

London Borough of Enfield

**PENSION POLICY AND INVESTMENT COMMITTEE**

**Meeting Date: 23 July 2020**

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**Subject: LGPS Latest Developments and Update**

**Cabinet Member: Cllr Maguire**

**Executive Director: Fay Hammond**

**Key Decision: [ ]**

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**Purpose of Report**

1. This report provides an update on several general developments affecting the Local Government Pensions Scheme. One of the functions of the Committee is to meet the Council's duties in respect of the efficient management of the pension fund.
2. The Committee's consideration of the information in the report contributes towards the achievement of the Council's statutory duties.

**Proposal(s)**

3. Pension Policy and Investments Committee are recommended to note the contents of this report.

**Reason for Proposal(s)**

4. For effective and efficient management of the Fund.
5. There is a requirement for the Committee to be kept up to date with current issues and legislative developments to support and effect the effective discharging of their role.

**6. Relevance to the Council's Corporate Plan**

7. Good homes in well-connected neighbourhoods.
8. Build our Economy to create a thriving place.
9. Sustain Strong and healthy Communities.

## **Background**

### **McCloud consultation published for the LGPS**

10. MHCLG has released a 12-week public consultation on proposals to amend the LGPS to remove the unlawful age-discrimination that arose from the protections associated with introduction of the 2014/2015 scheme reforms and which were successfully challenged in the McCloud case. The key proposals set out in the consultation are:
  - A new final salary underpin will apply to service between 1 April 2014 and 31 March 2022
  - The changes will affect active members of a public service scheme on 31 March 2012 who went on to have active membership in the LGPS on or after 1 April 2014
  - Leavers since 1 April 2014 will fall into scope of the new underpin, meaning their benefits must be checked to see if the underpin applies retrospectively
  - Because early and late retirement reductions will now be taken into account in the underpin comparison, the underpin check will need to take place on leaving active membership and on subsequent retirement
  - Aggregations will be re-opened for a twelve-month period
11. The consultation can be accessed below:  
<https://www.gov.uk/government/consultations/local-government-pension-scheme-amendments-to-the-statutory-underpin>
12. The changes present a significant challenge to administering authorities and to employers, not least of which will be a major data collection exercise to enable the final salary underpin to be calculated. Whilst benefits accruing from 1 April 2022 will be career average for all members, the new underpin will require 2008 scheme pay to be recorded for some members for the next 40 years. As well as changes to ongoing administrative systems, processes and communications, the recalculation of leavers' benefits represents an enormous task, covering retirements, deferred leavers, deaths, transfers and trivial commutations. It is therefore vital that administering authorities, employers and other affected parties consider responding to the consultation.

### **Changes to the tapered Annual allowance from 6 April 2020**

13. In the Budgets on 11th March, it was announced the tapered annual allowance will be amended such that it only applies to individuals with 'adjusted income' (broadly total taxable income from all sources plus the value of pension accrual) of over £240,000 (compared to the 2019/20 tax year where it's applied to individuals with adjusted income over £150,000). The minimum level to which the annual allowance can taper down will reduce from £10,000 to £4,000, which we only impact people with an adjusted income in

excess of £300,000 pounds. This means that the tapered annual allowance is expected to affect far fewer people than previously.

14. In addition, as set out in the current legislation the lifetime allowance (LTA) increased to £1,073,100 from 6 April 2020 (in line with the increase in CPI to September 2019 of 1.7%).

