

**Pension Fund Committee**

**Date:** 13 December 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 Service</p> <p>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. Scheme Advisory Board (SAB)

### 2.1 Analysis of the LGPS Academy Sector

- 2.1.1 GAD (Government Actuary's Department) has now published the work commissioned by MHCLG (Minister of Housing Communities and Local Government) and DfE (Department for Education) to review the treatment of academies within the Local Government Pension Scheme. In particular, GAD was asked to gather evidence on the variation in treatment of academies within and across different LGPS Funds.
- 2.1.2 A summary of the findings are as follows:

- On average academies currently pay 2% of payroll less in contributions than local authorities despite being 11% worse funded on average (73% versus 84%, respectively). This reflects how academy contribution rates were set initially and the relative maturity of their liability profiles.
- There is a high degree of variability in individual contribution rates (some academies contribution rates exceed 30% of pay, whilst others pay less than 10%) and funding levels for academies both within and across Funds (some are below 25% whilst others are above 100%). A wide range is also observed for local authorities.
- The data indicates that, on the whole, academies are treated consistently with local authorities with regard to the 2016 valuation funding assumptions, suggesting that the DfE guarantee is currently being recognised by Funds.
- Given the existing approach for setting academy contribution rates, GAD would expect (material) nationwide variation between individual academy contribution rates and local authority rates to persist in the future. Further, the extent of the variation observed at the 2016 valuation could potentially increase further, particularly if there is a large increase in the number of new academies.

2.1.3 A copy of the full report can be found at the following link. -

<https://www.gov.uk/government/publications/academies-lgps-pension-arrangements>.

**2.2 Third tier employers** – At the SAB meeting on 27 June 2018, Aon presented members with a summary of the final draft report commissioned by SAB, to review the current issues in relation to third tier employers participating in LGPS funds in England and Wales. Third tier employers are classified as charities, housing associations and higher and further education establishments. On 24 September, the 102 page report was published and can be found at the following link:

<http://www.lgpsboard.org>.

2.2.1 The report does not make any recommendations, instead, it outlines a range of issues raised by stakeholders and how they envisage these concerns being resolved. The working group will report to SAB later this year with a set of recommendations for further consideration.

2.2.2 Once approved, stakeholders will be given the opportunity to comment on SAB's recommendations before any formal approach is made to MHCLG for changes to the scheme regulations and guidance.

### **3. The Pensions Regulator**

#### **3.1 New approach to workplace pensions regulation**

3.1.1 On 17 September 2018, TPR launched a new approach to workplace pensions regulation. This new operating model directly affects the way TPR works and will be established over the next 12-18 months.

3.1.2 The four key areas from the new operating model, which will help them take forward the work they want to achieve and do it in the most effective way are:

- To work with those they regulate to ensure that the standards they expect are clear and adopted. They will ensure that pension schemes and employers comply with clear, measurable standards.
- To prevent risks to members from increasing over time through prioritisation, monitoring, supervision and early proactive intervention.

- To use a wide range of regulatory interventions through a process of systematic and escalating interaction with those they regulate. They will test, measure and adapt the way they work to continue to drive behavioural change.
- To work with their regulatory partners, stakeholders, advisors and intermediaries to deliver a comprehensive and consistent regulatory framework.

3.1.3 The Pension Regulator's making workplace pensions work publication, details their new way of operating and outlines the further changes in the future and can be found at the following link;  
<https://www.thepensionsregulator.gov.uk/docs/tpr-future-making-workplace-pensions-work>.

### **3.2 Public Service Pension Schemes Annual Governance and Administration Survey**

3.2.1 The annual governance and administration survey was issued to scheme managers of all public service pension schemes in the week commencing 5 November. The survey was web based, voluntary and could be submitted anonymously by the deadline of 30 November.

3.2.2 The response in respect of the Cambridgeshire Pension Fund was submitted prior to the deadline and was not submitted anonymously. The survey results are expected to be published in early 2019 and a full report will be submitted to the Pension Fund Committee detailing the findings.

### **3.3 Mandatory Annual Scheme Return**

3.3.1 On an annual basis the Pensions Regulator issues an annual return which if not completed and returned is regarded as a breach of the law under the Pensions Act 2004. The Pensions Regulator issued this year's survey on 25 September 2018 which was duly completed and returned prior to the deadline of 6 November 2018.

