



## City and County of Swansea

### Notice of Meeting

You are invited to attend a Meeting of the

## Pension Fund Committee

**At:** Remotely via Microsoft Teams

**On:** Thursday, 12 November 2020

**Time:** 10.00 am

**Chair:** Councillor Clive Lloyd

**Membership:**

Councillors: J P Curtice, P Downing, M B Lewis, D G Sullivan and W G Thomas

Neath Port Talbot Council Co-opted Member: P A Rees

Advisors: S Jasinski, N Jellema and D Morton

**Watch Online:** <https://bit.ly/2Tay8vc>

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### Agenda

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<b>2 Apologies for Absence.</b>	
<b>3 Disclosures of Personal and Prejudicial Interests.</b> <a href="http://www.swansea.gov.uk/DisclosuresofInterests">www.swansea.gov.uk/DisclosuresofInterests</a>	
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**Next Meeting:** Thursday, 11 March 2021 at 10.00 am

*Huw Evans*

**Huw Evans**  
**Head of Democratic Services**  
**Thursday, 5 November 2020**  

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**Contact: Democratic Services - 636923**

# Agenda Item 4



City and County of Swansea

## Minutes of the Pension Fund Committee

Remotely via Microsoft Teams

Thursday, 10 September 2020 at 10.00 am

**Present:** Councillor C E Lloyd (Chair) Presided

**Councillor(s)**

P Downing  
J P Curtice

**Councillor(s)**

D G Sullivan

**Councillor(s)**

W G Thomas

**Neath Port Talbot Council Co-opted Member**

P A Rees

**Also Present**

I Guy

Local Pension Board Chair

**Advisors**

N Jellema  
D Morton

Advisor - Hymans Robertson  
Advisor - Hymans Robertson

**Officer(s)**

Karen Cobb  
Jeremy Parkhouse  
Jeffrey Dong

Senior Accountant  
Democratic Services Officer  
Deputy Chief Finance Officer / Deputy Section 151  
Officer.

Stephanie Williams

Principal Lawyer

**Apologies for Absence:** None.

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### 73 Disclosures of Personal and Prejudicial Interests.

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests were declared: -

Councillor J P Curtice - agenda as a whole – member of the Local Government Pension Scheme - personal.

Councillor P Downing - agenda as a whole - my brother is a member of the Local Government Pension Scheme – personal.

Councillor C E Lloyd – agenda as a whole – member of the Local Government Pension Scheme - personal.

Councillor P Rees - agenda as a whole – Daughter-In-Law is a member of the Local Government Pension Scheme - personal.

Councillor D G Sullivan - agenda as a whole – Daughter-In-Law is a member of the Local Government Pension Scheme and I am in receipt of a pension administered by the former Dyfed County Council - personal.

Councillor W G Thomas - agenda as a whole – member of the Local Government Pension Scheme - personal.

**Observer:**

I Guy, Chair of Local Pension Board - agenda as a whole – member of the Local Government Pension Scheme - personal.

**Officers:**

K Cobb – Agenda as a whole – Member of Local Government Pension Scheme – personal.

J Dong – Agenda as a whole – Member of Local Government Pension Scheme – personal.

S Williams – Agenda as a whole – Member of Local Government Pension Scheme – personal.

J Parkhouse – Agenda as a whole – Member of Local Government Pension Scheme – personal and Minute No. 76 – Annual Report 2019/2020 – Clerk to Llanrhidian Higher Community Council – personal.

**74 Minutes.**

**Resolved** that the Minutes of the Pension Fund Committee meeting held on 9 July 2020 be signed and approved as a correct record.

**75 Annual Report 2019/2020.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented for approval the City & County of Swansea Pension Fund Annual Report 2019/20.

It was explained that the draft financial statement of the City & County of Swansea Pension Fund was previously presented to the Pension Fund Committee in July 2020. Those financial statements were currently being audited by Audit Wales and their summary ISA 260 would be presented at the next Pension Fund Committee in November 2020.

The City & County of Swansea Annual Report 2019/20 was provided at Appendix 1.

The Committee highlighted the potential for additional communication with Fund members in future years.

**Resolved** that the City and County of Swansea Pension Fund Draft Annual Report 2019/20 at Appendix 1 be approved subject to final audit.

**76 Breaches Report.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a 'for information' report which presented any breaches which had occurred in the period in accordance with the Reporting Breaches Policy.

Appendix A provided the details of breaches that had occurred since the previous Pension Fund Committee in July 2020. The details of the breaches and the actions taken by Management were highlighted.

**77 The Competition and Markets Authority (CMA) - Setting Objectives for Investment Consultants.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a report which appraised progress against the agreed objectives for the appointed investment consultants as required by the Competition and Markets Authority (CMA).

The report outlined CMA requirements, the importance of objectives, establishing objectives for consultants, measuring success in practice and reporting compliance.

Appendix 1 provided the Investment Consultant Performance Objectives.

The Committee discussed improving communications with Fund members.

Noted that David Morton and Nick Jellema left the meeting prior to any discussions on this item.

**Resolved** that the Investment Consultants' progress against the identified and approved objectives at Appendix 1, be approved.

**78 Local Government Pension Scheme National Knowledge Assessment - Results.**

The Deputy Chief Finance Officer / Deputy S151 Officer provided a report which presented the results of the LGPS National Knowledge Assessment.

It was outlined that the Committee had approved the Trustee training plan for both the Pension Fund Committee and Local Pension Board at its meeting in March 2020. Included in the training plan was a recommendation for members of both the Committee and Board to undertake the online LGPS National Knowledge Assessment being administered by Hymans Robertson and the survey had a combined 69% participation rate for both the Board and Committee.

The Swansea results were provided at Appendix 1 and it was noted that there was an average score of 63%, ranking Swansea 7<sup>th</sup> out of 18 funds with the Committee averaging 68.79% and the Board averaging 58.16%. Results for all respondents were provided at Appendix 2.

It was added that the assessment had identified particular areas in which the members could do with some extra training, namely, Pension Administration and Actuarial valuation. These areas could therefore inform future training requirements. Members also identified future training they would like to receive on risk management and Section 13.

Hymans Robertson had compiled a suggested training plan using the information gained from the assessment and would agree an implementation plan with the Deputy Chief Finance Officer.

The Chair commented upon the importance of the results which identified training requirements going forward and highlighted that it was good governance practice to evaluate the Committee in this way.

**Resolved** that the National Knowledge Assessment results be noted and the Deputy Chief Finance Officer be delegated to identify suitable training informed by the assessment.

**79 Exclusion of the Public.**

The Committee was requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involved the likely disclosure of exempt information as set out in the exclusion paragraph of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 relevant to the item(s) of business set out in the report.

The Committee considered the Public Interest Test in deciding whether to exclude the public from the meeting for the items of business where the Public Interest Test was relevant as set out in the report.

**Resolved** that the public be excluded for the following items of business.

**(Closed Session)**

**80 Report(s) of the Independent Investment Consultant.**

David Morton and Nick Jellema, Investment Consultants provided a 'for information' report, which presented the Quarter 2 2020 Investment Monitoring Report.

The content of the report was noted by the Committee and various questions were asked, which were responded to accordingly. The Investment Consultants were thanked for the report.

**81 Wales Pension Partnership Update.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a 'for information' report which updated the Committee on the progress of the Wales Pension Partnership (WPP).

Appendix 1 provided the progress and update report provided by the ACS Operator Link Asset Services.

Appendix 2 provided the Draft WPP Conflicts of Interest Policy, Appendix 3 the Draft WPP Climate Risk Policy and Appendix 4 the Draft WPP Statement of Accounts 2019/20.

