

Pensions Board

2 July 2019

Report title	Regulatory Update	
Originating service	Pension Services	
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Recommendation for noting:

The Board is asked to note:

1. The updates to the current regulatory environment within the LGPS.

1.0 Purpose

- 1.1 To provide the Local Pensions Board with an update on the work of the Fund to deliver a well governed scheme and to note the current regulatory environment in which the Fund operates

2.0 Regulatory Updates

2.1 Cost Management Review

In May, the Scheme Advisory Board issued guidance on the approach funds should take in the assessment of liabilities for the 2019 valuation, following the pause in the Cost Management process and review of changes to scheme benefits with effect from 1 April 2019, pending the outcome of the McCloud court case.

The changes could have significance in LGPS Funds' valuations which are required to assess and determine the liabilities of pension funds and their ability to meet the cost of paying pension benefits. At the time of pausing the changes, a package of improvements costing an average of 0.9% of payroll had been recommended. Depending on the profile of the membership of individual LGPS employers, the impact on contributions could have varied widely and guidance was sought from the Scheme Advisory Board on how Funds should account for this change as part of the 2019 valuation. The potential impact on all public service pension schemes is significant should the 2018 Court of Appeal's finding that protections for those within 10 years of retirement are unlawful be upheld. If, however, the finding is not upheld then the cost cap process will restart.

Guidance from the Scheme Advisory Board has stated that if no outcome from McCloud is known by 31 August 2019, funds and their actuaries should consider liabilities under the current regulations and scheme benefits, noting the expectation that the Scheme cost may rise in future. West Midlands Pension Fund will be working closely with its Actuary, Barnett Waddingham to consider any potential outcome as it moves forward with the 2019 Actuarial Valuation and commences its engagement programme with Fund employers.

2.2 Employee exit payments

Committee will recall the proposal by Government to implement a £95,000 cap on payments to individuals who leave public sector employment with a view to reducing the burden on the public purse.

The cap is proposed to cover all payments and include the calculation of the employer strain costs on pension payments where an individual leaves employment and is entitled to receive their (often unreduced) pension benefits.

In April 2019, the Government launched a consultation on the proposals which have been criticised for capturing those individuals with long term service earning average salaries. The consultation closes on 3 July 2019 and the Fund will be considering the proposals and the questions posed in its response.

2.3 LGPS Actuarial Valuation cycle

West Midlands Pension Fund, in line with LGPS Regulations currently undertakes a local triennial valuation to assess its funding level and future levels of contributions required from employers.

In May government issued a consultation proposing to move this valuation cycle to every four years with the ability to conduct an interim valuation where there has been significant change between valuation cycles. Also proposed, is the widening of a power that allows LGPS administering authorities to amend an employer's contribution rate in between valuations, so that contribution rates can be adjusted if circumstances change.

The Fund will be working with its Actuary, Barnett Waddingham to understand the implications of the proposals and will keep employers informed of the consultation.

2.4 Good Governance in the LGPS

Previously referred to as the "Separation Review" the Scheme Advisory Board appointed Hymans Robertson to look at a range of options which may support governance arrangements for individual Funds within the LGPS, noting that the separation of LGPS Funds from their Administering Authority is not the intended outcome, with any degree of separation considered retaining local authority control.

Speaking at the Pensions and Lifetime Savings Association (PLSA) conference in May, the Scheme Advisory Board (SAB) set out their intention for the review in assisting LGPS Funds to ensure their ability to meet statutory requirements on good governance which included the ability to adequately resource their funds to deliver pension benefits for their members.

SAB have outlined their key considerations/criteria for the review which include avoiding the risk of conflict where officers in administering authorities conduct two, sometimes conflicting roles. In addition, SAB is considering the representation and standards of decision-making bodies in the LGPS, which may include the requirement for statutory training and knowledge requirements of those charged with decision making (elected members and officers).

The Fund participated in an initial fact find with Hymans Robertson and has issued a response to the survey. Hymans will be presenting their findings to SAB in July, following which SAB may make recommendations to MHCLG (Minister for Housing, Communities and Local Government).

3.0 Financial implications

3.1 Further consideration may need to be given to the Fund Budget depending on the nature of change requirements for implementing regulatory change. There is the potential for cost pressures on the Fund.

4.0 Legal implications

- 4.1 Changes to legislation and statutory guidance are detailed in the report. Failure by the Fund to comply with legislation and/or statutory guidance can result in enforcement action and fine from both the Pension Regulator and the Courts via judicial review.

5.0 Equalities implications

- 5.1 There are no implications

6.0 Environmental implications

- 6.1 There are no implications.

7.0 Human resources implications

- 7.1 There are no implications

8.0 Corporate landlord implications

- 8.1 There are no implications

9.0 Schedule of background papers

- 9.1 Regulatory Update report to Local Pensions Board April 2019
<https://wolverhamptonintranet.moderngov.co.uk/documents/s106419/Regulatory%20Update.pdf>
- 9.2 Scheme Advisory Board guidance on the cost management review and application of McCloud in the 2019 valuation
[http://www.lgpsboard.org/images/Other/Advice from the SAB on McCloud May 2019.pdf](http://www.lgpsboard.org/images/Other/Advice_from_the_SAB_on_McCloud_May_2019.pdf)
- 9.3 Government consultation on the £95K cap
<https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector>
- 9.4 LGPS Valuation cycle consultation
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/800321/LGPS_valuation_cycle_reform_consultation.pdf
- 9.5 Scheme Advisory Board Good Governance Review
https://www.lgpsboard.org/images/PDF/Options_for_separation_Instructions_for_bidders_20180820.pdf

10.0 Schedule of Appendices

- 10.1 None