

LGPS Update

Report of the County Treasurer

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

Recommendation: that the Committee be asked to delegate the submission of a response to the McCloud consultation to the County Treasurer in consultation with the Chair of the Committee.

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### **1. Summary**

- 1.1 This report is brought to the Committee to provide an update on the latest LGPS consultations and recent Ministry of Housing, Communities and Local Government (MHCLG) feedback on a range of issues. In particular the report focuses on the McCloud consultation which closes for responses on 8<sup>th</sup> October 2020.

### **2. McCloud consultation**

- 2.1 When the Government reformed the public sector pension schemes back in 2014 and 2015, they introduced protections for older members. In December 2018 the Court of Appeal ruled that younger members of the Judges and Firefighters schemes had been discriminated against because the protections did not apply to them. This has become known as the McCloud judgement. The Government confirmed that there will be changes to all public sector schemes, including the LGPS, to remove this discrimination. The consultation on changes to the LGPS was published in July and closes on 8<sup>th</sup> October 2020.
- 2.2 When the LGPS changed from a final salary to a career average pension scheme in 2014, members who were within 10 years of the normal pension age (usually age 65) on the 1<sup>st</sup> April 2012 were provided with a protection called 'the underpin'. When a protected member takes their pension, the benefits payable from the career average and final salary schemes are compared and the higher amount is paid. The underpin only applied where a member leaves the scheme with an immediate payment of benefits and is limited to a period ending 31<sup>st</sup> March 2022.
- 2.3 The proposal extends the underpin to all active members on 31<sup>st</sup> March 2012 who have accrued benefits after April 2014 regardless of age. The underpin

will apply to benefits accrued between 1<sup>st</sup> April 2014 and 31<sup>st</sup> March 2022 but ceases when an active member leaves membership or dies in service. The final salary used for comparison purposes will be at the member's date of leaving active membership or when the member reaches 65. The requirement for an immediate payment of benefit has been removed so the underpin will apply to more members, in particular deferred members who by nature have left active membership sometime before retirement.

- 2.4 A two stage process is proposed where an underpin calculation will be undertaken when a member leaves service and again at the point the member takes their benefits. The recalculation at the point of retirement is required in order that the underpin can take into consideration the full effect of the differing retirement ages between the 2008 and 2014 schemes and the early/late retirement factors.
- 2.5 Many members have multiple posts in the LGPS and across a number of funds, each with its own LGPS record and these members would have been given a 12 month window to amalgamate these records together. In order for the administration of the new underpin to work effectively, it can only be applied to one LGPS record. The consultation therefore proposes that members are given a further 12 months and another opportunity to join records together.
- 2.6 The changes will be retrospective and backdated to April 2014 and will apply to all those who have already left, retired or died. This will result in the recalculation of retirement and death cases and making adjustments as required.
- 2.7 It is also proposed to calculate the effect of the underpin every year and include details on the Annual Benefit Statements. This, along with the large amalgamation exercise and recalculation of retirement and death cases, will be challenging for Peninsula Pensions.
- 2.8 Officers are working on a response to the consultation, and the Committee is asked to delegate the submission of a response to the County Treasurer in consultation with the Chair of the Committee.

### **3. Cost Cap process**

- 3.1 The Committee will recall that the cost cap mechanism for the LGPS (the 2016 exercise) was put on hold pending the outcome of the McCloud case. The government has announced that the McCloud remedies will be wrapped into the cost control mechanism for all public service pension schemes which have now been un-paused. This may result in benefit changes over and above those contained in the McCloud consultation.

### **4. Exit payment cap**

- 4.1 The government first mentioned its intention to introduce a cap on exit payments back in 2015 but it took until mid-July 2020 for HM Treasury to respond to the consultation and confirm that early retirement costs would count towards the cap.

- 4.2 The cap will apply to all public sector employers, will be set at £95,000 with no immediate plans to index link this level. Exit payments include:
- redundancy payments, including statutory redundancy payments;
  - severance payments;
  - pension strain costs that arise where a LGPS pension is paid unreduced before a member's normal retirement age;
  - other payments made as a result of terminating employment.
- 4.3 These changes will affect LGPS members who are aged 55 and over who currently qualify for an unreduced pension because of redundancy or efficiency. If a strain payment is not made in full, it will force members to take a reduced pension.
- 4.4 We understand that MHCLG are considering options to introduce choice to members to take a deferred benefit and the option to purchase the shortfall. Any changes to the LGPS regulations will be subject to further consultation.

## **5. Review of Employer contributions and flexibility on exit payments**

- 5.1 In response to a consultation that was launched in May 2019, the Government has responded on some of the issues covered by that consultation. Subsequently the Local Government Pension Scheme (Amendment) (No 2) Regulations 2020 have been published and come into effect on 23<sup>rd</sup> September 2020.
- 5.2 Employer contribution rates are calculated as part of the triennial valuation though employer circumstances could change in between valuations. Responses to the consultation were supportive of the ability to review employer rates outside of the valuations process. The government will therefore amend the regulations to allow the following flexibilities;
- Administering authorities may review the contributions of an employer where there has been a significant change to the liabilities.
  - Administering authorities may review the contributions of an employer where there has been a significant change in the employer's covenant.
  - An employer may request a review of contributions from the administering authority.
- 5.3 The Government proposed to allow administering authorities the flexibility to make an agreement with an exiting employer to spread exit payments. Many funds already do this by putting a side agreement in place. The Government will amend the LGPS regulations to allow administering authorities the power to spread exit payments. The administering authorities will be expected to determine whether to spread an exit payment, over what period and the proportion of the exit payment to be paid each year taking into account the interests of the fund and all other employers.
- 5.4 The Government will also amend the regulations to give administering authorities the power to allow an exiting employer to defer an exit payment where they have no active members in return for a commitment to meet their existing responsibilities as employers in the scheme and continue to pay

secondary contributions. Such employers will become known as 'Deferred Employers'.

## **6. Conclusion**

- 6.1 The Committee is asked to note the issues and developments of the LGPS outlined in the report and consider the McCloud consultation.

Mary Davis  
County Treasurer

Electoral Divisions: All

Local Government Act 1972:  
List of Background Papers: Nil  
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