Havering
LONDON BOROUGH

PENSIONS COMMITTEE **26 March 2013**	**REPORT**

Subject Heading:	Public Service Pensions Bill
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Policy context:	Superannuation Act 1972
Financial summary:	There are no financial implications arising directly from this report.

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	[]
Excellence in education and learning	[]
Opportunities for all through economic, social and cultural activity	[]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[]

SUMMARY

This report provides an update on the draft Public Service Pensions Bill, which is progressing through Parliament and could have significant implications for the London Borough of Havering Pension Fund and Pension Committee.

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RECOMMENDATIONS

1 Members note the contents of the briefing report and the potential future implications for the London Borough of Havering Pension Fund of the Public Service Pensions Bill.

2 Members agree further update reports will be received by the Pensions Committee when the Bill is enacted and further guidance is issued, together with a briefing report on the proposed new Local Government Pension Scheme and its impact.

REPORT DETAIL

1 Background

1.1 The Independent Public Sector Pensions Commission, chaired by Lord Hutton, published its report in March 2011. This report (the "Hutton Review") made a number of recommendations for fundamental change to UK public service pension provision.

1.2 The Public Service Pensions Bill ("the Bill") was published by the Government on 13 September 2012 and has now passed through its third House of Lords reading on the 26 February 2013. Should the Bill be enacted, there would be significant changes required to the design and governance of the Local Government Pension Scheme (LGPS).

1.3 It is intended that the powers of the Bill will supersede powers, including those contained in the Superannuation Act 1972, to create schemes for the payment of pensions and other benefits. It provides powers to Ministers to create schemes with a common framework of requirements. The Bill also provides powers to the Treasury to set specific technical details of certain requirements and gives powers to the Pensions Regulator (tPR) to operate a system of independent oversight over the operation of the public sector schemes.

1.4 The common framework for pension arrangements covers the Civil Service, Judiciary, Local Government, teachers, NHS, Fire Services, Armed Forces and members of the police.

1.5 The Bill includes the key recommendations of Lord Hutton's Independent Public Sector Pensions Commission, including:

- The end of final salary benefit arrangements;
- Retirement age linked to State Pension Age (SPA);
- Cost control system to provide affordability and sustainability; and
- Major changes to and strengthening of governance.

2 Future Service Benefit Structure

2.1 The Bill covers only Primary Legislation, the general aspects of Public Service Pensions and not the Secondary Legislation that would be applicable to the individual public service schemes. The Bill confirms that any defined benefits under the new schemes must be provided on a Career Average Revalued Earnings (CARE) basis.

2.2 A CARE scheme is a type of defined benefit arrangement, with the amount of pension payable dependent upon:

- the length of pensionable service;
- career averaged earnings; and
- the scheme accrual rate (the proportion of salary that is received for each year of service).

(A career average scheme matches each year's benefit accrual to earnings in each year rather than the final years' earnings. The earnings figure will be uprated annually in line with prices rather than the actual increase in earnings.)

3 Closure of Current Schemes

3.1 The Bill provides that the existing schemes will be closed to future accrual with effect from 1 April 2014 for the LGPS in England and Wales (from 5 April 2015 for other schemes). The Bill does set out that there will be transitional protection, in that the final salary link is protected for service before the date of change to the new scheme. Furthermore, the Bill enables schemes to provide that members who are a certain number of years from their normal pension age on 1 April 2012 will not see any change to their retirement age, or any decrease in the amount of pension they receive on retirements. However, the Bill does not specify how members will be treated in moving from the old to new scheme or how the old scheme will be closed, although the Lords amendments of 27 February 2013 has changed the term from "closure" in clause 18 and Schedule 7 and replace them with references to the subsections in clauses 16 and 28 which restrict the accrual of future benefits under existing schemes.

4 Capping Costs and Revaluation

4.1 One of Lord Hutton's key recommendations was a scheme-specific mechanism to ensure costs are kept below specified levels. The basis for such an "employer cost cap" is set out in the Bill, with the intention being that the Treasury will make regulations to amend schemes where necessary to keep costs within the set margins.

4.2 Further to this, the Bill gives the Treasury powers to impose what data and assumptions are to be used in valuations and how a valuation is to be undertaken, including when setting the employer cost cap.

4.3 The Bill does not specify the revaluation rate but suggests that revaluation could lead to an increase or decrease in the level of benefit and also allows scheme regulations to provide for the reduction of accrued benefits as part of the employer cost cap.

4.4 LGPS funds have not previously had such oversight from the Treasury when completing their triennial actuarial valuations. CIPFA has expressed its criticism of this specific proposal.

"The LGPS is unique amongst UK public sector pension schemes in that there is a clear accountability link between local fund administrators and local Council Tax payers. The introduction of a third party that can influence funding strategy and the process by which employer contributions are set weakens that link and restricts the ability of the local fund administrator to manage the fund flexibly to suit local circumstances." (CIPFA Pensions Panel Chair, Bob Summers, September 2012)

5 Governance

5.1 The Bill sets out new, stronger, provisions for the overall governance and regulation of the public service pension schemes. Each scheme will have its own 'manager' with responsibility for scheme administration. That manager could be an individual, eg the Group Director of Finance & Commerce, or it could be the Pensions Committee or the Council as a whole, the legislation leaves a substantial degree of latitude which will probably be defined more by regulations and guidance. There will also be a Pension Board whose task is to to assist the manager (existing Administering Authority role). Half of the members of the Pension Board will be representatives of the employer(s) and half will be representatives of scheme members. The Pension Board remit will be to ensure compliance by the Manager with legislation, codes of practice and regulatory issues. The Bill also extends the remit of tPR to all public service schemes, with the Regulator able to issue codes of practice in respect of the public service schemes and require scheme managers to implement internal control procedures in respect of the administration and management of the schemes. There is also a requirement for a Scheme Advisory Board which advises on the need for changes to the scheme. In the LGPS case that may be one national board.

