

**Pension Fund Committee**

**Date:** 18 October 2018

**Report by:** Head of Pensions

<b>Subject:</b>	<b>Governance and Compliance Report</b>
<b>Purpose of the Report</b>	<p>To provide the Pension Fund Committee with:</p> <ol style="list-style-type: none"> <li>1) Information on potential, new or amending legislation affecting the LGPS;</li> <li>2) Information on other pensions legislation;</li> <li>3) Activities of the LGPS Scheme Advisory Board and the Pensions Regulator;</li> <li>4) Information on issues concerning the governance of the Local Government Pension Scheme (LGPS) on a national and local basis; and</li> <li>5) Skills and knowledge opportunities.</li> </ol>
<b>Recommendations</b>	<b>That the Pension Fund Committee notes the content of the report.</b>
<b>Enquiries to:</b>	<p>Jo Walton – Governance and Regulations Manager, LGSS Pensions  E-mail: <a href="mailto:jwalton@northamptonshire.gov.uk">jwalton@northamptonshire.gov.uk</a></p>

**1. Background**

- 1.1 This is a standing report that identifies issues concerning the governance of the Local Government Pension Scheme (LGPS) and also potential, new, amending and overriding legislation that will have an impact on how the Scheme is managed and on members' benefits.

**2. Contracted-out reconciliation**

- 2.1 The national exercise to reconcile the Fund's member contracted-out liabilities with that compared with Her Majesties Revenue and Customs (HMRC) records must be completed by December 2018 and there will be no facility to raise queries after 31 October 2018. Most importantly, HMRC also confirmed that the October 2018 deadline is for 'follow up/final queries', suggesting that it would not be appropriate to leave the submission of 'first time around' queries until October 2018.
- 2.2 HMRC have raised concerns regarding the progress Local Government Pension Scheme (LGPS) administering authorities are making towards the completion of the reconciliation exercise. HMRC have reported that 24 administering authorities have raised less than 10% of potential queries of which 12 authorities have raised no queries.

2.3 ITM Limited, who are raising queries on behalf of the Fund, have confirmed that they are on course to raise all queries with HMRC in advance of the 31 October 2018 deadline.

2.4 Further details on the progress made towards completing this reconciliation can be found in the Business Plan Update to be presented at this meeting.

### **3. The Local Government Pension Scheme (Amendment) Regulations 2018 ([SI 2018/493](#))**

3.1 These Regulations amend The Local Government Pension Scheme Regulations 2013 and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 came into force on 14 May 2018. The significant changes are as follows.

3.1.1 Under CARE regulations a fund employer may substitute a higher level of pensionable pay where the prescribed calculation of assumed pensionable pay produces a lower level of pay than the member would normally have received. Employers should consider whether they wish to do this and, if they do, whether to do so back to 1 April 2014; once decided their discretionary policy should be amended accordingly.

3.1.2 Where the liabilities of an employer exiting the fund are fully funded and there is a surplus of assets in the fund, the fund is required to pay an exit credit to the exiting employer rather than retain the surplus as was the case prior to the 14 May 2018 amendment. HMRC later confirmed that there will be no tax charge on payment of the exit credit and that there is no requirement for the scheme administrator of the pension scheme (or sub-scheme administrator of the sub-scheme) to report the payment to HMRC”.

3.1.3 Deferred members whose active membership ended before 1 April 2014 have, from 14 April 2018, the opportunity to take early payment of their benefits as early as age 55 without requiring employer consent. Such payment can only be made at age 55 for those that left before 1 April 1998, later leavers can take early payment at any time between age 55 and their normal retirement date.

3.2 Scheme members and employers were notified of these changes in line with the requirements of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

### **4. Written Ministerial Statement**

4.1 In a Written Ministerial Statement on the 6 September 2018, the Chief Secretary to the Treasury, Elizabeth Truss, announced details of the quadrennial valuation of the public service pension schemes in England and Wales.

4.2 In the case of the funded LGPS, the scheme advisory board operates an additional cost cap process. In accordance with agreed policy, this will be allowed to complete before the HM Treasury cost control mechanism is tested. It is not therefore possible at this stage to give an indication of what the outcome might be.

4.3 If the Scheme Advisory Board’s (SAB) cost control process results in a recommendation that changes to the scheme should be made, and the government accepts the Board’s recommendations, the Treasury’s cost cap process will be adjusted to take the new scheme design into account.

