WIRRAL COUNCIL

PENSIONS COMMITTEE

19 SEPTEMBER 2011

SUBJECT:	**AUTO – ENROLMENT**
WARDS AFFECTED:	**ALL**
REPORT OF:	**DIRECTOR OF FINANCE**
RESPONSIBLE PORTFOLIO HOLDER:	
KEY DECISION	**NO**

1.0 EXECUTIVE SUMMARY

1.1 This report informs Members of workplace pension reforms which include a new duty on all employers to ensure employees are auto–enrolled into a qualifying pension scheme. The reform aims to encourage greater private pension savings, particularly amongst those on low or moderate incomes to overcome the fact that many workers miss out on valuable pension benefits.

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

Auto-Enrolment and NEST

4.1 The Pensions Act 2008 introduced the basic provisions and legislative framework around workplace pension reform, the Act was followed by a series of consultations on the detail with the final prescriptive provisions to be formalised upon Royal Assent of the Pensions Bill 2011.

4.2 The crux of the legislation, to come into force in 2012, is that each employer will have to make arrangements for all employees to automatically join a qualifying pension scheme that satisfies certain minimum requirements. Employers must also make appropriate contributions on behalf of those who choose to remain members of the scheme.

4.3 The Local Government Pension Scheme satisfies the criteria of a qualifying scheme as it is a UK tax registered defined benefit scheme that is contracted out on a salary related basis and meets the reference scheme test. This test prescribes minimum levels of benefit that a scheme must meet in order to be able to contract out of the state second pension.

4.4 The Government has established a “national pension scheme" the National Employment Savings Trust (NEST). This scheme is effectively a statutory default auto-enrolment scheme, intended for employers that do not want to use or establish their own provision to fulfil their duties.

4.5 NEST is a trust-based scheme, run separately from the Government with a set of trustees and subject to similar rules and legislation as an occupational defined contribution scheme. As statutory bodies local authorities ‘power to act’ are limited to matters for which they have implied power. There is a specific power requiring local authorities to contribute to the LGPS under Section 111 and 112 of the Local Government Act 1972. Therefore there is currently no implied power for local authorities to offer NEST as a qualifying pension scheme.

4.6 Admitted bodies to the scheme may be able to offer NEST as an alternative to the LGPS which may lead to community admission bodies seeking to terminate their participation, thereby crystallising liabilities which would need to be recovered by MPF.

Staging Dates

4.7 The legislation sets out the dates known as staging dates from which employers of a certain size (starting with the largest employers) must comply with the new duties. Employers with at least 120,000 employees will have to comply from the earliest date of 1 October 2012 with employers with between 800 and 119,999 employees required to comply by 1 October 2013.

Employers’ New Duties

4.8 With effect from the staging date each employer will have to undertake the following functions:

- Enrol eligible jobholders who are not already active members of a qualifying scheme into an auto-enrolment scheme.
- Maintain a jobholders membership of the auto-enrolment scheme as long as he or she is employed by the employer and chooses to be a member.
- Make relevant employer contributions on the basis of qualifying earnings.
- Provide certain information to jobholders and workers.
- Register with the Pensions Regulator and keep records to prove compliance with their enrolment duty.
- Ensure processes are in place to handle any requests they may receive from a worker to become a member of a pension scheme.

Employee Safeguards

4.9 Employers must be aware of the following legal safeguards that have been put in place to protect the rights of individuals under the pensions reform effective from 1 October 2012:

- An employer must not take, or fail to take, any action that results in a jobholder ceasing active membership of a qualifying pension scheme.
- It is important that any jobholder's decision to opt out should be taken freely and without influence by the employer.
- An employer must not try to screen job applicants on grounds relating to potential pension scheme membership, known as prohibited recruitment conduct.

