City of BRADFORD METROPOLITAN DISTRICT COUNCIL

Report of the Director of West Yorkshire Pension Fund to the meeting of West Yorkshire Pension Fund Pension Board to be held on 13 September 2022

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Subject: Local Government Pension Scheme Regulations update

Summary statement:

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

EQUALITY & DIVERSITY:
Not Applicable

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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.

On 19 July 2021 HM 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.

On 10 March 2022, the Public Service Pensions and Judicial Offices Act 2022 received Royal Assent. The main purpose of the Act is to give the relevant government departments the regulatory powers to resolve the discrimination identified in the McCloud judgment.

DLUHC are expected to issue further consultations later in the year to make the necessary changes to the LGPS Regulations 2013.

4.2 Cost Control Mechanism

Alongside publication of the McCloud consultation, HMT announced that the pause of the cost control mechanism would be lifted. The Scheme Advisory Board (SAB) also said it would 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.

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.

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.

GAD has now published cost cap valuation reports for all 20 public service pension schemes and it has confirmed that no changes to member benefits or contributions are required as a result of these reports.

However, on 4 July 2022, the Fire Brigades Union and the British Medical Association were given permission to judicially review the UK Government's decision to include the McCloud remedy costs in the 2016 cost control valuations. The cases will be heard together. Though the case will look at the firefighters' and NHS pension schemes, the outcome may have an impact on the LGPS. This is because the first cost control valuations in the LGPS also included the McCloud remedy costs.

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 **Publication of Scheme Annual Report 2021**

On 13 June 2022 SAB published the Scheme's annual report 2021.

The report provides a single source of information about the status of the LGPS for its members, employers and other stakeholders. The report collates information supplied by 86 administering authorities, as at 31 March 2021. Highlights include:

- total membership grew by 1.08 per cent from 6.160 million to 6.226 million
- total assets increased to £342 billion - a rise of 23.4 per cent
- local authority net return on investment from 1 April 2020 to 31 March 2021 was 20.56 per cent - reflective of market conditions
- a positive cash-flow was maintained overall, including investment income • over 1.8 million pensioners were paid
- COVID-19 significantly impacted life expectancy - with a drop of 0.9 years and 0.5 years for males and females respectively (2019 figures versus 2020)
- total management charges increased by £196 million, an increase of 12.9 per cent - primarily driven by a rise in investment management charges, while administration, oversight and governance costs remained broadly stable.

4.5 **Statotory Guidance on Special Severance Payments**

On 12 May 2022, DLUHC published statutory guidance on special severance payments. Best Value authorities in England must have regard to the guidance in circumstances in which it may be appropriate to make special severance payments. The guidance confirms that:

- strain cost related to the early payment of LGPS benefits under regulation 30(6) or (7) (flexible retirement, redundancy or efficiency retirement over age 55) does not constitute a special severance payment

- strain cost of awarding additional pension under regulation 31 of the LGPS Regulations 2013 may constitute a special severance payment, depending on the terms of the individual's contract 5
- strain cost related to waiving an actuarial reduction when a member retires under regulation 30(5) may constitute a special severance payment, depending on the terms of the individual's contract

4.6 Government's Academy Guarantee

In 2013, the Government introduced the academy guarantee. The guarantee provides that, in the event of an academy closing, any outstanding liabilities will not revert to the LGPS fund.

After a reassessment, the Government confirmed on 21 July 2022 in a written ministerial statement that it will continue to provide the academy guarantee. The annual ceiling will also increase to £20 million.

Although there is no end date to the guarantee, the Government is committed to regularly reassessing it to determine whether it remains affordable and is fully recognised by administering authorities

5 Other matters

5.1 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.

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.

On 31 January 2022 DWP published a consultation on the draft Pensions Dashboards Regulations 2022. The purpose of the consultation is to seek views on a range of policy questions relating to the creation on pensions Dashboards.The consultation closed on 13 March 2022.

The DWP launched a further consultation on pension dashboards on 28 June 2022. The further consultation sets out two proposals. The first proposal provides clarity on the 'Dashboard Available Point' (DAP). The second proposal allows the Money and Pensions Service and the Pensions Regulator to share information about dashboards with each other. The consultation closed on 19 July 2022.

