



## **PENSIONS COMMITTEE**

**28 SEPTEMBER 2022**

<b>REPORT TITLE:</b>	<b>LOCAL GOVERNMENT PENSION SCHEME (LGPS) UPDATE</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF PENSIONS</b>

### **REPORT SUMMARY**

This report informs Members of the publication of a Written Ministerial Statement confirming the Government's continued provision of a guarantee to the Local Government Pension Scheme (LGPS) in respect of Academy Trusts.

It also raises awareness of the Office for National Statistics (ONS) review as to whether the Further Education (FE) sector should be reclassified as public sector bodies rather than private sector institutions. This would be a welcome move for both the LGPS and the FE sector and may potentially trigger a change to the funding strategy for the 2022 valuation.

### **RECOMMENDATION/S**

That the Pensions Committee notes the recent developments within the Education sector and the implications for the LGPS.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 There is a requirement for the Pension Committee to be fully informed of national directives and legislative developments to carry out its fiduciary duty when managing employer risk.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 This is the most appropriate option for informing Pension Committee of industry developments.

### **3.0 BACKGROUND INFORMATION**

#### **Academy Guarantee Review**

- 3.1 In accordance with Schedule 2 Part 1, paragraph 20 of the LGPS Regulations 2013, academies must offer their non-teaching staff membership of the LGPS.
- 3.2 Upon conversion of a maintained school to academy status the local authority no longer provides financial backing in the event of the closure of the academy.
- 3.3 On 2 July 2013, as a result of this reduction in the perceived covenant strength, the Department for Education (DfE) provided a guarantee for academies to demonstrate central government support in the event of the failure of an academy. This allowed LGPS funds to set contribution rates and funding targets for academies consistent with local authority schools.
- 3.4 The guarantee is subject to annual limits and since inception, the DfE has never reached the annual limit.
- 3.5 As there is no end date to the guarantee, the DfE committed to undertake regular assessments to determine whether the guarantee remains affordable and whether it is being fully recognised by LGPS administering authorities in their risk assessments and the subsequent certification of employer contribution rates.
- 3.6 On 21 July 2022, the Secretary of State for Education issued a statement confirming the continuation of the guarantee with a new increased annual ceiling of £20 million.

The statement can be accessed from the following link;

<https://hansard.parliament.uk/Commons/2022-07-21/debates/22072124000017/AcademyTrustAndLocalGovernmentPension>

- 3.7 DfE's expectation is for LGPS funds to treat academy and local authority-maintained schools with parity as part of the 2022 valuation, with the necessity for funds to explain any deviation in strategy. Members are assured that the funding basis adopted by Merseyside Pension Fund has reflected the governments stated intent with regard to the consistent treatment of academies for a number of valuation exercises.

## **ONS Classification Review**

- 3.8 In accordance with Schedule 2 Part 1, paragraph 14 of the LGPS Regulations 2013, FE colleges must offer their non-teaching staff membership of the LGPS.
- 3.9 The Office for National Statistics (ONS) is the body responsible for classifying all institutional sectors and their financial transactions into the relevant section of the UK National Accounts.
- 3.10 It is noteworthy that since 2012, Further Education Corporations, Sixth Form College Corporations and Designated Institutions in England have been classified as private sector institutions. Following the enactment of the Skills and Post-16 Education Act 2022, the ONS announced a review of the classification of these bodies. The review is expected to be completed between July to September 2022.
- 3.11 As the DfE does not provide a central government guarantee for the FE sector, there is a high-risk of a poor outcome for LGPS funds if an FE body becomes insolvent.

This poorer covenant results in a more prudent funding approach for FE bodies than academies or councils.

- 3.12 Whilst reclassification itself will not materially alter the covenant of these bodies as the Insolvency Regime will still apply, the DfE has commissioned the Government Actuary Department (GAD) to undertake a review of the LGPS and the FE Sector to consider a range of potential options should the sector be reclassified.
- 3.13 It is understood that one of the options being considered is an FE Guarantee, similar to the undertaking already provided to Academy trusts.
- 3.14 GAD will be engaging with actuaries and funds as part of the process and has been asked to complete the report ahead of the ONS decision.

## **4.0 FINANCIAL IMPLICATIONS**

- 4.1 Actuarial and covenant advice informing the allocation of an employer to the relevant funding and investment strategy is provided for in the Fund's annual budget for administration.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 There are none arising from this report.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 The timeline of the review and potential reclassification of the FE sector makes it challenging for fund officers to consider any significant covenant changes and updated employer contribution plans as part of the 2022 valuation.

- 6.3 The regulatory flexibilities to revise employer contributions between valuations could be used beyond certification of the rates in March 2023, but there are efficiencies in carrying out the work alongside the valuation.
- 6.4 It is planned that contribution schedules for FE sector employers will be prepared under both review outcome scenarios, to enable well-informed discussions and to avoid Funding Strategy Statement updates later in the financial year.

## **RELEVANT RISKS**

- 7.1 MPF has been successful in a claim to access the DfE guarantee following the closure of Emslie Morgan Academy on 31 August 2019. A significant pension deficit of £1,039,800 was recovered in full from the DfE on 24 March 2021, and provides confirmation that the departmental guarantee is operational and accessible.
- 7.2 In instructing the actuary to calculate alternative contribution schedules for FE sector employers, officers have planned appropriate mitigation as to the risk of delay in finalising the valuation and production of the Funding Strategy Statement.

## **7.0 ENGAGEMENT/CONSULTATION**

- 8.1 The Fund Actuary and Officers commenced early engagement with the FE sector employers to achieve insight into individual circumstances, to manage risk and to set appropriate funding plans. Feedback on the sector review and impacts for the FE colleges will be taken account of in finalising the Funding Strategy Statement.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 Department for Levelling Up, Housing and Communities (DLUHC) and the Pensions Regulator undertake equality impact assessments regarding the provisions of the LGPS Regulations and the administration and governance of public service pension schemes.
- 9.2 The Equality Statement published on the introduction of the Local Government Pension Scheme 2014 can be viewed at: <https://mpfund.uk/lgpsequalitystatement>
- 9.3 DLUHC and HMT undertake equality impact assessments with regard to the statutory reform of the public sector pension schemes and LGPS.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 The Fund continues with its digital strategy across all operational areas and communications with stakeholders, with the aim to improve service delivery and to reduce its internal carbon footprint.
- 10.2 The Fund's strategic asset allocation to low carbon equities and renewable energy opportunities is monitored by Pension Committee.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

- 11.1 There are none directly arising from this report.

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## **BACKGROUND PAPERS**

### **A Parliamentary Minute by the Secretary of State for Education 2 July 2013**

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/281208/LGPS\\_liabilities\\_parliamentary\\_minute\\_2013\\_V4.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/281208/LGPS_liabilities_parliamentary_minute_2013_V4.pdf)

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Standing Agenda Item</b>	