- 4.4 The Chief Secretary also announced that the scheme valuation under the Treasury's cost cap process should be moved from the current triennial cycle to quadrennial in line with other public service scheme valuations (although this is not be confused with local fund valuation).
- 4.5 Discussions with MHCLG and actuarial advisers are due to take place to consider the implications of this change for local fund valuations.
- 5. Outcome of Walker v Innospec Limited and others – implications for public service pension schemes**
- 5.1 It has been publicised on the Teachers' Pension Scheme website that following the Government's consideration of the implications for public service pension schemes of the outcome to the Walker (Appellant) v Innospec Limited and others (Respondents) case, regulatory changes will be introduced to provide that:
1. survivors of same-sex marriages and civil partnerships are to be treated in the same way as widows of opposite sex marriages (survivor benefits in relation to service from 1 April 1972 or 6 April 1978 if the marriage was after the last day pensionable service); and
  2. the change applies from the date civil partnerships and same-sex marriages were implemented.
- 5.2 Interestingly, that the same treatment is not being extended to widowers (male survivors of opposite sex marriages).
- 5.3 The Ministry of Housing, Communities and Local Government (MHCLG) have confirmed that they are currently considering their position to determine what recommendation they will make to Ministers on how to proceed with regards to the LGPS.
- 6. Elmes v Essex update**
- 6.1 On 31 July 2018, the Judge presiding over the Elmes v Essex case published his final conclusions on his ruling that the requirement to nominate a person under regulation 24 and 25 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 is incompatible with Article 1 of the first protocol to, and Article 14 of, the European Convention on Human Rights.
- 6.2 The conclusions support the Fund's decision to pay a cohabiting partner's pension where the member left the LGPS between 1 April 2008 and 31 March 2014 (and died before 1 April 2014) without a nomination form, provided the cohabiting partner criteria are met.
- 6.3 The Judge's conclusion can be found at the following link:  
<http://lgpslibrary.org/assets/bulletins/2018/175App3.pdf>
- 7. Cold-calls from fraudsters claiming to be from the Pensions Regulator**

- 7.1 On the 17 July 2018, the Pensions Regulator (TPR) published a press release concerning fraudsters who may be trying to steal the savings of workers by falsely claiming to be calling from TPR.
- 7.2 TPR has received reports of pension holders being cold-called by individuals who have posed as TPR staff offering the workers a 'free pension review'. TPR have confirmed that this is a common warning sign of a scam as TPR never cold-call individuals about their pensions. TPR has reported the cases to the Information Commissioners Office (ICO) for investigation and will also report any future cases.

## **8. The Pensions Ombudsman ruling on anti-fraud duties**

- 8.1 In a recent Pensions Ombudsman (TPO) determination a public authority was found guilty of maladministration when in 2014 a transfer of a member's pension benefits was made and the authority did not carry out adequate checks on the receiving scheme and failed to provide the member with the official TPR literature on pension scams.
- 8.2 The authority was ordered to reinstate the member's benefits and to pay £1,000 damages for distress.
- 8.3 Upon an initial enquiry for a transfer of pension benefits to another scheme, the Fund always encloses the official TPR leaflet on pension scams which can be found at the link below:

<http://www.thepensionsregulator.gov.uk/docs/pension-scams-booklet-members.pdf>

## **9. Consultation on the Gender Recognition Act 2004**

- 9.1 The Government is currently consulting on amending the Gender Recognition Act (GRA) 2004 to make legal gender recognition process less bureaucratic and intrusive. The consultation closes on 19 October 2018.
- 9.2 In the meantime, administering authorities are advised to still request that a member provide a copy of their new birth certificate showing their acquired gender before amending their gender for pension purposes.

## **10. Skills and knowledge opportunities – training events**

- 10.1 Section 248A of The Pensions Act 2004 as incorporated within The Pensions Regulator's Code of Practice (Governance and administration of public service pension schemes) requires all members of the Pension Fund Committee to maintain the necessary skills and knowledge to undertake their role effectively.
- 10.2 In order to facilitate the acquisition of skills and knowledge for members of the Pension Committee, appendix 1 lists the main events that are deemed useful and appropriate.
- 10.3 Requests to attend events will be facilitated by the Governance Team. It may be necessary to restrict numbers of attendees on some courses through reasons of costs.