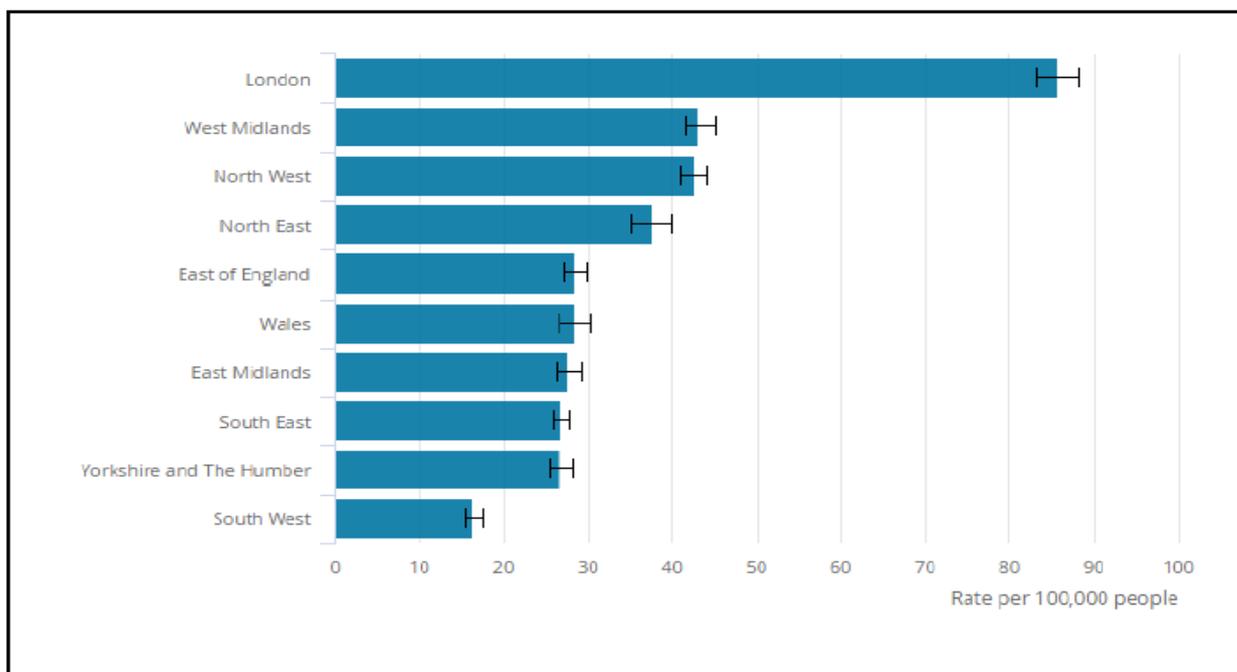
### **COVID-19 Impact and Consideration for Funds**

15. The uncertainty surrounding COVID-19 has triggered the most significant fall in domestic and overseas equities since the global financial crisis of 2008. Since the outbreak, the FTSE100 price index has fallen by around 20%. Whilst some funds may have some form of protection in place (whether through their investment strategies or more directly e.g. equity protection), funding levels will still be impacted by the volatility that COVID-19 has produced.
16. The potential impact of COVID-19 is creating a lot of uncertainty in a number of areas for all LGPS funds. As well as falls in funding levels, it has the potential to affect a fund's operational arrangements and the affordability constraints of employers.
17. An update is being provided here on two important areas; firstly, from longevity perspective (i.e. expected life expectancy of members), and secondly in relation to cyber risk as more people work from home.

### ***Longevity***

18. The short term impact of the COVID-19 outbreak on UK deaths is unprecedented in past times. Deaths from COVID-19 peaked in the UK, but the rate of decline was slower than the initial rate of increase. Suggesting that whilst social distancing and lockdown has been an effective strategy for inhibiting the spread of COVID-19, initially at least it does not stop the spread altogether.
19. The outlook for the remainder of 2020 (and beyond) is still uncertain, but it is possible that there could be 100,000 more deaths than expected by the end of the year, compared with around 600,000 deaths in a typical year.
20. A lot of data has been published about the impact of COVID-19 at a national level, but the impact on pension funds could be very different and will be two fold:
  - i) The impact of more member having died than would usually be expected; and
  - ii) The outlook for longevity changing, for example depending on the health of the surviving population; and the economic, social and political consequences of tackling COVID-19.
21. The impact of COVID-19 has varied significantly between groups, for example depending on age, affluence and location (illustrated by the chart shown

below), so even within the LGPS the impact will differ between funds, and the long term effects could be either positive or negative.



