

FAIR DEAL – STRENGTHENING PENSION PROTECTION POLICY CONSULTATION

Report of the County Treasurer

Please note that the following recommendations are subject to consideration and determination by the Board before taking effect.

Recommendation: The Board notes the report and provide any comments they wish to feed into the fund's consultation response.

1. Introduction

- 1.1. The Ministry of Housing, Communities and Local Government (MHCLG) released a consultation in May 2016 regarding the introduction of greater pension protection for employees of LGPS employers who are compulsorily transferred to service providers.
- 1.2. The 2016 consultation proposed that, in line with the Government's Fair Deal guidance of October 2013, most LGPS members in this position should have continued access to the LGPS with the new service provider.
- 1.3. A further consultation regarding Fair Deal will be running from 10th January to 4th April 2019, which takes into consideration some of the concerns raised in the initial consultation.

2. The Consultation and Proposed Changes

2.1. The latest consultation is requesting views on the following proposals:

- Amendments that would require service providers to offer LGPS membership to individuals who have been compulsorily transferred from an LGPS employer, removing the option of offering a broadly comparable scheme.
- Automatic transfer of LGPS assets and liabilities when employers in the scheme are involved in a merger or takeover.

2.2. It is also proposed that all LGPS scheme employers will be considered as Fair Deal employers with the exception of:

- further education corporations, sixth form college corporations and higher education corporations (i.e. post-1992 universities)
- admission bodies

2.3. Contractors who provide services to the organisations listed above will continue to provide access to the LGPS for transferred staff via an admission agreement with the pension fund (subject to meeting requirements and with the agreement of the contracting employer); however, there would be no obligation for them to do so under the scheme regulations.

2.4. A Fair Deal employer must ensure that protected transferees are given access to the LGPS for as long they remain a protected transferee and have an entitlement to membership of the scheme.

- 2.5. Transitional arrangements will cover those staff who have already been outsourced, in order for them to become protected transferees if and when services are re-tendered.
- 2.6. The consultation also proposes that service providers do not necessarily need to become admission bodies to participate in the LGPS. Instead, employers could be given 'deemed employer' status, a classification of employer which already exists within LGPS regulations.
- 2.7. For an employee of a deemed employer, the scheme employer in the LGPS would not be their employer under employment law. For example, the deemed employer of a voluntary school is the associated local authority.
- 2.8. The LGPS Scheme Advisory Board (SAB) will issue guidance to assist employers under Fair Deal with service contracts and to help protect them from potential risks.
- 2.9. The admission body route will remain an option so that Fair Deal employers can decide if they wish for a service provider to become a full scheme employer in the LGPS. This approach may be more appropriate for larger, longer term contracts where it is more fitting for a service provider to have full employer responsibilities under the LGPS regulations.
- 2.10. The draft regulations include an additional paragraph within part 3 of schedule 2 of the LGPS Regulations 2013, confirming that admission agreements may contain details of the risk sharing arrangements agreed between the Fair Deal employer and the service provider. We anticipate that advice issued by the SAB will contain further details regarding the risk sharing provisions that may be included within admission agreements.
- 2.11. The full consultation can be found in appendix

<https://www.gov.uk/government/consultations/local-government-pension-scheme-fair-deal-strengthening-pension-protection>

3. Conclusion

- 3.1. The Fair Deal proposals are intended to strengthen the pensions protections that apply following an outsourcing and it is expected that all transferred staff of relevant LGPS employers will benefit equally from the new provisions.
- 3.2. The Board is asked to note the report and provide any comments they wish to feed into the fund's consultation response.

Mary Davis

Electoral Divisions: All

Local Government Act 1972

List of Background Papers - Nil

Contact for Enquiries: Dan Harris / Shirley Cuthbert

Tel No: (01392) 383000