Avon Pension Fund
Local Government Pension Scheme

Post: Avon Pension Fund, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath, BA1 1JG
Web: www.avonpensionfund.org.uk **Tel:** 01225 395100
Email: avonpensionfund@bathnes.gov.uk **Fax:** 01225 395258

12 July 2019

LGPensions@communities.gov.uk

Re: Consultation on Changes to the Local Valuation Cycle and the Management of Employer Risk in the LGPS

I write on behalf of Bath and North East Somerset Council as the administering authority for the Avon Pension Fund in response to the above consultation, which was published on 8 May 2019.

In drafting our reply the Avon Pension Fund have drawn on our experience as a Local Government Pension Fund with 400 employers, and attempted to clearly set out the changes to the Regulations that we believe will be helpful to Funds, Employers and Members.

The timing of this Consultation, overlapping with the Fund valuation, has created resource pressure on the Fund to prepare a meaningful response. Following so closely after the Fair Deal Consultation it results in Funds facing great uncertainty while drafting and consulting on the Funding Strategy Statement and calculating the 2019 Valuation. In future could there please be better planning to bring forward consultations and regulation changes in the inter valuation years, rather than the valuation year.

Section 1 - Changes to the Local Government Pension Scheme (LGPS) valuation cycle

Question 1 – As the Government has brought the LGPS scheme valuation onto the same quadrennial cycle as the other public service schemes, do you agree that LGPS fund valuations should also move from a triennial to a quadrennial valuation cycle?

We strongly disagree that LGPS fund valuations should move from a triennial to a quadrennial valuation cycle. We disagree that this will 'deliver greater stability in employer contribution rates and reduce costs'.

The LGPS currently has mechanisms for delivering stability of employer contributions (Regulation 62 and CIPFA Guidance). We believe less frequent valuations will mean potentially larger adjustments will be needed, leading to less contribution stability.

In the face of more legislative change (McCloud and changes to the Regulations), economic change (Brexit), political change (Brexit) and technological change we believe this is not the right time to extend the valuation cycle.

Unitary Authority budget setting is increasingly short term and it is likely these employers would not favour contributions being set for longer, as it will not reflect changing profiles and circumstances. In Avon Pension Fund two of the four Local Authorities employers have seen their active membership halve since the last valuation due to the effect of academisation, outsourcing and restructurings. This scale of change needs to be reflected in their valuation sooner rather than later.

In Avon Pension Fund we also have over 100 smaller employers whose covenant is less strong and reviewing contributions four yearly, would increase the risk of an employer failing with insufficient funds to meet their pension liabilities.

Neither does Avon Pension Fund agree that costs for the Fund or scheme employers will reduce. This is because:

- It is highly likely interim valuations (possibly at an individual employer level) and more frequent individual employer valuations will increase costs.
- If, as a result, an employer were to fail with insufficient funds to meet pension liabilities it will increase costs.
- If, our Investment Strategy is refined less regularly opportunities may be missed increasing costs.
- The IAS 19 and FRS 102 accounting regulations may continue to require scheme employers to be revalued at least triennially as a longer roll forward would increase the approximations in the intervening period; this would increase costs.

The very fact that the concept of interim valuations has had to be introduced is tantamount to an admission that four years is too long a period between valuations. Add to that the complication of determining when an interim valuation is justified, combined with the safeguards that the government feels obliged to introduce, and the simple three year cycle has been converted into a bureaucratic nightmare.

To quote one of the Avon Pension Fund employers, 'this proposal is nonsensical. When there is something that works well the Government's response is to change it'. Our experience is that scheme employers require up-to-date and accurate information for decision making, and this is provided by the current triennial valuations.

The desire to bring all public sector schemes inline is not a good enough reason for proposing this change. The LGPS is the only funded public sector scheme and its needs must be considered.

Question 2 - Are there any other risks or matters you think need to be considered, in addition to those identified above, before moving funds to a quadrennial cycle?

