WIRRAL COUNCIL

PENSIONS COMMITTEE

29 MARCH 2011

SUBJECT:	**LGPS UPDATE**
WARD/S AFFECTED:	**ALL**
REPORT OF:	**DIRECTOR OF FINANCE**
RESPONSIBLE PORTFOLIO HOLDER:	**GEOFFREY WATT**
KEY DECISION	**NO**

1.0 EXECUTIVE SUMMARY

1.1 This report informs Members of legislative and other developments impacting on the Local Government Pension Scheme (LGPS).

2.0 RECOMMENDATION

2.1 That Members note the report.

3.0 REASON FOR RECOMMENDATION

3.1 There is a requirement for members of the Pensions Committee to be kept up to date with legislative developments to carry out their decision making role in order to enable them to make informed decisions.

4.0 BACKGROUND AND KEY ISSUES

Public Service Pensions Commission Report

4.1 The most significant development is the publication of the Public Service Pensions Commission final report which is the subject of a separate report to the Committee.

Proposal to increase LGPS average employee contributions by 3.2%

4.2 In the Spending Review statement on 20 October 2010 the Government announced its intention to increase employee pension contributions in public service pension schemes, other than the Armed Forces Pension Scheme.

4.3 The increases would be introduced progressively over the period 2012/13 to 2014/15. The Local Government Association is concerned that the implications for local authorities, their workforce and the wider economy may not have been fully considered and in a letter dated 16 February 2011, has called on the Government to enter into a dialogue with employers and unions in order to consider further how best to achieve the Government aims ahead of the outcomes from the report of the Independent Public Service Pensions Commission. MPF has written, on 23 February 2011, to the Chancellor of the Exchequer on this matter (Appendix 3).

Draft Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

4.4 This matter was previously considered by the Pensions Committee on 11 January 2011 (Minute 69 refers). MPF has consulted with scheme employers on the draft regulations and has responded to the Department for Communities and Local Government (DCLG) (Appendix 1).

HMRC changes to Annual and Lifetime Allowances: Scheme Impacts

4.5 This matter was previously considered by the Pensions Committee on11 January 2011 (Minute 63 refers). MPF submitted a further technical response dated 6 January 2011 to HMRC on its most recent proposals to recover tax charges due from the Pension Fund rather than directly from members.

4.6 Following a series of consultation exercises HMRC has published draft legislation. The two main features are the reductions in the Lifetime Tax Allowance (from £1.8 to £1.5 million) and the reduction in the annual allowance from £230,000 to £50,000.

4.7 It is the second of these changes which has most impact on the LGPS and will require MPF, as part of annual benefit statements based on the input period 1 April 2011 to 31 March 2012 (and subsequent periods), to advise members of the possibility they might have incurred a tax charge.

4.8 To do this may require a change to the Benefit Regulations to ensure the final pay period coincides with the input period for these purposes. This arises where the difference between the closing value of accrued rights at 31 March less the opening value at 1 April multiplied by 16 exceeds the £50,000 annual allowance. As well as advising the individuals MPF will also have to advise HMRC.

4.9 The onus to complete a self assessment tax return falls to the individual, even those who pay the basic rate of tax. HMRC has permitted the roll over of unused tax allowances from earlier years, but this information is known to the individual rather than the pension fund since other non LGPS arrangements on which tax relief has been granted also have to be taken into account.

4.10 Subject to the completion of the last of the consultations HMRC is bringing forward the capacity if the individual member chooses, for the pension fund to pay the tax (in full or in part) on their behalf with an actuarially equivalent reduction in rights accrued within the Scheme. For high earners this might have the impact of reducing the eventual tax liability in excess of the Lifetime Allowance. For others it means a more manageable way of meeting the tax liability. It is envisaged that the actuarial calculations for reduction to pension rights accrued will be similar to those the Scheme uses in pension sharing on divorce cases.