Referenced within the update was the launch of the tranche 3 fixed income fund at the end of July 2020, which was delayed to the end of September 2020.

**82 Investment Summary.**

The Deputy Chief Finance Officer / Deputy S151 Officer provided a "for information" report, which presented the investment performance for the quarter, year and 3 years ended 30 June 2020.

The quarterly investment summaries for the Pension Fund for the quarter, year and 3 years ended 30 June 2020 were attached at Appendix 1.

**83 Fund Manager's Presentation(s): Global Equities - Russell Investments.**

A presentation was made by Aidan Quinn, Taran Paik, Sasha Mandrich, William Pearce and Yacine Zerizef of Russell Investments.

Questions in relation to the content of the presentation were asked by the Committee and responses were provided accordingly.

The content of the presentation was noted and the Chair thanked the Fund Managers for providing the presentation.

The meeting ended at 11.58 am

**Chair**

## Audit of Accounts Report – City and County of Swansea Pension Fund

Audit year: 2019-20

Date issued: November 2020

Document reference: 2111A2020-21



This document has been prepared as part of work performed in accordance with statutory functions.

In the event of receiving a request for information to which this document may be relevant, attention is drawn to the Code of Practice issued under section 45 of the Freedom of Information Act 2000. The section 45 code sets out the practice in the handling of requests that is expected of public authorities, including consultation with relevant third parties. In relation to this document, the Auditor General for Wales and the Wales Audit Office are relevant third parties. Any enquiries regarding disclosure or re-use of this document should be sent to the Wales Audit Office at [infoofficer@audit.wales](mailto:infoofficer@audit.wales).

We welcome correspondence and telephone calls in Welsh and English. Corresponding in Welsh will not lead to delay. Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg. Ni fydd gohebu yn Gymraeg yn arwain at oedi.

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We intend to issue an unqualified audit report on your Accounts. There are some matters to report to you prior to their approval.

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# Audit of Accounts Report

## Introduction

- 1 We summarise the main findings from our audit of your 2019-20 accounts in this report.
- 2 We have already discussed these issues with the Chief Finance Officer (S151 Officer) and his team.
- 3 Auditors can never give complete assurance that accounts are correctly stated. Instead, we work to a level of 'materiality'. This level of materiality is set to try to identify and correct misstatements that might otherwise cause a user of the accounts into being misled.
- 4 We set this level at £19.8 million for this year's audit.
- 5 There are some areas of the accounts that may be of more importance to the reader and we have set a lower materiality level for these, as follows:
  - Key Management Personnel Salaries - £1,000
  - Related Parties - £10,000
- 6 Although we have completed the majority of our audit work at the time of drafting this report, we have yet to complete:
  - the final review of our audit file; and
  - our final review of the revised 2019-20 financial statements.
- 7 In our professional view, we have complied with the ethical standards that apply to our work; remain independent of yourselves; and, our objectivity has not been compromised in any way. There are no relationships between ourselves and yourselves that we believe could undermine our objectivity and independence.

## Impact of COVID-19 on this year's audit

- 8 The COVID-19 pandemic has had a significant impact on all aspects of our society and continues to do so. You were required by law to prepare accounts and it is of testament to the commitment of your accounts team that you have succeeded in doing so this year in the face of the challenges posed by this pandemic. We are extremely grateful for the professionalism of the team in supporting us to complete our audit in such difficult circumstances.
- 9 We received the draft statement of accounts on 10 June 2020, as agreed with the Pension Fund. We received a subsequent draft set of accounts on 2 September 2020 following some asset valuation adjustments. This version was accepted as the draft set of accounts which would be audited as they were received prior to us starting our audit work.

10 The pandemic has unsurprisingly affected our audit and we summarise in **Exhibit 1** the main impacts. Other than where we specifically make recommendations, the detail in **Exhibit 1** is provided for information purposes only to help you understand the impact of the COVID-19 pandemic on this year’s audit process.

**Exhibit 1 – impact of COVID-19 on this year’s audit**

<p><b>Timetable</b></p>	<ul style="list-style-type: none"> <li>• We received the draft accounts on 10 June 2020.</li> <li>• A subsequent version of the draft accounts was received on 2 September 2020.</li> <li>• The audit was originally planned to be completed in August 2020, with the audit opinion issued in September 2020. However, due to the audits of both Health Boards and other Councils being delayed, the audit was not started until September 2020.</li> <li>• The Audit was substantially completed by 2 November 2020.</li> </ul>
<p><b>Electronic signatures</b></p>	<p>The current plan is for the Pension Fund Committee to approve the 2019-20 financial statements at its virtual meeting on 12 November 2020. The Section 151 officer will then arrange for the relevant electronic signatures to be added to the final version of the statement of accounts prior to the audit opinion being issued.</p>
<p><b>Audit evidence</b></p>	<p>As in previous years, we received the majority of audit evidence in electronic format. We have used various techniques to ensure its validity. Where we have been unable to obtain access to paper documents because of COVID-19 restrictions, we have devised alternative audit methodologies to obtain sufficient audit evidence. Specifically:</p> <ul style="list-style-type: none"> <li>• officers provided electronic working papers in accordance with our agreed Audit Deliverables Report;</li> <li>• officers provided audit evidence to the audit team via e-mail or the shared folder accessible by auditors through the Council laptops;</li> <li>• officers were available by video conferencing for discussions, and for the sharing of on-screen information/evidence; and</li> <li>• Audit Wales also secured remote read-only access to the ledger system which enabled the audit team to run reports and view evidence and hence reduce the burden on officers to provide this information.</li> </ul>
<p><b>Other</b></p>	<ul style="list-style-type: none"> <li>• Video conferencing has enabled the audit team to correspond effectively with officers throughout the audit.</li> </ul>

- Video-conference based Pension Fund Committee meetings have enabled us to proficiently discharge our responsibility for reporting to those charged with governance.

11 We will be reviewing what we have learned for our audit process from the COVID-19 pandemic and whether there are innovative practices that we might adopt in the future to enhance that process.

## Proposed audit opinion

12 We intend to issue an unqualified audit opinion on this year's accounts once you have provided us with a Letter of Representation based on that set out in **Appendix 1**.

13 We issue a 'qualified' audit opinion where we have material concerns about some aspects of your accounts; otherwise we issue an unqualified opinion.

14 The Letter of Representation contains certain confirmations we are required to obtain from you under auditing standards.

15 Our proposed audit report is set out in **Appendix 2**. This audit report includes an emphasis of matter paragraph. The aim of this paragraph is to draw the attention of the reader of the accounts to Note 11 in the financial statements.

16 Note 11 includes reference to material uncertainty clauses disclosed in year-end valuation reports for a pooled property fund. The total value of this fund as at 31 March 2020 is £51.3 million.

17 The audit opinion is not modified in respect of this matter.

## Significant issues arising from the audit

### Uncorrected misstatements

18 There are no misstatements identified in the financial statements which remain uncorrected.

### Corrected misstatements

19 There were initially misstatements in the accounts that have now been corrected by management. The most significant of these amendments are drawn to your attention in **Appendix 3**.

## Other significant matters encountered and resolved during the audit

20 In the course of the audit, we considered a number of matters relating to the accounts. **Exhibit 2** includes commentary on the more significant matters we encountered and worked with management to resolve.

