

WIRRAL COUNCIL
PENSIONS COMMITTEE
27 JUNE 2011

SUBJECT:	FAIR DEAL CONSULTATION
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER:	
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 The report informs Members of a consultation launched by HM Treasury on the “Fair Deal” policy that applies when there are compulsory transfers of public sector staff.
- 1.2 As the consultation period closed on 15 June 2011 a response has been submitted highlighting the potential implications of a decision to end the current policy on the long term funding of the LGPS and on levels of employer contribution rates.

2.0 RECOMMENDATION

- 2.1 That Members approve the response dated 20 May 2011 submitted to the Treasury consultation (Appendix 1 attached).

3.0 REASONS FOR RECOMMENDATION

- 3.1 There is a requirement for members of the Pensions Committee to be kept up to date with legislative developments to carry out their decision making role in order to enable them to make informed decisions.
- 3.2 The current Fair Deal policy builds on the requirements of TUPE and provides a higher level of pension provision for transferred employees.
- 3.3 Best Value Authorities including those in local government are covered by separate requirements, which are set out in the Best Value Authorities Staff Transfers (Pensions) Direction 2007. Broadly comparable benefits must be provided where staff cannot remain in their existing scheme by virtue of an admission agreement. The Pensions Committee considered the introduction of the current arrangements on 25 September 2007 (Minute 37 refers). A change to this policy for local government would require specific legislation.
- 3.4 The Department for Communities and Local Government (DCLG) will be carrying out consultation to determine how any changes to the current policy for protection of pensions of transferred staff will affect the current arrangements in local government and how any changes will be implemented in respect of the LGPS.

4.0 BACKGROUND AND KEY ISSUES

- 4.1 The Pensions Committee last considered this matter on 11 January 2011 (Minute 67 refers).
- 4.2 On 21 March 2011 the Secretary Of State for Local Government announced that he was actively considering ending the Local Authority Two Tier Code introduced by the then Office of the Deputy Prime Minister. This provides that where councils outsource functions, then it requires private firms to employ new workers on the same terms as the public service workers who transferred across.
- 4.3 One of the 27 recommendations of the Hutton Report on Public Service Pension Reform sets out that in his view it is in principal undesirable for future non-public service workers to have access to public service pension schemes. This relates to this separate consultation on the Fair Deal approach to pensions when outsourcing public sector work.
- 4.4 The consultation paper outlines a range of options for future policy on pension requirements for staff transferring out of the public sector due to outsourcing. This spans from keeping the Fair Deal Policy in its current form to removing it all together or a middle option where it is retained in some amended form. As the decision on outsourcing is a responsibility of the individual employers rather than MPF this is principally a matter for their consideration. The implications on the future membership profiles of local authority funds and the funding of liabilities is however a matter of concern to administering authorities and the response submitted sets these out.
- 4.5 The response to the consultation supports the views expressed in the letter dated 12 April 2011 by the Local Government Group that there should be a further policy objective in addition to those listed in the consultation document which needs to be taken into account; that additional objective is **“to ensure the ongoing sustainability of the funded Local Government Pension Scheme (LGPS)”**.

5.0 RELEVANT RISKS

- 5.1 The ending of the Fair Deal provision could lead to a reduction in the LGPS broad active membership base at a time when membership is already reducing, due to reductions in the general local government workforce during the Spending Review period.
- 5.2 The LGPS is also under threat from a potentially significant increase in the number of employees deciding to opt out of the scheme if a large increase in the level of employee contribution rates is introduced. The latest membership figures for MPF indicate a reduction in the total active membership from over 50,000 to 48,000.

6.0 OTHER OPTIONS CONSIDERED

- 6.1 The full range of options between retention of the current policy to complete withdrawal and decisions in between are being considered by the Government.

7.0 CONSULTATION

7.1 The consultation period in question ended on 15 June 2011 and the outcome is expected to be reported later in the year.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 A number of voluntary organisations are admitted bodies within the Fund and as scheme employers have been and will be included in any future consultation on proposed changes to the LGPS.

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

9.1 A basic assumption for LGPS Funds' investment strategies is that the LGPS remains open to new entrants. This allows employer contributions to be set at a stable long-term level and helps to justify investment in higher risk equities.

9.2 A reduction in the active membership base would mean that funds would start to become mature more quickly than would otherwise have been the case and funds would need to move away from equities into bonds.

9.3 This could have an impact on the UK investment sector - in which the LGPS Funds have significant holdings - and lead to a rise in local authorities' contribution rates to the LGPS.

10.0 LEGAL IMPLICATIONS

10.1 None arising from this report.

11.0 EQUALITIES IMPLICATIONS

11.1 None arising from this report.

11.2 Equality Impact Assessment (EIA)

(a) Is an EIA required? No

12.0 CARBON REDUCTION IMPLICATIONS

12.1 None arising from this report.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 None arising from this report.

FNCE/132/11

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APPENDICES

1 - Response submitted to HM Treasury consultation dated 20 May 2011.

REFERENCE MATERIAL

- 1 HMRC Consultation on the Fair Deal Policy dated March 2011.
- 2 DCLG letter dated 27 June 2007.
- 3 2007 Direction Order

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Pensions Committee	11 January 2011