

WIRRAL COUNCIL

PENSIONS COMMITTEE

15 JANUARY 2013

SUBJECT:	LGPS UPDATE
WARDS AFFECTED:	ALL
REPORT OF:	INTERIM DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER:	
KEY DECISION	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report updates Members of position statements issued by the Local Government Association and Brandon Lewis MP, Parliamentary Under-Secretary of State, on the progress of the 2014 LGPS Reform project, councillors' pensions and of a further consultation on the Fair Deal Policy.
- 1.2 It also covers the Chancellor's Autumn Budget Statement and the impact on the Local Government Pension Scheme and Merseyside Pension Fund's response to the Department for Communities and Local Government's (DCLG) consultation on Investment in Partnerships.

2.0 BACKGROUND AND KEY ISSUES

Reform of the LGPS – The 2014 Project

- 2.1 On 1 November 2012 the Local Government Association and the local government Trade Unions issued a joint statement indicating that draft regulations would be circulated before the end of 2012; they will reflect the basis of the scheme design consulted and agreed by both members and employers during the summer.
- 2.2 It also confirmed that the proposals covering Governance and Cost Management were submitted to the Government at the end of July with discussions ongoing. The main element being considered is the creation of a National LGPS Board to extend best practice and to increase transparency, coordinate technical issues and provide liaison with the pension regulator.

A mechanism is also being considered to manage costs if they move 2% either side of the future service rate of 19.5%. It is also recommended that a working party is set up to investigate solutions to past service deficits. This joint statement is attached at Appendix 1

- 2.3 A Written Ministerial Statement has also been produced by Brandon Lewis that sets out the parameters for the forthcoming Statutory Consultation, specifying the intent for the new Scheme regulations to be in place in time for the 2013 Scheme Triennial Valuation thus enabling the actuary to consider the revised benefit structure when valuing future pension liabilities. The full statement is attached at Appendix 2.

Fair Deal Consultation

- 2.4 Fair Deal is a non-statutory policy applying to pension provision for Public Sector staff when they are compulsorily transferred to the Private Sector. The guidance was issued in 1999 and was called “A Fair Deal for Staff Pensions” and it was subsequently republished as an appendix to the Cabinet Office Statement of Practice issued in 2000, and updated in 2004.
- 2.5 Although the Government made it clear that it expected all public sector employers to adopt this policy it is not legally binding on Local Authorities. The Fair Deal policy protects staff pensions by ensuring that the new employer provides a Broadly Comparable Scheme and protects pre-transfer service through day for day bulk transfer arrangements.
- 2.6 The Best Value Authorities Staff Transfers (Pensions) Direction 2007 order was subsequently made to mirror the Fair Deal Policy and provides protection to staff employed by local authorities who are TUPE transferred to the Private Sector and is legally binding. The new employer can provide a Broadly Comparable Pension Scheme or apply for admitted body status to the appropriate LGPS Fund.
- 2.7 H.M. Treasury first consulted on the Fair Deal Policy in 2011 in response to a recommendation contained in the Hutton Report. This was a high level consultation and was made in the context that the Fair Deal principles were likely to apply across the whole Public Sector including Local Government. Merseyside Pension Fund’s response to this first consultation is attached at Appendix 3.
- 2.8 Following this consultation the Government then confirmed its intention to retain Fair Deal in a statement made on 20 December 2011. The Government’s proposal is to enable compulsorily transferred staff to remain in their Public Sector Pension Scheme.
- 2.9 The provision of continued access to the Local Government Pension Scheme (LGPS) for staff transferred to the private sector was part of the agreement reached by Employers, Trade Unions and Government for the new LGPS Scheme and will be the subject of a separate consultation.

The New Scheme proposal is that scheme members who are part of an out sourcing arrangement will continue to contribute to LGPS (currently this is a choice made by the new employer). Negotiations are still ongoing for the LGPS framework to achieve this objective.

- 2.10 This further Fair Deal consultation is about the practical detailed operation of Fair Deal in the Public Sector and is aimed principally at the unfunded Public Sector

Schemes. MPF does not therefore feel it is necessary to respond individually and directly to this consultation.

The impact of the new Fair Deal will be considered by the DCLG in view of the extant Best Value Authorities Staff Transfers (Pensions) Direction 2007, together with Admitted Body Status in the Local Government Pension Scheme. The consultation document can be found on HM Treasury web site www.hm-treasury.gov.uk/tax.

Chancellor's Autumn Budget Statement

2.11 The Chancellor presented his Autumn Statement on 5 December with the key changes affecting the LGPS relating to reductions to both the Annual Allowance and the Lifetime Allowance from 2014/15 as follows:

- Annual Allowance falls from £50,000 to £40,000. The carry forward calculations for the prior tax years will continue to be based on the old £50,000 limit.
- A reduction in the Lifetime Allowance from £1.5m to £1.25m with the potential for transitional protections to be applied.

No change was announced in the Autumn Statement to the rules around tax free cash lump sums or tax relief on pension contributions.

Investment in Partnerships Consultation

2.12 The DCLG issued a consultation dated 6 November on Investment in Partnerships seeking views as to whether there is a need to amend the LGPS (Management and Investment of Funds) Regulations 2009. The aim is to provide greater flexibility for Pension funds to diversify their investments to obtain potential returns from infrastructure projects. The closing date for this consultation was 18 December 2012.

