

PART 1 - PUBLIC

Decision Maker: **General Purposes & Licensing Committee**

Date: **26th March 2014**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **London Pension Fund Authority**

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Chief Officer: Director of Finance

Ward: Borough Wide

1. Reason for report

- 1.1 The London Pension Fund Authority (LPFA) have carried out a cessation valuation following the retirement of the one remaining London Borough of Bromley employee in the Fund. Under LGPS Regulations, an exit payment becomes payable once a Scheme employer ceases to have active members contributing to the Fund.
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2. **RECOMMENDATION(S)**

2.1 **The General Purposes and Licensing Committee is requested to:**

- (a) **agree that deficit liabilities continue to be measured using ongoing funding assumptions;**
- (b) **agree to an initial deficit recovery period of 17 years;**
- (c) **approve a payment plan with no set exit date and a flat rate payment of £40k per annum;**
- (d) **note that the position will be closely monitored and any request to exit the Fund and trigger a full cessation will be subject to a further report to this Committee.**

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council.
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Financial

1. Cost of proposal: Estimated cost £40k per annum
 2. Ongoing costs: Recurring cost.
 3. Budget head/performance centre: Council wide
 4. Total current budget for this head: £5.9m in 2014/15 for past deficit contributions
 5. Source of funding: Existing budget for past deficit contributions
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Staff

1. Number of staff (current and additional): There are currently 13 pensioner members in the LPFA Fund for whom Bromley retains liability
 2. If from existing staff resources, number of staff hours: n/a
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Legal

1. Legal Requirement: Statutory requirement. Local Government Pension Scheme (Administration) Regulations 2008, as amended.
 2. Call-in: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: Council wide

3. COMMENTARY

- 3.1 Following the abolition of the Inner London Education Authority (ILEA) in 1990 approximately 8,500 staff were transferred to the London boroughs. The decision taken at the time was that these employees should remain in the LPFA Fund given the impact such a substantial reduction in active membership would have had on the Fund. Similarly, employees who were redundant and commenced employment with another local authority within a specified period were able to remain in the Fund.
- 3.2 Several employees who joined the Council following the abolition of ILEA therefore remained in the LPFA Pension Fund. The appropriate employer contributions, as determined by the triennial actuarial valuations carried out by the LPFA, together with contributions deducted from employee's pay, have continued to be made but have now ceased following the retirement of the last active employee in April 2013.
- 3.3 Prior to 1st October 2012 there was no power in the Regulations for an LGPS Fund to require an employer, other than an admitted body, to pay employer contributions if there were no active members in the Fund. Therefore, a cessation payment could only be levied on an admitted body (ie. an employer participating in the Fund under an admission agreement). The Regulations were changed significantly from 1st October 2012 giving the ability to demand a cessation payment from any employer participating in the Fund, not only an admitted body. The amending legislation was unclear and has since been clarified in further amending Regulations which came into force on 10th February 2014.
- 3.4 Following the retirement of the last London Borough of Bromley employee in the LPFA Fund the LPFA instructed their actuary, Barnett Waddingham, to carry out a cessation valuation to assess the deficit or surplus attributable to the Council.
- 3.5 There are currently 13 former Council employees in receipt of a pension from the LPFA Fund and no remaining active members. The average age is 76 and a total annual pension of £165k is payable. The valuation assesses the deficit attributable to the Council and provides a valuation under both a full cessation and an ongoing cessation basis. Under a full cessation, Bromley would no longer participate in the Fund and the valuation therefore applies a 'minimum risk' approach to reflect the fact that there is no ongoing employer support to fund any further deficits that may emerge in the future. Under a full cessation valuation, Bromley would be liable to make payment of £1,370k.
- 3.6 LPFA had initially requested an immediate lump sum payment of the full cessation shortfall based on Bromley leaving the Fund on 8th April 2013. They did, however, indicate that they may be willing to consider a payment plan over a maximum period of 20 years.
- 3.7 Although the actuarial report provided an ongoing cessation valuation of £425k, with a requirement for a guarantor, the LPFA did not consider this to be applicable to Bromley. Following discussions between officers and the LPFA, in recognition of the tax raising status of the Council and the implied ability to meet ongoing pension obligations, Barnett Waddingham provided an updated report setting out alternative payment options, including repayment under an on-going cessation valuation basis. This report is attached at appendix 1.

