

Bath & North East Somerset Council		
MEETING:	AVON PENSION FUND COMMITTEE	
MEETING DATE:	22 March 2019	AGENDA ITEM NUMBER 14
TITLE:	LGPS: Regulatory update	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix 1 – Current matters affecting LGPS administration Feb 2019 Appendix 2 – Fund response to MHCLG Draft guidance on pooling consultation		

## **1 THE ISSUES**

- 1.1 The purpose of this report is to update the Committee on the latest position concerning the Local Government Pension Scheme [LGPS] and any proposed regulatory matters that could affect scheme administration. An updated list is included in Appendix 1. An informal consultation on 'Draft Guidance on Pooling' was released by MHCLG and APFs proposed response is included in Appendix 2.

## **2 RECOMMENDATIONS**

That the Committee:

- 2.1 Notes the current position regarding the developments that could affect the administration of the Fund.
- 2.2 Notes the proposed response to be sent to the MHCLG consultation on 'Fair Deal'

## **3 FINANCIAL IMPLICATIONS**

- 3.1 The administrative and management costs incurred by Avon Pension Fund are recovered from the employing bodies through the employer's contribution rates
- 3.2 Any other specific areas will be reported as required

#### **4 LGPS and Unfunded Public Sector Cost Cap:**

- 4.1 The Public Service Pensions Act 2013 set out that public sector schemes were to be monitored to ensure that they are affordable and sustainable. Unlike the unfunded schemes LGPS also has a built in check driven by the Scheme Advisory Board
- 4.2 In September 2018 HM Treasury announced that as a result of scheme valuations all public service pension schemes, including the LGPS had breached the 2% cost cap floor which would lead to member benefits improvements.
- 4.3 SAB has its own cost management which will allow any changes to benefits to be taken into account before the HM Treasury process begins
- 4.4 A small technical group has been set up by SAB to look at changes to benefits
- 4.5 The other unfunded public sector schemes have a further complication in that it was confirmed in the Budget that the SCAPE discount rate used for assessing their employer contribution rate had reduced from 2.8% to 2.4% which means not only will the benefits be improved but the employers will also be paying more into the scheme.
- 4.6 LGPS does not have the same problem but there will be some changes to member benefits.
- 4.7 It was intended that all scheme changes would be effective from 1 April 2019 and will apply until at least March 2023. However, in January, the Government announced a pause in the cost cap process due to uncertainty caused by a court ruling on elements of the 2014/15 scheme reforms and subsequently the SAB confirmed that they would also be pausing their own cost management process until the effects of the outcome of this case is clear.
- 4.8 Therefore, scheme changes are unlikely to be in place for 1 April 2019.
- 4.9 As a result of these four year reviews it is expected that local fund valuations will also be made on a quadrennial timeframe.

#### **5 LGPS 2014: LGPS (Miscellaneous Amendment) Regulations 2018**

- 5.1 These regulations were laid before parliament on 18 Dec 2018 and, with a couple of exceptions as detailed in Appendix 1, came into force on 10 Jan 2019
- 5.2 These cover the following
  - Amend the unintentional consequence of the May 2018 amendment regulations
  - Amend the regulations to comply with the Supreme Court judgment in respect of benefits payable to same-sex married or civil partners that they should be entitled to the same as widows.
  - To allow the Secretary of State the power to issue statutory guidance. The proposed changes to the scheme, is to accommodate judgments made and to give some flexibility to respond to future developments.

- 5.3 It will be necessary for administering authorities and employers to amend their discretionary policies following the implementation of these amendment regulations.

## **6 MHCLG Consultation on Fair Deal**

- 6.1 On 10 Jan 2019, MHCLG launched a policy consultation and draft regulations on 'Fair Deal'
- 6.2 The consultation contains proposals to strengthen the pension protections that apply when an employee of a LGPS employer is compulsorily transferred to the employment of a service provider.
- 6.3 The consultation closes on 4 Apr 2019
- 6.4 A response will be sent on behalf of Avon Pension Fund.

## **7 MHCLG Consultation on 'Statutory Guidance on Asset Pooling'**

- 7.1 In Jan 2019, MHCLG launched an informal consultation on 'Statutory Guidance on Asset Pooling'
- 7.2 The consultation replaces the non-statutory guidance issued in November 2015 and consolidates all previous guidance issued to date.
- 7.3 The consultation closes on 28 Mar 2019
- 7.4 A response will be sent on behalf of Avon Pension Fund. The proposed response is included as Appendix 2.

## **8 Treasury Consultations on Exit Payments in the Public Sector**

- 8.1 Still no movement on this but seems that some work being done behind the scenes but dependent on parliamentary time.
- 8.2 At the same time there is also a Private Members Bill called the Public Sector Exit Payments (Limitations) Bill 2017. This was introduced into Parliament on 5 September 2017 and has had numerous dates scheduled for the second reading but this has still not happened and the latest update is that the second reading date is to be announced. The contents of the Bill indicate that it is to enact legislation set out in the Small Business, Enterprise and Employment Act 2015.

## **9 Supreme Court decision Walker v Innospec**

- 9.1 The LGPS (Miscellaneous Amendment) Regulations 2018 amend the situation following the judgment made by the Supreme Court on how benefits payable to partners within same-sex marriages or civil partnerships are calculated. Instead of being calculated on a similar basis to widowers it was confirmed that such benefits should be the same as for widows.
- 9.2 At present there is no intention of amending this to include partners of opposite sex marriages and civil partnerships. The initial estimate for this across the public sector pension schemes is £2.8bn. However it is expected that a legal challenge will be made sometime in the future and if successful would require retrospective action to rectify.

## **RISK MANAGEMENT**

9.3 No specific issues to consider.

## **10 EQUALITIES**

10.1 None as this report is primarily for information only.

## **11 CONSULTATION**

11.1 This report is primarily for information and therefore consultation is not necessary.

## **12 ISSUES TO CONSIDER IN REACHING THE DECISION**

12.1 The issues to consider are contained in the report.

## **13 ADVICE SOUGHT**

13.1 The Council's Monitoring Officer and Section 151 Officer have had the opportunity to input to this report and have cleared it for publication.

<b>Contact person</b>	<i>Kate Shore – Technical &amp; Compliance Advisor 01225 395283</i> <i>Geoff Cleak Pension Manager 01225 395277</i> <i>Liz Woodyard Investment Manager 01225 5306</i>
<b>Background papers</b>	<i>Regulations and accompanying notes;</i> <i>Exit Payment Consultations and Government Response</i> <i>LGA Bulletins</i> <i>Policy Consultation draft regulation documents Oct 2018</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	