On 4 July 2022, the Pensions Administration Standards Association published the Dashboard Accuracy Data Guidance. The guidance highlights the importance of regularly testing data for accuracy. This is particularly important for data that pension schemes will use when matching requests from the dashboards. The guidance provides information on how schemes could test their data and what data sources they could use

On 14 July 2022, DWP responded to the consultation on the draft Pensions Dashboards Regulations. DWP has also published a summary of the key policies. The summary reflects the response to the consultation.

The key area of the response that affect LGPS administering authorities is the staging deadline for the LGPS and all other public service pension schemes will be deferred from 30 April 2024 to 30 September 2024.

On 19 July 2022, the PDP launched a consultation on dashboard standards and guidance, and a call for input on the design standards. Both the consultation and the call for input will close on 30 August 2022. Following this call for input, a consultation on the final design standards will run for six weeks.

5.2 **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.

5.3 Second Review of State Pension Age

DWP launched 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.

On 7 January 2022, DWP published the terms of reference for the independent report to be led by Baroness Neville-Rolfe.

Between 9 February 2022 and 25 April 2022 DWP consulted on a call for evidence, which seeked views on what metrics should be considered when setting the State Pension Age.

DWP is due to publish the outcome of the review in May 2023.

5.4 Call for evidence - helping savers understand their pension choices

On 14 June 2022, the Department for Work and Pensions (DWP) launched a Call for Evidence entitled: ‘Helping savers understand their pension choices’.

The call for evidence explores what support pension scheme members need to help them make informed decisions about how to use their savings.

The consultation closed on 25 July 2022.

5.5 Technical consultation on resolving low earners tax relief anomaly

On 20 July 2022, HMRC launched a technical consultation on draft legislation that aims to resolve the tax relief anomaly. The consultation closes on 14 September 2022.

The proposed changes will be included in the next Finance Bill. The tax relief anomaly affects pension scheme members who earn less than the personal allowance. Whether the member receives any tax relief on their pension contributions depends on the tax relief method used by their scheme. The scheme will either use the ‘net pay arrangements’ or the ‘relief at source’ method.

Under the ‘net pay arrangements’, pension contributions are deducted before income tax is calculated. This means that tax relief is equal to the member’s marginal rate. For members whose income is below the personal allowance, the rate is zero per cent. Under the ‘relief at source’ method, low earners do receive tax relief on their contributions. The LGPS uses the ‘net pay arrangements’. The legislation proposes placing a duty on HMRC to make top up payments directly to eligible members. Eligible members are members who pay into a scheme that uses the ‘net pay arrangements’ and whose total taxable income is below the personal allowance. HMRC will identify and notify eligible members and invite them to provide the necessary details for the top up payment to be paid direct to their bank account. The duty will apply for the tax year 2024/25 onwards.

5.6 **Joint Statement on transfer regulations**

On 5 July 2022, TPR and the DWP issued a joint statement on the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021.

The statement responds to concerns expressed about how the regulations are being applied. In particular, where overseas investments or small-scale incentives feature in the transfer. The concern is that the regulations are causing low-risk transfers to be blocked or delayed. The statement reminds pension schemes that it was not intended for the regulations to capture transfers that previously caused no concern.

The DWP will consider the concerns when it next reviews the regulations. Also to address the concerns, TPR has updated its guidance on the regulations.

OTHER CONSIDERATIONS

None

6. FINANCIAL & RESOURCE APPRAISAL

None

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

None

7. LEGAL APPRAISAL

None

8. OTHER IMPLICATIONS

8.1 SUSTAINABILITY IMPLICATIONS

None

8.2 GREENHOUSE GAS EMISSIONS IMPACTS

None

8.3 COMMUNITY SAFETY IMPLICATIONS

None

8.4 HUMAN RIGHTS ACT

None

8.5 TRADE UNION

None

8.6 WARD IMPLICATIONS

None

8.7 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

None

8.8 IMPLICATIONS FOR CORPORATE PARENTING

None

8.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESEMENT

None

9. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

None

10. RECOMMENDATION

It is recommended that the Pension Board note the report.

11. APPENDICES

None