

WIRRAL COUNCIL
PENSION COMMITTEE

18 SEPTEMBER 2017

SUBJECT:	LGPS UPDATE
WARD/S AFFECTED:	ALL
REPORT OF:	MANAGING DIRECTOR, DELIVERY
RESPONSIBLE PORTFOLIO HOLDER:	
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report updates Members on the ongoing workstream of the Scheme Advisory Board's Administration and Communication Sub-Committee (ACSC) to consider the effectiveness of the ill health retirement provisions under the LGPS regulatory framework.
- 1.2 It also sets out the current position on the public sector exit payment reforms, following the general election and the formation of the new Government.

2.0 BACKGROUND AND KEY ISSUES

Ill Health Retirement Simplification

- 2.1 The Scheme Advisory Board (SAB) agreed that it was necessary to develop recommendations on a revised ill health retirement structure - in order to simplify the qualification criteria and the administrative process in determining a member's eligibility for ill health retirement.
- 2.2 The ACSC has been tasked to consider the options for change and to commission the Government Actuary Department (GAD) to assess whether the proposed revised structure would fall within the current cost envelope for ill health provision.

2.3 Current Ill health benefit structure

Qualification

A member who has met the two year Scheme vesting period and can meet the following criteria:

Step 1: as a result of ill-health or infirmity of mind or body, is permanently incapable of discharging efficiently the duties of the employment the member was engaged in, and

Step 2: is not immediately capable of undertaking any gainful employment will receive one of the ill health benefits as follows:

- **Tier 1**

If the member would not be able to undertake gainful employment prior to Normal Pension Age (NPA) they would receive an immediate unreduced pension and an enhancement based on 100% of the pension accrual that could have been achieved to NPA.

- **Tier 2**

If the member would be able to undertake gainful employment more than three years after retirement, but prior to NPA, they would receive an immediate unreduced pension and an enhancement based on 25% of the pension accrual that could have been achieved to NPA.

- **Tier 3**

If the member would be able to undertake gainful employment less than three years after retirement they receive an immediate unreduced pension. Payment of these benefits will be stopped after 3 years, or earlier if the member is in gainful employment or has become capable of such employment.

2.4 Issues with the current structure

This three tier system presents an administrative burden to employers and administrators and is the cause for the majority of IDRPs and Pension Ombudsman cases, due to its overly complex nature and inconsistent application, resulting in the dissatisfaction of scheme members.

Also, members who are permanently incapable of doing their own jobs, but who are immediately capable of gainful employment, do not receive an immediate pension, but rather deferred benefits.

2.5 Options for change to the benefit structure and cost envelope

The removal of the third tier was put forward to GAD for a costing based on the following metrics:

- **Preferred Option 1:** To remove the third tier of ill health and replace this with a permanent benefit
- **Preferred Option 2:** To remove the second step for qualification, i.e. the assessment of whether or not someone is capable of other gainful employment

Adopting both of these options would incur additional scheme costs of 0.09% of pay which would have to be offset in one of the following ways, to ensure the revised ill health provisions are cost neutral:

- To reduce the ill health enhancement for Tier 1 benefits
- To reduce the enhancement for both the Tier 1 and Tier 2 benefits proportionally
- To move to a 5 year qualifying period for enhanced benefits.

2.6 The ACSC believed the 5 year qualification period is the most desirable option as it rewards longer scheme membership, it is simple and completely covers the cost (through a saving of 0.10% of pay).

2.7 The proposed options to reform the Ill health benefit provisions will result in a more straightforward qualification and administrations process as follows:

A member who meets the two year scheme vesting period whose employment is terminated by their employer on the grounds of ill health with an Independent Medical Practitioner (IRMP) certifying that *the member is, as a result of ill-health or infirmity of mind or body, permanently incapable of discharging efficiently **the duties of the employment the member was engaged in***, would receive immediate payment of unreduced benefits.

If the member also meets the five year requirement for enhancement they would receive either:

Tier 1: Receive an enhancement based on 100% of the pension accrual that could have been achieved to NPA if they would not be able to undertake gainful employment prior to NPA

Or

Tier 2: Receive an enhancement based on 25% of the pension accrual that could have been achieved to NPA if they were only permanently incapable of doing their own job.

2.8 At the Scheme Advisory Board meeting of 26 June 2017 ACSC asked the Board to consider whether the above three preferred options should be recommended to the Secretary of State subject to consultation with employers and members. I will keep members apprised of the outcome of the board's decision at a future meeting of this committee.

2.9 Reform of Public Sector Exit Payments

It is the general consensus across the public sector that there is no policy change in respect of the various exit payment reforms that the Government were in the process of introducing prior to the snap election. However, given the focus on Brexit in the coming period it is unclear the extent to which pursuing each reform will be a priority for the Government. The implementation timescales the Government plan to adopt for each reform has not been disclosed.

2.10 Exit payment recovery

The draft regulations issued under the Small Business, Enterprise and Employment Act 2015 proposed that where an individual with a salary of £80,000 or more leaves a public sector employment and returns to work in the public sector within 12 months, they will be required to pay back some or all of the exit payments (including early retirement strain costs).

Prior to the announcement of the general election the final HM Treasury regulations that would have enacted the recovery provisions were expected "soon". When issued the regulations will be overriding, meaning that it will not be necessary to amend the LGPS regulations for the recovery provisions to have effect. For the recovery regulations to apply the individual must have both left and become re-employed in relevant public service employments on or after the effective date of the recovery regulations (i.e. the regulations will not be retrospectively applied).

2.11 Exit Cap

Where an individual leaves a public sector employment, the total exit payments that their employer can make in respect of that exit will be capped

at £95k. This cap includes the strain cost payable in respect of an LGPS pension coming into payment early.

It is expected that there will be further consultation (draft HM Treasury regulations) on how the cap will work in practice. The consultation is expected to last for 6-8 weeks and once final Treasury regulations are laid they will enact the relevant parts of the Enterprise Act 2016 and will amend the LGPS regulations.

2.12 Reform of Severance Packages

HM Treasury issued its formal response to the Government consultation on proposals to revise the overall severance packages payable from public sector bodies in September 2016. The response set out the broad criteria within which they expected responsible departments to reform the exit packages of their workforces.

It is necessary for DCLG to publish a consultation on the proposed package for local government to progress changes to policy.

3.0 RELEVANT RISKS

- 3.1 There is a risk that the proposals to simplify the ill health process could be challenged on the basis that the five year qualifying criteria for enhanced benefits may disadvantage members with short service who suffer serious ill health.
- 3.2 There is a risk that the introduction of the exit cap and measures to limit employer pension strain costs, could potentially inhibit local authority workforce planning and an increase, within the sector, of compulsory redundancies as opposed to voluntary redundancy exercises.

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 None associated with the subject matter.

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

8.1 The proposed options to reform the Ill health benefit provisions would result in a clearer operational process, thus reducing the administration burden on both employers and the Fund in communicating as ill health decision outcome to a member.

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 stewardship function.

**REPORT
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BRIEFING NOTES HISTORY

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