

Pension Fund Committee

Date: 13th June 2019

Report by: Head of Pensions

Subject:	Governance and Compliance Report
Purpose of the Report	To provide the Pension Fund Committee with: 1) Activities of the Local Government Pension Scheme Advisory Board; 2) Information on Government Consultations affecting the Local Government Pension Scheme; 3) Skills and knowledge opportunities.
Recommendations	That the Pension Fund Committee notes the content of the report.
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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. Scheme Advisory Board

2.1 Guidance for the 2019 Valuation

- 2.1.1 As reported at the March 2019 meeting of the Pension Fund Committee, there has been a pause in both the HM Treasury and Scheme Advisory Board cost cap processes. The pause is due to the uncertain outcome of the McCloud case (potentially age discriminatory application of transitional protection following the introduction of the LGPS 2014) whereby there is a scheme liability which is unknown in both scale and timing.
- 2.1.2 The Scheme Advisory Board issued guidance on 14th May 2019 on the approach to be taken with regard to this liability in the 2019 triennial valuation process.
- 2.1.3 At the time of pausing the cost management processes a package of scheme improvements had been recommended costing an average of 0.9% of payroll to bring the future cost of LGPS benefits back within the +/- 2% of the intended 19.5% target cost.

2.1.4 Depending on the McCloud judgement and the cost of any remedy the following outcomes will be possible:

- The proposed changes to the scheme as a result of the cost cap will be unnecessary (should the remedial actions proposed by the Employment Tribunal to address the judgement match or exceed the costs of the benefit improvements required under the cost cap) or;
- Should the McCloud judgement not stand, the cost cap changes will need to be reviewed to allow the impact to be backdated to 1st April 2019 in line with the Government commitments; or
- Should any remedy cost less than the cost cap then further changes to the scheme may be required and backdated to 1st April 2019.

2.1.5 Both the timing and the outcome of the McCloud case are unknown. The potential impact on all public service pension schemes is significant should the 2018 Court of Appeal's finding that protections for those within 10 years of retirement are unlawful be upheld. If the finding is not upheld then the cost cap process will restart.

2.1.6 Given the unknown nature in the timing and scale of any impact on liabilities as a result of the cost cap and the McCloud judgement the Scheme Advisory Board have proposed the following approach to the 2019 valuation:

- If there is no finalised outcome on the cost cap and McCloud in the form of a formal notification by the Ministry of Housing, Communities and Local Government (MHCLG) to administering authorities including a commitment by Government to detailed benefit changes by 31st August 2019 then the scheme benefit design used in the valuation process should be as set out in the current regulations.
- In setting employer contributions for 2020 each administering authority should, in conjunction with their Actuary, consider the approach to the risk and potential extra costs and reflect this in the Funding Strategy Statement.
- Once the outcome of the cost cap and McCloud judgement is known and appropriate benefit changes are made, administering authorities should re-visit employer contributions under the prevailing statutory guidance or provision in regulation.

2.1.7 In order to provide assistance for authorities in assessing the potential impact the Scheme Advisory Board have commissioned the Government's Actuary Department (GAD) to estimate both an overall scheme McCloud cost and a 'worst case' McCloud scenario on a range of pay assumptions.

2.1.8 The Pension Fund Committee will be kept up to date with developments in this matter as they occur.

2.2 Good Governance Review

2.2.1 In January 2019 the Scheme Advisory Board commissioned Hymans Robertson to facilitate a review of governance models for the LGPS. The purpose of the exercise is to consider means of further raising standards of governance across the LGPS in a way that means conflicts of interest are identified and managed effectively and that the Scheme remains appropriately resourced, able to deliver its statutory functions and meet regulatory obligations. Any model under consideration would retain current links to local democratic accountability.