4.11 In the first consultation on proposed changes HMRC placed a significant tax burden on the small number of LGPS members who retire with tier 1 ill-health pension in their 30s or 40s – in some instances four or five times the annual pension received. In the light of comments received they introduced the capacity to roll over unused tax allowances from earlier years. At present HMRC is consulting on a definition of serious ill health exemption from the tax charge, but as currently worded it does not appear to provide the exemption to the LGPS. This issue is being pursued by DCLG with HMRC.

4.12 The matter was discussed at the LGPS Policy Review Group on 18 January 2011 and DCLG has confirmed that minor changes required to the LGPS Regulations will commence once the HMRC provisions have been finalised at the end of February.

HMRC Consultation on Early Access to Pension Savings

4.13 A response (Appendix 2) has been submitted to HMRC to the consultation document dated December 2010 seeking views on proposals to allow members in financial difficulties to be able to access their pension benefits early. The National Association of Pension Funds has criticised the proposals which it says would undermine auto-enrolment and create more administrative complexity.

Contracted-out National Insurance Rebates

4.14 The contracted-out National Insurance rebate rates for defined benefit schemes including the LGPS, which will apply from 6 April 2012, are 3.4% for employers' secondary Class 1 contributions and 1.4% for employees' primary Class 1 contributions. This represents a drop of 0.3% and 0.2%, respectively, in the employers' and the employees' contribution rebates.

5.0 RELEVANT RISKS

5.1 The HMRC proposals on recovery of Annual Allowance charges from the Pension Fund are likely to result in greater administrative complexity and costs to MPF.

5.2 The proposals to allow early access to accrued pension rights would be likely to result in a reduction in the individual's financial provision for retirement, additional complexity and costs for the Scheme and possible abuse of the tax rules.

6.0 OTHER OPTIONS CONSIDERED

6.1 None.

7.0 CONSULTATION

7.1 Consultation was undertaken with all scheme employers regarding the draft Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 and responses have been reflected in the response sent to DCLG.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 None arising from this report.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 The reduction in contracted out national insurance rebates from April 2012 will increase employers and scheme members costs

10.0 LEGAL IMPLICATIONS

10.1 None arising from this report.

11.0 EQUALITIES IMPLICATIONS

11.1 None arising from this report.

11.2 Equality Impact Assessment (EIA)
(a) Is an EIA required? No

12.0 CARBON REDUCTION IMPLICATIONS

12.1 None arising from this report.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 None arising from this report.

FNCE/52/11

REPORT AUTHOR: **PETER MAWDSLEY**
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email: petermawdsley@wirral.gov.uk

APPENDICES

1 - Response to DCLG on Draft Discretionary Payments Regulations.
2 - Response to HMRC on Early Access to Pension Savings Consultation.
3 - Letter to the Chancellor of the Exchequer on proposed increases to employee contributions.

REFERENCE MATERIAL

HMRC Consultation document on Proposals for Early Access to Pension Savings December 2010.

LGA letter dated 16 February 2011 to Chancellor of the Exchequer http://www.lge.gov.uk/lge/aio/10150853

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
LGPS update report presented to each meeting of the Pensions Committee	

APPENDIX 1 Response to DCLG on Draft Discretionary Payments Regulations

Our Ref: PS/PM

Your Ref:

Direct Line: 0151 242 1390

Please ask for: Peter Mawdsley

Date: 2 March 2011

Sandra Layne
Workforce Pay and Pensions Division
DCLG
Zone 5/G6 - Eland House,
Bressenden Place,
London,
SW1E 6DE

Dear Sandra,

DRAFT - THE LOCAL GOVERNMENT (DISCRETIONARY PAYMENTS) (INJURY ALLOWANCES) REGULATIONS 2011

I refer to your letter dated 22 December 2010 and to the draft regulations that were attached and I am responding to the invitation for comments on behalf of Wirral Council in its role as an employing body and in its capacity as the Administering Authority of the Merseyside Pension Fund.

