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Haringey Pension Fund

LGPS Update

A paper by the Independent Advisor

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Introduction

This paper informs and updates the Pensions Committee and Board in respect of a number of important issues relating to the LGPS at a national level. The issues covered in this paper are:

1. Changes to Pensions Taxation.

2. Further Consultation on “McCloud” (Age Discrimination in the LGPS).

3. Climate Change Reporting.

4. Investment Pooling.

5. The Economic Activity of Public Bodies (Overseas Matters) Bill

6. The Pensions Regulator: New General Code.

It is hoped this paper will be informative to all Members of the Pensions Committee and Board and in particular to those who have joined the Committee and Board since the May 2022 Council elections.

1. Changes to Pensions Taxation

In his Budget of 15 March 2023, the Chancellor of the Exchequer announced significant changes to the pensions taxation regime applicable to both private sector and public sector pensions. The Annual Allowance (the maximum amount of pensions savings an individual can make each year before incurring a tax charge) is to increase from £40,000 to £60,000 from 6 April 2023, with individuals continuing to be able to carry forward unused Annual Allowances from the three previous tax years. The Chancellor also announced his intention to abolish the Lifetime Allowance which was £1,073,100 at the time of the Spring 2023 Budget.

Most members of the LGPS have never earned enough to be within the scope of either the Annual or Lifetime Allowance. However, increasing numbers of senior managers have become subject to these taxation provisions in recent years and this trend was set to continue and increase as the Government appeared to be likely to freeze these allowances over the long term. The increase in the Annual Allowance and the abolition of the Lifetime Allowance means that almost all members of the LGPS will now be exempt from the pension's taxation regime. These changes will also simplify LGPS benefit calculations/entitlements.

2. Further Consultation on "McCloud" (Age discrimination in the LGPS)

The Public Service Pensions Act 2013 which reformed all the major public service pension schemes from 2014 or 2015 (fundamentally by replacing final salary with career average salary as the basis for the calculation of benefits) included provision for protections for older members designed to ensure they would not be worse off as a result of the introduction of the new Schemes. In 2018 the Court of Appeal ruled that in the case of the Judges' and Firefighters Pension Schemes this was (age) discriminatory against younger members. In July 2019, the Government confirmed that there would be changes to all public service pension schemes, including the LGPS, to remove this age discrimination. This whole issue is now commonly referred to as "McCloud."

On 16 July 2020, the then MHCLG issued a Consultation called ***"Amendments to the statutory underpin"*** to address the age discrimination identified in the LGPS. On 6 April 2023 the DLUHC issued its response to the 2020 Consultation detailing how it will proceed. On 30 May 2023 DLUHC issued a further Consultation ***"'McCloud' remedy in the LGPS – supplementary issues and scheme regulations"*** together with draft Regulations regarding the "McCloud" remedy. This Consultation closes on 30 June 2023.

In this latest Consultation the Government is seeking views where in its 6 April 2023 response it stated it would be reconsulting to obtain further views, and also on issues which were not addressed in the 2020 Consultation. At the same time the Government is seeking feedback on draft Regulations which would implement the (entire) "McCloud" remedy. It is intended these Regulations come into force on 1 October 2023. Assuming that the Regulations come into effect from October 2023 LGPS Pension Funds will review qualifying members pensions to determine any effects on individuals. It should however be pointed out that most individual members will not experience any increase in the benefits they ultimately receive as a result of "McCloud" – this is because the pension they build up in the present career average scheme will be higher than what they would have built up in the previous final salary scheme.

3. Climate Change reporting

As previously reported to the Committee and Board the DLUHC issued a LGPS Consultation on Climate Change Reporting on 1 September 2022 which closed on 24 November 2022. It was proposed, in the Consultation, that mandatory Climate Change reporting would apply to all LGPS Funds from April 2023 with the deadline for the first annual report by each Fund being 1 December 2024.

By April 2023 no Regulations had been issued by the DLUHC to introduce mandatory Climate Change reporting by LGPS Funds. On 23 May 2023 the Scheme Advisory Board stated on its website that the implementation of Climate Risk reporting in the LGPS – "*is now expected to commence from 1 April 2024, with first reports due in late 2025."* The DLUHC officially confirmed a further delay in introducing Climate Change reporting by LGPS Funds on 15 June 2023 when the relevant Minister, Lee Rowley MP, wrote to the Chair of the Scheme Advisory Board stating *"…I am therefore writing to confirm that Government will not be implementing any requirements related to the governance or disclosure of climate-related financial risks for the financial year 2023/24."*

The Government introduced the mandatory reporting of Climate Change by private sector Defined Benefit Pension Schemes with over £5bn of assets from October 2021, extending this to those with over £1bn assets from October 2022. That the Government has now delayed the introduction of mandatory Climate Change reporting by LGPS Funds to April 2024 (at the earliest) is clearly regrettable.