### **Cyber Risks**

22. The global COVID-19 pandemic has led to many employees working remotely, some for the first time; a development that has significantly increased organisations' cyber risks. Cyber criminals are aware of the opportunity that rapidly deployed, mass remote working offers, and are taking advantage of the vulnerabilities exposed by the new way of working. Hackers are targeting individuals through phishing attacks disguised as coronavirus-related notices, or by luring them to infected websites that appear to be legitimate sources of COVID-19 information.

### **RPI Consultation**

23. HM Treasury on the UK Statistics Authority (UKSA) published the anticipated consultation on the reform of the retail prices index methodology on 11 March, the same day as the budget. There were no major surprises, the consultation confirmed that "from the implementation date (a date between 2025 and 2030 thirty subject to consultation) the RPI index will be calculated using the same methods and data sources as are used for CPIH2. Access to the document is: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/879860/RPI\\_Consultation\\_extension.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879860/RPI_Consultation_extension.pdf)
24. The consultation made no mention of any compensation for holders of RPI linked gilts affected by the changes. There was no clear market reaction, although as the consultation was launched on the day of the budget (and amid markets uncertainty due to COVID-19) there was a significant amount of news for the market to digest at around the same time. The consultations runs until 22nd April.

25. In relation to the LGPS where pensions are CPI linked, the position remains that for funds holding index linked gilts (or other assets such as swaps that provide the hedge to our RPI), this change to RPI is potentially unfavourable.
26. The will so impact on the way many Funds determine their inflation assumption which typically has regard to index linked yields. There are also still some LGPS benefits that use RPI that will be affected by this consultation.

### **Supreme Court decision on LGPS**

27. In September 2016 the Department for Communities and Local Governments DCLG (now MHCLG) issued guidance on Preparing and Maintaining an Investment Strategy Statement (ISS) (“the guidance”). Under the LGPS (Management and Investment of Funds) Regulations 2016 (“the regulations”), LGPS administering authorities in England and Wales are required to follow that guidance when formulating their ISS.
28. The guidance included two passages which prevented pension funds from engaging in boycotts and “ethical divestment” of companies and this have provoked a legal challenge led by the Palestine Solidarity Campaign Ltd.
29. Campaigners from the Palestine Solidarity Campaign (PSC) ask for the guidance to be ruled as legally flawed. In June 2017 the high courts ruled that the government had acted unlawfully in seeking restrict “ethical” boycotts on Israel and the guidance was reissued. This was appealed in the Court of Appeal and the Supreme Court.
30. On 29 April 2020, the Supreme Court found that the Secretary of State was able to provide guidance to administering authorities on how they should administer and manage the LGPS funds, on how, within the investment strategy they should take ethical considerations into account.
31. However, the court noted that the current legislation does not allow the Secretary of State to impose the Government’s view on foreign and defence policy on administering authorities of LGPS funds, and reissued MHCLG statutory guidance from July 2017 remains valid.
32. Administration authorities when taking non financial considerations into account for investment decisions, should consider members’ views as an intrinsic part of the investment decision making processes. Otherwise the judgement does not change the fundamental role or duties of LGPS administering authorities in relation to their investment or other powers and confirms that the administering authorities remain responsible for the investment decisions of their respective funds.

### **Exit Credits**

33. A partial Government response on changes to the Local Valuation Cycle and the Management of Employer Risk covering Exit Credits has been published. The enabling Regulation changes (The Local Government Pension Scheme (Amendment) Regulations 2020) were laid on 27 February 2020 and came

into force on 20 March 2020. The response to the remaining part of the consultation e.g. moving through a four year valuation cycle are promised “in due course” and no time scale is given.

34. This change was intended to clarify the position on exit credits payable to employers exiting from a Fund where there are risk sharing arrangements between the employer and the original contracting authority and is backdated to apply from 14 May 2018 when Exit Credits were first introduced into the LGPS. Whilst the regulations undoubtedly provide the regulatory support to Funds when they determine their policies on payment of Exit Credits, whether they provide absolute clarity to Administering Authorities is perhaps debatable in terms of how the process is governed.
35. It is therefore paramount that Funds ensure their policy on payment of Exit Credits where there is a risk sharing arrangement is in place and the process require for the relevant parties to adhere to when making representation and/or disputing/appealing a decision.

