

Meeting of the

PENSION BOARD

Wednesday, 23 September 2020 at 10.30 a.m.

SUPPLEMENTAL AGENDA Pack One

	PAGE NUMBER	WARD(S) AFFECTED
3. UNRESTRICTED MINUTES To confirm as a correct record of the proceedings the unrestricted minutes of the last meeting of the Pensions Board.	3 - 12	
5 .4 Draft response to McCloud Consultation	13 - 24	All Wards
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**LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE PENSION BOARD
HELD AT 10.30 A.M. ON TUESDAY, 21 JULY 2020
ONLINE 'VIRTUAL' MEETING - [HTTPS://TOWERHAMLETS.PUBLIC-I.TV/CORE/PORTAL/HOME](https://towerhamlets.public-i.tv/core/portal/home)**

Members Present:

John Jones (Chair)	Independent Chair
John Gray (Member)	Representing Active Admitted/Statutory Bodies Pension Fund Members
Councillor Asma Islam (Member)	Cabinet Member for Environment and Public Realm (Job Share) - Lead on Environment
Annette McKenna (Member)	Pensions Board Member representing Admitted Bodies Employers
Nneka Oroge (Member)	Trade Union Representative
David Stephen Thompson (Member)	Representing Retired/Deferred Pension Fund Members

Others Present:

Miriam Adams	– Interim Pensions and Investment Manager
Douglas Anderson	– Hymans Robertson
Kevin Bartle	– Interim Divisional Director of Finance, Procurement and Audit
David Knight	– (Democratic Services Officer, Committees, Governance)
Joel West	– (Democratic Services Officer, Committees, Governance)
Farhana Zia	– (Democratic Services Officer, Committees, Governance)

1. INTRODUCTION

Good morning and welcome to the Pensions Board meeting. My name is John Jones and I will be Chairing this meeting.

Thank you all for participating in this meeting under these difficult circumstances. To ensure the Council is able to function effectively it is vital that the Board meetings continue to operate as the Council must continue to be able to undertake its duties and to offer a good service to its residents and businesses.

Please note that this meeting is being webcast live and will be available to view via the Council's website. If during the meeting a technical error occurs with the transmission which cannot be resolved within a reasonable period of time, then the meeting will be closed, and the remaining business will be deferred to the next meeting of the Pensions Board.

Please could everybody ensure that mobile phones are switched off or on 'silent mode'.

Members and Officers will be speaking at various points during the meeting and those speaking may switch their cameras on at that point, but I would ask that with the exception of myself as Chair, at all other times you keep your cameras and microphones switched off as this will help to minimise any background noise and interference and to ensure the connection remains as stable as possible. If any Members or officers wish to raise a point or question, they should use the '*Meeting Chat*' facility accessed via the teams toolbar signified by the *conversation icon*, and simply type "Speak?" or click on the 'raise your hand sign' and I will come to you in the order I receive requests. Please do not use your microphone until I invite you to do so.

Can I please ask the Members to introduce themselves and state any declarations of interest they may have. We will now go through the agenda.

2. ORDER OF BUSINESS

The Chair indicated that he thought it appropriate that the Order of Business be varied:

Accordingly, the Chair Moved the following motion for the consideration of Members, and it was: -

RESOLVED

To vary the order of business and consider Knowledge Assessment Results and Training Plan for Pensions Committee and Pension Board Members.

To aid clarity, the minutes are presented in the order that the items originally appeared on the agenda.

3. DECLARATIONS OF INTERESTS

There were no declarations of pecuniary interests made by Board Members at the meeting.

4. UNRESTRICTED MINUTES

The minutes of the last meeting were confirmed as a correct record and the Chair was authorised to sign them accordingly.

5. REPORTS FOR CONSIDERATION

5.1 Pensions Administration Quarterly update - June 2020

The Board received and noted the update the update report on the current position with the Pensions Administration service. The main points of the discussion may be summarised as follows:

The Board:

- Welcomed the commendable reduction in the work outstanding at the end of June. Which shows a considerable improvement compared with the position at the end of March.
- Were encouraged that the initiative to implement the I connect system as this will enable data to be uploaded more easily and improve overall efficiency.
- Noted that the majority of employers including the council continue to rely on pension fund staff to upload their monthly payroll data on the portal. A drive to get employers signed up and using the portal for data submission will commence in September
- Noted that the Government want people to belong to workplace pension schemes, so employers have to automatically enrol you back into the LGPS approximately every three years.
- Noted that concerns have been expressed about the fall in stock markets and the potential resultant impact on defined contribution pensions. However, the LGPS as a defined benefit pensions are not linked to stock market performance and are set out in statute. Therefore, although short term investment values may vary, the LGPS as a long-term investor is securely managed to address any longer-term impacts. Therefore, LGPS Scheme members can be assured that both their contributions and their pension, whether in payment or built up to date, will be unaffected.
- Acknowledged that COVID-19 has led to an extraordinary period of lockdown and social distancing measures which has put many employers with LGPS liabilities under considerable financial pressure as their sources of revenue has reduced. Accordingly, the Pensions Team are closely monitoring if to see if any employer with LGPS liabilities is under pressure.
- Was informed that it is anticipated that the pressure on employers will continue over the short to medium term as Government measures to curb the spread of the infection are gradually lifted and public confidence improves.
- Recommend that in future the Service should work with Trade Union representatives to encourage staff to join and continue membership of the LGPS;
- Noted that, where employers have opted to furlough staff, pay continues to be pensionable (i.e. if a member receives 80% of their pay under furlough, employee and employer contributions are due on this level of pay). However, the Government furlough scheme only compensates employers by 3% of pay towards employer pension contributions (the minimum employer contribution under autoenrollment rules). Therefore, the balance of employer pension contributions must

be found by the employer through other sources which may deplete any cash reserves held by employers, putting their businesses at risk.

- Stated that it wished to place on record their thanks and appreciation to Pensions and Investment Manager and her team on the commendable reduction in the back logs.
- Noted the progress in responding to the McCloud ruling with reference to engagement with employers to ensure receipt of member data when required; identifying those scheme members who may be affected; setting up McCloud project plan and identify project team and develop the Member communication.

Accordingly, the Chair Moved and it was:

RESOLVED to:

1. Note the report;
2. Recommend that in future the Service should work with Trade Union representatives to encourage staff to join and continue membership of the LGPS; and
3. Place on record their thanks and appreciation to Miriam Adams the Pensions and Investment Manager and her team on the commendable reduction in the back logs.

5.2 2019/20 Pension Fund Accounts Audit Plan

The Board received and noted that the Audit Plan for 2019/20 The main points of the discussion may be summarised as follows:

The Board:

- Noted that has been prepared by Deloitte LLP, the plan included work to provide an audit opinion on the financial statements of the Pension Fund and the income and expenditure for 2019/20 and to finalise the audit of the 2018/19 Pension Fund accounts.
- Noted that the Pensions Committee had considered the Pension Fund Audit Plan during its meeting held on the 18th June 2020.
- Was advised that the audit cannot yet be concluded because of issues outstanding from previous years, although it was noted that there are no known issues impacting on the Pension Fund accounts.
- Noted that the Pensions Regulator has published guidance for trustees and public service setting out the critical processes for administrators including paying members' benefits, retirement processing, bereavement services as well as any administration functions required to support this function.
-

Accordingly, the Chair Moved and it was:

RESOLVED to:

Note the Audit Planning report from Deloitte that relates to the Tower Hamlets

Pension Fund accounts.

