Havering
LONDON BOROUGH

PENSIONS COMMITTEE 18 SEPTEMBER 2018

Subject Heading:	**Havering Colleges proposed merger**
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Policy context:	Havering Colleges restructuring and merger and Local Government Pension Scheme (LGPS) considerations
Financial summary:	Potential cash transfer to London Pensions Fund Authority.

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

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

SUMMARY

Havering Sixth Form College (“HSFC”) and Havering College of Further & Higher Education (“HCFHE”) are considering a merger with New City College (“NCC”).

This report outlines the impact of the proposed college mergers on the Havering Local Government Pension Scheme.

RECOMMENDATIONS

That the Committee:

1. Notes the Funds Actuary report at Appendix A (exempt)

2. Note the comments from HCFHE on the rationale for the merger of HCFHE and HSFC with NCC at Appendix B (exempt)

3. Notes that a Report will be submitted for Cabinet to make a decision on the pension implications of the proposed merger.

REPORT DETAIL

Background

1. As a consequence of an increasing number of colleges experiencing financial challenges, the government commenced a national programme of area based reviews covering further education and sixth form colleges in 2016, the intention of which is to create fewer, more effective and more sustainable colleges

2. A number of financial economic challenges facing the colleges are the main driver for a proposed merger. An earlier attempt for HCFHE to merge with Barking and Dagenham did not go ahead. The current proposal is for both the HCFHE and HSFC to merge with NCC.

3. NCC was created by the merger of Hackney Community College and Tower Hamlets College in 2016, Redbridge College in 2017 and Epping Forest in August 2018. NCC Pensions Administering Authority is the London Pensions Fund Authority (LPFA).

4. In preparation for the merger the colleges have requested permission from the Administering Authority to transfer the pension arrangements for all staff of the colleges (current and former employees) from the Havering Pension Fund to the LPFA.

5. Both colleges have confirmed that given their existing and future economic financial pressures they would not be able to proceed with the merger unless all members transferred out to the LPFA.

6. Secretary of State Approval would be needed to transfer the pension rights of former employees from one LGPS Fund to another. The Secretary of State will consult with all parties (all three colleges and both Funds) before granting approval.

7. Havering would need to agree to transfer all of the pension assets and liabilities in relation to the colleges and LPFA would need to agree to take on all of the pensions assets and liabilities (including deficit) in relation to the colleges. However, if all parties are agreeable, Secretary of State Approval is likely to be granted.

8. No approval is required from the Secretary of State if only current employees transfer over.

9. Hymans paper attached as **Appendix A** sets out the potential implications of the proposed merger if the colleges members transfer out of the Havering Pension Fund to the LPFA.

IMPLICATIONS AND RISKS

Financial implications and risks:

Financial impact is indicative and based on market conditions as at June 18 and will be subject to final figures settled at transfer date and are as set out in Hymans report attached as **Appendix A**. The report proposes two scenarios and the financial implication for each are set out below:

Scenario A - where all members (actives, deferred and pensioners) transfer out to LPFA.

The Pension fund will have to transfer assets and liabilities over to the LPFA to fund the transfer move as calculated and agreed by both actuaries for the Havering scheme and the LPFA scheme.

This value of the transfer will be funded from a sell down of assets and this will have implications for the Investment Strategy. The Committee will be presented with a report at a later date once the data for the merger is confirmed, so that the committee can agree the most appropriate route to fund the transfer.

In addition to the Fund having to sell assets to pay the LPFA it will also lose the positive cash flow position from the colleges. This will put pressure on the cash flow over the longer term. The Fund currently reinvests investment income (i.e. dividends and interest) where possible but the fund can switch to draw down this income to maintain minimum cash thresholds, this could potentially impact investment growth.

The Investment Strategy will also need to give consideration over the longer term as to how to address any potential cash flow problems by utilising mandates that can provide the necessary cash flow. Over the next few years the Fund will receive income distribution from the Real Assets and Private Debt mandates that may mitigate the need to use dividend and interest income. The Committee will be asked to review the cash management policy once the value of cash top ups have been confirmed.

The value of the Assets and liabilities will be reduced and result in an overall reduction in the Funding level of c0.8%, down from 69.7% to 68.9%.

Scenario B – where only actives members transfer past service transfer out to LPFA.

If only Active members transfer out, as permitted under TUPE regulations, the deferred and pensioners would remain in the Fund.

The Actuary has calculated the share of assets assigned to the colleges and deducted from this share the amount the Fund would need to retain to cover the past service liabilities for the deferred and pensioners remaining in the Fund. The remaining amount of asset value would transfer to LPFA to fund the transferring active liabilities.

The size of the asset valuation required to pay the LPFA could be funded through current cash levels and would not require a sell down of asset.

The asset share is not enough to cover the liabilities of the transferring active members and would therefore require a significant ‘top up’ payment that the colleges would be required to pay over to the LPFA.

Given the size of the ‘top up’ payment both colleges have confirmed that given their existing and future economic financial pressures they would not be able to proceed with the merger under Scenario B.

Whilst any merger under Scenario B would not require a sell down of assets it would leave the fund with no contribution income to support pension benefits being paid out in the future. This would consequently increase pressure on the cash flow over the longer term and as with Scenario A, the Committee will be asked to review the cash management policy once the value of any cash top ups have been confirmed.

When the last active member leaves the Fund this triggers a cessation payment. In this instance no cessation payment from the colleges would be required to the fund due to their calculated asset share exceeding their liabilities.

There would be a slight improvement to the funding level post transfer increasing to 70.7% from 69.7%.

Whilst the Colleges are planning for a merger date of no later than April 2019 any monetary transfers are likely to take place during 2019/20. The Committee will be presented with a report at a later date once the merger progresses for confirmation as to how to fund the transfer.

Any costs associated with the transfer will be met by the Colleges.

Legal implications and risks:

In the scenarios mentioned, when two or more members transfer out to a different pension scheme then Bulk transfer arrangements are triggered.

The Bulk transfer arrangements and payment to the LPFA should adhere to the Local Government Pension Scheme Regulations 2013 Regulations 98 and 99.

Under Regulation 99 the amount of the transfer payment to be paid under regulation 98 (bulk transfers) is the amount determined by an actuary appointed by the members' appropriate administering authority to be equal to the value at the date those members join the new scheme, of the actual and potential liabilities payable from its fund which have then accrued in respect of the members and the persons who are or may become entitled to benefits under the Scheme through them.

The actuary may make such adjustments as are thought fit in calculating that amount and in particular as respects the period from that date to the date of actual payment of the transfer value.

The actuary must specify in the valuation the actuarial assumptions used in making it.

The Scheme employer shall bear the costs of determining the appropriate part of the fund and apportioning the fund.

But if there is more than one Scheme employer involved, each shall bear such part of the costs as the actuary determines to be appropriate.

Human Resources implications and risks:

Scenario A - where all members (actives, deferred and pensioners) transfer out to LPFA. – under this scenario existing access to the LGPS will be maintained for all existing members but there will a change to the pension arrangements and the Administrating Authority will change from Havering Council to the LPFA.

Scenario B – where only actives members transfer past service transfer out to LPFA.

If only Active members transfer out, as permitted under TUPE regulations, then TUPE protections will apply to ensure continued access to the LGPS. There would be a change to the Administering Authority as with under scenario A but for the deferred and pensioners remaining then membership would continue to be administered by Havering Council.

Equalities implications and risks:

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

(i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
(ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
(iii) foster good relations between those who have protected characteristics and those who do not.

Note: ‘Protected characteristics’ are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment/identity.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

BACKGROUND PAPERS

Background Papers List
None