

**Decision Maker:** PENSIONS INVESTMENT SUB-COMMITTEE

**Date:** 1<sup>st</sup> December 2020

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

**Title:** PENSIONS ADMINISTRATION

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**Ward:** Borough Wide

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## 1. REASON FOR REPORT

- 1.1 The purpose of this report is to provide information regarding the forthcoming changes to the LGPS and how they will impact on the Pension Fund's administration.
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## 2. RECOMMENDATIONS

### 2.1 The Sub-Committee is asked to:

- (a) note the ongoing and proposed changes to the Local Government Pension Scheme and the impact that these changes will have on fund administration at the Council
- (b) consider the updated assessment of resourcing needs for pension administration, including the changes outlined for the outsourced (Liberata) and client-side (Council) arrangements
- (c) agree that the Director of Finance will discuss the finalised resource requirements with the Sub-Committee Chairman and Vice-Chairman, with the outcome reported to the Committee
- (d) comment on and note the Council's proposed approach concerning the implementation of the £95k Exit Cap.

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### Corporate Policy

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

1. Cost of proposal: No Cost
  2. Ongoing costs: Recurring Cost. Total administration cost £5.3m (includes fund manager/actuary/adviser fees, Liberata charge and officer time)
  3. Budget head/performance centre: Pension Fund
  4. Total current budget for this head: £43.9m expenditure (pensions, lump sums, etc); £56.8m income (contributions, investment income, etc); £1,000.3m total fund market value at 31<sup>st</sup> March 2020
  5. Source of funding: Contributions to Pension Fund
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### Personnel

1. Number of staff (current and additional): 1.3 FTE
  2. If from existing staff resources, number of staff hours: 45 hours per week
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### Legal

1. Legal Requirement: Statutory Requirement Local Government Pension Scheme Regulations 2013 (as amended), LGPS (Management and Investment of Funds) Regulations 2016.
  2. Call-in: N/A.
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### Procurement

1. Summary of Procurement Implications: N/A
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 6,253 current employees; 5,592 pensioners; 5,945 deferred pensioners (for all employers in the Fund) as at 31<sup>st</sup> March 2020.
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### Ward Councillor Views

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

### **3. COMMENTARY**

#### **Pension Fund Administration**

- 3.1 The Pension Fund's objective in relation to administration is to deliver an efficient, quality and value for money service to its scheme employers and scheme members. Operationally the administration of the Fund is partly outsourced to Liberata and partly carried out by Council staff. The Council and Liberata staff work in partnership to provide a seamless service to scheme employers and scheme members. Overall, the fund continues to operate at a high standard to support its members despite the financial uncertainty and other challenges associated with Covid-19 pandemic.
- 3.2 The Pension Fund's current administration function is a partnership between Liberata (through the exchequer services contract) and an in-house 1.0 FTE resource who holds the post of Pensions Manager. It is worth noting that Bromley has fewer resources than most London Borough's in relation to the Pension Fund. Whilst the fund's value exceeds £1bn, the 1.0 FTE (Pensions Manager) is supported only by approximately 0.3 FTE of resource from the wider Control team, in addition to a small proportion of time from the Head of Department and Director of Finance.
- 3.3 The administrative activities completed by Liberata include:
- Responding to members' general queries
  - Processing and issuing leaver benefit statement and annual benefit statements
  - Providing estimates and processing payment for refund, retirements (normal, ill-health, redundancy, and flexible), transfer value, and death grants
  - Processing and updating record in relation to starters, opt-out members, and leavers
  - Drafting the fund's annual newsletter
  - Providing accounting and valuation data
  - Supporting Council officers with contributions reconciliation and regulatory returns.
- 3.4 The primary role of the Pensions Manager is to monitor Liberata's performance in relation to the performance of its administrative activities as well as:
- Ensuring that the Council complies with its statutory responsibilities and that appropriate arrangements or policies are in place
  - Providing relevant information and communicating with other employers
  - Managing and monitoring the administration of admitted bodies, complaints and the Internal Dispute Resolution Procedure
  - Responding to ad-hoc queries from the Directors, other officers and Councillors on all pensions matters and preparing reports to relevant Committees meetings
  - Supporting the Council's Pensions Board
  - Liaising with the scheme actuary regarding actuarial valuations and other matters.

