

Pension Fund Committee

Date: 24 May 2018

Report by: Head of Pensions

| | |
|-------------------------------|--|
| Subject: | Governance and Compliance Report |
| Purpose of the Report: | To provide the Pension Fund Committee with: 1) Information on potential, new or amending legislation affecting the LGPS; 2) Information on other pensions legislation; 3) Activities of the LGPS Scheme Advisory Board and the Pensions Regulator; 4) Information on issues concerning the governance of the Local Government Pension Scheme (LGPS) on a national and local basis; and 5) Skills and knowledge opportunities. |
| Recommendations: | That the Pension Fund Committee notes the content of the report. |
| Enquiries to: | Jo Walton – Governance and Regulations Manager, LGSS Pensions Service E-mail: jwalton@northamptonshire.gov.uk |

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 exercise

2.1 On 8 February 2018, the Local Government Pensions Committee (LGPC) issued a survey to administering authorities in England & Wales. The aim of the survey was to determine what stage administering authorities are at with their contracted-out reconciliation exercise.

2.2 The results of the survey shows that administering authorities are at different stages in respect of their individual types of members (e.g. active, deferred and pensioners).

2.3 The table shows ‘worst’ and ‘best’ case scenarios i.e. if an administering authority is at:

- stage 4 for pensioners and stage 2 for actives and deferred – then the ‘worst’ case scenario shows the administering authority at stage 2, or
- stage 4 for pensioners and stage 2 for actives and deferred – then the ‘best’ case scenario shows the administering authority at stage 4.

| Stage | Description of Stage | No. of administering authorities at this stage | |
|----------------|---|--|--------------------|
| | | Worst case scenario | Best case scenario |
| Stage 0 | Administering authority has yet to start the exercise | 8 | 4 |
| Stage 1 | Compare administering authority data with HMRC data | 20 | 13 |
| Stage 2 | Review data inconsistencies, raise with HMRC, agree outcome | 51 | 42 |
| Stage 3 | Rectification | 9 | 25 |
| Stage 4 | Reconciliation complete | 0 | 4 |

2.4 Cambridgeshire Pension Fund is at stage 2 for all categories of membership.

2.5 During the course of the contracted-out reconciliation exercise, the Secretariat has been informed that a number of administering authorities have reached a stalemate with HMRC regarding a number of individual cases. The most problematic of which, appear to be those cases for which the administering authority cannot find any liability, though HMRC are insistent that the liability lies with the administering authority.

2.6 In order to pay a scheme benefit the scheme must have the necessary accurate data (prescribed within the scheme regulations and be in compliance with the Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014) with which to calculate the defined benefits. HMT are aware of this problem and will consider this further in due course.

3. Pensions Dashboard Update

3.1 On 13 February 2018, the LGPC Secretariat attended an informal discussion with DWP and other public service pension schemes about the Pensions Dashboard. DWP are in the process of conducting a feasibility project to explore the options for delivering the pensions dashboard as part of this work they are seeking the input and views from stakeholders.

4. McDonald (Respondent) v Newton or McDonald (Appellant) (Scotland) - Supreme Court Ruling – Pensioner on Divorce

4.1 The ruling on the above case applies equally to benefits held in the LGPS Scotland, LGPS England and Wales and the LGPS Northern Ireland, where the divorce is made under Scottish law.

- 4.2 The dispute was regarding the factors used to calculate the Cash Equivalent Transfer Value upon divorce. Mr McDonald argued that the court should apportion the value of his pension rights by reference only to the period in which he was an “active member” of the scheme, which is the period during which he was making contributions to the scheme. This would reflect the current process adopted by LGPS funds.
- 4.3 Conversely, Mrs McDonald argued that the cash equivalent transfer value should be apportioned by reference to the period of Mr Macdonald’s membership of the scheme, both when in pensionable employment and also when drawing a pension.
- 4.4 The Supreme Court unanimously allowed Mrs McDonald’s appeal and subsequently agreed that the period of membership should be interpreted as “the period of the person’s membership of the pension arrangement, whether or not contributions are being made in that period” citing various reasons for doing so.
- 4.5 This ruling sets a precedent and indicates a move away from current practice with regards to deferred and pensioner members.

5. High Court judgement in the case of Elmes v Essex

- 5.1 This case concerns Nichola Elmes versus Essex County Council with an interested party of the Ministry of Housing, Communities and Local Government (MHCLG) which is similar to that decided upon in the Supreme Court on 8 February 2017 (Brewster v NILGOSC, the Northern Ireland LGPS).
- 5.2 This case was heard before the High Court on 18 January 2018 and it is understood that the outcome of this case effectively removes the requirement for a nomination form from regulations and enables an LGPS administering authority to pay a partner’s pension, to the partner (who meets the definition of co-habiting partner set out in the LGPS Regulations 2013) of a deceased member who died without completing a nomination form, and who left active membership on or after 1 April 2008 and before 1 April 2014.
- 5.3 To date the full judgement of this ruling has not been released and no further action can be taken until this time.

