NORTHUMBERLAND COUNTY COUNCIL PENSION FUND
Pension Fund Panel Meeting 23 November 2018

South Tyneside Council

Pensions Committee

Date: 14th September 2018

Pensions Administration

(for information and discussion)

Report of the Head of Pensions

Purpose of Report

1. This report briefs the Committee on developments in pensions administration.

2. The Committee is asked to note the report.

Contact Officer: Ian Bainbridge, Head of Pensions – Tel 424 4112

pensions pensions pensions pensions pensions

LGPS Amendment Regulations – Update

3. At the June 2018 meeting, the Committee was advised that LGPS Amendment Regulations which were initially consulted on in 2016 were laid before Parliament and came into force on 14th May 2018.

4. Most of the amendments regulations consist of minor corrections and technical changes. However, they also included a number of noteworthy changes, including:

    - revised access provisions and flexibilities for members who have contributed to an in-house AVC arrangement

    - a new ability to return excess funding to employers who have left the Fund, and

    - a proposed amendment that would allow for an admission agreement to have retrospective effect.

5. At the time of writing the June 2018 report, the LGA commentary on the above amendments and implication was under review. This review is now complete and the following points are of note:

    - As stated in the original consultation, the policy intention was to allow all deferred members aged 55 and over to access their benefits without needing their employers consent. However, the Regulations as written do not have the desired effect and do not extend this option to members from the age of 55 who left the LGPS prior to April 2008.

    - Following release of the Regulations MHCLG have now provided a statement confirming their intention and clarify that although the amendment does not appear to have the desired effect, the intention was that regulation 24 of the 2018 Amendment Regulations should modify the LGPS Regulations 1995 (as preserved) to extend to members from age 55 who left the LGPS with a deferred benefit prior to April 2008.

    - Formal correction is expected in future legislative amendments. In the interim the Fund will now apply the Regulations in line with the MHCLG statement.

Pensions Regulator, Scheme Return and Survey and Plan

6. The Fund is required to undertake an Annual Scheme Return. In August 2018, the Regulator provided advance warning that the 2018 Scheme Return notice will be issued in September but funds should start their preparation now.

7. We have reviewed the example return and checklist provided by the Regulator and commenced gathering the required information.

8. The most significant change to the Scheme Return for 2018 is an expectation to provide a score for the possession and quality of data over two specific areas:

    - Common data – the personal information in respect of each member. Such as name, address and date of birth.

    - Conditional data – scheme specific data required to calculate the member's benefits such as date joined/left fund, pay, category of membership.

9. It is relatively easy to categorise and score common data across schemes, and the Fund has been able to provide a score on this measure for a number of years. The assessment of conditional data is however, more problematic and can lead to inconsistencies approach and scores.

10. In order to progress with this issue the Local Government Association (LGA) is working with the Regulator to agree a standardised scoring basis for conditional data. It has been suggested that the universal data extract, which forms the basis of providing data for fund valuations could be modified to accommodate this.

11. However, this is a significant exercise and it is acknowledged that this will not be possible for this year. In the absence of an agreed consistent approach, administering authorities are advised to adopt their own approach and, if necessary, liaise with their software provider and/or actuarial adviser on how best to meet the survey's requirements on conditional data.

12. As part of the ongoing discussions, the Regulator has accepted that the first year of data scoring on conditional data will be regarded as work in progress and as a means to identify any issues and obstacles to scoring conditional data.

13. The Fund has liaised with the LGA and engaged with both Civica and Aon Hewitt, but no simple and obvious approach has been identified.

14. As a consequence a decision has been taken that the Fund will use internal resources to provide the data score for the 2018 Scheme Return. This has the benefit of not incurring costs with either Civica or Aon Hewitt, for one year before a formal approach at Scheme level has been determined.

15. The Fund is confident that this internal exercise will meet the requirements of the Regulator for the 2018 Scheme Return. We will continue to liaise with Civica and Aon Hewitt on developing a longer term solution and the approach may change in future years.

