

WIRRAL COUNCIL

PENSION COMMITTEE

25 MARCH 2019

SUBJECT:	GOVERNMENT CONSULTATION: LGPS FAIR DEAL – STRENGTHENING PENSION PROTECTION
WARD/S AFFECTED:	NONE
REPORT OF:	DIRECTOR OF PENSIONS
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

1.1 This report covers the consultation issued by the Ministry of Housing, Communities & Local Government (MHCLG) on 'New Fair Deal'.

The consultation relates to the introduction of greater pensions protection for employees of LGPS employers who are compulsorily transferred to service providers.

1.2 The consultation was issued on 10 January 2019 with a request for consultation responses to be submitted by 4 April 2019.

1.3 A draft response is attached as an appendix to the report for Members' consideration, comment and approval. The draft response has also been shared with the Independent Chair of the Pension Board for his review and comment.

2.0 BACKGROUND AND KEY ISSUES

2.1 MHCLG issued a consultation in May 2016 regarding the introduction of greater pension protection for employees of LGPS employers who are compulsorily transferred to service providers.

2.2 In line with the Government's Fair Deal Guidance dated October 2013, the 2016 consultation document proposed that these employees should have continued access to the LGPS with the new service provider.

- 2.3 A further consultation was published on 10th January and takes into consideration some of the concerns raised in the initial consultation.

The full consultation document can be accessed from the following link:

<https://www.gov.uk/government/consultations/local-government-pension-scheme-fair-deal-strengthening-pension-protection>

Consultation and Proposed Changes

- 2.4 The latest consultation is requesting views on the following proposals:
- Amendments that would require service providers to offer LGPS membership to individuals who have been compulsorily transferred from an LGPS employer, removing the option of offering a broadly comparable scheme.
 - Automatic transfer of LGPS assets and liabilities when employers in the scheme are involved in a merger or takeover.
- 2.5 It is also proposed that all LGPS scheme employers will be considered as Fair Deal employers with the exception of:
- Further Education corporations, Sixth Form College corporations and Higher Education corporations, and
 - Admission bodies.
- 2.1 The proposed regulations introduce the new concept of a 'protected transferee', for individuals who are eligible for membership of the LGPS and who are employees of a Fair Deal employer before the compulsory transfer of their employment to a new service provider.
- These employees must be given access to the LGPS whilst they remain a protected transferee and have entitlement to membership of the Scheme.
- 2.7 Transitional arrangements will cover staff who have already been outsourced, in order for them to become protected transferees if and when services are re-tendered.
- 2.8 The consultation also proposes that service providers do not necessarily need to become admission bodies to participate in the LGPS.

Instead, employers could be given 'deemed employer' status, a classification of employer which already exists within LGPS regulations, for example, the deemed employer of a voluntary school is the associated local authority.

- 2.9 The LGPS Scheme Advisory Board (SAB) will issue guidance to assist employers under Fair Deal to address inherent pension risks when outsourcing contracts.
- 2.10 The admission body route will remain an option so that Fair Deal employers can decide if they wish for a service provider to become a full scheme employer in the LGPS. This approach may be more appropriate for larger, longer term contracts where it is more fitting for a service provider to have full employer responsibilities under the LGPS regulations.
- 2.11 The draft regulations include an additional paragraph within Part 3 of Schedule 2 of the LGPS Regulations 2013, confirming that admission agreements may contain details of the risk sharing arrangements agreed between the Fair Deal employer and the service provider.

It is anticipated that advice issued by the SAB will contain further details regarding the risk sharing provisions that may be included within admission agreements.

3.0 RELEVANT RISKS

- 3.1 Under the new proposals, the Fair Deal employer will have the option to remain the deemed employer of the transferred staff and retain the majority of the pension risk.
- 3.2 Any risks they wish to share with the new service provider would be set out in the service contract.

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 proposed removal of the GAD certified broadly comparable option will help to maintain LGPS membership levels and dampen the pace of scheme maturity.

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 ENVIROMENTAL IMPLICATIONS

11.1 There are none arising from this report

12.0 PLANNING And COMMUNITY SAFTEY IMPLICATIONS

12.1 There are none arising from this report

13.0 RECOMMENDATION

13.1 That Committee Members note the scope of the consultation on strengthening pension protection and provide approval for submission of the Fund response to MHCLG

14.0 REASONS 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.

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APPENDIX ONE

Merseyside Response to the consultation: Fair Deal –Strengthening Pension Protection