

WIRRAL COUNCIL

PENSIONS COMMITTEE

1 JULY 2014

SUBJECT:	LGPS UPDATE
WARDS AFFECTED:	ALL
REPORT OF:	STRATEGIC DIRECTOR OF TRANSFORMATION AND RESOURCES
KEY DECISION	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report informs Members of the operational challenges in implementing the New Scheme from 1 April 2014 due to the late publication of both the Transitional Regulations and essential guidance from the Secretary of State.
- 1.2 It also provides an overview of outstanding consultations and the Queens Counsel's Advice received on fiduciary duty in the LGPS.

2.0 KEY ISSUES

Reform of the LGPS 2014

- 2.1 The LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 were finally laid on 10 March, the latest possible date to allow them to take effect from 1 April 2014. The regulations include the following key provisions:
- preserve benefits accrued under the former regulations;
 - retain the final salary and normal pension age of 65 in respect of pre 2014 membership;
 - provide an underpin for people born before 1/4/57 to ensure that they do not suffer any detrimental loss from the new scheme;
 - carry forward the protections under the 85 year rule for voluntary retirement post age 60;
 - ability for employers to switch the 85 year rule on for voluntary retirements between ages 55-60;
 - and remove Councillor access to the Scheme at the end of their current term of office.
- 2.2 A plethora of Secretary of State Guidance required to support the revised scheme provisions was issued on 1 April 2014. The delay in issuing the final transitional regulations and guidance has presented significant obstacles in preparing the logistics to deliver the new Scheme. It has reduced the lead-in time required to interpret the regulations, understand the policy intent and to produce accurate and expansive training material for staff and employers.
- 2.3 Further to this, the delay means that there are also major gaps in the pension administration software system as the final regulations and guidance were published after the completion date for system development. Team leaders continue to test the

supplier's suggested workaround within the system with the necessity to undertake manual calculations and overrides to the documentation produced by the system.

- 2.4 As a result, casework will take longer to process with an increased need to undertake quality assurance checks, taking account of the additional complexities as a result of protections built into the new benefit structure. This is further compounded by the historic retained rights and differences in regulatory provisions of former deferred and pensioner members.
- 2.5 This required manual intervention is proving burdensome and has resulted in the Administration section failing to meet the performance levels, documented within the Pension Administration Strategy, for the months of April and May.
- 2.6 Whilst some issues have been addressed by the system supplier, the necessary comprehensive update to the software is not expected until late summer.
- 2.7 In addition, the ability to revise operational processes, literature, forms and guidance notes in time for the implementation of the scheme has been impeded by the delay in regulatory guidance.
- 2.8 During the next few months, officers will be assessing the impact of the new scheme provisions and the related impact on casework volume; particularly in relation to the implementation of pension accounts, change in vesting from three months to two years and the option to take benefits voluntarily from age 55.

In particular, the new voluntary retirement provision has resulted in many more requests for estimates of pension benefits as members actively try and plan their preferred retirement age. In addition, members are requesting multiple estimates as benefits are subject to differing regulatory reductions depending on retirement age.

A feasibility study will be undertaken, in partnership with the large employers, to assess the benefits in moving from an annual data upload of pay and contributions to a more frequent data exchange. The study will also consider any appropriate restructuring of the Pensions Administration Section.

Further Expected Consultations

- 2.9 In order to complete the regulatory framework for the new scheme design there are outstanding consultations on a number of areas including:
 - The proposed Governance changes to implement the provisions of the Public Service Pension Act
 - The LGPS – specific cost management process which will run alongside the HMT process set out in the Employer Cost Cap Directions.
 - Changes to the 2007 Best Value Pensions Direction in light of the updated Fair Deal guidance issued in October 2013.

Advice on Fiduciary Duty With Regard To Investment of LGPS Funds

2.10 The Local Government Association (LGA) on behalf of the LGPS Shadow Scheme Advisory Board, instructed Mr Nigel Giffin QC to provide an opinion for LGPS funds on fiduciary duty and the LGPS.

A copy of Giffin's opinion, dated 25 March can be accessed from the following link

<http://www.lgpsboard.org/images/PDF//QPublicationsCOpinionApril2014>

2.11 The opinion sourced related to the matter of:

- Does a LGPS administering authority owe a fiduciary duty and if so to whom it is owed?
- How should the wider functions, aims or objectives of the administering authority influence the discharge of its LGPS investment duties?

2.12 The conclusions provided were:

- a) In managing a LGPS fund, the administering authority has both fiduciary duties and public law duties (which are in practice likely to come to much the same thing).
- b) The administering authority's power of investment must be exercised for investment purposes, and not for any wider purposes. Investment decisions must therefore be directed towards achieving a wide variety of suitable investments, and to what is best for the financial position of the fund (balancing risk and return in the normal way).
- c) However, so long as that remains true, the precise choice of investment may be influenced by wider social, ethical or environmental considerations, so long as that does not risk material financial detriment to the fund. In taking account of any such considerations, the administering authority may not prefer its own particular interests to those of other scheme employers, and should not seek to impose its particular views where those would not be widely shared by scheme employers and members (nor may other scheme employers impose their views upon the administering authority).

2.13 The LGA synopsis of the advice received is that:

- a) An administering authority may choose to take into account the public health implications of tobacco investment but only if the result of such consideration is the replacement of these investments with assets producing a similar return.
- b) Alternatively, an administering authority may take account of social housing needs but only if an investment in such stands up as an investment in its own right and can demonstrate that it does not prefer its own interests over other scheme employers in making the investment.
- c) Furthermore, in making such decisions the administering authority cannot impose its view (on this or any other issue) on scheme employers nor can scheme

employers impose their view on the administering authority if either resulted in a material risk to the return to and/or a suitable balance of assets in the fund.

3.0 RELEVANT RISKS

- 3.1 The necessity to undertake complex manual calculations due to gaps in the system software will increase the risk of miscalculation of pension entitlements.
- 3.2 Mitigation of additional Quality Assurance work is being undertaken, but again this is in the form of further manual calculation. The additional time to process casework and undertake the required quality assurance will lead to under performance of currently documented service levels.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 No other options have been considered.

5.0 CONSULTATION

- 5.1 There has been no consultation undertaken for this report.

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. This is in recognition of the fundamental change to the LGPS, introducing a Career Average benefit pension arrangement complete with ongoing protections to the pre-2014 Final Salary benefits.
- 7.2 The change programme is to be informed by the experience of delivering the new arrangements over the coming months, and appropriate engagement with the employers.

8.0 LEGAL IMPLICATIONS

- 8.1 Depending on the impending revisions to the LGPS emerging from the Governance arrangements, there may be issues emerging for Wirral Borough Council in its capacity as the administering authority for Merseyside Pension Fund.

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 as part of their decision making role.

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SUBJECT HISTORY (last 3 years)

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