

## WIRRAL COUNCIL

### PENSIONS COMMITTEE

16 SEPTEMBER 2013

<b>SUBJECT:</b>	<b>LGPS UPDATE</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR OF TRANSFORMATION AND RESOURCES</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	
<b>KEY DECISION</b>	<b>NO</b>

#### 1.0 EXECUTIVE SUMMARY

- 1.1 This report updates Members of the latest developments relating to the proposed reform of the Local Government Pension Scheme (LGPS) and outlines the current consultations that are taking place. In addition, it presents a position statement on the national Communication Plan - the focus of which is to promote the value of the new Scheme to the current membership.
- 1.2 It also covers the recent Ministerial Statement and the guarantee from the Department for Education to cover outstanding LGPS exit debts upon the closure of an Academy.

#### 2.0 BACKGROUND AND KEY ISSUES

##### Reform of the LGPS – The 2014 Project

- 2.1 Members previously considered the Fund's formal responses to the three part consultation at the last committee meeting on 24 June 2013 (minute 6 refers). Issued on 28 March 2013, this consultation covered the main elements of the new Scheme design including transitional provisions seeking to protect previously accrued benefits.
- 2.2 On 20 June the DCLG issued its third technical consultation on the LGPS 2014 draft regulations. These now appear generally fit for purpose and provide greater detail in terms of how the new Scheme will operate. The first drafts of the administration regulations are included and in the main they mirror the current regulatory provisions of the LGPS.
- 2.3 MPF submitted its formal response within the prescribed deadline of 2<sup>nd</sup> August after seeking the approval of the Chair of Pensions Committee. The response highlighted provisions within the draft regulations that appeared ambiguous; it also provided a considered view on questions posed in regard outstanding policy decisions.

A copy of the response is attached as Appendix 1 to the report and the technical consultation paper can be accessed at the following website address:

<https://www.gov.uk/government/consultations/local-government-pension-scheme-2014>

- 2.4 The most significant policy issue related to the management of employer risk and exit debts. It questioned the merit of retaining the provisions within the regulations to allow for “separate admission agreement funds” to be established in the new Scheme.

MPF concurs with the LGA’s view that the provision should not only be carried forward but also extended to allow distinct funds for any type of scheme employers.

This would enable administering authorities to establish separate funds and ring-fence liabilities to relevant employers within the overall Fund. This would then allow closing deficits to be contained within the separate pooled fund rather than being spread across all employers.

### **DCLG: Discussion Paper – New Governance Arrangements LGPS 2014**

- 2.5 DCLG also issued a discussion paper on Scheme Governance on 20 June 2013 – this takes into consideration key provisions within the Public Service Pensions Act 2013 that are required for the LGPS from next year.

Comments were invited on a number of questions; these responses will then be used by DCLG when formulating draft regulations on Governance, due for consultation later this year.

- 2.6 The deadline for the response was 30<sup>th</sup> August 2013, and MPF’s response was shared with the Chair of the Pensions Committee for comment prior to submission.

- 2.7 The areas being addressed within the discussion paper are as follows:
- Timing of the implementation of Scheme Advisory and Local Pension Boards
  - The role of the “Scheme Manager” (i.e. the local administering authority)
  - Implementation of “Local Pension Boards” (i.e. the new local scrutiny board)
  - Implementation of the “Scheme Advisory Board” (i.e. the national board)

- 2.8 The consultation seeks views on a list of 26 questions; the response is attached as Appendix 2 of the report and the original 15 page discussion paper can be accessed at the following website address:

<https://www.gov.uk/government/consultations/local-government-pension-scheme-england-and-wales-new-governance-arrangements>

- 2.9 The main area of contention amongst Administering Authorities is the question posed as to whether the new Scheme regulations require “Local Pension Boards” to be established as a body separate to the current statutory pension committee.

It is the adopted view that where a statutory pension committee is undertaking the role of “Scheme Manager” the creation of a separate “Local Pension Board” will create another level of governance which is not strictly required if robust governance arrangements exist.

Whilst it cannot be refuted that it is difficult for any committee to self scrutinise, this obstacle could be overcome through the appropriate use of independent professional advisors - therefore permitting the statutory committee and the "Local Pension Board" role to be undertaken by the same body.

However, restrictions imposed by the Public Service Pension Act will make it difficult for the scrutiny role to be carried out by an existing committee, particularly the requirement for the Pension Board to have equal numbers of employer and member representatives.

Consequently, the concluding opinion of MPF was that as the principal factors of good governance are transparency, accountability and the effective management of risk, the underlying objective would be best achieved by the separation of the two bodies - with different members assigned to the "Scheme Manager Committee" and to the "Local Pension Board".

The resultant outcome will be applied consistently across the Scheme as a whole and there will be no provision within the regulations to choose an alternative option.

### **Statutory Consultation on Councillors' access to LGPS membership**

- 2.10 Following the written Ministerial statement to Parliament on 19 December 2012 regarding Councillors' access to membership of the LGPS from 1 April 2014 onwards, DCLG issued a Statutory Consultation on "Taxpayer-funded pensions for councillors and other elected office holders" on 10 April 2013.
- 2.11 The closing date for this consultation was 5 July 2013.
- 2.12 MPF considered the three options presented, alongside the technical aspects and the funding implications. A draft response was circulated to all Members and following a brief discussion at the last Committee meeting, MPF's response was submitted within the prescribed deadline. A copy of the response is attached as Appendix 3 of the report.
- 2.13 The response presented the view that as the Fund's primary objective is to provide valuable pension savings to people providing local public services, it supported the continued participation of Councillors in the LGPS.

However, continuation should be maintained as a 'discretion' of the employing authority, in recognition of the Localism agenda allowing individual councils to consider local needs and circumstances.