The Merseyside Pension Fund deals with the LGPS pension administration on behalf of the 33 scheduled scheme employers (including the 5 Merseyside District Councils), and 78 admission employer's on Merseyside and elsewhere throughout the UK.

Injury Provisions

The Fund has consulted with all its constituent admission employers on the use made of the injury provisions and received replies from 10 of the 78 admission employers.

Of those employers who responded none had a policy on award of injury benefits under Part V of the 1996 Regulations, or had ever made any such award. None of those who responded was aware of ever having had an employee who suffered an injury resulting in loss of earnings or employment. One employer confirmed that it would rely on its employers liability insurance to deal with any claim for compensation should a case arise.

I confirm that having consulted with all scheme admission bodies in this Fund that such bodies do not routinely exercise their powers to award injury allowances under the provisions of the Local Government (Discretionary Payments) Regulations 1996. The Fund therefore does not believe that any transitional protections should be needed to deal with the transition between the old and new regulations other than to provide that an application for an injury award received before the coming into force date of the new regulations should continue to dealt with as though the old regulations continued to apply.

Changes to IDRP process for Injury Awards

The removal of the Secretary of State in deciding future injury award appeal cases, to bring this in to line with other appeals under the Pension Scheme Regulations is noted. This change should apply in respect of any new applications to reconsider a decision received by employers from the coming into force date of the regulations.

The proposal to require an Independent Registered Medical Practitioner to certify an employee's injury/disease before an injury allowance can be awarded is supported.

Other Matters

The Fund notes the proposed revocation of the Gratuities Part as it is time expired and no longer required.

The Fund welcomes the inclusion of the required references to "nominated co-habiting partners" for equality reasons.

If you require any further information or assistance please do not hesitate to contact me.

Yours sincerely

Deputy Head of Pension Fund

APPENDIX 2 - Response to HMRC consultation on Early Access to Pensions Savings

Our Ref: PS/PM

Your Ref:

Direct Line: 0151 242 1390

Please ask for: Peter Mawdsley

Date: 24 February 2011

Early Access to pension savings
Pensions & Pensioners Team
Room 2/S1,
HM Treasury
1 Horse Guards Road,
London,
SW1A 2HQ

Dear Sirs,

CALL FOR EVIDENCE ON ACCESS TO PENSION SAVINGS

I refer to your consultation document dated December 2010 and respond on behalf of Wirral Council as the administering authority of the Merseyside Pension Fund.

Wirral Council is responsible for the administration of the Merseyside Pension Fund which is part of the Local Government Pension Scheme (LGPS). The Merseyside Pension Fund deals with the LGPS pension administration and investments on behalf of the 5 Merseyside District Councils, and over 100 other employers on Merseyside and elsewhere throughout the UK.

The Fund has over 50,000 active contributing members, 41,359 pensioners and just over 34,000 deferred pensioners. It is responsible for the investment and accounting for a pension fund of £4.9 billion. The LGPS is a defined benefit, final salary public sector occupational scheme.

The Fund believes that the proposals are unsatisfactory in seeking to further undermine what little pensions saving towards provision for old age and retirement is currently taking place in the Country and another example of confused and contradictory policy on the part of the Government and HMRC.

The Fund believes that it is currently the position that large numbers of people are failing to make adequate financial provision for their retirement by way of pensions saving.

This position has been getting worse over time, at the same time as people are living longer due to improvements in longevity and as a result they will therefore be unable to live comfortably in their old age and pose a financial burden on state welfare benefits.

The Fund believes that the most appropriate approach to ensuring adequate financial provision in retirement is for all individuals to be required to make contributions on a compulsory basis from their earnings during employment with a contribution from employers.

The Fund believes that the new NEST arrangements are fundamentally flawed in that they will continue to allow those people who choose to opt out of all pension provision to do so, and rely instead on state benefits funded by the population as a whole.