### Exhibit 2 – Significant matters encountered and resolved during the 2019-20 audit

Significant matters encountered and resolved during the 2019-20 audit		
<p><b>Material uncertainty in relation to pooled property assets</b></p>	<p>We have requested that the Council sets out, in Note 11, additional narrative to disclose the material uncertainty in relation to property asset investments.</p>	<p>The Council has included the additional narrative disclosure.</p> <p>We have also drawn the reader's attention to this disclosure in an emphasis of matter paragraph in our audit report.</p> <p>The audit opinion is not modified in respect of this matter.</p>
<p><b>Year-end investment valuations</b></p>	<p>Given the impact of COVID-19 and the potential of significant market volatility around the year-end, we reviewed all investment valuations to ensure these were based on actual figures. This allowed us to confirm that the fair value of investment assets in the 2019-20 financial statements was reasonable.</p>	<p>No adjustments were required to be made to the 2019-20 financial statements.</p>
<p><b>Impact of McCloud Pension remedy proposals on disclosures in the Actuarial Statement</b></p>	<p>Our audit plan highlighted the impact of the McCloud judgement as a potential audit risk for this year's audit. An estimate for this potential liability was compiled prior to the proposed remedy being known and is included in the Actuarial Statement in the 2019-20 financial statements.</p>	<p>We corresponded with management and their actuary to assess whether the estimate for this potential liability was in line with the proposed remedy. We have received confirmation from the actuary that their assumptions were similar to the subsequently proposed</p>

### Significant matters encountered and resolved during the 2019-20 audit

On 16 July 2020 the UK government proposed its remedy, and this had the potential to significantly impact this estimate.

remedy. Therefore, we were able to conclude that the estimate included in the 2019-20 financial statements disclosures was reasonable.

# Appendix 1

## Final letter of representation

[Audited body's letterhead]

Auditor General for Wales  
Audit Wales  
24 Cathedral Road  
Cardiff  
CF11 9LJ

[Date]

## Representations regarding the 2019-20 financial statements

This letter is provided in connection with your audit of the financial statements of City and County of Swansea Pension Fund for the year ended 31 March 2020 for the purpose of expressing an opinion on their truth and fairness and their proper preparation.

We confirm that to the best of our knowledge and belief, having made enquiries as we consider sufficient, we can make the following representations to you.

## Management representations

### Responsibilities

We have fulfilled our responsibilities for:

- the preparation of the financial statements in accordance with legislative requirements and CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom UK 2019-20; in particular the financial statements give a true and fair view in accordance therewith; and
- the design, implementation, maintenance and review of internal control to prevent and detect fraud and error.

## Information provided

We have provided you with:

- Full access to:
  - all information of which we are aware that is relevant to the preparation of the financial statements such as books of account and supporting documentation, minutes of meetings and other matters;
  - additional information that you have requested from us for the purpose of the audit; and



- unrestricted access to staff from whom you determined it necessary to obtain audit evidence.
- The results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
- Our knowledge of fraud or suspected fraud that we are aware of and that affects the Pension Fund and involves:
  - management;
  - employees who have significant roles in internal control; or
  - others where the fraud could have a material effect on the financial statements.
- Our knowledge of any allegations of fraud, or suspected fraud, affecting the financial statements communicated by employees, former employees, regulators or others.
- Our knowledge of all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing the financial statements.
- The identity of all related parties and all the related party relationships and transactions of which we are aware.

## Financial statement representations

All transactions, assets and liabilities have been recorded in the accounting records and are reflected in the financial statements.

Significant assumptions used in making accounting estimates, including those measured at fair value, are reasonable.

Related party relationships and transactions have been appropriately accounted for and disclosed.

All events occurring subsequent to the reporting date which require adjustment or disclosure have been adjusted for or disclosed.

All known actual or possible litigation and claims whose effects should be considered when preparing the financial statements have been disclosed to the auditor and accounted for and disclosed in accordance with the applicable financial reporting framework.

The financial statements are free of material misstatements, including omissions.

## Representations by those charged with governance

We acknowledge that the representations made by management, above, have been discussed with us.

We acknowledge our responsibility for the preparation of true and fair financial statements in accordance with the applicable financial reporting framework. The financial statements were approved by the Pension Fund Committee on 12 November 2020.

We confirm that we have taken all the steps that we ought to have taken in order to make ourselves aware of any relevant audit information and to establish that it has been communicated to you. We confirm that, as far as we are aware, there is no relevant audit information of which you are unaware.

Signed by:

Chief Finance Officer (S151 Officer)

Date:

Signed by:

Chair of the Pension Fund Committee –  
signed on behalf of those charged with  
governance

Date:

# Appendix 2

## Proposed Audit Report

### **The independent auditor's report of the Auditor General for Wales to the members of City and County of Swansea as administering authority for City and County of Swansea Pension Fund**

#### **Report on the audit of the financial statements**

##### **Opinion**

I have audited the financial statements of City and County of Swansea Pension Fund for the year ended 31 March 2020 under the Public Audit (Wales) Act 2004. City and County of Swansea Pension Fund's financial statements comprise the fund account, the net assets statement and the related notes, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and the Code of Practice on Local Authority Accounting in the United Kingdom 2019-20 based on International Financial Reporting Standards (IFRSs).

In my opinion the financial statements:

- give a true and fair view of the financial transactions of the pension fund during the year ended 31 March 2020, and of the amount and disposition at that date of its assets and liabilities; and
- have been properly prepared in accordance with legislative requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2019-20.

##### **Basis for opinion**

I conducted my audit in accordance with applicable law and International Standards on Auditing in the UK (ISAs (UK)). My responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of my report. I am independent of the pension fund in accordance with the ethical requirements that are relevant to my audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and I have fulfilled my other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

## **Emphasis of matter – effects of the COVID-19 pandemic on the valuation of property fund and alternative assets**

I draw attention to Note 11 of the financial statements, which describes the impact of a material uncertainty disclosed in the fund managers year-end valuation reports for the UK property fund they manage on behalf of the City and County of Swansea Pension Fund. The Fund has disclosed this material uncertainty and my audit opinion is not modified in respect of this matter.

## **Conclusions relating to going concern**

I have nothing to report in respect of the following matters in relation to which the ISAs (UK) require me to report to you where:

- the use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the responsible financial officer has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the pension fund's ability to continue to adopt the going concern basis of accounting for a period of at least 12 months from the date when the financial statements are authorised for issue.

## **Other information**

The responsible financial officer is responsible for the other information in the statement of accounts. The other information comprises the introduction section of the financial statements. My opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in my report, I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, my responsibility is to read the other information to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies, I consider the implications for my report.

## Report on other requirements

### Opinion on other matters

In my opinion, based on the work undertaken in the course of my audit:

- the information contained in the introduction section for the financial year for which the financial statements are prepared is consistent with the financial statements; and
- for information contained in the Introduction and Appendices 1-5 for the financial year for which the financial statements are prepared is consistent with the financial statements.

### Matters on which I report by exception

I have nothing to report in respect of the following matters, which I report to you, if, in my opinion:

- adequate accounting records have not been kept;
- the financial statements are not in agreement with the accounting records and returns; or
- I have not received all the information and explanations I require for my audit.

## Certificate of completion of audit

I certify that I have completed the audit of the accounts of City and County of Swansea Pension Fund in accordance with the requirements of the Public Audit (Wales) Act 2004 and the Auditor General for Wales' Code of Audit Practice.

## Responsibilities

### Responsibilities of the responsible financial officer for the financial statements

As explained more fully in the Statement of Responsibilities for the financial statements, the responsible financial officer is responsible for the preparation of the financial statements, which give a true and fair view, and for such internal control as the responsible financial officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the responsible financial officer is responsible for assessing the pension fund's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless deemed inappropriate.

