Havering
LONDON BOROUGH

PENSIONS COMMITTEE 12 January 2021

Subject Heading:	**FUNDING STRATEGY STATEMENT – REGULATORY UPDATES**
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Policy context:	Administration Authority must prepare, maintain & publish a statement setting out their Funding Strategy in accordance with regulations
Financial summary:	None directly

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 Funding Strategy Statement (FSS) is a Statement of the Havering Pension Fund's ("the Fund") approach to funding its liabilities, focusing on how employer liabilities are measured, the pace at which these liabilities are funded and how employers pay for their own liabilities.

The FSS requires updating to reflect the ***"Local Government Pension Scheme (Amendment) (No.1) Regulations 2020"*** which permits Funds to determine the amount of exit credit payable to an employer leaving the Local Government Pension Scheme (LGPS).

The FSS requires updating to reflect the ***"Local Government Pension Scheme (Amendment) (No.2) Regulations 2020"*** which enables deferment of exit payments in return for a deferred debt agreement, to obtain a revised rates and adjustments certificate to show changes to Scheme employer contributions and to offer employers exiting the Local Government Pension Scheme to spread exit payments.The FSS applies to **all** employers participating in the Fund

RECOMMENDATIONS

That the Committee:

1. Agree the updated Funding Strategy Statement attached as **Appendix A** which reflects the changes set out in regulations.

REPORT DETAIL

1. Background

a) The FSS was agreed by the Pensions Committee ("the Committee") at its meeting on the 7 December 2019.

b) Since the FSS was published two amendments have been made to the Local Government Pension Scheme (LGPS), which requires the FSS to be updated:

I. ***"Local Government Pension Scheme (Amendment) (No.1) Regulations 2020",*** enables the Fund to create a discretion for administering authorities to determine the amount of exit credit which should be payable to an employer leaving the LGPS.

II. ***"Local Government Pension Scheme (Amendment) (No.2) Regulations 2020"***, which enables deferment of exit payments in return for a deferred debt agreement, to obtain a revised rates and adjustments certificate to show changes to Scheme employer contributions and to offer employers exiting the Local Government Pension Scheme to spread exit payments.

c) LGPS Regulations 2013, Regulation 64 will be amended to reflect the above changes. Each of these regulation changes are covered in more detail in the following sections:

2. Local Government Pension Scheme Regulations (Amendment (No.1)

a. Section 3(3) (b) of the Public Service Pensions Act 2013 provides that scheme regulations may make retrospective provision. *Local Government Scheme (Amendment) (No.1) Regulations 2020"* came into force on **20 March 2020** and have retrospective effect from **18 May 2018**.

b. Regulation 64 of the 2013 Regulations was amended from the 18 May 2018 to allow exit credits to be paid where a scheme employer ceases to have any active members of the LGPS (and is not planning to enrol anyone further in the scheme). An exit valuation surplus (exit credit) is paid when it has been determined by the Funds Actuary that the pension liabilities are less than the assets held by the employer at the date of exit from the Pension Fund.

c. It is proposed that determination of the exit value be calculated by the Fund's appointed Actuary in accordance with the factors set out in the LGPS 2013 Regulation 64 (as amended).

d. The FSS has been updated and prepared in conjunction with the Fund's Actuary to reflect how the exit credit will be determined, incorporating any changes required by these regulations. The updated sections have been highlighted in Green with the main changes shown on page 18.

3. Local Government Pension Scheme Regulations (Amendment (No.2)

a. *Local Government Scheme (Amendment) (No.2) Regulations 2020"* came into force on **23 September 2020.**

b. The new regulations 3 and 4 which amend Regulation 64 LGPS Regulations focus on three key areas:

- **Review of employer contributions** - to allow administering authorities to review employer contributions where there has been a "significant change" to the liabilities or covenant of an employer. Market volatility, and changes to asset values, would not be a proper basis for a change in contributions outside a full valuation but it is recognised that changes to pension surplus or deficit due to market conditions can affect covenant and may trigger a review of contributions. Currently employer contributions can only be reviewed at formal valuations or when an employer is "likely" to exit the fund. Regulation changes allow for employers to be able to request a review of contributions from the administrating authority provided they agree to meet the cost of the review. Policy on review of employer contributions is set out in the FSS – see section 3.3 Note (f) - changes highlighted in blue (FSS page 15 refers)

