Lancashire Local Pension Board
Meeting to be held on Tuesday, 20 April 2021

Electoral Division affected:
(All Divisions);

Regulatory Update

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Executive Summary

This report sets out an update on various pension related regulatory issues to assist Board members to exercise their functions as a member of the Pension Board effectively.

Recommendation

The Board is asked to consider and note the contents of the report.

Background and Advice

1. Restricting exit payments in the public sector (95k Cap)

The Restriction of Public Sector Exit Payments Regulations 2020 ('the exit cap regulations') were signed on 14 October 2020 and came into force on 4 November 2020.

As previously reported in regulatory updates to the Board this had effectively created conflicts between the exit cap regulations and the Local Government Pension Scheme (LGPS) regulations and as a result these provisions were due to be legally challenged and heard on 24 and 25 March 2021. As a result, the Ministry of Housing Communities and the Local Government had put on hold any changes to the LGPS regulations until the Judicial Reviews had been heard.

However, the Government have now determined to disapply the cap following the issue of the Exit Cap Directions 2021 on 12 February 2021. As such exits from 12 February 2021 are no longer subject to the cap. The position for exits that occurred before 12 February 2021 and after 4 November 2020, where benefits have been paid that were subject to the £95k cap, are covered under the Restriction of Public Sector Exit Payments (Revocation) Regulations 2021 which came into force on 19 March 2021. The regulations are not retrospective, but they do require employers to pay the difference between any exit payment they made since 4 November 2020 that was restricted because of the exit cap, plus interest.

For the Lancashire County Pension Fund, it has been confirmed that no actual retirements were processed which breached the £95k cap during this time period, and any estimates provided have been recalculated where necessary.

In terms of the next steps the Government has indicated that it still intends to reintroduce measures to limit public sector exit payments. The expectation is that the exit payment cap and LGPS amendments will be introduced at the same time following further consultation, to avoid a repeat of the legal uncertainty recently experienced by LGPS Funds.

2. Review of employer contributions and flexibility on exit payments and Employer Risk

As reported in the last update to the Board the Local Government Pension Scheme (Amendment) (No.2) Regulations 2020 introduced “deferred debt” provisions, allowing employers to continue to participate in the Fund as ongoing employers after their last active member leaves in order to manage an exit payment that may be due, additionally other flexibilities were introduced to manage employer exits from the Pension Fund.

In relation to this the Fund has now developed a policy around the deferred debt provisions and also made associated changes to the Fund's Admissions and Termination Policy. These were presented to the Pension Fund Committee on 12 March 2021 where it was agreed that a short consultation would take place with Scheme Employers with a report on the outcome to be presented to the Committee in June.

Additionally, it should be noted that the Ministry of Housing Communities and the Local Government and the Scheme Advisory Board have recently produced guidance around preparing and maintaining policies on reviewing employer contributions, employer exit payments and deferred debt agreements. The guidance documents were prepared following input from a working group of practitioners and various parties including the Fund's actuary Mercers. The final guidance is therefore in line with the Fund's expectations and policy as set out in the consultation.

With effect from the 1 April 2021 the employer risk function moved back to the in-house Pension Fund team at the County Council. The functions that have moved include employer admissions and cessations, bulk transfers, college mergers and employer covenant checks and security. Julie Price joined the team on 1 March 2021 as a Senior Technical Officer to assist Colin Smith in dealing with this new work.

A review of scheme employer security is now underway which will assess the exposure of the Fund should employers terminate and be unable to pay the cessation debt that may be due. The first phase will look at employers who have admission agreements but without guarantors. Where appropriate, employers will be asked to provide security which might normally be in the form of a bond or property charge.

3. McCloud

On 16 July 2020, the Ministry of Housing Communities and the Local Government published a consultation on amendments to the statutory underpin. The consultation outlined proposed changes to the LGPS in England and Wales to remove the unlawful age discrimination found by the Courts in relation to public service pension scheme ‘transitional protection’ arrangements.

As a background the proposed changes would mean that a revised underpin protection that will apply to all members, regardless of their age, who were active members of the LGPS on 31 March 2012, build up benefits in the 2014 Scheme and do not have a disqualifying break.

In order to calculate if an underpin addition applies, Funds will need hours and service break data for all qualifying members for the period from 1 April 2014 to the earliest of 31 March 2022. To assist this process a "McCloud implementation group" made up of representatives from the Local Government Association have recently produced a number of documents for administrators and employers to assist with data collection exercises.

The documents are available on the Administrator guides and documents page at www.lgpsregs.org

The Fund remains in dialogue with the Local Pensions Partnership and are reassured on this point that the required data has continued to be collected from employers post 1 April 2014.

Further clarity on the timing for the final LGPS regulations is expected shortly. Statutory guidance is also expected to be provided alongside the regulations to cover issues such as Fund priorities in implementing the remedy.

4. Good Governance

On 15 February 2021, the Scheme Advisory Board published the Good Governance: Phase 3 Report which was produced by the Hymans Robertson project team. This follows phase 2 of the Good Governance report where it was recommended that oversight be in the form of a biennial independent governance review for every fund which will provide an expert arms-length assessment of their governance arrangements, thereby improving accountability. There are also proposals to introduce the Local Government Association peer review programme to the LGPS to further facilitate sharing of best practise.