#### **New and Proposed Changes to LGPS Regulations**

- 3.5 There are a number of recently implemented and proposed changes to LGPS regulations, which will impact on pensions administration. Most significant amongst these are the McCloud Judgement and its proposed remedy, and the Restriction of Public Sector Exit Payments Regulations (i.e. the £95k severance payment cap).

3.6 In light of these changes and other proposed developments, there is an opportunity to consider their impact on administration and to strategically re-examine the resource requirements for Pensions Administration to ensure that these changes can be delivered successfully and properly communicated to scheme members.

### **McCloud Case and Proposed Remedy**

- 3.7 The McCloud case affected reforms that moved the LGPS from a final salary to a career average salary basis in 2014. The Court of Appeal ruled that measures to protect older members from the effects of the change, based on their age on 1 April 2012, directly discriminated against younger members.
- 3.8 In summary, the proposed remedy will protect qualifying members by the application of a revised underpin calculation. Qualifying members will be all who were active in 2008 scheme on 31st March 2012 and accrued benefits in the 2014 scheme without a disqualifying break.
- 3.9 Any qualifying members who have already left the scheme will have the revised underpin applied retrospectively and so benefits for all qualifying leavers since 1 April 2014 will need to be revisited to determine whether the underpin will produce a higher benefit. The underpin check will be a two-stage process, with a provisional check on leaving active membership, or reaching the underpin date (if later), and a final check when benefits are taken (the "underpin crystallisation date"). This is so that the effect of early and late retirement factors on the 2008 Scheme and 2014 Scheme benefits can be considered in calculating whether the underpin gives a higher benefit.
- 3.10 Implementing these changes is likely to represent a significant challenge, particularly with an expected commencement date of 1 April 2022. There are many different aspects of work that will need to be carried out to implement the changes, including:
- Communicating changes to members and employers
  - Collecting and validating additional data from employers, including obtaining part-time hours and service break data from April 2014, from all employers
  - Incorporating the underpin in the annual benefit statements
  - Producing calculations for the qualifying members since 1 April 2014 that have already left, retired or deceased
  - Calculate the underpin for current active employees pre-April 14 joiners.
- 3.11 The additional administration costs may mean that administering bodies request an updated valuation in advance of triennial 2022 valuation. Whilst the benefit cost for the McCloud remedy was been estimated and included in the 2019 valuation for all affected employers, the administration cost for McCloud was not included in the administrative cost recharged to employers, though it is possible that some of the cost can be recouped after the next valuation by passing the costs onto employers.

### **95K cap and exit payment reform**

3.12 Having first been proposed in 2015, this reform restricts the total value of an exit package (including redundancy, severance and other payments) to £95k. The cap also includes pension strain costs for those aged 55 and over. Whilst the implementing legislation came into force on 4<sup>th</sup> November 2020, the relevant scheme regulations for the LGPS are not yet in place. This creates some ambiguity and is an urgent issue for administering authorities to respond to, particularly where exits, from the Council or other fund employers, may already be in progress.

- 3.13 In a letter dated 28th October, MHCLG wrote to all LGPS administering authorities, setting out the Government's view that the Exit Cap Regulations effectively curtail the use of LGPS regulations to pay an immediate unreduced pension when the cap is breached. Therefore, a capped member should only receive an immediate pension (with full actuarial reductions applied) or a deferred pension, plus a cash alternative payable by the employer.
- 3.14 The letter states that '...the recommended course of action for an administering authority to act consistently with its legal duties is that the provisions of Regulation 30(7) are subject to the cap and so the provisions of Regulation 8 of the 2020 Regulations and Regulation 30(5) of the LGPS 2013 Regulations should be engaged. The Government's view is that LGPS members in that position should be able to elect to receive an immediate but fully reduced pension or, if they do not so elect, a deferred pension plus a lump sum equal to the capped strain cost'.
- 3.15 Based on the position set out above and to eliminate any ambiguity, there is an immediate and pressing need for the Council, as administering authority, to clearly set out its position regarding this matter. The Director of Finance has confirmed that, consistent with advice of MHCLG, there will be an immediate adoption of the cap. It is also noted that, depending on the circumstances, there is a risk of legal challenge from affected individuals – should these arise then they will be addressed on a case by case basis.
- 3.16 The impact on administration for this change will include:
- Communicating changes to members and employers
  - Practical issues around ensuring that the member's share of the pension strain has been recovered before benefits are put into payment
  - Additional time for dealing and explaining the options with employers and members
  - If a software system solution is not available, then this will require manual calculations.

