

TEESSIDE PENSION FUND
Administered by Middlesbrough Council

AGENDA ITEM 10

TEESSIDE PENSION BOARD REPORT

19 APRIL 2021

DIRECTOR FINANCE – IAN WRIGHT

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.

3. FINANCIAL IMPLICATIONS

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

4. REGULATIONS IMPOSING £95,000 EXIT CAP REVOKED

- 4.1 The government has a long-standing manifesto commitment to restrict the level of payment that can be made to individuals leaving the public sector to under £100,000. In November 2020 regulations came into effect that would cap the maximum payment made to (or in respect of) someone leaving Local Government Pension Scheme (LGPS) employment at £95,000. However, these regulations were problematic as when they were introduced they directly contradicted existing LGPS regulations which have not yet been updated. This anomaly, and some concerns about the consultation process, meant the government was facing several judicial reviews in relation to the introduction of the capping regulations, and these were due to be heard from March 2021.
- 4.2 Before these judicial reviews could be heard, on 12 February 2021 the government announced that it was revoking the LGPS £95,000 cap regulations and subsequently clarified that anyone who had been subject to the cap since they took effect (on 4 November 2020) should have their benefits recalculated and paid without any cap applying.

4.3 This is seemingly just a pause in the implantation of a cap on exit payments, as the guidance revoking the cap regulations included the following statement:

“For the avoidance of doubt, it is still vital that exit payments deliver value for the taxpayer and employers should always consider whether exit payments are fair and proportionate. HM Treasury will bring forward proposals at pace to tackle unjustified exit payments.”

4.4 It seems likely that further regulations will be brought forward that introduce a similar cap on exit payments, presumably at the same time as wider reform of LGPS exit payments is put in place.

4.5 Employers in the Fund had already been advised to act with caution in respect of any payments made to individuals who were subject to the £95,000 cap. XPS has advised that they are not aware of anyone who has left employment from a Fund employer since 4 November 2020 who would have been subject to the (now revoked) £95,000 cap regulations.

5. SCHEME ADVISORY BOARD – GOOD GOVERNANCE REVIEW FINAL REPORT

5.1 The Scheme Advisory Board (SAB) has published its final report on Good Governance in the LGPS, and has also issued an action plan to the government giving its recommendations on improving the governance of the LGPS. A copy of the report is enclosed at Appendix A.

5.2 Most of the recommendations in the report build on those included in the earlier report that the SAB produced, which was presented to the 22 January 2020 Pension Fund Committee. The recommendations made in the report are as follows:

- A.1 MHCLG will produce statutory guidance to establish new governance requirements for funds to effectively implement the proposals below. (“the Guidance”).
- A.2 Each administering authority must have a single named officer who is responsible for the delivery of all LGPS related activity for that fund (“the LGPS senior officer”).
- A.3 Each administering authority must publish an annual governance compliance statement (GCS) that sets out how they comply with the governance requirements for LGPS funds, as per statutory Guidance. This statement must be co-signed by the LGPS senior officer and S151.
- B.1 Each fund must produce and publish a conflicts of interest policy which includes details of how actual, potential and perceived conflicts are addressed within the governance of the fund, with specific reference to key conflicts identified in the Guidance.
- B.2 The Guidance should refer all those involved in the management of the LGPS, and in particular those on decision making committees, to the guide on statutory and fiduciary duty which will be produced by the SAB

- C.1 Each fund must produce and publish a policy on the representation of scheme members and non-administering authority employers on its committees, explaining its approach to voting rights for each party.
- D.1 Introduce a requirement via the Guidance for key individuals within the LGPS, including LGPS officers and pensions committees, to have the appropriate level of knowledge and understanding to carry out their duties effectively.
- D.2 Introduce a requirement for s151 officers to carry out LGPS relevant training as part of CPD requirements to ensure good levels of knowledge and understanding.
- D.3 Administering authorities must publish a policy setting out their approach to the delivery, assessment and recording of training plans to meet these requirements.
- D.4 CIPFA should be asked to produce appropriate guidance and training modules for s151 officers.
- E.1 Each administering authority must document key roles and responsibilities relating to the LGPS and publish a roles and responsibilities matrix setting out how key decisions are reached. The matrix should reflect the host authority's scheme of delegation and constitution, and be consistent with role descriptions and business processes.
- E.2 Each administering authority must publish an administration strategy.
- E.3 Each administering authority must report the fund's performance against an agreed set of indicators designed to measure standards of service
- E.4 Each administering authority must ensure their committee is included in the business planning process. Both the committee and LGPS senior officer must be satisfied with the resource and budget allocated to deliver the LGPS service over the next financial year.
- F.1 Each administering authority must undergo a biennial Independent Governance Review and, if applicable, produce the required improvement plan to address any issues identified. IGR reports to be assessed by a SAB panel of experts.
- F.2 LGA to consider establishing a peer review process for LGPS Funds.