- 2.2.2 Stage 1 of the approach taken by Hymans Robertson was to consult with a sample of key stakeholders from across the LGPS which resulted in a number of important issues, themes and ideas for improving LGPS governance and informed the proposed options for further consultation.
- 2.2.3 Stage 2 involved a survey inviting all stakeholders to comment on the proposed governance models and how they measure against proposed assessment criterion.
- 2.2.4 The proposed models are as follows:

Option		Detail
1	Improved practice	Introduce guidance or amendments to the LGPS Regulations 2013 to enhance the existing arrangements by increasing the independence of the management of the Fund.
2	Greater ring fencing for the LGPS within existing structures	Greater separation of pension fund management from the host authority, including budgets, resourcing and pay policies.
3	Joint Committee	Responsibility for all LGPS functions delegated to a joint committee comprising the administering authority and non-administering authorities in the fund. Inter-authority agreement makes the joint committee responsible for recommending budget, resourcing and pay policies.
4	Combined Authority	Establish a combined authority, a local authority in its own right and a separate legal entity which exists for the sole purpose of administering an LGPS fund.

- 2.2.5 Survey respondents were asked to quantitatively assess the extent to which the model meets that suggested criteria and were able to add a free text comment for further elaboration.
- 2.2.6 The survey closed on 31 May 2019 and members of the Pension Fund Committee and Local Pension Board were contacted to invite them to participate in the survey.
- 2.2.7 Hymans Robertson will be running further engagement opportunities in the form of workshops and a webinar. The Pension Fund Committee will be kept informed of further information relating to this review.

3. Consultations

3.1 Fair Deal – strengthening pension protection

- 3.1.1 On 10th January 2019, the Government published a further consultation on the assimilation of its new Fair Deal policy into the LGPS. The consultation ran to 4 April 2019 and can be found at the following link:
<https://www.gov.uk/government/consultations/local-government-pension-scheme-fair-deal-strengthening-pension-protection>
- 3.1.2 Features of the consultation included:
- Defining those scheme employers that would be directly impacted by the proposed changes
 - Confirming the removal of the ability for contractors to offer the alternative of a broadly comparable scheme as a means of securing pension protection

- Confirming the transitional arrangements protecting those individuals whose pension protection was previously gained via early provisions;
- The proposed introduction of “deemed employer” status as an alternative option to “admitted body” status; and
- Introducing guidance to assist employers in understanding their responsibilities.

3.1.3 Officers drafted a response to the consultation following receipt of the views of the Fund’s key advisers. The final response is included in **appendix 2** of this report.

3.2 Consultation on implementation of late retirement factors

3.2.1 On 28th March 2019 the Ministry of Housing Communities and Local Government (MHCLG) released a closed group consultation on proposed changes to the late retirement increase factors and guidance. The consultation can be found at the following link:
<http://lgpsregs.org/schemeregs/consultations.php>

3.2.2 The proposals include a change in methodology as well as a change in factors which is intended to remove the ‘cliff edge’ that was a result of the last factor change in January 2017 for some members.

3.2.3 The consultation closed on 17 April 2019 and the response drafted by Officers can be found in appendix 3 of this report.

3.3 Consultation on Exit Payments Cap

3.3.1 In 2015 the Government first announced plans to introduce a £95,000 cap on exit payments in the public sector. The cap includes any pension strain costs (the cost to the employer of paying a scheme member’s pension early normally on the grounds of efficiency or redundancy). The cap was legislation for in the Enterprise Act 2016 which amends the Small Business, Enterprise and Employment Act 2015 but required secondary legislation for it to be introduced.

3.3.2 On 10th April 2019 HM Treasury launched a consultation on the draft regulations entitled ‘Restricting exit payments in the public sector: consultation on implementation of the regulations’. The consultation will close on 3rd July 2019.

3.3.4 The cap will apply to the whole of the public sector but is being implemented in two stages. In the first stage the regulations will apply to exit payments made by:

- Local authorities
- UK Civil Service
- NHS England and Wales
- Academy schools
- Police forces (Including civilians)
- Fire and Rescue authorities

3.3.5 Further and Higher Education corporations, Sixth Form Colleges and Housing Management companies whose employees are members of the LGPS are not covered by the exit cap. The Government expects all public sector bodies not covered by the Regulations to restrict exit payments voluntarily. Regulations will be extended to the rest of the public sector in the second stage.

