CONSULTATION ON PUBLIC SECTOR EXIT PAYMENTS

Purpose

1. This report advises members of the Government’s consultation on the implementation of the £95k Cap on Public Sector Exit Payments.

Background

2. The UK Government legislated for a cap of £95,000 on exit payments in the public sector in the Small Business Enterprise and Employment Act 2015 (as amended by the Enterprise Act 2016); the 2015 Act sets out the duty to implement the cap through secondary legislation.

3. The current consultation sets out the proposed draft regulations, the schedule to the regulations, together with accompanying guidance and directions; the consultation ends on 3rd July 2019.

Current Proposals

4. HM Treasury (HMT) published the following consultation documents on 10 April 2019:

   A. Consultation document - ‘Restricting exit payments in the public sector: consultation on implementation of regulations’

   The consultation document sets out what types of public sector exit payments the regulations apply to, summarises the proposed regulations and the reasons for introducing these regulations. Details of how to respond are included, and information concerning how respondents’ data will be processed.


   ‘The Regulations’ include:
   - the bodies whose exit payments are covered by the cap;
   - what constitutes an exit payment and what is exempt;
   - the requirement for individuals and public sector bodies to report and record;
• information about exit payments and the circumstances in which the cap must be relaxed and the process for approval in situations where the cap may be relaxed.

C. Schedule – ‘Annex B: £95k cap on exit payments in the public sector schedule (draft)’

‘The Schedule’ sets out public sector authorities and public sector offices that may be affected by the exit payment cap. There are circumstances where the cap must or may be waived. Where relevant, the Schedule specifies what body is the sponsoring department who would be responsible for approving the relaxation of the cap.


‘The Guidance’ sets out more information on how the legislation should be implemented, and particularly gives more information about the process to follow when a public sector body wishes to relax the restriction.

The consultation documents can be found here: https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector

Issues of Note

5. Annex A defines what constitutes an exit payment as:

a. Statutory Redundancy Pay
b. Any Enhanced (local) Redundancy Pay
c. Pension Strain Cost.

6. Whilst the Annex A (Draft regulations) and Annex B (Draft Schedule) apply to Wales and identify Welsh local authorities as being in scope of the regulations, Annex C which is HM Treasury Directions on circumstances when the cap can be relaxed do not apply. Powers to determine the approach in Wales will lie with Welsh Ministers.

7. It is unclear at this point the extent to which Welsh Ministers will wish to exercise this power under the regulations and whether the circumstances will be vastly different from those in England and Northern Ireland.

Next Steps

8. The Association will develop a consultation response for approval by members drawing on the expertise of SOLACE, Society of Welsh Treasurers and the HR Directors.
9. The WLGA will also contribute to the response being prepared by the LGA.

10. Opportunities will also be sought to gauge the Welsh Government views and position on exercising its powers under these regulations.

11. Local authorities are encouraged to develop their individual responses to the consultation processes.

**Recommendations**

12. **Members are asked to note the report and to receive further updates as they become available.**

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