5.3 Review of Risk Register

The Board received and noted a report that outlined changes to the Fund's Risk Register. The main points of the discussion may be summarised as follows:

The Board:

- Noted the changes arising from the Covid 19 epidemic and the Council's response.
- Discussed the risks associated with fraud and Members transferring their pensions to private schemes e.g. the Council are working to ensure that Scheme Members can make informed decisions about their pensions to help protect them from scams.
- Noted the recent statement from the Minister of State regarding the progress in responding to the McCloud ruling as a possible risk.
- Noted that to facilitate successful delivery, the Fund will need to commence preliminary work to ensure successful processing implementation of McCloud ruling with regard to the identification of affected members, processing of arrears and interest as well as adjusting of records of affected members once final legislation is received.
- Noted it was noted felt that the scheme might be exposed to likelihood of Cyber Scams and Data Protection risks as staff migrated to remote working. However, as a part of the commitment to keep the wired and wireless network safe, the Council are applying the latest security measures to ensure the safe operation of these wired and wireless networks.

Accordingly, the Chair Moved and it was:

RESOLVED to:

1. Note and comment on the Pension Fund Risk Register;
2. Note the additional risks introduced during the quarter; and
3. Note amendments to existing risks.

5.4 Pension Fund Cash Flow Forecast 2020/21

The Board received and noted is report is an update on the Pension Fund's projected cash flow forecast for 2020/21 to 2022/23 from operational activities. The main points of the discussion may be summarised as follows:

The Board:

- Noted that the Fund is projecting a £0.584m projected surplus on its income and expenditure at the end of the financial year without any cash draw down from investments.
- Noted that the Fund is expecting a projected cash short fall in 2021/22, a request for cash draw down is presented .
- Was advised that a request for estimated cash drawdown of £20m from Equity Protection proceeds is being presented at the 27th July 2020 Pensions Committee meeting.
- Was informed that a significant cash flow short fall is estimated for 2021/22 and 2022/23. This is where the Fund expenditure exceeds the income from contributions.
- Welcomed the commendable reduction in the work outstanding at the end of June 2020. Which shows a considerable improvement compared with the position at the end of March 2020
- Commented that the initiative to implement the I connect system should be encouraged as this will enable data to be uploaded more easily and improve overall efficiency

Accordingly, the Chair Moved and it was:

RESOLVED to:

1. Note the cash flow forecast from operational activities.

5.5 Pensions Board Work Plan 2020/21

The Board received and noted a report that outlined considered the draft work programme for 2020/21. The main points of the discussion may be summarised as follows:

The Board:

- Noted that the indicative work plan for the board has been put together to assist in the management of the Fund, so that the Council is able to perform its role as the administering authority in a structured way.
- Was reminded that the Work Plan is not intended to cover all aspects of Pension Fund administration; rather it is designed to assist with meeting part of its delegated function as administering authority to the Fund.
- Noted that in designing the work plan, the priorities of the Council as the administering authority of the Fund have been considered and incorporated.
- Considered the review of investment management costs and a review of contracts.
- It was noted that an overall governance review should be carried out within the next 18 months once the position in the pension's administration team has stabilised.

Accordingly, the Chair Moved and it was:

RESOLVED to

- a) note the contents of this report;
- b) note the pension board terms of reference attached as Appendix 1; and
- c) agree the 2020/21 work plan attached as Appendix 2 to this report.

5.6 Knowledge Assessment Results and Training Plan for Pensions Committee and Pension Board Members

The Board received and noted proposals from Hymans Robertson for training and development. The findings of the report being intended to assist the Fund in quantitative knowledge level of members of the Board and Committee and aid in the development of targeted and tailored training plans for members of the Pension Board and Committee. The main points of the discussion may be summarised as follows:

The Board:

- Was advised that the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Pensions Regulator continue to emphasise the importance of knowledge and skills in the effective governance of the Pension Fund;
- Noted that in recent years there has been a marked increase in the scrutiny of public service pension schemes including the Local Government Pension Scheme (LGPS). Therefore, the training and development for Committee and Board Members is an important requirement,
- Was reminded that the introduction of Markets in Financial Instruments Directive II (MIFID II) in January 2018 **REQUIRED** Committee members to evidence their knowledge in order to be treated as professional investors. Also, in 2019 a review of governance arrangements for LGPS funds was commenced. This project termed 'Good Governance' addressed stakeholder knowledge and skills;
- Noted that a clear recommendation of the Good Governance project was that the knowledge levels already statutorily required by Board Members should also be required of Committee Members. The recent events having reaffirm that LGPS funds should evidence the training provided; current knowledge and understanding levels retained within both the Committee and Board;
- Was informed that all Members of the Board and Committee were invited to complete an online knowledge assessment. 2 respondents from the Pensions Committee and 5 from the Board participated. Each respondent was given 47 questions on the 8 following areas: (i) Committee role and pensions legislation; (ii) Pensions governance; (iii) Pensions administration; (iv) Pensions accounting and audit standards; (v) Procurement and relationship management; (vi) Investment

performance and risk management; (vii) Financial markets and product knowledge; and (viii) Actuarial methods, standard and practices.

- Noted that the Tower Hamlets Fund ranked 6th out of 18 Funds. The Board average score was 68.51% while the Committee average score was 59.57%. The Committee performed better in investment performance and financial matters. Both the Board and Committee demonstrated a good spread of knowledge.
- Were however, concerned that only two of the Committee Members had completed the Hymans assessment.
- Was advised that it is likely that most aspects of training will be delivered on a group basis, either at Committee and Board or through separate events to which all members will have the opportunity to attend. For this type of training, the training programme and assessment of needs will be based on a consideration of; new developments and legislation, topical/live issues, as well as member feedback and specific requests for training. Therefore, based on the results the suggestion is that there should be consideration to the establishment of a structured training plan for the next 18 months covering the main areas covered in the report as set out below:

Date	Event and Core Knowledge & Skills Areas Covered	Potential Attendees
Sep – Dec 20	<ul style="list-style-type: none"> • The impact of COVID-19 on the Fund • Pensions administration 	All
Jan – Mar 21	<ul style="list-style-type: none"> • Pensions Governance • ESG 	All
Apr – Jun 21	<ul style="list-style-type: none"> • Pension governance and good governance • Investment performance & risk management • Actuarial methods 	All
July – Sept 21	<ul style="list-style-type: none"> • Procurement • Relationship management 	All
Oct – Dec 21	<ul style="list-style-type: none"> • Valuation training – purpose, roles, outcomes 	

- Welcomed and agreed the proposals designed by Hymans Robertson for a bespoke training plan.
- Agreed that it would encourage Pension Committee Members to engage in this training programme and complete the Hymans knowledge assessment.

