

## **CLWYD PENSION FUND**

### **RESTRICTING EXIT PAYMENTS IN THE PUBLIC SECTOR: CONSULTATION ON IMPLEMENTATION OF REGULATIONS**

This response is from Flintshire County Council as Administering Authority of the Clwyd Pension Fund. Our response has been agreed by the Pension Fund Committee on 12 June 2019.

We set out below our response to each of the questions (where relevant to the Clwyd Pension Fund) posed in the HMT consultation document issued on 10 April 2019.

For the most part, the questions raised are a matter of Government policy so is not an area where the Pension Fund has a particular view. Our participating public sector employers (including Flintshire County Council) may have a view on these matters.

A key issue is how the restrictions on Exit Payments are implemented in the Local Government Pension Scheme Regulations given the current position is that members who exit the Fund age 55 or over on Redundancy or Efficiency grounds has a right to immediate pension scheme benefits unadjusted for early payment which has a cost that needs to be allowed for in the Exit Payment Cap calculation. Therefore, the policies and processes will need substantially updating to cope with the implementation which will need to be done on a consistent basis across the LGPS to ensure fair treatment for employees affected. In addition, our software providers will need to update systems to deal with the impact. This will lead to substantive set up costs and an increase in ongoing administration costs especially given employers in scope of the Regulations will need to be treated differently to those out of the scope. More detail on the practical issues are set out in the attached note provided by our Actuary and adviser (Mercer Ltd) which sets out clearly the issues us and our employers will have to contend with.

We have followed the format of the consultation document in our response.

### PROPOSED SCOPE OF DRAFT REGULATIONS

Q 1	RESPONSE
Does draft schedule 1 to the regulations capture the bodies intended (described in section 2.1 above)? If not, please provide details.	<p>This is a matter of Government policy so is not an area where the Pension Fund has a particular view. Our participating public sector employers may have a view on these matters either individually or through collective forums e.g. the Welsh Local Government Association.</p> <p>However on a practical basis the restrictions will not cover all employers who participate in our Fund leading to different pension Fund policies and processes being required.</p>

Q 2	RESPONSE
Do you agree with the current list of bodies in scope, for the first round of implementation? If not, please provide reasons.	<p>This is a matter of Government policy so is not an area where the Pension Fund has a particular view. Our participating public sector employers may have a view on these matters either individually or through collective forums e.g. the Welsh Local Government Association.</p> <p>However on a practical basis the restrictions will not cover all employers who participate in our Fund leading to different pension Fund policies and processes being required.</p>

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Q 3	RESPONSE
<p>Do you agree with the exemptions outlined? If not, please provide evidence.</p>	<p>This is a matter of Government policy so is not an area where the Pension Fund has a particular view. Our participating public sector employers may have a view on these matters either individually or through collective forums e.g. the Welsh Local Government Association.</p> <p>However on a practical basis the restrictions will not cover all employers who participate in our Fund leading to different policies and processes being required.</p>

## GUIDANCE AND DIRECTIONS

Q 4	RESPONSE
<p>Does the guidance adequately support employers and individuals to apply the draft regulations as they stand? If not, please provide information on how the guidance could be enhanced.</p>	<p>This is strictly a matter for employers and individuals (principally through their representative bodies) so is not an area where the Pension Fund has a particular view except that the guidance must allow the employers to develop appropriate and clear policies on how the exit cap is applied.</p> <p>We would however note that the application relies on a significant amount of data being readily available to all parties to govern the application of the exit cap. In particular, the final assessment in relation to pension strain costs in the LGPS would need to be carried out <b>after</b> the final data is collated around pay and non-pension exit payments. Otherwise, this could result in some cases that were thought to be under the cap actually then exceeding it if the final data is materially different. The final guidance and processes therefore need to deal with the flow of data adequately. This is especially important as the decisions an individual will need to make in respect of their LGPS pension entitlement would likely be different if they are under/over the exit cap (based on our interpretation of the application). All parties therefore need clarity on when the cap applies and also the information needed to apply it consistently and in line with the final regulations.</p>

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Q 5	RESPONSE
<p>Is the guidance sufficiently clear on how to apply the mandatory and discretionary relaxation of the regulations, especially in the case of whistleblowers?</p>	<p>This is strictly a matter for Government and employers so is not an area where the Pension Fund has a particular view except that the guidance must allow the employers to develop appropriate and clear policies on how any relaxations of the exit cap is applied.</p>
Q 6	RESPONSE
<p>Is there further information or explanation of how the regulations should be applied which you consider should be included in the guidance? If so, please provide details.</p>	<p>We would welcome the guidance making it clearer that it is not the responsibility of the pension fund to consider if the relaxation has been applied in line with the guidance and directions. The pension fund should only implement the pension benefits as per the LGPS Regulations alongside as directed by the employer on whether a relaxation is applied.</p> <p>One technical aspect that needs to be incorporated into these Regulations or separately into changes to the LGPS Regulations is the option for a member to defer taking their reduced pension benefits (due to the exit cap restriction) if they choose to do so. This, in our view, is critical as supports the general abilities for members to make choices in how they receive pension benefits. It is also possible that taking reduced benefits may not be in the best interests of the member at that time as they may not then adequately meet the basic level of income required to maintain living standards throughout their retirement.</p>

DEVOLUTION SUMMARY AND EQUALITIES IMPACTS

<b>Q 7</b>	<b>RESPONSE</b>
Are there other impacts not covered above which you would highlight in relation to the proposals in this consultation document?	Please see attached document in relation to the impact on the Fund and the practical/technical issues that need resolution in the application. This forms part of our response to the consultation and has been prepared in conjunction with our adviser (Mercer Ltd).

<b>Q 8</b>	<b>RESPONSE</b>
Are you able to provide information and data in relation to the impacts set out above?	We can provide an analysis of the pension strain cost amounts for the Fund where they exceed the cap of £95k if this would be helpful. We note that allowing for statutory redundancy payments (which must be paid) will reduce the headroom to apply to pension strain costs below the £95k when determining if a members benefits need to be reduced in order to ensure that all payments remain within the exit cap.