- 3.8 The LPFA have provided 2 options as an alternative to immediate payment of the full cessation liability:
- (i) payment plan with an expected end date – this option allows settlement of the full cessation deficit over a period of time. Once the deficit has been funded in full, Bromley would have no further obligations to the Fund. The report provides options for different recovery periods and the total cost of this arrangement would range from £1,442k (5 years using an increasing value) to £1,741k (17 years using an increasing value).
 - (ii) payment plan with no set exit date – under this option, Bromley would be treated similar to other boroughs within the Fund using ongoing funding assumptions. It allows for a 17 year deficit recovery period, meaning that there is an expectation we would be 100% funded on an ongoing basis in 17 years. However, we would remain in the Fund after this date and retain liability for any further deficits that may arise at future valuations. The total cost over the 17 year period is £680k using a flat rate and £717k using an increasing value.
- 3.9 It must be noted that, although the cost of option (ii) is significantly lower, there may be additional deficit liabilities arising at future triennial valuations for which we would retain liability. However, this option does enable us to remove the funding deficit over time whilst pensioner liabilities are run down. The position would need to be monitored to ensure that the right level of funding is used on an ongoing basis if a future termination is desirable or there is a risk of a continued material shortfall should the actual position vary significantly from the actuarial assumptions used.
- 3.10 Members are requested to agree to payments under the ongoing funding basis over a period of 17 years using a flat rate contribution of £40k per annum. This is the lowest total cost to the Council although the contributions will be reviewed at each subsequent valuation. Although the increasing values option would provide a slightly lower sum over the initial years, in the longer term the cost is slightly higher. Paying a higher amount into the Fund in the early years may also contribute to reducing the longer term liability at future valuations.
- 3.11 Officers have sought advice from the Council's actuary, Mercer, who have confirmed our responsibility to meet these liabilities. The actuary noted that the full cessation calculation basis adopted standard policy practice across Funds and applies a 'minimum risk' position to the LPFA through the fact that Bromley is being asked to make a large contribution.
- 3.12 There will come a point in the future when leaving the Fund under a full cessation valuation would be a more affordable option, either because remaining liabilities have reduced significantly or the termination shortfall has reduced sufficiently for us to exit. The position will be monitored closely and any recommendation to trigger a full cessation and exit the Fund will be subject to a further report to this Committee.

4. POLICY IMPLICATIONS

- 4.1 The Council's Pension Fund is a defined benefit scheme operated under the provisions of the Local Government Pension Scheme (LGPS) Regulations for the purpose of providing pension benefits for its employees.

5. FINANCIAL IMPLICATIONS

- 5.1 In 2012/13 Bromley paid £51k to the LPFA in relation to our ongoing participation in the Fund. £33k of this related to past service adjustments and £18k to ongoing employer contributions, at a future service rate of 27%, for the one remaining active member.
- 5.2 The 2014/15 budget for Past Deficit Contributions is £5.9m, in line with the figure calculated by the Council's actuary, Mercers, in the Pension Fund valuation as at 31st March 2013. The annual cost of the ongoing cessation would be £40k per annum and these costs are correctly chargeable to this budget.
- 5.3 The Council will also be required to continue to meet the ongoing unfunded liability of around £1,300 per annum in respect of two former employees who were granted additional years. These costs will increase in line with the annual pensions uplift and will cease upon the death of these two pensioner members.
- 5.4 London boroughs, including Bromley, are also required to pay an annual levy to the LPFA to meet expenditure on premature retirement, compensation and related legal costs and outstanding personnel matters for which LPFA is responsible but cannot charge to the pension fund. These payments relate to former employees of the Greater London Council (GLC), ILEA and the London Residual Body (LRB). In 2013/14 the levy charged to Bromley was £489k and the levy notified for 2014/15 is £486k.

6. LEGAL IMPLICATIONS

- 6.1 The LGPS is a defined benefit statutory scheme, administered in accordance with the Local Government Pension Scheme (Administration) Regulations 2008, as amended.
- 6.2 The Local Government Pension Scheme (Miscellaneous Amendments) Regulations 2014 recast Regulation 38 of the LGPS (Administration) Regulations 2008 to clarify that all employers in the Scheme are subject to this Regulation.
- 6.3 Until 1st October 2012 an exit payment could only be levied by an LGPS Fund against an admission body, not any other type of employer. Under the legislation, with effect from 1st October 2012, an exit payment can now be demanded from any type of employer in the LGPS. There was a degree of ambiguity in the original Regulations and this has since been clarified and provide explicitly that an exit payment becomes payable once any Scheme employer ceases to have active members contributing to the Fund.
- 6.4 A legal agreement will be required to allow the Council to remain in the Fund and continue to make contributions.

Non-Applicable Sections:	Personnel
Background Documents: (Access via Contact Officer)	Local Government Pension Scheme (Miscellaneous Amendments) Regulations 2014; LGPS (Administration) Regulations 2008; Cessation Valuation Report (appendix 1).