

GENERAL PURPOSES COMMITTEE

Friday, 13 November 2020 at 2.00 p.m.

Online 'Virtual' Meeting - Microsoft Teams

SUPPLEMENTAL AGENDA

CONFIDENTIAL

Contact for further enquiries:

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Information:

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For further information including the Membership of this body and public information, see the main agenda.

3 .1 Senior Review

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Supplemental Document

Supplemental Information – Replacement of Section 7 of the report

7. Legal Comments

- 7.1 By s.135 Employment Rights Act 1996 an employee is entitled to a redundancy payment if the employer dismissed the employee by reason of redundancy. Contractual payments may enhance the statutory entitlements and a failure to pay the employee their contractual entitlement would result in a breach of the employee's contract.
- 7.2 A member of the LGPS who is made redundant or released on the grounds of business efficiency who is aged 55 or over at the date of dismissal is entitled to (and must take) immediate unreduced payment of their pension.
- 7.3 The exit payment cap of £95,000 came into force on 4th November 2020 and will apply to any exit payment made after this date. Guidance and directions to accompany the exit payment regulations are still awaited. These will set out the discretionary waiver process and the position of exits agreed before 4th November and where the date of leaving is after the implementation date. This may have an impact on the expected payments for these employees and/or such contractual payments may be subject to a recovery process for payments made which exceed the cap.
- 7.4 There is an unresolved potential conflict between the exit payment cap Regulations and the LGPS Regulations. There are draft Regulations that are intended to address this conflict. In their present form those draft Regulations do **not** resolve the conflict.
- 7.5 Amendments to the LGPS will not be in place when the cap comes into force and therefore there is a risk of challenge to the authority in respect of those exit payments where the cost exceeds the £95,000 cap. Guidance is awaited in respect of this issue.
- 7.6 Equally there is a risk of challenge if a dismissed employee over the age of 55 does not receive unreduced access to their pension.
- 7.7 It should be noted that the draft directions regarding the relaxation of the cap require most decisions, even if passed by full council, to be subject to the consent of HM Treasury.
- 7.8 After the 4th November 2020 the council must ensure that any exit payment does not exceed the cap (unless permitted by the relaxation directions) and, where a non-compliant payment is made, must recover any overpayment.
- 7.9 With regard to the proposals for restructuring involving chief or deputy chief officer posts, these must be compliant with the requirements of the Officer Employment Procedure Rules if the dismissal of any such officer is proposed.