There are at least two additional risks that should be addressed:

<u>Fund Governance:</u> The purpose of the triennial valuation is to assess whether Funds are on target to meet pension liabilities as they fall due. By lengthening the inter-valuation period there is a greater risk of divergence of funding for the Fund as a whole, and individual employers, and this reduces the financial health of Funds and employers. This would present a serious governance issue and to address this risk Avon Pension Fund will have to seriously consider moving to two yearly full valuations which would significantly increase costs. Some Funds might take the easier and less costly option of only undertaking valuations four yearly. This will lead to greater divergence between Funds, with the stronger and well governed Funds undertaking two yearly valuations, and other Funds (and consequently their scheme employers) being exposed to increased risks. We do not believe this is beneficial to the LGPS. There is also the risk that an employer may request a review of their contribution rate in response to external factors that they believe would have the effect of lowering their contribution rate without considering the long term impact of doing so.

<u>Accounting disclosures</u>: Avon Pension Fund's actuary prepares annual financial disclosure of pension assets and liabilities for most of our employer's for their financial statements. This disclosure is required under International Accounting Standard 19 (IAS 19) and Financial Reporting Standard 101/102 (FRS101/102). The actuarial methodology for this work is prescribed in the Standards and the basis involves a roll forward from the last valuation. With triennial valuations the roll forward is at most three years. The longer the roll forward the less accurate is the financial information. Would four-yearly valuations meet the requirements of the accounting standards? If not it would incur employers in substantial additional costs to comply with the accounting standards. The stance of the audit profession would be relevant here. <u>*We therefore strongly recommend that the accountancy bodies are consulted on the impact of the proposed change on financial disclosure. If the result is that employers require triennial valuations as a basis for their accounting disclosure, it would result in Funds having to undertake both triennial **and** quadrennial valuations; this would be absurd and very expensive.*</u>

Question 3 - Do you agree the local fund valuation should be carried out at the same date as the scheme valuation?

We do not believe it is necessary for the local fund valuation to be carried out at the same date as the scheme valuation.

Since the Local Government Pension Scheme is a funded scheme with its own actuaries and a variety of employing bodies, unlike the other public sector schemes, there is a legitimate question as to whether the review of the LGPS needs to be synchronised with the review of the other schemes.

We suggest the actuaries of LGPS Funds provide a rolled forward valuation every fourth year for the Government, to meet their requirement and to be in line with other public service schemes.

Question 4 - Do you agree with our preferred approach to transition to a new LGPS valuation cycle?

To be clear, it is not our preference to move to a quadrennial valuation, however, if this proposal goes ahead then our preferred approach is (b).

Section 2 - Dealing with changes in circumstances between valuations

Question 5 - Do you agree that funds should have the power to carry out an interim valuation in addition to the normal valuation cycle?

We support the proposal for interim valuations powers. If the LGPS Funds move to four-yearly valuations it will be essential to be able to carry out interim valuations to reflect the impact of asset volatility and changes in economic conditions. Without this flexibility there could be significant pressure on future contributions in some future scenarios.

Question 6 - Do you agree with the safeguards proposed?

We believe that interim valuations should only be permitted in the circumstances set out in the Funding Strategy Statement. There is no definition in the proposal of an 'interim valuation'; we believe it should be carried out across the whole fund to ensure assets are appropriately allocated to all employers. Logically, an interim valuation should only be undertaken at the midway point between statutory valuations, or, at the very least, not within one year of a statutory valuation.

Question 7 – Do you agree with the proposed changes to allow a more flexible review of employer contributions between valuations?

Irrespective of whether we move to a four-year valuation cycle, we agree with the proposal to allow more flexible review of employer contributions between valuations.

Avon Pension Fund recently had a parish council in surplus whose only employee moved to the 50:50 scheme. There was no basis to reassess the contributions and the parish council had to overpay contributions until the next valuation. The ability to request a reassessment of the contribution rate would address such problems.

