

TEESSIDE PENSION FUND

Administered by Middlesbrough Council

AGENDA ITEM 7

TEESSIDE PENSION BOARD REPORT

20 FEBRUARY 2023

DIRECTOR OF FINANCE – HELEN SEECHURN

Update on Current Issues

1. PURPOSE OF THE REPORT

- 1.1 To provide Members of the Teesside Pension Board (the Board) with an update on current issues affecting the Pension Fund locally or the Local Government Pension Scheme (LGPS) in general.

2. RECOMMENDATIONS

- 2.1 That Members note this report.
- 2.2 That Members agree that the Head of Pensions Governance and Investments issues a response to the consultation as set out in 5.4 below.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no specific financial implications in respect of the information contained in this report.

4. COST CONTROL CONSULTATION

- 4.1 As Members will be aware, the benefit structure of the Local Government Pension Scheme (LGPS) was last radically reformed in 2014, taking it from a scheme providing a pension of 1/60th of final salary to one that (going forwards) provides a pension of 1/49th of career average pay. When these changes were introduced the Government put in place two 'cost control' mechanisms designed to ensure the cost of providing the scheme benefits remained within a specific range. One is scheme-specific and is run by the LGPS Scheme Advisory Board (SAB), the other is applied by HM Treasury, which applies a cost control mechanism across all public service pension schemes. The concept behind cost control is that if the scheme looks to be significantly cheaper than expected in the long run the benefits can potentially be increased and/or member contributions reduced or conversely if the scheme looks to be significantly more expensive than expected in the long run future benefits will potentially be reduced and/or member contributions increased.

- 4.2 So far, the mechanism has produced some potentially surprising outcomes – assessments are carried out every four years, with the first undertaken as at 31 March 2016. This showed that the cost of the scheme was below target, mainly because of a reduction in assumed future pay increases and a reduction in assumed life expectancy. This would have led to an increase in scheme member benefits and/or a reduction in scheme member contributions if the whole process had not been put on hold while the outcome of the legal challenge in relation to the McCloud case was resolved. This case resulted in the Government making a commitment to extend the protections put in place when the new LGPS was introduced to cover scheme members of all ages, not just older scheme members as that original approach was deemed to be unlawful discrimination. As the Government determined that the cost of correcting this discrimination should be a ‘scheme member cost’ the final assessment of the cost of the scheme under the cost control mechanism was that it fell within appropriate parameters and the scheme benefits should not be changed.
- 4.3 The Government is facing a legal challenge from trade unions in relation to deciding the cost of remedying the discrimination should be a scheme member cost. The outcome of this court case is not yet known and, should it be appealed to the Supreme Court, may not be finalised until towards the end of this year
- 4.4 In the meantime the Government has issued this latest consultation on changes to the cost management process with the intention of better aligning the two cost control mechanisms that apply to the LGPS by updating the SAB mechanism to align with the HM Treasury cost control valuations and give the SAB more flexibility in how it manages any cost variations. A copy of the consultation document is enclosed at Appendix A.
- 4.5 Hymans Robertson, the Fund’s actuary, has stated that it will respond to the consultation and share its response with administering authorities. Given the technical nature of this subject matter it is appropriate for the Fund to take the actuary’s comments into account before deciding whether to produce a response. The closing date for the consultation is 24 March 2023.

5. CHANGE TO REVALUATION DATE CONSULTATION

- 5.1 When the LGPS moved to a career average scheme in 2014, under the regulations governing the scheme the pension an individual earns is revalued on 1 April every year in line with the annual Consumer Prices Index (CPI) as at the previous September. The tax year runs from 6 April to 5 April and it is the growth in the value of an individual’s pension benefits over this period that is measured against the ‘annual allowance’ (currently set at £40,000) – if an individual exceeds this annual allowance they are potentially liable to a tax charge on the excess.
- 5.2 In order to allow for individuals’ benefits increasing in line with inflation, this is taken into account when calculating whether someone has exceeded the annual allowance. Unfortunately, the slight difference between revaluation date in the LGPS (the 1 April)

and the start of the tax year (the 6 April) leads to a mismatch and an earlier year is used when determining the increase in benefits that is permitted without incurring a tax charge. This year, owing to an increase in CPI from 3.1% in September 2021 to 10.1% in September 2022, that mismatch is significant and means many more individuals in the LGPS will be subject to an annual allowance charge as the allowance for inflation for determining whether they will exceed the annual allowance will be 3.1% but their career average LGPS benefits will increase by 10.1%.