## **Auditor's responsibilities for the audit of the financial statements**

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website [www.frc.org.uk/auditorsresponsibilities](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of my auditor's report.

Adrian Crompton  
Auditor General for Wales  
November 2020

24 Cathedral Road  
Cardiff  
CF11 9LJ

# Appendix 3

## Summary of corrections made

During our audit we identified the following misstatements that have been corrected by management, but which we consider should be drawn to your attention due to their relevance to your responsibilities over the financial reporting process.

### Exhibit 3: summary of corrections made

Value of correction	Nature of correction	Reason for correction
£1.836 million	Note 3 – the sub total for the admitted bodies analysis of contributions was increased from £4.26 million to £6.089 million as the contributions of £1.836 million relating to University of Wales Trinity St David had not been included.  The Total Contributions received figure of £99.701 million, however, was correct.	To ensure accuracy of the financial statements.
Various presentational amendments	Various other minor presentational amendments were made to the draft statement of accounts. There was no overall impact on the net expenditure or net investment assets of the Fund.	To ensure accuracy and completeness of the financial statements.







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We welcome correspondence and telephone calls in Welsh and English.  
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg.

# Agenda Item 6a



## Report of the Section 151 Officer

Pension Fund Committee – 12 November 2020

### Breaches Report

Purpose: The report presents any breaches which have occurred in the period in accordance with the Reporting Breaches Policy.

Report Author: Claire Elliott, Pension Manager

Finance Officer: Jeff Dong – Deputy S 151 Officer

Legal Officer: Stephanie Williams – Principal Lawyer

Access to Services Officer: N/A

#### For Information

#### 1. Introduction

1.1 The Reporting Breaches policy was adopted with effect from 9 March 2017.

1.2 The policy requires a report to be presented to the Pension Board and Pension Fund Committee on a quarterly basis, highlighting any new breaches which have arisen since the previous meeting and setting out:

- all breaches, including those reported to The Pensions Regulator and those unreported, with the associated dates
- in relation to each breach, details of what action was taken and the result of any action (where not confidential)
- any future actions for the prevention of the breach in question being repeated

1.3 Following the introduction of GDPR requirements and the requirements to report any breaches to the Information Officer and ICO, if required, it has been determined good practice and transparent to also include GDPR breaches also within this report

#### 2. Breaches

2.1 Under the policy, breaches of the law are required to be reported to the Pensions Regulator where there is reasonable cause to believe that:

- A legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with
  - The failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions
- 2.2 The Breaches Report is attached at Appendix A and the following further information is provided.
- 2.3 Under the LGPS regulations, interest is paid on retirement lump sum payments if the payment is made more than one month after retirement and calculated at one per cent above the base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.
- 2.4 Since the last report in October 2020, 15% of retirement lumps sums have not been paid within the benchmark (it should be noted that 100% of payments were made within 1 month when all documentation was received). The % of non-payment of retirement lump sums within the specified benchmark was due to the members not returning completed pension election forms within a timely manner. Communication sent to members at time of retirement has been reviewed to ensure that the importance of timely return of required documents is highlighted and reminder triggers put in place.
- 2.5 The basic objective of the General Data Protection Regulation (GDPR) is to enforce stronger data security and privacy rules among organisations when it comes to protecting an individual's personal data. The UK legislation is the Data Protection Act 2018 and mirrors many key principles of the Data Protection Act 1998. Where a breach of a member's personal data happens (a breach of personal data means that a security breach has taken place leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data, transmitted, stored or otherwise processed. [GDPR Article 4(12)]), the Pension Fund (who complies with Swansea Council GDPR Principles) has an obligation to undertake a full investigation within the initial 72-hours of acknowledging a data breach. When the Fund becomes aware of a breach, the appropriate investigation takes place within the stipulated timeframe and the findings presented to the Data Breach Panel for review. The requirements presented for improved working practices by the Data Breach Panel the Fund has incorporated within the day-to-day working practices. There has been no GDPR breach since last reporting date
- 2.6 The Fund requires that employers pay employee and employer contributions to the Fund on a monthly basis and no later than the 19<sup>th</sup> of the month after which the contributions have been deducted. There have been a single instance during the reporting period where breaches have occurred. In this case, Treasury Management staff have written to the employers to request payment and provide a reminder of the responsibilities to submit on time.
- 2.7 With regards to performance data in respect of processing refunds, in most cases, the sums are quite small and the problem is locating the member/former member to process the refund, quite often they may have moved address or even passed away.

**3. Equality and Engagement Implications**

N/A

**4 Legal Implications**

4.1 Where breaches have occurred, the legal implications are outlined in Code of Practice no.14 and GDPR legislation

**5. Financial Implications**

5.1 Minimal loss of investment income and a possible penalty charge from TPR.

**Background Papers:** None.

**Appendices:** Appendix A: Breaches Register.

**City and County of Swansea Breach Register**

Date	Category (e.g. administration, contributions, funding, investment, criminal activity)	Description and cause of breach	Possible effect of breach and wider implications	Reaction of relevant parties to breach	Reported / Not reported (with justification if not reported and dates)	Outcome of report and/or investigations	New Breach (since last report)
Mar 2019	Investment asset allocation	The Investment Strategy Statement outlines an indicative allocation of 34% +/- 5% to Global Equities. At 31 <sup>st</sup> March 2017, the allocation was 43%	There is resulting over allocation to global equities	<p>The asset class in question returned 33% during the year which has caused the uplift in valuation- the best performing asset class during the year.</p> <p>There is a planned investment review for 2018/19 which shall review asset allocations on a long term basis</p>	Noting the volatility of asset values and the pending asset allocation review, it is determined imprudent to incur material transaction costs to address the allocation imbalance. A longer term allocation shall be derived from the pending investment review.	Allocations shall be reviewed as part of the investment review	
Mar – May 2019	Administration	1.56% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due	% due to members failing to return pension election forms in a timely manner	.	Communication to members regarding retirement options reviewed to ensure the importance of returning documents in a	

		within 1 month of receipt of member option return	date, under the 2013 LGPS regulations			timely manner is emphasised	
30/04/2018	Administration	All annual returns for year-end by 30/04/2018 have been submitted.	N/A	N/A		N/A	
Apr – June 2019	Administration	Frozen refunds unclaimed for this period equates to 95.83%	In accordance with current Scheme Regulations, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment	High % due to member not making a positive election to claim refund	Information has been reported in the breach register	Member was written to 3 months prior to the date of the 5-year anniversary of date of leaving	

Jun-August 2019	Administration	1.67% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	% due to delay in payment of 1 members AVC fund value from the Prudential		Communication to members highlighting a possible delay in the payment of their retirement benefits if the member continues paying AVCs up to and including the last month of employment	
Jul-August 2019	Administration	Frozen refunds unclaimed for this period equates to 81.25% .... This equates to a monetary value of £1,581.92	In accordance with current Scheme Regulations, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an	High % due to member not making a positive election to claim refund	Information has been reported in the breach register	Member was written to 3 months prior to the date of the 5-year anniversary of date of leaving	

			unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this. Going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.				
Apr – July 2019	Contributions	2 Employers have not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Sept-Nov 2019	Administration	1.67% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement;	The administering authority has accrued interest payments on retirement lump sums, paid more than one month	% due to delay in payment of 1 members AVC fund value from the Prudential		Communication to members highlighting a possible delay in the payment of their retirement benefits if the member	



