

Lancashire Local Pension Board

Meeting to be held on Tuesday, 30 April 2019

Electoral Division affected:
(All Divisions);

Regulatory Update

Contact for further information:

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Executive Summary

This report sets out an update on various pension related regulatory issues to assist members of the Pension Board 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

Regulatory Update

1. Cost Cap update

As reported in the last regulatory update to the Board, as a result of the cost management process undertaken by the Scheme Advisory Board it was anticipated that a consultation would be published in late January/early February 2019 in order that any regulation changes agreed could take effect from 1 April 2019. The proposed regulatory changes to be included in that consultation included improvements to ill health benefits, death in service benefits, early retirement reduction factors and employee contributions.

However, currently there is an on-going court case which concerns the transitional protections given to scheme members in public sector schemes, who in 2012 were within 10 years of their normal retirement age. On the 20th December 2018 the Court of Appeal found that these protections were unlawful on the grounds of age discrimination and could not be justified. As a result should the finding of the Court of Appeal stand then significant changes to public service schemes may be required to compensate those members found to have been discriminated against. Depending on extent and cost of these changes there could be a material impact on the outcome of the cost cap process

As a result the Scheme Advisory Board confirmed it had no option but to pause its own cost management process pending the outcome of the case. Consequently there are currently no changes to benefits planned in respect of the cost management process (either the LGPS process or HM Treasury process) from 1 April 2019. This situation will be reviewed once the case is resolved, which is not expected for some months.

In terms of costing for the current valuation Administering Authorities were asked about their preference regarding the approach to the 2019 valuation in the light of Cost Cap and court case – do administering authorities want to receive guidance from the Scheme Advisory Board on how cost management should be taken account of in the 2019 triennial valuation exercise, or do they want no central guidance and make local decisions on what approach to take?

The deadline for responses was 1 March 2019 with around 70 responses received. The majority, including Lancashire, confirmed that they preferred to receive guidance from the Scheme Advisory Board designed to promote a consistent approach, and work has now begun on producing the guidance.

2. Employee Contribution Bands 2019/20

The table below sets out the contribution bands, which are now effective from 1 April 2019. These are based on the pay bands for 2018/19 as increased by the September 2018 CPI figure of 2.4%, with the result rounded down to the nearest £100.

Band	Salary Range	MAIN Section	50/50 Section
		Contribution %	Contribution %
1	£0 to £14,400	5.5%	2.75%
2	£14,401 to £22,500	5.8%	2.9%
3	£22,501 to £36,500	6.5%	3.25%
4	£36,501 to £46,200	6.8%	3.4%
5	£46,201 to £64,600	8.5%	4.25%
6	£64,601 to £91,500	9.9%	4.95%
7	£91,501 to £107,700	10.5%	5.25%
8	£107,701 to £161,500	11.4%	5.7%
9	£161,501 or more	12.5%	6.25%

3. Fair Deal – Strengthening pension protection - Consultation

As reported previously this consultation was launched on the 10th January 2019 and contained proposals to strengthen the pension protections that apply when an employee of a LGPS employer is compulsorily transferred to the employment of a service provider. The proposed amendments to the LGPS Regulations 2013 would, in most cases, give transferred staff a continued right to membership of the LGPS and introduces the notion of a 'deemed' employer. These changes are intended to bring the LGPS in line with the government's October 2013 Fair Deal guidance that applies in relation to transfers from central government.

The consultation closed on 4 April 2019. A copy of the Lancashire Fund's response is provided at Appendix A.

4. Consultation on implementation of late retirement factors

This relates to actuarial factors uplifting a members benefits where they retire after their normal retirement date.

The proposals include a change in methodology as well as a change in factors which is intended to remove the 'cliff edge' that was the result of the last factor change in January 2017 for some members. The change of methodology and subsequent cost to the Fund is considered to be neutral actuarially.

The consultation will close at 4pm on Wednesday 17 April 2019.

5. Exit credits

In December 2018, the Local Government Association asked administering authorities for information about exit credits that have been paid since this was introduced into the regulations on 14 May 2018. We confirmed that to date the Lancashire Fund had not paid any.

The payment of exit credits is causing issues, particularly where there is a side contractual agreement in place with the employer and also where contractors are no longer extending contracts but are looking to terminate the contract and re-bid in order to receive payment of an exit credit.

MHCLG have confirmed they will consult on a retrospective change to the regulations to provide that, where an employer bears no risk, this can be taken into account in the calculation of an exit credit payment.

6. Exit Payment reform

Following the launch of the original consultation on exit payment reform nearly four years ago, on 10th April 2019 HM Treasury announced a further consultation on limiting exit payments for public sector workers. The full documents can be found [here](#). This consultation will run for twelve weeks and will close on 3 July.

The key points in the latest consultation are as follows:

- No change from the earlier proposal that the maximum exit payment will be £95,000.
- The cap will apply to a wide range of public sector employers, including employees of councils in England and Wales, fire authorities, police forces, academies and maintained schools. It will not generally apply in Scotland, and there are some limited categories of public servants in Wales which are exempt. It remains to be seen whether it is extended to Scotland in due course.
- The £95,000 cap will include the value of any early retirement strain payments, and it is envisaged that the ability to take an unreduced early retirement pension will therefore be severely restricted in some cases.
- Certain employers in the LGPS e.g. Universities and Colleges appear not to be covered which will mean members would be treated differently within the LGPS depending on their employer on exit.
- As previously indicated, there will be provisions for the cap to be waived in some circumstances. However, the tone of the consultation makes clear that any waiver is expected to be the exception rather than the norm, and that there is a “high bar” for them to be justified (e.g. subject to ratification by the full council in relation to a local authority).
- Clearly there will be some details to be ironed out in relation to the LGPS in England and Wales (and possibly Scotland in due course). We expect the MHCLG will run a separate consultation, and which will cover amongst other things the agreement and implementation of a common costing methodology and factors for strain payments.

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/Tel
Appendix A - Fair Deal	04/04/2019	Colin Smith 01772 534826

Consultation response

Reason for inclusion in Part II, if appropriate
N/A