

## CLWYD PENSION FUND COMMITTEE

<b>Date of Meeting</b>	Wednesday, 20 March 2019
<b>Report Subject</b>	Employer CARE pay issue
<b>Report Author</b>	Clwyd Pension Fund Manager

### EXECUTIVE SUMMARY

The purpose of this report is to provide an update on the issue relating to the incorrect CARE pay for LGPS members who are currently working, or previously worked for, Flintshire County Council, which was first highlighted to the Committee at the June 2018 meeting. The report considers:

- The progress that is now being made on recalculating benefits for the affected members
- The progress made with issuing communications to scheme members and the impact this has had
- The ongoing resource impact on the Administration Section and how this is being managed
- The latest information on the impact this will have, both financial and in relation to the number of members affected
- Contact we have had from the Pensions Regulator regarding this matter.

### RECOMMENDATIONS

1	That the Committee note this report.
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## REPORT DETAILS

1.00	CURRENT ISSUE
1.01	<p><b>Background</b></p> <p>As first reported at the June 2018 Committee meeting, an error has been identified relating to information provided by Flintshire County Council (FCC) via their payroll system, iTrent. For confidentiality purposes, this project is now being referred to as Project Apple.</p>
1.02	<p>One of the individual items of information that is provided by employers to the CPF Administration Section is the CARE pay for scheme members. This figure is used to calculate the scheme member's accrued pension for each year that they are in the scheme. Usually this is just the scheme member's pay for the year, but where a scheme member has had a period of reduced pay child related leave, or reduced or no pay sick leave, then (in simple terms) a notional pay figure is used for CARE pay which is a higher amount than the actual pay received. This is called "assumed pensionable pay" or "APP". Each employer is responsible for notifying the CPF Administration Section of APP for its scheme members.</p>
1.03	<p>Unfortunately the Employer Liaison Team discovered that the APP figure being extracted from FCC's iTrent payroll system is incorrect for some members. In some cases the APP has being overstated and in other cases the APP has been understated. In many cases the APP has been incorrectly generated and included where there was no drop in pay. It appears that the issue has affected APP since the new CARE scheme was introduced from 1 April 2014.</p>
1.04	<p>Several individuals from the Clwyd Pension Fund team and the FCC Payroll team are working together to investigate and resolve this issue and the Chief Executive is also receiving regular briefings. There are two key stages that need to be considered:</p> <ul style="list-style-type: none"><li>• the need to ensure that the issue is corrected on iTrent going forward – this is a matter for FCC as the employer to resolve</li><li>• identifying and correcting the benefits in relation to scheme members that have been affected up to the point the issue is corrected on iTrent</li></ul>
1.05	<p>As highlighted at previous Committees a set of principles was developed which outlining key matters in relation to how this error is to be resolved. Key points include:</p> <ul style="list-style-type: none"><li>• FCC (as the employer) will calculate the correct APP figure for these cases using a notional pay figure (effectively an estimate of what the member would have received if they had not been absent).</li><li>• Given the options in relation to how APP can be calculated, a tolerance level of the smaller of £1,000 or 2.5% (of the original figure used in the pension scheme benefit calculation) will be adopted to determine which cases are incorrect. Where the difference is greater than the tolerance, the benefit will be rectified.</li><li>• No overpayments of pension, lump sum retirement grant, trivial commutation, transfer value or death grant will be reclaimed.</li></ul>