## 11. Relevant Pension Fund Objectives

Have robust governance arrangements in place, to facilitate informed decision making, supported by appropriate advice, policies and strategies, whilst ensuring compliance with appropriate legislation and statutory guidance. <i>Objective 1</i>
Manage the Fund in a fair and equitable manner, having regard to what is in the best interest of the Fund's stakeholders, particularly the scheme members and employers. <i>Objective 2</i>
Ensure the relevant stakeholders responsible for managing, governing and administering the Fund, understand their roles and responsibilities and have the appropriate skills and knowledge to ensure those attributes are maintained in a changing environment. <i>Objective 3</i>
Continually monitor and manage risk, ensuring the relevant stakeholders are able to mitigate risk where appropriate. <i>Objective 5</i>

## 12. Risk Management

- 12.1 The Pension Fund Committee are required to have the appropriate skills and knowledge to effectively carry out their duties. This report ensures that the Pension Fund Committee is up to date with:
- New or amending legislation affecting the LGPS;
  - Relevant activities of the LGPS Scheme Advisory Board and the TPR that concern the governance of the (LGPS) on a national and local basis; and
  - Skills and knowledge opportunities.
- 12.2 The risks associated with Pension Fund Committee not having the required level of knowledge and understanding have been captured in the Fund's risk register as detailed below.

Risk register	Risk mitigated	Residual risk
Governance (risk 1)	Failure to administer the scheme in line with regulations and policies.	Amber
Governance (risk 2)	Those charged with governance of the Fund and Scheme are unable to fulfil their responsibilities effectively.	Amber
Governance (risk 4)	Policies and Strategies not being in place and up to date.	Green
Governance (risk 12)	Changes to the LGPS and lack of expertise in the new/revised area	Green
Governance (risk 18)	Failure to provide adequate information to the Pension Fund Committee/Pension Board	Green

- 12.3 The full risk register can be found on the LGSS Pensions website at the following link: <http://pensions.northamptonshire.gov.uk/governance/key-documents/cambridgeshire/>

### **13. Finance & Resources Implications**

13.1 Not applicable

### **14. Communication Implications**

<b>Training</b>	All staff involved in the administration of the LGPS are aware of the new legislation and the impact on the calculation and payment of benefits from the scheme.
-----------------	--

### **15. Legal Implications**

15.1 There are no legal implications connected to the contents of this report.

### **16. Consultation with Key Advisers**

16.1 There has been no requirement to consult with advisers over the content of this report.

### **17. Alternative Options Considered**

17.2 There are no alternative options to be considered.

### **18. Background Papers**

18.1 Not applicable

### **19. Appendices**

19.1 Appendix 1 List of training events/conferences.

<b>Checklist of approvals</b>	
Is this decision included in the Business Plan?	Not applicable
Will further decisions be required? If so, please outline the timetable here	Not applicable
Is this report proposing an amendment to the budget and/or policy framework?	No
Has this report been cleared by Head of Pensions?	Mark Whitby – 25 September 2018
Has this report been cleared by Section 151 Officer?	Sarah Heywood – sent 28 September 2018
Has the Chairman of the Pension Fund Committee been consulted?	Councillor Terry Rogers – 3 October 2018
Has this report been cleared by Legal Services?	Fiona McMillan – 28 September 2018

Appendix 1 - Internal/External training and events 2018-2019				
Date	Event	Training Credits	Target Audience	Website Link
7 February 2018	<b>LGSS Pensions Information Day</b>	2	Officers, Committee/ Board Members	In house ACCESS – appointment of operator
23 February 2018	Schroders Trustee Training (Part 1)	2	Officers, Committee/ Board Members	<a href="https://www.schrodersevents.co.uk/schroders/frontend/reg/thome.csp?pageID=474304&amp;eventID=1363&amp;traceRedir=2&amp;eventID=1363">https://www.schrodersevents.co.uk/schroders/frontend/reg/thome.csp?pageID=474304&amp;eventID=1363&amp;traceRedir=2&amp;eventID=1363</a> The programme is designed to cover a wide range of different asset classes and investment strategies, as well as how to manage some of the risks associated with them
26 February 2018	Local Pension Board – Spring Seminar	2	Board Members	<a href="https://www.barnett-waddingham.co.uk/events/2018/02/26/lgps-local-pension-board-members-spring-seminar">https://www.barnett-waddingham.co.uk/events/2018/02/26/lgps-local-pension-board-members-spring-seminar</a> The latest updates on governance and the LGPS, including a focus on key emerging issues. It will also provide opportunities for discussion on the issues you face and for networking with Board members from other funds
1–2 March 2018	LGC Investment Seminar	4	Officers, Committee/ Board Members	<a href="https://investmentseminar.lgcplus.com/">https://investmentseminar.lgcplus.com/</a> Keeping the LGPS affordable and accessible through austerity and uncertain times.
16 March 2018	Schroders Trustee Training (Part 2)	2	Officers, Committee/ Board Members	<a href="https://www.schrodersevents.co.uk/schroders/frontend/reg/thome.csp?pageID=474304&amp;eventID=1363&amp;traceRedir=2&amp;eventID=1363">https://www.schrodersevents.co.uk/schroders/frontend/reg/thome.csp?pageID=474304&amp;eventID=1363&amp;traceRedir=2&amp;eventID=1363</a> The programme is designed to cover a wide range of different asset classes and investment strategies, as well as how to manage some of the risks associated with them
9 May 2018	<b>CIPFA Skills and Knowledge Training</b>	2	Officers, Committee/ Board Members	In house/ AON Hewitt – Pensions Legislation and Governance Context
21-23 May 2018	PLSA Local Authority Conference	4	Officers, Committee/ Board Members	<a href="https://www.plsa.co.uk/Events/Local-Authority-Conference">https://www.plsa.co.uk/Events/Local-Authority-Conference</a>