3.3.2 This year's annual return required a score as to the quality of the scheme's data in the form of common and scheme specific data defined as follows:

Common data – includes name, address, national insurance number and date of birth.  
 Scheme-specific data – pensionable pay, guaranteed minimum pensions and service history.

3.3.3 The Cambridgeshire Pension Fund's common data score was 82.21% and the scheme specific data score was 73.13%.

3.3.4 Further information on these data scores can be found in the Data Improvement Plan Update report to be presented at this meeting. It should however be noted that other LGPS Funds and other types of pension schemes will calculate their scores differently and in the first year of data scoring it would not be unreasonable to see a wide variety of scores and until such times as very specific and detailed guidance is published and mandated.

3.3.5 It is not known at this time how the Pensions Regulator will use the data scores however, the Committee will be notified if any information is released.

#### **4. 2017/18 SF3 return data**

- 4.1 The 2017/18 SF3 return data was published by MHCLG on 17 October 2018. The SF3 form collects information on Local Government Pension Scheme funds' on income (pension contributions and transfers), expenditure (pensions in payment, retirement lump sums, refunds and transfers out), membership, retirements and other activities. It also shows other associated information for the financial year 2017/18 and changes over previous years.
- 4.2 A summary of the findings in respect of the total of all English and Welsh LGPS schemes compared with Cambridgeshire can be found below:
- Total expenditure in 2017/18 was £12.7bn. Removing the effect of mergers and large transfers in 2016/17 and 2017/18 there was a like-for-like increase of £0.8bn on 2016/17. Total expenditure for Cambridgeshire was £108.8m in 2016/17 and £109.4m in 2017/18 representing an increase of £0.6m.
  - Total income was £17.4bn. Removing the effect of mergers and large transfers in 2016/17 and 2017/18, there was a like-for-like increase of £3bn or 21.4% on 2016/17. This is mainly due to the increase in employer contributions in 2017/18. Total income for Cambridgeshire was £128.7m in 2016/17 increasing to £133.3m in 2017/18.
  - Employer contributions amounted to £9.5bn in 2017/18, up by 27.7% on 2016/17 and employees contributions to the scheme were £2.1bn. Employers' contributions increased due to some large upfront pension contribution payments being made by some employers and higher contribution rates following the triennial valuation. Employer contributions for Cambridgeshire were £103m in 2017/18, increasing from £99.5m in 2016/17.
  - The market value of all LGPS funds in England and Wales at the end of March 2018 was £270.9bn, an increase of £12.1bn of 4.7%. The value of the Cambridgeshire Fund was £2.969bn at the end of March 2018 compared with £2.853bn at the end of March 2017.
  - The LGPS had a total of 5.8m members at 31 March 2018 and increased of 0.2m from 31 March 2017. This compares with Cambridgeshire Pension Fund's total membership of 80,816 at the end of March 2018 and 77,323 at the end of March 2017.
- 4.3 The full report can be found - <https://www.gov.uk/government/statistics/local-government-pension-scheme-funds-for-england-and-wales-2017-to-2018>

#### **5. Harvey v Haringey and MHCLG judgement**

- 5.1 On 30 October 2018, in the High Court Mr Justice Julian Knowles handed down his judgement on the above case that relates to the non-payment of a cohabiting partner's pension where the member left the LGPS before 1 April 2008.
- 5.2 Ms Harvey maintained that the Council's refusal to pay her a pension discriminatory and in violation of the European Convention on Human Rights. Mr Justice Julian Knowles found in favour of Haringey Council and MHCLG and dismissed the application for judicial review.
- 5.3 In his judgement Mr Justice Julian Knowles states the central and core justification running throughout this case is that spouses in the 1997 Scheme and cohabitantes of 2008 Scheme members are entitled to a pension because it was costed into the relevant Schemes and paid for. Where a member left before April 2008 the member did not pay for a cohabitee to receive a benefit, nor was it otherwise costed into the 1997 Scheme.

