

CLWYD PENSION FUND COMMITTEE

Date of Meeting	4 September 2019
Report Subject	LGPS Current Issues
Report Author	Clwyd Pension Fund Manager

EXECUTIVE SUMMARY

The purpose of this report is to provide an update on the key issues affecting the LGPS. In particular:

- The general progress of the 2019 LGPS actuarial valuations
- The McCloud judgment including the associated accounting impact for employers
- The publication of Investment Consultancy and Fiduciary Management Market Investigation Order 2019 by the Competition and Market's Authority (CMA) and its potential impact on Funds and the LGPS pools.
- GAD's data collection requirements in relation to the Section 13 valuations and the Fund will receive the request from the GAD shortly
- An update on the recent consultations which affect the Fund including those discussed in detail at the June meeting
- The Pension Regulator (TPR) published its report on its fourth annual governance and administration survey
- The SAB recently published its good governance report examining the effectiveness of current LGPS governance models
- An update on the transfer of Equitable Life funds to Utmost Life and conversion of the With-Profits fund to unit linked multi-assets funds including the voting rights of the Fund as a policyholder
- A number of changes to operational aspects of the LGPS which affect the administration of the Fund

RECOMMENDATIONS

1	All Committee members should note this report and make themselves aware of the various current issues affecting the LGPS and the Fund.
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REPORT DETAILS

1.00	LGPS Current Issues
1.01	<p>The purpose of this report is to provide a general update to Committee Members on various current issues affecting the LGPS.</p> <p>Appendix 1 sets out the Mercer current issues update on a number of issues affecting the LGPS and the Fund.</p>
1.02	<p>Key points to be aware of are:</p> <ul style="list-style-type: none">• On 27 June the Supreme Court denied the Government's request for an appeal in the McCloud and Sargeant age discrimination case ("McCloud") and the Government subsequently confirmed on 15 July that remedies relating to the McCloud judgment will need to be made in relation to all public service pension schemes. Whilst this is no surprise, the details of how the LGPS will need to be changed are yet to be confirmed (it will go back to the Employment Tribunal for remedy) and this will take time. Funds will need to consider their policy on how the effects of McCloud will be taken into account for the ongoing valuations. Further considerations relate to the treatment for accounting (FRS/IAS) figures and any employer exits that arise in the interim until the remedy is confirmed. Mercer has devised a tiered approach for undertaking the additional calculations for Employers, depending on the level of detail required. For employers who exit the Fund, in determining their policy on the allowance for McCloud, Funds will need to consider wider issues including the covenant of the Employer in question and whether the termination involves a refund to the Employer or a payment to the Fund. Our overarching view is that the impact of the potential McCloud liabilities should be reasonably allowed for in the final settlement of liabilities.• On 10th June the Competition and Market's Authority (CMA) published the Investment Consultancy and Fiduciary Management Market Investigation Order 2019. In summary, the Order defines Fiduciary Management (FM) services and obliges pension schemes to formally tender for such services. It also obliges pension schemes to set objectives for their Investment Consultancy (IC) providers as well as placing a variety of new obligations on FM and IC service providers. It potentially has consequences for LGPS pools, however on 29 July the DWP published a consultation on regulations to enact the provisions of the CMA Order which explicitly rules out the LGPS as falling under scope of the obligations in relation to FM service providers. The requirement to set objectives for IC providers remains, with a deadline for doing so of 10 December 2019. On 31 July 2019 TPR published guidance on the implementation of the CMA order which similarly seems to reflect the position that the LGPS is within scope only of the IC strategic objectives requirement. Administering Authorities should

take note of the DWP consultation and TPR's guide "Setting Objectives for the Providers of Investment Consultancy Services" and consider whether to respond.

