Report for:	**Pension Fund Committee**
Date of Meeting:	24 March 2021
Subject:	Update on Regulatory Changes - Public Sector Exit Payments
Responsible Officer:	Dawn Calvert – Director of Finance and Assurance
Exempt:	No
Wards affected:	List Ward(s) affected by decision. **All**
Enclosures:	None

Section 1 – Summary and Recommendations

This report updates the Committee on the implications of the HM Treasury's recent announcement that the Restriction of Public Sector Exit Payments Regulations 2020 have been revoked.

Recommendations:

The Committee is requested to

1. Agree that the draft actuarial factors issued by the Government Actuary Department should continue to be used in the calculation of pension strain unless and until different factors are issued.
2. Agree that authority be delegated to the Director of Finance and Assurance to authorise a change to "fund specific" factors for calculation of pension strain if the Fund's actuaries, Hymans Robertson, advise that it is appropriate to do so,
3. Note that the Pension Fund Risk Register will be updated to reflect the removal of the risk arising from the conflict between the two sets of Regulations.

Section 2 – Report

1. At its last meeting on 27 November 2020, the Committee received a report setting out the impacts of regulatory changes, one of which was

the Restriction of Public Sector Exit Payments Regulations 2020 (SI No 1122), which were signed in October and came into force on 4 November 2020. The Regulations were intended to implement what was a “manifesto pledge” by the current Government to limit public sector “exit payments” to £95,000.

2. That report highlighted the conflict between the 2020 Regulations and the LGPS Regulations 2013, which arose because the LGPS Regulations specify that if a scheme member who is aged 55 or more is made redundant, the member is entitled to receive immediate payment of pension based on the service they have accrued, without any reduction for early payment. This early payment of pension imposes a “strain cost” on the Pension Fund, which is met by the employer. The 2020 Regulations required that strain costs be included in the “Exit Payment” calculation.

3. On 12 February 2021, HM Treasury announced that the Restriction of Public Sector Exit Payment Regulations 2020 “may have had unintended consequences,” and were therefore to be revoked.

4. Pending revocation, HM Treasury published mandatory guidance that the 2020 Regulations should not be applied. In addition, the guidance included the following comment
   - “*HM Treasury will bring forward proposals at pace to tackle unjustified exit payments.” (para. 1.5)*

5. On 25 February 2021, the Restriction of Public Sector Exit Payments (Revocation) Regulations 2021 were made and laid before Parliament. These regulations come into force on 19th March 2021 and confirm the effect of the disapplication Directions and mandatory guidance made on the 12th February 2021. They are not retrospective.

6. The 2021 regulations contain an obligation for employers to make payments to employees (or to other persons or public sector pension schemes in relation to those employees) who left during the period between the original regulations coming into force (4th November 2020) and the date of these regulations coming into force (19 March 2021), the aim of which is to put the individual in the position he/she would have been in had the 2020 Regulations not been in force.

7. Harrow has had only a small number of cases where the exit cap may have been applied, and none where a reduced pension was paid. Therefore, it is considered that no additional payments will be required.

8. At its November meeting, the Committee noted that the old “fund specific” strain cost factors, which ensured that employers reimbursed the Fund for the impact of the early payment of pension, were inappropriate for use in early retirement calculations for the purposes of the “exit cap”, and consequently approved the use of the standard factors provided by the Government Actuary’s Department (GAD) as these were deemed to calculate the benefit to the redundant employee of receiving pension early.

9. At the time of writing this report, the Fund's actuaries, Hymans Robertson, have advised that it is premature to revert back to using the "fund specific" strain cost factors in early retirement calculations, and have suggested that we should continue to use the standard Government Actuary's Department (GAD) factors which were appropriate for the exit cap. There reasoning is based partly upon the fact that HM Treasury has indicated that further proposals to restrict "exit payments" are being considered and are likely to be introduced during 2021. Also, the draft LGPS Regulations which would have a similar effect are likely to be passed in some form.

10. Hymans Robertson have also advised that the strain costs do not provide a definitive (actual) cost of paying a scheme member's pension early. Rather they provide a best estimate using actuarial methodology which relies mainly on probability and averages. In individual cases, the estimate calculated using the "GAD factors" will provide a higher cost, while in others it will provide a lower cost than the "fund specific factors". Overall, the position would be expected to be broadly neutral, and any residual differences reflected in future triennial valuations.

11. Therefore, it is recommended that at this point, the GAD factors continue to be used in early retirement calculations, and that should the position change, the Director of Finance and assurance be authorised to implement a change in the factors used.

Legal Implications

12. At its November meeting, the Committee approved an approach to mitigate as far as possible the conflict between the Restriction of Public Sector Exit Payment Regulations 2020 (which limited the cost which an employer could incur in respect of an employee's employment being terminated, including pension strain costs) and the LGPS Regulations (which provide that if an active scheme member aged 55+ is made redundant, then he/she should have immediate unreduced access to his/her pension). The Government's decision to revoke those Regulations removes this conflict.

Financial Implications

13. The review of individual cases where active members left employment between 4 November 2020 and 12 February 2021 indicates that there were no cases where reduced pensions paid, hence no additional payments will be required.

14. Whilst the retention of the GAD strain cost factors will mean that in individual cases the calculated strain cost differ from the amount which would be calculated using the old "fund specific" factors, the overall impact of the change is unlikely to be material.

Risk Management Implications

15. The Pension Fund's Risk Register is reviewed regularly by both the Committee and by the Pension Board. The conflict between the Restriction of Public Sector Exit Payment Regulations 2020 and the LGPS Regulations was classified as a red risk at the last review in November 2020. That risk has been removed as the Government's decision to revoke the "Exit Payment Regulations" has removed the conflict. The risk register will be updated accordingly.

Equalities implications / Public Sector Equality Duty

16. Was an Equality Impact Assessment carried out? No
    There are no direct equalities implications arising from this report.

Council Priorities

17. The performance of the Pension Fund directly affects the level of employer contribution which then, in turn, affects the resources available for the Council's priorities.

Section 3 - Statutory Officer Clearance

Statutory Officer: Sharon Daniels
Signed on behalf of the Chief Financial Officer
Date: 10/03/2021

Statutory Officer: Caroline Eccles
Signed on behalf of the Monitoring Officer
Date: 11/03/2021

Chief Officer: Charlie Stewart
Signed by the Corporate Director
Date: 09/03/2021

Mandatory Checks

Ward Councillors notified: NO

Section 4 - Contact Details and Background Papers

Contact: Jeremy Randall – Interim Pensions Manager
Email: Jeremy.randall@harrow.gov.uk
Telephone 020 8736 6552

Background Papers:

Restriction of Public Sector Exit Payments (Revocation) Regulations 2021