16. In addition to the Scheme Return the Fund also completes an Annual Governance and Administration Survey. This is completed in consultation

with the Chair and Vice Chair of the Pensions Committee and the Local Pension Board. The summary report from the Pensions Regulator was published in May 2018 and is attached to this report for information.

17. Both the Scheme Return and the Annual Survey help inform the Regulator about the position at individual funds and the LGPS in general. The Regulator has already indicated that it intends to have an increased focus on the LGPS going forward. Consequently the Regulator's Corporate Plan for 2018/21, introduces new performance indicators directly related to public service pension scheme. It is expected that over the coming months all LGPS Scheme Managers will receive additional written communications covering governance and administration matters from the Regulator.

18. This increased focus on the LGPS by the Pensions Regulator will be reflected in the Fund's Service Plan.

Ongoing Consultation – Guaranteed Minimum Pensions

19. In a number of earlier reports the Committee has been advised that in February 2017 the Fund responded to an HM Treasury consultation on options for how the Guaranteed Minimum Pension element of pensions paid to those members who will reach state pension age on or after 6th December 2018 should be indexed. Since then members have been provided with an update at each meeting.

20. In January 2018, HM Treasury published its response to this consultation. This acknowledged that it is a complex area and more time is required to identify a long term solution. As a result, it will now extend the existing interim solution, covering those members of public service schemes reaching state pension age between 6th April 2016 and 5th December 2018 to those that reach state pension age on or before 5th April 2021.

21. Further time will be then be taken to identify the longer term solution.

22. This interim solution increases the value of liabilities in the LGPS, though this increase is not generally material and the Fund Actuary does not envisage any need to review employer contributions to the Fund before the 2019 valuation.

23. The original consultation set out three options for indexation:

    - Case by case – A comparison of total income received by the pensioner from public and state pensions provision under the old and new system,

    - Full indexation - Public sector schemes to directly meet the cost, and

    - Conversion - To convert the GMP into a scheme benefit on 1:1 basis.

24. In their response to the consultation, HM Treasury confirmed that it will discount the case by case solution, acknowledged that full indexation is overly burdensome and indicated that it is likely to further investigate the possibility of conversion. There, the direction of travel appears to a move to conversion, but it is understood that there is a willingness to keep options open.

25. It is expected that further consultation will take place, but to date no further progress has been made. The Committee will be kept up to date on this matter.

SAB Review - Academies

26. At the September 2017 meeting, members were advised that the Scheme Advisory Board (SAB) is reviewing the issues that have been identified in respect of the participation of existing academies and had commissioned PwC to investigate these issues and prepare a report.

27. The report, which was released on 17th July 2017, made no recommendations but set out three broad types of approach or mechanisms to try and resolve these issues. These are:

    - non-regulatory measures within the LGPS
    - regulatory measures within the scheme, and
    - measures outside of the LGPS, including through primary legislation.

28. Following the release of the report, the SAB commenced a consultation aimed at seeking responses from interested parties on draft objectives for the development of options for academies. This consultation was aimed at LGPS Pension Fund Managers and Pensions Committees. The following objectives were proposed:

    - Protect the benefits of Scheme members through continued access to the LGPS
    - Ring fence local taxpayers and other Scheme employers from the liabilities of the academy trust sector
    - Improve the efficiency and effectiveness of administrative practices.
    - Increase the accuracy and reliability of data.

    In achieving the above, any options for change should not:

    - significantly alter cash flows at the fund level
    - significantly alter assets at the pool

29. The Fund responded in agreement with the proposals, with the following further caveat added – “the options for change should not significantly alter assets at the fund level. We think that this is important to protect the position of individual funds”.

30. To progress with this issue the workload has been split into two areas; Funding and Administration.

31. The Funding working group is looking at the following,

    - Options for ring fencing Academies from other employers in funds

    - Standardising the approach to allocating assets and liabilities when schools convert to Academy status

    - The possibility of having a single future service rate for all Academies within each fund

    - The approach by which Multi Academy Trusts consolidate the individual academies across funds

32. The Administration working group is looking at improving the consistency of approach, communication and training along with a greater clarification of the duties and responsibilities between all parties.

