant number of scheme member records requiring data input and recalculations of benefits. These will include:

- Retirements
- Deferred benefits
- Aggregations
- Survivor benefits
- Refunds
- Transfers (Cash Equivalent Transfer Values, Interfund Adjustments)

Work is being finalised on the impact on resourcing within the Pensions Section and this will be available to present to Board soon.

### **3.3 The Pension Schemes Act 2021 receives Royal Assent**

On 11 February 2021, the Pension Schemes Act 2021 (the Act) received Royal Assent. The provisions within the Act will come into force when the Secretary of State makes regulations for them to do so.

The provisions of the Act that will affect the LGPS include:

**Climate risk reporting.** On 27 January 2021, the Government launched a consultation on draft regulations entitled [Taking action on climate risk: improving governance and reporting by occupational pension schemes](#). The regulations would require trustees of pension schemes in scope to meet the climate change governance requirements that underpin the 11 recommendations of the Taskforce on Climate-related Financial Disclosures, and to report on how they have done so. The government is also consulting on draft statutory guidance to accompany the regulations.

The regulations will not apply to the LGPS. However it is expected that MHCLG will bring forward regulations which substantially mirror the requirements as set out in the consultation document.

**Pensions Dashboards.** Administering authorities should take action to improve data quality to ensure that they are ready to supply the right information to the dashboards once they are live. The Fund carries out annual data quality testing in line with its [data improvement plan](#).

## **4. The Pensions Regulator (TPR)**

TPR has recently published [news and guidance](#) for pension schemes which covers:

- TPR scams pledge
- new guidance for DB trustees
- a climate change roadmap
- TPR user research survey

- TPR latest enforcement activity

5. **Recommendation**

Board are asked to note the contents of this report.