6. The Pensions Advisory Service dispute function moves to the Pensions Ombudsman

- 6.1 The LGPC Secretariat has been notified that the Pensions Advisory Service’s (TPAS) dispute resolution function is moving to The Pensions Ombudsman (TPO). The move includes the transfer of the TPAS dispute resolution team and volunteer network of over 350 advisers. The transfer was expected to be completed by 1 March 2018.
- 6.2 At present customers can approach both TPO and TPAS for help when dealing with a pension complaint. TPAS usually focussed on complaints before the pension scheme’s internal dispute resolution procedure (IDRP) had been completed, whilst TPO typically deals with complaints that have been through IDRP

6.3 Customers will be able to access all pension dispute resolution, previously handled by two services, whether pre or post IDRP, in one place, leading to a smoother customer journey and improved complaint handling. TPAS will continue to focus on providing pension information and guidance, and will become an integral part of the new Single Financial Guidance Body.

7. General Data Protection Regulation (GDPR)

7.1 The General Data Protection Regulation is regulation by which the European Parliament, the Council of the European Union and the European Commission intend to strengthen and unify data protection for all individuals within the European Union.

7.2 The primary objectives of the General Data Protection Regulation (GDPR) are to give control back to citizens over their personal data and to simplify the regulatory environment for international business by unifying the regulation within the EU.

7.3 The regulation was adopted on 27 April 2016 and becomes enforceable from 25 May 2018 after a two year transition period.

7.4 Regular reports have been provided to the Cambridgeshire Pension Fund Local Pension Board on the progress made by both Cambridgeshire County Council and by officers of LGSS Pensions in towards achieving compliance with the GDPR with respect to the operation of the Cambridgeshire Pension Fund.

7.5 The following table shows the extent of compliance achieved by the respective parties in respect of Cambridgeshire Pension Fund:

| Item of compliance | Progress | Party responsible |
|--|--|-------------------------------|
| Privacy Notice | Completed following Local Government Pensions Committee guidance. To be made available on the LGSS Pensions website prior to 25 May 2018 and signposted to all scheme members upon first communication following joining the scheme and to existing members through the issue of annual benefit statements. Pensioner members will be notified via May 2018 payslip (see appendix 2) | LGSS Pensions |
| Information Asset Register | Completed (see appendix 3) | LGSS Pensions |
| Record of Processing Activities | Completed (see appendix 4) | LGSS Pensions |
| Appointment of a Data Protection Officer | Cambridgeshire County Council are in the process of recruiting a Data Protection Officer. | Cambridgeshire County Council |

| | | |
|---|--|-------------------------------|
| Pension Fund supplier contracts and Data Sharing Agreements | At the time of writing this report, LGSS Law are reviewing the appropriateness of the variation agreements received from suppliers and/or whether existing data sharing agreements remain appropriate. | LGSS Pensions |
| Memorandum of Understanding (between administering authority and scheme employers) | Completed following Local Government Pensions Committee guidance. To be made available to scheme employers on the LGSS Pensions website prior to 25 May 2018. Employers will be notified of its presence on the website (see appendix 5) | LGSS Pensions |
| County Council corporate contracts (for printing and postage of pensioner payslips) | At the time of writing this report, confirmation has been requested as to whether the County Council have ensured that their corporate contracts contain GDPR compliant terms. | Cambridgeshire County Council |

7.6 The Pension Committee will be updated at the next meeting as to the extent of compliance of any outstanding items.

8. Consultations

8.1 Insolvency regime for further education and sixth form colleges: technical consultation – Local Government Association response

8.1.1 The Local Government Association(LGA) responded to the above consultation on 7 February 2018, a copy of the response can be found at the following link:

<http://lgpslibrary.org/assets/cons/nonscheme/20180207IR.pdf>

8.1.2 Officers were in discussions with LGA regarding the submission and had input via the LGA response which asks that appointed education administrator puts in place the appropriate safeguards to ensure that an insolvent institution does not result in its LGPS liabilities being met by other employers within the fund.

9. Skills and knowledge opportunities.

9.1 Training Events

9.1.1 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.

9.1.2 In order to facilitate the acquisition of skills and knowledge for members of the Pension Committee, appendix 1 lists all events that are deemed useful and appropriate.

9.1.3 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.