- 3.3.6 The regulations apply where there has been a 'relevant public sector exit' which occurs when an employee leaves the employment of a public sector authority. Payments included in the cap are (but not limited to) the following:
- Payment on account of dismissal by redundancy (including the statutory redundancy payment)
 - Payment made to reduce or eliminate an actuarial reduction to a pension on early retirement
 - Payment made as an award of compensation under the Advisory, Conciliation and Arbitration Service (ACAS) arbitration scheme or a settlement or conciliation agreement
 - Severance or ex-gratia payment
 - Payment on voluntary exit
 - Payment in lieu of notice due under a contract of employment (if it exceeds 25% of the employee's annual salary).
- 3.3.7 Full details of the consultation can be found at the following link:
<http://www.lgpsregs.org/landscape/consultations.php>
- 3.3.8 Officers of LGSS Pensions will draft a response to the consultation on behalf of the Cambridgeshire Pension Fund and will circulate to the Chairman and Vice Chairman of the Pension Fund Committee prior to submission to HM Treasury.
- 3.3.9 Employers within the Fund have been notified of this consultation.

4. Skills and knowledge opportunities – training events

- 4.1 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 Pensions Committee to maintain the necessary skills and knowledge to undertake their role effectively.
- 4.2 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.
- 4.3 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 cost.

5. 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>

6. Risk Management

- 6.1 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.
- 6.2 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 No	Risk	Residual risk rating
7	Those charged with governance of the Fund and Scheme are unable to fulfil their responsibilities effectively.	Green
13	Failure to administer the scheme in line with regulations and guidance.	Green
16	Failure to provide relevant information to the Pension Committee/Pension Board to enable informed decision making.	Green

- 6.3 The Fund's risk register can be found - <https://pensions.cambridgeshire.gov.uk/app/uploads/2019/04/Cambridgeshire-Risk-Register.pdf>

7. Communication Implications

Training	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.
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8. Finance & Resources Implications

- 8.1 Not applicable.

9. Legal Implications

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

10. Consultation with Key Advisers

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

11. Alternative Options Considered

- 11.1 There are no alternative options to be considered.

12. Background Papers

- 12.1 None.

13. Appendices

- 13.1 Appendix 1 List of training events/conferences.
Appendix 2 Fair Deal consultation response
Appendix 3 Late retirement increase factors consultation response

Checklist of Key Approvals	
Is this decision included in the Business Plan?	No
Will further decisions be required? If so, please outline the timetable here	No
Is this report proposing an amendment to the budget and/or policy framework?	No
Has this report been cleared by Section 151 Officer?	Sarah Heywood – 30 th May 2019
Has this report been cleared by Head of Pensions?	Mark Whitby – 21 st May 19
Has the Chairman of the Pension Committee been consulted?	Councillor Rogers – 30 th May 2019
Has this report been cleared by Legal Services?	Fiona McMillan – 29 th May 2019