Accordingly, the Chair Moved and it was:

RESOLVED to:

1. Note the report);

2. Note the results including the overall ranking of the Board and Pensions Committee against other participating LGPS funds;
3. Note the suggested training plan picking out the key areas for development based on participant assessment results and the training requests; and
4. Recommend the structured training plan.

6. EXCLUSION OF THE PRESS AND PUBLIC

In view of the contents of the remaining items on the agenda the Board agreed to adopt the following motion:

That, under the provisions of Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985, the press and public be excluded from the remainder of the meeting for the consideration of the Section Two business on the grounds that it contains information defined as Exempt in Part 1 of Schedule 12A to the Local Government Act, 1972.

6.1 Pension Fund Remediation Plan

The minutes for this item are restricted.

7.1 Restricted Minutes

The minutes for this item are restricted.

The meeting ended at 12.28 p.m.

**Chair, John Jones
Pension Board**

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Non-Executive Report of the: Pensions Board 23 SEPTEMBER 2020	 TOWER HAMLETS
Report of Neville Murton, Corporate Director, Resources	Classification: Unrestricted
McCloud Consultation	

Originating Officer(s)	Miriam Adams, Pensions & Investments Manager
Wards affected	All wards

Summary

This report sets out the key changes to the scheme proposed by the Government in their recent consultation document in response to the McCloud judgement concerning age discrimination.

The Courts determined that the protections afforded to some members of the Local Government Pension Scheme (LGPS) and other public service pension schemes, following the review by Lord Hutton and introduced in 2014 (for the LGPS and 2015 for other schemes), were age discriminatory and unlawful.

The Government accepted the findings of the Court and has issued a consultation as to how best to amend the LGPS regulations.

Recommendations

The Board is asked:

- To comment and review the draft (Appendix A); and
- Note the potential effects on pensions administration workload.

1. REASONS FOR THE DECISION

- 1.1 Resulting legislation will have significant administrative burden for the administration of the Council's pension scheme.

2. ALTERNATIVE OPTION

- 2.1 There are no alternative options.

3. DETAILS OF REPORT

- 3.1 The new CARE scheme was introduced for the LGPS in England and Wales on 1 April 2014, all active members in the LGPS started to accrue benefits on a Career Average (CARE) basis, but members within ten years of their 2008 Scheme normal pension age on 31 March 2012 are granted transitional protection by means of a final salary underpin. Similar protections were provided when the other public service pension scheme were reformed in April 2015.
- 3.2 In December 2018, in what became known as McCloud and Argent judgements, the Court of Appeal found that protections introduced to the judges and firefighters' pension schemes were unlawful. The Government confirmed in July 2019 that the judgements had implications for all public service pension schemes (including the LGPS) and that they would address discrimination for all affected members, not just those who made a claim.
- 3.3 The Ministry of Housing, Communities and Local Government (MHCLG) published its consultation on draft Regulations introducing amendments to the statutory underpin for the LGPS in England and Wales on 16 July 2020. The proposals are designed to remedy the unlawful discrimination caused by the protection of older members when the scheme was reformed in April 2014. The consultation is estimated to affect around 1.2 million members of the LGPS by extending the underpin to all qualifying members, regardless of their age. The consultation period ends on 8 October 2020.

Consultation Proposals

- 3.4 The consultation extends the 'transitional protections underpin (that was promised to active members in 2012 who were within 10 years of normal retirement age) to all other active members, regardless of age. The underpin gives the member the better of CARE or final salary benefits for the eligible period of service.
- 3.5 The new underpin calculation also includes the difference in when the benefits are payable without reduction. This was not in the original underpin. Benefits under the final salary scheme are payable from age 65 without reduction, whereas under the CARE scheme they are linked to State Pension Age. If a member takes early retirement, the impact of actuarial reductions may lead to their final salary benefit being higher.
- 3.6 The changes will be retrospective and will apply to anyone who has left, retired or died and who did not meet the old underpin criteria but meets the new one. In some cases, this will mean retrospectively recalculating benefits for pensioners, and paying arrears and interest.

The original intention of the underpin was for it to apply on service from 1 April 2014 to the earlier of 31 March 2022 or the member's date of leaving.

- 3.7 The draft regulations state that Members who meet the criteria will have an “underpin date” and an “underpin crystallisation date”. The underpin test will be applied:
- a) On an indicative basis (without actually changing the member’s benefits) at “the underpin date”, being the date at which the member dies, leaves or reaches their 2008 Scheme Normal Pension Age (normally 65), whichever is earlier.
 - b) On a finalised basis at the “underpin crystallisation date”, which is when the member retires.
- 3.8 The test will be based on the member’s final salary at leaving/retirement, thus preserving the final salary link beyond 2022, for so long as they are accruing benefits.
- Where a member retires from active service (whether on an early, normal or ill health basis) the underpin date and underpin crystallisation date will be the same. The underpin test will be applied and if the underpin calculation results in an increase in benefits, the member will receive an underpin addition.

A copy of the full consultation document can be found at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901173/Condoc - amendments to LGPS underpin - FOR PUBLICATION.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901173/Condoc_-_amendments_to_LGPS_underpin_-_FOR_PUBLICATION.pdf)

- 3.9 Appendix 1 provides a copy of the consultation questions and responses which Hymans Robertson have drafted. This has along with the LGA consultation response has been used as the basis of Tower Hamlets draft response to the consultation.

Implications for Tower Hamlets Pension Fund

- 3.10 The consultation proposes some significant changes to the administration of the Fund. It does not just extend the underpin calculation to all members that were active before March 2012. It also changes the basis of the calculation.

This means that all retirement and transfers of benefit calculations which have occurred since 2014 will need to be recalculated to ensure that the correct amount of benefits have been paid. This is a far greater task than had been originally envisaged.

The recalculation is not envisaged to significantly increase the cost of benefits, so the overall effects on the cost of the scheme is not likely to materially change. When the Committee set contribution rates for the three years starting April 2020, a higher probability threshold was set to ensure that contribution rates were slightly higher to allow for the potential effects of the McCloud remedy. This was also reflected in the Funding Strategy Statement.

- 3.11 it should be noted that the suggestion to extend the final salary protections to all eligible active members beyond 2022, and until they leave active service,

does prolong the final salary scheme and may result in potentially higher cost of benefits. This again further complicates the administration of the Fund.

Since 2014, the data requirements from employers has been geared towards the CARE scheme. Only those eligible for the original underpin needed data concerning the changes in the numbers of hours that they worked. This does require additional data from scheme employers in order that Pensions staff are able to undertake these calculations in the future. This will be raised with the scheme employers at the employers Forum scheduled for 22 October 2020.

3.12 In July 2020, the Pensions Committee and Board were presented with a summary of the key tasks involved in the planning for this project and once the final timescales for implementation have been confirmed, both the Committee and Board will be updated on when this will be achieved. This may require additional resources in order to complete this work.