### **Employer contribution and exit payment flexibility**

- 3.17 New regulations came into force on 23 September 2020 providing LGPS (Local Government Pension Scheme) employers with flexibility on meeting exit payments and LGPS funds with the flexibility to review employer contributions between valuations. These regulations are specifically aimed at 'other' employers in the fund where their situation has changed significantly, and they elect to cease participating in the fund. These changes will involve additional administrative work including drafting, reviewing and approving termination agreements of deferred debt arrangements.

### **GMP indexation and equalisation**

- 3.18 On 7 October 2020, the government published its Public Service Pensions Guaranteed Minimum Pension Indexation consultation. The consultation seeks views on a proposal to extend beyond 5 April 2021 the current interim solution for dealing with GMP indexation in public service pension schemes, including the LGPS. The consultation considers whether the government should discount conversion as a long-term policy solution and make the interim solution, of full indexation, permanent.

### **Goodwin case**

- 3.19 This is following a successful case against the Teachers' Pension Scheme, where historical widowers' pensions in the public sector pension schemes were discriminated against male members. Such that, male survivors of female members receive lower pension than same sex survivor. The equalising of widower benefits in public service schemes Treasury statement was issued on 20 July 2020. MHCLG is to consult on and take forward changes early next year. For

the LGPS this will most likely affect surviving widowers where their deceased spouse left prior the LGPS to April 1998.

### **2020 Cost management exercise**

- 3.20 All public service schemes have a cost management process governed by the Public Service Pensions Act 2013 (PSPA). There are two cost control mechanisms in place for the LGPS. One is calculated by the Treasury (HMT) and the other is calculated by the Scheme Advisory Board (SAB). The administration team has provided GAD with the valuation data as at 31 March 2019 to assist with the cost management process and a response/outcome from this process is awaited.

### **Improving data quality**

- 3.21 Fundamentally, the purpose of the fund is to pay the correct pension benefits to its members when they become due. It is therefore imperative that the fund achieves and maintains the highest possible data quality standards, to comply with its core functions and to ensure the cost-effective use of resources. Improving data quality will be a key administrative priority and will include, for example, screening the member database for overpayments, fraud, inappropriate communications/mailings where members have deceased.

### **Member self-service**

- 3.22 A proposal for the implementation of a self-service web portal is currently being considered. This will help streamline administration, allowing members to view their details online, including the ability to amend personal details, view payslips and obtain a projection if estimated benefits.

### **Internal Audit of Pension Administration**

- 3.23 An internal audit was commissioned and completed in February 2020. The audit looked at the arrangements in place for oversight and control of pension administration activity which impact on the reliability of records, integrity of information and compliance with relevant regulations.
- 3.24 The audit resulted in a Reasonable Assurance audit opinion and included one low and two medium priority recommendations, as summarised below:
- *Pensions Team Management should ensure minutes of the relevant Committee meetings are taken and made available on the website promptly after they have been finalised (Low Priority). This was accepted and implemented immediately.*
  - *Pensions Team Management should ensure compliance with the Myners Principles is assessed in the Investment Strategy Statement (Medium Priority). This was accepted and the Investment Strategy Statement will be updated accordingly.*
  - *Management should ensure reconciliations are prepared in a timely manner, by an agreed day of each following month. Management should ensure the fund manager asset reconciliations are signed off and dated by the officers preparing and reviewing the file (Low Priority). This was accepted and implemented immediately.*

### **Pension Fund Accounts and Annual Report**

- 3.25 It is a requirement of Pension Fund administering authorities to publish an Annual Report on or before the 1st December after the end of each scheme year. The Annual report will detail, inter alia, the management and financial performance during the year of the fund, its funding strategy statement, statement of investment principles, governance compliance statement and its audited accounts.

