

London Borough of Enfield

PENSION POLICY AND INVESTMENT COMMITTEE

Meeting Date: 25 March 2021

Subject: LGPS Update
Cabinet Member: Cllr Maguire
Executive Director: Fay Hammond
Key Decision: []

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 discharge 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

LGPS UPDATES

Exit Payments Regulations 2020 (£95K cap) - Disapplied

10. On 12 February, HMT issued a Direction to disapply the Restriction of Public Sector Exit Payments Regulations 2020 (£95K cap) with immediate effect, and this is expected to be formally revoked once parliamentary time allows. It is unclear whether they will be revoked retrospectively, or whether they will remain in force from 4 November 2020 to 12 February 2021. In addition, the Welsh Government has confirmed that, in their view, the exit cap no longer applies to exit payments made by a devolved Welsh authority.
11. HMT also issued guidance which set out their expectation that employers who had capped exit payments since 4 November 2020 should revisit those cases and pay the additional sums that would have been payable had the cap not applied. The timing of the announcement, on the eve of the judicial review, suggests Government was not expecting to win. The only reason given for disapplying the cap was the identification of 'unintended consequences'.
12. Where funds have followed SAB's previous advice to pay a reduced pension and delay any payment of a cash alternative, they will need to revisit such cases to pay a full unreduced pension and request the strain payment from the employer.
13. However, many funds may have followed advice in MHCLG's letter of 28 October 2020 which recommended that affected members should be paid either a reduced early retirement pension, or a deferred pension, plus a compensation amount equal to the capped strain on fund amount. The expectation is that MHCLG will need to amend that advice to avoid inconsistencies with HMT's guidance to revisit cases after 4 November, and inconsistency with exits after 12 February 2021.

Governance

14. The final report (please see link below) from the Good Governance Review has been published by the Scheme Advisory Board (SAB), which builds on the phase I and phase II reports published in 2019. The SAB Chair has now written to MHCLG to ask them to implement the recommendations either via revised guidance or regulations. Alongside this SAB have put forward an action plan to support best practice governance building on the recommendations of the review. It will be interesting to see MHCLG's response and the timelines for progress particularly given the other governance related activity underway at present.
https://lgpsboard.org/images/Other/Good_Governance_Final_Report_February_2021.pdf
https://www.lgpsboard.org/images/Other/Annex_to_Good_Governance_letter_110221.pdf

15. The Pensions Regulator (TPR) pursuant of the Single Modular Code is expected to issue a consultation in the Spring on the merger of exiting Codes of Practice (including Code of Practice No.14). This change in Code could see changes to the requirements placed on Public Service Pension Schemes, including the LGPS. Interpretation of relevant aspects of the new Code will be particularly important given requirements for the LGPS will be placed alongside those of all other schemes. In due course (once the new Code comes into force) each Fund will need to assess their compliance with its requirements.
16. On the horizon for knowledge and skills, CIPFA is expected in Spring 2021 through the CIPFA Pensions Panel to update their Knowledge and Skills Code of Practice and Framework for Pension Committee members and Senior Officers. Revised documents are expected ahead of the forthcoming local elections in May 2021. It might end up being a busy few months for officers after those elections to ensure induction training takes place for new members of Committees/Boards.

UK Pension Schemes Act

17. On 11 February the UK Pensions Scheme Act received Royal Assent. Although the main provisions will require regulations to bring them into effect, and to add in some of the details, the Act sets out changes in a wide range of areas. Not all parts of the Act will be relevant to the LGPS, as much of it focusses on the pension scheme funding regime applicable to private sector schemes and the creation of a framework for collective money purchase schemes, however the following sections are expected to be relevant to the LGPS (either directly or indirectly):
 - i) **Pensions dashboards:** The Act provides a framework to support pensions dashboards, including new powers to compel schemes to provide information. Trustees will be required to feed in information on their own schemes and members, and regulations will specify the detail (what must be provided, when and how). The Money and Pensions Service (MaPS) is to deliver a non-commercial dashboard. To be a 'qualifying pensions dashboard service', commercial dashboards delivered by industry will need to meet requirements to be laid down in regulations.
 - ii) **Climate change governance:** Regulations can impose requirements on trustees to ensure there is effective governance of schemes with respect to the effects of climate change, and to publish information relating to the effects of climate change on the scheme. In both cases, trustees must comply with guidance issued by the Secretary of State. This provides the legal framework for requiring trustees to make disclosures in line with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD). It is expected that MHCLG will consult on TCFD for the LGPS in the summer.
 - iii) **Limiting transfer rights:** The Act will allow trustees to block transfer requests where conditions, including in relation to the member's new employment or to their place of residence, are not met. The detail,

including the implementation date, will be set out in regulations. The regulations may also require the member to obtain information or guidance from a prescribed person and confirm to the trustees that they have done this. This provision is intended to help prevent pensions scams. Exercising due diligence when a transfer request is received can sometimes be difficult, with trustees currently having little scope to refuse a transfer that displays the characteristics of a scam.

Consultation on increasing the minimum pension age from 55 to 57 in April 2028

18. On 11 February HMT launched a consultation on the implementation of increasing the minimum pension age from 55 to 57 in April 2028. This is the age at which individuals can access their pension benefits without incurring an unauthorised tax charge. Government had previously signalled its commitment to increase the minimum pension age to 57 in 2028 in its response to the Freedom and Choice in Pensions consultation in July 2014. The Government's justification is to reflect increases to life expectancy since the minimum pension age was last increased from 50 to 55 in 2010, so that tax efficient pension savings are only used to provide income and security in later life (with a broad intention of allowing access around 10 years before State Pension Age). The consultation confirms that the proposals do not apply to those who are members of the firefighters, police and armed forces public service pension schemes. The consultation closes on 22 April 2021.

