

## **Local Pension Board of the Warwickshire**

### **Pension Fund**

**5 March 2019**

#### **Administration update**

##### **Recommendation**

That the Local Pension Board of the Warwickshire Pension Fund note and comment on the report.

##### **1.0 Introduction**

- 1.1 This report seeks to update the Board on a number of different areas relating to the administration of the Warwickshire Pension Fund. Board members are requested to note the report and comment on any areas of interest or concern.

##### **2.0 Matters arising from the meeting of 27 November 2018**

- 2.1 The Board asked for clarification concerning the provision of an online risk register. The Pension Manager thought one was available but is mistaken.

##### **3.0 Web page update**

- 3.1 Members were informed that the website is now up and running and the Fund has received little online feedback but what it has received has been very positive.
- One area of feedback is that members are keen to have online access to their records and a calculator.
- 3.2 The Fund is now more proactive in keeping all stakeholders informed of Scheme developments.
- 3.3 The Fund is developing an E-Learning system for (in the first instance) employers with “how to” learning modules on the completion of forms and the provision of information. It is hoped to further develop this system to assist the membership with their understanding of Scheme provisions.

## 4.0 New Employers

- 4.1 In accordance with the Fund's Admissions and Terminations policy (which was approved by the Staff and Pensions Committee in June 2017), all prospective employers must submit an application for membership to the Committee for approval.
- 4.2 As indicated at the July 2017 meeting, a template application is available for new employers together with (where relevant) a template admission agreement. Prospective employers are now able to access this information on our website.
- 4.3 Below is a list of employers approved by the Staff and Pensions Committee since November 2018:
- Curdworth Primary School (Arthur Terry Learning Trust; 1 November 2018).
  - Rokeby Primary School (Stowe Valley Trust; 1 January 2019).
  - Temple Herdewick Primary (Stowe Valley; 1 February 2019).
  - Keresley Newlands Primary Academy transferring from the National Education Trust to the Futures Trust (1 December 2018).
  - King Edward Sixth Form College is ceasing and converting to academy status with Better Futures Multiple Academy Trust (date to be confirmed).
  - Chartwell Catering (Queen Elizabeth Academy)

## 5.0 Cessations

- 5.1 The Fund is also dealing with several cessations.
- 5.2 **Solihull School** the repayment agreement is being drafted.
- 5.3 The following bodies have exited the Fund:
- Warwick District CAB
  - Bedworth, Rugby and Nuneaton CAB (BRANCAB)
  - North Warwickshire CAB
  - Warwickshire Welfare Rights Service
  - Warwickshire Care Services
  - Stratford District ARCH (Heart of England Mencap)
  - The Rowan

The County Council negotiated an agreed exit with the above Scheme Employers on an ongoing exit agreement. This will involve any potential liabilities which may arise in the future being pooled with the County Council.

- 5.4 Warwickshire Care Services Day Care Centres has also exited the Fund following the retirement of their last active member.

## 6.0 GMP reconciliation

6.1 No further update.

## 7.0 Performance indicators

Indicator	Target	2017 / 2018	T0 31 / 12 / 2018
Retirements paid within 30 days of retirement	30 days	not previously measured	45%
Retirements paid within 10 days of receiving all relevant paperwork	10 days	76% (previously measured as five days)	95%
Death grants paid 10 days of receiving paperwork	10 days	Not previously measured	90%
Process refund	10 days	95%	92%
Transfers paid	10 days	93%	88%
Calculate and notify deferred benefits	10 days	92%	Not measured

7.1 A more realistic target of 10 days is reported for the payment of retirement grants. The request for a BACs payment can take 5 days which impacted on the target reported.

## 8.0 Scheme Advisory Board Cost Valuation

### 8.1 Background

8.1.1 Members will recall from the meeting of 10 December 2018 that the Local Government Pension Scheme Advisory Board (SAB) were in the process of reviewing the cost of the Local Government Pension Scheme (LGPS) following HM Treasury's review of the Public Sector Pension Schemes.