In addition to the existing provision for contribution rates to be amended where an employer is about to leave the Fund, we would support a review of contributions being permitted where:

i. An employer closes to new members.
ii. There is a material transfer of staff in or out of an employer.
iii. There is a change in covenant of an employer.
iv. There is significant membership change.

The circumstances in which a contribution rate could be amended would need to be included in the Funding Strategy Statement both for reasons of transparency and to place a check on rates being revised for short term financial gain.

We do not support an employer being able to request a reassessment because they believe it will lead to a reduction in contribution rate, as this could negate the objective of the stability of contributions.

Question 8 – Do you agree that Scheme Advisory Board guidance would be helpful and appropriate to provide some consistency of treatment for scheme employers between funds in using these new tools?

Assuming interim valuations are permitted in the circumstances set out in the Funding Strategy Statement, logically the advice would be included in the guidance on Funding Strategy Statements. Regulation 58 refers CIPFA guidance and we do not believe that SAB guidance in addition to CIPFA guidance would be helpful.

Question 9 – Are there other or additional areas on which guidance would be needed? Who do you think is best placed to offer that guidance?

Funds already have access to professional actuarial advice and this should be sufficient to enable them to determine whether individual employers' rates should be amended between statutory valuations.

Section 3 - Flexibility on exit payments

Question 10 – Do you agree that funds should have the flexibility to spread repayments made on a full buy-out basis and do you consider that further protections are required?

The term "full buy out basis" is not applicable to the LGPS. Avon Pension Fund has an ongoing funding basis and a lower risk funding basis. The lower risk funding basis is used where an employer is exiting from the fund and has no guarantor; in this case the Fund have to meet any future deficit arising on "orphan" liabilities – where no individual employer has future funding responsibility.

In our experience Regulation 64(4) already achieves the effect of the Scottish Public Pensions Agency model, and we also use Regulation 64(3) to spread exit payments. These involve the actuary in issuing the appropriate certificate. We have no experience of legal side agreements and do not see the need for them.

We believe that the default position should remain that exit payments on the lower risk funding basis are settled in full and only where the employer makes an evidence based request to the Fund on affordability grounds should a payment plan over a suitable period, at the Fund's discretion, be agreed on the basis of achieving the optimum outcome for the Fund.

Exit payments on the ongoing basis should be settled immediately in full, if this is not affordable it is up to the guarantor to come to an arrangement with the contractor.

Question 11 – Do you agree with the introduction of deferred employer status into LGPS?

We agree with the introduction of deferred employer status as it will assist us to manage exits and administer and track a deferred debt. _It would be helpful to be consulted on the detailed amendments proposed to the Regulations in due course._

Question 12 – Do you agree with the approach to deferred employer debt arrangements set out above? Are there ways in which it could be improved for the LGPS?

Our suggested improvements are:

1. Given the uncertainty of the timing of an exit we believe it would be useful to allow scheme employers who have closed to new members to participate in deferred status arrangements **prior** to the last member leaving, and thereby have a planned exit strategy, 'flight plan', with the possibility of an alternative funding strategy in place to reduce the impact of the final exit payment. In this case having active members would not be a "relevant event".
2. A deferred debt arrangement should have defined review dates, and an end date.
3. In addition to 3.3(iii) a termination event could be triggered by either the Fund or employer unilaterally. This would lead to an immediate exit valuation and repayment of the full exit debt. This would cover the eventuality of an improvement in fortunes where the employer can afford to repay all, or a significant deterioration in covenant **before** insolvency (at which point it's too late to recover the remaining debt).
4. The deferred employer facility should not apply to bodies admitted under paragraph 1 (d) of Part 3 of Schedule 2 which are guaranteed by another Scheme Employer.

Question 13 – Do you agree with the above approach to what matters are most appropriate for regulation, which for statutory guidance and which for fund discretion?