33. The Committee will continue to be updated on this matter.

SAB Review – Tier 3 Employers

34. In addition to the review noted above, the SAB has also commissioned some work in respect of "Tier 3 Employers" in the LGPS.

35. Broadly speaking, Tier 3 employers include any employer with no ability to raise taxes and which is also not an Academy.

36. It is understood that the SAB is seeking to identify the potential funding, legal and administrative issues and liabilities relating to admitted and scheduled bodies that do not benefit from local or national tax payer backing.

37. Aon Hewitt has been appointed to undertake this review.

38. In December 2018 the SAB sought to gather information from Tier 3 employers, and their employees who are members of the LGPS, to help identify the duties, benefits, issues and challenges for LGPS funds, Tier 3 employers and their scheme members with regard to their participation in the LGPS, as well as options for change that would improve the funding, administration, participation and member experience with regard to Tier 3 employers. The Fund circulated the SAB's surveys to all of our Tier 3 employers.

39. Following this engagement the Board indicated they were happy with the progress made by Aon and requested they proceed to preparing a draft report for consideration at the next Board meeting on 27th June 2018.

40. Again at the time of writing no further formal updates on this review have been received. However, we understand that a report was submitted to the Board for consideration and publication is expected shortly.

41. This report is believed to contain a significant number of proposals, with none expected to be in place for the 2019 valuation. Although proposals have been forwarded, it is believed that there is a general consensus that Tier 3 employers are not problematic across the LGPS.

42. The Committee will continue to be updated on this matter.

SAB Review – Options for the Separation of Host Authority and Pension Fund

43. In 2014/15 the SAB commissioned a project to look at the issues and challenges of potentially separating the pensions function of LGPS administering authorities from their host authorities.

44. The review centred around the potential conflicts of interest that can arise. The view was expressed that in principal, the greater the separation between the Pension Fund and the employers, the lesser the risk there is of a conflict arising.

45. Whilst a report was produced by KPMG on this subject no firm decisions were taken on how to progress and the initiative was largely put on hold as the SAB prioritised other areas of work such as pooling and academies.

46. The SAB now believes that it is appropriate to re-start this initiative and has recently issues a tender for some follow up work, focussing on two options:

    - A greater degree of separation within existing structures. This involves establishing a single unit to look after pensions within the host authority, which would retain the scheme manager responsibility. This approach appears to be close to the one currently adopted at Tyne and Wear Pension Fund with a separate standalone Pensions Service within South Tyneside Council as the Administering Authority.

    - Separation via new structures. This envisages delegation of the function of the scheme manager function in its entirety to a new body, which would then be responsible for all decisions in relation to the Fund. The constitution of the new body would need to be contained in a formal agreement. One option noted for the legal structure of such a new body is a combined authority similar to those in place for transport and planning.

47. Tender submissions for this work are due back on 21st September 2018.

Non-Pension Administration-Related Developments that will impact our Employers – Public Sector Exit Payment Reforms

48. The following items are not strictly a matter for LGPS Administering Authorities to consider. They are employer issues which are brought to the Committee for information purposes.

49. As members will be aware, the Government has committed to restricting the size of redundancy payments and other early exit costs across the public sector. There are three areas of potential report in this area:

    - The £95,000 Public Sector Exit Payments Cap

    - Clawback provisions for high earners (those earning £80,000 or more) returning to public sector employment within twelve months

    - Further fundamental reforms to the rules governing the availability and calculation of public sector exit payments.

50. There has been very little progress in these areas for some time. The delays have been such that there was speculation as to whether the required regulatory changes would actually be made to give effect to these areas of previously stated Government policy. This is against the background of the current minority Government and lack of parliamentary time due to the focus on Brexit.

51. Despite suggestions that officials from the MHCLG were looking to make some progress on these issues towards the end of 2017, to date no consultation has been received.