5.2 There are three significant impacts for current Local Authority Pension Committees:

5.2.1 The extent of their remit may change substantially, either having responsibility as manager of the scheme or as the Pension Board as a quite differently constituted body. Pension board members will be subject to similar duties of knowledge and understanding as trustees are in private sector occupational pension schemes.

5.2.2 The regulator may, if it considers it desirable for the purpose of ensuring compliance with pension legislation, appoint a person to assist the pension board of a public service pension scheme in the discharge of its functions. The pension board must have regard to the advice of the person appointed. The costs of the person appointed must be met by the scheme manager of the scheme.

5.2.3 The Lords amendments of 12 February 2013 include a change in the representation of the Pension Board, with Pension Boards having an equal number of employers and pension scheme members.

5.3 Communities and Local Government will be the responsible authority for the Local Government Pension Scheme in England and Wales. The role of the Pension Board is an extension to the current role of the Pensions Committee/Panel or National LGPS Board).

6 Access to Public Service Pension Schemes (Participating Employers)

6.1 Subject to the details and terms for individual scheme regulations, the Bill contains provision to enable public service pensions schemes to allow non-public service workers to participate in the scheme which reflects the scope for private sector contracts to be admitted to the public service schemes.

7 Timescales

7.1 There is a protected period of 25 years from 1 April 2015 during which changes cannot be made, for example to benefit accrual or contribution rates unless there is a consultation with affected persons with a view to reaching agreement on the changes. This procedure does not apply where changes are needed to keep the schemes within the employer cost cap.

7.2 The Bill is expected to be enacted during 2013. Individual schemes will then issue the regulations specifying benefit structures and governance arrangements ahead of the latest commencement date for the new schemes – being 1 April 2014 for the LGPS in England and Wales and 6 April 2015 for all other schemes. Proposals for the new LGPS in England and Wales have already been published, and will be the subject of a further report to the Committee.

8 Risks

8.1 There are four risks that it is relevant to highlight which could undermine the viability of the London Borough of Havering pension fund:

- Valuations: There is an overall risk to scheme affordability and the setting of contribution rates, which could be flawed due to the Treasury setting the specification on data, methodology and assumptions to be used in valuations. Valuations are currently conducted by private sector actuaries on the basis of actual data on membership, investments and contributions. Applying common assumptions is not appropriate for each fund as each fund is unique in its membership makeup, demographics and investment strategy.
- Scheme Closure: the Bill lacked clarity on how the closure of the existing schemes would operate. Closure of a Local Government Pension Scheme could lead to demand for deficits to be paid off immediately, leaving some employers in severe financial hardship; fund closure would also radically alter investment strategy. The Lords amendments of February 2013, do appear to have gone some way to providing clarity.

- Retrospective changes: the Bill does allow for revaluation to lead to a decrease in the level of benefit for scheme members, although controls around this have been included in the Lords amendments. The risk to the fund is that any threat of revaluing benefits downwards could lead to active scheme members opting out of the fund in the event of a downward benefit forecast as the basic principle of accrued benefits being protected has been removed.
- Communications: the communication challenge of explaining the impact of moving from a final salary linked pension scheme to a CARE scheme with deferment of existing benefits, although still linked to a final salary, cannot be underestimated.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no financial implications arising directly from this report. Future legislative change to the design of the Local Government Pension Scheme, however, will have financial consequences for the London Borough of Havering and participating employers. These are currently unknown and will be addressed in future reports to the Pensions Committee.

Legal implications and risks:

The Public Service Pensions Bill 2013 will be enacted during 2013. Individual schemes will then issue the regulations specifying benefit structures and governance arrangements ahead of the new scheme commencement date. The Local Government Pension Scheme (England and Wales) commencement date is 1 April 2014.

The extension of the role of the Pension Regulator will assessed and reported to the Pension Committee when the Bill is enacted.

Human Resources implications and risks:

There are no direct Human Resource implications arising from this report.

Equalities implications and risks:

There are no adverse equalities impacts arising from this report.

The Treasury has undertaken a central equalities analysis to inform the key changes being made to public service pension schemes. The Government has considered the (hypothetical and actual) positive and negative impacts of the common provisions that will apply across all public service pension schemes.

The Government does not consider that the common features of the Public Service Pensions Bill will result in any differential impact to persons with the following protected characteristics: disability, ethnicity, age, religion or belief, gender reassignment, pregnancy and maternity, sexual orientation and marriage/civil partnership.

BACKGROUND PAPERS

The Public Service Pensions Bill and its progress through Parliament to eventual enactment can be viewed at http://services.parliament.uk/bills/2012-13/publicservicepensions.html.

Proposals for a new LGPS design in England and Wales can be viewed at http://www.lgps.org.uk/lge/core/page.do?pageId=15431012.

Chartered Institute of Public Finance Accountants (CIPFA).

Hymans Roberson Public Service Pensions Bill 2013 briefing.