5.3 Assuming the government adopts these recommendations, some of the most significant changes affecting our Fund will be:

- A more detailed conflicts of interest policy will be required
- A requirement for all officers and Committee members involved in the LGPS to have an appropriate level of knowledge and understanding to carry out their roles effectively
- The Fund's performance against nationally set indicators on governance and administration should be reported.
- The Fund's governance should be subject to a biennial governance review.

6 INCREASING THE NORMAL MINIMUM PENSION AGE: CONSULTATION ON IMPLEMENTATION.

- 6.1 Her Majesty's Treasury (HMT) published a consultation document on 11 February 2021 confirming the government's commitment to increase the minimum pension age from 55 to 57 (with some limited exceptions) from 6 April 2028.
- 6.2 The consultation seeks views on the implementation of the increase to the minimum pension age and the proposed protections for existing members. As set out in the consultation, the proposed protections would mean those scheme members who remain in active scheme membership after the 2028 cut-off date would continue to be able to draw their pension benefits from as early as age 55, but they would lose this protection if they left employment before drawing their benefits.
- 6.3 The closing date for the consultation is 21 April 2021. The Local Government Association has said it will share a draft response to the consultation with LGPS Funds before the closure date. This response is expected to cover any relevant LGPS-specific issues that need raising.

7 THE PENSIONS REGULATOR: CONSULTATION ON NEW SINGLE CODE OF PRACTICE

- 7.1 The Pensions Regulator (TPR) has issued a consultation on a new code of practice setting out how it provides advice and guidance. A copy of the consultation document is enclosed as Appendix A. The full suite of documents can be found at the following link:
<https://www.thepensionsregulator.gov.uk/en/document-library/consultations/new-code-of-practice>
- 7.2 The new code consolidates ten existing codes of practice, including the main one that currently applies to the LGPS (Code of Practice 14 – Governance and Administration of Public Service Pension Schemes) into a single modular on-line code that will apply to all UK pension schemes.
- 7.3 Not all of the new code applies to the LGPS, and some others are recommended best practice, not strictly required by law. Appendix 1 of the consultation document is a table identifying how the elements of the new code apply to the public sector (including the LGPS), whether they are existing requirements, new requirements, best practice recommendations or do not apply to that type of scheme.
- 7.4 New and best practice modules applying to the LGPS include:
- Administration modules – covering operational procedures, documentation of these will be key, as will ensuring the new module on cyber controls is adequately addressed.
 - The Governing Body modules – new modules are 'Recordings of meetings and decisions made' and 'Managing advisers and service providers'. Best practice modules include 'Remuneration policy' recommending a published policy covering key personnel running the scheme and 'Continuity planning'.

- Communications and disclosure modules – new requirements on principles for member communications (clear, accurate, concise), use of technology and steps for mitigating scam risk.
- Investment governance and monitoring modules – best practice modules covering documenting objectives, maintaining knowledge and skills, obtaining advice, decision-making processes, monitoring risks, adviser performance and procedures for monitoring investments.
- Stewardship and Climate Change modules – not identified as best practice for the LGPS but the module wording is clear that LGPS funds should follow the principles. Funds should as a minimum be assessing the risks and opportunities associated with climate change in relation to both assets and liabilities.

7.5 The consultation runs until 26 May 2021. The Local Government Association (LGA) has stated it will be responding to the consultation and sharing its response in advance of submission. The Head of Pensions Governance and Investments will assess whether a separate response on behalf of the Fund is necessary, and will consult with the Chair of the Pension Fund and the Director of Finance before making any submission. Work will commence on analysing the Fund's level of compliance with the new draft code and this will continue once the code is finalised.

8. NEXT STEPS

8.1 Further updates will be provided periodically.

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