

WIRRAL COUNCIL

PENSION COMMITTEE

24 MARCH 2015

SUBJECT:	LGPS UPDATE
WARD/S AFFECTED:	ALL
REPORT OF:	STRATEGIC DIRECTOR OF TRANSFORMATION AND RESOURCES
RESPONSIBLE PORTFOLIO HOLDER:	
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report updates informs Members of the Pension Scheme Bill 2014/15 which deals with the regulatory changes required for the “Freedom and Choice in Pensions” flexibilities announced in the 2014 Budget – particularly the impact on the Local Government Pension Scheme.
- 1.2 The report also covers the Shadow Scheme Advisory Board’s project for the management of Fund deficits and the recent counsel opinion sought in relation to the statutory benefit promise in relation to accrued pension rights.

2.0 BACKGROUND AND KEY ISSUES

Pension Scheme Bill 2014/15

- 2.1 Members considered the changes announced in the Chancellor’s Spring 2014 Budget and the potential impact on the LGPS at the meeting of 15 September 2014. These changes allow individuals over age 55 to access their defined contribution benefits in more flexible ways from April 2015.
- 2.2 The Pension Scheme Bill 2014/15 which delivers these new flexibilities is currently progressing through Parliament.

In order to extend the flexibilities being afforded to defined contribution arrangements, the Government has continued to permit transfers out of the LGPS to Defined Contribution schemes post April 2015.

This is on the basis that, unlike the unfunded Public Service schemes where these transfers are not permitted from April, transfers from the LGPS would not cause an additional cash burden for the State, as the transfer values would be paid by individual LGPS Funds.

2.3 However, the Government has raised concerns that:

- members transferring from Defined Benefit Schemes like the LGPS would not sufficiently understand the risks associated with their decision; and
- a large increase in members transferring out of Defined Benefit schemes due to the perceived attractiveness of the Defined Contribution flexibility, could destabilise employer backed schemes and expose the taxpayer to additional costs.

2.4 As a result the Government has laid a number of amendments to the Pension Schemes Bill as follows;

- a requirement for members to take independent financial advice when transferring from a defined benefit to a defined contribution scheme
- a new safeguard that will give Ministers the power to reduce transfer values in funded Public Service Pension Schemes should it prove necessary to protect the solvency of the Scheme.

2.5 Subsequently, DCLG have now issued the draft Funded Public Service Pension Schemes (Reduction of Cash Equivalent) Regulations 2015 which permit the Secretary of State to designate Pension Funds to reduce transfer values to Defined Contribution arrangements. A designation would only be invoked if the level of transfers out of the scheme present a real risk to 'public funds'.

2.6 In addition, there are also potential impacts for the AVC provisions in the Scheme as well as the appropriateness for the conversion factors and whether they should be subject to review given the wholesale changes being introduced for Defined Contribution schemes.

Deficit Management in the LGPS

2.7 As a consequence of the DCLG consultation on Opportunities for Collaboration, Cost Savings and Efficiencies, the former minister, Brandon Lewis, tasked the Shadow Advisory Board (Board) to commence a project to consider an innovative approach to deficit management at both Fund and employer level in the LGPS.

2.8 To undertake this project, the Board set up a Deficits Working Group with the focus to address deficit management rather than deficit reduction. This distinction is drawn as deficits can only be reduced by improving investment returns and/or increasing employer contribution payments and as such deficit reduction is already a focus of pension funds.

2.9 The Board has developed a deficit management work plan for 2015 which includes consideration of the following:

- the calculation of comparative funding levels on a to-be-agreed, standardised basis in order that there is a clear picture of the deficits across the Scheme.

[Note - this additional calculation is not intended to replace local funding valuations, which will continue to be calculated on locally agreed bases used to determine employer contribution rates],

- changes to Regulations to be recommended to DCLG in respect of a variety of matters, including that enhanced flexibility is made available to Funds in managing employer exit payments
- the development of best practice guidance for Funds in managing their employer deficits, including consideration as to the benefits of covenant checks and of the range of security options available to funds.

The detailed timescales are outlined in the work plan attached as Appendix 1

Counsel Opinion on Statutory Obligation of Administering Authority

2.10 The Shadow Scheme Advisory Board has sought and published advice from Counsel covering the obligation on administering authorities to guarantee the payment of LGPS benefits.

2.11 The generally accepted position in the LGPS was that the Administering Authority was required to meet benefit payments on a statutory basis regardless of the circumstances of the fund it operates.

The opinion provided by Nigel Giffin QC, confirms that the historic accepted position is not reflected in the regulations as there is no explicit statutory obligation on the Administering Authority to provide benefits on the exhaustion of the Fund assets. The position is compounded by the absence of a Central Government guarantee.

2.12 The view presented postulates that, given the strength of Local Government finance requirements, it is unlikely that a local authority could fail to pay the contributions certified by the Actuary - as it would be required to raise taxes to meet its obligations, with central government intervening before the financial position becomes untenable

2.13 Although pragmatically the status quo has not changed due to the continuing strength of local authority covenant, it will be in the interest of the Scheme's sustainability that the Scheme Advisory Board will be tasked to request DCLG to amend the Regulations to clarify the requirement for Administering Authorities to pay benefits on a statutory basis.

The Counsel opinion can be accessed from the following link:

<http://www.lgpsboard.org/images/PDF/Publications/QCOpinionJan2015.pdf>

3.0 RELEVANT RISKS

- 3.1 Given the new flexibilities being introduced for defined contribution schemes, there is a risk that a significant number of members over age 55 may transfer out their defined benefits.

This could have an adverse impact on cash-flow, with the result that Funds may have to look at their liquidity position and free up less liquid assets in order to provide a stream of cash to pay these transfers.

- 3.2 As the LGPS remains a secure, premium pension scheme, for the majority of cases it would not be in the financial interests of the member to transfer their benefits to a defined contribution scheme.
- 3.3 There is a risk that the financial services industry could provide inappropriate advice to stimulate this new business opportunity - mirroring the 'mis-selling' of pensions scandal that was experienced in the late 1980s.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 Not relevant for this report

5.0 CONSULTATION

- 5.1 Not relevant for this report

6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

- 6.1 None associated with the subject matter.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 7.1 There are none arising from this report

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

- 8.1 The new "Freedom and Choice" pension flexibilities, to be implemented from April 2015 may result in an increase in outward transfer payments.

This could result in a reduction in the long-term costs of the Scheme, reducing its exposure to longevity improvements and decrease the likelihood of future pressure to reform the benefit structure.

- 8.2 The operational processes in dealing with transfer requests will need to be adapted. The Fund will need to ensure that the requirement to obtain

independent financial advice before electing to transfer is appropriately implemented and communicated to the member

9.0 LEGAL IMPLICATIONS

9.1 There are none arising from this report

10.0 EQUALITIES IMPLICATIONS

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

No, because Department of Communities and Local Government undertake equality impact assessments with regard to the statutory reform of the LGPS.

11.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

11.1 There are none arising from this report

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

12.1 There are none arising from this report

13.0 RECOMMENDATION/S

13.1 That Members note the report.

14.0 REASON/S FOR RECOMMENDATION/S

14.1 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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APPENDICES: Appendix 1: Shadow Advisory Board – work plan

BACKGROUND PAPERS/REFERENCE MATERIAL

BRIEFING NOTES HISTORY

Briefing Note	Date
The LGPS update is a standing item on the Pensions Committee agenda.	