3.13 It is imperative that the Administering Authority responds to the consultation.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 Although the Scheme Actuary made an allowance in the assumptions used in determining the results of the 2019 triennial valuation of the Tower Hamlets Pension Fund, the costs will vary by employer. Proposed amendments are retrospective to 2014 there will therefore be additional administrative costs in calculating the benefit entitlement for retired and dependent members, early leavers with preserved entitlement and members who have transferred their entitlement to other pension schemes

5. LEGAL COMMENTS

5.1 The Council as administering authority of the pension fund must ensure that it complies with its statutory duties in relation to the proper management of the pension funds. The administering authority must take steps to implement the changes to fund members entitlements as a result of the judgement in the McCloud case and the resulting regulations once they come into force. This report sets out the changes to be implemented and the implications for the pension fund.

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1 The employer's contribution is a significant element of the Council's budget and consequently any improvement in investment performance will reduce the contribution and increase the funds available for other corporate priorities.

7. BEST VALUE (BV) IMPLICATIONS

7.1 There is no direct best value implication arising from this report.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There is no Sustainable Action for a Greener Environment implication arising from this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There are no direct no immediate risk management implications arising from this report. The Funding Strategy Statement made provision for claims which may arise from McCloud underpin. There are risks associated with employers failure to provide necessary data.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no crime and disorder reduction implications arising from this report.
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Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- Tower Hamlets Pension Fund Draft Consultation response (Appendix A)

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- Consultation

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901173/Condoc - amendments to LGPS underpin - FOR PUBLICATION.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901173/Condoc_-_amendments_to_LGPS_underpin_-_FOR_PUBLICATION.pdf)

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Local Government Finance Stewardship
Ministry of Housing, Communities and Local Government
2nd Floor, Fry Building
2 Marsham Street
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7 August 2020

Dear Sir/Madam

Local Government Pension Scheme (England and Wales)

The London Borough of Tower Hamlets Administering Authority to the London Borough of Tower Hamlets Pension Fund (the Fund) is pleased to respond to the consultation on the above topic attached as annex to this letter.

Yours Faithfully

Neville Murton

Corporate Director Resources

For and on behalf of London Borough of Tower Hamlets Pension Fund

Question 1 – Do you agree with our proposal to remove the discrimination found in the McCloud and Sargeant cases by extending the underpin to younger scheme members

It is our belief that this will be consistent with the Court of Appeal's ruling

Question 2 – Do you agree that the underpin period should end in March 2022?

We see no case to extend the underpin period beyond 31 March 2022

Question 3 – Do you agree that the revised regulations should apply retrospectively to 1st April 2014?

Yes

Question 4 – Do the draft regulations implement the revised underpin which we describe in this paper?

Yes

Question 5 – Do the draft regulations provide for a framework of protection which would work effectively for members, employers and administrators?

Yes, however it is our belief that the administrative work required will be extensive.

Question 6 – Do you have other comments on technical matters related to the draft regulations?

We will welcome clarity in relation to death in service after 2008

Question 7 – Do you agree that members should not need to have an immediate entitlement to a pension at the date they leave the scheme for underpin protection to apply?

We agree that the underpin should be extended to those members who leave without an immediate entitlement to pension.

Question 8 – Are there any other comments regarding the proposed underpin qualifying criteria you would like to make?

We believe further clarification is required on dealing with aggregation cases

Question 9 – Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?

We agree that the underpin qualifying criteria should have to apply in a single record.

Question 10 – Do you agree with our proposal that certain active and deferred members should have an additional 12 month period to decide to aggregate previous LGPS benefits as a consequence of the proposed changes?

We believe there should be a discretion to allow administering authorities to extend the 12-month aggregation window. While we hope the exercise can be completed within 12 months, in reality this may not be the case as there may be cases where through no fault of the member the exercise is not completed in time and it would be unreasonable for the member to miss out.

Question 11 – Do you consider that the proposals outlined in paragraphs 50 to 52 would have ‘significant adverse effects’ in relation to the pension payable to or in respect of affected members, as described in section 23 of the Public Service Pensions Act 2013?

The proposed changes seem to suggest that the aggregation window will not be extended to members who opted out after 11 April 2015 and then re-joined the scheme.

Question 12 – Do you have any comments on the proposed amendments described in paragraphs 56 to 59?

It is our belief that the proposed amendments to the protection will result in additional work for administrators as it would involve them having to visit underpin calculations where a protected member leaves active service, returns without a disqualifying break in service and elects to aggregate the two membership periods.

Question 13 – Do you agree with the two-stage underpin process proposed?

This is consistent with the governments stated policy intentions

Question 14 – Do you have any comments regarding the proposed approaches outlined above?

We believe a consistent approach is required to assist members

Question 15 – Do you consider there to be any notable omissions in our proposals on the changes to the underpin?

No

Question 16 – Do you agree that annual benefit statements should include information about a qualifying member’s underpin protection?

It would be useful for members who may be impacted by the underpin to receive underpin information in their annual benefit statements.

Question 17 – Do you have any comments regarding how the underpin should be presented on annual benefit statements?

Explaining the new process and underpin calculations may prove difficult as affected members may see their underpin value change in some years and not others

Question 18 – Do you have any comments on the potential issue identified in paragraph 110?

It is our belief that annual assessment of the underpin will not be necessary. The appropriate annual allowance test should be applied at crystallisation date

Question 19 – Do the proposals contained in this consultation adequately address the discrimination found in the ‘McCloud’ and ‘Sargeant’ cases?

We believe proposals address the discrimination found in the ‘McCloud’ and ‘Sergent’ cases

Question 20 – Do you agree with our equalities impact assessment?

It is our understanding that the underpin seeks to address the equalities impact

Question 21 - Are you aware of additional data sets that would help assess the potential impacts of the proposed changes on the LGPS membership, in particular for the protected characteristics not covered by the GAD analysis (age and sex)?

No

Question 22 – Are there other comments or observations on equalities impacts you would wish to make?

No

Question 23 – What principles should be adopted to help members and employers understand the implications of the proposals outlined in this paper?

We believe that our members will seek assurance that the underpin process is fair and will be accurately applied

Central communication from the SAB to all employers will help a great deal.

Question 24 – Do you have any comments to make on the administrative impacts of the proposals outlined in this paper?

Although the underpin does not immediately take effect for most members, such members will require on going record maintenance by employers and Funds, this will inevitably impact administration resources. Obtaining data from employers also remain challenging issue.

Question 25 – What principles should be adopted in determining how to prioritise cases

It is our opinion that the following priorities should be extended:

- In the calculation of death and survivor benefits
- Retirements
- Actives should be prioritised by those close to their underpin crystallisation dates first

Question 26 – Are there material ways in which the proposals could be simplified to ease the impacts on employers, software systems and scheme administrators

It is our belief that removing the underpin for ill health cases would simplify calculations although it could lead to a possibility of future discriminations or policy not being fully realised.

Question 27 – What issues should be covered in administrative guidance issued by the Scheme Advisory Board, in particular regarding the potential additional data requirements that would apply to employers?

Additional guidance would be welcome on salary service history where:

- Employers are unable to provide historic data
- Employers have changed payroll providers
- Employers no longer existing

Question 28 – On what matters should there be a consistent approach to implementation of the changes proposed?

Overall it will benefit Funds if clarity is provided through guidance or legislation on standard ways to deal with employers who cannot provide data, are no longer in existence or outsourced.

Standardised data gathering templates and communications from the SAB will be beneficial.