Giving an opportunity for people to draw part of their accrued pension rights early to meet financial hardship or urgent family needs will inevitably result in reductions to the amount available to them from their pension arrangements when they reach retirement age. The Fund believes that current welfare support for unemployment should continue to be available rather than permitting the individual to cash in their pension early to deal with this circumstance.

The administrative rules and arrangements needed to introduce such an early release facility would add further to the complexity and costs of implementing pension schemes regulations and could be open to abuse.

The Government might wish to consider instead making financial provision available from Government funds to individuals to cope with extreme instances of financial hardship like losing their home through repossession, with such financial assistance recouped when the individual can afford to repay it from future earnings or the eventual sale of the property.

The Fund believes that the proposals for early access to pension savings will create not only the risk of but the likelihood of a reduction in adequate financial provision in retirement.

Please do not hesitate to contact me if you require any further information or assistance.

Yours faithfully,

Deputy Head of Pension Fund

APPENDIX 3 - Letter to Chancellor of the Exchequer on Contribution Increases

Our Ref:

Your Ref:

Direct Line: 0151 242 1390

Please ask for: Peter Mawdsley

Date: 23 February 2011

The Right Honourable George Osborne MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road,
London,
SW1A 2HQ

Dear Mr Osborne,

Local Government Pension Scheme - Proposals to increase employee contribution rates

I write on behalf of Wirral Council as the Administering Authority for the Merseyside Pension Fund, in response to the HM Treasury proposals to increase employee contributions to the Scheme by 3.2%.

Wirral Council is responsible for the administration of the Merseyside Pension Fund, which is part of the Local Government Pension Scheme (LGPS). The Merseyside Pension Fund deals with the LGPS pension administration and investments on behalf of the five Merseyside District Councils, and over 100 other employers on Merseyside and elsewhere throughout the UK.

It has over 49,000 active contributing members, 41,359 pensioners and over 34,000 deferred pensioners. It is responsible for the investment and accounting for a fund of £4.9 billion.

I am aware of the letters dated 16 February 2011 on this subject sent to you by the Local Government Group (LGG) and dated 9 February 2011 by Tameside MBC and wish to support their requests that the proposed arbitrary increase in employee contributions be reconsidered. I feel that the best approach for a funded public sector scheme which currently has a positive cash flow is to consider the total make up of the scheme in terms of benefits and contributions and not just to focus on one aspect i.e. contributions.

The LGG and Tameside have made a strong case that an arbitrary increase in contributions will lead to an increase in the numbers opting out of the Scheme which would undermine the attempt to raise the target additional income of £900 Million.

The risk of higher than expected optant-outs will be increased further if following the Hutton Commission Final Report there are proposals that the existing benefit arrangements are drastically altered. In a time of pay restraint many people will be unlikely to be willing or able to pay considerably more in contributions for a pension scheme which may offer what may be considered by many employees an inferior pension package.

In a survey undertaken with the Fund membership as part of our response to Lord Hutton's request for evidence 39% of the 1,952 respondents indicated that if it were proven that there was justification for such a change that they would be willing to pay additional contributions to retain the existing final salary benefits package. This indicates that our membership clearly appreciate the relationship between the contributions paid and the benefits received.

In applying an arbitrary increase to employee contributions across all of the public sector schemes, the distinctive nature of each of those schemes is ignored. The LGPS already has higher employee contributions than most of the unfunded public sector schemes, indeed the Local Government Group make the case that "highly paid members of some other public service schemes will be paying a lower contribution rate than the lowest paid workers in local government".