		100% was paid within 1 month of receipt of member option return	after their due date, under the 2013 LGPS regulations			continues paying AVCs up to and including the last month of employment	
Sept-Nov 2019	Administration	Frozen refunds unclaimed for this period equates to 83.34% .... This equates to a monetary value of £3,524.06	In accordance with current Scheme Regulations, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has	High % due to member not making a positive election to claim refund	Information has been recorded in the breach register	Members were written to as at time of leaving and 3 months prior to the date of the 5-year anniversary of date of leaving	

			been amended to support this. Going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.				
Sept – Nov 2019	Contributions	3 Employers have not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Dec 2019 – Feb 2020	Administration	1.71% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	% due to delay in member returning the election form within a timely manner.		Member informed that the payment of the lump sum had been delayed due to late return of election forms.	
Dec 2019 – Feb 2020	Administration	Frozen refunds unclaimed for this period	Regulations, no further interest will accrue on or	% has reduced in comparison with the previous	Information has been recorded in the breach	Current procedure is that written	

		equates to 64% .... This equates to a monetary value of £3,505.73	after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this. <b>Going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary</b>	quarter however it is still high. This is because the member has not made a positive election to claim refund	register	communications are issued to the member when they leave providing the appropriate option of a refund or transfer. The member is contacted for a second time 3 months prior to the 5 year anniversary date of leaving.	
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			<b>ruling will be removed.</b>				
Dec 2019 – Feb 2020	GDPR Breaches	1 breach reported during this quarter. Member coms inadvertently sent to the wrong person as the letter had become caught up with the individuals Pension Options.	Possible reporting of Section to the Independent Commissions Office (ICO).	Staff reminded of the importance of removing all documentation from the printer and to check correspondence to ensure this is going to the correct individual. Encouraging e-coms as a means of communication.	Reported breach to Swansea Council Data Protection Officer and an investigation undertaken.	Further to the investigation, it was deemed not necessary to report the breach to the ICO as adequate prevention measures have been identified and put in place.	
Dec 2019– Feb 2020	Contributions	3 Employers have not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Mar – May 2020	Administration	11.67% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 99.97% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	% due to members failing to return pension election forms in a timely manner/completed in full and late issue of pensionable pay information from the member's employers payroll section, which has		Communication to members regarding retirement options are constantly reviewed to ensure the importance of returning completed documents in a timely manner is	

				led to the late provision of pension options to the member.		highlighted. On a monthly basis employers payroll sections are issued with a spreadsheet listing all outstanding termination forms and are reminded of the importance of providing accurate information on a timely basis.	
Mar - May 2020 Page 35	Administration	Frozen refunds unclaimed for this period equates to 69% .... This equates to a monetary value of £4,428.25	Regulations, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Member was written to 3 months prior to the date of the 5-year anniversary of date of leaving	

			<p>payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this.</p> <p><b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.</b></p>				
Mar - May 2020	GDPR Breaches	1 breach reported during this quarter. Member coms inadvertently sent to the wrong email address	Possible reporting of the Pension Section to the Independent Commissions Office (ICO).	Staff have been reminded of the importance of checking the email autofill.	Reported breach to Swansea Council Data Protection Officer and an investigation undertaken.	Further to the investigation, it was deemed not necessary to report the breach to the ICO as adequate prevention measures have been identified and put in place.	

Mar – May 2020	Contributions	3 Employers have not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Jun – Aug 2020	Administration	17% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% of member option forms returned were paid within 1 month of date of return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	% due to members failing to return pension election forms in a timely manner/completed in full. Late provision of information provided by the members employer payroll sections.		Communication to members regarding retirement options are constantly reviewed to ensure the importance of returning completed documents in a timely manner is highlighted. On a monthly basis employers payroll sections are issued with a spreadsheet listing all outstanding termination forms and are reminded of the importance of providing accurate information on a timely basis.	

<p>Jun – Aug 2020</p>	<p>Administration</p>	<p>Frozen refunds unclaimed for this period equates to 70.22% .... (of this 8.51% the Fund is in the process of transferring under the autoagg rules as the member has entered further LGPS membership) This equates to a monetary value of £8,030.64 (of which £888.39 is subject to transfer)</p>	<p>Regulations, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no</b></p>	<p>High % due to member not making a positive election to claim refund</p>	<p>Information has been recorded within the breach register</p>	<p>Member was written to 3 months prior to the date of the 5-year anniversary of date of leaving</p>	
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			<b>further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.</b>				
Jun – Aug 2020	GDPR Breaches	No breaches to report during this quarter.					
Jun – Aug 2020	Contributions	2 Employers have not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Sept – Oct 20	Administration	15% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% of member option forms returned were paid within 1 month of date of return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	% due to late receipt of confirmation from the members Payroll Section of retirement. Delay in the return of member pension options/completed in full.		Communication to members regarding retirement options are constantly reviewed to ensure the importance of returning completed documents in a timely manner is highlighted. On a monthly basis employers payroll	✓

						sections are issued with a spreadsheet listing all outstanding termination forms and are reminded of the importance of providing accurate information on a timely basis.	
Sept – Oct 20	Administration	Frozen refunds unclaimed for this period equates to 64.29% .... This equates to a monetary value of £872.	Regulations, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Member was written to 3 months prior to the date of the 5-year anniversary of date of leaving	✓

			to change and we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.</b>				
Sept – Oct 20	GDPR Breaches	No breaches to report during this quarter.					✓
Sept – Oct 20	Contributions	1 Employer has not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	✓

\*New breaches since the previous meeting should be highlighted

# Agenda Item 6b



## Report of the Section 151 Officer

Pension Fund Committee – 12 November 2020

### **Pension Administration – Review of the Pension Section Administration Resourcing**

<b>Purpose:</b>	To appraise the current staffing levels with the aim of addressing scheme administration challenges and Regulatory changes to ensure legal obligations are met.
<b>Policy Framework:</b>	To comply with Regulatory requirements.
<b>Consultation:</b>	Legal, Finance and Pension Section.
<b>Recommendation:</b>	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.
<b>Report Author:</b>	Claire Elliott, Pension Manager
<b>Finance Officer:</b>	Jeff Dong
<b>Legal Officer:</b>	Stephanie Williams
<b>Access to Services Officer:</b>	Rhian Millar

#### 1

#### **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.

## 2

### **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 14<sup>th</sup> 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 25<sup>th</sup> 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
<b>Total</b>	<b>4</b>	<b>£121,077.86</b>

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.

<b>Fund</b>	<b>Staffing numbers</b>
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.

# Agenda Item 6c



## Report of the Section 151 Officer

Pension Fund Committee – 12 November 2020

### Exit Payment Reform – Response to Government Consultation

<b>Purpose:</b>	To approve the Administrating Authority response to Government consultation on Exit Payment Reform
<b>Policy Framework:</b>	LGPS Administration Regulations
<b>Consultation:</b>	Legal, Finance and Access to Services.
<b>Recommendation:</b>	It is recommended that The Pension Fund Committee approves the response to Government consultation on exit payment reform at Appendix 2
<b>Report Author:</b>	Jeff Dong
<b>Finance Officer:</b>	Jeff Dong
<b>Legal Officer:</b>	Stephanie Williams
<b>Access to Services Officer:</b>	R Millar

#### 1 Background – The £95k Cap

- 1.1 The **legislation** implementing the £95k cap on exit payments has now been signed and came into force on 4 November 2020. Administrating Authorities are still awaiting the Guidance and Directions to accompany the regulations; these will set out the discretionary waiver process and the position of exits agreed before 4 November where the date of leaving is after.
- 1.2 In parallel, Ministry of Housing Communities and Local Government (MHCLG) have opened a consultation seeking views on proposals for further reforming exit payment terms (see below in 2.0). The consultation proposes changes to the LGPS regulations in order to accommodate the £95k exit payment cap. It also proposes a limit on cash severance payments and for the strain cost to be

reduced by the value of any statutory redundancy payment made.