- **Spreading exit payments** - to allow administering authorities the ability to spread exit or cessation payments after exit, over a period which it "considers reasonable. Policy on spreading exit payments can be found under section 3.3 Note (j) - changes highlighted in yellow.(FSS page 18 refers)
- **Deferred Debt Agreements (DDAs)** - introduce "deferred employer" status and DDAs within the LGPS for exiting employers. This will formally allow secondary contributions to be certified for employers with no active members and be subject to revision at formal valuations. The DDA must set out the "specified period" over which the arrangement will run and the termination events. The circumstances under which the Administrating Authority will consider DDA's is set out in the FSS Section 3.3 Note (J). Changes highlighted in Grey.(FSS pages 19- 20 refers).

c. These updates to the FSS have been prepared in conjunction with the Fund's Actuary to reflect the change in the regulations

4. Consultation and publication

a. Regulation 58(3) of the LGPS Regulations 2013 states that following a material change in its policy the authority should consult with such persons it considers appropriate. The FSS is being updated to meet regulatory changes and adopted policies are in line with regulations but given the potential impact on Fund employers resulting from the use of the new powers to manage and mitigate employer risk it is expected that all Fund employers would be considered as 'appropriate' for consultation.

b. The DRAFT version of the FSS was distributed to all participating employers in the Fund on the **9 December 2020** for comments. Deadline for responses is the **8 January 2021**.

c. All responses will be considered but ultimately, responsibility for finalisation and publication of the FSS lies with the administering authority. If after consideration of responses and no changes are made, then the draft as submitted with this report will be accepted as the final version and published accordingly.

d. If as a result of the consultation changes are required, the Committee is asked to delegate to the Chair and the Statutory Section 151 officer to approve the final version of the FSS.

e. Once the updated FSS has been approved it will be published on the administering authority websites and employers will be notified of where to access the FSS online. It will also be included in the Pension Fund Annual report.

IMPLICATIONS AND RISKS

Financial implications and risks:

Exit Credits - Any admissions to the Fund pre the enforcement date of 18 May 2018 will not be excluded from the exit credit regime. Exit credits would not have been a consideration at the time of letting the contract and this could be one of the considerations taken into account when calculating the exit valuations permissible under any other relevant factor

Any representations made by the employer and its letting authority/guarantor, under these regulations may lead to higher actuarial, legal and internal management costs. These costs will be met by the employer so there is no cost to the Fund.

Allowing exiting employers to have the flexibility to have contributions reviewed, spread costs or enter into DDAs may provide a greater likelihood of the Fund receiving full payment of the exit costs.

The Fund currently has seven admitted bodies of which four have a contract expiry date before March 2023 and will incur exit costs in the near future. As at 30 November the combined value of deficits are £351k and surpluses of £27k.

Legal implications and risks:

The substantive legislative framework is set out in the Report and will not be repeated here. The changes made to the FSS ensure that it is updated and reflects the two sets of amending regulations. The *"Local Government Scheme (Amendment) Regulations 2020/179"* permits Funds to determine the amount of exit credit payable to an employer leaving the Local Government Pension Scheme (LGPS). Whilst the legislation has retrospective effect, this does not apply to any cases where an exit payment has already been made. There was one case where an exit payment was made before March 2020 and after May 2018. Whilst the Funding Strategy Statement may not have been immediately updated, the Regulations in their amended form will have primacy if there is any dispute.

The discretions referred to at new regulations 64 (2ZC), (7A), (7B), 64A and 64B LGPS Regulations 2013 will need to be exercised reasonably and guided by professional actuarial advice.

The requirements of a fair consultation include that the consultation proceeds at a formative stage before final decisions have been taken, that consultees are given sufficient time and information in order to comment meaningfully, and that any responses are conscientiously taken into consideration before a final decision is made.

These principles appear to have been applied so long as the final decision makers take the consultation responses into account before finalising the Funding Strategy Statement.

Stephen Doye, Head of Law (Community)

Human Resources implications and risks:

None arise directly from this report.

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.

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

BACKGROUND PAPERS

Background Papers List
None