City of BRADFORD METROPOLITAN DISTRICT COUNCIL

Report of the Director of West Yorkshire Pension Fund to the meeting of Joint Advisory Group to be held on 27January 2022

R

Subject: Local Government Pension Scheme Regulations update

Summary statement:

This report updates the Joint Advisory Group 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

Report Contact: Tracy Weaver
Phone: (01274) 433571
E-mail: tracy.weaver@wypf.org.uk

Portfolio:

[Insert where appropriate]

Overview & Scrutiny Area:

[Insert where appropriate]

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.

1.3 On 19 September 2021, the Government announced that the Ministry of Housing, Communities and Local Government (MHCLG) became the Department for Levelling Up, Housing and Communities (DLUHC).

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 DLUHC 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 On 20 March 2020 the LGPS (Amendment) Regulations 2020 came into force. 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.

3.4 The LGPS (Amendment) (No.2) Regulations 2020 came into effect from 23 September 2020. These regulations provide for new flexibilities that allow employer contributions to be reviewed between valuations, an exiting employer to enter into a Deferred Debt Agreement and an exit deficit to be paid in instalments. Following a consultation WYPF's Funding Strategy Statement has been updated to include policies on applying these new flexibilities.

3.5 DLUHC 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 remedy

On 16 July 2020 both HMT and MHCLG published consultations on the McCloud remedy. The MHCLG consultation closed on 8 October 2020.

On 13 May 2021 Luke Hall, the Local Government Minister made a written statement on McCloud and the LGPS. The statement confirms the key changes to scheme regulations that will be made to remove age discrimination from the LGPS.

DLUHC are expected to issue a full response to the consultation and to publish draft regulations in the near future.

On 19 July 2021 H M Treasury formally introduced to Parliament the Public Service Pensions and Judicial Offices Bill, which makes provision to rectify the unlawful age discrimination identified by the McCloud judgment.

For the LGPS, Chapter 3 of Part 1 confirms which members will be in scope and what service is ‘remediable’. Enabling legislation will allow for scheme regulations to be changed to implement the McCloud remedy.

The Bill has completed its passage through the House of Lords and is now at the Committee stage in the House of Commons.

4.2 Cost Control Mechanism

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 Scheme Advisory Board (SAB) will also be re-examining its results from its cost management process. It was also announced that there would be a review of the cost management process.

On 15 June 2021 the Government Actuary published his final report on his review of the cost control mechanism. The report splits the review into a two-stage framework.

On 24 June 2021 HM Treasury launched consultations on proposed changes to the cost control mechanism and the SCAPE discount methodology.

On 4 October 2021, HMT published its response to the Public Service Pensions: cost control mechanism consultation. The Government’s response confirms it will proceed with all three proposed reforms:

- moving to a reformed scheme only design so that the mechanism only considers past and future service in the reformed schemes. Costs related to legacy schemes are excluded
- the cost corridor will be widened from two per cent to three per cent of pensionable pay
- introducing an economic check so that a breach of the mechanism will only be implemented if it still would have occurred had the long-term economic assumptions been considered.

The Government is aiming to implement all three proposals in time for the 2022 valuations. It will work with the DLUHC and LGPS stakeholders to consider:

- the most appropriate way to implement the reformed scheme only design in the LGPS (including how to treat the underpin)
- whether it is desirable for the SAB process to be adapted in line with the principles of the economic check.

On 7 October 2021, HMT published the Public Service Pensions (Valuation and Employer Cost Cap) (Amendment) Directions 2021.

SAB published the outcome of its cost management process for the 2016 valuation on 15 October 2021. SAB agreed to spread McCloud costs over a 10 year period (rather than the 4 used by HMT) resulting in an outcome of 19.4% against a target cost of 19.5%.

Despite the slight shortfall in cost SAB agreed not to recommend any scheme changes, in particular citing the unwelcome impact of having to backdate any changes to April 2019 would have on already hard pressed administration teams. However SAB has set out its determination to revisit third tier ill health and contributions for the lowest paid members with the view to making recommendations in these areas separately to the cost management process.

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

In 2019 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. The phase two report from the Working Groups to SAB was published in November 2019.

When it met on the 8th February 2021 the SAB agreed that the Good Governance – Final Report should be published, and for the Chair to submit the Board's Action Plan to the Local Government Minister for consideration. SAB has now published its action plan and SAB are now waiting to see how DLUHC responds to its proposals.

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 **Publication of SF3 data for 2020 to 2021**

On 27 October 2021, DLUHC published Local government pension scheme statistics (SF3 statistics) for England and Wales: 2020 to 2021. Highlights include:

- total expenditure of £13.4 billion
- total income of £17.2 billion, an increase of 7.5 per cent on 2019/20

- employer contributions increased by 32.46 per cent on 2019/20 to £10.2 billion
- employee contributions of £2.4 billion
- the market value of LGPS funds in England and Wales on 31 March 2021 was £332.7 billion, an increase of 22.14 per cent
- there were 6.1 million scheme members on 31 March 2021, 2.0 million active members, 1.8 million pensioners and 2.2 million deferred members
- there were 82,567 retirements in 2020/21, a decrease of 6.4 per cent compared with 2019/20.