#### **6. MHCLG Consultation: LGPS Technical Amendments to Benefits**

- 6.1 On 4 October 2018 MHGLG released an eight-week public consultation on technical amendments to the LGPS regulations. The consultation looks at the following three areas:

- Introducing changes to provide that pensions paid to survivors of civil partners or same-sex marriages will be equal to those provided to widows of male members. The changes will be backdated to the date civil partnerships and same-sex marriages were implemented. This means that LGPS administering authorities will need to revisit all awards made under the current rules to civil and same-sex partners and pay additional sums due.
- Introduction of a general power for MHCLG to issue statutory guidance.
- Correcting the unintended error in the LGPS (Amendment) 2018 Regulations to provide that deferred members who left under the 1995 Regulations are able to take payment of their LGPS pension without the need for their former employers consent from age 55, with the appropriate reduction for early payment.

6.2 The consultation response from LGSS officers can be found in appendix 2 of this report.

## 7. Skills and knowledge opportunities – training events

- 7.1 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.
- 7.2 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.
- 7.3 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.

## 8. 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>

## 9. Risk Management

- 9.1 The Pension Committee are required to have the appropriate skills and knowledge to effectively carry out their duties. This report ensures that the Pension 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.

- 9.2 The risks associated with Pension Committee not having the required level of knowledge and understanding have been captured in the Fund's risk register as detailed below.

<b>Risk register</b>	<b>Risk mitigated</b>	<b>Residual risk</b>
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 Committee/Pension Board.	Green

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

## **10. Finance & Resources Implications**

- 10.1 Not applicable.

## **11. 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.
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## **12. Legal Implications**

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

## **13. Consultation with Key Advisers**

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

## **14. Alternative Options Considered**

- 14.1 There are no alternative options to be considered.

## **15. Background Papers**

- 15.1 None.

## **16. Appendices**

- 16.1 Appendix 1 List of training events/conferences.  
16.2 Appendix 2 MHCLG Consultation: LGPS Technical Amendments to Benefits response

<b>Checklist of Key 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 – 23 November 2018
Has this report been cleared by Section 151 Officer?	Sarah Heywood – 29 November 2018
Has the Chairman of the Pension Fund Committee been consulted?	Councillor Rogers – 29 November 2018
Has this report been cleared by Monitoring Officer?	Fiona McMillan – 26 November 2018

### 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 <a href="https://www.local.gov.uk">https://www.local.gov.uk</a>
13 February 2019	<b>LGSS Pensions Information Day</b>	2	Officers, Committee/Board Members	In house ACCESS – appointment of operator
27 February 2019 (morning)	CIPFA Spring Seminar	2	Officers only	<a href="https://www.cipfa.org/training/l/lgps-spring-officers-spring-seminar-20190227-london">https://www.cipfa.org/training/l/lgps-spring-officers-spring-seminar-20190227-london</a> Latest updates on the LGPS and regulations.
27 February 2019 (afternoon)	CIPFA Spring Seminar	2	Local Pension Board members only	<a href="https://www.cipfa.org/training/l/lgps-members-spring-seminar-20190227-london">https://www.cipfa.org/training/l/lgps-members-spring-seminar-20190227-london</a> Latest updates on the LGPS and regulations.
28 February – 01 March 2019	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.
TBC	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
13 - 15 May 2019	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>
26 June 2019	Local Pension Boards' Annual Full Day Event	2	Local Pension Board members only	
3 - 4 July 2019	Heywood Class Group AGM	4	Officers	
10 – 12 July 2019	LGC Pension Fund Symposium	4	Officers	<a href="https://pensionfund.lgcplus.com">https://pensionfund.lgcplus.com</a>



TBC – Last week Sept 2019	Introduction to the LGPS	2	Officers, Committee/ Board Members	<a href="http://www.cipfa.org/training/i/introduction-to-the-lgps-201809266">http://www.cipfa.org/training/i/introduction-to-the-lgps-201809266</a> Aimed at new or inexperienced officers and elected members this course, based on the CIPFA knowledge and skills framework.
TBC	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
16 - 18 October 2019	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>
TBC	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.
TBC	Pension Managers' Conference	4	Officers	<a href="https://www.savvyinvestor.net/conferences/1333719">https://www.savvyinvestor.net/conferences/1333719</a>
TBC	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>