In addition, Councillors' participation should be included within the general scope of the 2014 Scheme, including the same member contribution rate bandings – thus bringing a closure to the current separate Councillors' scheme

- 2.14 DCLG has reported that there has been immense engagement with the consultation with over 700 responses - DCLG intend to advise Ministers shortly of the likely outcome.

## **LGPS 2014 – Communications**

### 2.15 Communications Plan

The national draft Communication Plan for LGPS 2014 was approved by the LGPC in July 2013. The plan pulls together the layers of communications for scheme members, employers and practitioners that are being collaboratively worked on for the new scheme. It is expected that this plan will be updated as and when required in line with the Reform process.

### 2.16 Employer Communications

A briefing note for employers has been published by the Local Government Association to highlight the implications of the scheme changes on payroll systems and employer responsibilities.

MPF has shared this note with all employers and any organisations which are due to be admitted into the scheme before April 2014. We advise that this information should be shared widely with their payroll sections/providers. National work is ongoing to produce a more in depth payroll specification for issue to administering authorities, employers, payroll providers and software providers.

### 2.17 Employee Communications

The first of a suite of leaflets for LGPS 2014 has now been produced, entitled 'The LGPS is changing from 1 April 2014' - this is a short leaflet designed to communicate the main changes to the scheme. A version of this leaflet will go out to all members of the Scheme as part of the Annual Benefit Statement 2013.

The original leaflet is attached as Appendix 4 of the report. This and future leaflets are intended as providing the content of the national LGPS2014.org website, administered by MPF.

### **Ministerial Statement: Academies and LGPS Liabilities**

2.18 On 2 July 2013, The Secretary of State for Education confirmed in a statement to Parliament that the Department for Education (DfE) will now provide a guarantee, meeting any outstanding pension liabilities should an Academy close. This guarantee came into force on 18 July 2013.

2.19 The provision of the guarantee is intended to allow Administering Authorities to "treat academies equitably" with Local Authorities when setting employer contribution rates. It is expected this guarantee should underpin proposals from central government to amend the LGPS regulations so as to require local authorities to provide actuarial pooling should an academy wish to adopt this funding option. A consultation on this will be issued shortly.

2.20 To date, in the absence of clear and definitive guidance from the DfE & DCLG, funds have taken different approaches when setting employer contribution rates for academies. As such officers have taken advice from the actuary to form a consistent approach within this Fund on how to deal with converting schools.

- 2.21 When allocating deficit cash sums and setting recovery periods MPF aligns the contribution requirements to the notional position of the school prior to conversion which is broadly in accordance with the DfE's objective of funding academies on an equitable basis to maintained schools.
- 2.22 The guarantee recently provided still leaves a number of questions as under the terms of the guarantee, the DfE and HM Treasury reserve the right to '*withdraw the guarantee at any time*'. Instances when the guarantee may be withdrawn include;
- Estimated contingent liability (CL) ceilings are exceeded (which could mean the withdrawal of the guarantee when it is most needed);
  - Projected costs are no longer affordable from within DfE's existing budget;
  - Projected costs are not approved by HM Treasury;
  - HM Treasury reserve the right to remove the guarantee due to spending considerations or policy developments.

Many Administering Authorities are concerned that the substance of this guarantee and HM Treasury's exclusion clause could continue to leave funds exposed with exit liabilities being spread amongst all other participating employers.

- 2.23. Until more detail is released officers are of the opinion this does not change the stance already taken, which attempts to treat the academies as equitably as possible within the current LGPS regulations.
- 2.24 As part of the 2013 Valuation process, officers will be reviewing the covenants of all employers including academies and taking a view on the appropriateness of the funding approach and application of recovery periods.

### **3.0 RELEVANT RISKS**

- 3.1 There is a risk that a full suite of "fit for purpose" Statutory Instruments and Guidance from the Government Actuaries Department (GAD) will not be available in time to effectively administer the new LGPS from April 2014.

Software providers in particular are voicing concern in the timing of finalised regulations and guidance, as they are required to translate this into delivering the required benefit calculation packages and system upgrades.

- 3.2 There is a risk that the government will compel Administering Authorities to fund academies on a basis that assumes that the guarantee provided by the DfE will totally eradicate the risk of any unrecoverable debt arising on the closure of an Academy. The guarantee in its current form, does not offer the same degree of security as other scheduled employers in the Fund, as it is limited in amount and may no longer be there when it is most needed.

### **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 statutory consultations that will lead to revised regulations and a reformed LGPS, particularly when relating to Governance, Cost Control and Administration, as it is crucial to ensure the Scheme is well-run and affordable in the long term.

## **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 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 There will be increased financial resources required if the regulations require a separate pension board to be set up in addition to the statutory pensions committee.

DCLG also state within the Governance paper that if the scheme advisory board is to undertake its full range of duties effectively, the annual cost of administration is likely to be significant. It has been estimated that this cost would be in the region of an additional £3k to £5k per annum.

## **8.0 LEGAL IMPLICATIONS**

8.1 Depending on the outcome of the consultation on revisions to the scheme management, there may be implications for the Council with the necessity to revise the constitution - to reflect the relationship that may be created between the Pensions Committee and the new Local Pensions Board.

## **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 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 MPF submission dated 2 August 2013 to DCLG Consultation on Draft LGPS 2013 Regulations.**
- 2 MPF submission dated 30 August 2013 to DCLG Discussion Paper on the New Governance Arrangements LGPS 2014.**
- 3 MPF submission dated 5 July to DCLG on Tax-Payer Funded Pensions for Councillors**
- 4 LGPS2014 – Scheme Changes Leaflet**

#### **REFERENCE MATERIAL**

#### **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>The LGPS update is a standing item on the Pensions Committee agenda.</b>	