



Report of the Section 151 Officer

Pension Fund Committee – 12 November 2020

Pension Administration – Review of the Pension Section Administration Resourcing

Purpose:	To appraise the current staffing levels with the aim of addressing scheme administration challenges and Regulatory changes to ensure legal obligations are met.
Policy Framework:	To comply with Regulatory requirements.
Consultation:	Legal, Finance and Pension Section.
Recommendation:	It is recommended that The Pension Fund Committee approve: The resourcing proposals outlined in 5.5 and the associated financial implications and the Deputy S151 Officer / Pension Manager be authorised to implement immediately.
Report Author:	Claire Elliott, Pension Manager
Finance Officer:	Jeff Dong
Legal Officer:	Stephanie Williams
Access to Services Officer:	Rhian Millar

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Background

- 1.1 The pension administration function of a local government pension scheme (LGPS) has been and is currently facing an unprecedented volume of scheme administration challenges and changes, some which had been planned and regulatory (GMP, Exit Cap) but some which have come out of the woodwork as a result of legal challenge (McCloud, Sargeant.). The impact of these changes/challenges are pervasive into all areas of pension calculation/members' records and is resource intensive in implementing their remedies.

- 1.2 When the government first came into power they had a set agenda to investigate the worth of public sector pension schemes to ensure future sustainability and affordability. Lord Hutton of Furness was commissioned to carry out an investigation and this led to the release of the Independent Public Service Pensions Commissions Report, which was published in March 2011.
- 1.3 Further to discussions, key changes were recommended which included moving from a final salary scheme to that of a Career Average Re-valued Earnings Scheme (CARE). Agreement was reached that provided a new scheme could be unveiled by April 2014 the LGPS would not be subject to the Public Sector Pension Reform, which was due to take effect from April 2015. For scheme administrators this meant facing a third set of scheme regulations in 6 years and ever-increasing complexities and extra workload of administering both final salary, which in itself is deemed two schemes ie 1/80, 1/60 scheme, and the CARE pension scheme. For members the world of pensions is universally recognised as an area that is heavily regulated, technically complex and a subject only understood by those who work within the sector.
- 1.4 Likewise, governance requirements have also changed creating more stringent reporting and higher levels of accountability with an increase in the presentation of statistical reporting on a national basis on matters such as Key Performance Indicators (KPI) and data quality reporting covering common and scheme specific data results. There has been an increase in pressures from various departments such as MHCLG, LGA and Government Actuaries etc. to maintain/receive accurate member data in a timely manner with penalties issued for non-compliance. The level of scrutiny on the LGPS has never been greater both from internal and external sources such as the Pension Board, TPR, Ombudsman and moreover, the national press.
- 1.5 The competence and skills requirements of the Pension Section Staff has become enshrined in a code of practice which has led to job roles within the Section having to evolve to cater for the additional complexities of the Scheme and the real need for specialist knowledge. There has been a significant shift in staff expectation as the LGPS has been subject to additional scrutiny from CIPFA Benchmarking and TPR.

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Past Challenges

- 2.1 From 06 April 2015, the Government introduced greater flexibility (Freedom and Choice) in the way individuals aged 55 and over could access any defined benefit pension savings arrangement. Member request for cash equivalent transfer quotations have significantly increased and so has the onus on the Fund to ensure that the member is not subject to fraud and potential threats. In accordance with the TPR guidance these are highlighted within the member communication issued. Of late, there has been a number of claims received from the Financial Conduct Authority and other bodies acting on behalf of the exited member. The catalyst behind these requests is believed to stem from press releases / cold callers highlighting misappropriation of pension funds.