	<ul style="list-style-type: none"> <li>• An overstated pension amount will be reduced to the correct level but the member will be given advanced notice, so it will not apply until the following month's pension payment.</li> <li>• All understated pension or other payments will be recalculated and the correct amount put into payment. Balances of underpayments to that point will be paid including interest (which is a requirement of the LGPS regulations).</li> <li>• FCC (the employer) will pay the costs relating to the Employer Liaison Team doing the rectification work, the balance of any underpaid pensions or other benefits (including interest), all written off overpayments that are not being reclaimed, any HMRC charges and any compensation payments for distress or maladministration. All of these costs, other than compensation payments, will be recharged via the employer contribution rate.</li> <li>• Decisions in relation to this project that require to be made by FCC in its role as employer will be made by Colin Everett (FCC Chief Executive), delegated as appropriate to Sharon Carney (Senior Manager, Human Resources and Organisational Development).</li> </ul> <p>The Committee agreed at a previous meeting that decisions in relation to the Clwyd Pension Fund will be made by Phil Latham, the Clwyd Pension Fund Manager.</p>
1.06	<p><b>Progress and Likely Impact</b></p> <p>The process to investigate and rectify these cases involves calculations that fall into two stages:</p> <ol style="list-style-type: none"> <li>1. Recalculating the APP figure to determine if the case was incorrect in the first place</li> <li>2. Where the case was incorrect, then calculating the impact on the member's total pension benefits and communicating the changes to the scheme member.</li> </ol> <p>There have been a number of systems and processes that have been developed to ensure the work is carried out as efficiently as possible.</p>
1.07	<p>At the last meeting we notified that there were potential pays for investigating of 2,465 (up to end of January 2019), relating to 1,458 scheme members but that not all 2,465 pays/1,458 members will transpire to be incorrect. As the underlying issue with iTrent has not been rectified we are updating the master list of potential cases affected each month. The latest information, as of 12 March 2019, in relation to the cases affected is as follows:</p> <ul style="list-style-type: none"> <li>• There are 188 of the 1,458 members where the issue purely relates to APP in 2018/19 and which we expect to be resolved automatically when the iTrent fix is put in place (and so don't require manually recalculated as part of the project). That leaves 1,270 members that require manually recalculated and resolved where appropriate.</li> <li>• We have now carried out recalculations of APP in respect of 1,216 individuals. Not all of those cases have been checked but, subject to that, it would appear that 780 are incorrect and 436 are not affected.</li> <li>• This includes 125 pensioners, of which 58 are incorrect. 40 of these will be subject to a reduction in their pension with the remaining 18 receiving an increase in their pension. Some</li> </ul>

	<p>members have both a reduction and an increase which need to be applied because they relate to different posts or years. The largest reduction to annual pension for a member who is receiving their pension that we have currently identified is £115.08 per annum. However most pensioners have a reduction to their pension in payment of less than £25 per annum.</p> <ul style="list-style-type: none"> <li>• Due to the potentially affected cases having their 2018 annual benefit statements suppressed, the number of members given incorrect information is significantly lower than the actual numbers affected.</li> <li>• The remaining cases are mainly either complex cases that require additional investigation, or cases where the members have since left the Fund and so any communications will also include their final calculation of deferred benefit.</li> </ul> <p>Until all the cases have been worked through we cannot be precise about the actual number of members affected or the financial impact. However as at the point of writing, the net overall impact on pensions across all scheme members is -£24.5k per annum. A verbal update on the latest figures will be provided at the Committee.</p>
1.08	<p>As explained at previous meetings, template communications have been developed for all members who might be impacted by the error. Each member who is affected is being sent:</p> <ul style="list-style-type: none"> <li>• a covering letter from FCC as the employer addressed from Colin Everett (FCC Chief Executive) and Sharon Carney (Senior Manager, Human Resources and Organisational Development) – this provides a high-level summary of the issue</li> <li>• a more detailed letter from the CPF addressed from one of the senior Fund officers – this explains the actual impact on the scheme member's pension benefits and how this is then being rectified. For active and deferred members this includes their annual benefit statement as at 31 March 2018 which shows the corrected current estimate of their pension benefits.</li> </ul> <p>Over 800 scheme members have now been sent some form of communication; either notifying them of a change to their benefits or confirming their benefits have been checked and are correct. Where the scheme member was entitled to receive an annual benefit statements as at 31 March 2019, the statement is either being enclosed with the communication or the member is being directed to their annual benefit statement on member self-service. In addition, there are about 75 pensioner members, so far, who have not required any communication as their benefits calculated at retirement transpired to be correct.</p> <p>At the point of writing there has been no complaints received from any members. There has only been nine phone calls from affected members, all of which are just clarifying details relating to the change in their benefits. A verbal update will be provided at the Committee if this situation changes.</p>
1.09	<p>The other key aspect of this project is ensuring that the ongoing problem with iTrent is rectified. Flintshire County Council had originally hoped that a customised solution would be put in place. However, after some initial testing which highlighted some issues with the customised solution, the</p>