- 5.3 The Government is proposing to correct this by moving the revaluation date in the LGPS to 6 April each year (bringing it in line with the tax year) and making other consequential amendments to ensure nobody is disadvantaged by this proposed change. This should ensure the number of people impacted by the annual allowance charge is more in line with that for a normal year, and should also prevent this issue arising in future.
- 5.4 The consultation document is enclosed at Appendix B. There is a tight timescale for this consultation, this is necessary as administration and software changes will be required to implement it before the April revaluation. The consultation was issued on 10 February with responses due by 24 February. The Head of Pensions Governance and Investments will discuss the practicalities of this proposed change with XPS Administration and will issue a response to the consultation.

6. INVESTMENT POOLING – POTENTIAL WITHDRAWAL OF A LONDON BOROUGH

- 6.1 It has been widely reported in the pensions press that the Royal Borough of Kensington and Chelsea (RBKC), which is nominally part of the London CIV pool, is considering formally withdrawing from the London CIV. This is significant as it would represent the first time an LGPS administering authority had withdrawn from an investment pool and as such is a potential challenge to the Government's pooling agenda.
- 6.2 At the time of writing this report it is not clear whether RBKC will vote to leave the London CIV. It should be noted that although the fund had around £1.5 billion in assets it appears none is invested in any of the London CIV's funds, instead it invests its equities through passive vehicles and its other assets via other managers. Nevertheless RBKC has been paying a governance charge for membership of the London CIV.
- 6.3 Should a decision be taken to leave, the response from the Government will be closely watched. However, it could be argued that RBKC has not been meaningfully participating in pooling for the last three years and no Government action has been forthcoming.

7 FUTURE CONSULTATIONS

7.1 A number of consultations in relation to the LGPS are expected from the Government in the coming months – several of these have been awaited for some time. The current list includes the following:

Expected regulations	Description
McCloud regulations	The Government has agreed that regulations will change to remove the illegal age discrimination identified by the courts in the McCloud case. The practical impact for the LGPS is that the ‘underpin’ introduced to ensure older scheme members were not worse off when the final salary scheme was changed to a career average scheme will be extended to cover all ages. Detailed regulations are needed on this and a consultation on these is expected soon.
Goodwin regulations	The Government has also conceded, following the Goodwin court cast, that discrimination in survivor benefits should be removed in certain circumstances. Legislation was promised in July 2020 and is still outstanding.
Pooling guidance	Updated statutory guidance and/or regulations in relation to asset pooling are long overdue.
Good Governance	The Government has accepted the recommendations of the Good Governance review carried out by the Scheme Advisory Board. As yet no regulations or guidance on this has been forthcoming
Anti- Boycotts, Divestments and Sanctions	The 2022 Queen’s speech included a commitment to introduce a ‘Boycotts, Divestment and Sanctions Bill’ – to ensure “Legislation will prevent public bodies engaging in boycotts that undermine community cohesion.” The purpose of such a Bill is to deliver the Government’s manifesto commitment to stop public bodies from adopting their own approach to international relations. If and when this legislation appears it will potentially have an impact on the way LGPS Funds can and can’t make investment decisions.

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Teesside Pension Board Work Plan		
Date of Board meeting and any standard items scheduled	Suggested areas of focus (from the Pensions Regulator's list)	Suggested activities (from the Scheme Advisory Board guidance)
July 2021 Draft Report and Accounts		
November 2021 Annual Review of Board Training	Pension board conflict of interest	Review the arrangements for the training of Board members and those elected members and officers with delegated responsibilities for the management and administration of the Scheme
February 2022	Reporting breaches Maintaining contributions Reporting duties	Review procurements carried out by Fund
April 2022 Annual Board Report	Internal controls and managing risks	Review the complete and proper exercise of employer and administering authority discretions.
July 2022 Draft Report and Accounts	Record keeping Resolving internal disputes	Review performance and outcome statistics Review handling of any cases referred to Pensions Ombudsman
November 2022 Annual Review of Board Training	Regulator Code of Practice Gap Analysis	Review the outcome of actuarial reporting and valuations.
February 2023		Review the outcome of actuarial reporting and valuations.
April 2023 Annual Board Report	Communicating to members Publishing scheme information	Review standard employer and scheme member communications
July 2023 Draft Report and Accounts		