Evidence requested in support of these claims includes confirmation that when processing the members request to transfer their benefits out that appropriate checks concerning the Independent Financial Advisor and the Scheme that is to receive the CETV have taken place

- 2.2 Further Regulatory reform saw the introduction of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014; members who left prior to 01/04/2014 and whose earliest retirement age to access their deferred benefits without their employers consent was age 60; were aligned with LGPS Regulations 2013. From 14th May 2018, members could now access reduced deferred benefits from age 55. To ensure the application of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 a communication exercise was undertaken. Deferred pensioner members who became affected by the change were notified of the amendment and given the option of early access to their benefits.
- 2.3 The General Data Protection Regulation (GDPR) came into effect from 25th May 2018 to ensure greater protection and rights to individuals and was accompanied by a set of main principals. To ensure compliance the Fund has published a Privacy Policy on the website and has have drafted a Memorandum of Understanding highlighting the key principles. This has been issued to all employers and if in agreement returned signed. Both policies are subject to review. Staff are subject to regular training and are reminded of the possible consequence of a data breach which could lead to the Fund being reported to the ICO with a potential fine being issued.
- 2.4 Member Self-service; the Fund has worked tirelessly with the members to promote MSS and does so at every opportunity. The main objective is to reduce the number of membership queries, pension estimates, and changes to basic details. Automation continues to move forward with technical development and further upgrades.
- 2.5 The recent Scheme Advisory Board Good Governance Report and TPR's guidance recommended that funds move to monthly data collection to ensure that the data held is accurate. The Fund has been working with the employers and currently has 3 of the largest employers using i-Connect with the remaining employers opting for the completion of monthly on-line scheme returns.
- 2.6 The Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018 which came into effect from 23 September 2020; stipulates that a public sector body must publish an accessibility statement. The Fund has engaged with Swansea Council Web Development Team to ensure compliance and a statement has been published on the website which will be subject to regular review.

3 Current Challenges

- 3.1 With the introduction of the career average scheme and application of the LGPS Regulations 2013, which was originally considered a far easier scheme to administer, the LGPS has been met with a number of challenges.
- 3.2 **Mc Cloud/Sargeant** -Final salary pay protections already in place ie best of the last 3 years and three-year average within the last 13 years continue as long as the final salary link was not broken, now included member protections for older members ie the underpin protection. (Members who were aged 55 or over as at 31/03/2012 who automatically moved into the CARE scheme upon retirement would have their benefits calculated on both final salary and CARE methodology with the better outcome presented). Other public sector schemes offer a similar protection.
- 3.3 Members of the Fire Service (McCloud) and Judges (Sargent) submitted an application to The Court of Appeal stating that the newly introduced protection was discriminatory towards younger members. The Court ruled in favour of the claimants and the Government stated that Regulatory changes to remove age discrimination would be made to all main public sector schemes including the LGPS. The case is often referenced as the 'McCloud Judgement'.What this means in terms of administrative impact is revisiting all casework whereby a member who was in the final salary scheme as at 31/03/2012 and whose status was active as at 01/04/2014 and has since left for reasons such as:
- Retirement
 - Transfer of benefits out
 - Transfer of benefits in (inclusive of IFA)
 - Club transfers
 - Deferred member status
 - Death in service – survivor benefits
 - Aggregation cases
 - Final Salary concurrent membership
- 3.4 Members whose status is currently active and their membership falls within the above dates; details held will also need to be investigated ie contractual hours and service breaks and amended forthwith. All final salary aggregation cases whereby the member has failed to respond / opted not to aggregate will need to be revisited and the member provided with a further 12-month election period to allow for an informed decision to be made based on the change. Whilst for members it is considered that the McCloud remedy is neutral and it is not expected to be financially significant for the Fund this will affect the administration processes and systems greatly, not forgetting the additional requirement to undertake a robust employer/member communication exercise.

3.5 The following membership statistics, demonstrates a year-on-year increase in Fund membership:

Scheme year	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Total Fund membership	37,347	40,440	41,686	43,828	44,991	46,938

The Fund aims to undertake as much of the modifications/recalculations in-house. Support/advice/guidance has already been sought and will continue going forward from the Funds Actuary Aon. Aon have recently undertaken an impact assessment of all data held regardless of membership status. Findings of the report have been based on the following qualifying criteria:

- Active membership in the LGPS on 31 March 2012
- Active membership in the 2014 Scheme
- No disqualifying break in service after 31 March 2012

68,700 member records were investigated and there are approximately 12,500 member records that meet the above qualification criteria.