Question 29 – Do you have any comments regarding the potential costs of McCloud remedy, and steps that should be taken to prevent increased costs being passed to local taxpayers?

Whilst the Fund allowed for McCloud in the 2019 valuation and Funding Strategy Statement, the actual and exact translation is not currently known due to the membership of employers in the Fund. It is the opinion of the Fund that the administrative and implementation costs will be significant.

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Non-Executive Report of the: Pensions Committee 22 September 2020	
Report of: Corporate Director, Resources	Classification: Open (Unrestricted)
Pensions Administration and LGPS Update	

Originating Officer(s)	Miriam Adams
Wards affected	All Wards

Executive Summary

To provide Members with information relating to the administration and performance of the Fund since the July meeting and key recent LGPS issues and initiatives which impact the Fund.

Recommendations:

The Pensions Board is recommended to:

1. Note the report contents; and
2. Note that three employers are in the process of joining the scheme - Taylor Shaw Cleaning, Ridgecrest cleaning and Atlantic cleaning following successful joint tender process involving a number of primary and secondary schools including Ian Mikado Academy.

1. REASONS FOR THE DECISIONS

- 1.1 The report asks the Committee to note the content of this report which covers the activities relating to Pensions administration since July; and
- 1.2 Approve in principles the admitted body status requests following various successful group and individual tenders involving Taylor Shaw catering, Ridgecrest cleaning and Atlantic cleaning.

2. ALTERNATIVE OPTIONS

- 2.1 There are no alternative options to this report

3. **ADMINISTRATION**

3.1 A core part of the role of running the pension fund is the maintenance of scheme membership records that enable scheme benefits to be calculated in addition to dealing with new members joining and members leaving the scheme. This activity is carried out in-house. The team also deals with employer related issues, including new employers and cessation. Officers presented the June quarterly performance update during the July meeting. This paper covers administrative activity updates since July.

4. **EMPLOYER DEVELOPMENTS – ADMISSIONS AND CESSATIONS**

4.1 There are employers joining and leaving the scheme on a regular basis. A list of active employers was reported in July.

New Employers

4.2 Since the July meeting three employers are in the process of participating in the scheme.

Applications for Admitted Body status were received following several contract services tenders conducted by schools. The Committee is asked to note the admission requests pending the completion of the legal process with the Fund. Initial discussions between the Council and the Fund included clarification and agreement of the broad actuarial principles.

Secondary school catering group tender	Bow School	LBTH-maintained	Staff will transfer to Taylor Shaw
	Central Foundation Girls School	LBTH-maintained	
	Morpeth	LBTH-maintained	
	Stepney Green Maths & Computing College	Academy	
Primary school cleaning group tender	Bonner Mile End	LBTH-maintained	Staff will transfer to Ridgecrest Cleaning
	Cubitt Town Primary School	LBTH-maintained	
	Ian Mikardo High Academy School	Academy	
	Old Palace Primary School	LBTH-maintained	
	St Edmunds Primary School	Diocesan	
	St Elizabeth RC Primary School	Diocesan	
Cleaning - managing own tender	Noah's Ark Nursery LEYF	Private	Staff will transfer to Atlantic Cleaning

Employer Cessations

4.3 There have been no employer cessations since the last Committee meeting.

Report to the Pensions Regulator

- 4.4 There has been no reports to the Pensions Regulator in the period and no response from the regulator to the December report on the delay to the issue of Annual Allowance and Annual Benefit statements.

Internal Audit

- 4.5 An Internal audit report on the Pensions Administration system commenced at the end of June, the findings will be presented to Committee and Board at the earliest possible meeting once a report is received.

5. COVID -19 RESPONSE

- 5.1 Consistent with the guidance provided by the Government, most members of the team are working remotely with a few choosing to come to the office for convenience.
External post is only sent where necessary and the sorting of post has been on a voluntary basis for a single officer to attend to sort, scan and post such items.
A letter was issued to all scheme employers containing information to issue to their employees. This document was also made available on the Council's website.

6. LGPS UPDATES

Consultation on Reforming Local Government Exit Pay (£95k Cap)

- 6.1 The Ministry of Housing Communities and Local Government (MHCLG) on 7th September published a consultation on changes to pension and compensation regulations to introduce the £95k cap and elements of further reform of exit payments. A detailed consultation response will be presented to both the Pensions Committee and Board in November.
- 6.1.2 The early retirement strain payment is expected to still be included in the £95k cap calculation. This is often perceived as the costliest element which is ultimately funded by the taxpayer. The consultation seems to indicate that pension schemes, employment contracts and compensation schemes will be amended to reflect the introduction of the cap.
- 6.1.3 Although the Treasury have now acknowledged that the £95k figure should increase over time in their response, there is currently no further detail about how this will be achieved.
With no allowance for inflationary increases more individuals will inevitably be affected as a result.

- 6.1.4 The discretionary waiver system for exceptional circumstances is also welcomed in the LGPS community. Currently there is no further detail about how this would work in practice.
The Consultation now includes a list of affected public sector bodies proposed to be within the scope of the cap.
- 6.1.5 Due to the current economic climate, Public Sector employers in the LGPS are going through or might go through redundancy exercises so although the cap will not apply at the moment, and with no certainty around the implementation date, Funds are at risk if advice is given to scheme members or scheme employers.

On 27 August, MHCLG laid the regulations on employer contribution and exit payment flexibility which will come into force on 23rd September.

6.2 Review of Employer Contributions and Flexibility on Exit Payments

Following the receipt of consultation responses, MHCLG published a partial response to last year's consultation on proposed changes in the valuation cycle and management of employer risk. The responses are expected to be followed by regulations which are likely to come into force in early autumn. The response includes the review of employer contributions between valuations, spreading exit payments and deferred debt arrangements. The regulation (The LGPS (Amendment) (No2) Regulations 2020 will be accompanied by guidance on the necessary revisions to Funding Strategy Statements.

The Government will work with the Scheme Advisory Board (SAB) and CIPFA to amend the regulations/guidance so that there will now effectively be three options for an existing employer (subject to agreement from the Administering Authority).

- As currently, calculate and recover an exit payment for employers ready and able to leave and make a clean break;
- Agree a repayment schedule for an exit payment with employers who wish to leave the scheme but need to be able to spread the payment; and
- Agree a Deferred Debt Agreement (DDA) with employers to enable them to continue paying deficit contributions without any active members where the administering authority is confident that that the employer would fully meet its obligations.

The DDA option is expected to have a profound shift in the way exiting employer's responsibilities will be the same as for employers of active members but excluding the requirement to pay primary contributions.

6.3 **Preparing for McCloud**

On March 25 2020, the Minister of State made a statement regarding the progress in responding to the McCloud ruling. The statement confirmed that no qualifying scheme member will need to make a claim for the McCloud remedy to apply to them. The LGPS has only one CARE scheme with a final salary underpin for protected members and so no claim would be required unlike other Public Service Pensions like Teachers, Police and Fire.

To facilitate successful delivery, the Fund will need to commence preliminary work to ensure successful processing for the implementation of McCloud i.e. identification of affected members, understanding the underpin, processing of arrears and interest as well as adjusting of records of affected members once final legislation is received.