3.26 Bromley's draft Annual Report was presented to the Sub-Committee at its July meeting and the audit of the Council's Statement of Accounts and Pension Fund started in August. Originally, it was planned that the audits would be completed at the end of October, and despite good progress being made, we are now working to a revised sign-off date of March 2021. The delay is mainly due to the need to make some significant remedial adjustments (for 2019/20 and the prior year) to asset depreciation in the main Council accounts; whilst this does not affect the Pension Fund accounts directly, EY has indicated to its Local Authority clients that it will not sign-off Pension Fund accounts before the main Council accounts audit has been completed.

### **Resourcing Need**

3.27 The narrative in this report describes a number of changes to regulation in the LGPS that will impact on the Council's Pension Fund administration. Additionally, reference has also been made to improvements in administration (improving member experience and data governance) which will also impact on resourcing needs. Furthermore, there are specific proposals concerning how Section 151 officers support Pension Funds due for consideration by the LGPS Scheme Advisory Board and these will also drive a resourcing need in fund administration.

3.28 Our initial assessment is that any increase in the resourcing capacity will predominantly be needed on the outsourced (Liberata) side of the administrative function. To this end, Liberata was asked to prepare a contract variation in response to the changes outlined in this report and this is currently under review. The additional costs will ultimately be passed on to the Pension Fund as an administrative expense.

3.29 In addition to the above, we have also considered the capacity within the in-house team and have concluded that this could benefit from some additional resources to address the client-side requirements of the additional administrative work already outlined in this report, but also to provide additional resilience and flexibility in the administration team, which currently consists of just one full-time officer. The role would also provide broader support to the Control Team, which provides the pensions accounting function, including investment administration and annual closing of the Pension Fund. At this stage, it is anticipated that the overall need can be met by the recruitment of one full-time officer and that, subject to approval, recruitment for this post would commence in the first half of 2021. A recharge of the ongoing cost of this post would be applied to the Pension Fund as an administrative expense.

## **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 2013 (as amended), for the purpose of providing pension benefits for its employees. The investment regulations (The LGPS (Management and Investment of Funds) Regulations 2016) allow local authorities to use all the established categories of investments, e.g. equities, bonds, property etc. and to appoint external investment managers who are required to use a wide variety of investments and to comply with certain specific limits.

## **5. FINANCIAL IMPLICATIONS**

5.1 The amount and cost of any additional resourcing for pensions administration is still under consideration by officers. Costs will be recharged to the Pension Fund as appropriate. To provide some context the Pension Fund is currently valued in excess of £1bn, with direct in-house support of 1.3 FTE, and the Liberata contract which is valued at £439,800.

5.2 This report proposes additional resources to address the considerable changes that have been outlined. These costs, subject to final confirmation, will comprise an additional in-house post (at the proposed M6 grade: £39,239 to £58,857) and a variation to the Liberata contract, the value

of which is currently being discussed, to allow additional resources to be recruited. These costs will need to be met by the Pension Fund and where appropriate recovered from employers.

## 6. PERSONNEL IMPLICATIONS

- 6.1 The report states that additional resources will mainly be required on the outsourced (Liberata) side of the pension administration function. On the Council side, it is proposed that an additional post is recruited to the Control Team and that this post will support the client-side pension administration function.

## 7. LEGAL IMPLICATIONS

- 7.1 The statutory provisions relating to the administration of the Local Government Pension Scheme are contained in the Local Government Pension Scheme (LGPS) Regulations 2013 (as amended). The investment regulations (The LGPS (Management and Investment of Funds) Regulations 2016) set out the parameters for the investment of Pension Fund monies.

<b>Non-Applicable Sections:</b>	Impact on Vulnerable Adults and Children; Procurement Implications
Background Documents: (Access via Contact Officer)	LGPS Regulations 2013 (as amended); LGPS (Management and Investment of Funds) regulations 2016;