

**Report to:** Pension Board

**Date of meeting:** 17 June 2019

**By:** Chief Finance Officer

**Title:** Local Government Pension Scheme (LGPS) Regulatory Updates

**Purpose:** To provide the Board with an update on the current regulatory environment, and consultations that could impact the Local Government Pension Scheme.

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## **RECOMMENDATION**

**The Board is recommended to note the report**

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### **1. Background**

1.1 The Fund continues to see and manage a series of changes, with a number of consultations – both directly and indirectly related to the Local Government Pension Scheme (LGPS) – issued within the last few months. The attached appendices outlined the current and recent scheme and regulatory changes, which will keep the Board abreast at a high level of the latest changes and developments involving the LGPS.

1.2 The appendices to this report set out updates in relation to the topics below, which are currently underway in the LGPS:

- Good Governance Review;
- Restricting exit payments in the public sector (95k cap) consultation;
- McCloud judgement – Government Appeal;
- Changes to the local valuation cycle and the management of employer risk policy.

### **2. Good Governance Review**

2.1 The LGPS Scheme Advisory Board (SAB) in England and Wales has commissioned Hymans Robertson to facilitate a consultation with LGPS stakeholders on governance structures. SAB appointed Hymans to facilitate a review of governance structures for the LGPS with the aim to capture as many views as possible from those working within the LGPS. An online survey was issued to pension fund officers, Section 151 officers, elected members, democratic services officers, local pension board chairs, trade unions and others on 23 April. Hymans approach was to hear stakeholder's thoughts on criteria for good governance and how *four possible governance models* might help LGPS funds to deliver for employers and members.

2.3 Proposed models - The models/options proposed for the survey are summarised below. Only models that maintain the link to local democratic accountability are in scope-

- a) Improved practice: Introduce guidance or amendments to LGPS Regulations 2013 to enhance the existing arrangements by increasing the independence of the management of the fund.
- b) Greater ring fencing of the LGPS within existing structures: Greater separation of pension fund management from the host authority, including budgets, resourcing and pay policies.
- c) Joint Committee (JC): Responsibility for all LGPS functions delegated to a JC comprising the administering authority and non-administering authorities in the fund. Inter-authority

agreement (IAA) makes JC responsible for recommending budget, resourcing and pay policies.

- d) Combined Authority (CA): Establish a CA, a local authority in its own right and a separate legal entity, which exists for the sole purpose of administering an LGPS fund.

2.4 It is clear that each fund is different, and the same model will not work for everyone. Even within funds, stakeholders with different perspectives will have different experiences and opinions to share. The survey (Appendix 1) ended on 31 May and understands that the findings will form the basis for the final report due to be brought to the SAB in July 2019.

2.5 In the light of ongoing 'Good Governance' discussion, the Council commissioned a report through a consultant (AON). This is to highlight the latest legislation and best practice relating to the management of LGPS funds and particularly the challenges faced, which are leading to a call and consultation on good governance; conflict of interest in the roles relating to the appropriate management of LGPS funds; and some initial thoughts on the management of East Sussex Pension Fund (ESPF).

### **3. Restricting exit payments in the public sector (95k cap) consultation**

3.1 The HM Treasury consultation (Appendix 2) on restricting exit payments in the public sector was published on 10 April, with the 3 July closing date. The draft regulations set out what is included in an exit payment and what payments are exempt (i.e. not part of the cap). It covers which employers are in scope but does not provide details on the impact on the LGPS. Some LGPS employees, who would receive an immediate early retirement pension, will be surprised to be caught by this cap: changes to LGPS regulations will bring clarity. We expect engagement over the coming weeks with stakeholders in the LGPS to fully consider how these draft regulations will impact on the LGPS. Key issues include how redundancy early retirements will operate in the LGPS if the Regulations are not amended before the HMT Regulations come into force and how the cost of paying pension benefits early will be calculated given strain payments are generally calculated using locally set factors.

### **4. McCloud judgement – Government Appeal**

4.1 Following the Government's statement in January, in the aftermath of the recent McCloud judgement, there is now great uncertainty on the horizon about if, when and how benefits and member contributions will be changed in the LGPS. Whilst it was anticipated that a decision on the Government's application for leave to appeal the McCloud judgement would be made in April, a House of Commons briefing document suggests this is now expected in July 2019. Given it has always seemed unlikely that a final decision would be made in time for accurate allowance for McCloud/Cost cap benefit changes to be made in the 2019 valuations it's arguable that the delay might not change anything from a valuation perspective. SAB has issued guidance (Appendix 3) to administering authorities to try to ensure consistency of approach, at a high level at least.

### **5. Consultation on changes to the local valuation cycle and the management of employer risk policy**

5.1 The Ministry of Housing, Communities and Local Government (MHCLG) has opened a twelve week policy consultation (Appendix 4) called 'LGPS: Changes to the local valuation cycle and the management of employer risk policy'. The consultation contains proposals on a number of matters relating to the LGPS in England and Wales. Amongst these, it is proposed to amend the local fund valuation cycle of the LGPS from the current three year (triennial) cycle to a four year (quadrennial) one. The Government has moved the LGPS scheme valuation to a quadrennial cycle, and the consultation is intended to ensure that scheme and local valuations are aligned. *The closing date for responses is 31 July 2019.*

5.2 Areas covered within the consultation include the following:

- amendments to the local fund valuations from the current 3 year (triennial) to a 4-year (quadrennial) cycle
- a number of measures aimed at mitigating the risks of moving from a triennial to a quadrennial cycle

- proposals for flexibility on exit payments
- proposals for further policy changes to exit credits
- proposals for changes to the employers required to offer local government pension scheme membership.

## **6. Conclusion and reasons for recommendation**

6.1 The Board is recommended to note the report.

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