

CITY OF  
WOLVERHAMPTON  
COUNCIL

# Pensions Board

30 April 2019

<b>Report title</b>	Regulatory Update	
<b>Originating service</b>	Pension Services	
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## Recommendation for noting:

The Pensions Board is asked to note:

1. The current regulatory environment, consultations which could impact the Local Government Pension Scheme and the steps the Fund is taking to prepare for those changes.

## **1.0 Purpose**

- 1.1 To provide Board with an update on the forthcoming and potential regulatory changes across the LGPS. The Fund continues to see and manage a series of change, with a number of consultations (both directly and indirectly related to the LGPS) issued within the last 3-6 months.

## **2.0 Cost Management**

- 2.1 The Scheme Advisory Board (SAB) is responsible for reviewing the Local Government Pension Scheme and for advising the Secretary of State on any proposed changes to the Scheme which would benefit employers and members while ensuring its overall sustainability in providing pensions.
- 2.2 One of the Board's statutory duties, under regulations, is to introduce and maintain a process to manage costs in the scheme alongside the process introduced by HM Treasury for all public service schemes. In line with the process, in December 2018 changes were proposed to the benefit structure of the LGPS which would take effect from 1 April 2019.
- 2.3 On 30 January 2019, the Government announced a pause in the HM Treasury cost cap process due to uncertainty caused by a court ruling on elements of the 2014/15 scheme reforms (the McCloud case). Following this, SAB has paused the LGPS cost management process pending the outcome of the case. As a result, there are currently no benefit changes planned in respect of the cost cap and the situation will be reviewed once McCloud is resolved, which is not expected to be for some months.
- 2.4 It is unknown at this time whether any benefit changes agreed in future will be backdated to April 2019 and SAB have requested views from administering authorities on whether guidance from SAB on the valuation approach would be welcome ahead of the 2019 actuarial valuation. It is recognised that backdating scheme changes over a potentially significant period would be a huge challenge for administering authorities and scheme employers.
- 2.5 Board will recall from its January meeting, that following discussions at Pension Committee meetings in September and December 2018, the Director of Pensions wrote to the Secretary to the Scheme Advisory Board in December 2018 to outline concerns on the late notice of potential scheme changes from April 2019 and the impact this has on the service the Administering Authority is able to provide to scheme members and employers. In the response received in January 2019, the SAB acknowledged the issues and committed to taking steps where it could with the Ministry of Housing, Communities and Local Government (MHCLG), to improve the roll out of future regulatory change.

### **3.0 New Fair Deal**

- 3.1 Originally introduced in 1999, New Fair Deal proposes to protect the rights of public sector employees on transfer to a private sector employer as a result of the outsourcing of services. In January 2019, a further consultation was issued on the assimilation of New Fair Deal policy into the LGPS. The proposals present significant change including introducing a new category of employee known as a “protected transferee” whereby the contracting employer will be required to enter into an admission agreement with the LGPS Fund (previously, provided they could show that they could offer an equivalent pension it was not a requirement that they be admitted to the LGPS as an employer) and enabling “deemed employer” status as an alternative to an admission body.
- 3.2 Over the last five years the Fund has seen a large increase in the number of contractor employers being admitted to the LGPS as a result of the outsourcing of contracts by public bodies, most notably by academies. These contractors are commonly small companies with limited resource and knowledge of the LGPS and its obligations as an employer (financially and in relation to the provision of information to the Fund). The Fund seeks to secure guarantees for these employers, usually from the public body with who they are contracted, which provides some protection from the risk of underfunded orphan liabilities when contractors cease or when their contract to provide services expires.
- 3.3 The Fund works with employers to engage and educate them on their responsibilities as an employer within the LGPS and will continue to provide support through its employer coaching programme.
- 3.4 Fund officers engaged on the consultation through a number of forums and finalised a response on behalf of the Fund ahead of the deadline of 4 April 2019. Key issues for the Fund include the potential knock-on implications for administration, funding and accounting however, the changes have been broadly well received by local authority procurement teams and go some way to protect scheme members.

### **4.0 Exit Credits**

- 4.1 Under changes brought about by Local Government Pension Scheme (Amendment) Regulations 2018, employers are now able to seek a refund on surplus on exit (a “surplus credit”). The Fund has been reviewing this change with its advisers in the context of existing and potential future changes to funding arrangements (including as a result of changes from New Fair Deal). Proposed changes to the Funding Strategy Statement are covered in a separate report but it should be noted that we understand MHCLG are currently reviewing the regulations issued last year as several Funds have fed back on challenges and unforeseen issues with implementation. Whilst there may be a further change in due course, timing for this is uncertain, so the Fund has proceeded with consultation on proposed changes to the Funding Strategy Statement and employer termination policy contained within, to update this ahead of the 2019 actuarial valuation.

