



**Agenda for a meeting of the West Yorkshire Pension Fund Pension Board to be held remotely on Tuesday, 15 December 2020 at 11.00 am, or on the rising of the earlier meeting of the Board, whichever is the later.**

**Members of the Committee**

<b>Employer Representatives</b>	<b>Member Representatives</b>
<b>Councillor S Lal (Chair) – Bradford</b>	<b>Mr G Nesbitt – GMB</b>
<b>Councillor D Jenkins– Leeds</b>	<b>Mr M Binks – Unison</b>
<b>Councillor H Mitchell Wakefield</b>	<b>Mr C Sykes – Unison</b>
<b>Ms R Manning - Employer</b>	<b>Mr A Jones – Unite the Union</b>

**NB: The meeting adjourned on 22 September 2020 will commence at 10.00am on 15 December 2020.**

**Notes:**

- Please note that, under the current circumstances we are unable to produce paper copies. A webcast of the meeting will be available to view live on the Council’s website at <https://bradford.public-i.tv/core/portal/home> and later as a recording
- Any non member Councillors or members of the public who wish to make a contribution at the meeting are asked to email [jane.lythgow@bradford.gov.uk](mailto:jane.lythgow@bradford.gov.uk) by **10.30 on Friday 11 December 2020** and request to do so. In advance of the meeting those requesting to participate will be advised if their proposed contribution can be facilitated and those participants that can be will be provided with details how to electronically access the meeting. Councillors and members of the public with queries regarding making representations to the meeting please email Jane Lythgow.
- Approximately 15 minutes before the start time of the meeting the Governance Officer will set up the electronic conference arrangements initially in private and bring into the conference facility the Director, West Yorkshire Pension Fund and Members so that any issues can be raised before the start of the meeting. The officers presenting the reports at the meeting will have been advised by the Governance Officer of their participation and will be brought into the electronic meeting at the appropriate time.

**From:**

Parveen Akhtar  
City Solicitor  
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E-Mail: [jane.lythgow@bradford.gov.uk](mailto:jane.lythgow@bradford.gov.uk)

**To:**

## **A. PROCEDURAL ITEMS**

### **1. DISCLOSURES OF INTEREST**

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

*Notes:*

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

### **2. INSPECTION OF REPORTS AND BACKGROUND PAPERS**

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Jane Lythgow - 01274 432270)

## **B. BUSINESS ITEMS**

### **3. MINUTES OF THE WEST YORKSHIRE PENSION FUND 30 JULY 2020** 1 - 16

The report of the Director, West Yorkshire Pension Fund, (**Document “R”**) reminds Members that the role of The Pension Board, as defined by sections 5(1) and (2) of the Public Service Pensions Act 2013, is to assist the Council as Scheme Manager in ensuring the effective and efficient governance and administration of the Local Government Pension Scheme (LGPS) including securing compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS; securing compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and any other such matters as the LGPS regulations may specify.

The Minutes of meeting of WYPF Joint Advisory Group are submitted to the Pension Board to enable the Board to ensure effective and efficient governance and administration of the LGPS.

**Members are asked to review the minutes of the West Yorkshire Pension Fund Joint Advisory Group on 30 July 2020.**

(Rodney Barton – 01274 432317)

### **4. LOCAL GOVERNMENT PENSION SCHEME REGULATIONS UPDATE** 17 - 28

The Director, West Yorkshire Pension Fund, (WYPF) will present a report, **Document “S”**, which updates Members on changes to the Local Government Pension Scheme (LGPS) 2014 and provides information on associated matters.

**Recommended –**

**That the report be noted.**

(Tracy Weaver – 01274 433571)

### **5. McCLOUD - EFFECTS ON LOCAL GOVERNMENT PENSION SCHEMES (LGPS)** 29 - 32

In July 2020 the government released a long awaited consultation on applying the remedy to address the age discrimination inherent in the transitional protections that were adopted by the public service scheme

in 2014.

The report of the Director, West Yorkshire Pension Fund (**Document “T”**) informs Members of work undertaken to date in anticipation of the regulations being made.

### **Recommendation**

**That the report be noted.**

(Caroline Blackburn – 01274 434523)

## **6. REGISTER OF BREACHES OF LAW**

33 - 40

The Director, West Yorkshire Pension Fund, will present a report (**Document “U”**) which inform Members that, In accordance with the Public Service Pensions Act 2013, from April 2015 all Public Service Pension Schemes come under the remit of the Pensions Regulator.

Section 70 of the Pensions Act 2004 (the Act) imposes a requirement to report a matter to The Pensions Regulator as soon as is reasonably practicable where that person has reasonable cause to believe that:

- a. a legal duty relating to the administration of the scheme has not been or is not being complied with, and
- b. the failure to comply is likely to be of material significance to The Pensions Regulator in the exercise of any of its functions.

A Register of Breaches of Law is therefore maintained in accordance with the Pensions Regulators requirements and WYPF Breaches procedure.

### **Recommendation**

**That the entries on the Register of Breaches of Law be noted.**

(Caroline Blackburn – 01274 434523)

## **7. TRAINING, CONFERENCES AND SEMINARS**

41 - 42

Members are reminded that training to understand their responsibilities and the issues they will be dealing with is a very high priority.

The report of the Director, West Yorkshire Pension Fund, (**Document “V”**) informs Members of training courses, conferences and seminars which may be of assistance.

### **Recommended -**

**That consideration is given by Board Members to the events in Section 1 of Document “V” and Members note the requirement to complete the Pension Regulators toolkit training.**

**8. EXCLUSION OF THE PUBLIC**

Members are asked to consider if the **Not for Publication Appendix to Document “W”** relating to the West Yorkshire Pension Fund Investment Advisory Panel should be considered in the absence of the public and, if so, to approve the following recommendation:-

**Recommended –**

**That the public be excluded from the meeting during consideration of the Not for Publication Appendix to Document “W” relating to the minutes of the West Yorkshire Pension Fund Investment Advisory Panel held on 30 July 2020 because information would be disclosed which is considered to be exempt information within paragraph 3 (Financial or Business Affairs) of Schedule 12A of the Local Government Act 1972 (as amended).**

**It is considered that, in all the circumstances, the public interest in maintaining this exemption outweighs the public interest in disclosing this information as it is in the overriding interest of proper administration that Members are made aware of the financial implications of any decision without prejudicing the financial position of the West Yorkshire Pension Fund.**

**9. Minutes of West Yorkshire Pension Fund (WYPF) Investment Advisory Panel held on 30 July 2020.**

43 - 44

The report of the Director, West Yorkshire Pension Fund, (**Document “W – containing a Not Publication Appendix**) reminds Members that the role of the Pension Board, as defined by sections 5(1) and (2) of the Public Service Pensions Act 2013 is to assist the Council as Scheme Manager in ensuring the effective and efficient governance and administration of the Local Government Pension Scheme (LGPS) including securing compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS; securing compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and any other such matters as the LGPS regulations may specify.

The Minutes of meeting of WYPF Investment Advisory Panel are submitted to the Pension Board to enable the Board to ensure effective and efficient governance and administration of the LGPS.

**Members are requested to review the Not for Publication minutes of the Investment Advisory Panel on 30 July 2020 appended to Document “W”.**

(Rodney Barton – 01274 432317)

THIS AGENDA AND ACCOMPANYING DOCUMENTS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER



## **Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to be held on 15 December 2020.**

**R**

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**Subject: Minutes of West Yorkshire Pension Fund (WYPF) Joint Advisory Group held on 30 July 2020.**

### **Summary statement:**

The role of The Pension Board, as defined by sections 5(1) and (2) of the Public Service Pensions Act 2013 is to assist the Council as Scheme Manager in ensuring the effective and efficient governance and administration of the Local Government Pension Scheme (LGPS) including securing compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS; securing compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and any other such matters as the LGPS regulations may specify.

The Minutes of meeting of WYPF Joint Advisory Group are submitted to the Pension Board to enable the Board to ensure effective and efficient governance and administration of the LGPS.

### **Recommendation**

It is recommended that the Board review the minutes from the meeting.

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Rodney Barton  
Director

Portfolio:

Phone: (01274) 432317  
E-mail: [Rodney Barton@bradford.gov.uk](mailto:Rodney.Barton@bradford.gov.uk)

Overview & Scrutiny Area:

## **1. Appendix**

Appendix A – Minutes of Joint Advisory Group held on 30 July 2020.