- 1.3 Clearly the amendments to the LGPS will not be in place when the £95k cap comes into force. HM Treasury and MHCLG have been made aware of the predicament this puts local government employers and LGPS administering authorities in. MHCLG have sent the letter outlining their position attached at Appendix 1. In the meantime the SAB is obtaining legal advice as to the risk of challenge to LGPS authorities during this period which will be published in good time for the 4th November.

Please note, in the period between 4 November and the date the LGPS regulations are amended:

- only exits where the cost exceeds the £95k cap will be impacted.
- the statutory guidance on standard strain cost will not be effective i.e. you will continue to calculate strain cost on a local basis.
- the proposals in the MHCLG consultation around limiting cash severance payments and the strain cost being reduced by the value of any statutory redundancy pay will not apply.

## **2 Further Exit Reform**

- 2.1 Employees of all local authorities are covered by both the cap and compensation regulations, so employees will see a range of limitations to scheme redundancy benefits. There will also be LGPS scheme employers who are not covered by either the cap or compensation regulations where employees will see different outcomes.
- 2.2 HMT regulations set out the bodies covered by the £95k cap – ‘capped employers’ - while revised compensation regulations (as yet unpublished) will set out the bodies covered by the further reform changes – ‘reform employers’. Some scheme employers will be both capped and reform employers but others will fall into one or neither camp. Due to the timing of the HMT regulations there will be a period from 4th November when employers are covered by the cap but not yet by the revised compensation or pension regulations.

## **3 Exit Reform Proposals in the Consultation**

- 3.1 These proposals will limit the payments made to, or in relation to, employees of 'reform employers' in addition to statutory entitlement 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

3.2 The major impact of the regulations will be on LGPS members aged 55 or over who currently qualify for an unreduced pension because of redundancy or efficiency retirement as well as a severance payment under [The Local Government \(Early Termination of Employment\) \(Discretionary Compensation\) \(England and Wales\) Regulations 2006](#). Once both the cap and further reform is in place for members whose employers are both capped and subject to further reform the effect of the proposals will be significant as they would receive statutory redundancy pay and one of the following options:

- An immediate actuarially reduced pension calculated using a strain cost reduced by the amount of the statutory redundancy payment and capped at £95k. In this case no severance is payable; or,
- An immediate fully reduced pension (no strain cost to the employer), plus statutory redundancy pay plus severance in excess of statutory redundancy limited to £95k, or,
- A deferred pension (no strain cost to the employer), plus statutory redundancy pay plus severance in excess of statutory redundancy limited to £95k.

However in the period between 4th November and prior to revised pension and compensation regulations being in place the only change will be the application of the cap to strain costs.

There are circumstances, as set out in draft HMT Directions, when the cap must be or may be relaxed by a minister or the authority. However, most are subject to consent by HM Treasury even if passed by full council. Employers are required to record and publish information about any decisions made to relax the cap. There will be a different process for Welsh councils where consent for a waiver will come from Welsh ministers rather than Westminster.

#### **4 Practical Considerations of both the cap and exit reform**

4.1 The exit payment cap is set at a total of £95,000 with no provision for this amount to be index-linked. Exit payments include redundancy payments (including statutory redundancy payments), severance payments, pension strain costs – which arise when an LGPS pension is paid unreduced before a member’s normal pension age – and other payments made as a consequence of termination of employment. The cap applies to all exit payments that arise within a 28 day period and the regulations cover the process to follow if an individual has multiple exits from public sector employment within 28 days.

4.2 Payments related to death in service or ill health retirement, pay in lieu of holiday, payments made in compliance with an order made by a court or tribunal and payments in lieu of notice that do not exceed a quarter of a person’s salary are not exit payments for the purposes of these regulations. Although statutory redundancy is included as an exit payment it cannot be reduced. If the cap is exceeded, other elements that make up the exit payment

must be reduced to achieve an exit payment of £95,000 or less.

- 4.3 Proposals for the cap were first published in 2015. If the cap had been indexed by CPI since then it would now be in excess of £110K. There is however no intention to index the cap although the response states that it will be kept under review.
- 4.4 Currently the strain cost for an early payment of pension is calculated by each LGPS fund. This is of no concern to employees at present as a full pension is paid regardless of any differential in cost. Under the new proposals, strain costs that are capped result in reduced pension and therefore any differential in strain costs across funds would lead to different outcomes for scheme members.
- 4.5 The MHCLG consultation proposes that a standard methodology is to be used to calculate strain cost across all funds in respect of capped employers, but that some flexibility will be available when calculating strain costs for non-capped employers. Use of the standard strain cost may have implications for employer contributions at the following valuation depending on its relationship to the actual liability impact on the particular employer as calculated by the fund actuary.
- 4.6 However standard strain cost calculations will only come into force with revised pension regulations. Until that time existing strain cost calculations should continue to be used when calculating if strain costs should be capped.

## **5 Response to consultation**

- 5.1 The consultation process did not invite general commentary on exit payment reform but on the specifics and effects of the proposals and required response to a series of questions. The Administering Authority's response is attached at Appendix 2 having reviewed and incorporated responses from the LGA and technical advisors.

## **6 Judicial Review**

- 6.1 It should be noted that a pre action protocol letter has been lodged with HM Treasury and The Ministry of Housing Communities and Local Government notifying of the proposal to request a judicial review into the Exit Reform regulations. This claim has been lodged on behalf of LLG (Lawyers in Local Government) . Anecdotally, a number of unions are also apparently lodging similar claims.
- 6.2 At point of writing, local authorities have received a letter from Welsh Government indicating they are reviewing their position and taking legal advice with a view to invoking their devolved powers in the matter of the £95k cap, principally to not take into account the LGPS pension strain cost in exit cap calculations, a similar approach to Scotland and the consequential impact on these exit reform proposals.

**7 Legal Implications**

7.1 There are no direct legal implications arising from this report.

**8 Financial Implications**

8.1 There are no financial implications arising directly from this report.

**9 Equality and engagement Implications**

9.1 There are no equality implications arising from this report.

**Appendices**

Appendix 1 - MHCLG have sent the letter outlining their position.

Appendix 2 – Administering Authority Response.



Ministry of Housing,  
Communities &  
Local Government

Chief Executives  
Councils and LGPS Administering Authorities

**Luke Hall MP**  
*Minister for Regional Growth and Local Government*

**Ministry of Housing, Communities and Local  
Government**

Fry Building  
2 Marsham Street  
London  
SW1P 4DF

Tel: 0303 444 3440  
Email: Luke.Hall@communities.gov.uk

[www.gov.uk/mhclg](http://www.gov.uk/mhclg)

28 October 2020

Dear Chief Executive,

The Restriction of Public Sector Exit Payments Regulations 2020 make it clear that public sector bodies must not make payments in relation to individual exits in excess of £95k. That includes local government employers and Local Government Pension Scheme administering authorities.

Previously, the Local Government Pension Scheme Regulations 2013 and to a lesser extent the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 allowed for some individuals to receive benefits which would be in excess of the cap now set in the 2020 Regulations.

In considering the 2020 Regulations with existing provisions of the LGPS or Early Termination Regulations, public sector bodies should be mindful that the 2020 Regulations reflect Parliament's intention in section 153A of the Small Business, Enterprise and Employment Act 2015. Parliament was clear that it wished to limit total public sector exit payments to no more than £95,000, and the legislation provides a power to cap exit payments at that level.