We agree that the key obligations and entitlements should be in the Regulations including the list of considerations which must be included; we envisage this being similar to Part 3 of Schedule 2 in respect of Admission Agreements. The use of this facility should be advisory not mandatory. This will ensure consistency and minimum standards.

The Regulations should make clear whether deferred employers have discretionary policies relating to their deferred pensioners and whether they should consider and process requests from deferred pensioners for early release of pension.

As these arrangements are a material shift in how exits are managed we believe guidance should be statutory. *<u>As this could be a key aspect of managing exits, which present a financial risk to the Fund, we believe it is vital the detailed Regulatory proposals are consulted on so that they are effective and can be operated practically by Funds</u>.*

Question 14 – Do you agree options 2 and 3 should be available as an alternative to current rules on exit payments?

We believe options 1 and 2 are currently available to our Fund. We support the introduction of option 3 provided that administering authorities can determine which exiting employers qualify and the conditions under which this facility is offered.

Question 15 – Do you consider that statutory or Scheme Advisory Board guidance will be needed and which type of guidance would be appropriate for which aspects of these proposals?

We believe that guidance should be available and have statutory force because it will apply in contentious situations (i.e. it should be referred to in the Regulations, to ensure consistency, whilst also retaining local discretion).

Section 4 - Exit credits under the LGPS Regulations 2013

Question 16 – Do you agree that we should amend the LGPS Regulations 2013 to provide that administering authorities must take into account a scheme employer's exposure to risk in calculating the value of an exit credit?

<u>The Fund would be fully supportive of a change in the Regulations. In our view this is a high priority. We are very concerned that the Administering Authority might be drawn into a dispute between the contracting parties as to whether the exit credit is payable or not. This type of situation has manifested itself in the current dispute between Northamptonshire Council Pension Fund and a former environmental services provider. This is an issue on Avon Pension Fund's risk register. We ask for priority early resolution of this issue.</u>

The Avon Pension Fund has addressed the problem highlighted in the Consultation Paper by requesting the letting employer to ask the contractor to forgo any exit credit, in those cases where it was not liable for any exit payment. This has involved the Fund and the outsourcing Scheme Employers in a considerable amount of additional work. This equitable approach is not currently supported by the Regulations which has made it a delicate issue. Through this process we have discovered:

- That the Fund has to rely on the outsourcing Scheme Employer to provide the relevant contractual information and the Fund has to have the resources to interpret often lengthy and complex contracts.
- We have been surprised by the number of occasions where the contracts are inadequate with regard to the allocation of pension's risk.
- In some cases there is no signed commercial agreement.
- Many commercial agreements are not clearly worded, and in some cases there is no mention of pensions in the agreement.
- There is inadequate consideration of pension in call off arrangements within Framework Agreements when maintained schools convert to academies.
- There are a number of different pension risk sharing arrangements in operation.

In context, as Local Authorities have outsourced more services and maintained schools have converted to Academies who then outsource services, the admissions of scheme employers related to short term contracts has proliferated and Avon Pension Fund now have about 100, and growing, admission bodies. Therefore you can appreciate that the workload involved in reviewing contracts to identify the pensions risk and hence treatment of an exit credit is huge and complex.

We are very concerned that in this environment the Administering Authority might be drawn into a dispute between the contracting parties as to whether the exit credit is payable or not. We do not believe it is the Funds role to adjudicate on the contractual arrangements of the scheme employer and contractor in this way.

Question 17 – Are there other factors that should be taken into account in considering a solution?

We believe the Regulations should state that:-

- no exit credits will be paid for "transferee admission agreements" (Paragraph 1 (d) of Part 3 of Schedule 2) *unless* all pensions risk is fully and clearly transferred to the contractor under the contract, and
- a signed copy of the contract is provided to the Fund.

The regulations should state that the commercial contract should specify clearly who is liable for any exit payment under Regulation 64(2) and, by the same token, who is entitled to any exit credit. If wording to this effect could be included under this Regulation it would carry much greater weight than individual administering authorities trying to persuade Scheme Employers of the need for this to be addressed in their contracts.