10. 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> |

11. Risk Implications

a) Risk(s) associated with the proposal

| Risk | Mitigation | Residual Risk |
|--|------------|---------------|
| There is no risk associated with this report as it is a note report. | | Green |

b) Risk(s) associated with not undertaking the proposal

| Risk | Risk Rating |
|---|-------------|
| That the Committee are ill-informed about important consultations and changes affecting the Fund they are responsible for administering | Green |

12. Finance & Resources Implications

12.1 Not applicable

13. 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. |
|-----------------|--|

14. Legal Implications

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

15. Consultation with Key Advisers

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

16. Alternative Options Considered

16.1 There are no alternative options to be considered.

17. Background Papers

17.1 Not applicable

18. Appendices

18.1 Appendix 1 List of training events/conferences.

18.2 Appendix 2 Privacy Notice

18.3 Appendix 3 Information Asset Register

18.4 Appendix 4 Record of Processing Activities

18.5 Appendix 5 Memorandum of Understanding

| Checklist of Key Approvals | |
|--|---|
| 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 – 17 April 2018 |
| Has this report been cleared by Section 151 Officer? | Sarah Heywood – 9 May 2018 |
| Has the Chairman of the Pension Fund Committee been consulted? | Councillor Terry Rogers – 9 May 2018 |
| Has this report been cleared by Legal Services? | Sent to Quentin Baker/Fiona McMillan – 1 May 2018 |

Appendix 1 - Internal/External training and events 2018-2019

| Date | Event | Training Credits | Target Audience | Website Link |
|------------------|--|-------------------------|---------------------------------------|---|
| 7 February 2018 | LGSS Pensions Information Day | 2 | Officers, Committee/ Board Members | In house ACCESS – appointment of operator |
| 23 February 2018 | Schroders Trustee Training (Part 1) | 2 | Officers, Committee/ Board Members | https://www.schrodersevents.co.uk/schroders/frontend/reg/thome.csp?pageID=474304&eventID=1363&traceRedir=2&eventID=1363 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 | https://www.barnett-waddingham.co.uk/events/2018/02/26/lgps-local-pension-board-members-spring-seminar 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 | https://investmentseminar.lgcplus.com/ Keeping the LGPS affordable and accessible through austerity and uncertain times. |
| 16 March 2018 | Schroders Trustee Training (Part 2) | 2 | Officers, Committee/ Board Members | https://www.schrodersevents.co.uk/schroders/frontend/reg/thome.csp?pageID=474304&eventID=1363&traceRedir=2&eventID=1363 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 | CIPFA Skills and Knowledge Training Day | 2 | Officers, Committee/ Board Members | In house/ AON Hewitt |
| 21-23 May 2018 | PLSA Local Authority Conference | 4 | Officers, Committee/ Board Members | https://www.plsa.co.uk/Events/Local-Authority-Conference |
| 27 June 2018 | LGPS Local Pension Boards Three Years on | 2 | Board Members | http://www.cipfa.org/training//lgps-local-pension-boards--three-years-on-20180627 |

| | | | | |
|-----------------------|--|---|---------------------------------------|---|
| 4 July 2018 | CIPFA Skills and Knowledge Training Day | 2 | Officers, Committee/ Board Members | In house/Mercer |
| 11–12 July 2018 | Heywood Class Group AGM | 4 | Officers | https://www.aquilauk.co.uk/ |
| 12-13 July 2018 | LGC Pension Fund Symposium | 4 | Officers | https://pensionfund.lgcplus.com/ |
| 6-7 September 2018 | LGC Investment Summit | 4 | Officers, Committee/ Board Members | https://investmentsummit.lgcplus.com/ |
| 12 September 2018 | CIPFA Skills and Knowledge Training Day | | Officers, Committee/ Board Members | In house/Hymans |
| 26 September 2018 | Introduction to the LGPS | 2 | Officers, Committee/ Board Members | http://www.cipfa.org/training/i/introduction-to-the-lgps-20180926 Aimed at new or inexperienced officers and elected members this course, based on the CIPFA knowledge and skills framework. |
| 5 October 2018 | LGSS Pension Information Day | 2 | Officers, Committee/ Board Members | In house |
| 12 October 2018 | Schroders Trustee Training (Part 1) | 2 | Officers, Committee/ Board Members | https://www.schrodersevents.co.uk/schroders/frontend/reg/thome.csp?pageID=474304&eventID=1363&traceRedir=2&eventID=1363 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 |
| 2 November 2018 | Schroders Trustee Training (Part 1) | 2 | Officers, Committee/ Board Members | https://www.schrodersevents.co.uk/schroders/frontend/reg/thome.csp?pageID=474304&eventID=1363&traceRedir=2&eventID=1363 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 |
| 5-7 December 2018 | LAPFF Annual Conference | 4 | Officers, Committee/ Board Members | http://www.lapfforum.org/events/lapff-conference/ |

| | | | | |
|------------------|-------------------------------------|---|---------------------------------------|----------|
| TBC | UBS First Steps Seminar | 2 | Officers, Committee/ Board Members | |
| TBC | UBS Second Steps Seminar | 2 | Officers, Committee/ Board Members | |
| TBC | Pension Managers Annual Conference | 4 | Officers, Committee/ Board Members | |
| TBC | PLSA Annual Conference | 4 | Officers, Committee/ Board Members | |
| 13 February 2019 | LGSS Pension Information Day | 2 | Officers, Committee/ Board Members | In house |

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.