52. It is now understood that MHCLG are minded to introduce standardised factors for early retirement strain on the fund costs across the LGPS, purely for the purposes of testing against the £95k cap. In order to do this, it is expected that there will be a period of voluntary information gathering to see what funds currently do.

53. As so often happens with LGPS regulatory changes, implementation may follow long behind. As strain on the fund factors are reviewed following a triennial valuation, it would be helpful if information could be provided to coincide with the forthcoming 2019 Valuation.

Recommendation

54. The Committee is recommended to note the report.

Public service governance and administration survey

Summary of results and commentary

May 2018

The Pensions Regulator

Background

We regulate the governance and administration of public service pension schemes, which provide pensions for over 16.7 million civil servants, members of the judiciary, local government, teachers, health service workers, members of fire and rescue services, members of police forces and members of the armed forces.

Our Code of Practice no. 14, available at **www.tpr.gov.uk/code14**, sets out the standards of conduct and practice we expect from public service pension schemes.

We open cases based on the risks we see in schemes and in response to breach of law and whistleblowing reports. Where standards are not being met and issues are not being resolved we consider enforcement action, including the use of improvement notices and civil penalties.

To help us focus our efforts, we surveyed public service pension schemes in autumn 2017 to assess how they were being run. This built on previous surveys in autumn 2016 and summer 2015. In this latest survey we have further examined certain risks and areas of underperformance that schemes identified in previous years.

As in previous years, the survey was an online self-completion questionnaire which was sent for the attention of each scheme contact. We received responses from 191 of the 207 public service pension schemes, covering 98% of memberships. This allows us to draw robust conclusions from the results. This policy summary also draws from the engagement we have undertaken with schemes over the past year through casework, board meetings, training sessions, conferences and speaking events.

This report sets out how we have interpreted the findings, our expectations of those involved in running the schemes and what we will be doing over the next year to address these issues. It accompanies the full research report which shows the responses to all survey questions.

Summary

The survey supports our existing assessment that the top risks in this landscape are around scheme governance, record-keeping and internal controls, but identifies significant improvements in these areas. Many more schemes are now meeting the basic governance standards, allowing us to focus on building further improvements.

Overall, we were pleased by the significant improvements in performance across most of the areas addressed in the survey, in particular the much improved governance reported by the Police and Fire schemes. While they continue to lag behind their peers, we anticipate that these schemes will continue to show improvements across all governance areas in 2018.

In the third year of having a statutory deadline, 60% of schemes reported that all members had received their annual benefit statement on time. This is a commendable improvement on the previous year when less than half (43%) of schemes met the deadline.

We are pleased to see increased engagement from scheme managers and pension boards in running the schemes. However, the survey shows that over two-fifths (43%) of schemes hold fewer than four meetings a year. In our view, this provides inadequate opportunity for pension boards to effectively carry out their role and raises concerns about the quality of governance.

We also see signs that process improvements have stalled in some Local Government schemes. This group was also the one that was least likely to respond to the survey and we are concerned about the risks of disengagement. Because of the specific challenges faced by Local Government schemes, we expect to focus casework activities on this group in the coming year.

Scheme governance

The results of this year's survey have shown encouraging improvements in scheme governance. The Police and Fire schemes deserve a particular mention for the improvements they have made over the last year, from a low base. It is also noticeable that the group of centrally administered schemes has also shown improvements in governance, which is pleasing given that they are generally large and complex arrangements.

All six of the key processes monitored by us have improved since 2015, and three have shown improvements since 2016. Of these six processes, the most notable increase has been in schemes that have a documented policy to manage board members' conflicts of interest. This was in place in 92% of schemes, an increase of 11 percentage points since 2016.

A similar improvement was seen in schemes with documented procedures for assessing and managing risks. These are now present in 83% of schemes, an increase of 11 percentage points since 2016.

These items are basic features of scheme governance and we expect this year's improvements to continue. By the end of the year, all schemes should have a conflicts of interest policy and procedures for assessing and managing risks in place.

