Pension Fund Committee

Pensions Administration

Date of Meeting: 20 June 2019

Lead Officer: Pensions Fund Administrator

Executive Summary: This report is the quarterly update for the Pension Fund Committee on all operational and administration matters relating to the Fund. It contains updates on the following: • Public Sector Exit Cap consultation • Consultations on LGPS regulatory changes • MHCLG Policy consultation on LGPS: Changes to the Local Valuation Cycle and the Management of Employer Risk • LGPS Scheme Advisory Board Update • Key Performance Indicators and work backlogs
Equalities Impact Assessment: N/A
Budget: N/A
Risk Assessment: Having considered the risks associated with this decision, the level of risk has been identified as: Current Risk: N/A Residual Risk N/A
Other Implications: N/A
Recommendation: It is recommended that the Committee note and comment on the contents of the report.
Reason for Recommendation: To update the Committee on aspects of Pensions Administration

Appendices: • Appendix 1 – LGPC Exit Cap consultation briefing summary • Appendix 2 - Employer costs of early release • Appendix 3 - LGPS Fair Deal Consultation response • Appendix 4 – SAB Guidance, Cost Cap & Valuation • Appendix 5 - Good Governance Review • Appendix 6 - KPIs (November 2018 – May 2019)
Background Papers: • LGPS Regulations 2013 • HM Treasury Consultation on Exit Payments • MHCLG Consultation on Fair Deal • MHCLG Consultation on changes to Valuation cycle and the Management of Employer Risk
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1. Background

1.1 This report is the quarterly update for the Pension Fund Committee on all operational and administration matters relating to the Fund.

2. Consultation on Public Sector Exit Cap

2.1 The government first announced plans to cap exit payments in the public sector in 2015. The cap was legislated for in the Enterprise Act 2016, which amends the Small Business, Enterprise and Employment Act 2015, but required secondary legislation to be introduced.

On 10 April 2019 HM Treasury (HMT) launched a consultation, which closes on 3 July 2019, on draft regulations, guidance and Directions to implement the cap. The cap will apply to all public sector employers and is to be implemented in two stages. Local Government employers will be covered in the first stage.

2.2 The exit payment cap is set at £95,000 and the regulations do not include provision for this to be index-linked. Redundancy payments (including statutory redundancy payments) severance payments, pension strain costs and other payments made as a consequence of termination of employment are included in the cap.

The pension strain costs can be high and occur because of the pension being paid early at an unreduced rate. This amount is commonly unknown to the retiring member as it is a payment made by the employer direct to the pension fund as compensation for the resulting increased pension costs.

Pension costs / payments related to death in service or ill health retirement, pay in lieu of holiday and payments resulting from a court or tribunal order, are excluded for the purposes of these regulations.

2.3 **Applying the cap in the LGPS** - It is not yet clear how an LGPS members' benefits will be adjusted where the cap has been exceeded. We do know that the statutory element of the redundancy payment cannot be reduced. So, if the cap is exceeded, it will be other elements of the exit payments that must be reduced to achieve the £95,000 limit. We understand that the intention is that the members' benefits will be reduced to remain within the limit with the option to buy-out some or all of the reduction.

Amendments to the LGPS regulations will, therefore, be necessary to facilitate these changes, and guidance from the Government Actuary's department will also be required.

2.4 Relaxing the cap - There are circumstances where the cap must be (mandatory cases) or may be (discretionary cases) relaxed by the decision maker.

2.5 **Appendix 1** is the LGPC consultation briefing summary. **Appendix 2** is a chart complied by the fund actuaries showing the potential strain costs that might arise from early retirement (e.g. Redundancy) for members retiring early at age 55 taking into account different pay levels.

2.6 **The response from the Dorset county Pension fund is currently being prepared, and members are being asked how they would wish to be involved in preparing the response.**

3. Consultations on LGPS regulatory changes

3.1 There have been two consultations on regulatory changes to the LGPS, which have closed recently; the Dorset County Pension Fund (DCPF) responded to both consultations.

3.2 The DCPF responded to the consultation on the **Implementation of Late Retirement Factors** on 15 June 2019. This consultation covered only one minor area of change which proposed a new methodology of implementing new late retirement factors, prompted by issues caused by the previous change. The previous change created a cliff edge and had little preparation time for administrators and scheme members.

The aim of the proposed changes was to reduce the volatility of the factors and resulting uncertainty for members.

The DCPF supported these changes and requested a longer lead in time to assist with communications and the necessary software changes.

3.3 The second consultation was more significant in its range and impact. This was the **LGPS Fair Deal - Strengthening pension protection Consultation**, and the DCPF submitted a response on 4 April 2019. This is attached at **Appendix 3**.

3.4 The new regulations aim to strengthen the pensions protections for members following an outsourcing or re-tender. The consultation was particularly aimed at those with an interest in the obligations that apply when a service or function is outsourced from an LGPS employer, including employees, outsourcing employers and service providers.

3.5 The proposals introduce the concept of a 'Fair Deal' employer (which is wider than the definition of a best value authority) and 'protected transferred' who as a consequence of being employed by a Fair Deal Employer will retain the right to participate in the LGPS for a s long as they are wholly or mainly employed on the outsourced service. This importantly includes subsequent transfers).

