

	Pensions Fund Sub-Committee 02 October 2019
	Report from the Director of Finance
LGPS Update	

Wards Affected:	ALL
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	1. Exit Payments Cap - LGA Summary 2. McCloud – Hymans Robertson Summary 3. Good Governance – Hymans Robertson Summary 4. The LGPS Community – LGA Document
Background Papers:	▪ N/A
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Minesh Patel, Director of Finance Ravinder Jassar, Head of Finance

1.0 Purpose of the Report

- 1.1 The purpose of this report is to update the committee on recent developments within the LGPS regulatory environment and any recent consultations issued by the Ministry of Housing, Communities and Local Government which have would have a significant impact on the Fund.

2.0 Recommendation(s)

- 2.1 The Committee is asked to note the recent developments in the LGPS.

3.0 Detail

Exit Payments Cap

- 3.1 The government first announced plans to cap exit payments in the public sector in 2015. On 10 April 2019, HM Treasury (HMT) launched a consultation on draft regulations, guidance and directions to implement the cap.
- 3.2 The exit payment cap is set at £95,000 and redundancy payments (including statutory redundancy payments), severance payments, pension strain costs – which arise when a Local Government Pension Scheme (LGPS) pension is paid unreduced before a member's normal pension age – and other payments made as a consequence of termination of employment are included in the cap.
- 3.3 The LGA prepared a response following the proposed draft regulations and have raised concerns on the feasibility and consequences of implementing the Policy in the manner set out in HM Treasury's Consultation Document.
- 3.4 From the response, the LGA noted that the scope of the cap set out in the consultation could cover local government workers who have decades of service and earn less than £23,500 a year while an absence of reviews to the £95,000 cap limit would mean that over time, more people with salaries below the UK Average would be affected.
- 3.5 The consultation has not defined an implementation period to the proposed draft regulations. The LGA noted that due to the volume of consequential regulation changes required and the substantial changes needed to administrative systems, a minimum of nine months from the date the regulations are passed would be required for the necessary reforms to the Local Government Pension Scheme to be introduced and the actuaries, payroll providers and others to respond accordingly. Further details of the LGA response are set out in Appendix 1.

McCloud Case

- 4.0 On 21 December 2018 it was reported that the Court of Appeal ruled that transitional protections that protected older judges and firefighters from the public sector pension scheme changes in 2015, were unlawfully discriminatory. This case is known as the 'McCloud case'.
- 4.1 Following the judgment, on 30 January 2019, the Government published a written statement that paused the HMT cost management process for public service pension schemes, pending the outcome of the application to appeal the McCloud case to the Supreme Court.
- 4.2 On 14 May 2019, the scheme advisory board (SAB) published an advice note covering the implications of McCloud/Cost Cap in relation to the 2019 fund valuations. Key Points from the Advice Note included that for the Purposes of the 2019 Valuation, as no remedy was agreed by 31st August 2019, LGPS Funds should value the benefits as per the current LGPS Regulations. In

addition to this, Funds should consider how to factor in the uncertainty and risk associated with the McCloud case when setting Employer Contribution Rates and that once the McCloud case is remedied, funds would revisit Employer Contribution Rates to ensure they remain appropriate in light of any additional costs. Further to this, the Cost Cap Process will be suspended until the McCloud Case is resolved.

- 4.3 On 27 June 2019, the Supreme Court denied the Government leave to appeal the McCloud and other associated cases confirming that as 'transitional protection' was offered to members of all the main public service pension schemes, the difference in treatment will need to be remedied across all those schemes including LGPS. As the remedy will involve 'levelling up' member benefits, it is expected that any agreed outcome will increase the cost of LGPS pensions, however there is no certainty about how much this additional cost will be.
- 4.4 Outlined in Appendix 2, the Fund Actuary has produced a summary regarding the various approaches in which the McCloud risk can be managed. Given that no remedy had been agreed by 31st August 2019, it will leave Funds to consider locally how best to manage the uncertainty and risk. It is expected that approaches will vary across LGPS Funds depending on Officers' and Committees' views on this risk. The fund is currently analysing and working together with both the Fund Actuary and Investment Advisor to manage the potential ongoing risks for the fund.
- 4.5 As part of the external audit of the Pension Fund accounts, the auditors requested an estimate of the potential impact of McCloud, and if material, reflect the changes in the accounts. This was estimated at £3m at whole fund level. Depending on the liability profiles on different employers, the impact will vary across different employers.

5.0 Good Governance

- 5.1 As a result of significant cuts to local government funding over the last decade, the pooling of LGPS Investments and the increasing complexity in scheme benefits and administration, the Scheme Advisory Board (SAB) commissioned Hymans Robertson to examine the effectiveness of current LGPS Governance Models and to consider alternatives and enhancements to existing models which can strengthen LGPS Governance going forwards.
- 5.2 Hymans Robertson undertook a process of engaging extensively with stakeholder groups and fund types to consider four governance models, each of which would be assessed against set criteria. The process undertaken enabled identification of best practices within current governance arrangements as well as identification of additional ideas to strengthen governance within the current regulatory framework.
- 5.3 Results found that there was a majority preference in adopting a governance model which combined improved practice with greater ring fencing of the LGPS within existing structures. This involved the introduction of guidance or

amendments to LGPS Regulations to enhance existing arrangements by increasing the independence of the management of the fund and clarifying the standards expected in key areas. In addition to this, results found there was a preference for clearer ring-fencing of Pension Fund management from the host authority, including budgets, resourcing and pay policies.

- 5.4 Following the analysis of these results, Hymans Robertson proposed that an outcome based approach to LGPS governance, with minimum standards, should be adopted rather than a prescribed governance model. In addition to this, Hymans Robertson proposed updating of relevant guidance and training requirements.
- 5.5 Following the approval of the good governance report, the Scheme Advisory Board (SAB) has asked Hymans Robertson to assist with the next stage of this project which will involve the defining of good governance outcomes and options for assessment of these outcomes. Further details of the results and analysis undertaken by Hymans Robertson are set out in Appendix 3.
- 5.6 Overall the Fund supports these recommendations, in particular clearly clarifying the standards expected in areas of governance and administration.

6.0 The LGPS Community

- 6.1 The LGA has produced a document set out in Appendix 4 to explain the relationship between the different bodies that make up the LGPS Community. While the document itself is not a comprehensive guide to all the roles and responsibilities of the bodies that make up the community, it illustrates both the formal and informal relationships between the bodies to form a cohesive collaboration. Further details can be found set out in Appendix 4.

7.0 Financial Implications

- 7.1 This report is for noting, so there are no direct financial implications. However, the outcome of the consultations could have financial implications for the Fund, in particular the exit cap and the outcome of the McCloud case. Further work will be done with the Fund actuary to analyse the implications and report back to the committee.

8.0 Legal Implications

- 8.1 Not applicable.

9.0 Equality Implications

- 9.1 Not applicable.

10.0 Consultation with Ward Members and Stakeholders

- 10.1 Not applicable.

11.0 Human Resources

11.1 Not applicable.

Report sign off:

Minesh Patel
Director of Finance

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