Appendix 1 – Internal/External training and events 2019-2020

Date	Event	Training Credits	Target Audience	Host/Website
17-18 January 2019	LGPS Governance Conference	4	Officers, Committee/Board members	Local Government Association https://www.local.gov.uk
13 February 2019	LGSS Pensions Information Day	2	Officers, Committee/ Board Members	In house ACCESS – appointment of operator
27 February 2019 (morning)	Chartered Institute of Public Finance and Accountancy (CIPFA) Spring Seminar	2	Officers only	https://www.cipfa.org/training/l/lgps-spring-officers-spring-seminar-20190227-london Latest updates on the LGPS and regulations.
27 February 2019 (afternoon)	CIPFA Spring Seminar	2	Local Pension Board members only	https://www.cipfa.org/training/l/lgps-members-spring-seminar-20190227-london Latest updates on the LGPS and regulations.
28 February – 01 March 2019	Local Government Chronicle (LGC) Investment Seminar	4	Officers, Committee/ Board Members	https://investmentseminar.lgcplus.com Keeping the LGPS affordable and accessible through austerity and uncertain times.
1 March 2019	Schroders Trustee Training (Part 1)	2	Officers, Committee/ Board Members	https://www.schroders.com/en/uk/pensions/events/training/schroders-trustee-training-2019-london-part-1-spring/ 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
22 March 2019	Schroders Trustee Training (Part 2)	2	Officers, Committee/ Board Members	https://www.schroders.com/en/uk/pensions/events/training/schroders-trustee-training-2019-london-part-2-spring/ 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
13 - 15 May 2019	Pensions and Lifetime Savings Association (PLSA) Local Authority Conference	4	Officers, Committee/ Board Members	https://www.plsa.co.uk/Events-Local-Authority-Conference

26 June 2019	CIPFA & Barnett Waddingham Local Pension Boards' Annual Full Day Event	2	Local Pension Board members only	
2 – 4 July 2019	Local Authority Pension Fund Forum (LAPF) Strategic Investment Forum	4	Chairman of Pension Committee / Officers	https://www.dgpublishing.com/lapf-strategic-investment-forum/
3 - 4 July 2019	Heywood Class Group Annual General Meeting (AGM)	4	Officers	
10 – 12 July 2019	LGC Pension Fund Symposium	4	Officers	https://pensionfund.lgcplus.com
17 July 2019	LGSS Pensions Information Day	2	Officers, Committee/ Board Members	
25 September 2019	Introduction to the LGPS 2019	2	Officers, Committee/ Board Members	https://www.cipfa.org/training/i/introduction-to-the-lgps-20190925-london Aimed at new or inexperienced officers and elected members this course, based on the CIPFA knowledge and skills framework.
3 October 2019	LGPC Fundamentals Training (Day 1/3)	2	Committee/Board Members	Provides members of Pension Committees and Local Pension Boards with the knowledge and skills to enable them to carry out their duties effectively. Further information to follow.
9 October 2019	LGSS Pensions Information Day	2	Officers, Committee/ Board Members	
11 October 2019	Schroders Trustee Training (Part 1)	2	Officers, Committee/ Board Members	https://www.schrodersevents.co.uk/schroders/frontend/reg/tOtherPage.csp?pageID=573019&ef_sel_menu=10552&eventID=1592 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
16 - 18 October 2019	PLSA Annual Conference	4	Officers, Committee/ Board Members	https://www.plsa.co.uk/Annual-conference-and-exhibition

6 November 2019	LGPC Fundamentals Training (Day 2/3)	2	Committee/Board Members	Provides members of Pension Committees and Local Pension Boards with the knowledge and skills to enable them to carry out their duties effectively. Further information to follow.
8 November 2019	Schroders Trustee Training (Part 2)	2	Officers, Committee/ Board Members	https://www.schrodersevents.co.uk/schroders/frontend/reg/tOtherPage.csp?pageID=573019&ef_sel_menu=10552&eventID=1592 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.
19 – 20 November 2019	Pension Managers' Conference	4	Officers	http://www.swcouncils.gov.uk/nqcontent.cfm?a_id=339&tt=swra&eventStatus=list&eventAction=view&eventId=1271
4 – 6 December	LAPFF Annual Conference	4	Officers, Committee/ Board Members	http://www.lapfforum.org/events/lapff-conference
18 December 2019	LGPC Fundamentals Training (Day 3/3)	2	Committee/Board Members	Provides members of Pension Committees and Local Pension Boards with the knowledge and skills to enable them to carry out their duties effectively. Further information to follow.
26 February 2020	LGSS Pension Information Day	2	Officers, Committee/ Board Members	