Preliminary work will include:

- Understanding of technical requirements
- Establish data which will be required and analyse membership in scope
- Engage with employers to ensure receipt of member data when required
- Identify scheme members who may be affected
- Establish delivery format
- Set up McCloud project plan and identify project team
- Identify stakeholders
- Member communication
- Identify workstream for McCloud
- Start planning early

6.4 **SAB statement on Local Pension Board meeting cancellations during covid-19**

The SAB issued a statement on 27 July following concerns raised at a recent Local Pension Board workshop. The statement clarified that the SAB was satisfied that arranging a virtual meeting of a local pension board would facilitate the discharging of its duty to conduct business during the emergency.

7. **SCHEME UPDATES**

7.1 **Annual Benefit Statement (ABS) 2019/20**

The ABS process is carried out annually and its purpose is to actively manage and monitor all employers associated with the Fund. The employers are required to submit their end of year pay information by the set deadline. This

requirement to submit end of year pay information is not required for employers who submit payroll data via i-Connect. The ABS statement to all active and deferred members is required be produced by the regulatory deadline of August 31. Statement for deferred members were dispatched in July 2020 while active members are expected to be dispatched on 21 September.

7.2 **i-Connect**

Although the Council is the pre-eminent employer within the Scheme, there are 34 employers in the scheme. The Fund commenced the use of i-Connect in April 2017. The Majority of employers including the council continue to rely on pension fund staff to upload their monthly payroll data on the portal. A drive to get employers signed up and using the portal for data submission will commence in September.

Report on Breaches

- 7.3 The Fund is required to report on breaches of policies. Other than the slight delay to the issuing of active members ABS referenced above, there were no known breaches since the last reporting period.

Employers Forum

- 7.4 An online employer's forum via teams is scheduled for 22nd October and is expected to last around 4 hours. Hymans Robertson the Fund Actuary will be the key note speaker addressing employers on a range of topics while Heywood iConnect will be presenting on how to use iConnect, its benefits and signing up of employers for training.

- Date – October 22nd (max 3 to 4 hours)
- Meeting – via Teams call
- Theme – Collaboration and Partnership (Past, Present and Future)
- Key issues – Data and best practice administration procedures
- Goals –
 - Get 90% of employers signed up and using iConnect for payroll data submission
 - Systems and procedures are used properly
 - Clear delineation between employer admin responsibility and fund officer admin responsibility

- Employers understand impact of poor data (Resource (for them and the Fund), administration performance and pension funding impact)
- Get them in place to deal with McCloud expectations

8. RISK MANAGEMENT IMPLICATIONS

- 8.1 Risks arising from poor administration tend to be reputational but can include additional expenditure through inaccurate benefits, delays in collecting contribution, fines and interest on late payments. This and future reports are designed to provide the Pensions Committee with assurance that pension risks are being adequately managed.

9. COMMENTS OF THE CHIEF FINANCE OFFICER

- 9.1 There are no direct financial implications arising from the contents of this report.

10. COMMENTS OF LEGAL SERVICES

- 10.1 The Pensions Committee is required to consider pension matters and ensure that the Council meets its statutory duties in respect of the fund. It is appropriate having regard to these matters for the Committee to receive information from the Pensions Administration team about the performance of the administration functions of the pension fund. The report also provides the Committee with updates on various other matters relevant to the administration of the Pension Fund. There are no immediate legal implications arising from the report.

- 10.2 When carrying out its functions as the administering authority of its pension fund, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector duty).

11. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 11.1 There are no Sustainable Action for A Greener Environment implication arising from this report.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 There are no crime and disorder reduction implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

NONE

Appendices

None

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- NONE

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Non-Executive Report of the: PENSIONS BOARD 23 SEPTEMBER 2020	 TOWER HAMLETS
Report of Neville Murton, Corporate Director, Resources	Classification: Unrestricted
Contribution Deferral Policy Statement	

Originating Officer(s)	Miriam Adams, Pensions & Investments Manager
Wards affected	All

Introduction

This report provides the Board with policy on how the Fund will make its determination in respect of deferral of employer contributions during COVID-19 lockdown and gradual unwinding of social distancing and related restrictions.

Recommendations:

The Board is asked to note:

- the content of this report and admission contribution deferral policy:
- that the period of deferral is limited to 3 months after which extensions may be granted on a monthly basis:
- that the total annual contributions must be paid by 31 March of the applicable year and interest may apply:
- the decision to consider and approve requests was delegated to the S151 Officer: and

1. REASONS FOR THE DECISIONS

- 1.1 To ensure consistent treatment is applied across employers over time and enable employers, guarantors and the Fund understand the risks associated with granting contribution flexibility. It also enables the Fund to consider appropriate measures to manage the risks where possible.

2. ALTERNATIVE OPTIONS

- 2.1 There are no alternative options to this report.

3. DETAILS OF REPORT

- 3.1 The Pensions Regulator published on 27 March 2020 Scheme administration COVID-19 guidance for trustees and public service setting out the critical processes for administrators including paying members' benefits, retirement processing, bereavement services as well as any administration functions required to support this function. A revised statement was published on 16 June 2020. On 25 June, the Corporate Insolvency and Governance Act 2020 received royal assent and came into force on 26 June. The measure introduced by the Act which is designed to assist companies during the pandemic includes provisions for a moratorium during which companies can defer debts. The Scheme Advisory Board (SAB) is seeking legal advice on the potential impact of a moratorium on employer deficit contributions. In addition, LGPS administrators can access the LGPS guidance under frequently asked questions for administrators.

This policy covers delay of contribution payment or temporary reduction of rates payable.

- 3.2 COVID-19 has led to an extraordinary period of lockdown and social distancing measures which has put many employers with LGPS liabilities under considerable financial pressure as their sources of revenue have reduced. This pressure on employers is expected to continue over the short to medium term as Government measures to curb the spread of the infection are gradually lifted and public confidence improves. In addition, where employers have opted to furlough staff, pay continues to be pensionable (i.e. if a member receives 80% of their pay under furlough, employee and employer contributions are due on this level of pay). However, the Government furlough scheme only compensates employers by 3% of pay towards employer pension contributions (the minimum employer contribution under auto-enrolment rules). Therefore, the balance of employer pension contributions must be found by the employer through other sources which may deplete any cash reserves held by employers, putting their businesses at risk.
- 3.3 LGPS frequently asked questions for administrators does state that employers cannot delay or pause paying employee contributions. Employee contributions must be submitted to the administering authority in line with the timescales in the Pensions Act 1995. That is, by either the 22nd (where they are paid electronically) or the 19th of the month following the last day of the month in which the contributions are deducted. If an employer fails to submit employee contributions on time, paragraph 148 of TPR Code 14 states that where 'the scheme manager has reasonable cause to believe that the failure is likely to be of material significance to the regulator in the exercise of any of its functions, they may give notice of the failure to the regulator and the member within a reasonable period after the end of the prescribed period.
- 3.4 There are several risks to the operation of the Fund to consider, such as:
- Cashflow

- Fund returns
- Administrative complexity

Several considerations which may help protect the Fund from taking excess risks are required at employer level:

- Covenant and solvency
- Interest
- Redundancy
- Guarantors/letting employer
- Employee contributions
- Evidence that the LGPS is not the only avenue being used to preserve cash.
- Evidence that where applicable the Guarantor is aware of the application

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications. However, the outcomes could have financial implications for the Fund.