Without this, trying to determine how much pensions risk the contractor has taken will be contentious and the administering authority is not best placed to adjudicate having not been party to the contractual negotiations and not qualified in contract law.

In the case of admission bodies, other than contractors, and other types of employer, the exit credit should be payable to the exiting employer *unless* an admitted body is guaranteed by another scheme employer and there is an agreement in place which leaves the pensions risk with that scheme employer.

Retrospection is problematical. If there is any doubt about whether the action taken by Funds to with-hold payment of exit credits is legal, retrospection is arguably unavoidable but we remain concerned that it could be challenged in law. This supports a change in the Regulations on exit credits being a priority.

Section 5 - Employers required to offer LGPS membership

Question 18 – Do you agree with our proposed approach?

We do not agree with the proposal to remove the requirement for further education corporations, sixth form college corporations and higher education corporations to close.

In evaluating this proposal it is important to understand the equality issues, and impacts of closure on the Fund, Employer and Members.

Summary:

- Equity: The lack of any form of equity in these proposals and the implications of a legal challenge, if made, means that we do not support this proposal.
- The Funds: HE and FE employers in Avon Pension Fund represent c13% of the total Fund assets and liabilities and 18% of the Fund payroll. Therefore in terms of scale they are a material proportion of the Fund. In view of the materiality of this sector within LGPS we ask that analysis is undertaken by GAD of the impact on each Fund if HE and FE employers closed, and the impact on the LGPS as a whole before implementation is considered further.
- The HE/FE employers: In the short term the FE and HE employers will see a large increase in their ongoing costs and face exit liabilities (for the eight HE/FE's in Avon Pension Fund of c£226m). These costs cannot be ignored as they will reduce the money available to deliver education.
- Employees: There will be inequality between the 'have LGPS' and 'have not LGPS'.
- *We strongly request a more thorough review of the impact of the proposal on the LGPS as a whole by GAD, and on HE FE finances, is undertaken. This will ensure that the consequences are fully understood and prevent further 'unintended consequences' or McCloud's debacles.*

We start by asking;

Are Higher and Further Education corporations really 'private sector bodies'?
A fundamental objection to this proposal stems from the fact that HE and FE employers are classified as 'private sector bodies'. Whilst these bodies may have autonomy in management and budget setting they are unquestionably publicly funded with 16-18 education being Government funded, the Apprenticeship program is funded by taxes foregone, Higher Education fees being set by the Government and funded by the Student Loan Company with part of the loans appearing as Government expenditure, and the new Insolvency Regime which is dependent on whether or not the Department of Education continue to support an education provider. In summary we disagree with the notion set out in the consultation paper that Higher and Further education corporations ('HE and FE employers') are 'private sector bodies'.

Equality Issues:
Notwithstanding our fundamental view regarding the status of Higher and Further Education corporations, the question then becomes, is it reasonable to allow those employers to close the LGPS to new employees? The argument that non-teaching staff should have their entitlement to an LGPS pension withdrawn because the Government no longer takes any responsibility for the financial viability of those organisations is a specious one.

If these corporations were rescued previously when they were public sector bodies, the additional costs would have been funded by the taxpayer. If these corporations fail now they will leave liabilities with the Local Government Pension Scheme which will have to be funded by local taxpayers or other bodies such as academies and other HE and FE employers. Why non-teaching staff should be penalised if other public sector bodies have to meet the shortfall, whereas teaching staff continue to be supported from public funds if their organisation fails is difficult to fathom.

Within non-teaching staff there will be inequity between staff on the same grade, with the added complexity of different reward packages depending on their start date. Inequity will arise in the form of 'have LGPS' or 'have not LGPS'. There is also the potential for staff remaining in the LGPS to be considered differently in redundancy situations. Someone under 55 could be targeted for redundancy to save the contributions to the LGPS, but someone over 55 could be refused redundancy or flexible retirement due to strain costs.