3.6 The provision for 'deemed employers' is to be utilised as an alternative to the admitted body status currently used. Under the 'deemed employer' route, the original outsourcing employer remains the employer for pension purposes. This is likely to cause some issues, and potentially an additional burden on the outsourcing authority. I have concerns that the responsibilities, and potential costs, might not be fully understood by the outsourcing body. However, this may assist situations where the outsourcing authority finds it hard to attract tenders, as it essentially shares the pension risk.

3.7 The proposal also removes the option for a broadly comparable scheme.

3.8 An additional element to the proposed new regulations concerns amalgamated bodies. Exit debts, triggered by Regulation 64, will automatically transfer to the successor body unless there is a specific reason not to do so.

3.9 The intention of these proposals is in part to simplify participation of the LGPS and to help facilitate risk sharing. However, I have doubts whether this hoped for outcome will be achieved. It remains the case that, despite concerted efforts to engage and educate employers regarding outsourcing, a lack of understanding, and an inadequate level of engagement with pension issues, continues.

4. MHCLG Policy consultation on LGPS: Changes to the Local Valuation Cycle and the Management of Employer Risk

4.1 MHCLG has released a consultation, which closes on 31 July 2019 looking at changing the valuation cycle from three to four years, further amendments to the payment of exit payments/credits, and whether employers in the higher and further education sector in England should continue to be obliged to offer LGPS membership to non-teaching staff.

4.2 It includes proposed changes as follows:

- Move the valuation from a three to a four year cycle
- Provide options for the transitional period from 2019 to 2024 with a preferred option for a valuation in 2022. The 2019 valuation would therefore set contributions for April

2020 to March 2023, and the 2022 valuation would set contributions for the 2 years to March 2025.

- Give funds the power to take interim valuations, in full or in part.
- Provide flexibility to alter employer contribution rates mid valuation.
- Add more flexibility with exit payments, such as deferred employer status where employers defer exit payments and provide an ongoing commitment to meet their existing liabilities, in agreement with the fund.
- Restrict exit credits where risk sharing has been in place.
- Allow Further Education Corporations, Sixth Form College Corporations in England to decide whether to admit employees into the scheme in future.

4.3 **The response from the Dorset county Pension fund is currently being prepared, and members are being asked how they would wish to be involved in preparing the response.**

5. LGPS Scheme Advisory Board (SAB) for England and Wales

5.1 The LGPS SAB is a body set up under both the LGPS regulations and Section 7 of the Public Service Pensions Act 2013. Its purpose and role is to encourage and assist with best practice, increase transparency and to coordinate technical and standards issues. Below is a summary of some of the current issues being looked at. Further information is available on the SAB website.

5.2 McCloud judgement - new SAB advice On 14 May the SAB published an advice note which covered the implications of the McCloud case and the Cost Cap process in regard to the 2019 fund valuations.

5.3 This advice sets out the proposed approach to the 2019 valuation and confirms that if there is no outcome by 31 August that the scheme benefit design to be used should be as it is currently set out. But in setting the employer contribution rates the Administering Authority should, with their Actuary, consider the additional allowance to be made. The guidance note is attached at **Appendix 4**.

5.4 **Good Governance Project –** previously named the separation project, this new initiative, aims to identify relevant issues concerning delivery of LGPS administration and governance within local authority structures. Hymans Robertson have been commissioned to undertake this project for the SAB. Full details are contained in **Appendix 5**

5.5 The project is intended to help and assist with the successful management of potential conflicts of interest arising between a pension fund and its parent local authority and is not to be taken as a criticism of elected members, section 151, or other officers.

5.6 Hymans Robertson launched a national governance survey, which closed on 31 May 2019, amongst other initiatives to gain as many views as possible from those working within the LGPS.

5.7 **Responsible Investment Guidance** – The SAB concurred with the recommendation from the Investment, Governance and Engagement committee (“Investment Committee”) that this guidance should be web based.

5.8 The SAB also agreed the recommendation from the Investment Committee that a paper to be submitted by UNISON based on the report they commissioned from ShareAction on ESG policies, in particular, on climate change risk, should be considered by the board at a future date.

5.9 **Cost Cap** – the SAB intends to invite the Minister responsible for the LGPS to discussions about an alternative cost management package, and to seek agreement that the SAB should be included in any future discussions surrounding the remedy package should the McCloud judgement stand.

5.8 This follows communications from the Civil Service Pension Scheme’s SAB to their Minister setting out an agreed package to recover their cap breach of 5.4%. The Civil Service Pension Scheme asked that the process, despite being paused, should be allowed to proceed as far as possible.

5.9 The LGPS scheme remains in a state of abeyance waiting for the McCloud outcome, which is likely to have significant impacts either way.

6. Key Performance Indicators and work backlogs

6.1 The Key Performance (KPI) Indicators for the period 1 November 2018 to 31 May 2019 covering the period to date are included. Future reports will revert to the standard three month format.

6.2 The KPIs for this period are attached at **Appendix 6** and reflect the continued positive achievements of the pension administration team. This represents the ten key areas but does not include all the work areas completed.

6.2 The Aggregation backlog work makes steady, but slow, progress. We now have 631 cases remaining.

Aidan Dunn
Pension Fund Administrator
20 June 2019