- GAD's data collection requirements are now finalised and include some additional items from those requested 3 years ago. Administering Authorities should expect to receive confirmation shortly (if they haven't already done so) of the spreadsheet that needs to be completed and will be asked to request the information from their Actuary. The deadline for providing the information (including the funding position on the standardised Section 13 basis) is not until 30 April 2020. Membership data is also being requested by GAD directly.
- Updates will be provided at future meetings but a recap on recent consultations is set out below.
 - **£95K cap on exit payments:** the proposed limit to the value of settlement payments that are made to employees when they leave an employer. Payments are normally a lump sum cash payment, or shares/share options, but for employers participating in the LGPS, settlement payments will also include the value or "strain" of taking an unreduced pension for members over age 55.
 - **New fair deal:** Employees whose employment is outsourced from a "Fair Deal employer" will be guaranteed to be able to access the LGPS. The option of the new employer establishing a "broadly comparable" scheme as an alternative will, in effect, become redundant.
 - **4-year valuation cycle:** not just as it says on this tin, this consultation also includes proposals for interim valuations, more flexibility for dealing with termination payments and removing the requirement for further education corporations, sixth form college corporations and higher education corporations in England to offer membership of the LGPS to their non-teaching staff for new entrants.
- In July, the Pension Regulator (TPR) published its report on its fourth annual governance and administration survey. TPR has concluded that the survey findings support its assessment that the top risks in the public service pension schemes landscape are around governance, record keeping and member communications. Cyber security is also identified as a significant issue requiring attention. TPR further comments that the locally administered schemes appear to find it particularly hard meeting their governance and administration responsibilities. It suggests that pension boards, scheme managers and scheme advisory boards examine ways in which collaboration and sharing of resources can deliver better governance and administration. TPR has also released its 2019-2022 corporate plan. This includes further comment that administration is a particular issue among public service schemes,

potentially driven by poor data, with the complexity of the Scheme and time and resources indicated as barriers to improvements. TPR will focus on administration and data management among public service schemes, aiming to strike the right balance of support and education, but notes it will use its powers where there is persistent failure to improve.

- The SAB commissioned the governance report to examine the effectiveness of current LGPS governance models and alternatives or enhancements to existing models to strengthen LGPS governance. The key proposals from the report were for an approach which specifies minimum standards including robust conflict management; assurances on administration/other resources; explanation of policy on employer/scheme member engagement; and regular independent review of governance. Enhanced training requirements for S151s and S101 committee members, updated guidance and better signposting to requirements were also proposed. The project team are now working on a plan to implement the proposals which will be presented to the SAB in November. Scheme stakeholders will be given the opportunity to comment on the Board's recommended implementation plan before any formal approach is made to MHCLG Ministers for changes to the Schemes' regulations or guidance.
- Funds should have by now received their voting packs on the transfer of Equitable Life policies to Utmost Life and conversion of the With-Profits fund to unit linked multi-assets funds. LGPS Funds with a large amount of Equitable Life With-Profits Fund investments will have a large voting representation. Administering Authorities, as the policyholder, will need to assess which way to vote based on their membership profile. Following the result, regulated investment advice will need to be taken to determine where members' funds should be invested (this may be Utmost but alternative providers should also be considered as part of this). Administering Authorities will also need to consider how changes will be communicated to members and the timing of the communications.
- MHCLG has issued revised late retirement guidance and factors, effective from 1 September 2019. The new methodology removes the 'cliff edge' effect which reduced the value of LGPS benefits held by members who were over their Normal Pension Age (NPA) when the factors last changed in January 2017.
- The LGPC have published a technical guide covering survivor benefits in the LGPS, reflecting changes in survivor benefits for civil partners and the spouses of same-sex marriages, brought about by the LGPS (Miscellaneous Amendment) Regulations 2018. MHCLG plans to introduce statutory guidance for administering authorities, in respect of past trivial commutation and transfer payments that are affected by the change in survivor benefits for civil partners and same sex spouses.

