Brent	**General Purposes Committee** 8 November 2021
	Report from the Director of Finance

Pensions Agreement – Greater London Council and Inner London Education Authority

Wards Affected:	All
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Part Exempt The Appendix to the report is not for publication as it relates to the following category of exempt information as specified under Part 1, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	One Appendix A (exempt) LPFA Pensions Agreement
Background Papers:	None
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1.0 Purpose of the Report

1.1 The purpose of this report is to set out a proposed agreement between the Council and the London Pension Fund Authority (LPFA) in respect of funding the historical pension liabilities of Greater London Council (GLC) and the Inner London Education Authority (ILEA).

2.0 Recommendation(s)

2.1 To note the additional liability due to the LPFA as at 31 March 2019, relating to deferred, pensioner and dependent liabilities for which the Council is responsible.

2.2 To delegate authority to the Director of Finance to agree the final terms of and sign an agreement between the LPFA and London Boroughs in respect of the Council's GLC/ILEA liabilities (Appendix A - exempt).

2.3 To delegate authority to the Director of Finance to manage the funding of the liabilities until full repayment.

3.0 Background

3.1 After the Greater London Council (GLC) was abolished in 1986, and the Inner London Education Authority (ILEA) was abolished in 1990, the London Residuary Body took over responsibility for administering the remaining liabilities of those organisations (including pension liabilities). Individuals employed by GLC or ILEA at the time of their abolition had their employment transferred to the Boroughs. Pension liabilities in respect of these individuals were also transferred to the relevant Borough's LGPS Fund.

3.2 However, liabilities in respect of former employees of GLC and ILEA (deferred pensioners and pensioners) did not transfer to the Boroughs. These liabilities remained with the London Residuary Body. In 1996, LPFA took over the administration of these liabilities. At that time, LPFA received assets that were assessed as being sufficient to cover the liabilities

3.3 Since then, there have been a number of factors that have resulted in a funding deficit emerging. These include:

- The dot com bubble
- The 2008 financial crisis
- Steadily improving pensioner longevity

3.4 Most other pension funds (both in the private sector and within the LGPS) have responded to these issues by making additional contributions to address the funding deficit. By contrast, LPFA has not received any contributions in respect of the GLC/ILEA liabilities at any time in the past 25 years. As a result, there is now a funding shortfall, which was most recently valued at £140m (77% funded) as at 31 March 2019.

3.5 As well as running the pension fund, LPFA also administers two other liabilities on behalf of the former GLC/ILEA. These are:

- Asbestosis claims, and
- Unfunded pension payments

These are collectively referred to as the Residual Liabilities, and they sit outside the pension fund. In order to fund these payments, LPFA raises the Inner London Levy and Greater London Levy under the Levying Bodies (General) Regulations 1992. The payments LPFA makes in respect of the Residual Liabilities vary from year to year (for example the number of asbestosis claims varies considerably over time). However, to provide stability to the Boroughs, the total levy amount has been kept the same for over 10 years. Over time, it is expected that the Residual Liability payments will fall (as the population of eligible asbestosis claimants shrinks and the unfunded pensioners pass away).

3.6 The London Borough Councils are collectively responsible for meeting the historical pension fund liabilities resulting from the abolition of the Greater GLC and ILEA. The LPFA was formed in 1989 to administer the assets and liabilities remaining within these funds.

3.7 The Society of London Treasurers (SLT) is comprised of Section 151 officers, from all 32 London Boroughs, the City and the GLA and aims to represent the interest of London on key local government financial matters. The SLT and LPFA have jointly proposed that 90% of this liability should be apportioned to the London Borough Councils based on the current GLA levy allocation.

3.8 The Council currently pays an annual levy to the LPFA to cover other unfunded liabilities within the fund. These payments are forecast to decrease over time as liabilities are repaid. Under the proposed agreement, as the current levy starts to reduce, then the London Borough Council’s will be able to use the funding set aside to maintain the levy payments to meet the additional liabilities.

4.0 Financial Implications

4.1 The Council currently pays an annual levy to the LPFA in relation to the unfunded liabilities of the GLC and ILEA, which is forecast to decrease over time as liabilities are repaid. The Society of London Treasurers and the London Pension Fund Authority have proposed that as the Current Levy Share starts to reduce, this will enable the Boroughs to use their funding which they have set aside to meet the Current Levy Share to pay off their proportionate share of remaining liabilities.

4.2 In addition to the funding arrangements proposed above, the Council historically set up an earmarked reserve specifically for this purpose as it had a legal obligation to fund these liabilities at some point in the future. Under the proposed allocation methodology the proportionate share for Brent is estimated to be in the region of £1.8m (or 1.4%). The value of liabilities will be revalued by the actuary at each triennial valuation with each Borough responsible for funding the deficit calculated. Overall, by maintaining the current levy rate and making use of the earmarked reserve, the signing of the agreement is not expected to create an additional budgetary pressure for the council.

5.0 Legal Implications

5.1 The London Pensions Fund Authority (LPFA) was established by the London Government Reorganisation (Pensions etc.) Order 1989. The property rights and liability of the London Residuary Body (the successor to the GLC etc) in relation to pensions were transferred to it and under the same order the LPFA was given the power to raise levies on inner and outer London Boroughs in accordance with the Order.

5.2 In formulating its budget for each financial year, the LPFA should have regard to the following general principles:

- It must exercise its statutory powers and duties for the purposes they were enacted and must comply with the requirements of all relevant enactments;
- It is under a duty at common law to act reasonably in the Wednesbury sense (i.e. it must take into account relevant factors and no irrelevant ones and must not come to a decision that is irrational);
- It has to comply with its duty properly to administer the Pension Fund in accordance with the applicable legislation and its fiduciary duty to promote the financial interests of the pensioners, members and employers of the Fund;
- It has a general fiduciary duty to the council taxpayers of the authorities upon which any levy is to be raised to strike a fair balance between the financial interests of those taxpayers and those who will benefit from the expenditure or the forgoing of income.

5.3 The payment mechanism can be entered into voluntarily as proposed, as the only alternative would be for the London Pension Fund Authority to apply to the Department of Levelling Up, Communities and Housing to issue regulations that would be legally binding on the Council.

5.4 The payments due under the proposed agreement will be funded from an existing reserve for the purpose and so the General Purposes Committee may make this decision.

6.0 Equality Implications

6.1 None arising directly from this report

7.0 Consultation with Ward Members and Stakeholders

7.1 Not applicable for this report.

8.0 Human Resources/Property Implications (if appropriate)

8.1 Not applicable for this report.

Report sign off:

Minesh Patel
Director of Finance