This Department has published a policy consultation and issued draft regulations that will remove any remaining ambiguity in the legal position once they come into effect. Subject to consideration of views received through consultation, effect will be given to those proposals as soon as parliamentary time allows.

In the meantime, the recommended course of action for an administering authority to act consistently with its legal duties is that the provisions of Regulation 30(7) are subject to the cap and so the provisions of Regulation 8 of the 2020 Regulations and Regulation 30(5) of the LGPS 2013 Regulations should be engaged. The Government's view is that LGPS members in that position should be able to elect to receive an immediate but fully reduced pension or, if they do not so elect, a deferred pension plus a lump sum equal to the capped strain cost.

The 2020 Regulations also identify circumstances where the application of the cap may be waived. I will issue more detailed guidance on this, but this also provides a route by which these transitional issues may be mitigated.

**LUKE HALL MP**

City and County of Swansea Pension Fund  
Cronfa Bensiwn Dinas a Sir Abertawe



Administered by

Exit Pay Consultation  
Local Government Workforce & Pay Team  
MHCLG  
2<sup>nd</sup> Floor, Fry Building  
2 Marsham Street  
LONDON  
SW1P 4DF

Please ask for Mrs Claire Elliott  
Gofynnwch am:  
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E-Bost:  
Our Ref:  
Ein Cyf:  
Your Ref:  
Eich Cyf:  
Date: 02<sup>nd</sup> November 2020  
Dyddiad:

Dear Sir

**LGPS Consultation – Reforming Local Government Exit Pay**

I refer to the above consultation and respond on behalf of the City and County of Swansea Pension Fund; for ease of reference, the questions have been replicated and a response provided underneath.

Q1 – Are there any groups of local government employees that would be more adversely affected than others by our proposed action on employer funded early access to pension?

*In response to Q1;*

*Members impacted by this change are those who are entitled to unreduced early retirement pensions as a result of redundancy. It should be noted average pension in payment in Swansea is £5k p.a, and over 2/3 of those members are women workers many of whom only work part time hours.*

*The proposals encompass key member groups identified includes front-line staff; School support staff i.e. lunchtime supervisors, teaching assistants, social service staff i.e. Community Care Officers, residential home support, refuse operators. Employees employed on lower grades who will be forced to make complex financial decisions based on receiving either a cash lump sum payment from their employer or unreduced pension benefits.*

*As pension strain is linked to length of service, the financial detriment will be proportionately larger for members with significant service.*

*Employees taking early retirement pension from aged 55 and above especially where the pension strain is essentially greater than any redundancy pay. Historically individuals have been entitled to immediate payment of unreduced pension benefits from the LGPS along with any additional statutory redundancy pay and potential*

*discretionary lump sum top up paid by their employer, when made redundant. Outlined reforms will significantly reduce the overall cost of exit packages.*

*The original £95k cap had a clear parameter within which to limit costs clearly aimed at medium /high earners with medium/long service, , however, the exit reform proposal are more pervasive and impact across the pay structure.*

*A potential solution to mitigate the impact (on those below the cap) would be to remove the requirement to reduce pension strain cost by statutory redundancy*

Q2 – What is the most appropriate mechanism or index when considering how the maximum salary might be reviewed on an annual basis?

*The most appropriate mechanism would be to link it to the local government collectively agreed pay awards under the National Joint Council (NJC) for Local Government Services. This is because the majority of local authority employees will be covered by that award, and even if not, any pay award agreed for them is likely to mirror or be close to the NJC award. Therefore, uplifting on this basis would mean it would accurately reflect actual increases in pay in local authorities. Using average earnings may be a reasonable proxy, however, basing it on CPI or RPI would not provide that direct link.*

Q3 – Are there any groups of local government employees that would be more adversely affected than others by our proposed ceiling of 15 months or 66 weeks as the maximum number of months' or weeks salary that can be paid as a redundancy payment?

*Identified individuals instantly recognized as being affected by the proposed redundancy payment ceiling are long-serving employees who have built up significant long-service of which redundancy payments are offset against.*

*While it is appreciated that the intent of the overriding policy is to restrict the amount of exit payments paid to local government personnel to ensure reforms meet key principles of fairness, modernity, flexibility and consistency across workforces, reducing the calculation of lump sum compensation from 104 to 66 weeks is one means of achieving this.*

*The majority of local authority of employers do not provide for exit packages based on a maximum 104-week lump sum compensation payment.*

Q4 - Are there any groups of local government employees that would be more adversely affected than others by our proposal to put in place a maximum salary of £80,000 on which an exit payment can be based?

*£80,000 is a significant salary in local government so this will affect the most senior positions. Considerable experience and skills will be required for such posts and so this will be more likely to affect older workers, (more of them who are likely to be male) although not exclusively so. It will affect professions and roles that are hard to recruit in the sector and as such will weaken the reward package that local authorities are able to offer.*

Q5 - Do you agree with these proposals? If not, how else can the Government's policy objectives on exit pay be delivered for local government workers?

*The LGPS stands alone as the only funded large public sector scheme and has 'actual pension strain costs' when assessing the costs of redundancy. To ensure consistency and fairness across public sector pensions, these equivalent costs should be considered in the exit caps/reforms in the other public sector exit reforms, if not they should be removed for LGPS workers. These proposals demonstrably adversely affect the lower paid members of the local government workforce in the event of redundancy. Local government workers do not have a right or entitlement to voluntary redundancy but they do currently have the long-standing entitlement to the safety net of unreduced accrued benefits and statutory redundancy pay in the event of their employment being terminated on the grounds of redundancy. Many workers will quite rightly argue that this safety net is one of the primary reasons that they have remained in local government employment.*

*These proposals also represent significant challenges at an administrative level. Current process requires Pension Sections to carry out one estimate calculation of benefits and strain cost to an employer. Under these proposals, four different calculations will have to be performed quadrupling the workload of sections, with the current financial climate making it unlikely that there would be recruitment to reflect the additional workload. It is also worth noting current software does not allow for these calculations so there will be a cost for pension funds for software development to accommodate these proposals.*

*These proposals will also place an additional burden of complexity on pension fund members to make a complex financial decision with potentially long lasting consequences, which their Pension Fund and employer will be unable to advise on. There is the potential some members will be placed in a vulnerable position whereby they are at risk of becoming victims of fraudulent activity.*

*The proposals will also severely affect employers' ability to manage their workforce with voluntary redundancy packages., whilst also adversely impacting those made compulsorily redundant This in turn will create a situation where lower paid members of the workforce will experience financial hardship, which has come about directly because of these reforms.*

*It places many local government workers in an invidious position meaning that . that a school based lunchtime supervisor has to choose between an unreduced pension or a redundancy payment. It is questionable if this situation is the best way to meets the government's policy objectives.*

Q6 - Do you agree that the further option identified at paragraph 4.8 should be offered?

*I would consider the removal of immediate payment of reduced retirement benefits from the table a sensible proposal. Members who retire at age 55 on the grounds of redundancy will receive pension benefits that are greatly reduced and the financial impact this will have might not be fully realised by an individual in real terms which could lead to financial pressures in the future (e.g.mortgage repayments etc).*

## Appendix 2

*It is appreciated that an individual's financial situation is unique to them however if the Regulations continue in the same vein, in the long-term the annual reduction to a members annual pension could very well be greater than any redundancy payment received. Again, there is the need to highlight that the average annual pension is £5k and a member aged 55 who retires now will not be in receipt of their state pension benefit until age 67.*

*This situation could lead to grave financial difficulties for individuals, as extensive financial planning for retirement might not have been considered beforehand.*

Q7 - Are there any groups of local government employees that would be more adversely affected than others would by our proposals?

