

## Local Pension Board

17 November 2020



**Title** **Legislative and Regulatory Update**

**Report of** Director of Finance

**Wards** N/A

**Status** Public

**Urgent** No

**Key** No

**Enclosures** Appendix 1 – Note on recent legislative and regulatory changes impacting on Local Government Pension Schemes

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### Summary

The report summarises recent changes in legislation and regulations that impact on scheme benefits, dealing with surpluses and deficits on cessation and the governance of climate related risks.

### Officers Recommendations

1. That the Local Pension Board note the update and actions being taken

## 1. WHY THIS REPORT IS NEEDED

- 1.1 Compliance with legislation and regulation requires that changes therein are monitored and appropriate actions taken to implement.
- 1.2 The attached note (appendix 1) was circulated to Local Pension Board members on 30 October 2020. The legislative and regulatory developments discussed therein are summarised below.

### Limits on Redundancy Entitlements

- 1.3 The Government has enacted a limit of £95,000 on the value of exit payments, including strain costs, from public sector employers. Consultation on changes to LGPS Regulations both to implement this limit and to require staff being made redundant who are eligible for an immediate unreduced pension to choose between that and employer's redundancy payments is currently being consulted upon.
- 1.4 At the present time the status of the LGPS Regulations are unclear with Government writing to Council's to state that the exit legislation takes pertinence over the LGPS Regulations. Due to the confusion employers have been asked to discuss any redundancy offers in advance with both HR and the Pension Fund and consider taking legal advice on the redundancy terms. The pension fund may look to collect strain costs before awarding an immediate unreduced pension.

### Age and Gender Discrimination

- 1.5 Two recent court cases (McCloud and Goodwin) that ruled against the Government will mean that some members benefits will require to be enhanced. Officers will be working with the new administrator to agree a project plan to identify the affected members, collect any required information and make appropriate adjustments to benefits in payment and other entitlement. This exercise is expected to take around two years to complete. The Actuary has estimated that the impact is around 1-2% of additional liabilities across all employers.

### Cessation Surpluses and Deficits

- 1.6 Until recently, when employers left the fund any surplus was retained and any deficit was payable immediately by the employer. Changes to regulations provide guidance as to circumstances to be considered in deciding whether to pay surplus to an exiting employer, allow deficits to be paid in instalments, employers to remain 'active' even when no contributing staff and contribution rates to be reviewed between actuarial valuations. The expected outcome is that employers will seek to engage when they see

opportunities to benefit from these flexibilities. Officers mindful of the need to protect all employers will inevitably seek greater Legal support when dealing with employer requests.

### Governance and Reporting of Climate Risks

1.7 Government is consulting on the introduction of mandatory reporting and governance of climate risks for larger (over £1 billion) UK occupational pension schemes. Whilst LGPS funds are not in scope of the current consultation there is reference to MHCLG following a similar approach for LGPS. The note sets out the proposed requirements with first compliance reports being issued by Q4, 2023. Priority at the moment is reviewing the extent to which ESG issues should influence the selection of our investments. At the same time we will be working with our advisors, fund managers and the London CIV to understand the new requirements and develop a response, which hopefully will be consistent across London schemes.

1.8 Further updates will be given as current Government proposals become law.

## **2. REASONS FOR RECOMMENDATIONS**

2.1 No action is required as a consequence of the update.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 None at the present time although as we develop implementation proposals options will be highlighted.

## **4. POST DECISION IMPLEMENTATION**

4.1 The Board will be kept informed of actions taken to implement changes in regulations and legislation.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

5.1.1 Monitoring changes in legislation and regulations plays an essential and key role in providing assurance that the Pension Fund's risks are managed in an environment of sound stewardship and control. This is in line with the aims set out in the Council's Corporate Plan, to ensure that services are delivered efficiently to obtain value for money for the taxpayer.

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 There are no immediate financial implications from the report. However, most of the proposals are likely to entail greater expenditure (benefits, surplus return or administrative cost) which will ultimately increase employers contributions.

### **5.3 Social Value**

5.3.1 Contributing to the Pension Fund ensures that contributing members have a secured income on retirement.

### **5.4 Legal and Constitutional References**

5.4.1 The Board's Terms of Reference include "ensuring the effective and efficient governance and administration of the LGPS for the LBB Pension Fund". The actuarial process is central to ensuring that the pension fund has sufficient assets to pay pensioners.

5.4.2 The paper concerns compliance with LGPS Regulations as they are amended.

### **5.5 Risk Management**

5.5.1 Failure to comply with changes in legislation and regulations will entail future complexities.

### **5.6 Equalities and Diversity**

5.6.1 Pursuant to the Equality Act 2010, the Council is under an obligation to have due regard to 1) eliminating unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; 2) advancing equality of opportunity between persons who share a relevant 'protected characteristic' and those who do not share it; and 3) fostering good relations between persons who share a relevant 'protected characteristic' and persons who do not share it. The 'protected characteristics' are: age, disability, gender reassignment, pregnancy, and maternity, race, religion or belief, sex and sexual orientation. The Council also has regard to the additional protected characteristic of marriage and civil partnership even though this does not apply to parts 2) and 3) (above) of the public-sector equality duty.

### **5.7 Corporate Parenting**

5.7.1 Not applicable in the context of this report.

### **5.8 Consultation and Engagement**

5.8.1 Not required.

### **5.8 Insight**

5.8.1 The report provides insight into the future direction of employers' contribution rates.

## **6. BACKGROUND PAPERS**

6.1 None