We know from the recent cases of McCloud and Sargeant, and others, that equality is a real and increasingly challenged established legal principle, and therefore robust legal advice should be sought and evaluated before this change is seriously considered. It would be a nightmare to untangle and reinstate members who were previously denied access if HE/FE employers 'close' without legitimate grounds and a challenge were successful. It has the potential to be akin to PPI miss selling, with advisors assisting people to claim 'back' contributions and so forth.

The concern is that the proposal rests on specious arguments designed to support those who are content for a divide to emerge in further and higher education corporations in order to compensate for the shortfall in their finances. It would be easy for a local authority pension fund to support this proposal from a purely financial viewpoint but the lack of any form of equity and the adverse impact on working relationships within further and higher education means that our support is with-held in this case.

Although the consultation does not specifically ask for an assessment of the financial impact of the Government's proposal on the Fund and the existing HE/FE participants, we have asked the Fund's actuary to provide one. His findings are set out below:-

Financial impact on Avon Pension Fund.

The HE and FE employers in Avon Pension Fund represent c13% of the total Fund assets and liabilities (equivalent to estimated assets of c£625m and liabilities of c£675m, 31 March 2019). In addition these employers represent 18% of the Fund payroll. Therefore in terms of scale they are a material proportion of the Fund. *In view of the materiality of this sector within LGPS we ask that analysis is undertaken by GAD of the impact on each Fund if HE and FE employers closed, and the impact on the LGPS as a whole before implementation is considered further.*

Avon Pension Fund would experience material changes in cash flows which we would need to pay the actuary to analyse if this proposal is implemented. These changes would result in initially increased contributions as future service rates and deficit payments would increase. Then as remaining active members leave/retire over time total future service contributions would decrease. The Fund would then become more cash flow negative at a faster pace as benefit payments exceed the contributions. This would affect the Funds investment strategy as we would need to divest as the cash flows become negative. Further, as the employers move towards potential termination there would be a new lower risk investment strategy with higher contributions.

The Avon Pension Fund will therefore reach the point sooner where the investment strategy backing these employers' liabilities needs to be altered to reflect the increasing need for liquid assets in order to pay benefits. Therefore the Fund might bring forward an investment strategy which is more matched to the Funds benefit cash flows and or potential exit position. This in turn would affect the investment returns achieved and therefore the impact on long term costs could be significant, our estimates suggest an initial increase of c3% of pay for HE and FE employers.

This proposal will also create additional administrative burdens for Avon Pension Fund as closed schemes tend to be difficult to monitor in that only the correct members are entered into the scheme. As stated in the consultation those already in employment at the time of the change will continue to be eligible. Therefore someone who previously opted out could join the scheme and become an eligible starter whereas a new employee would not be allowed access. Payroll providers would have to ensure that a robust process was in place to make sure that only eligible members were put into the scheme plus the Fund would need a checking mechanism to ensure that non eligible employees are not put in the Scheme by mistake.

This is further complicated by the fact that all of Avon Pension Funds HE and FE employers submit monthly data via a data transfer platform called iConnect. This system has been implemented to improve the quality and accuracy of our data in line with TPR Code of Practice. With the use of iConnect it is not possible to mark the scheme as 'closed' within our pensions administration software (Altair) and therefore we would not have an automated way of ensuring that only eligible employees were put into the scheme. A separate schedule of eligible employees would have to be kept and checked manually each month. This would be an onerous task for such large numbers of members and at a time when we are trying to streamline and automate administration not make it more complex.

Then there is the time and cost wasted by Funds and HE FE corporations in evaluation and modelling the costs and benefits of 'closing' to new members. It would be preferable if this was done centrally and a decision made either to abandon this proposal or for all HE FE corporations to close to new members with added funding to achieve this outcome.