## Minutes of a meeting of the West Yorkshire Pension Fund Joint Advisory Group held remotely on Thursday, 30 July 2020

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Commenced 1.00 pm  
Concluded 3.35 pm

### Present – Members

<p><b><u>Bradford Members</u></b> Councillors: Thornton Winnard</p>	<p><b><u>Calderdale Members</u></b> Councillors: Baines Lynn</p>
<p><b><u>Kirklees Members</u></b> Councillors: Murgatroyd</p>	<p><b><u>Leeds Members</u></b> Councillors: Dawson Harrand Scopes</p>
<p><b><u>Wakefield Members</u></b> Councillors: Graham Speight</p>	<p><b><u>Trades Union Members</u></b> Ms L Bailey (UNISON)</p>
<p><b><u>Scheme Members</u></b> Mark Morris</p>	

Apologies: Councillors Asif, Ahmed, Metcalfe, Salam & Shaw; A Goring & T Chard

### **Councillor Thornton in the Chair**

#### 1. **DISCLOSURES OF INTEREST**

All those present who were members or beneficiaries of the West Yorkshire Pension Fund disclosed, in the interests of transparency, an interest in all relevant business under consideration.

***Action: City Solicitor***

#### 2. **MINUTES**

**Resolved –**

**That the minutes of the meeting held on 30 January 2020 be signed as a correct record.**

### 3. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

### 4. WEST YORKSHIRE PENSION FUND RISK MANAGEMENT REPORT

The Director, West Yorkshire Pension Fund, presented a report, **(Document “A”)**, which reported West Yorkshire Pension Fund’s latest risk management report.

The report set out 44 risks associated with the operation of the Fund under headings including Economic, Political, Technological, Legislative/Regulatory, Managerial/Professional, Finance, Physical, Competitive, Customer/Citizen, Social and Partnership/Contractual. Plans to manage and mitigate 21 of those which required additional scrutiny and management were also included.

Members were advised that since the production of the report an additional risk had been added to the register with regard to the McCloud judgement for which the fund had recently received draft legislation. Members questioned the absence of environmental risks and the Director, WYPF, explained that the register referred to risks to Pensions Administration and not investments. Assurances were provided that managing risk was a key consideration in the management of the investment portfolio and it was explained that had that information been included in the Pensions Administration Risk Register it would have resulted in a very lengthy document.

Some Members felt that it was part of their fiduciary duty to be aware of all risks and believed that concrete management plans to manage and mitigate environmental threats should be included in the risk register. In response they were advised of plans to appoint an Environmental, Social and Governance (ESG) Manager whose role would include analysis of risks and the production of co-ordinated risk factors.

Following a number of questions, it was clarified that, at the current time, there wasn’t a separate investment risk register but it was reiterated that the management of risk was an integral part of all investment decisions and considered as part of the Strategic Asset Allocation.

Members were reminded that the investment decision making was devolved to the Investment Advisory Panel from the Governance and Audit Committee and that decisions about Pension Administration were devolved to the Joint Advisory Group. Members acknowledged that structure and that, as there was some joint membership between the IAP and JAG bodies, it would be inappropriate for one body to scrutinise the other.

The reluctance to note the Risk Register, by some Members until it included environmental factors, was acknowledged and it was agreed that the issues they had raised would be considered.

**Resolved –**

**That the report be noted.**

***ACTION: Director, West Yorkshire Pension Fund***

## **5. PENSIONS ADMINISTRATION**

The report of the Director, West Yorkshire Pension Fund, (**Document “B”**) provided an update on West Yorkshire Pension Fund’s pensions administration activities over the last six months.

The initial part of the report provided details on performance and benchmarking and revealed that the majority of Key Performance Indicators had been met or exceeded. The rationale for three areas which had underperformed was explained and was due to increased work being required to prevent fraud and because of delays in receiving contact information from members.

Current work in progress was presented and was categorised in work groups. Membership figures were reported and revealed that the scheme had a total of 428,000 members and 466 participating employers.

New business received by the Fund was included in the report and revealed that WYPF had been awarded the contract to provide pensions administration for the London Borough of Barnet Pension Scheme. The Fund had also been successful in its bid for administration of the Leicestershire, Nottinghamshire and Derbyshire Fire Authorities.

Awards received by the Fund were discussed and included the Best Administration Award by Pensions Age magazine and the Pensions Administration Award at the European Pension Awards on 20 June 2020.

It was explained that as part of the commitment to improving services WYPF carried out random surveys of customers who had been in contact with the Fund together and online surveys which any member could complete at any time had been compiled. An analysis of the responses received for the quarter January to March 2020 were appended to the report.

The Chair noted the performance and benchmarking during the three-month lockdown period and staff were highly commended for their performance during the disaster recovery period. Congratulations were also provided for the awards which had been received and his sentiments were echoed by Members.

The report included an update on amendments to work practices during the current Coronavirus Pandemic and amendments to work practices to ensure staff were able to work remotely whilst maintaining business continuity were discussed. It was questioned what consideration had been given to employees returning to office based work practices and the potential impact on accommodation costs. The Director, WYPF, explained that, as the virus had not gone away, there would be no hurry for staff to return to office based work and the current situation would be maintained until it was safe for staff to return. It was

acknowledged that, in the coming months, flexibility may be required for those staff who may find it difficult to return to the office.

The results of a recent staff survey had revealed that 70% of staff would like some form of working from home to continue. It was confirmed that performance had not been impacted by remote working arrangements.

In response to queries about the impact on accommodation costs it was reported that the need for additional accommodation to cater for the increased business had been considered but that the pressure had now subsided.

Members had previously heard that operational problems had occurred with the quality and timeliness of information from new business and it questioned if issues were anticipated with the four new contracts which were to start in November and December 2020. In response it was reported that no difficulties had arisen to date but it was felt that they could occur as some business had transferred due to poor quality of service previously received and that one scheme had been monitored by The Pension Regulator and had transferred to the fund due to the poor service they had received. The Fund's IT team were working hard and had the resources allocated to the project and all so far was going to plan.

The numbers of days' absence due to sickness was reported and compared to Bradford Council average. Members commended the statistics but questioned if any succession plans were in place for the six posts which were reported as vacant due to retirement. The number of external and internal appointments were also questioned. The Director, WYPF, reported that as part of the Fund's development and training plans all staff were encouraged to develop and all training costs were funded. Statistics were provided which revealed that staff turnover was 4% and 40% of personnel had been with WYPF for over 11 years.

As the average age of employees was 47, which Members felt that produced a 'mature' team compared to some organisations. Assurances were requested to ensure that careers pathways were in place to provide opportunities for junior staff to progress without affecting the quality of performance and it was hoped that the staff survey would provide the Fund with information to develop succession plans.

In response to questions about additional staff to undertake new business it was explained some staff may transfer with those businesses but that was felt unlikely due to distance. The Fund was currently undergoing a restructure which would strengthen governance and new business development and that would increase opportunities for staff development. Assurances were provided that staffing structures are reviewed regularly and strengthened when needed.

Following questions about the IT structure it was confirmed that the Fund used the IT infrastructure of Bradford Council for email; intranet and internet but other than that the fund was self-dependant. An internal UPM team, UPM was the application used for pensions administration, was in place and was very much ahead of the market. A programme had also been developed for the Annual Benefit Statements which allowed for the automatic issue of statements once the last month 12 returns were received and processed. There were many routines

which had been developed some of which the software providers themselves had been unable to deliver for their clients.

**Resolved –**

**That the report be noted.**

***ACTION: Director, West Yorkshire Pension Fund***

**6. WEST YORKSHIRE PENSION FUND (WYPF) ADMINISTRATION OUTTURN  
31 MARCH 2020**

The report of the Director, West Yorkshire Pension Fund, (**Document “C”**) summarised the total costs of administering pensions and investments for 2019/2020.

Members were advised that the costs incurred for the provision of remote devices to enable staff to work remotely were not reflected in the report. As people were continuing to work from home it had been found that some equipment had not been sufficient, some lap tops were too small and additional laptops and larger display screens were needed. Costs were still being incurred but no surprises were expected and good quality services would still be provided for a good price.