Climate Change Risk and TCFD

19. On Wednesday 27 January, the Government published a response to its August 2020 consultation, taking action on climate risk: improving governance and reporting by occupational pension schemes, along with draft regulations and non-statutory guidance. The consultation contained proposals for trustees of occupational schemes to comply with the recommendations of the Task Force on Climate Related Financial Disclosures (TCFD) and have effective governance and risk management measures to address climate change risks and opportunities. Policy proposals include various requirements on the scope and timing with regards to TCFD governance and reporting. The DWP has now launched a consultation on draft regulations and guidance.
20. Regulations on how this will apply to the LGPS are expected to be issued by MHCLG following a consultation expected later in 2021.

Section 13 update

21. Government Actuarial Department (GAD) are currently engaging with the fund actuaries over the preliminary findings of their section 13 analysis. The following observations are highlighted:
 - a) there are more amber flags this year partly due to the fact that GAD's best estimate basis has strengthened, and assets and liabilities have increased relative to core spending

- b) the asset shock metric (linked to core spending) is not causing the same issues for the Met funds as at 2016
- c) there is still a focus on consistency, but a more holistic and less “name and shame” approach is planned; however, many aspects of the reporting are still being decided.
- d) it is expected that approaches taken to allow for the potential costs of McCloud will be compared under the consistency comparison.
- e) there will be some follow up to the recommendation in the 2016 report in relation to academies, although this may be less of an issue this time given DfE has other priorities and there is a general view that academisation has materially slowed down
- f) GAD will be including some thoughts on what they will expect at the 2022 valuation in respect of climate change.

22. The actuarial firms will be asked for their views on academies too.

Non-club transfer technical advice

23. On 15 February the LGA published a new and comprehensive technical guide on the transfer of LGPS benefits to non-club registered pension scheme. The guide sets out a process to follow for handling CETV and Cash Transfer Sums requests including statutory timescales and frequently asked questions.

Consultation on accounts deadlines

24. In response to recommendations from the Redmond review, MHCLG has written to Chief Executives in England to consult on a change to the timescales for preparing and auditing local authority accounts for 2020/21 and 2021/22. Government has proposed to change the deadline for publishing audited local accounts from 31 July to 30 September, and to push back the date for public inspection from 1 June to 1 August. The consultation closes on 1 March.

25. The accounts deadline in Wales will be unchanged from last year, at 30 November, and in Scotland 31 October.

HMT consultation response to McCloud

26. On 4 February the Chief Secretary to the Treasury, Steve Barclay, issued the Government’s response to the consultation on changes to the transitional arrangements to the 2015 public service pension schemes. This relates to the “unfunded schemes” including the civil service, NHS, teachers, police and fire schemes. The LGPS is subject to a separate MHCLG consultation process.

27. The key policy decisions set out in the Government’s response are:

- i) The deferred choice underpin (DCU) method has been selected, whereby members will choose whether they wish to have membership of the legacy

scheme or the reformed scheme in respect of their affected membership when they retire. This option attracted a significant majority of support from consultees over the "immediate choice" option which would have required members to make a choice in advance of their retirement, which would mean making assumptions over which scheme would give them better benefits when they eventually retired, in some cases decades later

- ii) Prior to making their deferred choice, members will be deemed to have accrued benefits in their legacy schemes for the remedy period (i.e. 1 April 2015 to 31 March 2022)
- iii) Legacy schemes will close on 31 March 2022, meaning all active members will move to their reformed schemes from 1 April 2022
- iv) Members who have already had a pensions award will be asked to make their choice as soon as is practicable after the necessary legislative and process changes have been made
- v) The Government has confirmed that the changes will not apply to members who joined after 31 March 2012, on the basis they had no reasonable expectation they would have remained in the legacy schemes beyond 1 April 2015
- vi) The Government will bring forward primary legislation to enact the changes 'when parliamentary time allows'
- vii) Individual schemes will consult on the specific details of the implementation of the changes when they publish draft regulations
- viii) The implementation of the changes will take place by 1 October 2023 at the latest.

28. A ministerial statement on changes to the LGPS is expected in March.

Safeguarding Implications

29. None.

Public Health Implications

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

Equalities Impact of the Proposal

31. 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

32. 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

33. This is a noting report.

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

34. Risks arising from poor administration tend to be reputational but can include additional expenditure through inaccurate benefits, delays in collecting contribution, fines and interest on late payments. This and future reports are designed to provide the Committee with assurance that pension risks are being adequately managed.

Financial Implications

35. There are no direct financial implications arising from the contents of this report.

Legal Implications

36. The PPIC is required to consider pension matters and ensure that the Council meets its statutory duties in respect of the fund. It is appropriate having regard to these matters for the Committee to receive information from the Pensions Administration team about the administration functions of the pension fund. The report also provides the Committee with updates on various other matters relevant to the administration of the Pension Fund. There are no immediate legal implications arising from the report.
37. When carrying out its functions as the administering authority of its pension fund, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector duty).

Workforce Implications

38. 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

39. None

Other Implications

40. None

Options Considered

41. No alternative options considered.

Conclusion

42. The Pension Policy and Investment Committee is recommended to note the updates provided in this report

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Appendices

None

Background Papers

None