

WIRRAL COUNCIL

PENSION COMMITTEE

21 JANUARY 2019

SUBJECT:	LGPS UPDATE
WARD/S AFFECTED:	NONE
REPORT OF:	DIRECTOR OF PENSIONS
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides an update on the Scheme Advisory Board's key projects relating to the governance and administration of the Local Government Pension Scheme; specifically national initiatives to deal with inconsistencies across the Scheme for academies, the risks associated with Third-Tier employers and the conflicting interests at local authority employers who undertake the administering authority function.
- 1.2 In addition, it covers the policy consultation issued by the Ministry of Housing, Communities & Local Government on 'Technical Amendments to Benefits' and Merseyside Pension Fund's response.
- 1.3 Fund Officers sought comments and approval from the Chairs of both the Pension Committee and Pension Board on the policy perspective, before submitting the consultation response by the prescribed deadline of 29 November 2019.
- 1.4 The consultation response is attached as an Appendix to the report.

2 BACKGROUND AND KEY ISSUES

National Initiatives and Associated Scheme Advisory Board Activity

- 2.1 The Scheme Advisory Board (SAB) is coordinating a number of projects to resolve issues that have arisen within the LGPS, relating to; the inconsistent treatment of Academies across Funds and the affordability constraints of Third-Tier Employers.

In addition, further research is being undertaken to consider the dual role and conflicts of interest for a local authority employer undertaking the Scheme Manager function.

Academies Project

- 2.2 As previously reported to Pension Committee at its meeting dated 13 November 2017, minute 42 refers, Ministers agreed that the Department for Education (DfE), MHCLG and Government Actuary's Department (GAD) should work together to pursue solutions to achieve consistency across the LGPS in the administrative and funding arrangements for academy schools.
- 2.3 Two working groups have been set-up to address each specific issue, with activity currently ongoing to agree a standard data extract to simplify the administrative requirements and information exchanges for the academy sector.
- 2.4 To inform the funding review, GAD produced a report on 14 September 2018 which indicates that, in recognition of the DfE guarantee, on the whole, academies were treated consistently with Local Authority employers when funding plans were set for the 2016 Triennial Valuation.
- 2.5 MPF acknowledges the status of the DfE as a central government department, supported by tax receipts, when considering the guarantee and covenant strength of an academy.

The GAD report should assist in discussions with regard to the 2019 Triennial Valuation, to provide assurance to the sector that the ongoing funding arrangements applied by MPF are equitable to other participating employers underpinned by a statutory guarantee.

- 2.6 SAB's work is still ongoing to meet the stated objective of achieving a consistent and cost-effective operational and funding regime for academies participating in multiple funds across the LGPS.

Third-Tier Employer Project

- 2.7 SAB is committed to identify and manage the risk of default in respect of Fund employers with no tax raising powers or guarantees; defined as Third-Tier employers.
- 2.8 A SAB commissioned report has been published on associated issues, as identified through an information gathering exercise with stakeholders. The

report summarises the findings and sets out a wide range of possible options to address the issues raised by employers and Pension Funds.

- 2.9 A working group, comprising of SAB members has been tasked to produce a set of recommendations in the near future, based on concerns expressed by third-tier employers.

Stakeholders will then be given the opportunity to comment on these recommendations and Fund Officers will update Members on progress and the final outcome in due course.

Separation Project

- 2.10 The objectives of the 'Separation Project' is to identify issues derived from current Scheme administration arrangements and to consider the potential benefits of increasing the level of separation to strengthen the delineation between the host authority and scheme manager role.
- 2.11 A report was produced by KPMG in 2015 which outlined a range of options, from removing the potential conflicts of interest for the Section 151 Officer, to each Fund operating as a standalone company.
- 2.12 The project was put on hold while pooling was in its initial stages. However, SAB has recently restarted the project and is commissioning professional advisers to take the project forward
- 2.13 Notwithstanding the objectives of the project, there is a consensus among most Funds that conflicts of interests amongst officers and the Pensions Committee are well managed.

Consultation on 'Technical Amendments to Benefits'

- 2.14 The MHCLG issued a policy consultation on 4 October 2018; in regard a number of technical amendments to the provisions of the LGPS as a result of a number of challenges in the Supreme Court.

These challenges related to survivor benefits as the scheme rules are inconsistent with the 1998 Human Rights Act.

The consultation document can be accessed from the following link:

<http://lgpslibrary.org/assets/cons/lgpsew/20181004.pdf>

- 2.15 The main change relates to survivors' benefits of same-sex marriages or civil partners, with the objective to equalise benefits to those of an opposite sex surviving spouse.
- 2.16 Surviving partners in a civil partnership or same sex marriage of either sex are all currently afforded benefits equivalent to widowers.
- 2.17 The Government has decided that all public service pension schemes should implement changes to ensure that survivors of a registered civil partnership or same-sex marriage are provided with benefits that replicate those provided to widows.

This change would be significant as post-retirement marriage is based on service from 1978 for widows but only from 1988 for widowers.

- 2.18 The Fund responded to the consultation on 28 November 2018, supporting the equalisation of survivor benefits but raised concern that the proposals do not extend to cover survivor pensions for opposite sex marriages or cohabiting partners. The response is attached as an appendix to the report.

3.0 Relevant Risks

As proposed, the 'Technical Amendments to Benefits' consultation do not address the inequitable payment of survivor benefits for members in opposite sex marriages or cohabiting partners.

This continuing inequality will inevitably lead to a tangible risk of further legal challenge with an associated drain on administering authority resource.

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 changes to Survivor pensions will apply from the date civil partnerships and same-sex marriages were implemented; resulting in the need for Pension Funds to revisit all awards made under the current rules to those members affected and pay any additional sums due.

8.2 As it has been estimated that the cost to extend the improvement in survivors' pensions to survivors of opposite sex marriages and cohabitating partners amounts to £2.8 billion across the public sector; there is no intent to take the provision forward at this time.

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 MHCLG 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 Committee Members note:

- a) the developments of the Scheme Advisory Board's projects
- b) the response sent to MHCLG regarding the policy consultation issued in October.

14.0 Reason/s for Recommendations

- 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.

**REPORT
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APPENDIX ONE

Merseyside Response to the consultation on 'Technical Amendments to Benefits'