2.00	RESOURCE IMPLICATIONS
2.01	Some of the actions arising out of the issues identified could mean significant changes to operational matters for the Fund. In particular, any potential McCloud remedy and adjustments required to past pensions as a result. This could require significant additional administration resources to implement the changes.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None directly as a result of this report.

4.00	RISK MANAGEMENT
4.01	<p>This report addresses some of the risks identified in the Fund's Risk Register. Specifically, this covers the following (either in whole or in part):</p> <ul style="list-style-type: none"> • Governance risks: G2 & G7. • Funding and Investment risks: F1, F5

5.00	APPENDICES
5.01	Appendix 1 – LGPS Current Issues – August 2019 edition

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Earlier editions of the LGPS Current Issues document, tabled at previous Committee meetings.</p> <p>Contact Officer: Philip Latham, Clwyd Pension Fund Manager Telephone: 01352 702264 E-mail: philip.latham@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>(a) The Fund – Clwyd Pension Fund – 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</p> <p>(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.</p>

- (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) **LPB or PB – Local Pension Board or Pension Board** – each LGPS Fund has an LPB. Their purpose is to assist the administering authority in ensuring compliance with the scheme regulations, TPR requirements and efficient and effective governance and administration of the Fund.
- (e) **GAD** - The Government Actuary's Department.
- (f) **SAB – Scheme Advisory Board** – national board established under Public Service Pensions Act 2013. Its purpose is to encourage best practice, increase transparency and co-ordinate technical and standards issues.
- (g) **LGPS – Local Government Pension Scheme** – the national scheme, which Clwyd Pension Fund is part of
- (h) **MHCLG – Ministry of Housing, Communities and Local Government** - Central Government department responsible for the LGPS
- (i) **LGA - The Local Government Association** - a politically-led, cross-party organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. Performs various Secretariat and support roles for the LGPS.
- (j) **Actuarial Valuation** - The formal valuation assessment of the Fund detailing the solvency position and determine the contribution rates payable by the employers to fund the cost of benefits and make good any existing shortfalls as set out in the separate Funding Strategy Statement.
- (k) **GMP – Guaranteed Minimum Pension** – This is the minimum level of pension which occupational pension schemes in the UK have to provide for those employees who were contracted out of the State Earnings-Related Pension Scheme (SERPS) between 6 April 1978 and 5 April 1997.
- (l) **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 1/49th 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.
- (m) **Annual Allowance** – the annual allowance is a limit on the capital amount that individuals can contribute to their pension each year, while still receiving tax relief. The standard Annual Allowance is £40,000 in any year. For members who taxable earnings are over £110,000 they can fall into the Tapered Annual Allowance which falls between £10,000 and £40,000 depending on their level of earnings.

- (n) **Fair Deal** - guidance issued by the Government which applies to compulsory transfers of employment out of the public sector. Updated guidance was issued in October 2013, referred to as "New Fair Deal", which amends some of the previous guidance.
- (o) **Scheme Pays** – the option for a member to ask the Fund to pay any tax associated with breaching the Annual Allowance. The Mandatory Scheme Pays option applied where a member exceeds the statutory Annual Allowance limit of £40,000. The Voluntary Scheme Pays option applies when a member falls into Tapered Annual Allowance or their tax charge is less than £2,000. Voluntary Scheme Pays can be used at the discretion of the Administering Authority.
- (p) **Section 114 Notice** – Refers to Section 114 of the Local Government Finance Act 1988. Once a council issues a notice under section 114 it is prohibited from entering into new agreements that incur expenditure and must strive to set a balanced budget.
- (q) **TPR** – The Pensions Regulator - the UK regulator of workplace pension schemes. TPR is focussed on ensuring that employers put their staff into a pension schemes and pay money into it, together with making sure that workplace pension schemes are run properly so that people can save safely for their later years. TPR has a specific remit in the context of Public Service Pension Schemes as defined by the Public Service Pensions Act 2013 (see its Code of Practice 14).