8.1.2 Members will also recall that the LGPS has an additional cost management mechanism because it is a funded public sector pension scheme.

8.1.3 In December the SAB issued its proposals for amendments to the LGPS to bring the benefit structure back within the 19.5% cost umbrella for future accrual.

8.1.4 It is expected that the report will be available for consultation in the new year before being submitted to the Secretary of State.

## **8.2 Recommendations of the SAB**

8.2.1 Following legal and actuarial advice the SAB recommended the following amendments to the LGPS

- Removal of the third tier of ill health (a temporary entitlement limited to a maximum of three years' pension)
- The introduction of a minimum death in service payment of £75,000 per member. The current death in service entitlement is 3 x pay.
- Enhanced early retirement factors for all members who are active on 1 April 2019. The enhanced factors should apply to all service.
- The introduction of revised bands for member contributions (attached at Appendix A). The revision of the lowest band reflects the lack of tax relief for the lowest paid members. And the expansion of band two will benefit the lowest paid members and the revision band four to reflect increases in the higher tax bracket.

## **8.3 Financial Impact**

8.3.1 The proposals may see a net increase in the average employer future service rate of 0.9% of payroll.

8.3.2 But, as the SAB point out, the impact on each scheme employer will depend on the outcome of the 2019 triennial valuation of the pension fund.

8.3.3 The SAB identify several other factors which will be taken into consideration:

- The Fund Actuary's view on the cost of each element
- The membership profile of the employer e.g. whether the employer has a large proportion of members earning less than £12,000 per annum.
- Other factors which may offset the costs such as future longevity increases
- Reduction in future service discount rates
- Upward or downward pressure of changes to employer deficits on the total employer rate.

## **8.4 McCloud and Mostyn and others v The Lord Chancellor and Secretary of State for Justice**

8.4.1 In light of a recent ruling the Government's recent decision to appeal the proposals set out above have been suspended.

8.4.2 The case in question is where the Secretary of State for Justice (MoJ) was challenged following the closure of the existing pension arrangements for Justices of Peace (JP) and compulsory transfer to a new pension arrangement.

- 8.4.3 The transfer arrangements were based on how close the JP was to retirement age i.e. the MoJ protected those who had ten years or less to retirement.
- 8.4.4 The recent Court ruling in essence found that the transitional arrangements set up by Government whilst reforming public service pension schemes were discriminatory (directly on grounds of age, and indirectly on other grounds).
- 8.4.5 **Firefighters Pension Scheme 1992** had similar arrangements and the ruling has brought into question the legality of the transitional arrangements where a firefighter has been transferred from the 1992 scheme to the 2015 scheme.
- 8.4.6 **The Local Government Pension Scheme** had an underpin arrangement safeguarding benefits on a tapered basis which was again based on age.

## **8.5 Administration issues**

- 8.5.1 The Pension Fund faces implications either way;
- If upheld, scheme administrators will have to adjust all cases impacted by the ruling and adjust benefit entitlements awarded since April 2014. The underpinning arrangements for the LGPS will continue potentially until 2060 and the savings and adjustments identified above will not be passed on to the members.
  - If however, the judgement is overturned, the savings identified may be implemented retrospectively to April 2019 and cases affected recalculated.
  - For the firefighter pension schemes, members who had transitioned to the 2015 scheme would have to be put back to 1992 scheme contributions paid by the member refunded and any benefits awarded reviewed and adjusted.

## **8.6 Next steps**

- 8.6.1 Scheme employers have been kept up to date with the proposals set out above and subsequently of the withdrawal of those proposals.
- 8.6.2 The Fund will advise scheme employers of the latest position as soon as details are available.