One of our main messages to public service schemes over the past year has been about the importance of good quality scheme data. It is therefore disappointing to see an apparent fall in the number of schemes with processes to monitor records for accuracy and completeness. This year, 15% of schemes stated that they did not have these in place, a decline of four percentage points since 2016. This suggests that schemes may have reviewed the processes they believed they had in place and have found them either absent or inadequate.

Only 58% of schemes have all six key processes in place. This leaves over 4.8 million members (29%) in a scheme that does not have a complete set of basic governance features in place.

Good governance is essential to pension schemes delivering good member outcomes. This is a key focus for us, through our ongoing programme on 21st century trusteeship and governance, which can be found at **www.thepensionsregulator.gov.uk/21st-century-trusteeship**.

We are pleased that there appears to be a greater awareness of their governance duties among scheme managers and pension boards[1]. However, we remain concerned that scheme managers are not always working well with pension boards. While 85% of surveys were completed

1
Further information regarding the roles and responsibilities of those involved in governing public service pensions schemes can be found at **www.thepensionsregulator.gov.uk/public-service-schemes/roles-and-responsibilities.aspx**

with the involvement of the scheme manager, the pension board chair was only involved in 45% of responses, and pension board members in just 16%. This may lead to a biased or unbalanced view of the performance and risks facing the scheme.

We also have doubts about the commitment shown towards scheme governance. Encouragingly, while 88% of scheme managers or their representatives now attend every pension board meeting, these meetings occur less than quarterly in 43% of schemes. This appears to only be an issue in locally administered schemes, and is independent of the size or structure of a scheme. We do not believe that schemes can be governed effectively through occasional meetings, particularly given the time dependent nature of many of the issues to be addressed.

The infrequent nature of meetings in many schemes may result in a superficial assessment of the challenges they face. Despite four-fifths (80%) of schemes saying they had the resources and knowledge needed to run the scheme effectively, a third (31%) do not actually regularly evaluate the performance or effectiveness of the board.

Over the coming year we will continue to focus on improving governance in public service pension schemes. In addition to our 21st century governance work, we will continue to educate scheme managers and pension boards through face-to-face meetings, and we will work with scheme advisory boards and other stakeholders to reach disengaged scheme managers. The vast majority of respondents have used the resources on the public service section of our website and have found them useful. We would encourage schemes to make further use of them. Materials online include practical guidance on how to comply with legal requirements such as an example risk register, an internal controls checklist and a self assessment tool enabling schemes to identify issues and ways to address them.

Engagement by TPR was identified by 43% of schemes as a driver of improved governance and administration in the last year. We believe by clearly communicating about the standards we expect from all parties, and by providing tools to help schemes meet these standards, we can continue to support improvements in governance and administration. Schemes and other interested parties may request a speaker from TPR at their events by using our speaker request form at https://secure.thepensionsregulator.gov.uk/speaker-request.aspx.

Record-keeping

Failure to maintain complete and accurate member records will affect a scheme's ability to carry out its most basic function; paying the right members the right benefits at the right time. Record-keeping issues in public service schemes are well known and 39% of respondents identified this as a top risk to their scheme. Schemes reported that almost a fifth (18%) of breaches of law were caused by a failure to maintain records or rectify errors.

Data

We have made our expectation clear that all schemes should do an annual data review. However, 17% of schemes had not carried out a data review in the last twelve months, and a further 8% were not sure. The value of regular data reviews is clear; 69% of schemes carrying them out identified issues, an increase of 9% from last year. However, the survey still raises concerns about how effective some of the data reviews have been. It is questionable that just over a quarter (28%) that had carried out a review did not identify any issues.

We are aware that some schemes have embarked on a multi-year process intended to review and reconcile their data and we welcome this activity. While the scope of these plans is not clear, we are not surprised that few schemes have completed the rectification of their data (7%), given the scale of the projects to be undertaken. It may be difficult and uneconomic to rectify all data issues at one time, and we support schemes that prioritise the work in a structured, sequential way.

