Lancashire Local Pension Board
Meeting to be held on Tuesday, 19 January 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 the last update this effectively means there is a conflict between the exit cap regulations and the LGPS regulations when a scheme member aged 55 or over is made redundant (including business efficiency dismissals and where an employer waives an actuarial reduction under regulation 30(8)) and the total exit payment exceeds £95,000.

The LGPS regulations require the member to take payment of an unreduced pension, but the exit cap regulations prevent the employer from paying the full strain cost. This will be the cases for any exits that occur from 4 November 2020 and the date the LGPS regulations are amended in respect of scheme employers in scope of the cap and where the exit cost for the member exceeds £95,000.

On 28 October 2020 Luke Hall MP wrote to the Chief Executives of Councils and LGPS administering authorities concerning the implementation of the exit payment cap. The Minister's recommended course of action in cases where the cost of an exit including pension strain cost would exceed the £95,000 cap is that LGPS members in that position should be able to elect to receive an immediate but fully reduced pension or, if they do not so elect, a deferred pension plus a lump sum equal to the capped strain cost.

On the 30 October 2020 the Scheme Advisory Board, having obtained legal advice, set out their opinion on the course of action that presents the lowest risk when the cap is breached in respect of an LGPS member aged 55 or over. In their view, the risks are lowest if the:

• administering authority offers the member a choice between deferred benefits or a fully reduced pension; and

• delay payment of a cash alternative under regulation 8 of The Restriction of Public Sector Exit Payments Regulations 2020.

This approach, they state, allows the maximum flexibility for the administering authority and the capped employer to minimise the financial risks associated with a legal challenge from the scheme member.

The Lancashire County Pension Fund has adhered to the advice provided by the Scheme Advisory Board and have advised the Local Pensions Partnership Administration (LPPA) that any cases received for employers in scope of the cap, can be released where the exit costs are clearly under the cap and termination dates are not beyond 31 March 2021. Additionally in calculating the pension strain for employers in scope the Fund have advised that these should be calculated based on the new GAD factors. A spreadsheet developed by the Fund actuaries has been provided to LPPA for the purpose of calculating that pension strain.

All other cases for employers out of scope of the exit cap continue to be calculated as normal using the pension strain calculated by the altair software tool in line with the assumptions agreed with the Fund Actuary.

The provisions referred to above are currently subject to legal challenge and three applications for judicial review have been accepted covering 15 grounds (including substantial LGPS content). These will be heard together on 16/17 March 2021 and the Ministry of Housing, Communities and the Local Government has confirmed that the wider reforms will be put on hold until these outcomes are known. There have already been some claims for release of pensions which currently sit with the Pension Ombudsman who has indicated that no adjudication will be made whilst this legal action is pending.

As such the Fund will revisit advice provided to the Local Pensions Partnership once more information and the effect of the current legal challenges become clearer.

2. Review of employer contributions and flexibility on exit payments

The Local Government Pension Scheme (Amendment) (No.2) Regulations 2020 were implemented from 23 September 2020. This legislation introduced “deferred debt” provisions, which allow 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.

Recently the Fund has determined that the Employer risk function currently undertaken by Local Pensions Partnership will, with effect from 1 April 2021, transfer back to the Fund's in house team. As part of this change the Fund will be working more closely with the Fund Actuary particularly in monitoring the strength of scheme employers. As part of this the Fund will also be developing a policy around the deferred debt provisions and incorporate this into the Fund's admissions and termination policy.

Draft guidance has also been prepared regarding these employer flexibilities. This was prepared by the Scheme Advisory Board (SAB) in conjunction with representatives from administering authorities and scheme employers. The purpose of the guide will be to provide operational and practical assistance to administering authorities and employers when implementing employer flexibilities introduced by the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2020 and this is expected to be issued very shortly.

3. SF3 data published

On 4 November 2020, the Ministry of Housing, Communities and the Local Government published their Local government pension scheme statistics (SF3 statistics) for England and Wales: 2019 to 2020. This collection brings together all statistics on the local government pension scheme in England and Wales. A copy can be viewed at the following link.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932430/LGPS_England_and_Wales_2019-20.pdf

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%
- there were 6.1 million scheme members on 31 March 2020, 2.0 million active members, 1.8 million pensioners and 2.2 million deferred members
- there were 88,232 retirements in 2019/20, an increase of 5.7% compared with 2018/19.

4. Pensions Increase

On 21 October 2020, the Office for National Statistics announced the Consumer Prices Index (CPI) rate of inflation for September 2020 as 0.5%.

This is generally the basis on which increases to pensions in payment and the revaluation of active member pension accounts are made. We await confirmation from Government that the revaluation and pensions increase that will apply to LGPS active pension accounts, deferred pensions and pensions in payment in April 2021 will be 0.5%, normally confirmed in law in March each year.

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
N/A		

Reason for inclusion in Part II, if appropriate

N/A