#### **Transfer warning letter for LGPS**

36. In April 2020, TPR issued guidance on communicating with members during COVID-19. With an aim to provide clear and useful information such that members do not make rushed permanent decisions regarding their retirement options.
37. This included asking pension managers to send letters to all members who apply for a Cash Equivalent Transfer Value (CETV) quote, to help them on the stand the significance of changing their pension arrangements. The template for this letter provided members with information on what they should consider and where to access impartial advice.
38. The original letter published on 29 April 2020 was not suitable for use by the LGPS. An LGPS version of this letter as now be made available to administering authorities of the LGPS on 18 June 2020. Access to a version of this letter is here. [http://lgpslibrary.org/assets/tpr/Covid19\\_CETV\\_letter.pdf](http://lgpslibrary.org/assets/tpr/Covid19_CETV_letter.pdf)
39. Pension managers have also been asked to monitor the number of requests for CETV quotes they receive from members and the corresponding advisors. This is an attempt to be wary of this consulting patterns that may emerge of which the FCA must be notified.

#### **Safeguarding Implications**

40. None.

#### **Public Health Implications**

41. The Enfield Pension Fund indirectly contributes to the delivery of Public Health priorities in the borough.

#### **Equalities Impact of the Proposal**

42. The Council is committed to Fairness for All to apply throughout all work and decisions made. The Council serves the whole borough fairly, tackling inequality through the provision of excellent services for all, targeted to meet the needs of each area. The Council will listen to and understand the needs of all its communities.

### **Environmental and Climate Change Considerations**

43. There are no environmental and climate change considerations arising from this report.

#### **Risks that may arise if the proposed decision and related work is not taken**

44. It is important to keep abreast on current issues to facilitate the rigorous and robust management of the Pension Fund for a better, quicker and more effective decision-making process which can lead to better Fund performance and reduction in the contribution required from the Council towards the Fund.
45. The monitoring arrangement for the Pension Fund and the work of the Pension Board should ensure that the Fund optimises the use of its resources in achieving the best returns for the Council and members of the Fund.

#### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

46. Not adhering to the overriding legal requirements could impact on meeting the ongoing objectives of the Enfield Pension Fund.

### **Financial Implications**

47. This change could have significant and immediate financial consequences for investors in RPI-linked assets such as index-linked gilts. The Fund's assets are linked to RPI while its liabilities are linked to CPI. The Fund's investment adviser Mercer is of the opinion that following a RPI reform consultation, RPI is expected to fall while CPI will remain unchanged, which could lead to a possible deterioration of the Funding level.

### **Legal Implications**

48. This report provides an update on several general developments affecting the Local Government Pensions Scheme. One of the functions of the Pensions Board is to meet the Council's duties in respect of the efficient management of the pension fund. And so it is appropriate, having regard to these matters, for the Committee to receive information about general developments affecting the Local Government Pensions Scheme. The Committee's consideration of the information in the report contributes towards the achievement of the Council's statutory duties.

### **Workforce Implications**

49. The employer's contribution is a significant element of the Council's budget and consequently any improvement in investment performance will allow the

Council to meet this obligation easily and could also make resources available for other corporate priorities.

### **Property Implications**

50. None

### **Other Implications**

51. None

### **Options Considered**

52. No alternative options considered.

### **Conclusions**

53. The UK Government is to undertake a consultation into the calculation and use of RPI with reference to Index Linked Gilts, the effect on public finances and the integrity for the statistical system.

54. The result could see RPI no longer used as a statistic used by Index Linked government bonds and the Consumer Prices Index including owner occupier housing costs (CPIH). Thereby reducing the future change in RPI by around 1% per annum. This could have a potentially major effect on the market and could cause a huge sell off in market.

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Report Author: Bola Tobun  
Finance Manager – Pensions & Treasury  
[Bola.Tobun@enfield.gov.uk](mailto:Bola.Tobun@enfield.gov.uk)  
Tel no. 020 8132 1588

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### **Appendices**

None

### **Background Papers**

None