WIRRAL COUNCIL
PENSION COMMITTEE

19 SEPTEMBER 2016

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 Members on the Fund's response to the statutory consultation on the LGPS amendment regulations. Fund Officers sought comments and approval from the Chairs of both the Pension Committee and Pension Board on the policy perspective within the response, before submission to the Department of Communities and Local Government on 19 August 2016. The submitted response is provided as Appendix One.

1.2 It also provides an overview of the development of an insolvency regime for further education colleges and sixth form colleges currently being appraised by the Department for Education.

2.0 BACKGROUND AND KEY ISSUES

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Consultation: Local Government Pension Scheme (Amendment) Regulations

2.1 Members previously noted the publication of the above consultation issued on 27 May 2016 at the last committee meeting on 4 July 2016 (minute 90 refers). The consultation can be found at the following link:

https://www.gov.uk/government/consultations/local-government-pension-scheme-regulations

2.2 Following the implementation of the regulations reforming the LGPS from 1 April 2014 there are provisions which require clarification, correction or revision to streamline administration and remove complexity. The proposed amendments address the technical anomalies and contain other policy developments to allow for the introduction of "New Fair Deal" principles where local authority staff are compulsorily transferred to a private sector employer.

2.3 The new provisions also make changes to money purchase benefits under the LGPS, allow for "exit credits" to be paid to leaving employers, and limit cases of automatic aggregation of benefits.

New Fair Deal Principles

2.4 Under the proposals, the current pension protection afforded to local authority staff who TUPE transfer to the private sector (through the Best Value Staff Transfers (Pension Direction) 2007) will be changed so that the "broadly comparable" option, whereby the new employer can provide broadly comparable pension benefits to the LGPS under their own private pension arrangement, will be removed. The Best Value direction will be revoked once the Fair Deal provisions are embedded within the LGPS.

2.5 The intention is for the current admitted body status framework to continue to apply; where the bodies are required to pay the appropriate amounts to the Fund to meet pensions that accrue for members they employ.

2.6 Under the proposed regulations, the costs of providing the LGPS to transferring staff should be clearly set out in the tender documentation.

2.7 For previous contracts involving members who were previously transferred out and joined a broadly comparable scheme, the draft regulations do not include a requirement that, at re-tender, the formerly transferred member must be brought back into the LGPS.

This is because the individual is not being transferred out of the public sector at that point, as they are employed by the current external provider. It will remain the case that new providers at re-tender can access the scheme if they wish via the admitted body status, but it is not a statutory requirement.

Pension flexibilities

2.8 The following proposals are designed to give members access to the pension freedoms that the Government announced in the 2014 Budget:

- Increased scope to access AVC arrangements from age 55, including the ability to draw down as income or as cash sums whilst continuing to accrue LGPS benefits.

- Removal of the need for the employer to give consent for the release of deferred benefits, extending the ability for members who stopped paying into the LGPS prior to 1 April 2014 to voluntarily access their benefits at age 55.

Funding and 'exit credits'

2.9 Under the 'exit credits' proposal, where an employer exits the LGPS as a result of it ceasing to employ active members, administering authorities of the LGPS would be required to pay a credit to that employer where there is a surplus in respect of the employer's pension liabilities. Currently, upon closure of a scheme employer, exit payments are only made from the employer to the LGPS where a deficit exists.

Aggregation

2.10 Under the current Regulations, aggregation of benefits accrued by LGPS members during different periods of employment happens automatically in certain circumstances. The new Regulations would reduce the circumstances under which automatic aggregation occurs removing a number of unintended complexities for administrators and members.

2.11 The Fund's response is attached as Appendix 1 highlighting a number of concerns, ambiguities and required clarifications with regard to the policy intent of several of the proposed amendments.

Further Education Insolvency Proposals

2.12 The Department for Education is consulting on provisions to establish a clear insolvency framework for further education colleges and sixth form colleges which will focus on learner protection, while recognising the interests of creditors and ensuring taxpayers do not provide indefinite financial support to failing colleges.

2.13 Further education and sixth form colleges, although classified as private sector bodies, must provide access to the LGPS for their employees as scheduled bodies. There is however concern amongst stakeholders as to the requirement for colleges to participate in a public sector taxpayer funded scheme where the risk of unfunded pension costs is ultimately borne by the taxpayer due to the absence of a Government guarantee.

2.14 The Further and Higher Education Act 1992 makes no provision for the treatment of insolvent colleges and it is unclear whether colleges which are statutory corporations fall within the scope of the Insolvency Act 1986 and whether they can be wound-up.

2.15 The Government's objective is to eliminate this uncertainty and to provide a framework to administer the closure of insolvent colleges and to highlight that the formal process will not increase the likelihood of a college becoming insolvent.

3.0 RELEVANT RISKS

3.1 If a college becomes insolvent and the Fund is unable to recover any pension deficit, the liability will fall on the other employers in the Fund. As the largest employers are the local authorities, ultimately the financial burden falls to the taxpayer.

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 The extension of the Fair Deal pension protection to community admission bodies presents a significant restriction to their flexibility to outsource contracts.

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

8.1 The table below sets out the number of further education and sixth form colleges that participate in MPF detailing the membership profile and the cumulative pension liabilities.

Number of further education (FE) and sixth form (SF) colleges actively participating in fund	9
Total active members for all FE and SF colleges (as at 31st March 2016)	1,756
Total deferred members for all FE and SF colleges (as at 31st March 2016)	1,492
Total pensioner members for all FE and SF colleges (as at 31st March 2016)	1,152
Total pensions liability for all FE and SF colleges in fund (as at 2013 valuation)	£198,369,000
Total ongoing funding deficit for all FE and SF colleges in fund (as at 2013 valuation)	£46,204,000
Total funding deficit calculated for all FE and SF colleges in fund for annual accounts purposes - i.e. FRS17/ IAS19/ FRS102 (for most recent available year end - please state the year)	FRS17 @ 31/7/2015 £66,766,000

8.2 The Fair deal provisions will lead to an expansion of Scheme employers, increasing operational work as the removal of the broadly comparable provider option will result in the new employer having to obtain access to the LGPS in respect of first generation contracts.

8.3 There will be a need to communicate with employers to raise awareness of their obligations to protect employees' pension rights when outsourcing contracts.

9.0 LEGAL IMPLICATIONS

9.1 There are none arising from this report

10 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

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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BRIEFING NOTES HISTORY

Briefing Note	Date

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