5. LEGAL COMMENTS

- 5.1 There are no immediate legal implications arising this policy

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The employer's contribution is a significant element of the Council's budget and consequently any improvement in costs management will reduce the contribution and increase the funds available for other corporate priorities.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The effective and efficient management of scheme costs is key to the achievement of the funding strategy objectives and this is considered to be a good decision which can result in greater cost savings to the fund.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There is no direct Sustainable Action for A Greener Environment implication arising from this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The rigorous robust management of LBTH Pension Fund results in better quicker and more effective decision making which can lead to better Fund performance and reduction in the contribution required from the Council towards the Fund.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 There are no crime and disorder reduction implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Reports

- Appendix A – Hymans Robertson LLP advice paper on COVID-19 contribution deferral

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- [LGPS Scheme Advisory Board - Covid-19 and LGPS](#)
- [DB scheme funding and investment: COVID-19 guidance for trustees | The Pensions Regulator](#)
- <https://www.lgpsregs.org/news/covid-AFAQs.php>

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London Borough of Tower Hamlets COVID-19 Contribution Deferral Policy Statement

COVID-19 – Policy on the deferment of employer contributions

As a result of Government policies to manage the spread of COVID-19, many employers are experiencing a severe impact on their immediate and ongoing revenues. The London Borough of Tower Hamlets Pension Fund (“the Fund”) recognises the challenges this may bring in respect of meeting employer pension costs over the shorter term. This document sets out the Fund’s policy on granting flexibility in respect of the payment of employer contributions during these unprecedented times.

The Fund is restricted by the LGPS Regulations in granting flexibility as there are limited circumstances where contribution rates certified in the Rates and Adjustments Certificate can be amended. In addition, the Regulations require that employer contributions in line with the Rates and Adjustments Certificate must be paid within each 12 month period.

As a result, the Fund is not able to consider reducing contributions or granting contribution holidays to employers. However, the Fund is able to consider the deferral (or temporary reduction) of employer contributions whereby an employer delays payment of employer contributions at the full rate for the current year that are owed to the Fund.

The Fund will only consider deferral where an employer makes a formal request. All other circumstances will be considered as late payments to the Fund and handled in accordance with the Fund’s administration policy. In making a request for deferral, the Fund requires:

1. A clear business case and rationale for the request, including evidence that the employer will likely be able to meet the deferred contributions at the end of the deferment period;
2. Assurances that other financial obligations, such as dividend payments, will also be suspended during the period of deferral;
3. Evidence the employer is seeking relief from other creditors, including any other pension arrangements, to ensure the Fund is being treated consistently; and
4. Evidence of discussions with their letting employer or any employer providing a guarantee.

Failure to provide the above will result in the Fund being unable to provide a deferral of contributions.

The request and accompanying evidence will be considered on a case by case basis and, if successful, would be approved by Neville Murton, the Section 151 officer with responsibility for the Fund, after the Fund has taken covenant, legal

and actuarial advice.

The Fund will also consult with any associated employer that is providing a guarantee to the employer seeking deferral.

The Fund will respond to a request for contribution deferment as quickly as possible and usually within a 21 day period.

Employer contributions should be remitted as usual during the period that a deferment request is being considered.

Where a request for deferral is not approved in the first instance, the Fund may require additional evidence or security to reconsider the request. There is no explicit appeals process for contribution deferment requests. If an employer feels they have been treated unfairly by the Fund, they may refer to the Fund's standard complaints and Internal Dispute Resolution Procedure (IDRP) processes.

Where a request for deferral is accepted, employers will be able to defer contributions for up to 3 months.

Following the 3-month period, 1-month extensions may be granted on request subject to submission of updated evidence of the employer's financial position. Extensions cannot go beyond 31 March 2021 at which point annual employer contributions for the whole 2020/21 year are due in full. Where contributions are not received in full by 31 March 2021, the Fund has a statutory obligation to consider reporting the failure to make employer contributions to the Pensions Regulator.

It should be noted that employee contributions should be remitted as usual during the period of deferment, and are unaffected by the employer's decision to request (or not) any deferral.

Non-Executive Report of the: PENSIONS BOARD 23 SEPTEMBER 2020	 TOWER HAMLET
Report of Neville Murton, Corporate Director, Resources	Classification: Unrestricted
Admission Employer Exit Credit Policy	

Originating Officer(s)	Miriam Adams, Pensions & Investments Manager
Wards affected	All Wards

Introduction

This Admission Employer Exit Credit Policy demonstrates the steps the Fund will consider such that a consistent approach is taken between employers over time and the interests of all parties, including any employer providing a guarantee, are taken into consideration.

Recommendations:

The Board is asked to

- note the admission employer exit credit policy agreed in principle by the Pensions Committee pending finalised guidance from MHCLG.

1. REASONS FOR THE DECISIONS

- 1.1 To inform the Board of the recently approve policy and keep the Board updated on recent and key developments in the LGPS. The policy was approved by the Pensions Committee during their July meeting and became immediately applicable to existing employers who joined the Fund before 14 May 2018 who are subject to a risk sharing arrangement as per point 3 in the policy.
- 1.2 This policy also applies to any pre-14 May 2018 admission which has been extended or ‘rolled over’ on the same terms that applied on joining the Fund to ensure a consistent approach is take between employers over time and the interests of all parties, including any employer providing a guarantee, are taken into account.

2. ALTERNATIVE OPTIONS

- 2.1 There are no alternative options to this report.

3. DETAILS OF REPORT

- 3.1 In light of concerns raised in the consultation document, the government has amended its proposals and published the LGPS (Amendment Regulations 2020) (the 'Amending Regulations').
- 3.2 Exit credits were first introduced to the LGPS in the Local Government Pension Scheme (LGPS) (Amendment) Regulation 2018 and came into effect from 14 May 2018. This brought the ability for LGPS Funds to pay money to an employer exiting the LGPS where a surplus was revealed on cessation. Although this gave Funds more flexibility in dealing with employers participation in the Fund, one of the key issues in practice was that it also gave rise to the potential for employers to receive an exit credit without taken on any pensions risk (i.e. the financial risk remained the responsibility of another employer).
- 3.3 Previously when an employer leaves the Fund, the Actuary will calculate their cessation position on a minimum risk basis unless it can be shown that there is another employer in the Fund who will take on financial responsibilities in the future. If the Fund is satisfied that there is another employer willing to take on responsibility for the liabilities, for example a guarantor then the cessation position may be calculated on the ongoing/long term funding basis. If there is no other employer to take on responsibility for the liabilities, then the exit credit policy will apply.
- 3.4 The updated Regulations while still requiring the Actuary to carry out an exit valuation, place the responsibility for determining the level of any exit credit on the Administering Authority having considered various factors.