Current membership status	Number of McCloud cases
Active	7,400
Undecided leavers	100
Exit – no liability	600
Deferred	1,700
Pensioner	2,500
Death	200
Tier 3 ill-health	0
Total	12,500

The above does not included the following case numbers:

Aggregation	590
Final Salary concurrent	361

We are also awaiting an update from our software provider Heywood concerning a possible McCloud remedy. Concerning the total number of aggregation cases that will need to be revisited and this is likely to be significant.

3.6 **GMP Reconciliation-** In addition to the ‘McCloud Judgement’ and subsequent administration impact this will bring, the Fund is awaiting the results of the GMP Reconciliation exercise, which has been undertaken by JLT/Mercer. Depending on the findings of the reconciliation exercise, it is our understanding that affected pensioner/deferred and active member GMP records will be subject to redress in accordance with the data obtained from

HMRC. This will add an additional burden to our day-to-day working practices in so much as records will need to be updated, and where a member has received an underpayment of pension benefits arrears inclusive of adjustments for payments already made/pension increase will require calculating. Again, a robust member communication exercise will be required.

3.7 Exit Reform- £95K exit cap – In 2015 the government first announced proposals to prohibit six-figure exit packages. The Small Business Enterprise and Employment Act 2015 (amended to 2016) awards power to HM Treasury to enforce regulations implementing a £95,000 cap on exit payments within the public sector. Further to response received from HMT and MHCLG to consultation legislation implementing the £95K cap on exit payments has been signed and comes into force on 04 November 2020. In addition to the £95K cap further reform, proposals are open in the MHCLG consultation. The proposals are as follows:

- The actual pay used in severance calculations will be limited to £80,000;
- The maximum severance (including statutory redundancy pay) will be limited to 3 weeks' pay per year of service or 15 months' pay, whichever is the lower
- No severance will be payable if the member receives an immediate pension with a payment by the employer to cover the cost of early release of pension - the strain cost - except in the case of the severance amount exceeding the strain cost in which case the excess would be payable
- The amount available for any strain cost will be reduced by the statutory redundancy payment

3.8 If the proposed reforms are approved this again will affect the day-to-day administration of the Fund. For example current practice is when a member is leaving employment on the grounds of redundancy and is of pensionable age one pension estimate is provided to the employer inclusive of strain costs.

To allow the member to make an informed choice, going forward estimates provided will increase threefold based on the following scenarios:

1. Unreduced benefits -
2. Partial reduction – statutory redundancy pay used to offset employer strain costs; balance of strain costs applied to member benefits based on GAD factors
3. Full reduction – no pension strain costs to be paid by employer however full redundancy payments paid
4. If the member opts for deferred benefits, the value of their pension and possible automatic tax-free cash will be the same as the quotation given in option 1. As and when the member contacts us requesting release of the deferred benefits reductions for early access will apply if applicable.

- 3.9 Examples of the total number of redundancy retirements processed over the last two years; this figure does not include any redundancy estimates provided to the members employers HR Team; requests that were not progressed. Therefore, in terms of numbers processed this would be significantly higher than what is listed:

Scheme year	Number of redundancy estimate
2018/19	145
2019/20	72

4. **On the Horizon**

- 4.1 The introduction of the National Pensions Dashboard, which is likely to have a considerable impact on day-to-day administration and result in a significant work development plan over the next few years.
- 4.2 MHCLG are considering what stance the LGPS will take concerning possible amendments to survivor benefits following the Goodwin V Secretary of State for Education discrimination case. An employment tribunal ruled in favour of the claimant inasmuch as it was deemed that direct discrimination had taken place where male survivors of a female scheme member is entitled to a lower survivor benefit than a comparable same-sex survivor. If it is determined that the LGPS Regulations need to be amended and all widower pensions in payment recalculated from 2005, based on the current membership this would mean 536 pensions in payment subject to redress. (The figure quoted does not include mortality numbers).