4.6 **Section 13 Report**

On 16 December 2021, DLUHC published GAD's report on the 2019 fund valuations. The report is required by section 13 of the Public Service Pensions Act 2013.

The Government Actuary's Department (GAD) found the scheme's financial position had strengthened since its previous review in 2016, on the back of buoyant investment returns between 2016 and 2019. Also, LGPS funds have made progress against the 2016 review recommendations. The main findings are:

- Compliance - fund valuations were compliant with relevant regulations.
- Consistency - funds implemented GAD's 2016 recommendation to provide a standard dashboard to aid readers when comparing of results for different funds. However, differences in methodology and assumptions do mean that a like for like comparison is not straightforward.
- Solvency - the size of pension funds has grown considerably more than local authority budgets since 2016, so there's an increased risk of strain on employers from any future funding changes.
- Long-term cost efficiency - where relevant, funds had generally acted on GAD's 2016 recommendations on operating plans to close any deficit funding gaps. GAD highlighted four funds they are concerned about the level or trajectory of employer contributions and the implications for taxpayers.

GAD's recommendations for funds or SAB to consider during the local valuations in 2022 include:

- improve consistency in the approach to assessing emerging and existing key issues, such as recent legal judgements and setting employer contributions for new academies
- ensuring deficit recovery plans can be demonstrated to be a continuation of the previous plan
- continue with ongoing improvements on transparency through an expanded valuation dashboard
- review the governance around asset transfer arrangements from local authorities.

5 Other matters

5.1 Pension Schemes Act 2021

Following completion of passage through Parliament of the Pensions Bill, on 11 February 2021 the Pension Schemes Act 2021 became law. However, the majority of provisions are not currently in force and regulations are needed to bring them into force and to provide detail about how they will work.

On 8 November 2021, the Government published its response to 'Pension scams: empowering trustees and protecting members' consultation. It also laid the regulations, which took effect from 30 November 2021.

These regulations introduce further legal restrictions to the member's statutory right to transfer. The regulations give schemes tools to act where suspicions about the circumstances that have prompted the transfer request are identified. It will no longer be a case that the member can insist on statutory transfer taking place in such circumstances. There are two key new measures, decision making and disclosure.

Other than transfers to public service schemes, master trusts and collective money purchase schemes, schemes must decide if there are any red flags present and whether there are any amber flags present. If there are red flags present a transfer must not be paid. If there are any amber flags present the transfer must be paused until the member can provide evidence that they have received pension scams guidance from MoneyHelper.

On the same day the Pensions Regulator published guidance to help schemes understand their new powers to halt suspicious transfers.

5.2 Money and Pensions Service - Pensions dashboard update

On 27 May 2021, the Pensions Dashboard Programme (PDP) launched a call for input on staging. The purpose of the call for input was to gather feedback and insight from pension schemes that will inform Government policy on staging. PDP is recommending that all public service pension schemes should be onboarded in the initial wave – a two-year period starting from April 2023. The call for input closed on 9 July 2021.

PDP received just over 60 responses to the call for input from a variety of stakeholders. These will be used to feed into further policy development of pension dashboards.

Chris Curry, Principal of PDP, announced in October 2021 that draft regulations on pensions dashboards are expected to be published in the near future

On 7 December 2021, the Pensions Administration Standards Association published initial guidance on the choice of data matching convention schemes must make ahead of their compliance with the upcoming pensions dashboards legislation. The guidance details how every pension scheme must choose how they wish to compare 'find requests' from dashboard users against the member records they hold. Choice of matching will depend on the accuracy of the personal data held by Schemes, across all of their deferred and active member records.

On 15 December 2021, PDP announced that it has selected three potential dashboard providers to take part in initial development of the dashboards ecosystem: Aviva, Bud and

Moneyhub. In addition to the Money and Pensions Service's non-commercial dashboard, the PDP will work with these companies to support the early work on design standards and technology.

On 16 December 2021, the Pensions and Lifetime Savings Association published an A to Z industry guide containing decisions that are required to make the initial pensions dashboards a success. The guide is intended to help the people engaged with preparing for pensions dashboards understand the key issues to be assessed and resolved.

.5.3 The Pensions Regulator Consultation on a new Code of Practice

On 17 March 2021 the Pensions Regulator (TPR) published a consultation a new code of practice.This consultation focuses on the draft content for the first phase of its new code of practice. The new code consists of 51 shorter, topic-based modules and will replace 10 of its existing codes of practice, which mainly deal with the governance and administration of pension schemes.

TPR has published an interim response to the new code of practice consultation. Responses to the consultation included around 10,000 individual answers. TPR has issued the interim response to allow time to consider these responses and to incorporate code content arising from the Pension Schemes Act 2021 into the new code.

TPR does not have a firm publication date for the new code, but it is unlikely to become effective before summer 2022.

5.4 Second Review of State Pension Age

DWP launced the second review of the State Pension Age on 14 December 2021. The review will consider if the State Pension Age (SPA) rules are still appropriate based on the latest life expectancy data and other evidence. Two independent reports will be commissioned as part of the review:

- the Government Actuary will provide a report assessing the appropriateness of SPA considering the latest life expectancy projections
- Baroness Neville-Rolfe will provide a report on other relevant factors including recent trends in life expectancy and other metrics.

6. Recommendation

It is recommended that the Joint Advisory Group note the report.