It was explained that a key headline in the report was the cost of investment and when compared with the previous year there was an increase due to the cost of investments. In 2018/19 the Fund spent £1m less as it was able to recharge some transaction cost to Greater Manchester for the transfer of the First Bus Company. It was reported that investments was an area which could not truly be controlled as the cost of investment depended on the activities of the market.

Members were advised that the most relevant part, not shown in the report but which could be included in the future, was that whilst costs were expected to increase from £34 per member last year to £42 per member the second place fund had a cost of £65 per member so there was still a significant gap. In the current environment, and in discussions with peer funds, it had been noted that all funds' costs would increase because of the requirement to invest in agile working practices. It was not expected that the fund would be displaced from its top spot and the high quality of service not be impacted.

It was questioned if the acquisition of new business would reduce the average cost per member and Members were advised that increased shared services would reduce costs for pension administration but not for investment activities as those were not shared.

**Resolved –**

**That the report be noted.**

***ACTION: Director, West Yorkshire Pension Fund***

## 7. WEST YORKSHIRE PENSION FUND UNAUDITED REPORT AND ACCOUNTS FOR 31 MARCH 2020

The report of the Director, West Yorkshire Pension Fund, (**Document “D”**) advised Members that in order to comply with statutory accounting requirements for Local Government and Local Government Pension Schemes, WYPF must prepare an annual audited Report and Accounts. The 2019/20 Reports and Accounts were presented to the Joint Advisory Group to note, before being presented to Bradford Council Governance and Audit Committee later in the year for approval.

The Report and Accounts, appended to Document “D”, provided a summary of West Yorkshire Pension Fund’s financial position at the end of the year and key financial activities during the year ended 31 March 2020. The accounts were prepared in accordance with:

- CIPFA Code of Practice on Local Authority Accounting in the United Kingdom 2019/20
- CIPFA Guidance on Accounting for Local Government Pension Scheme Management Costs.
- Latest Pensions Statement of Recommended Practice
- International Financial Reporting Standards (IFRS), as amended for the UK public sector

The key headline in the report was that the investment value had reduced. No assets had been lost but the value had reduced as expected and between January and March 2020 the Fund had reduced by approximately £2 billion of value. The latest value, however, had seen an increase to the higher point of £14 billion and was now encroaching £15 billion market gain. When comparing the accounting value to performance value of investments the fund had lost 8% between 2018/19 and 2019/20 and that was a reflection of the impact of COVID-19. Assurances were provided that the fund was still well funded and had a good net cash flow. Nothing had been seen in the cash flow which would impact on the Fund’s ability to pay pensions; to fund operations or meet investment commitments. It was confirmed that the aim would be to keep costs per member around £43 and not to exceed £45 over the next three years.

It was explained that ordinarily, at this time of year, the financial statements would be finalised for approval by the Governance and Audit Committee. In light of the current pandemic the Government had extended the deadline to reflect that auditors had not been able to access the offices and the report being considered was still in draft form. It was expected that the report would be finalised for approval by September and when that was completed an electronic version would be circulated to management and the Joint Advisory Group.

A Member, whilst welcoming the report and acknowledging the amended deadlines, explained that, as a representative of the Joint Advisory Group, all concerns he heard from members was about climate change and investment in fossil fuels. He suggested that a comment on that topic be included in the Chair’s

statement or foreword to the accounts. Other Members echoed his request that the report should refer to those issues.

A Member believed that the reference to the annual meetings did not reflect the lively discussion based on questions from Members and about fossil fuels. It was acknowledged that the meeting held in November 2019 had been considerably different from those in previous years and it was agreed that the very lively debate could be highlighted.

Following suggestions that the gender pay gap and adherence to the living wage could be included it was confirmed that the Fund did meet the living wage including casual or work experience employees. A gender pay gap analysis had been conducted by Bradford Council but the final version had not yet been provided. There had been previous reports and in March 2019 it was known that in Bradford there was a gap of about 7.3; Leeds had a gap of 6 and when compared with neighbouring authorities Bradford was in second place and it was agreed that the information could be included in the final version.

A Member, whilst acknowledging the report referred to the year to March 2020, suggested that it should include the impact of COVID-19 on equity values and risks to the Fund's investments.

It was also suggested that, in light of conversations earlier in the meeting and the lack of a decision matrix for investments, more detail on investments should be included in the report in future. That view was echoed by a number of Members.

Members were thanked for their comments and their engagement and, as the report was in development, all comments would be taken on board and, where possible, their views would be included in the updated version.

**Resolved –**

**That the unaudited report and accounts for 2019/20 be noted.**

***ACTION: Director, West Yorkshire Pension Fund***

## **8. LOCAL GOVERNMENT PENSION SCHEME REGULATIONS UPDATE**

The report of the Director, West Yorkshire Pension Fund (**Document “E”**) provided an update on changes to the Local Government Pension Scheme (LGPS) 2014 and information on associated matters.

The report revealed the Government's intention to reintroduce the Pension Schemes Bill and the implications of that proposal was questioned. At that moment the report author encountered connection issues and her colleagues, agreed that Members contacted with that information after the meeting.

Consultation on restricting exit payments were discussed and a Member queried if that had been implemented and what payments would be included. It was explained that the £95,000 pay cap would definitely happen and the cap would

include redundancy payments. The restrictions had not yet been implemented and the Fund were waiting for an implementation date.

The impact on the final salary of members who had been furloughed was questioned and it was explained that final salary calculations were based on the best of the preceding three years.

Members were advised that both HMT and MHCLG had published consultations on the McCloud remedy and links to those documents were provided. In response to questions Members were advised that an underpin would be provided to some members who would not otherwise have been entitled to that protection. It was explained that 30,000 members; 30% of the Fund, would be impacted and work was in progress to secure the additional software which would be needed for the calculations required.

**Resolved –**

**That the report be noted.**

***ACTION: Director, West Yorkshire Pension Fund***

## **9. REVIEW OF ADDITIONAL VOLUNTARY CONTRIBUTION PROVIDERS**

West Yorkshire Pension Fund has 3 Additional Voluntary Contribution Providers, namely:

- Utmost Life and Pensions (previously Equitable Life),
- Scottish Widows, and
- Prudential.

Annually the West Yorkshire Pension Fund asked financial advisors Aon's AVC Team to review the performance of the Additional Voluntary Contribution Providers in terms of investment performance, financial strength, investment capabilities, charging structure and administration. The report of the Director, West Yorkshire Pension Fund (**Document "F"**) outlined the findings of the latest review.

The report revealed that Prudential International Fund had managed to provide a positive return over five years though more recent performance had been particularly disappointing. The advisors had regarded that level of under-performance to be significant and had recommended that the Administering Authority remove or replace that fund.

It was questioned how many members had switched to a salary sacrifice scheme and it was reported that the Fund would not have that information but that the AVC providers would have that detail.

The number of providers included in the review was questioned and it was confirmed that the review had considered only the current providers.

It was explained that Prudential was the largest provider in Local Government Pension Schemes, over 90% of providers used that firm, and regular meetings



were held with client managers. Scottish Widows were a smaller company and did not have specific LGPS specialist knowledge and support.

Members were advised that due to the complexity of LGPS regulations many providers were reluctant to engage in LGPS business but it was agreed that contact would be made with the advisors Review Team to ascertain if additional comparisons could be included in the review.

**Resolved –**

**That, in light of the comments made at the meeting, the Director, West Yorkshire Pension Fund, request AON's Review team to include additional AVC providers in the review and provide further information for consideration at the next meeting.**

***ACTION: Director, West Yorkshire Pension Fund***

## **10. ACTUARIAL VALUATION 2019**

The report of the Director, West Yorkshire Pension Fund (WYPF), (**Document "G"**) advised Members that the triennial actuarial valuation of the West Yorkshire Pension Fund had been prepared based on the situation at 31 March 2019 and determined the level of employers' contributions for the period 1 April 2020 to 31 March 2023.

The report revealed that at 31 March 2019, WYPF was 106% funded and comparisons were made to the situation at 31 March 2016 when that figure was 94%. That valuation combined with a positive cash flow demonstrated that the Fund was in a sound financial position. In response to questions it was explained that, due to the current pandemic, the fund level was 92% at the end of March 2020.