## **9.0 LGPS protection of pension rights**

### **9.1 Background**

- 9.1.1 HM Government's Fair Deal policy was introduced in 1999 and sets out how pension issues should be dealt with when staff are compulsorily transferred from the public sector to independent providers. Under the original Fair Deal guidance, transferred staff had to be given access to a scheme certified as being "broadly comparable" to their previous public service pension scheme. In 2012, Fair Deal was reformed to allow staff continued access to their public service pension scheme.
- 9.1.2 Following publication of the Government's original fair deal guidance, pensions' protection for local government employees was provided by the Best Value Directions Order. Under the Directions Order employees employed by a best value authority transferred must be given access to the Local Government Pension Scheme or a broadly comparable pension scheme.
- 9.1.3 HM Government has intended to introduce Fair Deal to the LGPS and in 2016 issued a consultation document. Government acknowledges that responses to this consultation were mixed and a number of issues raised. The Government has therefore revisited Fair Deal in the LGPS and issued a further consultation document and draft regulations with the intention of having amending regulations in place in 2019.

### **9.2. Fair Deal in the Local Government Pension Scheme**

- 9.2.1 A summary of the proposals in the consultation document are set out below:
- Introduces the concept of a Fair Deal employer (which is wider than the definition of a Best Value authority).
  - Removes the option to transfer members to broadly comparable schemes
  - Protects transferred employees for as long as they are wholly or mainly employed on the outsourced service – even through any subsequent transfers.
  - Uses the current provision for 'deemed employers' (e.g. similar to local authority maintained schools) as an alternative option to the current requirement for a contractor to have an admission agreement. Under the 'deemed employer' route, the original outsourcing employer remains the employer for pension purposes.
  - The introduction of guidance from the Scheme Advisory Board to help employers in understanding their responsibilities.

### **9.3 Transferring pension assets and liabilities**

9.3.1 The Consultation document and draft regulations also introduce a new provision for the automatic transfer of assets and liabilities within and between local authority pension funds where there are reorganisations or mergers, without triggering an exit valuation.

9.3.2 It is the intention that the Secretary of State will issue further guidance on this area.

### **9.4 Next Steps**

9.4.1 The Warwickshire Pension Fund has circulated the consultation document to all Scheme Employers.

9.4.2 The intention is for the Fund to review the Admissions and Terminations policy once the amending regulations have been issued.

## **10.0 Internal Dispute Resolution Procedures**

10.1 The Board requested an appraisal of the Local Government Pension Scheme, Internal Dispute Resolution Procedures (IDRP).

10.2 Before we look at the process, it is important to consider which Body makes decisions under the provisions of the pension scheme regulations:

**Employer;** will make decisions on, for example:

- Deciding the contribution rate the member pays
- Deciding how and when to apply the discretions available to employers in the LGPS
- Deciding the final pay used to work out your benefits
- Deciding whether the member meets the ground for an ill-health retirement and what tier of benefits to be awarded.

**Administering Authority;** will make decisions on, for example

- Whether or not to accept transfer from another pension scheme
- Decide who receives a death grant that may be payable
- Calculating your benefits

10.3 **Background;** IDRP was introduced to the LGPS to bring the scheme in line with other pension schemes as part of the 1993 Pensions Act. Prior to this the LGPS had an appeals process where if the dispute could not be resolved locally within the administering authority, the member could appeal to the Secretary of State. Beyond this any redress would have been via the Courts.

#### 10.4 **The current process;** is effectively three stages:

**Informal;** many queries / grievances can simply be as a result of misunderstandings and can be resolved with an explanation by the scheme administrator or the employer.

**First stage;** the body which made the decision must have available a person nominated who will consider the member's complaint. The adjudicator must not have been involved in the original decision and must consider the complaint within six months of the formal complaint being made.

If the adjudicator's decision is contrary to the original decision the employer or administering authority (AA) will now have to deal with the case in accordance with the adjudicator's decision.

If the decision the member complained about was about how the employer or AA exercised their discretion the adjudicator can instruct the employer or AA to reconsider how they exercised their discretion.