In the past year, we have set out our expectations around data security and provided additional guidance on developing a good data improvement plan. We will consider enforcement action where scheme managers fail to demonstrate that they are taking appropriate steps to improve their records, including having a robust improvement plan in place.

For the first time, the 2018 scheme return will ask schemes to report on their common and scheme specific data scores. While our research indicates that a good proportion of schemes are familiar with these terms, we will be producing further material for scheme managers on this subject. We also intend to work with scheme advisory boards this year to encourage the creation of common data standards that can be adopted by employers to ease the problems faced by schemes and their employers.

Record-keeping

Employer compliance with data standards continues to be an issue for schemes and was recognised as a barrier to improving governance and administration by 28% of schemes. Timely data was provided to all employers in just 37% of schemes, and accurate data was received from all employers by less than a third (30%) of schemes. Scheme managers should work with employers to ensure processes are effective and fit for purpose, and take action to rectify issues in the first instance. The use of penalties by schemes remains low, and we would encourage schemes to take all reasonable measures available to them before asking us to intervene with our own powers.

Administration

Pension boards should pay close attention to the performance of their scheme administrators, since they are critical to the good running of the scheme. It is notable that two of the top three causes of complaints received by schemes[2] have a basis in poor administration and poor record-keeping.

We have made it clear that schemes and pension boards should focus on administration as a key influence on data quality and member outcomes. It is therefore disappointing that administrators operate without service level agreements in place in over a quarter (26%) of schemes and that only a fifth (20%) of schemes use penalties where service or contractual standards are not met. This lack of accountability by administrators is most noticeable in the 46% of schemes that are managed in-house, or where administration is outsourced to another public body (24%).

Schemes should ensure that administration is a feature of every pension board meeting (24% currently do not), so they have sight of emerging issues and trends. Administrators can also provide regular reports to the scheme manager (17% of schemes do not do this). Schemes may wish to consider whether to obtain assurance reports on the performance of their administrators, or to commission assurance reports themselves.

2
Inaccuracies or disputes around pension value or definition (31%) and slow or ineffective communication (30%)

Internal controls

Scheme managers, pension board members and other parties have a duty to report breaches of the law to us in certain circumstances. Nine out of ten schemes (90%) now have procedures in place to identify (92%) and report (91%) breaches of law. This is a significant improvement from previous years. Fewer schemes had identified or reported any breaches of law this year, and we attribute this to the improvement in producing annual benefit statements. However, we remain concerned that schemes may be choosing not to report material breaches in certain circumstances as they are concerned about the potential consequences.

Member communications

Public service schemes must provide annual benefit statements to active members by a specific deadline, generally 31 August. This year, respondents reported that 92% of members received their annual benefit statement on time, a significant improvement on the 75% seen in 2016. However, only 60% of respondents reported that all their members received their statements on time. We recognise that public service pension schemes initially faced challenges meeting their new duties. However, we expect schemes to have made significant progress by now and will have much less tolerance for shortcomings this year.

Taking action

Scheme managers should be aware that we are more likely to use our enforcement powers this year. Where we open cases, we will work with the schemes involved to resolve gaps in their risk and breach of law processes. When considering action or setting fines, we will take into account a party's co-operation with us, and their efforts to put things right. For example, those who fail to report breaches to us quickly could receive a higher penalty for a breach, and an additional penalty for a failure to report. You can find further information in our monetary penalty policy at **www.tpr.gov.uk/ps-monetary**.

We have taken, and will take, enforcement action where scheme managers have not taken sufficient action to address issues or meet their duties. In line with our compliance and enforcement policy (found at **www.tpr.gov.uk/strategy**), we will continue to publish reports of our regulatory activities - including enforcement activity - to encourage higher standards.

How to contact us

Napier House
Trafalgar Place
Brighton
BN1 4DW

www.tpr.gov.uk

www.trusteetoolkit.com
Free online learning for trustees

www.pensionseducationportal.com
Free online learning for those running public service schemes

Public service governance and administration survey
Summary of results and commentary

The Pensions Regulator