Categories of 'Workers'

4.10 The three main categories of worker to which the employer duties apply are:

- Jobholders who are aged **between 22 and state pension age** and earn above the personal income tax threshold of **£7,475 pa** and are eligible for automatic enrolment
- Non-eligible jobholders are not eligible for automatic enrolment but can choose to opt into a pension scheme and are aged at least **16 and under 75** and have earnings above the lower national insurance earnings limit of **£5,035** pa but below the personal income tax threshold of **£7,475 pa**
- Entitled workers are 'entitled' to join a pension scheme, are aged at least **16 and under 75** with earning below the national insurance earnings limit **of £5,035** pa

Scheme Membership

4.11 If an eligible jobholder is already an active member of a qualifying scheme on their automatic enrolment date, the employer does not need to take any further action, other than to provide them with information about the scheme of which they are a member.

4.12 Although enrolment into a pension scheme is compulsory, an individual has a right to opt out within one month of membership. This option is valid for three years, following which the employer must re-enrol the individual, who once again has the right to opt out within one month. This would continue every three years should the individual always choose to opt out.

4.13 Employers will have the option of waiting for up to three months before auto-enrolling eligible jobholders although they can opt in during the waiting period. Consequently the LGPS Regulations will require amending to allow a member with a contract of less than 3 months to be automatically enrolled in to the scheme.

4.14 For employers with a defined benefit scheme with an existing level of auto-enrolment, there may be an additional four year transition period from 1 October 2012 to 30 September 2016, during which time, existing workers who are not currently scheme members, but who have been and continue to be eligible to join the Scheme, would not need to be auto–enrolled by the employer.

Compliance

4.15 The new requirements come with a new regulatory regime to oversee compliance. This will be the responsibility of the Pensions Regulator, whose power is being extended to enable it to gather information and impose enforcement notices, including escalating financial penalties on offending employers. The wilful failure by employers to comply with the auto-enrolment requirements could result in imprisonment for up to two years.

4.16 The Pensions Regulator and Department for Work and Pensions (DWP) are currently organising meetings with local authorities HR/Pensions and Finance Sections to ensure employers are aware of their duties and have the relevant administrative processes in place to comply with the requirements of the pension reforms.

4.17 A circular is expected to be published by LGPC in the Autumn clarifying the likely implications on local authorities and admitted bodies following the implementation of auto-enrolment in 2012.

5.0 RELEVANT RISKS

5.1 The DWP will be delivering a marketing campaign to raise the profile of NEST and private pension saving in 2012.

5.2 It is also expected that private-sector insurance and financial companies will develop new pension vehicles that they will actively market to employers during 2012.

5.3 There is a risk of Community Admitted Bodies deciding to close LGPS participation to their employees and offer NEST which will lead to a reduction in the membership base and potential issues regarding recovery of substantial liabilities.

5.4 Publicity surrounding personal pension schemes promoting inferior cheaper alternatives to the LGPS may tempt scheme members to opt out and reduce their pension contributions. This would mirror previous experience following amendments to the scheme in 1988 permitting non-participation in the Scheme. This ultimately culminated in the judicial judgement on mis-selling of Personal Pensions.

5.5 There is a risk that the required detailed clarification surrounding the reform is delivered too late for employers to implement changes to HR/payroll systems and administrative procedures to comply with the requirements of the legislation.

6.0 OTHER OPTIONS CONSIDERED

6.1 None.

7.0 CONSULTATION

7.1 The DWP has launched formal consultation on the outstanding regulations addressing various aspects of the legislative framework for automatic enrolment from 2012. MPF has shared a Mercer update to all Scheme Employers (attached at Appendix 1) informing them of the opportunity to respond before the consultation close of 11 October 2011.

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 MPF will be required to carry out a significant communication exercise to prevent a large number of members opting out. It will be necessary to promote the value of the LGPS benefits as opposed to alternative pension provision, which may appear cheaper in the short term, but will ultimately result in meagre un-guaranteed pension benefits at retirement.

9.2 As auto-enrolment is implemented from 2013 there will be significant increased costs of additional pension contributions for employers, and increased administration costs for employers and for MPF.

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.

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APPENDICES

1 – Mercer Update on Auto-enrolment - August 2011

REFERENCE MATERIAL

Mercer Guide to Auto-enrolment and Nest
The Pension Regulator's Website
http://www.thepensionsregulator.gov.uk/docs/Pensions-reform-employer-duties-defining-workforce-v2.pdf

SUBJECT HISTORY (last 3 years)

Council Meeting	Date