

Essex Pension Fund Strategy Board	PSB 05
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Local Government Pension Scheme (LGPS) and other Pension Reform

Report by the Independent Governance and Administration Adviser (IGAA)

Enquiries to Karen McWilliam on 07711016707

1. Purpose of the Report

- 1.1 To provide the Board with an update on current and expected LGPS changes and other national pensions reform which may impact on the LGPS.

2. Recommendation

- 2.1 The Board should note the information contained within this report including the ongoing impact on the delivery of services relating to the Fund.

3. Background

3.1 There continues to be a large amount of national reform to pension schemes, both specific to the LGPS and more general. Updates are provided in this report in relation to all of the following areas which have either had developments since the last Board meeting or where announcements are expected before the next meeting:

- McCloud;
- Good Governance;
- Cap on Exit Payments (£95k Cap);
- Increase in minimum retirement age;
- The Pensions Regulator Single Modular Code;
- CIPFA Knowledge and Skills Code and Framework; and
- Pensions Act 2021.

3.2 These are individually significant changes that will have, or are already having, a major impact on the Fund and, for some of the reforms, on its Employers.

4. McCloud

4.1 The Board may recall that in 2020 MHCLG carried out a consultation on the approach to changing the LGPS with a view to remedying the unjustified discrimination (now commonly referred to as "McCloud") included within the transitional arrangements relating to the introduction of the 2014 LGPS. An HM Treasury statement was published in early February 2021 setting out the way forward for the **unfunded schemes** in response to their equivalent consultation.

4.2 An equivalent response from MHCLG for **the LGPS** has not yet been produced but we understand that they are planning a Ministerial statement in March. As a result of this delay, the LGPS amendment regulations which were due in April 2021 are now expected later in the year, albeit we do not expect there to be a delay when the McCloud remedy will be formally introduced. In the meantime, MHCLG have suggested at public events that LGPS administering authorities should continue with the ongoing data collection

work. The Fund has already commenced this data collection work and this will continue subject to resources being available.

5. Good Governance

- 5.1 The Scheme Advisory Board (SAB) commenced a project in early 2019 to consider the future governance structure of the LGPS. SAB met on the 08 February to consider the final report from the review which is available here: https://lgpsboard.org/images/Other/Good_Governance_Final_Report_February_2021.pdf
- 5.2 The SAB Chair has now made formal requests on behalf of the SAB to MHCLG and other bodies to implement the recommendations from the project. The recommendations from the review were reported to the Board previously, and a check carried out at that time evidenced that the Fund already complied with the majority of areas (noting that some areas could not be checked as they are dependent on new guidance being issued or further clarification on the requirements). The recommendations are provided at Appendix A.
- 5.3 SAB will be identifying and promoting best practice in the LGPS to assist in taking forward the recommendations made. In addition to this MHCLG would need to implement some of the changes identified either by amending regulations or via statutory guidance. The action plan sent by SAB to MHCLG can be found here: https://lgpsboard.org/images/Other/Annex_to_Good_Governance_letter_110221.pdf.
- 5.4 The next key steps for the Fund in relation to this project, other than taking part in SAB surveys, are likely to be responding to MHCLG's consultation or reviewing guidance from SAB to understand its impact on the Fund. However it may be some months before there are further developments due to other national priorities. At that point, we will update the Board and hope to be able to provide further information around any changes required for the Fund.

6. Cap on exit payments

- 6.1 As reported at the 16 December 2020 meeting, MHCLG consulted on changes to introduce the cap on exit payments (£95k cap) as well as wider reform to the LGPS and some employers participating in the LGPS. However,

HMT then introduced overriding legislation to introduce the exit cap from an earlier date. This resulted in conflicting legislation leaving uncertainty around whether scheme members should be paid immediate unreduced pension benefits (under the LGPS regulations) or not (due to the HMT's overriding legislation).

6.2 Three requests for Judicial review of HMT's regulations were granted permission to be heard and these were scheduled for the latter part of March 2021.

6.3 The latest developments are:

- on 12 February 2021, HMT issued the Exit Payment Cap Directions 2021 disapplying the exit cap in England, due to a number of “unintended consequences”; and
- on 25 February, regulations were made and laid, to be effective from 19 March, confirming the revocation of the exit cap.

6.4 As a result:

- LGPS administering authorities must pay qualifying scheme members an unreduced pension under the LGPS Regulations; and
- scheme employers must pay employees any additional amounts that would have been due to them if the £95k cap on exit payments had never been put into place in November.