5 **Resourcing Proposals**

- 5.1 Traditionally the Section has been blessed with a wealth of pension knowledge and job satisfaction at the close of the day. This has led to a very low turnover of staff.
- 5.2 Recent years has witnessed the implementation of advanced streamlined processes, technological improvements supported by improved training tools, which has improved processes. However, with the ever-changing complexities of the Scheme, which has seen staff members struggle to digest the changes; evidence suggests that case numbers and intricacies are proving to be worrying.
- 5.3 To ensure the administration team can meet the immediate challenges it faces and based on the evidence sourced it is proposed that a new team is established utilising current experienced members of staff to undertake this specialist work on a temporary basis initially for 2-years to undertake the additional workload. Their roles shall be back filled. The likelihood of incorporating this into the current day-to-day working practices of staff are not feasible given the additional burden it will place on existing staff and the impact on business as usual caseloads, if the work is to be completed in a satisfactory period. The consequence of non-compliance are considerable for

the Fund.

5.4 The Current Structure

Job Title	Staffing numbers (FTE posts)	Cost
Assistant Pension Officers	3 (1 post job-share)	
Pension Officers	6 (1 post job-share)	
Senior Pension Officers	3 (1 post job-share)	
Technical Officer	1	
Communication/Training Officer	1	
Deputy Pension Manager	1	
Pension Manager	1	
Pension Administration totals	16	£408,780.50

5.5 Additional Resourcing Proposals

Job Title	Staffing numbers (FTE posts)	Cost
Assistant Pension Officer	2	£53,972.52
Pension Officer	2	£67,105.34
Total	4	£121,077.86

Having assessed the pending additional workload, and having taken advice from the appointed actuary who has assessed the data, the proposals above identifying an additional 4 FTEs are recommended to be appointed on a temporary basis for a period of 2 years. The newly formed team will also action the bulk of the work identified above with some of the data cleansing work to be picked up by the remaining staff. The proposals above are subject to review as the workload progresses, and develops, and as technological /legal remedies become available and contributory to the process or not, as the case may be.

5.6 It is recognised that the resourcing identified in 5.5 shall be under constant review for its appropriateness in achieving the desired outcomes.

5.7 Comparative resourcing in the LGPS in Wales

The following table identifies current staffing levels in the 8 LGPS funds. The resourcing below are before any additional resourcing requirements has been addressed in respect of the challenges in section 3 above.

Fund	Staffing numbers
City & County of Swansea Pension Fund	16
Cardiff & Vale Pension Fund	17
Clwyd Pension Fund	30.1
Dyfed Pension Fund	22.2
Gwynedd Pension Fund	19
Powys Pension Fund	7
RCT Pension fund	23.5
Greater Gwent Pension Fund	21

The other LGPS funds in Wales are currently assessing their resourcing requirements to meet and address the challenges identified in . section 3 above.

6 Recommendation

6.1 It is recommended that :

The resourcing proposals outlined in 5.5 and the associated financial implications be approved and the Deputy S15 Officer / Pension Manager be authorised to implement immediately.

7 Risks of Not Executing The Proposals

The risks of not implementing the additional resourcing recommended are:

- Normal day-to-day work set as a lower priority;
- delay in payment of benefits which will cause a direct impact
- Increased errors due to high volumes of work; rush of process (resulting in duplication of work)
- Increased time and effort in addressing errors
- Failure to comply with KPI's which could lead to a breach and potential fines
- Reduced engagement with employers / members and allotted time to ensure the Fund's website is up-to-date.
- Diminished data quality scores.
- Staff members feeling under pressure resulting in high level sickness absence

This could result in

- Member/employer complaints, which could lead to IDRPs or worst-case scenario the Pension Ombudsman issuing a fine.
- The issue of formal improvement notices or financial penalties by the TPR.
- Experienced staff members leaving causing a loss of knowledge.
- Media attention.

8 Legal Implications

8.1 There are no direct legal implications arising from this report. However there should be sufficient resources in place to ensure Statutory changes to Regulations are complied with.

9 Financial Implications

9.1 The financial implications are outlined in 5.5 and shall be funded from an addition to the pension administration budget from the pension fund.

10 Equality and engagement Implications

10.1 There are no equality implications arising from this report.

Background Papers: None.

Appendices: None.