Lancashire Local Pension Board
Meeting to be held on Tuesday, 19 October 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. MHCLG becomes DLUHC

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

2. Stronger nudge to pensions guidance consultation

A recent Department of Work and Pensions consultation which ended on 3 September 2021, focussed on draft regulations that will require occupational pension schemes, in most situations, to engage further with members aged 50 or above applying to access or to transfer out their benefits for the purposes of accessing their benefits.

The regulations will require pension schemes to explain the nature and purpose of Pension Wise guidance and facilitate the booking of a Pension Wise appointment as part of the application process. The regulations will also require the member to have confirmed that they have received the guidance or opted out of receiving it before the scheme can action the application.

The intention of the draft regulations would appear to have been aimed at Occupational and personal pension schemes rather than public sector schemes. However, it would appear to capture LGPS members who also have AVCs. The

Local Government Association have raised concerns as to whether this is intentional and if so the practicality of requiring schemes to book Pension Wise appointments on behalf of members.

3. Draft legislation following the Consultation on Implementing the increase to the minimum pension age

On 11 February 2021, HM Treasury published "Increasing the normal minimum pension age: consultation on implementation".

On 20 July 2021, HM Treasury published their response to that consultation and on the same day, HMRC published a policy paper and draft legislation. The draft legislation will be part of the next Finance Bill and will amend the Finance Act 2004. The legislation increases the minimum pension age from 55 to 57 on 6 April 2028 and provides for protected pension ages.

Though the Finance Act 2004 will provide for protected pension ages, it will be up to DLUHC whether, in the Scheme's rules, to allow LGPS members to receive payment of benefits between 55 and 57. In previous legislation when the minimum pension age shifted from 50 to 55, although protected LGPS members could still draw benefits from age 50, those payments were classed as unauthorised and subject to a tax charge.

The response confirms two changes to the position set out in the original consultation:

- if a member qualifies for a protected pension age in a pension scheme and transfers those benefits into a different scheme which also contains a protected pension age, the member will retain their protected pension age in the receiving scheme. The retained protection will, however, not apply on other benefits the member has in the receiving scheme: the transferred-in benefits will need to be ringfenced.
- there will be a window to allow individuals to join pension schemes which offer a protected pension age lasting up to 5 April 2023.

4. McCloud

The McCloud judgement, requires changes so that a revised underpin protection 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.

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

For the LGPS, the bill 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 and it is now expected that the Department for

Levelling Up, Housing and Communities will publish draft regulations later this year, with an expectation that scheme regulations would come into force on 1st April 2023.

5. Interim response to new code of practice consultation

The Pensions Regulator has published an interim response to the new single code of practice consultation. Responses to the consultation included around 10,000 individual answers.

The proposed code of practice, combining 10 codes of practice into a single code, contains greater detail on several topics, such as cyber security and new modules on matters including stewardship and climate change.

Due to the level of responses The Pensions Regulator has issued the interim response to allow time to consider these responses and does not currently have a firm publication date for the new code, but it is unlikely to become effective before summer 2022.

There was some concern in responses from public service schemes that it wasn't always clear if a module applied to them and the Pensions Regulator has indicated this is something that will be resolved in the online version.

6. Governance and Administration Survey 2020–21 results

The Pensions Regulator published the results from the Public Service Pension Scheme Governance and Administration Survey 2020-21 on 1 July 2021.

The survey was conducted online between January and March 2021 and aims to track governance and administration practices among public service pension schemes. The 2020-21 survey also included new questions on response to the pandemic, pensions dashboards and, for LGPS respondents, action taken in relation to climate-related risks and opportunities.

The survey found little change since 2019 for the key processes that The Pensions Regulator monitors as indicators of performance. Two-thirds of LGPS administering authorities who responded to the survey had all six processes in place. The six key processes are:

- having a documented policy to manage board members' conflicts of interest
- having access to the knowledge, understanding and skills needed to properly run the scheme
- having documented procedures for assessing and managing risk
- having processes to monitor records for accuracy and completeness

• having a process for resolving contribution payment issues

• having procedures to identify, assess and report breaches of the law.

The results also show improvements in risk management processes, cyber controls and the proportion of members receiving their annual benefit statement on time.

The Pensions Regulator has confirmed that they intend to conduct the next survey towards the end of 2022.

This topic is also covered in a separate agenda item issued to the Pension Board as part of these papers.

7. Public service Pensions: cost control mechanism consultation response

As reported at the last board meeting 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.

However separately the Government had committed to reviewing the cost control mechanism and a report setting out their response and proposals was published on 4 October 2021.

The Government response has highlighted three areas of reform for future cost control exercises.

Future exercises will mean that:

- The cost control mechanism will adopt a reformed scheme only design: to remove any allowance for legacy schemes in the mechanism so it only considers past and future service in the reformed schemes;
- The cost corridor will be widened: from +/-2% to +/-3% of pensionable pay;
- An economic check will be introduced: linked to expected long-term GDP so that a breach of the mechanism (and therefore benefit changes) would only be implemented if it would still have occurred had long-term economic assumptions been considered.

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
None		

Reason for inclusion in Part II, if appropriate

N/A