The Fund did not have any scheme members impacted by the introduction of the cap on exit payments so there is no further action to be taken.

6.5 However, it is worth noting that HMT have confirmed that they will legislate again to tackle unjustified exit payments, but the timescales are not yet clear. On 4 March 2021, MHCLG confirmed that they consider the September 2020 consultation on Reforming Local Government Exit Pay closed and no further changes will be made to Local Government pensions or redundancy terms without a further, separate consultation.

7. Increase in minimum retirement age

7.1 On 11 February 2021 HMT launched a consultation on implementing the increase in the normal minimum pension age from 55 to 57 in April 2028. The open consultation will close on 22 April 2021. The proposed change is

designed to maintain a 10-year gap between minimum retirement age and state pension age. This is part of Government's policy that was originally confirmed back in 2014 whereby, in principle, the normal minimum pension age should be around 10 years under state pension age.

- 7.2 This change would need to be implemented in the LGPS, but not in all public sector schemes due to the nature of the roles of many of the members in those schemes, i.e. police, firefighters and the armed services.
- 7.3 If this is implemented in its proposed form, existing Fund members (as at the February 2021 consultation date) would retain the right to access their pensions from age 55. Members who join the Fund after the February 2021 consultation date would be subject to the higher minimum age limit when it is implemented (no later than April 2028).

8. The Pensions Regulator Single Modular Code

- 8.1 The Pensions Regulator (TPR) is expected to introduce a new Single Modular Code in 2021 (subject to a ten-week consultation which is expected in Spring 2021). This new Code will merge the existing 15 codes the Regulator has in place.
- 8.2 It will be an interactive online Code and is expected to have around 50 modules. The first iteration of the new Code will include Code of Practice No.14 (the relevant Code for the Governance and Administration of Public Service Pension Schemes) as part of the merger of 10 of the 15 codes currently in place. This could result in changes to the requirements placed on Public Service Pension Schemes, including the LGPS.
- 8.3 Administering authorities will need to review whether the Funds comply with the requirements within the new Code, which is currently expected to be published in October/November 2021.
- 8.4 It is expected that Fund Officers will develop a formal response to the consultation in Spring 2021 for approval by the Board.

9. CIPFA Knowledge and Skills Code and Framework

- 9.1 The CIPFA Pensions Panel have been working with Aon on updating their Knowledge and Skills Code of Practice and Framework for Pension Committee members and Senior Officers. The Panel met on 18 January 2021,

where the revised Code and Framework were discussed. It is anticipated that these revised documents will be ready for publication in Spring 2021 (around April), ahead of the May elections.

- 9.2 It is expected that the competencies will be "stronger" around the need for senior officers and pension committees to have appropriate knowledge to carry out their role, and there will be an increased emphasis on having appropriate training plans. There is a strong alignment between the revised guidance and SAB's Good Governance project recommendations.

10. Pensions Act 2021

- 10.1 The Pension Schemes Bill 2019-21 was granted Royal Assent on 11 February 2021 and is now the Pension Schemes Act 2021. The provisions that are applicable to the LGPS are as follows:

National Pensions Dashboards

- The Act provides the legal framework for implementing national pensions dashboards. Currently the Pensions Dashboards Programme (PDP), set up by the Money and Pensions Service, have stated that in the implementation plan, dashboards will not be available until 2023. After that date, pension schemes will begin to be compelled to provide information to the dashboards.

LGPS Funds, being some of the largest in the UK, are likely to be towards the top of the list for implementation. There will also be opportunities to voluntarily sign up from 2022. Some data preparation is recommended before those dates and so this will be considered as part of the Fund's business plan.

Task Force on Climate related Financial Disclosures

- The Act puts in place the structure required to enforce compliance with the recommendations of the **Task Force on Climate related Financial Disclosures** (TCFD). Regulations on how this will apply to the LGPS will be issued by MHCLG following a consultation expected later in 2021.

Pensions Scams

- Under the Pensions Act 2015, where:

- a scheme member has a right to a "statutory transfer" and wants to transfer accrued LGPS benefits to another pension scheme;
- the transfer value of LGPS main scheme benefits (excluding AVCs) is £30,000 or more; and
- the transfer is to a scheme that offers flexible benefits;

the member must provide evidence that they have sought advice from an FCA approved adviser. Once suitable regulations are laid, the Pensions Act 2021 allows there to be tougher conditions for members to meet to be entitled to a transfer out, and the administering authority will have more power to refuse a transfer where they suspect it could be a scam.