Date	Event	Training Credits	Target Audience	Website Link
27 June 2018	LGPS Local Pension Boards Three Years on	2	Board Members	<a href="http://www.cipfa.org/training//lgps-local-pension-boards--three-years-on-20180627">http://www.cipfa.org/training//lgps-local-pension-boards--three-years-on-20180627</a>
4 July 2018	<b>CIPFA Skills and Knowledge Training</b>	2	Officers, Committee/ Board Members	In house/Mercer – Investment performance and Risk Management / Financial Markets and Product Knowledge.
11-12 July 2018	Heywood Class Group AGM	4	Officers	<a href="https://www.aquilauk.co.uk/">https://www.aquilauk.co.uk/</a>
12-13 July 2018	LGC Pension Fund Symposium	4	Officers	<a href="https://pensionfund.lgcplus.com/">https://pensionfund.lgcplus.com/</a>
6-7 September 2018	LGC Investment Summit 2018	4	Officers, Committee/ Board Members	<a href="https://investmentsummit.lgcplus.com/">https://investmentsummit.lgcplus.com/</a>
12 September 2018	<b>CIPFA Skills and Knowledge Training</b>		Officers, Committee/ Board Members	In house/Hymans – Actuarial Methods, Standards and Practices
26 September 2018	Introduction to the LGPS	2	Officers, Committee/ Board Members	<a href="http://www.cipfa.org/training/i/introduction-to-the-lgps-20180926">http://www.cipfa.org/training/i/introduction-to-the-lgps-20180926</a> Aimed at new or inexperienced officers and elected members this course, based on the CIPFA knowledge and skills framework.
5 October 2018	Multi Asset Credit	2	Investment Sub Committee Members	Multi Asset Credit training and presentations from MAC Managers
12 October 2018	Schroders Trustee Training (Part 1)	2	Officers, Committee/ Board Members	<a href="https://www.schrodersevents.co.uk/schroders/frontend/reg/home.csp?pageID=474304&amp;eventID=1363&amp;traceRedir=2&amp;eventID=1363">https://www.schrodersevents.co.uk/schroders/frontend/reg/home.csp?pageID=474304&amp;eventID=1363&amp;traceRedir=2&amp;eventID=1363</a> The programme is designed to cover a wide range of different asset classes and investment strategies, as well as how to manage some of the risks associated with them
17-19 October 2018	PLSA Annual Conference	4	Officers, Committee/ Board Members	<a href="https://www.plsa.co.uk/Annual-conference-and-exhibition">https://www.plsa.co.uk/Annual-conference-and-exhibition</a>
2 November 2018	Schroders Trustee Training (Part 1)	2	Officers, Committee/ Board Members	<a href="https://www.schrodersevents.co.uk/schroders/frontend/reg/home.csp?pageID=474304&amp;eventID=1363&amp;traceRedir=2&amp;eventID=1363">https://www.schrodersevents.co.uk/schroders/frontend/reg/home.csp?pageID=474304&amp;eventID=1363&amp;traceRedir=2&amp;eventID=1363</a> The programme is designed to cover a wide range of different asset classes and investment strategies, as well as



				how to manage some of the risks associated with them.
<b>Date</b>	<b>Event</b>	<b>Training Credits</b>	<b>Target Audience</b>	<b>Website Link</b>
20-21 November 2018	Pension Managers' Conference	4	Officers	
5-7 December 2018	LAPFF Annual Conference	4	Officers, Committee/ Board Members	<a href="http://www.lapfforum.org/events/lapff-conference/">http://www.lapfforum.org/events/lapff-conference/</a>
13 February 2019	<b>LGSS Pension Information Day</b>	2	Officers, Committee/ Board Members	In house
28 February-1 March 2019	<b>LGC Investment Seminar</b>	4	Officers, Committee/ Board Members	
<b>TBC</b>	<b>UBS First/Second Steps Seminar</b>	2	Officers, Committee/ Board Members	

Core training has been highlighted in the plan above. Future dates of the CIPFA modules will be distributed shortly and will also be classed as core training.