The new amendments addressed short falls of the previous regulations by addressing the fact that contractors were getting surpluses that was in some cases more than the total contributions paid in the period or surpluses which was due to Fund investment performance

- 3.5 The new amendments for exit credits include:
- Administering authorities will be able to determine, at their discretion, the amount of any exit credit due, having regard to any relevant consideration
 - The period in which an exit credit (when due) is payable will be extended from three to six months. This will help offer administering authorities a more appropriate length of time for managing the cessation process and arranging any payment.
- 3.6 The effect of the changes has been backdated to 14 May 2018 (when exit credits were introduced) – unless an exit credit has already been paid, in which case the old rules apply. Making legislation with retrospective effect is unusual this gives room for possible challenge from employers.

A review of employers in the Fund likely to come up to exit is ongoing to enable the Fund to establish whether there might be an exit credit (or indeed an exit debit event).

- 3.7 In the Ministry of Housing Communities & Local Government (MHCLG) partial response to the consultation on changes to the Local Valuation Cycle and the Management of Employer Risk any disputes in respect of the Fund's determination should first be routed through the Fund's internal dispute resolution process (IDRP). It is also possible for disagreements to be escalated to the pensions Ombudsman if the IDRP is not successful in settling the matters. Advice is being taken to review the possibility of amending the current IDRP process which applies to individual disputes or establishing a separate IDRP process for non-individual disputes.
- 3.7 Updated Funding Strategy Statement will be presented to the Committee at the earliest time once MHCLG clarification is received.
- 3.9 The Fund will seek legal and actuarial advice when making each final exit credit determination.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications. However, the outcomes could have financial implications for the Fund.

5. LEGAL COMMENTS

- 5.1 There are no immediate legal implications arising from this policy. If in due course an employer claims an exit credit and disputes the administering authority's calculation of that credit, they would need to raise this via the Internal Dispute Resolution Process (IDRP). As an Administering Authority of LGPS pension funds, the Council must ensure adherence to the new regulations when making exit credit determinations.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The employer's contribution is a significant element of the Council's budget and consequently any improvement in costs management will reduce the contribution and increase the funds available for other corporate priorities.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The effective and efficient management of scheme costs is key to the achievement of the funding strategy objectives and this is considered to be a good decision which can result in greater cost savings to the fund.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There is no direct Sustainable Action for A Greener Environment implication arising from this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The rigorous robust management of LBTH Pension Fund results in better quicker and more effective decision making which can lead to better Fund performance and reduction in the contribution required from the Council towards the Fund.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no crime and disorder reduction implications arising from this report.
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Linked Reports, Appendices and Background Documents

Linked Reports

- None

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- None

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London Borough of Tower Hamlets Exit Credit Policy Statement

The below sets out the general guidelines that the London Borough of Tower Hamlets Pension Fund (“the Fund”) will follow when determining the amount of an exit credit payable to a ceasing employer in line with Regulation 64 of the Local Government Pension Scheme Regulations 2013 (“the Regulations”). Please note that these are guidelines only and the Fund will also consider any other factors that are relevant on a case-by-case basis.

These considerations may result in a determination that would be different if these guidelines were rigorously adhered to. In all cases, the Fund will make clear its reasoning for any decision.

Admitted bodies

1. No exit credit will be payable in respect of admissions who joined the Fund before 14 May 2018 unless it is subject to a risk sharing arrangement as per point 3 below. Prior to this date, the payment of an exit credit was not permitted under the Regulations and the Fund assumes this was reflected in the commercial terms agreed between the admission body and the letting authority. This will also apply to any pre-14 May 2018 admission which has been extended or ‘rolled over’ on the same terms that applied on joining the Fund.

2 No exit credit will be payable to any admission body who participates in the Fund via a pass through approach.

3 The Fund will make an exit credit payment (if any) in line with any contractual or risk sharing agreements which specifically covers the ownership of exit credits/cessation surpluses or if the admission body and letting authority have agreed any alternative approach (which is consistent with the Regulations and any other legal obligations). This information, which will include which party is responsible for which funding risk, must be presented to the Fund in a clear and unambiguous document with the agreement of both the admission body and the letting authority within one month of the admission body ceasing participation in the Fund.

4 If there is any dispute from either party with regards interpretation of contractual or risk sharing agreements as outlined in 3, the Fund will withhold payment of the exit credit until such disputes are resolved.

5 The Fund will also consider any representations made by the letting authority regarding monies owed to them by the admission body in respect of the contract that is ceasing or any other contractual arrangement between the two parties. The letting authority must make such representations in a clear and unambiguous document within one month of the admission body ceasing participation in the Fund.

6 Where a guarantor or similar arrangement is in place, but no formal risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the admission body during its participation in the Fund reflects which party is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.

7 If the admission agreement ends early, the Fund will consider the reason for the early termination, and whether that should have any relevance on the Fund's determination of the value of any exit credit payment. In these cases, the Fund will consider the differential between employers' contributions paid (including investment returns earned on these monies) and the size of any cessation surplus.

8 The decision of the Fund is final in interpreting how any arrangement described under 3, 5, 6 and 7 applies to the value of an exit credit payment.

9 If an admitted body leaves on a gilts-exit basis (because no guarantor is in place) as set out in the Funding Strategy Statement, then any exit credit will normally be paid in full to the employer.

Scheduled bodies and resolution bodies

1 Where a guarantor or similar arrangement is in place, but no formal risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the employer during its participation in the Fund reflects which party is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.

2 Where no formal guarantor or risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the employer during its participation in the Fund reflects the extent to which it is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.

3 The decision of the Fund is final in interpreting how any arrangement described under 1 and 2 applies to the value of an exit credit payment.

4 If a scheduled body or resolution body becomes an exiting employer due to a reorganisation, merger or take-over, then no exit credit will be paid.

5 If a scheduled body or resolution body leaves on a gilts-exit basis (because no guarantor is in place), then any exit credit will normally be paid in full to the employer.

General

The Fund will advise the exiting employer as well as the letting authority and/or other relevant scheme employers of its decision to make an exit credit determination under Regulation 64. Subject to any risk sharing or other

arrangements and factors discussed above, when determining the cessation funding position the Fund will generally make an assessment based on the value of contributions paid by the employer during their participation, the assets allocated when they joined the Fund and the respective investment returns earned on both.

The Fund will also factor in if any contributions due or monies owed to the Fund that remain unpaid by the employer at the cessation date. The Fund's default position will be to deduct these from any exit credit payment. The final decision will be made by Neville Murton, the Section 151 officer with responsibility for the Fund, in conjunction with advice from the Fund's Actuary and/or legal advisors where necessary, in consideration of the points held within this policy.

The Fund accepts that there may be some situations that are bespoke in nature and do not fall into any of the categories above. In these situations, the Fund will discuss its approach to determining an exit credit with all affected parties. The decision of the Fund in these instances is final.

The Fund will advise the exiting employer of the amount due to be repaid and seek to make the payment within six months of the exit date. In order to meet the six-month timeframe, the Fund requires prompt notification of an employer's exit and all data and relevant information as requested. The Fund is unable to make any exit credit payment until it has received all data and information requested.

If the exiting employer or letting authority wishes to dispute the determination of the amount of an exit credit, this must be routed through the Fund's internal dispute resolution process in the first instance.

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