Actually, achieving a transition to a net zero economy will be assisted by mandatory Climate Change reporting by investors. The fact that this is still not required by Government of the LGPS, whose 86 individual Funds across England and Wales have investments of approximately £350 billion, means that a significant opportunity is still been missed, by the Government, to further encourage carbon reduction.

4. Investment Pooling

A Consultation on the further development of Investment (Asset) Pooling has been expected since 2019. On 9 December 2022 the Chancellor of the Exchequer Rt Hon Jeremy Hunt MP stated that the Government *"Will, in early 2023, consult on new guidance to the Local Government Pension Scheme (LGPS) in England and Wales on asset pooling."*

On 15 March 2023 the Chancellor of the Exchequer announced his Spring Budget 2023. The **SPRING BUDGET 2023** red book which sets out in full the Chancellor of the Exchequer's Spring Budget 2023 included the following:

- ***4.116 Local Government Pension Scheme investment*** *– The government is challenging the Local Government Pension Scheme in England and Wales to move further and faster on consolidating assets – a forthcoming consultation will propose LGPS funds transfer all listed assets into their pools by March 2025, and set direction for the future. This may include moving towards a smaller number of pools in excess of £50 billion to optimise benefits of scale. While pooling has delivered substantial benefits so far, progress needs to accelerate to deliver, and the government stands ready to take further action if needed…"*

As at the date of finalising this LGPS Update (27 June 2023) no Consultation on the future of Investment Pooling has been issued by the DLUHC. If anything is issued this year it will (almost certainly) just be a Consultation – not actual new Regulations/Statutory Guidance. This is because a major Consultation normally lasts for three months, and the Government then considers all the responses received, and issue its reply to these before then issuing the consequent Regulations and/or Statutory Guidance.

Any Consultation on the further development of Investment Pooling will doubtlessly result in many, and varied, responses from not only individual LGPS Funds but also a range of other LGPS stakeholders. Given the response to the (subsequently withdrawn) 2019 Investment Pooling Consultation which included suggestions of legal challenge, and the judgement of the Supreme Court in a 2020 case concerned with LGPS Regulations, the DLUHC will doubtlessly very carefully consider not only the proposals in any Consultation it issues, but also how it responds to responses to the Consultation, and the nature of the final Regulations and/or Statutory Guidance issued. Therefore, any new Investment Pooling regime is unlikely to be finalised before 2024.

5. The Economic Activity of Public Bodies (Overseas Matters) Bill

On 19 June 2023 the Government introduced the ***"Economic Activity of Public Bodies (Overseas Matters) Bill"*** into Parliament. On the same day a letter was issued to all Local Authority Leaders and Chief Executives by Felicity Buchan MP, Parliamentary Under-Secretary of State at the DLUHC. This letter stated *"The Bill will only deal with boycotts and divestments targeted at foreign countries or territories. It will not deal with boycotts and divestments for other reasons, such as against fossil fuels."* The letter further stated, "*This is not about cutting across the appropriate fiduciary duty of administering authorities, nor is it about interfering with a scheme manager's ability to make proper and prudent use of Environmental, Social and Governance considerations in making investment decisions."*

Based on the DLUHC letter of 19 June 2023 the Bill will only apply to boycotts and disinvestments targeted at foreign countries and therefore would not interfere with the ability of a LGPS Pension Fund not to invest in a particular company or investment vehicle on financial grounds or because of non-financial concerns *"provided that doing so would not involve significant risk of financial detriment to the scheme and where they have good reason to think that scheme members would support their decision."* (to quote the Statutory Guidance of July 2017 on Preparing and Maintaining an Investment Strategy Statement).

From a purely LGPS perspective it is difficult to understand the purpose of this Bill and indeed the Scheme Advisory Board stated on 23 June 2023 in relation to the Bill that *"As far as the Board is aware, there is no evidence that any LGPS fund has instituted inappropriate politically motivated boycott or divestment policies."*

6. The Pensions Regulator: New General Code

By virtue of the Public Service Pensions Act (PSPA) 2013 the Pensions Regulator (TPR) has, since April 2015, had an oversight role in relation to the Administration of Benefits and (to a lesser extent) Governance of public service pension schemes including the LGPS. The remit of TPR does not extend to LGPS investment issues which remain solely the responsibility of DLUHC.

As a result of the extension of its remit to public service pension schemes TPR issued in 2015 its Code of Practice No14 ***"Governance and Administration of Public Service Pension Schemes."*** This is one of the Codes of Practice issued by TPR with the others covering various issues as they relate to private sector pension schemes/arrangements. Since 2021 TPR has been working towards issuing a new General Code (formerly referred to as the Single Code of Practice) to consolidate several of the existing Codes of Practice, including Code No14, into one Code. The new General Code will also contain revisions of requirements to those contained in the existing Codes.

While not all of the TPR new General Code will be applicable to the LGPS its introduction will require that all LGPS Funds assess, implement, and demonstrate compliance with the applicable parts of the new Code. The finalised version of the new General Code is expected to be issued later this year.

John Raisin

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