A copy of the statement from the Actuary for the year ended 31 March 2020, which summarised the results of the valuation, was attached as Appendix A to Document "G".

It was acknowledged that the financial climate had changed significantly since 31 March 2019 and unless investment markets recovered strongly contributions may need to be revised. The Director, WYPF, explained that he had advised against the recent reductions which were part of the valuation deal and had suggested that a three year agreement be reached to prevent revisions being required and the costs of review being incurred. In response to questions about the timeliness of a decision regarding increased contributions it was explained that the Fund would endeavour to consider the situation before the next Council budget preparations meetings began.

**Resolved –**

**That the report be noted.**

***ACTION: Director, West Yorkshire Pension Fund***

## 11. FUNDING STRATEGY STATEMENT (FSS)

The report of the Director, West Yorkshire Pension Fund (WYPF) (**Document “H”**) advised Members that following a consultation exercise with all stakeholders WYPF’s current Funding Strategy Statement (FSS) required updating to cater for two key items:

- Changes to the Local Government Pension Scheme (LGPS) Regulations relating to exit credits, which came into effect on 20 March 2020, effective from 14 May 2018; and
- Changes to how new admissions were administered, to reduce administration and advisory fees and to provide a further option for employers via the introduction of a pass through (“pooling”) approach with effect from 1 April 2020.

WYPF had also taken the opportunity to clarify that the costs of employers joining and exiting the Fund would generally be re-charged to the relevant employers to avoid all employers in the Fund picking up those costs (which would principally relate to actuarial and legal fees).

A Member referred to investment risk and the risk of assets not delivering the required return. He explained that he had previously requested that the Chair commission an environmental statement and provide a clear strategy on investment in fossil fuels. He felt that the FSS should include more information on climate change and measures to mitigate risks. He felt that he could not support the changes to the FSS without that information being included. An additional Member agreed with that statement and whilst she had no issues with the amendments suggested she believed it was her duty to have an oversight of the risks and plans to mitigate the risks of investments in fossil fuels. That sentiment was echoed by colleagues.

In response Members were reminded that they were being asked to approve two changes to the FSS which were required by the LGPS Regulations and that the item was not intended to be a debate about the strategy in general. A Member, in addition to his agreement with that statement, expressed his confidence in investment advisors.

In response the Members who had suggested an environmental statement be prepared confirmed that their request was not a criticism of investment managers. They believed that to exercise their fiduciary duties they should be aware of how investment decisions were made and that a matrix portraying the strategic direction of investments, and measures to mitigate risk, should be included in the FSS.

**No resolution was passed on this item.**

## 12. REGISTER OF BREACHES OF LAW

The Director, West Yorkshire Pension Fund, presented a report (**Document “I”**) which reminded Members that, in accordance with the Public Service Pensions Act 2013, all Public Service Pension Schemes now come under the remit of the Pensions Regulator.

Section 70 of the Pensions Act 2004 imposes a requirement to report a matter to The Pensions Regulator, as soon it was reasonably practicable where that person had reasonable cause to believe that:

- (a) a legal duty relating to the administration of the scheme had not been or was not being complied with, and
- (b) the failure to comply was likely to be of material significance to The Pensions Regulator in the exercise of any of its functions.

A register of any breaches of law was maintained in accordance with West Yorkshire Pension Fund (WYPF) Breaches Procedure.

Document “I” also explained that as a result of the current COVID 19 pandemic WYPF had updated its approach relating to the payment of employers’ contributions during the coronavirus emergency including requests for deferral of payments.

In the period up until the beginning of June the Fund had received a number of enquiries regarding deferment of employer contributions, however, no formal applications had been received. A copy of the Employer Contribution Payment Deferral Policy was appended to the report.

It was explained that the employers listed on the register as failing to make employer contributions by the appropriate date had not previously missed the payment deadlines. It was felt the situation had occurred as schools were closed due to the current COVID-19 situation and staff were not in work.

A representative referred to salary sacrifice details being directed to the wrong people. He was advised that this would not be a breach to be reported to The Pension Regulator but should be reported to Bradford Council as a breach of data policy. It was agreed to investigate that issue on his behalf.

**Resolved –**

- (1) That the 2019/20 and 2020/21 Register of Breaches, appended to Document “I”, be noted.**
- (2) That the Employer Contribution Payment Deferral Policy, appended to Document “I”, be approved.**

***ACTION: Director, West Yorkshire Pension Fund***

**13. TRAINING, CONFERENCE AND SEMINARS**

The Director, West Yorkshire Pension Fund, presented a report (**Document “J”**) which reminded Members that their training, to understand their responsibilities and the issues they were dealing with was a very high priority. Details of training courses, conferences and seminars listed may assist Members. Full details about each event were available at the meeting.

**Resolved –**

**That the report be noted.**

***ACTION: Director, West Yorkshire Pension Fund***

**14. EXCLUSION OF THE PUBLIC**

**Resolved –**

**That the public be excluded from the meeting during consideration of Document “L” containing Not for Publication Appendix 1, relating to the Northern LGPS (NLGPS), because information would be disclosed which is considered to be exempt information within paragraph 3 (Financial or Business Affairs) of Schedule 12A of the Local Government Act 1972 (as amended).**

**It is considered that, in all the circumstances, the public interest in maintaining this exemption outweighs the public interest in disclosing this information as it is in the overriding interest of proper administration that Members are made aware of the financial implications of any decision without prejudicing the financial position of the West Yorkshire Pension Fund.**

**15. NORTHERN LGPS (NLGPS)**

The Director, West Yorkshire Pension Fund, presented a report (**Document “L” containing Not for Publication Appendix 1**) which reminded Members that, in accordance with the guidance from Government, West Yorkshire Pension Fund (WYPF) together with Greater Manchester (GMPF) and Merseyside (MPF) Local Government Pension Funds had established an investment pool, Northern LGPS (NLGPS).

Document “K” set out the progress of the Northern LGPS (formerly the Northern Pool).

**Resolved –**

**That the report, together with Not for Publication Appendix 1, be noted.**

***ACTION: Director, West Yorkshire Pension Fund***

16. **EXCLUSION OF THE PUBLIC**

Resolved –

That the public be excluded from the meeting during consideration of the item relating to the West Yorkshire Pension Fund Restructure because information would be disclosed which is considered to be exempt information within paragraph 4 (Labour Relations, Consultation or Negotiation) of Schedule 12A of the Local Government Act 1972 (as amended).

It is considered that, in all the circumstances, the public interest in maintaining this exemption outweighs the public interest in disclosing this information as it is in the overriding interest of proper administration that Members are made aware of the implications of any decision without prejudicing the Labour Relations, Consultation or Negotiation position of the West Yorkshire Pension Fund.

17. **WEST YORKSHIRE PENSION FUND RESTRUCTURE**

The Director, West Yorkshire Pension Fund, presented a report, **Not for Publication Document “K”**, which considered the West Yorkshire Pension Fund restructure.

Resolved -

That the report be noted.

***ACTION: Director, West Yorkshire Pension Fund***

Chair

**Note: These minutes are subject to approval as a correct record at the next meeting of the West Yorkshire Pension Fund Joint Advisory Group.**

THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

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## **Report of the Director of West Yorkshire Pension Fund to the meeting of West Yorkshire Pension Fund Pension Board to be held on 15 December 2020**

**S**

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**Subject: Local Government Pension Scheme Regulations update**

### **Summary statement:**

This report updates the West Yorkshire Pension Fund Pension Board on changes to the Local Government Pension Scheme (LGPS) 2014 and provides information on associated matters.

### **Recommendation:**

It is recommended that Members note this report.

---

Rodney Barton  
Director

**Portfolio:**

Report Contact: Tracy Weaver  
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E-mail: [tracy.weaver@wypf.org.uk](mailto:tracy.weaver@wypf.org.uk)

**Overview & Scrutiny Area:**

## **1 Background**

- 1.1 The career average Local Government Pension Scheme (LGPS) was introduced on 1 April 2014.
- 1.2 Since the introduction of the new LGPS there have been a number of consultations on proposed changes to the LGPS, following which amendment regulations have been issued.

## **2 Consultation on Fair Deal – Strengthening pension protection**

- 2.1 On 10 January 2019 Ministry of Housing, Communities and Local Government (MHCLG) issued a consultation on Fair Deal – Strengthening pension protection.
- 2.2 The consultation closed on 4 April 2019, and we are still waiting for MHCLG to publish its response.