	<p>Council is now reconsidering its policy position. This may result in accepting the standard solution if it is determined that there are no legal issues with doing so and subject to ongoing testing to ensure the original issues have, in the main, been resolved. This decision is likely to be made prior to the end of March. If it is determined that the standard solution should be accepted, then this will mean the majority of cases in 2018/19 and future years will be automated to an acceptable position, with only a small number of cases requiring intervention.</p>
1.10	<p>The majority of the rectification work is being carried out by the CPF Administration Team, including the Employer Liaison Team, even though the issue has been created due to an employer error. Mercers have also been assisting with this work and are carrying out the recalculation of benefits for some scheme members. Aon are providing project management support as well as assisting in developing the initial processes.</p> <p>However, the additional work is continuing to have a major impact on internal resources, both within the CPF Employer Liaison Team and CPF Operations Team. Business as usual is being affected, and will continue to be affected, until the project is fully concluded. The current target completion date for this project is the end of March 2019 to allow for the remaining cases to be finalised and a satisfactory solution to the underlying iTrent to be put in place.</p>
1.11	<p><b>The Pensions Regulator Breach Report</b></p> <p>As mentioned in previous reports, the Clwyd Pension Fund Manager made a formal report to The Pensions Regulator on 10 July regarding this breach of the law by the Clwyd Pension Fund which referred to the incorrect calculation of benefits. Similarly, the FCC (as an employer) also reported a breach relating to their role in notifying incorrect CARE pay information. Since officers of CPF have been required to share project plan updates and Committee reports with The Pensions Regulator. There have also been four conference call updates with The Pensions Regulator. The latest, on 6 March 2019 involved the Clwyd Pension Fund Manager, Kerry Robinson (Principal Pensions Officer) and Karen McWilliam (Independent Adviser). As with the previous three calls, this appeared to go well and there were no required changes to the rectification plan as a result of that call. The Regulator will be confirming shortly whether he requires any further calls or communications with the Fund.</p> <p>It is worth reminding the Committee that The Regulator places full responsibility for ensuring this issue is rectified on the administering authority/scheme manager (i.e. CPF) even though the issue stems from an issue with FCC's payroll system (i.e. FCC in its employer role). It is therefore critical that the Pension Fund Team continues to work very closely with colleagues in FCC on this matter.</p>

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	The issue identified is resulting and will continue to result in a large amount of unexpected work for both the CPF Employer Liaison team and

	Operations Team, some of which is being outsourced to Mercer, the Fund's actuaries and benefit consultants.
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<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	None.

<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	<p>There are a number of risks relating to this project including:</p> <ul style="list-style-type: none"> <li>• poor communication(s) with scheme members</li> <li>• delays in resolving the underlying issue impacting in ongoing incorrect scheme member records for active members, and the risk of members leaving who are impacted not being identified</li> <li>• resource implications, impacting other projects and business as usual</li> <li>• reputational risk for all parties concerned</li> </ul>
4.02	<p>The Fund's risk register continues to highlight the risks of not being able to meet the legal and performance expectations including:</p> <ul style="list-style-type: none"> <li>• due to employers not understanding or meeting their responsibilities. This has now been updated to reflect additional training that will be given to all employers on calculation of APP</li> <li>• due to insufficient staff, which incorporates the impact on resources of this project</li> </ul>

<b>5.00</b>	<b>APPENDICES</b>
5.01	None.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	<p>Agreed Principles for Rectification and Treatment of Scheme Members – available on request from Clwyd Pension Fund Manager.</p> <p><b>Contact Officer:</b> Philip Latham, Clwyd Pension Fund Manager  <b>Telephone:</b> 01352 702264  <b>E-mail:</b> philip.latham@flintshire.gov.uk</p>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	(a) <b>The Fund – Clwyd Pension Fund</b> – The Pension Fund managed by Flintshire County Council for local authority employees in the region and employees of other employers with links to local government in the region

- (b) **Administering Authority or Scheme Manager** – Flintshire County Council is the administering authority and scheme manager for the Clwyd Pension Fund, which means it is responsible for the management and stewardship of the Fund.
- (c) **The Committee – Clwyd Pension Fund Committee** - the Flintshire County Council committee responsible for the majority of decisions relating to the management of the Clwyd Pension Fund
- (d) **LGPS – Local Government Pension Scheme** – the national scheme, which Clwyd Pension Fund is part of
- (e) **CARE – Career Average Revalued Earnings** – With effect from 1 April 2014, benefits accrued by members in the LGPS take the form of CARE benefits. Every year members will accrue a pension benefit equivalent to 1/49<sup>th</sup> of their pensionable pay in that year. Each annual pension accrued receives inflationary increases (in line with the annual change in the Consumer Prices Index) over the period to retirement.
- (f) **APP – Assumed Pensionable Pay** - where a scheme member has had a period of reduced pay child related leave, or reduced or no pay sick leave, then (in simple terms) a notional pay figure is used for CARE pay which is a higher amount than the actual pay received. This is called "assumed pensionable pay" or "APP".