Public sector exit cap - FAQs for LGPS members

What is the public sector exit cap?

The Government has introduced a cap on the amount of money a public sector employer can pay when an employee leaves their employment. It is called the public sector exit cap, or £95k cap. It applies to employees leaving public sector employments from 4 November 2020.

The exit cap is most likely to affect you if you are a public sector employee aged 55 or over and you are made redundant or you leave your employment due to business efficiency. This is because the amount your employer pays to the pension fund so that you can receive your pension early is included in the exit cap calculation.

Why has the exit cap been introduced?

The Government is concerned about the number and the amount of exit payments made to public sector workers. The exit cap, as well as other planned changes, are meant to ensure better use of public money and ensure that workers across the public sector are treated in a similar way.

Will the exit cap apply to me?

If you work for a public sector employer and you leave your employment on or after 4 November 2020, the total exit payment your employer can pay, including the money they pay to the pension fund on your behalf, will be subject to the exit cap.

Public sector employers include councils, schools, academies, fire and police authorities, the NHS etc.

Check with your employer if you are not sure if you work for a public sector employer.

Your employer can apply to the Government for the cap not to apply in some limited circumstances such as genuine hardship. If you work for a Welsh employer, the circumstances for the cap not to apply may be different. The Welsh Government is working on this at the moment - further information will follow.

How much is the exit cap?

£95,000, which sounds like a lot of money, but it will include any amount your employer pays to the pension fund on your behalf. If you are made redundant or leave due to business efficiency, your employer normally pays towards the cost of you receiving your pension early.

What payments are included in the calculation of the exit cap?

The main types of payments that will count in the calculation of the exit cap calculation are:

- redundancy payments
- severance or ex-gratia payments
- money paid to the pension fund to allow you to take the pension you have built up without a reduction for early payment
- any payment in the form of shares or share options
- some pay in lieu of notice payments (check with your employer)
- any other payment paid to you because you have left your employment

This is not a complete list. Any lump sum paid to you from the pension fund, sometimes referred to as a retirement grant, does not count towards the calculation of the exit cap.

What does this mean for my pension if I am made redundant or leave due to business efficiency and I am aged 55 or over?

If the total of the exit payments your employer pays to you, and to the pension fund on your behalf, is £95,000 or less you will not be affected by the exit cap. You will receive the pension you have built up straight away, without any reductions because it is being paid early.

If the total amount is over £95,000, then the situation is more complicated. This is because the pension scheme rules have not yet been changed for the exit cap, so the two sets of rules clash. The pension scheme rules still say that you are entitled to receive the pension you have built up straight away without any reduction for early payment; however, the exit cap rules do not allow your employer to pay for this if the total cost of your exit is over £95,000.

The Government is planning to change the pension scheme rules for future exits; but if you leave between 4 November 2020 and the date the rules are changed, the Government recommends that you are allowed to either:

- take your pension straight away but with reductions for early payment, or
- defer your pension – this means you take it later.

If you defer your pension it will still be reduced if you take it before your normal retirement age or increased if you take it after.

You have a right to appeal any decision your pension fund makes about your pension benefits.

If I am paid a reduced or deferred pension will I be compensated?

The exit cap rules allow your employer to pay you a cash alternative if they are prevented from paying for you to take your pension early without a reduction for early payment. This situation will occur if:

- you are made redundant or leave due to business efficiency
- you are aged 55 or over
- the total cost of your exit is over £95,000
- you work for a public sector employer
- you leave between 4 November 2020 and the date the pension scheme rules are changed.

However, your employer is likely to delay paying the cash alternative to you until the clash in exit cap and pension scheme rules, mentioned in the previous question, is resolved.

If you accept payment of a cash alternative and decide to appeal the decision to pay you a reduced or deferred pension, you are likely to be awarded less if you win.

You will pay income tax on the total compensation you receive above £30,000. This will include redundancy, severance and cash alternative payments.

I am under age 55 am I likely to be affected?

Most employees will not be affected by the exit cap if they are under age 55 when they are made redundant or leave due to business efficiency.

My pension is being paid early due to my ill health – will I be affected?

No, ill health retirements are not covered by the exit cap.

My employer has agreed for me to flexibly retire – will the exit cap apply?

Not if your flexible retirement is being treated as a change to your existing contract. Check with your employer if you are not sure.

How does the cap work if I am leaving more than one employment?

The £95,000 limit applies to any public sector employments you leave within a 28-day period.

Are any other changes to exit pay planned?

Yes. The Government has recently consulted on a number of changes including:

- limiting the amount of discretionary compensation, or severance pay, your employer can pay you, and
- deducting any statutory redundancy pay from the amount your employer can pay to the pension fund on your behalf. If you are aged 55 or over and you are made redundant, or leave due to business efficiency, your employer normally pays towards the cost of you receiving your pension early.

We do not know if the Government will go ahead with these changes – they are only proposals at the moment.