In summary the simple proposal to allow HE and FE employers to close to new members could have far reaching unintended consequences for LGPS Funds and a full analysis of the impacts and costs should be understood if these changes are essential.

<u>Financial impact on further and higher education corporations that close to new members:</u>

If a HE and FE employer closes access to new members the average future service rate in the Avon Pension Fund is estimated by our actuary to immediately increase by c3%. This is because when closed the average age of the cohort increases and contributions have less time to gain investment returns to meet the promised benefits.

In addition, recovery periods would need to be reviewed and the maximum period would be based on the average working life time of the membership. This average, in Avon Pension Fund, is currently 11 years for the FE HE employers, so those employers with longer recovery periods would see an increase in deficit contributions. The deficit recovery periods will have to reduce over time as the members' age, which may increase deficit contributions.

Therefore, in the short term the FE and HE employers will see a short term increase in their ongoing costs which cannot be ignored. Over time, as the active membership falls away, the monetary impact would be less significant, but, then the employer will have to start planning to pay for the exit payment.

The actuarial assumptions adopted in a termination assessment are more prudent and the lower risk funding basis is used where an employer is exiting from the Fund and has no guarantor, as is the case for HE FE employers. This is because the other fund employers have to meet any future deficit arising on the historic "orphan" liabilities, where an exited employer has no future funding responsibility.

An estimate of the exit liabilities payable is provided by the FRS valuations in employer's accounts and for the eight HE FE's in Avon Pension Fund this amounts to £226m (31 July 2018). It should be noted that other employers have wanted to leave the Fund and found it unaffordable.

In summary the cost of closing to new members and exiting from the Fund will be very costly in the short and medium term and will divert money, and possibly assets, away from providing education services.

In addition the recent release of the Augar Review may result in more change to the HE FE employers so implementation of the proposed approach may be premature.

Impact on members

The proposal will result in employees who are denied access to LGPS having inferior pensions in old age which is socially undesirable. Where the government is the principle funder and has significant influence it is our view that it should be exercised responsibly to maintain and improve pension provision and not to reduce the quality of pension provision with the result of more benefit payments in old age. It is better in society for it to be 'worth working' and good quality pension provision is part of the financial reward of a working life.

Government guarantee

The removal of the implicit government guarantee for further or higher education corporations in LGPS would seem to have created more problems that it has solved. As the consultation points out, when the government guarantee was in place if a HE FE corporation failed the government would have met any LGPS pension deficit. Now the guarantee is removed any LGPS pension deficit will be met by local authorities, academies, parish and town councils and other HE FE corporations in the Fund. So the burden has merely been passed to a different part of the public sector. In addition the banks have become very cautious about lending to the HE FE sector, particularly colleges, because of the substantial pension liabilities and the new insolvency regime. Perversely, the magnitude of pension liabilities on a winding up would result in a Pension Fund becoming one of the largest creditors and therefore with one of the largest claims, to the detriment of the banks resulting in their reluctance to unsecured lending. The answer to this problem would be for the government to guarantee the pension liabilities.

Section 6 - Public sector equality duty

Question 19 – Are you aware of any other equalities impacts or of any particular groups with protected characteristics who would be disadvantaged by the proposals contained in this consultation?

The fund would stress that there is insufficient justification put forward to discriminate against non-teaching staff in Section 5 and there is a risk of unintended inequalities if the workforce are mainly female staff. The proposals under section 5 could be deemed to undermine the importance of pension provision within the wider society. Lastly, we are concerned that proposals to exclude non-teaching staff in HE FE provision creates a precedent that can be used to deny the LGPS to other groups of workers that currently earn the benefit of the LGPS such as non-teaching staff in academies and so forth.

We hope our responses are useful in taking the proposals forward and look forward to being updated in due course.

Kind Regards,

Kate Shore
Technical & Compliance Advisor
Avon Pension Fund

Tel: 01225 395283
Email: Kathryn_Shore@bathnes.gov.uk