The latest Phase 3 report provides further detail on the following recommendations:

- **The LGPS senior officer**

This relates to a single named officer who is responsible for the delivery of LGPS activity for a fund. The report covers the core functions of the role, the personal competencies needed to fulfil the role successfully and how the role could be incorporated into different organisational structures.

- **Conflicts of interest**

All administering authorities should publish a conflicts of interest policy that is specific to the LGPS. That policy should cover how it identifies, monitors and manages any conflicts. The report includes more detail on what LGPS specific areas should be covered by the policy.

- **Representation**

Each administering authority must publish a policy on how scheme members and non-administering authority employers are represented on its committees. This should include the reasoning behind that policy.

- **Skills and training**

Introduces a requirement for key individuals, such as pension fund committee members and section 151 officers, to have the appropriate level of knowledge and understanding to carry out their duties efficiently. The administering authority must publish a training strategy that sets out its policy on delivery, assessment and recording of training plans.

- **Service delivery**

Regulation change to make it compulsory for an administering authority to publish an administration strategy.

- **Key performance indicators**

Focus on ensuring that each administering authority has defined service standards and has the governance in place to monitor those standards.

- **Business planning process**

The senior officer and pension fund committee must be satisfied with the resource and budget allocated to administer the LGPS each year. Required expenditure should be based on the business plan for the coming year, not the budget for the previous year with an inflationary increase.

At the Scheme Advisory Board meeting on 8 February 2021, it was agreed that the Board’s Good Governance Action Plan would be submitted to the Local Government minister for consideration. The Action Plan sets out:

• changes that the Ministry for Housing, Communities and Local Government could take forward by amending regulations or producing statutory guidance

• work associated with the changes made by the Ministry for Housing, Communities and Local Government that could be done by the Scheme Advisory Board or other bodies

• actions that the Scheme Advisory Board can take to improve governance and administration immediately, regardless of which changes are progressed by the Ministry for Housing, Communities and Local Government.

5. 2021/22 employee contribution bands

The new employee contribution bands, effective from 1 April 2021 have been agreed and are set out below. They are calculated by increasing the 2020/21 employee contribution bands by the September 2020 CPI figure of 0.5 per cent and then rounding down the result to the nearest £100.

Band	Salary Range	Contribution Rate MAIN Section	Contribution Rate 50/50 Section
1	£0 to £14,600	5.5%	2.75%
2	£14,601 to £22,900	5.8%	2.9%
3	£22,901 to £37,200	6.5%	3.25%
4	£37,201 to £47,100	6.8%	3.4%
5	£47,101 to £65,900	8.5%	4.25%
6	£65,901 to £93,400	9.9%	4.95%
7	£93,401 to £110,000	10.5%	5.25%
8	£110,001 to £165,000	11.4%	5.7%
9	£165,001 or more	12.5%	6.25%

6. Consultation: Implementing the increase to the minimum pension age

In 2014, the Government consulted on increasing the normal minimum pension age from 55 to 57 from 6 April 2028 as part of the Freedom and choice in pensions consultation. On 11 February 2021, HM Treasury published "Increasing the normal minimum pension age: consultation on implementation". The current consultation re-confirms the Government's commitment to increasing the normal minimum pension age. The increase will not apply to members of the firefighters', police and armed forces pension schemes.

The consultation seeks views on:

• the implementation of the rise in normal minimum pension age

• protections for pension scheme members who have a right under scheme rules to take benefits before age 57 and who at the date of this consultation will be protected from the increase in normal minimum pension age.

7. Budget 2021

The Chancellor delivered the Budget on 3 March 2021. The main area affecting the LGPS was the fact that the lifetime allowance will be frozen at £1,073,100 until the end of the 2025/26 tax year. As the allowance is not reducing, the Government has confirmed that there is no need for transitional protection regimes.

8. Update on cost control mechanisms

On the 4 February the Government announced updates on the 2016 valuations and cost control mechanism and set out the following commitments:

• the cost control element of the 2016 valuations will now be completed including the cost of implementing the McCloud remedy

• there will be no reduction to member benefits as a result of completing the 2016 valuation if the cost ceiling is breached

• if the cost floor is breached, this will be honoured by implementing increases in benefit accrual and/or reductions in member contributions from 1 April 2019.

The Scheme Advisory Board has confirmed that discussions on their own cost management arrangement for the LGPS in England and Wales will remain paused until HM Treasury publishes a final version of the Directions to be used for the 2016 valuation.

9. Consultation response - Guaranteed Minimum Pension indexation

HM Treasury had consulted on three options for ensuring that public service pension scheme members reaching their state pension age on or after 6 April 2016 continue to have their pension payments fully indexed and equalised. The three options were:

- Extending full indexation by public service pension schemes to cover members reaching state pension age before 6 April 2024. This would give time to give more thought to Guaranteed Minimum Pension (GMP) conversion as a long-term solution and implement it if it is the right solution.
- Extending full indexation by public service pension schemes to cover members reaching state pension age up to and beyond 5 April 2024, perhaps up to March 2030. This would allow even more time.
- Discounting GMP conversion as a long-term policy solution and making full GMP indexation the permanent solution for public service pension schemes.

HM Treasury has now published its consultation response and has chosen the third option, with the result that public service pension schemes will be directed to provide full indexation to people with a GMP who reach State Pension age after 5 April 2021.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

No significant risks have been identified

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact
N/A		

Reason for inclusion in Part II, if appropriate

N/A