11. Risk Implications

- 11.1 These reforms introduce a number of risks to the Fund, with the key aspect relating to the delivery of the reforms without impacting business as usual and other initiatives in the Fund's Three Year Business Plan, it is important that the Board do not underestimate the potential impact of this risk which is significant. There are also risks around accuracy of processes and communications.

12. Communication Implications

- 12.1 The introduction of these changes will require major communications exercises with both Scheme Members and Employers, as well as internally in relation to governance arrangements. The most immediate impact relates to HMT disapplying the £95k exit cap, and Fund Officers are already liaising with Employers in relation to this development.

13. Finance and Resource Implications

- 13.1 There will be a significant amount of additional work for the Fund to participate in consultations, and delivery of these and other areas of regulatory change. The impact is expected to continue for three to four years (in the main due to McCloud). Resource implications have been considered and proposals developed by the Interim Director for Essex Pension Fund is currently with the

S151 Officer for consideration. If all areas are impacted simultaneously the costs will be in the region of c.492k per annum in the short to medium term.

14. Background Papers

- 14.1 [letter from MHCLG to administering authorities and council Chief Executives](#), 04 March 2021
- 14.2 [Restriction of Public Sector Exit Payments \(Revocation\) Regulations 2021](#), 25 February 2021
- 14.3 https://lgpsboard.org/images/Other/Good_Governance_Final_Report_February_2021.pdf
- 14.4 https://lgpsboard.org/images/Other/Annex_to_Good_Governance_letter_110221.pdf.
- 14.5 Government Consultations and Reform Update, PSB 03, 16 December 2020.
- 14.6 LGPS Regulatory Reform and Resource Implications, PSB 15, 23 September 2020.

Good Governance Project Recommendations

General

- A.1 MHCLG will produce statutory guidance to establish new governance requirements for funds to effectively implement the proposals below (“the Guidance”).
- A.2 Each administering authority must have a single named officer who is responsible for the delivery of all LGPS related activity for that fund (“the LGPS senior officer”).
- A.3 Each administering authority must publish an annual governance compliance statement that sets out how they comply with the governance requirements for LGPS funds as set out in the Guidance. This statement must be co-signed by the LGPS senior officer and S151.

Conflicts of interest

- B.1 Each fund must produce and publish a conflicts of interest policy which includes details of how actual, potential and perceived conflicts are addressed within the governance of the fund, with specific reference to key conflicts identified in the Guidance.
- B.2 The Guidance should refer all those involved in the management of the LGPS, and in particular those on decision making committees, to the guide on statutory and fiduciary duty which will be produced by the SAB.

Representation

- C.1 Each fund must produce and publish a policy on the representation of scheme members and non-administering authority employers on its committees, explaining its approach to voting rights for each party.

Knowledge and understanding

- D.1 Introduce a requirement in the Guidance for key individuals within the LGPS, including LGPS officers and pensions committees, to have the appropriate level of knowledge and understanding to carry out their duties effectively.

- D.2 Introduce a requirement for s151 officers to carry out LGPS relevant training as part of CPD requirements to ensure good levels of knowledge and understanding.
- D.3 Administering authorities must publish a policy setting out their approach to the delivery, assessment and recording of training plans to meet these requirements.
- D.4 CIPFA should be asked to produce appropriate guidance and training modules for s151 officers.

Service Delivery for the LGPS Function

- E.1 Each administering authority must document key roles and responsibilities relating to the LGPS and publish a roles and responsibilities matrix setting out how key decisions are reached. The matrix should reflect the host authority's scheme of delegation and constitution and be consistent with role descriptions and business processes.
- E.2 Each administering authority must publish an administration strategy.
- E.3 Each administering authority must report the fund's performance against an agreed set of indicators designed to measure standards of service.
- E.4 Each administering authority must ensure their committee is included in the business planning process. Both the committee and LGPS senior officer must be satisfied with the resource and budget allocated to deliver the LGPS service over the next financial year.

Compliance and improvement

- F.1 Each administering authority must undergo a biennial Independent Governance Review (IGR) and, if applicable, produce the required improvement plan to address any issues identified. IGR reports to be assessed by a SAB panel of experts.
- F.2 LGA to consider establishing a peer review process for LGPS Funds.