NB the employer is required to inform the AA of the name of their adjudicator.

**Second stage;** the member can ask the AA to take a fresh look at the member's complaint in any of the following circumstances:

- The member is not satisfied with the adjudicator's first stage decision
- The member has not received a decision or an interim letter from the adjudicator and it is three months since the complaint was made.
- It is one month after the date by which the adjudicator told the member (in an interim letter) that they would provide a decision.

The review at the second stage will be undertaken by a person not involved in the first stage decision.

#### 10.5 **The role of The Pensions Ombudsman**

The role of the Pensions Ombudsman (TPO) has recently changed (September 2018) from that of the final arbitrator to one of pragmatic support for the member and seeking an early resolution yet still remaining the position of final arbitrator, before the Courts, where a case cannot be resolved. This shift in policy moved The Pensions Advisory Service (TPAS) to one of guidance for a member. Before September 2018, TPO would not get involved in a case until the member had first used the scheme's IDRP.



10.6 Examples of the type of IDRPs received by either the employer or the AA in the Warwickshire Pension Fund:

- The member complains the banding they allocated for their contribution rate. Some employers will review the band annually depending on the remuneration received in the previous financial year. The member received additional pay in the previous twelve months, this can push them into a higher band. Usually, resolved at Stage One.
- The member has applied for an ill-health retirement and their application is either turned down or a lower tier benefit than the expected is awarded. Usually, resolved at Stage One by the employer referring the application to a second independent registered medical practitioner.

10.7 Employers are required to notify the Fund of IDRPs referrals.

## 11.0 Benchmarking

11.1 The Fund will continue to be a member of the CIPFA pensions administration club. A summary of the 2018 results are attached at Appendix B. Work will be undertaken to understand the differences to benchmarks in more detail in order to help to inform areas for potential improvements in the service.

## 12.0 Background Papers

None

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## Appendix A

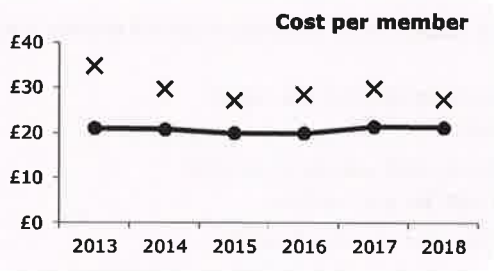
a) Introduction of the bands shown below for 2019-20 (new guidance required)

Band	Pensionable Pay from £	Pensionable Pay to £	Contribution rate
1	0	12,850	2.75%
2	12,851	22,500	4.4%
3	22,501	36,500	6.5%
4	36,501	53,500	6.8%
5	53,501	64,600	8.5%
6	64,601	91,500	9.9%
7	91,501	107,700	10.5%
8	107,701	161,500	11.4%
9	161,501		12.5%

SECTION 1 - SUMMARY

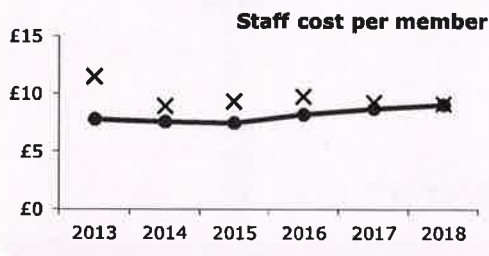
5 Year Trend for Net Cost per Member

● Club average      X Warwickshire



In 2017/18, Warwickshire had a net cost of £27.41 per member. The average cost per member for all authorities was £21.16. Left is the graph showing the 5 year trend for net cost per member for Warwickshire and the club average.

5 Year Trend for Staff Cost per Member



In 2017/18, Warwickshire had a net staff cost of £9.14 per member. The average staff cost per member for all authorities was £9.04. Left is the graph showing the 5 year trend for staff cost per member for Warwickshire and the club average.

Other Key Findings:

