

[The LGA issued the statement below to LGPS administering authorities on 16 December 2020]

Exit cap waiver guidance

On 16 December 2020, MHCLG issued a [guide for local authorities for the interim period until MHCLG regulations come into force](#). The LGA has raised a number of issues regarding this guidance in terms of clarity and interpretation including but not restricted to the following:

- concerns that despite what is implied in the guidance, the information listed for record keeping and that required by regulations for publication are different and that the resultant confusion may lead to disclosure of personal data
- clarification on whether 'TUPE like' movements on local government reorganisation are covered by mandatory waivers
- concerns that administering authorities (AA) are being asked to provide a figure they should not/cannot calculate – the strain cost should the waiver not be granted (the capped strain cost).

In respect of the last point if AAs are following the [government's recommendations in the letter of 28 October](#) then the strain cost, should a waiver not be granted in respect of a capped scheme member, is zero as the member can only receive a deferred or fully reduced pension.

We strongly recommend that the AA should therefore comply with the guidance by providing the full strain cost only.

Employers may need to be aware of the capped strain cost if they are considering paying a cash alternative equal to that amount. However only the employer (and not the AA) can determine that amount as it requires access to other exit payment information that may be confidential and decisions by the employer concerning the status, priority and order of all exit payments which may well need legal advice.

Any involvement by the AA in determining this amount could result in it being liable if the employer exceeds the cap or the employee challenges non or part payment of any element of the total.