## **3 Consultation: Local valuation cycle and the management of employer risk**

- 3.1 On 8 May 2019 MHCLG issued a 12 week policy consultation called ‘LGPS: Changes to the local valuation cycle and the management of employer risk’.
- 3.2 The consultation closed on 31 July 2019.
- 3.3 Included in this consultation were issues that had arisen following changes made to the LGPS Regulations to allow a surplus to be refunded to an exiting employer. To address these issues the Local Government Pension Scheme (Amendment) Regulations 2020 were laid before Parliament on 27 February 2020 and came into force on 20 March 2020 but have effect from 14 May 2018.
- 3.4 These regulations provide administering authorities with a discretion to determine the amount of exit credit which should be payable to an employer leaving the LGPS with a surplus.
- 3.5 On 26 August 2020 a second partial response was published. The response confirms that the LGPS 2013 Regulations would be amended to allow greater flexibility on employer exit payments and the ability to review employer contributions between valuations.
- 3.6 The LGPS (Amendment) (No.2) Regulations 2020 provide for the changes and were laid in Parliament on 27 August 2020 and came into effect from 23 September 2020. Both MHCLG and the SAB are currently preparing guidance to assist Administering Authorities in making their policies on employer flexibilities.
- 3.7 MHCLG has yet to publish its response to the other matters contained in the consultation, which included changes to the LGPS Local Valuation Cycle, and employers required to offer LGPS membership.



## 4 Other LGPS matters

### 4.1 McCloud and valuation guidance

It was reported on 21 December 2018 that the Court of Appeal determined the transitional protections that protected older judges and firefighters from the public sector pension scheme changes in 2015, were unlawfully discriminatory. This case is known as the 'McCloud case'. Following the judgment, on 30 January 2019 the Government published a written statement that paused the HMT cost management process for public service pension schemes, pending the outcome of the application to appeal the McCloud case to the Supreme Court. On 8 February 2019, LGPS England & Wales Scheme Advisory Board (SAB) confirmed it had no option but to pause its own cost management process pending the outcome of McCloud.

On 27 June 2019 the Supreme Court denied the Government's request for an appeal in the McCloud case in respect of age discrimination and pension protection.

The SAB set up two working groups to work with MHCLG in developing and implementing the LGPS McCloud remedy.

On 16 July 2020 both HMT and MHCLG published consultations on the McCloud remedy. The consultations can be viewed at:

<https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>

and

<https://www.gov.uk/government/consultations/local-government-pension-scheme-amendments-to-the-statutory-underpin>

The MHCLG consultation proposes that a two-part revised underpin will apply to all members who meet the criteria for protection regardless of their age in 2012. The revised underpin will also apply to early leavers and will take account of early/late retirement adjustments. Membership up to the earlier of leaving, 2008 NPA or 31 March 2022 will be included in the calculation of the revised underpin.

The consultation closes on 8 October 2020, and our response is attached (Appendix 1)

Alongside publication of the McCloud consultation, HMT announced that the pause of the cost control mechanism will be lifted and the process will be completed "next year". The SAB will also re-examine its results from cost management process next year.

It has also been announced that there will be a review of the cost management process, however this will not effect the calculations completed in 2016 or 2020.

### 4.2 Consultation on restricting exit payments

On 10 April 2019 HM Treasury (HMT) opened a 12 week consultation called 'Restricting exit payments in the public sector: consultation on implementation of regulations'. The consultation documents can viewed on the [non-scheme consultation](#)

page of [www.lgpsregs.org](http://www.lgpsregs.org) (see 2019 drop down menu). The consultation closed on 3 July 2019.

On 21 July 2020 the Government published its response to this consultation, in which it confirmed its intention to proceed with this.

The Restriction of Public Sector Exit Payments Regulations 2020 were made on 14 October 2020 and came into force on 4 November 2020.

On 29 October 2020 HM Treasury published guidance on these regulations which can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/930246/Restriction\\_of\\_Public\\_Sector\\_Exit\\_Payments\\_Guidance\\_Document.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/930246/Restriction_of_Public_Sector_Exit_Payments_Guidance_Document.pdf)

MHCLG published a consultation on 7 September 2020 outlining the options that will be available to Local Government employees. The consultation can be viewed at:

<https://www.gov.uk/government/consultations/reforming-local-government-exit-pay>

In relation to LGPS members MHCLG are proposing that:

- Employers will be able to pay some of the early retirement strain cost by reducing any discretionary redundancy payment.
- Members will be able to take an actuarially reduced pension (using standard early retirement factors).
- Members will be able to elect for deferred benefits
- A Standard approach will be needed to calculate early retirement strain cost calculations.

The consultation closed on 9 November 2020 and our response can be found at Appendix 2.

As the Restriction of Public Sector Exit Payments Regulations 2020 have come into force before the LGPS Regulations have been amended there is a conflict between these regulations and the LGPS regulations if the cap is breached when an LGPS member age 55 or over exits. The LGPS regulations still require the member to take payment of an unreduced pension, but the exit cap regulations prevent the employer from paying the full strain cost. The Scheme Advisory Board's opinion that the course of action presenting the least risk to both LGPS administering authorities and scheme employers is for:

- LGPS administering authority to offer the member the opportunity to take a deferred benefit under LGPS regulation 6 or a fully actuarially reduced pension under LGPS regulation 30(5)
- Scheme employer to delay the payment of a cash alternative under regulation 8 of the Exit Cap Regulations.

#### 4.3 **Scheme Advisory Board's Good Governance Report**

Last year SAB commissioned Hymans Robertson to prepare a report on the

effectiveness of current LGPS governance models and to consider alternatives or enhancements to existing governance models which can strengthen the LGPS going forward.

On 31 July 2019 SAB published this report, which can be viewed at <http://lgpsboard.org/images/PDF/GGreport.pdf>.

The phase two report from the Working Groups to SAB was published in November 2019, which can be viewed at [http://www.lgpsboard.org/images/PDF/HymansRobertson\\_GoodgovernanceintheLGPS\\_Phase-II\\_November2019.pdf](http://www.lgpsboard.org/images/PDF/HymansRobertson_GoodgovernanceintheLGPS_Phase-II_November2019.pdf)

Phase three of this project will determine:

- The outcome measures it will use
- The format of this work, and
- A timetable for implementation.

The final report is expected to be presented to SAB by the end of February 2021.

#### 4.4 **Third Tier employers**

In June 2018 Aon presented members of SAB with a summary of the final draft of its report to review the current issues in relation to third tier employers participating in the LGPS.

The report did not make any recommendations, instead it outlined a range of issues raised by stakeholders and how they envisage these concerns being resolved. A working group has been set up by SAB but work has been put on hold due to competing priorities, in particular, work on the Board's cost cap arrangement.

#### 4.5 **SF3 data published**

On 4 November 2020, MHCLG published Local government pension scheme statistics (SF3 statistics) for England and Wales: 2019 to 2020.

Highlights include:

- total expenditure of £13.4 billion, an increase of 5.6% on 2018/19
- total income of £16.0 billion, an increase of 2.6% on 2018/19
- employer contributions increased by 7.7% on 2018/19, to £7.7 billion
- employee contributions of £2.3 billion
- the market value of LGPS funds in England and Wales on 31 March 2020 was £272.4 billion, a decrease of 5.1%
- 6.1 million scheme members at 31 March 2020, 2.0 million active members, 1.8 million pensioners and 2.2 million deferred members
- 88,232 retirements in 2019/20, an increase of 5.7% from 2018/19.

## 5 Other matters

### 5.1 Pensions Schemes Bill reintroduced

In the Queen's Speech on 19 December 2019 it was announced that the Government would reintroduce the Pension Schemes Bill. The Bill will strengthen the Pension Regulator's powers, create a legislative framework to support the pension dashboards, and introduce regulations covering the right to a transfer.

The Bill was introduced in the House of Lords and the second reading was on 28 January 2020 and was then moved to committee stage. Line by line examination of the Bill took place during the final day of committee stage on 4 March 2020. The report stage was completed on 30 June 2020 and the Bill completed its House of Lords stages on 15 July 2020.

The Bill was presented to the House of Commons on 16 July 2020 and the second reading was held on 7 October 2020. The Public Bill Committee have completed considering written evidence submissions and the Bill had its third reading in the House of Commons. The Bill will now go back to the House of Lords for its consideration of the amendments made by the House of Commons.

### 5.2 Money and Pensions Service - Pensions dashboard update

On 8 April 2020, the Money and Pensions Service (MaPS) published Pensions Dashboard Programme (PDP) – Progress Update Report. The MaPS intends to release a progress report every six months. The first report sets out:

- the pensions dashboard's goals and some of the challenges associated with delivery
- that Primary legislation will provide certainty about the requirements placed on schemes and the timescales for compliance
- the importance of secure and accurate identity verification
- the challenge of specifying a consistent set of data standards so that information from different schemes can be displayed consistently
- the need to identify when, in the staged on-boarding process, the dashboards should be made available to the public
- the focus of the Pensions Dashboards Programme over the coming months.

The MaPs published two further papers in April 2020, the Pensions Dashboards Data Definitions - Working Paper and the Pensions Dashboards Data Scope - Working Paper.

On 6 July 2020 a call for input was published on data standards required for pension dashboards.

On 28 October 2020 the PDP published its second progress report which sets out a time line for the development of dashboards. The next stage of the process is to build technology which will enable the public to view all their pensions via their chosen dashboard. It is expected that the first version of the data standard will be available in December 2020.

### 5.3 **Government confirms intention to increase minimum pension age**

In an answer to a parliamentary question on 3 September 2020, the Government confirmed that it still plans to increase the minimum pension age from 55 to 57 in 2028 and will legislate in due course.

### 6. **Recommendation**

It is recommended that the Local Pension Board note the report.

Local Government Finance Stewardship  
Ministry of Housing, Communities and Local Government  
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My Ref: TSM/TW

E-mail: pensions@wypf.org.uk

8 October 2020

Dear Sir

**Local Government Pension Scheme: Amendments to the Statutory Underpin**

I refer to the policy consultation opened on 16 July 2020 seeking comments on changes to the Local Government Pension Scheme (LGPS).

West Yorkshire Pension Fund (WYPF) welcomes the proposed changes, but have concerns whether would be in a position to carry out all remedies required in the proposed timescales. On behalf of WYPF I wish to make the following comments:

- **Question 1 – Do you agree with our proposal to remove the discrimination found in the McCloud and Sargeant cases by extending the underpin to younger scheme members?**

WYPF agree that the extension of the Underpin should remove the discrimination found in the McCloud and Sargeant cases.

- **Question 2 – Do you agree that the underpin period should end in March 2022?**

WYPF are pleased to have a cut off and feel that end of March 2022 is the appropriate date as this is 10 years from when members were made aware of the proposed changes to the LGPS.

- **Question 3 – Do you agree that the revised regulations should apply retrospectively to 1<sup>st</sup> April 2014?**

WYPF agree that the amendments to the underpin should be retrospective, as otherwise this will introduce un-equal treatment between different categories of members. However, rectifying cases in a timely manner could prove challenging and would expect guidance to be provided on which groups of members should be given priority.

- **Question 7 – Do you agree that members should not need to have an immediate entitlement to a pension at the date they leave the scheme for underpin protection to apply?**

WYPF agree that members should not need to have an immediate entitlement to a pension to qualify for an underpin, as this would mean that you are treating members differently, which could be challenged at a future later date.

- **Question 9 – Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?**

WYPF agree that members should meet the underpin qualifying criteria in a single scheme membership as this is how things currently stand and having to consider other Public Service Schemes rules would cause administration difficulties.

- **Question 10 – Do you agree with our proposal that certain active and deferred members should have an additional 12 month period to decide to aggregate previous LGPS benefits as a consequence of the proposed changes?**

WYPF feel that allowing members a further 12 months to aggregate previous periods of membership would be impossible to meet within this timeframe due to the potential numbers affected. Additionally, it would be a challenge to explain to a member how the underpin may ultimately affect their final pension benefits paid.

- **Question 13 – Do you agree with the two-stage underpin process proposed?**

WYPF agree with the two-stage underpin proposed, as until benefits become payable a member will not ultimately know what affect it will have to their pension benefits.

- **Question 16 – Do you agree that annual benefit statements should include information about a qualifying member's underpin protection?**

The main concern WYPF have with the proposal to provide underpin on an active member's Annual Benefit Statement is that they already contain a lot of information and also providing additional information may confuse some members, especially, as in some years an underpin may apply but not in other years.

- **Question 18 – Do you have any comments on the potential issue identified in paragraph 110?**

WYPF feel that this is a real issue and is similar to what can currently arise where members have reduction in pay protection. However, all that be done to mitigate is ensure this potential issue is to clearly communicate this to members and give members the choice of having the underpin uplift or not.

I trust you will find these comments useful. If you require any further information please do not hesitate to contact me.

Yours faithfully

*Tracy Weaver*

Technical Services Manager  
Phone: 01274 433571

Local Government Workforce and Pay Team  
Ministry of Housing, Communities and Local Government  
2nd Floor, Fry Building  
2 Marsham Street  
London  
SW1P 4DF

My Ref: TSM/TW

E-mail: pensions@wypf.org.uk

8 November 2020

Dear Sir

### **Reforming Local Government Exit Pay**

I refer to the consultation opened on 7 September 2020 seeking comments on the reform of exit payments in local government

West Yorkshire Pension Fund (WYPF) have some concerns with the proposed reforms as these appear to be going further than the introduction of the £95,000 exit payment cap, which I am not aware of is happening in the other public service sectors. On behalf of WYPF I wish to make the following comments:

#### **Question 1**

**Are there any groups of local government employees that would be more adversely affected than others by our proposed action on employer funded early access to pension?**

WYPF view is that more female members will be affected by the proposed reforms because they make up a greater proportion of the workforce affected by the changes. The proposals will also impact on those aged 55 or over and therefore will adversely affect older workers.

The proposal around the statutory redundancy pay being either deducted from the pension strain cost resulting in a lower pension for life, or paid to the employee and then paid into the pension fund in order to part-pay the strain on fund cost, even where the payments would not otherwise breach the £95,000 cap, will have a greater impact on lower paid workers, who are most in need of a cushion when made redundant. A greater proportion of those will be women and/or part-time workers. This is because their statutory redundancy pay entitlement will be closer to their actual pay than it will for higher paid workers whose weekly pay exceeds the cap on a week's pay for the purposes of calculating statutory redundancy pay. Therefore, the employer's strain on fund payment will, under this proposal, be reduced by a disproportionately greater percentage for lower paid workers than for higher paid workers. The option of forgoing the pension enhancement to instead receive an actuarially reduced pension and a discretionary redundancy payment under the employer's compensation arrangements will not in most cases mitigate that disproportionate impact. This is because in the great majority of cases, local authorities' discretionary compensation payments will not exceed the employer's strain on fund payment and statutory redundancy pay

#### **Question 2**

**What is the most appropriate mechanism or index when considering how the maximum salary might be reviewed on an annual basis?**

The most appropriate mechanism would be to link it to Consumer Price Index or the average increase in employees' earnings



### **Question 3**

**Are there any groups of local government employees that would be more adversely affected than others by our proposed ceiling of 15 months or 66 weeks as the maximum number of months' or weeks' salary that can be paid as a redundancy pay**

The proposed ceiling itself would not impact on most employees, but would be inconsistent with the calculation of statutory redundancy payment.

### **Question 4**

**Are there any groups of local government employees that would be more adversely affected than others by our proposal to put in place a maximum salary of £80,000 on which an exit payment can be based?**

As £80,000 is a significant salary in local government so this will affect the most senior positions. Considerable experience and skills will be required for such posts and so this will be more likely to affect older workers, and more of them who are likely to be male..

### **Question 5**

**Do you agree with these proposals? If not, how else can the Government's policy objectives on exit pay be delivered for local government workers?**

The original policy objective was to curb excessive exit payments in the public sector. The additional reform was about fairness and consistency across the public sector workforce, the other parts of which have, as yet, seen no changes. These new proposals will impact on all local government employees, before there has been any wider public sector reform and regardless of salary level.

The result will be a reduced pension going forward and only statutory redundancy pay to support them during a time in which older workers may find it increasingly difficult to find alternative employment. In particular, the provisions around statutory redundancy pay being either deducted from the pension strain cost resulting in a lower pension for life, or paid to the employee and then paid into the pension fund in order to part-pay the strain on fund cost will hurt the poorest paid who most need a cushion when made redundant.

### **Question 6**

**Do you agree that the further option identified at paragraph 4.8 should be offered?**

The option of deferring pension benefits and receiving a discretionary redundancy payment under the employer's discretionary severance scheme, rather than taking a reduced pension with statutory redundancy pay only, will be a flexibility that could assist some employees depending on their financial situation and it seems sensible that it should remain as an option.

### **Question 7**

**Are there any groups of local government employees that would be more adversely affected than others by our proposals?**

The proposals will adversely affect all employees over the age of 55 in the LGPS. Those with long service will be particularly affected because of the interrelationship between strain on pension fund payments and other discretionary and statutory redundancy payments. Purely, considering financial terms it may have a significant impact on higher earners and on lower paid workers who may have greater need for a financial cushion.

**Question 8**

**From a local government perspective, are there any impacts not covered at Section 5 (Impact Analysis), which you would highlight in relation to the proposals and/or process above?**

There is concern that a full impact assessment does not identify the greater proportionate impact that statutory redundancy pay being either deducted from the pension strain cost, resulting in a lower pension for life, or paid to the employee and then paid into the pension fund in order to part-pay the strain on fund cost, will have on lower paid and part-time workers.

**Question 9**

**Are these transparency arrangements suitably robust? If not, how could the current arrangements be improved?**

The transparency requirements in local government are established and would seem adequate

**Question 10**

**Would any transitional arrangements be useful in helping to smooth the introduction of these arrangements?**

As these reform proposals will have a dramatic effect on some employees who will be currently considering severance arrangements into their long-term planning we, therefore, feel transitional provisions would be appropriate.

I trust you will find these comments useful. If you require any further information please do not hesitate to contact me.

Yours faithfully

*Tracy Weaver*

Technical Services Manager  
Phone: 01274 433571



## Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to be held on 15 December 2020

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**Subject: McCloud – Effects on Local Government Pension Scheme (LGPS)**

### **Summary statement:**

In July 2020 the government released a long awaited consultation on applying the remedy to address the age discrimination inherent in the transitional protections that were adopted by the public service scheme in 2014.

This report details to work undertaken to date in anticipation of the regulations being made.

### **Recommendation**

The Local Pension Board note the report

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Rodney Barton  
Director

**Portfolio**

Report Contact      Caroline Blackburn  
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**Overview & Scrutiny Area**

## **1. Background**

- 1.1 In April 2014 a series of changes were made to the LGPS to reform the scheme's benefits structure. These changes were implemented as part of a wider project across Government to reform public service pensions, and put them on a more sustainable, affordable and fairer footing for the longer term.
- 1.2 In the LGPS these changes included:
  - Moving benefits from a final salary to a career average basis, and
  - Linking members' normal pension age with their State Pension age.
- 1.3 Transitional protections for members nearing retirement were implemented to ensure older workers would not be any worse off as a result of the reforms.
- 1.4 In the McCloud and Sargeant court cases the Court of Appeal found these transition protections directly discriminated against younger members. As a result, the Ministry of Housing, Communities and Local Government (MHCLG) have consulted on amendments to the statutory underpin, to reflect the Courts findings, by extending the underpin to younger members.

## **2. MHCLG Consultation**

- 2.1 MHCLG undertook a 12 week public consultation on proposals amending the LGPS to remove the unlawful age discrimination that arose from the protections associated with the introduction of the 2014 scheme reforms which were successfully challenged in the McCloud case.
- 2.2 WYPF submitted a response to the consultation. A copy of the response is attached to the LGPS update report. (Agenda item 4)
- 2.3 The anticipated changes present a significant challenge to administering authorities and to employers, not least of which will be a data collection exercise to enable the final salary underpin to be calculated.
- 2.4 Benefits accruing from 1 April 2022 will be career average for all members. The new underpin will require 2008 scheme pay to be recorded for some members for the next 40 years.

## **3. WYPF Actions**

- 3.1 The final regulations have not yet been made, however a Project Group has been set up internally to start and prepare for the work involved with the McCloud exercise. In addition, a similar exercise in relation to the Fire Pension Scheme has also been undertaken for all Fire Clients. The Fire exercise is referred to as Sargeant.

- 3.2 In the LGPS, the Government is proposing to provide eligible younger members with a protection equal to the protection provided to older members when the scheme was changed in 2014. To do this, we need to collect extra data (hours worked and service breaks) for all eligible members. This data is needed from the date the LGPS changed in April 2014 up to 31 March 2022 (or earlier if the member left active membership of the scheme or reached their 2008 Scheme Normal Pension Age before that date).
- 3.3 As the proposal is to change the regulations retrospectively from 1 April 2014, this will mean members records and benefits already awarded to eligible members will need to be revisited, including members already protected who have left active membership, or reached their 2008 scheme Normal Pension Age (to allow for different NPA in 2008 and 2014 schemes), unprotected members who have retired, left with deferred benefits, died, transferred out, or trivially commuted their benefits. Transfers in from public sector schemes will also need to be recalculated.
- 3.4 Initial indications suggest we will require additional data for over 70,000 members. Once we have received the data, it is anticipated that over 30,000 members benefits, which have already been awarded, will have to be checked against the new underpin requirements. (Please note these figures are for WYPF only. This exercise also needs to be undertaken for the other LGPS clients and Fire Clients).

Folder Status	Number of Entries
Active	40900 (approx.)
Deferreds	11972
Deaths	793
Pensioners	16135
Pensioner Deferreds	25
Transfers Out	1329
Leaver Options Pending (awaiting leaver forms)	279
Total non-active records requiring underpin check	30,533

- 3.5 We will be contacting employers to share a data capture template in the next few weeks. The template will be based on the MHCLG template and is being developed by our software provider.
- 3.6 Communication with employers has begun, with regular updates being placed on the WYPF website for employers.

#### 4. Recommendations

The Local Pension Board note this report

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## **Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to be held on 15 December 2020**

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**Subject: Register of Breaches of Law**

### **Summary statement:**

In accordance with the Public Service Pensions Act 2013, from April 2015 all Public Service Pension Schemes come under the remit of the Pensions Regulator.

Section 70 of the Pensions Act 2004 (the Act) imposes a requirement to report a matter to The Pensions Regulator as soon as is reasonably practicable where that person has reasonable cause to believe that:

- (a) a legal duty relating to the administration of the scheme has not been or is not being complied with, and
- (b) the failure to comply is likely to be of material significance to The Pensions Regulator in the exercise of any of its functions.

A Register of Breaches of Law is therefore maintained in accordance with the Pensions Regulator's requirements and WYPF Breaches procedure.

### **Recommendation**

It is recommended that the Local Pension Board note the entries on the Register of Breaches of Law.

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Rodney Barton  
Director

**Portfolio**

Report Contact      Caroline Blackburn  
Phone: (01274) 434523  
Email: caroline.blackburn@bradford.gov.uk

**Overview & Scrutiny Area**

## 1. **Background**

1.1 Section 70 of the Pensions Act 2004 (the Act) imposes a requirement to report a matter to the Pensions Regulator as soon as reasonably practicable where a person has reasonable cause to believe that:

- (a) a legal duty relating to the administration of the scheme has not been or is not being complied with, and
- (b) the failure to comply is likely to be of material significance to The Pensions Regulator in the exercise of any of its functions.

1.1 This requirement applies to:

- a trustee or manager of an occupational or personal pension scheme;
- a member of the pension board of a public service pension scheme;
- a person who is otherwise involved in the administration of an occupational or personal pension scheme;
- the employer in relation to an occupational pension scheme;
- a professional adviser in relation to such a scheme; and
- a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.

1.2 The Act states that a person can be subject to a civil penalty if he or she fails to comply with this requirement without a reasonable excuse. The duty to report breaches under the Act overrides any other duties the individuals listed above may have. However, the duty to report does not override 'legal privilege'. This means that, generally, communications between a professional legal adviser and their client, or a person representing their client, in connection with legal advice being given to the client, do not have to be disclosed.