Relevant factors particular to the LGPS for consideration are:

The LGPS is a funded scheme

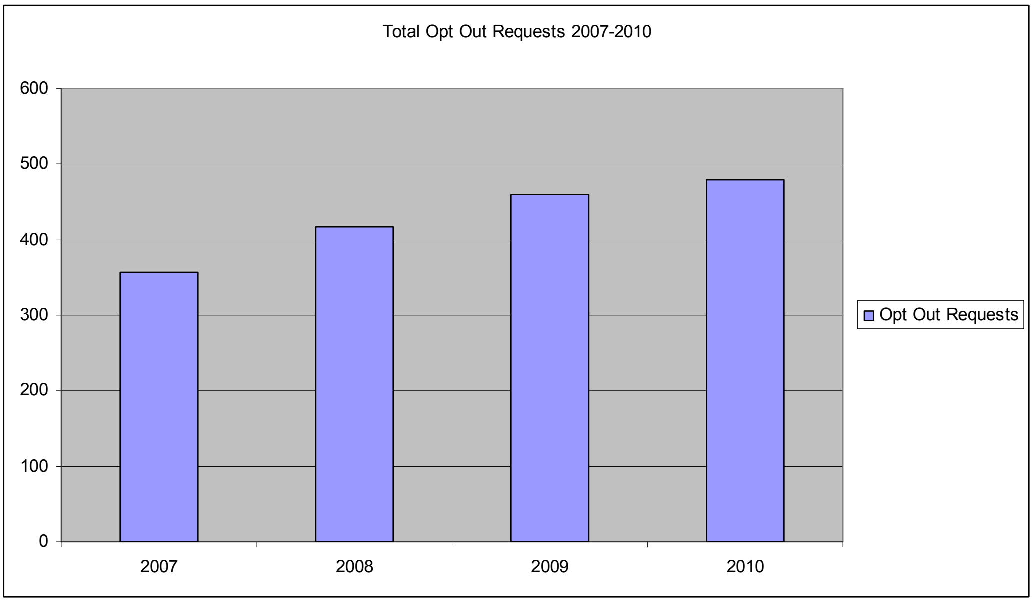
This means that any change in benefit structure or change in retirement age will have an immediate impact on employer costs. This was illustrated by the change in the measure of inflation from RPI to CPI and taking account of the pay freeze in determining the 2010 actuarial valuation assumptions. Funding levels improved and employer confirmation rates were lower than would have otherwise been the case. Thus significant cost savings have already flowed through into the costs of the LGPS in a way that will not have occurred within the Pay as you Go public sector schemes.

The demographics of the LGPS are different

The nature of the work undertaken in local government and employees' work patterns, means that the benefits earned by LGPS members are on average, a lower value than other public sector schemes and the proportion of staff on lower pay bands is greater. The contribution rates for part time employees in the Scheme (many of whom are female) are determined based on the full time equivalent pay. The consequences of these demographic differences and the starting point of banded employee contribution rates means that if consistent protection for those on lower pay scales across public sector schemes is applied, then the necessary increases for employees on higher pay must be correspondingly higher for LGPS scheme members.

Increasing employee contribution rates – impact on members opting out

This means that employees on similar pay levels in different public sector organisations are likely to be paying materially different employee contribution rates and thus, those on higher rates will have a greater incentive to opt out. In reaching a decision, on any increases in employee contributions, it is important to consider cross-public sector comparisons and fairness. The Fund has analysed the number of members requesting to opt out of Merseyside Pension Fund over recent years and as can be seen from the chart below this already demonstrates a trend of increasing numbers of employees opting out faced with increased living costs and the impact of a pay freeze.



In summary, the Fund believes that the potential scale of increase to employee contributions in the LGPS will have a long term adverse impact on the sustainability of the Scheme and that it will not generate the target level of additional income. A better way forward would be to develop the LGPS to create a revised scheme that best meets the needs of Government, employers, employees and other stakeholders. The work of Lord Hutton should create a framework for progressing this review.

The Merseyside Pension Fund supports the call of the Local Government Group and others for the Government to enter into a dialogue with employers and unions in order to consider further how best to achieve the Government's aims.

Yours sincerely

Director of Finance