*As stated in points Q1 & Q5; and in support of previous responses given it would appear that LGPS members are disadvantaged for being a member of this particular scheme as opposed to that of any other public sector pension scheme. Whilst it is accepted that the £95K exit payment cap will come into effect and apply to the majority of public sector pension schemes going forward the disparity between the make-up of redundancy packages made could amount to discrimination against LGPS schemes ( see earlier comments re. funded schemes and pension strain costs).*

*For example there could be the ridiculous situation in a school where the same employer has staff in 2 separate schemes( The teachers' pension agency and the LGPS) where; a Teaching Assistant will have to choose between a redundancy payment from their employer or unreduced benefits whereas the Teacher could potentially retire with a redundancy payment of up-to £95K.*

Q8 - From a local government perspective, are there any impacts not covered at Section 5 (Impact Analysis) which you would highlight in relation to the proposals and/or process above?

*There is concern that a full impact assessment was not available at the commencement of the consultation. The GAD impact assessment has since been published in draft. However, that assessment does not identify the greater proportionate impact that statutory redundancy pay being either deducted from the pension strain cost, resulting in a lower pension for life, or paid to the employee and then paid into the pension fund in order to part-pay the strain on fund cost, will have on lower paid and part-time workers*

Q9 - Are these transparency arrangements suitably robust? If not, how could the current arrangements be improved?

*Being in receipt of taxpayer's monies local authorities in particular are subject to scrutiny. The transparency requirements in local government are established and would seem adequate but we cannot speak of the consistency with similar requirements in other parts of the public sector or across all workforces covered by these reform proposals.*

Q10 - Would any transitional arrangements be useful in helping to smooth the introduction of these arrangements?



## Appendix 2

In reference to point 5.2 of the MHCLG – Reforming local government exit pay [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/927502/Reforming\\_local\\_government\\_exit\\_pay\\_consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/927502/Reforming_local_government_exit_pay_consultation.pdf) and in particular the statement concerning ‘the workforce has a greater proportion of women’ employees, there is the recent Backto60 Court of Appeal hearing brought about by women who had been affected by the state pension age change.

Based on this evidence again it is apparent that the female workforce will be most hit by these further reforms. While it is recognised that in the scheme of things it does not necessarily lead to the closure of the chapter of an individual’s working life and further employment follows; nevertheless as we are all very much aware there are many areas in the UK especially in Wales that are subject to socio and economic issues with very little employment and above average health issues. This has been made progressively worse by the Covid-19 pandemic.

Like Scotland, Wales is a devolved nation therefore; consideration of how to apply appropriate measures concerning the application of waivers should apply; for example:

1. When applying the Exit Cap local authorities in Scotland are not taking into account any pension strain costs; should the same approach be applied?
2. Application of indexation arrangements in line with inflation / local authority pay awards
3. Introduction of a transitional phase to allow pension software providers to develop suitable workflows to allow for the amended/additional calculation process and updated member communications. Appropriate guidance to be sought from software providers to allow for a sensible timeframe.
4. Consideration of a temporary suspension to the further reform to allow for adequate employee engagement ie employee roadshows. This will give individuals time to digest the changes and make appropriate decisions concerning financial provisions during retirement based on the information provided following the removal of what historically has been considered an unwritten T & C of employment.
5. Analysis of possible employee numbers affected by this change ie employees who are aged 50+ but under aged 55.

Q11 - Is there any other information specific to the proposals set out in this consultation which is not covered above which may be relevant to these reforms?

The proposals to amend the Local Government Pension Scheme Regulations 2013 go further than was expected, and it’s clear that in order for the process to work effectively there will need to be lots more communication and information sharing between employers and administering authorities to ensure that members are given the correct figures and options.

Further, if the new changes and flexibilities for members on redundancy are translated into LGPS Regulations, then they may also apply to members employed by employers not subject to the £95k cap, although this is not clear in the consultation and our initial

## Appendix 2

*expectations were that there would be no changes for those employed by employers not subject to the Cap.*

*The consultation doesn't appear to address non-redundancy exits where a pension strain cost is involved (e.g. a member retiring early where the employer agrees to waive any early retirement reductions). Given that the pension strain cost is likely to be the only exit payment that counts for the £95k cap in this scenario, fewer members will be affected, but we assume that there will be similar restrictions on the level of pension that can be taken to ensure that the strain cost remains under the cap. However, this is another area that requires clarification.*

*It's not clear whether the salary limit refers to basic pay only or whether it also includes any allowances/bonuses etc., and it's also not clear how that limit would apply to any part-timers (i.e. is the £80k limit actual pay or the FTE?).*

*The consultation also does not clarify what is meant by discretionary redundancy pay.*

*Finally, given the interaction between the employer's role and the administering authority's role, it is not clear who would be responsible for providing the member with these choices and obtaining the decision. If this is not covered by regulations or statutory guidance employers and administering authorities will need to review their procedures and will collectively need to ensure that all parties know who is responsible for providing what information.*

Q12 - Would you recommend anything else to be addressed as part of this consultation?

*The LGPS is already subject to various administration impacts such as McCloud, GMP equalization etc therefore further regulatory changes will add further weight to an already vast timetable. As the administration, software cannot accommodate these changes administration staff will be required to undertake manual calculations which will lead to additional pressures on what is already very complex scheme to administer.*

*To ensure fairness across all public sector schemes assurances that going forward the cost of pension / actuarial strain will be calculated or even considered for other public sector schemes on an equal basis; otherwise, individuals will not be treated equitably.*

Yours sincerely,

Cllr Clive Lloyd  
Chairman, Pension Fund Committee.

Croeswir gohebiaeth yn y Gymraeg a byddwn yn ymdrin â gohebiaeth Gymraeg a Saesneg i'r un safonau ac amserlenni.

We welcome correspondence in Welsh and will deal with Welsh and English correspondence to the same standards and timescales.

# Agenda Item 7



## Report of the Chief Legal Officer

Pension Fund Committee – 12 November 2020

### Exclusion of the Public

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.	
<b>Policy Framework:</b>	None.	
<b>Consultation:</b>	Legal.	
<b>Recommendation(s):</b>	It is recommended that:	
<b>1)</b>	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	<b>Item No's.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	8-10	14
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	Tracey Meredith – Chief Legal Officer (Monitoring Officer)	

#### 1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

## **2. Exclusion of the Public / Public Interest Test**

- 2.1 In order to comply with the above mentioned legislation, Cabinet will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.
- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

## **3. Financial Implications**

- 3.1 There are no financial implications associated with this report.

## **4. Legal Implications**

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
  - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
  - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
  - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

**Background Papers:** None.

**Appendices:** Appendix A – Public Interest Test.

## Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
<b>12</b>	<b>Information relating to a particular individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. Their view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. Their view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. Their view on the public interest test was that:</p> <p><b>a)</b> Whilst they were mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</p> <p><b>b)</b> Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

No.	Relevant Paragraphs in Schedule 12A
15	<p><b>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. Their view on the public interest test was that whilst they are mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them they were satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
16	<p><b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b></p>
	<p>No public interest test.</p>
17	<p><b>Information which reveals that the authority proposes:</b>  <b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b>  <b>(b) To make an order or direction under any enactment.</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
18	<p><b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

# Agenda Item 8a

By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# Agenda Item 8b

By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# Agenda Item 9

By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# Agenda Item 10

By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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