## 2. **Reporting Breaches Procedure**

2.1 A record of past breaches may be relevant in deciding whether to report a breach (for example it may reveal a systemic issue). WYPF maintains a record of all reported or unreported breaches.

2.2 The Register of Breaches of Law (reported or otherwise) is provided to each Joint Advisory Group meeting, and is also be shared with the Pension Board.

## 4 **Breaches from April 2020**

The entries on the Register of Breaches for 2020/210 relate to the late payment of contributions or Annual Benefit Statements not sent out by the deadline of 31 August 2020. None are considered material, and therefore no report has been made to the Regulator.



## **5. Recommendations**

It is recommended that the Local Pension Board note the entries and action taken on the Register of Breaches.

## **6 Appendix**

- Appendix A – Register of Breaches 2020/21

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## Appendix A

Date	Category (eg administration, contributions, funding , investments)	Pensions Regulator code of practice	Description and cause of breach	Possible effect of breach and wider implications	Reaction of relevant parties to breach	Reported/Not reported	Outcome of report and or investigations	Outstanding Actions
April 20	<b><u>Administration</u></b> <b>Maintaining contributions</b>	147	Employee's pension contributions must be paid to the manager of the scheme by the 19th day of the month following deduction or by 22nd day if paid electronically.  <b>Please see schedule below for details of employers who failed to make payment by the appropriate date.</b>	Contributions not received by the scheme within the prescribed timescales	<b>Immediate action:</b> All employers have a designated business partner who contact each employer to make them aware of any late payment. Subsequent late payments incur an admin fee and are notified that further late payments may be reported to the Pensions Regulator.  <b>Continuing Action:</b> Employers are closely monitored. Records of each employer who fail to make payment each month are maintained along with details of the number of late payment occasions.	Not reported	All outstanding payments are chased up and all payments received	None
Sept 20	<b><u>Administration</u></b> <b>Issue of Annual Benefit Statements (ABS)</b>	189	Scheme regulations require an ABS be provided to each active member by the 31 August each year  At the 31 August 18 99.74% of statements had been sent out (95137/95382)	0.26% of active members will not have received their ABS within prescribed time limits	Only accurate ABS are sent out. Work is continuing to release ABS to be sent out as soon as the "block" has been cleared.	Not reported	Due to the improvement in the performance and the relative low numbers this breach is not regarded as of material significance	Outstanding ABS continue to be issues as soon as the ABS block has been resolved

## WYPF Breaches of the Law 2020 -2021

### Employers who failed to pay make pay over employees contributions by the appropriate date - April 2020 onwards

Month	Employer	Date contributions due	Date paid	Value of late contributions	No of times late in last 6 months prior to this month	No of times late in last 12 months prior to this month
April 20	St Anne's Community Services	19/05/20	10/06/20	196,707.53	0	0
	Feversham Primary Academy	19/05/20	02/06/20	5,370.79	0	0
	APCOA	19/05/20	03/06/20	969.76	0	0
May 20	Ilkley Grammar school	19/06/20	23/06/20	34,062.36	0	0
	Dixons Central Services	19/06/20	26/06/20	28,180.25	0	0
	Dixons Allerton Academy	19/06/20	26/06/20	20,798.08	0	0
	Dixons City Academy	19/06/20	26/06/20	19,863.25	0	0
	Dixons Kings Academy	19/06/20	26/06/20	9,851.26	0	0
	Dixons McMillan Primary	19/06/20	26/06/20	8,731.34	0	0
	Dixons Manningham Primary	19/06/20	26/06/20	5,703.28	0	0
	Dixons Marchbank Academy	19/06/20	26/06/20	8,791.34	0	0
	Dixons Chapletown Primary	19/06/20	26/06/20	5,438.27	0	0
	Dixons Music Primary	19/06/20	26/06/20	4,415.10	0	0
	Dixons Trinity Academy	19/06/20	26/06/20	9,766.53	0	0
	Dixons Unity	19/06/20	26/06/20	5,438.27	0	0
	Dixons Cottingley	19/06/20	26/06/20	11,100.93	0	0
	Mellors Cavendish Primary School	19/06/20	22/06/20	383.62	2	2

## WYPF Breaches of the Law 2020 -2021

<b>June 20</b>	South Hiendley Parish Council	19/07/20	29/07/20	132.55	0	0
<b>July 20</b>	Community Accord	19/08/20	26/08/20	371.58	0	1
<b>Sept 20</b>	South Hiendley Parish Council	19/09/20	02/10//20	138.6055	1	1
	Mellors Cavendish Primary School	10/09/20	22/09/20	408.50	0	0

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## Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to be held on 15 December 2020

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**Subject: Training**

**Summary statement:**

The training of Pension Board members to understand their responsibilities and the issues they are dealing with is a very high priority. Details of training courses, conferences and seminars listed may assist Board Members.

**Recommendation**

Consideration is given to attendance by Board Members at the events in Section 1 and members note the requirement to complete the Pension Regulators toolkit training.

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Rodney Barton  
Director

**Portfolio:**

Report contact: Caroline Blackburn  
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E-mail: [caroline.blackburn@wypf.gov.uk](mailto:caroline.blackburn@wypf.gov.uk)

**Overview & Scrutiny Area:**

## 1. Training Events

- 1.1 If any Pension Board member would like any specific training through one to one meetings with the in-house team, then this can be arranged.
- 1.2 Pension Board members should consider the following events.

### **LGC Investment & Pensions Summit**

3-5 March 2021 The Royal Armouries Museum, Leeds

Members can also make use of the LGA website where circulars, bulletins and updates are published on a regular basis.

<http://www.lgpsregs.org/index.php>

Barnett Waddingham presents training via live interactive webinars for LGPS Committee & Local Pension Board Members and for LGPS Officers. All sessions 10:15 to 14:45. Please email Alison Hall if interested [alison.hall@wypf.org.uk](mailto:alison.hall@wypf.org.uk)

26.01.21

26.04.21

Members can also make use of web based training.

### **Pensions Regulator toolkit**

It is the intention that all Pension Board members carry out the Pension Regulators toolkit training. Once completed a copy of the completion certificate should be given to the Technical and Development Manager.

The Trustee toolkit is a free, online learning programme aimed at trustees of occupational pension schemes.

The Trustee toolkit includes a series of online learning modules and downloadable resources developed to help you meet the **minimum** level of knowledge and understanding introduced in the Pensions Act 2004.

<https://trusteetoolkit.thepensionsregulator.gov.uk/>

Other online training is available at **Aberdeen Standard Life Learning Gateway**

Web based training provided by Aberdeen Standard Life

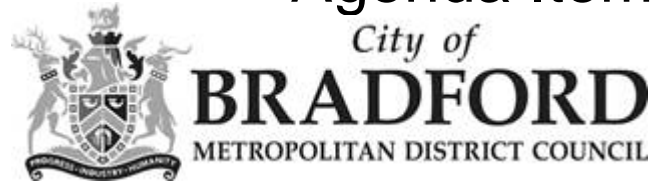
<https://www.aberdeenstandard.com/en/uk/adviser/investment-tools/learning-gateway>

## 2. Recommendations

Consideration is given to attendance by Board Members at the event in Section 1

Pension Board Members note the requirement to complete the Pension Regulators toolkit training.





## **Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to be held on 15 December 2020.**

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**This is a 'NOT FOR PUBLICATION' item as it falls within information relating to the financial and business affairs of the West Yorkshire Pension Fund as defined by Schedule 12A of the Local Government Act 1972 as amended**

**Subject: Minutes of West Yorkshire Pension Fund (WYPF) Investment Advisory Panel held on 30 July 2020.**

### **Summary statement:**

The role of the Pension Board, as defined by sections 5(1) and (2) of the Public Service Pensions Act 2013 is to assist the Council as Scheme Manager in ensuring the effective and efficient governance and administration of the Local Government Pension Scheme (LGPS) including securing compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS; securing compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and any other such matters as the LGPS regulations may specify.

The Minutes of meeting of WYPF Investment Advisory Panel are submitted to the Pension Board to enable the Board to ensure effective and efficient governance and administration of the LGPS.

### **Recommendation**

It is recommended that the Local Pension Board review the notes from the meetings.

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Rodney Barton  
Director

Portfolio:

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Overview & Scrutiny Area:

## **1. Appendix**

- Appendix A – NFP Notes of the meeting of 30 July 2020