



## PENSIONS COMMITTEE

19 MARCH 2019

**Subject Heading:**

**LOCAL GOVERNMENT PENSION  
SCHEME CONSULTATIONS**

**SLT Lead:**

**Jane West**

**Report Author and contact details:**

**Debbie Ford  
Pension Fund Accountant  
01708432569**

**Policy context:**

**[Debbie.ford@onesource.co.uk](mailto:Debbie.ford@onesource.co.uk)  
Contract Procurement Rules**

**Financial summary:**

**No cost implications**

**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

The report is to advise the Committee of the Ministry for Housing, Communities & Local Government (MHCLG) publication of two draft consultations that impact the Local Government Pension Scheme (LGPS), issued in January 2019.

## RECOMMENDATIONS

That the Committee:

1. Note the detail of the consultations and the response date for Asset pooling being the 28 March 2019 and Fair Deal being 4 April;
2. Discuss/provide feedback for inclusion into the consultation responses, if required.
3. If required, Members delegate the approval of response on Asset pooling to the S151 Officer and /or the Pensions Committee Chair.
4. If required, Members delegate the approval of response on Fair Deal to the S151 Officer and /or the Pensions Committee Chair.

## REPORT DETAIL

1. In January 2019 the MHCLG issued two draft consultations, as follows:
2. **LGPS draft statutory guidance on asset pooling**
  - a) The consultation is open for 12 weeks with a closing date of the **28 March 2019**.
  - b) It is deemed an informal consultation which is addressed to "*interested parties only, including the Scheme Advisory Board, Pensions Committees, Local Pension Boards, the pool Joint Committees or equivalent, the Cross Pool Collaboration Group, the pool operating companies where owned by participating funds, CIPFA and ALATS*".
  - c) This will set out requirements on administering authorities, replacing previous guidance and builds on previous Ministerial communications and guidance on investment strategies.
  - d) MHCLG are inviting views on the attached draft guidance as **Appendix A**.
  - e) Produced by Hymans, a summary of the consultation follows, with the applicable MHCLG guidance paragraphs referenced in brackets:
    - Guidance will have statutory force

- The definition of “pooled assets” excludes passive investment in life policies held directly by administering authorities
- Pool members *must* appoint a pool company regulated by the FCA (3.2)
- Pool members *should* consider moving from active to passive investment where active management has not generated better net of fees performance over a reasonable period (3.6)
- Pool members *should* take account of benefits across the pool and the scheme as a whole and should not seek simply to minimise costs in the short term (4.4)
- Inter-authority payments *may* be used to share transition costs equitably between pool members (5.4)
- There are tighter definitions of the conditions to justify keeping assets outside of the pool (existing “retained” assets and new investments)
- From 2020 it is expected that pool members “*should* make new investments outside the pool only in very limited circumstances” (6.2)
- Pool members may invest in vehicles provided by other pools where collaboration between pools or specialisation can deliver improved net returns (6.3)
- There is no specific target for infrastructure (7.2)
- All residential property is included in the definition of infrastructure (7.5)
- Extensive reporting requirements on costs and performance relative to relevant indices (8.2) kick in with effect from the 2018-19 report (8.1)

**3. Local Government Pension Scheme: Fair Deal – Strengthening pension protection.**

- a) The consultation is open for 12 weeks with a closing date of **4 April 2019**.
- b) The consultation is aimed at those with an interest in the obligations that apply when a service or function is outsourced from an LGPS employer, including employees, outsourcing employers and service providers.
- c) The scope of the consultation is on changes to the regulations governing the LGPS, covering the following areas:
  - Amendments that would require service providers to offer LGPS membership to individuals who have been compulsorily transferred from an LGPS employer (and remove the option of a broadly comparable scheme).
  - Proposals that would automatically transfer LGPS assets and liabilities when employers in the scheme are involved in a merger or takeover and therefore avoiding unintended trigger of exit payments.

- d) The Funds Administration provider Local Pension Partnership (LPP) will give consideration to the consultation and the consequent administrative requirements
  - e) The Funds Actuary will give consideration to the consultation and will respond accordingly.
  - f) Human Resources have been sent the consultation for consideration
4. Both consultation papers were distributed to members of the Committee on the 24 January 2019 to provide members the opportunity to discuss feedback (if any) to the consultations.

## IMPLICATIONS AND RISKS

### **Financial implications and risks:**

There are no financial implications in responding to the consultation documents

**Asset pooling** - The fund has identified a risk for meeting the new reporting requirements due to the short timescales for implementation and availability of data.

Within section 8 the new reporting requirements it states that Pool members are required to report total investment costs and performance against benchmarks publicly and transparently in their annual reports, following the CIPFA guidance *Preparing the Annual Report*, with effect from the 2018-19 report.

In summary, pool member annual reports should include:

- opening and closing value and proportion of pooled assets by asset class
- opening and closing value and proportion of local assets by asset class
- net and gross performance of pooled assets by asset class
- total costs of pooled assets by asset class
- for actively managed listed assets, net performance by asset class net of total costs compared to appropriate passive indices over a one, three and five year period
- net and gross performance of local assets by asset class
- total costs of local assets by asset class
- asset transition during the reporting year
- transition plans for local assets
- pool set-up and transition costs, presented alongside in-year and cumulative savings from pooling

- ongoing investment management costs by type, with a breakdown between pooled assets and local assets

The fund is seeking comments from the pooling company (London CIV ) on whether these reporting requirements are deliverable and the Fund is awaiting a response.

**Legal implications and risks:**

The proposals for changes to Guidance and the LGPS Regulations are subject to consultation. The MHCLG should take into consideration all consultees comments before finalising any changes and therefore if Members wish to make comments they should indicate what these are so that they can be submitted within the required deadlines.

**Human Resources implications and risks:**

**Asset pooling** – There are no immediate HR implications.

**Fair Deal** – If the proposals in the consultation proceed then for those employees whose jobs have been outsourced will receive increased pension protections and will remain in the Local Government Pension Scheme (LGPS) under new proposals. The status of protected transferee will be retained for as long as the individual is wholly or mainly employed on the delivery of the outsourced service or function, even if the service or function is subsequently sub-contracted or re-tendered.

Under the government proposals, employers of outsourced staff will no longer be able to offer staff a comparable scheme – all transferred staff will be able to stay in the LGPS.

The mechanism for securing continued membership of the LGPS, in addition to the existing option of an admission agreement will be the introduction of a new route. Under this new route, the Fair Deal employer will be able to determine that it will act as the **deemed employer** in respect of the protected transferee.

This means that when an employee is compulsorily transferred from their Fair Deal employer to another service provider, their former employer (e.g. Havering Council) will have the option of remaining the deemed employer for the transferred staff. Under this proposal the new service provider would not have full responsibilities under the LGPS Regulations 2013.

The draft regulations state that advice will be issued by the Scheme Advisory Board to help Fair Deal employers put in place service contracts which give flexibility and protection from potential risks.

**Equalities implications and risks:**

**Pensions Committee, 19 March 2019**

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

An EIA is not considered necessary regarding this matter as the protected groups are not directly or indirectly affected.