## **5.0 Statutory Guidance on Investment Pooling**

- 5.1 Following the announcement by Central Government in 2015 of the requirement for LGPS Funds to pool their investments, statutory guidance was issued in November 2015 to direct and support Funds in the set up and creation of their investment pools.
- 5.2 Almost a year on since the deadline of April 2018 for implementing pooling arrangements, Government issued a further informal consultation in January 2019 with updated draft guidance to replace the 2015 guidance. Whilst clarifying a number of points on how Funds can manage and create their investment pooling structures and confirming the requirement for a Financial Conduct Authority (FCA) regulated body, key parts of the original guidance (including the requirement for scale and assess value for money) have fallen away. Fund officers engaged on the consultation through a number of forums and issued a response on behalf of the Fund by the 28 March deadline.

## **6.0 Report and Accounts Guidance for LGPS**

- 6.1 Board will be aware of the statutory duty on Local Government Pension Funds to publish an Annual Report and Accounts which details the financial management of the Fund both in terms of its accounting practices and its investment management.
- 6.2 Information required to be published in the report and accounts is set out in Regulations, with guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) in 2014 to assist Funds in the preparation of their accounts. Since it was first published, there has been significant change in the LGPS sector, most notably investment pooling together with a drive for increased transparency of investment costs, which is not captured in the requirements for Annual report and accounts.
- 6.3 This latest edition, which closed for consultation on 7 December 2018, tries to encapsulate the reporting requirements of investment pooling bodies in Fund reports and goes some way to assisting Funds to determine what reporting they should expect of investment pools and investment managers more generally. The proposal brings a significant amount of additional reporting for individual LGPS Funds and the Fund is responding to this to enable adoption from the 2019 year-end.

## **7.0 Scheme Advisory Board (SAB) Update**

- 7.1 As well as continuing its deliberations on the Tier 3 employers and academisation review, SAB has launched its good governance review of LGPS Funds. Previously entitled "Separation", the review seeks to consider potential conflicts in the LGPS between the pensions functions of administering authorities and their host local authority.
- 7.2 Following a formal invitation to tender, Hymans Robertson have been appointed to facilitate a consultation on good governance structure for the LGPS. In a statement on the SAB website, the Board have confirmed that Hymans have been appointed to assist in the identification of real issues and potential options for change to the current arrangements which are proportionate, pragmatic and would improve LGPS governance.

7.3 It is understood that Hymans have been asked to consider 2 options as part of their review:

1. Improve from within, keeping LGPS Funds with their administering authorities but improving governance to ensure such potential conflicts are well managed.
2. The creation of a new type of body within Local Government Law.

As part of the review, Hymans are consulting with a wide range of stakeholders across the LGPS over the coming months. The Fund will seek opportunities to engage in this discussion as it progresses.

7.4 Following the launch of the Code of Transparency for LGPS investment managers to sign up and demonstrate their commitment to transparent reporting of costs, the SAB is procuring a system to support monitoring of compliance.

## **8.0 Wider consultations, collaboration and change**

8.1 The Fund continues to contribute to discussion and consultation on a wide range of issues, including most recently, consultation on the roll out of an industry-wide pensions dashboard.

8.2 A number of sets of actuarial factors and calculation proforma covering early retirement, transfers, pension debits and trivial commutation have been received from the Government Actuary Department (GAD) following changes to the Government's SCAPE discount rate in the Autumn and these are being loaded to the administration system.

8.3 Most recently, at the end of March and in early April, further consultations were issued on Implementation of new Late Retirement Factors and Restricting Exit Payments in the Public Sector. Fund officers are currently reviewing the consultations and will respond, as appropriate.

## **9.0 Financial implications**

9.1 The continued change in both the administration and governance requirements of LGPS Funds together with increasing regulation continues to increase demands on the resources of Funds. This together with the upwards pressure on the cost of administering the scheme could have material implications for members, employers and scheme funding.

## **10.0 Legal implications**

10.1 Legal implications are highlighted throughout.

## **11.0 Equalities implications**

11.1 There are no implications

## **12.0 Environmental implications**

12.1 There are no implications.

## **13.0 Human resources implications**

13.1 There are no implications.

## **14.0 Corporate landlord implications**

14.1 There are no implications.

## **15.0 Schedule of background papers**

15.1 Investment Pooling Guidance

[https://www.lgpsboard.org/images/Other/Draft\\_guidance\\_on\\_pooling-consultation.pdf](https://www.lgpsboard.org/images/Other/Draft_guidance_on_pooling-consultation.pdf)

15.2 New Fair Deal Consultation

<https://www.gov.uk/government/consultations/local-government-pension-scheme-fair-deal-strengthening-pension-protection>

15.3 CIPFA Annual Report and Accounts Guidance

<https://www.cipfa.org/policy-and-guidance/consultations/lgps-%E2%80%93-preparing-the-annual-report,-c-, -guidance-for-lgps-funds>

15.4 Scheme Advisory Board Meeting Papers

<http://www.lgpsboard.org/index.php/sub-comms/meetings>

15.5 Local Government Association bulletin on McCloud case and impact on Cost Management Review

<http://www.lgpsregs.org/bulletinsetc/bulletins.php>

## **16.0 Schedule of Appendices**

16.1 None