2.13 The two options considered are :

- Increase the limit on investments in partnerships from 15% of a local authority pension fund to 30%
- Create a new investment class for investment in infrastructure with an appropriate investment limit of 15% of an overall fund

2.14 MPF responded on 6 December and the full response is attached as Appendix 4.

- 2.15 In summary MPF considers
- that the proposal to increase the limit to 30% in infrastructure investments is an appropriate short term solution but would suggest a more fundamental review of the regulations to align with the flexibility afforded in private sector occupational pension funds;
 - Each local government pension is unique and a higher limit may not be appropriate for all in view of the illiquidity of partnerships and their long term nature.
 - The Fund does not support a new investment class for infrastructure as this may have the unintended consequence of limiting the range of investment options and in recognition that local authority funds are maturing far more quickly due to reductions in public sector services.
 - Although we are not aware of many funds close to the 15% partnership limit, raising it 30% will enable those funds affected by the restriction to invest if it be appropriate.

Councillors Pensions

- 2.16 On 19 December, DCLG issued a statement indicating their intention to abolish councillors' pensions on the basis that an occupational pension scheme intended for employees, and paid for by taxpayers, is not an appropriate vehicle for councillors. It believes these reforms will assist localism and local democracy by encouraging a greater separation between councillors and officers. Robust local scrutiny of council spending requires councillors to be substantively independent of means and of thought from the body they are overseeing.
- 2.17 Subject to consultation, the proposal is that there will be no access for councillors to the LGPS in England from April 2014. Those councillors already in the Scheme would have their accrued rights up to April 2014 fully protected, but would not be able to accrue any further benefits after that date.

Elected mayors will be allowed to remain in the Scheme, as a voluntary option. The salaries of the Mayor of London, members of the Greater London Assembly and Police and Crime Commissioners will remain pensionable.

- 2.18 It is estimated that this could result in a saving for £7 million a year.

- 2.19 The full statement is attached as Appendix 5.

3.0 RELEVANT RISKS

- 3.1 It is vital that the LGPS 2014 Regulations are timely, comprehensive, effective and clear to help ensure the continuing efficient administration of the LGPS. The Government is also keen that the LGPS Fund actuaries are able to reflect the changes in their 2014 employer future service rates.

Delays to the consultation process present a greater risk that actuaries will be unable to build the required models to reflect the new benefit structure in time for the Triennial Valuation work.

3.2 There is a risk that the DCLG will fail to issue the Draft Regulations within the new prescribed timeframe and equally respond to clarifications and the usual legislative amendments required for final Statutory Instruments. Unless the final regulations take into consideration feedback from administering authorities, there is a real risk that they will be operationally cumbersome and may fail to deliver the necessary change – contingency arrangements will be required to ensure continuity of effective service levels and Statutory Requirements of other related legislation.

4.0 OTHER OPTIONS CONSIDERED

4.1 No other options have been considered.

5.0 CONSULTATION

5.1 There has been no consultation undertaken or proposed for this report. It is important that MPF responds to the consultations that will lead to revised regulations and a reformed LGPS.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are none arising from this report.

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

- 7.1 As the Statutory Consultation progresses and detail from the Draft Regulations appear and are clarified during calendar year 2013 – MPF needs to initiate a formal strategic change programme to overhaul current administration arrangements, resources and communications; in recognition of the fundamental change of introducing a Career Average benefit pension arrangement complete with ongoing protections to the pre-2014 Final Salary benefits.
- 7.2 The intention remains that the Regulations revising the benefits offered by the LGPS will be in place to allow the Fund’s actuary to take account of such changes in determining future service costs for employers.
- 7.3 The reduction to the Annual Allowance coupled with a contemporaneous increase in the accrual rate from April 2014 will mean that more people will be subject to tax charges.
- 7.4 The reduction to the Annual Allowances increases the number of members that will be identified as “at risk” of a tax charge. Fund resources will be required to perform the required calculations of previous unused allowance, the production of Pension Saving Statements and the notification by post to the members.

Resources in relation to the Annual Allowance work will continue to be monitored by the Fund, specifically in regard the implications on staff resources and the mandatory “Scheme Pays” option; this allows the member to reduce their future pension benefits in order for the Fund to meet the tax charge.

8.0 LEGAL IMPLICATIONS

- 8.1 There are none arising from this report.

9.0 EQUALITIES IMPLICATIONS

- 9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

The reforms to the LGPS and the Fair Deal Policy have already been assessed by Government with regard to equality.

10.0 CARBON REDUCTION IMPLICATIONS

- 10.1 None arising from this report

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 11.1 None arising from this report

12.0 RECOMMENDATION/S

- 12.1 That Members note the report.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 There is a requirement for Members of the Pension 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.

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APPENDICES

- 1 LGPS 2014 – Joint Statement- Update On Workstreams 1 And 2**
- 2 Written Ministerial Statement – Brandon Lewis MP**
- 3 Previous MPF submission to Initial Fair Deal Consultation in 2011**
- 4 MPF submission to DCLG Consultation on Investment in Partnerships**
- 5 Councillors’ pensions**

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date